

## **MEMORANDUM IN SUPPORT**

### **LEGISLATIVE REFERENCE**

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

### **SUMMARY OF PROVISIONS**

Section One designates the law as the “Coordinated Construction Act for lower Manhattan”.

Section Two states the legislative finding that the city and state of New York have a compelling interest in the quick, safe, fair and cost effective redevelopment of lower Manhattan, the area of New York City that suffered most grievously from the attack on the World Trade Center on September 11, 2001.

Section Three defines the agencies, the area, and the projects covered by the act.

Paragraph a defines the covered agencies as all State and New York City agencies and all public benefit corporations, public authorities and the school district of the City of New York.

Paragraph b defines the boundaries of lower Manhattan for the purpose of this Act.

Paragraph c defines the lower Manhattan redevelopment projects as those projects that are certified before January 1, 2014 as in lower Manhattan or as benefiting lower Manhattan and funded wholly or in part by the federal appropriations to facilitate recovery from and response to terrorist acts.

Paragraph d defines the scope of work entailed in projects.

Paragraph e defines public service providers.

Section Four contains provisions that will permit speed and fairness in the issuance of contracts for lower Manhattan redevelopment projects.

Paragraph a allows public agencies awarding contracts for lower Manhattan redevelopment to pre-qualify bidders, and establishes the criteria that will be used to pre-qualify. Such criteria include ability to handle particular types of complex work, financial capacity, compliance with labor standards, history of maintaining labor harmony, and compliance with equal employment requirements. It also requires that no fewer than five bidders be on each list and requires annual advertising to create the lists of pre-qualified bidders.

Paragraph b requires that contracts for all lower Manhattan redevelopment projects costing more than one million dollars include apprenticeship agreements that have been registered and approved by the State Department of Labor.

Paragraph c requires that all contracts awarded pursuant to this Act for lower Manhattan redevelopment projects follow the existing State law (Article 15-A of the Executive Law) in establishing procedures to ensure the participation of certified minority and women-owned businesses.

Paragraph d authorizes public agencies to include within a contract for a lower Manhattan redevelopment project any work to be done on non-publicly owned energy, telecommunications or other privately owned facilities that are located within or adjacent to the project construction area if the public agency deems it necessary or desirable to include such work for the successful completion of the project. The cost of such work shall not be assumed by the public agency except as otherwise provided by Chapter 357 of the Laws of 1988.

Paragraph e authorizes public agencies to secure any surety bond or insurance contracts that any contractor or subcontractor could obtain. Notwithstanding section 25 (2-c) of the Worker's Compensation Law, alternate dispute resolutions can be used until January 1, 2014 for any lower Manhattan project for which a public agency procures a surety bond or insurance contract

Paragraph f mandates that public agencies require contractors and subcontractors to use only low sulfur fuel to power diesel-powered non road vehicles with engine horsepower rating of 60 HP and above on any lower Manhattan redevelopment projects and, where practicable, to reduce pollution emissions by retrofitting such vehicles with pollution control technology.

Paragraph g authorizes public agencies to act individually or jointly to effectuate contracts for lower Manhattan redevelopment projects with other public agencies, local development corporations, public service providers, or the Port Authority of New York and New Jersey. Before soliciting bids or proposals, public agencies that collaborate on projects pursuant to this authority must enter into a memorandum of understanding that identifies the procurement policies that will be followed.

Paragraph h includes a severability clause for any provision found to be unconstitutional.

Section 5 provides that the act would become effective immediately.

## **REASONS FOR SUPPORT**

The city and state of New York have a compelling interest in the redevelopment of lower Manhattan, the area of New York City south of Houston Street, which suffered most grievously from the attack on the World Trade Center on September 11, 2001. In response to the damage caused by the attack, the federal government has thus far committed approximately \$6 billion over a 10-year period for projects in lower Manhattan to improve infrastructure and transportation systems, create new residential neighborhoods and commercial development

opportunities, and develop public spaces such as parks and cultural centers. The compelling interest in lower Manhattan's redevelopment requires that these federal funds, and any funds committed to lower Manhattan by the State and local governments, be invested wisely. This will require the public and private organizations involved in the redevelopment to coordinate their efforts to construct the projects quickly, safely, fairly, and cost effectively. The coordinated effort will encourage private sector firms now located in lower Manhattan to remain, and stimulate much-needed private sector investment in the area.

Some of the existing restrictions on the procurement activities of city and state public agencies will prevent a coordinated investment of public funds. If left unmodified, these restrictions will delay the economic revival of lower Manhattan and inhibit its contribution to the economies of the city, region, and state at a time when speed and the economic contribution are most needed. The bill exempts public agencies in the city and state from some procurement restrictions for publicly-funded projects while also assuring competitive processes that will secure the best work at the lowest possible cost in a timely and safe manner.

Before the September 11, 2001 attack on the World Trade Center, lower Manhattan was the third largest business district in the nation, accounting for more than \$114 billion in economic output and about 15 percent of New York City's tax revenues. An extensive public transportation network, including subway and train lines, bus routes, and ferry terminals, connected lower Manhattan to the rest of city and region. This lower Manhattan economy had a multiplier effect, particularly on the travel, hotel, restaurant, and real estate industries.

The attack on the World Trade Center took 2,792 lives. Lower Manhattan sustained economic losses of more than \$80 billion, including the loss of infrastructure, utilities, 100,000 jobs, 14 million square feet of office space, and half a million square feet of retail space. Despite federal aid, insurance proceeds, and other forms of reimbursement, lower Manhattan will sustain a net loss of at least \$16 billion and approximately 60,000 jobs. These losses, traced directly to the World Trade Center attack, significantly compounded the effect of the national economic downturn on lower Manhattan. Since reaching a peak in the summer of 2000, the securities industry—the dominant force in lower Manhattan's economy—has seen a 70 percent decline in earnings. Vacancy rates for the office space that remains in lower Manhattan have grown at the fastest rate in the city, reaching 13.3 percent—and nearly 17 percent for Class A space—in the first quarter of 2003.

Recent evidence indicates that in the absence of quick and decisive public action to retain the existing companies and attract new ones to the area, these losses will continue and generate a devastating downward spiral. Neither the city nor the state can afford lower Manhattan turning into a ghost town. Public agencies have acted quickly and effectively in many areas, such as restoring the damaged Path and IRT subway lines.

Nevertheless, despite the high vacancy rates and relatively low rents in lower Manhattan, the great majority of the companies that were in the World Trade Center on September 11 have relocated outside the area and 20 percent have relocated outside the city and state. A survey of commercial tenants in lower Manhattan at the end of 2002 found that half were not sure they would renew their leases when they became due, primarily because of

infrastructure-related concerns. One quarter of those who said they would not renew their leases, planned to leave the city and state. More recently, the chief executives of three major corporations cited transportation and infrastructure weaknesses as major problems facing businesses in lower Manhattan and stressed the danger that companies will leave as their leases expire. Moreover, even companies that remain or return to lower Manhattan have concluded that they will need to disperse their operations, keeping a smaller proportion of their workforce in the area. This workforce can be replaced only with private investments to bring in new companies, hotels, stores, and restaurants.

This legislation will strengthen coordination among the public and private sector organizations that will be responsible for the redevelopment of lower Manhattan. The purpose of the coordination is to assure that the redevelopment occurs expeditiously and with a speed that is compatible with safety, labor harmony, and fairness. By saving time, coordination also saves money, thereby assuring that the redevelopment projects will be constructed in the most cost-effective way to maximize the return on public funds.

The public organizations responsible for the redevelopment include New York City and New York State agencies, state and multi-state authorities, and not-for profit corporations, including the New York City Economic Development Corporation, and the lower Manhattan Development Corporation whose jurisdiction is also the area below Houston Street. The private sector organizations include utility companies, construction contractors, building and construction trades, and hoteliers and housing developers. Together the public and private sectors are responsible for multiple projects concentrated in a small geographic area and with little time to accomplish all that is needed.

The legislation promotes coordination among these public and private organizations in two ways. First, it will make uniform the procurement requirements for all public agencies. Currently, one set of rules applies to city agencies, another to state agencies, and still another to each of the public authorities and nonprofit corporations. The legislation provides that all of the public agencies are subject to the same rules in contracting with the construction trades, conducting work with the public utilities, soliciting bids from contractors, ensuring participation by minority and women owned businesses, implementing interagency purchases, and obtaining insurance. Second, the more uniform rules facilitate cooperation or coordination among the public agencies and between them and the private sector organizations. The uniform rules are compatible with the public's interest in competitive processes that secure the best work at the lowest possible cost in a timely manner.

Several of the provisions are designed to directly promote speed while maintaining safety, high quality work, and fairness. In authorizing agencies to solicit bids only from prequalified contractors, the legislation aligns the rules governing city and state agencies and the Metropolitan Transportation Authority with those that govern the Port Authority. Prequalifying bidders will ensure that the critical work of reconstructing lower Manhattan is performed only by high quality firms with a proven track record in completing similar projects safely, harmoniously, and on time. Prequalifying bidders also will ensure that the work is performed only by firms with a demonstrated commitment to diversity in both the workforce and contracting community. The agencies are required to use contractors with approved apprentice

training programs, promoting opportunity as well as high quality work. The legislation also requires the agencies to follow the current requirements of state law in establishing procedures to assure participation of minority and women owned businesses in construction projects in lower Manhattan. State agencies currently must establish goals for participation of certified minority and women owned businesses and, through outreach and monitoring, ensure that contractors make a good faith effort to attain those goals. This provides a uniform set of rules that has been designed and implemented over many years to promote fairness in the public procurement process.

Many of the provisions are designed to directly promote coordination and thereby to assure speed and cost effectiveness. The provision to permit the agencies responsible for infrastructures to include the work of the utilities in their solicitations will permit the city agencies and the utilities to coordinate their work on street reconstruction and repair, eliminating duplication, reducing public inconvenience, promoting speed, and saving costs. Savings can also be achieved through the provisions on insurance, which authorize the agencies to coordinate their procurement of insurance by purchasing one policy to cover multiple projects, thereby saving costs in premiums. The legislation also extends, for lower Manhattan redevelopment projects, the procedures for alternate dispute resolution set forth in state workmen's compensation law through January 1, 2014, when this legislation will expire.

The provisions also encourage cooperative interagency purchasing by specifically authorizing all of the public agencies to enter into cooperative agreements. Current State law authorizes such agreements in part and the legislation clarifies that such agreements are both permissible and to be encouraged. The legislation requires the public agencies to reduce the harmful emissions from the non-road vehicles that will be used in lower Manhattan construction by requiring the use of low sulfur diesel fuel and, where practicable, the retrofitting of such vehicles with state-of-the-art pollution control equipment. Since the state agencies and public authorities have already agreed to these measures, the city agencies will be able to join them in the purchases, thereby fostering environmental safety in a cost effective manner.

The ultimate goal of all of these provisions is for the public and private sectors to bring to the redevelopment of lower Manhattan the same sense of purpose and urgency that they brought to the clean up at the World Trade Center site.