

AN ACT in relation to the redevelopment and revitalization of lower Manhattan

The People of the State of New York, represented in Senate and Assembly, do

enact as follows:

1 Section 1. This act shall be known as the Coordinated Construction Act for Lower
2 Manhattan.

3 §2. Legislative findings.

4 The city and state of New York have a compelling interest in the redevelopment of
5 lower Manhattan, the area of New York City that suffered most grievously from the attack on the
6 World Trade Center on September 11, 2001.

7 The legislature recognizes the historic importance of lower Manhattan to the
8 economy of the city, State, and region. Before the attack, lower Manhattan was the third largest
9 business district in the nation, accounting for more than \$114 billion in economic output and
10 about 15 percent of the city's tax revenues. As a result of the attack, 2,792 lives were lost, and
11 lower Manhattan sustained losses of more than \$80 billion. The economic losses have continued
12 in the years since the attack. The legislature recognizes that decisive action is needed to prevent
13 these losses from generating a devastating downward spiral.

14 In response to the damage caused by the attack, the federal government thus far has
15 committed approximately \$6 billion over a 10-year period for redevelopment projects in lower
16 Manhattan. The public interest will be served by ensuring that these projects, as well as any
17 projects in the area funded by the State and city governments, are constructed quickly, safely,

1 fairly, and cost effectively. Assuring that public funds are spent wisely will, in turn, encourage
2 private sector firms now located in lower Manhattan to remain, and stimulate other firms to
3 invest in the area. This effort requires an unprecedented level of coordination among the public
4 and private organizations responsible for the redevelopment. The purpose of this legislation is to
5 make that coordination possible.

6 By allowing public agencies to plan their work with the utilities and make joint
7 purchases, the legislation will promote speed, reduce public disruption, and lower costs. By
8 subjecting public agencies to rules that promote high quality work, environmental safety, and
9 fairness, we will further promote the public interest. The agencies will be able to solicit
10 competitive bids from pre-qualified bidders with a record of specific performance, and of
11 harmonious labor relations, on previous projects. For large projects, they will utilize contractors
12 that have state-approved apprentice training programs, assuring opportunity as well as high
13 quality work. By using low sulfur diesel fuel and, where practicable, retrofitting construction
14 machinery, the agencies will reduce harmful emissions and protect our environment. And by
15 requiring the agencies to establish procedures that assure participation of minority and women
16 owned businesses, the legislation will promote fairness in the construction of these projects.

17 Ultimately, these provisions will help the public and private sectors to bring to the
18 redevelopment of lower Manhattan the same sense of purpose, urgency, and harmony that they
19 brought to the clean up at the World Trade Center site.

20 §3. Definitions. As used or referred to in this act, unless a different meaning
21 clearly appears from the context:

1 a. “Public agency” shall mean any agency of the state of New York or the city of
2 New York, the school district of the city of New York, any public benefit corporation, and any
3 public authority.

4 b. “Lower Manhattan” shall mean the area to the south of and within the following
5 lines: a line beginning at a point where the United States pierhead line in the Hudson river as it
6 exists now or may be extended would intersect with the southerly line of West Houston street in
7 the borough of Manhattan extended, thence easterly along the southerly side of West Houston
8 street to the southerly side of Houston street, thence easterly along the southerly side of Houston
9 street to the southerly side of East Houston street, thence northeasterly along the southerly side
10 of East Houston street to the point where it would intersect with the United States pierhead line
11 in the East river as it exists now or may be extended, including tax lots within or immediately
12 adjacent thereto.

13 c. “Lower Manhattan redevelopment project” shall mean any project that has been
14 certified prior to January 1, 2014 by the governor of the state of New York, the mayor of the city
15 of New York, or the lower Manhattan development corporation, as a project whose realization
16 will further the purposes of this act and that is in lower Manhattan, or is related to lower
17 Manhattan and funded in whole or in part with federal funding pursuant to the 2001 Emergency
18 Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the
19 United States, P.L. 107-38; the 2002 Supplemental Appropriations Act for Further Recovery
20 from and Response to Terrorist Attacks on the United States, P.L. 107-206; or such subsequent
21 federal appropriations as are made to facilitate recovery from and response to terrorist attacks.

22 d. “Project” shall include design, construction and reconstruction, rehabilitation,
23 restoration, and modernization of buildings, structures and monuments and memorials on land or

1 in water, including landfill or any pilings, piers, platforms, or decks, streets, transit facilities,
2 ferry terminals, bikeways, parks and park facilities, telecommunication facilities, parking
3 facilities, system replacements, and landscaping, and in addition, any dredging or filling or other
4 activities related thereto.

5 e. "Public service provider" shall mean an entity providing one or more services
6 that are subject to the jurisdiction of the New York state public service commission pursuant to
7 section five or two hundred sixteen of the public service law or to the jurisdiction of the federal
8 communications commission.

9 §4. a. Notwithstanding any general, special or local law or rule or regulation to
10 the contrary, a public agency awarding a contract for a lower Manhattan redevelopment project
11 may establish guidelines governing the qualifications of bidders entering into contracts for a
12 lower Manhattan redevelopment project. The bidding may be restricted to those who have
13 qualified prior to the receipt of bids according to standards fixed by the public agency. In
14 determining whether a prospective bidder qualifies for inclusion on a list of pre-qualified
15 bidders, the public agency shall consider the experience and record of performance of the
16 prospective bidder in the particular type of work; as well as (1) the prospective bidder's ability to
17 undertake the particular type and complexity of work; (2) the financial capability, responsibility
18 and reliability of the prospective bidder for this type and complexity of work; (3) the record of
19 the prospective bidder in complying with existing labor standards and maintaining harmonious
20 labor relations; and (4) the prospective bidder's compliance with equal employment opportunity
21 requirements and anti-discrimination laws, and commitment to working with minority and
22 women-owned businesses through joint ventures or subcontractor relationships. The public
23 agency may also consider such other factors as it deems appropriate. The public agency shall,

1 not less than annually, publish in a newspaper of general circulation in the city of New York, an
2 advertisement requesting prospective bidders to submit qualification statements. Lists of pre-
3 qualified bidders shall be reviewed and updated not less than annually by the public agency.
4 Lists of pre-qualified bidders may be established on a project-specific basis; provided, however,
5 that any such list shall have no less than five bidders. The public agency procedures for
6 prequalifying bidders shall include an appeals process for those denied a place on a pre-qualified
7 list. The public agency may move forward on the contract award during such appeals.

8 b. Notwithstanding any general, special or local law or rule or regulation to
9 the contrary, for lower Manhattan redevelopment projects that exceed one million dollars, the
10 public agency shall require contractors and subcontractors to have, prior to entering into such
11 contracts, apprenticeship agreements appropriate for the type and scope of work to be performed,
12 that have been registered with and approved by the commissioner of the department of labor.

13 c. Contracts awarded pursuant to this act are contracts subject to the
14 requirements of article 15-A of the executive law. For the award of contracts pursuant to this
15 act, the city of New York shall be considered a state agency under article 15-a (or its successor)
16 of the executive law for purposes of establishing goals for the participation of certified minority-
17 and women-owned business enterprises in contracts for lower Manhattan redevelopment
18 projects.

19 d. Notwithstanding any general, special or local law or rule or regulation to
20 the contrary, to facilitate the timely and cost effective completion of utility work in lower
21 Manhattan, the public agency may include in any contract for a lower Manhattan redevelopment
22 project any work that it deems necessary or desirable for the completion of such project that
23 requires the maintenance, support, protection or other accommodation of energy,

1 telecommunications or other private facilities or structures not publicly owned which are located
2 within, traversing or adjacent to the construction area of such project, whether above, below or at
3 ground level, including the removal, relocation, alteration, replacement, reconstruction or
4 improvement of such facilities or structures, provided that the costs of work performed pursuant
5 to this paragraph, including any incremental or administrative costs attributable to such work,
6 shall not be borne by such public agency except as otherwise provided by chapter three hundred
7 fifty-seven of the laws of nineteen hundred eighty-eight.

8 e. Notwithstanding the provisions of section twenty-five hundred and four of
9 the insurance law, a public agency may, with respect to any lower Manhattan redevelopment
10 project, negotiate, make application for, obtain or procure any surety bond or contract of
11 insurance which can be obtained or procured by any contractor or subcontractor.
12 Notwithstanding the provisions of subdivision 2-c of section 25 of the workers compensation
13 law, until January 1, 2014 alternate dispute resolution procedures may be used for any project in
14 lower Manhattan in which a public agency is procuring such surety bond or contract of
15 insurance.

16 f. Notwithstanding any general, special or local law or rule or regulation to the
17 contrary, a public agency shall require contractors and subcontractors to use only low sulfur
18 diesel fuel to power the diesel-powered non-road vehicles with engine horsepower (HP) rating of
19 60 HP and above used on lower Manhattan redevelopment projects and, where practicable, to
20 reduce the emission of pollutants by retrofitting such non-road vehicles with oxidation catalysts,
21 particulate filters, or technology with comparable or better effectiveness.

22 g. A public agency may participate in, sponsor, conduct or administer contracts
23 for a lower Manhattan redevelopment project by acting alone or in collaboration with one or

1 more other public agencies, local development corporations, public service providers, or the port
2 authority of New York and New Jersey. When a public agency acts in collaboration with
3 another entity as authorized by this section, they shall enter into a memorandum of
4 understanding prior to soliciting bids or proposals which shall identify the procurement policies
5 to be followed for the particular project.

6 h. Severability clause. If any clause, sentence, paragraph, section or part of
7 this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment
8 shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation
9 to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in
10 which such judgment shall have been rendered. It is hereby declared to be the intent of the
11 legislature that this act would have been enacted even if such invalid provisions had not been
12 included herein.

13 §5. Effective date. This act shall take effect immediately.