

**HOCHTIEF Aktiengesellschaft, Essen**

ISIN: DE 0006070006

## Notice of General Shareholders' Meeting

We herewith invite our shareholders to attend the

### **General Shareholders' Meeting**

to be held on Thursday, May 7, 2009, 10:30 a.m. in the Congress Center Essen, West Entrance, Norbertstrasse, 45131 Essen, Germany.

### **Agenda**

**1. Presentation of the adopted annual financial statements of HOCHTIEF Aktiengesellschaft and the approved consolidated financial statements as of December 31, 2008, the combined management report of HOCHTIEF Aktiengesellschaft and the Group, the report of the Supervisory Board for the 2008 fiscal year as well as the explanatory report of the Executive Board on the legally required takeover disclosures**

The above documents are available for inspection by shareholders in the offices of HOCHTIEF Aktiengesellschaft (Opernplatz 2, 45128 Essen, Germany) and have also been published at [www.hochtief.com](http://www.hochtief.com). Upon request, a copy of these documents will be provided free of charge to each shareholder without delay.

**2. Use of the unappropriated net profit**

The Executive Board and the Supervisory Board propose a resolution on the use of net profit as follows:

The unappropriated net profit of HOCHTIEF Aktiengesellschaft for the 2008 fiscal year in the amount of EUR 98,000,000.00 will be used to pay a dividend of EUR 1.40 per eligible no-par-value share, and the amount of the dividend that would have been payable on non-eligible shares, amounting to EUR 9,799,584.20, will be carried forward.

The dividend is payable on the day following the General Shareholders' Meeting. The number of eligible shares may change by the date of the General Shareholders' Meeting. In this event, a revised proposal for the appropriation of net profit will be submitted to the General Shareholders' Meeting, leaving the dividend unchanged at EUR 1.40 per eligible no-par-value share.

**3. Ratification of the Executive Board members**

The Executive Board and Supervisory Board propose to ratify the Executive Board members in the 2008 fiscal year for this period.

**4. Ratification of the Supervisory Board members**

The Executive Board and Supervisory Board propose to ratify the Supervisory Board members in the 2008 fiscal year for this period.

**5. Appointment of the auditor**

The Supervisory Board proposes to appoint Deloitte & Touche GmbH Wirtschaftsprüfungsgesellschaft, Munich, as auditor for the 2009 fiscal year.

## **6. Election to replace resigned members of the Supervisory Board**

Dr. Dietmar Kuhnt resigned from his office as Supervisory Board member elected by the General Shareholders' Meeting in the course of the 2008 fiscal year.

Upon application of the Executive Board and by resolution of July 21, 2008, the district court of Essen appointed Mr. Tilman Todenhöfer as member of the Supervisory Board of the company. His office as court-appointed Supervisory Board member expires as soon as the General Shareholders' Meeting elects a new Supervisory Board member to replace him and that person has accepted the election.

In accordance with Sections 96 (1), 101 (1) Aktiengesetz (AktG—German Stock Corporations Act) and Section 7 (1) Sentence 1 Mitbestimmungsgesetz (MitbestG—German Codetermination Act), and Section 9 (1) of the Articles of Association, the Supervisory Board is made up of eight members to be elected by the General Shareholders' Meeting and eight members to be elected by the employees. The General Shareholders' Meeting is not bound by the election proposals.

The Supervisory Board proposes to elect Mr. Tilman Todenhöfer, Stuttgart, managing partner of Robert Bosch Industrietreuhand KG, for the remainder of the period of office, i.e. for the period until the end of the General Shareholders' Meeting that adopts a resolution on the ratification for the 2010 fiscal year.

Mr. Todenhöfer is also a member of the statutory supervisory board of the following companies:

Deutsche Bank AG  
Robert Bosch GmbH

Mr. Todenhöfer is a member of a German or foreign supervisory body comparable to a statutory supervisory board at the following company:

Robert Bosch Internationale Beteiligungen AG (President)

## **7. Authorization of the company to acquire treasury shares also under exclusion of a right to sell shares and to use these also under exclusion of the shareholders' statutory subscription rights, and authorization to redeem treasury shares acquired and to reduce the company's capital stock and to cancel any existing authorization**

The authorization to acquire and use treasury shares issued by the General Shareholders' Meeting on May 8, 2008 under Section 71 (1) No. 8 AktG has a limited term expiring on November 7, 2009. The following proposed resolution cancels the above authorization with regard to the acquisition of treasury shares and provides the company with renewed authorization to acquire and use treasury shares. This new authorization expires on November 6, 2010.

The Executive Board and Supervisory Board propose the following resolution:

- a) The authorization issued by the General Shareholders' Meeting on May 8, 2008 to acquire treasury shares is canceled from the date upon which the authorization according to this agenda item 7 comes into effect. In contrast, the authorization issued on May 8, 2008 under agenda item 7 c) to use treasury shares remains in force for the use of treasury shares acquired as a result of the above authorization.
- b) The company is authorized to acquire treasury shares in accordance with Section 71 (1) No. 8 AktG. This authorization applies for the period until November 6, 2010. It is limited

to a total of 10% of the capital stock which exists at the time when the resolution is passed by the General Shareholders' Meeting; the authorization to acquire treasury shares by the use of call options is limited to a maximum of 5% of the capital stock of the company at the time when the resolution is passed by the General Shareholders' Meeting. This authorization may be exercised either directly by the company or by dependent or majority-owned companies of the company or by third parties commissioned to do so by the company or dependent or majority-owned companies of the company. This authorization allows the acquisition of treasury shares in whole or in partial amounts as well as the acquisition on one or several occasions.

Treasury shares may be acquired via the stock exchange, or by public offer to buy made to all shareholders, or by a public invitation to all shareholders to submit offers to sell, or by the issue to the shareholders of rights to sell shares, or using call options.

- aa) In the case of treasury shares acquired via the stock exchange or using a public offer to buy, HOCHTIEF Aktiengesellschaft may only pay a price per share which is no more than 10% above or below the arithmetic mean of the prices of no-par value shares of HOCHTIEF Aktiengesellschaft in the closing auction in Xetra trading (or an equivalent successor system) on the Frankfurt Stock Exchange during the last ten stock market trading days preceding the conclusion of the obligating transaction if the acquisition is made via the stock exchange, or preceding publication of the decision to issue a public offer to buy, if the acquisition is made by way of a public offer to buy, not including incidental acquisition costs. Should there be a significant variance in the price from purchase price offered or from the range of the purchase price margin offered after publication of a public offer to buy, the offer may be adjusted accordingly. In this case, the price on the last trading day before publication of the adjustment is decisive; the 10% limit applies to this amount.

The volume of the public offer to buy may be limited. In the event that a public offer to buy is oversubscribed, a potential right to sell may be partially excluded; in this case, the shares may be purchased in proportion to the number of shares offered (pro-rated) instead of in proportion to the number of shares held in the company. Under partial exclusion of a potential right to sell, offers pertaining to limited numbers of shares (up to 100 shares per shareholder) may be given preferential treatment. To avoid fractions of shares, it may be necessary to round to the nearest whole number.

- bb) In the case of treasury shares acquired by public invitation to the shareholders of the company to submit sales offers, HOCHTIEF Aktiengesellschaft fixes a purchase price range per share within which sales offers can be submitted. The purchase price range may be adjusted if during the offering period the price varies significantly from the price when the invitation to submit sales offers was published. The price that HOCHTIEF Aktiengesellschaft pays per share based on the offers to sell it receives may be no more than 10% above or below the arithmetic mean of the prices of no-par value shares of HOCHTIEF Aktiengesellschaft in the closing auction in Xetra trading (or an equivalent successor system) on the Frankfurt Stock Exchange during the last three stock market trading days preceding the cut-off date described below, not including incidental acquisition costs. Cut-off date is the day on which the Executive Board of the company finally and officially decides on the acceptance of the offers to sell.

The volume of offers to sell accepted may be limited. In the event that not all of several sales offers of equal value can be accepted due to this limitation, a potential right to sell may be partially excluded; in this case, the shares may be purchased in proportion to the number of shares offered (pro-rated) instead of in proportion to the number of shares held in the company. Under partial exclusion of a potential right to sell, offers pertaining to limited numbers of shares (up to 100 shares per shareholder) may be given preferential treatment. To avoid fractions of shares, it may be necessary to round to the nearest whole number.

- cc) In the case of treasury shares acquired by issue to the shareholders of a right to sell shares, such rights to sell shares may be issued to shareholders in proportion to the number of shares they hold in the company. A shareholder holding a number of rights to sell defined on the basis of the ratio of the capital stock of the company to the number of treasury shares to be acquired by the company shall be entitled to sell one share in the company to the company. Rights to sell shares may also be issued in such manner that one right to sell is issued for a number of shares defined on the basis of the ratio of the capital stock of the company to the number of treasury shares to be acquired by the company. Fractions of rights to sell shall not be issued. In such cases, the corresponding fractional rights to sell shall be excluded. The price to be paid by the company for treasury shares acquired under rights to sell or the price range offered for such shares (without incidental acquisition costs in each case) shall be determined on the basis of the provisions in the preceding paragraph bb) and adjusted as necessary. Further details of rights to sell shares, including the content, term and, if applicable, negotiability of such rights shall be determined by the Executive Board subject to the approval of the Supervisory Board.
- dd) In the case of treasury shares acquired via call options, such option transactions shall be concluded with a bank or with an organization operating in accordance with Section 53 (1) Sentence 1 or Section 53 b (1) Sentence 1 or (7) Kreditwesengesetz (KWG—Banking Act) (hereinafter “credit institution”) at normal market conditions. It is further required that, when exercising the option, such credit institution is only entitled to deliver shares which it acquired previously—observing the principle of equal treatment—via the stock exchange at the listed price for the shares at the time of the acquisition in Xetra trading (or an equivalent successor system) on the Frankfurt Stock Exchange. Any such options shall have a term of no more than one year and shall expire by or before November 5, 2010. The shareholders have no right to conclude such option transactions with the company. The price to be paid in exercise of such options (the strike price) may not be more than 10% above or below the arithmetic mean of the prices of no-par value shares of HOCHTIEF Aktiengesellschaft in the closing auction in Xetra trading (or an equivalent successor system) on the Frankfurt Stock Exchange during the last three stock market trading days preceding the conclusion of the option transaction, not including incidental acquisition costs, but including the option premium paid.
- c) The Executive Board is authorized, subject to the approval of the Supervisory Board, to grant subscription rights to treasury shares to the extent that these would have been available after the warrants and/or conversion rights had been exercised or after fulfillment of the warrants or conversion obligation to the holders of convertible bonds and/or warrant-linked bonds issued by the company or a subordinate Group company if any treasury shares acquired are sold by way of an offer to all shareholders.

The Executive Board is further authorized, subject to the approval of the Supervisory Board, to sell treasury shares acquired other than via the stock market or an offer to all shareholders if the shares are sold for cash at a price not significantly lower than the stock market price of shares of the company of the same class at the time of sale. This excludes shareholders' subscription rights. However, this authorization is subject to the condition that the treasury shares sold under exclusion of subscription rights within the meaning of Section 186 (3) Sentence 4 AktG may not exceed a total of 10% of the capital stock, either on the date when this authorization becomes effective or—if this value is lower—on the date when this authorization is exercised. Any shares which are issued from the authorized capital during the term of this authorization under exclusion of subscription rights within the meaning of Section 186 (3) Sentence 4 AktG shall be offset against this limit of 10% of the capital stock. In addition, the shares which are or are to be issued to service warrants or conversion rights or obligations shall be set off against this limit of 10% of the capital stock, to the extent that the debentures are issued during the term of this authorization under corresponding application of Section 186 (3) Sentence 4 AktG excluding subscription rights.

The Executive Board of HOCHTIEF Aktiengesellschaft is also authorized, subject to the approval of the Supervisory Board, to offer and transfer acquired treasury shares to third

parties other than via the stock exchange or an offer to all shareholders to the extent that this occurs

- aa) as part of the acquisition of companies or participating interests therein or parts of companies or as part of business combinations; or
- bb) to float shares of the company on foreign stock markets on which shares of the company were not previously admitted to trading. The price at which these shares are floated on foreign stock markets may not be more than 5% below the arithmetic mean of the share price of no-par value shares of HOCHTIEF Aktiengesellschaft in the closing auction in Xetra trading (or an equivalent successor system) on the Frankfurt Stock Exchange during the last three trading days preceding the date of the flotation on the foreign stock exchange, not including incidental costs of acquisition; or
- cc) to offer the shares for acquisition to persons who are or were employed by the company or one of its affiliates; or
- dd) to grant shares to the holders of convertible bonds and/or warrant-linked bonds issued by the company or a subordinate Group company in line with the authorization from the General Shareholders' Meeting on May 18, 2005 (agenda item 10) when exercising their warrants or conversion rights or obligations.

Shareholders' statutory subscription rights to these treasury shares are excluded in accordance with Sections 71 (1) No. 8, 186 (3) and (4) AktG to the extent that these shares are used in line with the above authorization. In the case of a sale of treasury shares by way of an offer to all shareholders, the Executive Board is also entitled, subject to the approval of the Supervisory Board, to exclude the subscription right for fractions.

In addition, the Executive Board is authorized to redeem the acquired treasury shares with the approval of the Supervisory Board without a further resolution of the General Shareholders' Meeting being required for the redemption itself or its execution. The redemption may also be effected without a capital stock reduction within the meaning of Section 237 (3) No. 3 AktG in that the redemption of these shares increases the proportion constituted by the remaining no-par value shares of HOCHTIEF Aktiengesellschaft in the capital stock within the meaning of Section 8 (3) AktG. The Executive Board is authorized to amend the number of shares stated in the Articles of Association accordingly within the meaning of Section 237 (3) No. 3, second half sentence, AktG.

The above authorizations may be exercised on one or several occasions, in whole or in part, together or singly. The authorizations also cover the use of shares of the company acquired in accordance with Section 71 d Sentence 5 AktG or shares which are acquired (i) by a dependent or majority-owned company of HOCHTIEF Aktiengesellschaft or (ii) by a third party for the account of HOCHTIEF Aktiengesellschaft or by a third party for the account of a dependent or majority-owned company of HOCHTIEF Aktiengesellschaft.

### **Report of the Executive Board to the General Shareholders' Meeting on item 7 of the agenda in accordance with Sections 71 (1) No. 8, 186 (3) Sentence 4, (4) Sentence 2 AktG**

Under item 7 of the agenda, a proposal is made to the General Shareholders' Meeting that the company be authorized, in accordance with Section 71 (1) No. 8 AktG, to acquire treasury shares up to 10% of the capital stock as it stands on the date the resolution is passed by the General Shareholders' Meeting for a period of 18 months to November 6, 2010; the authorization to acquire treasury shares by call options is limited to a maximum of 5% of the capital stock of the company at the time when the resolution is passed by the General Shareholders' Meeting. According to the proposed resolution, the company is authorized to acquire treasury shares, restricting the principle of equal treatment of all shareholders and any rights of the shareholders to sell shares to the company, and to use the treasury shares acquired as a result of this authorization, excluding shareholders' subscription rights.

At earlier General Shareholders' Meetings, HOCHTIEF Aktiengesellschaft had already passed resolutions authorizing the repurchase of shares. The last of these resolutions allowed shares to be repurchased until November 7, 2009. In line with previous practice, the company is to be authorized again to repurchase treasury shares for a period of 18 months from the date when the resolution is passed. This authorization

is subject to the statutory restriction that any shares which are newly acquired together with any existing treasury shares not yet used may not exceed the limit set in Section 71 (2) Sentence 1 AktG of 10% of the capital stock. Treasury shares may be acquired via the stock exchange or using an offer to buy made to all shareholders. This gives all shareholders the same opportunity to sell shares to the company, to the extent that the company utilizes the authorization to acquire treasury shares. However, the authorization also allows the company to restrict the principle of equal treatment of all shareholders and any rights of the shareholders to sell shares to the company in connection with the acquisition of treasury shares.

#### **Details:**

#### **Acquisition of treasury shares excluding any right to submit offers to sell shares**

Treasury shares are first to be acquired via the stock exchange, or by public offer to buy made to all shareholders, or by a public invitation to all shareholders to submit offers to sell.

In the case of a public offer to buy or a public invitation to shareholders to submit offers to sell, the number of shares offered by the shareholders may exceed the number of shares required by the company. In such a case, the shares are allotted proportionally. Offers or parts of offers pertaining to limited number of shares (up to 100 shares per shareholder) may be given preferential treatment. The objective of this is to avoid fractions when fixing the share allocations to be purchased and also small residual amounts of shares, thus facilitating the technical handling of the repurchase. The discrimination of small shareholders can also be avoided in this way. In addition, the scaling down can also be effected by allotting the number of shares to be purchased in proportion to the number of shares offered (pro-rated) rather than in proportion to the number of shares held in the company because technically this allows the purchase process to be handled on an economically acceptable scale. Finally, rounding to the nearest whole number is permitted to avoid fractions of shares. In this way, the share purchase quota and the number of shares to be purchased from the individual shareholders offering shares are rounded in such a way as to ensure that the purchase of whole shares is technically possible. The Executive Board and the Supervisory Board agree that the inherent exclusion of any further rights to sell of the shareholders is justified and acceptable for the shareholders.

Besides purchasing treasury shares via the stock exchange, or by public offer to buy made to all shareholders, or by a public invitation to all shareholders to submit offers to sell, the authorization also allows the company to acquire treasury shares via the issue to shareholders of rights to sell shares. Such rights to sell shares will be defined in such a way that the company is only under an obligation to acquire whole shares. Any rights to sell that cannot be exercised will be forfeited. This procedure ensures equal treatment for shareholders and simplifies the handling procedure for share repurchasing.

The authorization also allows the company to use derivatives in the form of call options for the purchase of treasury shares. This additional alternative broadens the scope for the company to structure the purchase of treasury shares in the optimum way.

By acquiring a call option, the company receives the right, in return for the payment of an option premium, to purchase a predefined number of shares from the seller of the option (the writer) at a predetermined price (strike price). The exercise of the call option makes economic sense for the company if the market price of the company's shares is above the strike price and the company then acquires the shares from the writer at the lower strike price. By acquiring call options, the company can hedge against rising share prices and need only purchase the shares which it actually requires at the later point in time. The liquidity situation of the company is also eased as it is under no obligation to pay the purchase price agreed for the shares until the company exercises its call options.

The option transactions described above should be concluded with a bank. In contrast to an offer to close option transactions with all shareholders, this approach allows the company's management to conclude option transactions at short notice. The option premium mentioned above and the restrictions on the strike price ensure that the shareholders are not placed at an economic disadvantage in connection with the acquisition of treasury shares using call options. When exercising the options, only shares may be delivered that were previously acquired via the stock exchange. This satisfies the principle of equal treatment of shareholders prescribed by Section 71 (1) No. 8 Sentence 4 AktG. As the company pays a fair market price, shareholders not participating in the option transactions do not suffer any loss in value. This corresponds to the position of the shareholders in connection with share repurchasing

arrangements via the stock market; not all shareholders can sell shares to the company in the course of such repurchasing. To this extent it is justified, also taking into consideration the legal principle underlying Section 186 (3) Sentence 4 AktG, to conclude the option transactions with a bank as they cannot be concluded with all the shareholders and the financial interests of the shareholders are protected by purchasing at a price near to the market price.

### **Use of purchased treasury shares under exclusion of shareholders' subscription rights**

As a result of statutory provisions, the acquired treasury shares may be resold by way of a public offer to all shareholders or via the stock market. The options described above to sell the acquired treasury shares mean that the shareholders' right to equal treatment is protected when the shares are sold.

When selling treasury shares by way of a public offer to all shareholders, the Executive Board is to be authorized, subject to the approval of the Supervisory Board, to exclude fractional amounts. This exclusion of subscription rights for fractional shares is necessary to facilitate the technical handling of the sale of treasury shares acquired by way of a public offer to all shareholders. The fractions of treasury shares excluded from the subscription rights of the shareholders will be sold to the company's greatest possible advantage either via the stock exchange or in another way.

The proposed authorization to exclude shareholders' subscription rights has the objective of granting the holders of convertible bonds and/or warrant-linked bonds issued by the company or one of its subordinate Group companies subscription rights to the shares to the extent that would have been due to them after exercising the warrants or conversion rights or after fulfillment of the warrants or conversion obligations. This has the advantage that, should the authorization be exercised, the conversion or option price for the bearer of warrants or conversion rights or obligations already outstanding does not have to be reduced in line with the option or conversion conditions.

The proposed authorization allowing the exclusion of the subscription rights of shareholders in the event that the acquired shares are to be sold for cash at a price which is not significantly lower than the stock market price of shares of the company of the same class at the time of the sale makes use of the possibility of the simplified exclusion of subscription rights permitted by Section 71 (1) No. 8 AktG in conjunction with Section 186 (3) Sentence 4 AktG. The issue of protecting the shareholders against dilution is taken into account in that the shares may only be sold at a price that is not significantly lower than the relevant stock market price. The selling price for treasury shares will be finalized at a point in time shortly before the sale. The Executive Board will make any discount on the stock market price as low as possible in view of the prevailing market conditions at the time of the placement. The discount on the stock market price at the time when the authorization is exercised will not be more than 5% of the current stock market price in any event. This authorization is subject to the condition that the treasury shares sold in this way may not exceed a total of 10% of the capital stock, either on the date when this authorization becomes effective or—if this value is lower—on the date when this authorization is exercised. Any shares which are issued from the authorized capital during the term of this authorization under exclusion of subscription rights within the meaning of Section 186 (3) Sentence 4 AktG shall be set off against this limit of 10% of the capital stock. In addition, the shares which are or are to be issued to service warrants or conversion rights or obligations shall be set off against this limit of 10% of the capital stock, to the extent that the debentures are issued during the term of this authorization under corresponding application of Section 186 (3) Sentence 4 AktG, excluding the subscription rights. These setting-off provisions ensure that acquired treasury shares are not sold under the exclusion of subscription rights in line with Section 186 (3) Sentence 4 AktG if this would lead to shareholders' subscription rights for more than 10% of the capital stock being excluded in direct or indirect application of Section 186 (3) Sentence 4 AktG. This restriction and the fact that the issue price must be guided by the stock market price provides appropriate protection of the shareholders' interests in the asset and voting rights. Shareholders may acquire the number of shares required to maintain their proportionate interest at almost identical conditions via the stock market. The authorization is also in the interest of the company, as it will help it obtain a greater degree of flexibility and will create the opportunity to expand the group of shareholders by specifically issuing shares to strategic partners, institutional investors or financial investors. This should also allow the company to react quickly and flexibly to favorable situations on the stock market.

The company is also to have the opportunity to offer its own shares as part of business combinations or in connection with the acquisition of companies, parts of companies or participating interests in companies. In this type of transaction, the seller will often prefer to receive shares as compensation and

international competition increasingly demands this type of acquisition financing. The authorization proposed here gives the Executive Board (subject to the approval of the Supervisory Board) the necessary latitude to exploit any opportunities that may present themselves to acquire companies, parts of companies or participating interests in companies quickly and flexibly on both German and international markets. The proposed exclusion of subscription rights is in line with this objective. When defining the valuation ratios, the Executive Board will ensure that the shareholders' interests are appropriately protected. Normally, when assessing the value of the shares issued as compensation, the Executive Board will base this amount on the stock market price of HOCHTIEF shares. However, it is not intended that the value of the shares concerned should be generally linked to a stock market price. The aim is to ensure that stock market fluctuations do not call into question the results achieved in negotiations.

In addition, this authorization is designed to allow the Executive Board, subject to the approval of the Supervisory Board, to use treasury shares for flotation on foreign stock exchanges where the company's shares were not previously listed. HOCHTIEF Aktiengesellschaft is involved in fierce competition on the international capital markets. The possibility of acquiring equity at reasonable market conditions at any time is of key importance for future business growth. The possible flotation of the company's shares on foreign stock exchanges underpins this objective as it broadens the shareholder base abroad and makes the company's shares a more attractive investment proposition. The proposed exclusion of subscription rights makes this type of flotation on foreign stock exchanges possible. In order to protect the shareholders' interests, the resolution contains clearly defined restrictions on the price at which the company's shares may be floated on foreign stock exchanges.

In addition, the Executive Board is to be authorized, subject to the approval of the Supervisory Board, to offer treasury shares to persons who are or were employed by the company or one of its affiliates. This is the authorization to issue what are referred to as employee shares. The proposed exclusion of subscription rights is a condition for the issue of such employee shares. Under the German Stock Corporations Act (AktG), companies are entitled to use treasury shares for the issue of employee shares without obtaining the authorization of the General Shareholders' Meeting (Section 71 (1) No. 2 AktG). However, this only applies to shares issued to employees within one year of their acquisition (Section 71 (3) Sentence 2 AktG). In derogation of this, the proposed resolution will allow the Executive Board to issue treasury shares as employee shares without any time limit. The Executive Board will decide on the issue conditions within the scope offered by Section 71 (1) No. 2 AktG. In particular, the Executive Board may offer shares within the boundaries set by normal practice at less than the current stock market price in order to create an incentive for their acquisition. Using existing treasury shares instead of a stock issue or cash compensation may make economic sense. This authorization is thus intended to increase flexibility.

Furthermore, the proposed resolution also authorizes the Executive Board, subject to the approval of the Supervisory Board, to exclude shareholders' subscription rights to the extent that this exclusion serves the purpose, as provided for by the authorization granted at the General Shareholders' Meeting of May 18, 2005 (agenda item 10), of granting shares to the holders of the convertible and/or warrant-linked bonds issued by the company or a subordinate Group company when these holders exercise warrants or conversion rights or obligations. To the extent that these convertible or warrant-linked bonds were offered to shareholders and shareholders' subscription rights were honored, the use of treasury shares to service the warrants or conversion rights or obligations does not constitute a genuine exclusion of subscription rights. If shareholders' subscription rights were not honored in connection with the issue of the convertible or warrant-linked bonds, the restrictions which apply to the exclusion of subscription rights also apply to such bonds. In such cases, the shareholders' interests in the asset and voting rights are not affected by the issue of new shares from the company's conditional capital or treasury shares to service the warrants or conversion rights or obligations.

Finally, the authorization also allows acquired treasury shares to be redeemed. Redemption may either be effected in such a manner that the capital stock of the company is reduced or, without reducing the capital stock, by reallocating to the remaining shares that part of the capital stock of the company which is attributable to the redeemed shares. The rights of the shareholders are not impaired in either of these cases.

The Executive Board will report to the next General Shareholders' Meeting on any use of the authorization to acquire treasury shares.

The report by the Executive Board to be presented to the General Shareholders' Meeting in accordance with Section 71 (1) No. 8 in conjunction with Section 186 (4) Sentence 2 AktG, which is reproduced in its entirety above, is available for inspection by shareholders from the date when the General Shareholders' Meeting is convened in the offices of HOCHTIEF Aktiengesellschaft (Opernplatz 2, 45128 Essen, Germany) as well as at the General Shareholders' Meeting itself. It has also been published at [www.hochtief.com](http://www.hochtief.com). Upon request, a copy of this report will be provided free of charge to each shareholder without delay.

## **8. Approval for the conclusion of a profit and loss transfer agreement**

A profit and loss transfer agreement was concluded between HOCHTIEF Aktiengesellschaft and HOCHTIEF Concessions GmbH, Essen, (also referred to below as "the subsidiary") on January 26, 2009.

HOCHTIEF Aktiengesellschaft directly holds 100% of the shares in the subsidiary. The main content of the profit and loss transfer agreement is as follows:

The subsidiary undertakes to transfer its entire profit to HOCHTIEF Aktiengesellschaft. The amount of profit transferred must not exceed the amount stated in Section 301 AktG. The losses of the subsidiary will be borne by HOCHTIEF Aktiengesellschaft in accordance with the provisions of Section 302 AktG.

The subsidiary may only transfer amounts from the net income to the free reserve to the extent that this is justified on the basis of a prudent commercial assessment.

The transfer of income from reversals of free reserves formed by the subsidiary prior to the conclusion of the agreement is not permitted.

The profit and loss transfer agreement was concluded with effect from January 1, 2009 to December 31, 2013. If the agreement is not terminated before the initial term expires, it will be extended by subsequent periods of one year each.

To the extent that such termination is permitted by law, the profit and loss transfer agreement may be terminated by either of the parties in writing at any time without notice for good cause. Among other things, there will be good cause for termination if HOCHTIEF Aktiengesellschaft ceases to hold a majority of the voting rights attributable to the shares in the subsidiary. Other good causes for termination include circumstances recognized as good causes by the German tax authorities (Section 60 (6) of the Körperschaftsteuer-Richtlinien (Corporation Tax Guidelines) 2004).

The Executive Board and Supervisory Board propose that the profit and loss transfer agreement of January 26, 2009 between HOCHTIEF Aktiengesellschaft and HOCHTIEF Concessions GmbH be approved.

The following documents are available for inspection by the shareholders from the date on which the General Shareholders' Meeting is convened in the offices of HOCHTIEF Aktiengesellschaft (Opernplatz 2, 45128 Essen, Germany) and have also been published at [www.hochtief.com](http://www.hochtief.com):

- the profit and loss transfer agreement of January 26, 2009 between HOCHTIEF Aktiengesellschaft and HOCHTIEF Concessions GmbH;
- the annual financial statements and management reports of HOCHTIEF Aktiengesellschaft for the last three fiscal years and the annual financial statements of HOCHTIEF Concessions GmbH as of December 31, 2008;
- the joint report of the Executive Board of HOCHTIEF Aktiengesellschaft and the management of HOCHTIEF Concessions GmbH concerning the profit and loss transfer agreement.

Upon request, a copy of these documents will be provided free of charge to each shareholder without delay. These documents will also be available for inspection at the General Shareholders' Meeting.

## 9. Resolutions on the amendment of the Articles of Association

### a) Amendment of Section 23 (5) Sentence 2 of the Articles of Association

The Federal Government Draft of the Act for the Implementation of the Shareholder Rights Directive (ARUG) provides, among other things, for the amendment of the formalities pertaining to proxy voting rights at general shareholders' meetings by persons other than banks or professional agents. According to this amendment, in future proxy voting rights no longer have to be granted in writing but it is sufficient if they are granted in text form. The rulings of the ARUG are expected to come into force before the next General Shareholders' Meeting of the company. The prerequisites needed to bring the Articles of Association into line with the changed legal conditions are therefore to be created at this General Shareholders' Meeting. The Executive Board will not, however, file the amendment to the Articles of Association with the Commercial Register until the ARUG comes into force.

The Executive Board and the Supervisory Board therefore propose that the following resolution be adopted:

Section 23 (5) Sentence 2 of the Articles of Association will be reworded as follows:

“Proxies shall be granted, canceled and substantiated to the company in text form.”

The Executive Board is ordered not to file this amendment to the Articles of Association with the Commercial Register until the ARUG has come into force including the ruling for proxy voting rights described above.

### b) Amendment to Section 2 (2) Sentence 3 of the Articles of Association

To describe the object of the company relating to the acquisition of interests in other companies more precisely, Section 2 (2) Sentence 3 of the Articles of Association is to be reworded.

The Executive Board and the Supervisory Board therefore propose that the following resolution be adopted:

Section 2 (2) Sentence 3 of the Articles of Association shall be reworded as follows:

“The Company shall be entitled to acquire interests in other companies of all kinds, also for investment purposes, to establish, acquire and sell such companies, to place such companies under joint management, to limit itself to the administration of its participating interest in such companies or to dispose of its interest in such companies.”

### c) Amendment of Section 8 of the Articles of Association

The law already allows the company to be represented jointly by two persons holding official power of attorney (Prokurist) if the Executive Board has granted these persons power of attorney. There is no legal requirement that the representation of the company by two persons holding official power of attorney be explicitly mentioned in the wording of the articles of association. Nevertheless, such an article is appropriate for companies which, like HOCHTIEF Aktiengesellschaft, participate in international business transactions because foreign business associates and authorities who are not familiar with the significance of “Prokura” (power of attorney) under German law sometimes demand that the articles of association be presented as documentation of the power of attorney of “Prokurists.”

The Executive Board and the Supervisory Board therefore propose that the following resolution be adopted:

Without changing its content, the current wording of Section 8 is revised as Section 8 (1) and Section 8 will be supplemented by an additional clause (2). Section 8 now reads as follows:

“§ 8

(1) Two members of the Executive Board acting jointly or one member of said Board and a person holding official power of attorney for the company (Prokurist), acting jointly, shall be entitled to act on behalf of the company.

(2) Two persons holding official power of attorney for the company (Prokurist), acting jointly, shall also be entitled to act on behalf of the company.”

d) Amendment of Section 12 of the Articles of Association

The regulations for convening Supervisory Board meetings are to be revised. The possibilities for the Supervisory Board to adopt resolutions outside of meetings are to be extended, in particular to include video conferences.

The Executive Board and the Supervisory Board therefore propose that the following resolution be adopted:

Section 12 of the Articles of Association will be revised as follows:

“§ 12

- (1) Meetings of the Supervisory Board shall be convened by the Chairman of the Supervisory Board in writing, by fax or by electronic media with at least two weeks' notice. In urgent cases, the Chairman of the Supervisory Board may reduce this period of notice appropriately and also convene a meeting orally or by telephone. Each such notice shall also lay down the agenda for the meetings. Proposals for resolutions on matters on the agenda of any meeting shall be submitted to the members of the Supervisory Board in good time before the meeting to allow any members of the Supervisory Board who are absent from the meeting to vote in writing on such proposals.
- (2) Resolutions on matters on the agenda which have not been notified to the members in good time shall not be passed without the approval of all the members of the Supervisory Board. In any such case, the Chairman of the Supervisory Board shall grant any Supervisory Board members who are absent from the meeting a reasonable period of time for contesting any resolution so adopted and such resolution shall not become effective unless it is not contested by any absent Supervisory Board member within said period.
- (3) Any resolution of the Supervisory Board may also be passed outside a Supervisory Board meeting by votes cast orally, by telephone, by letter, fax, by e-mail or other customary telecommunications media, in particular by video conference, if the Chairman has ordered voting in such manner. The members of the Supervisory Board are not entitled to contest any resolution passed in this way. The record of any resolution taken outside a Supervisory Board meeting shall be signed by the Chairman of the Supervisory Board and forwarded to all the members of the Supervisory Board without delay.”

e) Sentence to be added to Section 13 (1) of the Articles of Association

The Articles of Association (Section 13 (1) Sentence 2) already allow absent members of the Supervisory Board to vote on any resolution by casting their vote in writing. The voting possibilities for absent members of the Supervisory Board are to be extended by allowing voting using modern communication media.

The Executive Board and the Supervisory Board therefore propose that the following resolution be adopted:

Section 13 (1) of the Articles of Association is to be supplemented by the new sentence 3:

“Votes cast by fax or via electronic media shall also qualify as votes cast in writing.”

## **Participation in the General Shareholders' Meeting**

Only shareholders who have registered and demonstrated their entitlement prior to the General Shareholders' Meeting will be entitled to attend and to exercise voting rights at the General Shareholders' Meeting. Registration and proof of entitlement must reach the company at the address stated below by or before 24:00 hours on April 30, 2009:

HOCHTIEF Aktiengesellschaft  
c/o Commerzbank AG  
ZTB M 3.2.4-General Meeting/Proxy Voting  
60261 Frankfurt am Main  
Germany

Shareholders may demonstrate their entitlement to attend the General Shareholders' Meeting and to exercise their voting rights by submitting a special confirmation in text form issued by the bank holding their custody account to the effect that they hold shares in the company. Such confirmation of share ownership must refer to the shares owned at 00:00 hours on April 16, 2009. Registration and proof of entitlement must be in text form and in the German or English language. Following receipt by the company of registration and proof of entitlement, admission tickets for the General Shareholders' Meeting will be dispatched to the shareholders. In order to ensure that admission tickets are received in good time, shareholders are requested to ensure that their registration and proof of entitlement are sent to the company at the address given above at their earliest convenience.

### **Proxy voting rights**

Shareholders who do not wish to attend the General Shareholders' Meeting in person may have their voting rights exercised by a proxy, for example, by a bank or by a shareholders' association. To the extent that the proxy is not granted to a bank, a shareholders' association or other person or institution with equivalent rights under the stock corporation law, the proxy must be made in writing. If proxy is granted to a bank, an equivalent institute or organization (Sections 135 (12), 125 (5) AktG) or persons defined in Section 135 (9) AktG, specifically shareholders' associations, it is, however, sufficient if the proxy has a verifiable record of the proxy declaration.

In addition, we offer our shareholders the possibility of authorizing company-appointed proxies to exercise their voting rights. These proxies may be authorized before the General Shareholders' Meeting and are under an obligation to exercise voting rights in accordance with the instructions given by the shareholders concerned. Shareholders who wish to authorize company-appointed proxies to exercise their voting rights require admission tickets for the General Shareholders' Meeting for this purpose. These proxies may be authorized and instructions issued to them either in writing or by fax. Company-appointed proxies must be issued with instructions concerning the exercise of the voting rights. Company-appointed proxies will not be considered to have been validly authorized without such instructions. The company-appointed proxies are under an obligation to act in accordance with the instructions received from shareholders; they must not exercise the voting rights at their own discretion. Even shareholders who authorize company-appointed proxies to exercise their voting rights must ensure that their registration and proof of entitlement are received by the company in good time as described above. Details concerning the issue of authorizations and instructions to company-appointed proxies are provided in an information sheet which will be sent to shareholders together with their admission tickets.

The provision of company-appointed proxies does not affect any of the other above-mentioned possibilities of participation and representation, including attendance in person or participation via another proxy such as a bank or shareholders' association. All these possibilities remain open to shareholders without any restriction.

## **Resolution and election proposals made by shareholders**

All resolution and election proposals must be submitted to the following address:

HOCHTIEF Aktiengesellschaft  
Executive Board Secretariat  
Opernplatz 2  
45128 Essen  
Germany  
[Fax: +49 201 824-1768]

Shareholders' resolution and election proposals for publication which are received at this address by the end of April 22, 2009 will be published on the Internet at [www.hochtief.com](http://www.hochtief.com). Resolution and election proposals submitted to any other address will not be considered.

## **Total number of shares and voting rights**

The following information is provided in accordance with Section 30 b (1) No. 1 Wertpapierhandelsgesetz (WpHG—German Securities Trading Act): As of the time when the General Shareholders' Meeting for 2009 was convened, HOCHTIEF Aktiengesellschaft had issued a total of 70,000,000 no-par value shares. Each share entitles the shareholder to one vote at the General Shareholders' Meeting. The number of eligible shares and voting rights is therefore 70,000,000.

Essen, March 2009

**HOCHTIEF Aktiengesellschaft**

**The Executive Board**