

**Testimony of Chris Leng-Smith
Senior Vice President, NYCEDC**

**City Council Subcommittee on
Landmarks, Public Siting and Maritime Uses
Hon. Brad Lander, Chair**

**May 8, 2012
Hearing on Land Use Application no. 20125571 PNM**

Good morning Chairperson Lander and members of the Subcommittee. My name is Chris Leng Smith, and I am a senior vice president in New York City Economic Development Corporation's Real Estate Transactions Group. I'm pleased to be here to provide background on the Battery Maritime Building, the overall program that has been proposed and is under development for the site, and information on the reviews and approvals that have already been undertaken as a part of implementing this program.

The Battery Maritime Building is located adjacent to the Whitehall Ferry Terminal in lower Manhattan. It is also at the southern end of the East River Waterfront Esplanade, a two-mile long, City-owned public open space extending north to Montgomery Street, which is currently being built by NYCEDC. The building is an approximately 140,000 SF Beaux Arts structure that was constructed between 1906 and 1909. It is the last surviving ferry terminal from its period, and it is now both a New York City landmark and listed on the National Historic Register. The building is owned by the City of New York, and NYCEDC manages it through a Maritime Contract with the City.

The Battery Maritime Building contains three ferry slips: one is under the jurisdiction of the New York City Department of Transportation for general ferry service and maritime uses, and the other two are used for a free ferry service to Governor's Island operated by the Trust for

Governor's Island ("TGI"), which also operates a waiting room in the ground floor of the building. The balance of the building is currently vacant.

As part of a plan to reactivate the Battery Maritime Building, NYCEDC completed substantial repairs to the building in 2006, including façade restoration and pier and pile infrastructure repair. NYCEDC also released a Request for Proposals for redevelopment of the property, and in 2007, the Dermot Company was designated as the developer. After the economic downturn forced some delays to the project, Dermot successfully completed ULURP in spring 2009. Dermot has received approval of its design from the Landmarks Commission, as well as approval from the State Historic Preservation Office and National Parks Service, which will allow Dermot to utilize historic tax credits as part of its redevelopment budget.

Dermot's project includes three key aspects: approximately 65 hotel rooms on the 3rd and 4th floors; a restaurant on a new fifth floor that will be constructed on top of the existing structure; and a public space on the second floor area known as the "Great Hall."

In order to preserve public access to the Great Hall, NYCEDC worked with Borough President Stringer, former Council Member Gerson, and Manhattan Community Board 1 to negotiate a memorandum of understanding regarding its use. This MOU formed the basis for the requirements placed on Dermot for the Great Hall, which include—among other things—that the Great Hall be open to the public daily from 9am-5pm, and managed by a full-time cultural coordinator hired by Dermot.

Dermot is scheduled to begin construction of the hotel, restaurant and Great Hall this summer. Because of the imminent redevelopment of the building, and the interconnectedness of

the spaces within it, NYCEDC is working to formalize TGI's occupancy of the Battery Maritime Building prior to the start of construction.

Paul Kelly, TGI's general counsel, will now provide additional background on TGI and speak about the proposed lease, which will be administered by NYCEDC, between the City of New York and TGI.

The Trust for Governors Island

10 South Street. Slip 7
New York, New York 10004

May 8, 2012

Members of the City Council:

Thank you Chris.

Good morning to Chairperson Lander and the other members of the Council Sub-Committee on Landmarks, Public Siting and Maritime Uses.

My name is Paul Kelly, and I am the General Counsel for The Governors Island Corporation d/b/a The Trust for Governors Island ("The Trust"), a New York State not-for-profit and 501(c)(3) corporation and instrumentality of The City of New York.

The Trust is charged with the preservation, maintenance and operation of 150 acres of the 172 acre Governors Island located in New York Harbor.

I am here today to give testimony and provide information to the Sub-Committee members in connection with a proposed maritime lease by the City's Department of Small Business Services, as landlord, for a portion of the ground floor area and two ferry slips at the Battery Maritime Building ("BMB") to The Trust, as tenant, for the operation of passenger and vehicular services between the BMB and Governors Island (hereafter "The Trust Lease").

Pursuant to Section 1301 (2) (f) of the City Charter, proposed maritime leases of City owned property require submission to the Council for approval.

An exterior photograph of the BMB is attached as Exhibit A to my testimony. A diagram of the ground floor area of the BMB is attached as Exhibit B, with the portion to be leased to The Trust cross-hatched in red.

The Trust Lease will be administered on behalf of the City by the New York City Economic Development Corporation ("EDC").

Prior to summarizing the terms of the proposed Trust Lease I will provide some background information on The Trust and highlight the critical importance of the BMB to the operations of The Trust.

Background:

Since 2003, the predecessor-in-interest to The Trust, the Governors Island Preservation and Education Corporation (“GIPEC”) and now The Trust have used two slips within the BMB for ferry service to and from Governors Island as well as a waiting room area on the ground floor of the building. GIPEC, through July 2010, and The Trust since then, have continuously used the BMB for the transport of passengers, vehicles, equipment and materials to and from Governors Island.

The third slip in the BMB (Slip 5) is managed by City DOT and is used for third party passenger service to various locations in New York Harbor.

The usage of Slips 6 and 7 and the passenger waiting room at the BMB are critical to The Trust’s mission of maintaining, preserving and redeveloping Governors Island. The BMB slips are the only slips available to The Trust’s *COURSEN* vessel for the transport of persons, vehicles, equipment and supplies to and from the Island. The *COURSEN* provides service year round service from the BMB to Governors Island for Trust staff working on the Island, as well as National Park Service Staff, students and faculty of the Harbor High School and other workers and contractors.

During the summer months, although The Trust contracts for supplemental passenger ferry service to help transport visitors to and from the Island, a majority of our summer visitors still access the Island via the *COURSEN* or supplemental ferry service through the BMB.

Given the critical importance of long term ferry slip access to the development of Governors Island, The Trust and the City have agreed upon the term of The Trust Lease.

I also want to note that the proposed Trust Lease does not expand upon the current usage by The Trust of the BMB for ferry service to Governors Island and that the Board of Directors of The Trust unanimously approved The Trust Lease at a Meeting of the Directors held on March 14, 2012.

Trust Lease Summary

The City, acting by and through its Department of Small Business Services, is the Landlord. The Trust is the Tenant and the lease will be administered by EDC. The Trust Lease premises include a portion of the ground floor of the BMB, Slips 6 and 7 and such other areas as more particularly described on Exhibit B.

The initial Trust Lease term will be for 49 years. There will be 5 consecutive ten-year extension options exercisable by The Trust for a maximum Lease term of 99 years.

The Trust Lease Premises will be used primarily for (i) the docking of vessels; (ii) the embarkation, debarkation and transport of vehicles, pedestrians, equipment and materials, primarily to and from Governors Island; (iii) a waiting area for ferry passengers; and (iv) for

other ancillary uses such as office or storage space or a small gift shop primarily selling products associated with Governors Island.

The rent will be \$1.00 per year, subject to re-evaluation every 10 years by The Mayor's Office, EDC and The Trust. Re-evaluation criteria shall include (i) changes in circumstances on Governors Island, including the level of development on the Island; and (ii) whether passengers are being charged for ferry service from The Trust's ferry slips at the BMB.

The Trust shall maintain the leased Premises, including the ferry slips, in good and safe order and condition and shall abide by all applicable legal requirements pertaining to the maintenance of its Premises. The City will be responsible for the maintenance of the underlying pier.

The Trust will also pay for its utility costs in connection with its usage of the Premises.

Operating Agreement

I also want to mention an Operating Agreement among The Trust, the Hotel Developer, the City and EDC, which will also commence on the commencement date of The Trust and Hotel leases. The Operating Agreement will govern common ground floor usage issues of the parties. Due to the requirements of the Operating Agreement, The Trust and The Hotel leases are for the identical term.

Environmental Review

Finally, an environmental review of the impact of the proposed Trust Lease has been performed pursuant to a Technical Memorandum to the January 26, 2012 FGEIS on the phased redevelopment of Governors Island ("Tech Memo"). The Tech Memo, an exhibit to The Trust Lease, concluded that the proposed Trust Lease would not result in any new significant impacts beyond those identified in the FGEIS.

Thank you for your time. I am now available to answer any questions.

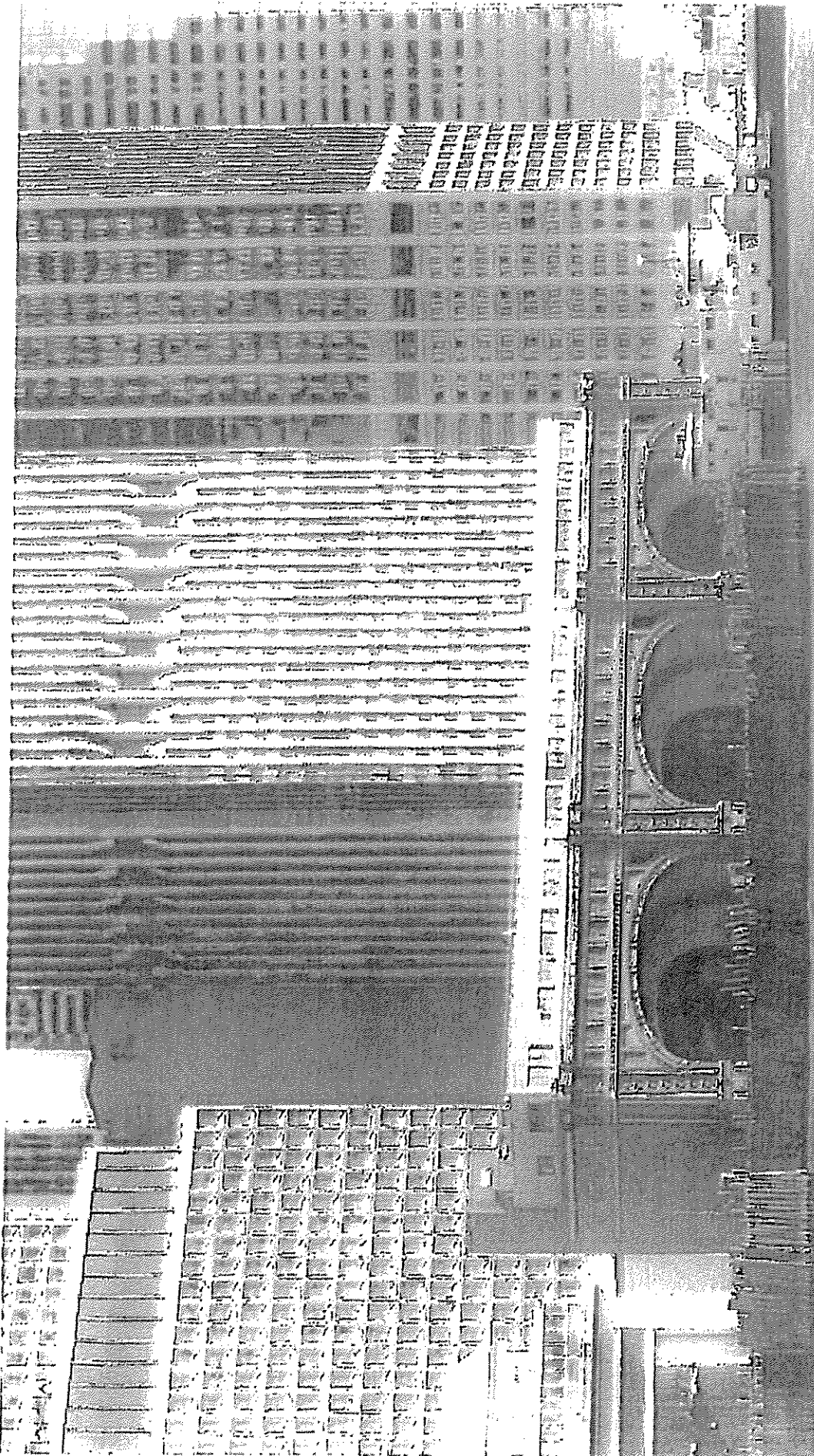
Respectfully submitted,

Paul Kelly

EXHIBIT A

EXTERIOR PHOTOGRAPH OF BMB

Exhibit A



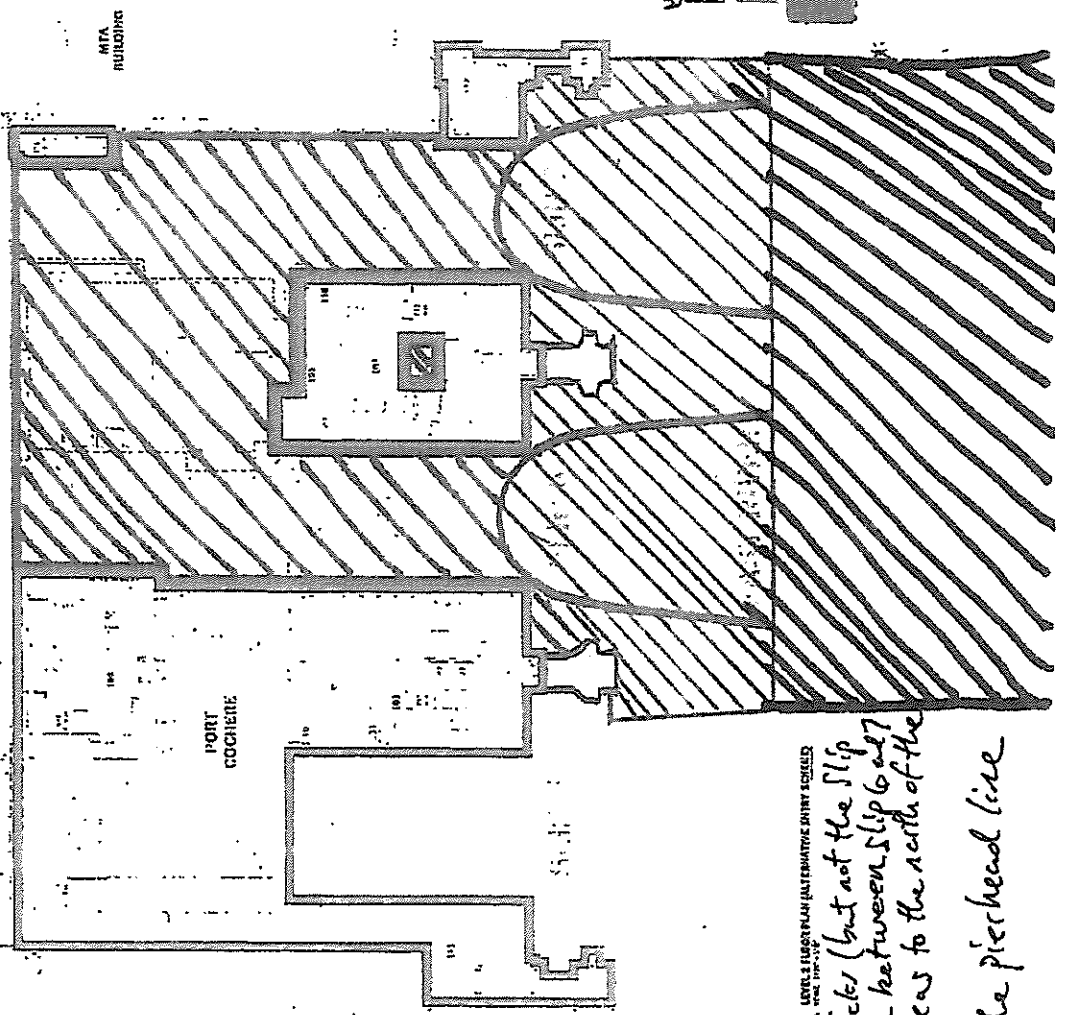
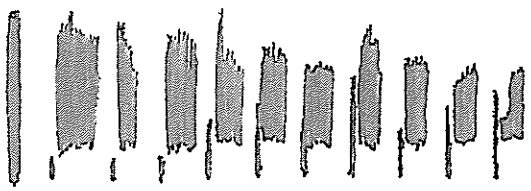
SOUTH ELEVATION
EXISTING

EXHIBIT B

GROUND FLOOR OF BMB WITH PORTION TO BE LEASED TO THE TRUST

EXHIBIT B

BATTERY UNDERPASS
EXHIBIT: TENANT LEASED PREMISES



* TGI responsible for fill area between Slip 5 and 6 fender racks (but not the Slip 5 fender rack), the fill area between Slip 6 and 7 fender racks and any fill areas to the north of the northern Slip 7 fender rack. TGI premises extends to the pierhead line.

1" = 10'-0"

DATE: 12/15/11
 DRAWN BY: [illegible]

BATTERY MARITIME BUILDING

GROUND LEVEL FLOOR PLAN

KEY LEGEND

TOTAL LEASED PREMISES 22,735 SF (APX)

TOTAL LEASED PREMISES 20,000 SF (APX)

A-101.00

DATE: 12/15/11

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 607 Res. No. _____

in favor in opposition

Date: 5-8-12

(PLEASE PRINT)

Name: C. LENG SMITH

Address: 110 WILLIAM STREET, NYC

I represent: NYC ECONOMIC DEVELOPMENT CORP

Address: 110 WILLIAM ST, NYC

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. LU #607 Res. No. _____

in favor in opposition

Date: 5/8/12

(PLEASE PRINT)

Name: PAUL KELLY

Address: _____

I represent: The Trust for Governors Island

Address: 10 SOUTH STREET, SLIP 7, NY NY 10004

Please complete this card and return to the Sergeant-at-Arms