

# GIBSON DUNN

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Client Matter No.: C 31278-00001

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January 28, 2011

## VIA US MAIL

The Port Authority of New York and New Jersey  
FOI Administrator  
225 Park Avenue South, 17th Floor  
New York, New York 10003

Re: *Freedom of Information Law (FOIL) Request*

Dear FOI Administrator:

I write on behalf of Friends of LaGuardia Airport, Inc., pursuant to New York's Freedom of Information Law (N.Y. Public Officers Law § 84 *et seq.* (2001)) to request copies of all records pertaining to the below topics regarding LaGuardia Airport:

- (1) A copy of the lease, or any other contract, signed by the Port Authority of New York and New Jersey ("Port Authority") and the City of New York, or any agency of the City of New York, regarding the Port Authority's operation of LaGuardia Airport;
- (2) A copy of all communications between the Port Authority and the City of New York, or any state or city agency, regarding the Port Authority's operation of LaGuardia Airport;
- (3) A copy of any agreements or contracts with the State of New York, or any agency of the State of New York, regarding the Port Authority's operation of LaGuardia Airport; including a copy of any grants, and the related grant applications, issued by the State of New York providing the Port Authority with funds intended to be used for LaGuardia Airport;
- (4) A copy of any agreements or contracts with the State of New York, or any agency of the State of New York, deeding or granting land or the right to use land owned by the State of New York for the operation of LaGuardia Airport.

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January 28, 2011

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We seek all of the records requested above. If this request for documents is denied in part, please specify the exemptions claimed for each page or passage that is withheld. For documents withheld in their entirety please state, in addition, the date of and the number of pages in each document. Please place missing documents on "special locate" and notify us that you have done so. Please advise us of any destruction of records and include the date of and authority for such destruction. We seek complete sets of records, but if complete sets of records are not extant, then we wish to see any portion of the requested records that exist.

If no such documents exist, please issue a written statement confirming that these documents do not exist.

If it would expedite the process, we are prepared to review the responsive documents at your offices or at any other location where the materials are being stored; we would then designate for copying the particular documents we have selected. Additionally, in order to minimize delay, we are prepared to review responsive documents on a rolling basis. Please do not delay making any of the requested records available because other requested records are not yet found, redacted, or otherwise prepared for release.

We are willing to incur costs of up to \$1,000 for duplicating and postage without prior authorization. If costs will exceed this amount, please contact me as soon as possible.

Thank you for your assistance with this matter

Very truly yours,



J. Ross Wallin

**THE PORT AUTHORITY OF NY & NJ**

Daniel D. Duffy  
FOI Administrator

June 27, 2011

Mr. J. Ross Wallin  
Gibson, Dunn & Crutcher LLP  
200 Park Avenue  
New York, NY 10166-0193

Re: Freedom of Information Reference No. 12118

Dear Mr. Ross Wallin:

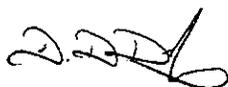
This is a response to your January 28, 2011 request, which has been processed under the Port Authority's Freedom of Information Policy (the "Policy," copy enclosed) for copies of various documents related to LaGuardia Airport

Material responsive to items 1 & 4 of your request and available under the Policy, which consists of a CD, will be forwarded to your attention upon receipt of \$5 for this CD. Payment should be made in cash, certified check, company check or money order payable to "The Port Authority of New York & New Jersey" and should be sent to my attention at 225 Park Avenue South, 17<sup>th</sup> Floor, New York, NY 10003.

Please provide the timeframe for items 2 & 3 of your request in order to be processed under the Policy.

Please refer to the above FOI reference number in any future correspondence relating to your request.

Sincerely,



Daniel D. Duffy  
FOI Administrator

Enclosure

225 Park Avenue South  
17<sup>th</sup> Floor  
New York, NY 10003  
T: 212-435-3642 F: 212-435-7555

LIST OF DOCUMENTS ENTERED INTO BETWEEN THE PORT AUTHORITY OF  
NEW YORK AND NEW JERSEY AND THE CITY OF NEW YORK  
AS OF NOVEMBER 24, 2004

- A. Relating to JFK and LaGuardia Airports.
1. Amended and Restated Lease
  2. Airport Board Agreement
  3. Queens Funding Agreement
  4. Direct Rail Agreement
  5. Stipulation, American Institute of Certified Public Accountants, City of New York v. The Port Authority of New York and New Jersey
  6. IDA Side Letter
  7. Documents Relating to AirTrain
    - (a) Quitclaim Deed from City to Port Authority
    - (b) Quitclaim Deed from Port Authority to City
- B. Relating to the redevelopment of the World Trade Center.
1. World Trade Center Redevelopment Agreement
  2. WTC Design and Site Plan Agreement
- C. Relating to the World Trade Center Pilot Agreement.
1. WTC Pilot Agreement
  2. Stipulations of Discontinuance
    - (a) Index No. 405231/99, City of New York v. The Port Authority of New York and New Jersey
    - (b) Index No. 406428/01, City of New York v. The Port Authority of New York and New Jersey
    - (c) Index No. 605599/01, THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, 1 WORLD TRADE CENTER LLC, 2 WORLD TRADE CENTER LLC, 4 WORLD TRADE CENTER LLC, 5 WORLD TRADE CENTER LLC, WESTFIELD WTC

LLC and 7 WORLD TRADE COMPANY, L.P. v. THE CITY OF NEW YORK, THE CITY OF NEW YORK DEPARTMENT OF FINANCE, THE COMMISSIONER OF FINANCE FOR THE CITY OF NEW YORK, and THE TAX COMMISSION OF THE CITY OF NEW YORK

(d) Index No.213263/02, The Port Authority of New York and New Jersey v. THE TAX COMMISSION OF THE CITY OF NEW YORK et al.

(e) Index No. 205980/03, The Port Authority of New York and New Jersey v. THE TAX COMMISSION OF THE CITY OF NEW YORK et al.

(f) Index No. 204273/04, The Port Authority of New York and New Jersey v. THE TAX COMMISSION OF THE CITY OF NEW YORK et al.

AMENDED AND RESTATED  
AGREEMENT OF LEASE OF THE  
MUNICIPAL AIR TERMINALS

between

THE CITY OF NEW YORK,  
as Landlord

and

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY,  
as Tenant

Dated as of November 24, 2004

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Schedule B – Intentionally Deleted  
Schedule C – Schedule of Arbitration  
Schedule D – Intentionally Deleted  
Schedule E – Schedule of Newark Airport Lease and all Amendments

Appendix A – Airport Board Agreement  
Appendix B – Agreement to Fund Queens Projects  
Appendix C – Direct Rail Agreement  
Appendix D – Stipulation of Settlement

**THIS AMENDED AND RESTATED AGREEMENT OF LEASE OF THE MUNICIPAL AIR TERMINALS** (together with the Exhibits and Schedules attached hereto, this “**Agreement**”) is made as of the 24<sup>th</sup> day of November 2004 (the “**Execution Date**”), by and between THE CITY OF NEW YORK, a municipal corporation of the State of New York with its principal office at City Hall, in the Borough of Manhattan, City of New York (the “**City**”), and THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic, created by compact between the States of New York and New Jersey with the consent of Congress with its office at 225 Park Avenue South, Borough of Manhattan, City of New York (the “**Port Authority**”).

## RECITALS

1. The City and the Port Authority have entered into an Agreement dated as of April 17, 1947, whereby, among other things, the City has leased John F. Kennedy International Airport and LaGuardia Airport (as such terms are hereinafter defined) to the Port Authority, which agreement has hitherto been supplemented, amended and extended pursuant to the following Supplemental Agreements: First, dated May 26, 1949; Second, dated November 7, 1952; Third, dated May 28, 1956; Fourth, dated November 6, 1958; Fifth, dated October 3, 1960; Sixth, dated August 24, 1965; Seventh, dated December 21, 1965; Eighth, dated December 12, 1968; Ninth, dated January 1, 1979; Tenth, dated September 30, 1983; Eleventh, dated December 11, 1992; Twelfth, dated June 27, 1994; and Thirteenth, dated February 19, 1998 (as so supplemented, amended and extended, the “**Old Agreement**”).

2. The City and the Port Authority desire to amend and restate the Old Agreement in its entirety, upon the terms, conditions, and provisions contained in this Agreement.

## TERMS OF AGREEMENT

**NOW, THEREFORE**, in consideration of the mutual premises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Port Authority hereby mutually undertake, promise and agree, each for itself and its successors and assigns, that the Old Agreement is hereby amended, extended and restated in its entirety as follows:

### Section 1. Definitions

As used in this Agreement the following words and phrases shall be construed as follows:

“**Additional Lump Sum Payment**” shall have the meaning provided in **Subsection 4.2.2** below.

“**Additional Rent**” shall mean any amounts, other than Base Rent, the Lump Sum Payment and the Additional Lump Sum Payment, that shall be due and payable by the Port Authority to the City or EDC pursuant to the terms of this Agreement, including, without limitation, amounts that may become due hereunder as for example by virtue of the Port Authority’s indemnity obligations.

“**Affiliate**” shall mean, with respect to any Person, any other Person that is controlled, in whole or in part, by such Person or that controls, in whole or in part, such Person or is under common control with such Person.

“**Air Terminal**” shall mean an Air Terminal as defined in Section 3 of Chapter Eight hundred two of the Laws of New York, 1947 and Chapter Forty three, Laws of New Jersey, 1947, as amended (McK. Unconsol. Laws § 6633; N.J.S.A. § 32:1-35.3).

“**Air Terminal Purposes**” shall have the meaning provided in Section 3 of Chapter Eight hundred two of the Laws of New York, 1947 and Chapter Forty three, Laws of New Jersey, 1947, as amended (McK. Unconsol. Laws § 6633; N.J.S.A. § 32:1-35.3).

“**Airport Board**” shall have the meaning provided in **Subsection 15.1** below.

“**Airport Board Agreement**” shall have the meaning provided in **Subsection 15.1** below.

“**Airport Fees**” shall mean all fees, charges and tolls (if any) to the extent actually received by the Port Authority, or by an Affiliate of the Port Authority or for the account of the Port Authority or its Affiliate, which are imposed at or in connection with the Demised Premises, including, without limitation (i) all airport landing fees, take off fees and flight fees, (ii) fuel flowage, fuel storage and other fuel fees, (iii) ramp, airport gate position, loading bridge and gate use charges, (iv) ticket counter charges, (v) passenger terminal rents and user fees, (vi) long-term and short-term aircraft parking fees; (vii) automobile parking fees; (viii) all fares, fees and charges imposed in connection with the Light Rail System; and (ix) all other fees, charges and tolls imposed in connection with or at the Demised Premises including any fees, charges, or tolls imposed on any transportation system or service (including but not limited to taxi, limousine, or bus service) operating at or serving the Demised Premises, whether operated by the Port Authority, any Affiliate of the Port Authority or any other Person including the City and the agencies thereof. Airport Fees shall be calculated without duplication, so that, for example, to the extent any item or sub-item of Airport Fees is included in another item of Airport Fees, the included item or sub-item shall not be counted twice.

“**Annual Gross Revenue**” shall have the meaning provided in **Subsection 4.1** below.

“**Annual Statement**” shall have the meaning provided in **Subsection 4.4** below.

“**Aqueduct Parcel**” shall mean the portion of the Demised Premises identified as the “Aqueduct Parcel” on Sheet JFK-3 of the survey of John F. Kennedy International Airport set forth in **Exhibit A** annexed hereto and more particularly described in **Exhibit B-1** annexed hereto, together with all Improvements located on and all Fixtures attached to such portion of the Demised Premises.

“**Aqueduct Easement**” shall mean the portion of the Demised Premises identified as the “Aqueduct Easement” on Sheet JFK-3 of the survey of John F. Kennedy International Airport set forth in **Exhibit A** annexed hereto and more particularly described in **Exhibit B-1** annexed hereto, together with all Improvements located on and all Fixtures attached to such portion of the Demised Premises.

“**Arbitration**” shall have the meaning provided in **Section 3.1** below.

“**Base Rent**” shall have the meaning provided in **Subsection 4.3** below.

“**Bonds**” shall mean bonds, notes, securities or other obligations or evidences of indebtedness of the Port Authority (including refunding issues).

“**Bowery Bay Parcel**” shall mean the parcel of land identified as “Bowery Bay” on Sheet LGA-2 of the survey of LaGuardia Airport set forth in **Exhibit A** annexed hereto and more particularly described in **Exhibit B-2** annexed hereto.

“**City**” shall have the meaning provided in the Preamble above.

“**Consumer Price Index**” shall mean the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor, New York, N.Y.-Northeastern N.J. Area, All Items (1982-84=100), or any successor index thereto appropriately adjusted.

“**Demised Premises**” shall mean all of the Land and all Improvements now or hereafter located thereon, but shall not include the Retained Water System Property.

“**DEP**” shall mean the City Department of Environmental Protection or such successor agency as may be designated by the City.

“**EDC**” shall mean the New York City Economic Development Corporation, a local development corporation formed pursuant to Section 1411 of the Not-for-Profit Corporation Law of the State of New York, or such successor entity as may be designated by the City.

“**Effective Date**” shall have the meaning provided in **Subsection 2.3** below.

“**Environmental Laws**” shall mean all federal, state, and local laws, statutes, ordinances, rules, regulations, judgments, guidance documents, permits, licenses, authorizations, registrations, plans, directives, agreements, consent orders or consent decrees, and other requirements of governmental authorities, whether now existing or hereafter enacted or promulgated, as the same have been or may be amended from time to time, including common law causes of action and all applicable judicial and administrative decisions, orders, and decrees, arising out of, relating to or imposing liability or standards of conduct concerning protection of human health, safety or the environment or Hazardous Materials including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. § 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), the Clean Air Act (42 U.S.C. § 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), the Occupational Safety and Health Act (29 U.S.C. § 651 et seq.), the Oil Pollution Act (33 U.S.C. § 2701 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. § 11001 et seq.), the National Environmental Policy Act (42 USC § 4321 et seq.), the State Environmental Quality Review Act (SEQRA) (NY ECL § 8-0101 et seq) and any analogous current or future federal, state, municipal, city or local laws.

**“Environmental Liabilities”** shall mean all claims, actions, judgments, obligations, suits, notices, notices of violation, investigations, proceedings, demands, orders, damages (including punitive and consequential damages), losses, penalties, fines, liabilities (including strict liability), encumbrances, liens, costs and expenses of investigation, sampling, monitoring, containment, cleanup, removal, restoration, remedial work, or other response action of any kind and defense of any claim, whether or not such is ultimately dismissed, and of any settlement or judgment, in each case of whatever kind or nature, contingent or otherwise, matured or unmatured, foreseeable or unforeseeable, any of which are incurred at any time in connection with (i) any actual or alleged violation of any Environmental Law, (ii) any Hazardous Materials or any actual or alleged use, manufacture, possession, storage, holding, presence, existence, location, release, threatened release, discharge, placement, generation, transportation, processing, treatment, abatement, removal, remediation, disposal, disposition or handling of any Hazardous Materials, and any investigation, corrective action or response action with respect to any of the foregoing, or (iii) any actual or alleged damage, injury, threat or harm to health, safety, natural resources or the environment.

**“Equipment”** shall mean machinery, equipment, automobiles, rolling stock, transportation equipment, furniture, furnishings and other items of tangible or intangible personal property (e.g. mainframe, peripheral and personal computers, utility infrastructure, computer software, and telecommunications and all audio-visual surveillance, security, air traffic control, ground traffic control equipment and emergency response equipment) owned or leased by the Port Authority or any Affiliate and which is located or used principally at, or is essential and convenient to the operation of, the Demised Premises, including, without limitation, “rolling stock” and all other property of the Light Rail System and avigational equipment located in the LaGuardia Avigational Easement Areas, the JFK Avigational Easement Areas, or the Public Place Easement Area. Notwithstanding the foregoing, personal property used exclusively by the Port Authority Police shall not constitute “Equipment.”

**“Execution Date”** shall have the meaning provided in the Preamble above.

**“Expiration Date”** shall have the meaning provided in **Subsection 2.3** below.

**“FAA”** shall mean the Federal Aviation Administration or such successor agency designated by the Federal government.

**“Five-Year Period”** shall have the meaning provided in **Subsection 4.1** below.

**“Fixtures”** shall mean all fixtures incorporated into the Demised Premises or to the LaGuardia Avigational Easement Areas, the JFK Avigational Easement Areas, or the Public Place Easement Area, *including* all passenger loading bridges (other than those owned by Subtenants), navigational systems, machinery, trackage, rail ties, heating, ventilation, air conditioning, plumbing, mechanical and lighting equipment, wiring, pipes, conduits, fittings, communications apparatus, elevators, escalators, security systems, antennas, computers and sensors, to the extent that each of the foregoing is installed at the Demised Premises and affixed thereto, except to the extent that any of the foregoing (i) shall be owned by a utility company (that is not wholly or partially owned by the Port Authority or any of its Affiliates), as the same, from time to time, may be repaired, replaced, substituted, upgraded or improved, (ii) is a proprietary operating and

security system belonging exclusively to Federal agencies or (iii) constitutes a portion of the Retained Water System Property.

**“GAAP”** shall mean “United States of America generally accepted accounting principles.”

**“Governmental Authority”** means any federal, state or local government or any court, tribunal, administrative agency or commission or other governmental or regulatory agency or body.

**“Hazardous Materials”** shall mean (i) any toxic substance or hazardous waste, substance or related material, or any pollutant or contaminant; (ii) radon gas, asbestos in any form which is or could become friable, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls in excess of federal, state or local safety guidelines, whichever are more stringent; (iii) petroleum and any by-products, fractions, derivatives and constituents thereof, of any kind and in any form, including, but not limited to, oil, petroleum, fuel, fuel oil, sludge, crude oil, gasoline, kerosene, and mixtures of, or waste materials containing, any of the foregoing; and (iv) any other gas, material or chemical which is or may hereafter be defined as or included in the definition of “hazardous substances,” “toxic substances,” “hazardous materials,” “hazardous wastes” or words of similar import under any Environmental Law.

**“Height and Use Restricted Properties”** shall mean those City-owned properties identified as Height and Use Restricted Properties on Sheets JFK-2 and LGA-2 and more particularly described in **Exhibit B-6** attached hereto.

**“Horizontal Surface,” “Conical Surface,” “Primary Surface,” “Approach Surface” and “Transitional Surface”** shall mean those imaginary surfaces extending from the terminus of each runway located at the Demised Premises, as such runways may exist from time to time, having dimensions and other characteristics as specified in Title 14 CFR, PART 77.25 relating to FAA Regulations regarding “Objects Affecting Navigational Air Space – Obstruction Standards” which have the functions and standards specified in Runway Protection Zone guidelines in FAA Advisory Circular “Airport Design AC 150/15300-13, Paragraph 212 for the nature and type of runways located at the Demised Premises from time to time, such surfaces existing as of the Execution Date as shown on **Exhibit A** and more particularly described in **Exhibit B-3** annexed hereto.

**“Improvements”** shall mean all structures, facilities and other improvements and appurtenances of every kind and description located or hereafter erected, constructed or placed upon, and affixed to, the Demised Premises, including all buildings, terminals, hangars, control towers, runways, taxiways, aprons, roads, sidewalks, landscaping and utilities (unless owned by a utility company or the City), and all Fixtures located thereon and affixed thereto as the same, from time to time, may be repaired, replaced, substituted, upgraded or improved.

**“Installment”** shall have the meaning provided in **Subsection 4.5.2(e)** below.

**“Insurance Proceeds”** shall have the meaning provided in **Subsection 14.11** below.

**“Interest Rate”** shall mean the rate determined by reference to the Bond Buyer One-Year Note Index as of the date the corresponding obligation arises.

**“JFK Avigational Easement Areas”** shall mean those areas benefiting and pertaining to the John F. Kennedy International Airport identified as “JFK International Avigational Easement Areas” on Sheet JFK-2 of **Exhibit A** annexed hereto and more particularly described in **Exhibit B-4** annexed hereto.

**“JFK Northern Off-Airport Parcels”** mean the parcels of land adjacent to the northern boundary of the John F. Kennedy International Airport identified as “JFK Northern Off – Airport Parcels” on Sheet JFK-2 of **Exhibit A** annexed hereto and more particularly described in **Exhibit B-5** annexed hereto.

**“John F. Kennedy International Airport”** shall mean the portion of the Demised Premises identified as “JFK International Airport” on Sheet JFK-1 of **Exhibit A** annexed hereto and more particularly described on **Exhibit B** annexed hereto and such other property and premises as may be acquired in connection with such portion of the Demised Premises pursuant to **Section 19** below, which portion of the Demised Premises includes, without limitation, the Light Rail System and the Aqueduct Parcel.

**“LaGuardia Access Bridges and Roadways”** shall mean those roadways and bridges providing access to and egress from LaGuardia Airport to the City streets, identified on Sheet LGA-2 of **Exhibit A** as the “102<sup>nd</sup> Street Bridge,” the “Flyover Bridge,” and the “Grand Central Parkway Service Road connection” and more particularly described or shown in **Exhibit B-7** annexed hereto.

**LaGuardia Airport”** shall mean the portion of the Demised Premises identified as “LaGuardia Airport” on Sheet LGA-1 of **Exhibit A** annexed hereto and more particularly described in **Exhibit B** annexed hereto, and such other property and premises as may be acquired in connection with such portion of the Demised Premises pursuant to **Section 19** below, which portion of the Demised Premises includes, without limitation, the Bowery Bay Parcel and the LaGuardia Access Bridges and Roadways, provided they are added to LaGuardia Airport in accordance with **Sections 19.3** and **19.4** hereof.

**“LaGuardia Avigational Easement Areas”** shall mean those areas benefiting and pertaining to the LaGuardia Airport identified as “LaGuardia Avigational Easement Areas” on Sheet LGA-3 of **Exhibit A** annexed hereto and more particularly described in **Exhibit B-4** annexed hereto.”

**“Land”** shall mean all of the land identified as the premises demised to the Port Authority as shown on Sheet LGA-1 and JFK-1 of **Exhibit A** and/or more particularly described in **Exhibit B**, together with all additional lands and after acquired property as and when the same is purchased, leased, or otherwise acquired pursuant to **Section 19** below, including Bowery Bay and the LaGuardia Access Bridges and Roadways, provided they are added to LaGuardia Airport in accordance with **Section 19.3** hereof.

**“Late Rate”** shall mean the rate determined by reference to the Bond Buyer 20-Bond GO Index as of the date the corresponding obligation arises, plus 300 basis points.

**“Light Rail System”** shall mean the rail system known as the “JFK AirTrain” connecting the Air Terminal at John F. Kennedy International Airport with the Long Island Rail Road station and the New York City Transit Authority Sutphin Boulevard/Archer Avenue Subway Station

Located in Jamaica, Queens, New York, and the New York City Transit Authority subway station located in Howard Beach, Queens, New York (including, without limitation, all Improvements thereon and Equipment used in connection therewith), as such light rail system alignment is generally shown on pages 1 and 2 of the John F. Kennedy International Airport Site Plan dated October 29, 2003, JFK 14156A annexed hereto as **Exhibit C**, together with all additional property interests purchased or acquired by or in the name of the Port Authority, conveyed to the City and leased to the Port Authority pursuant to **Section 19**.

“**Lump Sum Payment**” shall have the meaning provided in **Subsection 4.2.1** below.

“**Minimum Annual Rent**” shall have the meaning provided in **Subsection 4.1** below.

“**Municipal Air Terminal Purposes**” shall mean the effectuation, establishment, construction, rehabilitation, improvement, maintenance or operation of the Municipal Air Terminals, and purposes incidental thereto, including without limiting the generality hereof, the acquisition of land and improvements for use for Air Terminal Purposes, the acquisition of air space for Horizontal Surfaces, Conical Surfaces, Primary Surfaces, Approach Surfaces, Transitional Surfaces, and Runway Protection Zones, and the establishment, maintenance and operation of beacons or other aids to navigation at sites removed from the Municipal Air Terminals.

“**Municipal Air Terminals**” shall mean John F. Kennedy International Airport and LaGuardia Airport.

“**Newark Airport Lease**” shall mean the agreement of lease dated as of October 22, 1947 between the City of Newark, as landlord, and the Port Authority, as tenant, with respect to Air Terminal known as Newark Liberty International Airport and the Newark Marine Terminal, as the same has been, and may hereafter be, amended or supplemented from time to time.

“**NYRA**” shall have the meaning provided in **Subsection 20.1.1** below.

“**NYRA License Agreement**” shall have the meaning provided in **Subsection 20.1.1** below.

“**Old Agreement**” shall have the meaning provided in **Recital 1** of this Agreement.

“**Passenger Facility Charges**” shall mean the charges known as Passenger Facility Charges collected by the Port Authority pursuant to the Federal Safety and Capacity Expansion Act of 1990, as subsequently amended.

“**Performance Standards**” shall have the meaning provided in **Subsection 15.3** below and are set forth in the Airport Board Agreement attached hereto as **Appendix A**.

“**Permitted Assignee**” shall have the meaning provided in **Subsection 34.1.2** below.

“**Person**” shall mean an individual, corporation, partnership, joint venture, estate, trust, unincorporated association, any Federal, State, County or municipal government or any bureau, department or agency thereof, including, without limitation, the Port Authority.

“**Port Authority**” shall have the meaning provided in the Preamble above.

**“Port Authority Water System Property”** shall have the meaning provided in **Subsection 12.1.2** below.

**“Public Place Easement Area”** shall mean that parcel of land benefiting and pertaining to John F. Kennedy International Airport described as the “Public Place Easement Area” on Sheet JFK-2 of **Exhibit A** annexed hereto and more particularly described in **Exhibit B-4** annexed hereto.

**“Rent”** shall mean all Base Rent and Additional Rent.

**“Rent Insurance”** shall have the meaning provided in **Subsection 14.1.4** below.

**“Restoration”** shall have the meaning provided in **Subsection 14.12** below.

**“Restore”** shall have the meaning provided in **Subsection 14.12** below.

**“Retained Water System Property”** shall have the meaning provided in **Subsection 12.1.1** below.

**“Side Agreements”** shall mean those agreements between the City and the Port Authority, the forms of which are attached hereto as **Appendix A** through **Appendix D**, as the same may be modified, amended or supplemented, from time to time.

**“Special Project Bonds”** shall have the meaning provided in **Subsection 4.1** below.

**“Statement of Adjustment”** shall have meaning provided in **Subsection 4.10.1** below.

**“Sublease”** shall mean any sublease, franchise, license, occupancy permit, concession or other written agreement allowing a Person to enter, use or occupy any portion of the Demised Premises.

**“Subtenant”** shall mean each and every subtenant, franchisee, licensee, concessionaire or other party having a right to enter, use or occupy any part of the Demised Premises under any Sublease.

**“Term”** shall have the meaning set forth in **Subsection 2.3** below.

**“Unavoidable Delays”** shall mean any delays in the performance of obligations of a party to this Agreement due to strikes, lockouts, work stoppages due to labor jurisdictional disputes, acts of God, inability to obtain labor or materials due to governmental restrictions (other than any governmental restrictions which the City or the Port Authority is bound to observe in the normal course of affairs), enemy action, civil commotion, fire, unavoidable casualty or other similar causes beyond the control of such party (but not including such party’s insolvency or financial condition) in each case provided the party claiming Unavoidable Delays shall have notified the other party within thirty (30) days of the party becoming aware that any condition or event is likely to result in Unavoidable Delays.

**“Water Board”** shall mean the New York City Water Board or any successor in function.

“Year” shall mean each calendar year, or portion thereof, as applicable, during the Term.

**Section 2. Lease of Demised Premises, Use and Term**

**2.1 Lease of Demised Premises.**

2.1.1 The City hereby demises and leases to the Port Authority, and the Port Authority does hereby take and hire from the City, the Demised Premises, subject to all matters of record or otherwise known or that should be known to the Port Authority, in light of the Port Authority’s use, occupancy, and control of the Demised Premises under the Old Agreement including, without limitation, all leases, occupancy agreements, liens, encumbrances, easements, covenants, conditions, restrictions and other similar matters affecting title to the Demised Premises as of the Effective Date, for the Term (as such term is hereinafter defined).

2.1.2 Notwithstanding the provisions of **Subsection 2.1.1** above, the Demised Premises shall not include the portion of the Bowery Bay Parcel occupied by the Rikers Island Bridge or improvements or equipment located thereon, which portion is 80 feet in width measured 40 feet from each side of the center line of that portion of the Rikers Island Bridge approach structure presently constructed within the Demised Premises lying below a limiting plane the elevation of which is 45 feet above the surface elevation of the pavement surfaces of the bridge approach roadways, as shown on Sheet LGA-2 of **Exhibit A** attached hereto; however the Port Authority shall have the right to place fill therein and construct within, over or upon the aforesaid described property and under, in, over or upon said approach structure appropriate means of access to and from other portions of the Demised Premises abutting upon either side of the aforesaid described property for vehicles, pedestrians, pipelines or other utilities; provided, however, that (a) such rights shall be exercised with minimum inconvenience to the City in the use of the bridge approach structure, (b) any Port Authority plans and specifications for placing such fill and providing such access shall be subject to the approval of the Commissioner of the Department of Transportation of the City, which approval shall not be unreasonably withheld, (c) the City shall not erect, install or maintain any additional structure, building, tower, pole, wire or other object, the construction, maintenance or operation of which in the reasonable opinion of the Port Authority would constitute a hazard to aviation and (d) the City shall take all reasonably practicable precautions to prevent its agents, employees, licensees, contractors and invitees from intruding upon, interfering with or damaging any property located on the Rikers Island Bridge that is used in connection with the operation or development of LaGuardia Airport.

2.2 Use. The Port Authority shall use, and shall cause all Subtenants and any other Person to use, the Demised Premises solely for Municipal Air Terminal Purposes and for purposes incidental thereto and for no other purpose. Notwithstanding the foregoing, with respect to any portions of the Demised Premises that, as of the Execution Date, are used for purposes other than Municipal Air Terminal Purposes or purposes incidental thereto, such portions of the Demised Premises may continue to be used for such purposes; provided that (i) no other portion of the Demised Premises may be used for such purposes and (ii) such portions of the Demised Premises may not be used for any other purpose that is not a Municipal Air Terminal Purpose or purposes incidental thereto.

2.3 Term. The term (the “**Term**”) of this Agreement shall commence as of 12:00 a.m. on the first day of January 2002 (the “**Effective Date**”) and shall expire at 11:59 p.m. on the 31st day of December 2050 (the “**Expiration Date**”) unless sooner terminated pursuant to the terms and conditions of this Agreement.

2.4 Acceptance of the Demised Premises. The City and the Port Authority recognize that the Port Authority has been the lessee of the Municipal Air Terminals since 1947. As a result, the Port Authority acknowledges that it is fully familiar with the Demised Premises and the physical condition thereof. The Port Authority hereby accepts the Demised Premises in its existing condition and state of repair. Except as otherwise expressly set forth in this Agreement, (i) no representations, statements, or warranties, express or implied, have been made by or on behalf of the City in respect of the Demised Premises, the status of title thereof, the physical condition thereof, the zoning or other laws, regulations, rules and orders applicable thereto, taxes or assessments, or the use that may be made of the Demised Premises and (ii) the Port Authority acknowledges that the Port Authority has relied on no such representation, statement or warranty in entering into this Agreement, and that the City shall in no event whatsoever be liable for any latent or patent physical defect or other condition in the Demised Premises. In no event shall the existence of any latent or patent physical defect or other condition of the Demised Premises relieve the Port Authority of any of its obligations under this Agreement.

2.5 Net Lease; Nature of Port Authority’s Obligations. This Agreement is intended to be, and shall be construed as, a net lease, whereby under all circumstances and conditions (whether now or hereafter existing or whether or not within the contemplation of the parties) the Rent and the Lump Sum Payment and the Additional Lump Sum Payment shall be a completely net return to the City. There shall be no abatement, off-set, diminution or reduction of Rent payable by the Port Authority hereunder or of the Lump Sum Payment or the Additional Lump Sum Payment or the other obligations of the Port Authority hereunder under any circumstance, except as expressly provided in this Agreement. The obligations of the Port Authority to make the payments required hereunder shall be absolute and unconditional and shall be payable in the same manner and out of the same revenues as operating expenses of the Port Authority. Amounts payable by the Port Authority hereunder are general obligations of the Port Authority and are not dependent upon the sufficiency or existence of airport revenues.

2.6 Title to Improvements. Title to all Improvements (including, without limitation, all Fixtures) currently existing or added to the Demised Premises by the Port Authority or any Subtenants and any Fixtures or Equipment now or hereafter located on the LaGuardia Avigational Easement Areas, the JFK Avigational Easement Areas or the Public Place Easement Area shall vest in the City on the Execution Date or immediately upon annexation or construction of such Improvements, as the case may be, except where Subleases or other agreements provide that title thereto shall remain in the Subtenants or other third persons, in which event such title shall vest in the City not later than the expiration or sooner termination of this Agreement.

### **Section 3. Old Agreement Amended, Restated and Superseded; Disputes Terminated**

3.1 In consideration of the parties’ entering into this Agreement and the Side Agreements, and the mutual promises contained herein and therein, (x) the Old Agreement is

hereby amended, restated and superseded in its entirety, except as otherwise provided herein, effective as of 12:00 a.m. on the Effective Date, (y) the arbitration between the City and the Port Authority set forth on **Schedule C** attached hereto (the “**Arbitration**”) is being terminated pursuant to a Stipulation of Settlement, the form of which is attached hereto as **Appendix D**, which stipulation is to be executed by the parties hereto simultaneously herewith, and (z) provided the City is not required to repay or forfeit any portion of the Lump Sum Payment, all claims or rights of action, of both the City and the Port Authority, with respect to the rents payable under Section 4A. of the Old Agreement are hereby extinguished. All other obligations of the Port Authority under the Old Agreement that arose or accrued during, or with respect to the period prior to the Effective Date shall survive this amendment and restatement of the Old Agreement including, without limitation, charges payable to the Water Board for water and wastewater services.

#### **Section 4.     Rent**

##### **4.1     Definitions.**

“**Annual Gross Revenue**” shall mean, with respect to each and every Year (or prorated portion thereof), any and all income received and monies or revenue derived by or for the account of the Port Authority or any Affiliate of the Port Authority from or arising out of or in connection with the Demised Premises from any source, **including**, without limitation, any and all (i) Airport Fees; (ii) rentals, receipts, and fees received directly or indirectly by or for the account of the Port Authority, or any Affiliate of the Port Authority, from Subtenants in connection with or directly or indirectly arising out of the Demised Premises, any part thereof, any right or interest therein or in respect thereof, or the leasing, use, occupation or operation of the Demised Premises or any part thereof, including, without limitation, amounts received from or in respect of (1) Subleases, such amounts including, without limitation, fixed rental, minimum rental, rental computed on the basis of sales or other criteria, additional rent, escalating rental, Subtenant security deposits (and interest thereon) to the extent applied in the payment of any such rental, license and user fees and all other charges or assessments and (2) the providing of goods or services of any kind to Subtenants; and (3) advertising fees received in connection with the right to advertise at the Demised Premises, regardless of whether the advertiser receives a Sublease in connection with such right or actually advertises at the Demised Premises; and (iii) all proceeds of Rent Insurance or any property or business interruption insurance proceeds, or equivalent recoveries from third parties, received in connection with the Demised Premises, except to the extent that such proceeds or amounts recovered are actually used to rebuild, repurchase or replace any Improvements in accordance with **Section 5** and **Section 14** of this Agreement; but **excluding** from such definition any and all (x) amounts attributable to repayment of principal on Special Project Bonds (it being expressly understood that no exclusion shall apply with respect to any amounts attributable to payment of interest, fees, and charges on Special Project Bonds or any amounts attributable to the payment of principal, interest, fees and charges on any other Bonds), (y) federal grants or monies received as a result of any federal statute, regulation or policy or program, such as Passenger Facility Charges and amounts used for airport security, where such statute or regulation, policy or program restricts the use of such monies to purposes benefiting the Municipal Air Terminals and such monies are in fact used at the Demised Premises and (z) any monies or other assets derived from Port Authority Police Asset Forfeiture activities at the Municipal Air Terminals that are required to be used for security enforcement

and are actually used in connection with security enforcement at the Municipal Air Terminals. Annual Gross Revenue shall be calculated without duplication, so that, for example, to the extent any item or sub-item of Annual Gross Revenue is included in another item of Annual Gross Revenue, the included item or sub-item shall not be counted twice. In any event, Annual Gross Revenue shall not include earnings derived from the Port Authority's general operating and capital funds after any and all income received and monies or revenue derived by or for the account of the Port Authority or any Affiliate of the Port Authority from or arising out of or in connection with the Demised Premises from any source have been accounted for under this Agreement. It is the expectation and intention of the City and the Port Authority that Annual Gross Revenue of the Municipal Air Terminals will increase over time so that Base Rent will escalate over the Term. It is not expected that the Port Authority will significantly change its business practices or methods of financing so as to negatively impact Annual Gross Revenue.

**"Five-Year Period"** shall mean each of the following periods of Years: 2002-2006, 2007-2011, 2012-2016, 2017-2021, 2022-2026, 2027-2031, 2032-2036, 2037-2041, 2042-2046 and 2047-2050.

**"Minimum Annual Rent"** shall mean an annual amount equal to:

(a) with respect to the period commencing on the Execution Date through Year 2006, Ninety-Three Million Five Hundred Thousand Dollars and No Cents (\$93,500,000.00);

(b) with respect to the Five-Year Period comprising Years 2007 through 2011, (x) Ninety-Three Million Five Hundred Thousand Dollars and No Cents (\$93,500,000.00) or (y) an amount equal to ten percent (10%) of the average Annual Gross Revenue for the 2002-2006 Five-Year Period, whichever is greater; and

(c) with respect to each Five-Year Period thereafter, (x) the Minimum Annual Rent for the preceding Five-Year Period or (y) an amount equal to ten percent (10%) of the average Annual Gross Revenue for the preceding Five-Year Period, whichever is greater.

**"SPB Subtenants"** shall mean Subtenants that are not, and are not Affiliates of, and whose direct and indirect owners are not, and are not Affiliates of the Port Authority or any State, local or foreign governmental (or quasi-governmental) entity, or any bureau, department or agency of any of the foregoing; *provided, however* that the term SPB Subtenants shall include airlines and passenger terminal operators that are owned directly or indirectly by foreign governmental or foreign quasi-governmental Persons.

**"Special Project Bonds"** means, individually and collectively, the series of special limited obligations issued by the Port Authority solely for the purposes of providing air cargo or passenger terminal projects, aircraft maintenance facilities or hotels for SPB Subtenants or for the purpose of refunding all or any part of any prior series of Special Project Bonds issued solely for such purposes or a combination of such purposes, and secured solely by a mortgage by the Port Authority, in favor of the holders of Special Project Bonds, of facility rental as set forth in a Sublease with such SPB Subtenant with respect to air cargo or passenger terminals, aircraft

maintenance facilities or hotels to be provided with the proceeds of Special Project Bonds, by a mortgage by the applicable SPB Subtenant, in favor of the holders of Special Project Bonds, of the SPB Subtenant's leasehold interests under the Sublease with respect to such project and by a security interest granted by the applicable Subtenant to the Port Authority and mortgaged by the Port Authority, in favor of the holders of such Bonds, in certain items of the SPB Subtenant's personalty to be located at such project, and such other security in addition to the foregoing as may be required by the Port Authority from time to time as appropriate to the particular project. Special Project Bonds shall also mean those outstanding bonds of the Port Authority, the proceeds of which were used to finance construction of the KIAC cogeneration facility currently existing at JFK International Airport, including, without limitation, any refunding of such outstanding bonds of the Port Authority. Bonds issued for capital projects other than air cargo or passenger terminals, aircraft maintenance facilities or hotels, e.g. for the purpose of providing general aviation runways, common airport roadways and other common infrastructure improvements, shall not be deemed to be Special Project Bonds for purposes of this Agreement.

#### 4.2 Payments to the City on the Execution Date.

4.2.1 *Lump Sum Payment.* In consideration of the parties' entering into this Agreement, and the mutual promises contained herein and the Stipulation of Settlement set forth in **Appendix D**, in addition to all Base Rent, Additional Rent and the Additional Lump Sum Payment payable by the Port Authority pursuant to this Agreement, upon execution of this Agreement, the Port Authority shall make a lump sum payment (the "**Lump Sum Payment**") to the City in the amount of Five Hundred Million Dollars and No Cents (\$500,000,000.00).

4.2.2 *Additional Lump Sum Payment.* In addition to all Base Rent, Additional Rent and the Lump Sum Payment payable by the Port Authority pursuant to this Agreement, upon execution of this Agreement, the Port Authority shall make a payment ("**Additional Lump Sum Payment**") to the City in the amount of \$280,184,831.00.

4.3 Base Rent. The Port Authority shall pay to the City for the Demised Premises, for each Year of the Term, without notice or demand, annual rent ("**Base Rent**") as follows:

(a) for the period commencing on the Effective Date through and including the date immediately prior to the Execution Date, Base Rent in an amount equal to \$3,500,000 per annum; and

(b) for the period commencing on the Execution Date through and including the Expiration Date in an amount equal to (x) Minimum Annual Rent for such Year or (y) eight percent (8%) of the Annual Gross Revenue for such Year, whichever is greater.

Under no circumstances shall the Minimum Annual Rent payable for any Year during the period described in **Subsection 4.3(b)** above be less than the Minimum Annual Rent payable in any prior Year. All amounts due and payable by the Port Authority to the City pursuant to **Subsection 4.3(a)** have been received by the City on or before the Execution Date.

#### 4.4 Annual Statements.

4.4.1 Intentionally Deleted.

4.4.2 By March 31 immediately following each Year, commencing the March 31 following the Execution Date, Chief Financial Officer of the Port Authority shall deliver, a statement (each, an “**Annual Statement**”) to the Person(s) or agencies designated by the City, from time to time, by written notice to the Port Authority, which Annual Statement shall include the following:

(a) A separate itemized statement, by source, for each of the Municipal Air Terminals setting forth the Annual Gross Revenue attributable to such Municipal Air Terminal for such Year, each of which statements shall be substantially in the form of **Exhibit D-1** annexed hereto and shall include, without limitation, a detailed statement setting forth, with particularity, each and every item of income, money or revenue that is described in the definition of Annual Gross Revenue for such Year, together with all items of income, money or revenue derived by or for the account of the Port Authority (or its Affiliates) from or arising out of or in connection with such Municipal Air Terminal that were excluded from Annual Gross Revenue for such Year, accompanied by a brief statement of the reason for exclusion of each such item together with a certification of each of the Chief Financial Officer of the Port Authority and the Port Authority’s independent auditor certifying the accuracy of the determination of Annual Gross Revenue within the meaning of **Section 4.1** hereof; and

(b) The Port Authority’s determination of the Base Rent for such Year, together with a certification from each of the Chief Financial Officer of the Port Authority and the Port Authority’s independent auditor that the Port Authority’s determination of the Base Rent for such Year complies with the definition of “Base Rent” set forth in **Subsection 4.3** of this Agreement and is in compliance with this Agreement.

4.4.3 (a) The Annual Statement to be delivered on the March 31 immediately following the end of each Five-Year Period shall, in addition to the information indicated above, include the following information:

(i) An itemized summary of the Annual Gross Revenue attributable to each of the Municipal Air Terminals with respect to the preceding Five-Year Period, substantially in the form of **Exhibit D-3** annexed hereto;

(ii) The Port Authority’s determination of the Minimum Annual Rent for the Five-Year Period beginning in the Year in which such Annual Statement is delivered, together with a certification from each of the Chief Financial Officer of the Port Authority and the Port Authority’s independent auditor that the Port Authority’s determination of the new Minimum Annual Rent complies with the definition of “Minimum Annual Rent” set forth in **Subsection 4.1** of this Agreement.

(b) The Port Authority represents that it has heretofore delivered to the City a certified statement for the Year 2002 and Year 2003. The Port Authority hereby

represents that the Annual Gross Revenue with respect to Year 2002 is \$935,731,362.00 and the Annual Gross Revenue with respect to Year 2003 is \$986,045,051.00.

4.4.4 In the preparation of Annual Statements, each item of Annual Gross Revenue shall be computed in accordance with GAAP, consistently applied from Year to Year. The Chief Financial Officer of the Port Authority and the Port Authority's independent auditor shall certify each Annual Statement to the foregoing effect, and also to the effect that such Annual Statement fairly reflects Annual Gross Revenue for the applicable Year (except as described in the corresponding Statement of Management, if applicable). In the event that, in connection with the preparation of any Annual Statement, there is a variation in the manner of computation of any item of Annual Gross Revenue or the application of, or deviation from, GAAP, regardless of whether such variation or change produces an immediately discernable impact on the determination of Annual Gross Revenue, in each case, the Annual Statement shall include a "Statement of Management", which shall (i) identify with specificity each such variation, deviation or change and (ii) describe the reason for each such variation or change.

4.4.5 The form of any of the schedules attached hereto in **Exhibit D** may be revised, from time to time, upon the mutual written agreement of the City and the Port Authority. The Port Authority shall consider in good faith any changes in the form of such schedules that the City may propose.

4.4.6 The Port Authority shall deliver each Annual Statement to the City in both printed and electronic format.

4.4.7 The certifications to be made pursuant to **Subsection 4.4.2(a), 4.4.2(b), 4.4.3** and **4.4.4** above may be made in a single separate document accompanying and referring to the relevant portions of the Annual Statement.

4.4.8 The Port Authority shall, upon finalizing its budget with respect to each Year, provide to the City a separate itemized estimate for each of the Municipal Air Terminals reflecting the estimated Annual Gross Revenue, by source, attributable to such Municipal Air Terminal for such Year. A second, updated estimate, substantially in the form of **Exhibit D-2**, shall be provided by the Port Authority by September 1 of such Year. Together with each updated estimate, the Port Authority shall include a statement, signed by the Chief Financial Officer of the Port Authority, (i) identifying with specificity any material variation between each item of Annual Gross Revenue in the previous Year and the estimate of such item of Annual Gross Revenue delivered to the City in accordance with this **Subsection 4.4.8** and (ii) describing the reason for each such variation. For the purposes of this **Subsection 4.4.8**, a "material variation" shall mean a difference of five percent (5%) or more between two (2) successive Years or a change of ten percent (10%) or more over any period of three Years, but only to the extent such difference exceeds two hundred thousand dollars (\$200,000.00) (the foregoing dollar amount to be increased annually in proportion to the increase, if any, in the Consumer Price Index).

4.5 Payment of Base Rent. For the portion of Year 2004 commencing on the Execution Date and for each Year thereafter, Base Rent shall be paid as follows:

(a) With respect to each Year during such period, the Port Authority shall pay to the City an amount equal to the Minimum Annual Rent for such Year, in twelve (12) equal installments (each an “**Installment**”), payable monthly in advance on the first (1st) day of January and on the first (1st) day of each succeeding calendar month of such Year. Notwithstanding the foregoing, with respect to the first Year of each Five Year Period commencing with the 2007-2011 Five Year Period, Installments shall be equal to the Installments payable by the Port Authority during the immediately preceding Year until such time that the Port Authority delivers the Annual Statement to the City for the immediately preceding Year. Each Installment due and payable after the date of delivery of such Annual Statement shall be equal to one twelfth (1/12th) of the Minimum Annual Rent for the then current Year (as reflected in such Annual Statement). Simultaneously with the delivery of such Annual Statement, the Port Authority shall also pay to the City the amount, if any, by which (x) the Minimum Annual Rent (as reflected in such Annual Statement) with respect to the portion of the then current Year for which Installments were due and payable pursuant to this **subparagraph (a)** exceeds (y) the amount actually paid by the Port Authority with respect to the period described in **clause (x)** above, plus interest on such excess (if any) at the Interest Rate, accruing with respect to each Installment from the first (1<sup>st</sup>) day of the calendar month to which such Installment applies through and including the date on which the Port Authority delivers such Annual Statement.

(b) In addition to the Installments for each Year payable by the Port Authority pursuant to **subparagraph (a)** above, the Port Authority shall, simultaneously with the delivery to the City of each Annual Statement (in accordance with **Subsection 4.4** above), pay to the City the amount, if any, by which (x) the Base Rent for the Year to which such Annual Statement applies, exceeds (y) the Minimum Annual Rent paid by the Port Authority for such Year, plus interest on such excess (if any) at the Interest Rate, accruing with respect to each Installment from the first (1<sup>st</sup>) day of the calendar month to which such Installment applies through and including the date of payment.

4.6 Payment of Taxes, etc., Deemed to be Payment of Rent. No breach by the City of any covenant, term or condition in this Agreement shall excuse the Port Authority from the prompt payment of the Rent; provided, however, that in the event the Port Authority, under any law that may hereafter be enacted or applied, shall be or become subject to and liable for payment to the City of any real estate taxes, assessments or governmental levies or imposts (except charges for water and for the use of the sewer system pursuant to **Section 12** and **Section 13** of this Agreement or other charges for municipal services that are generally applicable to the use of such services) upon or against the Demised Premises or upon any part or parts thereof, then the payment by the Port Authority of the amount of such taxes, assessments, levies or imposts (except those imposed on Subtenants for which the Port Authority, by agreement with such Subtenants, assumes the obligation to pay) shall, as between the City and the Port Authority, be deemed payment pro tanto of the Rent, and the amount of each such payment shall be treated as a credit against Base Rent otherwise payable hereunder.

4.7 Additional Rent. Except as otherwise expressly provided to the contrary herein, the Port Authority shall pay all Additional Rent when due without notice or demand therefor, but in any event within thirty (30) days after demand therefor by the City.

4.8 Late Fee. In the event that any payment of Base Rent, Additional Rent, the Lump Sum Payment or the Additional Lump Sum Payment shall not be paid on the due date thereof, then, in addition to reimbursing the City for any costs and expenses incurred by the City in connection therewith (including, without limitation, reasonable attorneys' fees and disbursements), the Port Authority shall also pay, as Additional Rent, interest on the sums so overdue at the Late Rate and such interest shall accrue from the applicable due date through and including the date of payment or, in the case of unpaid water and sewer charges payable to the Water Board, the Port Authority shall also pay interest according to the Water Board rules and regulations directly to the Water Board. No failure by the City to insist upon the strict performance by the Port Authority of its obligations to pay said interest shall constitute a waiver by the City of its right to enforce the provisions of this **Subsection 4.8** in any instance thereafter occurring. The provisions of this **Subsection 4.8** shall not be construed in any way to extend the grace periods or notice periods provided for in **Section 25** of this Agreement or to otherwise limit the City's rights and remedies under this Agreement or otherwise.

4.9 Covenants with Respect to Contracts; Other Port Authority Amenities.

4.9.1 All negotiations by the Port Authority (or its Affiliates) for contracts or other agreements on the provision of goods or services at or with respect to the Demised Premises (including, without limitation Subleases, service contracts and advertising contracts) shall be at arm's-length with Persons unrelated to the Port Authority or to Affiliates of the Port Authority.

4.9.2 In the event any such contract or other agreement relates in part to the Demised Premises and in part to other facilities or real property owned or operated by the Port Authority, all income or revenues received or derived by or for the account of the Port Authority (or its Affiliates) in connection with such contracts and agreements shall be apportioned between the Demised Premises and such other property or interests on a fair and equitable basis and the portion allocated to the Demised Premises shall be included in Annual Gross Revenue.

4.10 City's Right to Review the Port Authority's Determination of Base Rent.

4.10.1 *Statement of Adjustment.*

(a) The City shall have the right at any time and from time to time to review the Port Authority's determination of Rent and all components thereof, Annual Gross Revenue and all other information set forth in the Annual Statement for any Year. Without limiting the City's rights and remedies under this Agreement or otherwise, if the City disagrees with the Port Authority's determination of Base Rent, Minimum Annual Rent, Annual Gross Revenue or any other information set forth in an Annual Statement, the City may deliver a statement (the "**Statement of Adjustment**") to the Port Authority indicating with specificity (i) in what manner the City believes that the Port Authority's determination of Base Rent, Annual Gross Revenue, Minimum Annual Rent and/or such

other items indicated in such Statement of Adjustment, as applicable, for the Year(s) in question are incorrect or incomplete or otherwise subject to recalculation, including, without limitation, the basis of the City's belief and (ii) the aggregate amount of additional Base Rent, if any, payable by the Port Authority as a consequence of the City's re-determination thereof.

(b) If the Port Authority agrees with the re-determination(s) reflected in a Statement of Adjustment, the Port Authority shall, within thirty (30) days after its receipt of such Statement of Adjustment, deliver the additional Base Rent payable by the Port Authority pursuant thereto, plus interest thereon at the Late Rate, which such interest shall accrue from the date that each such payment of Base Rent would have been due and payable under this Agreement through the date of payment. If the Port Authority does not agree with such re-determination by the City, the Port Authority shall, within thirty (30) days after its receipt of the Statement of Adjustment, notify the City to such effect, and thereafter the parties shall proceed in good faith to resolve the issues raised in the Statement of Adjustment; provided that, within ten (10) days after a demand by the City, the Port Authority shall pay to the City the additional Base Rent reflected in the Statement of Adjustment in question.

(c) In the event that, based upon the final determination of issues raised in any Statement of Adjustment, it is determined that as a result of any payment made by the Port Authority in response to a demand by the City pursuant to **Subsection 4.10.1(b)** above, the Port Authority overpaid any portion of Base Rent, the Port Authority shall be entitled to a credit against Base Rent equal to such overpayment, plus interest thereon, accruing at the Late Rate from the date the Port Authority made such payment through the date of such determination. Any credit due to the Port Authority pursuant to this **Subsection 4.10.1(c)** shall be applied against the installments of Rent next due and payable by the Port Authority until the entire amount of such overpayment has been so credited.

(d) In the event that, it is determined that the Port Authority underpaid any portion of Base Rent, the Port Authority shall, within ten (10) days after the issuance of a final non-appealable judgment by a court of competent jurisdiction of such underpayment, pay to the City the amount of such underpayment plus interest thereon accruing at the Late Rate from the date that each portion of such underpayment of Base Rent was due and payable under this Agreement through the date of payment.

4.10.2 In no event shall the City have the right to object to or challenge the Rent for any Year following the sixth (6<sup>th</sup>) anniversary of the date upon which the Port Authority delivers to the City the Annual Statement applicable to such Year. Notwithstanding the foregoing, neither the acceptance of Rent from the Port Authority, nor the failure to review or object to any Annual Statement or methodology, interpretation or practice used in calculating Rent, irrespective of how many years the same methodology, interpretation or practice has been followed in the calculation of Rent, shall estop the City from asserting, or be deemed a waiver by the City of, its rights to review, object to and/or challenge the calculation of Rent or any methodology, interpretation or practice used in same, for any Year, including Years prior to the Effective Date; provided, however, that the City hereby waives its right to challenge the

methodology used in calculating the rent payable under the Old Agreement to the extent such methodology was challenged in the City's Amended Demand, dated March 10, 2000, in the Arbitration.

4.10.3 The provisions of this **Section 4.10** shall survive the expiration or sooner termination of this Agreement.

4.11 Preservation of Rights. The Port Authority shall not take, nor shall it permit its Affiliates to take, any actions that would adversely affect the ability under law of the Port Authority to pay, and of the City to receive and retain, any and all amounts of Rent due (or any component thereof) for all or any portion of the Municipal Air Terminals or the Lump Sum Payment or the Additional Lump Sum Payment, and each party shall cooperate with the other party by taking all reasonable actions to preserve such abilities. This provision shall survive the expiration or earlier termination of this Agreement.

4.12 Payments. All payments of Base Rent and all other amounts payable by the Port Authority under this Agreement shall be paid without notice or demand (except when a notice or demand is expressly required hereunder), and without deduction or setoff, in lawful money of the United States of America, by wire transfer to the account designated by notice, from time to time, to the Port Authority from the City's Budget Director (or his successor in function); or, at the City's direction by notice to the Port Authority from the City's Budget Director (or his successor in function), any such amount shall be paid by check drawn on a bank or trust company which is a member of the New York Clearinghouse Association to the City Office of Management and Budget at the address listed in **Section 27** (or to such other City Agency or address as the City's Budget Director (or his successor in function) may designate, from time to time, by notice to the Port Authority). Notwithstanding the foregoing, all amounts payable in connection the consumption and use of water and wastewater services shall be paid directly to the Water Board pursuant to **Subsection 13.2**, except in the event that, pursuant to **Subsection 32.2**, the City shall discharge a lien filed against the Demised Premises as a result of a failure by the Port Authority to timely pay any water or wastewater rents and surcharges when due and owing, in which case, the Port Authority shall pay such amounts directly to the City as Additional Rent in accordance with **Subsection 32.2**.

4.13 No Limitation on Settlement Rights. Nothing contained in **Subsection 4.11** is intended to limit, or shall be deemed to limit, in any way, the Port Authority's right to negotiate settlements of amounts owed by Subtenants.

4.14 Pledge of Revenue. Nothing contained in this Agreement shall prevent the Port Authority from pledging, in whole or in part, the revenues of the Municipal Air Terminals, other than the portion of Annual Gross Revenue that constitutes Rent hereunder, as security for the payment of Bonds or for the fulfillment of any other obligations directly assumed by it, or from making such Bonds a lien or charge upon such revenues, which pledge or lien shall be subject and subordinate to this Agreement and shall expressly so provide.

## **Section 5. Repairs**

5.1 The Port Authority shall for the duration of the Term take good care of the Demised Premises together with all Equipment, whether now existing or hereafter added, and shall make all necessary repairs, inside and outside, structural or otherwise so as to maintain and preserve the Demised Premises and all Equipment in good order and condition, subject to ordinary wear and tear, and keep the Demised Premises and all Equipment operating in accordance with **Section 28** and all other terms and conditions of this Agreement.

5.2 Notwithstanding the provision of **Subsection 5.1** above, the parties understand and acknowledge that at any given time during the Term, there will be a portion of the Improvements and Equipment that will have become functionally obsolete or will have substantially outlived their useful lives, for which no replacement is necessary or warranted or for which a new use or replacement has not yet been devised or planned, and the foregoing provisions of this Section shall not apply to such Improvements and Equipment; provided that such failure to replace or to obtain such new use or replacement shall not impair the use, operation, maintenance or development of either Municipal Air Terminal in accordance with Section 28 and all other requirements of this Agreement.

5.3 In the event the Demised Premises or any part thereof, or any Equipment, is in a state of disrepair at the end of the Term resulting from the failure of the Port Authority to repair, replace, maintain or paint the Demised Premises, or any part thereof or any Equipment during the Term, then the Port Authority shall be required, at its sole cost and expense, to repair, replace, paint and restore the Demised Premises and any Equipment to the condition that the Demised Premises and Equipment would have been in had the Port Authority complied with its obligations set forth in the foregoing **Subsections 5.1** and **5.2**.

5.4 The provisions of this **Section 5** shall survive the expiration or termination of this Agreement.

## **Section 6. Representations**

### **6.1 Representations of the Port Authority.**

6.1.1 Upon the execution and delivery by the Port Authority of this Agreement and the Side Agreements, each of such documents will be a valid and binding obligation of the Port Authority, enforceable against the Port Authority in accordance with its terms.

6.1.2 Prior to the date hereof, the Port Authority has delivered a true, correct and complete copy of the Newark Airport Lease, together with each of the amendments thereto, as indicated on **Schedule E** attached hereto.

6.2 Representations of the City. Upon the execution and delivery by the City of this Agreement and the Side Agreements, each of such documents will be a valid and binding obligation of the City, enforceable against the City in accordance with its terms.

## **Section 7. Assignment and Subletting by the Port Authority**

7.1 No Assignment, etc. The Port Authority shall not assign, mortgage, pledge, hypothecate, or encumber this Agreement or any part hereof or sublet the Demised Premises or one or more of the Municipal Air Terminals substantially in its or their entirety. In the event this Agreement is assigned, pledged, mortgaged, hypothecated, or encumbered in any way, or in the event the Demised Premises are sublet in violation of the provisions hereof, the City, in addition to any other remedies it may have, may collect rent from any assignee of the Demised Premises or any undertenant or occupant thereof, and apply the net rent collected to the rent reserved herein; but no such assignment, occupancy, or collection shall be deemed a waiver of this covenant or the acceptance of the assignee or subtenant as a tenant or a release of the Port Authority from the further performance by it of the covenants on its part to be performed.

7.2 Subletting. The Port Authority may sublet or sublease parts of the Demised Premises for the purposes set forth in **Subsection 2.2** hereof and enter into other agreements with Subtenants for such purpose. This consent shall not, however, include the right to sublet to one person or related persons the entire Demised Premises in a single transaction or a series of related transactions or to sublet to one person or related persons a Municipal Air Terminal substantially in its entirety in a single transaction or a series of related transactions. Under no circumstances shall the Port Authority be permitted to assign, delegate or otherwise alienate control or operational responsibility for a Municipal Air Terminal. All Subleases, whether now existing or to be entered into in the future, are hereby expressly subject and subordinate to this Agreement. Notwithstanding the foregoing, the Port Authority shall cause each Sublease entered into by the Port Authority from and after the Execution Date (and, with respect to any existing Sublease that is hereafter extended, other than pursuant to a pre-existing right on the part of the Subtenant to extend its Sublease, such existing Sublease) to provide the following:

(a) Such Sublease is subject and subordinate to this Agreement and to any interest superior to that of the Port Authority's;

(b) The Subtenant thereof will not pay rent or other sums under the Sublease for more than one (1) month in advance (excluding security and other deposits required under such Sublease);

(c) With respect to Subleases, the Subtenant thereof on the termination of this Agreement will, at the City's option, attorn to, or enter into a direct lease on identical terms with, the City;

(d) An indemnity by the Subtenant thereof for the benefit of the City covering all matters described in **Section 31** of this Agreement;

(e) A restriction on the Subtenant's use of the premises covered by the Sublease, which shall not provide for any use other than as permitted under this Agreement;

(f) A requirement that the Subtenant thereof shall use, operate and maintain the premises covered by the Sublease in a manner consistent with the Port Authority's obligations under **Section 28** hereof;

(g) That the failure of the Subtenant thereof to comply with the forgoing provisions shall be an event of default under such Sublease, which, after the giving of reasonable notice, shall provide the Port Authority with the right to terminate such Sublease and exercise any other rights that the Port Authority may have as the sublandlord of such Sublease; and

(h) Each Sublease which requires the Subtenant to carry property or liability insurance shall require that the City be named as an additional insured or loss payee thereunder, as applicable.

Upon request of the City, the Port Authority will deliver to the City, within thirty (30) days of each such request, true and complete copies of each existing or future Sublease.

The Port Authority shall make commercially reasonable efforts to cause the Subtenants to comply with the terms of their Subleases.

7.3 Water and Sewer Rents. Notwithstanding any mortgage, pledge, hypothecation, or encumbrance of any part of this Agreement, or the Sublease of any part of the Demised Premises, the Port Authority hereby agrees and acknowledges that, with respect to any period prior to the Expiration Date or earlier termination of this Agreement, it is wholly responsible for the payment of all water and wastewater rents and surcharges when due and owing in accordance with **Section 13** herein. The provisions of this **Subsection 7.3** shall survive the expiration or sooner termination of this Agreement.

## **Section 8. Accounts and Records**

8.1 Keeping of Accounts and Records. The Port Authority shall, with respect to each Year, keep and maintain complete accounts and records in regard to its operation of the Demised Premises and the Municipal Airports for such Year in both printed and electronic format including, without limit, such accounts and records as may reasonably be required by the City for the purposes of verifying, if it shall so desire, the computation of Rent, Annual Gross Revenue and the accuracy of the Annual Statements and any other information required to be delivered by the Port Authority to the City pursuant to this Agreement or to the Airport Board pursuant to the Airport Board Agreement. The Port Authority shall maintain the accounts and records described in this **Subsection 8.1** for each Year until at least the end of the sixth (6<sup>th</sup>) anniversary of the date upon which the Annual Statement for such Year has been delivered to the City; provided that, in the event of a dispute between the parties with respect to this Agreement and relating to a particular Year, then the Port Authority shall maintain such accounts and records with respect to such Year or related to the dispute until a final non-appealable determination with respect to such dispute has been issued by a court of competent jurisdiction.

8.2 Availability of Accounts and Records. At any time prior to the sixth (6<sup>th</sup>) anniversary of the Expiration Date or earlier termination of this Agreement, the Port Authority shall (i) deliver to the City, in electronic format and within fifteen (15) days after each demand therefor, all or any portion of the records and accounts required to be kept by the Port Authority in electronic format pursuant to **Subsection 8.1** above and (ii) allow the City and any duly authorized representative of the City, at all reasonable times, to inspect, audit and copy all of the

accounts and records required to be maintained by the Port Authority pursuant to **Subsection 8.1** above. For the purpose of verifying the Annual Statements, the Port Authority shall make available agreement and lease files, and records reflecting any adjustments to accounts, and audit reports made by the internal auditors of the Port Authority or by outside accountants retained by the Port Authority or by consultants, relating to or verifying the factors of revenue which enter into the computation of Base Rent.

8.3 Subleases and other Agreements. Without limiting any of the other provisions of this Agreement, the Port Authority shall, promptly after each request by the City, deliver to the City (i) a list of all of the Subleases, service contracts, funding agreements and all other agreements entered into by the Port Authority in connection with the Municipal Air Terminal during or with respect to the Years indicated in the applicable request from the City and (ii) true, correct and complete copies of all of such agreements, but only to the extent requested by the City. The City may ask for documents by name, category or by some other designation if it elects to do so.

8.4 Survival. The provisions of this **Section 8** shall survive the Expiration Date or earlier termination of this Agreement.

## **Section 9. Financing the Development of the Municipal Air Terminals**

9.1 Port Authority Bonds. The Port Authority shall have the right, in its discretion, to issue Bonds, including Special Project Bonds, and to make expenditures, from time to time, in such amounts as it may deem to be necessary or appropriate to rehabilitate, expand, improve and develop the Municipal Air Terminals.

9.2 No Lien upon Demised Premises. No Bonds, whether issued For Municipal Air Terminal Purposes or otherwise, shall be a lien or charge upon the Demised Premises or on Landlord's interest therein. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

9.3 No Pledge of Revenue Beyond Term. Notwithstanding any other provision of this Agreement, (i) any pledge of revenues of the Municipal Air Terminals to secure Bonds or bonds issued by any Affiliate of the Port Authority or by any Subtenant shall be expressly subject and subordinate to the terms and conditions of this Agreement, (ii) the Port Authority shall not pledge any revenues of the Municipal Air Terminals, or any part thereof, derivable at any time after the end of the Term or sooner termination thereof (other than revenues accruing prior to the end of the Term), as security for the repayment of principal or interest, or of any part thereof, on any Bonds, and (iii) no Bonds or bonds of any Affiliate of the Port Authority or any Subtenant shall affect in any manner whatsoever or grant any right whatsoever to or in the Municipal Air Terminals or their use, operation or maintenance, or revenues for or during, any period after the Expiration Date or sooner termination of the Term. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

9.4 No City Obligation. Bonds shall not be an obligation of the City, and the Port Authority shall have no power to pledge the credit of the City in any way whatsoever. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

9.5 Financing of Projects by the City. During the Term, the City shall not finance any projects at the Demised Premises, except that such restriction on financing shall not apply with respect to (i) projects for which the City has adopted inducement resolutions prior to January 16, 2004, (ii) the refunding of any bond issues by the City or (iii) the maintenance, repair, extension, relocation, upgrading or replacement of any services or utilities provided or to be provided by the City, including, without limitation, all maintenance, repair, restoration, relocation, replacement and extension work that DEP elects to make to the Retained Water System Property pursuant to Section 12 and Section 13 of this Agreement.

## **Section 10. Competitive Facilities**

10.1 By the City. During the Term and subject to **Section 10.2**, the City shall not, except as hereinafter provided, promote, finance, establish, construct, operate, or maintain within the geographic limits of the City any competitive airplane runways, landing areas, or other facilities for the landing or taking-off of aircraft, without the consent of the Port Authority, and shall not authorize any other person so to do, without such consent. Airplane runways, landing areas or other facilities designed or used for the landing or taking off of aircraft shall be deemed to be competitive with the Municipal Air Terminals if they are designed or used for the accommodation of any aircraft operated by common or contract carriers on scheduled or non-scheduled flights carrying passengers, mail, or cargo who or which are moving between a point within the Port of New York District and a point without the Port of New York District; or if they are designed or used for the accommodation of other aircraft having an allowable gross weight at take-off under existing or future Federal regulations in excess of 10,000 pounds. The prohibition shall not apply, and the Port Authority's consent shall not be required, in connection with, (i) facilities for the landing and taking off of aircraft, existing as of the Effective Date, (ii) any privately owned or operated airplane runways, (iii) helicopter landing areas or (iv) seaplane bases.

10.2 City's Power of Regulation Unaffected. The provisions hereof shall in no way affect the right of the City to have power of regulation over airports, airplane landing sites, and seaplane bases in the Port of New York or in the City, which are privately owned or operated; or the right to regulate such further local facilities, whether or not privately owned or operated, including helicopter landing sites and seaplane bases, as may be required in the public interest.

10.3 By the Port Authority. During the Term the Port Authority shall not promote, finance, establish, construct, operate or maintain within the geographic limits of the City any airplane runways, landing areas, or other facilities for the landing or taking off of aircraft without the express written consent of the City except at the Municipal Air Terminals. Nothing herein contained, however, shall prevent the Port Authority from promoting, financing, establishing, constructing, operating or maintaining airplane runways, landing areas, or other facilities for the landing or taking off of aircraft at any point or points outside of the limits of the City.

## **Section 11. Garbage Removal, Snow Removal, Police and Fire Protection**

11.1 Garbage Removal. The Port Authority shall be responsible, at its sole cost and expense, for the collection and proper disposal of all garbage and refuse from each of the Municipal Air Terminals and the Demised Premises.

11.2 Snow Removal. The Port Authority shall, at its sole cost and expense, be responsible for removal of snow and ice from the Demised Premises. The Port Authority shall not place such snow and ice upon any of the public streets or highways of the City, other than in the immediate vicinity of the Light Rail System. The City shall not place at or on the Demised Premises any snow or ice originating from City-owned property.

11.3 Police and Fire Protection. The Port Authority will provide all necessary police for patrolling, for guarding and for traffic control in the Demised Premises, and equipment and personnel for aircraft crash, fire protection and rescue work. The City will have no responsibility for maintaining fire or police personnel in the Demised Premises. The Police Department of the City shall respond to calls from the Port Authority in the event of the commission of crime, rioting, disasters and other emergencies in the Demised Premises, and the Fire Department of the City shall respond to calls by the Port Authority in the event of a fire or any other emergency.

## **Section 12. Sewer and Other Rights Reserved to the City**

### 12.1 Water and Wastewater System Property.

12.1.1 The parties recognize that within the Demised Premises there are currently located sewers, water mains, water and wastewater conduits, wastewater treatment facilities, sludge lines, a sludge dock and a sludge tank, power lines, telephone and signal lines, meters and other facilities to which the City retains ownership and control and which are not part of the Demised Premises and not subject to this Agreement (“**Retained Water System Property**”), and acknowledge and agree that the City shall have the right to maintain, repair, restore and replace all portions of the Retained Water System Property, provided, that any such maintenance, repair, restoration or replacement shall not interfere with or affect the safe operation of the Demised Premises. For that purpose, the City and its duly designated officials and employees shall have the right, at all reasonable times and on reasonable notice to the Port Authority (provided that, in the event of an emergency the City and its duly designated officials and employees shall have the right at all times and without prior notice), to enter upon the Demised Premises with personnel, equipment, trucks and vehicles for the purpose of making inspections, repairs, replacements and restorations (including but not limited to any restoration following a casualty) of the Retained Water System Property as shall be necessary in the opinion of the City.

12.1.2 The parties also recognize that within the Demised Premises there are currently located sewers, water mains, water and wastewater conduits and other facilities installed by the Port Authority (the “**Port Authority Water System Property**”). The parties hereby acknowledge that the Port Authority shall, at all times, maintain and operate, at its sole cost and expense, the Port Authority Water System Property and that such maintenance and operation of the Port Authority Water System Property shall comply with, and remain subject to, all applicable laws. By its execution of this Agreement, the City shall not be deemed to have consented to or approved any portion of the Port Authority Water System Property that has been, or may hereafter be, installed in violation of any applicable laws or without the proper consent of DEP and any other applicable Governmental Authority.

12.1.3 The City further reserves the right to use Thurston Basin and Bergen Basin within the Demised Premises, as shown on Sheet JFK-1 of **Exhibit A**, respectively, as outlets for storm sewers, and the further right, subject to security requirements, to use Bergen Basin as a means of access by tugs, tug-boats, barges and other water craft between Jamaica Bay and the sludge dock and tank located on the west side thereof, or for any other purpose consistent with its responsibilities to provide water and wastewater services for the City; provided that such purpose does not materially impair the operations of the Port Authority or its use of the Demised Premises for purposes permitted hereunder. If the City determines it is necessary for the provision of water and wastewater services, the City shall obtain any required permits and arrange to perform any dredging work at Thurston and Bergen Basins, as it deems necessary. The Port Authority shall have the right to bulkhead the sides of the basins and dredge Thurston and Bergen Basins at its own cost for navigation purposes if it so desires to do, and to use or permit their use for such purposes upon the prior written approval of the DEP, but the City shall have no obligation to dredge or maintain them for those purposes.

12.1.4 The Port Authority shall not construct or demolish or permit the construction or demolition of any building or structure or make or permit the making of any excavation which will interfere with or affect the usefulness of any Retained Water System Property or any other City owned sewer, water main, water or wastewater conduit, or facility related to a wastewater treatment plant owned and operated by the City or any appurtenant facility thereof or similar facility without the prior written approval and supervision of the DEP and any other applicable Governmental Authority.

12.1.5 In the event it is necessary to extend or relocate any portion of the Retained Water System Property as a result of any construction, fill or excavation done or to be done by the Port Authority or its Subtenants at, on or under the Demised Premises or because any Improvement requires additional water and wastewater services, any such extension or relocation shall be done or caused to be done at the sole cost of the Port Authority and upon plans and specifications and timelines approved by, and under the supervision of, DEP or the agency of the City succeeding to DEP's jurisdiction.

12.1.6 In the event it is necessary to extend or relocate any portion of the Port Authority Water System Property as a result of any construction, fill or excavation done or to be done by the Port Authority or its Subtenants at, on or under the Demised Premises or because any Improvement requires additional water and wastewater services, any such extension or relocation, and the operation and maintenance, repair or restoration associated therewith, shall be done or caused to be done at the sole cost of the Port Authority and upon plans and specifications and timelines approved by, and under the supervision of, DEP or the agency of the City succeeding to DEP's jurisdiction.

12.1.7 The parties recognize that, during the Term, the City may find it necessary, not only to maintain the existing Retained Water System Property, but also to relocate and extend the Retained Water System Property and to construct and maintain new sewers within the Demised Premises to serve areas or property outside of the Demised Premises. Accordingly, the City may relocate and extend the Retained Water System Property and may construct new sewers or extend existing sewers within the Demised Premises to the extent necessary, to areas or property outside of the Demised Premises, provided, that any such relocation and extension of

the Retained Water System Property, and construction or extension of new sewers to serve areas or property outside of the Demised Premises, shall not interfere with or affect the safe and efficient operation or future development of the Demised Premises. Upon the relocation or extension of the Retained Water System Property, or the construction or extension of new sewers to serve areas or property outside of the Demised Premises, the same shall become part of the Retained Water System Property. The City shall have the right to enter upon the Demised Premises in order to perform such relocation or extension of the existing Retained Water System Property, or the construction or extension of new sewers to serve areas or property outside of the Demised Premises at its own cost, subject to the prior approval of the Port Authority as to the proposed timing and location and in accordance with plans and specifications approved by the Port Authority. All work performed by the City in connection with the construction or extension of such sewers under this **Section 12.1.7** shall be done in a manner consistent with the safe and efficient operation of the Municipal Air Terminals and, to that end only, the Port Authority shall supervise the work

12.2 Utility Easements. The lease of the Demised Premises is subject to any existing easements or rights of gas, electric and other public utility companies to maintain facilities therein. The Port Authority shall have the right to use and maintain utility facilities heretofore installed in the portion of the bed of Ditmars Boulevard identified on Sheet LGA-2 of **Exhibit A** as the Ditmars Boulevard Utility Easement and more particularly described in **Exhibit B-8** attached hereto, which facilities shall be deemed Equipment for purposes of this Agreement.

### **Section 13. Water and Wastewater Service**

13.1 The City shall provide and maintain water supply lines up to the perimeter of the Demised Premises necessary to serve the Municipal Air Terminals.

13.2 The City shall, at its own expense, install and maintain such meter or meters that DEP determines are best suited for measuring the amount of water and wastewater consumed or used within such Municipal Air Terminals. Upon installation, such meters shall become part of the Retained Water System Property. The Port Authority shall provide DEP and its duly designated officials, employees and contractors with full cooperation and access to complete the installation, and the City and its duly designated officials and contractors shall have the right at all reasonable times and on reasonable notice to enter upon the Demised Premises with personnel, equipment, trucks and vehicles for the purpose of making inspections, repairs, installations and replacements of such meters as shall be necessary in the opinion of the City. The Port Authority shall pay directly to the New York City Water Board, when due and owing, any and all water and wastewater bills issued by the DEP on behalf of the Water Board at rates annually established by the Water Board for any and all water and wastewater services provided to the Demised Premises. Charges payable for water and wastewater services to the Demised Premises shall be Additional Rent hereunder and shall be at rates and under same terms and conditions that would apply to any other customer of the New York City water and wastewater system. The provisions of this **Subsection 13.2** shall survive the expiration or sooner termination of this Agreement.

## **Section 14. Insurance**

### **14.1 Definitions.**

14.1.1 “**City Insureds**” as used in this **Section 14** means, for any type of insurance required hereunder, the City, the City’s officials and employees (but only if the Port Authority’s officials and employees are likewise insured), and EDC.

14.1.2 “**Losses**” as used in this **Section 14** means any costs, charges, expenses incurred in the defense, investigation or adjustment of any claims (including without limitation fees and disbursements of consultants, counsel or experts), losses, payments, damages (including without limitation any actual, consequential, or, where allowable by law, punitive or exemplary damages), civil fines or penalties, judgments, and amounts paid in settlement.

14.1.3 “**Maximum Available Limit**” as used in this **Section 14** shall mean, for any type of insurance required hereunder, the limit (or sublimit) that is commercially available to the Port Authority at the renewal, termination, or cancellation date of such type of insurance during the Term at any time after the Execution Date. In the event that the Port Authority believes that insurance that is commercially available to it does not provide protection for the risk at issue, the Port Authority may seek the City’s consent, which shall not be unreasonably withheld, to an alternative method for it to protect against that risk.

14.1.4 “**Pollution Conditions**” as used in this **Section 14** means the discharge, dispersal, migration, release or escape of any Hazardous Materials into or upon land, or any structure on land, subsurface, soils, sediments, the atmosphere or any watercourse or body of water, including groundwater, whether caused by a third party (including without limitation remediation contractors or consultants), an act of war or Terrorism or otherwise, in each case, on, at, under, or migrating to or from, the Municipal Air Terminals.

14.1.5 “**Terrorism**” as used in this **Section 14** shall mean any violent act or an act that is dangerous to human life, property or infrastructure and is committed by any individual or individuals acting as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States by coercion.

### **14.2 Property Insurance.**

14.2.1 The Port Authority shall, at all times throughout the Term, provide and keep in force comprehensive “All Risk” of direct physical loss or damage, insurance covering the Improvements, including, without limitation, coverage for loss or damage by acts of Terrorism, water, flood, subsidence and earthquake (excluding, at the Port Authority’s option, from such coverage normal settling only) and, when and to the extent obtainable from the United States government or any agency thereof, war risks for all buildings, structures, equipment and fixtures in or upon the Demised Premises used in connection with the operation of the Municipal Air Terminals at the Maximum Available Limits. Such insurance, which shall cover the interests of both the City Insureds and the Port Authority in such property, shall be valued at full replacement cost, with the replacement value of the Improvements to be determined from time to time, but not less frequently than required by the insurer and in any event at least once every three (3) years, it being agreed that no omission on the part of the City Insureds to request any

such determination shall relieve the Port Authority of its obligation to determine and insure the replacement value thereof (in the absence of such valuation, the FM (Factory Mutual) or MIRI (Industrial Risk Insurers) indices will be applied); and shall include the following types of coverage:

- (a) Automatic Coverage;
- (b) Building Ordinance Coverage;
- (c) Business Income including Extra Expense and Rents (“**Rent Insurance**”) on an Actual Loss Sustained basis;
- (d) Civil & Military Authority;
- (e) Debris Removal;
- (f) Decontamination Costs;
- (g) Demolition and Increased Cost of Construction;
- (h) Earth Movement;
- (i) Extended Period of Liability;
- (j) Extra Expense;
- (k) Adjustment and Claim Expense;
- (l) Flood;
- (m) Ingress/Egress;
- (n) On Premises Services;
- (o) Property Damage;
- (p) Service Interruption Property Damage;
- (q) Service Interruption Time Element;
- (r) Soft Costs;
- (s) Terrorism;
- (t) Contingent Business Interruption (one year from restoration); and
- (u) Time Element Interdependency.

14.2.2 The Port Authority shall, at all times throughout the Term, provide and keep in force boiler and machinery insurance in an amount as may be reasonably agreed upon with the City every three (3) years (insofar as practicable) covering direct property loss and loss of income and covering all steam, mechanical and electrical equipment, including without limitation, all boilers, unfired pressure vessels, air conditioning equipment, elevators, piping and wiring.

14.2.3 The Port Authority shall, at all times throughout the Term, provide and keep in force sprinkler leakage insurance in amounts as may be reasonably agreed upon with the City (the foregoing to be required only if same is excluded from the insurance required to be provided and kept in force pursuant to **Subsection 14.2.1** above).

### 14.3 Liability Insurance.

14.3.1 The Port Authority shall, at all times throughout the Term, provide and keep in force (x) Airport Liability Insurance and (y) commercial general liability insurance and/or public liability insurance at the Maximum Available Limits covering the premises operations of the Port Authority for the Demised Premises, including the operation of mobile equipment, against liability for bodily injury, death and property damage, including the Demised Premises and all streets, alleys and sidewalks adjoining or appurtenant to the Demised Premises. The City Insureds shall be listed as an additional named insureds on the Airport Liability Insurance policies and as Additional Insureds (with coverage no narrower than that provided under ISO endorsement CG 20 26 11 85) on the commercial general liability and/or public liability policies. Such insurance shall include the following protection:

- (a) broad form liability, including (A) blanket contractual liability (covering the indemnification provisions assumed by the Port Authority hereunder, including bodily injury to employees or others assumed by the Port Authority under contract, which insurance shall cover all costs, expenses and/or liability (including, without limitation, attorneys' fees and disbursements) arising out of or based upon any and all claims, accidents, injuries and damages mentioned in **Section 31** of this Agreement and required to be insured against hereunder), (B) personal injury and advertising injury liability, (C) premises medical payments, (D) host liquor liability, (E) fire legal liability on real property, (F) broad form property damage liability, including completed operations, (G) incidental medical malpractice, (H) non-owned watercraft liability, (I) limited world-wide coverage, (J) additional interests insured, (K) extended bodily injury coverage, and (L) automatic coverage on newly-acquired entities;
- (b) products and completed operations;
- (c) independent contractors;
- (d) blanket automatic contractual liability to include bodily injury to employees of others assumed by the Port Authority; and
- (e) water damage legal liability shall not be excluded;
- (f) endorsement acknowledging aviation facility operations on the Demised Premises;
- (g) Terrorism coverage;
- (h) XCU coverage; and
- (i) no coverage exceptions for properties containing or adjacent to railroad facilities.

Notwithstanding the foregoing, the commercial general liability insurance required by this **Subsection 14.3.1** shall not be required to provide one or more of the following protections in the event such protection, at the time of insurance placement, cannot be procured from the issuing insurance company: host liquor liability, incidental medical malpractice and/or XCU coverage and other risks insofar as reasonably agreed to by the City as being not present at the Air Terminals or procured and maintained by a Subtenant (with the City Insureds as additional insureds thereunder).

14.3.2 The Port Authority shall, at all times throughout the Term, provide and keep in force comprehensive automobile liability insurance for all owned, non-owned, leased, rented and/or hired vehicles insuring against liability for bodily injury and death and for property damage in an amount as may from time to time be reasonably determined by the City but not less than \$2,000,000 (Two Million Dollars) per claim.

14.4 Pollution Insurance. The Port Authority shall, at all times throughout the Term, provide and keep in force at the Maximum Available Limit pollution legal liability coverage for the Port Authority as first named insured and the City Insureds as additional named insureds, including coverage of Losses arising from (1) investigation, removal, clean-up costs, remediation, monitoring or response action, to the extent required by Environmental Laws and any repair, replacement or restoration of real or personal property to substantially the same condition it was in prior to any of the forgoing activities; (2) orders, decrees, directives, injunctions or judgments by any Governmental Authority; (3) third party claims for bodily injury (including, without limitation, medical monitoring) and property damage (including, without limitation, natural resource damages); and (4) business interruption; in each case, to the extent such Losses relate to Pollution Conditions resulting from, or exacerbated by, facts, events or conditions first existing on or after the date hereof. Notwithstanding **Subsection 14.1.3**, such insurance policy (or policies) shall be in force at the Execution Date as well as the renewal, termination, and cancellation dates of such policies throughout the Term.

14.5 Workers' Compensation Insurance. The Port Authority shall, at all times throughout the Term, provide and keep in force workers' compensation coverage providing statutory New York State benefits for all persons employed by the Port Authority at or in connection with the Demised Premises and employer's liability insurance in an amount not less than that required by New York State law.

14.6 Other Insurance. The Port Authority shall provide and keep in force such other insurance in such amounts as may from time to time be reasonably required by the City or mutually agreed upon against such other insurable hazards as at the time are commonly insured against by prudent owners of like Improvements.

14.7 Insurance Policy Requirements.

14.7.1 All insurance provided by the Port Authority as required hereunder shall name the Port Authority as named insured and the City Insureds as additional named insureds, additional insureds, and loss payees to the extent, where applicable, of their respective insurable interests in the Demised Premises and shall be primary with respect to any other coverage which the City Insureds may obtain.

14.7.2 All insurance required by any provision of this Agreement shall be in such form and shall be issued by such responsible companies (i) rated by AM Best as at least A-(VII), (or comparable rating by Standard & Poors or other industry-recognized rating agency) unless the Port Authority obtains the prior written approval of the City with regard to a particular policy or coverage, (ii) authorized to do business in the State of New York and (iii) otherwise reasonably acceptable to the City.

14.7.3 Each policy of insurance required to be obtained by the Port Authority as herein provided shall contain to the extent obtainable and whether or not an additional premium shall be required in connection therewith (i) a provision that no act or omission or negligence of the Port Authority or any other named insured or violation of warranties, declarations or conditions by the Port Authority or any other named insured shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained, (ii) an agreement by the insurer that such policy shall not be cancelled or modified without at least thirty (30) days prior written notice to the City Insureds, (iii) an agreement that the coverage afforded by the insurance policy shall not be affected by the performance of any work in or about the Improvements or the occupation or use of the Demised Premises by the Port Authority or any Subtenant for purposes more hazardous than those permitted by the terms of such policy, (iv) a waiver by the insurer of any claim for insurance premiums against the City Insureds or any named insured other than the Port Authority, and (v) a waiver of subrogation by the insurer of any right to recover the amount of any loss resulting from the negligence of the Port Authority, the City Insureds, their agents, employees or licensees.

14.8 Premiums; Evidence of Insurance. All policies referred to in this Agreement shall be procured by the Port Authority at no expense to the City Insureds. Duplicate originals of such policies or, to the extent that such duplicate originals cannot be obtained, certificates of insurance with respect to such policies together with copies of such policies shall be delivered to the City promptly upon receipt from the insurance company or companies, together with proof satisfactory to the City that the then current installment of the premiums thereon have been paid; provided, that the City shall not, by reason of custody of such policies, be deemed to have knowledge of the contents thereof and no claim will be asserted or prosecuted that such custody or access, or action or inaction by the City with knowledge thereof or of information obtained under **Subsections 14.9, 14.17** or otherwise, is a waiver of any rights of the City hereunder or a defense to any default or obligation of cooperation. New or renewal binders and policies, or drafts thereof, to provide coverages or replace policies expiring during the Term, or duplicate originals thereof or certificates of insurance with respect thereto, together with copies of such policies (where available), shall be delivered as aforesaid within ten (10) days of the Port Authority's receipt, together with proof satisfactory to the City that the then current installment of the premiums thereon have been paid by the date required by the insurance company. Premiums on policies shall not be financed in any manner whereby the lender, on default or otherwise, shall have the right or privilege of surrendering or canceling the policies or reducing the amount of loss payable thereunder, unless agreed to by the City; provided, however, that premiums may be paid in installments.

14.9 Cooperation. The Port Authority and the City shall cooperate in connection with the placement of insurance coverages required hereunder and in the collection of any insurance moneys that may be due in the event of loss. The Port Authority and the City shall execute and deliver such proofs of loss and other instruments as may be required for the purpose of obtaining the recovery of any such insurance moneys. When submitting a notice to an insurer regarding an occurrence, loss or claim under any policy, the Port Authority shall specify, to the extent necessary under such policy, that such notice is being made on behalf of the City as well as itself, and shall thereafter provide the City, upon demand, with any response or other correspondence received by it from the insurer regarding such notice, occurrence, loss or claim.

14.10 Additional Policies of Personal Liability Insurance. The Port Authority shall not carry separate insurance (other than personal injury liability insurance) concurrent in form or contributing in the event of loss with that required by this Agreement to be furnished by the Port Authority, unless the City Insureds are included therein as additional named insureds. The Port Authority promptly shall notify the City of the carrying of any such separate insurance and shall cause the policies therefor or duplicate originals thereof or certificates of insurance with respect thereto together with copies of such policies to be delivered as required in this Agreement.

14.11 Adjustments for Claims. All property insurance policies as required by this Agreement shall provide in substance that all adjustments for claims with the insurers shall be made with the Port Authority. Notwithstanding the foregoing, the Port Authority (y) shall consult with the City during the process of such adjustment and provide the City with all relevant documentation upon demand and, (z) in the event that the Port Authority also has a pending claim relating to property outside the Demised Premises in excess of Ten Million Dollars (\$10,000,000), shall give the City notice thereof and adjust such claim completely independently of and without prejudice to the adjustment of the claim relating to the Demised Premises.

14.12 Compliance with Requirements of Insurance Carriers. The Port Authority shall not violate or permit to be violated any of the conditions or provisions of any insurance policy required hereunder, and the Port Authority shall so perform and satisfy or cause to be performed and satisfied the requirements of the companies writing such policies so that at all times companies of good standing, reasonably satisfactory to the City, shall be willing to write and continue such insurance.

14.13 Liability Insurance on an "Occurrence" Basis. All liability insurance required to be provided and kept in force by the Port Authority under this Agreement shall be written on an "Occurrence" basis; provided, however, that if (i) a basis other than such "Occurrence" basis shall be adopted throughout the insurance industry and (ii) such other basis shall be accepted by the operators of competitive air terminals, then the Port Authority may provide and keep in force liability insurance written on such other basis reasonably satisfactory to the City.

14.14 Blanket Policy. The insurance required to be obtained by the Port Authority under this Agreement, at the option of the Port Authority, may be effected by blanket or umbrella policies issued to the Port Authority covering the Demised Premises and other properties owned or leased by the Port Authority; provided that the policies otherwise comply with the provisions of this Agreement and specifically allocate to the Demised Premises the coverages required hereby, without possibility of reduction or coinsurance by reason of any other premises named therein, and if the insurance required by this Agreement shall be effected by any such blanket or umbrella policies, the Port Authority shall furnish to the City certified copies or duplicate originals of such policies in place of the originals, with schedules thereto attached showing the amount of insurance afforded by such policies applicable to the Demised Premises, and in addition, within ten (10) days after the Port Authority's receipt thereof, copies of the schedule of all Improvements affected by any such blanket or umbrella policy of insurance.

14.15 Property Insurance Proceeds. All proceeds from Property Insurance ("Insurance Proceeds") shall be applied, in the first instance, to satisfy the Port Authority's obligation to pay Rent under this Agreement (if not otherwise satisfied by the Port Authority) in an amount equal

to not less than three (3) years of current Base Rent, and shall otherwise be applied to Restore the Improvements in accordance with **Subsection 14.22**.

14.16 Failure to Procure or Maintain Required Insurance. If the Port Authority fails or refuses to procure or maintain insurance as required by this Agreement (including, but not limited to, the Maximum Available Limit of such insurance) or fails upon request or refuses to furnish the City Insureds with required proof that the insurance has been procured and is in force and paid for, the City shall have the right, at the City's election and on ten (10) days notice, consistent with **Section 26.1**, to procure and maintain such insurance, and pay premiums thereon, without further notice to the Port Authority. In such event, the rights and obligations of **Section 26.2** shall govern.

14.17 Consultations with the City. Three months in advance of the end of the policy period of any insurance policy procured in accordance with this **Section 14** (or immediately upon receipt of a notice of cancellation of any such policy), the Port Authority shall notify the City of such event and enter into prompt discussions with the City concerning the placement of such insurance. As soon thereafter as feasible, the Port Authority shall inform the City of the availability and price of such type of insurance and, specifically, the Port Authority's opinion of the Maximum Available Limit(s) and the commercial necessity of any material exclusions or limitations of such type of insurance. The Port Authority shall also provide the City with all such information as the City may request concerning the Port Authority's efforts to secure such insurance, including, without limitation, all presentations to the Port Authority by its placing broker(s) and all recommendations and instructions given to such broker(s).

14.18 Self-Insurance. The Port Authority may self-insure a portion of its insurance obligations hereunder, but, in no event, shall the Port Authority self-insure an aggregate amount (not including any amounts exceeding the limits required hereunder) in excess of Fifty Million Dollars (\$50,000,000) for all such lines of coverage combined (plus, in the event the Port Authority self-insures a portion of its insurance obligations pursuant to **Subsection 14.4**, an additional amount applicable to such obligations not to exceed Fifty Million Dollars (\$50,000,000)), unless the Port Authority receives the City's advance written approval of some higher amount. Such self-insurance shall in no way limit or diminish the rights that the City Insureds, would have had under the insurance required hereunder (e.g., as additional named insureds, additional insureds or loss payees), or the rights they have under the insurance provided pursuant hereto. Further, this **Subsection 14.18** shall in no way limit or diminish the waiver of subrogation rights and obligations as required under this Agreement or the rights of the City Insureds' insurance carriers would have had under "other insurance" or similar clauses in the City Insureds' insurance policies if the Port Authority had not satisfied its insurance requirements with said self insurance. By the Port Authority self insuring any part of its insurance obligations pursuant to this **Subsection 14.18**, the Port Authority will defend, indemnify and hold harmless the City Insureds from all claims, suits or actions of every name, kind and description, brought forth, or on account of, injuries to or death of any person or damage to property to the extent, where applicable, of its insurable interest in the Demised Premises and shall be primary with respect to any other coverage which the City Insureds may obtain.

14.19 The City's Rights under Insurance Purchased by Third Parties. In all circumstances relating to improvements or operations at the Demised Premises where a third party (including, without limitation, Subtenants, contractors, or subcontractors of the Port Authority) is obligated to name the Port Authority as additional named insured, additional insured and/or loss payee under any insurance policy, the Port Authority shall, for all such policies, (a) obligate such third person to likewise name the City Insureds as additional named insureds, additional insureds or loss payees, (b) take all reasonable measures to assure that the City Insureds are named accordingly, (c) provide the City upon demand with access to all Certificates of Insurance evidencing such insurance (including the City Insureds' coverage thereunder), (d) when it submits any notice to an insurer regarding an occurrence, loss or claim under such policy, specify, to the extent necessary under such policy, that such notice is being made on behalf of the City as well as the Port Authority, and (e) provide the City, upon demand, with any response or other correspondence received by it from the insurer regarding such notice, occurrence, loss or claim.

14.20 Minimum Levels of Insurance Purchased by Certain Third Parties. The Port Authority shall obligate each of its contractors (and any such contractor's subcontractors) that operate, maintain or service any fuel tanks or fuel distribution systems on the Demised Premises to provide contractor's pollution liability insurance protecting itself, the Port Authority and the City Insureds at the Maximum Available Limit but, in any event, in an amount no lower than One Hundred Million Dollars (\$100,000,000).

14.21 Relationship between Insurance and Indemnification. The obligations of the Port Authority under **Section 31** shall not be affected in any way by the absence in any case of covering insurance (whether or not required under this **Section 14**) or by the failure or refusal of any insurance carrier to perform any obligation on its part under insurance policies affecting the Demised Premises.

14.22 Use of Insurance Proceeds; Duty to Restore Damaged Improvements and Pay Rent; and Related Issues.

14.22.1 If all or any part of any of the Improvements, the value of which shall exceed \$1,000,000, shall be destroyed or damaged in whole or in part by fire or other casualty (including any casualty for which insurance was not obtained or obtainable) of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, the Port Authority shall give to the City immediate written notice thereof stating the nature of the casualty, what was destroyed or damaged and the estimated loss, and what insurance or self-insurance coverage may be available to cover the loss. Whether or not such damage or destruction shall have been insured, and whether or not insurance proceeds, if any, shall be sufficient for the purpose, the Port Authority shall, with reasonable diligence (subject to Unavoidable Delays), repair, alter, restore, replace and rebuild the same, at least to the extent of the value and as nearly as possible to the condition, quality and class of such Improvements existing immediately prior to such occurrence, with such changes or alterations as the Port Authority shall elect to make, or make other capital improvements to the Municipal Air Terminals (collectively, "**Restore**"); provided that, such changes, alterations, or other capital improvements comply with the Port Authority's obligation to maintain and operate the Municipal Air Terminals in accordance with **Section 28** of this Agreement, and provided further that, in the event the Port Authority wishes to make other

capital improvements to the Municipal Air Terminals, it shall notify the City of its intention to do so notwithstanding the threshold for such notice provided in **Subsection 17.2**, and in any event the Port Authority will, (x) within five (5) years of the casualty in question, obtain such authorization from the Port Authority Board of Commissioners (or other requisite authorization) as may be necessary to reinvest in the Municipal Air Terminals an amount (not counting for this purpose any amounts reflected in the Port Authority's capital budgets adopted prior to the date of the casualty in question) which is not less than the Insurance Proceeds together with interest at the Interest Rate accruing from the date of the casualty, and (y) commence construction of such improvement within two (2) years of the date of such authorization, and if the Port Authority fails to obtain such authorization or commence such construction within such time periods, the Port Authority shall pay to the City an amount equal to the Insurance Proceeds not so reinvested together with interest at the Late Rate accruing from the date of the casualty. In addition, the Port Authority shall, upon request, account to the City for all amounts spent in connection with any Restoration undertaken in connection with destruction or damage exceeding \$1,000,000 and the use of Insurance Proceeds received in connection therewith. The City in no event shall be obligated to Restore the Improvements or any portion thereof or to pay any of the costs or expenses thereof.

14.22.2 In any case where this Agreement shall expire or be terminated for any reason prior to the completion of Restoration, (y) the City may, but shall not be required to, complete such Restoration at the Port Authority's expense, and (z) the Port Authority shall account to the City for all amounts spent in connection with any Restoration which was undertaken and shall pay over to the City, within ten (10) days after demand, the remainder, if any, of the Insurance Proceeds previously received by it or if any portion of Insurance Proceeds were not received, assign to the City the right to receive the same and the City shall be subrogated to the rights of the Port Authority under the insurances maintained pursuant to this Agreement.

14.22.3 In the event Insurance Proceeds received by the Port Authority pursuant to **Subsection 14.15** shall be insufficient to Restore the Improvements pursuant to **Subsection 14.22.1**, then the Port Authority shall Restore such Improvements, at its sole cost and expense. In the event Insurance Proceeds covering the Restoration of any Improvements exceeds the cost of such Restoration, the Port Authority shall use such excess Insurance Proceeds for the purpose of the making of other capital improvements to the Municipal Air Terminals.

14.22.4 This Agreement shall not terminate or be forfeited or be affected in any manner, and there shall be no reduction or abatement of the Base Rent payable hereunder, by reason of damage to or total, substantial or partial destruction of the Improvements or any part thereof or by reason of the untenability of the same or any part thereof, for or due to any reason or cause whatsoever, and the Port Authority, notwithstanding any law or statute present or future, waives any and all rights to quit or surrender the Demised Premises or any part thereof. The Port Authority's obligations hereunder, including, without limitation, the payment of Base Rent, shall continue as though such Improvements had not been so damaged or destroyed and without abatement, suspension, diminution or reduction of any kind. It is the intention of the City and the Port Authority that the foregoing is an "express agreement to the contrary" as provided in Section 227 of the Real Property Law of the State of New York.

14.23 The Port Authority's obligations under **Subsections 14.9, 14.11, 14.15, 14.21, and 14.22** shall survive the expiration or termination of this Agreement.

## **Section 15. Airport Board**

15.1 Creation of Airport Board. In accordance with that certain Airport Board Agreement (the "**Airport Board Agreement**") dated of even date herewith between the City and the Port Authority, the form of which is annexed hereto as **Appendix A**, the parties shall create an Airport Board (the "**Airport Board**") to review, on a quarterly basis, the operations and performance of the Municipal Air Terminals. The Airport Board shall consist of an equal number of representatives from the Port Authority and the City. The Port Authority's representatives shall include its Chief Operating Officer and Director of Aviation and the General Managers of the Municipal Air Terminals or their respective successors in duties. The City representatives shall be appointed by the Mayor.

15.2 Funding. Commencing with 2002 and each Year during the Term, the Port Authority shall pay directly to EDC (or a City agency to be designated by the City) an amount equal to \$100,000 per Year and increasing by 3% annually for each Year following, for the purpose of funding Municipal Air Terminal liaison functions and, upon receipt of each such payment by EDC, the Port Authority shall receive a credit equal to the amount of each such payment to be applied against the next installment of Base Rent due and payable pursuant to **Section 4** of this Agreement. By December 31, 2004, the Port Authority shall pay to EDC the sum of Three Hundred Nine Thousand and Ninety Dollars (\$309,090) representing amounts due and payable by the Port Authority pursuant to this Section 15.2 for Years 2002, 2003 and 2004, and, accordingly, the Port Authority shall receive a credit equal to the amount of such payment to be applied to the next installment of Base Rent.

15.3 Performance Standards. The Airport Board may review Municipal Air Terminal operations against certain financial, operational, and performance standards (the "**Performance Standards**") established by the City and the Port Authority, which Performance Standards are set forth in **Appendix A** and may be updated or revised in writing, from time to time, by the Port Authority and the City.

15.4 Consultants. The City and the Port Authority shall have the right to retain independent consultants to review and report on the operations and performance of the Municipal Air Terminals. The Port Authority and the City shall each fund an equal amount of up to \$250,000 annually to pay for such consultants' services; provided, however, that at the City's direction, the City's share of such funding shall be deducted from Base Rent and paid by the Port Authority to the independent consultants or EDC, as applicable.

15.5 Quarterly Reports. The Port Authority shall transmit a report quarterly to the Airport Board, for its information, on achievement of the Performance Standards, which quarterly reports shall comply, in all respects, with the requirements prescribed in the Airport Board Agreement.

15.6 Actions not Binding. No action or omission of the Airport Board shall affect the rights or obligations of the City or the Port Authority under this Agreement. This provision shall survive expiration or earlier termination of this Agreement.

**Section 16. Intentionally Deleted**

**Section 17. Physical Changes**

17.1 Subject to the terms of this Agreement, the Port Authority shall have the right to alter, change, remove, relocate or demolish any Improvement on the Demised Premises, to place fill upon or excavate the Demised Premises, to erect Improvements thereon or therein, and to make other physical changes thereon or therein, provided, however, that such right shall not limit or modify any rights of the City or obligations of the Port Authority contained in this Agreement, including the Port Authority's obligation to use, operate, maintain and develop the Demised Premises as a "first class" airport and in accordance with the Performance Standards and the other terms and conditions of this Agreement.

17.2 The Port Authority shall notify the City of its or any Subtenant's intention to undertake any capital improvement the cost of which is in excess of \$50,000,000 (which amount shall be increased in proportion to the increase, if any, in the Consumer Price Index for the month in which the Execution Date falls) prior to commencing such Improvements and shall, upon request of the City, deliver to the City (or to the Person or agency designated, from time to time, by the City) true, accurate and complete copies of the "as built" plans for all alterations to existing Improvements and construction of new Improvements on the Demised Premises, in each case, promptly after the completion thereof.

17.3 The Port Authority shall deliver to the City (or to the Person or agency designated in writing, from time to time, by the City), for information purposes only, (i) a true, accurate and complete copy of its Five Year Capital plan within ninety (90) days after the commencement of each fiscal year of the Port Authority and (ii) any capital planning documents pertaining to future capital projects planned for either of the Municipal Air Terminals.

**Section 18. Policy in Regard to City Ordinances and Regulations; City Services and Franchises**

18.1 In the use, operation, maintenance and future development and expansion of the Municipal Air Terminals, the Port Authority will as a matter of policy, conform to the enactments, ordinances, resolutions and regulations of the City and its various departments, boards and bureaus, in regard to the construction and maintenance of all Improvements, and in regard to life safety, health and fire protection, which would be applicable if the Port Authority were a private corporation, to the extent that the Port Authority finds it practicable so to do, without interfering with, impairing or affecting the efficiency and economy of its Air Terminal operations, or its ability to operate the Municipal Air Terminals upon a self-supporting basis, or its obligations, duties and responsibility to the two states, its bondholders and the general public, but the decision of the Port Authority as to whether it is practicable so to do shall be controlling, subject to its obligation to comply with all of the provisions of this Agreement, including without limitation, **Section 28** hereof. Nothing herein is intended to modify any written agreement or

Memorandum of Understanding with, or building code of, the New York City Department of Buildings or any other City agency.

18.2 The Port Authority shall not prevent, prohibit or inhibit (but may direct or otherwise control) public transportation or taxi services in, to or around the Demised Premises.

**Section 19. Additional Lands and Interests Therein**

19.1 Upon the Port Authority's, or Affiliate of or party acting on behalf of the Port Authority's, acquisition of any lands and improvements thereon or rights, easements or interests therein for use for Municipal Air Terminal Purposes other than temporary use for construction staging, access or egress during construction or other similar activity, including but not limited to lands or improvements acquired for the purpose of providing additional rail access to the Demised Premises or for use in maintaining airplane beacons, guides or other aids to navigation, the same shall be deemed part of the Demised Premises and subject to this Agreement, subject to compliance with or approval under all applicable laws, rules and regulations which may affect such conveyance and incorporation. The City will use good faith efforts to and the Port Authority will, at the Port Authority's expense, cooperate in expeditiously taking such actions and executing such documents as may be reasonably necessary and appropriate to effectuate the conveyance of the same to the City without consideration and the incorporation of the same into the Demised Premises. The City and the Port Authority acknowledge and agree that New York City Planning Commission Resolution # C 990117 PQQ/C 990118 PPQ adopted May 3, 1999 and City Council Resolution # 864 adopted June 7, 1999 authorize real property dispositions and acquisitions by the City to facilitate the Light Rail System to improve access to John F. Kennedy International Airport and to incorporate the Light Rail System into the Demised Premises.

19.2 The Port Authority hereby represents to the City that, as of the Execution Date, the Port Authority has conveyed to the City all of the property and rights heretofore acquired or used by the Port Authority for Municipal Air Terminal Purposes, including but not limited to the Light Rail System, except for certain improvements and property relating to the Light Rail System within Lots 11 and 17, Block 9989, Borough of Queens and certain easements as identified in "Agreement between the New York State Department of Transportation and the Port Authority of New York and New Jersey Regarding Design, Construction, the Transfer of Easements and Maintenance Responsibilities in Connection with Section "B" Stages II, III and IV of the Nassau Expressway" dated as of the 29<sup>th</sup> day of June, 1987 and recorded at Reel 2419, Page 0613 et. seq. in the Office of the City Register, County of Queens. The Port Authority shall acquire all of the improvements and property for the Light Rail System and to convey same to the City pursuant to this **Section 19** within one hundred and twenty (120) days following the Execution Date. Notwithstanding the foregoing, in the event the Port Authority has been unable to acquire the entirety of the Light Rail System within such one hundred and twenty (120) day period, the Port Authority shall immediately transfer such portions of the Light Rail System as have been acquired by or behalf of the Port Authority to the City upon the City's written demand for such transfer. The transfer of any portion of the Light Right System shall not relieve or be construed as relieving the Port Authority of its obligation to acquire and transfer the remainder of the Light Rail System. Notwithstanding the foregoing, the City hereby acknowledges and agrees that (a) the fee interest acquired by the Port Authority in Block 9989, Lot 60, Borough of Queens, and (b) the portions of Block 9989, Lots 11, 17 and 70, Borough of Queens owned or to

be owned by the Long Island Railroad and/or the Metropolitan Transportation Authority, pursuant to a Memorandum of Understanding between the Metropolitan Transportation Authority, the New York City Transit Authority, the Long Island Rail Road and the Port Authority regarding the JFK Light Rail System, Howard Beach Station and Jamaica Terminal Complex dated as of December 19, 2000, shall not be required to be conveyed to the City and shall not be part of the Demised Premises unless such portions are used for Air Terminal Purposes. All of the Port Authority's remaining interest in Block 9989 Lots 11, 17 and 70, including any development rights associated with such parcel, shall be part of the Demised Premises. The Port Authority shall convey to the City all of its right, title and interest in the easement recorded at Reel 2419, Page 0613 et seq., within thirty (30) days of the Execution Date, which interest shall thereafter be incorporated into the Demised Premises as provided in **Section 19.1** hereof.

19.3 The Port Authority shall at all times maintain, repair, restore and otherwise ensure that the LaGuardia Access Bridges and Roadways remain in a good, safe and proper working condition. Without limiting the Port Authority's obligations set forth in the first sentence of this **Section 19.3**, the City and the Port Authority agree that they will cooperate to determine the ownership of the LaGuardia Access Bridges and Roadways and: (i) in the event it is determined that they are owned by the City, the City, subject to applicable law, will expeditiously commence an application at the City's expense to permit their disposition to the Port Authority as part of the Demised Premises and lease same to the Port Authority as part of the Demised Premises pursuant to the terms of this Agreement; (ii) in the event that it is determined that they are owned by the Port Authority, the Port Authority will, at the Port Authority's expense, expeditiously take such actions and execute such documents as may be reasonably necessary and appropriate to effectuate the conveyance of the same to the City without consideration, and upon such conveyance from the Port Authority the City, subject to applicable law, shall concurrently incorporate the same into the Demised Premises as provided in **Section 19.1** hereof; and (iii) in the event that it is determined that they are owned or under the control of a third party, the Port Authority and the City, subject to applicable law, equally sharing all expenses, will use their best efforts to reach agreement to obtain the consent of such third party to permit the continuation of the use and maintenance thereof by the Port Authority for access and egress to LaGuardia Airport.

19.4 The Port Authority shall acquire, at its sole cost and expense, any and all portions of the Bowery Bay Parcel not presently owned by the City, and upon such acquisition shall promptly convey same to the City, and upon such acquisition and conveyance such portions of the Bowery Bay Parcel shall be deemed part of the Demised Premises, subject to **Section 2.1.2** hereof. Regardless of ownership, use of the Bowery Bay Parcel by the Port Authority and the City shall be subject to all of the terms and conditions of this Agreement.

## **Section 20. The Aqueduct Parcel**

### 20.1 The Aqueduct Parcel.

20.1.1 *The NYRA License Agreement.* The Port Authority and the New York Racing Association, Inc. ("NYRA") have entered into a license agreement (the "**NYRA License Agreement**") dated as of December 11, 1992, a copy of which has been provided to the City,

permitting NYRA to use the Aqueduct Parcel in accordance with the terms and conditions of the NYRA License Agreement. The City has been advised by the Port Authority that a Termination Notice dated April 8, 2004 was sent to NYRA and that the NYRA License Agreement will terminate on May 1, 2005 (the “**NYRA Surrender Date**”), at which time the Port Authority shall cause NYRA to surrender and vacate the Aqueduct Parcel. The Port Authority shall not amend, modify or renew the NYRA License Agreement, or extend the NYRA Surrender Date without the City’s prior written consent.

20.1.2 The Port Authority shall use the Aqueduct Parcel solely as permitted pursuant to **Section 20.2** hereof. In the event the Port Authority has not commenced using the Aqueduct Parcel for Municipal Air Terminal Purposes prior to, and is not continuing to use the entire Aqueduct Parcel for Municipal Air Terminal Purposes as of (a) the fifth (5<sup>th</sup>) anniversary of the NYRA Surrender Date and (b) as of each succeeding five (5) year anniversary of the NYRA Surrender Date, then on the fifth (5<sup>th</sup>) anniversary of the NYRA Surrender Date (and on each succeeding five (5) year anniversary thereafter) the City may, but shall not be obligated to terminate this Agreement as it relates to the Aqueduct Parcel by giving written notice (the “**Aqueduct Termination Notice**”) to the Port Authority indicating that the City desires to terminate this Agreement with respect to the Aqueduct Parcel on the date (the “**Aqueduct Termination Date**”) specified in such Aqueduct Termination Notice. The Aqueduct Termination Date shall be one hundred and twenty (120) days after the date upon which the Aqueduct Termination Notice is delivered to the Port Authority in accordance with **Section 27** hereof. Upon delivery of such notice, the City and the Port Authority shall each promptly order their own separate appraisal of the Aqueduct Parcel to determine the fair market value of the Port Authority’s interest in the Aqueduct Parcel as encumbered by this Agreement. In the event the City and the Port Authority are unable to reach agreement as to such fair market value within thirty (30) days following the delivery of the Aqueduct Termination Notice to the Port Authority, such value shall be determined by an independent Member of Appraisal Institute (MAI) appraiser selected by the City, and approved by the Port Authority, which approval shall not be unreasonably withheld, delayed or conditioned, who shall have at least ten (10) years experience appraising leasehold interests of property similar to the Aqueduct Parcel. In determining the fair market value of the Port Authority’s interest in the Aqueduct Parcel (as encumbered by this Agreement), the independent MAI Appraiser shall choose either the appraised value indicated in the appraisal previously ordered by the City or the appraised value indicated in the appraisal previously ordered by the Port Authority, in each case, pursuant to this Section, which determination by the MAI appraiser shall be made within thirty (30) days of his/her appointment and approval and shall be binding on the parties. The Port Authority shall quit and surrender, and cause all licensees to quit and surrender, the Aqueduct Parcel on or before the Aqueduct Termination Date, and, effective as of the Aqueduct Termination Date (i) this Agreement shall terminate as it relates to the Aqueduct Parcel and the Aqueduct Easement shall be extinguished and, thereafter, the Aqueduct Parcel shall no longer be part of the Demised Premises, (ii) neither the City nor the Port Authority (provided, as to the Port Authority, that it shall have surrendered and delivered vacant possession of the Aqueduct Parcel in accordance with the provisions of this **Subsection 20.1.2**) shall thereafter have any further obligation or liability to the other with respect to the Aqueduct Parcel or the Aqueduct Easement, except for obligations and liabilities which under this Agreement expressly survive the expiration or sooner termination of this Agreement and (iii) the parties shall execute a surrender agreement in recordable form when the Aqueduct Parcel is released from the Demised Premises. The City shall pay to the Port Authority

the fair market value of the Port Authority's interest in the Aqueduct Parcel (as encumbered by this Agreement) on the later to occur of (x) the Aqueduct Termination Date and (y) the date upon which the fair market value of such interest is determined pursuant to this **Subsection 20.1.2**. For purposes of this **Section 20.1.2**, the Port Authority will be deemed to have commenced use of the Aqueduct Parcel for a use permitted under **Section 20.2** only when construction work required in connection with a project (including site preparation work) has actually begun and continues with reasonable diligence on the Aqueduct Parcel, and not because design or other planning work has begun for a project at the Aqueduct Parcel.

20.1.3 The parties hereby acknowledge that there shall be no adjustment to the Base Rent due and payable from and after the Aqueduct Termination Date as a consequence of the termination of this Agreement with respect to the Aqueduct Parcel.

20.1.4 *Notification on Commencement of Use.* The Port Authority shall notify the City with respect to commencing use of the Aqueduct Parcel or any portion thereof for the purposes set forth in **Section 20.2** hereof.

20.1.5 *No City Reimbursement.* No costs incurred by the Port Authority pursuant to obligations to be performed by the Port Authority under this **Section 20** shall be reimbursed by the City.

20.2 Limitation on Use of the Aqueduct Parcel. Except as may otherwise be consented to in writing by the City, which consent may be granted or withheld in the City's sole discretion, the Port Authority shall not use or permit the use of the Aqueduct Parcel for any purpose other than long-term and employee parking lot facilities supporting the John F. Kennedy International Airport, nor shall it construct or locate or permit to be constructed or located any Improvements on the Aqueduct Parcel other than those incidental to such parking lot use.

20.3 Termination of Agreement With Respect to a Portion of the John F. Kennedy International Airport. Notwithstanding anything to the contrary contained in this Agreement, at the request of the City, the Port Authority agrees that it will enter into good faith negotiations with the City and third parties chosen by the City regarding the release from the terms of this Agreement of a portion of the Aqueduct Parcel or other portion of the John F. Kennedy International Airport, which portion shall not exceed ten (10) acres, for use by such third parties; provided that the City shall have identified such third party and the City and the Port Authority shall have agreed on the approximate boundaries of such parcel within six (6) months after the Execution Date. In the event the parties reach agreement regarding the release of such portion of the Aqueduct Parcel or other portion of the John F. Kennedy International Airport, and upon receipt of such authorizations as the City determines in its sole discretion are required to permit the lease or fee conveyance of such portion, (i) this Agreement shall terminate as it relates to such portion of the Aqueduct Parcel or other portion of John F. Kennedy International Airport and, thereafter, such portion shall no longer be part of the Demised Premises, (ii) neither the City nor the Port Authority (provided, as to the Port Authority, that it shall have surrendered and delivered vacant possession of such portion of the Aqueduct Parcel in accordance with the provisions of this **Subsection 20.3**) shall thereafter have any further obligation or liability to the other with respect to such parcel, except for obligations and liabilities which under this Agreement expressly survive the expiration or sooner termination of this Agreement, and (iii) the

parties shall execute a surrender agreement in recordable form when such portion is released from the Demised Premises. The parties hereby acknowledge that there shall be no adjustment to the Base Rent as a consequence of the termination of this Agreement with respect to a portion of the Aqueduct Parcel pursuant to this **Subsection 20.3**. In the event that a parcel of land is released from the Demised Premises pursuant to this **Section 20.3** and such parcel of land is not located on the Aqueduct Parcel, then notwithstanding any right to terminate this Agreement as it relates to the Aqueduct Parcel under **Section 20.1.2** the Port Authority shall have the right to retain a portion of the Aqueduct Parcel contiguous to the bridge connecting the Aqueduct Parcel to the remainder of the John F. Kennedy International Airport, which shall be equal in size to the size of the parcel released hereunder and which retained portion of the Aqueduct Parcel shall remain part of the Demised Premises.

**Section 21. Horizontal Surfaces, Conical Surfaces, Primary Surfaces, Approach Surfaces, Transitional Surfaces and Runway Protection Zones; Avigational Easement Areas; JFK Northern Off-Airport Parcels; Off-Airport Properties-Height and Use Restrictions**

21.1 During the term for which the Demised Premises are leased, the City shall not erect or authorize the erection of any obstructions or hazards to air navigation to the extent prohibited by law or by rule or regulation of the FAA, (x) upon or above City streets or other property belonging to the City which will project into the Horizontal Surfaces, Conical Surfaces, Primary Surfaces, Approach Surfaces or Transitional Surfaces or (y) within the boundaries of the Runway Protection Zones, as such may exist from time to time. If it becomes necessary or desirable to remove in whole or in part any such obstructions or hazards existing as of the Execution Date upon City-owned property and projecting into the Horizontal Surfaces, Conical Surfaces, Primary Surfaces, Approach Surfaces, Transitional Surfaces or Runway Protection Zones of such runways as they exist as of the Execution Date or as they may exist in the future, such removal shall be done only with the consent of the City and at the cost of the Port Authority.

21.2 Avigational Easement Areas.

21.2.1 The Port Authority shall have the right at all times throughout the Term to enter upon the LaGuardia Avigational Easement Areas, the JFK International Avigational Easement Areas and the Public Place Easement Area for the purpose of installing, replacing, repairing and maintaining such lighting, beacons, and similar aids to avigation and facilities incidental thereto, as may be determined by the Port Authority to be necessary or desirable for the safe and proper operation of the Demised Premises for Airport Purposes and shall have the right to cross over City streets in the vicinity thereof. For purposes of this Agreement, such avigational equipment shall be deemed Equipment. The rights and restrictions contained in this **Section 21.2.1** shall be subject and subordinate in all respects to the use by the City or the State of the portions of the JFK Avigational Easement Areas identified as the "Nassau Expressway Right of Way" on Sheet JFK-2 and more particularly described in **Exhibit B-4** attached hereto and made a part hereof for street or highway purposes.

21.2.2 The City shall not develop or use the JFK Avigational Easement Areas nor exercise any right with respect thereto so as to interfere with, impair or obstruct the safe and

efficient operation and development of the John F. Kennedy International Airport or the normal flight operations of aircraft, shall not erect or install any structure, building, tower, pole, wire or other object or installation or portion thereof, the construction, maintenance or operation of which would constitute a hazard to aviation without the prior approval of the Port Authority and shall not place fill in or upon the JFK Avigational Easements or place any structures thereon except in accordance with plans approved by the Chief Engineer of the Port Authority, *provided*, that no such approvals shall be unreasonably withheld, conditioned or delayed. The City may, without the express written consent of the Port Authority provide, operate, maintain and permit the operation and maintenance of:

(a) recreational facilities suitable for use for picnicking, boating, baseball, softball, court games, tennis and playground activities;

(b) facilities for the parking of motor vehicles of persons using the aforesaid recreational facilities; and

(c) such restaurant and/or “snack bar” facilities as are usually provided for the accommodation and convenience of persons using such recreational facilities as are above described.

The City shall take all reasonably practicable precautions to prevent its agents, employees, licensees, contractors and invitees from intruding upon, interfering with or damaging any property upon the said premises installed, operated and maintained by or on behalf of the Port Authority or the Federal Aeronautics Administration.

21.2.3 The City shall use the LaGuardia Avigational Easement Areas for park purposes and for no other purpose whatsoever and shall not develop or use the LaGuardia Avigational Easement Areas so as to interfere with, impair or obstruct the safe and efficient operation and development of LaGuardia Airport or the safe and unrestricted passage of aircraft in and over the same. The City shall not erect, install or maintain any structure, building, tower, pole, wire or other object within the LaGuardia Avigational Easement Areas the construction, maintenance or operation of which would constitute a hazard to aviation in the reasonable opinion of the Port Authority nor place fill in or upon the LaGuardia Avigational Easement Areas or place any structures or buildings thereon except in accordance with plans approved by the Chief Engineer of the Port Authority, which approval shall not be unreasonably withheld, conditioned or delayed. The City shall take all reasonably practical steps to prevent its agents, employees, licensees, contractors, and invitees from intruding upon, interfering with or damaging Equipment installed, operated or managed by or on behalf of the Port Authority or the FAA on the LaGuardia Avigational Easement Areas.

### 21.3 JFK Northern Off-Airport Parcels.

21.3.1 The City has advised the Port Authority that the JFK Northern Off-Airport Parcels may require the use of on-airport roadways including Eastern Road for ingress and egress and has requested the Port Authority to grant to the City and each subsequent owner or occupant thereof the right to use such roadways located on John F. Kennedy International Airport for access and egress thereto and therefrom. The Port Authority hereby grants to the

City and each subsequent owner or occupant of any portion of the JFK Northern Off-Airport Parcels such right of access and egress; provided that any instrument executed by the City conveying or leasing all or any portion of the JFK Northern Off-Airport Parcels shall expressly impose on-airport roadway use pro-rata payment covenants that shall be effective until the earlier to occur of (i) the expiration or earlier termination of this Agreement and (ii) the date upon which the City or subsequent owner or occupant, as the case may be, ceases use of the roadway; and provided further that any owner or occupant of any portion of said JFK Northern Off-Airport Parcels pays to the Port Authority its pro rata share, based on the overall use of on-airport roadways by Subtenants of the Port Authority, of the costs of maintaining the on-airport roadways (provided that such charges are comparable to charges paid by other users of the on-airport roadways who are Subtenants and payable in the same manner as for any other Subtenant permitted to use Eastern Road). Upon request, the Port Authority will deliver instruments confirming the same to any owner or occupant of said Parcels.

21.3.2 At all times during the Term, use, development and occupation of the JFK Northern Off-Airport Parcels shall be in conformance with the requirements of the FAA as specified in Title 14 CFR, PART 77.25 relating to FAA Regulations regarding “Objects Affecting Navigational Air Space – Obstruction Standards” which have the functions and standards specified in Runway Protection Zone guidelines in FAA Advisory Circular “Airport Design AC 150/15300-13, Paragraph 212, and the rights of the State of New York to construct the Nassau Expressway. Any instrument executed by the City conveying or leasing all or any portion of the City’s interest in the JFK Northern Off-Airport Properties shall expressly impose such restrictions on the use, development, and occupation of the JFK Northern Off-Airport Parcels for, with respect to the FAA Regulations, so long as the John F. Kennedy International Airport is used for Air Terminal purposes and, with respect to the Nassau Expressway, until such time as the right to develop the Nassau Expressway is surrendered by the State of New York or otherwise extinguished unless the prior written consent of the Port Authority is obtained, which consent shall not be unreasonably withheld, conditioned or delayed.

21.3.3 The Port Authority shall have the right for the duration of this Agreement to use and maintain utilities and aids to aviation existing as of the Effective Date on the JFK Northern Off-Airport Parcels identified as Parcels 4, 5 and 6 in **Exhibit B-5** on Sheet JFK-2 of **Exhibit A** attached hereto and, subject to the approval of the City, the Port Authority may relocate and replace such installations. Such installations and any replacement installations shall be deemed Equipment.

#### 21.4 Off-Airport Properties; Height and Use Restrictions.

21.4.1 The City agrees that at no time during the Term shall the Height and Use Restricted Properties be used or occupied at any time (i) for school house or similar educational purposes or (ii) for residential purposes which include but shall not be limited to private homes, apartment houses, hospitals, nursing homes or similar facilities, hotels or motels unless the use or occupancy of such hotel or motel shall have received the express prior written consent of the Port Authority, which consent shall not be unreasonably withheld, delayed or conditioned.

21.4.2 The City agrees that at no time during the Term shall structures of any nature be erected, vehicles parked, other items placed, or growth of natural objects be permitted

by the City upon the Height and Use Restricted Properties which would in the opinion of the FAA or in the reasonable opinion of the Port Authority constitute an obstruction to avigation nor shall any activity be permitted on the Height and Use Restricted Properties which in the opinion of the FAA or in the reasonable opinion of the Port Authority interferes with or constitutes a hazard to the Municipal Air Terminals or in any way interferes with avigation or communications serving the Municipal Air Terminals. In no event, moreover, shall any structure or structures be erected or growth of natural objects be permitted upon the Height and Use Restricted Properties which shall project above a horizontal plane (i) at elevation 316 measured in feet above mean sea level at Sandy Hook, New Jersey as to the Height and Use Restricted Property described in **Exhibit B-6** as Property 1, (ii) at elevation 212 measured in feet above mean sea level at Sandy Hook, New Jersey as to the Height and Use Restricted Property described in **Exhibit B-6** as Property 2 or (iii) at elevation 162 measured in feet above mean sea level at Sandy Hook, New Jersey as to the Height and Use Restricted Property described in **Exhibit B-6** as Property 3.

## **Section 22. Inspection**

22.1 Free Access. The City through its designated officials and employees in the performance of their official duties shall at all reasonable times have the right of free access to all portions of the Demised Premises.

22.2 Federally Restricted Areas. Notwithstanding the foregoing, however, or any other provision of this Agreement, entry by City officials or employees, or any other Person, into any Federally restricted areas of the Demised Premises, including without limitation the FAA Control Tower, Federal inspection areas, aeronautical operations areas, etc., will be subject to all applicable Federal rules and regulations.

## **Section 23. Condemnation**

### 23.1 Condemnation of a Municipal Air Terminal.

23.1.1 If the whole or substantially all of a Municipal Air Terminal shall be taken (excluding a taking of the fee interest in the Demised Premises, or any leasehold interest superior to that of the Port Authority's, if after such taking, the Port Authority's rights and obligations under this Agreement are not affected) for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain or by agreement among the City, the Port Authority and those authorized to exercise such right, (i) this Agreement and the Term shall terminate and expire on the date of such taking with respect to the Municipal Air Terminal so taken, (ii) the Base Rent shall be apportioned between the Municipal Air Terminal so taken and the Municipal Air Terminal not taken based on the Annual Gross Revenue attributable thereto with respect to the Year immediately preceding such taking, (iii) all Rent allocated to the Municipal Air Terminal so taken shall not be due and payable under this Agreement from and after the date of such taking and (iv) as of the date of such taking, this Agreement and any and all obligations and liabilities of the Port Authority hereunder shall terminate and expire with respect to the Municipal Air Terminal so taken. Notwithstanding the foregoing, this Agreement and all of the Port Authority's obligations and liabilities hereunder

shall continue in full force and effect with respect to the Municipal Air Terminal not taken until the Expiration Date or sooner termination of this Agreement.

23.1.2 The term “**substantially all of a Municipal Air Terminal**” shall mean such portion of a Municipal Air Terminal as when so taken would leave remaining a balance of such Municipal Air Terminal which, due either to the area so taken or the location of the part so taken in relation to the part not so taken, would not under economic conditions and after performance by the Port Authority of all covenants, agreements, terms and provisions contained herein or by law required to be observed or performed by the Port Authority, permit the Restoration of the Improvements so as to enable the Port Authority to operate, maintain and develop such Municipal Air Terminal in accordance with **Section 28** of this Agreement.

23.1.3 If the whole or substantially all of a Municipal Air Terminal, shall be taken or condemned as provided in **Subsection 23.1.1** above, then the award, awards or damages in respect thereof shall be apportioned as follows:

(a) there shall first be paid to the City out of the award an amount which is equal to (i) the remaining rent that, but for the condemnation, would have been paid to the City, from the date of taking until the Expiration Date, discounted to present value as of the date of taking, plus (ii) the value of the Land, as vacant and unimproved, in fee simple absolute (as unencumbered by this Agreement), as of the Expiration Date;

(b) there shall next be paid to the Port Authority an amount equal to the greater of (i) the value of the Port Authority’s leasehold interest in such Municipal Air Terminal and (ii) the amount required to allow the Port Authority to recover (A) the unamortized portion of its investment in the Improvements at such Municipal Air Terminal, (B) any remaining deferred charges for Equipment acquired by the Port Authority for use at or in connection with its operation of such Municipal Air Terminal (the Port Authority being entitled to any such remaining deferred charges for Equipment used for more than one facility only to the extent such deferred charges are attributable to such Municipal Air Terminal) and (C) any amounts which the Port Authority is required to pay to any of its Subtenants at such Municipal Air Terminal as a result of such taking or condemnation; and

(c) the balance, if any, of such compensation or award shall be paid to the City.

23.1.4 Each of the parties shall execute any and all documents that may be reasonably required in order to facilitate collection by the appropriate party of such awards.

23.2 Date of Taking. For purposes of this **Section 23**, the “**date of taking**” shall be deemed to be the date on which title to a Municipal Air Terminal or the aforesaid portion thereof shall have vested in any lawful power or authority pursuant to the provisions of the applicable federal or New York State law.

23.3 Partial Taking. If less than substantially all of a Municipal Air Terminal shall be so taken, this Agreement and the Term shall continue as to the portion of the Municipal Air Terminal not so taken together with the Municipal Air Terminal not affected by such taking;

provided that the Minimum Annual Rent shall be reduced by the percentage that the value of the area of the Demised Premises so taken bears to the Demised Premises. The Port Authority, whether or not the award or awards, if any, shall be sufficient for the purpose shall (subject to Unavoidable Delays) proceed diligently to Restore any remaining part of the Improvements not so taken so that each remaining Improvement shall be a complete, operable, self-contained architectural unit in good condition and repair. In the event of any taking pursuant to this **Subsection 23.3**, the entire award for or attributable to the Land taken, considered as unimproved and unencumbered by this Agreement, shall be first paid to the City to compensate it for the value of the Land taken, and the balance of the award, if any, shall be paid, in trust, to the Port Authority (provided that if any Superior Lease or Superior Mortgage requires payment in trust to the City, such balance shall be paid as provided therein) for application to the cost of Restoration of the part of the Improvements not so taken, and the remainder of the award, if any, shall go to the City.

23.4 Temporary Taking. If the temporary use of the whole or any part of the Demised Premises shall be taken for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain or by agreement between the Port Authority and those authorized to exercise such right, (w) the Port Authority shall give prompt notice thereof to the City, (x) the Term shall not be reduced or affected in any way and (y) the Port Authority shall continue to pay in full the Rent payable by the Port Authority hereunder without reduction or abatement, and (z) the Port Authority shall be entitled to receive for itself any award or payments for such use; provided, however, that:

(a) If the taking is for a period not extending beyond the Term, then (x) the award or payment shall first be paid to the Port Authority, in trust, in any amount sufficient to pay all Rent due and payable during the entire period of such taking; except that, if such taking results in changes or alterations in any of the Improvements which would necessitate an expenditure to Restore such Improvements to their former condition, then, an additional portion of such award or payment considered by the City, in its reasonable opinion, as appropriate to cover the expenses of such Restoration shall be paid to the Port Authority to be held by the Port Authority, in trust, and applied and paid over toward the Restoration of the Improvements to their former condition, and (y) any portion of the award or payment which shall not be required pursuant to clause (x) above to be applied to the Restoration of the Improvements or to the payment of Rent through the end of the Term (or, if the taking is for a period terminating prior to the end of the Term, until the end of such period) shall be paid to the City; and

(b) If the taking is for a period extending beyond the Term, such award or payment shall be apportioned between the City and the Port Authority as of the Expiration Date; provided, however, that the amount of any award or payment paid to the Port Authority for the Restoration of the Improvements and not previously applied for such purpose shall be paid by the Port Authority to the City on the Expiration Date.

23.5 In the event of a negotiated sale of all or a portion of the Demised Premises in lieu of condemnation, the proceeds shall be distributed as provided in cases of condemnation.

23.6 The City shall be entitled to file a claim including, without limitation, any claim for the value of the Improvements. The Port Authority shall be entitled to file a separate claim only as provided in **Section 23.7** below and hereby waives any right to file a separate claim for the Land or any interest therein or the Improvements.

23.7 Notwithstanding anything to the contrary contained in this **Section 23**, in the event of any permanent or temporary taking of all or any part of the Demised Premises, the Port Authority and its Subtenants shall have the exclusive right to assert claims for any Equipment, trade fixtures and personal property so taken which were the property of the Port Authority or Subtenants (but not including any Fixtures) and for relocation expenses of the Port Authority and Subtenants, and all awards and damages in respect thereof shall belong to the Port Authority and Subtenants, and the City hereby waives any and all claims to any part thereof; provided, however, that if there shall be no separate award or allocation for such Equipment, trade fixtures or personal property, then such claims of the Port Authority and Subtenants, or awards and damages, shall be subject and subordinate to the City's claims under this **Section 23**.

#### **Section 24. Covenant of Quiet Enjoyment**

Subject to the exceptions, reservations, terms and conditions of this Agreement, the Port Authority, on paying the Base Rent and Additional Rent promptly when due and on performing all of the other terms, covenants and conditions set forth in this Agreement promptly as required, shall and may peaceably and quietly have, hold and enjoy the Demised Premises for the Term unless the Term shall cease, close or expire sooner.

#### **Section 25. Events of Default; Rights and Remedies**

25.1 Each of the following events shall be an “**Event of Default**” hereunder:

(a) if for any reason whatsoever (including, without limitation, any invalidity, unenforceability, illegality or legal inability to pay) (i) the Port Authority shall fail to pay any item of Base Rent or Additional Rent, or any part thereof, when the same shall become due and payable (or would have become due and payable but for any invalidity, unenforceability, illegality or legal inability to pay), nor may Unavoidable Delay be claimed as a reason for such failure, and such failure shall continue for thirty (30) days following notice from the City to the Port Authority that such item is unpaid, or (ii) the City is required to forfeit or repay all or any portion of the Lump Sum Payment or (iii) the City is required to forfeit or repay any portion of the Additional Lump Sum Payment or previously paid Rent for any Year or Years;

(b) if the Port Authority shall fail to provide to the City or the Airport Board, as the case may be, any item of information with respect to the operation or financials of the Municipal Air Terminals or the Performance Standards, and such failure shall continue for ninety (90) days after notice from the City or the Airport Board to the Port Authority specifying such failure (unless such failure requires acts to be done, or conditions to be removed which cannot by their nature or because of Unavoidable Delays reasonably be done or removed, as the case may be, within such ninety (90) day period, in which case no Event of Default shall be deemed to exist as long as the Port Authority

(i) shall have commenced curing the same within such ninety (90) day period, (ii) shall have given notice to the City of such Unavoidable Delay both (A) within thirty (30) days of the Port Authority becoming aware that any condition or event is likely to result in Unavoidable Delay and (B) once per month following the delivery of such initial notice until the Unavoidable Delay no longer exists, in each case, indicating the steps taken by the Port Authority to address or extinguish such Unavoidable Delay and (iii) shall continue, subject to Unavoidable Delays, to diligently and continuously prosecute the same to completion);

(c) if the Port Authority shall fail to observe or perform one or more of the other terms, conditions, covenants or agreements contained in this Agreement and such failure shall continue for a period of ninety (90) days after notice thereof by the City to the Port Authority specifying such failure (unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot by their nature or because of Unavoidable Delays reasonably be performed, done or removed, as the case may be, within such ninety (90) day period, in which case no Event of Default shall be deemed to exist as long as the Port Authority shall have commenced curing the same within such ninety (90) day period and shall, subject to Unavoidable Delays, diligently and continuously prosecute the same to completion);

(d) a breach of any representation by the Port Authority contained in this Agreement, including, without limitation, the representations contained in **Subsection 6.1**;

(e) if this Agreement or the Port Authority's leasehold interest or the Demised Premises or any portion of any of same shall be assigned, subleased, transferred, mortgaged or encumbered without compliance with the provisions of this Agreement applicable thereto and such transaction shall not be made to comply or voided ab initio within thirty (30) days after notice thereof from the City to the Port Authority; and

(f) if a levy under execution or attachment shall be made against the Demised Premises and such execution or attachment shall not be vacated or removed by court order, or otherwise or bonded within a period of ninety (90) days from the date on which the Port Authority shall have received notice of same.

25.2 Upon the occurrence of an Event of Default, the City shall have all the rights and remedies for which provision is now made by law and all additional remedies which may hereafter be provided by law, including, without limitation, to the extent set forth in §6638 of McKinney's Unconsolidated Laws, as the same may, from time to time, be amended, supplemented or replaced or otherwise available to the City, including, without limitation, the right on the part of the City to institute actions or proceedings of any form or nature in law, equity or otherwise in connection with this Agreement for money damages, money damages for torts arising out of the operation of the Municipal Air Terminals, for Base Rent and Additional Rent and the Lump Sum Payment or the Additional Lump Sum Payment, for specific performance or injunction, for reformation thereof, for accounting, for declaratory judgment and for judgments, orders, or decrees restraining or enjoining the Port Authority from committing or continuing to commit breaches of this Agreement including, without limitation, (a) actions for a

declaratory judgment declaring that an Event of Default has occurred and declaring, in the case and only in the case of an Event of Default under **paragraph 25.1(a)** or **25.1(b)** above, that this Agreement is terminated in accordance with the terms and conditions of this Agreement, and (b) actions for specific performance and/or an injunction requiring the Port Authority to abide by covenants in this Agreement, including, without limitation, its covenant to quit and surrender the Demised Premises upon any termination of this Agreement in accordance with the terms and conditions of this Agreement. The provisions of this **Section 25.2** shall survive the expiration or sooner termination of this Agreement.

25.3 (a) If an Event of Default described in **subparagraphs (a) or (b)** of **Subsection 25.1** above shall occur, then, in addition to the exercise of any remedies of the kind described in **Subsection 25.2** above (i) the City, at its election, by notice to the Port Authority, shall have the right to terminate this Agreement as of the date specified in the notice, which date shall not be less than one hundred twenty (120) days following the effective date of such notice, and if on such specified date the Port Authority shall have failed to cure the default which is the basis for the Event of Default, then the Term and all rights of the Port Authority under this Agreement shall expire and terminate as if such specified date were the date herein definitely fixed for the expiration of the Term, and the Port Authority immediately shall quit and surrender the Demised Premises in accordance with **Section 33** of this Agreement and (ii) at any time after the date specified in the notice described in **clause (i)** above, the City may dispossess the Port Authority by summary proceedings or otherwise. In the event this Agreement is terminated pursuant to this **subparagraph (a)** of this **Subsection 25.3**, then, except for the provisions of this Agreement which, by their terms, survive expiration or sooner termination of this Agreement, the entirety of this Agreement shall immediately terminate and be of no further force or effect, and the Port Authority shall have no further rights hereunder

(b) Notwithstanding the provisions of **Subsection 25.3(a)**, in the event that (i) an Event of Default under **clause (i)** of **Subsection 25.1(a)** has occurred by reason of the Port Authority's obligation to pay all or any portion of Base Rent or Additional Rent having been determined to be invalid or unenforceable or unlawful, or (ii) an Event of Default under **clause (iii)** of **Subsection 25.1(a)** has occurred, the City shall not have the right to terminate this Agreement solely by reason thereof so long as the Port Authority lawfully and validly, as applicable, (x) pays to the City within sixty (60) days from the date of repayment or forfeiture an amount equal to so much of the Additional Lump Sum Payment or previously paid Rent as has been repaid or forfeited, plus interest at the Interest Rate from the date of such repayment or forfeiture, as applicable, and (y) within sixty (60) days of such Event of Default, pays and thereafter continues to timely pay amounts equal to all Base Rent and Additional Rent as would have been paid under the terms of, and reasonably close (with appropriate present-value adjustments) to the times set forth in, this Agreement had the same not been held to be invalid, unenforceable or unlawful.

(c) Notwithstanding the provisions of **Subsection 25.3(a)**, in the event of the occurrence of an Event of Default of the kind described in **clause (ii)** of **Subsection 25.1(a)**, the Port Authority shall use best efforts to lawfully and validly pay to the City an amount equal to the Lump Sum Payment or portion thereof that was repaid or forfeited, together with interest at the Interest Rate from the date of repayment or forfeiture, and so long as the Port Authority continues such best efforts and complies with all of the terms of this Agreement, and

there is no other Event of Default hereunder, the City shall not have the right to terminate this Agreement solely by reason of such Event of Default described in clause (ii) of **Subsection 25.1(a)**, provided however, that if such payment is not lawfully and validly made within two years from the date of such Event of Default, the City may thereafter terminate this Agreement by reason thereof and may also, at its option, reinstate the Arbitration in accordance with the terms of the Stipulation of Settlement, the form of which is set forth in **Appendix D**, pursuant to which the City's recovery is limited to Five Hundred Million Dollars (\$500,000,000). The City shall in good faith cooperate with such efforts. The provisions of this **Subsection 25.3(c)** shall survive the expiration or sooner termination of this Agreement.

(d) If this Agreement shall be terminated by reason of an Event of Default under (x) **clause (i)** of **Subsection 25.1(a)** by reason of the Port Authority's obligation to pay all or any portion of Base Rent or Additional Rent having been determined to be invalid or unenforceable or unlawful or (y) **clause (iii)** of **Subsection 25.1(a)**, then, notwithstanding such termination, the parties agree that (xx) for a period of nine (9) months following the date of termination, they will use good faith efforts to negotiate the terms of a substitute lease agreement covering the Demised Premises and (yy) during the period of such negotiation, the Port Authority may continue to occupy the Demised Premises; provided that, at all times during such occupancy of the Demised Premises, the Port Authority (A) continues to operate and maintain the Municipal Air Terminals in a manner consistent with the provisions of **Section 28** of this Agreement, (B) continues to maintain all insurance policies required under **Section 14** at limits, and otherwise in accordance with the requirements of **Section 14** and (C) otherwise complies with the terms of this Agreement as if this Agreement were still in full force and effect. The provisions of this **Subsection 25.3(d)** shall survive the expiration or sooner termination of this Agreement.

25.4 In addition to any other rights the City may have in connection with an Event of Default under this Section, if the Port Authority fails to pay to the City any Base Rent or Additional Rent due under the terms of this Agreement, the City shall have the right to bring a summary proceeding for non-payment of rent pursuant to RPAPL § 711(2). The parties agree that service of a rent demand pursuant to RPAPL § 711(2) and the notice of petition and petition shall be proper service on the Port Authority pursuant to RPAPL § 735 if personally delivered to any employee of the Port Authority located at the Office of the Manager of Kennedy Airport, which is currently located at General Manager's Office, JFK International Airport, Building 14, 2nd Floor, Jamaica, NY 11430, John F. Kennedy International Airport, and by mailing same both by registered or certified mail, and by first class mail to the Port Authority at 225 Park Avenue South, New York, NY 10003, Attn: Executive Director, within one day after delivery. If the location of the Office of the Manager changes, the Port Authority shall immediately notify the City of such new location. The provisions of this **Section 25.4** shall survive the expiration or sooner termination of this Agreement.

25.5 All obligations and liabilities of the Port Authority under this Agreement shall survive any expiration or earlier termination of this Agreement until the Port Authority surrenders possession of the entire Demised Premises to the City, after which time only those obligations and liabilities of the Port Authority that, by the terms of this Agreement, expressly survive the expiration or sooner termination of this Agreement shall survive and remain enforceable against the Port Authority.

25.6 The Port Authority hereby waives and releases all rights now or hereafter conferred by statute or otherwise which would have the effect of limiting or modifying any of the provisions of this **Section 25**. The Port Authority shall execute, acknowledge and deliver any instruments which the City may request, whether before or after the occurrence of an Event of Default, evidencing such waiver or release.

25.7 No receipt of moneys by the City from the Port Authority after the termination of this Agreement, or after the giving of any notice of the termination of this Agreement (unless such receipt cures the Event of Default which was the basis for the notice), shall reinstate, continue or extend the Term or affect any notice theretofore given to the Port Authority or operate as a waiver of the right of the City to enforce the payment of Rent or the Lump Sum Payment or the Additional Lump Sum Payment payable by the Port Authority hereunder or thereafter falling due, or operate as a waiver of the right of the City to recover possession of the Demised Premises by proper remedy, it being agreed that after the termination of this Agreement, or after the service of notice to terminate this Agreement or the commencement of any suit or summary proceedings, or after a final order or judgment for the possession of the Demised Premises, the City may demand, receive and collect any moneys due or thereafter falling due without in any manner affecting such notice, proceeding, order, suit or judgment, all such moneys collected being deemed payments on account of the use and operation of the Demised Premises or, at the election of the City, on account of the Port Authority's liability hereunder. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

25.8 Except as otherwise expressly provided herein, the Port Authority, for and on behalf of itself and all persons claiming through or under the Port Authority, expressly waives any and all right of redemption provided by any law or statute now in force or hereafter enacted or otherwise, or re-entry or repossession or to restore the operation of this Agreement in case the Port Authority shall be dispossessed by a judgment or by warrant of any court or judge or in case of re-entry or repossession by landlord or in case of any expiration or termination of this Agreement, and the City and the Port Authority waive and shall waive trial by jury in any action; proceeding or counterclaim brought by either of the parties hereto against the other on any matter whatsoever arising out of or in any way connected with this Agreement, the relationship of the City and the Port Authority, the Port Authority's use or occupancy of the Demised Premises, or any claim of injury or damage. The terms "enter," "re-enter," "entry," or "re-entry" as used in this Agreement are not restricted to their technical legal meaning. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

25.9 No failure by the City or the Port Authority to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial Rent during the continuance of any such breach, shall constitute a waiver of any such breach or of such covenant, agreement, term or condition. No covenant, agreement, term or condition of this Agreement and no breach thereof, shall be waived, altered or modified except by a written instrument expressly agreeing to such waiver, alteration or modification executed by the City and the Port Authority. No waiver of any breach shall affect or alter this Agreement, but each and every covenant, agreement, term and condition of this Agreement still continue in full force and effect with respect to any other then existing or subsequent breach thereof.

25.10 Each right and remedy of the City provided for in this Agreement shall be cumulative and shall be in addition to every other right or remedy provided for in this Agreement and the exercise or beginning of the exercise by the City of any one or more of the rights or remedies provided for in this Agreement shall not preclude the simultaneous or later exercise by the City of any or all other rights or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise.

25.11 The Port Authority shall pay to the City all costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by the City in any action or proceeding to which the City may be made a party by reason of any act or omission of the Port Authority. The Port Authority also shall pay to the City all costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements incurred by the City in enforcing any of the covenants and provisions of this Agreement and incurred in any action brought by the City against the Port Authority on account of the provisions hereof, and all such costs, expenses, and reasonable attorneys' fees and disbursements may be included in, and form a part of, any judgment entered in any proceeding brought by the City against the Port Authority, on or under this Agreement. All of the sums paid or obligations incurred by the City as aforesaid, with interest at the Interest Rate accruing from the date such amount was so paid or incurred, shall be paid by the Port Authority to the City within fifteen (15) days after demand by the City. The provisions of this **Section 25.11** shall survive the expiration or sooner termination of this Agreement.

25.12 Suit or suits for the recovery of damages, or for a sum equal to any installment or installments of Rent payable hereunder or other sums payable by the Port Authority to the City pursuant to this Agreement, may be brought by the City from time to time at the City's election, and nothing herein contained shall be deemed to require the City to await the date where this Agreement or the Term would have expired had there been no Event of Default by the Port Authority.

## **Section 26. The City's Right to Perform Obligation of the Port Authority**

26.1 If, after notice thereof and after applicable grace periods, if any, provided under this Agreement for the Port Authority to perform or commence to perform any covenant or take any action to be performed or taken by the Port Authority pursuant to **Subsection 14.17** or **Subsection 32.2** of this Agreement, the City, without waiving or releasing the Port Authority from any obligation of the Port Authority contained in this Agreement, may (but shall be under no obligation to) perform such, covenant or take such action on the Port Authority's behalf.

26.2 All sums paid by the City and all reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by the City in connection with its performance of any obligation or the taking of any action pursuant to **Subsection 26.1** above, together with interest thereon at the Late Rate from the respective dates of the City's making of each such payment or incurring of each such sum, cost, expense, charge, payment or deposit until the date of repayment to the City, shall be paid by the Port Authority to the City as Additional Rent within thirty (30) days after the City shall have submitted to the Port Authority a statement, in reasonable detail, substantiating the amount demanded by the City. Any performance by the City pursuant to **Subsection 26.1** above, or any payment made pursuant

thereto, shall not be nor be deemed to be a waiver or release (i) by the City of a claim of breach of this Agreement on the part of the Port Authority or (ii) a claim for an Event of Default with respect thereto or (iii) of the right on the part of the City to, as applicable, terminate this Agreement, institute summary proceedings or take such other action as may be permissible hereunder or otherwise provided at law or in equity if an Event of Default the Port Authority shall have occurred. The provisions of this Section 26 shall survive the expiration or earlier termination of this Agreement.

**Section 27. Notice**

27.1 Notices, requests, demands, consents and approvals required to be given to or by either party hereunder, including without limitation statements, audit reports and reports of rental payments (“Notices”), shall be in writing and shall be personally delivered during business hours or delivered by a nationally recognized overnight courier service or sent by registered or certified mail, postage prepaid and return receipt requested, to the duly designated officer of such party. Until further notice, the duly designated officers are as follows:

**To the Port Authority**

Executive Director  
The Port Authority of New York and New Jersey  
225 Park Avenue South  
New York NY 10003

**To the City**

The City of New York  
c/o New York City Economic Development Corporation  
110 William Street  
New York, New York 10038  
Attention: Director of the Aviation Department

**With a copy to:**

The City of New York  
c/o The New York City Economic Development Corporation  
110 William Street  
New York, New York 10038  
Attention: Chief Financial Officer

Notwithstanding the foregoing, the Port Authority shall also send copies of all Annual Statements, estimates and other information and documents required by **Section 4.4** to the City at the following address:

New York City Office of Management and Budget  
75 Park Place  
New York, New York 10007  
Attention: Budget Director

27.2 Each Notice shall be deemed given and effective upon receipt, or, in the event of a refusal by the addressee, on the first tender of such Notice to the addressee at the designated address.

27.3 All Notices shall be forwarded to the above addresses until notice in writing of change of address is forwarded by either party to the other by Notice given in the manner provided herein.

## **Section 28. Operation and Development of the Municipal Air Terminals**

28.1 Covenants of the Port Authority. The Port Authority shall use, operate and maintain, rehabilitate, expand, improve, and develop the Municipal Air Terminals as “first-class” airports and in accordance with the Performance Standards. In that connection:

(a) The Port Authority shall provide all necessary facilities for the accommodation of aircraft and for the safe and efficient loading, unloading, transfer, and interchange of passengers and cargo and for the safe and efficient use and convenience of operators and passengers;

(b) The Port Authority shall take all commercially reasonable steps as may be necessary to maintain the continuous, uninterrupted and safe operation of the Municipal Air Terminals at levels necessary to meet the air travel and cargo demands of the City of New York and surrounding metropolitan area, including any growth in such demands;

(c) The Port Authority shall continue to make all Air Terminal facilities and services available for public use on fair and reasonable terms without unjust discrimination;

(d) The Port Authority shall keep each of the Municipal Air Terminals open for operations in accordance with all relevant FAA approvals and requirements;

(e) The Port Authority shall take all commercially reasonable steps as may be necessary to ensure that the operation of the Municipal Air Terminals will not be interrupted if the Port Authority becomes insolvent or seeks the protection of or becomes subject to any state or federal bankruptcy, reorganization, insolvency, liquidation, or dissolution proceeding or any petition or similar request seeking the dissolution or reorganization of the Port Authority or the appointment of a receiver, trustee, custodian, or liquidator for the Port Authority or a substantial part of the Port Authority or its property, assets, or business;

(f) The Port Authority will maintain, improve, and modernize the facilities of the Municipal Air Terminals through capital investment and will submit to the Airport Board all plans for carrying out such maintenance, improvement and modernization so as to maintain, at all times, each of the Municipal Air Terminals as a “first-class” airport and in accordance with the Performance Standards;

(g) The Port Authority shall take such steps as are necessary to and shall attain, on an ongoing basis, the Performance Standards at each of the Municipal Air Terminals;

(h) The Port Authority shall maintain safety and security at the Municipal Air Terminals at the highest possible levels;

(i) Except as expressly provided in **Section 18** of this Agreement, the Port Authority shall, and shall cause all Subtenants and all other users of the Demised Premises to, comply with all existing and future laws, ordinances, rules and regulations of the United States, the State of New York, the City of New York or any agency, instrumentality, department, commission, court, tribunal or board thereof having jurisdiction over, or affecting the Demised Premises, at any time during the Term;

(j) The Port Authority shall, and shall cause the Demised Premises and all Subtenants and other users of the Demised Premises to, comply with all Environmental Laws;

(k) The Port Authority has complied with, and shall continue to comply in all respects, with the New York State Department of Environmental Conservation Order on Consent, In the Matter of Alleged Violations of Article 12 of the New York State Navigation Law, Article 17 of the New York State Environmental Law, and Title 6, Parts 611, 613, 702 and 703 of the New York Codes, Rules and Regulations, John F. Kennedy International Airport Environmental Compliance Order, DEC File No. R2-3519-91-02, effective February 22, 1994;

(l) If at any time any Hazardous Materials are found at, on, under or migrating to or from the Demised Premises, the Port Authority shall, or shall cause responsible Subtenants and other users of the Demised Premises to, (A) promptly commence and diligently prosecute to completion all investigation, sampling, monitoring, containment, cleanup, removal, restoration, remedial work, or other response action of any kind to the extent required by and in compliance with Environmental Laws, and (B) provide periodic notices or reports to the City in such form and substance as the City may reasonably require, specifying the nature and condition of such Hazardous Materials, and such action the Port Authority, any Subtenant or any other Person the Port Authority has knowledge of, has taken, is taking or proposes to take with respect thereto;

(m) The Port Authority shall promptly provide notice to the City if the Port Authority becomes aware of any claim, action, judgment, obligation, suit, notice, notice of violation, investigation, proceeding, order or lien relating to (A) a violation or alleged violation of, or matter arising under, any Environmental Laws with respect to the Demised Premises, or (B) Hazardous Materials at, on, under or migrating to or from the Demised Premises; and

(n) The Port Authority shall cause all inspections of and maintenance to the Light Rail System to be performed in accordance with all guidelines and procedures of the New York City Department of Transportation, which shall include,

without limitation, obtaining all permits required to be obtained in the event that any such inspection or maintenance restricts the flow of traffic on any vehicular artery.

28.2 Continuous Operation of Municipal Air Terminals. The Port Authority acknowledges that the continuous, uninterrupted, safe, convenient, and efficient operation of each of the Municipal Air Terminals is important to the health, safety and welfare of the public.

28.3 Authority and Discretion of the Port Authority. Subject to the terms of this Agreement, the Port Authority shall have full power and discretion to proceed with the operation, maintenance, financing, rehabilitation, expansion, improvement and development of the Municipal Air Terminals, and to enter into such contracts, agreements, Subleases or other arrangements with respect thereto as it may deem necessary and desirable, and all matters connected therewith, including but not limited to, all details of financing, construction, leasing, charges, rates, tolls, contracts, and operation shall be within the sole discretion of the Port Authority. Subject to the terms of this Agreement, the decisions of the Port Authority in connection with any and all matters concerning the Municipal Air Terminals shall be controlling, provided that all such things shall be done by the Port Authority in its own name and on its own credit.

28.4 Delegation of Obligations by the Port Authority. The Port Authority shall not delegate all or any portion of its (i) obligations or (ii) authority or discretion, under this Agreement, except, in either case, as such obligations, authority and discretion are customarily delegated to contractors, Subtenants and other third parties pursuant to contracts, subleases and other agreements entered into in the ordinary course of the business of maintaining and operating the Air Terminals.

28.5 No Obligations on the Part of the City. Except as expressly provided herein, the City shall not be required to furnish any services, utilities or facilities whatsoever to the Demised Premises, nor shall the City have any duty or obligation or to make any alteration, change, improvement, replacement, Restoration or Repair to, nor to demolish, any Improvements or to maintain or manage the Demised Premises; nor shall the reservation, if any, of the right to the City hereunder create any obligation on the part of the City to the Port Authority or any third party.

## **Section 29. Entire Agreement**

This Agreement, together with the Exhibits, Schedules and Appendices annexed hereto, amends and restates and supersedes the Old Agreement in its entirety, effective as of the Effective Date, and constitutes the entire agreement between the Port Authority and the City on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing duly executed on behalf of both the Port Authority and the City. Except for certain obligations that may survive as provided in Section 3.1, from and after the Effective Date, the Old Agreement shall have no further force or effect.

## **Section 30. No Third Party Beneficiary, No Personal Liability**

30.1 Except as expressly provided herein, nothing herein contained shall be deemed or construed to be an undertaking or covenant for the benefit of any third party.

30.2 No Commissioner, director, elected official, officer, agent, representative or employee of the Port Authority or the City or EDC shall be charged personally by either party hereto with any liability or held personally liable under any of the terms or provisions of this Agreement or because of its execution or because of any breach or attempted or alleged breach hereof.

30.3 Without limiting the generality of **Subsection 30.2** above, the City and EDC shall not in any event whatsoever be liable for any injury or damage to the Port Authority or to any other Person happening on, in or about the Demised Premises and its appurtenances, nor for any injury or damage to the Demised Premises or to any property belonging to the Port Authority or to any other Person which may be caused by any fire or breakage, or by the use, misuse or abuse of the Improvements, or the streets or sidewalk area within the Demised Premises or which way arise from any other cause whatsoever.

30.4 The City and EDC shall not be liable to the Port Authority or to any other Person for any failure of water supply, gas or electric current, nor for any injury or damage to any property of the Port Authority or of any other Person or to the Demised Premises caused by or resulting from gasoline, oil, steam, gas, electricity, or hurricane, tornado, flood, wind or similar storms or disturbances, or water, rain or snow which may leak or flow from the street, sewer, gas or subsurface area or from any part of the Demised Premises, or leakage of gasoline or oil from pipes, appliances, sewer or plumbing works therein, or from any other place, nor for interference with light or other incorporeal hereditaments by anybody, or caused by any public or quasi-public work.

30.5 In no event shall the City or EDC be liable to the Port Authority or to any other Person for any injury or damage to any property of the Port Authority or of any other Person or to the Demised Premises, arising out of any sinking, shifting, movement, subsidence, failure in load-bearing capacity of, or other matter or difficulty related to, the soil, or other surface or subsurface materials, on the Demised Premises, it being agreed that the Port Authority shall assume and bear all risk of loss with respect thereto.

30.6 The provisions of this **Section 30** shall survive the expiration or sooner termination of this Agreement.

### **Section 31. Indemnification by the Port Authority**

31.1 *General Indemnity.* The Port Authority hereby undertakes and agrees to indemnify and save the City and EDC harmless from any claims, causes of action or judgments, by reason of bodily injuries sustained by any person or persons, including death, and for any claims for damages to property arising out of or occurring at the Demised Premises.

31.2 *Environmental Indemnity.* In addition to the provisions of **Subsection 31.1** and for the avoidance of doubt, the Port Authority shall indemnify and save the City and the EDC harmless from and against any and all Environmental Liabilities, which may be imposed upon or incurred by or asserted against the City or the EDC by any Person, at any time from and after the commencement date of the Old Agreement arising from any action (including, without

limitation, acts of terrorism) or inaction by, or status of, any Person relating to, arising out of or occurring at the Demised Premises.

31.3 The provisions of this **Section 31** shall survive the expiration or earlier termination of this Agreement (including, without limitation, resulting from a taking of all or any portion of the Demised Premises) with respect to events occurring prior to such expiration or termination, whether claims with respect thereto are made before or after such expiration or termination.

## **Section 32. Liens and Impositions**

32.1 Under Section 1045-(j)(5) of the New York State Public Authorities Law, unpaid water and sewer charges are a lien upon the Demised Premises and a charge against the owner of the Demised Premises. The Port Authority shall not create or permit to be created any such lien, or any other lien, encumbrance or charge upon the Demised Premises or any part thereof, the income therefrom or any assets of, or funds appropriated to, the City, and the Port Authority shall not suffer any other matter or thing whereby the estate, right and interest of the City in the Demised Premises or any part thereof might be impaired.

32.2 If any mechanic's, laborer's or materialman's lien or any lien exists as a result of a failure to pay any water or wastewater rents and surcharges when due and owing, at any time, shall be filed in violation of the obligations of the Port Authority pursuant to **Subsection 32.1** above against the Demised Premises or any part thereof or, if any public improvement lien created or permitted to be created by the Port Authority shall be filed against any assets of, or funds appropriated to, the City, the Port Authority, within forty-five (45) days after receipt of notice of the filing thereof shall cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If the Port Authority shall fail to cause such lien to be discharged of record within the period aforesaid, and if such lien shall continue for an additional ten (10) days after notice by the City to the Port Authority, then, in addition to any other right or remedy, the City may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings, and in any such event, the City shall be entitled, if the City so elects, to compel the prosecution of an action for the foreclosure of such lien by the lienor and to pay the amount of the judgment in favor of the lienor with interest, costs and allowances. Any amount so paid by the City, including all reasonable costs and expenses incurred by the City in connection therewith including, without limitation, reasonable attorneys' fees and disbursements, together with interest thereon at the Late Rate from the respective dates of the City's making of the payment or incurring of the costs and expenses, shall constitute Additional Rent and shall be paid by the Port Authority to the City within five (5) days after demand. Notwithstanding the foregoing provisions of this **Subsection 32.2**, the Port Authority shall not be required to discharge any such lien, and shall not take any of the actions described in this paragraph, if the Port Authority is in good faith contesting the same which, in the case of water and sewer charges, shall include the filing of a complaint administratively according to DEP and Water Board administrative procedures. The provisions of this Section 32.2 shall survive the expiration or earlier termination of this Agreement.

**Section 33. Surrender at End of Term**

33.1 Demised Premises. Upon the expiration or sooner termination of the Term the Port Authority covenants and agrees that it shall, in compliance with **Section 5** and all other relevant provisions of this Agreement, surrender and deliver to the City the Demised Premises together with all Improvements thereon, as well as all Equipment, including, without limitation, the Port Authority Water System Property, the intent being that when the Demised Premises are returned to the City, (i) all Equipment shall become the property of the City and (ii) the Demised Premises shall be in good condition as operating Air Terminals maintained to the standards provided herein, all of which shall be free and clear of any and all lettings, occupancies, liens, debts or encumbrances of whatsoever kind, nature and description (except with respect to such leased Equipment), except to the extent otherwise agreed by the City in writing.

33.2 Records, Permits and other Agreements. On the last day of the Term or upon any earlier termination of the Agreement, or upon a re-entry by the City upon the Demised Premises pursuant to this Agreement, the Port Authority shall make available to the City (i) to the extent within the possession or control of the Port Authority, executed counterparts of all Subleases concessions, license agreements and any service and maintenance contracts then affecting the Demised Premises or, if not originals, “best copies” of such documents, (ii) true and complete maintenance records for the Demised Premises, (iii) all original licenses and permits then pertaining to the Demised Premises, and (iv) all warranties and guarantees then in effect which the Port Authority has received in connection with any work or services performed or Fixtures or Equipment installed in or on the Demised Premises, together with a duly executed assignment thereof to the City, all financial reports, books and records required to be maintained by the Port Authority pursuant to the terms of this Agreement and any and all other documents of every kind and nature whatsoever relating to the Demised Premises.

33.3 The provisions of this **Section 33** shall survive the expiration or sooner termination of this Agreement.

**Section 34. Assignment of Rents; No Subordination of City’s Interest**

34.1.1 Neither the City’s interest in the Demised Premises nor the City’s interest in this Agreement, as this Agreement may be modified, amended or supplemented, shall be subject or subordinate to any mortgage, liens or encumbrances now or hereafter affecting the Port Authority’s interest in this Agreement, including, without limitation, any existing or future Sublease or Subtenant leasehold mortgage.

34.1.2 The City shall have the right at any time to assign all or any portion of its right, title and interest in and to the receipt of Rent to be paid by the Port Authority hereunder and to direct that the Rent, or designated portions thereof, be paid to a public authority or to such other entity or entities, including a trustee whose duties include the receipt of such payments, as the City may, by at least thirty (30) days prior written notice to the Port Authority, designate (each such assignee, a “Permitted Assignee”). Upon receipt of written direction from the City, the Port Authority shall pay the portion of Rent specified in such direction to the Permitted Assignee named therein. Any Permitted Assignee may bring an action against the Port Authority to recover sums due to it, and a Permitted Assignee shall have all of the lawfully assignable

remedies the City has hereunder for the failure of the Port Authority to pay Rent, provided that the City shall not assign its right to terminate this Agreement, and the Port Authority hereby consents to the jurisdiction of the courts of the State of New York and the Federal District Court of the Southern District of New York for any action by a Permitted Assignee to recover sums due hereunder.

**Section 35. Intentionally Deleted**

**Section 36. Miscellaneous**

36.1 Consents. Except as expressly provided herein to the contrary, wherever this Agreement provides for consent or approval to be given by either party, such consent or approval shall not be unreasonably withheld, conditioned or delayed.

36.2 Intentionally Deleted.

36.3 Severability. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held to be invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. Notwithstanding the foregoing, if any provision that gives the City the right to terminate this Agreement for failure to pay Rent or any other payment is held to be invalid or unenforceable by the determination of any court or administrative agency having jurisdiction, then this entire Agreement shall automatically terminate and be of no further force or effect, except for those provisions that expressly survive the expiration or earlier termination of this Agreement; provided that this Agreement shall not terminate, if the adverse determination was by an administrative agency, unless and until such time as such determination is upheld on appeal to a court having jurisdiction, or the applicable time for bringing such appeal has expired, whichever is sooner.

36.4 Change in Name of Municipal Air Terminals. Neither party shall, at any time during the Term, change the name of either of the Municipal Air Terminals or otherwise refer to the Municipal Air Terminals by any name other than "John F. Kennedy International Airport" and "LaGuardia Airport," respectively, without the prior written consent of the other party, which consent may be granted or withheld in such party's sole and absolute discretion.

36.5 Most Favored Nation. In the event that the Port Authority shall after the date hereof enter into any agreement, amendment, supplement, settlement or extension that (i) relates, directly or indirectly, to the Newark Airport Lease or the premises covered thereby, including, without limitation, any agreement entered into pursuant to Section 47 of the Newark Airport Lease (as amended by the Eighteenth Supplemental Agreement to the Newark Airport Lease dated as of January 1, 2002), but expressly excluding the Newark MFN Amendment (as hereinafter defined) and (ii) provides, directly or indirectly, for increased or enhanced financial consideration to the City of Newark, then the Port Authority shall offer comparable increased or enhanced financial consideration to the City and shall agree to amend or supplement this Agreement accordingly. The "Newark MFN Amendment" is hereby defined as the first

amendment, after execution and delivery of this Agreement, of the Newark Airport Lease, to the extent said amendment incorporates provisions that are comparable to the corresponding provisions of this Agreement and is required pursuant to a certain agreement entered into between the Port Authority and the City of Newark as of October 31, 2002. The Port Authority shall, within thirty (30) days of its execution, provide the City with a copy of any agreement, amendment, supplement, settlement or extension described in this Section and of any other amendment, supplement, settlement or extension of the Newark Airport Lease, irrespective of whether it provides for increased financial consideration.

36.6 Allocation of Passenger Facility Charges. The Passenger Facility Charges received by the Port Authority to date from the three major airports operated by the Port Authority, as well as any increased Passenger Facility Charges authorized and imposed in the future, shall be invested in the Municipal Air Terminals in an amount equal to the proportion which the Passenger Facility Charges originating at the Municipal Air Terminals bear to all such Passenger Facility Charges collected by the Port Authority, although it is understood that such proportion may be reached over a period of years and not necessarily in each year. The Port Authority agrees that such proportion will be reached within five years. The Port Authority will submit to the City an initial list of projects eligible for Passenger Facility Charge funding approval by the Federal government on or about January 1, 2005. The City will submit to the Port Authority any projects it wishes the Port Authority to consider for submission to the Federal Government for Passenger Facility Charge funding approval.

36.7 Uninvested Charges. At the expiration or earlier termination of this Agreement, all Passenger Facility Charges which have been collected by the Port Authority or any of its Affiliates from or with respect to the Municipal Air Terminals but not invested in the Municipal Air Terminals shall be paid to the operator of the Municipal Air Terminals in accordance with Federal law and regulations. The provisions of this Section 36.7 shall survive the expiration or earlier termination of this Agreement.

36.8 Modifications. This Agreement may not be changed, modified, or terminated orally, but only by a written instrument expressly agreeing to change, modify or terminate it and executed by the party against whom enforcement of any such change, modification, or termination is sought.

36.9 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

36.10 Binding Effect. The agreements, terms, covenants and conditions herein shall be binding upon, and shall inure to the benefit of, the City and the Port Authority and their respective successors and permitted assigns.

36.11 Section Headings. The section headings of this Agreement are for reference purposes only and shall not be deemed descriptive of such sections.

36.12 Counterparts. This Agreement may be executed in one or more counterparts, each of which counterparts shall be deemed an original and all of which counterparts shall constitute one and the same document.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK]

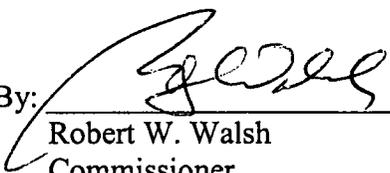
**EFFECTIVE**

IN WITNESS WHEREOF, the City has caused its corporate seal to be hereunto affixed and duly attested and this Agreement to be signed by its Commissioner of the Department of Small Business Services; and the Port Authority has caused its corporate seal to be hereunto affixed and duly attested and this Agreement to be signed by its Executive Director, as of the day and year first written above.

Attest:

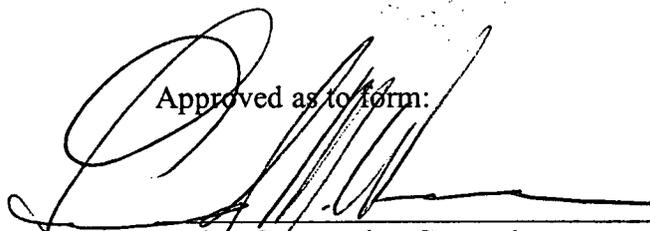
THE CITY OF NEW YORK

  
\_\_\_\_\_  
City Clerk

By:   
\_\_\_\_\_  
Robert W. Walsh  
Commissioner  
Department of Small Business Services

**Michael McSweeney**  
1st Deputy & Acting City Clerk

Approved as to form:

  
\_\_\_\_\_  
Acting Corporation Counsel

Attest:

THE PORT AUTHORITY OF NEW YORK AND  
NEW JERSEY

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Kenneth J. Ringler, Jr.  
Executive Director

Approved as to form:

\_\_\_\_\_

**EFFECTIVE**

IN WITNESS WHEREOF, the City has caused its corporate seal to be hereunto affixed and duly attested and this Agreement to be signed by its Commissioner of the Department of Small Business Services; and the Port Authority has caused its corporate seal to be hereunto affixed and duly attested and this Agreement to be signed by its Executive Director, as of the day and year first written above.

Attest:

THE CITY OF NEW YORK

\_\_\_\_\_  
City Clerk

By: \_\_\_\_\_

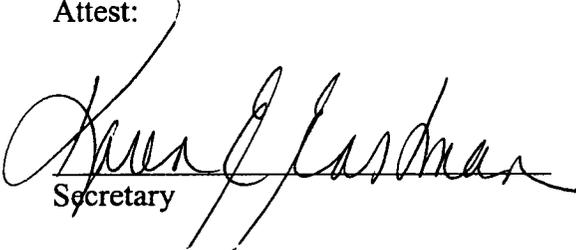
Robert W. Walsh  
Commissioner  
Department of Small Business Services

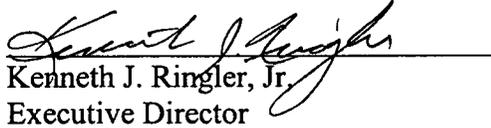
Approved as to form:

\_\_\_\_\_  
Acting Corporation Counsel

Attest:

THE PORT AUTHORITY OF NEW YORK AND  
NEW JERSEY

  
Secretary

  
Kenneth J. Ringler, Jr.  
Executive Director

Approved as to form:

  
Darrell Buchbinder  
General Counsel

STATE OF NEW YORK    )  
:                    ss. :  
COUNTY OF NEW YORK )

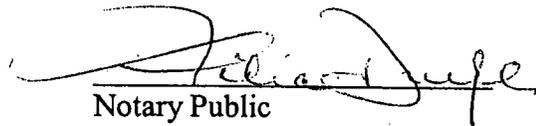
On the 23 day of November, 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared Robert W. Walsh, Commissioner of the Department of Small Business Services of THE CITY OF NEW YORK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual who subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

ANDREW SCHWARTZ  
Notary Public, State of New York  
No. 24-4943703  
Qualified in Kings County  
Commission Expires Oct. 31, 2006

  
\_\_\_\_\_  
Notary Public

STATE OF NEW YORK )  
: ss. :  
COUNTY OF NEW YORK )

On the 24 day of November, 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared Michael McSweeney, City Clerk of THE CITY OF NEW YORK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

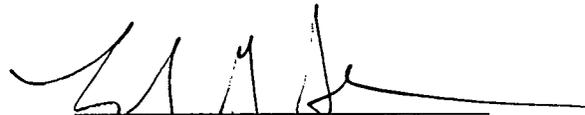


Notary Public

**LILIA DWYER**  
Commissioner of Deeds  
City of New York No. 3-7093  
Certificate Filed in New York County  
Commission Expires Feb. 01, 2006

STATE OF NEW YORK    )  
:                    ss. :  
COUNTY OF NEW YORK )

On the 24<sup>th</sup> day of November, 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared KENNETH J. RINGLER, JR., Executive Director of the PORT AUTHORITY OF NEW YORK AND NEW JERSEY, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

**TIMOTHY G. STICKELMAN**  
Notary Public, State of New York  
No. 02ST6086913  
Qualified in Suffolk County  
Commission Expires on February 3, 2007

EXHIBIT A

**The original of the Surveys of the Demised Premises prepared by Vollmer Associates LLP on November 23, 2004, certified to the Port Authority and The City of New York and consisting of seven (7) pages designated as Map Number VA# 2004-018-02 and Map Number VA# 2004-018-03 is being delivered to the Office of the Register of The City of New York for recording simultaneously with this Agreement.**

EXHIBIT B

(see attached)

**EXHIBIT B  
DEMISED PREMISES  
JOHN F. KENNEDY INTERNATIONAL AIRPORT**

All that certain plot, piece or parcel of land lying and being in the borough of Queens, City and State of New York bounded and described as follows:

Beginning at an angle point of the U.S. Pierhead and Bulkhead line, the coordinates of said point being South 60966.20 East 63757.37 and running thence; along the U.S. Pierhead and Bulkhead line, (1) South 74°14'56" West a distance of 2726.47' feet to the easterly side of the land of the Long Island Railroad;

Running thence, in a northerly direction along the land of the Long Island Railroad the following courses and distances:

- (2) North 40°18'26" West a distance of 1173.23' feet to a point; thence
- (3) South 38°51'40" West a distance of 35.64' feet to a point; thence
- (4) North 40°18'26" West a distance of 2370.27' feet to a point of curvature; thence
- (5) along an arc curving to the left, having a radius of 5769.58' feet a distance of 906.28' feet and a central angle of 9°00'00" to a point; thence
- (6) North 49°18'26" West a distance of 644.54' feet to a point; thence
- (7) North 40°41'34" East a distance of 20.00' feet to a point; thence
- (8) North 49°18'26" West a distance of 43.00' feet to a point; thence
- (9) North 03°17'17" West a distance of 48.64' feet to a point; thence
- (10) North 49°18'26" West a distance of 110.00' feet to a point; thence
- (11) South 50°15'01" West a distance of 35.49' feet to a point; thence
- (12) North 49°18'26" West a distance of 467.36' feet to a point; thence
- (13) South 40°41'34" West a distance of 20.00' feet to a point; thence
- (14) North 49°18'26" West a distance of 508.28' feet to a point; thence
- (15) North 40°41'34" East a distance of 10.00' feet to a point; thence
- (16) North 49°18'26" West a distance of 620.10' feet to a point; thence
- (17) North 19°52'53" West a distance of 40.71' feet to a point; thence
- (18) North 49°18'26" West a distance of 116.60' feet to a point on the southerly line of Southern Parkway, also known as the Belt Parkway; thence
- (19) North 76°26'23" East a distance of 15.00' feet; thence
- (20) along a bridge that crosses over the Southern Parkway, North 49°18'31" West a distance of 707.83' feet to a point to the northerly side of North Conduit Avenue; thence
- (21) along the northerly side of North Conduit Avenue, South 80°38'48" West a distance of 62.17' feet to the easterly side of the Long Island Railroad; thence the following courses and distances along the easterly side of the land of the Long Island Railroad,
- (22) North 12°11'48" West a distance of 0.83' feet; thence
- (23) North 49°16'48" West a distance of 33.17' feet; thence
- (24) North 12°11'48" West a distance of 8.29' feet; thence
- (25) North 49°16'48" West a distance of 1248.25' feet; thence
- (26) North 45°49'23" West a distance of 165.84' feet; thence
- (27) North 44°15'09" West a distance of 62.04' feet; to a point thence
- (28) North 44°15'09" West a distance of 17.86' feet to the land now or formerly of the New York Racing Association; thence
- through the land of the New York Racing Association (29) North 45°44'51" East a distance of 24.11' feet; thence
- (30) North 28°15'57" East a distance of 115.64' feet; thence
- (31) North 72°38'36" East a distance of 386.70' feet to a point of curvature, thence
- (32) along an arc curving to the right having a radius of 95.00' a distance of 107.33' feet and a central angle of 64°43'50"; thence
- (33) South 42°37'34" East a distance of 54.55' feet; thence
- (34) South 44°42'27" East a distance of 131.39' feet to a point of curvature; thence
- (35) along an arc curving to the left having a radius of 505.00' a distance of 51.31' feet and a central angle of 5°49'17"; thence

(36) South 50°31'44" East a distance of 46.47' feet; thence  
(37) along an arc curving to the left having a radius of 115.00' a distance of 32.08' feet and a central angle of 15°59'03"; thence  
(38) South 66°30'47" East a distance of 153.69' feet to a point of curvature; thence  
(39) along an arc curving to the left having a radius of 615.00' a distance of 354.73' feet and a central angle of 33°02'52"; thence  
(40) North 80°26'21" East a distance of 280.00' feet to a point of curvature; thence  
(41) along an arc curving to the right having a radius of 129.00' a distance of 148.52' feet and a central angle of 66°00'33"; thence  
(42) along an arc curving to the right having a radius of 335.00' a distance of 141.07' feet and a central angle of 24°07'41"; thence  
(43) South 09°25'24" East a distance of 228.54' feet; thence  
(44) South 10°02'30" East a distance of 180.75' feet to a point of curvature; thence  
(45) along an arc curving to the left having a radius of 130.00' a distance of 100.00' feet and a central angle of 44°04'25"; thence  
(46) along an arc curving to the left having a radius of 154.00' a distance of 60.36' and a central angle of 22°27'30"; thence  
(47) South 19°44'18" East a distance of 86.81' feet to the northerly line of North Conduit Avenue; thence  
along the northerly line of North Conduit Avenue in a westerly direction (48) along an arc curving to the right having a radius of 1375.30' a distance of 379.80' feet and a central angle of 15°49'22"; thence  
(49) South 81°31'49" West a distance of 151.31' feet; thence  
(50) South 79°25'12" West a distance of 149.59' feet; thence  
(51) South 80°38'48" West a distance of 0.82' feet; thence  
(52) South 49°18'31" East a distance of 703.35' feet along a bridge that crosses over the Southern Parkway to the southerly line of the Southern Parkway, which is also the northerly line of John F. Kennedy International Airport; thence  
(53) North 76°26'23" East a distance of 334.19' feet to a point of curvature; thence  
(54) along an arc curving to the right having a radius of 1958.00' a distance of 243.51' feet and a central angle of 7°07'32"; thence  
(55) North 83°33'53" East a distance of 406.86' feet to a point of curvature; thence  
(56) along an arc curving to the left having a radius of 2530.00' a distance of 980.02' feet and a central angle of 22°11'38"; thence  
(57) North 61°22'14" East a distance of 543.78' feet; thence  
(58) North 69°37'14" East a distance of 100.33' feet; thence  
(59) North 69°26'50" East a distance of 1420.99' feet to a point of curvature; thence  
(60) along an arc curving to the right having a radius of 4970.00' a distance of 541.25' feet and a central angle of 6°14'23"; thence  
(61) North 75°41'13" East a distance of 155.61' feet to a point of curvature; thence  
(62) along an arc curving to the left having a radius of 530.00' a distance of 220.74' feet and a central angle of 23°51'47"; thence  
(63) North 51°49'27" East a distance of 473.01' feet to a point of curvature; thence  
(64) along an arc curving to the left having a radius of 1520.00' a distance of 325.19' feet and a central angle of 12°15'28"; thence  
(65) South 15°44'22" East a distance of 623.68' feet; thence  
(66) North 74°15'38" East a distance of 1380.00' feet; thence  
(67) North 15°44'22" West a distance of 1619.13' feet; thence  
(68) North 52°18'11" East a distance of 535.40' feet; thence  
(69) North 79°46'53" East a distance of 410.00' feet to a point on a non tangent curve; thence  
(70) along an arc curving to the right having a radius of 2324.00' a distance of 138.14' feet and a central angle of 3°24'23"; thence  
(71) North 88°35'38" East a distance of 96.00' feet to a point on a non tangent curve; thence  
(72) along an arc curving to the left having a radius of 593.00' a distance of 276.49' feet and a central angle of 26°42'51" to a point on a non tangent curve; thence

- (73) along an arc curving to the right having a radius of 1528.00' a distance of 122.57' feet and a central angle of 4°35'46"; thence
- (74) along an arc curving to the right having a radius of 728.00' a distance of 559.11' and a central angle of 44°00'13"; thence
- (75) South 36°17'01" West a distance of 153.60' feet; thence
- (76) South 53°42'58" East a distance of 168.00' feet; thence
- (77) North 36°17'01" East a distance of 682.30' feet to a point of curvature; thence
- (78) along an arc curving to the right having a radius of 243.59' a distance of 111.67' feet and a central angle of 26°16'00"; thence
- (79) North 60°24'18" East a distance of 267.10' feet to a point of curvature; thence
- (80) along an arc curving to the left having a radius of 673.35' a distance of 566.35' feet and a central angle of 48°11'29"; thence
- (81) North 12°12'52" East a distance of 654.62' feet to a point of curvature; thence
- (82) along an arc curving to the right having a radius of 1918.64' a distance of 143.36' feet and a central angle of 4°16'52"; thence
- (83) along an arc curving to the right having a radius of 394.38' a distance of 357.98' feet and a central angle of 52°00'31"; thence
- (84) along an arc curving to the right having a radius of 15224.42' a distance of 783.66' feet and a central angle of 2°56'57"; thence
- (85) along an arc curving to the right having a radius of 1130.14' a distance of 196.96' feet and a central angle of 9°59'07"; thence
- (86) North 81°26'18" East a distance of 462.33' feet to a point of curvature; thence
- (87) along an arc curving to the left having a radius of 1050.00' a distance of 243.96' feet and a central angle of 13°18'44"; thence
- (88) North 66°07'45" East a distance of 838.03' feet to a non tangent curve; thence
- (89) along an arc curving to the right having a radius of 785.00' a distance of 85.84' feet and a central angle of 6°15'55"; thence
- (90) along an arc curving to the right having a radius of 2124.25' a distance of 549.65' feet and a central angle of 14°49'31"; thence
- (91) along an arc curving to the right having a radius of 6404.00' a distance of 2025.33' feet and a central angle of 18°07'13"; thence
- (92) along an arc curving to the right having a radius of 46486.00' a distance of 441.80' feet and a central angle of 0°32'40"; thence
- (93) South 75°37'41" East a distance of 202.52' feet to a non tangent curve; thence
- (94) along an arc curving to the left having a radius of 46450.77' a distance of 82.84' feet and a central angle of 0°06'08" to a point of reverse curvature; thence
- (95) along an arc curving to the right having a radius of 12860.50' a distance of 1512.64' feet and a central angle of 6°44'20"; thence
- (96) North 5°47'21" East a distance of 23.88' feet to a point; thence
- (97) South 82°12'20" East a distance of 482.52' feet to a point of curvature; thence
- (98) along an arc curving to the left having a radius of 2631.00' a distance of 569.30' feet and a central angle of 12°23'52"; thence
- (99) South 00°36'07" East a distance of 202.16' feet to a point on a non tangent curve; thence
- (100) along an arc curving to the left having a radius of 1225.65' a distance of 294.73' feet and a central angle of 13°46'40"; thence
- (101) along an arc curving to the left having a radius of 3369.00' a distance of 1620.86' feet and a central angle of 27°33'56"; thence
- (102) North 84°22'06" East a distance of 773.64' feet to a point of curvature; thence
- (103) along an arc curving to the right having a radius of 4564.98' a distance of 665.86' feet and a central angle of 81°38'40"; thence
- (104) North 31°39'01" East a distance of 315.42'; thence
- (105) South 82°24'03" East a distance of 2351.46'; thence
- (106) South 10°10'50" West a distance of 217.68' feet to a point on a non tangent curve; thence
- (107) along an arc curving to the right having a radius of 27481.50' a distance of 184.04' feet and a central angle of 00°23'01" to a point of curvature; thence

- (108) along an arc curving to the right having a radius of 4806.26' a distance of 1641.80' feet and a central angle of 19°34'19" to a point; thence  
 (109) South 61°29'50" East a distance of 400.00' feet to a point of curvature; thence  
 (110) along an arc curving to the right having a radius of 2740.00' a distance of 330.00' feet and a central angle of 6°54'02"; thence  
 (111) South 54°35'48" East a distance of 224.00' feet to a point of curvature'; thence  
 (112) along an arc curving to the left having a radius of 960.00' a distance of 523.97' feet and a central angle of 31°16'19" to the westerly line of Brookville Boulevard; thence  
 (113) South 9°35'56" West a distance of 4.13' feet to a point; thence  
 (114) South 25°09'35" West a distance of 902.88' feet to a point; thence  
 (115) South 18°36'15" East a distance of 747.65' feet to the U.S. Pierhead and Bulkhead line; thence  
 (116) South 34°16'50" West a distance of 4552.86' feet to a point; thence  
 (117) South 01°39'00" West a distance of 927.26' feet to a point; thence  
 (118) South 34°16'50" West a distance of 1328.27' feet to a point; thence  
 (119) South 33°31 '36" East a distance of 540.01' feet to a point; thence  
 (120) South 34°16'50" West a distance of 1191.74 ' feet to a point; thence  
 (121) South 01°39'00" West a distance of 2166.56' feet to a point; thence  
 (122) North 88°21'00" West a distance of 100.00' feet to a point; thence  
 (123) North 01°39'00" East a distance of 2010.38' feet to a point; thence  
 (124) South 34°16'50" West a distance of 201.26' feet to a point; thence  
 (125) North 88°21'00" West a distance of 1067.27' feet to a point; thence  
 (126) North 43°21 '00" West a distance of 724.02' feet to a point; thence  
 (127) North 87°43'49" West a distance of 1014.56' feet to a point; thence  
 (128) South 01°39'00" West a distance of 2784.30' feet to a point; thence  
 (129) North 88°21'58" West a distance of 1037.50' feet to a point; thence  
 (130) North 01°39'00" East a distance of 721.00' feet to a point; thence  
 (131) North 46°21 '00" East a distance of 337.64' feet to a point; thence  
 (132) North 01°39'00" East a distance of 1831.95' feet to a point; thence  
 (133) North 87°43'49" West a distance of 3165.43' feet to a point; thence  
 (134) South 31°39'00" West a distance of 1908.81 ' feet to a point; thence  
 (135) North 58°21 '00" West a distance of 100.00' feet to a point; thence  
 (136) North 31°39'00" East a distance of 1852.51' feet to a point; thence  
 (137) North 87°43'49" West a distance of 7655.58' feet to the point and place of beginning.

Containing 172,521,401.09 square feet or 3960.55 acres.

The coordinates and bearings hereinabove mentioned refer to the 10<sup>th</sup> Avenue Meridian as established by the Topographical Bureau of the Borough of Queens, City of New York, grid North being 28°59'13.5" East of true north.

Together with the Aqueduct Parcel, as described in Exhibit B-1.

Together with the portions of the Light Rail System more particularly described as follows:

**JFK AIR TRAIN RIGHT OF WAY PREMISES INCLUDED IN THE AMENDED AND RESTATED AGREEMENT OF LEASE OF THE MUNICIPAL AIR TERMINALS BETWEEN THE CITY OF NEW YORK, AS LANDLORD, AND THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, AS TENANT, DATED AS OF NOVEMBER 24, 2004**

- A. Permanent aerial, surface and subsurface easements for the construction, reconstruction, operation, inspection, maintenance and repair of the LRS, which easements are more specifically defined herein over all those pieces or parcels of property in the Fourth Ward of the Borough Queens, City of New York, County of Queens, State of New York, which are shown and described as Aerial Parcels or

Easements, Column Parcels or Easements, and Subsurface Parcels or Easements, of Segments CR – 402 through CR – 415 of a series of maps entitled, "THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY AIRTRAIN PROJECT, JFKIA-JAMAICA SEGMENT, ALTA/ACSM LAND TITLE SURVEY, A PORTION OF VAN WYCK EXPRESSWAY, SEGMENT CR- (402 THROUGH 415), BOROUGH OF QUEENS, QUEENS COUNTY, STATE OF NEW YORK", prepared by Vollmer Associates LLP, dated February 28, 2002, bearing Project Number 2001-003-03 and filed contemporaneously in the Office of the Register of Deeds, Queens County on September 17, 2002 with the Grant of Permanent Easement between The People of the State of New York, acting by and through Joseph H. Boardman, the Commissioner of Transportation of the State of New York and the Port Authority of New York and New Jersey made August 19, 2002 and recorded at Reel 6582, Page 0118 *et seq.*, City Register Serial Number 128069.

Subject, however, to the provisions of the aforesaid Grant of Permanent Easement made August 19, 2002.

B. All that certain plot, piece or parcel of land situate, lying and being in the Fourth Ward of the Borough of Queens, City of New York, County of Queens, and State of New York, being more particularly bounded and described as follows:

BEGINNING at the corner formed by the intersection of the southerly side of 94<sup>th</sup> Avenue formerly Johnson Avenue (50 feet wide) with the easterly side of Van Wyck Expressway (Service Road); said corner having a New York State Coordinate System (NAD 83-96) value of N 58916.0472 meters E 315799.1275 meters (N193293.7316 feet E1036084.3037 feet);

1. Running thence North 69 degrees 25 minutes 33.1 seconds East along the southerly side of 94<sup>th</sup> Avenue, 63.627 meters (208.75 feet) to a point on the division line between property now or formerly of David Oil Corp. and property now or formerly of Carole A. Murray and Thomas D. Murray;
2. Running thence along said division line South 20 degrees 34 minutes 26.9 seconds East, at right angles to the southerly side of 94<sup>th</sup> Avenue, 25.292 meters (82.98 feet) to a point;
3. Running thence South 66 degrees 54 minutes 37.1 seconds West along the division line between property now or formerly of David Oil Corp. and the following properties: property now or formerly of Edgardo E. Contreras; property now or formerly of David Byrd, Patricia Portis, and Gary Michael Byrd; property now or formerly of Cheryl Winter Naipaul and Gagnatti Naipaul; property now or formerly of Joseph F. Nowinski and Jennie Nowinski; property now or formerly of Stanley P. Francosky, et al; and property now or formerly of Mohamed Shafi and Ramdai Shafi, said line forming an interior angle of 92 degrees 30 minutes 56 seconds with the last mentioned course, 39.127 meters (128.37 feet) to a point in a line distant 34.013 meters (111.59 feet) northerly from the northerly side of 95<sup>th</sup> Avenue, drawn at right angles thereto, from a point thereon and distant 13.283 meters (43.58 feet) easterly from said easterly side of Van Wyck Expressway (Service Road);
4. Running thence South 20 degrees 34 minutes 26.9 seconds East along the division line between property now or formerly of David Oil Corp. and property now or formerly of Mohamed Shafi and Ramdai Shafi, at right angles to the northerly side of 95<sup>th</sup> Avenue, formerly Chichester Avenue, 34.013 meters (111.59 feet) to the northerly side of 95<sup>th</sup> Avenue;

5. Running thence South 69 degrees 25 minutes 33.1 seconds West along the northerly side of 95<sup>th</sup> Avenue, 13.283 meters (43.58 feet) to the corner formed by the intersection of the said northerly side of 95<sup>th</sup> Avenue and the easterly side of Van Wyck Expressway (Service Road);
6. Running thence North 31 degrees 01 minutes 19.1 seconds West along the easterly side of Van Wyck Expressway (Service Road), 62.054 meters (203.59 feet) to the point and place of beginning.

Containing 2176.289 square meters (23425.28 square feet) or 0.218 Hectare (0.538 acre).

Also known as Tax Block 9990, Tax Lot 5, Borough of Queens, City of New York.

Being the premises shown on an ALTA/ACSM Land Title Surveys of Lot 5, Block 9990, Queens, New York, prepared by Vollmer Associates, dated February 15, 2000 and signed by Kenneth J. Stigner, L.S.

Together with the appurtenances and all the estate and rights in and to said premises.

Being the same premises conveyed to the Port Authority by David Oil Corp. by Indenture made November 3, 2000 recorded with the Office of the Register of Deeds, Queens County, November 29, 2000 at Reel 5732, Page 0424 *et seq.*, City Register Serial Number 113076

All bearings refer to The New York Coordinate System of 1983-96, Long Island Zone 3104.

**DEMISED PREMISES  
LA GUARDIA AIRPORT**

All that certain plot, piece or parcel of land lying and being in the borough of Queens, City and State of New York bounded and described as follows:

Beginning at a point on the northerly line of the Grand Central Parkway, the coordinates of said point being South 28503.87 East 31015.83 and running thence;

- (1) North 11°16'29" East a distance of 458.89' to a point; thence
- (2) North 88°44'45" East a distance of 460.98' to a point; thence
- (3) North 11°16'29" East a distance of 1100.00' to a point; thence
- (4) North 18°29'24" East a distance of 20.77' to a point; thence
- (5) South 86°41'51" East a distance of 220.00' to a point; thence
- (6) North 18°27'15" East a distance of 258.99' to a point; thence
- (7) North 86°41'13" West a distance of 220.00' to a point; thence
- (8) North 18°27'15" East a distance of 360.20' to a point; thence
- (9) North 03°05'15" East a distance of 800.00' to a point; thence
- (10) North 50°30'13" West a distance of 298.21' to a point; thence
- (11) North 86°54'45" West a distance of 750.00' to a point; thence
- (12) South 38°44'34" West a distance of 283.06' to a point; thence
- (13) North 86°54'45" West a distance of 5408.51' to a point; thence
- (14) South 51°18'36" West a distance of 4540.72' to a point; thence
- (15) South 13°51'22" West a distance of 1080.58' to a point; thence
- (16) North 76°08'37" West a distance of 470.04' to a point; thence
- (17) South 13°51'22" West a distance of 870.00' to the northerly line of 19th Avenue; thence

along the northerly line of 19th Avenue (18) South  $76^{\circ}08'37''$  East a distance of 1075.04' to a point of curvature; thence  
 (19) along an arc curving to the left, having a radius of 681.03' a distance of 322.10' and a central angle of  $27^{\circ}05'56''$ ; thence  
 (20) North  $76^{\circ}45'26''$  East a distance of 942.63' to the easterly line of 81st Street; thence  
 along the easterly line of 81st Street (21) South  $36^{\circ}54'45''$  East a distance of 1476.44' to a point of curvature; thence  
 (22) along an arc curving to the left, having a radius of 50.00' a distance of 51.23' and a central angle of  $58^{\circ}42'26''$  to a point of reverse curvature; thence  
 (23) along an arc curving to the right, having a radius of 165.00' a distance of 154.85' and a central angle of  $53^{\circ}46'14''$  to a point; thence  
 (24) South  $41^{\circ}50'57''$  East a distance of 505.03' to a point on a non tangent curve on the northerly line of the Grand Central Parkway; thence  
 along the northerly line of the Grand Central Parkway (25) along an arc curving to the left, having a radius of 6257.00' a distance of 484.45' and a central angle of  $4^{\circ}26'10''$  to a point on a non tangent curve; thence  
 (26) along an arc curving to the left, having a radius of 1369.23' a distance of 80.80' and a central angle of  $3^{\circ}22'52''$  to a point; thence  
 (27) North  $41^{\circ}05'55''$  East a distance of 292.89' to a point of curvature; thence  
 (28) along an arc curving to the left, having a radius of 6350.00' a distance of 808.80' and a central angle of  $7^{\circ}17'52''$  to a point of curvature; thence  
 (29) along an arc curving to the left, having a radius of 2179.45' a distance of 482.18' and a central angle of  $12^{\circ}40'34''$  to a point of reverse curvature; thence  
 (30) along an arc curving to the right, having a radius of 2705.00' a distance of 1154.97' and a central angle of  $24^{\circ}27'50''$  to a point; thence  
 (31) North  $17^{\circ}48'51''$  East a distance of 100.64' to a point on a non tangent curve; thence  
 (32) along an arc curving to the right, having a radius of 2743.00' a distance of 733.52' and a central angle of  $15^{\circ}19'18''$  to a point; thence  
 (33) North  $65^{\circ}09'17''$  East a distance of 414.40' to a point; thence  
 (34) North  $73^{\circ}19'26''$  East a distance of 194.16' to a point; thence  
 (35) North  $72^{\circ}17'26''$  East a distance of 655.31' to a point of curvature; thence  
 (36) along an arc curving to the right, having a radius of 2362.00' a distance of 813.92' and a central angle of  $19^{\circ}44'38''$  to a point of curvature; thence  
 (37) along an arc curving to the right, having a radius of 9711.30' a distance of 1147.99' and a central angle of  $6^{\circ}46'23''$  to a point of curvature; thence  
 (38) along an arc curving to the right, having a radius of 9711.30' a distance of 342.94' and a central angle of  $2^{\circ}01'24''$  to a point; thence  
 (39) South  $68^{\circ}45'22''$  East a distance of 685.00' to the point and place of beginning.

Containing 33,290,055.46 square feet or 764.23 acres.

The coordinates and bearings hereinabove mentioned refer to the 10<sup>th</sup> Avenue Meridian as established by the Topographical Bureau of the Borough of Queens, City of New York, grid North being  $28^{\circ}59'13.5''$  East of true north.

**EXHIBIT-B1  
AQUEDUCT PARCEL**

**FEE PARCEL**

All that certain plot, piece or parcel of land lying and being in the borough of Queens, City and State of New York bounded and described as follows:

Commencing at a point on the northerly side of North Conduit Avenue, said point being the following courses and distances from the corner formed by the intersection of the northerly side of North Conduit Avenue and the westerly side of 114th Street (60 feet wide), South 59°31'52" West 298.32 feet, South 64°52'32" West 337.76 feet to a point of curvature; thence southwesterly along the northerly side of North Conduit Avenue as it curves having a radius of 1375.30 feet a distance of 19.97 feet to the true point or place of beginning; running thence southwesterly along an arc curving to the right having a radius of 1375.30 feet a distance of 379.80 feet a central angle of 15°49'23" to a point of tangency; thence the following courses and distances along the northerly side of North Conduit Avenue: South 81°31'49" West 151.31 feet; thence South 79°25'12" West 149.59 feet; thence South 80°38'48" West a distance of 0.82' feet to the easterly side of a bridge; thence South 49°18'31" East a distance of 703.35' feet along a bridge that crosses over the Southern Parkway to the southerly line of the Southern Parkway; thence South 76°26'23" West along the southerly line of the Southern Parkway a distance of 46.88' feet to the westerly side of the bridge; thence North 49°18'31" East a distance of 707.83' feet along a bridge that crosses over the Southern Parkway to the northerly side of North Conduit Avenue; thence along the northerly side of North Conduit Avenue, South 80°38'48" West a distance of 62.17' feet to the easterly side of the long island rail road; thence the following courses and distances along the easterly side of the land of the long island rail road: North 12°11'48" West 0.83 feet to a point; thence North 49°16'48" West 33.17 feet to a point; thence North 12°11'48" West 8.29 feet to a point; thence North 49°16'48" West 1248.25 feet to a point; thence North 45°49'23" West 165.84 feet to a point; thence North 44°15'09" West 62.04 feet to a point; thence North 44°15'09" West 17.86 feet to a point; thence the following courses and distances: North 45°44'51" East 24.11 feet to a point; thence North 28°15'57" East 115.64 feet to a point; thence North 72°38'36" East 386.70 feet to a point of curvature; thence along an arc curving to the right, having a radius of 95.00 feet a distance of 107.33 feet and a central angle of 64°43'50" to a point of tangency; thence South 42°37'34" East 54.55 feet South 44°42'27" East 131.39 feet to a point of curvature; thence along an arc curving to the left having a radius of 505.00 feet a distance of 51.31 feet and a central angle of 05°49'17" to a point of tangency; thence South 50°31'44" East 46.47 feet to a point of curvature; thence along an arc curving to the left having a radius of 115.00 feet a distance of 37.08 feet and a central angle of 15°59'03" to the point of tangency; thence South 66°30'47" East 153.69 feet to a point of curvature; thence along an arc curving to the left having a radius of 615.00 feet a distance of 354.73 feet and a central angle of 33°02'52" to a point of tangency; thence North 80°26'21" East 280.00' feet to a point of curvature; thence along an arc curving to the right having a radius of 129.00 feet a distance of 148.52 feet and a central angle of 66°00'33" to a point of compound curvature; thence

running along an arc curving to the right having a radius of 335.00 feet a distance of 141.07 feet and a central angle of 24°07'41" to a point of tangency; thence South 09°25'24" East 228.54 feet; thence South 10°02'30" East 180.75 feet to a point of curvature; thence along an arc curving to the left having a radius of 130.00 feet a distance of 100.00 feet and a central angle of 44°04'25" to a point of compound curvature; thence along an arc curving to the left having a radius of 154.00 feet a distance of 60.36 feet and a central angle of 22°27'30" to a non tangent point; thence South 19°44'18" East 86.81 feet to the point or place of beginning.

Containing 1,131,352.78 square feet or 25.97 acres.

### **EASEMENT TO PORT AUTHORITY**

All that certain plot, piece or parcel of land lying and being in the Borough of Queens, City and State of New York bounded and described as follows:

Commencing at a point on the northerly side of North Conduit Avenue, said point being the following courses and distances from the corner formed by the intersection of the northerly side of North Conduit Avenue and the westerly side of 114th street (60 feet wide), South 59°31'52" West 298.32 feet, South 64°52'32" West 337.76 feet to a point of curvature; thence southwesterly along the northerly side of North Conduit Avenue as it curves having a radius of 1375.30 feet a distance of 19.97 feet to the true point or place of beginning;

running thence southwesterly along an arc curving to the right having a radius of 1375.30 feet a distance of 156.31 feet and a central angle of 6°30'43" to a point; thence the following courses and distances:

North 01°28'49" West a distance of 153.78 feet to a point; thence North 08°59'31" West a distance of 269.03 feet to a point; thence North 09°25'24" West a distance of 228.45 feet to a point of curvature; thence northwesterly along an arc curving to the left having a radius of 310.00 feet a distance of 130.55 feet and a central angle of 24°07'41" to a point of compound curvature; thence northwesterly along an arc curving to the left having a radius of 104.00 feet a distance of 119.82 feet a central angle of 66°00'33" to a point of tangency; thence South 80°26'21" West a distance of 280.00 feet to a point of curvature; thence northwesterly along an arc curving to the right having a radius of 640.00 feet a distance of 369.15 feet and a central angle of 33°02'52" to a point of tangency; thence North 66°30'47" West a distance of 153.69 feet to a point of curvature; thence northwesterly along an arc curving to the right having a radius of 140.00 feet a distance of 39.06 feet and a central angle of 15°59'03" to a point of tangency; thence North 50°31'44" West a distance of 46.47 feet to a point of curvature; thence northwesterly along an arc curving to the right having a radius of 530.00 feet a distance of 53.85 feet and a central angle of 5°49'17" to a point of tangency; thence North 44°42'27" West a distance of 131.85 feet to a point; thence North 42°37'34" West a distance of 55.00 feet to a point of curvature; thence northwesterly along an arc curving to the left having a radius of 70.00 feet a distance of 57.62 feet and a central angle of 47°09'51" to a point; thence South 00°12'35" West a distance of 20.27 feet to a point; thence South 72°44'21" West a distance of 174.62 feet to a point; thence North 17°21'24" West a distance of 22.30 feet to a point; thence South 72°38'36" West a distance of 216.88 feet to a point; thence South 28°15'57" West a distance of 85.50 feet to a point; thence South 45°44'51" West a distance of 50.64 feet to a point; thence North 44°15'09" West a distance of 17.86 feet to a point; thence

North 45°44'51" East a distance of 24.11 feet to a point; thence  
North 28°15'57" East a distance of 115.64 feet to a point; thence  
North 72°38'36" East a distance of 386.70 feet to a point of curvature; thence  
southeasterly along an arc curving to the right having a radius of 95.00 feet a distance of 107.33  
feet and a central angle of 64°43'50" to a point of tangency; thence  
South 42°37'34" East a distance of 54.55 feet to a point; thence  
South 44°42'27" East a distance of 131.39 feet to a point of curvature; thence  
southeasterly along an arc curving to the left having a radius of 505.00 feet a distance of 51.31  
feet and a central angle of 5°49'17" to a point of tangency; thence  
South 50°31'44" East a distance of 46.47 feet to a point of curvature; thence  
southeasterly along an arc curving to the left having a radius of 115.00 feet a distance of 32.08  
feet and a central angle of 15°59'03" to a point of tangency; thence  
South 66°30'47" East a distance of 153.69 feet to a point of curvature; thence  
southeasterly along an arc curving to the left having a radius of 615.00 feet a distance of 354.73  
feet and a central angle of 33°02'52" to a point of tangency; thence  
North 80°26'21" East a distance of 280.00 feet to a point of curvature; thence  
southeasterly along an arc curving to the right having a radius of 129.00 feet a distance of 148.62  
feet and a central angle of 66°00'33" to a point of compound curvature; thence  
southeasterly along an arc curving to the right having a radius of 335.00 feet a distance of 141.07  
feet and a central angle of 24°07'41" to a point of tangency; thence  
South 09°25'24" East a distance of 228.54 feet to a point; thence  
South 10°02'30" East a distance of 180.75 feet to a point of curvature; thence  
southeasterly along an arc curving to the left having a radius of 130.00 feet a distance of 100.00  
feet a central angle of 44°04'25" to a point of compound curvature; thence  
southeasterly along an arc curving to the left having a radius of 154.00 feet a distance of 60.36  
feet and a central angle of 22°27'30" to a non tangent point; thence  
South 19°44'18" East a distance of 86.81 feet to the point or place of beginning.

Containing 85,005.33 square feet or 1.95 acres more or less.

#### **EASEMENT TO NEW YORK RACING ASSOCIATION**

All that certain plot, piece or parcel of land lying and being in the Borough of Queens, City and State of New York bounded and described as follows:

Commencing at a point on the northerly side of North Conduit Avenue, said point being the following courses and distances from the corner formed by the intersection of the northerly side of North Conduit Avenue and the westerly side of 114th Street (60 feet wide), South 59°31'52" West 298.32 feet, South 64°52'32" West 337.76 feet to a point of curvature; thence southwesterly along the northerly side of North Conduit Avenue as it curves having a radius of 1375.30 feet a distance of 176.28 feet to the true point or place of beginning; running thence southwesterly along an arc curving to the right having a radius of 1375.30 feet a distance of 223.49 feet and a central angle of 9°18'39" to a point of tangency; thence the following courses and distances along the northerly side of North Conduit Avenue:  
South 81°31'49" West a distance of 151.31 feet; thence  
South 79°25'12" West a distance of 149.59 feet; thence  
South 80°38'48" West a distance of 112.62' feet to the easterly side of the Long Island Railroad; thence  
the following courses and distances along the easterly side of the land of the Long Island Railroad:  
North 12°11'48" West a distance of 0.83 feet to a point; thence  
North 49°16'48" West a distance of 33.17 feet to a point; thence  
North 12°11'48" West a distance of 8.29 feet to a point; thence  
North 49°16'48" West a distance of 1248.25 feet to a point; thence

North 45°49'23" West a distance of 165.84 feet to a point; thence  
North 44°15'09" West a distance of 62.04 feet to a point; thence  
the following courses and distances:  
North 45°44'51" East a distance of 50.64 feet to a point; thence  
South 48°53'09" East a distance of 810.07 feet to a point; thence  
South 48°14'53" East a distance of 322.84 feet to a point of curvature; thence  
along an arc curving to the left having a radius of 94.00 feet a distance of 74.77 feet and a central  
angle of 45°34'28" to a point of reverse curvature; thence  
along an arc curving to the right having a radius of 120.00 feet a distance of 82.10 feet and a  
central angle of 39°12'01" to a point of tangency; thence  
South 54°37'16" East a distance of 260.00 feet to a point of curvature; thence  
along an arc curving to the left having a radius of 94.00 feet a distance of 70.03 feet and a central  
angle of 42°40'59" to a point of tangency; thence  
North 82°41'45" East a distance of 58.00 feet to a point; thence  
North 80°29'41" East a distance of 291.24 feet to a point of curvature; thence  
along an arc curving to the left having a radius of 120.00 feet a distance of 171.69 feet and a  
central angle of 81°58'32" to a non tangent point; thence  
South 1°28'46" East a distance of 138.09 feet to the point or place of beginning.

Containing 142,726.26 square feet or 3.28 acres more or less.

#### **AQUEDUCT BRIDGE**

Commencing at a point on the easterly right of way line of the Long Island Railroad where it  
intersects the southerly line of the Southern Parkway, said line also being the northerly line of  
John F. Kennedy International Airport, running along the last mentioned line North 76°26'23" East  
a distance of 15.00 feet to the westerly line of a bridge and the true point and place of beginning;  
running thence  
North 49°18'31" West a distance of 707.83' feet along the westerly line of a bridge that crosses  
over the Southern Parkway to the northerly side of North Conduit Avenue; thence  
North 80°38'48" West a distance of 50.47 feet along the northerly side of North Conduit Avenue  
to the easterly side of the bridge; thence  
South 49°18'31" East a distance of 703.35' feet along the easterly side of the bridge that crosses  
over the Southern Parkway to the southerly line of the Southern Parkway; thence  
South 76°26'23" West along the southerly line of the Southern Parkway a distance of 46.88' feet  
to the westerly side of the bridge and the true point or place of beginning.

Having a lower limiting plane at the bottom of the lowest element of the highway bridge and  
appurtenances, together with: columns, piers, walls, trusses, footings and abutments, if any,  
necessary for the support of such bridge and no upper limiting plane.

**EXHIBIT B-2**  
**BOWERY BAY PARCEL**

All that certain plot, piece or parcel of land situate lying and being in the borough and county of Queens, in the City and State of New York, more particularly bounded and described as follows:

Beginning at a point which is the intersection of the easterly line of 45th Street and the northerly line of 19th Avenue the coordinates of which are South 29878.17 East 21002.59 running thence in an easterly direction along the northerly line of 19th Avenue South 76°08'37" East a distance of 1075.04' to a point of curvature; thence along an arc having a radius of 681.03' feet curving to the left a distance of 322.11' feet a total angle of 27°05'57" to a point; continuing thence along the northerly line of 19th Avenue North 76°45'26" East a distance of 942.64' to the lands of La Guardia Airport and also the easterly line of 81st Street; thence in a northerly direction through the lands of La Guardia Airport, North 36°54'45" West a distance of 153.82' thence continuing still through the lands of La Guardia Airport in an easterly direction North 53°05'15" East a distance of 1520.00'; thence in a northerly direction still through the lands of La Guardia Airport North, 36°54'45" West a distance of 2166.75' to the Rikers Island Channel; thence South 51°18'36" West a distance of 1509.89'; thence South 13°51'22" West a distance of 1080.58'; North 76°08'35" West a distance of 470.04'; thence South 13°51'22" West a distance of 870.01' to the point and place of beginning.

Containing 5,557,063.55 square feet or 127.57 acres.

The coordinates and bearings hereinabove mentioned refer to the 10<sup>th</sup> Avenue Meridian as established by the Topographical Bureau of the Borough of Queens, City of New York, grid North being 28°59'13.5" east of true north.

**EXHIBIT B-3  
EXISTING HORIZONTAL SURFACE, CONICAL  
SURFACE, PRIMARY SURFACE, APPROACH SURFACE  
AND TRANSITIONAL SURFACE**

**JOHN F. KENNEDY AIRPORT**

**RUNWAY PROTECTION ZONE AT RUNWAY 13 RIGHT / 31 LEFT**

Beginning at a point on the centerline extended of runway 13 right / 31 left distant 200 feet West of the end of said runway, the coordinates of which are South 59877.98 East 62708.22; running thence

1. South 1°39'00" West a distance 500.00 feet to a point; thence
2. South 83°07'09" West a distance 2527.97 feet to a point; thence
3. North 1°39'00" East a distance of 1750.00 feet to a point; thence
4. South 79°49'09" East a distance of 2527.97 feet to a point; thence
5. South 1°39'00" West a distance of 500.00 feet to the point or place of beginning.

**RUNWAY PROTECTION ZONE AT RUNWAY 31 LEFT / 13 RIGHT**

Beginning at a point on the centerline extended of runway 13 right/ 31 left distant 200 feet East of the end of said runway, the coordinates of which are South 60310.04 East 77707.13; running thence

1. North 1°39'00" East a distance of 500.00 feet to a point; thence
2. North 83°07'09" East a distance of 2527.97 feet to a point; thence
3. South 1°39'00" West a distance of 1750.00 feet to a point; thence
4. North 79°49'09" West a distance of 2527.97 feet to a point; thence
5. North 1°39'00" East a distance of 500.00 feet to the point or place of beginning.

**RUNWAY PROTECTION ZONE AT RUNWAY 4 LEFT / 22 RIGHT**

Beginning at a point on the centerline extended of runway 4 left / 22 right distant 200 feet South of the end of said runway, the coordinates of which are South 64277.61 East 75151.88; running thence

1. South 88°21'00" East a distance of 500.00 feet to a point; thence
2. South 06°52'51" East a distance of 2527.97 feet to a point; thence
3. North 88°21'00" West a distance 1750.00 feet to a point; thence
4. North 10°10'51" East a distance of 2527.97 feet to a point; thence
5. South 88°21'00" East a distance of 500.00 feet to the point or place of beginning.

**RUNWAY PROTECTION ZONE AT RUNWAY 22 RIGHT / 4 LEFT**

Beginning at a point on the centerline extended of runway 22 right / 4 left distant 200 feet North of the end of said runway, the coordinates of which are South 52521.30 East 75490.53; running thence

1. North 88°21'00" West a distance 500.00 feet to a point; thence
2. North 6°52'51" West a distance 2527.97 feet to a point; thence
3. South 88°21'00" East a distance of 1750.00 feet to a point; thence
4. South 10°10'51" West a distance 2527.97 feet to a point; thence
5. North 88°21'00" West a distance 500.00 feet to the point or place of beginning.

**RUNWAY PROTECTION ZONE AT RUNWAY 4 RIGHT / 22 LEFT**

Beginning at a point on the centerline extended of runway 4 right / 22 left distant 200 feet South of the end of said runway, the coordinates of which are South 61124.30 East 78246.21; running thence

1. South 88°21'00" East a distance of 500.00 feet to a point; thence
2. South 6°52'51" East a distance of 2527.97 feet to a point; thence
3. North 88°21'00" West a distance 1750.00 feet to a point; thence
4. North 10°10'51" East a distance of 2527.97 feet to a point; thence
5. South 88°21'00" East a distance of 500.00 feet to the point or place of beginning.

**RUNWAY PROTECTION ZONE AT RUNWAY 22 LEFT / 4 RIGHT**

Beginning at a point on the centerline extended of runway 22 left / 4 right distant 200 feet North of the end of said runway, the coordinates of which are South 52327.86 East 78499.60; running thence

1. North 88°21'00" West a distance 500.00 feet to a point; thence
2. North 6°52'51" West a distance 2527.97 feet to a point; thence
3. South 88°21'00" East a distance of 1750.00 feet to a point; thence
4. South 10°10'51" West a distance 2527.97 feet to a point; thence
5. North 88°21'00" West a distance 500.00 feet to the point or place of beginning.

**RUNWAY PROTECTION ZONE AT RUNWAY 13 LEFT / 31 RIGHT**

Beginning at a point on the centerline extended of runway 13 left / 31 right distant 200 feet West of the end of said runway, the coordinates of which are South 53310.29 East 67495.51; running thence

1. South 1°39'00" West a distance 500.00 feet to a point; thence
2. South 83°07'09" West a distance 2527.97 feet to a point; thence
3. North 1°39'00" East a distance of 1750.00 feet to a point; thence
4. South 79°49'09" East a distance of 2527.97 feet to a point; thence
5. South 1°39'00" West a distance 500.00 feet to the point or place of beginning.

**RUNWAY PROTECTION ZONE AT RUNWAY 31 RIGHT / 13 LEFT**

Beginning at a point on the centerline extended of runway 31 right / 13 left distant 200 feet East of the end of said runway, the coordinates of which are South 53609.74 East 77890.87; running thence

1. North 1°39'00" East a distance of 500.00 feet to a point; thence
2. North 83°07'09" East a distance of 2527.97 feet to a point; thence
3. South 1°39'00" West a distance 1750.00 feet to a point; thence
4. North 79°49'09" West a distance 2527.97 feet to a point; thence
5. North 1°39'00" East a distance of 500.00 feet to the point or place of beginning.

**MIDDLE MARKER PARCEL**

Beginning at a point in the prolongation southwardly of the center line of proposed runway 'v' of New York International Airport, distant South 1°39' West 3475.00 feet thereon from the southerly end of said runway, the coordinates of said point being South 64,396.89, East 78,149.69 an running thence (1) South 88°21' east, 50.00 feet to a point, the coordinates of said point being South 64,398.33, East 78,199.67; thence (2) South 1°39' west, parallel with said center line of runway prolonged, distant 50.00 feet southeastwardly therefrom, measured at right angles thereto, 100.00 feet to a point, the coordinates of said point being South 64,498.29, East 78,196.79; thence (3) North 88°21' west, 100.00 feet to a point, the coordinates of said point being South 64,495.41, East 78,096.83; thence (4) North 1°39' east, parallel with said center line

of runway prolonged, distant 50.00 feet northwestwardly therefrom, measured at right angles thereto, 100.00 feet to a point, the coordinates of said point being South 64,395.45, East 78,099.71; thence (5) South 88°21' east, 50.00 feet to the point and place of beginning, the area whereof is 0.23 acres more or less.

## **La Guardia AIRPORT**

### **RUNWAY PROTECTION ZONE AT RUNWAY 31/13**

Beginning at a point on the centerline extended of Runway 31/13 distant 200 feet east of the end of said runway, the coordinates of which are South 25944.04 East 31450.26; running thence

1. North 03-05'14" East a distance of 500.00 feet to a point; thence
2. North 84-33'24" East a distance of 2527.97 feet to a point; thence
3. South 03-05'14" West a distance of 1750.00 feet to a point; thence
4. North 78-22'55" West a distance of 2527.97 feet to a point; thence
5. North 03-05'14" East a distance of 500.00 feet to the point or place of beginning.

### **RUNWAY PROTECTION ZONE AT RUNWAY 13/31**

Beginning at a point on the centerline extended of Runway 13/31 distant 200 feet west of the end of said runway, the coordinates of which are South 25545.42 East 24059.68; running thence

1. South 03-05'14" West a distance of 500.00 feet to a point; thence
2. South 84-33'24" West a distance of 2527.97 feet to a point; thence
3. North 03-05'14" East a distance of 1750.00 feet to a point; thence
4. South 78-22'55" East a distance of 2527.97 feet to a point; thence
5. South 03-05'14" West a distance of 500.00 feet to the point or place of beginning.

### **RUNWAY PROTECTION ZONE AT RUNWAY 4/22**

Beginning at a point on the centerline extended of Runway 4/22 distant 200 feet south of the end of said runway, the coordinates of which are South 30491.60 East 25225.58; running thence

1. South 86-54'45" East a distance of 500.00 feet to a point; thence
2. South 05-26'35" East a distance of 2527.97 feet to a point; thence
3. North 86-54'45" West a distance of 1750.00 feet to a point; thence
4. North 11-37'06" East a distance of 2527.97 feet to a point; thence
5. South 86-54'45" East a distance of 500.00 feet to the point or place of beginning.

### **RUNWAY PROTECTION ZONE AT RUNWAY 22/4**

Beginning at a point on the centerline extended of Runway 22/4 distant 200 feet north of the end of said runway, the coordinates of which are South 23300.77 East 25613.46; running thence

1. North 86-54'45" West a distance of 500.00 feet to a point; thence
2. North 05-26'35" West a distance of 2527.97 feet to a point; thence
3. South 86-54'45" East a distance of 1750.00 feet to a point; thence
4. South 11-37'06" West a distance of 2527.97 feet to a point; thence
5. North 86-54'45" West a distance of 500.00 feet to the point or place of beginning.

**EXHIBIT B-4  
AVIGATIONAL EASEMENT AREAS**

**LA GUARDIA AIRPORT – LA GUARDIA AVIGATIONAL EASEMENTAREAS  
PARCEL A1**

Beginning at a point which is the intersection of the easterly line of 78th Street (60.00 feet wide) with the southerly line of 25th Avenue (70.00 feet wide) and running thence (1) eastwardly, along said southerly line of 25th Avenue, 200.00 feet to the westerly line of 79th Street (60.00 feet wide); thence (2) southwardly, along said westerly line of 79th Street, at right angles to the preceding course, 192.82 feet to a point distant 100.00 feet southeastwardly from the center line prolonged of runway 4-22 of La Guardia Airport, measured at right angles thereto; thence (3) southwardly, parallel with said center line of runway, distant 100.00 feet southeastwardly therefrom, measured at right angles thereto and along a line which makes an interior angle of 139°59'20" with the preceding course, 155.54 feet to the westerly line of lands acquired by the Port of New York Authority in a condemnation proceeding vesting title on June 6, 1956 and a point in the center line of the block; thence (4) northwardly, along said westerly line of lands condemned as aforesaid, along said center line of block and along a line which makes an interior angle of 40°00'40" with the preceding course 170.59 feet to the southerly line of lands conveyed by Arde Bulova to the Port of New York Authority by deed dated May 18, 1956 and recorded on May 21, 1956 in the register's office of Queens county in liber 6876 of deeds at page 531 therein; thence (5) westwardly, along said southerly line of lands conveyed by Arde Bulova as aforesaid and along a line which makes an interior angle of 282°44'40" with the preceding course, 51.28 feet; thence (6) westwardly, continuing along said southerly line of lands conveyed by Arde Bulova and along a line which makes an interior angle of 183°19'20" with the preceding course 52.02 feet to said easterly line of 78th Street; thence (7) northwardly along said easterly line of 78th Street and along a line which makes an interior angle of 73°56'00" with the preceding course, at right angle to said southerly line of 25th Avenue, 167.08 feet to the point and place of beginning.

Being the premises known as lot 1 and part of lot 14 in block 1055, section 7 of the tax map of the City for the Borough of Queens.

**PARCEL A2**

Beginning at a point which is the intersection of the easterly line of 79th Street (60.00 feet wide) with the southerly line of 25th Avenue (70.00 feet wide) and running thence (1) eastwardly along said southerly line of 25th Avenue, at right angles to said easterly line of 79th Street, 101.86 feet to a point distant 100.00 feet southeastwardly from the center line prolonged of runway 4-22 of La Guardia Airport, measured at right angles thereto; thence (2) southwestwardly, parallel with said center line of runway, distant 100.00 feet southeastwardly therefrom, measured at right angles thereto along the easterly line of lands acquired by the Port of New York Authority in a condemnation proceeding vesting title on June 6, 1956 and along a line which makes an interior angle of 49°59'20" with the preceding course, 158.43 feet to said easterly line of 79th Street; thence (3) northwardly, along said easterly line of 79th Street and along a line which makes an interior angle of 40°00'40" with the preceding course, 121.34 feet to the point and place of beginning.

Being the premises known as part of lot 1 and part of lot 11, in block 1056, section 7 of the tax map of the City for the Borough of Queens.

### PARCEL A3

Beginning at a point which is the intersection of the northerly line of 25th Avenue (70.00 feet wide) with the easterly line of 79th Street (60.00 feet wide) and running thence (1) northwardly, along said easterly line of 79th Street, at right angles to said northerly line of 25th Avenue, 450.00 feet to the northerly line of lands conveyed by Arde Bulova to the Port of New York Authority by deed dated July 2, 1956 and recorded on July 9, 1956 in the register's office of Queens county in liber 6891 of deeds at page 645 therein; thence (2) eastwardly, at right angles to the preceding course and along said northerly line of lands conveyed by Arde Bulova as aforesaid, 53.75 feet to the easterly line of lands conveyed by Arde Bulova as aforesaid; thence (3) southwardly, along said easterly line of lands conveyed by Arde Bulova as aforesaid and along a line which makes an interior angle of  $112^{\circ}46'03''$  with the preceding course, 108.45 feet to the northerly line of lands conveyed by Clara Maurer to the Port of New York Authority by deed dated June 12, 1956 and recorded on June 12, 1956 in the register's office of Queens county in liber 6883 of deeds at page 632 therein; thence (4) eastwardly, along said northerly line of lands conveyed by Clara Maurer as aforesaid and along a line which makes an interior angle of  $247^{\circ}13'57''$  with the preceding course, 104.28 feet to the westerly line of 80th Street (60.00 feet wide); thence (5) southwardly, along said westerly line of 80th Street, at right angles to the preceding course, 350.00 feet to the corner formed by the intersection of said westerly line of 80th Street with said northerly line of 25th Avenue; thence (6) westwardly, along said northerly line of 25th Avenue, at right angles to the preceding course, 200.00 feet to the point and place of beginning.

Being the premises known as lots 18, 20, 22, 24 and part of 32, in block 1043, section 7 of the tax map of the City for the Borough of Queens.

### PARCEL A4

Beginning at a point in the easterly line of 80th Street (60.00 feet wide) distant 125.00 feet northwardly thereon from the corner formed by the intersection of said easterly line of 80th Street with the northerly line of 25th Avenue (70.00 feet wide) said point lying in the southerly line of lands conveyed by John & Christine Harvan to the Port of New York Authority by deed dated June 14, 1956 and recorded in the register's office of Queens county on June 15, 1956 in liber 6884 of deeds at page 528 therein and running thence (1) northwardly, along said easterly line of 80th Street, 375.00 feet to the northerly line of lands conveyed by Wilhelmina Kobryn to the Port of New York Authority by deed dated July 10, 1956 and recorded in the register's office of Queens county on July 12, 1956 in liber 6892 of deeds at page 627 therein; thence (2) eastwardly, along said northerly line of lands conveyed by Wilhelmina Kobryn as aforesaid, 100.00 feet to the westerly line of lands acquired by the Port of New York Authority in condemnation proceeding in which title vested on June 6, 1956; thence (3) northwardly, along said westerly line of lands acquired as aforesaid, 100.00 feet to the southerly line of 24th Avenue (70.00 feet wide); thence (4) eastwardly, along said southerly line of 24th Avenue, 100.00 feet to the corner formed, by the intersection of said southerly line of 24th Avenue with the westerly line of 81st Street (60.00 feet wide); thence (5) southwardly, along said westerly line of 81st Street, 325.00 feet to the southerly line of lands conveyed by Ellen Shelby to the Port of New York Authority by deed dated June 27, 1956 and recorded in the register's office of Queens county on June 28, 1956 in liber 6888 of deeds at page 231 therein; thence (6) westwardly, along said southerly line of lands conveyed by Ellen Shelby as aforesaid, 100.00 feet to the center line of the block and a point in the easterly line of lands conveyed by Joseph Somma to the Port of New York Authority by deed dated February 8, 1956 and recorded in the register's office on February 9, 1956 in liber 6849 of deeds at page 454 therein; thence (7) southwardly, along said center line of block and along said easterly line of lands conveyed by Joseph Somma as aforesaid, along the easterly line of lands conveyed by George & Rose Strnad by deed dated July 23, 1956 and recorded on July 30, 1956 in the register's office of Queens county by torrens certificate numbered 189, along the easterly line of lands acquired by the Port of New York Authority in condemnation proceedings in which title vested on June 6, 1956, along the easterly line of lands

conveyed by John & Christine Harvan as aforesaid, 150.00 feet to said southerly line of lands conveyed by John & Christine Harvan; thence (8) westwardly, along said southerly line of lands conveyed by John & Christine Harvan as aforesaid, 100.00 feet to the point and place of beginning.

Being the premises known as lots 6, 9, 11, 14, 16, 20, 43,45, 46, 48, 49, 50, 51, 52, 53, 54, 56, 57 and 59 in block 1044, section 7 of the tax map of the City for the Borough of Queens.

#### **PARCEL A5**

Beginning at a point which is the intersection of the southerly line of 24th Avenue (70.00 feet wide) with the easterly line of 81st Street (60.00 feet wide) and running thence (1) eastwardly, along said southerly line of 24th Avenue, 125.00 feet to the easterly line of lands acquired by the Port of New York Authority in a condemnation proceeding in which title vested on June 6, 1956; thence (2) southwardly along said easterly line of lands acquired as aforesaid, 100.00 feet to a southerly line of lands acquired as aforesaid; thence (3) westwardly, along said southerly line of lands acquired as aforesaid, 25.00 feet to the center line of the block and another easterly line of lands acquired by condemnation as aforesaid; thence (4) southwardly, along said lands acquired by condemnation and along the easterly line of lands conveyed by Andrew Haurylak by deed dated September 28, 1956 and recorded in the register's office of Queens county on September 28, 1956 in liber 6916 at page 83 therein, 75.00 feet to the southerly line of lands conveyed by Andrew Haurylak aforesaid; thence (5) westwardly, along said southerly line of lands conveyed by Andrew Haurylak, 100.00 feet to said easterly line of 81st Street; thence (6) northwardly, along said easterly line of 81st Street, 175.00 feet to the point and place of beginning.

Being the premises known as lots 1, 2, 3, 4, 57, 58 and 59, in block 1045, section 7 of the tax map of the City for the Borough of Queens.

#### **PARCEL A6**

Beginning at a point which is the intersection of the westerly line of 82rid Street (60.00 feet wide) with the northerly line of Astoria Boulevard (130.00 feet wide) and running thence (1) westwardly, along said northerly line of Astoria Boulevard, 99.31 feet to the westerly line of lands conveyed by Stephen, Electra, George and Eftalia Milonas to the Port of New York Authority by deed dated February 1, 1957 and recorded in the register's office of Queens county on February 5, 1957 in liber 6950 of deeds at page 112 therein; thence (2) northwardly, along said westerly line of lands conveyed as aforesaid and along the westerly line of lands acquired by the Port of New York Authority by condemnation in a proceeding vesting title on June 6, 1956, 58.01 feet to the northerly line of lands acquired by condemnation as aforesaid; thence (3) eastwardly, along said northerly line of lands acquired by condemnation as aforesaid, 25.00 feet to the westerly line of lands conveyed by Caroline Dupree to the Port of New York Authority by deed dated August 29, 1956 and recorded in the register's office of Queens county on August 31, 1956 in liber 6907 at page 458 therein; thence (4) northwardly, along said westerly line of lands conveyed by Caroline Dupree as aforesaid, 75.00 feet to the northerly line of lands so conveyed by Caroline Dupree; thence (5) eastwardly, along said northerly line of lands conveyed by Caroline Dupree as aforesaid, 47.04 feet to said westerly line of 82<sup>nd</sup> Street; thence (6) southwardly along said westerly line of 82<sup>nd</sup> Street, 179.70 feet to the point and place of beginning.

Being the premises known as lots 30, 33, and 40, in block 1034, section 7 of the tax map of the City for the Borough of Queens.

Excepting so much as was taken for the widenings of Astoria Blvd. & 82<sup>nd</sup> St.

#### **PARCEL A7**

Beginning at a point which is the intersection of the easterly line of 81st Street with the southerly line of Grand Central Parkway as now in use and running thence eastwardly along an arc curving to the left having a radius of 294.00 feet a distance of 45.89 feet and a central angle of 8°56'36" to a point of compound curvatures; thence along arc curving to the left having a radius of 356.00 feet a distance of 77.82 feet and a central angle of 12°31'28" to the westerly line of 82<sup>nd</sup> Street thence southwardly, along said westerly line of 82<sup>nd</sup> Street south 44°02'43" east a distance of 146.11 feet to a point; thence westwardly, south 53°05'15" west a distance of 40.78' to a point; thence northwardly north 36°54'45" west a distance of 45.98' to a point; thence westwardly south 53°37'33" west a distance of 100.00' to the easterly line of 81<sup>st</sup> Street; thence northwardly along the easterly line of 81<sup>st</sup> Street north 36°54'45" west a distance of 112.59 feet to the point and place of beginning.

Being the premises known as lot 1 in block 1034, section 7 of the tax map of the City for the Borough of Queens.

#### **PARCEL A8**

Beginning at a point which is the intersection of the easterly line of 82nd Street with the northerly line of Astoria Boulevard and running thence (1) northwardly, along said easterly line of 82nd Street, north 44 degrees 02 minutes 43.5 seconds west a distance of 415.70 feet to the southerly line of Ditmars Boulevard; thence (2) eastwardly along said southerly line of Ditmars Boulevard, north 45 degrees 29 minutes 41 seconds east, a distance of 239.97 feet to the westerly line of 83rd Street; thence (3) southwardly, along said westerly line of 83rd Street, south 36 degrees 54 minutes 45 seconds east a distance of 311.95 feet to a point; thence (4) westwardly, south 53 degrees 05 minutes 15 seconds west a distance of 107.29 feet to a point; thence (5) south 45 degrees 49 minutes 18 seconds east a distance of 173.89 feet to said northerly line of Astoria Boulevard, thence (6) westwardly along said northerly line of Astoria Boulevard south 73 degrees 34 minutes seven seconds west a distance of 113.04 feet to the point and place of beginning.

Being the premises known as lots 24, 26, 27, 28, 29, 32, 43, 46, 49, 50, 51, 53, 55 and 59 in block 1077, section 7 of the tax map of the City for the Borough of Queens.

#### **PARCEL A9**

Beginning at a point which is the intersection of the easterly line of 83rd Street with the southerly line of Ditmars Boulevard running along said southerly line of Ditmars Boulevard north 45 degrees 29 minutes 41 seconds east a distance of 464.07 feet to the westerly line of 85<sup>th</sup> Street; thence along the westerly side of 85<sup>th</sup> Street south 36 degrees 54 minutes 45 seconds east 214.89 feet to a point; thence south 53 degrees 05 minutes 15 seconds west a distance of 360.00 feet to a point; thence south 36 degrees 54 minutes 45 seconds east a distance of 41.38 feet to a point; thence south 53 degrees 05 minutes 15 seconds west a distance of 100.00 feet to a point on the easterly side of 83<sup>rd</sup> Street; thence northerly along the easterly side of 83<sup>rd</sup> Street, north 36 degrees 54 minutes 45 seconds west a distance of 194.95 feet to the point and place of beginning.

Being the premises known as lots 60 and 62, in block 1078, section 7 of the tax map of the City for the Borough of Queens.

#### **PARCEL A10**

All those lots, pieces or parcels of land, with the buildings and improvements, if any, thereon, situate, lying and belong in the borough and county of Queens, City and State of New York, known and designated on a certain map entitled "Map of Property Belonging to Valentine Klein, situate in the 2nd ward of the Borough of Queens, New York City surveyed September 1919, by Walter I. Browne, C.E. & C.S.", and filed or intended to be filed in the office of the clerk of the county of Queens as and by the lots #25 and 26, which said lots according to said map are bounded and described as follows:

Beginning at a point on the westerly side of 82nd Street (formerly 25th Street) distant northerly 299.35 feet from the corner formed by the intersection of the westerly side of 82nd Street and the northeasterly side of Astoria Boulevard (formerly Astoria Avenue); running thence westerly and at right angles to said 82nd Street, 100 feet; thence northerly and parallel with said 82nd Street, 45.98 feet to lands now or formerly of the estate of Garrett Kowenhoven, deceased; thence easterly along said lands 100 feet to the westerly side of 82nd Street, thence southerly along the westerly side of 82nd Street a distance of 45.98 feet to the point or place of beginning.

Being the premises also known and designated as and by the lot #25, block 1034 of section 7 as shown on the tax map of the county of Queens.

#### **PARCEL A11**

All that certain plot, piece or parcel of lands with the buildings and improvements thereon erected, situate, known on a certain map entitled, "map of property belonging to Valentine Klein", situate in the 2nd ward, borough of Queens, New York City, surveyed September 1919 by Walter I. Browne, C.E. & C.S., and filed in the Queens county office 11/11/1919, as and by lots nos. 34 and 35, which said lots with reference to said map are more particularly bounded and described as follows:

Beginning at the corner formed by the intersection of the northeasterly side of Astoria Boulevard with the easterly side of 81st street; thence running northerly along said easterly side of 81st street, 30.00 feet to a point; thence easterly, at right angles 50 feet to a point; thence southerly and parallel with said 81<sup>st</sup> street a distance of 48.67 feet to a point on the northerly line of Astoria Boulevard; thence westerly along said northerly side of Astoria Boulevard a distance of 53.37 feet to the point or place of beginning.

#### **JOHN F. KENNEDY INTERNATIONAL AIRPORT JFK AVIGATIONAL EASEMENT AREAS**

##### **PARCEL 8A**

All that certain plot, piece or parcel of land, with the buildings and improvements thereon, situate in the borough and county of Queens, City and State of New York, bounded and described as follows: Beginning at a point distant 55.63 feet northwesterly from the corner of a park formed by the intersection of International Airport Center Boulevard (formerly Rockaway Boulevard) with the Nassau Expressway as mapped by the City of New York, borough of Queens topographical bureau on map no. 4954, the coordinates of said point being South 50816.36 East 74747.66; running thence

North 06°07'43" West a distance of 1580.00 feet to a point; thence North 69°23'24" East a distance of 132.00 feet to a point; thence South 33°17'26" East a distance of 10.00 feet to a point; thence North 69°23'24" East a distance of 260.00 feet to a point; thence North 20°33'29" West a distance of 6.00 feet to a point; thence

North 78°00'59" East a distance of 518.00 feet to a point; thence  
South 03°26'28" East a distance of 22.00 feet to a point; thence  
North 87°25'48" East a distance of 220.00 feet to a point; thence  
South 02°34'12" East a distance of 78.00 feet to a point; thence  
North 87°25'48" East a distance of 130.00 feet to a point; thence  
South 02°34'12" East a distance of 120.00 feet to a point; thence  
North 73°02'49" East a distance of 660.00 feet to a point; thence  
South 02°57'27" East a distance of 1368.87 feet to a point on a non tangent curve; thence  
along an arc curving to the left having a radius of 5934.00 feet a distance of 143.35 feet and a  
central angle of 1°23'03" to a non tangent point; thence  
South 10°10'51" West a distance of 635.24 feet to a point on the northerly side of International  
Airport Center Boulevard; thence  
along International Airport Center Boulevard North 82°24'03" West a distance of 1528.34 feet to  
the point or place of beginning.

Containing 3,236,272.42 square feet or 74.29 acres more or less.

**PARCEL 8B**

All that certain plot, piece or parcel of land, with the buildings and improvements thereon, situate  
in the borough and county of Queens, City and State of New York, bounded and described as  
follows: Beginning at a point which is the intersection of the extension of the centerline of 215th  
Street (60 foot width) as shown on the "map of Jamaica Gardens south, 4th ward, borough of  
Queens, New York city" surveyed Feb. 1, 1924 by Evans Bros., and filed as map #4507 in the  
register's office, Queens county, with the extension of the center line of 149th Avenue (80 foot  
width) as shown on said map of Jamaica Gardens south, the coordinates of said point being  
South 49370.15 East 77527.85; and running thence (1) southwardly, along said center line of  
215th Street and the extension thereof South 02°55'44" East a distance of 1045.80 to a point on a  
non tangent curve; thence  
along an arc curving to the right having a radius of 5880.00 feet a distance of 192.62 feet and a  
central angle of 1°52'37" to a point; thence  
South 06°52'51" East a distance of 796.00 feet to a point on the northerly side of International  
Airport Center Boulevard (formerly Rockaway Boulevard); thence  
easterly along the northerly side of International Airport Center Boulevard South 82°24'03" East a  
distance of 1603.02 feet to a point; thence  
North 02°55'44" West a distance of 1370.00 feet to a point; thence  
North 87°04'16" East a distance of 265.00 feet to a point; thence  
North 02°55'44" West a distance of 424.19 feet to a point on a curve on the westerly side of  
Brookville Boulevard; thence  
northerly on the westerly side of Brookville Boulevard along an arc curving to the left having a  
radius of 300.00 feet a distance of 92.24 feet and a central angle of 17°37'02" to a point of  
tangency; thence  
North 55°57'07" West a distance of 134.20 feet to a point of curvature; thence  
along an arc curving to the right having a radius of 565.39 feet a distance of 276.95 feet and a  
central angle of 281°03'57" to a point of tangency; thence  
North 27°53'10" West a distance of 270.47 feet to a point; thence  
South 64°13'58" West a distance of 589.70 feet to a point; thence  
South 87°04'16" West a distance of 1083.44 feet to the point or place of beginning.

Containing 3,683,144.82 square feet or 84.55 acres more or less.

Parcels 8A and 8B Subject to and subordinate to the rights to use the following parcels for street  
or highway purposes, more particularly described as follows:

**PARCEL 8A**

**Nassau Expressway Right of Way**

All that certain plot, piece or parcel of land, situate in the Borough and County of Queens, City and State of New York, bounded and described as follows:

Beginning at a point distant 55.63 feet northwesterly from the corner of a park formed by the intersection of International Airport Center Boulevard (formerly Rockaway Boulevard) with the Nassau Expressway as mapped by the City of New York, borough of Queens topographical bureau on map no. 4954, the coordinates of said point being South 50816.36 East 74747.66; Running thence, North 06°07'43" West a distance of 506.92 feet to a point on a non tangent curve; thence along an arc curving to the right having a radius of 4847.00 feet a distance of 1876.62 feet and a central angle of 22°11'00" to a point; thence South 02°57'27" East a distance of 194.09 feet to a point on a non tangent curve; thence along an arc curving to the left having a radius of 4653.00 feet a distance of 1447.40 feet and a central angle of 17°49'22" to a non tangent point; thence South 22°48'25" East a distance of 241.53 feet to a point; thence South 79°08'27" West a distance of 384.98 feet to a point; thence North 03°04'25" West a distance of 189.19 feet to a point; thence North 82°24'03" West a distance of 55.63 feet to the point and place of beginning.

Containing 458,799.72 square feet or 10.53 acres more or less.

**PARCEL 8B**

**Nassau Expressway Right of Way**

All that certain plot, piece or parcel of land, situate in the Borough and County of Queens, City and State of New York, bounded and described as follows:

Beginning at a point on the easterly line of Parcel 8B distant northerly 964.59 feet from the intersection of International Airport Center Boulevard (formerly Rockaway Boulevard) and said easterly line of Parcel 8B, the coordinates of said point being South 50481.21 East 79406.91; Running thence, North 02°55'44" West a distance of 223.85' to a point on a non tangent curve; thence along an arc curving to the left having a radius of 6847.00 feet a distance of 1902.29 feet and a central angle of 15°55'06" to a point; thence South 02°55'44" East a distance of 196.14 feet to a point on a non tangent curve; thence along an arc curving to the right having a radius of 6653.00 feet a distance of 1538.97 feet and a central angle of 13°15'13" to a point of compound curvature; thence along an arc curving to the right having a radius of 3500.00 feet a distance of 373.06 feet and a central angle of 6°06'26" to the point or place and place of beginning.

Containing 370,706.17 square feet or 8.51 acres more or less.

**PARCEL 8C**

All that certain plot, piece or parcel of land, situate in the Borough and County of Queens, City and State of New York, bounded and described as follows:

Beginning at a point on the easterly line of Parcel 8B distant northerly 404.64 feet from the intersection of International Airport Center Boulevard (formerly Rockaway Boulevard) and said easterly line of Parcel 8B, the coordinates of said point being South 51040.46 East 79434.94;

Running thence;  
North 30°18'16" East a distance of 158.55' feet to a point; thence  
North 83°05'40" West a distance of 87.60' feet to the easterly line of Parcel 8B; thence  
South 02°42'14" East a distance of 147.58' feet to the point and place of beginning.

Containing 6,373.49 square feet or 0.15 acres more or less.

**PARCEL 9**  
**JOHN F. KENNEDY INTERNATIONAL AIRPORT**  
**PUBLIC PLACE EASEMENT AREA**

The right to install or permit the installation by the federal aviation agency of aids to aviation in and upon the following described strip of property:

All that certain plot, piece or parcel of land situate and being, in the borough and county of Queens, City and State of New York, more particularly bounded and described as follows: 'b055 place of a parcel of land 400 feet wide and approximately 2300 feet long being 200 feet on each side of a center line drawn between points a and b, more particularly described as follows:

Point A: Being the point of intersection of the easterly line of Brookville Boulevard with the westerly line of Public Place as shown on map 4445 approved by the board of estimate August 25, 1966. The coordinates of said point having the values of South 50073.247 and East 80011.861.

Point B: Being a point in the westerly line of Huxley Street distant 310.00 feet northerly thereon from the intersection of said westerly line of Huxley Street with the northerly line of Hook Creek Basin as shown on map 4445 approved by the board of estimate August 25, 1966. The coordinates of said point having the values of South 48672.492 and East 81881.320.

The coordinates and bearings hereinabove mentioned in the description in this item refer to the rectangular system of coordinates established by the Topographical Bureau of the Borough of Queens, City of New York, grid North being 28°59'13.5" East of true north.

**EXHIBIT B-5****JFK NORTHERN OFF - AIRPORT PARCELS****PARCEL 1**

Beginning at a point on the southerly line of Southern Parkway distant 989.58 feet westerly from the corner formed by the intersection of the southerly side of Southern Parkway with the westerly side of 153rd Place; thence westerly along the southerly side of Southern Parkway as the same bends, the following two distances 1352.41 feet and 1174.71 feet to a point where the southerly side of Southern Parkway intersects the easterly side of Van Wyck Expressway; thence southerly along the easterly side of Van Wyck Expressway; on a curve to the left having a radius of 1212.00 feet; a central angle 18°55'40.5", a distance of 400.39 feet to a point; thence continuing southerly along the easterly side of Van Wyck Expressway on a curve to the left having a radius of 4512.00 feet; a central angle 7°17'15.4", a distance of 573.89 feet to a point; thence still southerly along easterly side of Van Wyck Expressway on a curve to the left, having a radius of 2012.00 feet; a central angle of 3°15'11.6" a distance of 114.24 feet; thence westerly on a straight line along the South side of Van Wyck Expressway a distance of 238.12 feet to a point; thence southerly on a curve to the right, having a radius of 2324.00 feet; a central angle of 3°24'22.8", a distance of 138.17 feet to a point; thence easterly 96.00 feet to a point, thence southeasterly on a curve to the left having a radius of 593.00 feet a central angle of 26°42'51.2", a distance of 276.49 feet to a point; thence southerly on a curve to the right, having a radius of 1528.00 feet; a central angle 4°35'45.8", a distance of 122.57 feet to a point; thence continuing on a curve to the right, having a radius of 728.00 feet; a central angle 44°00'13.2", a distance of 559.11 feet to a point; thence southwesterly on a straight line 153.60 feet to a point; thence southeasterly at right angles or nearly so to the last mentioned course 168.00 feet to a point; thence northeasterly at right angles or nearly so to last mentioned course 682.30 feet to a point; thence northeasterly on a curve to the right having a radius of 243.59 feet; a central angle 26°16'01", a distance of 111.67 feet to a point; thence northeasterly on a straight line 267.10 feet to a point; thence in a general northerly direction on a curve to the left, having a radius of 673.35 feet; a central angle 48°11'29.2" a distance of 566.35 feet to a point; thence northerly on a straight line 654.62 feet to a point; thence continuing northeasterly one curve to the right having a radius of 1918.64 feet, a central angle 4°16'52.1", a distance of 143.36 feet; thence continuing easterly on a curve to the right having a radius of 394.38 feet; a central angle 52°00'31.1", a distance of 357.98 feet to a point; thence still continuing easterly on a curve to the right having a radius of 15224.42 feet; a central angle 2°56'57.2" a distance of 783.66 feet to a point; thence still continuing easterly on a curve to the right, having a radius of 1130.14 feet; a central angle 9°59'08.0" a distance of 196.96 feet to a point; thence continuing easterly on a straight line 462.33 feet to a point; thence easterly on a curve to the left, having a radius of 1050.00 feet; a central angle 13°18'44.2" a distance of 243.96 feet to a point; thence northerly on a straight line a distance of 861.44 feet to the point or place of beginning.

**PARCEL 2**

Beginning at a point on the southerly side of Southern Parkway where it intersects the westerly side of 124th street; thence westerly along the southerly side of Southern Parkway 121.44 feet to an angle point therein; thence westerly still along the southerly side of Southern Parkway on a curve to the right, having a radius of 1237.83 feet, a central angle of 32°23'11.5", a distance of 699.69 feet to a point; thence in a straight line still along the southerly side of Southern Parkway 3396.56 feet to a point; thence still westerly along the southerly side of Southern Parkway, 106.84 feet to a point; thence southeasterly 101.46 feet to the southerly side of the premises herein described; thence easterly on a straight line 396.08 feet; thence easterly on a curve to the right, having a radius of 1958.00 feet, a central angle of 7°07'33.0" a distance of 243.51 feet; thence easterly on a straight line 406.86 feet; thence still easterly on a curve to the left, having a radius of 2530.00 feet a central angle of 22°11'38.7" a distance of 980.02 feet; thence easterly on a straight line 543.78 feet to an angle point; thence still easterly on a straight line 100.33 feet to an

angle point; thence still easterly on a straight line 1420.99 feet to a point; thence still easterly on a curve to the left, having a radius of 970.00 feet, a central angle of 6°14'22.9" a distance of 541.25 feet to a point; thence easterly on a straight line 155.61 feet to a point; thence easterly on a curve to the left, having a radius of 530.00 feet, a central angle of 23°51'46", a distance of 220.74 feet to a point; thence easterly on a straight line 473.01 feet to a point; thence still easterly on a curve to the left having a radius of 1520.00 feet, a central angle of 12°15'28.4" a distance of 325.19 feet to the westerly side of 130th street 56.32 feet to its intersection with the southerly side of 152nd Avenue; thence westerly along the southerly side of 152nd Avenue 1560 feet to the westerly side of 124th street; thence northerly at right angles to the last mentioned course 316.34 feet to the point beginning.

### PARCEL 3

Beginning at a point on the southerly side of Southern Parkway where it intersects the easterly side of 134th street; thence easterly along the southerly side of Southern Parkway in a straight line 139.18 feet to a point; thence in a straight line along the southerly side of Southern Parkway, said line deflecting 27°56'39.1" to the right 48.56 feet to a point of curvature; thence on a curve to the right having a radius of 612.00 feet a central angle of 18°18'58.9" a distance of 195.65 feet to a point; thence continuing on a curve to the right having a radius of 2512.00 feet, a central angle of 9°16'50.0" a distance of 406.88 feet to a point; thence westerly in a straight line, said line deflecting 161°08'25" to the right 171.09 feet to a point; thence in a straight line, said line deflecting 27°14'15.4" to the left 535.40 feet to a point on the easterly side of 134th street; thence northerly along the easterly side of 134th street 523.29 feet to the point or place of beginning.

### PARCEL 4

Beginning at a point on the southerly side of South Conduit Avenue, where it intersect the southerly side of Rockaway Boulevard, said point having the coordinates of South 49120.15 East 68583.50; running thence southwesterly along the southerly side of South Conduit Avenue South 55°48'11" West a distance of 1831.53 feet to a point; thence South 55°26'19" West a distance of 80.00 feet to a point; thence South 55°24'50" West a distance of 724.33 feet to a point; thence South 22°45'03" East a distance of 861.44 feet to a point; thence North 66°07'45" East a distance of 838.03' feet to a non tangent curve; thence along an arc curving to the right having a radius of 785.00' a distance of 85.84' feet and a central angle of 6°15'55"; thence along an arc curving to the right having a radius of 2124.25' a distance of 549.65' feet and a central angle of 14°49'31"; thence along an arc curving to the right having a radius of 6404.00' a distance of 2025.33' feet and a central angle of 18°07'13"; thence along an arc curving to the right having a radius of 46486.00' a distance of 441.80' feet and a central angle of 0°32'40"; thence South 75°37'41" East a distance of 202.52' feet to a non tangent curve; thence along an arc curving to the left having a radius of 46450.77' a distance of 82.84' feet and a central angle of 0°06'08" to a point of reverse curvature; thence along an arc curving to the right having a radius of 12860.50' a distance of 1512.64' feet and a central angle of 6°44'21"; thence North 5°47'21" East a distance of 23.88' feet to a point; thence South 82°12'20" East a distance of 482.52' feet to a point of curvature; thence along an arc curving to the left having a radius of 2631.00' a distance of 1180.43' feet and a central angle of 25°42'23"; thence North 72°05'04" East a distance of 117.65' feet to a point on the southerly side of Rockaway Boulevard; thence

along the southerly side of Rockaway Boulevard North 82°24'03" West a distance of 301.59 feet to a point; thence  
North 84°12'39" West a distance of 2130.06 feet to a point; thence  
along an arc curving to the right having a radius of 2001.29 feet a distance of 837.77 feet and a central angle of 23°59'05" to a point; thence  
North 60°13'33" West a distance of 759.14 feet to a point; thence  
South 27°00'00" West a distance of 209.39 feet to a point; thence  
North 63°00'00" West a distance of 100.00 feet to a point; thence  
North 27°00'00" East a distance of 214.24 feet to a point; thence  
North 60°13'33" West a distance of 208.80 feet to a point; thence  
North 63°13'08" West a distance of 1518.34 feet to the point and place of beginning.

**PARCEL 5**

Beginning at a point on the southerly side of International Airport Center Boulevard (formerly Rockaway Boulevard), said point having the coordinates of South 50844.33 East 74075.83; running thence  
South 72°05'04" West a distance of 117.65 feet to a point of curvature; thence  
along an arc curving to the right having a radius of 2631.00 feet a distance of 611.76 feet and a central angle of 13°19'20" to a non tangent point; thence  
South 00°36'07" East a distance of 202.16 feet to a point of curvature; thence  
along an arc curving to the left having a radius of 1225.65 feet a distance of 294.73 feet and a central angle of 13°46'40" to a point of compound curvature; thence  
along an arc curving to the left having a radius of 3369.00 feet a distance of 1620.86 feet and a central angle of 27°33'56" to a point; thence  
North 84°22'06" East a distance of 773.64 feet to a point of curvature; thence  
along an arc curving to the right having a radius of 4564.98 feet a distance of 665.86 feet and a central angle of 8°38'40" to a point; thence  
North 31°39'01" East a distance of 315.42 feet to a point on the southerly side of International Airport Center Boulevard; thence  
westerly along International Airport Center Boulevard North 82°24'03" West a distance of 2763.26 feet to the point and place of beginning.

Containing 1,653,953.14 square feet or 37.97 acres more or less.

**PARCEL 6**

Beginning at a point on the southerly side of International Airport Center Boulevard (formerly Rockaway Boulevard), said point having the coordinates of South 51519.77 East 79145.82; running thence  
South 10°10'51" West a distance of 217.68 feet to a point on a non tangent curve; thence  
along an arc curving to the right having a radius of 27481.50 feet a distance of 184.04 feet and a central angle of 00°23'01" to a point of compound curvature; thence  
along an arc curving to the right having a radius of 4806.26 feet a distance of 1641.80 feet and a central angle of 19°34'19" to a point of tangency; thence  
South 61°29'50" East a distance of 400.00 feet to a point of curvature; thence  
along an arc curving to the right having a radius of 2740.00 feet a distance of 330.00 feet and a central angle of 6°54'02" to a point of tangency; thence  
South 54°35'48" East a distance of 224.00 feet to a point of curvature; thence  
along an arc curving to the left having a radius of 960.00 feet a distance of 523.97 feet and a central angle of 31°16'19" to the westerly side of Brookville Boulevard; thence  
northerly along the westerly side of Brookville Boulevard North 9°35'56" West a distance of 160.66 feet to an angle point; thence  
North 10°01'59" West a distance of 320.58 feet to the southerly side of International Airport Center Boulevard; thence

westerly along International Airport Center Boulevard North  $66^{\circ}25'00''$  West a distance of 1802.18 feet to a point of curvature; thence along an arc curving to the left having a radius of 1893.00 feet a distance of 528.10 feet and a central angle of  $15^{\circ}59'03''$  to a point of tangency; thence North  $82^{\circ}24'03''$  West a distance of 757.10 feet to the point and place of beginning.

Containing 1,012,484.46 square feet or 23.24 acres more or less.

**EXHIBIT B-6  
DESCRIPTION OF HEIGHT AND USE RESTRICTED PROPERTIES**

**PROPERTY 1 (LGA – Blk 3576 p/o Lot 1)**

All that certain piece or parcel of land and premises, situate, lying and being in the Borough and county of Bronx, in the City and State of New York, between Havemeyer and Zerega Avenues and between Randall and Seward Avenues, more particularly bounded and described as follows:

All that certain piece or parcel of land and premises, situate, lying and being in the Borough and county of Bronx, in the City and State of New York, between Havemeyer and Zerega Avenues and between Randall and Seward Avenues, more particularly bounded and described as follows:

Commencing at a point which is the intersection of the easterly line of Havemeyer Avenue (80 feet in width) with the northerly line of Randall Avenue (80 feet in width) and running thence northwardly, along said easterly line of Havemeyer Avenue, 500.00 feet to true point and place of beginning;

Running thence North 10°02'55" West a distance of 200.00' along the said easterly line of Havemeyer Avenue to the southerly line of Seward Avenue (80 feet in width); thence along said southerly line of said Seward Avenue, North 79°57'14" East a distance of 780.08 feet to the westerly line of Zerega Avenue (80 feet in width); thence along said westerly line of Zerega Avenue South 10°02'55" East 200.00 feet to a point; thence through Block 3576, Lot 1 along the northerly boundary line now or formerly of The Home Depot, South 79°57'14" West a distance of 780.08' feet to the point and place of beginning.

Containing 156,016 square feet or 3.58 acres more or less.

**PROPERTY 2 (JFK)**

All that certain plot, piece or parcel of land, situate, lying and being in the fifth ward of the borough and county of Queens, City and State of New York, bounded and described as follows:

Beginning at the northeasterly corner of Barbadoes Basin, as same is determined by the United States Pierhead and Bulkhead lines, running thence along the northerly line of Barbadoes basin, as so determined, North 57 degrees, 21 minutes West 1039.70 feet, thence continuing along same, North 46 degrees 27 minutes West 416 feet to the bulkhead of Brant Channel or Jamaica Bay, thence along said last mentioned bulkhead the following courses and distances, (1) North 8 degrees, 47 minutes East 21 feet, (2) North 35 degrees, 30 minutes East 880 feet, (3) North 77 degrees 7 minutes East 44.50 feet; (4) South 50 degrees 54 minutes East 808.70 feet, (5) South 21 degrees 6 minutes East 255.90 feet, (6) South 3 degrees, 6 minutes West 228.60 feet, (7) South 70 degrees 14 minutes West 168 feet to the corner of a basin, running thence southwesterly through a point on the northeasterly side of Amstel Boulevard (60 feet wide) which point is distant 30.08 feet southeasterly from the corner formed by the intersection of the southeasterly side of Crugers Road with the northeasterly side of Amstel Boulevard, to a point in the centre line of said Amstel Boulevard, thence southeasterly along said centre line of said Amstel Boulevard to a point where same is intersected by a line drawn northerly at right angles to the southerly side of Amstel Boulevard (80 feet wide) from a point thereon distant 161.86 feet westerly from the westerly side of Beach 75th street; thence southerly at right angles to the southerly side of Amstel Boulevard (80 feet wide) 40 feet more or less to a point thereon distant 161.86 feet westerly from the westerly side of Beach 75th street and running thence southerly 158.85 feet to the point or place of beginning.

Together with all right, title and interest of the City of New York of, in and to the land lying in the bed of streets in front of and adjoining the above described premises to the center lines thereof.

Together with all of the right, title and interest of the City of New York of, in and to the lands under the waters of Brant Channel and Jamaica Bay, in front of and adjacent to the above described premises, so far as said right, title and interest may extend.

Together with the overhead, surface and sub-surface easements necessary for the operation, maintenance, repair and reconstruction of the power and telephone lines, ducts and other utilities required for the proper operation of the facilities lying within the above described parcel and all accessories thereto.

### **PROPERTY 3 (JFK)**

#### **3A**

All that certain plot, piece or parcel of land, situate, lying and being, in the 5th ward of the borough and county of Queens, City and State of New York shown and designated on the tax map of the borough of Queens in the 5th ward, as lot block 459, as said tax map was on October 22, 1951, and being more particularly bounded described as follows:

Beginning at the corner formed by the intersection of the northerly side of DeCosta Avenue, 50 feet wide, with the easterly side of Beach 63rd street, 60 feet wide; thence northerly along the easterly side of Beach 63rd street, 500 feet to the high water line of Jamaica Bay, as said high water line was fixed, determined upon and established by agreement recorded in the city register's office of Queens county in liber 2171 of conveyances page 381, and by agreement recorded in said office in liber 2238 of conveyances page 10; said high water line being distant 100 feet southerly from U.S. Pierhead and Bulkhead line; thence easterly along said high waterline of Jamaica Bay above referenced to and at right angles to the last described course, 33.99 feet to an angle point; thence northeasterly still along said high water line of Jamaica Bay above referred to, said line being parallel with U.S. Pierhead & Bulkhead line and being distant 100 feet southeasterly therefrom, a distance of 2108.33 feet; thence southeasterly at right angles to the last described course, 437.61 feet; thence southwesterly at right angles to the last described course, 100 feet; thence southwesterly in a straight line in continuation of the last described course, and along U.S. Pierhead and Bulkhead line, 350 feet; thence southwesterly along a line which on its northwest side forms an interior angle of 207 degrees 00 minutes 04.7 seconds with the last described course, and along the U.S. Pierhead & Bulkhead line, 440.52 feet; thence southwesterly along a line which on its northwesterly side forms an interior angle of 152 degrees 59 minutes 55.3 seconds with the last described course, and along the U.S. Pierhead & Bulkhead line, 927.50 feet; thence southwesterly along a line which on its northwesterly side forms an interior angle of 209 degrees 03 minutes 16.6 seconds with the last described course, and along the U.S. Pierhead & Bulkhead line, 218.57 feet to the northerly side of DeCosta Avenue, 50 feet wide; thence westerly along the northerly side of DeCosta Avenue, 50 feet wide, 603.95 feet to the point or place of beginning.

#### **3B**

All that certain plot, piece or parcel of land lying and being in the borough of Queens, City and State of New York bounded and described as follows:

Beginning at a point which is the intersection of the easterly line of Beach 65th Street (60 feet in width) with the northerly line of Bayfield Avenue (60 feet in width); Running thence, northwardly, along said easterly line of Beach 65th Street, 95.00 feet to a point; thence eastwardly 260.00 feet to a point; thence northwardly, 145.00 feet to a point; thence eastwardly, 200.00 feet to the westerly side of Beach 63rd Street (60 feet in width); thence southwardly along said westerly line of said of Beach 63<sup>rd</sup> Street, 240.00 feet to the northerly line of Bayfield Avenue; thence westwardly along the northerly line of Bayfield Avenue 460.00 feet to the point and place of beginning.

Containing 72,700 square feet or 1.67 acres.

Being the premises known as Lot 1, in Block 16017, Section 61 Of the Tax Map of the City for the Borough of Queens.

Subject to any state of facts which an accurate survey may show.

**EXHIBIT B- 7  
LA GUARDIA ACCESS BRIDGES AND ROADWAYS**

**GRAND CENTRAL PARKWAY SERVICE ROAD CONNECTION**

All that certain plot, piece or parcel of land lying and being in the borough of Queens, City and State of New York bounded and described as follows:

Beginning at a point on a curve of the northerly line of the Grand Central Parkway, the coordinates of said point being South 27786.72 East 28150.13 and running thence;  
in an easterly direction along an arc curving to the right on the northerly line of the Grand Central Parkway, which is also the southerly boundary line of La Guardia Airport, the radius of which is 2362.00' feet a distance of 21.76' feet and having a total angle of 0°31'40" to a non tangent point of curvature; thence  
in a southerly direction along an arc curving to the right, the radius of which is 60.00' feet a distance of 83.41' feet and having a total angle of 79°39'08" to a point on a compound curve; thence  
along an arc curving to the right, the radius of which is 100.00' feet a distance of 30.33' feet and having a total angle of 17°22'44" to a point; thence  
South 79°46'38" West a distance of 12.47' feet to a point; thence  
North 10°13'22" West a distance of 18.27' feet to a point, thence  
North 79°46'38" East a distance of 6.81' to a point of curvature; thence  
along an arc curving to the left, the radius of which is 65.00' feet a distance of 44.15' feet and having a total angle of 38°54'53" to a point on a compound curve; thence  
along an arc curving to the left, the radius of which is 40.00' feet a distance of 42.67' feet and having a total angle of 61°07'05" to the point and place of beginning.

the coordinates and bearings hereinabove mentioned in the description refer to the rectangular system of coordinates established by the Topographical Bureau of the Borough of Queens, City of New York, grid North being 28°59'13.5" East of true north.

**FLYOVER BRIDGE**

All that certain plot, piece or parcel of land lying and being in the borough of Queens, City and State of New York bounded and described as follows:

Beginning at a point on the northerly line of the Grand Central Parkway, the coordinates of said point being South 27861.05 East 27912.88 and running thence;  
in an easterly direction along the northerly line of the Grand Central Parkway, which is also the southerly boundary line of La Guardia Airport and crossing the bridge of an exit ramp that services the airport, North 72°17'26" East a distance of 62.82' feet to a non tangent curve on the easterly line of the bridge; thence  
along the bridge in a southwesterly direction along an arc curving to the right the radius of which is 520.00' feet a distance of 197.52' feet and having a total angle of 21°45'49" to a point on a compound curve; thence  
westerly still along the line of said bridge, along an arc curving to the right the radius of which is 595.00' feet a distance of 305.19' feet and having a total angle of 29°23'17" to a point; thence  
South 64°58'47" West a distance of 558.58' feet to a point of curvature; thence  
along an arc curving to the left the radius of which is 1485.00' feet a distance of 21.72' feet and having a total angle of 0°50'17" to a point; thence  
North 25°08'42" West a distance of 30.95' feet to a point; thence  
in an easterly direction along the ramp that services the airport, North 64°58'47" East a distance of 503.47' feet to a point; thence  
North 64°51'18" East a distance of 76.01' feet to a point of curvature; thence

along an arc curving to the left the radius of which is 486.42' feet a distance of 239.07' feet and having a total angle of 28°09'38" to compound curve; thence along an arc curving to the left the radius of which is 500.15' feet a distance of 196.72' feet and having a total angle of 22°32'10" to the point and place of beginning.

Having a lower limiting plane at the bottom of the lowest element of the highway bridge and appurtenances, together with: columns, piers, walls, trusses, footings and abutments, if any, necessary for the support of such bridge and no upper limiting plane.

The coordinates and bearings hereinabove mentioned in the description refer to the rectangular system of coordinates established by the Topographical Bureau of the Borough of Queens, City of New York, grid North being 28°59'13.5" East of true north.

### **102ND STREET BRIDGE**

All that certain plot, piece or parcel of land lying and being in the borough of Queens, City and State of New York bounded and described as follows:

Beginning at a point on a curve of the northerly line of the Grand Central Parkway, the coordinates of said point being South 27819.96 East 28932.98 and running thence; in an easterly direction along an arc curving to the right on the northerly line of the Grand Central Parkway, which is also the southerly boundary line of La Guardia Airport, the radius of which is 2362.00' feet a distance of 19.27' feet and having a total angle of 0°28'03" to a compound curve; thence

along an arc curving to the right the radius of which is 9711.30' feet a distance of 41.83' feet and having a total angle of 0°14'48" to a point on the easterly line of a bridge of unknown title at 102nd Street; thence

southerly along the easterly line of said bridge, South 12°05'59" West a distance of 334.99' feet to a point of curvature; thence

along an arc curving to the left the radius of which is 197.00' feet a distance of 185.56' feet and having a total angle of 53°58'03" to a point; thence

North 77°54'06" West a distance of 190.36' feet to a non tangent point of curvature; thence

along an arc curving to the left the radius of which is 253.00' feet a distance of 174.29' feet and having a total angle of 39°28'16" to a point; thence

North 12°05'59" East a distance of 335.32' feet to the point and place of beginning.

Having a lower limiting plane at the bottom of the lowest element of the highway bridge and appurtenances, together with: columns, piers, walls, trusses, footings and abutments, if any, necessary for the support of such bridge and no upper limiting plane.

The coordinates and bearings hereinabove mentioned in the description refer to the rectangular system of coordinates established by the Topographical Bureau of the Borough of Queens, City of New York, grid North being 28°59'13.5" east of true north.

## EXHIBIT B-8

### DITMARS BOULEVARD UTILITY EASEMENT AREA

All that certain plot, piece or parcel of land, lying beneath the bed of Ditmars Blvd. situate in the Borough and County of Queens, City and State of New York, bounded and described as follows:

Beginning at a point which is the intersection of the easterly line of Ditmars Boulevard with the northerly side of the Grand Central Parkway and also being the boundary line of LaGuardia Airport, the coordinates of said point having the coordinates of South 31551.94 East 24690.65; Running thence, westerly along an arc curving to the right having a radius of 6257.00 feet a distance of 100.50 feet and a central angle of  $0^{\circ}55'13''$  along the northerly line of the Grand Central Parkway to a non tangent point on the westerly side of Ditmars Boulevard; then northerly along the westerly line of Ditmars Boulevard, North  $41^{\circ}50'57''$  West a distance of 466.83 to a point of curvature; thence along an arc curving to the left having a radius of 135.00 feet a distance of 105.53 feet and a central angle of  $44^{\circ}47'15.9''$  to a non tangent point on the easterly side of 81st Street; thence North  $36^{\circ}54'45''$  West a distance of 9.36 feet to a point; thence North  $19^{\circ}12'43''$  West a distance of 131.57 feet to a point on a non tangent curve on the easterly side of Ditmars Boulevard; thence southerly along an arc curving to the left having a radius of 50.00 feet a distance of 51.23 feet and a central angle of  $58^{\circ}42'26''$  to a point of reverse curvature; thence along an arc curving to the right having a radius of 165.00 feet a distance of 154.85 feet and a central angle of  $53^{\circ}46'14''$  to a point; thence South  $41^{\circ}50'57''$  East a distance of 505.03' to the point and place of beginning.

Containing 65,526.11 square feet or 1.50 acres more or less.

EXHIBIT C

(see attached)

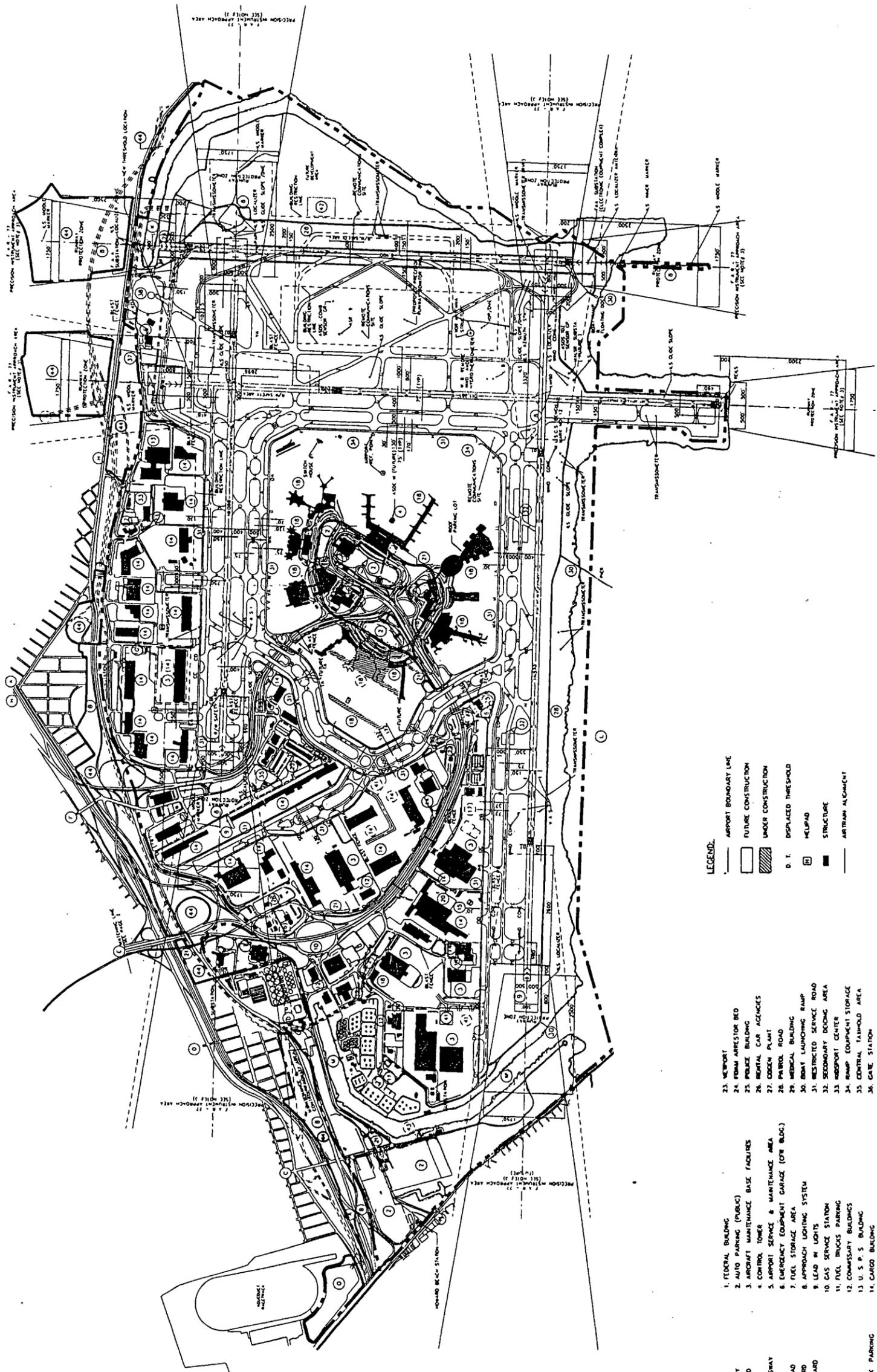
# JOHN F. KENNEDY INTERNATIONAL AIRPORT SITE PLAN

OCTOBER 29, 2003  
JFK 14156 A

PAGE 1 of 2

0 1200 2400  
GRAPHIC SCALE: 1" = 2400'

OTR ACCESS TO R/W SAFETY AREA  
PROVIDED BY STABILIZED AREA



**INDEX:**

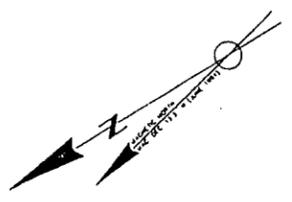
- A. BELT PARKWAY
- B. MASSAUI EXPRESSWAY
- C. LOTTERTS BOULEVARD
- D. 130 TH STREET
- E. VAN WICK EXPRESSWAY
- F. 150 TH STREET
- G. NORTH HAUGAR ROAD
- H. ROCKAWAY BOULEVARD
- J. SPRINGFIELD BOULEVARD
- K. THURSTON BLVD
- L. JAMAICA BAY
- M. BERGEN BASIN
- N. N. Y. C. SUBWAY
- O. ADJACENT RACE TRACK PARKING

- 1. FEDERAL BUILDING
- 2. AUTO PARKING (PUBLIC)
- 3. AIRCRAFT MAINTENANCE BASE FACILITIES
- 4. CONTROL TOWER
- 5. AIRPORT SERVICE & MAINTENANCE AREA
- 6. EMERGENCY EQUIPMENT GARAGE (OTR BLDG.)
- 7. FUEL STORAGE AREA
- 8. APPROACH LIGHTING SYSTEM
- 9. LEAD IN LIGHTS
- 10. GAS SERVICE STATION
- 11. FUEL TRUCKS PARKING
- 12. COMMISSARY BUILDINGS
- 13. U. S. P. S. BUILDING
- 14. CARGO BUILDING
- 15. GENERAL AVIATION FACILITY (GAF)
- 16. PARKING GARAGE
- 17. INFRARED BEACON
- 18. LIMIT PASSENGER TERMINAL
- 19. HEATING & REFRIGERATION PLANT
- 20. P. A. ADMINISTRATION BUILDING
- 21. LIGHT RAIL SYSTEM
- 22. BARR

- 23. NEWPORT
- 24. TOWAN ARRESTOR BED
- 25. POLICE BUILDING
- 26. RENTAL CAR AGENCIES
- 27. ODEEN PLANT
- 28. PAROL ROAD
- 29. MEDICAL BUILDING
- 30. BOAT LAUNCHING RAMP
- 31. RESTRICTED SERVICE ROAD
- 32. SECONDARY DECONG AREA
- 33. AIRPORT CENTER
- 34. RAMP EQUIPMENT STORAGE
- 35. CENTRAL TAIHOLD AREA
- 36. GATE STATION
- 37. POLICE WPOUND LOT PARKING
- 38. AIRCRAFT RESCUE & FREIGHTING TRAINING AREA
- 39. COMPRESSED NATURAL GAS STATION
- 40. PMPD FACILITY
- 41. AIRCRAFT PARKING
- 42. SNOW REMOVAL EQUIP. SITE
- 43. FERRY TERMINAL
- 44. NYC DTF AIRPORT PARCEL

**LEGEND:**

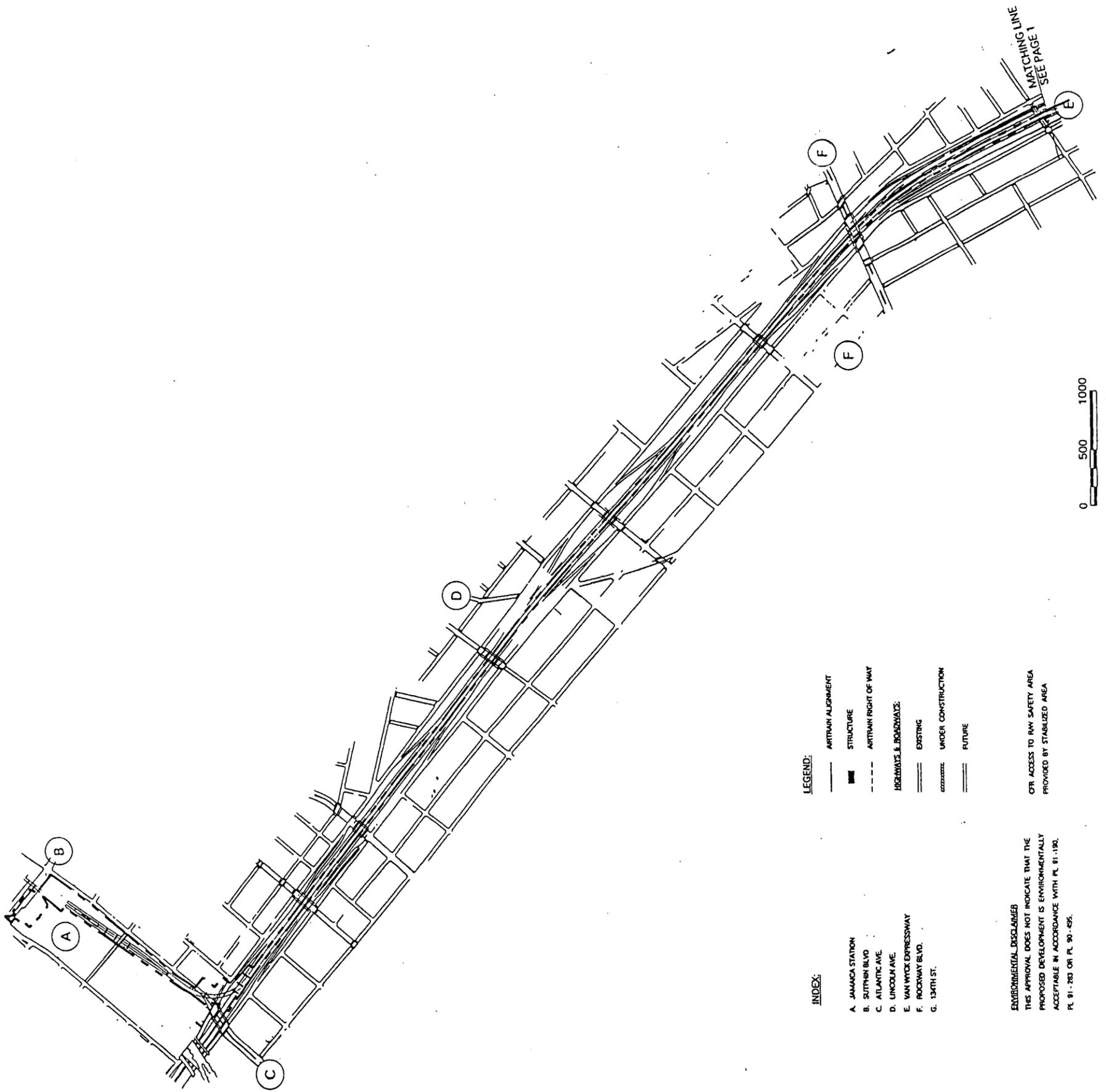
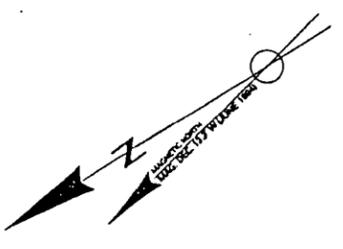
- AIRPORT BOUNDARY LINE
- ▭ FUTURE CONSTRUCTION
- ▨ UNDER CONSTRUCTION
- D. T. DISPLACED THRESHOLD
- HELPAD
- ▬ STRUCTURE
- AIRTRAM ALIGNMENT
- HIGHWAYS & ROADWAYS
- EXISTING
- ▭ UNDER CONSTRUCTION
- ▭ FUTURE



# JOHN F. KENNEDY INTERNATIONAL AIRPORT SITE PLAN

OCTOBER 29, 2003  
JFK - 14156-B

PAGE 2 of 2



- INDEX:**
- A. JAMAICA STATION
  - B. SUTHER BLVD
  - C. ATLANTIC AVE
  - D. UNOCON AVE
  - E. VAN WYCK EXPRESSWAY
  - F. ROCKWAY BLVD.
  - G. 134TH ST.
- LEGEND:**
- ARTTRAIN ALIGNMENT
  - STRUCTURE
  - ARTTRAIN RIGHT OF WAY
  - HIGHWAYS & ROADWAYS:
    - EXISTING
    - UNDER CONSTRUCTION
    - FUTURE

**ENVIRONMENTAL DISCLAIMER**  
 THIS APPROVAL DOES NOT INDICATE THAT THE  
 PROPOSED DEVELOPMENT IS ENVIRONMENTALLY  
 ACCEPTABLE IN ACCORDANCE WITH PL 91-190,  
 PL 91-263 OR PL 90-426.

OR ACCESS TO RAW SAFETY AREA  
 PROVIDED BY STABILIZED AREA

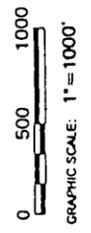


EXHIBIT C-1

(see attached)

## QUITCLAIM DEED FROM CITY TO PORT AUTHORITY

THIS INDENTURE made as of November \_\_\_\_, 2004 between the CITY OF NEW YORK, a municipal corporation of the State of New York with its principal office at City Hall, in the Borough of Manhattan, City, County and State of New York (the "City"), and THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic, created by compact between the States of New York and New Jersey with the consent of Congress with its office at 225 Park Avenue South, Borough of Manhattan, City, County and State of New York (the "Port Authority").

WITNESSETH THAT:

WHEREAS, the City and Port Authority intend to enter into an Amended and Restated Agreement of Lease of the Municipal Air Terminals dated as of November \_\_\_\_, 2004 (the "Agreement"); and

WHEREAS, the City desires to dispose to the Port Authority any property interests it owns within (i) that portion of the Light Rail System that the Port Authority has acquired from the People of the State of New York acting by and through the Commissioner of Transportation ("State") by Grant of Permanent Easement made August 19, 2002, a copy of which is attached hereto and made a part hereof as Exhibit A and (ii) the property identified on the tax map of the City of New York as Lot 5, Block 9990, Borough of Queens; the Port Authority desires to convey to the City all property interests it has acquired within such portion of the Light Rail System ("LRS") and in Lot 5, Block 9990, Borough of Queens; and the City desires to accept such property interests and incorporate such property interests conveyed by the Port Authority to the City into the Demised Premises, as such term is defined in the Agreement, by leasing such property interests to the Port Authority under the Agreement; and

WHEREAS, City Planning Commission Resolution # C990117 PQQ/C 990118 PPQ adopted May 3, 1999 and City Council Resolution # 864 adopted June 7, 1999 have authorized such dispositions and acquisitions by the City and the Port Authority's Board of Commissioners has authorized such acquisitions and disposition by the Port Authority by Resolution adopted September 24, 1998.

NOW, THEREFORE, the City and the Port Authority do hereby agree as follows:

The City does hereby remise, release and quitclaim unto the Port Authority, its successors and assigns forever, all right, title and interest of the City, if any, in and to the Property which is described as follows:

- A. Permanent aerial, surface and subsurface easements for the construction, reconstruction, operation, inspection, maintenance and repair of the LRS, which easements are more specifically defined herein over all those pieces or parcels of property in the Fourth Ward of the Borough Queens, City of New York, County of Queens, State of New York, which

are shown and described as Aerial Parcels or Easements, Column Parcels or Easements, and Subsurface Parcels or Easements, of Segments CR – 402 through CR – 415 of a series of maps entitled, “THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY AIRTRAIN PROJECT, JFKIA-JAMAICA SEGMENT, ALTA/ACSM LAND TITLE SURVEY, A PORTION OF VAN WYCK EXPRESSWAY, SEGMENT CR-(402 THROUGH 415), BOROUGH OF QUEENS, QUEENS COUNTY, STATE OF NEW YORK”, prepared by Vollmer Associates LLP, dated February 28, 2002, bearing Project Number 2001-003-03 and filed contemporaneously in the Office of the Register of Deeds, Queens County on September 17, 2002 with the Grant of Permanent Easement between The People of the State of New York, acting by and through Joseph H. Boardman, the Commissioner of Transportation of the State of New York and the Port Authority of New York and New Jersey made August 19, 2002 and recorded at Reel 6582, Page 0118 *et seq.*, City Register Serial Number 128069.

Subject, however, to the provisions of the aforesaid Grant of Permanent Easement made August 19, 2002.

- B. All that certain plot, piece or parcel of land situate, lying and being in the Fourth Ward of the Borough of Queens, City of New York, County of Queens, and State of New York, being more particularly bounded and described as follows:

BEGINNING at the corner formed by the intersection of the southerly side of 94<sup>th</sup> Avenue formerly Johnson Avenue (50 feet wide) with the easterly side of Van Wyck Expressway (Service Road); said corner having a New York State Coordinate System (NAD 83-96) value of N 58916.0472 meters E 315799.1275 meters (N193293.7316 feet E1036084.3037 feet);

1. Running thence North 69 degrees 25 minutes 33.1 seconds East along the southerly side of 94<sup>th</sup> Avenue, 63.627 meters (208.75 feet) to a point on the division line between property now or formerly of David Oil Corp. and property now or formerly of Carole A. Murray and Thomas D. Murray;
2. Running thence along said division line South 20 degrees 34 minutes 26.9 seconds East, at right angles to the southerly side of 94<sup>th</sup> Avenue, 25.292 meters (82.98 feet) to a point;
3. Running thence South 66 degrees 54 minutes 37.1 seconds West along the division line between property now or formerly of David Oil Corp. and the following properties: property now or formerly of Edgardo E. Contreras; property now or formerly of David Byrd, Patricia Portis, and Gary Michael Byrd; property now or formerly of Cheryl Winter Naipaul and Gagnatti Naipaul; property now or formerly of Joseph F. Nowinski and Jennie Nowinski; property now or formerly of Stanley P. Francosky, et al; and property now or formerly of Mohamed Shafi and Ramdai Shafi, said line forming an interior angle of 92 degrees 30 minutes 56 seconds with the last mentioned course, 39.127 meters (128.37 feet) to a point in a line distant 34.013 meters (111.59 feet) northerly from the northerly side of 95<sup>th</sup> Avenue, drawn at right angles thereto, from a point thereon and distant 13.283 meters (43.58 feet) easterly from said easterly side of Van Wyck

Expressway (Service Road);

4. Running thence South 20 degrees 34 minutes 26.9 seconds East along the division line between property now or formerly of David Oil Corp. and property now or formerly of Mohamed Shafi and Ramdai Shafi, at right angles to the northerly side of 95<sup>th</sup> Avenue, formerly Chichester Avenue, 34.013 meters (111.59 feet) to the northerly side of 95<sup>th</sup> Avenue;
5. Running thence South 69 degrees 25 minutes 33.1 seconds West along the northerly side of 95<sup>th</sup> Avenue, 13.283 meters (43.58 feet) to the corner formed by the intersection of the said northerly side of 95<sup>th</sup> Avenue and the easterly side of Van Wyck Expressway (Service Road);
6. Running thence North 31 degrees 01 minutes 19.1 seconds West along the easterly side of Van Wyck Expressway (Service Road), 62.054 meters (203.59 feet) to the point and place of beginning.

Containing 2176.289 square meters (23425.28 square feet) or 0.218 Hectare (0.538 acre).

Also known as **Tax Block 9990, Tax Lot 5**, Borough of Queens, City of New York.

Being the premises shown on an ALTA/ACSM Land Title Surveys of Lot 5, Block 9990, Queens, New York, prepared by Vollmer Associates, dated February 15, 2000 and signed by Kenneth J. Stigner, L.S., a copy of which is attached hereto as Exhibit B.

Being the same premises conveyed to the Port Authority by David Oil Corp. by Indenture made November 3, 2000 recorded with the Office of the Register of Deeds, Queens County, November 29, 2000 at Reel 5732, Page 0424 *et seq.*, City Register Serial Number 113076

All bearings refer to The New York Coordinate System of 1983-96, Long Island Zone 3104.

Together with the appurtenances and all the estate and rights of the City in and to said premises.

To Have And To Hold the premises herein granted unto the Port Authority, the successors and assigns of the Port Authority forever.

The City, in compliance with Section 13 of the Lien Law, covenants that it will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The Port Authority hereby accepts the conveyance from the City.

No Commissioner, director, elected official, officer, agent, representative or employee of the Port Authority or the City shall be charged personally by either party hereto with any liability or held personally liable under any of the terms or provisions of this Indenture or because of its execution or because of any breach or attempted or alleged breach hereof.

This Indenture may be executed in one or more counterparts each of which counterparts shall be deemed an original and all of which counterparts shall constitute one and the same document.

IN WITNESS WHEREOF, the City has caused its corporate seal to be hereunto affixed and duly attested and this Indenture to be signed by its Deputy Mayor for Economic Development and Rebuilding and by the City Clerk of the City; and the Port Authority has caused its corporate seal to be hereunto affixed and duly attested and this Agreement to be signed by its Executive Director, of the day and year first written above.

***[NO FURTHER TEXT ON THIS PAGE]***

Attest:

THE PORT AUTHORITY OF NEW YORK AND  
NEW JERSEY

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Kenneth J. Ringler, Jr.  
Executive Director

Approved as to form:

\_\_\_\_\_  
Darrell Buchbinder,  
General Counsel

THE CITY OF NEW YORK

By:

\_\_\_\_\_  
City Clerk

By:

\_\_\_\_\_  
Daniel L. Doctoroff  
Deputy Mayor for Economic Development  
and Rebuilding

Approved as to form:

\_\_\_\_\_  
Acting Corporation Counsel

STATE OF NEW YORK    )  
:                    ss. :  
COUNTY OF NEW YORK )

On the \_\_\_ day of November, 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared Daniel L. Doctoroff, Deputy Mayor for Economic Development and Rebuilding of THE CITY OF NEW YORK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK    )  
:                    ss. :  
COUNTY OF NEW YORK )

On the \_\_\_ day of November 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_, City Clerk of THE CITY OF NEW YORK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK    )  
:                    ss. :  
COUNTY OF NEW YORK )

On the \_\_\_ day of November, 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared KENNETH J. RINGLER, JR., Executive Director of the PORT AUTHORITY OF NEW YORK AND NEW JERSEY, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**EXHIBIT A**

**COPY OF GRANT OF PERMANENT EASEMENT  
DATED AS OF AUGUST 19, 2002  
FROM THE PEOPLE OF THE STATE OF NEW YORK**



STATE OF NEW YORK  
DEPARTMENT OF TRANSPORTATION  
HUNTERS POINT PLAZA  
47-40 21ST STREET  
LONG ISLAND CITY, N.Y. 11101

DOUGLAS A. CURREY, P.E.  
REGIONAL DIRECTOR

JOSEPH H. BOARDMAN  
COMMISSIONER

SUBI CHAKRABORTI, P.E.  
DEPUTY REGIONAL DIRECTOR

September 18, 2002

Harry Barr, Esq.  
The Port Authority of NY and NJ  
Law Department, 14<sup>th</sup> floor  
225 Park Avenue South  
New York, NY 10003

Re: PIN X735.55  
Proceeding 6105 02/7  
AirTrain Easement  
JFK-LRS Airport Access Program  
Queens County

Dear Mr. Barr:

As mentioned to your secretary in a message to be conveyed to you, we have filed the maps and the *Grant of Permanent Easement on the above project in the Queens County Registrar's office* on September 17, 2002 and I will be hand delivering these maps and the Grant of Easement to your office next week.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Gulrukh Irani".

Gulrukh Irani  
Real Estate Specialist Trainee 2

CITY REGISTER RECORDING AND ENDORSEMENT PAGE

COUNTY OF Queens

THIS PAGE FORMS PART OF THE INSTRUMENT

TOTAL NUMBER OF PAGES IN DOCUMENT INCLUDING THIS PAGE ▶

Block 14260 Lots - ONLY IF ENTIRE LOT 1 Partial Lots ▶ PID

Premises ▶

NAME Harry K. Barr, Esq.

Title/Agent Company Name NYS DOT

ADDRESS Port Authority of NY & NJ, Law Dept.

Title Company Number ▶

CITY NY STATE NY ZIP 10003  
225 Park Ave. S 14<sup>th</sup> Fl

NAME & ADDRESS  
PARTY 1 N.Y. S. Department of Transportation  
ADDITIONAL PARTY 1 47-40 21<sup>st</sup> Street, D.I.C. NY - 11101  
PARTY 2 Port Authority of NY & NJ  
ADDITIONAL PARTY 2 225 Park Ave S, 14<sup>th</sup> Fl, Law Dept, N.Y. NY-10003

CHECK THIS BOX IF THERE ARE MORE THAN 2 OF EITHER PARTY

CITY REGISTER'S USE ONLY - DO NOT WRITE BELOW THIS LINE

Examined by (s): 1  
Mtg Tax Serial No. ▶  
Mtg Amount \$ ▶  
Taxable Amount \$ ▶  
Exemption (✓) YES  NO   
Type: [300E] [255] [OTHER] ▶  
Dwelling Type: [1 to 2] [3] [4 to 6] [OVER 6] ▶  
TAX RECEIVED ON ABOVE MORTGAGE ▶  
County (basic) \$ ▶  
City (Add'l) \$ ▶  
Spec Add'l \$ ▶  
TASF \$ ▶  
MTA \$ ▶  
NYCTA \$ ▶  
TOTAL TAX \$ ▶  
Apportionment Mortgage (✓) YES  NO

City Register Serial Number 128069 Assignment  
Indexed By (s): DN Verified By (s): ▶  
Block(s) and Lot(s) verified by (s) ▶  
Address  Tax Map   
Extra Block(s) ▶ Lot(s) ▶  
Recording Fee B \$ NO CHARGE  
Affidavit Fee (C) \$ ▶  
RPTT Fee (R) \$ NO CHARGE  
HPD-A  HPD-C   
New York State Real Estate Transfer Tax ▶  
\$ 0  
Serial Number ▶ 004445  
New York City Real Property Transfer Tax Serial Number ▶ 022466

OTHER LEGAL ▶  
LO/TL ▶ DSHR ▶  
41 21 2000

CRF018184.BPG (04/02)



RECORDED IN THE OFFICE OF THE CITY REGISTER OF THE CITY OF NEW YORK

*John J. Lawrence*

Proceeding 6105  
AirTrain Easement  
JFK-LRS Airport Access Program  
Queens County

**GRANT OF PERMANENT EASEMENT**

Made the 19<sup>th</sup> day of August, 2002, between

**THE PEOPLE OF THE STATE OF NEW YORK**, acting by and through Joseph H. Boardman, the Commissioner of Transportation of the State of New York, with offices at 1220 Washington Avenue, Albany, New York 12232, Grantors, and

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**, a body corporate and politic acting pursuant to authority conferred by the legislatures of the States of New York and New Jersey, with offices at 225 Park Avenue South, New York, New York 10003, Grantee,

**WHEREAS**, Grantee has constructed a Light Rail System designed to carry passengers, also referred to as AirTrain Facilities ("LRS") within Kennedy International Airport ("JFK") with connections to the Jamaica Long Island Railroad/New York City Transit Authority Sutphin Boulevard Station ("Jamaica Station") and to the Howard Beach Subway Station; and

**WHEREAS**, the connection to the Jamaica Station requires the use of property lying between the boundary of JFK and the Jamaica Station including, but not limited to, the Van Wyck Expressway ("VWE"), for the LRS Project; and

**WHEREAS**, lands within the VWE are owned all or in part by the Grantors as part of the State Highway System under

jurisdiction of the New York State Department of Transportation ("NYSDOT"); and

WHEREAS, the parties hereto have entered into a Memorandum of Understanding which provides, among other things, that the Grantee will construct the LRS and as part of its project will make certain other improvements in the VWE for the benefit of the Grantors, and the Grantors will convey a grant of permanent easement rights in the VWE to the Grantee upon the terms and conditions hereinafter expressed; and

NOW THEREFORE the Grantors, in consideration of the sum of ONE AND NO/100 DOLLAR (\$1.00), and other valuable consideration, do hereby remise, release and quitclaim unto the Grantee, its successors and assigns forever,

Permanent aerial, surface and subsurface easements for the construction, reconstruction, operation, inspection, maintenance and repair of the LRS, which easements are more specifically defined herein over all those PIECES OR PARCELS OF PROPERTY, situate in the Fourth Ward of the Borough of Queens, City of New York, County of Queens, State of New York, which are shown and described as Aerial Parcels or Easements, Column Parcels or Easements, and Subsurface Parcels or Easements, of Segments CR-402 through CR-415 of a series of maps entitled "THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY AIRTRAIN PROJECT, JFKIA-JAMAICA SEGMENT, ALTA/ACSM LAND TITLE SURVEY, A PORTION OF VAN WYCK EXPRESSWAY, SEGMENT CR-(402 through 415), BOROUGH OF QUEENS, QUEENS COUNTY, STATE OF NEW YORK" prepared by Vollmer Associates,

LLP, dated February 28, 2002, bearing Project Number 2001-003-03, and filed in the Office of the Register of Deeds, Queens County contemporaneously with the recording of this Grant of Permanent Easement.

1. With respect to each parcel designated as "Aerial Parcel" or "Aerial Easement", a permanent aerial easement for an elevated reinforced concrete platform supporting the LRS referred to herein as the "AirTrain Guideway," and for the LRS constructed thereon, including but not limited to appurtenant track, wires, switches, signals, drainage and other utility installations required for the operation of the LRS. Each aerial easement parcel is located within an elevated plane situate generally over the median area of the VWE separating the northbound and southbound lanes or the eastbound and westbound lanes, as the case may be, of the VWE and the first vehicular lane of the VWE located northerly or easterly of the median and the two vehicular travel lanes of the VWE located southerly or westerly of the median.

2. With respect to each parcel designated as "Column Parcel" or "Column Easement", a permanent surface easement for support of the AirTrain Guideway, including but not limited to appurtenant track, wire, switches, signals, drainage and utility installations.

3. With respect to each parcel designated as "Subsurface

Parcel" or "Subsurface Easement", a permanent subsurface easement for the construction of footings necessary for support of the columns supporting the AirTrain Guideway, the right to construct, install, and operate cables, wires, switches, signals, and other equipment appurtenant to electric and data transmission and the right to construct, install, operate and maintain drainage and utility facilities, including the right to connect to the existing highway drainage system.

**RESERVING TO THE GRANTORS** the legal right of access at grade level for the purpose of inspection, maintenance or repair of all State and/or New York City owned facilities, appurtenances or equipment or emergency repair or shoring of the LRS, if in the opinion of the Grantors, State facilities are endangered; and

**IT IS FURTHER AGREED** that inspection, maintenance, and/or repair of the LRS facility constructed by the Grantee within the State Highway System requiring access from the at-grade level will require a Permit from NYSDOT, but that inspection, maintenance, and/or repair work conducted from the elevated LRS/ AirTrain Guideway will not require a Permit issued by NYSDOT unless lane closures of the highway below are involved. The Permit for such work, which shall not be unreasonably withheld or delayed, shall be issued without charge and without requirements for bonds and shall otherwise contain standard terms and conditions.

PROVIDED HOWEVER, that the Grantee, its successors and assigns shall make no change in the clearance over the VWE or in the alignment or location of such LRS facilities, or additional facilities constructed, which will interfere with the VWE and its appurtenances or other facilities of the State of New York, its successors or assigns.

FURTHER PROVIDED, that if the easement rights created herein are no longer used for construction, reconstruction, operation and maintenance of an LRS operated for Air Terminal purposes, the easements shall automatically terminate and jurisdiction over the affected premises shall return to the NYSDOT.

This Grant of Permanent Easement contains certain language defining the scope, purpose and terms of the easements granted herein. The maps referred to in this Grant and which are intended to be filed contemporaneously with the recording of this Grant also contain certain language defining the scope, purpose and terms of such easements. The language contained in this Grant is intended to control the definition of these easements, and any inconsistency between the language describing the scope, purpose and terms of said easements contained on the maps and in this Grant, shall be controlled by the language of this Grant.

TO HAVE AND TO HOLD the permanent easement rights herein granted unto the Grantee, its successors and assigns forever, except as provided above.



**JOHN F. KENNEDY INTERNATIONAL AIRPORT - AIRPORT ACCESS PROJECT -  
PROPERTY ACQUISITION**

On May 9, 1996, the Board authorized a project (the "Project") for the implementation of an automated Light Rail System ("LRS") between Jamaica and John F. Kennedy International Airport ("JFK"), a link between Howard Beach and JFK, and an LRS circulating within the Central Terminal Area at a total estimated project cost of \$1.268 billion, excluding interest on bonded debt. JFK suffers from a lack of public transportation options for access to the facility. In addition, the existing roadway system is unable to adequately address the need for on-airport circulation. The Project will provide connections to regional transportation hubs at the Long Island Railroad station in Jamaica as well as the New York City Transit station in Howard Beach. The LRS will also provide stations on-airport, at the rental car facilities at Federal Circle, the Employee Long-Term Parking Lot, and at the unit terminals for intra-airport transportation of airport customers and employees.

In requesting Project Authorization at the Board's May 9, 1996 meeting, staff noted that at the appropriate time, the Board would be asked to make the necessary findings and authorize acquisition of property interests by negotiation or condemnation. In view of the Project schedule, staff recommends authorization of property acquisition by negotiation at this time. If negotiations with private landowners do not lead to reasonable settlements, staff would conduct a public hearing as required by the New York State Eminent Domain Procedure Act before initiating eminent domain proceedings to acquire the property. Subsequent to such a hearing, the Board would be requested to make the necessary findings and determinations to enable acquisition by condemnation. The JFK LRS Right-Of-Way ("ROW") will occupy lands now owned by, among others, the City of New York, the State of New York, the Long Island Railroad, Rock-Arizona Associates (an Amoco gas station), Web Food Products, Inc. (a parking lot) and Andrew Borone, Dominick Borone and Joseph Borone (an auto service station and parking lot). Staff plans to acquire these lands, and possibly others adjacent to the ROW should the need become apparent.

The Board at its meeting on May 9, 1996 also authorized the Executive Director to apply to the Federal Aviation Administration ("FAA") for additional Passenger Facility Charge ("PFC") collection authority of \$823 million and additional PFC use authority of \$1.248 billion. An application was submitted to the FAA for the use of PFC funds on July 21, 1997. A Record of Decision for the use of these funds in the amount of \$1.148 billion was received on February 9, 1998. An application for the \$100 million in PFCs which expired on October 1, 1997, due to the FAA's failure to act by the application's expiration date, will be resubmitted to the FAA. In addition to the \$14 million previously approved by the FAA for planning costs for the JFK LRS, an amendment to recover an additional \$36 million in planning and preliminary engineering costs will be submitted at the same time. An addendum will also be submitted to the PFC application to permit the Port Authority to reallocate certain Port Authority Capital funds (up to \$300 million) to project elements the FAA deems ineligible for PFC funding and to allocate PFCs to other eligible items. The total amount of PFC funds expected to be approved for the project is \$1.298 billion. Together with \$300 million in Port Authority Capital funds, the total available funds for this project is \$1.598 billion, including interest on bonded debt.

Environmental impacts have been and will be assessed and will be taken into consideration in the implementation of the Project and mitigation measures incorporated in the

Project. A Draft Environmental Impact Statement ("EIS"), Written Reevaluation/Technical Report and Final EIS ("FEIS"), were prepared by the FAA along with the New York State Department of Transportation ("NYSDOT") acting as Joint Lead Agency. The FAA prepared Records of Decision approving an amended Airport Layout Plan including the ROW for the LRS and use of PFCs for the Project in compliance with the National Environmental Policy Act. NYSDOT issued a Record of Decision containing Findings in connection with its authorization of property conveyances for the Project in compliance with the New York State Environmental Quality Review Act ("SEQRA"). It is anticipated that the City of New York will also issue Findings in connection with its authorization of City actions in support of the Project which will comply with the City's Environmental Quality Review Regulations which implement SEQRA. Also, it is a condition of FAA Project approval, as noted in NYSDOT's Record of Decision, that the mitigation measures presented in Section 7.0 of the FEIS are the responsibility of the Port Authority. The Port Authority will incorporate the mitigation measures as requirements of the design, construction, and operation contracts or other contracts issued for the Project.

The City of New York (the "City") has advised that it must comply with the provisions of Section 197(c) of the City Charter involving the Uniform Land Use Review Procedure ("ULURP") before it can execute conveyances needed for the Project. The ULURP, entailing Hearings before Community Boards, the Borough Board, the City Planning Commission and possibly the City Council, is expected to take six to nine months to complete. While the Port Authority's ULURP Application is deemed technically complete, pending direction from the City, the Application has not yet been certified as complete so that the ULURP process may begin.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Donovan, Eisenberg, Gargano, Haley, Kalikow, Lewis, O'Neill, Philiposian, Schweitzer and Song voting in favor; Commissioner Mack abstaining; none against:

**RESOLVED**, that the Executive Director or General Counsel, either one acting individually, is hereby authorized to acquire on behalf of the Port Authority property interests by negotiation for and in connection with the Air Terminal Access Facilities known as the John F. Kennedy International Airport ("JFK") Airport Access Light Rail System ("LRS") Project including a link between Jamaica and JFK, a link between Howard Beach and JFK and an LRS circulating the Central Terminal Area (the "Project"), such property interests being generally located along and adjacent to the alignment shown on the amended JFK Airport Layout Plan approved, or to be approved, by the Federal Aviation Administration ("FAA") including but not limited to fee title to three privately owned parcels of land known as Block 9990, Lot 5, Block 9989, Lot 11, and Block 9989, Lot 17, on the Tax Map of the City of New York, Borough of Queens, and to incur all related costs and expenses, and execute all documents and agreements, including without limitation, agreements and conveyances, involving transfers of property interests to or from the Port Authority, necessary or incidental to such acquisition or the Project; and to conduct a public hearing under New York State's Eminent Domain Procedure Act, at their discretion; and it is further

**RESOLVED**, that the Executive Director or General Counsel, either one acting individually, is hereby authorized to execute an agreement or agreements supplemental to the Agreement with respect to the Municipal Air Terminals between the City of New York (the "City") and the Port Authority and associated instruments whereby, among other matters, the City would: (a) transfer and release to the Port Authority the City's right, title and interest in the property interests the Port Authority requires for the Project; (b) accept a conveyance of the permanent property interests acquired for the Project; and (c) simultaneously lease such property interests to the Port Authority as part of the Airport Demised Premises; and it is further

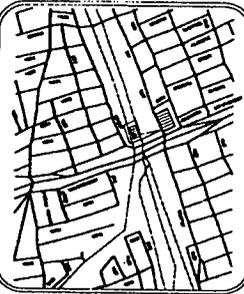
**RESOLVED**, that the form of all documents necessary to effectuate the foregoing shall be subject to the approval of General Counsel or his authorized representative.

**EXHIBIT B**

**COPY OF SURVEY OF LOT 5, BLOCK 9990,  
BOROUGH OF QUEENS, NEW YORK  
PREPARED BY VOLLMER ASSOCIATES**

**NOTICES CORRESPONDING TO SCHEDULE B-1**

- 1) SUBJECT TO AN UNLAWFUL USE MADE UNDER THE ZONING MAP OF THE CITY OF NEW YORK, THE PROVISIONS OF THE ZONING MAP OF THE CITY OF NEW YORK SHALL APPLY TO THE SUBJECT PROPERTY.
- 2) SUBJECT TO AN UNLAWFUL USE MADE UNDER THE ZONING MAP OF THE CITY OF NEW YORK, THE PROVISIONS OF THE ZONING MAP OF THE CITY OF NEW YORK SHALL APPLY TO THE SUBJECT PROPERTY.
- 3) SUBJECT TO AN UNLAWFUL USE MADE UNDER THE ZONING MAP OF THE CITY OF NEW YORK, THE PROVISIONS OF THE ZONING MAP OF THE CITY OF NEW YORK SHALL APPLY TO THE SUBJECT PROPERTY.
- 4) SUBJECT TO AN UNLAWFUL USE MADE UNDER THE ZONING MAP OF THE CITY OF NEW YORK, THE PROVISIONS OF THE ZONING MAP OF THE CITY OF NEW YORK SHALL APPLY TO THE SUBJECT PROPERTY.



VICINITY MAP

**ZONING DATA**

FOR INFORMATION OF THE PUBLIC, THE ZONING MAP OF THE CITY OF NEW YORK, AS AMENDED, IS HEREBY REPRODUCED IN FULL. THE ZONING MAP OF THE CITY OF NEW YORK IS A PUBLIC RECORD AND IS AVAILABLE FOR INSPECTION AND REPRODUCTION AT THE OFFICE OF THE CITY CLERK, 100 CITY HALL, NEW YORK, N.Y. 10007.

- LEGEND**
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  - 100. LOT

**SURVEY NOTES**

- 1) THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE ZONING MAP OF THE CITY OF NEW YORK, AS AMENDED, AND THE SURVEYING ACTS OF THE STATE OF NEW YORK.
- 2) THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE ZONING MAP OF THE CITY OF NEW YORK, AS AMENDED, AND THE SURVEYING ACTS OF THE STATE OF NEW YORK.
- 3) THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE ZONING MAP OF THE CITY OF NEW YORK, AS AMENDED, AND THE SURVEYING ACTS OF THE STATE OF NEW YORK.
- 4) THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE ZONING MAP OF THE CITY OF NEW YORK, AS AMENDED, AND THE SURVEYING ACTS OF THE STATE OF NEW YORK.
- 5) THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE ZONING MAP OF THE CITY OF NEW YORK, AS AMENDED, AND THE SURVEYING ACTS OF THE STATE OF NEW YORK.

**SURVEY REFERENCES**

- 1) THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE ZONING MAP OF THE CITY OF NEW YORK, AS AMENDED, AND THE SURVEYING ACTS OF THE STATE OF NEW YORK.
- 2) THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE ZONING MAP OF THE CITY OF NEW YORK, AS AMENDED, AND THE SURVEYING ACTS OF THE STATE OF NEW YORK.
- 3) THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE ZONING MAP OF THE CITY OF NEW YORK, AS AMENDED, AND THE SURVEYING ACTS OF THE STATE OF NEW YORK.

**Legal Description**

The parcel of land described in this certificate is situated in the City of New York, State of New York, and is bounded as follows: on the north by the lot of the City of New York, on the south by the lot of the City of New York, on the east by the lot of the City of New York, and on the west by the lot of the City of New York.

1) The parcel of land described in this certificate is situated in the City of New York, State of New York, and is bounded as follows: on the north by the lot of the City of New York, on the south by the lot of the City of New York, on the east by the lot of the City of New York, and on the west by the lot of the City of New York.

**ALTA/ACSM LAND TITLE SURVEY**

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
ONE WORLD TRADE CENTER  
NEW YORK, NY 10048

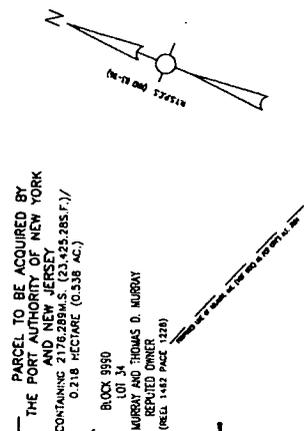
**SURVEYOR'S CERTIFICATION**

I, the undersigned, being duly qualified and licensed as a Surveyor in the State of New York, do hereby certify that the foregoing is a true and correct copy of the original survey as shown to me by the client, and that the same is in accordance with the provisions of the laws of the State of New York relating to the practice of the profession of Surveying.



DATE: 10/15/2013  
SIGNATURE: CHARLES A. MURRAY AND THOMAS D. MURRAY

NO.	DATE	DESCRIPTION	RECORD NO.
1	10/15/2013	ALTA/ACSM LAND TITLE SURVEY	10000000000000000000
2	10/15/2013	ALTA/ACSM LAND TITLE SURVEY	10000000000000000000
3	10/15/2013	ALTA/ACSM LAND TITLE SURVEY	10000000000000000000
4	10/15/2013	ALTA/ACSM LAND TITLE SURVEY	10000000000000000000
5	10/15/2013	ALTA/ACSM LAND TITLE SURVEY	10000000000000000000
6	10/15/2013	ALTA/ACSM LAND TITLE SURVEY	10000000000000000000
7	10/15/2013	ALTA/ACSM LAND TITLE SURVEY	10000000000000000000
8	10/15/2013	ALTA/ACSM LAND TITLE SURVEY	10000000000000000000
9	10/15/2013	ALTA/ACSM LAND TITLE SURVEY	10000000000000000000
10	10/15/2013	ALTA/ACSM LAND TITLE SURVEY	10000000000000000000



BLOCK	LOT	REPUTED OWNERS	REEL	PAGE
9990	54	EDUARDO E. CONTRERAS	R 4143	1839
9990	55	DAVID BYRD, PATRICIA PORTER	R 4444	1383
9990	56	CAROL M. WINTER, MARCO A. CAROLINI	R 3858	1184
9990	57	ADRIAN E. KOWALSKI, JENNIFER KOWALSKI		
9990	58	STANLEY P. FRANCESCHI, LI AL.		
9990	59	MURRAY SHAW, RANDAL SHAW	R 4583	1184

GRAPHIC SCALE



EXHIBIT C-2

(see attached)

## QUITCLAIM DEED FROM PORT AUTHORITY TO CITY

THIS INDENTURE made as of November \_\_\_\_, 2004 between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic, created by compact between the States of New York and New Jersey with the consent of Congress with its office at 225 Park Avenue South, Borough of Manhattan, City, County and State of New York (the "**Port Authority**") and the CITY OF NEW YORK, a municipal corporation of the State of New York with its principal office at City Hall, in the Borough of Manhattan, City, County and State of New York (the "**City**").

WITNESSETH THAT:

WHEREAS, the City and Port Authority intend to enter into an Amended and Restated Agreement of Lease of the Municipal Air Terminals dated as of November \_\_\_\_, 2004 (the "Agreement"); and

WHEREAS, the City has disposed to the Port Authority any property interests it owns within (i) that portion of the Light Rail System that the Port Authority has acquired from the People of the State of New York acting by and through the Commissioner of Transportation ("State") by Grant of Permanent Easement made August 19, 2002, a copy of which is attached hereto and made a part hereof as Exhibit A, and (ii) the property identified on the Tax Map of the City of New York as Lot 5, Block 9990, Borough of Queens by Indenture of even date herewith;

WHEREAS, the Port Authority now desires to convey to the City all property interests it owns within such portion of the Light Rail System ("LRS") and in Lot 5, Block 9990, Borough of Queens, and the City desires to accept such property interests and incorporate such property interests conveyed by the Port Authority to the City into the Demised Premises, as such term is defined in the Agreement, by leasing such property interests to the Port Authority under the Agreement; and

WHEREAS, City Planning Commission Resolution # C990117 PQQ/C 990118 PPQ adopted May 3, 1999 and City Council Resolution # 864 adopted June 7, 1999 have authorized such dispositions and acquisitions by the City and the Port Authority's Board of Commissioners has authorized such acquisitions and disposition by the Port Authority by Resolution adopted September 24, 1998.

NOW, THEREFORE, the Port Authority and the City do hereby agree as follows:

The Port Authority does hereby remise, release and quitclaim unto the City, its successors and assigns forever, all right, title and interest of the Port Authority in and to the Property which is described as follows:

A. Permanent aerial, surface and subsurface easements for the construction, reconstruction, operation, inspection, maintenance and repair of the LRS, which easements are more specifically defined herein over all those pieces or parcels of property in the Fourth Ward of the Borough Queens, City of New York, County of Queens, State of New York, which are shown and described as Aerial Parcels or Easements, Column Parcels or Easements, and Subsurface Parcels or Easements, of Segments CR – 402 through CR – 415 of a series of maps entitled, “THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY AIRTRAIN PROJECT, JFKIA-JAMAICA SEGMENT, ALTA/ACSM LAND TITLE SURVEY, A PORTION OF VAN WYCK EXPRESSWAY, SEGMENT CR-(402 THROUGH 415), BOROUGH OF QUEENS, QUEENS COUNTY, STATE OF NEW YORK”, prepared by Vollmer Associates LLP, dated February 28, 2002, bearing Project Number 2001-003-03 and filed contemporaneously in the Office of the Register of Deeds, Queens County on September 17, 2002 with the Grant of Permanent Easement between The People of the State of New York, acting by and through Joseph H. Boardman, the Commissioner of Transportation of the State of New York and the Port Authority of New York and New Jersey made August 19, 2002 and recorded at Reel 6582, Page 0118 *et seq.*, City Register Serial Number 128069.

Subject, however, to the provisions of the aforesaid Grant of Permanent Easement made August 19, 2002.

B. All that certain plot, piece or parcel of land situate, lying and being in the Fourth Ward of the Borough of Queens, City of New York, County of Queens, and State of New York, being more particularly bounded and described as follows:

BEGINNING at the corner formed by the intersection of the southerly side of 94<sup>th</sup> Avenue formerly Johnson Avenue (50 feet wide) with the easterly side of Van Wyck Expressway (Service Road); said corner having a New York State Coordinate System (NAD 83-96) value of N 58916.0472 meters E 315799.1275 meters (N193293.7316 feet E1036084.3037 feet);

1. Running thence North 69 degrees 25 minutes 33.1 seconds East along the southerly side of 94<sup>th</sup> Avenue, 63.627 meters (208.75 feet) to a point on the division line between property now or formerly of David Oil Corp. and property now or formerly of Carole A. Murray and Thomas D. Murray;
2. Running thence along said division line South 20 degrees 34 minutes 26.9 seconds East, at right angles to the southerly side of 94<sup>th</sup> Avenue, 25.292 meters (82.98 feet) to a point;
3. Running thence South 66 degrees 54 minutes 37.1 seconds West along the division line between property now or formerly of David Oil Corp. and the following properties: property now or formerly of Edgardo E. Contreras; property now or formerly of David Byrd, Patricia Portis, and Gary Michael Byrd; property now or formerly of Cheryl Winter Naipaul and Gagnatti Naipaul; property now or formerly of Joseph F. Nowinski and Jennie Nowinski; property now or formerly of Stanley P. Francosky, et al; and property

now or formerly of Mohamed Shafi and Ramdai Shafi, said line forming an interior angle of 92 degrees 30 minutes 56 seconds with the last mentioned course, 39.127 meters (128.37 feet) to a point in a line distant 34.013 meters (111.59 feet) northerly from the northerly side of 95<sup>th</sup> Avenue, drawn at right angles thereto, from a point thereon and distant 13.283 meters (43.58 feet) easterly from said easterly side of Van Wyck Expressway (Service Road);

4. Running thence South 20 degrees 34 minutes 26.9 seconds East along the division line between property now or formerly of David Oil Corp. and property now or formerly of Mohamed Shafi and Ramdai Shafi, at right angles to the northerly side of 95<sup>th</sup> Avenue, formerly Chichester Avenue, 34.013 meters (111.59 feet) to the northerly side of 95<sup>th</sup> Avenue;
5. Running thence South 69 degrees 25 minutes 33.1 seconds West along the northerly side of 95<sup>th</sup> Avenue, 13.283 meters (43.58 feet) to the corner formed by the intersection of the said northerly side of 95<sup>th</sup> Avenue and the easterly side of Van Wyck Expressway (Service Road);
6. Running thence North 31 degrees 01 minutes 19.1 seconds West along the easterly side of Van Wyck Expressway (Service Road), 62.054 meters (203.59 feet) to the point and place of beginning.

Containing 2176.289 square meters (23425.28 square feet) or 0.218 Hectare (0.538 acre).

Also known as **Tax Block 9990, Tax Lot 5**, Borough of Queens, City of New York.

Being the premises shown on an ALTA/ACSM Land Title Surveys of Lot 5, Block 9990, Queens, New York, prepared by Vollmer Associates, dated February 15, 2000 and signed by Kenneth J. Stigner, L.S., a copy of which is attached hereto as Exhibit B.

Being the same premises conveyed to the Port Authority by David Oil Corp. by Indenture made November 3, 2000 recorded with the Office of the Register of Deeds, Queens County, November 29, 2000 at Reel 5732, Page 0424 *et seq.*, City Register Serial Number 113076

All bearings refer to The New York Coordinate System of 1983-96, Long Island Zone 3104.

Together with the appurtenances and all the estate and rights of the Port Authority in and to said premises.

Together with all right, title and interest, if any, of the Port Authority in and to any streets and roads abutting the above described premises to the center line thereof.

To Have And To Hold the premises herein granted unto the City, the successors and assigns of the City forever.

The Port Authority, in compliance with Section 13 of the Lien Law, covenants that it will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The City hereby accepts the conveyance from the Port Authority.

No Commissioner, director, elected official, officer, agent, representative or employee of the Port Authority or the City shall be charged personally by either party hereto with any liability or held personally liable under any of the terms or provisions of this Indenture or because of its execution or because of any breach or attempted or alleged breach hereof.

This Indenture may be executed in one or more counterparts each of which counterparts shall be deemed an original and all of which counterparts shall constitute one and the same document.

IN WITNESS WHEREOF, the Port Authority has caused its corporate seal to be hereunto affixed and duly attested and this Agreement to be signed by its Executive Director, of the day and year first written above and the City has caused its corporate seal to be hereunto affixed and duly attested and this Indenture to be signed by its Deputy Mayor for Economic Development and Rebuilding and by the City Clerk of the City.

***[NO FURTHER TEXT ON THIS PAGE]***

Attest:

THE PORT AUTHORITY OF NEW YORK AND  
NEW JERSEY

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Kenneth J. Ringler, Jr.  
Executive Director

Approved as to form:

\_\_\_\_\_  
Darrell Buchbinder,  
General Counsel

THE CITY OF NEW YORK

By:

\_\_\_\_\_  
City Clerk

By:

\_\_\_\_\_  
Daniel L. Doctoroff  
Deputy Mayor for Economic Development  
and Rebuilding

Approved as to form:

\_\_\_\_\_  
Acting Corporation Counsel

STATE OF NEW YORK    )  
:                    ss. :  
COUNTY OF NEW YORK )

On the \_\_\_ day of November 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared KENNETH J. RINGLER, JR., Executive Director of the PORT AUTHORITY OF NEW YORK AND NEW JERSEY, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK    )  
:                    ss. :  
COUNTY OF NEW YORK )

On the \_\_\_ day of November 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared Daniel L. Doctoroff, Deputy Mayor for Economic Development and Rebuilding of THE CITY OF NEW YORK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK    )  
:                    ss. :  
COUNTY OF NEW YORK )

On the \_\_\_\_ day of November 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_, City Clerk of THE CITY OF NEW YORK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**EXHIBIT A**

**COPY OF GRANT OF PERMANENT EASEMENT  
DATED AS OF AUGUST 19, 2002  
FROM THE PEOPLE OF THE STATE OF NEW YORK**



STATE OF NEW YORK  
DEPARTMENT OF TRANSPORTATION  
HUNTERS POINT PLAZA  
47-40 21ST STREET  
LONG ISLAND CITY, N.Y. 11101

DOUGLAS A. CURREY, P.E.  
REGIONAL DIRECTOR

SUBI CHAKRABORTI, P.E.  
DEPUTY REGIONAL DIRECTOR

JOSEPH H. BOARDMAN  
COMMISSIONER

September 18, 2002

Harry Barr, Esq.  
The Port Authority of NY and NJ  
Law Department, 14<sup>th</sup> floor  
225 Park Avenue South  
New York, NY 10003

Re: PIN X735.55  
Proceeding 6105 02/7  
AirTrain Easement  
JFK-LRS Airport Access Program  
Queens County

Dear Mr. Barr:

As mentioned to your secretary in a message to be conveyed to you, we have filed the maps and the *Grant of Permanent Easement on the above project in the Queens County Registrar's office on September 17, 2002* and I will be hand delivering these maps and the *Grant of Easement* to your office next week.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Gulrukh Irani".

Gulrukh Irani  
Real Estate Specialist Trainee 2

CITY REGISTER RECORDING AND ENDORSEMENT PAGE

COUNTY OF Queens

THIS PAGE FORMS PART OF THE INSTRUMENT

TOTAL NUMBER OF PAGES IN DOCUMENT INCLUDING THIS PAGE ▶

Block ▼ <u>14260</u>	Lots - ONLY IF ENTIRE LOT ▼ <u>1</u>	Partial Lots ▼ P/O
-------------------------	---	-----------------------

Premises ▼

Title/Agent Company Name ▼  
NYSDOT

Title Company Number ▼

NAME ▼  
Harry K. Barr, Esq.

ADDRESS ▼  
Post Authority of NY & N.J. Law Dept.

CITY ▼ STATE ▼ ZIP ▼  
225 Park Ave. S 14<sup>th</sup> Fl, NY NY-10003

NAME & ADDRESS

PARTY 1 ▶ N.Y. S. Department of Transportation

ADDITIONAL PARTY 1 ▶ 47-40 21<sup>st</sup> Street, D.I.C. NY - 11101

PARTY 2 ▶ Port Authority of NY & NJ

ADDITIONAL PARTY 2 ▶ 225 Park Ave S 14<sup>th</sup> Fl, Law Dept, N.Y. NY-10003

CHECK THIS BOX IF THERE ARE MORE THAN 2 OF EITHER PARTY

FOLD

CITY REGISTER'S USE ONLY - DO NOT WRITE BELOW THIS LINE

Examined by (A): 7

Mtge Tax Serial No. \_\_\_\_\_

Mtge Amount \$ \_\_\_\_\_

Taxable Amount \$ \_\_\_\_\_

Exemption (✓) YES  NO

Type: [338E] [255] [OTHER \_\_\_\_\_]

Dwelling Type: [1 to 2] [3] [4 to 6] [over 6]

TAX RECEIVED ON ABOVE MORTGAGE ▼

County (basic) \$ \_\_\_\_\_

City (Add'l) \$ \_\_\_\_\_

Spec Add'l \$ \_\_\_\_\_

TASF \$ \_\_\_\_\_

MTA \$ \_\_\_\_\_

NYCTA \$ \_\_\_\_\_

TOTAL TAX \$ \_\_\_\_\_

Apportionment Mortgage (✓) YES  NO

City Register Serial Number 128063 Placement

Indexed By (A): DN Verified By (A): \_\_\_\_\_

Block(s) and Lot(s) verified by (✓)

Address  Tax Map

Extra Block(s) \_\_\_\_\_ Lot(s) \_\_\_\_\_

Recording Fee B \$ NO CHARGE

Affidavit Fee (C) \$ \_\_\_\_\_

RPTT Fee (R) \$ NO CHARGE

HPDA  HPDC

New York State Real Estate Transfer Tax \$ 0

Serial Number ▶ 004445

New York City Real Property Transfer Tax Serial Number ▶ 022466

OTHER [unclear] [unclear] [unclear]

FOLD

RECORDED IN THE OFFICE OF THE CITY REGISTER OF THE CITY OF NEW YORK



CRG1483N.BPG 04/20

*John J. Lariviere*

Proceeding 6105  
AirTrain Easement  
JFK-LRS Airport Access Program  
Queens County

**GRANT OF PERMANENT EASEMENT**

Made the 19<sup>th</sup> day of August, 2002, between  
**THE PEOPLE OF THE STATE OF NEW YORK**, acting by and through  
Joseph H. Boardman, the Commissioner of Transportation of the  
State of New York, with offices at 1220 Washington Avenue,  
Albany, New York 12232, Grantors, and

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**, a body  
corporate and politic acting pursuant to authority conferred by  
the legislatures of the States of New York and New Jersey, with  
offices at 225 Park Avenue South, New York, New York 10003,  
Grantee,

**WHEREAS**, Grantee has constructed a Light Rail System  
designed to carry passengers, also referred to as AirTrain  
Facilities ("LRS") within Kennedy International Airport ("JFK")  
with connections to the Jamaica Long Island Railroad/New York  
City Transit Authority Sutphin Boulevard Station ("Jamaica  
Station") and to the Howard Beach Subway Station; and

**WHEREAS**, the connection to the Jamaica Station requires the  
use of property lying between the boundary of JFK and the Jamaica  
Station including, but not limited to, the Van Wyck Expressway  
("VWE"), for the LRS Project; and

**WHEREAS**, lands within the VWE are owned all or in part by  
the Grantors as part of the State Highway System under

jurisdiction of the New York State Department of Transportation ("NYSDOT"); and

WHEREAS, the parties hereto have entered into a Memorandum of Understanding which provides, among other things, that the Grantee will construct the LRS and as part of its project will make certain other improvements in the VWE for the benefit of the Grantors, and the Grantors will convey a grant of permanent easement rights in the VWE to the Grantee upon the terms and conditions hereinafter expressed; and

NOW THEREFORE the Grantors, in consideration of the sum of ONE AND NO/100 DOLLAR (\$1.00), and other valuable consideration, do hereby remise, release and quitclaim unto the Grantee, its successors and assigns forever,

Permanent aerial, surface and subsurface easements for the construction, reconstruction, operation, inspection, maintenance and repair of the LRS, which easements are more specifically defined herein over all those PIECES OR PARCELS OF PROPERTY situate in the Fourth Ward of the Borough of Queens, City of New York, County of Queens, State of New York, which are shown and described as Aerial Parcels or Easements, Column Parcels or Easements, and Subsurface Parcels or Easements, of Segments CR-402 through CR-415 of a series of maps entitled "THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY AIRTRAIN PROJECT, JFKIA-JAMAICA SEGMENT, ALTA/ACSM LAND TITLE SURVEY, A PORTION OF VAN WYCK EXPRESSWAY, SEGMENT CR-(402 through 415), BOROUGH OF QUEENS, QUEENS COUNTY, STATE OF NEW YORK" prepared by Vollmer Associates,

LLP, dated February 28, 2002, bearing Project Number 2001-003-03, and filed in the Office of the Register of Deeds, Queens County contemporaneously with the recording of this Grant of Permanent Easement.

1. With respect to each parcel designated as "Aerial Parcel" or "Aerial Easement", a permanent aerial easement for an elevated reinforced concrete platform supporting the LRS referred to herein as the "AirTrain Guideway," and for the LRS constructed thereon, including but not limited to appurtenant track, wires, switches, signals, drainage and other utility installations required for the operation of the LRS. Each aerial easement parcel is located within an elevated plane situate generally over the median area of the VWE separating the northbound and southbound lanes or the eastbound and westbound lanes, as the case may be, of the VWE and the first vehicular lane of the VWE located northerly or easterly of the median and the two vehicular travel lanes of the VWE located southerly or westerly of the median.
2. With respect to each parcel designated as "Column Parcel" or "Column Easement", a permanent surface easement for support of the AirTrain Guideway, including but not limited to appurtenant track, wire, switches, signals, drainage and utility installations.
3. With respect to each parcel designated as "Subsurface

Parcel" or "Subsurface Easement", a permanent subsurface easement for the construction of footings necessary for support of the columns supporting the AirTrain Guideway, the right to construct, install, and operate cables, wires, switches, signals, and other equipment appurtenant to electric and data transmission and the right to construct, install, operate and maintain drainage and utility facilities, including the right to connect to the existing highway drainage system.

**RESERVING TO THE GRANTORS** the legal right of access at grade level for the purpose of inspection, maintenance or repair of all State and/or New York City owned facilities, appurtenances or equipment or emergency repair or shoring of the LRS, if in the opinion of the Grantors, State facilities are endangered; and

**IT IS FURTHER AGREED** that inspection, maintenance, and/or repair of the LRS facility constructed by the Grantee within the State Highway System requiring access from the at-grade level will require a Permit from NYSDOT, but that inspection, maintenance, and/or repair work conducted from the elevated LRS/ AirTrain Guideway will not require a Permit issued by NYSDOT unless lane closures of the highway below are involved. The Permit for such work, which shall not be unreasonably withheld or delayed, shall be issued without charge and without requirements for bonds and shall otherwise contain standard terms and conditions.

PROVIDED HOWEVER, that the Grantee, its successors and assigns shall make no change in the clearance over the VWE or in the alignment or location of such LRS facilities, or additional facilities constructed, which will interfere with the VWE and its appurtenances or other facilities of the State of New York, its successors or assigns.

FURTHER PROVIDED, that if the easement rights created herein are no longer used for construction, reconstruction, operation and maintenance of an LRS operated for Air Terminal purposes, the easements shall automatically terminate and jurisdiction over the affected premises shall return to the NYSDOT.

This Grant of Permanent Easement contains certain language defining the scope, purpose and terms of the easements granted herein. The maps referred to in this Grant and which are intended to be filed contemporaneously with the recording of this Grant also contain certain language defining the scope, purpose and terms of such easements. The language contained in this Grant is intended to control the definition of these easements, and any inconsistency between the language describing the scope, purpose and terms of said easements contained on the maps and in this Grant, shall be controlled by the language of this Grant.

TO HAVE AND TO HOLD the permanent easement rights herein granted unto the Grantee, its successors and assigns forever, except as provided above.



**JOHN F. KENNEDY INTERNATIONAL AIRPORT - AIRPORT ACCESS PROJECT -  
PROPERTY ACQUISITION**

On May 9, 1996, the Board authorized a project (the "Project") for the implementation of an automated Light Rail System ("LRS") between Jamaica and John F. Kennedy International Airport ("JFK"), a link between Howard Beach and JFK, and an LRS circulating within the Central Terminal Area at a total estimated project cost of \$1.268 billion, excluding interest on bonded debt. JFK suffers from a lack of public transportation options for access to the facility. In addition, the existing roadway system is unable to adequately address the need for on-airport circulation. The Project will provide connections to regional transportation hubs at the Long Island Railroad station in Jamaica as well as the New York City Transit station in Howard Beach. The LRS will also provide stations on-airport, at the rental car facilities at Federal Circle, the Employee Long-Term Parking Lot, and at the unit terminals for intra-airport transportation of airport customers and employees.

In requesting Project Authorization at the Board's May 9, 1996 meeting, staff noted that at the appropriate time, the Board would be asked to make the necessary findings and authorize acquisition of property interests by negotiation or condemnation. In view of the Project schedule, staff recommends authorization of property acquisition by negotiation at this time. If negotiations with private landowners do not lead to reasonable settlements, staff would conduct a public hearing as required by the New York State Eminent Domain Procedure Act before initiating eminent domain proceedings to acquire the property. Subsequent to such a hearing, the Board would be requested to make the necessary findings and determinations to enable acquisition by condemnation. The JFK LRS Right-Of-Way ("ROW") will occupy lands now owned by, among others, the City of New York, the State of New York, the Long Island Railroad, Rock-Arizona Associates (an Amoco gas station), Web Food Products, Inc. (a parking lot) and Andrew Borone, Dominick Borone and Joseph Borone (an auto service station and parking lot). Staff plans to acquire these lands, and possibly others adjacent to the ROW should the need become apparent.

The Board at its meeting on May 9, 1996 also authorized the Executive Director to apply to the Federal Aviation Administration ("FAA") for additional Passenger Facility Charge ("PFC") collection authority of \$823 million and additional PFC use authority of \$1.248 billion. An application was submitted to the FAA for the use of PFC funds on July 21, 1997. A Record of Decision for the use of these funds in the amount of \$1.148 billion was received on February 9, 1998. An application for the \$100 million in PFCs which expired on October 1, 1997, due to the FAA's failure to act by the application's expiration date, will be resubmitted to the FAA. In addition to the \$14 million previously approved by the FAA for planning costs for the JFK LRS, an amendment to recover an additional \$36 million in planning and preliminary engineering costs will be submitted at the same time. An addendum will also be submitted to the PFC application to permit the Port Authority to reallocate certain Port Authority Capital funds (up to \$300 million) to project elements the FAA deems ineligible for PFC funding and to allocate PFCs to other eligible items. The total amount of PFC funds expected to be approved for the project is \$1.298 billion. Together with \$300 million in Port Authority Capital funds, the total available funds for this project is \$1.598 billion, including interest on bonded debt.

Environmental impacts have been and will be assessed and will be taken into consideration in the implementation of the Project and mitigation measures incorporated in the

Project. A Draft Environmental Impact Statement ("EIS"), Written Reevaluation/Technical Report and Final EIS ("FEIS"), were prepared by the FAA along with the New York State Department of Transportation ("NYSDOT") acting as Joint Lead Agency. The FAA prepared Records of Decision approving an amended Airport Layout Plan including the ROW for the LRS and use of PFCs for the Project in compliance with the National Environmental Policy Act. NYSDOT issued a Record of Decision containing Findings in connection with its authorization of property conveyances for the Project in compliance with the New York State Environmental Quality Review Act ("SEQRA"). It is anticipated that the City of New York will also issue Findings in connection with its authorization of City actions in support of the Project which will comply with the City's Environmental Quality Review Regulations which implement SEQRA. Also, it is a condition of FAA Project approval, as noted in NYSDOT's Record of Decision, that the mitigation measures presented in Section 7.0 of the FEIS are the responsibility of the Port Authority. The Port Authority will incorporate the mitigation measures as requirements of the design, construction, and operation contracts or other contracts issued for the Project.

The City of New York (the "City") has advised that it must comply with the provisions of Section 197(c) of the City Charter involving the Uniform Land Use Review Procedure ("ULURP") before it can execute conveyances needed for the Project. The ULURP, entailing Hearings before Community Boards, the Borough Board, the City Planning Commission and possibly the City Council, is expected to take six to nine months to complete. While the Port Authority's ULURP Application is deemed technically complete, pending direction from the City, the Application has not yet been certified as complete so that the ULURP process may begin.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Donovan, Eisenberg, Gargano, Haley, Kalikow, Lewis, O'Neill, Philibosian, Schweitzer and Song voting in favor; Commissioner Mack abstaining; none against:

**RESOLVED**, that the Executive Director or General Counsel, either one acting individually, is hereby authorized to acquire on behalf of the Port Authority property interests by negotiation for and in connection with the Air Terminal Access Facilities known as the John F. Kennedy International Airport ("JFK") Airport Access Light Rail System ("LRS") Project including a link between Jamaica and JFK, a link between Howard Beach and JFK and an LRS circulating the Central Terminal Area (the "Project"), such property interests being generally located along and adjacent to the alignment shown on the amended JFK Airport Layout Plan approved, or to be approved, by the Federal Aviation Administration ("FAA") including but not limited to fee title to three privately owned parcels of land known as Block 9990, Lot 5, Block 9989, Lot 11, and Block 9989, Lot 17, on the Tax Map of the City of New York, Borough of Queens, and to incur all related costs and expenses, and execute all documents and agreements, including without limitation, agreements and conveyances, involving transfers of property interests to or from the Port Authority, necessary or incidental to such acquisition or the Project; and to conduct a public hearing under New York State's Eminent Domain Procedure Act, at their discretion; and it is further

**RESOLVED**, that the Executive Director or General Counsel, either one acting individually, is hereby authorized to execute an agreement or agreements supplemental to the Agreement with respect to the Municipal Air Terminals between the City of New York (the "City") and the Port Authority and associated instruments whereby, among other matters, the City would: (a) transfer and release to the Port Authority the City's right, title and interest in the property interests the Port Authority requires for the Project; (b) accept a conveyance of the permanent property interests acquired for the Project; and (c) simultaneously lease such property interests to the Port Authority as part of the Airport Demised Premises; and it is further

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

**EXHIBIT B**

**COPY OF SURVEY OF LOT 5, BLOCK 9990,  
BOROUGH OF QUEENS, NEW YORK  
PREPARED BY VOLLMER ASSOCIATES**



EXHIBIT D-1

(see attached)

**NEW YORK MUNICIPAL AIR TERMINALS  
ANNUAL STATEMENT  
JANUARY 1, 20\_\_ TO DECEMBER 31, 20\_\_**

**Table of Contents**

	Pages
Exhibit A - Rent Computation Schedule	1
Exhibit B - Annual Gross Revenue	2
Exhibit C - LaGuardia Airport Annual Gross Revenue	3-4
Exhibit D - John F. Kennedy International Airport Annual Gross Revenue	5-6
Exhibit E - Items Excluded From Annual Gross Revenue	7

NEW YORK MUNICIPAL AIR TERMINALS  
RENT COMPUTATION SCHEDULE  
20\_\_

EXHIBIT A

<u>LINE NO.</u>		<u>FOR THE YEAR</u> <u>20__</u>
1	Annual Gross Revenue (From Exhibit B, Line 3)	
2	8% of Line 1	
3	Minimum Annual Rent Amount	
5	Base Rent	_____
6	Additional Lump Sum Payment (Line 3 Minus Line 4)	<u>\$ -</u>

NEW YORK MUNICIPAL AIR TERMINALS  
ANNUAL GROSS REVENUE  
20\_\_

EXHIBIT B

<u>LINE NO.</u>		FOR THE YEAR 20__
1	LaGuardia Airport ( From Exhibit C, Page 4)	
2	John F. Kennedy International Airport (From Exhibit D, Page 6)	_____
3	Annual Gross Revenue (To Exhibit A, Line 1)	<u>\$ -</u>

NEW YORK MUNICIPAL AIR TERMINALS  
LAGUARDIA AIRPORT  
ANNUAL GROSS REVENUE

EXHIBIT C

20\_\_

ANNUAL GROSS  
REVENUE

<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>ANNUAL GROSS REVENUE</u>
503	Miscellaneous Revenue	
515	Special Project Bonds	
517	Telecommunications	
559	Unclassified Tenants	
601	General Consumer Services	
602	Food & Beverage Consumer Services	
603	Machine Services	
605	Display Advertising	
641	General Consumer Services - Fixed	
642	Food & Beverage Sales - Fixed	
643	Machine Sales - Fixed	
644	Air Conditioning Services - Fixed	
646	Oil Companies - Fixed Rentals	
648	Ground Handling - Fixed	
654	Public Vehicular Parking	
700	Scheduled Airlines - Flight Fees	
701	Scheduled Airlines - Terminals	
703	Itinerant Aircraft	
706	Scheduled Commuter Airlines	
707	Scheduled Airlines - Hangars & Cargo Facility	
709	Scheduled Airlines - Heating & Refrigeration	
710	Scheduled Airlines - Other	

NEW YORK MUNICIPAL AIR TERMINALS  
LAGUARDIA AIRPORT  
ANNUAL GROSS REVENUE  
20\_\_

EXHIBIT C

<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>ANNUAL GROSS REVENUE (CONT'D)</u>
711	Aircraft Parking & Storage	
725	Scheduled Airlines - Percent Fees	
726	FAR - Boarding Gate Security Program	
727	Tenant Parking	
728	Scheduled Airlines - Miscellaneous Fees	
731	Oil Companies	
751	Ground Handling Agencies	
752	Cargo Handling & Service Agencies	
761	Aircraft Service Agencies	
771	U.S. Government	
800	Recovered Expense	
851	Sale of Water - Hot & Cold	
852	Sale of Electricity	
879	Asbestos Settlement	
	Total Annual Gross Revenue (To Exhibit B, Line 1)	<u>\$0</u>

**NEW YORK MUNICIPAL AIR TERMINALS  
JOHN F. KENNEDY INTERNATIONAL AIRPORT  
ANNUAL GROSS REVENUE**

**EXHIBIT D**

20\_\_

**ANNUAL GROSS  
REVENUE**

<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>ANNUAL GROSS REVENUE</u>
503	Miscellaneous Revenue	
515	Special Project Bonds	
517	Telecommunications	
559	Unclassified Tenants	
601	General Consumer Services	
602	Food & Beverage Consumer Services	
603	Machine Services	
605	Display Advertising	
641	General Consumer Services - Fixed	
642	Food & Beverage Sales - Fixed	
643	Machine Sales - Fixed	
644	Air Conditioning Services - Fixed	
645	Display Advertising - Fixed	
646	Oil Companies - Fixed Rentals	
647	Hotel - Fixed Rentals	
648	Ground Handling - Fixed	
649	Cargo Handling - Fixed	
650	International Hotel	
654	Public Vehicular Parking	
700	Scheduled Airlines - Flight Fees	
701	Scheduled Airlines - Terminals	
703	Itinerant Aircraft	
705	Scheduled Helicopter Operations	
706	Scheduled Commuter Airlines	
707	Scheduled Airlines - Hangars & Cargo Facility	
709	Scheduled Airlines - Heating & Refrigeration	

**NEW YORK MUNICIPAL AIR TERMINALS  
JOHN F. KENNEDY INTERNATIONAL AIRPORT  
ANNUAL GROSS REVENUE**

**EXHIBIT D**

20\_\_

**ANNUAL GROSS  
REVENUE  
(CONT'D)**

<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>ANNUAL GROSS REVENUE (CONT'D)</u>
710	Scheduled Airlines - Other	
711	Aircraft Parking & Storage	
712	Fuel Fees	
713	Environmental Fees	
716	PAF Penalty Fees	
725	Scheduled Airlines - Percent Fees	
726	FAR - Boarding Gate Security Program	
727	Tenant Parking	
728	Scheduled Airlines - Miscellaneous Fees	
746	Air Train Fare Box Revenue	
751	Ground Handling Agencies	
752	Cargo Handling & Service Agencies	
761	Aircraft Service Agencies	
771	U.S. Government	
777	Trade Service Firms	
800	Recovered Expense	
851	Sale of Water - Hot & Cold	
852	Sale of Electricity	
859	Leased Fuel Trucks	
879	Asbestos Settlement	
	<b>Total Annual Gross Revenue (To Exhibit B, Line 2)</b>	<b>\$0</b>

**NEW YORK MUNICIPAL AIR TERMINALS  
ITEMS EXCLUDED FROM ANNUAL GROSS REVENUE  
20\_\_**

**EXHIBIT E**

<u>DESCRIPTION</u>	<b>FOR THE YEAR 20__</b>
Passenger Facility Charges-LaGuardia and John F. Kennedy International Airport	
Federal Grants	
Transportation Security Administration-Boarding Gate Security	
FAA K-9 Program	
Principal Payments on Special Project Bonds	_____
Total Excluded From Annual Gross Revenue	<u>\$ -</u>

Reason for Exclusion:

Pursuant to Section 4.1, Annual Gross Revenues shall exclude any and all amounts attributable to repayment of principal on Special Project Bonds, federal grants or monies received as a result of any federal statute, regulation or policy or program, such as passenger facility charges and amounts used for airport security, where such statute or regulation, policy or program restricts the use of such monies to purposes benefiting the Municipal Air Terminals.

EXHIBIT D-2

(see attached)

**NEW YORK MUNICIPAL AIR TERMINALS  
LAGUARDIA AIRPORT  
ESTIMATED ANNUAL GROSS REVENUE**

20\_\_

**ESTIMATED  
ANNUAL GROSS  
REVENUE**

---

<u>SOURCE</u>	<u>DESCRIPTION</u>	
503	Miscellaneous Revenue	
515	Special Project Bonds	
517	Telecommunications	
559	Unclassified Tenants	
601	General Consumer Services	
602	Food & Beverage Consumer Services	
603	Machine Services	
605	Display Advertising	
641	General Consumer Services - Fixed	
642	Food & Beverage Sales - Fixed	
643	Machine Sales - Fixed	
644	Air Conditioning Services - Fixed	
646	Oil Companies - Fixed Rentals	
648	Ground Handling - Fixed	
654	Public Vehicular Parking	
700	Scheduled Airlines - Flight Fees	
701	Scheduled Airlines - Terminals	
703	Itinerant Aircraft	
706	Scheduled Commuter Airlines	
707	Scheduled Airlines - Hangars & Cargo Facility	
709	Scheduled Airlines - Heating & Refrigeration	
710	Scheduled Airlines - Other	

**NEW YORK MUNICIPAL AIR TERMINALS  
LAGUARDIA AIRPORT  
ESTIMATED ANNUAL GROSS REVENUE  
20\_\_**

<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>ESTIMATED ANNUAL GROSS REVENUE (CONT'D)</u>
711	Aircraft Parking & Storage	
725	Scheduled Airlines - Percent Fees	
726	FAR - Boarding Gate Security Program	
727	Tenant Parking	
728	Scheduled Airlines - Miscellaneous Fees	
731	Oil Companies	
751	Ground Handling Agencies	
752	Cargo Handling & Service Agencies	
761	Aircraft Service Agencies	
771	U.S. Government	
800	Recovered Expense	
851	Sale of Water - Hot & Cold	
852	Sale of Electricity	
879	Asbestos Settlement	
	Total Estimated Annual Gross Revenue	<hr/> <b>\$0</b> <hr/>

**NEW YORK MUNICIPAL AIR TERMINALS  
JOHN F. KENNEDY INTERNATIONAL AIRPORT  
ESTIMATED ANNUAL GROSS REVENUE**

20\_\_

**ESTIMATED  
ANNUAL GROSS  
REVENUE**

---

<b><u>SOURCE</u></b>	<b><u>DESCRIPTION</u></b>	
503	Miscellaneous Revenue	
515	Special Project Bonds	
517	Telecommunications	
559	Unclassified Tenants	
601	General Consumer Services	
602	Food & Beverage Consumer Services	
603	Machine Services	
605	Display Advertising	
641	General Consumer Services - Fixed	
642	Food & Beverage Sales - Fixed	
643	Machine Sales - Fixed	
644	Air Conditioning Services - Fixed	
645	Display Advertising - Fixed	
646	Oil Companies - Fixed Rentals	
647	Hotel - Fixed Rentals	
648	Ground Handling - Fixed	
649	Cargo Handling - Fixed	
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700	Scheduled Airlines - Flight Fees	
701	Scheduled Airlines - Terminals	
703	Itinerant Aircraft	
705	Scheduled Helicopter Operations	
706	Scheduled Commuter Airlines	
707	Scheduled Airlines - Hangars & Cargo Facility	
709	Scheduled Airlines - Heating & Refrigeration	

**NEW YORK MUNICIPAL AIR TERMINALS  
JOHN F. KENNEDY INTERNATIONAL AIRPORT  
ESTIMATED ANNUAL GROSS REVENUE  
20\_\_**

<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>ESTIMATED ANNUAL GROSS REVENUE (CONT'D)</u>
710	Scheduled Airlines - Other	
711	Aircraft Parking & Storage	
712	Fuel Fees	
713	Environmental Fees	
716	PAF Penalty Fees	
725	Scheduled Airlines - Percent Fees	
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746	Air Train Fare Box Revenue	
751	Ground Handling Agencies	
752	Cargo Handling & Service Agencies	
761	Aircraft Service Agencies	
771	U.S. Government	
777	Trade Service Firms	
800	Recovered Expense	
851	Sale of Water - Hot & Cold	
852	Sale of Electricity	
859	Leased Fuel Trucks	
879	Asbestos Settlement	
	<b>Total Estimated Annual Gross Revenue</b>	<b>\$0</b>

EXHIBIT D-3

(see attached)

# New York Municipal Air Terminals

## Annual Statement

20\_\_

**SCENARIO:**

- Base Rent exceeds Minimum Annual Rent
- Base Rent equals \$100 million
- Additional exhibit detailing payments to Airport Board consultants.
- Exhibit calculating Annual Minimum Rent for the next 5 year period
- Interest on 2006 Base Rent
- Interest on Jan - Mar 2007 Minimum Annual Rent

**Not for Release**

**NEW YORK MUNICIPAL AIR TERMINALS  
ANNUAL STATEMENT  
JANUARY 1, 20\_\_ TO DECEMBER 31, 20\_\_**

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NEW YORK MUNICIPAL AIR TERMINALS  
RENT COMPUTATION SCHEDULE  
20\_\_

EXHIBIT A

**SCHEDULE A:**

FOR THE YEAR  
20\_\_

1	Annual Gross Revenue (From Exhibit B, Line 3)	
2	8% of Line 1	
3	Minimum Annual Rent Amount	_____
4	Base Rent Amount (Greater of Line 2 or 3)	_____ -

**SCHEDULE B:**

FOR THE YEAR  
20\_\_

1	Base Rent Amount (From Schedule A, Line 4)	\$0
2	Monthly Installment Payments to NYC	93,137,449
3	2006 Airport Board Funding (See Note Below)	112,551
4	Consultants Retained by the Airport Board (From Exhibit F)	_____ 250,000
6	Base Rent due to NYC (Line 1 Minus Line 2, 3, & 4)	(93,500,000)
7	Interest Payable on Line 6 (From Exhibit H)	-
8	Interest Payable on Jan - Mar 2007 Minimum Annual Rent (From Exhibit I)	_____ -
9	Total Amount due NYC (March 31, 2007) (Line 6 plus Line 7 & 8)	_____ (\$93,500,000)

**NEW YORK MUNICIPAL AIR TERMINALS  
RENT COMPUTATION SCHEDULE**

**EXHIBIT A**

20\_\_

**Note:** Pursuant to Section 15.2, Airport Board Funding, \$112,551 was paid directly to the Economic Development Corp. on October 15th for the purpose of funding Municipal Air Terminals liason functions and was deducted from the next installment of Base Rent due to the City of New York.

NEW YORK MUNICIPAL AIR TERMINALS  
ANNUAL GROSS REVENUE  
20\_\_

EXHIBIT B

<u>LINE NO.</u>		FOR THE YEAR 20__
1	LaGuardia Airport ( From Exhibit C, Page 4)	
2	John F. Kennedy International Airport (From Exhibit D, Page 6)	_____
3	Annual Gross Revenue (To Exhibit A, Line 1)	<u>\$ -</u>

NEW YORK MUNICIPAL AIR TERMINALS  
LAGUARDIA AIRPORT  
ANNUAL GROSS REVENUE

EXHIBIT C

20\_\_

ANNUAL GROSS  
REVENUE

<u>SOURCE</u>	<u>DESCRIPTION</u>	
503	Miscellaneous Revenue	
515	Special Project Bonds	
517	Telecommunications	
559	Unclassified Tenants	
601	General Consumer Services	
602	Food & Beverage Consumer Services	
603	Machine Services	
604	Coin Operating Machine Consumer Services	
605	Display Advertising	
641	General Consumer Services - Fixed	
642	Food & Beverage Sales - Fixed	
643	Machine Sales - Fixed	
644	Air Conditioning Services - Fixed	
645	Display Advertising - Fixed	
646	Oil Companies - Fixed Rentals	
648	Ground Handling - Fixed	
654	Public Vehicular Parking	
700	Scheduled Airlines - Flight Fees	
701	Scheduled Airlines - Terminals	
703	Itinerant Aircraft	
706	Scheduled Commuter Airlines	
707	Scheduled Airlines - Hangars & Cargo Facility	
709	Scheduled Airlines - Heating & Refrigeration	
710	Scheduled Airlines - Other	

**NEW YORK MUNICIPAL AIR TERMINALS  
LAGUARDIA AIRPORT  
ANNUAL GROSS REVENUE  
20\_\_**

**EXHIBIT C**

<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>ANNUAL GROSS REVENUE (CONT'D)</u>
711	Aircraft Parking & Storage	
713	Environmental Fees	
725	Scheduled Airlines - Percent Fees	
726	FAR - Boarding Gate Security Program	
727	Tenant Parking	
728	Scheduled Airlines - Miscellaneous Fees	
731	Oil Companies	
751	Ground Handling Agencies	
752	Cargo Handling & Service Agencies	
761	Aircraft Service Agencies	
771	U.S. Government	
800	Recovered Expense	
851	Sale of Water - Hot & Cold	
852	Sale of Electricity	
	Total Annual Gross Revenue (To Exhibit B, Line 1)	<u>\$0</u>

**NEW YORK MUNICIPAL AIR TERMINALS  
JOHN F. KENNEDY INTERNATIONAL AIRPORT  
ANNUAL GROSS REVENUE**

**EXHIBIT D**

20\_\_

**ANNUAL GROSS  
REVENUE**

<b><u>SOURCE</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>ANNUAL GROSS REVENUE</u></b>
503	Miscellaneous Revenue	
515	Special Project Bonds	
517	Telecommunications	
559	Unclassified Tenants	
601	General Consumer Services	
602	Food & Beverage Consumer Services	
603	Machine Services	
605	Display Advertising	
641	General Consumer Services - Fixed	
642	Food & Beverage Sales - Fixed	
643	Machine Sales - Fixed	
644	Air Conditioning Services - Fixed	
645	Display Advertising - Fixed	
646	Oil Companies - Fixed Rentals	
647	Hotel - Fixed Rentals	
648	Ground Handling - Fixed	
649	Cargo Handling - Fixed	
650	International Hotel	
654	Public Vehicular Parking	
700	Scheduled Airlines - Flight Fees	
701	Scheduled Airlines - Terminals	
703	Itinerant Aircraft	
705	Scheduled Helicopter Operations	
706	Scheduled Commuter Airlines	
707	Scheduled Airlines - Hangars & Cargo Facility	
709	Scheduled Airlines - Heating & Refrigeration	

**NEW YORK MUNICIPAL AIR TERMINALS  
JOHN F. KENNEDY INTERNATIONAL AIRPORT  
ANNUAL GROSS REVENUE**

**EXHIBIT D**

20\_\_

<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>ANNUAL GROSS REVENUE (CONT'D)</u>
710	Scheduled Airlines - Other	
711	Aircraft Parking & Storage	
712	Fuel Fees	
713	Environmental Fees	
716	PAF Penalty Fees	
725	Scheduled Airlines - Percent Fees	
726	FAR - Boarding Gate Security Program	
727	Tenant Parking	
728	Scheduled Airlines - Miscellaneous Fees	
731	Oil Companies	
751	Ground Handling Agencies	
752	Cargo Handling & Service Agencies	
761	Aircraft Service Agencies	
771	U.S. Government	
777	Trade Service Firms	
800	Recovered Expense	
851	Sale of Water - Hot & Cold	
852	Sale of Electricity	
859	Leased Fuel Trucks	
879	Asbestos Settlement	
	<b>Total Annual Gross Revenue (To Exhibit B, Line 2)</b>	<b><u>\$0</u></b>

**NEW YORK MUNICIPAL AIR TERMINALS  
ITEMS EXCLUDED FROM ANNUAL GROSS REVENUE  
20\_\_**

**EXHIBIT E**

<u>DESCRIPTION</u>	<b>FOR THE YEAR 20__</b>
Passenger Facility Charges-LaGuardia and John F. Kennedy International Airport	
Federal Grants	
Transportation Security Administration-Boarding Gate Security	
Principal Payments on Underlying Mortgage Bonds	_____
Total Excluded From Annual Gross Revenue	<u>\$ -</u>

Reason for Exclusion:

Pursuant to Section 4.1, Annual Gross Revenues shall exclude any and all amounts attributable to repayment of principal on Special Project Bonds, federal grants or monies received as a result of any federal statute, regulation or policy or program, such as passenger facility charges and amounts used for airport security, where such statute or regulation, policy or program restricts the use of such monies to purposes benefiting the Municipal Air Terminals.

**NEW YORK MUNICIPAL AIR TERMINALS  
AIRPORT BOARD - PAYMENTS TO INDEPENDENT CONSULTANTS  
20\_\_**

**EXHIBIT F**

<u>CONSULTANTS</u>	<u>CHECK DATE</u>	<u>AMOUNT</u>
Apple Consultants	08/01/20__	
B Consulting Services	09/03/20__	
Zee Consulting Corporation	10/13/20__	
Aviation Consulting, Inc.	11/16/20__	
Day Consulting Services	12/01/20__	
<b>TOTAL (To Exhibit A, Schedule B, Line 4)</b>		<b>\$ -</b>

**Note:** Per the terms of the lease, the Airport Board will retain independent consultants to review and report on airport operations and performance. The Port Authority and the City of New York will each fund up to \$250,000 annually for consultants retained by the Airport Board, with the City of New York's share to be paid by the Port Authority and deducted from the next installment of Base Rent due to the City of New York.

**NEW YORK MUNICIPAL AIR TERMINALS  
MINIMUM ANNUAL RENT AMOUNT  
20\_\_-20\_\_**

**EXHIBIT G**

<b>Year</b>	<b>LaGuardia Airport</b>	<b>John F. Kennedy International Airport</b>	<b>Annual Gross Revenue</b>
<b>2002</b>			
<b>2003</b>			
<b>2004</b>			
<b>2005</b>			
<b>2006</b>	<hr/>	<hr/>	<hr/>
<b>Total Annual Gross Revenue</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Average Annual Gross Revenue (2002-2006)</b>			<b>\$ -</b>
<b>10% of Average Annual Gross Revenue (2002-2006)</b>			<b>-</b>
<b>Minimum Annual Rent Amount (2002-2006)</b>			<hr/> <b>-</b>
<b>Minimum Annual Rent Amount (2007-2011)</b>			<hr/> <b>\$ -</b>

**Note:** Per the terms of the lease, Minimum Annual Rent for each "Five-Year Period" beginning with the years 2007 through 2011 shall mean an amount equal to: (a) the Minimum Annual Rent for the preceding "Five-Year Period" or (b) an amount equal to ten percent (10%) of the average Annual Gross Revenue for the preceding "Five-Year Period," whichever is greater.

**NEW YORK MUNICIPAL AIR TERMINALS  
INTEREST PAYABLE ON BASE RENT  
20\_\_**

**EXHIBIT H**

YEAR	MONTH	BASE RENT DUE	BASE RENT PAID	BASE RENT PAYABLE	CUMULATIVE UNPAID BALANCE	(i) ANNUAL INTEREST RATE	INTEREST PAYABLE
2006	Jan.			\$0	\$0		\$0
	Feb.			-	-		0
	Mar.			-	-		0
	Apr.			-	-		0
	May			-	-		0
	June			-	-		0
	July			-	-		0
	Aug.			-	-		0
	Sept.			-	-		0
	Oct.			-	-		0
	Nov.			-	-		0
	Dec.			-	-		0
2007	Jan.				-		0
	Feb.				-		0
	Mar.				-		0
		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>		<b>\$0</b>

**Interest Payable on 2006 Base Rent (To Exhibit A, Schedule B, Line 7) \$0**

(i) Per the terms of the lease, the interest rate utilized to calculate interest payable is based on the published Bond Buyer One-Year Note Index as of the date the corresponding obligation occurs.

**NEW YORK MUNICIPAL AIR TERMINALS  
INTEREST PAYABLE ON BASE RENT  
20\_\_**

**EXHIBIT H**

**NEW YORK MUNICIPAL AIR TERMINALS  
INTEREST PAYABLE ON MINIMUM ANNUAL RENT  
20\_\_**

**EXHIBIT I**

YEAR	MONTH	MINIMUM ANNUAL RENT	RENT PAID	RENT PAYABLE	CUMULATIVE UNPAID BALANCE	(i) ANNUAL INTEREST RATE	INTEREST PAYABLE
2007	Jan.			\$0	\$0		\$0
	Feb.			-	-		0
	Mar.			-	-		0
		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>		<b>\$0</b>

**Interest Payable on Jan - Mar 20\_\_ Minimum Annual Rent (To Exhibit A, Schedule B, Line 8)                     \$0**

(i) Per the terms of the lease, the interest rate utilized to calculate interest payable is based on the published Bond Buyer One-Year Note Index as of the date the corresponding obligation occurs.

NEW YORK MUNICIPAL AIR TERMINALS  
 BOND BUYER ONE-YEAR NOTE INDEX  
 20\_\_

EXHIBIT J

<u>YEAR</u>	<u>DATE</u>	<u>INDEX</u>	<u>DATE</u>	<u>INDEX</u>
20__	Jan.	7	July	7
		14		14
		21		21
		28		28
	Feb.	4	Aug.	6
		11		13
		18		20
		25		27
	Mar.	3	Sept.	3
		10		10
		17		17
		24		24
	April	7	Oct.	1
		14		8
		21		16
		28		23
	May	5	Nov.	5
		12		12
		19		19
		26		25
	June	2	Dec.	3
		9		10
		16		17
		23		23
	30		31	

NEW YORK MUNICIPAL AIR TERMINALS  
 BOND BUYER ONE-YEAR NOTE INDEX  
 20\_\_

EXHIBIT J

<u>YEAR</u>	<u>DATE</u>	<u>INDEX</u>	<u>DATE</u>	<u>INDEX</u>
20__	Jan.	7	July	7
		14		14
		21		21
		28		28
	Feb.	4	Aug.	6
		11		13
		18		20
		25		27
	Mar.	3	Sept.	3
		10		10
		17		17
		24		24
	April	7	Oct.	1
		14		8
		21		16
		28		23
	May	5	Nov.	5
		12		12
		19		19
		26		25
	June	2	Dec.	3
		9		10
		16		17
		23		23
	30		31	

SCHEDULE A

Intentionally Omitted

SCHEDULE B

Intentionally Omitted

## SCHEDULE C

The Matter of the Arbitration Between The City of New York and The Port Authority of New York and New Jersey commenced with a Demand for Arbitration dated December 14, 1995, before the American Institute of Certified Public Accountants.

SCHEDULE D

Intentionally Omitted

**SCHEDULE E**  
**Schedule of Newark Airport Lease and all Amendments**

1. Agreement with respect to the Newark Marine and Air Terminals by and between the City of Newark and the Port Authority made the 22<sup>nd</sup> day of October, 1947.
2. First Supplemental Agreement made as of the 11<sup>th</sup> day of March, 1948.
3. Second Supplemental Agreement made as of the 27<sup>th</sup> day of July, 1949.
4. Third Supplemental Agreement made the 30<sup>th</sup> day of August, 1949.
5. Fourth Supplemental Agreement made as of the 21<sup>st</sup> day of September, 1949.
6. Fifth Supplemental Agreement made as of the 27<sup>th</sup> day of May, 1953.
7. Sixth Supplemental Agreement made as of the 8<sup>th</sup> day of September, 1955.
8. Seventh Supplemental Agreement made as of the 5<sup>th</sup> day of October, 1956.
9. Eighth Supplemental Agreement made the 21<sup>st</sup> day of April, 1958.
10. Ninth Supplemental Agreement made as of the 14<sup>th</sup> day of December, 1966.
11. Tenth Supplemental Agreement made as of the 30<sup>th</sup> day of June, 1970.
12. Eleventh Supplemental Agreement made as of the 5<sup>th</sup> day of February, 1975.
13. Twelfth Supplemental Agreement made as of the 1<sup>st</sup> day of April, 1974.
14. Thirteenth Supplemental Agreement made as of the 16<sup>th</sup> day of May, 1975.
15. Fourteenth Supplemental Agreement made as of the 14<sup>th</sup> day of June, 1984.

**SCHEDULE E**  
**Schedule of Newark Airport Lease and all Amendments**  
**(Continued)**

16. Fifteenth Supplemental Agreement made as of the 1<sup>st</sup> day of January, 1984.
17. Sixteenth Supplemental Agreement made as of the 17<sup>th</sup> day of April, 1996.
18. Seventeenth Supplemental Agreement made as of the 26<sup>th</sup> day of March, 1998.
19. Eighteenth Supplemental Agreement made the 2<sup>nd</sup> day of October, 2000.
20. Eighteenth Supplemental Agreement made as of the 1<sup>st</sup> day of January, 2002.
21. Nineteenth Supplemental Agreement made as of the 1<sup>st</sup> day of January, 2002.

APPENDIX A

(see attached)

**THIS AIRPORT BOARD AGREEMENT** (this "Agreement") is made as of the \_\_\_\_\_ day of November 2004, by and between THE CITY OF NEW YORK, a municipal corporation of the State of New York with its principal office at City Hall, in the Borough of Manhattan, City of New York (the "City") and THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic, created by compact between the States of New York and New Jersey with the consent of Congress with its offices at 225 Park Avenue South, Borough of Manhattan, City of New York (the "Port Authority").

## RECITALS

WHEREAS, the City, as landlord, and the Port Authority, as tenant, entered into that certain Amended and Restated Agreement of Lease of the New York Airports (the "Lease Agreement"), of even date herewith, whereby among other things, the City leased John F. Kennedy International Airport ("JFK") and LaGuardia Airport ("LaGuardia") to the Port Authority (JFK and LaGuardia are sometimes referred to herein collectively as the "New York Airports"); and

WHEREAS, in accordance with Section 15 of the Lease Agreement, the City and the Port Authority desire to establish a board (the "Airport Board") for the purposes of enhancing cooperation between the City and the Port Authority with respect to the management of JFK and LaGuardia and improving oversight of performance, operations and finances at the New York Airports.

## TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises contained herein and in the Lease Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Port Authority hereby mutually undertake, promise and agree, each for itself and its successors as follows:

1. **Definitions.** All terms used herein not otherwise defined herein shall have the meanings given to them in the Lease Agreement.
2. **Airport Board Governance.**
  - a. Effective as of the date hereof, the Airport Board is hereby established and shall continue in existence until the expiration or sooner termination of the Lease Agreement, at which time this Agreement shall also terminate, and the parties shall have no further rights or obligations hereunder except those that may have accrued prior to such termination.
  - b. The Airport Board shall, at all times, be comprised of eight (8) members (each, a "Board Member"), half of which Members shall be appointed by the Port Authority (each, a "Port Authority Member") and half of which Members shall be appointed by the City (each, a "City Member").

c. The Port Authority Members shall be (i) the Port Authority's Chief Operating Officer, (ii) the Port Authority's Director of Aviation and (iii) the General Manager of each New York Airport and, in each case, their respective successors in duties, as applicable.

d. The City Members shall be appointed by the Mayor of The City of New York (the "Mayor"). Each of the City Members may be removed, either with or without cause, at any time, by the Mayor. Simultaneously with the removal of a City Member, the Mayor shall appoint a successor Member.

e. Within three (3) months following the execution of this Agreement, the Board Members shall convene and establish procedures to be followed by the Airport Board for the purpose of carrying out the intent of this Agreement, which shall include, without limitation, procedures concerning (i) the scheduling of meetings by the Airport Board on a quarterly basis and the all other meetings that the Board Members are required to attend pursuant to the terms of this Agreement, (ii) the procedures to be followed at each meeting of the Airport Board, (iii) the retaining of consultants, (iv) the preparation of recommendations to be issued by the Airport Board in accordance with this Agreement and (v) the establishment of accounting procedures with respect to the funds received by the Airport Board pursuant to Section 3 of this Agreement.

f. Meetings of the Airport Board shall be held at either of the New York Airports or at such other locations as the Board Members may determine.

**3. Consultants.** The Airport Board may retain consultants to review and report on the operations and performance of the New York Airports, and the Port Authority and the City shall each fund an equal amount of up to \$250,000 each annually for the payment of the fees and expenses of such consultants. The contracts with such consultants shall be entered into by the City or EDC on behalf of the Airport Board and in accordance with its authorization. Within thirty (30) days of its receipt from the City or EDC of an invoice for services rendered, the Port Authority shall remit to the City or EDC as the case may be the Port Authority's one-half (1/2) share of the invoiced amount, in accordance with the direction referred to in the Lease Agreement. As provided in the Lease Agreement, the City's one-half (1/2) share of the invoiced amount may, at the City's direction, be deducted from Base Rent thereunder and paid by the Port Authority on the City's behalf or EDC in accordance with the direction referred to in the Lease Agreement.

#### **4. Responsibilities of Airport Board.**

a. Establishment of Performance Standards. The City and the Port Authority have established certain financial, operational, and performance standards set forth in Exhibit A attached hereto (such standards, as the same may be updated or revised in writing, from time to time, by the Port Authority and the City pursuant to the terms of the Lease Agreement, are hereinafter referred to collectively as the "Performance Standards"), which Performance Standards may be used by the Airport Board, with the assistance of its independent consultants, in connection with the Airport Board's review of the performance of the New York Airports.

b. Review of Performance of New York Airports. Within thirty (30) days prior to each quarterly meeting of the Airport Board, the Port Authority will produce and deliver

to the Airport Board a report (each, a "Performance Standard Report") detailing the performance at each of the New York Airports in relation to the Performance Standards during the immediately preceding calendar quarter. The report and subsequent review by the Airport Board shall include the following areas for examination:

- (i) Financial performance;
- (ii) Passenger Service (landside); and
- (iii) Operational Service (airside).

In the event that a Performance Standard Report indicates a decline in performance in any of the above areas when compared to the immediately preceding Performance Standard Report, the Airport Board may prepare and submit to the Port Authority or the City recommendations on ways to improve such performance.

c. Review of City Service Agreements. At each quarterly meeting of the Airport Board, any City Member or Port Authority Member may make recommendations relating to the services provided by the City to the New York Airports. The Airport Board shall consider each of such recommendations and make recommendations to the City and the Port Authority as to whether and to what extent agreements should be entered into between the City (or one or more of its agencies) and the Port Authority in connection with the provision of such services.

d. Review of Capital Plan of the New York Airports. Within ninety (90) days after the commencement of each fiscal year of the Port Authority, the Port Authority shall deliver to the Airport Board a true, accurate and complete copy of its then current five (5) year capital plan with respect to the New York Airports (each, a "Five Year Plan"). The Airport Board shall have the right to review each Five Year Plan (for information purposes only), and request additional documents, drawings and materials concerning capital improvements. The Port Authority shall not unreasonably withhold additional materials requested by the Airport Board in connection with its review of a Five Year Plan.

e. Traffic and Transportation Management. The Airport Board will meet quarterly with the Port Authority Police Chief and the NYC Taxi and Limousine Commissioner, or their designees, to review taxi and hired car operations at the New York Airports. The Airport Board is empowered to make recommendations pertaining to improved and more efficient traffic management at the New York Airports.

f. Liaison with Subtenants at the New York Airports. The Airport Board may meet periodically with representatives of the Subtenants and other interested parties at JFK and LaGuardia to review concerns and shall relay such concerns to the City and the Port Authority.

5. **Miscellaneous.** This Agreement: (i) may not be modified except by a writing signed by both of the parties hereto; (ii) may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same

document; (iii) shall be construed in accordance with and governed by the internal laws of the State of New York, without regard to principles of conflicts of law; (iv) shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective successors and assigns but shall not be enforceable by any person, firm, corporation or other entity that is not a signatory to this Agreement; and (v) shall become effective when one or more counterparts have been signed by each of the parties hereto and delivered to each of the other parties hereto.

*[No further Text on this Page.]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by the duly authorized officers thereof as of the date first written above.

THE CITY OF NEW YORK

---

Daniel L. Doctoroff  
Deputy Mayor for Economic Development  
and Rebuilding

Approved as to form:

---

Acting Corporation Counsel

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

---

Kenneth J. Ringler, Jr.  
Executive Director

Approved as to form:

---

**EXHIBIT A**  
**Performance Standards**



**(AIRPORT BOARD AGREEMENT)**  
**EXHIBIT A**

**AIRPORT PERFORMANCE AND SERVICE STANDARDS**

John F. Kennedy International (“JFK”) and LaGuardia Airports (together the “New York Airports”) serve as both gateways to and economic engines for New York City, the Port Authority of New York and New Jersey and the City of New York recognize that, in accordance with the Lease Agreement, the Port Authority and the City intend that the New York Airports shall be operated and developed as first class facilities that meet the air travel and cargo demands of the City of New York and the surrounding metropolitan region.

To that end, the existence of vigorous measures of quality coupled with effective implementation policies are fundamental both to furthering the reasonable interests of all users of the New York Airports and to ensuring that the airports deliver the types of service at levels of quality that are in the public benefit.

On a quarterly basis the Port Authority will deliver to the City and the Airport Board both Landside and Airside Performance Indicators as set forth below. These Performance Indicators have been selected specifically to measure the New York Airports’ **(1) Market Share, (2) Passenger Service, (3) Cargo Service, (4) Operations, (5) Capital Spending, (6) Quality of Service, and (7) Community Relations.** These Indicator measurements will be provided to the City and Airport Board both graphically and textually. Recognizing that there is a lag in the receipt of certain data requested, the Port Authority will report the most current data available and it is acknowledged that the timeframe covered for each measure may vary.

The Indicator Measurements to be provided by the Port Authority are as follows:

**1. Market Share:**

**a) Passenger Volume**

The Port Authority will provide, on a quarterly basis, rolling 12-month passenger volume for the New York Airports. The volume will be broken out by airport and by month. The Port Authority will provide comparable passenger volume data for the previous 12 months, including the annual percentage increase or decrease, and for the New York Airports’ peer airports: Chicago O’Hare (ORD), Miami (MIA), Newark Liberty (EWR), and Boston Logan (BOS), depending on availability.

**b) Passenger Rankings**

The Port Authority will provide, on a quarterly basis, the ranking of JFK’s international traffic relative to Newark Liberty (EWR), Chicago O’Hare (ORD), Miami (MIA), Philadelphia (PHL), Boston Logan (BOS), Atlanta Hartsfield-Jackson (ATL), and Washington Dulles (IAD) for the immediately preceding four quarters.

The Port Authority will provide, on a quarterly basis, the New York Airports' domestic traffic, relative to Newark Liberty (EWR), Philadelphia (PHL), Boston Logan (BOS), Washington National (DCA) and Washington Dulles (IAD) for the immediately preceding four quarters. Domestic traffic will be broken out by both LaGuardia and JFK.

**c) Cargo Rankings**

The Port Authority will provide, on a quarterly basis, the ranking of the New York Airports' total gross cargo tonnage throughput and total cargo value relative to Newark Liberty (EWR), Atlanta Hartsfield-Jackson (ATL), Philadelphia (PHL), Boston Logan (BOS) and Washington Dulles (IAD). The Port Authority will provide comparable rankings, including annual percentage increases or decreases for the preceding four quarters.

**2. Passenger Service:**

**a) JFK Non-Stop Destinations**

The Port Authority will provide, on a quarterly basis, a complete index of cities served non-stop from JFK. The data will be broken out into the following geographic categories: United States, Canada, Mexico, Central America, Caribbean, South America, Europe/Africa/Middle East, and Asia/Pacific.

The Port Authority will provide, on a quarterly basis, the total number of non-stop flights and total number of seats available on non-stop flights from JFK to cities in the following eight geographic regions: United States, Canada, Mexico, Central America, Caribbean, South America, Europe/Africa/Middle East, and Asia/Pacific. The Port Authority will provide comparable data for the previous 12 months, including annual percentage increase or decrease in the total number of non-stop flights and seats.

**b) LaGuardia Non-Stop Destinations**

The Port Authority will provide, on a quarterly basis, a complete index of non-stop destinations being served from LaGuardia Airport. The data will be broken out into the following geographic categories: Northeast, South, Midwest, West, and International.

The Port Authority will provide, on a quarterly basis, the total number of non-stop flights and of seats available on non-stop flights from LaGuardia to cities in the following geographic regions: Northeast, South, Midwest, West, and International. The Port Authority will provide comparable data for the previous 12 months, including annual percentage increase or decrease in the total number of non-stop flights and seats.

**c) Number of Scheduled Air Carriers**

The Port Authority will provide, on a quarterly basis, a complete index of scheduled air carriers (excluding affiliates), by quarter, serving JFK and LaGuardia Airports. This index shall include a brief description of geographic area(s) served for each carrier.

The Port Authority will provide a complete index of total new entrants, and geographic area(s) served, as compared to the same data for the immediately preceding fiscal year.

### **3. Cargo Service:**

#### **a) Total Gross Cargo Tonnage Throughput**

The Port Authority will provide, on a quarterly basis, the total gross cargo tonnage throughput at the New York Airports. The Port Authority will provide comparable data, showing percentage increase or decrease, for the preceding year.

#### **b) Total Gross Cargo Value**

The Port Authority will provide, on a quarterly basis, the total gross value of international air cargo throughput for the New York Customs District. The Port Authority will provide comparable data, showing percentage increase or decrease, for the preceding year. N.B. The data is supplied by the U.S. Bureau of Customs and Border Protection and is not broken down by airport, but rather by region, or U.S. Custom District. The New York Custom District includes Newark Liberty International Airport.

#### **c) Origins of New York Airports' Cargo Trade**

The Port Authority will provide, on a quarterly basis, a matrix outlining by volume, value and share the cargo arriving at the New York Airports from the following IATA-categorized regions: Asia, North America, Europe, Africa, Middle East, South America, Central America, Southwest Pacific.

#### **d) Destinations of New York Airports' Cargo Trade**

The Port Authority will provide, on a quarterly basis, a matrix outlining by volume, value and share the international air cargo exported from the New York Customs District to the following IATA-categorized regions: Asia, North America, Europe, Africa, Middle East, South America, Central America, Southwest Pacific.

#### **e) Commodities by Category**

The Port Authority will provide, on a quarterly basis, an index of the top five commodity categories, by volume, value and share, imported and exported via air from the New York Customs District.

#### **f) Cargo Trade by Carrier**

The Port Authority will provide, on a quarterly basis, an index outlining total volume and share of cargo traffic into the New York Airports by air carrier.

#### **g) Air Cargo Trends**

The Port Authority will provide, on an annual basis, a report outlining key trends in the air cargo industry and the Port Authority's planned response to these trends and recommendations on how the City can assist.

#### **h) Cargo Access**

The City will provide a status on the 10 Point Cargo Access Plan (**Attachment A**) and the planned response to administrative and capital funding issues.

#### **4. Operations:**

##### **a) Operations with Delay by Cause**

The Port Authority will provide, on a quarterly basis, data showing all operations, including delays, at the New York Airports, by airport. The cause of delays will be separated into four categories and reported by percentage. The four categories include: Weather, Volume, Construction, and Other.

##### **b) Incursions**

The Port Authority will provide, on a quarterly basis, information indicating the number of runway incursions that have occurred at the New York Airports, by airport, during the immediately preceding quarter. The runway incursion will be separated into the following categories: (1) unauthorized pedestrian, (2) vehicle, or (3) aircraft entering or failing to clear the runway safety area, interfering with an aircraft takeoff or landing.

##### **c) Landing Fees**

The Port Authority will provide, on an annual basis, a schedule of its landing fees at the New York Airports, by airport. The Port Authority will indicate percentage increases and decreases of landing fees compared to the preceding fiscal year.

#### **5. Capital Spending:**

a) The Port Authority will provide, within ninety (90) days after the approval of the Port Authority's annual budget by the Port Authority Board of Commissioners, a true, accurate and complete copy of its then current five (5) year capital plan with respect to the Municipal Air Terminals. For capital improvements the cost of which is in excess of \$50 million, the Port Authority will provide true and accurate complete plans for such projects.

b) The Port Authority will provide, on a quarterly basis, a detailed summary of its current year capital spending at the New York Airports, by airport. This summary will include a breakdown of spending by project.

c) The Port Authority will provide, on a quarterly basis, a summary and brief description of financing inducement resolutions adopted by the Port Authority for capital projects at the New York Airports during the previous quarter.

#### **6. Quality of Service:**

### **Passenger Service Monitor Program**

In the first quarter of the first year of the lease, the Port Authority shall present a proposed Passenger Service Monitor Program to the Airport Board for its consultation as to its scope, structure and methodology. The Passenger Service Monitor Program shall include surveys taken regularly, and in no event less than once per year, of a sample of passengers at the New York Airports for their opinions on the range of services provided by the Port Authority, its contractors and vendors. These surveys will be conducted by an independent third party and their scope must, at minimum, measure satisfaction levels for the following categories:

1. General Cleanliness of Public Areas
2. Signage/Wayfinding
3. Helpfulness and Courtesy of Airport Information Staff
4. Personal Safety in Terminal Buildings and on AirTrain system
5. Cost and Convenience of Airport Parking
6. Ground Transportation Availability
7. AirTrain Service

The Port Authority will provide the Airport Board with the results of its Passenger Service Monitor Program on no less than an annual basis. The presentation to the Airport Board will include all results indicating overall passenger satisfaction upon departure from and arrival at all terminals at JFK and LaGuardia Airports and within stations and trains of the AirTrain system. The Port Authority will also provide comparable survey results for the previous two years. The results will be broken out for each of the terminals at the two airports and for the AirTrain; these terminals are:

#### JFK:

Terminal 1 (T1)  
Terminal 2 (T2)  
Terminal 3 (T3)  
Terminal 4 (T4)  
Terminal 6 (T6)  
Terminal 7 (T7)  
Terminal 8 (T8)  
Terminal 9 (T9)

#### LaGuardia:

Delta Shuttle (DS)  
US Airways Terminal (USA)  
Delta Main (DM)  
Central Terminal Building (CTB)

In those attributes where passenger satisfaction levels have decreased from levels recorded the prior year, the Port Authority shall provide the Airport Board with a specific plan and timeline for remedy of the problem.

The Airport Board, with the majority approval and, at its own expense, may request an expanded scope, more frequent surveys and additional measurements. The Port Authority will retain all proprietary rights associated with the Passenger Service Monitor Program, however all results will be shared openly with both the City of New York and the Airport Board.

## **7. Community Outreach**

### **a) Aviation Development Council**

The Port Authority will provide the Airport Board, on an annual basis, a summary report of activities of the Aviation Development Council. This summary report will include a listing of all grants disbursed, and reports produced during the preceding fiscal year.

### **b) Queens Council on Airport Opportunity**

The Port Authority will provide the Airport Board, on an annual basis, a summary report of activities of the Queens Council on Airport Opportunity, including local hiring numbers at the New York Airports, during the preceding fiscal year.

### **c) Queens Air Services Development Office**

The Port Authority will provide the Airport Board, on an annual basis, a summary report of activities of the Queens Air Services Development Office. This report will include a summary of local procurement of goods and services at the New York Airports during the preceding fiscal year.

ATTACHMENT A  
JFK Cargo Access Issues

## **JFK CARGO ACCESS ISSUES**

### Context

#### **International Cargo**

The New York and New Jersey airports, which constitute the New York Customs District, were responsible for 23 percent of all commodities imported and 17 percent of all exports in the U.S. in 2003, for a total of 2.9 billion pounds of the U.S. internationally traded commodities. In total, these airports handle more than 2.6 million tons of cargo per year, generate 85,000 jobs and are responsible for \$10.9 billion in economic activity, including \$3.7 billion in annual wages. Pivotal to this level of activity are the more than 1,000 cargo companies, including airlines, cargo handlers, brokers, truckers and freight forwarders that call the New York and New Jersey airports home.

While these statistics indicate that the New York Customs district is the largest in the U.S., NY/NJ market share has been decreasing steadily over the years, even with the continuous investment made in air cargo facilities by the air cargo industry. Airis Corporation, a multi-tenant cargo facility developer, Continental Airlines, United Airlines and Korean Airlines have all made very recent investments in first class cargo handling facilities at JFK. Although New York is the largest consumer market in the country, these first class facilities need transshipment capability for the airport and the cargo community to maintain or grow its market share. This transshipment capability requires an efficient distribution network, which would permit goods arriving in the New York and New Jersey airports to reach not only the local consumer market, but also neighboring markets without international access.

#### **Total Cargo**

The three airports in the region, (LaGuardia, J. F. Kennedy International, and Newark Liberty International) handled 2.6 million short tons in 2003. The role of integrators such as Fed Ex and UPS has increased to 32.7 percent from 12 percent in 1987. These vertically integrated carriers rely heavily on surface fleets for door-to-door distribution, much of which is on a just-in-time basis. These fleets take the shape of vans and small trucks, all the way to tractor-trailer trucks. The traditional industry relies on matching multimodal alternatives to reach their ultimate markets and makes extensive use of larger trailer trucks.

Air cargo activity at NY/NJ airports is estimated to directly generate nearly 85,000 jobs, \$3.7 billion in wages and \$10.9 billion in economic activity. The economic health of the immediate area as well as the availability of products in the retail and manufacturing sectors, locally and regionally, depend on the free movement of goods.

#### **Access**

Both international and domestic air cargo require some type of transfer between different modes of transportation to reach their ultimate market. An efficient distribution network

requires multimodal alternatives and access. Air transportation does not exist in a vacuum; efficient and adequate roadway access is necessary for competitive air cargo service, which depends almost exclusively on truck transfers to move to and from airports.

Access to Kennedy International Airport is severely constrained by the failure to construct some of the highways originally approved to serve the airport, and by chronic traffic congestion affecting airport and non-airport-related traffic during peak travel hours. While this paper focuses on cargo access issues, the inadequacy of highway connections to JFK impedes access by passengers and employees alike. It also adversely affects other local commercial centers and residential neighborhoods in surrounding areas of Queens, Brooklyn, and Nassau County.

Compounding the problem for truckers trying to move to and from JFK and nearby businesses, many of the roadways serving or abutting the airport are parkways, or residential streets that do not permit commercial vehicular through traffic. Even on the interstate highway segments serving JFK, regulations unique to the city's arterial network limit permissible truck sizes.

Air cargo generated over 13,000 daily one-way trips on the roadways surrounding Kennedy Airport according to a 2002 traffic engineering survey. Of these trips, 10 percent were made by vehicles with more than 3 axles, 26 percent by single unit trucks and 25 percent by small trucks and vans.

For traffic and economic activity to continue to grow, access to the airport requires a systemic approach to improve the reliability of truck service by reducing congestion and addressing bottlenecks in the roadway network. Airport users, tenants, and nearby communities alike are poorly served by the combination of growing airport and non-airport traffic, on an inadequate highway network with trucking regulations that complicate efficient shipping and routing of cargo.

Travel demand forecasts point toward a worsening of congestion in the future, with significant congestion spreading to more hours of the day and affecting larger segments of the highways serving JFK. Even with continuing gains in transit ridership citywide and expansion of transit alternatives for airport passengers and employees, underlying growth trends are expected to translate into somewhat higher traffic volumes on NYC roadways.

With that in mind, transportation and economic development agencies have identified chronic roadway "bottleneck" locations, unrealized improvements, and regulatory impediments that, if addressed, could improve commercial vehicle access to the airport and ease traffic congestion on residential streets. Many causes contribute to the agencies' inability to date to effect these changes, ranging from historical opposition by some elected officials, concern over perceived community impacts, and a sense of complacency that JFK's cargo business could stay competitive despite substandard road access. Growing concern over the threat to the air-cargo employment centered on JFK provides an opening to build the necessary local support for implementing a balanced package of truck-access improvements.

## ACTION PLAN

### Near-Term Actions

**1. Problem description: Current State law incorporates a City-requested restriction barring use of tractor-trailer combinations exceeding 53' from servicing locations in the five boroughs, or traversing the City except via a route using I-95, the Throgs Neck Bridge, and the Clearview Expressway to the LIE to access Nassau/Suffolk counties. Longer combinations are typical in the trucking industry and in wide use, notably for air-cargo operations. Use of these vehicles exposes operators to potential summonses.**

a. **Project:** Amend current regulation in order to allow 53-foot trailer trucks to access Kennedy Airport via the Van Wyck Expressway, pending anticipated reconsideration of this anomalous restriction on a broader basis as part of the new NYCDOT truck-route study and related regional goods-movement assessments.

i. Benefits:

1. Facilitate access to the region's largest cargo gateway
2. Reduce congestion by decreasing the use of smaller trucks operating the route
3. Formalize the rule so that airport access by standard size trucks does not depend on informal no-ticketing stance taken by NYPD.

ii. Next steps: Work with FHWA Albany office, NYCDOT and NYSDOT officials to clarify or reform standing regulation and to allow the operation of 53-foot trailer trucks on the Van Wyck Expressway. City support is needed to effectuate this change.

**2. Problem description: Short lead distance (half mile from actual merge) for sign advising northbound Van Wyck automobile traffic to keep right to access Grand Central Parkway contributes to roadway congestion derived from driver confusion.**

a. **Project:** Reposition signage on the northbound Van Wyck indicating automobile traffic should keep right to access the Grand Central Parkway, giving longer lead distance.

i. Benefits:

1. Allow automobiles an earlier opportunity to merge right, minimizing last-minute lane changes and weaving.
2. Reduce potential for accidents.
3. Reduce emissions caused by traffic congestion.

ii. Next step: NYCDOT and NYSDOT approval for new sign placement may be needed. Signage will be installed.

**3. Problem description: Inappropriate use of the service road by traffic that moves on-off the Van Wyck to jump ahead of congestion.**

- a. **Project:** Better manage on-off traffic flows on the VWE, thus preventing excessive lane weaving and decreasing congestion.
  - i. Benefits:
    1. Decrease traffic on the service roads.
    2. Improve traffic flow by decreasing unnecessary weaving.
    3. Reduce emissions caused by traffic congestion.
  - ii. Next step: Completion of AirTrain-related construction and overpass bridge improvements on VWE provides opportunity to consider measures for segment between Jamaica & JFK. More broadly, NYSDOT and NYCDOT would like to discuss its plans for the Van Wyck, including truck over-height detection, use of ITS technology and other measures with potential benefits.

**4. Problem description: Commercial truck and van traffic is permitted only in a limited number of parkways. This adds to traffic pressure on the VWE and Atlantic Avenue, the only through-truck-route on the street network in Brooklyn. It also forces more circuitous routing of many trucks traveling between Southern Queens/southern Brooklyn locations and points west and south of NYC accessible via the Verrazano Narrows Bridge. Permitting smaller vehicles on the Belt and the Cross Island parkways would create a supplemental – and for some cargo more direct – truck access to JFK and other commercial areas in southern Queens and Brooklyn.**

- a. **Project:** Provide access to the Belt Parkway and the Cross Island Parkway for commercial vans.
  - i. Benefits:
    1. Decrease commercial truck/van traffic mix on the VWE, and improve larger truck flow in that road.
    2. Improve airport access to Lower Manhattan, Verrazano-Narrows Bridge and New Jersey traffic.
  - ii. Next step: Opposition from communities bordering the Belt Parkway has impeded efforts to implement this change. Recent agreement to allow small-truck access on a short segment of the Grand Central Parkway, with local community support, could provide an analogous trial of the benefits and impacts of changing Belt Parkway access. Allowing vans on the Belt is among the strategies modeled in NYMTC’s Regional Freight Plan project, and is under discussion in the ongoing NYMTC South Brooklyn Transportation Investment Study, where the community concern can be juxtaposed directly with the borough-wide impacts of inadequate truck access. This issue also will be prominent on the new NYCDOT truck-route study.

**5. Problem description: Atlantic Avenue is a major thoroughfare for commercial truck traffic bound for Kennedy Airport and parking rules are not enforced, with double parking and parking during no-parking periods delaying through traffic.**

- a. **Project:** Enforce peak period parking rules on Atlantic Avenue.
  - i. Benefits:
    - 1. Improve traffic flow on Atlantic Avenue and
    - 2. Provide alternate to Long Island Expressway and decrease commercial traffic spill over to Brooklyn residential streets.
  - ii. Next step: Bring the issue to City DOT and NYPD attention.

**6. Problem description: Traffic exiting the southbound Van Wyck to join the westbound Belt Parkway must cross three lanes of traffic on North Conduit. The weaving required causes back ups on the Van Wyck and high accident rates in the area. NYCDOT has implemented a signal timing change as a near-term measure to mitigate this problem.**

- a. **Project:** Complete the flyover connecting the Van Wyck southbound with the westbound Belt Parkway, approximately a \$ 30 M project.
  - i. Benefits:
    - 1. Reduce congestion on the southbound VWE and improve traffic flow
    - 2. Decrease occasions for accidents
    - 3. Reduce emissions caused by roadway congestion
    - 4. Improve overall traffic flow.
  - ii. Next step: Discuss Van Wyck improvement program with NYSDOT and determine if there are any interim measures to improve flow. The improvements planned for the Van Wyck are included in the NYSDOT design, but actual construction is planned for 2008, given the current structural work being conducted by the DOT.

**7. Problem Description: Several planned highway projects intended to ensure efficient vehicular access to JFK never were realized, resulting in the airport's over dependence on the Van Wyck Expressway as the primary connection to the interstate highway network, and the only truck-accessible highway to trucks traveling between the airport and points north, west and south. Growth in both regional and airport traffic severely burdens the VWE and connecting highways; forecasts point to worsening conditions during peak weekday and weekend travel hours in the years ahead. Air-cargo industry representatives indicate that the resultant delays and unreliability in transporting cargo to and from the airport its surrounding concentration of cargo facilities is undercutting their ability to retain JFK's share of cargo traffic.**

**Project:** Initiate a highway corridor study focusing on the Van Wyck Expressway and Clearview Expressway. Project future traffic demand based on forecasts for airport and area wide growth. Establish level-of-service criteria consistent with airport needs and analyze alternatives for improved airport access based on these criteria, including

operational improvements, demand management, capacity management strategies, and expanded roadway capacity.

- i. Benefits:
  - 1. Ensure efficient, reliable airport access to help retain concentration of air-cargo employment at and around JFK by maintaining competitive level of accessibility for long-distance cargo moves;
  - 2. Improve mobility for all users of WVE corridor.
  - 3. Improve mobility and air quality for communities bordering VWE by easing forecast congestion on Expressway
  - 4. VWE and Clearview provide most direct access to interstate highway connections with the mainland US; adequate access to that network crucially supports JFK's gateway role and complements supplemental truck access improvements possible via Brooklyn and the Nassau Expressway
  
- ii. Next Step: Review VWE corridor issues, including Clearview Expressway capabilities, with concerned City and State agencies, to lay groundwork for a comprehensive corridor study comparable to the recent Staten Island Expressway and Bronx Arterial Needs Study.

APPENDIX B

(see attached)

AGREEMENT BETWEEN THE CITY OF NEW YORK AND THE PORT AUTHORITY OF  
NEW YORK AND NEW JERSEY

THIS AGREEMENT, made as of the \_\_\_\_ day of November, 2004 between THE CITY OF NEW YORK, a municipal corporation of the State of New York having its principal office at City Hall, New York, New York 10007, hereinafter referred to as the "City," and THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States, having its principal office at 225 Park Avenue South, New York, New York 10003, hereinafter referred to as the "Port Authority";

WITNESSETH:

WHEREAS, the City and the Port Authority have entered into an Amended and Restated Agreement of Lease of the Municipal Air Terminals (the "Lease Agreement"), of even date herewith, whereby, among other things, the City has leased to the Port Authority John F. Kennedy International Airport and LaGuardia Airport (collectively, the "Municipal Air Terminals"); and

WHEREAS, the operation of the Municipal Air Terminals has a wide-ranging impact on the Borough of Queens in the City of New York ("Queens"); and

WHEREAS, the Board of Commissioners of the Port Authority, at its meeting of August 4, 2004, adopted a Resolution (attached hereto as Exhibit A), authorizing a program of capital expenditures in an aggregate amount not to exceed \$100 million for capital projects in Queens, to be designated by the Mayor of the City ("Mayor"); and

WHEREAS, the Board of Commissioners of the Port Authority also authorized the Executive Director of the Port Authority to enter into an agreement to effectuate the provision of funding for such projects, consistent with existing legislation and agreements with the holders of the Port Authority's obligations; and

WHEREAS, the total amount of funding to be provided by the Port Authority to the City under the terms of this Agreement shall be \$100 million (the "Funding Amount"), with no more than \$20 million to be provided in any single year during the five-year period commencing January 1, 2005, and ending December 31, 2009.

NOW, THEREFORE, the Port Authority and the City hereby agree as follows:

## SECTION A – PROJECTS

Each eligible project, as designated pursuant to Section B of this Agreement, shall be a “Project” under this Agreement; such projects are hereinafter collectively referred to in this Agreement as the “Projects.”

## SECTION B – IDENTIFICATION OF PROJECTS

The City may at any time and from time to time identify projects in the portion of the Port District located in the borough of Queens (which comprises the entire Borough of Queens) for funding under this Agreement pursuant to the authorization of the Board of Commissioners of the Port Authority. Such identification shall be made by the Mayor or his designee in the form of the Project Letter Request attached hereto as Exhibit B. No project for which a request is made by the City shall become a Project under this Agreement unless and until such request has been concurred with in writing by the Port Authority, as provided for in the Project Letter Request. In this regard, the City understands that the Projects to be eligible for funding under this Agreement must qualify as being eligible for Port Authority capital expenditures, which determination shall be made at the sole reasonable discretion of the Port Authority. The Port Authority agrees that it will concur with any proposed Project that is eligible for Port Authority capital expenditures, as determined in accordance with established Port Authority rules, policies and procedures.

Until further notice, each Project Letter Request shall be addressed to the Executive Director of the Port Authority at 225 Park Avenue South, 15<sup>th</sup> Floor, New York, New York 10003. The Port Authority shall respond to each Project Letter Request within 30 days of its receipt by the Port Authority. If the projects described in such request are not deemed eligible for funding under this Agreement, the Port Authority shall state the reasons therefore in its response, and the City may submit a substitute Project Letter Request for an alternative project.

## SECTION C – MANAGEMENT OF PROJECTS

Once the Port Authority has deemed a Project to be eligible, management of the Project shall be the responsibility of the City or, in the Mayor’s discretion, the New York City Economic Development Corporation (“EDC”). The City (or EDC, as the case may be) shall designate a Project Manager for each Project and inform the Port Authority of the name and address of such Project Manager.

## SECTION D – PAYMENTS BY THE PORT AUTHORITY

The Port Authority’s sole responsibility for Projects under this Agreement shall be to provide the Funding Amount to the City, with no more than \$20 million to be provided for work incurred in any single year during the five-year period, which will commence on January 1, 2005 and end on December 31, 2009. There shall be no reimbursement for any internal costs that may be incurred by the City and/or EDC in connection with any of the Projects.

The provision of funds by the Port Authority to the City in connection with the Projects shall take place as follows: Upon receipt of an invoice certified by the City that it represents the City's payment of costs incurred in connection with a Project, and after verifying the accuracy and appropriateness of the invoice, the Port Authority will reimburse the City for the amount of such invoice within 30 days of the Port Authority's receipt thereof; provided that, except as otherwise provided below, the Port Authority's payments to the City under this Agreement shall not exceed \$20 million in any single year during the five-year period in which the Port Authority is to provide funds to the City. The Port Authority's consent to reimburse the City or EDC after reviewing an invoice shall not be unreasonably withheld. When submitting each request for reimbursement to the Port Authority, the City shall designate whether it wishes the Port Authority to issue its reimbursement payment to the City or EDC. Notwithstanding anything to the contrary herein, if the amount of reimbursement sought by the City from the Port Authority exceeds \$20 million in any single year, then the excess amount shall be paid by the Port Authority in the next succeeding year in which the amount for which the City seeks reimbursement, including the excess amount from any previous year(s), does not exceed \$20 million; provided that, the total amount paid to the City and/or EDC by the Port Authority pursuant to this Agreement shall not exceed the Funding Amount. In the event that the amount of reimbursement sought by the City from the Port Authority is less than \$20 million in any single year, the amount remaining will be added to the amount eligible for reimbursement in the next succeeding year. Notwithstanding anything contrary contained herein, in the event that any portion of the Funding Amount has not been paid to the City and/or EDC prior to January 1, 2010, such unpaid portion of the Funding Amount will be paid to the City as reimbursement for the City's payment of costs incurred in connection with Projects in 2010 and/or succeeding calendar years, until the entire balance of the Funding Amount has been paid to the City and/or EDC in accordance with the terms of this Agreement. The City covenants that the City, EDC and all Project Managers designated by the City will employ their best efforts to ensure that work undertaken in connection with the Projects, and the submission of invoices to the Port Authority for reimbursement, is effectuated expeditiously.

If the Port Authority questions or disputes a charge or charges on an invoice for which payment was made by it, and it is determined through the dispute resolution procedures provided for in this Agreement that the City is required to reimburse the Port Authority for the disputed charge(s), the Port Authority will deduct such amount from its future reimbursement to the City, or the City will reimburse the Port Authority within 30 days of the City's receipt of notification of the resolution of the dispute.

#### SECTION E - REPORTING REQUIREMENTS

The City shall provide the Port Authority with quarterly reports with regard to the progress of the Projects. The form of such quarterly reports shall contain such information as the Port Authority may reasonably request.

## SECTION F – NO PORT AUTHORITY LIABILITY

The Port Authority shall have no responsibility of any kind for any agreement, contract or project utilizing funds provided under this Agreement. Without limiting the generality of the foregoing, the Port Authority shall have no responsibility for the design, effectuation, maintenance, ongoing operation or any other aspect (including all environmental matters) of the Projects or any contract entered into in connection with the Projects. Between the Port Authority and the City, the City hereby assumes the following risks, whether or not they arise from acts or omissions of the City: all risks of loss or damage to property or injury to or death of persons, and risks of other damages, to whomsoever occurring, arising out of or in any way connected with or related to any of the Projects, including, without limitation, the design, effectuation, maintenance, operation or any other aspect (including all environmental matters) of the Projects. The Port Authority shall have no responsibility for providing any monies for the Projects except as provided in this Agreement.

## SECTION G – INDEMNIFICATION OF THE PORT AUTHORITY

The City hereby agrees to indemnify and save harmless the Port Authority, its successors, Commissioners, officers, agents, and employees, and each of them, from and against claims, suits, and demands arising out of or in any way connected with or related to any of the Projects, (except any claims, assets and or demands resulting from any action or inaction on the part of the Port Authority other than the approval and/or funding by the Port Authority of Projects hereunder) including the costs of legal defense arising therefrom, for any loss or damage to property or injury to or death of persons, whether said claims, suits or demands are just or unjust, fraudulent or not, and irrespective of whether such risks are beyond the control of the City; provided there shall be no indemnification with respect to suits, claims or demands resulting from actions or inactions of the Port Authority unrelated to its approval of Projects as eligible for Port Authority capital expenditures and its provision of funding for Projects pursuant to the terms of this Agreement.

The City, in indemnifying the Port Authority, shall, if so requested by the Port Authority, defend against such claims at no cost and expense to the Port Authority, in which event the City shall not, without obtaining express advance written permission from General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the Port Authority, the immunity of the Port Authority, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority.

## SECTION H – GENERAL

1. By execution, delivery and performance of this Agreement, each party represents to the other that it has been duly authorized by all requisite action on the part of the Port Authority and the City, respectively. This Agreement constitutes the legal, valid and binding obligation of the parties hereto.

2. The Port Authority may, upon reasonable notice, during regular business hours, examine all records of the City relating to the Projects or any agreements entered into in connection with the Projects.

3. It is expressly understood and agreed that any review by the Port Authority of any plans, specifications, drawings, or other similar documents relating to the work performed or to be performed in connection with the effectuation of the Projects or any agreement entered into in connection with or relating in any way to the Projects shall be limited solely to the purpose of ensuring that the Projects do not unreasonably interfere with the Port Authority's operations, and is for the benefit of the Port Authority and not the City.

4. All disagreements under this Agreement shall be submitted to the Executive Director of the Port Authority and the Deputy Mayor for Economic Development and Rebuilding of the City or his successor in function as designated by the Mayor (the "Deputy Mayor") for their review and decision, which decision shall be binding upon the parties. In the event that the Executive Director of the Port Authority and the Deputy Mayor of the City shall disagree, then either party may seek all legal or equitable remedies to the extent permitted by applicable law.

5. Notices and communications under this Agreement shall be in writing and sent via certified mail, return receipt requested, and shall be directed as follows, or to such other address as the party receiving such notice shall have previously specified by notice to the party sending such notice:

If to the Port Authority:

The Port Authority of New York and New Jersey  
225 Park Avenue South – 15th Floor  
New York, NY 10003  
Attn: Chief Financial Officer

If to the City:

Director  
Aviation Department  
New York City Economic Development Corporation  
110 William Street  
New York, New York 10038

6. This Agreement shall not be construed to create any rights on behalf of any party other than the Port Authority and the City. Neither this Agreement nor any rights or duties hereunder may be assigned or delegated by either party hereto without the written consent of the other party, and any such purported assignment or delegation shall be null and void and of no force or effect.

7. (a) No Commissioner, director, officer, agent or employee of the Port Authority shall be held personally liable under any provision of this Agreement or because of its execution or attempted execution or because of any breach or alleged breach hereof.

(b) No official, agent or employee of the City shall be held personally liable under any provision of this Agreement or because of its execution or attempted execution or because of any breach or alleged breach hereof.

8. If any provisions of this Agreement shall be such as to destroy its mutuality or to render it invalid or illegal, then, if it shall not appear to have been so material that without it this Agreement would not have been made by the parties, it shall not be deemed to form a part hereof but the balance of this Agreement shall remain in full force and effect.

9. The entire agreement between the parties is contained herein and no change or modification, termination or discharge of this Agreement shall be effective unless in writing and signed by the party to be charged therewith.

10. This Agreement shall be governed by and construed in accordance with the Laws of the State of New York, without reference to choice of law principles.

11. This Agreement may be executed in one or more counterparts, each of which counterparts shall be deemed an original and all of which counterparts shall constitute one and the same document.

*[No further text on this Page.]*

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be signed, sealed and attested.

THE CITY OF NEW YORK

By: \_\_\_\_\_  
Daniel L. Doctoroff  
Deputy Mayor for Economic  
Development and Rebuilding

Approved as to form:

\_\_\_\_\_  
Acting Corporation Counsel

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

By: \_\_\_\_\_  
Kenneth J. Ringler, Jr.  
Executive Director

Approved as to form:

\_\_\_\_\_

AGREEMENT BETWEEN THE CITY OF NEW YORK AND THE PORT  
AUTHORITY OF NEW YORK AND NEW JERSEY

EXHIBIT A

August 4, 2004 Resolution of Board of Commissioners of the Port Authority

## **AGREEMENTS WITH THE CITY OF NEW YORK REGARDING JOHN F. KENNEDY INTERNATIONAL AND LAGUARDIA AIRPORTS AND THE WORLD TRADE CENTER SITE**

It was recommended that the Board authorize the Executive Director to enter into agreements with the City of New York (the City) pertaining to: (1) amendment and extension of the lease agreement between the City and the Port Authority (City Lease) covering John F. Kennedy International Airport (JFK) and LaGuardia Airport (LGA), together with such related and ancillary agreements with the City or others as may be deemed necessary or appropriate; (2) amendment of the agreement between the City and the Port Authority (PILOT Agreement) concerning payments in lieu of taxes (PILOT) for the World Trade Center (WTC) site (WTC Site); and (3) modification of the agreement between the City and the Port Authority relating to the City's street system and the transfer of title to land adjacent to and within the WTC Site (the WTC Redevelopment Agreement, previously known as the Street Closing Agreement).

The term of the City Lease under which the Port Authority operates JFK and LGA expires December 31, 2015. At its meeting of November 20, 2003, the Board authorized the Executive Director to enter into a Memorandum of Understanding (MOU) with the City with respect to agreements relating to changes in and extension of the City Lease and in the PILOT Agreement, so that: (1) effective January 1, 2002, the provisions of the existing City Lease would be amended and supplemented to, *inter alia*, extend the term to December 31, 2050, and increase the rental payable to the City; (2) the annual PILOT amounts for the WTC Site paid by the Port Authority to the City would be increased, effective January 1, 2004, and the property covered would be expanded; and (3) all pending arbitration and litigation between the City and the Port Authority involving the City Lease and the PILOT Agreement would be terminated with prejudice and without further payment.

### **Amended and Restated City Lease**

As a result of continuing discussions between staff and City representatives, the City Lease is to be amended and restated, effective January 1, 2002, for a term expiring December 31, 2050, on the principal terms outlined below:

Rent – The rent would be as follows:

- **Initial Lump-Sum Payment** – Upon execution of the amended City Lease, the Port Authority would make a lump-sum payment of \$500 million to the City. The rent for 2002, 2003 and the portion of 2004 preceding the signing of the amended City Lease based on the rent formula described below, would be paid, with interest, in one lump sum.
- **Minimum Annual Rent** – Commencing as of January 1, 2002, the Port Authority would pay a minimum annual rent (MAR) of \$93.5 million, the amount of which would be reset from time to time. After execution of the amended City Lease, MAR would be payable in equal monthly installments, in advance.

- Rent Formula and Reset Provisions – Annual rent would be the greater of the MAR, as reset from time to time, or eight percent of gross revenues at JFK and LGA, with the excess over the MAR to be payable the following March. Beginning in 2007, the MAR would be reset every five years to equal ten percent of the average gross revenues at JFK and LGA for the previous five years, but in no event would the MAR be less than the previous year's MAR. Gross revenues would not include federal grants or monies received as a result of any federal statute, regulation or policy, such as Passenger Facility Charges and amounts used for airport security.

#### Other Terms –

- The amended City Lease would include provisions for default and termination in the event the Port Authority failed to make any payments due under the lease or to provide the City with full information with respect to airport operations, finances and performance standards. The amended City Lease would also include provisions that the parties believe are appropriate in order to resolve outstanding operational issues.
- The ongoing arbitration under the existing lease would be terminated. If, however, the City is required to repay the lump-sum payment(s), the City would have the right to reinstate the arbitration, and to treat that event as a nonpayment of rent and seek termination of the amended City Lease (although the Port Authority may cure the default by offering to settle the arbitration for the amount that the City was required to repay).
- The City also would have the right to terminate the amended City Lease if the Port Authority's obligation to pay rent is held to be invalid or unenforceable, but only if the Port Authority is in fact actually not paying rent or equivalent consideration to the City. In the event that the lease is terminated, the parties are to use all commercially reasonable efforts to negotiate a substitute lease with respect to JFK and LGA.
- The City would have the right to assign the rent under the amended City Lease to a third party, and the assignee would have the right to sue the Port Authority directly in the event of nonpayment of rent, but would not have the right to terminate the amended City Lease.
- The amended City Lease would contain new or revised provisions related to certain portions of the demised premises (and previously surrendered parcels), indemnification provisions, insurance coverage details, and other issues.

IDA Financing – The New York City Industrial Development Agency and other City agencies would be precluded from financing any projects at JFK or LGA during the term of the amended City Lease, except for projects already authorized.

Airport Board – In connection with airport governance, an Airport Board, composed of an equal number of Port Authority and City (appointed by the Mayor) representatives, is to review operations and performance at JFK and LGA on a quarterly basis. Funding for the Airport Board and for a designated City agency providing airport liaison functions is to be provided from the rent payments. In addition, the Port Authority and the City would establish financial and performance standards (which could be supplemented from time to time by the Airport Board) to be used in the review of airport operations. The Airport Board would retain independent consultants for this purpose, and the Port Authority and the City would each provide up to

\$250,000 annually for these consultants (with the City's share to be deducted from the rent payable under the amended City Lease).

Queens Capital Projects – In the years 2004-2008, the Port Authority would provide a total of \$100 million to fund projects in the Borough of Queens identified by the City and which qualify as being eligible for Port Authority capital expenditures.

Direct Rail Access – The Port Authority would continue to include in its updated Capital Plan a \$30 million project to study the feasibility, with respect to engineering, operational and financial considerations, of extending the Port Authority Trans-Hudson rail system from its terminus at Newark Penn Station to Newark Liberty International Airport (EWR PATH Extension). If, based on this study, the Port Authority determines that the EWR PATH Extension is feasible, it would include funding for this project in its Capital Plan. (Based on preliminary estimates, the EWR PATH Extension would cost at least \$500 million.) In consultation with the City, the Port Authority also would study the feasibility, with respect to engineering, operational and financial considerations, of establishing a direct rail service connection between JFK and Downtown Manhattan (JFK-Downtown Rail Line), and include in its updated 2004-2008 Capital Plan a \$60 million project for this study. If, based on this study, the Port Authority determines that the JFK-Downtown Rail Line is feasible, the Port Authority would include funding for this project in its Capital Plan in an amount equal to the preliminary \$500 million cost estimate for the EWR PATH Extension, or the amount of funding actually provided for that project, whichever is less. Construction of the JFK-Downtown Rail Line would not commence until full funding has been arranged.

A number of “side letters or agreements” would be entered into in connection with the amended City Lease, covering the Airport Board (with the performance standards as an attachment), the Queens capital projects, direct rail access, and the prohibition on City agency financing, all substantially as described above.

The amended City Lease is expected to be executed by the City and the Port Authority sometime in October 2004 and, accordingly, the effective term of the MOU would have to be extended through October 31, 2004, beyond its current expiration date of September 30, 2004.

### **New PILOT Agreement**

Pursuant to the 1962 bi-state legislation that authorized the Port Authority to establish, develop and operate The World Trade Center and the Port Authority Trans-Hudson rail system (the WTC Legislation), both the Port Authority and Port Authority Trans-Hudson Corporation (PATH) entered into agreements relating to PILOT amounts with respect to the portions of the WTC Site each occupied. The PATH PILOT Agreement and the Port Authority PILOT Agreement (as modified) collectively provide for a minimum annual payment to the City equal to \$1,708,624.03, and for an additional payment with respect to portions of the WTC leased for hotel and retail purposes and for “office use by private persons engaged in carrying on, within the World Trade Center, a profession or trade or business for profit.” For the City's property tax year 2001-2002, this additional payment, based on the calculations in the PILOT Agreements and the fully-leased status of the WTC amounted to approximately \$28 million after all applicable credits and adjustments. However, as a result of the destruction of the WTC in

September 2001, beginning in the City's property tax year 2002-2003, there are no rentable areas within the WTC buildings, structures, or improvements that are occupied by private tenants, as defined, and the only PILOT amount currently being paid under these Agreements and the WTC Legislation is the minimum payment specified above.

To accommodate the legitimate interests of the City and the Port Authority regarding the redevelopment of the WTC Site, and to provide for PILOT amounts during the period of and following the reconstruction of the WTC PATH Terminal and the other buildings, structures, and improvements comprising the WTC Site, the City and the Port Authority would enter into a new agreement (the New PILOT Agreement). Replacing the existing agreements, the New PILOT Agreement would provide for payments to replace those currently being made by PATH and the Port Authority and for annual payments with respect to all additional properties to which the Port Authority acquires title and which become part of the WTC Site. This specifically includes the City's consent to the inclusion of properties located south of Liberty Street (the Southern Site) within the WTC Site should the Port Authority acquire title to these properties, identified as the land and building at 130 Liberty Street owned by Deutsche Bank Trust Company Americas, land owned by the Hellenic Orthodox Church, and land owned by 140 Liberty Street Associates.

The terms of the New PILOT Agreement would provide that, commencing January 1, 2004, the Port Authority would pay to the City an annual PILOT for the WTC Site equal to twelve percent of all rent payments or payments in lieu of rent received by the Port Authority from the lessees (the Net Lessees) under the lease agreements entered into by the Port Authority, dated as of July 16, 2001 (Net Leases), pertaining to certain components of the WTC, including the proceeds of business interruption or rent insurance from policies procured and maintained by the Net Lessees, which proceeds are paid over to the Port Authority on account of the Net Lessees' rental obligations under the Net Leases, but excluding: (1) any payments on account of taxes or payments in lieu thereof made by the Net Lessees to the Port Authority which are paid by the Net Lessees to the Port Authority and paid over by the Port Authority to the City; (2) pass-through reimbursements, such as business improvement district payments paid by the Net Lessees to the Port Authority; (3) payments for services or utilities furnished by the Port Authority to the Net Lessees or to any space leased to tenants of the Net Lessees pursuant to the Net Leases including, without limitation, common-area charges; and (4) inspection, permit plan review and other application fees paid by the Net Lessees to the Port Authority.

In addition to the minimum annual PILOT amount, the Port Authority would pay the City on account of the WTC Site an annual payment equal to the excess over the minimum annual PILOT payment of an amount obtained by multiplying \$55,000,000 (Base Amount) by an "Escalator," which represents the percentage change over the base year (July 2002-June 2003) in the tax rate for Manhattan commercial office properties and the assessed valuation of a benchmark group of Class A office buildings to be mutually agreed upon by the Port Authority and the City, and multiplying that product by the ratio of the amount of commercial space built at the WTC Site to the total amount of commercial space planned under the WTC Site Master Plan (11.4 million gross square feet). This calculation includes PILOT amounts for the site of the 7 WTC building. The payments to be made would be net of all credits against PILOT payments that the Port Authority has become entitled to as a result of previous agreements with the City.

Upon the inclusion of any of the Southern Site properties in the WTC Site, the Port Authority would pay the City a PILOT amount equal to the full amount of real estate taxes that would have been assessed on the land comprising such site if the land were not owned by the Port Authority. In addition to this land payment, during the 15-year period following the commencement of construction on any such site, the Port Authority would pay to the City in connection with each site as to which there is office, retail, or hotel space available for use for the purposes intended, and which (1) are occupied, whether by private parties or by government agencies, including the federal government and the Port Authority, (2) are under lease to any such party, or (3) have been constructed and which, by installation of tenant improvements, may be made ready for occupancy (Actual Additional World Trade Center Properties Space Available), an amount equal to the product obtained by multiplying Nine Dollars by the number of square feet of Actual Additional World Trade Center Properties Space Available for use for the purposes intended, such amount to be adjusted each year by application to such amount of the Escalator established for the original WTC Site for such year.

Under the New PILOT Agreement, the Port Authority would not make any payments on account of land devoted to public park purposes or established as a public open space. The City would be permitted to securitize the payments due from the Port Authority under the agreement, and the Port Authority would not be permitted any right of setoff or counterclaim against such payments. As long as the Port Authority retains title to the WTC Site, the City would cancel or otherwise satisfy and discharge of record all taxes, assessments and interest against the properties currently constituting part of the WTC Site, including the 7 WTC building, properties occupied by PATH, and all improvements to be constructed on the site, and would mark said properties as exempt on its tax records.

The execution of the New PILOT Agreement would not affect the obligations of the Net Lessees under the Net Leases to pay to the Port Authority a portion of the PILOT amounts that the Port Authority is required to pay to the City. Such payments would continue to be made to the Port Authority based on the terms of the Port Authority's PILOT Agreement.

Upon execution of the New PILOT Agreement, all pending arbitration proceedings and litigation concerning the PILOT Agreements would be discontinued with prejudice, without costs to either party.

### **Modification of Street Closing Agreement**

In order to accommodate the construction and development of the WTC, the Port Authority and the City entered into the Street Closing Agreement relating to changes in the City's street system and to the transfer of title land adjacent to and within the WTC Site. At that time, the Port Authority was given title to sub-surface areas (land below a plane 1.35 feet below curb grade) within the WTC's slurry wall, which include portions of Vesey, West and Liberty Streets. At grade, the WTC property line was fixed as the northerly face of buildings abutting Vesey Street, the easterly face of buildings abutting Church Street, the southerly face of buildings abutting Liberty Street and the westerly face of buildings abutting West Street. The Street Closing Agreement required the Port Authority to convey to the City title to all of the land

outside of this property line, which originally was acquired by the Port Authority via condemnation, including the sidewalks and the former street beds. In return, the City was to convey to the Port Authority title to: (1) the portion of Greenwich Street between Barclay Street and Vesey Street within the site of the 7 WTC building, (2) the portion of Greenwich Street between Vesey Street and Liberty Street within the WTC Site, and (3) the portions of Fulton, Dey and Cortlandt Streets between Greenwich and Church Streets within the WTC site. As of this date, the City retains legal title to these former streets, although they have been de-mapped.

The implementation of the WTC Site Master Plan adopted following the destruction of the WTC requires modification to accommodate the redevelopment process for the WTC Site and resolve all property issues related to the present or former streets at the WTC Site. Pursuant to the terms of the WTC Redevelopment Agreement, the City would own the at-grade areas of all streets and sidewalks within the WTC Site and such below-grade areas immediately below the surface of such streets and sidewalks as shall lie above a designated lower-limiting plane. The Port Authority would own all other areas within the WTC Site, including all areas lying below the designated limiting plane. The City would be responsible for maintenance of the City-owned areas of the streets and the sidewalks within the WTC Site. The parties would retain for themselves, and grant to each other, all necessary and appropriate easements for infrastructure, utility and other services. The streets and sidewalks within the WTC Site would be designed and constructed by the Port Authority in accordance with City standards, subject to a mutually agreed-upon security plan that would supersede any existing Memoranda of Understanding between the City and the Port Authority addressing security issues, and the City would operate, manage and maintain the sidewalks and the streets, including traffic patterns and flows, subject to the security plan. Except for streets and sidewalks, the Port Authority would have overall management responsibility for the WTC Site. The City and the Port Authority would mutually agree on all issues relating to curb usage, and the City would consult with the Port Authority on any decisions that would permanently and materially affect vehicular and pedestrian traffic in and through the WTC Site. The Port Authority would develop Design Guidelines consistent with the General Project Plan (GPP) approved by the Lower Manhattan Development Corporation (LMDC). The Design Guidelines would be adopted by LMDC and the Board of Commissioners, with input from involved and interested parties, including the City and the Net Lessees. It is contemplated that the Port Authority would agree with LMDC that the adoption, implementation and modification of all such Design Guidelines would be subject to the agreement of LMDC or any successor. The Port Authority and the City would consult with each other regarding all other major aspects of the WTC redevelopment plan, including phasing, infrastructure development and material funding issues.

Expanding upon a policy adopted by the Board on April 15, 1993, the Port Authority would agree to comply with all applicable Building Code requirements of the City (the Building Code) for all construction work to be performed at the WTC Site, with the exception of certain portions of the permanent WTC PATH Terminal which will comply with the National Fire Protection Association codes. Any proposed variances from the Building Code would require the prior consent of the City Department of Buildings (DOB). Neither the Port Authority nor its lessees and sublessees would be required to obtain any building permits or certificates of occupancy from the City in connection with any construction at the WTC Site. The DOB would

have the right to inspect the WTC Site at any time to determine compliance with the Building Code.

The final terms of the WTC Redevelopment Agreement would be subject to review by the Board's WTC Site Planning Sub-committee.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Blakeman, Chasanoff, Coscia, Gargano, Genova, Pocino, Sartor, Silverman, Sinagra 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 an "Amended and Restated Agreement of Lease of the Municipal Air Terminals" with the City of New York (the City), covering John F. Kennedy International (JFK) and LaGuardia (LGA) Airports, together with such related and ancillary agreements with the City or others as may be deemed necessary or appropriate, and to extend the Memorandum of Understanding between the Port Authority and the City, dated January 16, 2004 (with respect to JFK and LGA and World Trade Center (WTC) payments in lieu of taxes (PILOT) through October 31, 2004, substantially in accordance with the terms and conditions 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 enter into agreements with the City to resolve all property issues related to the present or former streets at the WTC Site and relating to PILOT amounts during the period of and following the reconstruction of the Port Authority Trans-Hudson system permanent World Trade Center Terminal (known as the WTC Transportation Hub) and the other buildings, structures, and improvements comprising the WTC Site, substantially in accordance with the terms and conditions outlined to the Board; and it is further

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

AGREEMENT BETWEEN THE CITY OF NEW YORK AND THE PORT  
AUTHORITY OF NEW YORK AND NEW JERSEY

EXHIBIT B

FORM OF PROJECT LETTER REQUEST

Dear \_\_\_\_\_:

As provided for in Section B of this Agreement between The City of New York (the "City") and The Port Authority of New York and New Jersey (the "Port Authority") made as of \_\_\_\_\_, 2004 (the "Agreement"), the City, at the request of the Mayor of the City, hereby asks that the Port Authority concur in the addition of the project described below as an eligible Project under the Agreement:

[DESCRIPTION OF PROJECT – SHOULD INCLUDE AMOUNT ESTIMATED TO BE PROVIDED FOR THE PROJECT, THE IDENTITY OF THE ENTITY RECEIVING FUNDS FOR THE PROJECT, AND INFORMATION NECESSARY FOR THE PORT AUTHORITY TO DETERMINE WHETHER IT QUALIFIES FOR PORT AUTHORITY CAPITAL EXPENDITURES]

The City understands and agrees that all the provisions of the Agreement shall apply to the inclusion of the above-described project as an eligible Project under the Agreement and all references in the Agreement to "Project" or "Projects" shall be deemed to include the above-described project.

Sincerely,

\_\_\_\_\_  
[Deputy Mayor]  
The City of New York

CONCURRED:

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

Date:

By: \_\_\_\_\_  
Executive Director

APPENDIX C

(see attached)

## DIRECT RAIL AGREEMENT

THIS DIRECT RAIL AGREEMENT (this "Agreement") is made as of the \_\_\_\_ day of November 2004, by and between THE CITY OF NEW YORK, a municipal corporation of the State of New York with its principal office at City Hall, in the Borough of Manhattan, City of New York (the "City") and THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic, created by compact between the States of New York and New Jersey with the consent of Congress with its offices at 225 Park Avenue South, Borough of Manhattan, City of New York (the "Port Authority").

### RECITALS

WHEREAS, the City, as landlord, and the Port Authority, as tenant, entered into that certain Amended and Restated Agreement of Lease of the Municipal Air Terminals (the "Lease Agreement") of even date herewith whereby among other things, the City has leased John F. Kennedy International Airport and LaGuardia Airport to the Port Authority;

WHEREAS, the City and the Port Authority recognize the importance of direct rail access ("One-Seat Ride Access") to the region's largest airports in order to ensure the future economic vitality of Lower Manhattan, have agreed to a procedural framework for the study and funding of such links; and

WHEREAS, the City and the Port Authority are committed to such studies and wish to set forth certain procedures to ensure the Port Authority will provide funding for One-Seat Ride access from Lower Manhattan to John F. Kennedy International Airport and Newark Liberty International Airport.

### TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Port Authority hereby mutually undertake, promise and agree, each for itself and its successors as follows:

1. **Definitions.** All terms used herein not otherwise defined herein shall have the meanings given to them in the Lease Agreement.

2. **One-Seat Ride Access to Newark Liberty International Airport.** The Port Authority will continue to include in its 2004-2008 capital plan a \$30 million project to study the engineering, operational, and financial feasibility of extending the PATH rail from Newark Penn Station to Newark Liberty International Airport. If, based on this

study, the Port Authority determines that this extension is feasible from an engineering, operational and financial standpoint, then the Port Authority will include funding for this project in its future capital plans. Based on preliminary estimates, this project is expected to cost at least \$500 million. Construction of this project will not commence until full funding has been arranged.

**3. One-Seat Ride Access to John F. Kennedy International Airport.** The Port Authority will continue to include in its 2004-2008 capital plan a \$60 million project to study, the engineering, operational, and financial feasibility of providing One-Seat Ride Access to Lower Manhattan from John F. Kennedy International Airport. If, based on this study, the Port Authority determines that this connection is feasible from an engineering, operational, and financial standpoint, then the Port Authority will include funding for this project in its future capital plans in an amount equal to the preliminary estimate of \$500 million for the Newark Liberty International Airport extension, or the funding actually provided for the Newark Liberty International Airport extension, whichever is greater. Construction of this project will not commence until full funding has been arranged.

**4. Survival.** The provisions of this Agreement shall survive the expiration or sooner termination of the Lease Agreement.

**5. Miscellaneous.** This Agreement: (i) may not be modified except in a writing signed by both of the parties hereto; (ii) may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document; (iii) shall be construed in accordance with and governed by the internal laws of the State of New York, without regard to principles of conflicts of law; (iv) shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective successors and assigns but shall not be enforceable by any person, firm, corporation or other entity that is not a signatory to this letter agreement; and (v) shall become effective when one or more counterparts have been signed by each of the parties hereto and delivered to each of the other parties hereto.

*[No further Text on this Page.]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by the duly authorized officers thereof as of the date first written above.

THE CITY OF NEW YORK

---

Daniel L. Doctoroff  
Deputy Mayor for Economic Development  
and Rebuilding

Approved as to form:

---

Acting Corporation Counsel

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

---

Kenneth J. Ringler, Jr.  
Executive Director

Approved as to form:

---

APPENDIX D

AMERICAN INSTITUTE OF CERTIFIED  
PUBLIC ACCOUNTANTS

----- x

In the Matter of the Arbitration Between

THE CITY OF NEW YORK,

**STIPULATION**

-and-

THE PORT AUTHORITY OF NEW YORK AND  
NEW JERSEY.

----- x

Whereas The City of New York ("City") and The Port Authority of New York and New Jersey ("Port") are executing simultaneously herewith an Amended and Restated Agreement of Lease of the Municipal Air Terminals of even date herewith (the "Amended Lease"),

IT IS HEREBY STIPULATED AND AGREED, by and between the parties, represented by the undersigned attorneys, that the above-captioned arbitration, commenced with a Demand for Arbitration dated December 14, 1995 (the "airport arbitration"), is hereby discontinued with prejudice and without costs, subject to the following terms and conditions:

1. In the event that:

(a) the City is required, at any time hereafter, to repay or forfeit the Lump Sum Payment (as said term is defined in the Amended Lease) or any portion thereof; and  
further

(b) the Port shall not have lawfully and validly paid to the City, within two years from the date of such repayment or forfeiture, an amount equal to so much of the Lump Sum Payment as had been repaid or forfeited, plus interest accruing at the Interest Rate (as said term is defined in the Amended Lease) from the date such amount was repaid or forfeited,

then at the City's option, the City may reinstate the airport arbitration, in which event, the parties' respective positions, claims and defenses in the airport arbitration shall be fully restored to the *status quo ante* as of immediately prior to the execution of this stipulation. Further, the Port acknowledges and agrees that in the event the airport arbitration is so reinstated, the passage of time between the execution of this stipulation and such reinstatement shall not be the basis of any barring defense, including without limitation, based on statute of limitations, *laches* or *estoppel*. In any such reinstated airport arbitration, the total liquidated amount, inclusive of interest, that the City will be entitled to recover from the Port, irrespective of the amount that may be awarded therein to the City, shall be limited to Five Hundred Million Dollars (\$500,000,000); and neither party shall recover costs from the other.

2. The rights and remedies set forth in paragraph 1 above shall be in addition to, and not in substitution of, the City's rights and remedies pursuant to the Amended Lease, including without limitation, the right to terminate the Amended Lease and to exercise all other rights and

remedies provided in Section 25 thereof (entitled "Events of Default: Rights and Remedies").

3. The terms and conditions of this stipulation shall survive the expiration or sooner termination of the Amended Lease.

Dated: New York, New York  
November 24, 2004

MICHAEL A. CARDOZO  
Corporation Counsel of the  
City of New York  
100 Church Street  
New York, NY 10007

MILTON H. PACHTER  
General Attorney for the Port Authority  
of New York and New Jersey  
225 Park Avenue South  
New York, NY 10003

By: \_\_\_\_\_  
Nancy F. Brodie  
Assistant Corporation Counsel

By: \_\_\_\_\_  
Walter M. Frank  
Chief, Commercial Litigation

**THIS AIRPORT BOARD AGREEMENT** (this "Agreement") is made as of the 24<sup>th</sup> day of November 2004, by and between THE CITY OF NEW YORK, a municipal corporation of the State of New York with its principal office at City Hall, in the Borough of Manhattan, City of New York (the "City") and THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic, created by compact between the States of New York and New Jersey with the consent of Congress with its offices at 225 Park Avenue South, Borough of Manhattan, City of New York (the "Port Authority").

## RECITALS

WHEREAS, the City, as landlord, and the Port Authority, as tenant, entered into that certain Amended and Restated Agreement of Lease of the New York Airports (the "Lease Agreement"), of even date herewith, whereby among other things, the City leased John F. Kennedy International Airport ("JFK") and LaGuardia Airport ("LaGuardia") to the Port Authority (JFK and LaGuardia are sometimes referred to herein collectively as the "New York Airports"); and

WHEREAS, in accordance with Section 15 of the Lease Agreement, the City and the Port Authority desire to establish a board (the "Airport Board") for the purposes of enhancing cooperation between the City and the Port Authority with respect to the management of JFK and LaGuardia and improving oversight of performance, operations and finances at the New York Airports.

## TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises contained herein and in the Lease Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Port Authority hereby mutually undertake, promise and agree, each for itself and its successors as follows:

1. **Definitions.** All terms used herein not otherwise defined herein shall have the meanings given to them in the Lease Agreement.

2. **Airport Board Governance.**

a. Effective as of the date hereof, the Airport Board is hereby established and shall continue in existence until the expiration or sooner termination of the Lease Agreement, at which time this Agreement shall also terminate, and the parties shall have no further rights or obligations hereunder except those that may have accrued prior to such termination.

b. The Airport Board shall, at all times, be comprised of eight (8) members (each, a "Board Member"), half of which Members shall be appointed by the Port Authority (each, a "Port Authority Member") and half of which Members shall be appointed by the City (each, a "City Member").

c. The Port Authority Members shall be (i) the Port Authority's Chief Operating Officer, (ii) the Port Authority's Director of Aviation and (iii) the General Manager of each New York Airport and, in each case, their respective successors in duties, as applicable.

d. The City Members shall be appointed by the Mayor of The City of New York (the "Mayor"). Each of the City Members may be removed, either with or without cause, at any time, by the Mayor. Simultaneously with the removal of a City Member, the Mayor shall appoint a successor Member.

e. Within three (3) months following the execution of this Agreement, the Board Members shall convene and establish procedures to be followed by the Airport Board for the purpose of carrying out the intent of this Agreement, which shall include, without limitation, procedures concerning (i) the scheduling of meetings by the Airport Board on a quarterly basis and the all other meetings that the Board Members are required to attend pursuant to the terms of this Agreement, (ii) the procedures to be followed at each meeting of the Airport Board, (iii) the retaining of consultants, (iv) the preparation of recommendations to be issued by the Airport Board in accordance with this Agreement and (v) the establishment of accounting procedures with respect to the funds received by the Airport Board pursuant to Section 3 of this Agreement.

f. Meetings of the Airport Board shall be held at either of the New York Airports or at such other locations as the Board Members may determine.

**3. Consultants.** The Airport Board may retain consultants to review and report on the operations and performance of the New York Airports, and the Port Authority and the City shall each fund an equal amount of up to \$250,000 each annually for the payment of the fees and expenses of such consultants. The contracts with such consultants shall be entered into by the City or EDC on behalf of the Airport Board and in accordance with its authorization. Within thirty (30) days of its receipt from the City or EDC of an invoice for services rendered, the Port Authority shall remit to the City or EDC as the case may be the Port Authority's one-half (1/2) share of the invoiced amount, in accordance with the direction referred to in the Lease Agreement. As provided in the Lease Agreement, the City's one-half (1/2) share of the invoiced amount may, at the City's direction, be deducted from Base Rent thereunder and paid by the Port Authority on the City's behalf or EDC in accordance with the direction referred to in the Lease Agreement.

#### **4. Responsibilities of Airport Board.**

a. Establishment of Performance Standards. The City and the Port Authority have established certain financial, operational, and performance standards set forth in Exhibit A attached hereto (such standards, as the same may be updated or revised in writing, from time to time, by the Port Authority and the City pursuant to the terms of the Lease Agreement, are hereinafter referred to collectively as the "Performance Standards"), which Performance Standards may be used by the Airport Board, with the assistance of its independent consultants, in connection with the Airport Board's review of the performance of the New York Airports.

b. Review of Performance of New York Airports. Within thirty (30) days prior to each quarterly meeting of the Airport Board, the Port Authority will produce and deliver

to the Airport Board a report (each, a "Performance Standard Report") detailing the performance at each of the New York Airports in relation to the Performance Standards during the immediately preceding calendar quarter. The report and subsequent review by the Airport Board shall include the following areas for examination:

- (i) Financial performance;
- (ii) Passenger Service (landside); and
- (iii) Operational Service (airside).

In the event that a Performance Standard Report indicates a decline in performance in any of the above areas when compared to the immediately preceding Performance Standard Report, the Airport Board may prepare and submit to the Port Authority or the City recommendations on ways to improve such performance.

c. Review of City Service Agreements. At each quarterly meeting of the Airport Board, any City Member or Port Authority Member may make recommendations relating to the services provided by the City to the New York Airports. The Airport Board shall consider each of such recommendations and make recommendations to the City and the Port Authority as to whether and to what extent agreements should be entered into between the City (or one or more of its agencies) and the Port Authority in connection with the provision of such services.

d. Review of Capital Plan of the New York Airports. Within ninety (90) days after the commencement of each fiscal year of the Port Authority, the Port Authority shall deliver to the Airport Board a true, accurate and complete copy of its then current five (5) year capital plan with respect to the New York Airports (each, a "Five Year Plan"). The Airport Board shall have the right to review each Five Year Plan (for information purposes only), and request additional documents, drawings and materials concerning capital improvements. The Port Authority shall not unreasonably withhold additional materials requested by the Airport Board in connection with its review of a Five Year Plan.

e. Traffic and Transportation Management. The Airport Board will meet quarterly with the Port Authority Police Chief and the NYC Taxi and Limousine Commissioner, or their designees, to review taxi and hired car operations at the New York Airports. The Airport Board is empowered to make recommendations pertaining to improved and more efficient traffic management at the New York Airports.

f. Liaison with Subtenants at the New York Airports. The Airport Board may meet periodically with representatives of the Subtenants and other interested parties at JFK and LaGuardia to review concerns and shall relay such concerns to the City and the Port Authority.

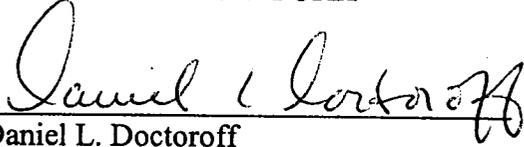
5. **Miscellaneous.** This Agreement: (i) may not be modified except by a writing signed by both of the parties hereto; (ii) may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same

document; (iii) shall be construed in accordance with and governed by the internal laws of the State of New York, without regard to principles of conflicts of law; (iv) shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective successors and assigns but shall not be enforceable by any person, firm, corporation or other entity that is not a signatory to this Agreement; and (v) shall become effective when one or more counterparts have been signed by each of the parties hereto and delivered to each of the other parties hereto.

*[No further Text on this Page.]*

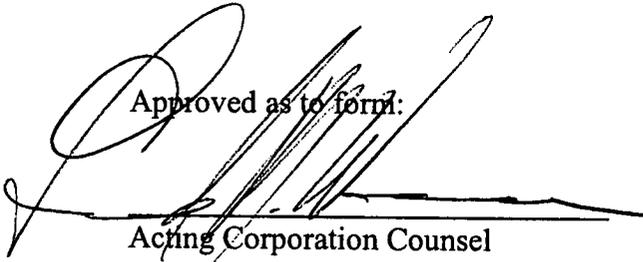
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by the duly authorized officers thereof as of the date first written above.

THE CITY OF NEW YORK



Daniel L. Doctoroff  
Deputy Mayor for Economic Development  
and Rebuilding

Approved as to form:



Acting Corporation Counsel

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

\_\_\_\_\_  
Kenneth J. Ringler, Jr.  
Executive Director

Approved as to form:

\_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by the duly authorized officers thereof as of the date first written above.

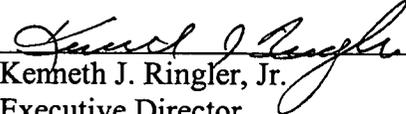
THE CITY OF NEW YORK

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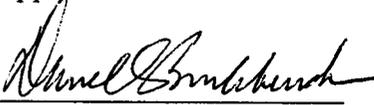
Approved as to form:

\_\_\_\_\_  
Acting Corporation Counsel

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

  
\_\_\_\_\_  
Kenneth J. Ringler, Jr.  
Executive Director

Approved as to form:

  
\_\_\_\_\_  
Darrell Buchbinder  
General Counsel

**EXHIBIT A**  
**Performance Standards**

**(AIRPORT BOARD AGREEMENT)  
EXHIBIT A**

**AIRPORT PERFORMANCE AND SERVICE STANDARDS**

John F. Kennedy International (“JFK”) and LaGuardia Airports (together the “New York Airports”) serve as both gateways to and economic engines for New York City, the Port Authority of New York and New Jersey and the City of New York recognize that, in accordance with the Lease Agreement, the Port Authority and the City intend that the New York Airports shall be operated and developed as first class facilities that meet the air travel and cargo demands of the City of New York and the surrounding metropolitan region.

To that end, the existence of vigorous measures of quality coupled with effective implementation policies are fundamental both to furthering the reasonable interests of all users of the New York Airports and to ensuring that the airports deliver the types of service at levels of quality that are in the public benefit.

On a quarterly basis the Port Authority will deliver to the City and the Airport Board both Landside and Airside Performance Indicators as set forth below. These Performance Indicators have been selected specifically to measure the New York Airports’ **(1) Market Share, (2) Passenger Service, (3) Cargo Service, (4) Operations, (5) Capital Spending, (6) Quality of Service, and (7) Community Relations**. These Indicator measurements will be provided to the City and Airport Board both graphically and textually. Recognizing that there is a lag in the receipt of certain data requested, the Port Authority will report the most current data available and it is acknowledged that the timeframe covered for each measure may vary.

The Indicator Measurements to be provided by the Port Authority are as follows:

**1. Market Share:**

**a) Passenger Volume**

The Port Authority will provide, on a quarterly basis, rolling 12-month passenger volume for the New York Airports. The volume will be broken out by airport and by month. The Port Authority will provide comparable passenger volume data for the previous 12 months, including the annual percentage increase or decrease, and for the New York Airports’ peer airports: Chicago O’Hare (ORD), Miami (MIA), Newark Liberty (EWR), and Boston Logan (BOS), depending on availability.

**b) Passenger Rankings**

The Port Authority will provide, on a quarterly basis, the ranking of JFK’s international traffic relative to Newark Liberty (EWR), Chicago O’Hare (ORD), Miami (MIA), Philadelphia (PHL), Boston Logan (BOS), Atlanta Hartsfield-Jackson (ATL), and Washington Dulles (IAD) for the immediately preceding four quarters.

The Port Authority will provide, on a quarterly basis, the New York Airports' domestic traffic, relative to Newark Liberty (EWR), Philadelphia (PHL), Boston Logan (BOS), Washington National (DCA) and Washington Dulles (IAD) for the immediately preceding four quarters. Domestic traffic will be broken out by both LaGuardia and JFK.

**c) Cargo Rankings**

The Port Authority will provide, on a quarterly basis, the ranking of the New York Airports' total gross cargo tonnage throughput and total cargo value relative to Newark Liberty (EWR), Atlanta Hartsfield-Jackson (ATL), Philadelphia (PHL), Boston Logan (BOS) and Washington Dulles (IAD). The Port Authority will provide comparable rankings, including annual percentage increases or decreases for the preceding four quarters.

**2. Passenger Service:**

**a) JFK Non-Stop Destinations**

The Port Authority will provide, on a quarterly basis, a complete index of cities served non-stop from JFK. The data will be broken out into the following geographic categories: United States, Canada, Mexico, Central America, Caribbean, South America, Europe/Africa/Middle East, and Asia/Pacific.

The Port Authority will provide, on a quarterly basis, the total number of non-stop flights and total number of seats available on non-stop flights from JFK to cities in the following eight geographic regions: United States, Canada, Mexico, Central America, Caribbean, South America, Europe/Africa/Middle East, and Asia/Pacific. The Port Authority will provide comparable data for the previous 12 months, including annual percentage increase or decrease in the total number of non-stop flights and seats.

**b) LaGuardia Non-Stop Destinations**

The Port Authority will provide, on a quarterly basis, a complete index of non-stop destinations being served from LaGuardia Airport. The data will be broken out into the following geographic categories: Northeast, South, Midwest, West, and International.

The Port Authority will provide, on a quarterly basis, the total number of non-stop flights and of seats available on non-stop flights from LaGuardia to cities in the following geographic regions: Northeast, South, Midwest, West, and International. The Port Authority will provide comparable data for the previous 12 months, including annual percentage increase or decrease in the total number of non-stop flights and seats.

**c) Number of Scheduled Air Carriers**

The Port Authority will provide, on a quarterly basis, a complete index of scheduled air carriers (excluding affiliates), by quarter, serving JFK and LaGuardia Airports. This index shall include a brief description of geographic area(s) served for each carrier.

The Port Authority will provide a complete index of total new entrants, and geographic area(s) served, as compared to the same data for the immediately preceding fiscal year.

### **3. Cargo Service:**

#### **a) Total Gross Cargo Tonnage Throughput**

The Port Authority will provide, on a quarterly basis, the total gross cargo tonnage throughput at the New York Airports. The Port Authority will provide comparable data, showing percentage increase or decrease, for the preceding year.

#### **b) Total Gross Cargo Value**

The Port Authority will provide, on a quarterly basis, the total gross value of international air cargo throughput for the New York Customs District. The Port Authority will provide comparable data, showing percentage increase or decrease, for the preceding year. N.B. The data is supplied by the U.S. Bureau of Customs and Border Protection and is not broken down by airport, but rather by region, or U.S. Custom District. The New York Custom District includes Newark Liberty International Airport.

#### **c) Origins of New York Airports' Cargo Trade**

The Port Authority will provide, on a quarterly basis, a matrix outlining by volume, value and share the cargo arriving at the New York Airports from the following IATA-categorized regions: Asia, North America, Europe, Africa, Middle East, South America, Central America, Southwest Pacific.

#### **d) Destinations of New York Airports' Cargo Trade**

The Port Authority will provide, on a quarterly basis, a matrix outlining by volume, value and share the international air cargo exported from the New York Customs District to the following IATA-categorized regions: Asia, North America, Europe, Africa, Middle East, South America, Central America, Southwest Pacific.

#### **e) Commodities by Category**

The Port Authority will provide, on a quarterly basis, an index of the top five commodity categories, by volume, value and share, imported and exported via air from the New York Customs District.

#### **f) Cargo Trade by Carrier**

The Port Authority will provide, on a quarterly basis, an index outlining total volume and share of cargo traffic into the New York Airports by air carrier.

#### **g) Air Cargo Trends**

The Port Authority will provide, on an annual basis, a report outlining key trends in the air cargo industry and the Port Authority's planned response to these trends and recommendations on how the City can assist.

#### **h) Cargo Access**

The City will provide a status on the 10 Point Cargo Access Plan (**Attachment A**) and the planned response to administrative and capital funding issues.

#### **4. Operations:**

##### **a) Operations with Delay by Cause**

The Port Authority will provide, on a quarterly basis, data showing all operations, including delays, at the New York Airports, by airport. The cause of delays will be separated into four categories and reported by percentage. The four categories include: Weather, Volume, Construction, and Other.

##### **b) Incursions**

The Port Authority will provide, on a quarterly basis, information indicating the number of runway incursions that have occurred at the New York Airports, by airport, during the immediately preceding quarter. The runway incursion will be separated into the following categories: (1) unauthorized pedestrian, (2) vehicle, or (3) aircraft entering or failing to clear the runway safety area, interfering with an aircraft takeoff or landing.

##### **c) Landing Fees**

The Port Authority will provide, on an annual basis, a schedule of its landing fees at the New York Airports, by airport. The Port Authority will indicate percentage increases and decreases of landing fees compared to the preceding fiscal year.

#### **5. Capital Spending:**

a) The Port Authority will provide, within ninety (90) days after the approval of the Port Authority's annual budget by the Port Authority Board of Commissioners, a true, accurate and complete copy of its then current five (5) year capital plan with respect to the Municipal Air Terminals. For capital improvements the cost of which is in excess of \$50 million, the Port Authority will provide true and accurate complete plans for such projects.

b) The Port Authority will provide, on a quarterly basis, a detailed summary of its current year capital spending at the New York Airports, by airport. This summary will include a breakdown of spending by project.

c) The Port Authority will provide, on a quarterly basis, a summary and brief description of financing inducement resolutions adopted by the Port Authority for capital projects at the New York Airports during the previous quarter.

#### **6. Quality of Service:**

### **Passenger Service Monitor Program**

In the first quarter of the first year of the lease, the Port Authority shall present a proposed Passenger Service Monitor Program to the Airport Board for its consultation as to its scope, structure and methodology. The Passenger Service Monitor Program shall include surveys taken regularly, and in no event less than once per year, of a sample of passengers at the New York Airports for their opinions on the range of services provided by the Port Authority, its contractors and vendors. These surveys will be conducted by an independent third party and their scope must, at minimum, measure satisfaction levels for the following categories:

1. General Cleanliness of Public Areas
2. Signage/Wayfinding
3. Helpfulness and Courtesy of Airport Information Staff
4. Personal Safety in Terminal Buildings and on AirTrain system
5. Cost and Convenience of Airport Parking
6. Ground Transportation Availability
7. AirTrain Service

The Port Authority will provide the Airport Board with the results of its Passenger Service Monitor Program on no less than an annual basis. The presentation to the Airport Board will include all results indicating overall passenger satisfaction upon departure from and arrival at all terminals at JFK and LaGuardia Airports and within stations and trains of the AirTrain system. The Port Authority will also provide comparable survey results for the previous two years. The results will be broken out for each of the terminals at the two airports and for the AirTrain; these terminals are:

#### JFK:

- Terminal 1 (T1)
- Terminal 2 (T2)
- Terminal 3 (T3)
- Terminal 4 (T4)
- Terminal 6 (T6)
- Terminal 7 (T7)
- Terminal 8 (T8)
- Terminal 9 (T9)

#### LaGuardia:

- Delta Shuttle (DS)
- US Airways Terminal (USA)
- Delta Main (DM)
- Central Terminal Building (CTB)

In those attributes where passenger satisfaction levels have decreased from levels recorded the prior year, the Port Authority shall provide the Airport Board with a specific plan and timeline for remedy of the problem.

The Airport Board, with the majority approval and, at its own expense, may request an expanded scope, more frequent surveys and additional measurements. The Port Authority will retain all proprietary rights associated with the Passenger Service Monitor Program, however all results will be shared openly with both the City of New York and the Airport Board.

## **7. Community Outreach**

### **a) Aviation Development Council**

The Port Authority will provide the Airport Board, on an annual basis, a summary report of activities of the Aviation Development Council. This summary report will include a listing of all grants disbursed, and reports produced during the preceding fiscal year.

### **b) Queens Council on Airport Opportunity**

The Port Authority will provide the Airport Board, on an annual basis, a summary report of activities of the Queens Council on Airport Opportunity, including local hiring numbers at the New York Airports, during the preceding fiscal year.

### **c) Queens Air Services Development Office**

The Port Authority will provide the Airport Board, on an annual basis, a summary report of activities of the Queens Air Services Development Office. This report will include a summary of local procurement of goods and services at the New York Airports during the preceding fiscal year.

ATTACHMENT A  
JFK Cargo Access Issues

## **JFK CARGO ACCESS ISSUES**

### Context

#### **International Cargo**

The New York and New Jersey airports, which constitute the New York Customs District, were responsible for 23 percent of all commodities imported and 17 percent of all exports in the U.S. in 2003, for a total of 2.9 billion pounds of the U.S. internationally traded commodities. In total, these airports handle more than 2.6 million tons of cargo per year, generate 85,000 jobs and are responsible for \$10.9 billion in economic activity, including \$3.7 billion in annual wages. Pivotal to this level of activity are the more than 1,000 cargo companies, including airlines, cargo handlers, brokers, truckers and freight forwarders that call the New York and New Jersey airports home.

While these statistics indicate that the New York Customs district is the largest in the U.S., NY/NJ market share has been decreasing steadily over the years, even with the continuous investment made in air cargo facilities by the air cargo industry. Airis Corporation, a multi-tenant cargo facility developer, Continental Airlines, United Airlines and Korean Airlines have all made very recent investments in first class cargo handling facilities at JFK. Although New York is the largest consumer market in the country, these first class facilities need transshipment capability for the airport and the cargo community to maintain or grow its market share. This transshipment capability requires an efficient distribution network, which would permit goods arriving in the New York and New Jersey airports to reach not only the local consumer market, but also neighboring markets without international access.

#### **Total Cargo**

The three airports in the region, (LaGuardia, J. F. Kennedy International, and Newark Liberty International) handled 2.6 million short tons in 2003. The role of integrators such as Fed Ex and UPS has increased to 32.7 percent from 12 percent in 1987. These vertically integrated carriers rely heavily on surface fleets for door-to-door distribution, much of which is on a just-in-time basis. These fleets take the shape of vans and small trucks, all the way to tractor-trailer trucks. The traditional industry relies on matching multimodal alternatives to reach their ultimate markets and makes extensive use of larger trailer trucks.

Air cargo activity at NY/NJ airports is estimated to directly generate nearly 85,000 jobs, \$3.7 billion in wages and \$10.9 billion in economic activity. The economic health of the immediate area as well as the availability of products in the retail and manufacturing sectors, locally and regionally, depend on the free movement of goods.

#### **Access**

Both international and domestic air cargo require some type of transfer between different modes of transportation to reach their ultimate market. An efficient distribution network

requires multimodal alternatives and access. Air transportation does not exist in a vacuum; efficient and adequate roadway access is necessary for competitive air cargo service, which depends almost exclusively on truck transfers to move to and from airports.

Access to Kennedy International Airport is severely constrained by the failure to construct some of the highways originally approved to serve the airport, and by chronic traffic congestion affecting airport and non-airport-related traffic during peak travel hours. While this paper focuses on cargo access issues, the inadequacy of highway connections to JFK impedes access by passengers and employees alike. It also adversely affects other local commercial centers and residential neighborhoods in surrounding areas of Queens, Brooklyn, and Nassau County.

Compounding the problem for truckers trying to move to and from JFK and nearby businesses, many of the roadways serving or abutting the airport are parkways, or residential streets that do not permit commercial vehicular through traffic. Even on the interstate highway segments serving JFK, regulations unique to the city's arterial network limit permissible truck sizes.

Air cargo generated over 13,000 daily one-way trips on the roadways surrounding Kennedy Airport according to a 2002 traffic engineering survey. Of these trips, 10 percent were made by vehicles with more than 3 axles, 26 percent by single unit trucks and 25 percent by small trucks and vans.

For traffic and economic activity to continue to grow, access to the airport requires a systemic approach to improve the reliability of truck service by reducing congestion and addressing bottlenecks in the roadway network. Airport users, tenants, and nearby communities alike are poorly served by the combination of growing airport and non-airport traffic, on an inadequate highway network with trucking regulations that complicate efficient shipping and routing of cargo.

Travel demand forecasts point toward a worsening of congestion in the future, with significant congestion spreading to more hours of the day and affecting larger segments of the highways serving JFK. Even with continuing gains in transit ridership citywide and expansion of transit alternatives for airport passengers and employees, underlying growth trends are expected to translate into somewhat higher traffic volumes on NYC roadways.

With that in mind, transportation and economic development agencies have identified chronic roadway "bottleneck" locations, unrealized improvements, and regulatory impediments that, if addressed, could improve commercial vehicle access to the airport and ease traffic congestion on residential streets. Many causes contribute to the agencies' inability to date to effect these changes, ranging from historical opposition by some elected officials, concern over perceived community impacts, and a sense of complacency that JFK's cargo business could stay competitive despite substandard road access. Growing concern over the threat to the air-cargo employment centered on JFK provides an opening to build the necessary local support for implementing a balanced package of truck-access improvements.

## ACTION PLAN

### Near-Term Actions

- 1. Problem description: Current State law incorporates a City-requested restriction barring use of tractor-trailer combinations exceeding 53' from servicing locations in the five boroughs, or traversing the City except via a route using I-95, the Throgs Neck Bridge, and the Clearview Expressway to the LIE to access Nassau/Suffolk counties. Longer combinations are typical in the trucking industry and in wide use, notably for air-cargo operations. Use of these vehicles exposes operators to potential summonses.**
  - a. **Project:** Amend current regulation in order to allow 53-foot trailer trucks to access Kennedy Airport via the Van Wyck Expressway, pending anticipated reconsideration of this anomalous restriction on a broader basis as part of the new NYCDOT truck-route study and related regional goods-movement assessments.
    - i. Benefits:
      1. Facilitate access to the region's largest cargo gateway
      2. Reduce congestion by decreasing the use of smaller trucks operating the route
      3. Formalize the rule so that airport access by standard size trucks does not depend on informal no-ticketing stance taken by NYPD.
    - ii. Next steps: Work with FHWA Albany office, NYCDOT and NYSDOT officials to clarify or reform standing regulation and to allow the operation of 53-foot trailer trucks on the Van Wyck Expressway. City support is needed to effectuate this change.
- 2. Problem description: Short lead distance (half mile from actual merge) for sign advising northbound Van Wyck automobile traffic to keep right to access Grand Central Parkway contributes to roadway congestion derived from driver confusion.**
  - a. **Project:** Reposition signage on the northbound Van Wyck indicating automobile traffic should keep right to access the Grand Central Parkway, giving longer lead distance.
    - i. Benefits:
      1. Allow automobiles an earlier opportunity to merge right, minimizing last-minute lane changes and weaving.
      2. Reduce potential for accidents.
      3. Reduce emissions caused by traffic congestion.
    - ii. Next step: NYCDOT and NYSDOT approval for new sign placement may be needed. Signage will be installed.
- 3. Problem description: Inappropriate use of the service road by traffic that moves on-off the Van Wyck to jump ahead of congestion.**

- a. **Project:** Better manage on-off traffic flows on the VWE, thus preventing excessive lane weaving and decreasing congestion.
  - i. Benefits:
    1. Decrease traffic on the service roads.
    2. Improve traffic flow by decreasing unnecessary weaving.
    3. Reduce emissions caused by traffic congestion.
  - ii. Next step: Completion of AirTrain-related construction and overpass bridge improvements on VWE provides opportunity to consider measures for segment between Jamaica & JFK. More broadly, NYSDOT and NYCDOT would like to discuss its plans for the Van Wyck, including truck over-height detection, use of ITS technology and other measures with potential benefits.

**4. Problem description: Commercial truck and van traffic is permitted only in a limited number of parkways. This adds to traffic pressure on the VWE and Atlantic Avenue, the only through-truck-route on the street network in Brooklyn. It also forces more circuitous routing of many trucks traveling between Southern Queens/southern Brooklyn locations and points west and south of NYC accessible via the Verrazano Narrows Bridge. Permitting smaller vehicles on the Belt and the Cross Island parkways would create a supplemental – and for some cargo more direct – truck access to JFK and other commercial areas in southern Queens and Brooklyn.**

- a. **Project:** Provide access to the Belt Parkway and the Cross Island Parkway for commercial vans.
  - i. Benefits:
    1. Decrease commercial truck/van traffic mix on the VWE, and improve larger truck flow in that road.
    2. Improve airport access to Lower Manhattan, Verrazano-Narrows Bridge and New Jersey traffic.
  - ii. Next step: Opposition from communities bordering the Belt Parkway has impeded efforts to implement this change. Recent agreement to allow small-truck access on a short segment of the Grand Central Parkway, with local community support, could provide an analogous trial of the benefits and impacts of changing Belt Parkway access. Allowing vans on the Belt is among the strategies modeled in NYMTC's Regional Freight Plan project, and is under discussion in the ongoing NYMTC South Brooklyn Transportation Investment Study, where the community concern can be juxtaposed directly with the borough-wide impacts of inadequate truck access. This issue also will be prominent on the new NYCDOT truck-route study.

**5. Problem description: Atlantic Avenue is a major thoroughfare for commercial truck traffic bound for Kennedy Airport and parking rules are not enforced, with double parking and parking during no-parking periods delaying through traffic.**

- a. **Project:** Enforce peak period parking rules on Atlantic Avenue.
  - i. Benefits:
    - 1. Improve traffic flow on Atlantic Avenue and
    - 2. Provide alternate to Long Island Expressway and decrease commercial traffic spill over to Brooklyn residential streets.
  - ii. Next step: Bring the issue to City DOT and NYPD attention.

**6. Problem description: Traffic exiting the southbound Van Wyck to join the westbound Belt Parkway must cross three lanes of traffic on North Conduit. The weaving required causes back ups on the Van Wyck and high accident rates in the area. NYCDOT has implemented a signal timing change as a near-term measure to mitigate this problem.**

- a. **Project:** Complete the flyover connecting the Van Wyck southbound with the westbound Belt Parkway, approximately a \$ 30 M project.
  - i. Benefits:
    - 1. Reduce congestion on the southbound VWE and improve traffic flow
    - 2. Decrease occasions for accidents
    - 3. Reduce emissions caused by roadway congestion
    - 4. Improve overall traffic flow.
  - ii. Next step: Discuss Van Wyck improvement program with NYSDOT and determine if there are any interim measures to improve flow. The improvements planned for the Van Wyck are included in the NYSDOT design, but actual construction is planned for 2008, given the current structural work being conducted by the DOT.

**7. Problem Description: Several planned highway projects intended to ensure efficient vehicular access to JFK never were realized, resulting in the airport's over dependence on the Van Wyck Expressway as the primary connection to the interstate highway network, and the only truck-accessible highway to trucks traveling between the airport and points north, west and south. Growth in both regional and airport traffic severely burdens the VWE and connecting highways; forecasts point to worsening conditions during peak weekday and weekend travel hours in the years ahead. Air-cargo industry representatives indicate that the resultant delays and unreliability in transporting cargo to and from the airport its surrounding concentration of cargo facilities is undercutting their ability to retain JFK's share of cargo traffic.**

**Project:** Initiate a highway corridor study focusing on the Van Wyck Expressway and Clearview Expressway. Project future traffic demand based on forecasts for airport and area wide growth. Establish level-of-service criteria consistent with airport needs and analyze alternatives for improved airport access based on these criteria, including

operational improvements, demand management, capacity management strategies, and expanded roadway capacity.

i. Benefits:

1. Ensure efficient, reliable airport access to help retain concentration of air-cargo employment at and around JFK by maintaining competitive level of accessibility for long-distance cargo moves;
2. Improve mobility for all users of WVE corridor.
3. Improve mobility and air quality for communities bordering VWE by easing forecast congestion on Expressway
4. VWE and Clearview provide most direct access to interstate highway connections with the mainland US; adequate access to that network crucially supports JFK's gateway role and complements supplemental truck access improvements possible via Brooklyn and the Nassau Expressway

ii. Next Step: Review VWE corridor issues, including Clearview Expressway capabilities, with concerned City and State agencies, to lay groundwork for a comprehensive corridor study comparable to the recent Staten Island Expressway and Bronx Arterial Needs Study.

AGREEMENT BETWEEN THE CITY OF NEW YORK AND THE PORT AUTHORITY OF  
NEW YORK AND NEW JERSEY

THIS AGREEMENT, made as of the 24<sup>th</sup> day of November, 2004 between THE CITY OF NEW YORK, a municipal corporation of the State of New York having its principal office at City Hall, New York, New York 10007, hereinafter referred to as the "City," and THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States, having its principal office at 225 Park Avenue South, New York, New York 10003, hereinafter referred to as the "Port Authority";

WITNESSETH:

WHEREAS, the City and the Port Authority have entered into an Amended and Restated Agreement of Lease of the Municipal Air Terminals (the "Lease Agreement"), of even date herewith, whereby, among other things, the City has leased to the Port Authority John F. Kennedy International Airport and LaGuardia Airport (collectively, the "Municipal Air Terminals"); and

WHEREAS, the operation of the Municipal Air Terminals has a wide-ranging impact on the Borough of Queens in the City of New York ("Queens"); and

WHEREAS, the Board of Commissioners of the Port Authority, at its meeting of August 4, 2004, adopted a Resolution (attached hereto as Exhibit A), authorizing a program of capital expenditures in an aggregate amount not to exceed \$100 million for capital projects in Queens, to be designated by the Mayor of the City ("Mayor"); and

WHEREAS, the Board of Commissioners of the Port Authority also authorized the Executive Director of the Port Authority to enter into an agreement to effectuate the provision of funding for such projects, consistent with existing legislation and agreements with the holders of the Port Authority's obligations; and

WHEREAS, the total amount of funding to be provided by the Port Authority to the City under the terms of this Agreement shall be \$100 million (the "Funding Amount"), with no more than \$20 million to be provided in any single year during the five-year period commencing January 1, 2005, and ending December 31, 2009.

NOW, THEREFORE, the Port Authority and the City hereby agree as follows:

## SECTION A – PROJECTS

Each eligible project, as designated pursuant to Section B of this Agreement, shall be a “Project” under this Agreement; such projects are hereinafter collectively referred to in this Agreement as the “Projects.”

## SECTION B – IDENTIFICATION OF PROJECTS

The City may at any time and from time to time identify projects in the portion of the Port District located in the borough of Queens (which comprises the entire Borough of Queens) for funding under this Agreement pursuant to the authorization of the Board of Commissioners of the Port Authority. Such identification shall be made by the Mayor or his designee in the form of the Project Letter Request attached hereto as Exhibit B. No project for which a request is made by the City shall become a Project under this Agreement unless and until such request has been concurred with in writing by the Port Authority, as provided for in the Project Letter Request. In this regard, the City understands that the Projects to be eligible for funding under this Agreement must qualify as being eligible for Port Authority capital expenditures, which determination shall be made at the sole reasonable discretion of the Port Authority. The Port Authority agrees that it will concur with any proposed Project that is eligible for Port Authority capital expenditures, as determined in accordance with established Port Authority rules, policies and procedures.

Until further notice, each Project Letter Request shall be addressed to the Executive Director of the Port Authority at 225 Park Avenue South, 15<sup>th</sup> Floor, New York, New York 10003. The Port Authority shall respond to each Project Letter Request within 30 days of its receipt by the Port Authority. If the projects described in such request are not deemed eligible for funding under this Agreement, the Port Authority shall state the reasons therefore in its response, and the City may submit a substitute Project Letter Request for an alternative project.

## SECTION C – MANAGEMENT OF PROJECTS

Once the Port Authority has deemed a Project to be eligible, management of the Project shall be the responsibility of the City or, in the Mayor’s discretion, the New York City Economic Development Corporation (“EDC”). The City (or EDC, as the case may be) shall designate a Project Manager for each Project and inform the Port Authority of the name and address of such Project Manager.

## SECTION D – PAYMENTS BY THE PORT AUTHORITY

The Port Authority’s sole responsibility for Projects under this Agreement shall be to provide the Funding Amount to the City, with no more than \$20 million to be provided for work incurred in any single year during the five-year period, which will commence on January 1, 2005 and end on December 31, 2009. There shall be no reimbursement for any internal costs that may be incurred by the City and/or EDC in connection with any of the Projects.

The provision of funds by the Port Authority to the City in connection with the Projects shall take place as follows: Upon receipt of an invoice certified by the City that it represents the City's payment of costs incurred in connection with a Project, and after verifying the accuracy and appropriateness of the invoice, the Port Authority will reimburse the City for the amount of such invoice within 30 days of the Port Authority's receipt thereof; provided that, except as otherwise provided below, the Port Authority's payments to the City under this Agreement shall not exceed \$20 million in any single year during the five-year period in which the Port Authority is to provide funds to the City. The Port Authority's consent to reimburse the City or EDC after reviewing an invoice shall not be unreasonably withheld. When submitting each request for reimbursement to the Port Authority, the City shall designate whether it wishes the Port Authority to issue its reimbursement payment to the City or EDC. Notwithstanding anything to the contrary herein, if the amount of reimbursement sought by the City from the Port Authority exceeds \$20 million in any single year, then the excess amount shall be paid by the Port Authority in the next succeeding year in which the amount for which the City seeks reimbursement, including the excess amount from any previous year(s), does not exceed \$20 million; provided that, the total amount paid to the City and/or EDC by the Port Authority pursuant to this Agreement shall not exceed the Funding Amount. In the event that the amount of reimbursement sought by the City from the Port Authority is less than \$20 million in any single year, the amount remaining will be added to the amount eligible for reimbursement in the next succeeding year. Notwithstanding anything contrary contained herein, in the event that any portion of the Funding Amount has not been paid to the City and/or EDC prior to January 1, 2010, such unpaid portion of the Funding Amount will be paid to the City as reimbursement for the City's payment of costs incurred in connection with Projects in 2010 and/or succeeding calendar years, until the entire balance of the Funding Amount has been paid to the City and/or EDC in accordance with the terms of this Agreement. The City covenants that the City, EDC and all Project Managers designated by the City will employ their best efforts to ensure that work undertaken in connection with the Projects, and the submission of invoices to the Port Authority for reimbursement, is effectuated expeditiously.

If the Port Authority questions or disputes a charge or charges on an invoice for which payment was made by it, and it is determined through the dispute resolution procedures provided for in this Agreement that the City is required to reimburse the Port Authority for the disputed charge(s), the Port Authority will deduct such amount from its future reimbursement to the City, or the City will reimburse the Port Authority within 30 days of the City's receipt of notification of the resolution of the dispute.

#### SECTION E - REPORTING REQUIREMENTS

The City shall provide the Port Authority with quarterly reports with regard to the progress of the Projects. The form of such quarterly reports shall contain such information as the Port Authority may reasonably request.

## SECTION F – NO PORT AUTHORITY LIABILITY

The Port Authority shall have no responsibility of any kind for any agreement, contract or project utilizing funds provided under this Agreement. Without limiting the generality of the foregoing, the Port Authority shall have no responsibility for the design, effectuation, maintenance, ongoing operation or any other aspect (including all environmental matters) of the Projects or any contract entered into in connection with the Projects. Between the Port Authority and the City, the City hereby assumes the following risks, whether or not they arise from acts or omissions of the City: all risks of loss or damage to property or injury to or death of persons, and risks of other damages, to whomsoever occurring, arising out of or in any way connected with or related to any of the Projects, including, without limitation, the design, effectuation, maintenance, operation or any other aspect (including all environmental matters) of the Projects. The Port Authority shall have no responsibility for providing any monies for the Projects except as provided in this Agreement.

## SECTION G – INDEMNIFICATION OF THE PORT AUTHORITY

The City hereby agrees to indemnify and save harmless the Port Authority, its successors, Commissioners, officers, agents, and employees, and each of them, from and against claims, suits, and demands arising out of or in any way connected with or related to any of the Projects, (except any claims, assets and or demands resulting from any action or inaction on the part of the Port Authority other than the approval and/or funding by the Port Authority of Projects hereunder) including the costs of legal defense arising therefrom, for any loss or damage to property or injury to or death of persons, whether said claims, suits or demands are just or unjust, fraudulent or not, and irrespective of whether such risks are beyond the control of the City; provided there shall be no indemnification with respect to suits, claims or demands resulting from actions or inactions of the Port Authority unrelated to its approval of Projects as eligible for Port Authority capital expenditures and its provision of funding for Projects pursuant to the terms of this Agreement.

The City, in indemnifying the Port Authority, shall, if so requested by the Port Authority, defend against such claims at no cost and expense to the Port Authority, in which event the City shall not, without obtaining express advance written permission from General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the Port Authority, the immunity of the Port Authority, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority.

## SECTION H – GENERAL

1. By execution, delivery and performance of this Agreement, each party represents to the other that it has been duly authorized by all requisite action on the part of the Port Authority and the City, respectively. This Agreement constitutes the legal, valid and binding obligation of the parties hereto.

2. The Port Authority may, upon reasonable notice, during regular business hours, examine all records of the City relating to the Projects or any agreements entered into in connection with the Projects.

3. It is expressly understood and agreed that any review by the Port Authority of any plans, specifications, drawings, or other similar documents relating to the work performed or to be performed in connection with the effectuation of the Projects or any agreement entered into in connection with or relating in any way to the Projects shall be limited solely to the purpose of ensuring that the Projects do not unreasonably interfere with the Port Authority's operations, and is for the benefit of the Port Authority and not the City.

4. All disagreements under this Agreement shall be submitted to the Executive Director of the Port Authority and the Deputy Mayor for Economic Development and Rebuilding of the City or his successor in function as designated by the Mayor (the "Deputy Mayor") for their review and decision, which decision shall be binding upon the parties. In the event that the Executive Director of the Port Authority and the Deputy Mayor of the City shall disagree, then either party may seek all legal or equitable remedies to the extent permitted by applicable law.

5. Notices and communications under this Agreement shall be in writing and sent via certified mail, return receipt requested, and shall be directed as follows, or to such other address as the party receiving such notice shall have previously specified by notice to the party sending such notice:

If to the Port Authority:

The Port Authority of New York and New Jersey  
225 Park Avenue South – 15th Floor  
New York, NY 10003  
Attn: Chief Financial Officer

If to the City:

Director  
Aviation Department  
New York City Economic Development Corporation  
110 William Street  
New York, New York 10038

6. This Agreement shall not be construed to create any rights on behalf of any party other than the Port Authority and the City. Neither this Agreement nor any rights or duties hereunder may be assigned or delegated by either party hereto without the written consent of the other party, and any such purported assignment or delegation shall be null and void and of no force or effect.

7. (a) No Commissioner, director, officer, agent or employee of the Port Authority shall be held personally liable under any provision of this Agreement or because of its execution or attempted execution or because of any breach or alleged breach hereof.

(b) No official, agent or employee of the City shall be held personally liable under any provision of this Agreement or because of its execution or attempted execution or because of any breach or alleged breach hereof.

8. If any provisions of this Agreement shall be such as to destroy its mutuality or to render it invalid or illegal, then, if it shall not appear to have been so material that without it this Agreement would not have been made by the parties, it shall not be deemed to form a part hereof but the balance of this Agreement shall remain in full force and effect.

9. The entire agreement between the parties is contained herein and no change or modification, termination or discharge of this Agreement shall be effective unless in writing and signed by the party to be charged therewith.

10. This Agreement shall be governed by and construed in accordance with the Laws of the State of New York, without reference to choice of law principles.

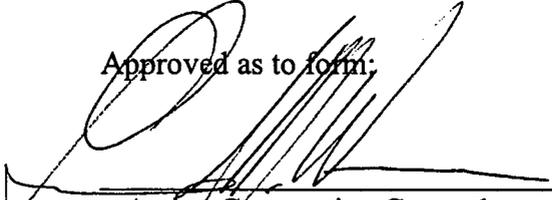
11. This Agreement may be executed in one or more counterparts, each of which counterparts shall be deemed an original and all of which counterparts shall constitute one and the same document.

*[No further text on this Page.]*

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be signed, sealed and attested.

THE CITY OF NEW YORK

By: Daniel L. Doctoroff  
Daniel L. Doctoroff  
Deputy Mayor for Economic  
Development and Rebuilding

Approved as to form:  
  
Acting Corporation Counsel

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

By: \_\_\_\_\_  
Kenneth J. Ringler, Jr.  
Executive Director

Approved as to form:  
\_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be signed, sealed and attested.

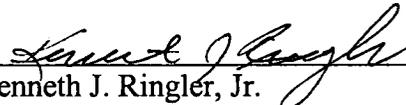
THE CITY OF NEW YORK

By: \_\_\_\_\_  
Daniel L. Doctoroff  
Deputy Mayor for Economic  
Development and Rebuilding

Approved as to form:

\_\_\_\_\_  
Acting Corporation Counsel

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

By:  \_\_\_\_\_  
Kenneth J. Ringler, Jr.  
Executive Director

Approved as to form:

 \_\_\_\_\_  
Darrell Buchbinder  
General Counsel

AGREEMENT BETWEEN THE CITY OF NEW YORK AND THE PORT  
AUTHORITY OF NEW YORK AND NEW JERSEY

EXHIBIT A

August 4, 2004 Resolution of Board of Commissioners of the Port Authority

## **AGREEMENTS WITH THE CITY OF NEW YORK REGARDING JOHN F. KENNEDY INTERNATIONAL AND LAGUARDIA AIRPORTS AND THE WORLD TRADE CENTER SITE**

It was recommended that the Board authorize the Executive Director to enter into agreements with the City of New York (the City) pertaining to: (1) amendment and extension of the lease agreement between the City and the Port Authority (City Lease) covering John F. Kennedy International Airport (JFK) and LaGuardia Airport (LGA), together with such related and ancillary agreements with the City or others as may be deemed necessary or appropriate; (2) amendment of the agreement between the City and the Port Authority (PILOT Agreement) concerning payments in lieu of taxes (PILOT) for the World Trade Center (WTC) site (WTC Site); and (3) modification of the agreement between the City and the Port Authority relating to the City's street system and the transfer of title to land adjacent to and within the WTC Site (the WTC Redevelopment Agreement, previously known as the Street Closing Agreement).

The term of the City Lease under which the Port Authority operates JFK and LGA expires December 31, 2015. At its meeting of November 20, 2003, the Board authorized the Executive Director to enter into a Memorandum of Understanding (MOU) with the City with respect to agreements relating to changes in and extension of the City Lease and in the PILOT Agreement, so that: (1) effective January 1, 2002, the provisions of the existing City Lease would be amended and supplemented to, *inter alia*, extend the term to December 31, 2050, and increase the rental payable to the City; (2) the annual PILOT amounts for the WTC Site paid by the Port Authority to the City would be increased, effective January 1, 2004, and the property covered would be expanded; and (3) all pending arbitration and litigation between the City and the Port Authority involving the City Lease and the PILOT Agreement would be terminated with prejudice and without further payment.

### **Amended and Restated City Lease**

As a result of continuing discussions between staff and City representatives, the City Lease is to be amended and restated, effective January 1, 2002, for a term expiring December 31, 2050, on the principal terms outlined below:

Rent – The rent would be as follows:

- Initial Lump-Sum Payment – Upon execution of the amended City Lease, the Port Authority would make a lump-sum payment of \$500 million to the City. The rent for 2002, 2003 and the portion of 2004 preceding the signing of the amended City Lease based on the rent formula described below, would be paid, with interest, in one lump sum.
- Minimum Annual Rent – Commencing as of January 1, 2002, the Port Authority would pay a minimum annual rent (MAR) of \$93.5 million, the amount of which would be reset from time to time. After execution of the amended City Lease, MAR would be payable in equal monthly installments, in advance.

- Rent Formula and Reset Provisions – Annual rent would be the greater of the MAR, as reset from time to time, or eight percent of gross revenues at JFK and LGA, with the excess over the MAR to be payable the following March. Beginning in 2007, the MAR would be reset every five years to equal ten percent of the average gross revenues at JFK and LGA for the previous five years, but in no event would the MAR be less than the previous year's MAR. Gross revenues would not include federal grants or monies received as a result of any federal statute, regulation or policy, such as Passenger Facility Charges and amounts used for airport security.

#### Other Terms –

- The amended City Lease would include provisions for default and termination in the event the Port Authority failed to make any payments due under the lease or to provide the City with full information with respect to airport operations, finances and performance standards. The amended City Lease would also include provisions that the parties believe are appropriate in order to resolve outstanding operational issues.
- The ongoing arbitration under the existing lease would be terminated. If, however, the City is required to repay the lump-sum payment(s), the City would have the right to reinstate the arbitration, and to treat that event as a nonpayment of rent and seek termination of the amended City Lease (although the Port Authority may cure the default by offering to settle the arbitration for the amount that the City was required to repay).
- The City also would have the right to terminate the amended City Lease if the Port Authority's obligation to pay rent is held to be invalid or unenforceable, but only if the Port Authority is in fact actually not paying rent or equivalent consideration to the City. In the event that the lease is terminated, the parties are to use all commercially reasonable efforts to negotiate a substitute lease with respect to JFK and LGA.
- The City would have the right to assign the rent under the amended City Lease to a third party, and the assignee would have the right to sue the Port Authority directly in the event of nonpayment of rent, but would not have the right to terminate the amended City Lease.
- The amended City Lease would contain new or revised provisions related to certain portions of the demised premises (and previously surrendered parcels), indemnification provisions, insurance coverage details, and other issues.

IDA Financing – The New York City Industrial Development Agency and other City agencies would be precluded from financing any projects at JFK or LGA during the term of the amended City Lease, except for projects already authorized.

Airport Board – In connection with airport governance, an Airport Board, composed of an equal number of Port Authority and City (appointed by the Mayor) representatives, is to review operations and performance at JFK and LGA on a quarterly basis. Funding for the Airport Board and for a designated City agency providing airport liaison functions is to be provided from the rent payments. In addition, the Port Authority and the City would establish financial and performance standards (which could be supplemented from time to time by the Airport Board) to be used in the review of airport operations. The Airport Board would retain independent consultants for this purpose, and the Port Authority and the City would each provide up to

\$250,000 annually for these consultants (with the City's share to be deducted from the rent payable under the amended City Lease).

Queens Capital Projects – In the years 2004-2008, the Port Authority would provide a total of \$100 million to fund projects in the Borough of Queens identified by the City and which qualify as being eligible for Port Authority capital expenditures.

Direct Rail Access – The Port Authority would continue to include in its updated Capital Plan a \$30 million project to study the feasibility, with respect to engineering, operational and financial considerations, of extending the Port Authority Trans-Hudson rail system from its terminus at Newark Penn Station to Newark Liberty International Airport (EWR PATH Extension). If, based on this study, the Port Authority determines that the EWR PATH Extension is feasible, it would include funding for this project in its Capital Plan. (Based on preliminary estimates, the EWR PATH Extension would cost at least \$500 million.) In consultation with the City, the Port Authority also would study the feasibility, with respect to engineering, operational and financial considerations, of establishing a direct rail service connection between JFK and Downtown Manhattan (JFK-Downtown Rail Line), and include in its updated 2004-2008 Capital Plan a \$60 million project for this study. If, based on this study, the Port Authority determines that the JFK-Downtown Rail Line is feasible, the Port Authority would include funding for this project in its Capital Plan in an amount equal to the preliminary \$500 million cost estimate for the EWR PATH Extension, or the amount of funding actually provided for that project, whichever is less. Construction of the JFK-Downtown Rail Line would not commence until full funding has been arranged.

A number of “side letters or agreements” would be entered into in connection with the amended City Lease, covering the Airport Board (with the performance standards as an attachment), the Queens capital projects, direct rail access, and the prohibition on City agency financing, all substantially as described above.

The amended City Lease is expected to be executed by the City and the Port Authority sometime in October 2004 and, accordingly, the effective term of the MOU would have to be extended through October 31, 2004, beyond its current expiration date of September 30, 2004.

### **New PILOT Agreement**

Pursuant to the 1962 bi-state legislation that authorized the Port Authority to establish, develop and operate The World Trade Center and the Port Authority Trans-Hudson rail system (the WTC Legislation), both the Port Authority and Port Authority Trans-Hudson Corporation (PATH) entered into agreements relating to PILOT amounts with respect to the portions of the WTC Site each occupied. The PATH PILOT Agreement and the Port Authority PILOT Agreement (as modified) collectively provide for a minimum annual payment to the City equal to \$1,708,624.03, and for an additional payment with respect to portions of the WTC leased for hotel and retail purposes and for “office use by private persons engaged in carrying on, within the World Trade Center, a profession or trade or business for profit.” For the City's property tax year 2001-2002, this additional payment, based on the calculations in the PILOT Agreements and the fully-leased status of the WTC amounted to approximately \$28 million after all applicable credits and adjustments. However, as a result of the destruction of the WTC in

September 2001, beginning in the City's property tax year 2002-2003, there are no rentable areas within the WTC buildings, structures, or improvements that are occupied by private tenants, as defined, and the only PILOT amount currently being paid under these Agreements and the WTC Legislation is the minimum payment specified above.

To accommodate the legitimate interests of the City and the Port Authority regarding the redevelopment of the WTC Site, and to provide for PILOT amounts during the period of and following the reconstruction of the WTC PATH Terminal and the other buildings, structures, and improvements comprising the WTC Site, the City and the Port Authority would enter into a new agreement (the New PILOT Agreement). Replacing the existing agreements, the New PILOT Agreement would provide for payments to replace those currently being made by PATH and the Port Authority and for annual payments with respect to all additional properties to which the Port Authority acquires title and which become part of the WTC Site. This specifically includes the City's consent to the inclusion of properties located south of Liberty Street (the Southern Site) within the WTC Site should the Port Authority acquire title to these properties, identified as the land and building at 130 Liberty Street owned by Deutsche Bank Trust Company Americas, land owned by the Hellenic Orthodox Church, and land owned by 140 Liberty Street Associates.

The terms of the New PILOT Agreement would provide that, commencing January 1, 2004, the Port Authority would pay to the City an annual PILOT for the WTC Site equal to twelve percent of all rent payments or payments in lieu of rent received by the Port Authority from the lessees (the Net Lessees) under the lease agreements entered into by the Port Authority, dated as of July 16, 2001 (Net Leases), pertaining to certain components of the WTC, including the proceeds of business interruption or rent insurance from policies procured and maintained by the Net Lessees, which proceeds are paid over to the Port Authority on account of the Net Lessees' rental obligations under the Net Leases, but excluding: (1) any payments on account of taxes or payments in lieu thereof made by the Net Lessees to the Port Authority which are paid by the Net Lessees to the Port Authority and paid over by the Port Authority to the City; (2) pass-through reimbursements, such as business improvement district payments paid by the Net Lessees to the Port Authority; (3) payments for services or utilities furnished by the Port Authority to the Net Lessees or to any space leased to tenants of the Net Lessees pursuant to the Net Leases including, without limitation, common-area charges; and (4) inspection, permit plan review and other application fees paid by the Net Lessees to the Port Authority.

In addition to the minimum annual PILOT amount, the Port Authority would pay the City on account of the WTC Site an annual payment equal to the excess over the minimum annual PILOT payment of an amount obtained by multiplying \$55,000,000 (Base Amount) by an "Escalator," which represents the percentage change over the base year (July 2002-June 2003) in the tax rate for Manhattan commercial office properties and the assessed valuation of a benchmark group of Class A office buildings to be mutually agreed upon by the Port Authority and the City, and multiplying that product by the ratio of the amount of commercial space built at the WTC Site to the total amount of commercial space planned under the WTC Site Master Plan (11.4 million gross square feet). This calculation includes PILOT amounts for the site of the 7 WTC building. The payments to be made would be net of all credits against PILOT payments that the Port Authority has become entitled to as a result of previous agreements with the City.

Upon the inclusion of any of the Southern Site properties in the WTC Site, the Port Authority would pay the City a PILOT amount equal to the full amount of real estate taxes that would have been assessed on the land comprising such site if the land were not owned by the Port Authority. In addition to this land payment, during the 15-year period following the commencement of construction on any such site, the Port Authority would pay to the City in connection with each site as to which there is office, retail, or hotel space available for use for the purposes intended, and which (1) are occupied, whether by private parties or by government agencies, including the federal government and the Port Authority, (2) are under lease to any such party, or (3) have been constructed and which, by installation of tenant improvements, may be made ready for occupancy (Actual Additional World Trade Center Properties Space Available), an amount equal to the product obtained by multiplying Nine Dollars by the number of square feet of Actual Additional World Trade Center Properties Space Available for use for the purposes intended, such amount to be adjusted each year by application to such amount of the Escalator established for the original WTC Site for such year.

Under the New PILOT Agreement, the Port Authority would not make any payments on account of land devoted to public park purposes or established as a public open space. The City would be permitted to securitize the payments due from the Port Authority under the agreement, and the Port Authority would not be permitted any right of setoff or counterclaim against such payments. As long as the Port Authority retains title to the WTC Site, the City would cancel or otherwise satisfy and discharge of record all taxes, assessments and interest against the properties currently constituting part of the WTC Site, including the 7 WTC building, properties occupied by PATH, and all improvements to be constructed on the site, and would mark said properties as exempt on its tax records.

The execution of the New PILOT Agreement would not affect the obligations of the Net Lessees under the Net Leases to pay to the Port Authority a portion of the PILOT amounts that the Port Authority is required to pay to the City. Such payments would continue to be made to the Port Authority based on the terms of the Port Authority's PILOT Agreement.

Upon execution of the New PILOT Agreement, all pending arbitration proceedings and litigation concerning the PILOT Agreements would be discontinued with prejudice, without costs to either party.

### **Modification of Street Closing Agreement**

In order to accommodate the construction and development of the WTC, the Port Authority and the City entered into the Street Closing Agreement relating to changes in the City's street system and to the transfer of title land adjacent to and within the WTC Site. At that time, the Port Authority was given title to sub-surface areas (land below a plane 1.35 feet below curb grade) within the WTC's slurry wall, which include portions of Vesey, West and Liberty Streets. At grade, the WTC property line was fixed as the northerly face of buildings abutting Vesey Street, the easterly face of buildings abutting Church Street, the southerly face of buildings abutting Liberty Street and the westerly face of buildings abutting West Street. The Street Closing Agreement required the Port Authority to convey to the City title to all of the land

outside of this property line, which originally was acquired by the Port Authority via condemnation, including the sidewalks and the former street beds. In return, the City was to convey to the Port Authority title to: (1) the portion of Greenwich Street between Barclay Street and Vesey Street within the site of the 7 WTC building, (2) the portion of Greenwich Street between Vesey Street and Liberty Street within the WTC Site, and (3) the portions of Fulton, Dey and Cortlandt Streets between Greenwich and Church Streets within the WTC site. As of this date, the City retains legal title to these former streets, although they have been de-mapped.

The implementation of the WTC Site Master Plan adopted following the destruction of the WTC requires modification to accommodate the redevelopment process for the WTC Site and resolve all property issues related to the present or former streets at the WTC Site. Pursuant to the terms of the WTC Redevelopment Agreement, the City would own the at-grade areas of all streets and sidewalks within the WTC Site and such below-grade areas immediately below the surface of such streets and sidewalks as shall lie above a designated lower-limiting plane. The Port Authority would own all other areas within the WTC Site, including all areas lying below the designated limiting plane. The City would be responsible for maintenance of the City-owned areas of the streets and the sidewalks within the WTC Site. The parties would retain for themselves, and grant to each other, all necessary and appropriate easements for infrastructure, utility and other services. The streets and sidewalks within the WTC Site would be designed and constructed by the Port Authority in accordance with City standards, subject to a mutually agreed-upon security plan that would supersede any existing Memoranda of Understanding between the City and the Port Authority addressing security issues, and the City would operate, manage and maintain the sidewalks and the streets, including traffic patterns and flows, subject to the security plan. Except for streets and sidewalks, the Port Authority would have overall management responsibility for the WTC Site. The City and the Port Authority would mutually agree on all issues relating to curb usage, and the City would consult with the Port Authority on any decisions that would permanently and materially affect vehicular and pedestrian traffic in and through the WTC Site. The Port Authority would develop Design Guidelines consistent with the General Project Plan (GPP) approved by the Lower Manhattan Development Corporation (LMDC). The Design Guidelines would be adopted by LMDC and the Board of Commissioners, with input from involved and interested parties, including the City and the Net Lessees. It is contemplated that the Port Authority would agree with LMDC that the adoption, implementation and modification of all such Design Guidelines would be subject to the agreement of LMDC or any successor. The Port Authority and the City would consult with each other regarding all other major aspects of the WTC redevelopment plan, including phasing, infrastructure development and material funding issues.

Expanding upon a policy adopted by the Board on April 15, 1993, the Port Authority would agree to comply with all applicable Building Code requirements of the City (the Building Code) for all construction work to be performed at the WTC Site, with the exception of certain portions of the permanent WTC PATH Terminal which will comply with the National Fire Protection Association codes. Any proposed variances from the Building Code would require the prior consent of the City Department of Buildings (DOB). Neither the Port Authority nor its lessees and sublessees would be required to obtain any building permits or certificates of occupancy from the City in connection with any construction at the WTC Site. The DOB would

have the right to inspect the WTC Site at any time to determine compliance with the Building Code.

The final terms of the WTC Redevelopment Agreement would be subject to review by the Board's WTC Site Planning Sub-committee.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Blakeman, Chasanoff, Coscia, Gargano, Genova, Pocino, Sartor, Silverman, Sinagra 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 an "Amended and Restated Agreement of Lease of the Municipal Air Terminals" with the City of New York (the City), covering John F. Kennedy International (JFK) and LaGuardia (LGA) Airports, together with such related and ancillary agreements with the City or others as may be deemed necessary or appropriate, and to extend the Memorandum of Understanding between the Port Authority and the City, dated January 16, 2004 (with respect to JFK and LGA and World Trade Center (WTC) payments in lieu of taxes (PILOT) through October 31, 2004, substantially in accordance with the terms and conditions 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 enter into agreements with the City to resolve all property issues related to the present or former streets at the WTC Site and relating to PILOT amounts during the period of and following the reconstruction of the Port Authority Trans-Hudson system permanent World Trade Center Terminal (known as the WTC Transportation Hub) and the other buildings, structures, and improvements comprising the WTC Site, substantially in accordance with the terms and conditions outlined to the Board; and it is further

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

AGREEMENT BETWEEN THE CITY OF NEW YORK AND THE PORT  
AUTHORITY OF NEW YORK AND NEW JERSEY

EXHIBIT B

FORM OF PROJECT LETTER REQUEST

Dear \_\_\_\_\_:

As provided for in Section B of this Agreement between The City of New York (the "City") and The Port Authority of New York and New Jersey (the "Port Authority") made as of \_\_\_\_\_, 2004 (the "Agreement"), the City, at the request of the Mayor of the City, hereby asks that the Port Authority concur in the addition of the project described below as an eligible Project under the Agreement:

[DESCRIPTION OF PROJECT – SHOULD INCLUDE AMOUNT ESTIMATED TO BE PROVIDED FOR THE PROJECT, THE IDENTITY OF THE ENTITY RECEIVING FUNDS FOR THE PROJECT, AND INFORMATION NECESSARY FOR THE PORT AUTHORITY TO DETERMINE WHETHER IT QUALIFIES FOR PORT AUTHORITY CAPITAL EXPENDITURES]

The City understands and agrees that all the provisions of the Agreement shall apply to the inclusion of the above-described project as an eligible Project under the Agreement and all references in the Agreement to "Project" or "Projects" shall be deemed to include the above-described project.

Sincerely,

\_\_\_\_\_  
[Deputy Mayor]  
The City of New York

CONCURRED:

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

Date:

By: \_\_\_\_\_  
Executive Director

## DIRECT RAIL AGREEMENT

**THIS DIRECT RAIL AGREEMENT** (this "Agreement") is made as of the 24<sup>th</sup> day of November 2004, by and between THE CITY OF NEW YORK, a municipal corporation of the State of New York with its principal office at City Hall, in the Borough of Manhattan, City of New York (the "City") and THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic, created by compact between the States of New York and New Jersey with the consent of Congress with its offices at 225 Park Avenue South, Borough of Manhattan, City of New York (the "Port Authority").

### RECITALS

WHEREAS, the City, as landlord, and the Port Authority, as tenant, entered into that certain Amended and Restated Agreement of Lease of the Municipal Air Terminals (the "Lease Agreement") of even date herewith whereby among other things, the City has leased John F. Kennedy International Airport and LaGuardia Airport to the Port Authority;

WHEREAS, the City and the Port Authority recognize the importance of direct rail access ("One-Seat Ride Access") to the region's largest airports in order to ensure the future economic vitality of Lower Manhattan, have agreed to a procedural framework for the study and funding of such links; and

WHEREAS, the City and the Port Authority are committed to such studies and wish to set forth certain procedures to ensure the Port Authority will provide funding for One-Seat Ride access from Lower Manhattan to John F. Kennedy International Airport and Newark Liberty International Airport.

### TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Port Authority hereby mutually undertake, promise and agree, each for itself and its successors as follows:

1. **Definitions.** All terms used herein not otherwise defined herein shall have the meanings given to them in the Lease Agreement.

2. **One-Seat Ride Access to Newark Liberty International Airport.** The Port Authority will continue to include in its 2004-2008 capital plan a \$30 million project to study the engineering, operational, and financial feasibility of extending the PATH rail from Newark Penn Station to Newark Liberty International Airport. If, based on this

study, the Port Authority determines that this extension is feasible from an engineering, operational and financial standpoint, then the Port Authority will include funding for this project in its future capital plans. Based on preliminary estimates, this project is expected to cost at least \$500 million. Construction of this project will not commence until full funding has been arranged.

**3. One-Seat Ride Access to John F. Kennedy International Airport.** The Port Authority will continue to include in its 2004-2008 capital plan a \$60 million project to study, the engineering, operational, and financial feasibility of providing One-Seat Ride Access to Lower Manhattan from John F. Kennedy International Airport. If, based on this study, the Port Authority determines that this connection is feasible from an engineering, operational, and financial standpoint, then the Port Authority will include funding for this project in its future capital plans in an amount equal to the preliminary estimate of \$500 million for the Newark Liberty International Airport extension, or the funding actually provided for the Newark Liberty International Airport extension, whichever is greater. Construction of this project will not commence until full funding has been arranged.

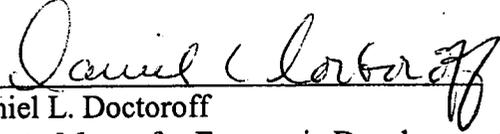
**4. Survival.** The provisions of this Agreement shall survive the expiration or sooner termination of the Lease Agreement.

**5. Miscellaneous.** This Agreement: (i) may not be modified except in a writing signed by both of the parties hereto; (ii) may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document; (iii) shall be construed in accordance with and governed by the internal laws of the State of New York, without regard to principles of conflicts of law; (iv) shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective successors and assigns but shall not be enforceable by any person, firm, corporation or other entity that is not a signatory to this letter agreement; and (v) shall become effective when one or more counterparts have been signed by each of the parties hereto and delivered to each of the other parties hereto.

*[No further Text on this Page.]*

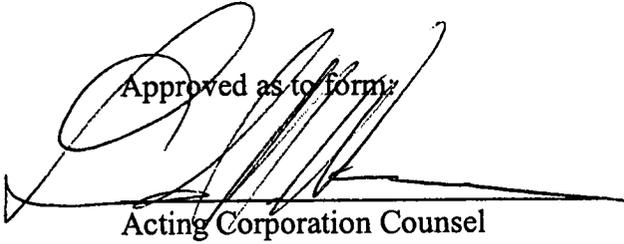
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by the duly authorized officers thereof as of the date first written above.

THE CITY OF NEW YORK



Daniel L. Doctoroff  
Deputy Mayor for Economic Development  
and Rebuilding

Approved as to form:



Acting Corporation Counsel

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

---

Kenneth J. Ringler, Jr.  
Executive Director

Approved as to form:

---

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by the duly authorized officers thereof as of the date first written above.

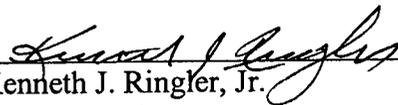
THE CITY OF NEW YORK

\_\_\_\_\_  
Daniel L. Doctoroff  
Deputy Mayor for Economic Development  
and Rebuilding

Approved as to form:

\_\_\_\_\_  
Acting Corporation Counsel

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

  
\_\_\_\_\_  
Kenneth J. Ringler, Jr.  
Executive Director

Approved as to form:

  
② Darrell Buchbinder  
General Counsel

AMERICAN INSTITUTE OF CERTIFIED  
PUBLIC ACCOUNTANTS

----- X

In the Matter of the Arbitration Between

THE CITY OF NEW YORK,

**STIPULATION**

-and-

THE PORT AUTHORITY OF NEW YORK AND  
NEW JERSEY.

----- X

Whereas The City of New York ("City") and The Port Authority of New York and New Jersey ("Port") are executing simultaneously herewith an Amended and Restated Agreement of Lease of the Municipal Air Terminals of even date herewith (the "Amended Lease"),

IT IS HEREBY STIPULATED AND AGREED, by and between the parties, represented by the undersigned attorneys, that the above-captioned arbitration, commenced with a Demand for Arbitration dated December 14, 1995 (the "airport arbitration"), is hereby discontinued with prejudice and without costs, subject to the following terms and conditions:

1. In the event that:

(a) the City is required, at any time hereafter, to repay or forfeit the Lump Sum Payment (as said term is defined in the Amended Lease) or any portion thereof; and  
further

(b) the Port shall not have lawfully and validly paid to the City, within two years from the date of such repayment or forfeiture, an amount equal to so much of the Lump Sum Payment as had been repaid or forfeited, plus interest accruing at the Interest Rate (as said term is defined in the Amended Lease) from the date such amount was repaid or forfeited,

then at the City's option, the City may reinstate the airport arbitration, in which event, the parties' respective positions, claims and defenses in the airport arbitration shall be fully restored to the *status quo ante* as of immediately prior to the execution of this stipulation. Further, the Port acknowledges and agrees that in the event the airport arbitration is so reinstated, the passage of time between the execution of this stipulation and such reinstatement shall not be the basis of any barring defense, including without limitation, based on statute of limitations, *laches* or *estoppel*. In any such reinstated airport arbitration, the total liquidated amount, inclusive of interest, that the City will be entitled to recover from the Port, irrespective of the amount that may be awarded therein to the City, shall be limited to Five Hundred Million Dollars (\$500,000,000); and neither party shall recover costs from the other.

2. The rights and remedies set forth in paragraph 1 above shall be in addition to, and not in substitution of, the City's rights and remedies pursuant to the Amended Lease, including without limitation, the right to terminate the Amended Lease and to exercise all other rights and

remedies provided in Section 25 thereof (entitled "Events of Default: Rights and Remedies").

3. The terms and conditions of this stipulation shall survive the expiration or sooner termination of the Amended Lease.

Dated: New York, New York  
November 24, 2004

MICHAEL A. CARDOZO  
Corporation Counsel of the  
City of New York  
100 Church Street  
New York, NY 10007

By: *Nancy F. Brodie*  
Nancy F. Brodie  
Assistant Corporation Counsel

MILTON H. PACHTER  
General Attorney for the Port Authority  
of New York and New Jersey  
225 Park Avenue South  
New York, NY 10003

By: *Walter M. Frank*  
Walter M. Frank  
Chief, Commercial Litigation

**AMERICAN INSTITUTE OF CERTIFIED  
PUBLIC ACCOUNTANTS**

In the Matter of the Arbitration Between

THE CITY OF NEW YORK,

-and-

THE PORT AUTHORITY OF NEW YORK AND  
NEW JERSEY.

**STIPULATION**

**MICHAEL A. CARDOZO**

*Corporation Counsel of the City of New York  
Attorney for The City of New York  
100 Church Street, Room 3-127  
New York, N.Y. 10007*

*Of Counsel: Nancy F. Brodie  
Tel: (212) 788-8861*

November 24, 2004

The Port Authority of New York  
and New Jersey  
225 Park Avenue South  
New York, New York 10003

Re: Financing with respect to the New York Airports

Ladies and Gentlemen:

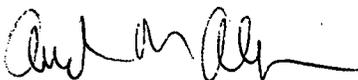
Reference is hereby made to that certain Amended and Restated Agreement of Lease (the "Lease") being entered into simultaneously herewith by and between The City of New York (the "City") and The Port Authority of New York and New Jersey (the "Port Authority") covering LaGuardia Airport and John F. Kennedy International Airport (collectively, the "Airports").

In consideration for the Port Authority's entering into the Lease, the New York City Industrial Development Agency (the "IDA") hereby agrees that, following the execution and delivery of the Lease by both parties thereto, it will not finance any projects at the Airports, except for projects as to which inducement resolutions have been adopted prior to January 16, 2004 (as listed on Schedule A hereto) and except for refunding of any outstanding IDA bond issues for projects at the Airports (as listed on Schedule B hereto); provided that modifications to a project and/or bond amount from that set forth in an inducement resolution listed on Schedule A hereto shall not be deemed to violate the agreement of IDA contained herein so long as the modified project and/or bond amount are not materially larger than described in the inducement resolution listed on Schedule A.

The agreement of the IDA contained in this letter shall terminate and be of no further force or effect upon the expiration or sooner termination of the Lease.

Very truly yours,

New York City Industrial Development Agency

By:   
Andrew M. Alper, Chairman

Attachments

**Schedule A: Airports - Induced IDA Bond Issues\***

<b>Company Name</b>	<b>Bond Amount Induced (in millions)</b>	<b>Project Location</b>
American Airlines, Inc.	\$1,300.0	Terminal 8 and 9 at JFK
JetBlue Airways Corporation	\$50.0	Building 81 and current site of Building 179 at JFK
JFK International Air CargoCenter, LLC	\$67.0	Hangars 3, 4, and 5 at JFK

\*Induced prior to January 16, 2004

**Schedule B: Airports - Outstanding IDA Bond Issues**

<b>Company Name</b>	<b>Bond Amount Issued (in millions)</b>	<b>Closing Date</b>
American Airlines, Inc.	\$83.93	09/18/90
Japan Airlines International Co. Ltd.	\$115.5	06/13/91
Terminal One Group Association, L.P.	\$434.290	07/13/94
American Airlines	\$83.085	08/09/94
Korean Airlines Co., Ltd.	\$102.0	02/12/97
Northwest Airlines	\$32.795	06/30/97
United Airlines, Inc.	\$34.235	07/13/97
Air Express International Corporation	\$19.0	07/16/97
British Airways, plc	\$115.0	12/08/98
Airis JFK I, LLC	\$160.26	08/16/01
American Airlines	\$500.0	07/31/02
British Airways, plc	\$85.0	07/02/02
Continental Airlines	\$23.535	11/05/03

## QUITCLAIM DEED FROM CITY TO PORT AUTHORITY

THIS INDENTURE made as of November 24, 2004 between the CITY OF NEW YORK, a municipal corporation of the State of New York with its principal office at City Hall, in the Borough of Manhattan, City, County and State of New York (the "City"), and THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic, created by compact between the States of New York and New Jersey with the consent of Congress with its office at 225 Park Avenue South, Borough of Manhattan, City, County and State of New York (the "Port Authority").

WITNESSETH THAT:

WHEREAS, the City and Port Authority intend to enter into an Amended and Restated Agreement of Lease of the Municipal Air Terminals dated as of November 24, 2004 (the "Agreement"); and

WHEREAS, the City desires to dispose to the Port Authority any property interests it owns within (i) that portion of the Light Rail System that the Port Authority has acquired from the People of the State of New York acting by and through the Commissioner of Transportation ("State") by Grant of Permanent Easement made August 19, 2002, a copy of which is attached hereto and made a part hereof as Exhibit A and (ii) the property identified on the tax map of the City of New York as Lot 5, Block 9990, Borough of Queens; the Port Authority desires to convey to the City all property interests it has acquired within such portion of the Light Rail System ("LRS") and in Lot 5, Block 9990, Borough of Queens; and the City desires to accept such property interests and incorporate such property interests conveyed by the Port Authority to the City into the Demised Premises, as such term is defined in the Agreement, by leasing such property interests to the Port Authority under the Agreement; and

WHEREAS, City Planning Commission Resolution # C990117 PQQ/C 990118 PPQ adopted May 3, 1999 and City Council Resolution # 864 adopted June 7, 1999 have authorized such dispositions and acquisitions by the City and the Port Authority's Board of Commissioners has authorized such acquisitions and disposition by the Port Authority by Resolution adopted September 24, 1998.

NOW, THEREFORE, the City and the Port Authority do hereby agree as follows:

The City does hereby remise, release and quitclaim unto the Port Authority, its successors and assigns forever, all right, title and interest of the City, if any, in and to the Property which is described as follows:

- A. Permanent aerial, surface and subsurface easements for the construction, reconstruction, operation, inspection, maintenance and repair of the LRS, which easements are more specifically defined herein over all those pieces or parcels of property in the Fourth Ward of the Borough Queens, City of New York, County of Queens, State of New York, which

are shown and described as Aerial Parcels or Easements, Column Parcels or Easements, and Subsurface Parcels or Easements, of Segments CR – 402 through CR – 415 of a series of maps entitled, “THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY AIRTRAIN PROJECT, JFKIA-JAMAICA SEGMENT, ALTA/ACSM LAND TITLE SURVEY, A PORTION OF VAN WYCK EXPRESSWAY, SEGMENT CR- (402 THROUGH 415), BOROUGH OF QUEENS, QUEENS COUNTY, STATE OF NEW YORK”, prepared by Vollmer Associates LLP, dated February 28, 2002, bearing Project Number 2001-003-03 and filed contemporaneously in the Office of the Register of Deeds, Queens County on September 17, 2002 with the Grant of Permanent Easement between The People of the State of New York, acting by and through Joseph H. Boardman, the Commissioner of Transportation of the State of New York and the Port Authority of New York and New Jersey made August 19, 2002 and recorded at Reel 6582, Page 0118 *et seq.*, City Register Serial Number 128069.

Subject, however, to the provisions of the aforesaid Grant of Permanent Easement made August 19, 2002.

- B. All that certain plot, piece or parcel of land situate, lying and being in the Fourth Ward of the Borough of Queens, City of New York, County of Queens, and State of New York, being more particularly bounded and described as follows:

BEGINNING at the corner formed by the intersection of the southerly side of 94<sup>th</sup> Avenue formerly Johnson Avenue (50 feet wide) with the easterly side of Van Wyck Expressway (Service Road); said corner having a New York State Coordinate System (NAD 83-96) value of N 58916.0472 meters E 315799.1275 meters (N193293.7316 feet E1036084.3037 feet);

1. Running thence North 69 degrees 25 minutes 33.1 seconds East along the southerly side of 94<sup>th</sup> Avenue, 63.627 meters (208.75 feet) to a point on the division line between property now or formerly of David Oil Corp. and property now or formerly of Carole A. Murray and Thomas D. Murray;
2. Running thence along said division line South 20 degrees 34 minutes 26.9 seconds East, at right angles to the southerly side of 94<sup>th</sup> Avenue, 25.292 meters (82.98 feet) to a point;
3. Running thence South 66 degrees 54 minutes 37.1 seconds West along the division line between property now or formerly of David Oil Corp. and the following properties: property now or formerly of Edgardo E. Contreras; property now or formerly of David Byrd, Patricia Portis, and Gary Michael Byrd; property now or formerly of Cheryl Winter Naipaul and Gagnatti Naipaul; property now or formerly of Joseph F. Nowinski and Jennie Nowinski; property now or formerly of Stanley P. Francosky, et al; and property now or formerly of Mohamed Shafi and Ramdai Shafi, said line forming an interior angle of 92 degrees 30 minutes 56 seconds with the last mentioned course, 39.127 meters (128.37 feet) to a point in a line distant 34.013 meters (111.59 feet) northerly from the northerly side of 95<sup>th</sup> Avenue, drawn at right angles thereto, from a point thereon and distant 13.283 meters (43.58 feet) easterly from said easterly side of Van Wyck

Expressway (Service Road);

4. Running thence South 20 degrees 34 minutes 26.9 seconds East along the division line between property now or formerly of David Oil Corp. and property now or formerly of Mohamed Shafi and Ramdai Shafi, at right angles to the northerly side of 95<sup>th</sup> Avenue, formerly Chichester Avenue, 34.013 meters (111.59 feet) to the northerly side of 95<sup>th</sup> Avenue;
5. Running thence South 69 degrees 25 minutes 33.1 seconds West along the northerly side of 95<sup>th</sup> Avenue, 13.283 meters (43.58 feet) to the corner formed by the intersection of the said northerly side of 95<sup>th</sup> Avenue and the easterly side of Van Wyck Expressway (Service Road);
6. Running thence North 31 degrees 01 minutes 19.1 seconds West along the easterly side of Van Wyck Expressway (Service Road), 62.054 meters (203.59 feet) to the point and place of beginning.

Containing 2176.289 square meters (23425.28 square feet) or 0.218 Hectare (0.538 acre).

Also known as **Tax Block 9990, Tax Lot 5**, Borough of Queens, City of New York.

Being the premises shown on an ALTA/ACSM Land Title Surveys of Lot 5, Block 9990, Queens, New York, prepared by Vollmer Associates, dated February 15, 2000 and signed by Kenneth J. Stigner, L.S., a copy of which is attached hereto as Exhibit B.

Being the same premises conveyed to the Port Authority by David Oil Corp. by Indenture made November 3, 2000 recorded with the Office of the Register of Deeds, Queens County, November 29, 2000 at Reel 5732, Page 0424 *et seq.*, City Register Serial Number 113076

All bearings refer to The New York Coordinate System of 1983-96, Long Island Zone 3104.

Together with the appurtenances and all the estate and rights of the City in and to said premises.

To Have And To Hold the premises herein granted unto the Port Authority, the successors and assigns of the Port Authority forever.

The City, in compliance with Section 13 of the Lien Law, covenants that it will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The Port Authority hereby accepts the conveyance from the City.

No Commissioner, director, elected official, officer, agent, representative or employee of the Port Authority or the City shall be charged personally by either party hereto with any liability or held personally liable under any of the terms or provisions of this Indenture or because of its execution or because of any breach or attempted or alleged breach hereof.

This Indenture may be executed in one or more counterparts each of which counterparts shall be deemed an original and all of which counterparts shall constitute one and the same document.

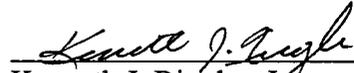
IN WITNESS WHEREOF, the City has caused its corporate seal to be hereunto affixed and duly attested and this Indenture to be signed by its Deputy Mayor for Economic Development and Rebuilding and by the City Clerk of the City; and the Port Authority has caused its corporate seal to be hereunto affixed and duly attested and this Agreement to be signed by its Executive Director, of the day and year first written above.

***[NO FURTHER TEXT ON THIS PAGE]***

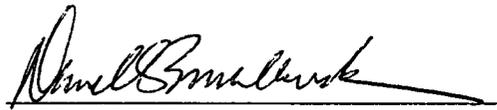
Attest:

THE PORT AUTHORITY OF NEW YORK AND  
NEW JERSEY

  
Secretary

  
Kenneth J. Ringler, Jr.  
Executive Director

Approved as to form:

  
Darrell Buchbinder      *HB*  
General Counsel

THE CITY OF NEW YORK

By:

\_\_\_\_\_  
City Clerk

By:

\_\_\_\_\_  
Daniel L. Doctoroff  
Deputy Mayor for Economic Development  
and Rebuilding

Approved as to form:

\_\_\_\_\_  
Acting Corporation Counsel

Attest:

THE PORT AUTHORITY OF NEW YORK AND  
NEW JERSEY

\_\_\_\_\_  
Secretary

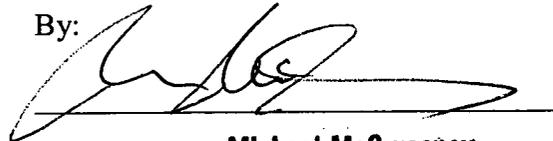
\_\_\_\_\_  
Kenneth J. Ringler, Jr.  
Executive Director

Approved as to form:

\_\_\_\_\_  
Darrell Buchbinder,  
General Counsel

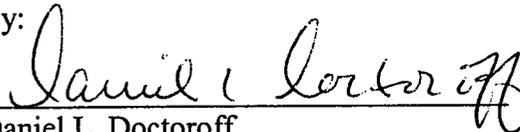
THE CITY OF NEW YORK

By:



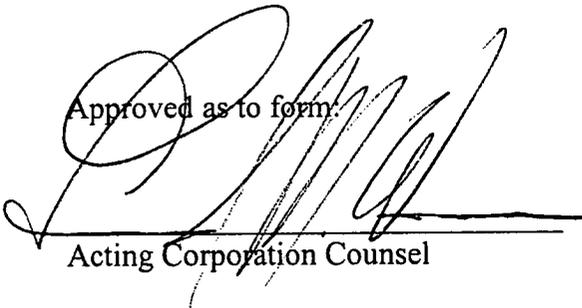
City Clerk **Michael McSweeney**  
1st Deputy & Acting City Clerk

By:



Daniel L. Doctoroff  
Deputy Mayor for Economic Development  
and Rebuilding

Approved as to form:

  
\_\_\_\_\_  
Acting Corporation Counsel

STATE OF NEW YORK    )  
:                    ss. :  
COUNTY OF NEW YORK )

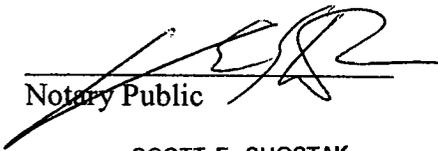
On the 24<sup>th</sup> day of November, 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared KENNETH J. RINGLER, JR., Executive Director of the PORT AUTHORITY OF NEW YORK AND NEW JERSEY, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

**TIMOTHY G. STICKELMAN**  
Notary Public, State of New York  
No. 02ST6086913  
Qualified in Suffolk County  
Commission Expires on February 3, 2007

STATE OF NEW YORK    )  
:                    ss. :  
COUNTY OF NEW YORK )

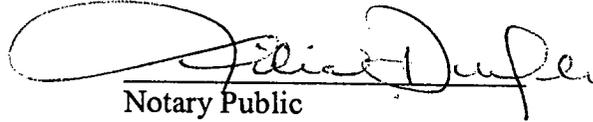
On the 23<sup>rd</sup> day of November, 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared Daniel L. Doctoroff, Deputy Mayor for Economic Development and Rebuilding of THE CITY OF NEW YORK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public

SCOTT E. SHOSTAK  
Notary Public, State of New York  
No. 02SH4834702  
Qualified in New York County  
Commission Expires 09/30/2005

STATE OF NEW YORK )  
: ss. :  
COUNTY OF NEW YORK )

On the 24 day of November, 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared Michael McSweeney, City Clerk of THE CITY OF NEW YORK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public

**LILIA DWYER**  
Commissioner of Deeds  
City of New York No. 3-7093  
Certificate Filed in New York County  
Commission Expires Feb. 01, 2006

**EXHIBIT A**

**COPY OF GRANT OF PERMANENT EASEMENT  
DATED AS OF AUGUST 19, 2002  
FROM THE PEOPLE OF THE STATE OF NEW YORK**



STATE OF NEW YORK  
DEPARTMENT OF TRANSPORTATION  
HUNTERS POINT PLAZA  
47-40 21ST STREET  
LONG ISLAND CITY, N.Y. 11101

DOUGLAS A. CURREY, P.E.  
REGIONAL DIRECTOR

SUBI CHAKRABORTI, P.E.  
DEPUTY REGIONAL DIRECTOR

JOSEPH H. BOARDMAN  
COMMISSIONER

September 18, 2002

Harry Barr, Esq.  
The Port Authority of NY and NJ  
Law Department, 14<sup>th</sup> floor  
225 Park Avenue South  
New York, NY 10003

Re: PIN X735.55  
Proceeding 6105 02/7  
AirTrain Easement  
JFK-LRS Airport Access Program  
Queens County

Dear Mr. Barr:

As mentioned to your secretary in a message to be conveyed to you, we have filed the maps and the *Grant of Permanent Easement on the above project in the Queens County Registrar's office* on September 17, 2002 and I will be hand delivering these maps and the *Grant of Easement* to your office next week.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Gulrukh Irani".

Gulrukh Irani  
Real Estate Specialist Trainee 2

CITY REGISTER RECORDING AND ENDORSEMENT PAGE

COUNTY OF Queens

THIS PAGE FORMS PART OF THE INSTRUMENT

TOTAL NUMBER OF PAGES IN DOCUMENT INCLUDING THIS PAGE ▶

Block ▼ 14260 Lots - ONLY IF ENTIRE LOT ▼ 1 Partial Lots ▼ P/D

Premises ▼

NAME ▼ Harry K. Barr, Esq. ADDRESS ▼ Port Authority of NY & N.J. Law Dept. CITY ▼ NY STATE ▼ NY ZIP ▼ 10003

Title Agent Company Name ▼ NYS DOT

Title Company Number ▼



NAME & ADDRESS PARTY 1 ▶ N.Y. S. Department of Transportation ADDITIONAL PARTY 1 ▶ 47-40 21st Street, D.I.C. NY - 11101 PARTY 2 ▶ Port Authority of NY & N.J. ADDITIONAL PARTY 2 ▶ 225 Park Ave S, 14th Fl, Law Dept, N.Y. - NY-10003

FOLD

CHECK THIS BOX IF THERE ARE MORE THAN 2 OF EITHER PARTY

CITY REGISTER'S USE ONLY - DO NOT WRITE BELOW THIS LINE

Examined by (s): 7 Mortgage Tax Serial No., Mortgage Amount, Taxable Amount, Exemption (YES/NO), Type, Dwelling Type, TAX RECEIVED ON ABOVE MORTGAGE, County (basic), City (Add'l), Spec Add'l, TASF, MTA, NYCTA, TOTAL TAX, Apportionment Mortgage (YES/NO)

City Register Serial Number 128069 Indexed By (s): DN Verified By (s):, Block(s) and Lot(s) verified by (s), Address, Tax Map, Extra Block(s), Lot(s), Recording Fee B \$ NO CHARGE, Affidavit Fee (C) \$, RPTT Fee (R) \$ NO CHARGE, HPD-A, HPD-C, New York State Real Estate Transfer Tax \$ 0, Serial Number 004445, New York City Real Property Transfer Tax Serial Number 022466

OTHER LOAN? YES/NO

FOLD

RECORDED IN THE OFFICE OF THE CITY REGISTER OF THE CITY OF NEW YORK



Handwritten signature

CRGFORMS/BPG 04/70

Proceeding 6105  
AirTrain Easement  
JFK-LRS Airport Access Program  
Queens County

**GRANT OF PERMANENT EASEMENT**

Made the 19<sup>th</sup> day of August, 2002, between

**THE PEOPLE OF THE STATE OF NEW YORK**, acting by and through Joseph H. Boardman, the Commissioner of Transportation of the State of New York, with offices at 1220 Washington Avenue, Albany, New York 12232, Grantors, and

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**, a body corporate and politic acting pursuant to authority conferred by the legislatures of the States of New York and New Jersey, with offices at 225 Park Avenue South, New York, New York 10003, Grantee,

**WHEREAS**, Grantee has constructed a Light Rail System designed to carry passengers, also referred to as AirTrain Facilities ("LRS") within Kennedy International Airport ("JFK") with connections to the Jamaica Long Island Railroad/New York City Transit Authority Sutphin Boulevard Station ("Jamaica Station") and to the Howard Beach Subway Station; and

**WHEREAS**, the connection to the Jamaica Station requires the use of property lying between the boundary of JFK and the Jamaica Station including, but not limited to, the Van Wyck Expressway ("VWE"), for the LRS Project; and

**WHEREAS**, lands within the VWE are owned all or in part by the Grantors as part of the State Highway System under

jurisdiction of the New York State Department of Transportation ("NYSDOT"); and

WHEREAS, the parties hereto have entered into a Memorandum of Understanding which provides, among other things, that the Grantee will construct the LRS and as part of its project will make certain other improvements in the VWE for the benefit of the Grantors, and the Grantors will convey a grant of permanent easement rights in the VWE to the Grantee upon the terms and conditions hereinafter expressed; and

NOW THEREFORE the Grantors, in consideration of the sum of ONE AND NO/100 DOLLAR (\$1.00), and other valuable consideration, do hereby remise, release and quitclaim unto the Grantee, its successors and assigns forever,

Permanent aerial, surface and subsurface easements for the construction, reconstruction, operation, inspection, maintenance and repair of the LRS, which easements are more specifically defined herein over all those PIECES OR PARCELS OF PROPERTY, situate in the Fourth Ward of the Borough of Queens, City of New York, County of Queens, State of New York, which are shown and described as Aerial Parcels or Easements, Column Parcels or Easements, and Subsurface Parcels or Easements, of Segments CR-402 through CR-415 of a series of maps entitled "THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY AIRTRAIN PROJECT, JFKIA-JAMAICA SEGMENT, ALTA/ACSM LAND TITLE SURVEY, A PORTION OF VAN WYCK EXPRESSWAY, SEGMENT CR-(402 through 415), BOROUGH OF QUEENS, QUEENS COUNTY, STATE OF NEW YORK" prepared by Vollmer Associates,

LLP, dated February 28, 2002, bearing Project Number 2001-003-03, and filed in the Office of the Register of Deeds, Queens County contemporaneously with the recording of this Grant of Permanent Easement.

1. With respect to each parcel designated as "Aerial Parcel" or "Aerial Easement", a permanent aerial easement for an elevated reinforced concrete platform supporting the LRS referred to herein as the "AirTrain Guideway," and for the LRS constructed thereon, including but not limited to appurtenant track, wires, switches, signals, drainage and other utility installations required for the operation of the LRS. Each aerial easement parcel is located within an elevated plane situate generally over the median area of the VWE separating the northbound and southbound lanes or the eastbound and westbound lanes, as the case may be, of the VWE and the first vehicular lane of the VWE located northerly or easterly of the median and the two vehicular travel lanes of the VWE located southerly or westerly of the median.

2. With respect to each parcel designated as "Column Parcel" or "Column Easement", a permanent surface easement for support of the AirTrain Guideway, including but not limited to appurtenant track, wire, switches, signals, drainage and utility installations.

3. With respect to each parcel designated as "Subsurface

Parcel" or "Subsurface Easement", a permanent subsurface easement for the construction of footings necessary for support of the columns supporting the AirTrain Guideway, the right to construct, install, and operate cables, wires, switches, signals, and other equipment appurtenant to electric and data transmission and the right to construct, install, operate and maintain drainage and utility facilities, including the right to connect to the existing highway drainage system.

**RESERVING TO THE GRANTORS** the legal right of access at grade level for the purpose of inspection, maintenance or repair of all State and/or New York City owned facilities, appurtenances or equipment or emergency repair or shoring of the LRS, if in the opinion of the Grantors, State facilities are endangered; and

**IT IS FURTHER AGREED** that inspection, maintenance, and/or repair of the LRS facility constructed by the Grantee within the State Highway System requiring access from the at-grade level will require a Permit from NYSDOT, but that inspection, maintenance, and/or repair work conducted from the elevated LRS/ AirTrain Guideway will not require a Permit issued by NYSDOT unless lane closures of the highway below are involved. The Permit for such work, which shall not be unreasonably withheld or delayed, shall be issued without charge and without requirements for bonds and shall otherwise contain standard terms and conditions.

PROVIDED HOWEVER, that the Grantee, its successors and assigns shall make no change in the clearance over the VWE or in the alignment or location of such LRS facilities, or additional facilities constructed, which will interfere with the VWE and its appurtenances or other facilities of the State of New York, its successors or assigns.

FURTHER PROVIDED, that if the easement rights created herein are no longer used for construction, reconstruction, operation and maintenance of an LRS operated for Air Terminal purposes, the easements shall automatically terminate and jurisdiction over the affected premises shall return to the NYSDOT.

This Grant of Permanent Easement contains certain language defining the scope, purpose and terms of the easements granted herein. The maps referred to in this Grant and which are intended to be filed contemporaneously with the recording of this Grant also contain certain language defining the scope, purpose and terms of such easements. The language contained in this Grant is intended to control the definition of these easements, and any inconsistency between the language describing the scope, purpose and terms of said easements contained on the maps and in this Grant, shall be controlled by the language of this Grant.

TO HAVE AND TO HOLD the permanent easement rights herein granted unto the Grantee, its successors and assigns forever, except as provided above.



**JOHN F. KENNEDY INTERNATIONAL AIRPORT - AIRPORT ACCESS PROJECT -  
PROPERTY ACQUISITION**

On May 9, 1996, the Board authorized a project (the "Project") for the implementation of an automated Light Rail System ("LRS") between Jamaica and John F. Kennedy International Airport ("JFK"), a link between Howard Beach and JFK, and an LRS circulating within the Central Terminal Area at a total estimated project cost of \$1.268 billion, excluding interest on bonded debt. JFK suffers from a lack of public transportation options for access to the facility. In addition, the existing roadway system is unable to adequately address the need for on-airport circulation. The Project will provide connections to regional transportation hubs at the Long Island Railroad station in Jamaica as well as the New York City Transit station in Howard Beach. The LRS will also provide stations on-airport, at the rental car facilities at Federal Circle, the Employee Long-Term Parking Lot, and at the unit terminals for intra-airport transportation of airport customers and employees.

In requesting Project Authorization at the Board's May 9, 1996 meeting, staff noted that at the appropriate time, the Board would be asked to make the necessary findings and authorize acquisition of property interests by negotiation or condemnation. In view of the Project schedule, staff recommends authorization of property acquisition by negotiation at this time. If negotiations with private landowners do not lead to reasonable settlements, staff would conduct a public hearing as required by the New York State Eminent Domain Procedure Act before initiating eminent domain proceedings to acquire the property. Subsequent to such a hearing, the Board would be requested to make the necessary findings and determinations to enable acquisition by condemnation. The JFK LRS Right-Of-Way ("ROW") will occupy lands now owned by, among others, the City of New York, the State of New York, the Long Island Railroad, Rock-Arizona Associates (an Amoco gas station), Web Food Products, Inc. (a parking lot) and Andrew Borone, Dominick Borone and Joseph Borone (an auto service station and parking lot). Staff plans to acquire these lands, and possibly others adjacent to the ROW should the need become apparent.

The Board at its meeting on May 9, 1996 also authorized the Executive Director to apply to the Federal Aviation Administration ("FAA") for additional Passenger Facility Charge ("PFC") collection authority of \$823 million and additional PFC use authority of \$1.248 billion. An application was submitted to the FAA for the use of PFC funds on July 21, 1997. A Record of Decision for the use of these funds in the amount of \$1.148 billion was received on February 9, 1998. An application for the \$100 million in PFCs which expired on October 1, 1997, due to the FAA's failure to act by the application's expiration date, will be resubmitted to the FAA. In addition to the \$14 million previously approved by the FAA for planning costs for the JFK LRS, an amendment to recover an additional \$36 million in planning and preliminary engineering costs will be submitted at the same time. An addendum will also be submitted to the PFC application to permit the Port Authority to reallocate certain Port Authority Capital funds (up to \$300 million) to project elements the FAA deems ineligible for PFC funding and to allocate PFCs to other eligible items. The total amount of PFC funds expected to be approved for the project is \$1.298 billion. Together with \$300 million in Port Authority Capital funds, the total available funds for this project is \$1.598 billion, including interest on bonded debt.

Environmental impacts have been and will be assessed and will be taken into consideration in the implementation of the Project and mitigation measures incorporated in the

Project. A Draft Environmental Impact Statement ("EIS"), Written Reevaluation/Technical Report and Final EIS ("FEIS"), were prepared by the FAA along with the New York State Department of Transportation ("NYSDOT") acting as Joint Lead Agency. The FAA prepared Records of Decision approving an amended Airport Layout Plan including the ROW for the LRS and use of PFCs for the Project in compliance with the National Environmental Policy Act. NYSDOT issued a Record of Decision containing Findings in connection with its authorization of property conveyances for the Project in compliance with the New York State Environmental Quality Review Act ("SEQRA"). It is anticipated that the City of New York will also issue Findings in connection with its authorization of City actions in support of the Project which will comply with the City's Environmental Quality Review Regulations which implement SEQRA. Also, it is a condition of FAA Project approval, as noted in NYSDOT's Record of Decision, that the mitigation measures presented in Section 7.0 of the FEIS are the responsibility of the Port Authority. The Port Authority will incorporate the mitigation measures as requirements of the design, construction, and operation contracts or other contracts issued for the Project.

The City of New York (the "City") has advised that it must comply with the provisions of Section 197(c) of the City Charter involving the Uniform Land Use Review Procedure ("ULURP") before it can execute conveyances needed for the Project. The ULURP, entailing Hearings before Community Boards, the Borough Board, the City Planning Commission and possibly the City Council, is expected to take six to nine months to complete. While the Port Authority's ULURP Application is deemed technically complete, pending direction from the City, the Application has not yet been certified as complete so that the ULURP process may begin.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Donovan, Eisenberg, Gargano, Haley, Kalikow, Lewis, O'Neill, Philibosian, Schweitzer and Song voting in favor; Commissioner Mack abstaining; none against:

**RESOLVED**, that the Executive Director or General Counsel, either one acting individually, is hereby authorized to acquire on behalf of the Port Authority property interests by negotiation for and in connection with the Air Terminal Access Facilities known as the John F. Kennedy International Airport ("JFK") Airport Access Light Rail System ("LRS") Project including a link between Jamaica and JFK, a link between Howard Beach and JFK and an LRS circulating the Central Terminal Area (the "Project"), such property interests being generally located along and adjacent to the alignment shown on the amended JFK Airport Layout Plan approved, or to be approved, by the Federal Aviation Administration ("FAA") including but not limited to fee title to three privately owned parcels of land known as Block 9990, Lot 5, Block 9989, Lot 11, and Block 9989, Lot 17, on the Tax Map of the City of New York, Borough of Queens, and to incur all related costs and expenses, and execute all documents and agreements, including without limitation, agreements and conveyances, involving transfers of property interests to or from the Port Authority, necessary or incidental to such acquisition or the Project; and to conduct a public hearing under New York State's Eminent Domain Procedure Act, at their discretion; and it is further

**RESOLVED**, that the Executive Director or General Counsel, either one acting individually, is hereby authorized to execute an agreement or agreements supplemental to the Agreement with respect to the Municipal Air Terminals between the City of New York (the "City") and the Port Authority and associated instruments whereby, among other matters, the City would: (a) transfer and release to the Port Authority the City's right, title and interest in the property interests the Port Authority requires for the Project; (b) accept a conveyance of the permanent property interests acquired for the Project; and (c) simultaneously lease such property interests to the Port Authority as part of the Airport Demised Premises; and it is further

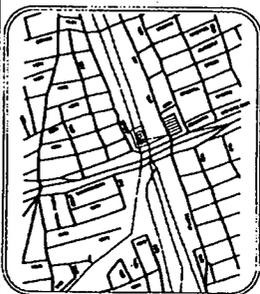
**RESOLVED**, that the form of all documents necessary to effectuate the foregoing shall be subject to the approval of General Counsel or his authorized representative.

**EXHIBIT B**

**COPY OF SURVEY OF LOT 5, BLOCK 9990,  
BOROUGH OF QUEENS, NEW YORK  
PREPARED BY VOLLMER ASSOCIATES**

**NOTES CORRESPONDING TO SCHEDULE B-1**

- 1) SUBJECT IS AN UNINCORPORATED TRADE SHOW 1/21/78 BETWEEN ANDREW G. COHEN & C. AND AMERICAN CO. COMPANY, AS NOTICED AND NOTICED.
- 2) SUBJECT IS AN UNINCORPORATED TRADE SHOW 1/21/78 BETWEEN ANDREW G. COHEN & C. AND AMERICAN CO. COMPANY, AS NOTICED AND NOTICED.
- 3) PART OF THE PARCELS ARE IN THE NAME OF ANDREW G. COHEN & C. THE PART OF THE PARCELS IS SUBJECT TO THE RESTRICTIONS AND BURDEN OF THE SCHEDULE B-1.
- 4) UNINCORPORATED TRADE SHOW 1/21/78 BETWEEN ANDREW G. COHEN & C. AND AMERICAN CO. COMPANY, AS NOTICED AND NOTICED.



VICINITY MAP

**ZONING DATA**

THE PROPERTY IS ZONED R-1 (RESIDENTIAL SINGLE-FAMILY). THE ZONING REGULATIONS FOR THIS ZONING DISTRICT ARE AS FOLLOWS: 1. MINIMUM LOT AREA: 10,000 SQ. FT. 2. MINIMUM FRONT YARD SETBACK: 20 FT. 3. MINIMUM SIDE YARD SETBACK: 5 FT. 4. MINIMUM REAR YARD SETBACK: 10 FT. 5. MAXIMUM BUILDING HEIGHT: 35 FT. 6. MAXIMUM GROUND COVER: 40%. THE PROPERTY IS CURRENTLY OCCUPIED BY A SINGLE-FAMILY RESIDENCE.

**LEGEND**

- 1. UNINCORPORATED TRADE SHOW 1/21/78 BETWEEN ANDREW G. COHEN & C. AND AMERICAN CO. COMPANY, AS NOTICED AND NOTICED.
- 2. UNINCORPORATED TRADE SHOW 1/21/78 BETWEEN ANDREW G. COHEN & C. AND AMERICAN CO. COMPANY, AS NOTICED AND NOTICED.
- 3. UNINCORPORATED TRADE SHOW 1/21/78 BETWEEN ANDREW G. COHEN & C. AND AMERICAN CO. COMPANY, AS NOTICED AND NOTICED.
- 4. UNINCORPORATED TRADE SHOW 1/21/78 BETWEEN ANDREW G. COHEN & C. AND AMERICAN CO. COMPANY, AS NOTICED AND NOTICED.
- 5. UNINCORPORATED TRADE SHOW 1/21/78 BETWEEN ANDREW G. COHEN & C. AND AMERICAN CO. COMPANY, AS NOTICED AND NOTICED.
- 6. UNINCORPORATED TRADE SHOW 1/21/78 BETWEEN ANDREW G. COHEN & C. AND AMERICAN CO. COMPANY, AS NOTICED AND NOTICED.
- 7. UNINCORPORATED TRADE SHOW 1/21/78 BETWEEN ANDREW G. COHEN & C. AND AMERICAN CO. COMPANY, AS NOTICED AND NOTICED.
- 8. UNINCORPORATED TRADE SHOW 1/21/78 BETWEEN ANDREW G. COHEN & C. AND AMERICAN CO. COMPANY, AS NOTICED AND NOTICED.
- 9. UNINCORPORATED TRADE SHOW 1/21/78 BETWEEN ANDREW G. COHEN & C. AND AMERICAN CO. COMPANY, AS NOTICED AND NOTICED.
- 10. UNINCORPORATED TRADE SHOW 1/21/78 BETWEEN ANDREW G. COHEN & C. AND AMERICAN CO. COMPANY, AS NOTICED AND NOTICED.

**SURVEY NOTES**

- 1) THE SURVEY IS BASED ON THE RECORDS OF THE SURVEY AND A REVISION OF RECORD 1000 OF THE SURVEY OF THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, DATED 1/21/78, AS NOTICED AND NOTICED.
- 2) THE SURVEY IS BASED ON THE RECORDS OF THE SURVEY AND A REVISION OF RECORD 1000 OF THE SURVEY OF THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, DATED 1/21/78, AS NOTICED AND NOTICED.
- 3) THE SURVEY IS BASED ON THE RECORDS OF THE SURVEY AND A REVISION OF RECORD 1000 OF THE SURVEY OF THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, DATED 1/21/78, AS NOTICED AND NOTICED.
- 4) THE SURVEY IS BASED ON THE RECORDS OF THE SURVEY AND A REVISION OF RECORD 1000 OF THE SURVEY OF THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, DATED 1/21/78, AS NOTICED AND NOTICED.
- 5) THE SURVEY IS BASED ON THE RECORDS OF THE SURVEY AND A REVISION OF RECORD 1000 OF THE SURVEY OF THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, DATED 1/21/78, AS NOTICED AND NOTICED.

**SURVEY REFERENCES**

- 1) RECORD 1000 OF THE SURVEY OF THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, DATED 1/21/78, AS NOTICED AND NOTICED.
- 2) RECORD 1000 OF THE SURVEY OF THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, DATED 1/21/78, AS NOTICED AND NOTICED.
- 3) RECORD 1000 OF THE SURVEY OF THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, DATED 1/21/78, AS NOTICED AND NOTICED.

**Legal Description**

THE SURVEY IS BASED ON THE RECORDS OF THE SURVEY AND A REVISION OF RECORD 1000 OF THE SURVEY OF THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, DATED 1/21/78, AS NOTICED AND NOTICED. THE SURVEY IS BASED ON THE RECORDS OF THE SURVEY AND A REVISION OF RECORD 1000 OF THE SURVEY OF THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, DATED 1/21/78, AS NOTICED AND NOTICED. THE SURVEY IS BASED ON THE RECORDS OF THE SURVEY AND A REVISION OF RECORD 1000 OF THE SURVEY OF THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, DATED 1/21/78, AS NOTICED AND NOTICED.

**ALTA/ACSM LAND TITLE SURVEY**

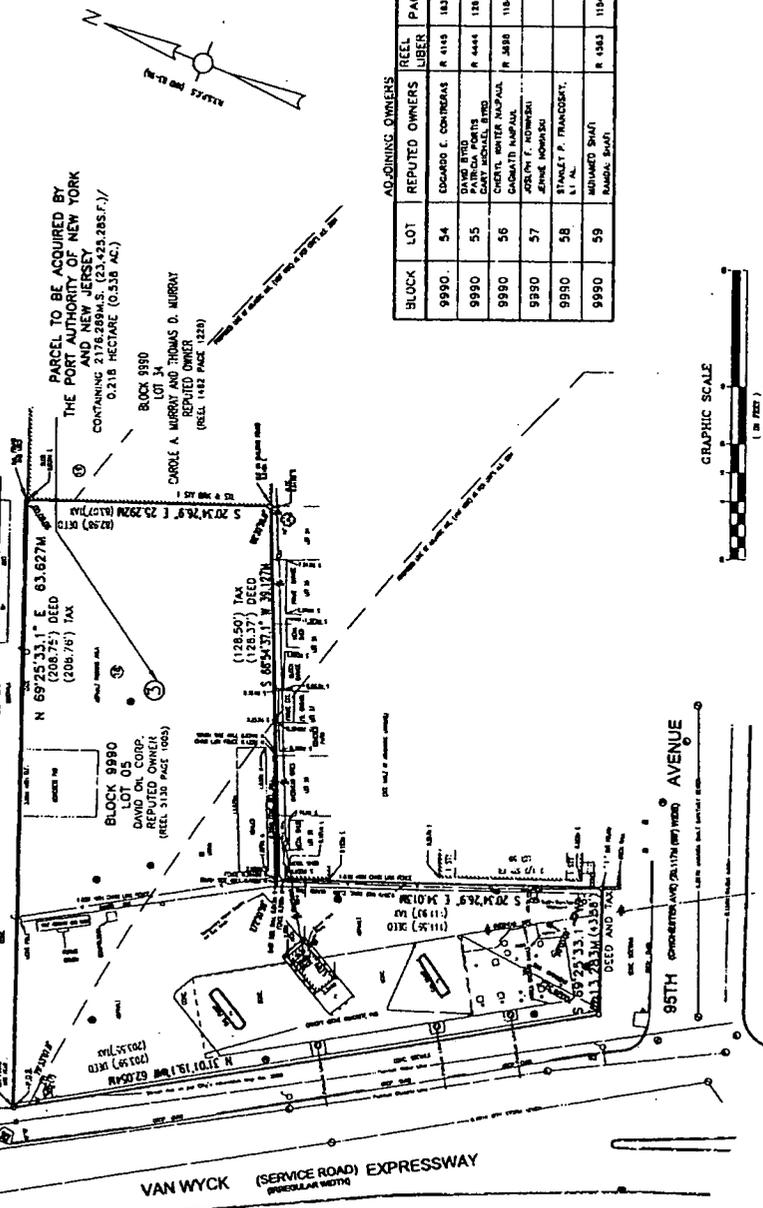
FOR THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
ONE WORLD TRADE CENTER  
NEW YORK, NY 10048

**SURVEYOR'S CERTIFICATION**

I, THE SURVEYOR, HEREBY CERTIFY THAT I AM A LICENSED SURVEYOR IN THE STATE OF NEW YORK AND NEW JERSEY. I HAVE PERSONALLY CONDUCTED THIS SURVEY AND I AM AWARE OF THE CONTENTS OF THIS SURVEY. I HAVE READ THIS SURVEY AND I AM AWARE OF THE CONTENTS OF THIS SURVEY. I HAVE READ THIS SURVEY AND I AM AWARE OF THE CONTENTS OF THIS SURVEY.



ADJOINING OWNERS	REPUTED OWNERS	REEL	PAGE
54	OSCARO E. CONDEGAS	R 4145	1839
55	DAVID BIRDO DANIEL M. BIRDO	R 4444	1883
56	CHERIE, BRITTA, RAFAELA GABRIELA RAFAELA	R 3858	1154
57	ARLENE F. JONAS	R 4145	1839
58	STANLEY P. FRANKFORT, ET AL.	R 4145	1839
59	MICHAEL SHAI RAMADIA SHAI	R 4145	1839



NO.	DATE	REVISIONS
1	1/21/78	INITIAL SURVEY
2	1/21/78	REVISIONS

ALTA/ACSM LAND TITLE SURVEY  
LOT 05, BLOCK 9990  
PORT AUTHORITY OF NEW YORK AND NEW JERSEY  
VOLUME ASSOCIATES  
140 WEST 11TH STREET, NEW YORK, NY 10011  
TEL: (212) 512-1234

## QUITCLAIM DEED FROM PORT AUTHORITY TO CITY

THIS INDENTURE made as of November 24, 2004 between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic, created by compact between the States of New York and New Jersey with the consent of Congress with its office at 225 Park Avenue South, Borough of Manhattan, City, County and State of New York (the "**Port Authority**") and the CITY OF NEW YORK, a municipal corporation of the State of New York with its principal office at City Hall, in the Borough of Manhattan, City, County and State of New York (the "**City**").

WITNESSETH THAT:

WHEREAS, the City and Port Authority intend to enter into an Amended and Restated Agreement of Lease of the Municipal Air Terminals dated as of November 24, 2004 (the "Agreement"); and

WHEREAS, the City has disposed to the Port Authority any property interests it owns within (i) that portion of the Light Rail System that the Port Authority has acquired from the People of the State of New York acting by and through the Commissioner of Transportation ("State") by Grant of Permanent Easement made August 19, 2002, a copy of which is attached hereto and made a part hereof as Exhibit A, and (ii) the property identified on the Tax Map of the City of New York as Lot 5, Block 9990, Borough of Queens by Indenture of even date herewith;

WHEREAS, the Port Authority now desires to convey to the City all property interests it owns within such portion of the Light Rail System ("LRS") and in Lot 5, Block 9990, Borough of Queens, and the City desires to accept such property interests and incorporate such property interests conveyed by the Port Authority to the City into the Demised Premises, as such term is defined in the Agreement, by leasing such property interests to the Port Authority under the Agreement; and

WHEREAS, City Planning Commission Resolution # C990117 PQQ/C 990118 PPQ adopted May 3, 1999 and City Council Resolution # 864 adopted June 7, 1999 have authorized such dispositions and acquisitions by the City and the Port Authority's Board of Commissioners has authorized such acquisitions and disposition by the Port Authority by Resolution adopted September 24, 1998.

NOW, THEREFORE, the Port Authority and the City do hereby agree as follows:

The Port Authority does hereby remise, release and quitclaim unto the City, its successors and assigns forever, all right, title and interest of the Port Authority in and to the Property which is described as follows:

A. Permanent aerial, surface and subsurface easements for the construction, reconstruction, operation, inspection, maintenance and repair of the LRS, which easements are more specifically defined herein over all those pieces or parcels of property in the Fourth Ward of the Borough Queens, City of New York, County of Queens, State of New York, which are shown and described as Aerial Parcels or Easements, Column Parcels or Easements, and Subsurface Parcels or Easements, of Segments CR – 402 through CR – 415 of a series of maps entitled, “THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY AIRTRAIN PROJECT, JFKIA-JAMAICA SEGMENT, ALTA/ACSM LAND TITLE SURVEY, A PORTION OF VAN WYCK EXPRESSWAY, SEGMENT CR-(402 THROUGH 415), BOROUGH OF QUEENS, QUEENS COUNTY, STATE OF NEW YORK”, prepared by Vollmer Associates LLP, dated February 28, 2002, bearing Project Number 2001-003-03 and filed contemporaneously in the Office of the Register of Deeds, Queens County on September 17, 2002 with the Grant of Permanent Easement between The People of the State of New York, acting by and through Joseph H. Boardman, the Commissioner of Transportation of the State of New York and the Port Authority of New York and New Jersey made August 19, 2002 and recorded at Reel 6582, Page 0118 *et seq.*, City Register Serial Number 128069.

Subject, however, to the provisions of the aforesaid Grant of Permanent Easement made August 19, 2002.

B. All that certain plot, piece or parcel of land situate, lying and being in the Fourth Ward of the Borough of Queens, City of New York, County of Queens, and State of New York, being more particularly bounded and described as follows:

BEGINNING at the corner formed by the intersection of the southerly side of 94<sup>th</sup> Avenue formerly Johnson Avenue (50 feet wide) with the easterly side of Van Wyck Expressway (Service Road); said corner having a New York State Coordinate System (NAD 83-96) value of N 58916.0472 meters E 315799.1275 meters (N193293.7316 feet E1036084.3037 feet);

1. Running thence North 69 degrees 25 minutes 33.1 seconds East along the southerly side of 94<sup>th</sup> Avenue, 63.627 meters (208.75 feet) to a point on the division line between property now or formerly of David Oil Corp. and property now or formerly of Carole A. Murray and Thomas D. Murray;
2. Running thence along said division line South 20 degrees 34 minutes 26.9 seconds East, at right angles to the southerly side of 94<sup>th</sup> Avenue, 25.292 meters (82.98 feet) to a point;
3. Running thence South 66 degrees 54 minutes 37.1 seconds West along the division line between property now or formerly of David Oil Corp. and the following properties: property now or formerly of Edgardo E. Contreras; property now or formerly of David Byrd, Patricia Portis, and Gary Michael Byrd; property now or formerly of Cheryl Winter Naipaul and Gagnatti Naipaul; property now or formerly of Joseph F. Nowinski and Jennie Nowinski; property now or formerly of Stanley P. Francosky, et al; and property

now or formerly of Mohamed Shafi and Ramdai Shafi, said line forming an interior angle of 92 degrees 30 minutes 56 seconds with the last mentioned course, 39.127 meters (128.37 feet) to a point in a line distant 34.013 meters (111.59 feet) northerly from the northerly side of 95<sup>th</sup> Avenue, drawn at right angles thereto, from a point thereon and distant 13.283 meters (43.58 feet) easterly from said easterly side of Van Wyck Expressway (Service Road);

4. Running thence South 20 degrees 34 minutes 26.9 seconds East along the division line between property now or formerly of David Oil Corp. and property now or formerly of Mohamed Shafi and Ramdai Shafi, at right angles to the northerly side of 95<sup>th</sup> Avenue, formerly Chichester Avenue, 34.013 meters (111.59 feet) to the northerly side of 95<sup>th</sup> Avenue;
5. Running thence South 69 degrees 25 minutes 33.1 seconds West along the northerly side of 95<sup>th</sup> Avenue, 13.283 meters (43.58 feet) to the corner formed by the intersection of the said northerly side of 95<sup>th</sup> Avenue and the easterly side of Van Wyck Expressway (Service Road);
6. Running thence North 31 degrees 01 minutes 19.1 seconds West along the easterly side of Van Wyck Expressway (Service Road), 62.054 meters (203.59 feet) to the point and place of beginning.

Containing 2176.289 square meters (23425.28 square feet) or 0.218 Hectare (0.538 acre).

Also known as **Tax Block 9990, Tax Lot 5**, Borough of Queens, City of New York.

Being the premises shown on an ALTA/ACSM Land Title Surveys of Lot 5, Block 9990, Queens, New York, prepared by Vollmer Associates, dated February 15, 2000 and signed by Kenneth J. Stigner, L.S., a copy of which is attached hereto as Exhibit B.

Being the same premises conveyed to the Port Authority by David Oil Corp. by Indenture made November 3, 2000 recorded with the Office of the Register of Deeds, Queens County, November 29, 2000 at Reel 5732, Page 0424 *et seq.*, City Register Serial Number 113076

All bearings refer to The New York Coordinate System of 1983-96, Long Island Zone 3104.

Together with the appurtenances and all the estate and rights of the Port Authority in and to said premises.

Together with all right, title and interest, if any, of the Port Authority in and to any streets and roads abutting the above described premises to the center line thereof.

To Have And To Hold the premises herein granted unto the City, the successors and assigns of the City forever.

The Port Authority, in compliance with Section 13 of the Lien Law, covenants that it will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The City hereby accepts the conveyance from the Port Authority.

No Commissioner, director, elected official, officer, agent, representative or employee of the Port Authority or the City shall be charged personally by either party hereto with any liability or held personally liable under any of the terms or provisions of this Indenture or because of its execution or because of any breach or attempted or alleged breach hereof.

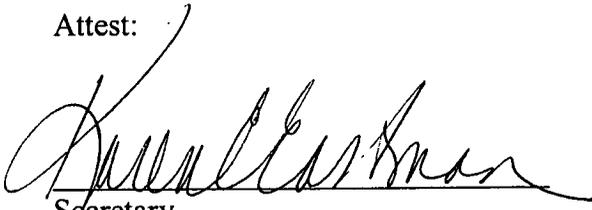
This Indenture may be executed in one or more counterparts each of which counterparts shall be deemed an original and all of which counterparts shall constitute one and the same document.

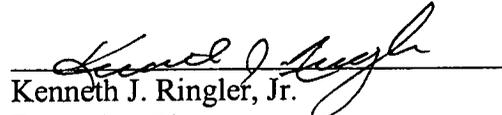
IN WITNESS WHEREOF, the Port Authority has caused its corporate seal to be hereunto affixed and duly attested and this Agreement to be signed by its Executive Director, of the day and year first written above and the City has caused its corporate seal to be hereunto affixed and duly attested and this Indenture to be signed by its Deputy Mayor for Economic Development and Rebuilding and by the City Clerk of the City.

***[NO FURTHER TEXT ON THIS PAGE]***

Attest:

THE PORT AUTHORITY OF NEW YORK AND  
NEW JERSEY

  
Secretary

  
Kenneth J. Ringler, Jr.  
Executive Director

Approved as to form:

  
Darrell Buchbinder  
General Counsel HKB

THE CITY OF NEW YORK

By:

\_\_\_\_\_

City Clerk

By:

\_\_\_\_\_   
Daniel L. Doctoroff  
Deputy Mayor for Economic Development  
and Rebuilding

Approved as to form:

\_\_\_\_\_   
Acting Corporation Counsel

Attest:

THE PORT AUTHORITY OF NEW YORK AND  
NEW JERSEY

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Kenneth J. Ringler, Jr.  
Executive Director

Approved as to form:

\_\_\_\_\_  
Darrell Buchbinder,  
General Counsel

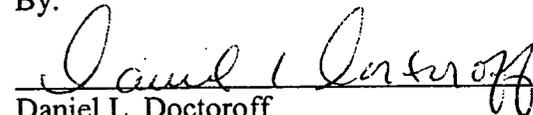
THE CITY OF NEW YORK

By:



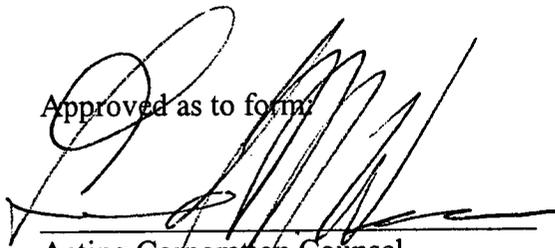
\_\_\_\_\_  
City Clerk      **Michael McSweeney**  
1st Deputy & Acting City Clerk

By:



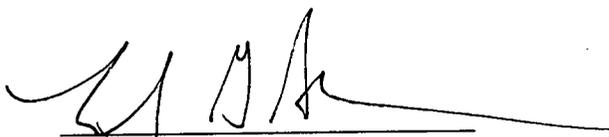
\_\_\_\_\_  
Daniel L. Doctoroff  
Deputy Mayor for Economic Development  
and Rebuilding

Approved as to form:

  
\_\_\_\_\_  
Acting Corporation Counsel

STATE OF NEW YORK     )  
:                    ss. :  
COUNTY OF NEW YORK )

On the 24<sup>th</sup> day of November 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared KENNETH J. RINGLER, JR., Executive Director of the PORT AUTHORITY OF NEW YORK AND NEW JERSEY, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

STATE OF NEW YORK    )  
:                    ss. :  
COUNTY OF NEW YORK )

On the 24 day of November, 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared Michael McSweeney, City Clerk of THE CITY OF NEW YORK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

**LILIA DWYER**  
Commissioner of Deeds  
City of New York No. 3-7093  
Certificate Filed in New York County  
Commission Expires Feb. 01, 2005

STATE OF NEW YORK    )  
:                    ss. :  
COUNTY OF NEW YORK )

On the 23<sup>rd</sup> day of November, 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared Daniel L. Doctoroff, Deputy Mayor for Economic Development and Rebuilding of THE CITY OF NEW YORK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public

**SCOTT E. SHOSTAK**  
Notary Public, State of New York  
No. 02SH4834702  
Qualified in New York County  
Commission Expires 09/30/2006

**EXHIBIT A**

**COPY OF GRANT OF PERMANENT EASEMENT  
DATED AS OF AUGUST 19, 2002  
FROM THE PEOPLE OF THE STATE OF NEW YORK**



STATE OF NEW YORK  
DEPARTMENT OF TRANSPORTATION  
HUNTERS POINT PLAZA  
47-40 21ST STREET  
LONG ISLAND CITY, N.Y. 11101

DOUGLAS A. CURREY, P.E.  
REGIONAL DIRECTOR

SUBI CHAKRABORTI, P.E.  
DEPUTY REGIONAL DIRECTOR

JOSEPH H. BOARDMAN  
COMMISSIONER

September 18, 2002

Harry Barr, Esq.  
The Port Authority of NY and NJ  
Law Department, 14<sup>th</sup> floor  
225 Park Avenue South  
New York, NY 10003

Re: PIN X735.55  
Proceeding 6105 02/7  
AirTrain Easement  
JFK-LRS Airport Access Program  
Queens County

Dear Mr. Barr:

As mentioned to your secretary in a message to be conveyed to you, we have filed the maps and the Grant of Permanent Easement on the above project in the Queens County Registrar's office on September 17, 2002 and I will be hand delivering these maps and the Grant of Easement to your office next week.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Gulrukh Irani".

Gulrukh Irani  
Real Estate Specialist Trainee 2

CITY REGISTER RECORDING AND ENDORSEMENT PAGE

COUNTY OF Queens  
THIS PAGE FORMS PART OF THE INSTRUMENT

TOTAL NUMBER OF PAGES IN DOCUMENT INCLUDING THIS PAGE ▶

Block 14260 Lots - ONLY IF ENTIRE LOT 1 Partial Lots ▼  
PID

Premises ▼

NAME ▼ Harry K. Barr, Esq.  
ADDRESS ▼ Post Authority of NY & N.J. Land Dept.  
CITY ▼ STATE ▼ ZIP ▼  
225 Park Ave. S 14<sup>th</sup> Fl, NY, NY-10003

Title/Agent Company Name ▼ NYS DOT  
Title Company Number ▼

NAME & ADDRESS  
PARTY 1 ▼ N.Y. S. Department of Transportation  
ADDITIONAL PARTY 1 ▼ 47-40 21<sup>st</sup> Street, D.I.C. NY - 11101  
PARTY 2 ▼ Port Authority of NY & NJ  
ADDITIONAL PARTY 2 ▼ 225 Park Ave S 14<sup>th</sup> Fl, Land Dept, N.Y. NY-10003  
CHECK THIS BOX IF THERE ARE MORE THAN 2 OF EITHER PARTY

FOLD

CITY REGISTER'S USE ONLY - DO NOT WRITE BELOW THIS LINE

Examined by (s): 1  
Mtg Tax Serial No.         
Mtg Amount \$         
Taxable Amount \$         
Exemption (✓)        YES  NO   
Type: [300E] [255] [OTHER       ]  
Dwelling Type: [1 to 2] [3] [4 to 6] [OVER 6]  
TAX RECEIVED ON ABOVE MORTGAGE ▼  
County (basic) \$         
City (Add'l) \$         
Spec Add'l \$         
TASF \$         
MTA \$         
NYCTA \$         
TOTAL TAX \$         
Apportionment Mortgage (✓) YES  NO

City Register Serial Number 128069 Assignment  
Indexed By (s): DN Verified By (s):         
Block(s) and Lot(s) verified by (s)         
Address  Tax Map   
Extra Block(s)        Lot(s)         
Recording Fee B \$ NO CHARGE  
Affidavit Fee (C) \$         
RPTT Fee (R) \$ NO CHARGE  
HPD-A  HPD-C   
New York State Real Estate Transfer Tax ▼  
\$ 0  
Serial Number ▶ 004445  
New York City Real Property Transfer Tax Serial Number ▶ 022466

OTHER COUNTY TAXES  
LOCAL TAXES

FOLD

RECORDED IN THE OFFICE OF THE CITY REGISTER OF THE CITY OF NEW YORK



*Handwritten signature*

CRGFORM BRG 04/70

Proceeding 6105  
AirTrain Easement  
JFK-LRS Airport Access Program  
Queens County

**GRANT OF PERMANENT EASEMENT**

Made the 19<sup>th</sup> day of August, 2002, between  
**THE PEOPLE OF THE STATE OF NEW YORK**, acting by and through  
Joseph H. Boardman, the Commissioner of Transportation of the  
State of New York, with offices at 1220 Washington Avenue,  
Albany, New York 12232, Grantors, and

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**, a body  
corporate and politic acting pursuant to authority conferred by  
the legislatures of the States of New York and New Jersey, with  
offices at 225 Park Avenue South, New York, New York 10003,  
Grantee,

**WHEREAS**, Grantee has constructed a Light Rail System  
designed to carry passengers, also referred to as AirTrain  
Facilities ("LRS") within Kennedy International Airport ("JFK")  
with connections to the Jamaica Long Island Railroad/New York  
City Transit Authority Sutphin Boulevard Station ("Jamaica  
Station") and to the Howard Beach Subway Station; and

**WHEREAS**, the connection to the Jamaica Station requires the  
use of property lying between the boundary of JFK and the Jamaica  
Station including, but not limited to, the Van Wyck Expressway  
("VWE"), for the LRS Project; and

**WHEREAS**, lands within the VWE are owned all or in part by  
the Grantors as part of the State Highway System under

jurisdiction of the New York State Department of Transportation ("NYSDOT"); and

WHEREAS, the parties hereto have entered into a Memorandum of Understanding which provides, among other things, that the Grantee will construct the LRS and as part of its project will make certain other improvements in the VWE for the benefit of the Grantors, and the Grantors will convey a grant of permanent easement rights in the VWE to the Grantee upon the terms and conditions hereinafter expressed; and

NOW THEREFORE the Grantors, in consideration of the sum of ONE AND NO/100 DOLLAR (\$1.00), and other valuable consideration, do hereby remise, release and quitclaim unto the Grantee, its successors and assigns forever,

Permanent aerial, surface and subsurface easements for the construction, reconstruction, operation, inspection, maintenance and repair of the LRS, which easements are more specifically defined herein over all those PIECES OR PARCELS OF PROPERTY situate in the Fourth Ward of the Borough of Queens, City of New York, County of Queens, State of New York, which are shown and described as Aerial Parcels or Easements, Column Parcels or Easements, and Subsurface Parcels or Easements, of Segments CR-402 through CR-415 of a series of maps entitled "THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY AIRTRAIN PROJECT, JFKIA-JAMAICA SEGMENT, ALTA/ACSM LAND TITLE SURVEY, A PORTION OF VAN WYCK EXPRESSWAY, SEGMENT CR-(402 through 415), BOROUGH OF QUEENS, QUEENS COUNTY, STATE OF NEW YORK" prepared by Vollmer Associates,

LLP, dated February 28, 2002, bearing Project Number 2001-003-03, and filed in the Office of the Register of Deeds, Queens County contemporaneously with the recording of this Grant of Permanent Easement.

1. With respect to each parcel designated as "Aerial Parcel" or "Aerial Easement", a permanent aerial easement for an elevated reinforced concrete platform supporting the LRS referred to herein as the "AirTrain Guideway," and for the LRS constructed thereon, including but not limited to appurtenant track, wires, switches, signals, drainage and other utility installations required for the operation of the LRS. Each aerial easement parcel is located within an elevated plane situate generally over the median area of the VWE separating the northbound and southbound lanes or the eastbound and westbound lanes, as the case may be, of the VWE and the first vehicular lane of the VWE located northerly or easterly of the median and the two vehicular travel lanes of the VWE located southerly or westerly of the median.

2. With respect to each parcel designated as "Column Parcel" or "Column Easement", a permanent surface easement for support of the AirTrain Guideway, including but not limited to appurtenant track, wire, switches, signals, drainage and utility installations.

3. With respect to each parcel designated as "Subsurface

Parcel" or "Subsurface Easement", a permanent subsurface easement for the construction of footings necessary for support of the columns supporting the AirTrain Guideway, the right to construct, install, and operate cables, wires, switches, signals, and other equipment appurtenant to electric and data transmission and the right to construct, install, operate and maintain drainage and utility facilities, including the right to connect to the existing highway drainage system.

**RESERVING TO THE GRANTORS** the legal right of access at grade level for the purpose of inspection, maintenance or repair of all State and/or New York City owned facilities, appurtenances or equipment or emergency repair or shoring of the LRS, if in the opinion of the Grantors, State facilities are endangered; and

**IT IS FURTHER AGREED** that inspection, maintenance, and/or repair of the LRS facility constructed by the Grantee within the State Highway System requiring access from the at-grade level will require a Permit from NYSDOT, but that inspection, maintenance, and/or repair work conducted from the elevated LRS/ AirTrain Guideway will not require a Permit issued by NYSDOT unless lane closures of the highway below are involved. The Permit for such work, which shall not be unreasonably withheld or delayed, shall be issued without charge and without requirements for bonds and shall otherwise contain standard terms and conditions.

PROVIDED HOWEVER, that the Grantee, its successors and assigns shall make no change in the clearance over the VWE or in the alignment or location of such LRS facilities, or additional facilities constructed, which will interfere with the VWE and its appurtenances or other facilities of the State of New York, its successors or assigns.

FURTHER PROVIDED, that if the easement rights created herein are no longer used for construction, reconstruction, operation and maintenance of an LRS operated for Air Terminal purposes, the easements shall automatically terminate and jurisdiction over the affected premises shall return to the NYSDOT.

This Grant of Permanent Easement contains certain language defining the scope, purpose and terms of the easements granted herein. The maps referred to in this Grant and which are intended to be filed contemporaneously with the recording of this Grant also contain certain language defining the scope, purpose and terms of such easements. The language contained in this Grant is intended to control the definition of these easements, and any inconsistency between the language describing the scope, purpose and terms of said easements contained on the maps and in this Grant, shall be controlled by the language of this Grant.

TO HAVE AND TO HOLD the permanent easement rights herein granted unto the Grantee, its successors and assigns forever, except as provided above.



(Board - 9/24/98)

## **JOHN F. KENNEDY INTERNATIONAL AIRPORT - AIRPORT ACCESS PROJECT - PROPERTY ACQUISITION**

On May 9, 1996, the Board authorized a project (the "Project") for the implementation of an automated Light Rail System ("LRS") between Jamaica and John F. Kennedy International Airport ("JFK"), a link between Howard Beach and JFK, and an LRS circulating within the Central Terminal Area at a total estimated project cost of \$1.268 billion, excluding interest on bonded debt. JFK suffers from a lack of public transportation options for access to the facility. In addition, the existing roadway system is unable to adequately address the need for on-airport circulation. The Project will provide connections to regional transportation hubs at the Long Island Railroad station in Jamaica as well as the New York City Transit station in Howard Beach. The LRS will also provide stations on-airport, at the rental car facilities at Federal Circle, the Employee Long-Term Parking Lot, and at the unit terminals for intra-airport transportation of airport customers and employees.

In requesting Project Authorization at the Board's May 9, 1996 meeting, staff noted that at the appropriate time, the Board would be asked to make the necessary findings and authorize acquisition of property interests by negotiation or condemnation. In view of the Project schedule, staff recommends authorization of property acquisition by negotiation at this time. If negotiations with private landowners do not lead to reasonable settlements, staff would conduct a public hearing as required by the New York State Eminent Domain Procedure Act before initiating eminent domain proceedings to acquire the property. Subsequent to such a hearing, the Board would be requested to make the necessary findings and determinations to enable acquisition by condemnation. The JFK LRS Right-Of-Way ("ROW") will occupy lands now owned by, among others, the City of New York, the State of New York, the Long Island Railroad, Rock-Arizona Associates (an Amoco gas station), Web Food Products, Inc. (a parking lot) and Andrew Borone, Dominick Borone and Joseph Borone (an auto service station and parking lot). Staff plans to acquire these lands, and possibly others adjacent to the ROW should the need become apparent.

The Board at its meeting on May 9, 1996 also authorized the Executive Director to apply to the Federal Aviation Administration ("FAA") for additional Passenger Facility Charge ("PFC") collection authority of \$823 million and additional PFC use authority of \$1.248 billion. An application was submitted to the FAA for the use of PFC funds on July 21, 1997. A Record of Decision for the use of these funds in the amount of \$1.148 billion was received on February 9, 1998. An application for the \$100 million in PFCs which expired on October 1, 1997, due to the FAA's failure to act by the application's expiration date, will be resubmitted to the FAA. In addition to the \$14 million previously approved by the FAA for planning costs for the JFK LRS, an amendment to recover an additional \$36 million in planning and preliminary engineering costs will be submitted at the same time. An addendum will also be submitted to the PFC application to permit the Port Authority to reallocate certain Port Authority Capital funds (up to \$300 million) to project elements the FAA deems ineligible for PFC funding and to allocate PFCs to other eligible items. The total amount of PFC funds expected to be approved for the project is \$1.298 billion. Together with \$300 million in Port Authority Capital funds, the total available funds for this project is \$1.598 billion, including interest on bonded debt.

Environmental impacts have been and will be assessed and will be taken into consideration in the implementation of the Project and mitigation measures incorporated in the

Project. A Draft Environmental Impact Statement ("EIS"), Written Reevaluation/Technical Report and Final EIS ("FEIS"), were prepared by the FAA along with the New York State Department of Transportation ("NYSDOT") acting as Joint Lead Agency. The FAA prepared Records of Decision approving an amended Airport Layout Plan including the ROW for the LRS and use of PFCs for the Project in compliance with the National Environmental Policy Act. NYSDOT issued a Record of Decision containing Findings in connection with its authorization of property conveyances for the Project in compliance with the New York State Environmental Quality Review Act ("SEQRA"). It is anticipated that the City of New York will also issue Findings in connection with its authorization of City actions in support of the Project which will comply with the City's Environmental Quality Review Regulations which implement SEQRA. Also, it is a condition of FAA Project approval, as noted in NYSDOT's Record of Decision, that the mitigation measures presented in Section 7.0 of the FEIS are the responsibility of the Port Authority. The Port Authority will incorporate the mitigation measures as requirements of the design, construction, and operation contracts or other contracts issued for the Project.

The City of New York (the "City") has advised that it must comply with the provisions of Section 197(c) of the City Charter involving the Uniform Land Use Review Procedure ("ULURP") before it can execute conveyances needed for the Project. The ULURP, entailing Hearings before Community Boards, the Borough Board, the City Planning Commission and possibly the City Council, is expected to take six to nine months to complete. While the Port Authority's ULURP Application is deemed technically complete, pending direction from the City, the Application has not yet been certified as complete so that the ULURP process may begin.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Donovan, Eisenberg, Gargano, Haley, Kalikow, Lewis, O'Neill, Philibosian, Schweitzer and Song voting in favor; Commissioner Mack abstaining; none against:

**RESOLVED**, that the Executive Director or General Counsel, either one acting individually, is hereby authorized to acquire on behalf of the Port Authority property interests by negotiation for and in connection with the Air Terminal Access Facilities known as the John F. Kennedy International Airport ("JFK") Airport Access Light Rail System ("LRS") Project including a link between Jamaica and JFK, a link between Howard Beach and JFK and an LRS circulating the Central Terminal Area (the "Project"), such property interests being generally located along and adjacent to the alignment shown on the amended JFK Airport Layout Plan approved, or to be approved, by the Federal Aviation Administration ("FAA") including but not limited to fee title to three privately owned parcels of land known as Block 9990, Lot 5, Block 9989, Lot 11, and Block 9989, Lot 17, on the Tax Map of the City of New York, Borough of Queens, and to incur all related costs and expenses, and execute all documents and agreements, including without limitation, agreements and conveyances, involving transfers of property interests to or from the Port Authority, necessary or incidental to such acquisition or the Project; and to conduct a public hearing under New York State's Eminent Domain Procedure Act, at their discretion; and it is further

**RESOLVED**, that the Executive Director or General Counsel, either one acting individually, is hereby authorized to execute an agreement or agreements supplemental to the Agreement with respect to the Municipal Air Terminals between the City of New York (the "City") and the Port Authority and associated instruments whereby, among other matters, the City would: (a) transfer and release to the Port Authority the City's right, title and interest in the property interests the Port Authority requires for the Project; (b) accept a conveyance of the permanent property interests acquired for the Project; and (c) simultaneously lease such property interests to the Port Authority as part of the Airport Demised Premises; and it is further

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

**EXHIBIT B**

**COPY OF SURVEY OF LOT 5, BLOCK 9990,  
BOROUGH OF QUEENS, NEW YORK  
PREPARED BY VOLLMER ASSOCIATES**



## **WORLD TRADE CENTER REDEVELOPMENT AGREEMENT**

This **AGREEMENT** entered into this 24<sup>th</sup> day of November 2004 (this "Agreement") by and between **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** ("the Port Authority"), a body corporate and politic, created by compact between the States of New York and New Jersey with the consent of Congress, having its principal offices at 225 Park Avenue South, New York, New York 10003, and **THE CITY OF NEW YORK** (the "City"), a municipal corporation of the State of New York, having its principal office at City Hall, New York, New York, 10007.

### **WITNESSETH:**

**WHEREAS**, the Port Authority and the City entered into a Master Agreement dated June 6, 1967 (the "Master Agreement"), pursuant to Section 6608 of the Unconsolidated Laws of the State of New York, which Master Agreement provided for certain changes in the City's street system, including the widening, elimination, discontinuance and closure of certain streets and the establishment of grades and roadway treatment within and adjacent to the World Trade Center site, and for the reservation of permanent and perpetual easements for utilities, rapid transit, police, fire and other City agencies and for vehicular traffic within certain of the areas conveyed to the Port Authority to accommodate the construction of the World Trade Center; and

**WHEREAS**, pursuant to the Master Agreement the City entered into an agreement dated January 31, 1968 transferring to the Port Authority, its successors and assigns forever, all right title and interest of the City in and to the volumes of streets below designated upper limiting planes and streets with no upper limits in the area bounded by Liberty Street, West Street, Vesey Street and Greenwich Street, all as more particularly described in that agreement; and

**WHEREAS**, pursuant to the Master Agreement the City and the Port Authority on or about June 10, 1969 entered into an agreement in connection with the discontinuance and closing of the remaining streets within the World Trade Center site area shown on a map bearing acc. No. 29937 dated August 12, 1968 whereby the City agreed to deliver to the Port Authority, or its successors and assigns, a release of the interest of the City in and to the portions of the discontinued and closed streets shown on the aforesaid map in the area generally bounded by West Street, Barclay, Church Street, and Liberty Street ; and

**WHEREAS**, the World Trade Center buildings and structures were thereafter constructed; and

**WHEREAS**, on July 24, 2001, the Port Authority entered into net leases with respect to One (including the subgrade under all of the net leased properties), Two, Four, and Five World Trade Center, with separate single purpose entities affiliated with Silverstein Properties, Inc., (the "Silverstein Net Lessees"), which leases were amended by letter agreement dated December 1, 2003; and with respect to the retail components of the World Trade Center, with a single purpose entity (now owned by the Port Authority) formed by an affiliate of Westfield America, Inc. (the "Retail Net Lessee"); and

**WHEREAS**, it is the intention of the Port Authority that the decisions and actions contemplated by this Agreement will not conflict, in any material way, with the provisions of any Port Authority leases with the Silverstein Net Lessees or the Retail Net Lessee; and

**WHEREAS**, the World Trade Center buildings and structures were destroyed in the terrorist attacks of September 11, 2001; and

**WHEREAS**, the Port Authority and the City acknowledge that the City has legitimate interests regarding the redevelopment process for the World Trade Center Site, which redevelopment process has already begun; and

**WHEREAS**, the City, the Port Authority, the Lower Manhattan Development Corporation ("LMDC") and the Silverstein Net Lessees ("SPL") have entered into a World Trade Center Design and Site Plan Agreement dated November 24, 2004 (hereafter the "Design and Site Plan Agreement") regarding the redevelopment of the WTC Site, which Design and Site Plan Agreement is attached hereto as Appendix A and incorporated herein by reference; and

**WHEREAS**, the City and the Port Authority desire to set forth certain additional understandings between them regarding the reconstruction and redevelopment of the World Trade Center and to amend in certain respects the parties' obligations under the June 10, 1969 agreement with respect to the discontinuance and closing of the streets shown on the map bearing acc No. 29937 dated August 12, 1968 attached to that agreement.

**NOW THEREFORE**, in consideration of the promises contained herein and other good and valuable considerations, the parties agree as follows:

## **ARTICLE ONE**

### **ADOPTION OF GENERAL PROJECT PLAN**

(a) LMDC adopted a General Project Plan for the redevelopment of the World Trade Center Site (the "GPP") on June 2, 2004. The GPP is attached hereto as Appendix B. Set forth as Attachment 1 to the GPP is an illustrative Site Plan for the redevelopment of the World Trade Center (the "GPP Site Plan"). The project area set forth in the GPP Site Plan, plus the PATH Terminal Site shall hereafter be referred to as the "WTC Site".

(b) The parties agree to comply with and abide by the provisions of the GPP (as adopted and as may be amended consistent with the Design and Site Plan Agreement), this Agreement and the attached Design and Site Plan Agreement and that the redevelopment of the WTC Site shall be in accordance with the requirements of the each of these documents and agreements, with the Design and Site Plan Agreement to control in the event of any conflict or inconsistency among such documents or agreements. The parties specifically agree that the WTC Site shall include certain properties located south of Liberty Street, being respectively identified as a parcel of land and a building at 130 Liberty Street, owned by the LMDC, a parcel of land owned by the Hellenic Orthodox Church, a parcel of land owned by 140 Liberty Street Associates, Washington Street between Cedar and Liberty Streets, and subsurface portions of adjacent streets including Liberty and Cedar Streets (the "Southern Site"). The redevelopment of

the WTC Site pursuant to the terms of the GPP, this Agreement and the Design and Site Plan Agreement shall hereafter be referred to as the "Project".

## ARTICLE TWO

### REAL PROPERTY AND STREET ISSUES

(a) The City shall own (i) the at-grade areas of all streets and sidewalks within the WTC Site, as more particularly described on the Dimensioned Site Plan, attached hereto as Appendix C and incorporated herein by reference, and (ii) such below grade areas immediately below the surface of such streets and sidewalks as shall lie above a designated lower limiting plane of 1.35 feet below curb grade, except where the depth must be reduced to accommodate below grade program requirements including but not limited to structural hardening (the "Designated Limiting Plane"). The Port Authority shall own all other areas within the WTC Site, including all areas lying below the Designated Limiting Plane. The City shall be responsible for maintenance of the City owned areas of the streets within the WTC Site. The parties shall retain for themselves, and grant to each other, all necessary and appropriate easements for infrastructure, utility and other services on a non-exclusive basis. The parties shall use reasonable and good faith efforts to (i) coordinate the location of any such underground easements with the proposed locations of Port Authority proposed structural hardening infrastructure and below grade WTC program elements, such as the PATH Transit Hall, Concourses and retail spaces and office and office-related spaces, as described on the attached Dimensioned Site Plan, and (ii) to maintain existing easements in favor of the City in their existing locations, wherever possible.

(b) The parties also agree to certain specified street and sidewalk widths and street grades as set forth in the attached Dimensioned Site Plan.

(c) The parties recognize that the preferred structure for achieving the ownership positions describe above will be through the acquisition and disposition of the real estate parcels in question to the respective parties. The parties hereby agree to fully cooperate with each other and the LMDC and/or the Empire State Development Corporation ("ESDC") if necessary, in the consummation of all required transactions, including providing consents to condemnations and acquisitions in lieu of condemnations, and by accepting deeds, easements and other recordable interests, to and from each other, as the case may be.

(d) The following streets and sidewalks shall be designed and constructed by the Port Authority to such standards that meet the requirements of the City Department of Transportation ("DOT") taking into account any modifications to such requirements as would be necessary to effectuate the Security Plan (as hereafter defined) (i) Vesey (ii) Fulton (iii) Dey (iv) Cortlandt (v) Liberty (vi) Church, if Church is required to be constructed, (vii) Greenwich, and if the WTC Site is extended southward, (viii) Cedar. The parties agree that all material sidewalk design elements, including but not limited to: geometry, grades, drainage, signs and markings, lighting, sidewalks, curb cuts and any parking meters or other city paid parking devices, if included, shall be mutually agreed upon by the parties and that the parties will consult with LMDC, or its designee, the Silverstein Net Lessees, the Retail Net Lessee and any WTC hotel lessee or operator on the design and implementation of such material sidewalk elements.

(e) The Port Authority further agrees that prior to commencing any work beneath the streets and sidewalks at the WTC Site that it will consult with the City as to the capacity, if any, to be included in such underground areas for future cables, conduits, lines, pipes, etc. for utilities and other services to be provided both to the WTC Site and to other areas of Lower Manhattan. To the maximum extent practicable consistent with the overall development needs of the site and the Port Authority's obligations to its net lessees, the Port Authority will accommodate requests made by the City in connection with such capacity.

(f) The parties agree that it shall be the responsibility of the City to operate and manage the streets and sidewalks, including traffic patterns and flows, subject to the Security Plan. The Port Authority, or its designee, shall be responsible for the maintenance of all sidewalks. The City and the Port Authority will mutually agree on all issues relating to curb usage and agree to consult with LMDC, or its designee, any Silverstein Net Lessee, Retail Net Lessee and any WTC Hotel lessee or operator on curb usage issues in front of any building or area leased by any of the aforementioned parties. The City agrees to consult with the Port Authority, LMDC or its designee and any affected Silverstein Net Lessee, Retail Net Lessee or any WTC Hotel lessee or operator on any decisions that will permanently and materially affect vehicular and pedestrian traffic in and through the WTC Site. The City will promptly review and process all requests for street closing permits from the Port Authority, LMDC or its designee, the Silverstein Net Lessees, the Retail Net Lessee and any WTC Hotel lessee or operator, required to facilitate the construction and/or maintenance of all at-grade and below-grade infrastructure at the WTC Site. Notwithstanding the foregoing the parties have agreed to certain street widths and street grades as stated in the WTC Design and Site Plan Agreement and set forth on Appendix C.

(g) The parties recognize that if the Security Plan closes any additional streets within or adjacent to the WTC Site to vehicular traffic, that traffic flows throughout lower Manhattan will be affected. Accordingly, the parties agree that if any such streets are closed to vehicular traffic for security purposes, the parties will revisit the traffic flow patterns on the other streets in and adjacent to the WTC Site to insure a proper flow of vehicular traffic in and through the WTC Site.

(h) The parties agree the future status of Dey Street / Way and Cortlandt Street / Way have not been finally determined and shall be determined through mutual agreement of the parties after execution of this Agreement. The parties further acknowledge that any representations of Dey Street / Way and Cortlandt Street / Way on Appendix C are descriptive only and do not affect the obligations of the parties to mutually agree on the future status of such areas.

### ARTICLE THREE

#### PRINCIPLES WITH RESPECT TO CERTAIN MODIFICATIONS TO THE PROJECT AND COMMERCIAL DESIGN GUIDELINES

(a) Subordination to Design and Site Plan Agreement.

The City and the Port Authority party specifically acknowledge and agree that no decisions described in this Section 3 will conflict with or be in violation of any agreements of the parties set forth in the Design and Site Plan Agreement. Any decision that may conflict with or

be in violation of any of the provisions of the Design and Site Plan Agreement, as such agreement may be amended from time to time in accordance with its terms, will be null and void.

**(b) Modifications to the Project**

The parties agree that, except for any decisions that would result in immaterial changes to the Project, that the following decisions to modify the Project shall be made by mutual agreement between the parties:

(1) any decision that would change the location or size of any of the following from that described on the attached Dimensioned Site Plan (i) office towers (ii) public open spaces, (iii) main PATH Transit Hall, (iv) entrances / exits to sub-grade PATH concourses, and (v) vehicular entrance or exit ramps;

(2) any decision that will have an impact on cultural facilities at the WTC Site;

(3) any decision which would cause the WTC Site, as fully rebuilt pursuant to the Design and Site Plan Agreement and GPP, to contain above-grade retail space square footage constituting less than 50% of the total retail square footage at the fully rebuilt WTC Site or to have less retail square footage than existed pre September 11, 2001 in existing areas, expansion areas and PATH areas;

(4) any decision regarding the location and conceptual design of any hotel;

(5) any decision on the usage of interim structures and any decision to locate interim structures in areas not identified as areas for commercial development in the GPP.

**(c) Commercial Design Guidelines**

As set forth in the attached Design and Site Plan Agreement, the Port Authority, the City, LMDC and SPI will work together to develop and implement commercial design guidelines for the development of the office and retail components of the WTC. The Port Authority agrees within ninety (90) days after the date hereof to provide a copy to the City of an agreement between the Port Authority and LMDC or other documentation evidencing that such Design Guidelines shall be implemented and adhered to by both LMDC and the Port Authority.

**ARTICLE FOUR**

**PHASING / COSTS**

(a) The parties agree that the first phase of development at the WTC Site shall ensure a critical mass of activity through the Site. The parties also agree that their preferred alternative for underground infrastructure work is that all such work necessary for the full build-out of the Site be performed during this first phase, with the exception of certain utility and related infrastructure and systems that the parties mutually agree can be added when needed to accommodate future phases of the redevelopment.

(b) The Port Authority agrees that it will consult with the City on a regularly scheduled basis throughout the term of the Project to keep the City apprised of phasing, infrastructure and development issues. Such consultation shall include the provision by the Port Authority, prior to commencing any phase of work and when available subsequent thereto, of a Statement of Intention setting forth the proposed work to be performed during such phase plus a budget that includes sources of funds for such proposed work. All Statements of Intention and budgets to be provided by the Port Authority shall be updated on a periodic basis to keep the City apprised of changes thereto. A Statement of Intention and budget for proposed infrastructure and other first phase work shall be delivered to the City within ninety (90) days after the execution of this Agreement.

(c) Given the complexity and critical importance of obtaining federal funds for infrastructure work at the WTC Site, the parties agree, from and after the date hereof, to work cooperatively to secure all such available federal funding. The parties also shall continue to cooperate and consult with each other throughout the term of the Project regarding material funding issues.

## **ARTICLE FIVE**

### **ONGOING MANAGEMENT ISSUES REQUIRING CITY APPROVAL**

The parties agree that streets and sidewalks will be managed by the City and the sidewalks will be maintained by the Port Authority, or its designee, as set forth in this Agreement. The parties further agree, that as between them, that the Port Authority shall have overall management responsibility for all others areas of the WTC Site, except for the streets and sidewalks.

#### **(a) Security**

Security at the WTC Site shall be governed by an agreed-upon security plan acceptable to the City and the Port Authority (the "Security Plan"). When adopted, the Security Plan will supersede any existing Memoranda of Understanding between the City and the Port Authority addressing security issues, but only as to the WTC Site. Insofar as possible, consistent with security needs, the Security Plan shall seek to ensure that heightened security measures do not result in undue impacts on the WTC Site or the immediate surroundings. The City and the Port Authority agree to consult with LMDC or its designee, the Silverstein Net Lessees, the Retail Net Lessee and the WTC Hotel owner or operator in the adoption of the Security Plan.

#### **(b) Building Code**

The Port Authority agrees that it will comply with all applicable Building Code requirements of the City of New York (the "Building Code") for all construction work to be performed by the Port Authority or any of its net lessees at the WTC Site and that all structures to be built at the WTC Site will comply with the Building Code with the exception of certain portions of the PATH Terminal which will comply with the National Fire Protection Association codes. Any proposed variances from the Building Code shall require the prior consent of the City Department of Buildings ("DOB"). Neither the Port Authority nor its lessees (including the Silverstein Net Lessees and their sub-lessees, the Retail Net Lessee and the WTC Hotel lessee or operator and sublessees) shall be required to obtain any building permits or certificates of occupancy from the City in connection with any construction at the WTC Site for such periods as

the WTC Site is owned by the Port Authority. Nothing contained in this paragraph or in the Agreement shall constitute an agreement between the parties that the local laws, resolutions, ordinances, rules and regulations of the City of New York (whether relating to zoning, land use, environmental or other matters), other than the substantive provisions of the Building Code (which shall apply only as set forth in this paragraph) shall apply to the WTC Site by virtue of the provisions of this Agreement.

(c) **Public Open Spaces**

The public open spaces contemplated for the WTC Site as described in the GPP and as more particularly set forth in the Design and Site Plan Agreement and the Exhibits thereto, as may be amended from time to time, shall be open and available to the public. Public open spaces shall not be used for any commercial purposes without the approval of the City, except for ancillary commercial uses complementary to public open space usage.

(d) **Construction Coordination**

The Port Authority acknowledges that the City and LMDC, among others are in the process of establishing a construction coordination entity that will coordinate and facilitate the numerous construction projects planned in and around Lower Manhattan. The Port Authority agrees that such coordination is necessary to avoid physical space, access, scheduling and other issues that could significantly hinder and delay individual projects throughout Lower Manhattan. The City and the Port Authority acknowledge the importance of the redevelopment of the WTC and agree that the construction schedule for such work will be duly considered in coordinating the construction of all proposed Lower Manhattan projects. The Port Authority further agrees to seek to minimize the impacts of construction within the WTC Site on surrounding areas and other projects within Lower Manhattan. The Port Authority and the City, each on behalf of its successors and assigns, agrees to work in good faith with each other and with the Silverstein Net Lessees, the Retail Net Lessee and any WTC Hotel lessee or operator any construction coordination entity and with the State of New York and their respective instrumentalities to establish a cooperative coordination plan establishing protocols and procedures for the reconstruction of the WTC Site.

## **ARTICLE SIX**

### **GENERAL CONDITIONS AND COVENANTS**

The following terms, covenants and conditions shall be applicable to the parties hereunder:

(a) **No Personal Liability.** No commissioner, officer, official, director, member, agent or employee, nor any other person authorized to act on behalf of the Port Authority or the City shall be charged personally with any liability, or held personally liable in connection with the Project, this Agreement or any breach or attempted or alleged breach thereof. This Article 6 shall survive the termination or expiration of this Agreement.

(b) **Governing Law.** The provisions of this Agreement shall be governed and interpreted in accordance with the laws of the State of New York.

(c) **Federal Funds**. Notwithstanding anything to the contrary, the parties agree that each will be responsible for use, operation, maintenance, of any capital improvements, including transportation infrastructure such as streets, sidewalks and public places, within the WTC Site which are funded to such party through governmental or other sources in accordance with laws, rules, regulations, agreements, or other principles established for such capital improvements and that neither party will act in a manner which may cause loss or reimbursement of such governmental or other funding.

(d) **Amendments**. This Agreement may not be amended, nor may any requirement hereunder be waived, or terminated, except by an instrument in writing signed by the party against whom enforcement of the amendment, waiver or termination is sought.

(e) **Successors and Assigns**. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Port Authority and the City and their respective successors and permitted assigns and any provisions of this Agreement, to the extent they are applicable to LMDC, the Silverstein Net Lessees, the Retail Net Lessee or any WTC Hotel lessee or operator, shall also inure to the benefit of such respective parties and their permitted successors.

(f) **Communications / Notices**. The parties agree, within a reasonable period of time from the date hereof, to establish a communications protocol and a schedule of joint monthly meetings to keep each party informed of all relevant matters under this Agreement. The parties further agree, promptly after the date hereof, to provide the names and addresses of all parties to whom notices under this Agreement shall be sent. Until such time as the parties provide such additional names and addresses, all notices to the City shall be sent to: The City of New York, City Hall, New York, NY 10007, Att.: Deputy Mayor for Economic Development and Rebuilding, with a copy to the New York City Department of City Planning, 22 Reade Street, New York, NY 10007, Att: Counsel, and all notices to the Port Authority shall be sent to The Port Authority of New York and New Jersey, 225 Park Avenue South, New York, NY 10003, Att: Executive Director.

(g) **Consents and Approvals**.

(i) Any time the consent or approval (hereafter "Consent") of a party is required hereunder, the party seeking the Consent shall send a written notice requesting the Consent of the other party. Any such Consent request shall include copies of all documentation that may be required for the proper evaluation of the Consent request. Unless otherwise specified in this Agreement, whenever any provision of this Agreement provides for the mutual Consent of the parties, such Consent shall be reached or given, as appropriate, within ninety (90) days from the date of the request. If the party from whom the Consent is sought reasonably requests additional information to evaluate the Consent request, it shall have 30 days to approve or disapprove a request after receipt of such additional information. The parties agree to act reasonably in approving or disapproving any consent request.

(ii) Any consents or approvals to be provided by the City pursuant to this Agreement shall be given by the Mayor or his or her designee, except to the extent otherwise set forth herein.

(h) **Events of Default/Dispute Resolution**. If the parties cannot agree upon an issue that requires the mutual consent of the parties, the parties will establish a committee of equal

number of Port Authority and City officials to review and seek resolution of any disputes that may arise out of this Agreement. If this committee is not successful in resolving such differences, the matter shall be sent to the Mayor of the City and the Executive Director of the Port Authority for resolution. If the Mayor, or his or her designee and the Executive Director, or his or her designee, cannot agree on any such issue requiring the mutual consent of the parties hereunder, they shall agree upon a third-party to review the matter and make a recommendation to them.

(i) **Invalidity of Certain Provisions.** The provisions of the Agreement are intended to be severable. If any term or provision of this Agreement or the application thereof shall, to any extent, be invalid and unenforceable, the remainder of this Agreement shall not be affected thereby and shall be valid and enforceable.

(j) **Captions.** The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

(k) **Counterparts.** This Agreement may be executed in one or more counterparts which, when taken together, shall constitute one and the same document.

IN WITNESS WHEREOF, this Agreement is executed the day and year first above written.

**THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Approved as to Form:

By: \_\_\_\_\_

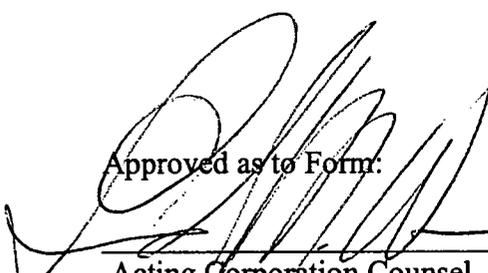
**THE CITY OF NEW YORK**

By: Daniel L. Doctoroff

Name: Daniel L. Doctoroff

Title: Deputy Mayor for Economic  
Development and Rebuilding

Approved as to Form:

  
\_\_\_\_\_  
Acting Corporation Counsel

number of Port Authority and City officials to review and seek resolution of any disputes that may arise out of this Agreement. If this committee is not successful in resolving such differences, the matter shall be sent to the Mayor of the City and the Executive Director of the Port Authority for resolution. If the Mayor, or his or her designee and the Executive Director, or his or her designee, cannot agree on any such issue requiring the mutual consent of the parties hereunder, they shall agree upon a third-party to review the matter and make a recommendation to them.

(i) **Invalidity of Certain Provisions.** The provisions of the Agreement are intended to be severable. If any term or provision of this Agreement or the application thereof shall, to any extent, be invalid and unenforceable, the remainder of this Agreement shall not be affected thereby and shall be valid and enforceable.

(j) **Captions.** The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

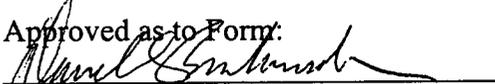
(k) **Counterparts.** This Agreement may be executed in one or more counterparts which, when taken together, shall constitute one and the same document.

IN WITNESS WHEREOF, this Agreement is executed the day and year first above written.

**THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY**

By: 

Name: Kenneth J. Ringler, Jr.  
Title: Executive Director

Approved as to Form:  
  
By: Darrell Buchbinder

**THE CITY OF NEW YORK**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Approved as to Form:

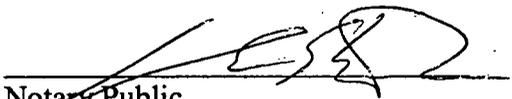
\_\_\_\_\_  
Acting Corporation Counsel

STATE OF NEW YORK )

SS: )

COUNTY OF NEW YORK )

On the 23<sup>rd</sup> day of November 2004 before me personally came Daniel L. Doctoroff, to me known who being duly sworn, did depose and say that he is the Deputy Mayor for Economic Development & Rebuilding of The City of New York described in and which executed the foregoing instrument; and that he signed his name thereto by authority of the Mayor of the City of New York.

  
\_\_\_\_\_  
Notary Public

**SCOTT E. SHOSTAK**  
Notary Public, State of New York  
No. 02SH4834702  
Qualified in New York County  
Commission Expires 09/30/2005

STATE OF NEW YORK )

SS: )

COUNTY OF NEW YORK )

On the 24<sup>th</sup> day of November 2004, before me personally came Ken Ringle, to me known who being duly sworn, did depose and say that he is the Executive Director of The Port Authority described in and which executed the foregoing instrument; and that he signed his name thereto by authority of the Board of Directors of the Port Authority of New York and New Jersey.

  
\_\_\_\_\_  
Notary Public

**TIMOTHY G. STICKELMAN**  
Notary Public, State of New York  
No. 02ST6086913  
Qualified in Suffolk County  
Commission Expires on February 3, 2007

## **APPENDICES**

APPENDIX A - DESIGN AND SITE PLAN AGREEMENT

APPENDIX B - GENERAL PROJECT PLAN

APPENDIX C - WTC DIMENSIONED SITE PLAN

## **APPENDIX A**

## ***WORLD TRADE CENTER DESIGN AND SITE PLAN AGREEMENT***

made this 24th day of November 2004 among The City of New York (the "City"); Lower Manhattan Development Corporation ("LMDC"); The Port Authority of New York and New Jersey on its own behalf and WTC Retail LLC, the "Retail Net Lessee" (collectively, "PANYNJ"); 1 World Trade Center LLC, 2 World Trade Center LLC, 4 World Trade Center LLC, and 5 World Trade Center LLC, the "Office Lessee" (collectively, "SPI"). The parties hereby agree as follows:

### **Dimensioned Site Plan:**

1. The attached dimensioned site plan (Exhibit A) which shows, among other things, locations of buildings, streets, sidewalks and other matters addressed in this Agreement, dated November 24th, 2004 (the "Dimensioned Site Plan") is approved and the parties agree to cooperate in the redevelopment of the World Trade Center in accordance therewith. The parties will cooperate reasonably and in good faith to further refine the Dimensioned Site Plan, with any refinements or changes to require approval of all parties to be effective. LMDC will undertake any further environmental analyses, if any, that may be required in connection with such Dimensioned Site Plan. The World Trade Center Memorial and Cultural Program General Project Plan (GPP) was affirmed by LMDC's Board of Directors on June 2, 2004, and the parties acknowledge that the GPP will be amended, as may be necessary and appropriate, consistent with this Agreement.

### **Performing Arts Center ("PAC"):**

2. There shall be a 60 foot separation at grade between the Performing Arts Center and the Freedom Tower, as shown on the Dimensioned Site Plan.
3. Up to 106' above grade, PAC cantilevers toward the west shall be permitted to the extent mutually agreed by the PAC and the Freedom Tower's respective architects – Frank Gehry and David Childs (or their successors). From 106' to 186' above grade, cantilevers toward the west may be, as of right, 15' beyond the 60 foot separation line at grade. Above 186', cantilevering toward the west will not be permitted and the westerly face of the PAC building will not protrude beyond its demising line at grade, all as shown on the Dimensioned Site Plan. Cantilevers are permitted on the north, east, and south sides of the PAC building, subject to the City's approval including any required regulatory approvals.
4. The structural transfer for the PAC building shall be below grade.
5. SPI's car/parking access (with entrance off of Vesey Street and with a curb cut of at least 30 feet in width) and related uses are to be included in the PAC area at grade consisting of 5,400 s.f. plus an elevator machine room and overrun, all in a configuration and specific location to be coordinated between and mutually agreed by LMDC and SPI, such agreement to be reached within a time period consistent with SOM's design schedule for the Freedom Tower.
6. Truck access and other SPI program are not included at grade in the PAC footprint except for (x) ventilation shafts necessary to serve permitted SPI mechanical programs below the PAC as addressed in paragraph 7 (Exhibit C), (y) shared or dedicated egress from SPI spaces below the PAC (with exact location in the PAC footprint to be mutually agreed to by LMDC and SPI) and (z) a 2400 s.f. maximum parking fan room (for the SPI sub-grade parking) to be located at, above or below-grade in the PAC footprint as mutually agreed by LMDC and SPI.
7. PANYNJ, LMDC and SPI approve the drawings attached hereto as Exhibit C and agree that the design, construction and allocation of subgrade space among them

under Freedom Tower and the PAC will be in accordance with such drawings (subject to the notes on such drawings that anticipate clarification of certain specified matters). Space allocated to any party in the drawings attached as Exhibit C may be utilized by such party for any of its programs, regardless of any designation in Exhibit C. In the event that the design of the PAC's transfer structure at the B1 level (as shown on Exhibit C) is consistent with the creation of occupiable space at that level then the configuration and allocation among PANYNJ, LMDC (for PAC) and SPI of such occupiable space shall be determined by mutual agreement of such three parties.

#### **Truck access**

8. If SPI determines that the permanent underground truck access network will not be complete in time to provide services required for the construction and operation of Freedom Tower on SPI's contemplated schedule, then SPI may elect to construct and install temporary truck elevators for Tower 1 on the Tower 2 site, east of the Tower 2 building core shown on the Dimensioned Site Plan (or a different location on the Tower 2 site mutually acceptable to PANYNJ and SPI, such parties agreeing to negotiate cooperatively and in good faith in such regard), with entrances off of Vesey Street. PANYNJ agrees to comply with the schedule set forth in the attached Exhibit B in respect of (x) the PANYNJ's building of the underground roadways for full permanent truck access from the Liberty Street ramp and the full availability of all such underground roadways for truck access, (y) PANYNJ's preparation of the Tower 2 site by June 30, 2007 sufficient for the construction and installation of the temporary truck elevators and the construction of the foundations and subgrade for Tower 2, and (z) PANYNJ's turnover of the Tower 2 site to SPI on or before June 30, 2007 for the construction and installation of the temporary truck elevators and the construction of the foundations and subgrade for Tower 2 (with such construction to be coordinated as between SPI and PANYNJ cooperating reasonably and in good faith in an effort to accommodate both such construction and PANYNJ'S ongoing work on or adjacent to the Tower 2 site). The determination of whether or not to install the temporary truck elevators on the Tower 2 site pursuant to this paragraph and when to commence the construction and installation described above will be made by SPI in its discretion.
9. Permanent truck access for the office towers to be via the Liberty Street ramp, as shown on the Dimensioned Site Plan. Once the full underground roadway from the Liberty Street ramp is available to SPI and provides full truck access to Tower 1 loading docks, SPI agrees to transfer truck access to the underground network within 30 days and thereafter to complete removal of the truck elevators and related elements within 150 days.

#### **Car access**

10. Car parking areas for Towers 2 – 5 will be accessed via a dedicated ramp at Liberty Park, as shown on the Dimensioned Site Plan. PANYNJ, LMDC, the City, and SPI to agree on exact location, at Liberty Park, consistent with the Dimensioned Site Plan.

**Roof Guidelines:**

11. Language with regard to tower roofs in the February 2004 Commercial Design Guidelines draft, the 6<sup>th</sup> paragraph, on p. 52, will be replaced in the final Commercial Design Guidelines with the following (with such language to supersede any contrary or inconsistent language therein): "Additionally, the shaping of each tower and its top should be considered within its relationship to the set of five. Each tower top should be designed to reinforce the spiraling nature of the set of five towers and the centrality of the Memorial at the heart of the site. Each tower top should acknowledge the Memorial in a meaningful and appropriate way. For example, each roof could inflect toward the Memorial and the slopes could decrease beginning with Tower 1's roof as the greatest slope and Tower 5's as the shallowest slope."

**Commercial Design Guidelines:**

12. The City, LMDC, PANYNJ, and SPI will work together in a cooperative manner with respect to the formulation of the Commercial Design Guidelines. The provisions of this Agreement shall be incorporated into the relevant sections of the Commercial Design Guidelines. Nothing contained in the Commercial Design Guidelines shall be inconsistent in any way with the terms of this Agreement or the Dimensioned Site Plan. The general scope of the Commercial Design Guidelines will be consistent with the general scope of the February 18, 2004 draft of the Commercial Design Guidelines.

**Streetwalls of Towers 2 - 4**

13. Streetwalls of Towers 2 - 4 shall be between 85 to 130 feet in height (as determined by SPI), then a minimum 10' setback is required. This includes 3 levels of at and above-grade retail as well as double-height at-grade office lobbies and normal and appropriate office tower support spaces and systems comprising the lower 60 feet of the streetwall and a minimum of one level of mechanical of 25 to 30 feet in height on the fourth level with the office program (other than double-height at-grade office lobbies and normal and appropriate office tower support spaces and systems which will begin at lower levels) beginning with the fifth level. At such time when SPI is ready to build Tower 2, Tower 3, or Tower 4, then, as of right, streetwalls for such Towers may be increased by SPI to 85 to 150 feet in height (as determined by SPI), then a minimum 10' setback is required, then a streetwall up to 190 feet in height, then a second minimum 10' setback is required, as shown on the Dimensioned Site Plan. SPI will provide a full schematic design of any building to be built with streetwalls in excess of 130 feet in height to the City, PANYNJ and the LMDC for review and comment concerning the streetwalls, setbacks and other urban design elements. Any comments on the schematic design will be provided to SPI for SPI's good faith consideration within 30 days of receipt of the design.

**Setbacks**

14. 10' minimum tower setbacks required: Greenwich Street at Towers 2 and 3, Church Street at Towers 2 and 4, and Cortlandt Street / Cortlandt Way at Tower 4, all as shown on the Dimensioned Site Plan. At the time SPI is ready to build Tower 2, Tower 3 or Tower 4, SPI will provide a full schematic design of such Tower to the City, PANYNJ and LMDC for review and comment concerning the streetwalls, setbacks and other urban design elements. Any comments on the schematic design

will be provided to SPI for SPI's good faith consideration within 30 days of receipt of the design.

15. To the extent practicable and consistent with the commercial requirements of the buildings and the other provisions of this Agreement, the designs of Tower 3 and Tower 4 should attempt to maximize the amount of light and air in the space between the two towers.

#### **Cortlandt Street / Cortlandt Way**

16. The final determination on whether Cortlandt will be a vehicular street has yet to be made by PANYNJ and the City. Sidewalk widths: 15 feet (north and south) as shown on the Dimensioned Site Plan. At such time as SPI is ready to build Tower 3 or Tower 4, sidewalks can be, as of right, reduced at SPI's election to 11 1/2 feet wide each, but the distance between the podiums for Tower 3 and Tower 4 can never be less than 47 feet. At the time SPI is ready to build Tower 3 or Tower 4, SPI will provide a full schematic design of such Tower(s) to the City, PANYNJ and LMDC for review and comment concerning the sidewalk widths and other urban design elements. Any comments on the schematic design will be provided to SPI for SPI's good faith consideration within 30 days of receipt of the design.
17. The potential roadbed is 24 feet wide, as shown on the Dimensioned Site Plan.

#### **Liberty Street and Ramp**

18. Liberty Street shall be a two-way street between West Street and Church Street, Liberty Street shall be 41 feet wide between Greenwich Street and Church Street, as shown on the Dimensioned Site Plan.
19. Sidewalk widths: The cumulative width of the north and south sidewalks of Liberty Street between Greenwich Street and Church Street shall be 35 feet (as shown on the Dimensioned Site Plan) with the distribution to be mutually agreed upon by the parties.
20. The Liberty Street ramp will be located at the north side of Liberty Park, as shown on the Dimensioned Site Plan. At the time PANYNJ is ready to proceed with the development of the Liberty Park, PANYNJ will provide a full schematic design of Liberty Park to SPI, the City and the LMDC for review and comment. Any comments on the schematic design will be provided to PANYNJ for PANYNJ's good faith consideration within 30 days of receipt of the design. Further, the design, construction and operation of the portion of Liberty Park in the area generally north of Tower 5 will be consistent with SPI's anticipated design, construction and operation of Tower 5 (including the location of one of the entrances to Tower 5 on the north side of the tower across from Liberty Park) and will conform to the reasonable requirements of SPI in connection with Tower 5, including reasonable requirements for vehicle and pedestrian access, circulation and other matters.

#### **Hotel**

21. The location and conceptual design of any hotel is still being studied and will be determined by the parties at a later date.

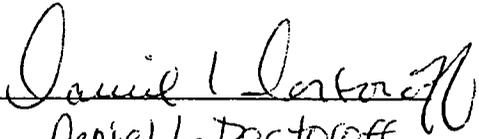
#### **Miscellaneous:**

22. This Agreement shall be governed by New York law and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

The parties have executed this Agreement and will be legally bound hereby as of the date first above written. As among PANYNJ, the Retail Net Lessee and SPI, except as specifically set forth herein, nothing contained in this Agreement shall be or be deemed or construed to be (x) a waiver or release by any such party of such party's rights or another such party's obligations under, or an amendment of, the leases between SPI and PANYNJ (as previously amended), the Reciprocal Easement and Operating Agreement applicable to the WTC site (as previously amended) or the 12/1/03 letter agreement among such parties, or (y) a waiver, consent or approval by any such party of any matter, decision, or selection requiring the consent or approval of one or more such parties under the foregoing leases, REOA or letter agreement.

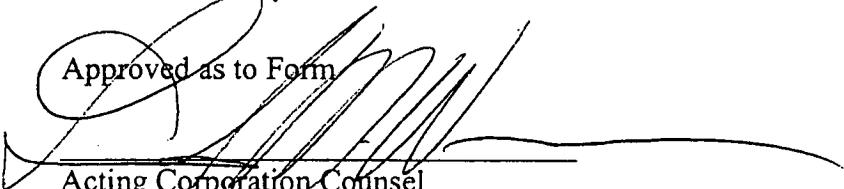
23. This Agreement may be executed in any number of identical counterparts and by facsimile, each of which when so executed and delivered, shall be an original, but all of which taken together shall constitute one and the same instrument.

**The City of New York**

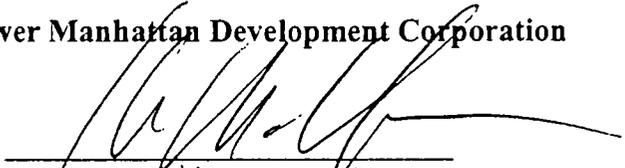
By: 

Name: Daniel L. Doctoroff  
Title: Deputy Mayor for Economic  
Development and Rebuilding

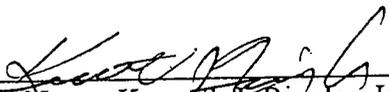
Approved as to Form

  
Acting Corporation Counsel

**Lower Manhattan Development Corporation**

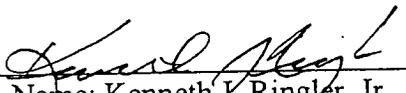
By:   
Name: Kevin M. Rampe  
Title: President

**The Port Authority of New York and New Jersey**

By:   
Name: Kenneth J. Ringler, Jr.  
Title: Executive Director

**WTC Retail LLC**

**By: The Port Authority of New York  
and New Jersey, its sole member**

By:   
Name: Kenneth J. Ringler, Jr.  
Title: Executive Director

**1 World Trade Center LLC**

By: \_\_\_\_\_

Larry A. Silverstein,  
as President

**2 World Trade Center LLC**

By: \_\_\_\_\_

Larry A. Silverstein,  
as President

**4 World Trade Center LLC**

By: \_\_\_\_\_

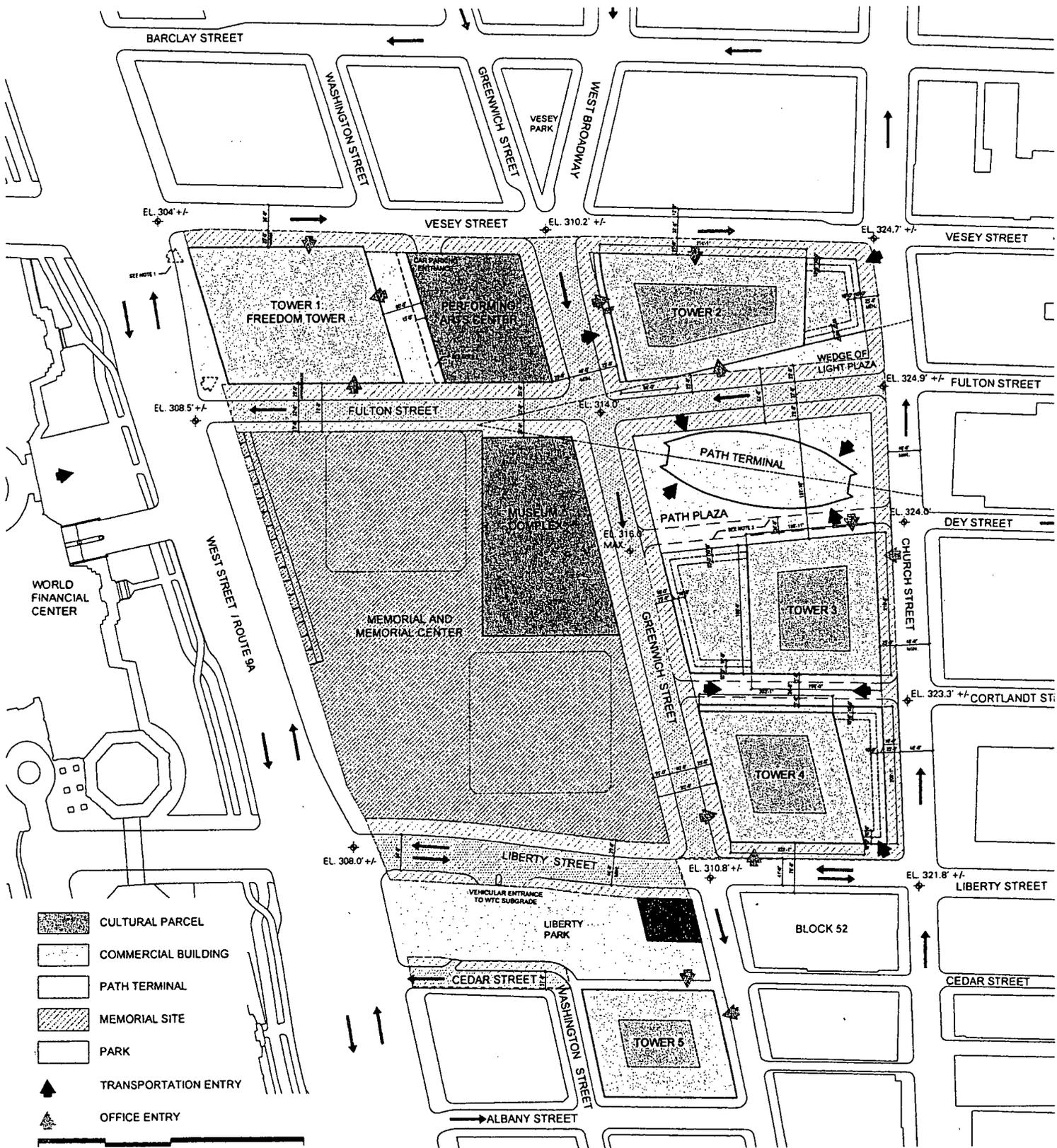
Larry A. Silverstein,  
as President

**5 World Trade Center LLC**

By: \_\_\_\_\_

Larry A. Silverstein,  
as President

**EXHIBIT A**



-  CULTURAL PARCEL
-  COMMERCIAL BUILDING
-  PATH TERMINAL
-  MEMORIAL SITE
-  PARK
-  TRANSPORTATION ENTRY
-  OFFICE ENTRY

0' 100' 200' 400'

NOTES:

1. FREEDOM TOWER TRANSPORTATION ENTRY IS TO BE LOCATED EITHER AT THE NORTH-WEST OR SOUTHWEST CORNER OF THE BUILDING BASE AT GRADE.
2. REFER TO WTC DESIGN AND SITE PLAN AGREEMENT FOR DETAILS OF CANTILEVERS AT THE PERFORMING ARTS CENTER.
3. DEY STREET RIGHT-OF-WAY IS PARALLEL TO FULTON STREET RIGHT-OF-WAY.
4. TEMPORARY TRUCK ELEVATORS FOR TOWER 1 TO BE ON THE TOWER 2 SITE.
5. LMDP WILL UNDERTAKE ANY FURTHER ENVIRONMENTAL ANALYSES IF ANY THAT MAY BE REQUIRED IN CONNECTION WITH THIS PLAN.
6. NORTH-SOUTH DIMENSIONS ALONG TOWERS 2, 3 AND 4 ARE TAKEN FROM THE NORTH PROPERTY LINE OF BLOCK 52, BETWEEN GREENWICH AND CHURCH, AND SOUTH OF LIBERTY STREETS.
7. WEDGE OF LIGHT BOUNDARIES ARE DEFINED AS: NORTH BOUNDARY - A SOLAR AZIMUTH OF 285° 57' 30" FROM A POINT BEGINNING AT THE TOP OF THE CENTER OF THE SOUTHERLY DOME OF THE PARK ROW BUILDING AT 15 PARK ROW HAVING A COORDINATE OF N 188,419.057 FEET, E 982,032.033 FEET AND AN ELEVATION OF 727 FEET, OFFSET A DISTANCE OF 17.725 FEET TO THE SOUTHERLY SIDE. SOUTH BOUNDARY - A SOLAR AZIMUTH OF 308° 27' 03" FROM A POINT BEGINNING AT THE SOUTHWESTERLY CORNER OF THE AT&T BUILDING ON DEY STREET HAVING A COORDINATE OF N 188,282.877 FEET, E 981,396.545 FEET AND AN ELEVATION OF 687 FEET. THE POINT OF CONVERGENCE OF THE AZIMUTHS HAS A COORDINATE OF N 188,784.384 FEET, E 982,759.814 FEET. THE COORDINATES OF THE POINTS OF BEGINNING AND CONVERGENCE ARE IN THE NORTH AMERICAN DATUM OF 1883-86, LONG ISLAND ZONE (FEET). ELEVATIONS ARE IN WTC-DOWNTOWN REDEVELOPMENT PROGRAM DATUM WHERE ELEVATION 300.000 FEET IS EQUAL TO 2.653 FEET ABOVE NATIONAL GEODETIC VERTICAL DATUM OF 1929 AS ESTABLISHED BY THE NATIONAL OCEAN SURVEY.
8. IF CORTLANDT STREET / CORTLANDT WAY IS A VEHICULAR STREET, PATH ENTRANCE(S) WILL BE RELOCATED WITHIN TOWERS 3 AND 4 PODIUMS IN ADJACENT AREAS.
9. THE DEPICTION AND SHADING OF COMMERCIAL BUILDINGS, OFFICE TOWERS, PATH TERMINAL AREAS, PERFORMING ARTS CENTER, MUSEUM COMPLEX, SIDEWALKS, AND OTHER AREAS DO NOT REPRESENT THE EXISTING CONDITIONS.

SIDEWALK AND STREET AREA

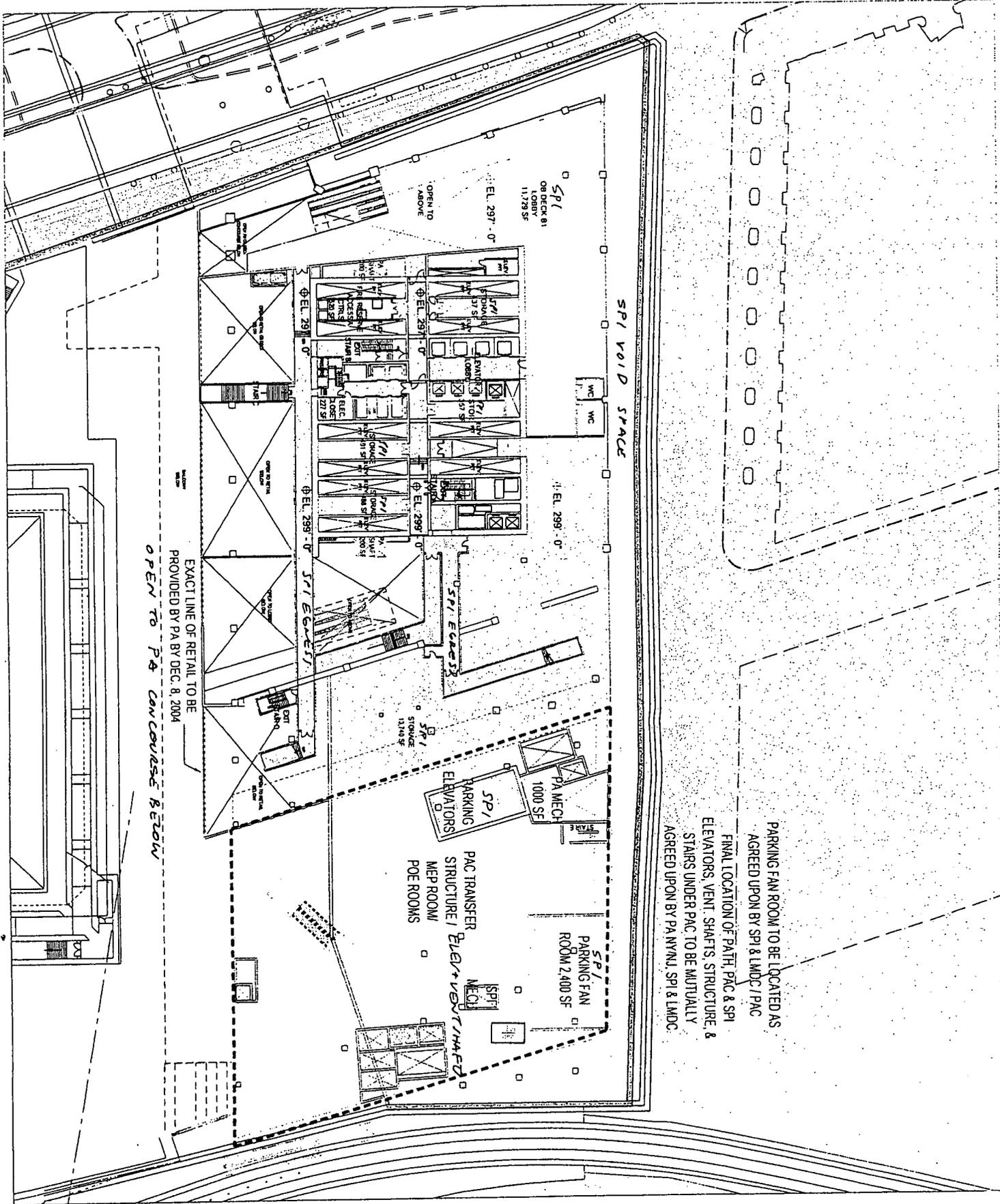
CLIPP TO



**EXHIBIT B**



**EXHIBIT C**



EXACT LINE OF RETAIL TO BE PROVIDED BY PA BY DEC. 8, 2004  
 OPEN TO PA CONCOURSE BELOW

PARKING FAN ROOM TO BE LOCATED AS AGREED UPON BY SP1 & LMDC / PAC  
 FINAL LOCATION OF PATH, PAC & SP1 ELEVATORS, VENT. SHAFTS, STRUCTURE, & STAIRS UNDER PAC TO BE MUTUALLY AGREED UPON BY PA WYNU, SP1 & LMDC.

PAC TRANSFER STRUCTURE / ELEVATOR SHAFTS  
 MEP ROOM / POE ROOMS

PARKING FAN ROOM 2,400 SF

PA MECH 1000 SF

SP1 PARKING ELEVATORS

SP1 STORAGE 12,740 SF

EL. 299'-0"

EL. 297'-0"

SP1 08 DECK 81 11,729 SF

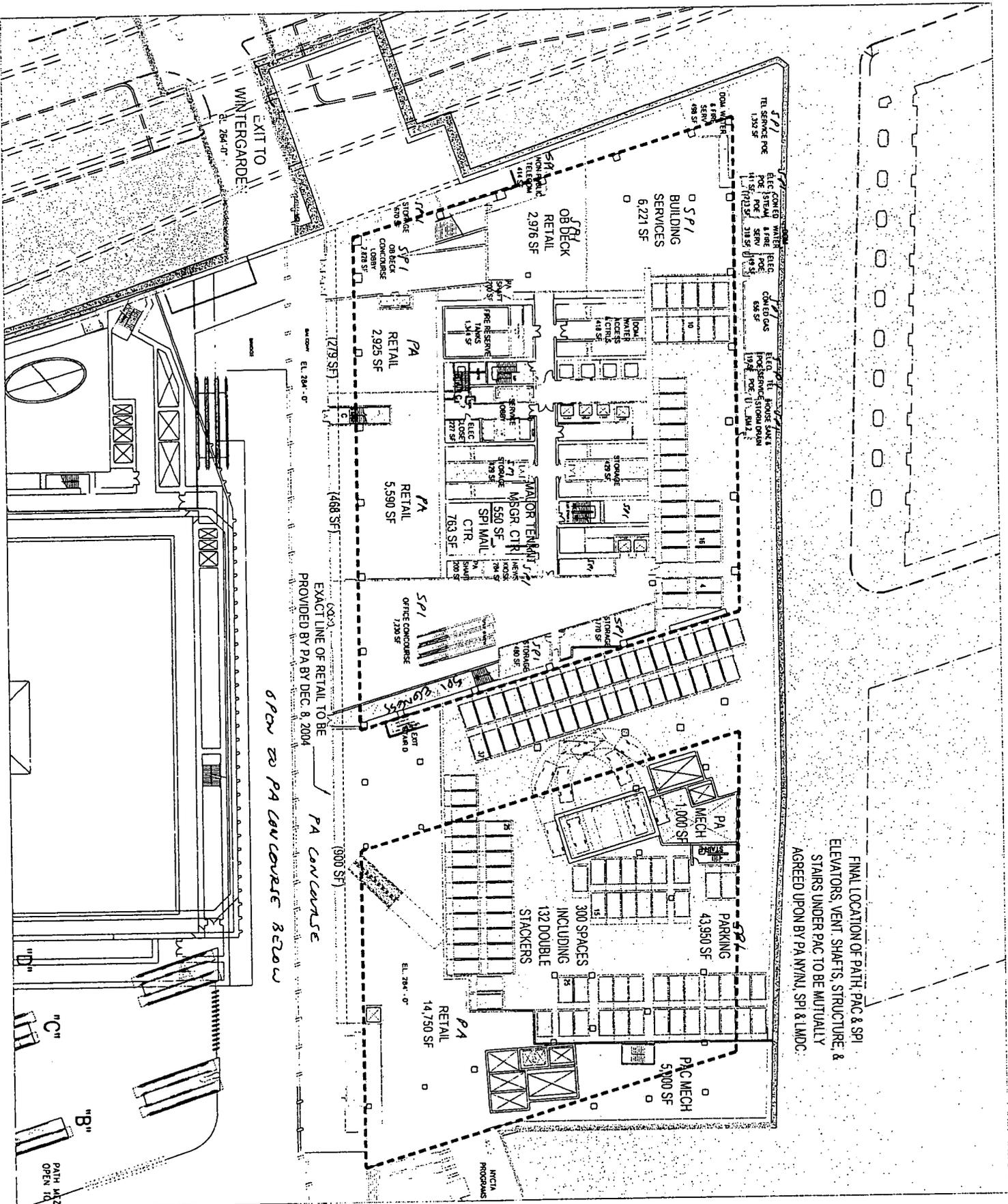
OPEN TO ABOVE

SP1 VOID SPACE

EL. 291'-0"

EL. 297'-0"

EL. 299'-0"



FINAL LOCATION OF PATH, PAC & SPI  
 ELEVATORS, VENT. SHAFTS, STRUCTURE, &  
 STAIRS UNDER PAC TO BE MUTUALLY  
 AGREED UPON BY PA, NVIAJ, SPI & LINDC.

EXACT LINE OF RETAIL TO BE  
 PROVIDED BY PA BY DEC. 8, 2004  
 OPEN TO PA CONCOURSE BELOW

PA CONCOURSE

EXIT TO  
 WINTERGARDEN  
 EL. 264'-0"

EL. 264'-0"

1468 SF

OFFICE CONCOURSE  
 1,230 SF

900 SF

EL. 264'-0"

14,750 SF

300 SPACES  
 INCLUDING  
 132 DOUBLE  
 STACKERS

PARKING  
 43,950 SF

PAC MECH  
 5,000 SF

S P I  
 BUILDING  
 SERVICES  
 6,221 SF

OBDECK  
 RETAIL  
 2,976 SF

S P I  
 OBDECK  
 CONCOURSE  
 2,785 SF

PA  
 RETAIL  
 2,925 SF

PA  
 RETAIL  
 5,590 SF

MAJOR TENANT  
 MISGR CTR  
 550 SF  
 SPI MAIL  
 CTR.  
 763 SF

PA  
 MECH  
 1,000 SF

JICA  
 PROGRAMS

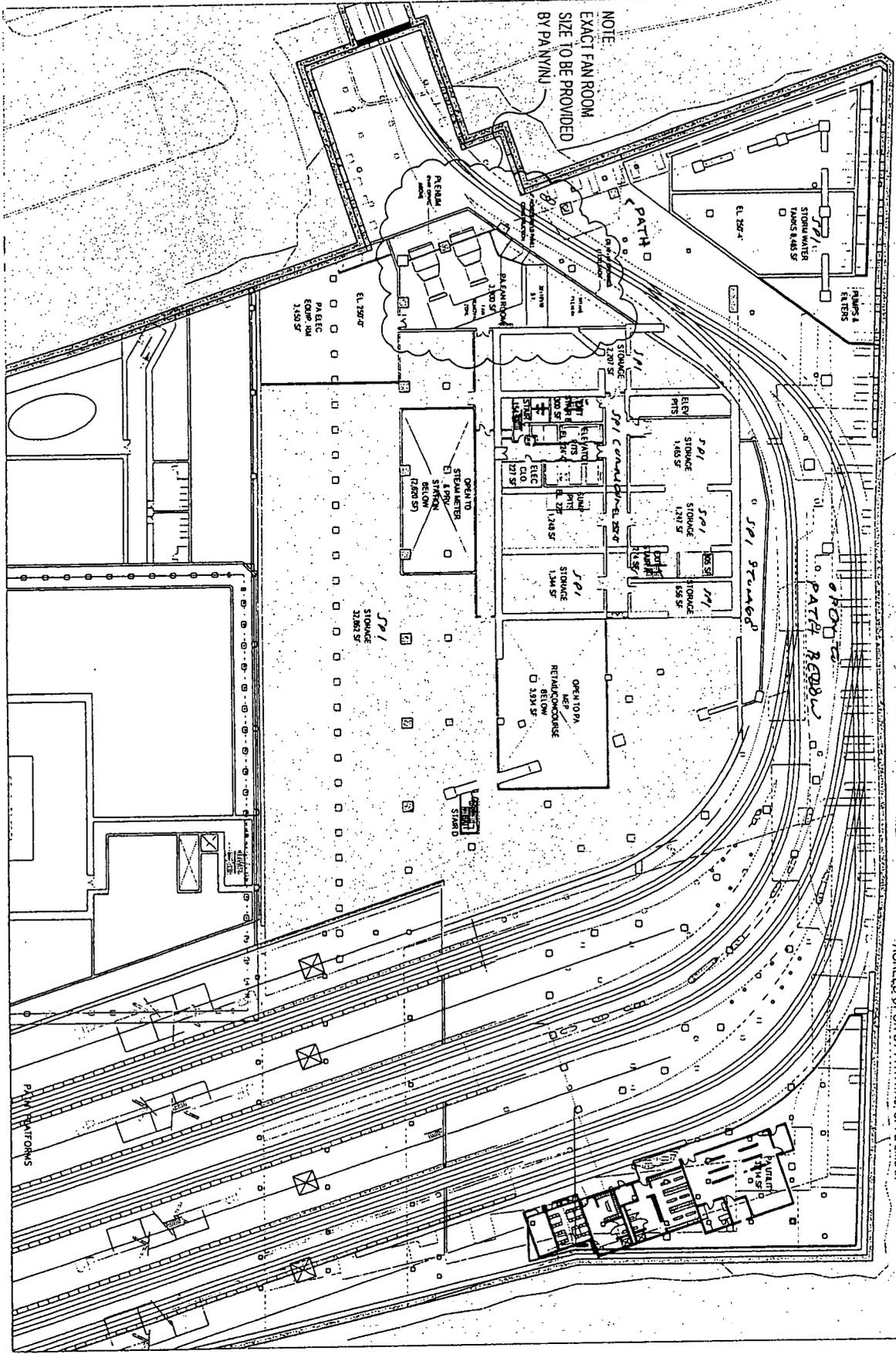
"C"

"B"

PATH MAZ  
 OPEN TO



NOTE:  
EXACT FAN ROOM  
SIZE TO BE PROVIDED  
BY PA NYNJ



FINAL LOCATION OF PATH, PAC & SP1  
ELEVATORS, VENT SHAFTS, STRUCTURE, &  
STAIRS UNDER PAC TO BE MUTUALLY  
AGREED UPON BY PA NYNJ, SP1 & LMDCC.



## **APPENDIX B**



## **Lower Manhattan Development Corporation**

### **World Trade Center Memorial and Cultural Program General Project Plan June 2, 2004**

#### **1. Introduction**

The Lower Manhattan Development Corporation (“LMDC”) is charged with assisting New York City in recovering from the terrorist attacks on the World Trade Center and ensuring that Lower Manhattan emerges as a strong and vibrant 21<sup>st</sup> century central business district. The centerpiece of LMDC’s efforts are the creation of a permanent memorial remembering and honoring the thousands of innocent men, women, and children lost in the terrorist attacks (the “Memorial”) and cooperation with other public and private entities in the revitalization and redevelopment of the World Trade Center site (the “WTC Site”) and adjacent areas (the “Southern Site”) in the Borough of Manhattan in New York City. The WTC Site and the Southern Site, as described specifically in Section 4 below, will be referred to collectively as the “Site.”

LMDC, a subsidiary of the Empire State Development Corporation (“ESDC,” a political subdivision and public benefit corporation of the State of New York), is proposing to undertake, pursuant to the New York State Urban Development Corporation Act (“UDC Act”) and in cooperation with the United States Department of Housing and Urban Development (“HUD”) and The Port Authority of New York and New Jersey (“Port Authority”), the World Trade Center Memorial and Cultural Program (the “Memorial Program”). The Memorial Program, for which construction is expected to begin on or before January 2005, includes the planning, selection, coordination and construction of a Memorial and Memorial Center, and the planning and possible construction of memorial-related improvements and cultural uses at the Site to complement the redevelopment of commercial office space, retail space, conference center and hotel facilities, open space areas, a reconstructed church and certain infrastructure improvements at the Site (the “Redevelopment Program”). LMDC and Port Authority will plan these Programs together to constitute a land use improvement and civic project for the redevelopment of the Site (the “WTC Memorial and Redevelopment Plan”). The planning process will also include other appropriate public and private entities.

#### **2. LMDC and Port Authority Roles**

LMDC will be responsible for implementation of the memorial and cultural uses that comprise the Memorial Program, while the Port Authority will be responsible for the commercial, retail, conference center and hotel facilities, open space areas, and infrastructure components of the Redevelopment Program to be located at the WTC Site. LMDC and the Port Authority will cooperate in developing a plan for implementation of the components of the Redevelopment Program to be located outside the WTC Site. The WTC Memorial and Redevelopment Plan may also require or involve consents, approvals or other supporting actions by other local, state or federal agencies in connection with its approval and implementation. As described in Section 10 below, LMDC has conducted a coordinated environmental review of the combined WTC Memorial and Redevelopment Plan.

In carrying out the Memorial Program, LMDC conducted an international competition that in January 2004 resulted in the selection of a winning Memorial design, “Reflecting Absence,” by Michael Arad and Peter Walker. An interpretive museum will be developed, known as the Memorial Center that will tell the story of the events of September 11, 2001 and February 26, 1993. LMDC will provide initial funding for the design, development, and construction of the Memorial and Memorial Center, will plan for memorial-related improvements and cultural facilities and uses, and will oversee the overall implementation of the Memorial, Memorial Center and cultural programming and, possibly, elements of the Redevelopment Program, including all required coordination with the Port Authority, HUD, the State of New York, the City of New York and other public and private entities. LMDC will also continue to coordinate the Memorial Program with the plans and implementation schedule for the Redevelopment Program.

### **3. Project Objectives**

The rebuilding of the Site as a mixed-use center of commerce, public spaces, and culture, with a Memorial at its heart, will advance the goals of the UDC Act, the objectives developed by LMDC and the goals articulated by the Governor of the State of New York and the Mayor of the City of New York—to remember and honor the victims of the terrorist attacks while revitalizing Lower Manhattan.

#### **a. Remembering the Victims of the Terrorist Attacks**

The Memorial will ensure that future generations never forget the thousands of people who died on September 11, 2001 in New York, in Shanksville, Pennsylvania and at the Pentagon in Virginia, as well as those who died in the terrorist bombing at the World Trade Center on February 26, 1993. The Memorial will be set in a context that bustles with the activity of Lower Manhattan, yet provides a quiet and respectful setting for remembrance and contemplation. Visitors from around the world will come to the Site to learn about the events of September 11, 2001 and February 26, 1993 and to remember those who were lost. The proposed plan described below and graphically depicted on Attachment 1 (World Trade Center Memorial and Redevelopment Plan, Proposed Site Plan as of June 2004) provides appropriate access, circulation, structural support, utilities and other necessary services to the Memorial and Memorial Center.

#### **b. Revitalizing Lower Manhattan**

The current conditions of the Site are “substandard and insanitary” under the UDC Act and impair the sound growth and development of Lower Manhattan. In addition, there is a need for the development of cultural, recreational, community and other civic facilities in Lower Manhattan.

Restoring the Site as a functioning part of Lower Manhattan is a priority objective for this project. This project is intended to re-establish the Site as a locus of commerce, civic space and amenities, including appropriate commercial and retail uses, as well as supporting facilities, utilities and infrastructure, for the downtown area. While Lower Manhattan is a center of world finance and a major economic engine for the entire region, downtown has also become the fastest

growing residential neighborhood in New York City and a major destination for regional, national and international travelers. The loss of commercial office space on September 11, 2001 has impaired Lower Manhattan's ability to grow as a world-class 21<sup>st</sup> century central business district. Restoration of this commercial space is critical to Lower Manhattan's future. To serve the resulting mix of workers, residents and visitors, revitalization of Lower Manhattan should include cultural and other amenities that help make the area a lively environment all day, every day.

The long-term presence of an essentially empty, excavated space in the heart of New York's financial district would also be a blight that makes the area less attractive for businesses, residents and visitors. It is important to New York City's economy that, as business leases in Lower Manhattan come up for renewal, businesses will have confidence that the Site will be redeveloped as quickly as possible to reduce its blighting effect on the immediate area. In addition, Lower Manhattan's status as the nation's third largest central business district will be threatened without the redevelopment of the Site.

#### **4. Project Location**

The Site is located in Lower Manhattan on two sites: (i) the WTC Site, bounded by West, Vesey, Church, and Liberty Streets; and (ii) the adjacent two city blocks south of the WTC site, one bounded by Liberty, Washington, Albany and Greenwich Streets, and the other bounded by Liberty, West, Cedar and Washington Streets, and portions of two streets: Liberty Street between those blocks and the WTC Site and Washington Street between Cedar and Liberty Streets (collectively, the "Southern Site"). The Southern Site includes those properties commonly known as 130 Liberty Street, 140 Liberty Street and 155 Cedar Street. The boundaries of the Site are shown on Attachment 1 (World Trade Center Memorial and Redevelopment Plan, Proposed Site Plan as of June 2004).

#### **5. Project Setting**

The Site is located in Lower Manhattan, the historic "downtown" core of New York City. Today, downtown is characterized by narrow, winding canyons of first-generation skyscrapers standing beside modern office towers located on open plazas and along the district's principal streets. Rich in history and historic architecture of every era and style, Lower Manhattan is a global center of finance, the center of New York City's government, the home of several major educational institutions, and the site of many new and established museums, historical and cultural institutions.

The Site is surrounded by several distinct neighborhoods, each with different characters and uses. Tribeca, to the north of the Site, has evolved since the construction of the original World Trade Center into one of Manhattan's premiere residential neighborhoods through the conversion of mid-rise office and warehouse buildings into loft apartments. Immediately to the south of the Site is the Greenwich South district, characterized by Class B and C office buildings, some of which are being converted to residential use by private developers. East of the Site lies the Fulton corridor, a commercial area in which aging building stock is slowly being converted to residential use. Wall Street and the historic financial core are located southeast of the Site. Immediately to the west of the Site is Route 9A/West Street, a state highway that formerly lined

the Hudson River and formed the western edge of the island. Across West Street from the Site, Battery Park City has been developed over land fill as a mixed-use neighborhood, including a substantial residential community, the World Financial Center and other office towers, retail stores, riverfront parks, and open space.

One of the densest concentrations of mass transit in the United States is situated in and around the Site, serving a downtown with one of the highest percentages of transit riders of any business district in the country. Fourteen subway lines run within one-quarter mile of each other, spanning from the Port Authority Trans-Hudson (“PATH”) terminal in the middle of the Site to an MTA New York City Transit facility that runs along Fulton and Dey Streets east to William Street. Numerous city and private bus lines also serve the area.

On September 11, 2001, terrorist attacks destroyed every structure on the WTC Site: the World Trade Center office towers, commercial and government low-rise buildings, the hotel, and the underground concourse, PATH terminal and subway stations. The properties constituting the Southern Site, adjacent to the WTC Site, were also destroyed or damaged and blighted by the events of September 11, 2001: the Deutsche Bank office tower at 130 Liberty Street was severely damaged, remains uninhabitable, and will be deconstructed; the small St. Nicholas Church at 155 Cedar Street was destroyed; and the property at 140 Liberty Street was and remains blighted by dust, debris and the condition of the surrounding properties. Several other buildings surrounding the Site were also severely damaged, including one that housed two electrical substations, with some remaining unoccupied today. Some streets remain closed or occupied by safety installations and construction equipment. Many businesses and residents in the area surrounding the WTC site were at least temporarily displaced—others have still not returned, including the activities formerly conducted at the Southern Site. While the WTC Site remains closed to the public, a wide sidewalk and viewing area with a commemorative viewing wall has been created along the east side of the site on Church Street. The portion of Liberty Street between the WTC Site and the Southern Site also contains a commemorative viewing wall and is open to pedestrians from Church Street to the temporary bridge over West Street to Battery Park City.

Construction began on a temporary PATH station in the summer of 2002 and was completed in November 2003. This station restores service to the WTC Site until the Permanent WTC PATH Terminal can be constructed. The Permanent WTC PATH Terminal would be constructed within the Site but is not part of the WTC Memorial and Redevelopment Plan. The Permanent WTC PATH Terminal is expected to include an architecturally prominent station building, underground concourses, and expansion of the capacity of PATH trains with additional platforms and longer platform lengths.

The MTA New York City Transit is planning a redevelopment of the Fulton and Dey Street transit facility into a large, central transit center to be located at Broadway between Fulton and John Streets. This project, which is not part of the WTC Memorial and Redevelopment Plan, will rehabilitate, reconfigure, and enhance the multilevel complex and subway stations serving nine different lines.

## **6. The Memorial Program**

### **a. General**

The Memorial Program, when combined with the Redevelopment Program, will create a new mixed use development with a significantly different configuration than existed on the Site before September 11, 2001. New cultural buildings will make the site a destination for visitors throughout the region, and bring new activity to the neighborhood after business hours and on the weekends. Most significantly, a Memorial and Memorial Center will sit at the heart of the Site, drawing visitors from around the world to learn about what happened on September 11, 2001 and on February 26, 1993, to remember those who died, and to provide a continually evolving context for these historic events.

### **b. Uses**

#### **i. Memorial**

Almost immediately after the tragic events of September 11, 2001, a broad public consensus emerged that a fitting Memorial be created at the WTC Site, and that it be the defining element of the rebuilding process. The design of the Memorial is based on the concept “Reflecting Absence” by Michael Arad and Peter Walker, selected in January 2004 by an independent jury after an international competition. The winning design concept includes an approximately 3-acre at-grade landscaped plaza surrounding two pools of water recessed approximately 30 feet below grade. Visitors can descend to the level of the pools via inclined walkways around the perimeter of the voids. Names of victims will be inscribed around each of the pools at this lower level.

The Memorial Center will be located beneath the landscaped plaza to the west of the former Twin Tower footprints. It will house artifacts that tell the story of the attacks on the World Trade Center, and will provide access to a portion of the western slurry wall to the lowest level of the structural bathtub. Access to remaining box beam column base remnants will also be provided at the lowest level of the north and south tower footprints, approximately 70 feet below grade.

The Memorial is expected to attract millions of visitors each year. In addition to the challenge of creating a dignified and respectful setting within a thriving downtown, the Memorial setting and these additional visitors must be accommodated in a manner that considers and complements the other uses on and around the Site.

#### **ii. Cultural Buildings and Programming**

Throughout the extensive public participation process organized by LMDC, numerous comments called for the development of cultural buildings and programming at the Site. A new cultural core in Lower Manhattan would celebrate life and diversify and revitalize the surrounding area. In addition to the Memorial Center described above, the site plan includes two sites for new cultural facilities, comprising a total of approximately 500,000 square feet. Users of these facilities will be identified through selection procedures currently underway. An 800 to 2,200-seat performing arts venue is a likely occupant of one of these sites at the northwest corner

of Fulton and Greenwich Streets. To enhance the architectural prominence of this venue and promote its identity as a major new cultural institution, the performing arts venue will be separated from Tower 1 (“Freedom Tower”) by at least approximately 30 feet, unless otherwise required by the program of the cultural institution selected for the site. Potential tenants for the site at the southwest corner of Fulton and Greenwich Streets may range from museums, exhibition spaces, and cultural centers to libraries, performance space and rehearsal space.

## **7. The Redevelopment Program**

The Memorial Program will be compatible with and complement the Redevelopment Program. The Redevelopment Program includes redevelopment of certain uses that existed on the Site prior to September 11, 2001, but reflects and respects the Memorial Program uses new to the WTC Site. Infrastructure and utilities will be located to allow for better integration with the Memorial Program and Redevelopment Program elements. Public open space will also be provided. The current configuration of the program elements described below is depicted in Attachment 1.

### **a. Commercial Office Space**

The Site contained approximately 12.7 million square feet of office and governmental space: (1) the WTC Site contained approximately 10.9 million square feet of office space in addition to approximately 500,000 square feet of space at the U.S. Customs House; and (2) the Southern Site contained approximately 1.3 million square feet of office space. The Redevelopment Program provides for the development of approximately 10 million square feet of Class A commercial office space, of which approximately 8.0 to 8.5 million square feet will be located in four buildings on the WTC Site, and approximately 1.5 to 2.0 million square feet will be located on the Southern Site in one building.

### **b. Retail**

The World Trade Center contained highly diverse retail stores that served visitors and downtown workers as well as neighborhood residents. The new retail program at the WTC Site will provide for up to 1 million square feet of retail. Retail uses at or above grade will be maximized while providing spaces for other at-grade uses.

### **c. Hotel and Conference Center**

The Marriott Hotel at the WTC Site was a 22-story hotel with 820 rooms, with meeting and support space. Most of its customers were business travelers. Lower Manhattan needs to replace this hotel space to serve existing and expected new businesses and residents, as well as the visitors to new cultural and Memorial uses.

Downtown lacks a large venue for conferences. Conference facilities will be created on the Site because of its central location and excellent access to the regional transportation network. The Redevelopment Program will provide for a hotel with up to 800 rooms and up to 150,000 square feet of conference space.

**d. Streets and Public Open Spaces**

The WTC Memorial and Redevelopment Plan extends Fulton and Greenwich Streets through the WTC Site. These streets will connect adjacent neighborhoods and support the active street life that is characteristic of New York City. It also allows for the possible design and construction of Cortlandt and Dey Streets between Church and Greenwich Streets. The final status of Cortlandt and Dey Streets is subject to future discussion among the Port Authority, LMDC and the City of New York. The WTC Memorial and Redevelopment Plan extends Cedar Street between Greenwich and Washington Streets on the Southern Site, improving vehicular and pedestrian traffic flows.

In order to optimize the pedestrian experience, minimum sidewalk widths of 15 feet will be implemented throughout the Site, except that sidewalks will have a minimum width of 25 feet along Greenwich Street north of Liberty Street, Fulton Street (with the exception of the north edge of the Memorial site), the west side of Church Street, the north side of Liberty Street, the east side of Route 9A north of Liberty Street, and the south side of Vesey Street between Washington and Church Streets.

Streets through the site will be designed and built to meet or exceed New York City Department of Transportation (NYCDOT) standards and will have the following directions and lane capacity, except as may be agreed to by NYCDOT:

<u>Street</u>	<u>Direction</u>	<u>Lane Number</u>
Church	Northbound	4
Greenwich	Southbound	4 or 5
Vesey	Eastbound	4
Fulton	Westbound	3
Liberty*	Eastbound	3

\* In the event the truck ramp is located elsewhere on the Site, the direction and lane capacity of Liberty Street are to be determined.

The WTC Site contained a public plaza raised above street level. The plaza contained a sculpture and was the setting for occasional public events such as concerts and dance performances. The Redevelopment Program calls for a series of public open spaces to be located throughout the WTC Site including the “Wedge of Light” plaza at Fulton and Church Streets, the “PATH Plaza” at Greenwich Street south of the proposed permanent PATH Terminal entrance, and Liberty Park south of Liberty Street between Route 9A and Greenwich Street. A public plaza will also be located in front of the performing arts venue on Fulton Street, unless otherwise required by the program of the cultural institution selected for the site. These parks and plazas will accommodate a range of different active and passive recreational uses.

**e. St. Nicholas Greek Orthodox Church**

The WTC Memorial and Redevelopment Plan provides for reconstruction of the St. Nicholas Greek Orthodox Church, which was located on the southwestern portion of the Southern Site and was destroyed on September 11, 2001. The church will be rebuilt within the new park area to the south of Liberty Street.

**f. Infrastructure and Utilities**

Infrastructure and service areas for the components of the WTC Memorial and Redevelopment Plan will be primarily located below-grade and accessed via the Liberty Street vehicular ramp. The Liberty Street ramp will be relocated if a feasible alternative location within the Site is identified by LMDC and the Port Authority, and the environmental effects of such alternative location are no greater than those associated with the Liberty Street location. The majority of uses at the Site, including the Memorial, cultural, commercial office, retail and hotel, will share this below-grade servicing infrastructure, while below-grade service and circulation areas for the Freedom Tower, some cultural uses, and some below-grade retail may be separated from the remainder of the site's below-grade service network and may use a separate entrance in the vicinity of the Freedom Tower.

The WTC Memorial and Redevelopment Plan will accommodate visitors to the Memorial, and the museum and cultural uses, in a dignified and respectful manner that considers and complements the Memorial setting. Visitor services and amenities will be provided at the Site. These will include a bus parking facility.

Mechanical equipment areas, utility zones, storage areas, and other building service areas and connections will also be located primarily below grade at the Site.

**8. Design Guidelines**

The redevelopment of the Site will be carried out in phases over an anticipated period of approximately 12 years. In order to assure that the open spaces, buildings and other features designed and built throughout the entire development period reintegrate the site with the rest of Lower Manhattan, exemplify excellence in design, are consistent with the vision for the site, and are compatible with the intent of the WTC Memorial and Redevelopment Plan, a set of design guidelines will be adopted by LMDC and the Port Authority with input from involved and interested parties, including the Department of City Planning and the Port Authority's net lessees, to guide future development for both the Memorial Program and the Redevelopment Program. The City of New York, acting through its Department of City Planning, will participate in the drafting or modification of those design guidelines set forth in Attachment 2.

The design guidelines will outline general building envelopes for each identified commercial development parcel, including height, bulk, massing, floor plates, setbacks and lobby locations. For the Memorial Program, they will define (1) location; (2) use; (3) street/open space connections and edges; and (4) sustainability. For the Redevelopment Program, they will define (1) retail boundaries, volumes and plan concepts; (2) street/open space edges and connections, as well as service access points; and (3) sustainability, security and life safety, and

material/aesthetic issues for building facades and retail storefronts. The guidelines process is intended to be flexible enough to accommodate future modifications as changing conditions may require and will include mechanisms to do so as needed.

The design guidelines will constitute a significant component of the land use plan and controls for the Site.

## **9. Relocation**

All above and below grade structures at the Site were destroyed or severely damaged on September 11, 2001. Structures that remain are unoccupied. Even before September 11, 2001, there were no residential occupants on the Site. No relocation will be caused by the proposed WTC Memorial and Redevelopment Plan.

## **10. Environmental Review**

LMDC, acting as lead agency under both the National Environmental Policy Act (“NEPA”) and the New York State Environmental Quality Review Act (“SEQRA”), conducted a coordinated environmental review of the WTC Memorial and Redevelopment Plan. LMDC prepared a Generic Environmental Impact Statement (“GEIS”) as part of that review. The GEIS process included extensive opportunities for the public to comment on the environmental impacts of the proposed project prior to final approval by LMDC.

## **11. Funding and Operation of the WTC Memorial and Redevelopment Plan**

The Memorial Program will be administered and operated by public or not-for-profit entities. LMDC proposes to use existing HUD Community Development Block Grant funds and other public and private contributions for the Memorial Program.

The Port Authority will be responsible for the components of the Redevelopment Program to be located at the WTC Site.

LMDC and the Port Authority, working with the City of New York, will cooperate in developing a plan for implementation of the components of the Redevelopment Program to be located at the Southern Site, which will be funded by a combination of public and private sources.

Redevelopment of the Site may require acquisition or disposition of property and/or lease or development agreements. In such case, LMDC, ESDC, the Port Authority, or other governmental entities may acquire title to property by negotiated purchase, where possible, or by condemnation.

## **12. Zoning**

The WTC Site is zoned for commercial uses under the New York City Zoning Resolution (zoning classifications C6-4, C5-3). However, the WTC Site is exempt from zoning requirements because property owned, controlled or operated by the Port Authority is not subject to the jurisdiction of the city or state of New York.

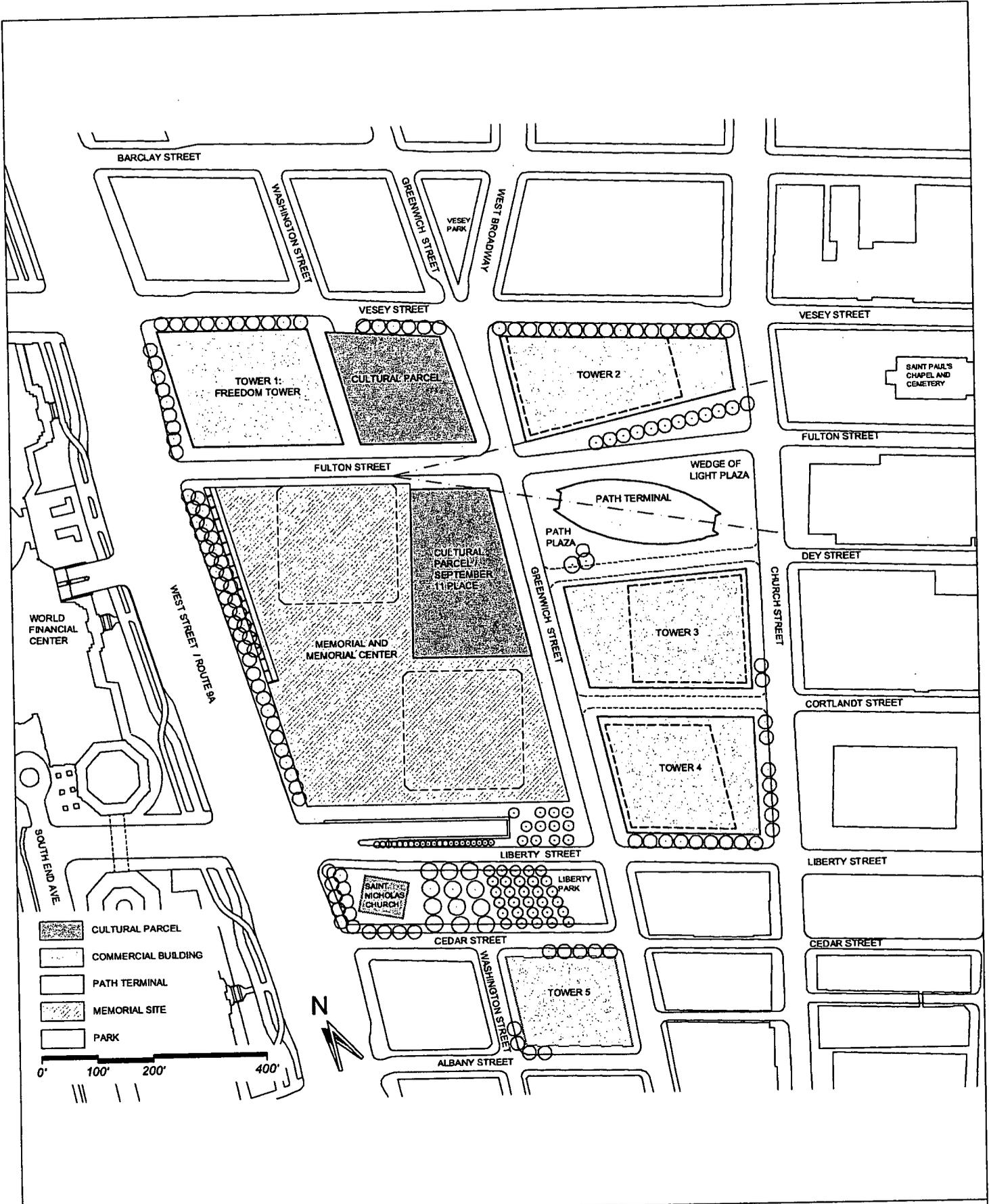
The Southern Site is zoned for commercial uses under the New York City Zoning Resolution (zoning classification C6-9). Redevelopment of the Southern Site will be exempted from these zoning requirements pursuant to the UDC Act.

Instead, the Site will be developed in substantial conformance with the design guidelines that will form part of the land use plan and controls for the Site. The proposed WTC Memorial and Redevelopment Plan is nonetheless consistent with local land use plans and nearby zoning classifications. Consistent with the program described in Section 7 above, the WTC Memorial and Redevelopment Plan currently includes open space, a church, and an approximate 57-story, 1.6 million square foot commercial office tower on the Southern Site.

**ATTACHMENT 1**

**WORLD TRADE CENTER MEMORIAL AND REDEVELOPMENT PLAN  
PROPOSED SITE PLAN  
AS OF JUNE 2004**

[separate attachment]



**WORLD TRADE CENTER  
MEMORIAL AND REDEVELOPMENT PLAN**

PROPOSED SITE PLAN AS OF JUNE, 2004  
ATTACHMENT 1

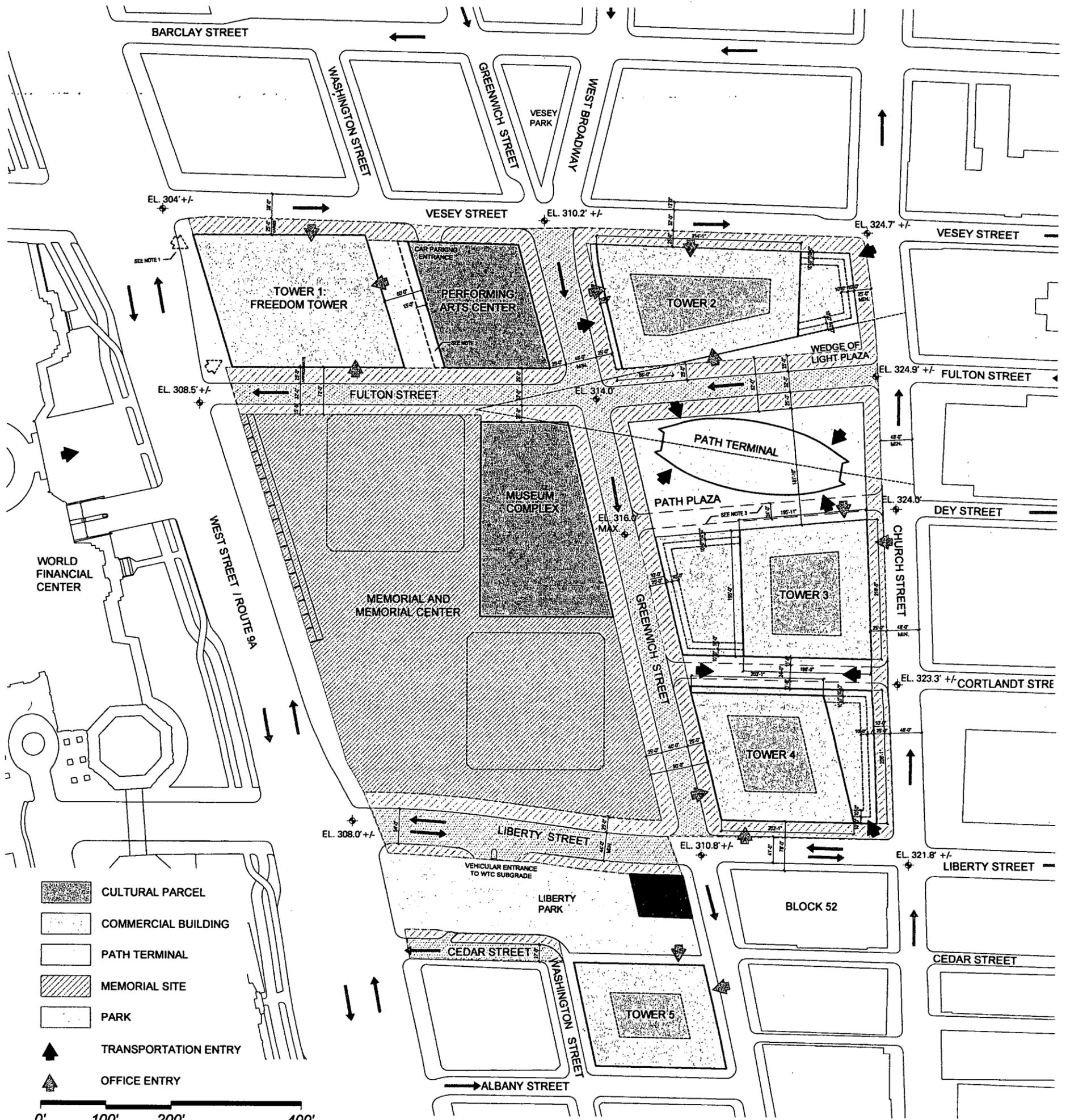
## ATTACHMENT 2

### **CERTAIN DESIGN GUIDELINES**

The City of New York, acting through its Department of City Planning, will participate in the drafting or modification of those design guidelines set forth below:

1. for commercial buildings other than Tower 1: (a) a minimum and maximum streetwall requirement; (b) a minimum first setback or similar requirement; (c) a minimum percentage retail frontage requirement on Greenwich, Church and Fulton Street frontages; (d) provisions designed to maximize the amount of ground floor retail space relative to lobby and other uses; and (e) a minimum percentage ground floor transparency requirement on Greenwich, Church and Fulton Street frontages;
2. size, height, projection and illumination controls for exterior retail signage, including special controls for Greenwich Street frontages facing the Memorial site;
3. design standards and configurations for security devices installed in streets, sidewalks or other open spaces to ensure, to the maximum extent possible consistent with security needs, that such devices are integrated with streetscape elements and do not impede pedestrian flow; and
4. maximum slope, elevation and other grade controls for streets and sidewalks, in order to provide an appropriate streetscape transition between level changes and protection of view corridors.

## **APPENDIX C**



- NOTES:
1. FREEDOM TOWER TRANSPORTATION ENTRY IS TO BE LOCATED EITHER AT THE NORTH-WEST OR SOUTHWEST CORNER OF THE BUILDING BASE AT GRADE.
  2. REFER TO WTC DESIGN AND SITE PLAN AGREEMENT FOR DETAILS OF CANTILEVERS AT THE PERFORMING ARTS CENTER.
  3. DEY STREET RIGHT-OF-WAY IS PARALLEL TO FULTON STREET RIGHT-OF-WAY.
  4. TEMPORARY TRUCK ELEVATORS FOR TOWER 1 TO BE ON THE TOWER 2 SITE.
  5. LMDC WILL UNDERTAKE ANY FURTHER ENVIRONMENTAL ANALYSES, IF ANY, THAT MAY BE REQUIRED IN CONNECTION WITH THIS PLAN.
  6. NORTH-SOUTH DIMENSIONS ALONG TOWERS 2, 3 AND 4 ARE TAKEN FROM THE NORTH PROPERTY LINE OF BLOCK 52, BETWEEN GREENWICH AND CHURCH, AND SOUTH OF LIBERTY STREETS.
  7. WEDGE OF LIGHT BOUNDARIES ARE DEFINED AS: NORTH BOUNDARY - A SOLAR AZIMUTH OF 285° 57' 30" FROM A POINT BEGINNING AT THE TOP OF THE CENTER OF THE SOUTHERLY DOME OF THE PARK ROW BUILDING AT 15 PARK ROW HAVING A COORDINATE OF N 198,419.057 FEET, E 982,032.033 FEET AND AN ELEVATION OF 727 FEET, OFFSET A DISTANCE OF 17.725 FEET TO THE SOUTHERLY SIDE. SOUTH BOUNDARY - A SOLAR AZIMUTH OF 308° 27' 03" FROM A POINT BEGINNING AT THE SOUTHWESTERLY CORNER OF THE AT&T BUILDING ON DEY STREET HAVING A COORDINATE OF N 198,282.677 FEET, E 981,366.585 FEET AND AN ELEVATION OF 697 FEET. THE POINT OF CONVERGENCE OF THE AZIMUTHS HAS A COORDINATE OF N 198,784.394 FEET, E 980,758.914 FEET. THE COORDINATES OF THE POINTS OF BEGINNING AND CONVERGENCE ARE IN THE NORTH AMERICAN DATUM OF 1983-86, LONG ISLAND ZONE (FEET). ELEVATIONS ARE IN WTC-DOWNTOWN REDEVELOPMENT PROGRAM DATUM WHERE ELEVATION 300.000 FEET IS EQUAL TO 2.653 FEET ABOVE NATIONAL GEODETIC VERTICAL DATUM OF 1929 AS ESTABLISHED BY THE NATIONAL OCEAN SURVEY.
  8. IF CORTLANDT STREET / CORTLANDT WAY IS A VEHICULAR STREET, PATH ENTRANCE(S) WILL BE RELOCATED WITHIN TOWERS 3 AND 4 PODIUMS IN ADJACENT AREA(S).
  9. THE DEPICTION AND SHADING OF COMMERCIAL BUILDINGS, OFFICE TOWERS, PATH TERMINAL AREAS, PERFORMING ARTS CENTER, MUSEUM COMPLEX, SIDEWALKS, AND OTHER AREAS DO NOT INDICATE PROPERTY OR LEASEHOLD DEMISING LINES OR RIGHTS.
  10. THE APPROXIMATE SQUARE FOOTAGES FOR THE TOWERS ON THE DRAWING ARE AS FOLLOWS: TOWER 1 = 2.8 MILLION SQ.FT., TOWER 2 = 2.4 MILLION SQ.FT., TOWER 3 = 2.0 MILLION SQ.FT., TOWER 4 = 1.8 MILLION SQ.FT., AND TOWER 5 UP TO 1.5 MILLION SQ.FT., PROVIDED THAT OFFICE DEVELOPMENT WILL NOT EXCEED 10 MILLION SQ.FT.
  11. ALL OF THE TRANSPORTATION ENTRIES ARE INTENDED TO BE WITHIN THE BUILDING LINES.

**WORLD TRADE CENTER  
DIMENSIONED SITE PLAN**

**APPENDIX C**  
November 24, 2004

12. Transportation and office entry symbols indicate access from sides of buildings and streets, rather than specific locations.

### ***WORLD TRADE CENTER DESIGN AND SITE PLAN AGREEMENT***

made this 24th day of November 2004 among The City of New York (the "City"); Lower Manhattan Development Corporation ("LMDC"); The Port Authority of New York and New Jersey on its own behalf and WTC Retail LLC, the "Retail Net Lessee" (collectively, "PANYNJ"); 1 World Trade Center LLC, 2 World Trade Center LLC, 4 World Trade Center LLC, and 5 World Trade Center LLC, the "Office Lessee" (collectively, "SPI"). The parties hereby agree as follows:

#### **Dimensioned Site Plan:**

1. The attached dimensioned site plan (Exhibit A) which shows, among other things, locations of buildings, streets, sidewalks and other matters addressed in this Agreement, dated November 24th, 2004 (the "Dimensioned Site Plan") is approved and the parties agree to cooperate in the redevelopment of the World Trade Center in accordance therewith. The parties will cooperate reasonably and in good faith to further refine the Dimensioned Site Plan, with any refinements or changes to require approval of all parties to be effective. LMDC will undertake any further environmental analyses, if any, that may be required in connection with such Dimensioned Site Plan. The World Trade Center Memorial and Cultural Program General Project Plan (GPP) was affirmed by LMDC's Board of Directors on June 2, 2004, and the parties acknowledge that the GPP will be amended, as may be necessary and appropriate, consistent with this Agreement.

#### **Performing Arts Center ("PAC"):**

2. There shall be a 60 foot separation at grade between the Performing Arts Center and the Freedom Tower, as shown on the Dimensioned Site Plan.
3. Up to 106' above grade, PAC cantilevers toward the west shall be permitted to the extent mutually agreed by the PAC and the Freedom Tower's respective architects – Frank Gehry and David Childs (or their successors). From 106' to 186' above grade, cantilevers toward the west may be, as of right, 15' beyond the 60 foot separation line at grade. Above 186', cantilevering toward the west will not be permitted and the westerly face of the PAC building will not protrude beyond its demising line at grade, all as shown on the Dimensioned Site Plan. Cantilevers are permitted on the north, east, and south sides of the PAC building, subject to the City's approval including any required regulatory approvals.
4. The structural transfer for the PAC building shall be below grade.
5. SPI's car/parking access (with entrance off of Vesey Street and with a curb cut of at least 30 feet in width) and related uses are to be included in the PAC area at grade consisting of 5,400 s.f. plus an elevator machine room and overrun, all in a configuration and specific location to be coordinated between and mutually agreed by LMDC and SPI, such agreement to be reached within a time period consistent with SOM's design schedule for the Freedom Tower.
6. Truck access and other SPI program are not included at grade in the PAC footprint except for (x) ventilation shafts necessary to serve permitted SPI mechanical programs below the PAC as addressed in paragraph 7 (Exhibit C), (y) shared or dedicated egress from SPI spaces below the PAC (with exact location in the PAC footprint to be mutually agreed to by LMDC and SPI) and (z) a 2400 s.f. maximum parking fan room (for the SPI sub-grade parking) to be located at, above or below-grade in the PAC footprint as mutually agreed by LMDC and SPI.
7. PANYNJ, LMDC and SPI approve the drawings attached hereto as Exhibit C and agree that the design, construction and allocation of subgrade space among them

under Freedom Tower and the PAC will be in accordance with such drawings (subject to the notes on such drawings that anticipate clarification of certain specified matters). Space allocated to any party in the drawings attached as Exhibit C may be utilized by such party for any of its programs, regardless of any designation in Exhibit C. In the event that the design of the PAC's transfer structure at the B1 level (as shown on Exhibit C) is consistent with the creation of occupiable space at that level then the configuration and allocation among PANYNJ, LMDC (for PAC) and SPI of such occupiable space shall be determined by mutual agreement of such three parties.

#### **Truck access**

8. If SPI determines that the permanent underground truck access network will not be complete in time to provide services required for the construction and operation of Freedom Tower on SPI's contemplated schedule, then SPI may elect to construct and install temporary truck elevators for Tower 1 on the Tower 2 site, east of the Tower 2 building core shown on the Dimensioned Site Plan (or a different location on the Tower 2 site mutually acceptable to PANYNJ and SPI, such parties agreeing to negotiate cooperatively and in good faith in such regard), with entrances off of Vesey Street. PANYNJ agrees to comply with the schedule set forth in the attached Exhibit B in respect of (x) the PANYNJ's building of the underground roadways for full permanent truck access from the Liberty Street ramp and the full availability of all such underground roadways for truck access, (y) PANYNJ's preparation of the Tower 2 site by June 30, 2007 sufficient for the construction and installation of the temporary truck elevators and the construction of the foundations and subgrade for Tower 2, and (z) PANYNJ's turnover of the Tower 2 site to SPI on or before June 30, 2007 for the construction and installation of the temporary truck elevators and the construction of the foundations and subgrade for Tower 2 (with such construction to be coordinated as between SPI and PANYNJ cooperating reasonably and in good faith in an effort to accommodate both such construction and PANYNJ'S ongoing work on or adjacent to the Tower 2 site). The determination of whether or not to install the temporary truck elevators on the Tower 2 site pursuant to this paragraph and when to commence the construction and installation described above will be made by SPI in its discretion.
9. Permanent truck access for the office towers to be via the Liberty Street ramp, as shown on the Dimensioned Site Plan. Once the full underground roadway from the Liberty Street ramp is available to SPI and provides full truck access to Tower 1 loading docks, SPI agrees to transfer truck access to the underground network within 30 days and thereafter to complete removal of the truck elevators and related elements within 150 days.

#### **Car access**

10. Car parking areas for Towers 2 – 5 will be accessed via a dedicated ramp at Liberty Park, as shown on the Dimensioned Site Plan. PANYNJ, LMDC, the City, and SPI to agree on exact location, at Liberty Park, consistent with the Dimensioned Site Plan.

**Roof Guidelines:**

11. Language with regard to tower roofs in the February 2004 Commercial Design Guidelines draft, the 6<sup>th</sup> paragraph, on p. 52, will be replaced in the final Commercial Design Guidelines with the following (with such language to supersede any contrary or inconsistent language therein): “Additionally, the shaping of each tower and its top should be considered within its relationship to the set of five. Each tower top should be designed to reinforce the spiraling nature of the set of five towers and the centrality of the Memorial at the heart of the site. Each tower top should acknowledge the Memorial in a meaningful and appropriate way. For example, each roof could inflect toward the Memorial and the slopes could decrease beginning with Tower 1’s roof as the greatest slope and Tower 5’s as the shallowest slope.”

**Commercial Design Guidelines:**

12. The City, LMDC, PANYNJ, and SPI will work together in a cooperative manner with respect to the formulation of the Commercial Design Guidelines. The provisions of this Agreement shall be incorporated into the relevant sections of the Commercial Design Guidelines. Nothing contained in the Commercial Design Guidelines shall be inconsistent in any way with the terms of this Agreement or the Dimensioned Site Plan. The general scope of the Commercial Design Guidelines will be consistent with the general scope of the February 18, 2004 draft of the Commercial Design Guidelines.

**Streetwalls of Towers 2 - 4**

13. Streetwalls of Towers 2 – 4 shall be between 85 to 130 feet in height (as determined by SPI), then a minimum 10’ setback is required. This includes 3 levels of at and above-grade retail as well as double-height at-grade office lobbies and normal and appropriate office tower support spaces and systems comprising the lower 60 feet of the streetwall and a minimum of one level of mechanical of 25 to 30 feet in height on the fourth level with the office program (other than double-height at-grade office lobbies and normal and appropriate office tower support spaces and systems which will begin at lower levels) beginning with the fifth level. At such time when SPI is ready to build Tower 2, Tower 3, or Tower 4, then, as of right, streetwalls for such Towers may be increased by SPI to 85 to 150 feet in height (as determined by SPI), then a minimum 10’ setback is required, then a streetwall up to 190 feet in height, then a second minimum 10’ setback is required, as shown on the Dimensioned Site Plan. SPI will provide a full schematic design of any building to be built with streetwalls in excess of 130 feet in height to the City, PANYNJ and the LMDC for review and comment concerning the streetwalls, setbacks and other urban design elements. Any comments on the schematic design will be provided to SPI for SPI’s good faith consideration within 30 days of receipt of the design.

**Setbacks**

14. 10’ minimum tower setbacks required: Greenwich Street at Towers 2 and 3, Church Street at Towers 2 and 4, and Cortlandt Street / Cortlandt Way at Tower 4, all as shown on the Dimensioned Site Plan. At the time SPI is ready to build Tower 2, Tower 3 or Tower 4, SPI will provide a full schematic design of such Tower to the City, PANYNJ and LMDC for review and comment concerning the streetwalls, setbacks and other urban design elements. Any comments on the schematic design

will be provided to SPI for SPI's good faith consideration within 30 days of receipt of the design.

15. To the extent practicable and consistent with the commercial requirements of the buildings and the other provisions of this Agreement, the designs of Tower 3 and Tower 4 should attempt to maximize the amount of light and air in the space between the two towers.

#### **Cortlandt Street / Cortlandt Way**

16. The final determination on whether Cortlandt will be a vehicular street has yet to be made by PANYNJ and the City. Sidewalk widths: 15 feet (north and south) as shown on the Dimensioned Site Plan. At such time as SPI is ready to build Tower 3 or Tower 4, sidewalks can be, as of right, reduced at SPI's election to 11 1/2 feet wide each, but the distance between the podiums for Tower 3 and Tower 4 can never be less than 47 feet. At the time SPI is ready to build Tower 3 or Tower 4, SPI will provide a full schematic design of such Tower(s) to the City, PANYNJ and LMDC for review and comment concerning the sidewalk widths and other urban design elements. Any comments on the schematic design will be provided to SPI for SPI's good faith consideration within 30 days of receipt of the design.
17. The potential roadbed is 24 feet wide, as shown on the Dimensioned Site Plan.

#### **Liberty Street and Ramp**

18. Liberty Street shall be a two-way street between West Street and Church Street, Liberty Street shall be 41 feet wide between Greenwich Street and Church Street, as shown on the Dimensioned Site Plan.
19. Sidewalk widths: The cumulative width of the north and south sidewalks of Liberty Street between Greenwich Street and Church Street shall be 35 feet (as shown on the Dimensioned Site Plan) with the distribution to be mutually agreed upon by the parties.
20. The Liberty Street ramp will be located at the north side of Liberty Park, as shown on the Dimensioned Site Plan. At the time PANYNJ is ready to proceed with the development of the Liberty Park, PANYNJ will provide a full schematic design of Liberty Park to SPI, the City and the LMDC for review and comment. Any comments on the schematic design will be provided to PANYNJ for PANYNJ's good faith consideration within 30 days of receipt of the design. Further, the design, construction and operation of the portion of Liberty Park in the area generally north of Tower 5 will be consistent with SPI's anticipated design, construction and operation of Tower 5 (including the location of one of the entrances to Tower 5 on the north side of the tower across from Liberty Park) and will conform to the reasonable requirements of SPI in connection with Tower 5, including reasonable requirements for vehicle and pedestrian access, circulation and other matters.

#### **Hotel**

21. The location and conceptual design of any hotel is still being studied and will be determined by the parties at a later date.

#### **Miscellaneous:**

22. This Agreement shall be governed by New York law and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

The parties have executed this Agreement and will be legally bound hereby as of the date first above written. As among PANYNJ, the Retail Net Lessee and SPI, except as specifically set forth herein, nothing contained in this Agreement shall be or be deemed or construed to be (x) a waiver or release by any such party of such party's rights or another such party's obligations under, or an amendment of, the leases between SPI and PANYNJ (as previously amended), the Reciprocal Easement and Operating Agreement applicable to the WTC site (as previously amended) or the 12/1/03 letter agreement among such parties, or (y) a waiver, consent or approval by any such party of any matter, decision, or selection requiring the consent or approval of one or more such parties under the foregoing leases, REOA or letter agreement.

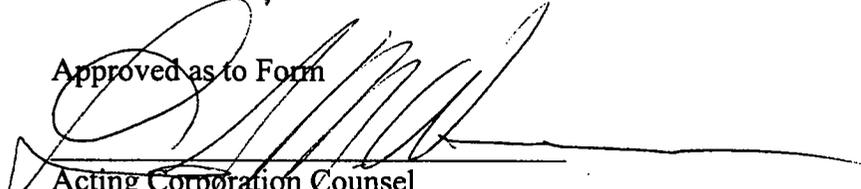
23. This Agreement may be executed in any number of identical counterparts and by facsimile, each of which when so executed and delivered, shall be an original, but all of which taken together shall constitute one and the same instrument.

**The City of New York**

By: Daniel L. Doctoroff

Name: Daniel L. Doctoroff  
Title: Deputy Mayor for Economic  
Development and Rebuilding

Approved as to Form

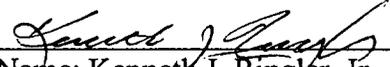
  
Acting Corporation Counsel

**Lower Manhattan Development Corporation**

By: \_\_\_\_\_

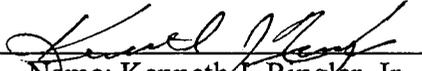
Name: Kevin M. Rampe  
Title: President

**The Port Authority of New York and New Jersey**

By:    
Name: Kenneth J. Ringler, Jr.  
Title: Executive Director

**WTC Retail LLC**

**By: The Port Authority of New York  
and New Jersey, its sole member**

By:    
Name: Kenneth J. Ringler, Jr.  
Title: Executive Director

**1 World Trade Center LLC**

By: \_\_\_\_\_

Larry A. Silverstein,  
as President

**2 World Trade Center LLC**

By: \_\_\_\_\_

Larry A. Silverstein,  
as President

**4 World Trade Center LLC**

By: \_\_\_\_\_

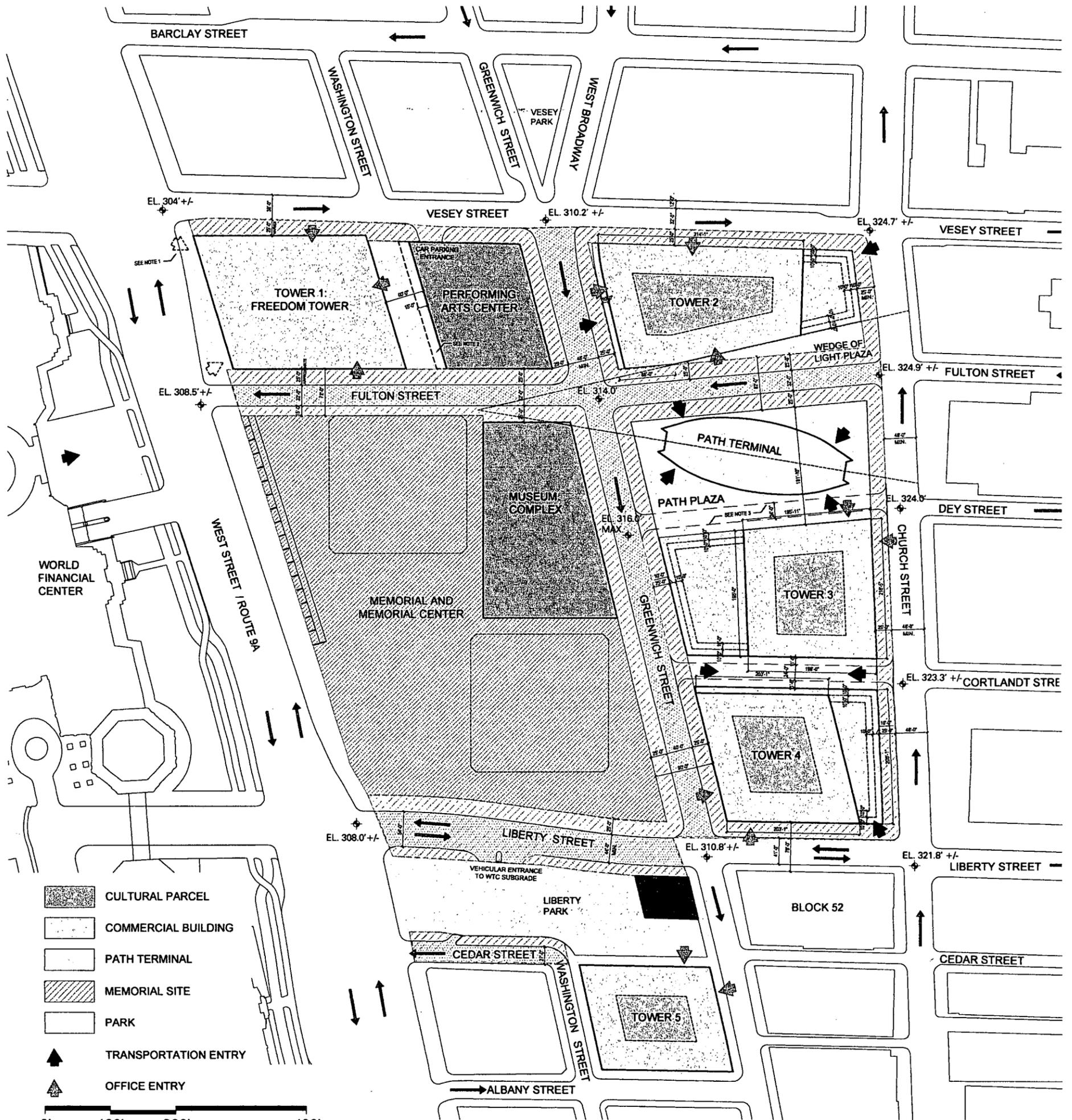
Larry A. Silverstein,  
as President

**5 World Trade Center LLC**

By: \_\_\_\_\_

Larry A. Silverstein,  
as President

**EXHIBIT A**



NOTES:

1. FREEDOM TOWER TRANSPORTATION ENTRY IS TO BE LOCATED EITHER AT THE NORTHWEST OR SOUTHWEST CORNER OF THE BUILDING BASE AT GRADE.
2. REFER TO WTC DESIGN AND SITE PLAN AGREEMENT FOR DETAILS OF CANTILEVERS AT THE PERFORMING ARTS CENTER.
3. DEY STREET RIGHT-OF-WAY IS PARALLEL TO FULTON STREET RIGHT-OF-WAY.
4. TEMPORARY TRUCK ELEVATORS FOR TOWER 1 TO BE ON THE TOWER 2 SITE.
5. LMDC WILL UNDERTAKE ANY FURTHER ENVIRONMENTAL ANALYSES, IF ANY, THAT MAY BE REQUIRED IN CONNECTION WITH THIS PLAN.
6. NORTH-SOUTH DIMENSIONS ALONG TOWERS 2, 3 AND 4 ARE TAKEN FROM THE NORTH PROPERTY LINE OF BLOCK 52, BETWEEN GREENWICH AND CHURCH, AND SOUTH OF LIBERTY STREETS.
7. WEDGE OF LIGHT BOUNDARIES ARE DEFINED AS: NORTH BOUNDARY - A SOLAR AZIMUTH OF 285° 57' 30" FROM A POINT BEGINNING AT THE TOP OF THE CENTER OF THE SOUTHERLY DOME OF THE PARK ROW BUILDING AT 15 PARK ROW HAVING A COORDINATE OF N 198,419.057 FEET, E 982,032.033 FEET AND AN ELEVATION OF 727 FEET, OFFSET A DISTANCE OF 17.725 FEET TO THE SOUTHERLY SIDE. SOUTH BOUNDARY - A SOLAR AZIMUTH OF 308° 27' 03" FROM A POINT BEGINNING AT THE SOUTHWESTERLY CORNER OF THE AT&T BUILDING ON DEY STREET HAVING A COORDINATE OF N 198,282.677 FEET, E 981,368.585 FEET AND AN ELEVATION OF 697 FEET. THE POINT OF CONVERGENCE OF THE AZIMUTHS HAS A COORDINATE OF N 198,764.394 FEET, E 980,759.914 FEET. THE COORDINATES OF THE POINTS OF BEGINNING AND CONVERGENCE ARE IN THE NORTH AMERICAN DATUM OF 1983-86, LONG ISLAND ZONE (FEET). ELEVATIONS ARE IN WTC-DOWNTOWN REDEVELOPMENT PROGRAM DATUM WHERE ELEVATION 300.000 FEET IS EQUAL TO 2.653 FEET ABOVE NATIONAL GEODETIC VERTICAL DATUM OF 1929 AS ESTABLISHED BY THE NATIONAL OCEAN SURVEY.
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10. THE APPROXIMATE SQUARE FOOTAGES FOR THE TOWERS ON THE DRAWING ARE AS FOLLOWS: TOWER 1 = 2.6 MILLION SQ.FT., TOWER 2 = 2.4 MILLION SQ.FT., TOWER 3 = 2.0 MILLION SQ.FT., TOWER 4 = 1.8 MILLION SQ.FT., AND TOWER 5 UP TO 1.5 MILLION SQ.FT., PROVIDED THAT OFFICE DEVELOPMENT WILL NOT EXCEED 10 MILLION SQ.FT.
11. ALL OF THE TRANSPORTATION ENTRIES ARE INTENDED TO BE WITHIN THE BUILDING LINES.

# WORLD TRADE CENTER DIMENSIONED SITE PLAN

# EXHIBIT A

November 24, 2004

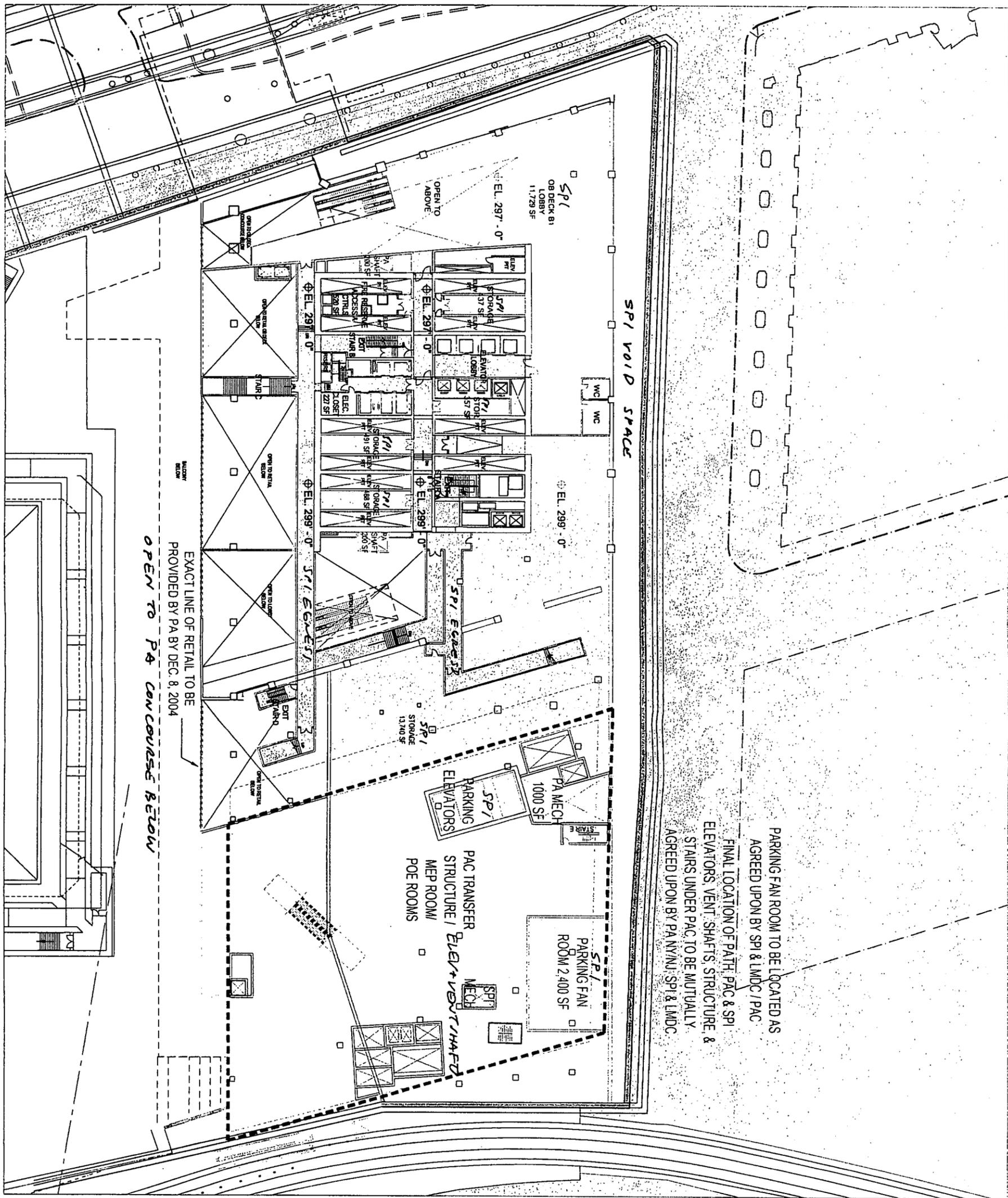
3. Transportation and office entry symbols indicate access from sides of buildings and streets, rather than specific locations.

*(Handwritten initials and signature)*

**EXHIBIT B**



**EXHIBIT C**



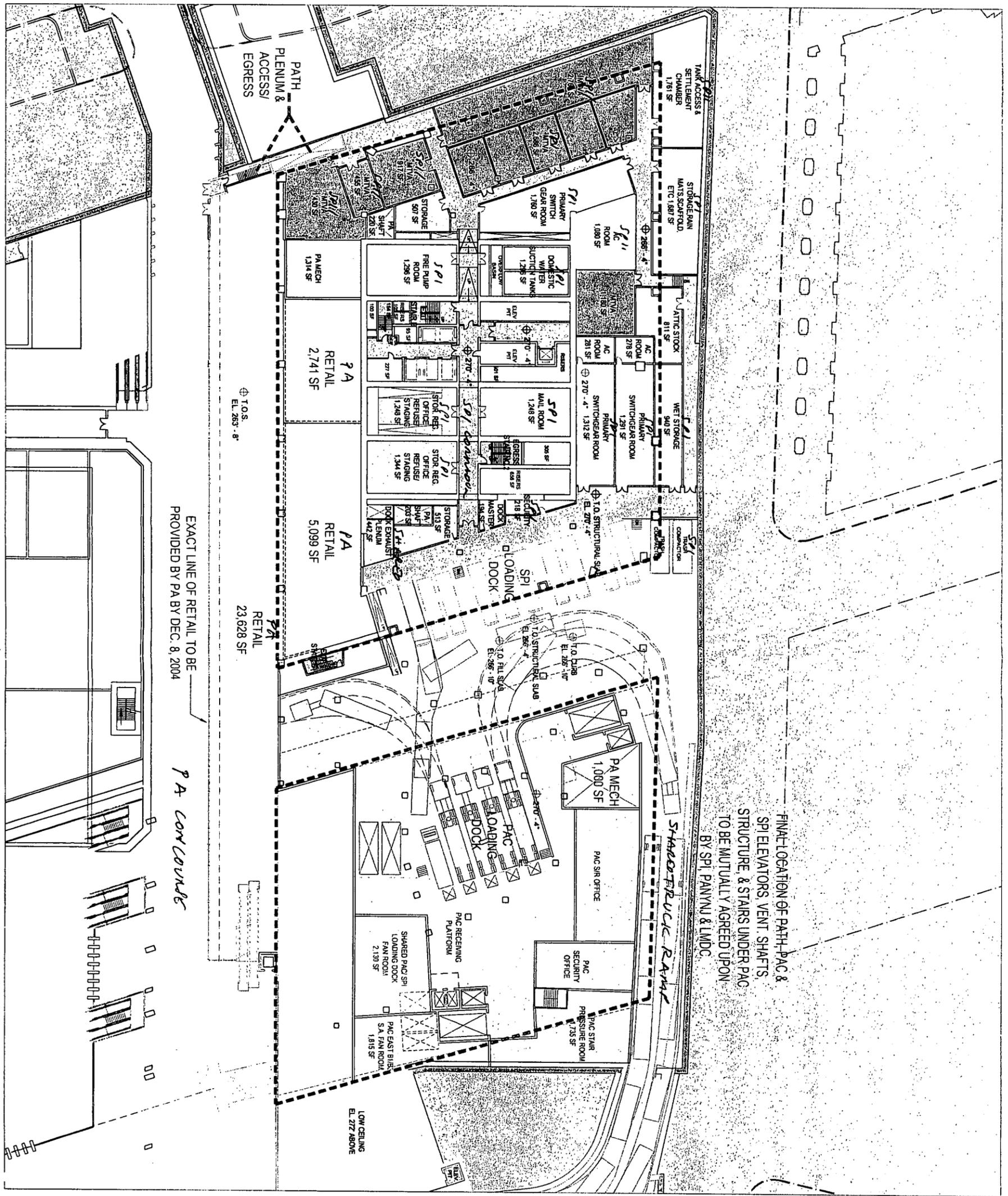
EXACT LINE OF RETAIL TO BE PROVIDED BY PA BY DEC. 8, 2004  
 OPEN TO PA CONCOURSE BELOW

PARKING FAN ROOM TO BE LOCATED AS AGREED UPON BY SP1 & LMDC / PAC  
 FINAL LOCATION OF PATH, PAC & SP1 ELEVATORS, VENT. SHAFTS, STRUCTURE, & STAIRS UNDER PAC TO BE MUTUALLY AGREED UPON BY PANVNI, SP1 & LMDC

EL. 294' - EXHIBIT C  
 BASEMENT LEVEL 1  
 WORLD TRADE CENTER

NOVEMBER 24, 2004  
 SCALE: N.T.S.





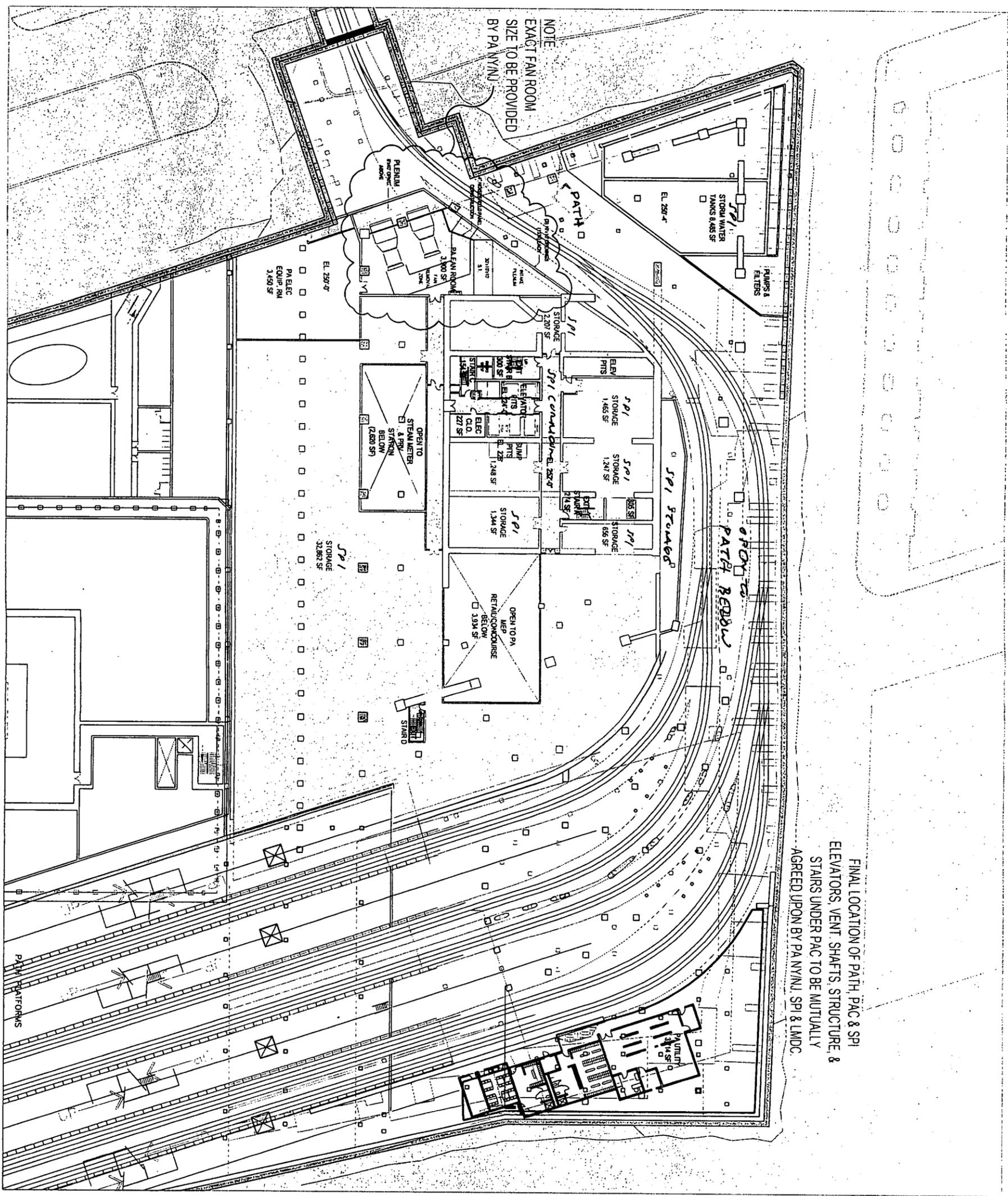
EXACT LINE OF RETAIL TO BE PROVIDED BY PA BY DEC. 8, 2004

PA CONCOURSE

FINAL LOCATION OF PATH, PAC & SPI ELEVATORS, VENT. SHAFTS, STRUCTURE & STAIRS UNDER PAC TO BE MUTUALLY AGREED UPON BY SPI, PANYU & LMDC.

EL. 264' - EXHIBIT C  
BASEMENT LEVEL 3  
WORLD TRADE CENTER

NOVEMBER 24, 2004  
SCALE: N.T.S.

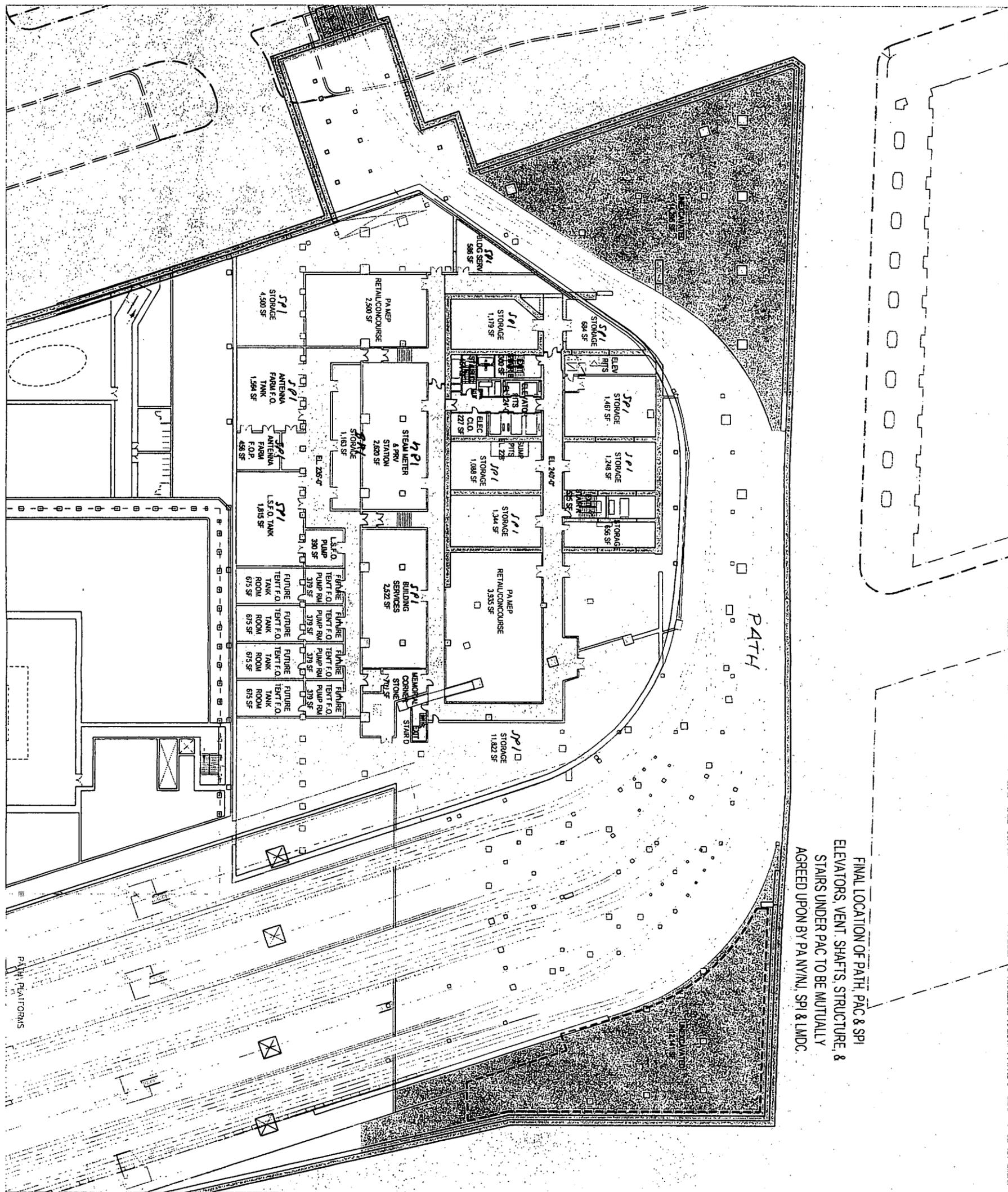


NOTE:  
EXACT FAN ROOM  
SIZE TO BE PROVIDED  
BY PA NY/NJ

FINAL LOCATION OF PATH, PAC & S01  
ELEVATORS, VENT. SHAFTS, STRUCTURE &  
STAIRS UNDER PAC TO BE MUTUALLY  
AGREED UPON BY PA NY/NJ, S01 & LMDC.

EL. 252' - EXHIBIT C  
BASEMENT LEVEL 4M  
WORLD TRADE CENTER

NOVEMBER 24, 2004  
SCALE: N.T.S.



FINAL LOCATION OF PATH, PAC & SPI  
 ELEVATORS, VENT. SHAFTS, STRUCTURE, &  
 STAIRS UNDER PAC TO BE MUTUALLY  
 AGREED UPON BY PA NY/NJ, SPI & LMDC.

EL. 240' - EXHIBIT C  
 BASEMENT LEVEL 4  
 WORLD TRADE CENTER

NOVEMBER 24, 2004  
 SCALE: N.T.S.

RESTATED AND AMENDED AGREEMENT

**THIS RESTATED AND AMENDED AGREEMENT**, made as of November 24, 2004 by and between **THE CITY OF NEW YORK**, a New York municipal corporation, (hereinafter called the "City") and **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** (formerly known as The Port of New York Authority and hereinafter called "the Port Authority"), a body corporate and politic established by Compact between the states of New Jersey and New York with the consent of the Congress of the United States of America;

W I T N E S S E T H, That:

WHEREAS, pursuant to concurrent legislation of the State of New York and the State of New Jersey set forth at Chapter 209 of the Laws of New York of 1962, as amended by Chapter 1003 of the Laws of New York of 1972, by Chapter 318 of the Laws of New York of 1973 and by Chapter 993 of the Laws of New York of 1974 (McKinney's Unconsolidated Laws §§6601-6618) and Chapter 8 of the Laws of New Jersey of 1962, as amended by Chapter 208 of the Laws of New Jersey of 1972 and by Chapter 25 of the Laws of New Jersey of 1974 (N.J.S.A.32:1-35.50 to 35.68) (the "World Trade Center Legislation"), the Port Authority was authorized to establish, develop and operate the World Trade Center and, for such purposes acquired and improved certain lands in the Borough of Manhattan, City, County, and State of New York as more particularly described in the schedule annexed to this Agreement, hereby made a part hereof, and marked "Schedule"; and

WHEREAS, pursuant to the World Trade Center Legislation the Port Authority is authorized to make an annual payment to the City in lieu of taxes in an amount equivalent to the sum last paid as taxes upon any real property acquired by the Port Authority prior to the time of acquisition, and to make additional payments with respect to buildings, structures, or improvements located on certain portions of the World Trade Center and pursuant to the World Trade Center Legislation, the City and the Port Authority may add the Additional World Trade Center Properties to the Hudson Tubes-World Trade Center area as defined in the World Trade Center Legislation, and make payments in lieu of taxes upon any such Additional World Trade Center Properties and make additional payments with respect to building, structures, or improvements located thereon (which annual payments are hereinafter collectively referred to as "PILOT Payments"); and

WHEREAS, Port Authority Trans-Hudson Corporation (hereinafter called "PATH") a wholly owned subsidiary of the Port Authority, will continue to provide a portion of its passenger service through a permanent terminal to be located at the World Trade Center (the "PATH World Trade Center Terminal"); and

WHEREAS, PATH and the City heretofore entered into a certain agreement dated October 1, 1964 (which agreement is hereinafter referred to as the "PATH PILOT Agreement") providing for PILOT Payments with respect to the portions of the World Trade Center occupied by PATH; and

WHEREAS, the Port Authority and the City heretofore entered into a certain Agreement dated June 6, 1967 (which Agreement is hereinafter referred to as the "Street Closing Agreement") wherein, in order to accommodate the construction and development of the World Trade Center, the City and the Port Authority agreed to certain changes in the City's street

system and to the transfer of title to certain parcels of land adjacent to and within the World Trade Center site; and

WHEREAS, the Port Authority and the City heretofore entered into a certain undated agreement as amended by an agreement between the Port Authority and the City dated August 23, 1967 (the undated agreement and the August 23, 1967 amendment being hereinafter referred to as "1967 Agreement"), as further amended by a letter agreement between Joseph Lhota, the Finance Commissioner of the City and Barry Weintrob, the Chief Financial Officer of the Port Authority, dated October 30, 1995, together with a reply letter from Barry Weintrob, the Chief Financial Officer of the Port Authority to Joseph Lhota, the Finance Commissioner of the City of New York, dated November 9, 1995 (the letter agreement dated October 30, 1995 together with the reply letter dated November 9, 1995 being hereinafter referred to as the "Lhota Letter" and the 1967 Agreement together with the Lhota Letter, being hereinafter collectively referred to as the "WTC PILOT Agreement") providing for PILOT Payments in lieu of taxes with respect to certain portions of the World Trade Center; and

WHEREAS, Port Authority and the City heretofore entered into a letter agreement between the Deputy Mayor for Operations of the City and the Deputy Director, Finance Department of the Port Authority dated August 14, 1997 (which letter Agreement is hereinafter referred to as the "Exco Letter") and by a letter agreement between the Deputy Mayor for Economic Development and Planning of the City and the Director, Real Estate Department of the Port Authority dated March 31, 2000 (which letter Agreement is hereinafter referred to as the "NYBOT Letter") providing for certain credits to be taken by the Port Authority against the PILOT Payments due to the City from the Port Authority pursuant to the WTC PILOT Agreement (which credits are hereinafter collectively defined as the "Exco-NYBOT Credit Amount"); and

WHEREAS, the Port Authority entered into a lease agreement dated December 31, 1980 with 7 World Trade Company (the "7 WTC Lessee") for the construction of a first class office tower building at the World Trade Center (which tower building is hereinafter referred to as "the 7 WTC Building") all as more particularly described in such Lease (which lease is hereinafter referred to as the "7 WTC Lease"); and

WHEREAS, the Port Authority entered into a lease agreement dated December 21, 1995 with HMH WTC, INC. (the "Hotel Lessee") for the design, construction, equipping, and operation of a hotel at the World Trade Center (which hotel is hereinafter referred to as "the WTC Hotel") all as more particularly described in such lease agreement as evidenced by a memorandum of lease filed in connection therewith, and as amended by the Waiver and Consent Agreement between the Port Authority and the Hotel Lessee dated as of October 1998, an agreement among the Port Authority, the Hotel Lessee and CCMH World Trade Ctr. LLC (the "Hotel Operating Tenant") dated January 1, 2001, a Supplemental Agreement dated as of May 9, 2001 between the Port Authority and the Hotel Lessee, and a Privilege Permit granted by the Port Authority to the Hotel Lessee dated as of January 1, 1998 (which lease agreement and ancillary documents are hereinafter collectively referred to as the "WTC Hotel Lease"); and

WHEREAS, the Port Authority entered into the following lease agreements dated as of July 16, 2001, pertaining to certain components of the World Trade Center: (i) an Agreement of Lease, between the Port Authority, as lessor, and 1 WORLD TRADE CENTER LLC, as lessee (the "One World Trade Center Lessee"), encumbering the property commonly known as One World Trade Center, as more particularly described therein, as amended by the First Amendment to Agreement of Lease, dated as of July 24, 2001 (such lease as amended and as it may hereafter be further amended being hereinafter referred to as the "One World Trade Center Lease") (ii) an Agreement of Lease, between the Port Authority, as lessor, and 2 WORLD

TRADE CENTER LLC, as lessee (the "Two World Trade Center Lessee"), encumbering the property commonly known as Two World Trade Center, as more particularly described therein, as amended by the First Amendment to Agreement of Lease, dated as of July 24, 2001 (such lease as amended and as it may hereafter be further amended being hereinafter referred to as the "Two World Trade Center Lease"); (iii) an Agreement of Lease, between the Port Authority, as lessor, and 4 WORLD TRADE CENTER LLC, as lessee (the "Four World Trade Center Lessee"), encumbering the property commonly known as Four World Trade Center as more particularly described therein, as amended by the First Amendment to Agreement of Lease, dated as of July 24, 2001 (such lease as amended and as it may hereafter be further amended being hereinafter referred to as the "Four World Trade Center Lease"); (iv) an Agreement of Lease, between the Port Authority, as lessor, and 5 WORLD TRADE CENTER LLC, as lessee (the "Five World Trade Center Lessee"), encumbering the property commonly known as Five World Trade Center, as more particularly described therein, as amended by the First Amendment to Agreement of Lease, dated as of July 24, 2001 (such lease as amended and as it may hereafter be further amended being hereinafter referred to as the "Five World Trade Center Lease"); and (v) an Agreement of Lease, between the Port Authority, as lessor, and WTC RETAIL LLC, formerly known as Westfield WTC LLC, as lessee (the "Retail Lessee") encumbering the property commonly known as the Mall at the World Trade Center, as more particularly described therein as amended by the First Amendment to Agreement of Lease, dated as of July 24, 2001 (such lease as amended and as it may hereafter be further amended being hereinafter referred to as the "Retail Lease"), One World Trade Center Lessee, Two World Trade Center Lessee, Four World Trade Center Lessee, Five World Trade Center Lessee and Retail Lessee being hereinafter collectively referred to as the "Net Lessees", and the One World Trade Center Lease, Two World

Trade Center Lease, the Four World Trade Center Lease, the Five World Trade Center Lease and the Retail Lease are hereinafter collectively referred to as the "Net Leases";

WHEREAS, as a result of the terrorist attacks of September 11, 2001 all of the buildings, structures, and improvements constituting the World Trade Center were destroyed and in order to resolve fully and finally all matters arising out of or in connection with the WTC Hotel Lease, the Hotel Lessee and the Port Authority entered into an agreement dated November 25, 2003 covering the surrender and termination of the WTC Hotel Lease, reserving unto the Port Authority the right to undertake the development of a hotel within the World Trade Center site in the future through the granting of a leasehold interest therein, (any future lessee of space within the World Trade Center site used for the development of a hotel being hereinafter referred to as a "Future WTC Hotel Lessee"); and

WHEREAS, the Port Authority is participating in a coordinated effort with New York State Urban Development Corporation ("UDC") d/b/a Empire State Development Corporation ("ESDC"), Lower Manhattan Development Corporation, a subsidiary of the ESDC ("LMDC"), and the City of New York (the "City") to facilitate the redevelopment of the World Trade Center; and

WHEREAS, a master plan for the development of the World Trade Center site (the "Master Plan") is being developed by Studio Daniel Libeskind which includes the potential development of buildings and improvements on the World Trade Center site as well as the development of certain properties located south of Liberty Street (which properties are hereinafter collectively referred to as the "Additional WTC Properties"), being respectively identified as a parcel of land and a building at 130 Liberty Street, owned by Deutsche Bank Trust Company Americas (the "Deutsche Bank Site"), a parcel of land owned by the Hellenic

Orthodox Church (the "St. Nicholas Church site"), and a parcel of land owned by 140 Liberty Street Associates (the "Milstein Site"); and

WHEREAS, The City and the Port Authority desire to restate and amend the PATH PILOT Agreement and the WTC PILOT Agreement to set forth the understanding of the parties regarding PILOT Payments during the period of and following the reconstruction of the PATH World Trade Center Terminal and the other buildings, structures, and improvements comprising the World Trade Center, to provide an annual payment to the City by the Port Authority in lieu of the payments collectively being made by PATH to the City under the PATH PILOT Agreement and the payments being made by the Port Authority to the City under the WTC PILOT Agreement, and to add by agreement the Additional World Trade Center Properties to the Hudson Tubes-World Trade Center Area and provide for annual payments in lieu of taxes with respect to such properties;

NOW, THEREFORE, in consideration of the covenants and mutual agreements hereinafter contained, the Port Authority and the City, each for itself, and its successors and assigns, mutually agree as follows:

1. **MINIMUM ANNUAL PILOT PAYMENT:**

During each PILOT Year, as hereinafter defined, commencing January 1, 2004 the Port Authority shall pay to the City an annual payment ("Minimum Annual PILOT Payment") in lieu of taxes in connection with the properties being occupied by the Port Authority and PATH at the World Trade Center a sum equal to twelve percent (12%) of all Net Lessee Rent, as defined in paragraph 2 hereof, arising during each such PILOT Year. In the event that the total amount of payments on account of taxes or payments in lieu thereof made by the Net Lessees to the Port Authority and paid over to the City during any PILOT Year exceed the Minimum Annual PILOT Payment payable pursuant to this paragraph, the amount of such

excess shall be applied against the Port Authority's Increased Annual PILOT Payment obligations, as set forth in paragraph 2 of this Agreement for such PILOT Year, and if there be no such Increased Annual PILOT Payment obligations then to the Port Authority's PILOT obligations for the succeeding PILOT year or years as the case may be. Except as set forth in this Agreement to the contrary, the computation of Minimum Annual PILOT Payment for each PILOT Year, or a portion of a PILOT Year, as hereinafter provided, shall be individual to such PILOT Year, or such portion of a PILOT Year, and without relation to any other PILOT Year, or any other portion of any PILOT Year. The time for making payment of the Minimum Annual PILOT Payment and the method calculation thereof shall be as set forth in paragraph 3 of this Agreement.

2. **INCREASED ANNUAL PILOT PAYMENT:**

(a) For the purposes of this paragraph and for all other purposes under this Agreement the following terms shall have the respective meanings provided below:

(1) "Net Lessee Rent" shall mean the total of all rent payments or payments in lieu of rent received by the Port Authority from the Net Lessees pursuant to the Net Leases, including proceeds of business interruption or rent insurance from policies procured and maintained by the Net Lessees, which proceeds are paid over to the Port Authority on account of the Net Lessees' rental obligations under the Net Leases *provided, however*, that there shall be excluded from Net Lessee Rent: (i) any payments on account of taxes or payments in lieu thereof made by the Net Lessees to the Port Authority which are paid by the Net Lessees to the Port Authority and paid over by the Port Authority to the City, (ii) pass through reimbursements such as BID payments paid by the Net Lessees to the Port Authority, (iii) payments on account of services or utilities furnished by the Port Authority to the Net Lessees or to any space leased to tenants of the

Net Lessees pursuant to the Net Leases, including, without limitation, common area charges, and (iv) inspection, permit plan review and other application fees paid by the Net Lessees to the Port Authority.

(2) "PILOT Year" shall mean the calendar year 2004 and each calendar year, or portion thereof, thereafter during which the Port Authority shall continue to have title to the World Trade Center pursuant to the World Trade Center Legislation.

(3) "Semi-Annual Period" shall mean, as the context requires, the six-month period commencing January 1, 2004 (which period is hereinafter referred to as "the first semi-annual period") and each of the six-month periods thereafter occurring during each PILOT Year.

(4) "Gross Square Feet" shall mean the area, measured in square feet, contained within the space between the inside finished surface of a building's exterior wall, including elevator shafts, stairs, fire-towers, vents, pipe-shafts, meter-closets, flues, stacks and vertical shafts; no deduction shall be made for columns, partitions, pilasters or projections necessary to the building. For the purposes hereof, the floor area of a building shall not include floor space used for mechanical equipment.

(5) "Actual Space Available" shall mean the number of Gross Square Feet of office, retail and hotel space (including basement and subgrade space) in the buildings and improvements constructed at the World Trade Center pursuant to the Master Plan (the "World Trade Center buildings"), including the 7 WTC Building and any hotel developed within the World Trade Center site in the future through the granting of a leasehold interest therein, which (i) are occupied, whether by private parties or by government agencies including the federal government and the Port Authority, (ii) which

are under lease to any such party, or (iii) which have been constructed and which, by installation of tenant improvements, may be made ready for occupancy.

(6) "Full Build-Out" shall mean 11,400,000 square feet, being the total number of Gross Square Feet of office, retail and hotel space proposed for the World Trade Center sites in the master plan for the development of the World Trade Center, which the parties agree is 9.7 million square feet, plus the total number of Gross Square Feet of space proposed for the 7 WTC Building in the plans and specifications for such building approved by the Port Authority, which the parties agree is 1.7 million square feet.

(7) "Base Amount" shall mean the sum of Fifty-five Million Dollars and No Cents (\$55,000,000.00).

(8) "Base Year" shall mean the New York City tax year commencing July 1, 2002

(9) "Escalator" shall mean for each Semi-Annual Period occurring in each PILOT Year a factor, expressed as a percentage, derived by dividing (w) the assessed value of the "Agreed Upon Basket of Buildings" (as determined in accordance with this paragraph) for the New York City tax year in which such Semi-Annual period occurs by (x) the assessed value for the Agreed Upon Basket of Buildings for the Base Year and multiplying the result by the quotient obtained by dividing (y) the real estate tax rate for commercial properties (currently classified as Class 4 Properties) for New York City tax year in which such Semi-Annual Period occurs (z) by the real estate tax rate for commercial properties in the Base year. The Agreed Upon Basket of Buildings shall be ten (10) buildings, consisting of (x) the six (6) buildings with the highest assessed values

as of the date of the certified final role from a list of thirty (30) Class A Buildings, to be agreed upon by the Port Authority and the City, all of which are south of Chambers Street in Manhattan, but not including the World Trade Center properties and (y) the four (4) buildings with the highest assessed values as of the date of the certified final role from a list of twenty (20) Class A Buildings, to be agreed upon by December 31, 2004, by the Port Authority and the City, all of which are in Manhattan between the north side of 59<sup>th</sup> Street on the north and the north side of 14<sup>th</sup> Street on the south. In the event that the parties fail to reach agreement on the 'basket' of Class A Manhattan commercial office properties to be used to calculate the Escalator, then the 'basket' shall be determined in accordance with the provisions of the Lhota Letter.

(b) During each Pilot Year commencing January 1, 2004 the Port Authority shall pay to the City an annual payment ("Increased Annual PILOT Payment") in addition to the Minimum Annual PILOT Payment equal to the excess over the Minimum Annual PILOT Payment of the amount obtained by applying the following formula:

$$\text{Base Amount} \times \text{Escalator} \times \frac{\text{Actual Space Available}}{\text{Full Build Out}}$$

(c) Except as set forth in this Agreement to the contrary, the computation of Increased Annual PILOT Payments for each PILOT Year, or a portion of a PILOT Year as hereinafter provided, shall be individual to such PILOT Year, or such portion of a PILOT Year, and without relation to any other PILOT Year, or any other portion of any annual PILOT Year, provided, however, that if a proceeding is instituted to review the assessed valuation of any of the buildings comprising the agreed upon 'basket' of Class A Manhattan commercial office properties used to calculate the Escalator for any tax year which results in a final determination

or settlement reducing the assessed valuation thereof for such tax year so that there is an excess of Increased Annual PILOT Payments as to which has been paid, such excess amount shall be deducted from Minimum Annual PILOT Payments, and, if necessary, from the Increased Annual PILOT Payments which shall be payable to the City for the next succeeding PILOT Years. The time for making payment of the Increased Annual PILOT Payment and the method calculation thereof shall be as set forth in paragraph 3 of this Agreement.

(d) (i) During the PILOT Year commencing January 1, 2004 the Port Authority shall be entitled to a credit in the amount of Eight Hundred Fifty-four Thousand Three Hundred Twelve Dollars and Two Cents (\$ 854, 312.02 )against payments due the City for such PILOT Year under this amended and restated agreement representing payments made to the City on or about December 31, 2003 for the period from January 1, 2004 through June 30, 2004, both dates inclusive pursuant to the PATH PILOT Agreement and the WTC PILOT Agreement.

(ii) The Port Authority shall be entitled to an annual credit in the amount of Four Hundred Forty-eight Thousand Seven Hundred Eight Dollars and No Cents (\$448,708.00) (the "Exco Credit Amount") to be applied against the total of the Minimum Annual PILOT Payments and the Increased Annual PILOT Payments due under this Agreement during the period from the July 1, 2004 through June 30, 2013, both dates inclusive, representing the annual credit due the Port Authority in accordance with a certain agreement (the Exco premises agreement) entered into by and between the Port Authority and the City dated August 14, 1997 and the Port Authority shall be entitled to an annual credit in the amount of Two Million Seventeen Thousand Five Hundred Eighty-one Dollars and No Cents (\$2,017,581.00) (the "NYBOT Credit Amount") to be applied against the total of the Minimum Annual PILOT Payments and the Increased Annual PILOT Payments due under this Agreement during the period from the July 1, 2004 through June 30, 2015, both dates inclusive, representing the annual credit due the Port Authority

in accordance with a certain agreement (the NYBOT premises agreement) entered into by and between the Port Authority and the City dated March 31, 2000 which credits shall be applied against the total of the Minimum Annual PILOT Payments and the Increased Annual PILOT Payments due for each such PILOT Year, or portion thereof, in accordance with the provisions of the Exco Letter and the NYBOT Letter, respectively. In the event that the sum of the Exco Credit Amount and the NYBOT Credit Amount for any PILOT Year exceeds the sum of the Minimum Annual PILOT Payment and the Increased Annual PILOT Payment payable pursuant to this Agreement for such PILOT Year, the amount of such excess shall be applied against the sum of the Port Authority's Minimum Annual PILOT Payment and Increased Annual PILOT Payment obligations for the succeeding PILOT year or years as the case may be. In addition, during the PILOT Year commencing January 1, 2004 the Port Authority shall be entitled to a credit in the amount of Four Million Nine Hundred Thirty-two Thousand Five Hundred Seventy-eight Dollars and No Cents (\$4,932,578.00) against payments due the City for such PILOT Year under this amended and restated agreement representing the sum of the Exco Credit Amounts and NYBOT Credit Amounts due the Port Authority for the period from July 1, 2002 through June 30, 2004 which were due the Port Authority against payments made to the City for such period pursuant to the WTC PILOT Agreement, but which were not reflected in such payments.

(e) The Minimum Annual PILOT Payments and the Increased Annual PILOT Payments are made in lieu of the payments collectively being made by PATH to the City under the PATH PILOT Agreement and the payments being made by the Port Authority to the City under the WTC PILOT Agreement.

3. **TIME OF PAYMENT OF RENTALS, COMPUTATIONS OF AMOUNTS AND ACCOUNTING:**

(a) The Port Authority shall pay the Minimum Annual PILOT Payments and any Increased Annual PILOT Payments as follows: Within fifteen (15) days following the 1<sup>st</sup> day of January and the 1<sup>st</sup> day of July occurring during each PILOT Year, except for the 1<sup>st</sup> day of January, 2004, the Port Authority shall certify to the City the amount of Net Lessee Rent received by the Port Authority during the preceding Semi-Annual Period the total payments on account of taxes or payments in lieu thereof made by the Net Lessees to the Port Authority and paid over by the Port Authority to the City, and the amount of Actual Available Space as of the first day of the preceding Semi-Annual Period; at the time of rendering such statement the Port Authority shall pay a semi-annual installment of Minimum Annual PILOT Payment in an amount equal to the percentage set forth in paragraph 1 of this Agreement applied to the amount of Net Lessee Rent received by the Port Authority during the Semi-Annual Period for which the report is rendered, less fifty percent of the Exco-NYBOT Credit Amount and less the total amount of payments on account of taxes or payments in lieu thereof made by the Net Lessees to the Port Authority and paid over by the Port Authority to the City during such Semi-Annual Period; in addition, whenever any such statement shall show that the Increased Annual PILOT Payment for the Semi-Annual Period for which the report is rendered based upon the amount of Actual Available Space as of the first day of the preceding Semi-Annual Period is in excess of the Minimum Annual Payment established for that Semi-Annual Period (without regard to the Exco-NYBOT Credit Amount), the Port Authority shall pay to the City at the time of rendering the statement an amount equal to such excess.

(b) By way of illustration (for PILOT Payment due on January 1, 2010):

A. Minimum Annual PILOT Payment:

Assumption: Semi-Annual Period July, 2009-December, 2009 and Net Lessees are paying rent for one office tower and retail space:

BUILDING	NET LESSEE RENT RECEIVED IN PRECEDING SEMI-ANNUAL PERIOD
Freedom Tower	\$18,000,000
Retail	\$9,000,000
<b>TOTAL</b>	<b>\$27,000,000</b>

Calculation:

$$\$27M \times 12\% = \$3,240,000$$

less 50% of EXCO-NYBOT Credit Amount (\$1,233,144.50) = \$2,006,855.50 less the total amount of payments on account of taxes or payments in lieu thereof made by the Net Lessees to the Port Authority and paid over by the Port Authority to the City during the preceding Semi-Annual Period

B. Increased Annual PILOT Payment

Assumption: Semi Annual Period July, 2009-December 2009 and Actual Space Available consists of 4,900,000 sf in two commercial buildings and retail space:

<u>BUILDING</u>	<u>SQ. FT</u>
7WTC	1,700,000 sf
Freedom Tower	2,600,000 sf
Retail	600,000 sf
<b>TOTAL</b>	<b>4,900,000 sf</b>

Calculation:

$$\$55M \times \frac{\$789,000,000(w)}{\$744,118,577(x)} \times \frac{\$10.946(y)}{\$10.682(z)} \times \frac{4,900,000 \text{ sf}}{11,400,000 \text{ sf (full build-out)}} = \$25,685,714$$

(w) the assessed value for an agreed upon 'basket' of Class A Manhattan commercial office properties for the NYC Tax Year 2009-2110

(x) the assessed value for the same agreed upon 'basket' of Class A Manhattan commercial office properties for the Base Year

(y) the real estate tax rate for commercial properties for the NYC tax year 2009-2110

(z) the real estate tax rate for commercial properties for the Base year.

50% of Increased Annual PILOT Payment per above calculation	\$12,842,857
Plus/Less: Adjustments for revised assessments for prior tax years as appropriate	_____ -

Increased Annual PILOT Payment for Semi-Annual Period July, 2009-December, 2009	\$12,842,857
less the total of the Minimum Annual Payment established for that Semi-Annual Period (without regard to Exco-NYBOT Credit Amount) and less the amount of any excess payments on account of taxes or payments in lieu thereof made by the Net Lessees to the Port Authority and paid over by the Port Authority to the City	(\$3,240,000.00)

Net Increased Annual PILOT Payment For Semi-Annual Period July, 2009-December, 2009	\$9,602,857.00
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(b) The Port Authority shall maintain records and books of account recording all Net Lessee Rents received by the Port Authority for six years following the expiration of each PILOT Year, to the extent relevant to the calculation of the Minimum Annual PILOT Payments due the City during each PILOT Year occurring during such six year period. Upon the request of the City, the Port Authority shall make all such information available to the City as well as information requested with respect to the amount of Actual Space Available, the status of construction completion, leasing activity and occupancy during such period, to the extent relevant to the calculation of the Increased Annual PILOT Payments due the City during each PILOT Year occurring during such period. From time to time during the six year period subsequent to the expiration of each PILOT Year, the City shall have the right during normal business hours to examine and audit the books and records of the Port Authority relating to Net Lessee Rents received by the Port Authority during such PILOT Year as well as relating to the amount of Actual Space Available, the status of construction completion, leasing activity and occupancy during such period, for the purpose of verifying the Port Authority's compliance with the provisions of this Agreement relating to the payment of Minimum Annual PILOT Payments and

Increased Annual PILOT Payments during each PILOT Year occurring during such six years period.

4. **THE ADDITIONAL WORLD TRADE CENTER PROPERTIES:**

(a) The Port Authority and the City hereby agree that any and all Additional World Trade Center Properties to which the Port Authority acquires title shall become part of the Hudson Tubes-World Trade Center area as defined in the World Trade Center Legislation and the City consents to the inclusion in the Hudson Tubes-World Trade Center area as defined in the World Trade Center Legislation of all such Additional World Trade Center Properties to which the Port Authority acquires title. During each PILOT year commencing with the PILOT Year during which the Port Authority acquires title to any of the Additional World Trade Center Properties the Port Authority shall pay to the City an annual payment in lieu of taxes in connection with each site that it has acquired title to a sum equal to the full amount of real estate taxes that would have been assessed on the land comprising such site if the land were not owned by the Port Authority. Such payment shall be made at the same time and in the same manner as the payment of the Minimum Annual PILOT Payments and Increased Annual PILOT Payments is made. During the fifteen year period from the date the Port Authority certifies to the City that construction of the improvements to be constructed on any of the sites comprising the Additional World Trade Center Properties pursuant to the approved Master Plan has begun, or from the date the City so certifies to the Port Authority, if the Port Authority fails to promptly certify after such construction has begun, the Port Authority will pay to the City, in addition to the payment provide for in the second sentence of this paragraph, an annual PILOT Payment in connection with each site as to which there is gross square footage of office, retail, or hotel space which are available for use for the purposes intended, and which (1) are occupied, whether by private parties or by government agencies including the federal government and the Port Authority, (ii)

which are under lease to any such party, or (iii) which have been constructed and which, by installation of tenant improvements, may be made ready for occupancy, (such space being hereinafter referred to as “Actual Additional World Trade Center Properties Space Available”) an amount equal to the product obtained by multiplying Nine Dollars and No Cents (\$9.00) by the number of Actual Additional World Trade Center Properties Space Available for use for the purposes intended, *provided, that* such amount shall be adjusted each PILOT Year by application of the Escalator established for such PILOT Year to such amount. Commencing with the sixteenth PILOT Year following the date the Port Authority certifies to the City that the improvements to be constructed on any of the sites comprising the Additional World Trade Center Properties pursuant to the approved Master Plan has begun, or from the date the City so certifies to the Port Authority, if the Port Authority fails to promptly certify after construction has begun, the Port Authority will pay to the City an annual PILOT Payment in connection with the improvements located on such site an amount equal to the full amount of real estate taxes that would have been assessed on the improvements if such improvements were not owned by the Port Authority. Gross square footage shall be computed in accordance with the definition set forth in paragraph 2 (a) (4) of this Agreement. The Port Authority or any net lessee of the Port Authority, shall have the right, at its own expense, to the extent allowed by law to contest any assessment or tax calculation relating to their premises by appropriate proceedings as a private owner in a tax certiorari proceeding, and in the event as a result of such proceedings the payment in lieu of taxes on either such site paid by the Port Authority is reduced, the City shall refund to the Port Authority, or its net lessee, as the case may be, the amount of such payment that would not have been originally paid had the amount of real estate tax on the site equaled the amount determined to be correct under such proceeding.

(b) Notwithstanding anything to the contrary set forth in this paragraph to the extent any site comprising part of the Additional World Trade Center Properties is devoted to public park purposes or is established as a public open space, the Port Authority shall not be obligated to make any PILOT Payment with respect thereto, and the City shall not seek to collect any amounts attributable to real estate taxes with respect to such site.

(c) The obligation to keep books and records and to provide information to the City, and the rights of audit described in subparagraph (b) of paragraph 3 of this Agreement shall apply with respect to the Additional World Trade Center Properties as if set forth herein in *haec verba*.

5. **LATE PAYMENTS:**

If the payments provided for herein are not made by the time provided for and remain unpaid for a period of thirty (30) days thereafter, the Port Authority will pay to the City interest at the City's cost of borrowing in its most recent Bond issue to the date of the scheduled payment, plus 300 basis points.

6. **ASSIGNMENT OF PAYMENTS BY THE CITY**

(a) The City shall have the right at any time to assign all or any portion of its right, title, and interest in the payments to be made by the Port Authority, or its net Lessees if paid directly to the City, under this Agreement and to direct such payments or designated portions of such payments to be made to such public authority or authorities, or such other entities, including a trustee whose duties may include the receipt of such payments (such authorities or entities executing such assignment as assignee and any authority or entity to whom such assignee is permitted to assign its right under such assignment being hereinafter collectively referred to in this Agreement as "permitted assignees") as the Mayor of the City may designate by written notice directed to the Executive Director of the Port Authority.

(b) The obligations of the Port Authority to make the payments required under this Agreement shall be absolute and unconditional, without any right of setoff or counterclaim. Without limiting the generality of the foregoing, payments to be made by the Port Authority pursuant to this Agreement are to be payable in the same manner and out of the same revenues as operating expenses of the Port Authority.

(c) In the event the City makes the assignment provided for in this paragraph for the purpose of providing a source of payment in connection with the issuance of any obligations by the assignee of such assignment, such assignment shall be in writing and contain a provision binding on the assignee as follows: "Nothing in this agreement of assignment or any further assignment permitted under this agreement shall be deemed to create any right in any person not a party hereto, other than a further permitted assignee pursuant to any further assignment permitted hereunder, and this agreement shall not be construed in any respect to be a contract in whole or part for the benefit of any third person or persons (other than any other such further permitted assignee). Assignee under this agreement (and any further permitted assignee) shall review with the Port Authority any description of the transaction entered into between the Port Authority and the City pursuant to this Restated and Amended Agreement to be contained in any offering materials (including any official statement) or other documents prepared by or on behalf of the assignee in connection with the issuance and sale of its obligations prior to including such description in such materials.

(d) Nothing in this paragraph or any assignment permitted under this paragraph shall be deemed to create any right in any person not a party hereto (except a permitted assignee) and this Agreement shall not be construed in any respect to be a contract in whole or part for the benefit of any third person or persons (except a permitted assignee).

7. **REAL ESTATE TAXES:**

For each year during the period when the Port Authority continues to hold title to the World Trade Center pursuant to the World Trade Center Legislation, the City will cancel or otherwise satisfy and discharge of record all items entered thereon for taxes, assessments and interest against the properties currently constituting part of the World Trade Center site, including the 7 WTC Building, properties occupied by PATH, and all improvements to be constructed on the site and for each such year the City will mark said properties exempt on its tax records. Notwithstanding the foregoing, the Port Authority or any tenant of the Port Authority shall have the right, at its own expense, to contest in whole or in part, any assessment or tax calculation by the City which, if the World Trade Center was subject to real estate taxes, would pertain to the World Trade Center or any portion thereof by appropriate proceedings as a private owner in a tax certiorari proceeding.

8. **PENDING DISPUTES:**

(a) Upon the execution of this Agreement the action entitled City of New York against Port Authority of New York and New Jersey, bearing Index Number 406428/01, the action entitled "In the Matter of the Application of The Port Authority of New York And New Jersey, 1 World Trade Center LLC, 2 World Trade Center LLC, 4 World Trade Center LLC, 5 World Trade Center LLC, Westfield WTC LLC and 7 World Trade Company, L.P. against The City of New York, The City of New York Department of Finance, The Commissioner of Finance For The City of New York, and The Tax Commission of The City of New York" bearing Index Number 605599/01, the action entitled "In the Matter of the Application of The Port Authority of New York and New Jersey against The Tax Commission of the City of New York and The Commissioner of Finance of the City of New York" bearing Index Number 213263/02, and the action entitled "In the Matter of the Application of The Port

Authority of New York and New Jersey against The Tax Commission of the City of New York and The Commissioner of Finance of the City of New York” bearing Index Number 205980/03 each of which are pending in the Supreme Court of The State of New York, County of New York and all other pending arbitrations and litigation concerning the WTC PILOT Agreement, shall be, and the same are hereby discontinued with prejudice, without disbursements or costs to either party as against the other. Upon the request of either the Port Authority or the City, both parties shall execute a stipulation of discontinuance with prejudice in each such action confirming the provisions of this paragraph with respect to each such action.

(b) The City has remised, released, and forever discharged, and by these presents does for itself and its and its successors assigns, remise release and forever discharge The Port Authority of New York and New Jersey, and its and successors and assigns, of and from all and all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims and demands whatsoever in law or in equity which against The Port Authority the City ever had, now has, and which the City or its successors or assigns hereafter can, shall or may have for, upon or by reason of, on account of, or in any way growing out of, resulting from or to result from amounts due the City under or pursuant to the WTC PILOT Agreement from the date of execution thereof to the date of execution of this Agreement, both dates inclusive. As of the date of execution of this Agreement by the City and the Port Authority the terms of the WTC PILOT Agreement shall be deemed null and void and of no further force and effect unless incorporated in this Agreement.

9. **PROPERTY ISSUES**

Simultaneously with the execution and delivery of of this Agreement, the City and the Port Authority shall enter into an agreement amending the Street Closing Agreement resolving all property issues related to present or former streets within and adjacent to the World Trade Center site so as to enable the redevelopment of the World Trade Center pursuant to Master Plan.

10. **REPRESENTATIONS:**

All prior understandings and agreements between the Port Authority and the City are merged in this Agreement. This Agreement completely expresses the full agreement between the Port Authority and the City.

11. **NO INDIVIDUAL LIABILITY:**

Neither the Commissioners of the Port Authority nor of the City, nor any officer or employee of either the Port Authority or the City shall be charged personally with any liability or held liable under any term or provision of this Agreement or because of its execution or attempted execution or because of any breach or attempted or alleged breach thereof.

12. **NOTICES:**

All notices to Seller and Purchaser hereto shall be in writing and given by hand delivery, prepaid certified mail with return receipt, or United Parcel Service, or Federal Express overnight express delivery, to the parties addressed as set forth at the head of this Agreement.

Port Authority:           Attention: Chief Financial Officer  
The Port Authority of New York and New Jersey  
225 Park Avenue South, 15<sup>th</sup> Floor  
New York, NY 10003

with copy to:           Attention: General Counsel  
The Port Authority of New York and New Jersey  
225 Park Avenue South 15<sup>th</sup> Floor  
New York, NY 10003

City of New York:       Attention: Commissioner, Department of Finance  
City of New York  
One Centre Street-Suite 500  
New York, NY 10007

with copy to:           Attention: Corporation Counsel  
City of New York  
100 Church Street  
New York, NY 10007

All notices shall be deemed effective upon receipt.

13. **COUNTERPARTS:**

This Agreement may be executed in counterparts by faxed signatures to be followed by original signature pages. Each such fully executed counterpart shall be fully binding upon the parties and shall be equally admissible as evidence should a dispute ever arise between the parties.

14. **NO ASSIGNMENT:**

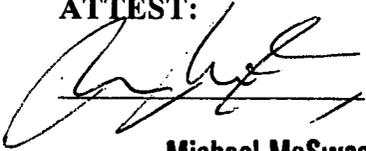
Except as provided in paragraph 6 hereof, the rights and obligations under this Agreement may not be assigned by any party to this Agreement without the prior written consent of the other party hereto.

15. **ENTIRE AGREEMENT:**

This Agreement constitutes the entire understanding of the parties on the subject matter hereof and may not be changed, modified or discharged except by written instrument duly executed by all of the parties hereto. The parties agree that no representations or warranties shall be binding upon any party unless expressed in writing herein.

IN WITNESS WHEREOF, the said parties have hereunto set their hands and seals or have caused their corporate seals to be hereunto affixed and these presents to be signed and attested by their proper officers thereunto duly authorized, the day and year first above written.

ATTEST:



**Michael McSweeney**  
1st Deputy & Acting City Clerk

ATTEST:

\_\_\_\_\_

**THE CITY OF NEW YORK**

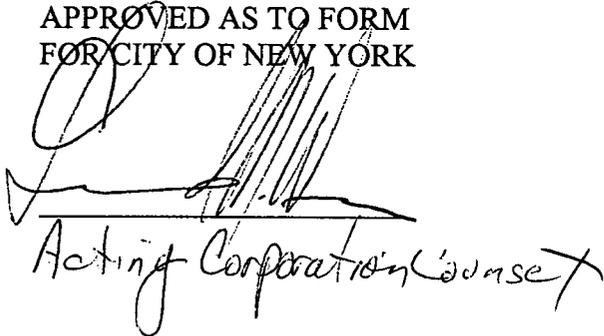
By David L. Cortese

**THE PORT AUTHORITY OF  
NEW YORK AND NEW JERSEY**

By \_\_\_\_\_

Kenneth J. Ringler, Jr.  
Executive Director

APPROVED AS TO FORM  
FOR CITY OF NEW YORK



Acting Corporation Counsel

APPROVED AS TO FORM  
FOR PORT AUTHORITY OF NEW  
YORK AND NEW JERSEY

\_\_\_\_\_

IN WITNESS WHEREOF, the said parties have hereunto set their hands and seals or have caused their corporate seals to be hereunto affixed and these presents to be signed and attested by their proper officers thereunto duly authorized, the day and year first above written.

ATTEST:

\_\_\_\_\_

THE CITY OF NEW YORK

By \_\_\_\_\_

ATTEST:

  
\_\_\_\_\_

THE PORT AUTHORITY OF  
NEW YORK AND NEW JERSEY

By   
Kenneth J. Ringler, Jr.  
Executive Director

APPROVED AS TO FORM  
FOR CITY OF NEW YORK

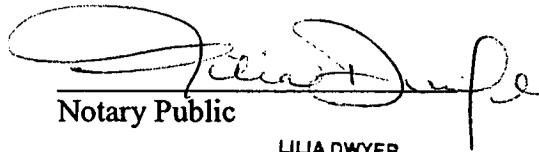
\_\_\_\_\_

APPROVED AS TO FORM  
FOR PORT AUTHORITY OF NEW  
YORK AND NEW JERSEY

  
Darrell Buchbinder  
General Counsel

STATE OF NEW YORK    )  
:                    ss. :  
COUNTY OF NEW YORK )

On the 24 day of November, 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared Michael McSweeney, City Clerk of THE CITY OF NEW YORK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public

LILIA DWYER  
Commissioner of Deeds  
City of New York No. 3-7093  
Certificate Filed in New York County  
Commission Expires Feb. 01, 2006

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
THE CITY OF NEW YORK

Plaintiff

-against-

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY

Defendant,  
-----X

Index No. 405231/99

**STIPULATION  
OF DISCONTINUANCE**

**IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned, the attorneys for all the parties to the above-entitled action, that whereas no party herein is an infant or incompetent person for whom a committee has been appointed and no person not a party has an interest in the subject matter of the action, the above-entitled action be and the same hereby is discontinued without prejudice and without costs to either party as against the other; and

**IT IS FURTHER STIPULATED AND AGREED**, by and between the undersigned that this Stipulation may be filed without further notice with the Clerk of the Court.

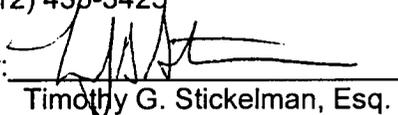
**IT IS FURTHER STIPULATED AND AGREED** that this Stipulation may be executed in any number of identical counterparts and by facsimile, each of which when so executed and delivered, shall be an original, but all of which taken together shall constitute one and the same instrument.

Dated: New York, New York  
November 22, 2004

MICHAEL A. CARDOZO  
Corporation Counsel of the City  
Of New York  
Attorney for Plaintiff  
100 Church Street  
New York, New York 10007  
(212) 788-0842

By:   
Mindy Koenig-Berman, Esq

OFFICE OF MILTON H. PACHTER, ESQ.  
Attorney for Defendant  
The Port Authority of New York  
& New Jersey  
225 Park Avenue South  
14<sup>th</sup> Floor  
New York, New York 10003  
(212) 435-3425

By:   
Timothy G. Stickelman, Esq.

Index No.: 405231/99

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

THE CITY OF NEW YORK,

PLAINTIFF,

-against-

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY,

DEFENDANT.

---

**STIPULATION OF DISCONTINUANCE**

---

**Milton H. Pachter, Esq.**  
Attorney for Petitioner/Plaintiff  
The Port Authority of New York and New Jersey  
225 Park Avenue South- 14<sup>th</sup> Floor  
New York, New York 10003  
(212) 435-3425

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
THE CITY OF NEW YORK :  
 :  
 Plaintiff :  
 :  
 -against- :  
 :  
 :  
 THE PORT AUTHORITY OF NEW YORK :  
 AND NEW JERSEY :  
 Defendant, :  
-----X

Index No. 406428/01

**STIPULATION  
OF DISCONTINUANCE**

**IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned, the attorneys for all the parties to the above-entitled action, that whereas no party herein is an infant or incompetent person for whom a committee has been appointed and no person not a party has an interest in the subject matter of the action, the above-entitled action be and the same hereby is discontinued without prejudice and without costs to either party as against the other; and

**IT IS FURTHER STIPULATED AND AGREED**, by and between the undersigned that this Stipulation may be filed without further notice with the Clerk of the Court.

**IT IS FURTHER STIPULATED AND AGREED** that this Stipulation may be executed in any number of identical counterparts and by facsimile, each of which when so executed and delivered, shall be an original, but all of which taken together shall constitute one and the same instrument.

Dated: New York, New York  
November , 2004

MICHAEL A. CARDOZO  
Corporation Counsel of the City  
Of New York  
Attorney for Plaintiff  
100 Church Street  
New York, New York 10007  
(212) 788-0842

OFFICE OF MILTON H. PACHTER, ESQ.  
Attorney for Defendant  
The Port Authority of New York  
& New Jersey  
225 Park Avenue South  
14<sup>th</sup> Floor  
New York, New York 10003  
(212) 435-3425

By:   
Mindy Koenig-Berman, Esq.

By:   
Timothy G. Stickelman, Esq.

# MILTON H. PACHTER

Index No.: 406428/01

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

THE CITY OF NEW YORK,

PLAINTIFF,

-against-

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY,

DEFENDANT.

---

STIPULATION OF DISCONTINUANCE

---

**Milton H. Pachter, Esq.**  
Attorney for Petitioner/Plaintiff  
The Port Authority of New York and New Jersey  
225 Park Avenue South- 14<sup>th</sup> Floor  
New York, New York 10003  
(212) 435-3425

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
In the Matter of the Application of :  
THE PORT AUTHORITY OF NEW YORK AND :  
NEW JERSEY, 1 WORLD TRADE CENTER LLC, :  
2 WORLD TRADE CENTER LLC, 4 WORLD TRADE :  
CENTER LLC, 5 WORLD TRADE CENTER LLC, :  
WESTFIELD WTC LLC and 7 WORLD TRADE :  
COMPANY, L.P. :  
Petitioners/Plaintiffs : Index No. 605599/01  
:  
-against- : **STIPULATION OF**  
:  
THE CITY OF NEW YORK, THE CITY OF NEW : **SETTLEMENT &**  
YORK DEPARTMENT OF FINANCE, THE COMMIS- : **DISCONTINUANCE**  
SIONER OF FINANCE FOR THE CITY OF NEW :  
YORK, and THE TAX COMMISSSION OF THE :  
CITY OF NEW YORK, :  
Respondents/Defendants, :  
For a Judgment Pursuant to Article 78 of the Civil :  
Practice Law and Rules and for a Declaratory :  
Judgment Pursuant to Section 3001 of the Civil :  
Practice Law and Rules. :  
-----X

The Stipulation of Settlement and Discontinuance (“Stipulation”) is entered into by and between Petitioner/Plaintiff THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (the “Port Authority”), Petitioner/Plaintiff 1 WORLD TRADE CENTER, LLC., (“1 WTC”), Petitioner/Plaintiff 2 WORLD TRADE CENTER, LLC., (“2 WTC”), Petitioner/Plaintiff 4 WORLD TRADE CENTER, LLC., (“4 WTC”), Petitioner/Plaintiff 5 WORLD TRADE CENTER, LLC., (“5 WTC”), Petitioner/Plaintiff WTC Retail LLC (formerly known as WESTFIELD WTC LLC), (“WTC Retail”)and Respondents/Defendants THE CITY OF NEW YORK, THE CITY OF NEW YORK DEPARTMENT OF FINANCE, COMMISSIONER OF FINANCE FOR THE CITY OF NEW YORK, and THE TAX COMMISSION OF THE CITY OF NEW YORK (the “City”).

**WHEREAS**, the Port Authority, 1 WTC, 2 WTC, 4 WTC, 5 WTC, WTC Retail

and the City are desirous of terminating the within proceeding; and

**WHEREAS**, the City and the Port Authority have agreed that payments in lieu of taxes ("PILOT") will continue to be made on the entire World Trade Center site (Block 58, Lot 1 and Block 84, Lot 36, Manhattan) under a Restated and Amended PILOT Agreement ("PILOT Agreement") entered into between the City and the Port Authority; and

**NOW, THEREFORE**, in consideration of the mutual covenants and promises herein, the parties hereby stipulate and agree as follows:

1. That whereas no party herein is an infant or incompetent person for whom a committee has been appointed and no person not a party has an interest in the subject matter of the action, the above-entitled action be and the same hereby is discontinued without prejudice and without costs to either party as against the other;

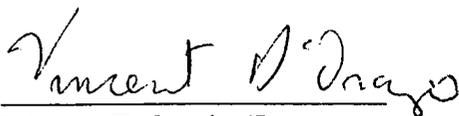
2. The City will cancel any and all outstanding real estate taxes (including interest) imposed on Block 58, Lot 1 Manhattan and cause the official records of the City to reflect the fact that Block 58, Lot 1, Manhattan is exempt from real property taxes effective tax year 2001/2002 and thereafter within 60 days of the date hereof. Block 58, Lot 1 and Block 84, Lot 36, Manhattan shall be governed by the PILOT Agreement.

3. The City shall issue and execute all documents required to carry out the terms of this Stipulation.

4. This Stipulation may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing executed by the parties.

Dated: New York, New York  
November 24, 2004

Michael A. Cardozo, Esq.  
Corporation Counsel  
Attorney for Respondents/Defendants  
The City of New York  
The City of New York Department  
of Finance  
Commissioner of Finance for the City  
of New York  
The Tax Commission of the City of  
New York



Vincent D'Orazio, Esq.  
Office of Corporation Counsel  
Tax & Condemnation Division  
100 Church Street  
New York, New York 10003  
(212) 788-0842

Stroock & Stroock & Lavan LLP  
Attorneys for Petitioners/Plaintiffs  
1 World Trade Center LLC  
2 World Trade Center LLC  
4 World Trade Center LLC  
5 World Trade Center LLC  
7 World Trade Center LLC

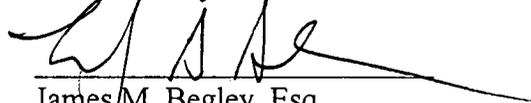
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Kevin L. Smith, Esq.  
180 Maiden Lane  
New York, New York 10038  
(212) 806-5400

So Ordered:

---

Milton H. Pachter, Esq.  
Attorney for Petitioner/Plaintiff  
The Port Authority of New York  
& New Jersey and WTC Retail LLC



James M. Begley, Esq.  
Walter M. Frank, Esq.  
Timothy G. Stickelman, Esq.  
Office of Milton H. Pachter, Esq.  
225 Park Avenue South  
New York, New York 10003  
(212) 435-3425

-and-

Skadden Arps, Slate, Meagher  
& Flom LLP

Jay B. Kasner  
Scott D. Musoff  
Four Times Square  
New York, New York 10036  
(212) 735-3000

# MILTON H. PACHTER

Index No.: 605599/01

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

IN THE MATTER OF THE APPLICATION OF  
THE PORT AUTHORITY OF NEW YORK AND NEW  
JERSEY, ET AL.

PETITIONERS/PLAINTIFFS,

-against-

THE CITY OF NEW YORK, ET AL.

RESPONDENTS/DEFENDANTS

---

STIPULATION OF SETTLEMENT  
& DISCONTINUANCE

---

**Milton H. Pachter, Esq.**  
Attorney for Petitioner/Plaintiff  
The Port Authority of New York and New Jersey  
225 Park Avenue South- 14<sup>th</sup> Floor  
New York, New York 10003  
(212) 435-3425

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X

In The Matter of the Application of the  
Port Authority of New York and New Jersey,

Petitioner,

- against -

THE TAX COMMISSION OF THE  
CITY OF NEW YORK, et al.,

Respondents.

**STIPULATION OF  
DISCONTINUANCE**

Taxes of: See Below

Borough of: Manhattan

Block: 58 Lot: 1

Index No.: 213263/02

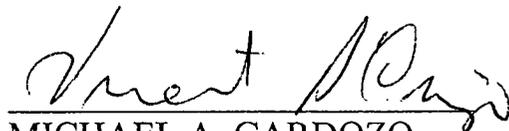
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**IT IS HEREBY STIPULATED** that the above-entitled proceeding for the tax year herein, be hereby discontinued with prejudice, without disbursements or costs to either party as against the other.

<u>Tax Year</u>	<u>Index No.</u>
2002/03	213263/02

Dated: New York, New York  
November 22, 2004

  
MILTON H. PACHTER, ESQ.  
Attorney for Petitioner  
225 Park Avenue South  
New York, N.Y. 10003

  
MICHAEL A. CARDOZO  
Corporation Counsel  
Attorney for City Respondents

Index No.: 213263/02

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

IN THE MATTER OF THE APPLICATION OF THE  
PORT AUTHORITY OF NEW YORK AND NEW JERSEY,

PETITIONER,

-against-

THE TAX COMMISSION OF THE CITY OF NEW YORK,  
ET AL.,

RESPONDENTS.

---

**STIPULATION OF DISCONTINUANCE**

---

**Milton H. Pachter, Esq.**  
Attorney for Petitioner/Plaintiff  
The Port Authority of New York and New Jersey  
225 Park Avenue South- 14<sup>th</sup> Floor  
New York, New York 10003  
(212) 435-3425

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X

In The Matter of the Application of the  
Port Authority of New York and New Jersey,

**STIPULATION OF  
DISCONTINUANCE**

Petitioner,

Taxes of: See Below

- against -

Borough of: Manhattan

THE TAX COMMISSION OF THE  
CITY OF NEW YORK, et al.,

Block: 58 Lot: 1

Respondents.

Index No.: 205980/03

-----X

**IT IS HEREBY STIPULATED** that the above-entitled proceeding for the tax year herein, be hereby discontinued with prejudice, without disbursements or costs to either party as against the other.

<u>Tax Year</u>	<u>Index No.</u>
2003/04	205980/03

Dated: New York, New York  
November 27, 2004



MILTON H. PACHTER, ESQ.  
Attorney for Petitioner  
225 Park Avenue South  
New York, N.Y. 10003



MICHAEL A. CARDOZO  
Corporation Counsel  
Attorney for City Respondents

# MILTON H. PACHTER

Index No.: 205980/03

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

IN THE MATTER OF THE APPLICATION OF THE  
PORT AUTHORITY OF NEW YORK AND NEW JERSEY,

PETITIONER,

-against-

THE TAX COMMISSION OF THE CITY OF NEW YORK,  
ET AL.,

RESPONDENTS.

---

STIPULATION OF DISCONTINUANCE

---

**Milton H. Pachter, Esq.**  
Attorney for Petitioner/Plaintiff  
The Port Authority of New York and New Jersey  
225 Park Avenue South- 14<sup>th</sup> Floor  
New York, New York 10003  
(212) 435-3425

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X

In The Matter of the Application of the  
Port Authority of New York and New Jersey,

**STIPULATION OF  
DISCONTINUANCE**

Petitioner,

Taxes of: See Below

- against -

Borough of: Manhattan

THE TAX COMMISSION OF THE  
CITY OF NEW YORK, et al.,

Block: 58 Lot: 1

Index No.: 204273/04

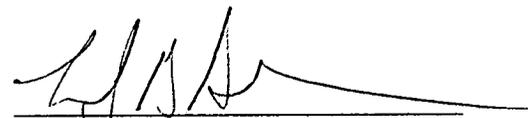
Respondents.

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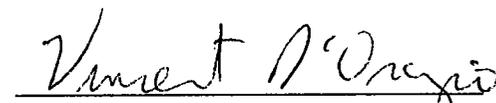
**IT IS HEREBY STIPULATED** that the above-entitled  
proceeding for the tax year herein, be hereby discontinued with prejudice,  
without disbursements or costs to either party as against the other.

<u>Tax Year</u>	<u>Index No.</u>
2004/05	204273/04

Dated: New York, New York  
November 22, 2004



MILTON H. PACHTER, ESQ.  
Attorney for Petitioner  
225 Park Avenue South  
New York, N.Y. 10003



MICHAEL A. CARDOZO  
Corporation Counsel  
Attorney for City Respondents

# MILTON H. PACHTER

Index No.: 204273/04

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

IN THE MATTER OF THE APPLICATION OF THE  
PORT AUTHORITY OF NEW YORK AND NEW JERSEY,

PETITIONER,

-against-

THE TAX COMMISSION OF THE CITY OF NEW YORK,  
ET AL.,

RESPONDENTS.

---

STIPULATION OF DISCONTINUANCE

---

**Milton H. Pachter, Esq.**  
Attorney for Petitioner/Plaintiff  
The Port Authority of New York and New Jersey  
225 Park Avenue South- 14<sup>th</sup> Floor  
New York, New York 10003  
(212) 435-3425