



LMDC
Remember Rebuild Renew

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**CLEANING AND DECONSTRUCTION OF
130 LIBERTY STREET**

ADDENDUM NO. 5

June 24th, 2005

The following shall amend the bid documents for the above-mentioned contract.

ADDENDUM CONTENTS

Part I: General Notes:

1. In addition to the rack and pinion hoist being provided at the Albany Street elevation, LMDC will entertain the Deconstruction Contractor's request for **ONE** additional 2-car rack and pinion Hoist only. Such request must be included with the Technical Approach to be submitted with the Deconstruction Contractor's Bid. Location of proposed additional hoist must be identified in the Technical Approach.
2. **Table of Contents - Part 5. Attachments**
 - a. Add Attachment 14: Coordinated Construction Act for Lower Manhattan.

Part II: Scaffolding Contractor Responses to Pre-Bid Requests for Information - For Reference Only.
(Attached).

Part III: Supplement to Attachment 6: Phase II Variance Approval dated 6/23/05 (Attached).

Part IV: Attachment 14: Coordinated Construction Act dated 7/27/04 (Attached).

Attachments.

End of Addendum.

PART II

Scaffolding Contractor Responses to Pre-Bid Requests for Information

(For Reference Only)

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1. Bid Form, Page 8, identifies price guarantee for 120 (ninety), is guarantee for 90 or 120 Days?

Answer: Price Guarantee for Bids is **120 Days**.

2. Team Structure Schedule, the individual tasks listed in this section can in some instances, be handled by one individual. **Will we be permitted to use one individual to fulfill the responsibilities of several staff positions identified?**

Answer: The Contractor's proposed team structure schedule can contain any number of people that the Contractor believes, and can demonstrate, will be sufficient to complete the job on time, meeting all interim milestones including Final Completion, subject to LMDC approval.

3. Scaffolding Trade Agreement, Contract Assumptions, page A.5-1, #4 identifies no increase in the Lump Sum, by reason of any ACM and/or other Hazardous Materials or the types, locations, or amounts thereof, or any matter pertaining thereto. **Can we assume that no additional testing, or investigation, will be performed to find additional materials?**

Answer: No additional testing will be performed by owner, however the General Conditions have been amended to allow Extra Work for any handling, remediation, removal and/ or disposition of Non-ACM Building component Hazmat (new defined term) if and to the extent that the same will impact the Contractor's Work under this Contract (see Article 2 of the General Conditions). **Can we assume pricing is based only on findings available at this time?**

Answer: Yes, pricing is to reflect findings provided within the Contract Documents.

4. Scaffolding Trade Agreement, Contract Assumptions page A.5-1, #6, identifies that Contractor shall be permitted non-exclusive use of the existing equipment (elevators, etc.) and utilities. **If we elect to repair and maintain elevators are we to assume that we will still be required to "Share" these units?**

Answer: Scaffolding Contractor is responsible to maintain elevator for his use. These costs will not be shared. LMDC will maintain the right to use the elevator.

5. Summary/Scope of Work for Scaffolding contractor, page 1. 1.1 Summary, A, 1.2,C. We are unable to locate section 3 in our document. **Please Advise.**

Answer: This was a formatting error in the document with the numbering. All Required Sections were included as listed.

6. Summary/Scope of Work for Scaffolding Contractor, page 3, para. (f), (g). refers to the removal and disposal of waste generated. It was discussed at the prebid

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meeting that we may be able to leave waste generated at the site. **Please advise as to whether or not we will be permitted to leave waste, generated at the site, within the building?**

Answer: No, Scaffolding Contractor must dispose of waste in accordance with the contract documents.

7. Summary/ Scope of Work for Scaffolding Contractor, page 5, para, (m) refers to securing broken glass and curtain wall repair, as required. **Will we be able to leave broken glass in place, stabilized, within the curtain wall, or will we be required to remove all broken glass from the building?**

Answer: Contractor is responsible to remove all encountered broken glass and seal openings with plywood.

8. Summary/ Scope of Work for Scaffolding Contractor, page 6, item 4. Health & Safety Requirements, second para, identifies numerous agencies that we must comply with for the duration of the work. **Which environmental agency will we anticipate on site to enforce these regulatory requirements? Will the NYCDEP enforce the NYS DOL variance?**

Answer: Enforcement from all Governmental Authorities is anticipated.

9. Summary/ Scope of Work for Scaffolding Contractor, page 10, item 1.7.A Work Restrictions, identifies that work shall be done during Normal Working Hours unless the Contractor requests authorization to Work in the other than Normal Working Hours and such authorization is granted by LMDC. **Will the LMDC grant permission to work other than normal working hours? If yes, to what extent?**

Answer: Contractor to request LMDC approval and describe specific sequence of operations for work during other than Normal Working Hours, 48 hours in advance.

10. Summary/ Scope of Work for Scaffolding contractor, page 11 item 3.1,A,(2.), identifies specific design requirements for tents and the independent platform protection of 150 psf. **Is this requirement for the scaffold enclosure as a whole, or for the 'independent platforms' at the 27th and 14th floors?**

Answer: 150-psf requirement refers to the independent protection platforms at the 27th and 14th floors.

11. Summary/ Scope of Work for Scaffolding contractor, page 12, item 4. Stair Towers, para 3, identifies that where possible install both stair tower and material hoist tower on exterior of scaffolding. While ultimately, ANYTHING is possible, it would be more efficient to install the stairs towers and hoist as close to the

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building as possible. **Will we be able to install the hoist and stairs as close to the building as possible and not outboard of the scaffolding enclosure?**

Answer: Stair towers and Hoist are not required to be located outboard of the scaffolding.

12. Summary/ Scope of Work for Scaffolding Contractor, page 12, item 6(b) "Protection Platforms". The contract documents, aside from 1 150-psf rating, do not identify specific requirements for the protective Platforms to be installed on 14 and 27. **Are there specific design requirements for these platforms available? How far are these platforms required to extend from the surface of the building? Are platforms to be installed horizontally, or at an angle? Are platforms to be constructed around the entire perimeter of the building?**

Answer: Platforms shall be installed to extend the entire width of the scaffold, perpendicular to the building façade (horizontally), and shall be installed throughout the entire perimeter of the scaffolding.

13. Summary/ Scope of Work for Scaffolding Contractor, page 15, item 21 Submittals. This section starts with 'B', continuing with scaffolding requirements. **Where is A? Do we need this?**

Answer: There are 21 subsections to Section A, with Submittals being the 21st subsection. Section A begins on Page 11.

14. Summary/ Scope of Work for Scaffolding Contractor, page 14, item C, identifies that we should design and install scaffold to support the installation and maintenance of exterior air monitoring station and construction and maintenance of exterior Negative Pressure tent Enclosures, including supplemental exterior Monarflex, or equivalent barrier, on the scaffold system. **Are we to assume that we will be required to provide a platform, as well as access, to these locations? Seven, plus an additional four units, per floor, spaced around the perimeter, will require that the majority of the scaffolding around each floor to be planked. Is this the intent?**

Answer: Access and planking to these locations is the responsibility of the Deconstruction Contractor. The design of the scaffold must accommodate testing equipment.

15. Summary/ Scope of Work for Scaffolding contractor, page 15 item C. Because of the installation of a Monarflex enclosure system, the scaffold system shall be subject to wind load and must be designed to accommodate that additional load to the system. **Is it the intent of these documents, to design the entire scaffolding system to withstand wind load?**

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Answer: Scaffold System shall be designed and constructed to accommodate loads, including all expected wind loads per all Legal Requirements, ASCE Bulletin No. 7, and the following additional containment requirements:

Monorflex, or equivalent non-permeable tarping shall **not** be required to be installed on the scaffold system.

Exterior Negative Pressure Tent Enclosures (exterior tents), as described in Annex 6 of the Specifications, shall be constructed (not by the Scaffolding Contractor but by others after completion of scaffold erection) on the scaffold system for the removal of sprayed-on fireproofing that exists exterior to the building on the North and West face of the building. In addition, exterior tents may be required for the removal of aluminum column covers and fascia from the building. **For scaffold design requirements, assume exterior tents installed on the scaffold to be the full depth of the scaffold and have approximate dimensions of fifty feet by ten feet (in either vertical or horizontal orientation) and shall be sealed to the building. No more than two such tents shall be installed on the scaffold system on each face of the building at one time.**

16. Summary/ Scope of Work for Scaffolding Contractor, page 16, item C (5) and (6) identifies air samples be collected. **Whose responsibility is it to perform air monitoring? Asbestos regulations do not allow the Asbestos contractor to perform clearance monitoring. Please advise. What are we monitoring for? Asbestos, COPCs, etc.?**

Answer: Contractor is responsible for OSHA personal monitoring. LMDC will be responsible for 3rd party air monitoring.

17. Summary/ Scope of Work for Scaffolding Contractor, page 17, item 3.3A among other things, identifies cleaning of the roof. After we have cleaned the stone ballast on the roof will we be able to leave that material on the roof for subsequent disposal as normal construction waste?

Answer: **Exterior Building Washdown has been removed from the Scaffolding Contractor's Scope of Work.**

18. Summary /Scope of Work for Scaffolding Contractor, page 17, item 3.3. Relative to the Exterior Building Washdown, how should we deal with the cleaning of the louvers, on the 1st floor, 5th floor and roof top Machine Rooms? How far into the louvers should we clean? Can we seal the louvers from the exterior and leave contaminated louvers protected in place?

Answer: Refer to Question 17.

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19. Summary/ Scope of Work for Scaffolding contractor, page 17, item 3.4 Hoist/ Scaffold tie-ins, C Tie-ins Requiring Small Penetrations through Curtain Wall, the documents are not clear regarding the handling of interior tie-ins for the scaffold system, which must be made to the existing structural steel, within the building. **Will we be required to construct full containment enclosures, with an attached decon, to perform removal of ceilings, ductwork, fireproofing, etc. to gain access to structural steel tie-in points; keeping in mind that these attachment points, because of design requirements, will be required between every column and at every floor, probably totaling over 2000 locations?**

Regulatory requirements identify tents for abatement, but mandate that a remote decon would be required within 10' of the tent enclosure, for the removal >10sf of Asbestos/Asbestos contaminated material. This will ultimately require that at least 1000 decons be constructed. **Is this the intent?**

The work description continues, identifying that tradesmen performing this work must be certified NYSDOL and NYCDEP Asbestos Workers. Elsewhere, in the contract documents, workers are required to have successfully completed a 40 hour HAZWOPER course. **Will HAZWOPER workers be required for all work? Including scaffolding erection?**

Answer: Attachment points that require the Glass Panel or Aluminum Panel removal shall require the use of Negative Pressure Tent Enclosures per the NYSDOL Variance Decision Amendment to File No. 05-0427 approved procedures, as these activities will create a large opening to the exterior.

Attachment points that require the Aluminum Panel removal shall require the use of Interior and Exterior (unless relief from requirement for exterior tent is granted from Regulators based on pilot study) Negative Pressure Tent Enclosures per the NYSDOL Variance Decision Amendment to File No. 05-0427 approved procedures, as these activities will create a large opening to the exterior. For this Scaffold Bid, bidders shall provide on the Bid Form a line item Deduct should the requirement for Exterior Negative Tent Enclosures be eliminated.

Tie-ins requiring small penetrations (less than six inch diameter) per NYSDOL Variance Decision Amendment to File No. 05-0427 do not require the use of exterior tents. The current Variance language does not clearly address the limited incidental disturbance of interior materials to gain access for tie-ins. Our belief is that limited incidental disturbance of materials to gain access for tie-ins will be permitted utilizing appropriate controls including use of a polyethylene drop cloth under the work area, manual removal methods, wetting impacted materials prior to and during removal, the use of HEPA filtered localized ventilation during work, etc. If attachment points are to structural steel or impact the underside of the concrete floor deck, we believe a 1 square foot area of fireproofing may be removed at the attachment point, following the same protocols with addition of

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local ventilation (vacuum) used at the point of removal. A clarification request shall be prepared by TRC and presented to the NYSDOL for approval.

The Base Bid Price shall reflect the bid price for use of interior negative pressure tent enclosures at each tie-in location. Bidders shall additionally provide on the Bid Form a line item Deduct for the elimination of the requirement for Interior Negative Pressure Tent Enclosures for tie-ins requiring small penetrations.

All personnel working on the site will require 2-Hour Asbestos Awareness Training at a minimum. Personnel performing ACM Disturbing activities will require NY State Allied Trades Certification. Personnel performing ACM Removals will require 40-Hour HAZWOPER training and 40 Hour Asbestos Handler Certification from NY State and NY City.

20. General Conditions, page 11, item 7 Compensation for Extra Work identifies that Extra Work is subject to actual net cost in money of the labor and materials required for such Extra Work plus fifteen percent (15%) for such net cost for all overhead, profit and general conditions (including bond and insurance). With General Liability Insurance costs at over 5% and bond costs around 2% this will net an overhead and profit of 8%. Management and oversight for additional work, including accounting for a myriad of materials, required to perform abatement work, could easily absorb this amount, requiring that we perform this work at no profit, or , potentially, a negative profit. If insurance includes worker's comp (Safeway's rate is 29%), and there is nothing in this document to believe that it does not, we will run a negative profit and have to PAY to perform any extra work encountered. **Is this the Intent? Can this be changed, at minimum, to not include bond and insurance costs? Will the Allowances, currently identified in the Bid Form, be subject to these stipulations and requirements?**

Answer: See revisions to Article 7 of the General Conditions included with this addendum. Compensation for Extra Work billed against Allowances will not require Bond and Insurance increases as the allowances are factored into the Lump Sum Amount.

21. General Conditions, page 15, item 8 Payments. **Can frequency of billing be reduced to bi-monthly?**

Answer: No.

22. Documents for review by the LMDC. **Which agencies and authorities, besides the LMDC, URS, and TRC, will review document submissions for this project?**

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Answer: Documents will be submitted to LMDC and its agents and contractors and reviewed by all appropriate Governmental Authorities. Refer to the Contract Documents for submission requirements.

23. Exterior façade cleaning – how should the existing plywood currently used to seal openings in the building be cleaned and treated?

Answer: Refer to Question 17.

24. Exterior façade cleaning – per the DEP Protocol run-off water from the exterior of the building during washing is not permitted. Is the contractor required to collect rain water from the same surfaces during the exterior façade cleaning process?

Answer: Refer to Question 17.

25. In Table 2-1 (Activity Hazard Analysis) of the Project Specific HASP, no mention is made of scaffold erection, therefore, no PPE level is indicated. What level of PPE is required for scaffold erectors?

Answer: Per the LMDC HASP dated June 13, 2005, it is anticipated that exterior scaffold erectors who are on a clean scaffold and do not enter a restricted abatement work area shall be in Level “D” PPE. Individuals inside the building or working in a restricted exterior abatement work area (i.e. netting removal or tie-in activities), shall be in Level “C” PPE. The requirements for these levels of PPE are set forth in the LMDC HASP.

26. Interior abatement was not required to drill holes for a tie-in requiring small penetrations through the curtain wall. In the event that after the contractor has drilled and sealed the holes, the final interior connection points for the scaffold require disturbance or removal of material contaminated with WTC dust where the quantity exceeds 10 square feet on any given floor, will engineering controls be required?

Answer: Refer to Question 19.

27. Project Specific HASP Section 2.6.1 – If air monitoring results indicate that a lesser level of protection would be feasible, would the contractor be allowed to down grade from PAPR to full face or half face respirator during Phase I removal activities?

Answer: Yes for exterior work, Refer to revised HASP Dated 6/13/05.

28. Invitation to Bid, Page 3, all proposals are to be labeled with the LMDC Project Number. What is project number?

Answer: Proposals are not required to have the LMDC project number.

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29. Bid Form. What is the required bid validity: 60 days, Bid Form Page 1, 90 days, 120 days? (Bid Form Page 8).

Answer: Refer to Question 1.

30. Bid Form. Unit prices are subject to negotiations – up until when? (Page 5).

Answer: Unit prices are subject to negotiations prior to Contract execution. Unit Prices will remain in effect for the length of the contract.

31. Bid Form. Do all companies that have previously been approved by LMDC have to resubmit an SBBQ? (Page 7).

Answer: Yes.

32. Team Structure Schedule – does this apply to the Scaffold Contractor? Are we required to submit a team of 17 people or a team that we believe can do the job?

Answer: Refer to Question 2.

33. Trade Agreement. Per the Item 2, Priority of Documents and Item 2, The Work, documents yet to be issued and approved shall become Legal Requirements of the contract. Please confirm that any impact of such documents will fall under the terms per the definition of Excusable Delay, and legal Requirements under General Conditions.

Answer: As provided in Article 12 of the General Conditions and the definition of Excusable Delays in Article 1 of the General Conditions, changes in Legal Requirements after the signing of the Contract resulting in a delay of the Erection Completion Date would be considered an Excusable Delay and, provided Contractor satisfies the requirements of Article 12 as to both documentation and proof of entitlement, would entitle Contractor to an extension of time. The definition of Legal Requirements in Article 1 of the General Conditions includes the Deconstruction Plan and variances issued by Governmental Authorities.

34. Trade Agreement. Under Item 4 Lump Sum and Page 15 of General Conditions, no time commitment for review and payment of invoices is provided. What will be the LMDC's time for review time and time for payment after approval following receipt of application for payment?

Answer: As provided in Article 8 of the General Conditions, five (5) Work Days before submitting its requisition, Contractor shall submit to LMDC a "pencil draft" of such requisition with as much detail as possible and LMDC shall provide Contractor with LMDC's comments to the "pencil draft". Within ten (10) Work Days after submission of the final requisition, LMDC will either approve or

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disapprove (in whole or in part) the requisition. LMDC shall pay Contractor the undisputed sums determined by LMDC to be properly due and payable to Contractor, minus, however, retainage in the amount of five percent (5%) of such sum and minus all prior advances and payments to Contractor or for Contractor's account, within thirty days after LMDC has approved the respective requisition covering such sums.

35. Trade Agreement. Item 6, Time for completion, is given as a date certain. Please confirm that the time for completion will be extended in accordance with delays in awarding the contract.

Answer: No. The Erection Completion Date will be finalized at the time the Contract is signed and extensions of time will be granted only for Excusable Delays and in accordance with Article 12 of the General Conditions.

36. Trade Agreement. Schedule of Values – Annex “2” – Will the Schedule of Values be approved at Contract Signing?

Answer: Yes. .

37. Trade Agreement. Under Contract Assumptions, Annex “5” The Contractor assumes the risk of delays of Governmental Authorities. This is in conflict with Excusable Delays per definitions contained in General Conditions.

Answer: The provisions are not in conflict. The Contractor assumes the risk of such delays, but will be entitled to extensions of time (but no compensation) for Excusable Delays due to delays caused by Governmental Authorities resulting in a delay in the Erection Completion Date and which is unrelated to a failure to perform by Contractor, provided that Contractor satisfies the requirements of Article 12 as to both documentation and proof of entitlement.

38. Trade Agreement. Under contract Assumptions, Items 4 and 5 – use of elevators – elevator operators? Maintenance of elevators? Electrical System maintenance? Please clarify who will be responsible for maintenance of the building electrical systems, plumbing, elevators, and the costs for consumption of electricity and water? If the Contractor is to be responsible, what are the current costs for utilities at 130 Liberty Street.

Answer: LMDC will maintain all utilities with exception of Building elevators. For Elevators refer to Question 4.

39. Trade Agreement. Under Contract Assumptions, Item 9, please confirm that permission from the LMDC to submit any additional variances will not be unreasonably withheld.

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Answer: Contractor must submit an outline for any proposed variances with the Technical Approach at the time of Bid Submission, subject to LMDC Approval. Any such additional variances, shall in no way impact the completion schedule, including review time, rejections, resubmissions, etc. for same. LMDC strongly recommends adhering to the variance in place.

40. Scope of Work Annex 6 Page 1 “Chemicals of Potential Concern” should be “Contaminants of Potential Concern”.

Answer: Yes, all references to “Chemicals of Potential Concern” in the contract documents should be changed to read “Contaminants of Potential Concern”.

41. In Annex 6, within the standard procedures, multiple references are made to using remote decons with the tent enclosures, but in the variance decision, it clearly states that when disturbing 10 square feet of WTC dust, attached decons must be used. Given that all surfaces inside and outside the structure are considered contaminated with WTC dust, it would appear that all tent enclosures would need attached decon units. Please advise.

Answer: Refer to Question 19.

42. Scope of Work Page 4 – Once all or any portion of the Draft Deconstruction Plan is approved by the applicable Government Authorities, the approved portion of the Draft Plan becomes one of the Legal Requirements applicable to this Project. Please confirm that this clause will be governed by the definitions of Legal Requirements and Excusable Delay per General Conditions.

Answer: Refer to Question 33.

43. Under Scope of Work, item C, Scaffold and Hoist Access points – provide at all floors access points – Are these to be built and then sealed? Are the decon corridors to be inside the building or on the scaffold? Would these not cause a potential dead end preventing access to the stair towers if they are located on the scaffold? Schedule B, page 1 indicates that these will be outside the building.

Answer: Scaffolding Contractor will **not** be responsible for providing access points to the building from the scaffold but shall be responsible for access from the Hoist. Hoist Access Vestibules (formerly identified as Asbestos Decontamination Vestibules) shall be installed in the building at every floor. These vestibules will serve as cleaned access points into the building from the hoist at each floor. Each Hoist Access Vestibule shall be the full floor height from the top of slab to bottom of deck, wide as the width of both hoist cars and extend into the Building twenty five (25) feet from the edge of the concrete floor slab. These areas shall be created following the NYSDOL Variance Decision Amendment to File No. 05-0427 approved procedure “Establishing and Releasing a Cleaned Area within the Contaminated Building utilizing Interior Negative

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Pressure Tent Enclosures". Subsequent to removal of the curtain wall creating the opening to the exterior, a properly constructed isolation barrier, including framed plywood, shall be installed along the perimeter of the cleaned Hoist Access Vestibule. Upon removal of the curtain wall, a weather-tight framed ¾" exterior grade plywood operable door with a self closing hinge must be constructed so as to protect the Hoist Access Vestibule from the elements.

44. Scope of Work, Page 4 – All costs to relocate the connection points for the hoist and scaffold required for demolition will be the responsibility of the scaffold contractor? The demolition contractor's plan is not known at this time. The Demolition Contractor should be advised that he is responsible for the as built condition or given copies of the hoist and scaffold drawings for pricing purposes. Please confirm.

Answer: Modifications to connection points (and associated costs) are responsibility of the Deconstruction Contractor.

45. Scope of Work, Page 4 – Alterations: Dismantling and final cleaning of the scaffold will be the responsibility of the demolition contractor. Will the demolition contractor provide the crane service to load the scaffold?

Answer: Scaffold components will be lowered to the ground level by the Deconstruction Contractor. Scaffolding Contractor will be responsible for loading scaffold components and removing from site.

46. Scope of Work Page 4 – Alterations: Why is the scaffold contractor responsible for alterations and dismantling of the hoist? Who is responsible for hoist maintenance and operation? The liability for the hoist appears to be split. Will hoist maintenance be performed during normal hours or overtime hours? Will hoist jump down occur on normal working hours or on overtime hours?

Answer: Deconstruction Contractor is responsible for Maintenance and Operation of the hoist after transfer and acceptance. For purposes of the bid, hoist jump down will occur on non-normal working hours so as not to impact the Deconstruction Contractor, and shall be performed within 48Hour notice to Scaffolding Contractor from Deconstruction Contractor.

47. Scope of Work, Page 5, item h, the deconstruction contractor is responsible for the cleaning and dismantling of the scaffold. Who is responsible for cleaning of the hoist? If so, is it anticipated that the cleaning will have to be done by Asbestos Workers?

Answer: Scaffolding Contractor shall clean and dismantle the hoist. Personnel performing this work do not require Asbestos Certification..

48. What are Specifications Volume I and II? (SOW Page 5).

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Answer: Volumes I and II are not part of this Contract. Delete all references to Volumes I and II.

49. Scope of Work, Page 6 – Any and all associated costs for after hours work, including Owner’s and Stewards, Inspectors, etc. will be borne by the Scaffolding Contractor. Since overtime work is expected to achieve the schedule, please provide a schedule of costs for Owner and Owner’s Authorized Representatives expenses that will apply to overtime work.

Answer: LMDC will be responsible for overtime costs associated with Owner and Owner’s Authorized Representatives. Scaffold Contractor will be responsible for all others.

50. Scope of Work, Page 7 – Contractor is responsible for MTA Influence Line Plan. MTA will not approve plan without an environmental plan. Will LMDC submit and be responsible for Environmental Plan? Who will be responsible for air monitoring around the vents as previously requested by MTA.

Answer: Environmental plan has been prepared by LMDC and is in place. Scaffolding Contractor is responsible for providing MTA Influence Line Plan as it relates to the Scope of Work.

51. Item 5, Site Security? Does this requirement include security guards? For what period of time is the Scaffold Contractor responsible for Site Security.

Answer: Scaffolding Contractor is not responsible for Site Security, only security to protect its own Work and storage facilities.

52. Under Other Contracts: LMDC may award separate contracts for Site Security, Decon, Close-in at lower levels, Elevators & Utilities. If they don’t who is responsible?

Answer: LMDC is responsible for Site Security, maintenance of existing Decon, Close-in at lower levels, and Utilities. For Elevator responsibility refer to Question 4.

53. Under Work Restrictions, Item B, Holidays, September 11 to be added.

Answer: Yes.

54. Under Work Restrictions, Work Moratorium – School Testing Days. Please define the number of testing days and what limits will be imposed.

Answer: Contractor is to assume three (3) testing days when all Work operations will not be allowed.

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55. Item 3.1 Protection, Item A .3b. One Stair Tower per elevation. One opening required per stair tower per elevation. Does this mean you require 190 openings – one per elevation per stair tower, plus one opening per floor for the hoist, for a total 5 per floor times 38 floors 190 openings.

Answer: Refer to Question 43.

56. Item 3.1 Protection, Item A.3g, Daily inspection of scaffold. Will Demolition Contractor take over daily inspections on completion date (31 October 2005)?

Answer: Deconstruction Contractor will be responsible for daily inspections upon transfer and acceptance of scaffold.

57. Electrical Service to Scaffold and for other work. It is not clear who is responsible for lighting of scaffolding, bridges and stair towers. Please clarify.

Answer: Scaffolding Contractor shall provide lighting for stair towers and bridging in accordance with all applicable Specifications, codes and Legal Requirements. Scaffolding Contractor is responsible for providing lighting on scaffolding in order to maintain a safe work environment if performing work at night. Scaffolding Contractor is responsible for maintaining sidewalk bridging lighting until dismantle of sidewalk bridging. Scaffolding Contractor is responsible for maintaining stair tower lighting until transfer to and acceptance of scaffold by Deconstruction Contractor.

58. Are string lights required on the scaffold on every level on all four elevations?

Answer: Refer to Question 57.

59. Item C, Page 16, Once tent enclosure work area preparation has been completed and abatement activities commence on a daily basis and per work shift, one air sample shall be collected within the tent enclosure entrance/ exit and exterior to the tent as required. Who will be responsible for taking the samples?

Answer: Contractor is responsible for OSHA personal monitoring. Scaffolding Contractor is not responsible for 3rd Party Air Monitoring.

60. Item C, Page 16, clearance air sampling will be conducted inside the tent, prior to removal. Who will conduct the clearance air sampling inside the tent, prior to removal? Besides asbestos will the clearance sampling also include the COPC's?

Answer: Refer to Question 59. Clearance will not include COPC's for scaffold related work.

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61. Item B, Page 15, The Lump Sum includes all costs for scaffolding, hoist and Sidewalk Bridging on the project. Please advise if the sidewalk bridging installed under the direction of the LMDC in front of the firehouse on Liberty and Greenwich and extended on the east side of Greenwich Street to Thames, have to be maintained for the duration of the project.

Answer: These sidewalk bridges are outside of the Scaffolding Contractor's Scope of Work.

62. Item D. Page 15, Scaffold, Hoist, and Sidewalk Bridging system to be designed by a New York State Licensed Professional Engineer, meeting all local, State, and Federal Guidelines. Contractor is to be ready for mobilization and preparation for all pre-construction activities including erection of pipe scaffolding, hoist(s), and sidewalk bridging upon Notice to Award. (Require MTA Influence Line Approval). This work will have to be done prior to award and prior to LMDC approval of the Engineer. Please confirm.

Answer: Contractor is required to submit their proposed Professional Engineer at time of Bid submission with SBBQ. LMDC will endeavor to expedite the approval process.

63. Item 3.3 Exterior Building Washdown, Page 17, what is meant by North Face ground level area to be cleaned in accordance with NYCDEP WTC dust/residue & façade cleaning procedure.

Answer: Refer to Question 17.

64. Exterior washing – what about cleaning of damaged louvers? Are they to be removed? What about sealing of opened louvers such as on the 39th floor?

Answer: Refer to Question 17.

65. As a point of clarification, will the ambient air monitoring be performed by others?

Answer: Refer to Question 59.

66. What level of P(P)E will be required for worker protection while working on the scaffold? Will three (3) protective suits be required as previously mandated by the DOL.

Answer: Refer to the environmental requirements of Annex 6 and the Revised HASP dated 6/13/05. Current DOL Variances as attached to the Contract Documents do not require wearing Three (3) protective suits.

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67. Page 5, Specification – Reference to Division 1 Specifications not provided. Will this be provided prior to bidding?

Answer: This was an error in the document which is being clarified as part of this Addendum. See the definition of Specifications in the Trade Agreement..

68. Access to Records, Ownership of Documents, will rights to and ownership of documents transfer to the LMDC on receipt of payment for same.

Answer: At all times, LMDC owns the rights to all Books and Records, as set forth in Article 3 of the General Conditions. This right is not conditioned on payment to Contractor.

69. Page 15, LMDC shall pay Contractor the sum determined to be due by the LMDC. What will be the means by which the LMDC will determine the amounts due to the Contractor?

Answer: LMDC shall determine the amounts due Contractor by reviewing the Contractor's requisitions for compliance with the Contract Documents and by monitoring the Contractor's Work for conformance with the Contract Documents. Refer to Article 8 of the General Conditions.

70. Insurance Requirements, Schedule I, Railroad Protective Insurance is not listed as a requirement. We believe that this will be requirement for MTA approval of influence line. Please confirm.

Answer: If additional insurance coverages were required by the Metropolitan Transit Authority ("MTA") or any other Governmental Authority, this would be considered a Legal Requirement and Contractor would therefore be required to obtain such coverage. Contractor would be responsible for confirming whether railroad protective insurance is required by the MTA for its approval of any of Contractor's plans.

Schedule B

71. Page 1, Does the Professional Engineer have to be pre-approved by LMDC – SBBQ? How long will it take for approval? Are previously submitted and approved SBBQ's still valid?

Answer: Refer to Questions 62 and 31.

72. What does it mean by prepare and level North Plaza at Cellar Level? What about support required for retaining walls that currently exists. Steel frames and mounded up earth?

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Answer: Contractor is not permitted to backfill the North Plaza Area. All references to preparing and leveling the North Plaza elsewhere in the contract documents should be deleted.

73. What Codes apply – NYC DOB or NYSDOL or both?

Answer: All applicable Codes and Legal Requirements apply including those of the City, State and Federal government.

74. Will a partial demolition permit have to be filed if the project comes under NYC DOB. Who will be responsible for filing fees?

Answer: Contractor is responsible for application, filing, signing and sealing of all applicable Permits, including the ACP 7.

75. I can not locate the indemnity provision in the contract.

Answer: Refer to Article 31 of the General Conditions.

76. Is it safe to assume that there will be 10% retainage on this project?

Answer: Retainage for this Contract is 5%. Refer to Article 8 of the General Conditions.

77. Do we have to remove column covers to install hoist and scaffold?

Answer: If the contractor's design includes the removal of column covers for his anchorage, all column covers will need to be removed under a tented ACM procedure. It is recommended that anchorage be designed to avoid removal of the column covers, and/or impacting Column Cover factory installed ACM Caulking.

78. How close to the building face should the scaffold be erected?

Answer: Scaffold is to be erected so that the working platforms are able to provide access to the building façade (all faces including column covers) in a safe and efficient manner and to comply with all applicable Codes and Legal Requirements. Bicycles and planking are to be provided at the working platforms at all faces of the building including column covers, so that the scaffold frame is set back from the building facade.

79. Annex 6 Page 2, 2nd Paragraph. Is mold a responsibility of this contract.

Answer: Mold impacted materials may be encountered within the Building. When mold/fungi are impacted during hoist/scaffold tie-ins, procedures for removal and disposal of impacted materials are addressed concurrently with

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Asbestos Abatement protocols. Required Level "C" PPE provides adequate personnel protection for the Scaffolding Contractor personnel.

80. Annex 6, Page 4, 1C. Please specify the specifications of the Vestibules.

Answer: Refer to Question 43.

81. Annex 6, Page 4, 1D. If the tie locations on our plan are approved, there is no reason for same to (be) relocated. Should we put in an allowance for deconstruction contractors relocation requests? How do we quantify?

Answer: Refer to Question 44.

82. Annex 6, Page 4. What "Alterations to the Hoist" are being anticipated here?

Answer: Relocation of tie-ins to facilitate the Building Deconstruction, and dismantling/ "jump down" of the Hoist.

83. Annex 6, Page 5. Do sidewalks have to remain open to pedestrian traffic? Can SWB be removed and sidewalk closures received for Greenwich and Albany Streets in the interest of safety and structural integrity? Street closures?

Answer: For the purposes of the bid, Contractor should assume that sidewalk/ street closure permits will not be granted.

84. Annex 6, Page 5. What is anticipated/ contemplated by "maintain safety of all building façade components"? What is this contractor's responsibility?

Refer to Question 7.

85. Annex 6, Page 5, 1o. Is there something specific in mind with this paragraph, or is it meant to be an area that value should be attributed to as an allowance?

Answer: No value should be attributed to this paragraph as an allowance.

86. Annex 6, Page 6. How much per hour should be figured for OT?

Answer: Refer to Question 49.

87. Annex 6, Page 6. Who is responsible for after hours work permits and weekend if required? Will these be readily given?

Answer: Contractor is responsible for obtaining all permits. Refer to Annex 6, Page 10, Section 1.7A and Question 49.

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88. Annex 6, Page 7. Is there specific MTA Insurance Requirements? Are they additional to what is specified in insurance documents?

Answer: Refer to Question 70.

89. Trade Agreement, Page 1, 8th Paragraph. Weather must be accounted for, is it an "excusable delay"?

Answer: See definition of Excusable Delay in Article 1 of the General Conditions, particularly items (a) and (b) in such definition.

90. Trade Agreement, Page 1, 9th Paragraph. "All conditions Risk". Please explain how this effects this contract.

Answer: The Contract Documents, particularly Annex "5" to the Trade Agreement and Article 31 of the General Conditions, places upon Contractor the risk of all Project Site conditions in connection with Contractor's scope of Work. If the effect of this language is unclear to you, you should discuss it with your legal counsel.

91. Annex 5, Page 1, item 1. Assumption of risk of excursions/ exceedences. What does this mean to the contract?

Answer: The Contract Documents, particularly Annex "5" to the Trade Agreement and Article 31 of the General Conditions, places upon Contractor the risk of any potential ACM, Hazardous Materials or COPC excursions or exceedences occurring during the Project. If the effect of this language is unclear to you, you should discuss it with your legal counsel.

92. Annex 5, Page 1, item 2. Assumption of risk regulatory agencies. What does this mean to the contract?

Answer: The Contract Documents, particularly Annex "5" to the Trade Agreement and Article 31 of the General Conditions, places upon Contractor the risk of any and all regulatory and other Governmental Authority delays during the Project. If the effect of this language is unclear to you, you should discuss it with your legal counsel.

93. Annex 5, Page 1, item 5. Accepts building condition. Will building accept scaffold loads?

Answer: Contractor is responsible to determine this answer in his engineered design.

94. Annex 5, Page 2, item 8. Accepts Risk of time Delays. How will this be quantified?

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Answer: Article 12 of the General Conditions provides how extensions of time may be granted for time delays. Contractor assumes the risk of costs associated with time delays.

95. Scope of Work Page 5, item 1m. Maintain façade, glass and curtainwall. What if there is a storm?

Answer: Refer to Question 7.

96. Scope of Work Page 7, Items 3 &4. Labor harmony and temp. facilities. How is this to be handled by this contractor?

Answer: Item 3 refers to Contractor's own temporary facilities. Contractor is responsible for maintaining labor harmony on the project.

97. Scope of Work, Page 12, item 9. Lighting on staging areas? By who? Is this only if required?

Answer: Contractor is responsible to provide lighting if required to maintain a safe working environment in accordance with all applicable Specifications, codes and Legal Requirements.

98. Scope of Work Pages 13/14, Item 19. What is by us?

Answer: Scaffolding Contractor is responsible for all requirements of this section.

99. Scope of Work Page 15, Item C. "Other Loads", enclosure loads.

Answer: Question is unclear.

100. What permitting is required?

Answer: Refer to Question 74.

101. Snow removal? What does this contract require?

Answer: Scaffolding Contractor is responsible for snow removal to facilitate his own work. Scaffolding Contractor is not responsible to maintain the site in terms of snow removal.

102. Temporary heat? What does this contract require?

Answer: Scaffolding Contractor is responsible for temporary heat to facilitate his own work.

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103. What is applicable tax on the work of this Contract?

Answer: Refer to Article 4 of the General Conditions.

104. Is weather an excusable delay?

Answer: Refer to Question 89.

105. For needle beam and/ or other connections, can floor be penetrated? Does underside of the slab need to be abated (fireroofing over spray etc.)?

Answer: Refer to Question 19.

106. Can spot abatement for fireproofing be performed without full tenting at columns and floor (less than 10 SF). See 10 of 1 #46, 2 of 3 #11.

Answer: Refer to Question 19.

107. During façade clean-up is all H2O required to be collected and stored off site, or can it be filtered and disposed in an approved drain location?

Answer: Refer to Question 17.

108. Who pays for “independent NYSDOC licensed third Party Air Monitoring Firm with certified workers”?

Answer: Refer to Question 59.

109. Roof Clean-up 1 of 3 #1 allows H2O to be collected, filtered and discharged into the drain/ sewer as applicable, can this be used as method for façade cleaning as well?

Refer to Question 17.

110. Will Owner provide all life safety (stand pipes), electrical/plumbing/ lighting etc. at each floor level to be “tapped into by this contractor?

Answer: Yes.

111. Is there specific MTA insurance required in addition to the insurance specified?

Answer: Refer to Question 70.

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112. Page 4C Vestibules – Please clarify specification of asbestos decontamination vestibule at hoist entry point including wet or dry, size, power & light, negative air, etc?

Answer: Refer to Question 43.

113. Quantify owner's cost for additional hours of work.

Answer: Refer to Question 49.

114. Under what circumstances is schedule allowed to slip ie. Spot abatement variance is not granted, mold is found in drywall enclosures of columns, etc.

Answer: Refer to definition of Excusable Delays in Article 1 of the General Conditions, and refer also to Article 12 of the General Conditions.

115. What does REP/ RFQ (Title) mean?

Answer: Request for Proposal/ Request for Quote.

116. Must the scaffold contractor be the prime?

Answer: Yes, in a non-Joint Venture scenario, the Scaffolding Contractor must be the prime.

117. How far must the platforms at 14 and 27 protrude from the building face?

Answer: Refer to Question 12.

118. Must the scaffolding be designed to support a monorflex enclosure?

Answer: Monorflex enclosures are not anticipated at column enclosure locations. Refer to Question 15.

119. Is the scaffolding to be enclosed in the monorflex and who installs it?

Answer: No. Refer to Question 15.

120. Who installs the Negative Pressure Test Enclosures.

Answer: Refer to Question 19.

121. Schedule B, Page 1. What does "prepare and level north plaza at cellar Level B" mean?

Answer: Refer to Question 72.

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122. Schedule B, Page 2. What does “Temporary Heat as required” mean?

Answer: Refer to Question 102.

123. Schedule B, Page 2. What does snow removal mean?

Answer: Refer to Question 101.

124. Must the prime contractor excavate?

Answer: Refer to Question 72.

125. Please clarify 3.3F – Security Services Requirement.

Answer: Refer to Question 51.

126. After the Scaffold is erected who pays for the guard service.

Answer: Refer to Question 51.

127. Is a fence required around the entire site? How high and what type?

Answer: Refer to Annex 6, 3.1, A. 12 for Fencing Requirements.

128. Is temporary lighting required on scaffold?

Answer: Refer to Question 57.

129. Please supply list of bidders.

Answer: Refer to Pre-Bid Conference Sign-In Sheet attached to this addendum and also posted on the LMDC Website.

130. How many access points must be made into the building?

Answer: Refer to Question 43.

131. Any alteration to the scaffold should be made by the scaffold contractor Not the deconstruction contractor.

Answer: Refer to Question 44.

132. Can the existing nets be removed using hung rigs?

Answer: No.

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133. Is the owner (LMDC) installing and providing the lighting for the stair towers?

Answer: Refer to Question 57.

134. Are top rails, mid rails and toe boards required inside and outside of scaffold?
And only on the nine planked levels?

Answer: All applicable Specifications, codes and Legal Requirements must be adhered to, including OSHA requirements for fall protection at the nine planked levels.

135. Are sidearms required?

Answer: Refer to Question 78.

136. Why should contractor assume the risk of all regulatory and governmental delays?

Answer: This is an essential element of the contract for which LMDC is seeking proposals.

137. What are the costs of existing utilities?

Answer: Refer to Question 38.

138. What would be any overtime costs be for the owners and owners reps?

Answer: Refer to Question 49.

139. Why does the deconstruction contractor have the right to direct our work.

Answer: Only in terms of Hoist breakdown and removal of scaffold from site. Refer to Question 46 and revised Annex 6 provided with this addendum. All other references in the Contract Documents in terms of the Scaffolding Contractor being Subordinate to the Deconstruction Contractor are hereby deleted.

140. How is this job going to be funded? No surety will entertain a bond or provide insurance without written confirmation.

Answer: This is in Section I (General Information) of the Invitation to Bid.

141. Who is the interim arbitrator specified in the contract?

Answer: See definition of "Interim Arbitrator" in Article 1 of the General Conditions.

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142. It appears that encapsulation is not for the entire building but only the upper floors, why? With the amount of asbestos and mold what makes LMDC think that these pollutants would not escape on the open floors especially when the deconstruction contractor is on the site?

Answer: Refer to Question 19.

143. How is the water to be contained when the building is washed? Obviously, since September 11, there have been many rainfalls, how were the rain runoffs contained?

Answer: Refer to Question 17.

144. Who provides the fire protection and site safety?

Answer: Scaffolding Contractor is responsible for fire protection and site safety as it relates to its Work in accordance with the HASP, EAP, and all applicable codes and Legal Requirements.

145. If the hoist is damaged during demolition who pays for the repairs?

Answer: Refer to Question 46.

146. Annex 6, Page 6, item 2 "Contract Assumptions", sub-item 2 indicates that all work is to take place during normal working hours and that any and all associated costs for after hours work are the responsibility of the contractor. In order to meet the project schedule, additional work hours may be required. Please provide a value on a per hour basis for off hours, weekend and holiday time for additional costs to be borne by the contractor.

Answer: Refer to Question 49.

147. Will Owner provide all electrical, plumbing and fire standpipe utility service to each level of work for tapping into by contractor? Who will pay for utility cost usage?

Answer: Refer to Question 38.

148. What protocol has been established to perform spot abatement of the fireproofing material located on the existing columns, so that tie-ins for scaffolding can be attached? Is tent containment required for the removal of fireproofing that is less than 10 square feet at a single location?

Answer: Refer to Question 19.

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149. Can water from wash down operations be collected, filtered and disposed of in a sanitary drain, or does the water have to be collected for off-site disposal?

Answer: Refer to Question 17.

150. Can the sequencing of events be altered to meet Contractor's needs (i.e. remove netting, wash down building elevation, perform tie-in operations, erect scaffolding, etc.)?

Answer: Refer to Questions 17 and 132.

151. For needle beams and/ or other connections, can existing floor slab assembly be penetrated? If abatement of underside of slab assembly is required, is there a protocol to execute this work?

Answer: Refer to Question 19.

152. Is there a restriction as to how many holes (<6") can be drilled into curtain wall at a single scaffolding tie-in location without interior or exterior tent containments?

Answer: Although there is no current restriction, the intent is to minimize the amount of penetrations, in order to facilitate and maximize efficiency of the deconstruction process.

153. Provide requirements for the decontamination Vestibules that are to be constructed on every floor at the hoist or other entry points. Specifically provide the following –a) size and configuration of the vestibule; b)negative pressurization required?; c)Can these facilities be turned over to the Deconstruction Contractor after scaffolding erection is completed.

Answer: Refer to Question 43.

154. Will the existing decontamination facilities be available for contractor's use? If these facilities are available for contractor's use, will their location and configuration qualify as a remote Decon in accordance with the regulations?

Answer: Yes

155. If additional site specific variances are required above and beyond those obtained by June 23, 2005, what is the protocol and who is responsible to obtain subsequent variances and/ or amended variances? If subsequent variances affects project schedule what is protocol for amending schedule?

Answer: No additional variances are anticipated. Refer to the definition of Excusable Delays in the General Conditions and also refer to Article 12 of the General Conditions.

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156. Are existing emergency egress stairs and pathway to building exterior intact with operable lighting, doors and hardware? Who maintains these areas? If maintained by Contractor, when does maintenance period end?

Answer: LMDC will maintain until transfer to Deconstruction Contractor.

157. Are joint ventures allowed?

Answer: Yes, maximum of two entities, one must be a Scaffolding Contractor, and the other must be an Asbestos Abatement Contractor. ..

158. Existing sidewalk bridging, how is it moved or altered?

Answer: LMDC is responsible for removal of existing Sidewalk Bridging if necessitated by the Contractor's Scaffolding Plan, that shall be submitted with the Technical Approach with the Bid submission, subject to LMDC approval.

159. Is the site visit building walk thru scheduled for Monday June 13, 2005 mandatory?

Answer: No, only the June 8th pre-bid meeting was mandatory.

PART III

Supplement to Attachment 6:

Phase II Variance Approval dated 6/23/05

STATE OF NEW YORK
DEPARTMENT OF LABOR
STATE OFFICE BUILDING CAMPUS
ALBANY, NEW YORK 12240-0100

Variance Petition

of

TRC Environmental Corporation

On Behalf of

Lower Manhattan Development Corporation

Petitioner

in re

Premises: Vacant High Rise Office Building
130 Liberty Street
New York, New York

**Phase II Rooftop Non-friable ACM Transite
and Caulking Removals**

File No. 05-0813

DECISION

Cases 1- 8

ICR 56

The Petitioner, pursuant to Section 30 of the Labor Law, having filed Petition No. 05-0813 on June 13, 2005 with the Commissioner of Labor for a variance from the provisions of Industrial Code Rule 56 as hereinafter cited on the grounds that there are practical difficulties or unnecessary hardship in carrying out the provisions of said Rule; and the Commissioner of Labor having reviewed the submission of the petitioner dated June 10, 2005; and

Upon considering the merits of the alleged practical difficulties or unnecessary hardship and upon the record herein, the Commissioner of Labor does hereby take the following actions:

Case No. 1	ICR 56-6.1
Case No. 2	ICR 56-8.1(j)
Case No. 3	ICR 56-8.1(k1-k5)
Case No. 4	ICR 56-9.1(a)
Case No. 5	ICR 56-10.1(a)
Case No. 6	ICR 56-11.1(b)
Case No. 7	ICR 56-12.1(c)
Case No. 8	ICR 56-15.2(c-e)

VARIANCE GRANTED. The Petitioner's proposal for rooftop removal of 20,000 sq. ft. non-friable ACM transite panels from the cooling tower, and 100 lin. ft. non-friable ACM caulking from rooftop penthouse windows and exhaust fan penetrations at the subject premises in accordance with the attached 3-page stamped copy of the Petitioner's marked-up submittals, is accepted; subject to the Conditions noted below:

THE CONDITIONS

1. Prior to commencement of "Phase II Rooftop Exterior Abatement and Structural Deconstruction" asbestos project work, revised plans for Phase II of the project shall be submitted to all pertinent federal, state and local regulatory agencies, and all necessary approvals obtained.
2. For Phase II rooftop exterior regulated abatement work areas, all proposed air monitoring for contaminants other than asbestos must be submitted to the appropriate regulatory agency for their review and approval, prior to the commencement of any phase II work. The Department will not grant or deny approval for any proposed non-asbestos contaminant air monitoring procedures.
3. All rooftop Phase I WTC dust/residue cleanup shall be completed as per the provisions of Site-Specific Variance decision #05-0427, prior to commencement of the Phase II rooftop asbestos project.

Remote Personal and Waste Decontamination Units

4. A personal decontamination enclosure system that complies with Subpart 56-9 shall be utilized. An attached waste/equipment decontamination area as per the petitioner's proposal shall also be utilized. The personal decontamination enclosure system can be remote, but must be located on the rooftop that is subject to abatement. These enclosure systems shall

be removed only after satisfactory clearance air monitoring results have been achieved or the abatement project is complete. The walkway from the regulated abatement work area to the personal decontamination system or next work area shall have a cleared pathway. This walkway must be restricted to certified personnel access only.

5. If remote decontamination unit(s) are to be used, workers shall don two (2) suits, as described in ICR 56-4.1(d). Each regulated abatement work area and each exit from a contaminated area to an uncontaminated area, to be utilized for transfer of personnel and waste, shall have an attached air lock which serves as a changing chamber, where workers shall remove their outer suit, wipe off their inner suit and don a clean outer suit prior to proceeding to another work area or to the remote decontamination unit over a walk way as defined above.
6. If remote decontamination units are to be used, an airlock as defined in Subpart 56-1.4(e) of this Code Rule shall be constructed at the entrance to each regulated abatement work area, and shall be large enough to serve as a changing area. This area shall not be used as waste decontamination area or a waste storage area.
7. The regulated abatement work areas, decontamination units, airlocks, and rooftop waste staging/consolidation areas shall be cordoned off at a distance of twenty-five feet (25') or the roof edge, whichever is closer, and shall remain vacated except for certified workers until satisfactory clearance air monitoring results have been achieved or the abatement project is complete. These areas shall have Signage posted in accordance with Subpart 56-8.1(b) of this Code Rule.

Rooftop Non-friable Transite and Caulking Removals (Outdoors):

8. Caulking and transite can either be removed within tents or removed as part of a larger work area. Removals without tents will require plasticizing or sealing of nearby windows and openings, floor (rooftop) plastic sheeting, and other operational safeguards as outlined below.
9. For larger work area removals, any operable windows or openings to the building at the work level within twenty-five feet of the immediate work area shall be plasticized with 2 layers of 6 mil fire retardant polyethylene sheeting. The windows can be plasticized outdoors or for reasons of safety, from the indoors. Window, door, louver and fan units subject to ACM removals, must have their openings plasticized at the interior of the building. Windows that are fixed or non-operable, and will remain sealed airtight for the duration of abatement activities, will not require installation of isolation barriers.

10. (Applies if tents are not used.) Under areas where caulking and transite is removed without tents, floor (rooftop) 6 mil fire retardant plastic sheeting, shall be placed on the rooftop below the ACM subject to removal to prevent spread of any ACM remnants. This dropcloth shall be a minimum of 10 feet wide with an additional 10-ft. of width for every floor above the rooftop level where removal work will take place, up to a maximum of 30 feet or the roof edge, whichever is closer. In addition, if a straight scaffolding, man-lift, swing scaffolding or similar equipment is used for areas above the rooftop, the lift/scaffolding unit shall be plasticized with two layers of 6 mil fire retardant polyethylene on the platform proper with plastic sheeting extended vertically to waist-high (as so equipped) guardrail sides and back of the lift unit. While the platform/lift walking surfaces must be plasticized, the Contractor must provide proper traction surfaces or equipment to assure the safety and comfort of abatement workers while performing abatement activities on the lift/scaffold equipment. After caulking and transite is removed from each work location, the platform and plasticized surfaces toward the building shall be wet wiped and/or HEPA vacuumed clean before reuse. The plasticizing on the lift or scaffolding shall be periodically inspected during use and repaired as needed.
11. The Immediate work area shall be considered to be the rooftop area from which the asbestos containing caulking and transite materials are actively being removed. The immediate work area shall extend out from the base of the penthouse or cooling tower and shall encompass all areas utilized for staging, waste packaging/consolidation, removal and cleaning operations. The exterior regulated abatement work area shall extend out from the immediate work area ten feet (10') horizontally in all directions, or to the roof edge, whichever is closer. This area shall remain vacated except for certified workers until final approval of the project monitor or satisfactory clearance air monitoring results have been achieved. This area will be posted with signs and barrier tape in accordance with NYCRR 56 and 29 CFR 1926.1101.
12. Residual caulking will be wet scraped and HEPA vacuumed. Materials removed shall be containerized or immediately wrapped in two layers of 6 mil, fire retardant plastic sheeting and secured air tight prior to transport to the rooftop waste packaging/consolidation area.
13. (Applies if tents are not used.) Under areas where caulking is to be removed without tents, whenever possible an asbestos worker with a HEPA vacuum will position the vacuum hose within four (4) inches of the material being removed to capture small pieces of asbestos caulking and asbestos fines. The hose end will be positioned so, as that as much smaller pieces of caulking as possible will fall into the vacuum hose end. Larger pieces of caulking should be immediately bagged or containerized.

14. Asbestos containing materials will not be allowed to accumulate on the plastic sheeting.
15. The area shall be thoroughly cleaned and all remaining plastic sheeting/tape removed, then an authorized and qualified individual; independent of the removal Contractor, (i.e.: the Project Monitor; Design Engineer; or other representative of the Owner), shall determine if the area is dry and free of all visible asbestos debris/residue. If the area is determined to be acceptable, this qualified individual may authorize clearance air sampling to be performed.
16. For rooftop regulated abatement work areas, air monitoring requirements of ICR 56-17 apply, as well as additional inside work area abatement air monitoring as per the petitioner's proposal.
17. Usage of this variance is limited to those asbestos removals identified in this variance or as outlined in the Petitioner's proposal.

In addition to the conditions required by the above specific variances, the Petitioner shall also comply with the following general conditions:

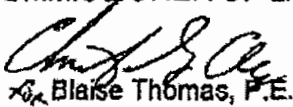
GENERAL CONDITIONS

1. A copy of this DECISION and the Petitioner's proposals shall be conspicuously displayed at the entrance to the personal decontamination enclosure.
2. This DECISION shall apply only to the removal of asbestos-containing materials and WTC dust/residue from the aforementioned areas of the subject premises.
3. The Petitioner shall comply with all other applicable provisions of Industrial Code Rule 56-1 through 56-18.
4. The Department reserves the right to issue reopenings and/or amendments to this DECISION, based upon additional information submitted by the petitioner or site conditions observed by enforcement personnel.

5. The final say as to interpretation of this variance rest solely with the NYS Dept of Labor Engineering Services Unit. Any deviation from variance conditions shall render this variance Null and Void pursuant to 56-18.2.
6. Prior to commencement of "Phase I Pre-demolition Cleaning and Abatement" asbestos project work, revised plans for Phase I of the project shall be submitted to all pertinent federal, state and local regulatory agencies, and all necessary approvals obtained.
7. This DECISION shall terminate on June 30, 2007.

Date: June 23, 2005

By

LINDA ANGELLO
COMMISSIONER OF LABOR

Blaise Thomas, P.E.
Associate Safety and Health Engineer

PREPARED BY: Christopher G. Alonge, P.E.
Senior Safety and Health Engineer

REVIEWED BY: Blaise Thomas, P.E.
Associate Safety and Health Engineer

130 LIBERTY STREET, NEW YORK, . . .
Roofrop *EX 6/21/05* REQUEST FOR VARIANCE

05 08 13

PHASE II: EXTERIOR ABATEMENT AND STRUCTURAL DECONSTRUCTION

NATURE OF THE WORK *Roofrop* *EX 6/21/05*

The proposed Phase II Exterior Abatement will be conducted so that the Building can be safely deconstructed to allow for redevelopment of the WTC Site. This Phase of the project entails removal of exterior building materials containing asbestos which were present on the Building exterior prior to September 11, 2001. This variance request addresses materials specific to Phase II of the deconstruction, however work may be performed concurrently with Phase I work as addressed in previous Variance File No. 05-0427. *Roofrop* *EX 6/21/05*

**SEE VARIANCE CONDITIONS* *EX 6/21/05*

REASON FOR REQUESTING A VARIANCE

LMDC, its consultants and its contractor are committed to compliance with applicable law throughout the cleaning and deconstruction of the Building. Accordingly, the Request for Variance is intended to comply with applicable federal, state and local law. It is the goal of LMDC, its consultants, and its contractor to conduct the proposed abatement in a manner which (i) will not expose the general public to asbestos, (ii) will minimize worker exposure to asbestos through the use of appropriate controls and personal protective equipment, (iii) will minimize adverse impacts of the project on the adjacent community, (iv) will address the practical operational opportunities and challenges presented by the Building and the Building conditions, and (v) will prepare the Building for deconstruction.

PROPOSED EXEMPTIONS

We request exemption from the following sections of Title 12 NYCRR Part 56, also known as Industrial Code Rule ("ICR") 56:

56- 6.1 Ventilation;

56- 8.1(f), (k)(1-5) Isolation Barriers;

56- 9.1 (a) - Attached Personal Decontamination Enclosure System;

56- 10.1 (a) - Attached Waste Decontamination Enclosure System;

56- 11.1 (b) - Pre-abatement Settling Period;

56-12.1 (c) - Handling

56- 15.2(c-e) - Post-abatement Requirements

Exemption from these subsections is requested based on the following:

- a. The subject facility is a vacant 40 floor high-rise office building in lower Manhattan scheduled for deconstruction.
- b. This exterior abatement work will be coordinated with the building deconstruction.
- c. Exterior building materials containing asbestos which were present in the Building prior to September 11, 2001 (referred to herein as "ACBM") are non-friable and will be removed manually utilizing wet methods. *EX 6/21/05*
- d. HEPA filtered local exhaust ventilation, as required by Industrial Code Rule 56-7.1(j), shall be utilized.
- e. All openings within twenty-five feet of the active abatement area (including, but not limited to windows, doors, ducts and grilles) on the roof level shall be sealed with two (2) layers of at least six mil fire retardant polyethylene sheeting ("poly").
- f. A personal decontamination enclosure system "remote" from the work area but otherwise compliant with Subpart 56-9, shall be utilized.
- g. A waste decontamination enclosure system "remote" from the work area but otherwise compliant with Subpart 56-10, shall be utilized.
- h. Exterior work will not be performed within a negative pressure enclosure.

130 LIBERTY STREET, NEW YORK, . . .

REQUEST FOR VARIANCE

PHASE II: EXTERIOR ABATEMENT AND STRUCTURAL DECONSTRUCTION

05 08 18

I. ROOFTOP COOLING TOWER TRANSITE AND CAULKING MATERIALS

* SEE VARIANCE CONDITIONS *CM 6/2/05*

1. The work area shall be cordoned off with barrier tape or line and shall be accessible through only one entrance/exit. The asbestos work area shall extend beyond the active abatement area to the roof edge or a maximum distance of twenty five (25) feet, whichever is less.
2. We propose that in areas where these distances are not attainable due to obstructions (equipment, structural components) an orange construction fence shall be erected at the furthest point achievable to demarcate the work area.
3. The work area below the materials to be removed shall be plasticized using ~~a drop cloth consisting~~ *TWO LAYERS* of six mil fire retardant poly. The poly shall extend outward from below the active abatement area at least ten feet, ~~where possible.~~ *CM 6/2/05*
4. The area surrounding the cooling tower and roof top penthouse from which transite or caulking is to be removed shall be plasticized using two layers of at least six mil poly. That poly shall extend outward on the surface of the rooftop from the perimeter of the structure for a distance of at least ~~six~~ *TEN (10)* feet. *CM 6/2/05*
5. Uncertified persons shall not be permitted within the work area. The vacating of each work area and warning signs shall comply with ICR 56-8.1(b).
6. All openings (including, but not limited to windows, doors, ducts, and grilles) on the roof level within twenty-five (25) feet of the active abatement area shall be sealed with two (2) layers of at least six mil poly. *CM 6/2/05*
7. The transite and caulking materials shall be removed using manual ~~methods~~ *NET* whenever possible. HEPA filtered local exhaust ventilation shall be utilized, as required by Industrial Code Rule 56-7.1(j), whenever ~~removal of ACM~~ *UNFASTENING OF INTACT* requires the use of power tools. *CM 6/2/05*
8. Precautions shall include, but not be limited to, the use of amended water to adequately wet the transite panels and the use of controlled methods to lower the panels. The transite panels shall be transferred to a waste consolidation area for packaging prior to being lowered to ground level for placement into a transportation container. Properly packaged and labeled waste will be transferred from the ground level staging area to the transport container. *ROOFTOP CM 6/2/05*
9. Caulking shall be wetted with amended water during removal and immediately placed in asbestos disposal bags of at least six mil poly and sealed airtight.
10. Personal protective equipment as required by Industrial Code Rule 56-4.1(d) shall be provided and used by all personnel within the work area.
11. A personal decontamination enclosure system "remote" from the work area but otherwise compliant with Subpart 56-9, shall be utilized. The personal decontamination enclosure shall be removed only after satisfactory clearance air monitoring results have been achieved. *ROOFTOP CM 6/2/05* *CORDONED OFF CM 6/2/05*
12. The Contractor shall establish an equipment area adjacent to the regulated work area for the decontamination of ~~employees and their equipment.~~ This equipment area shall consist of an area covered with an impermeable ~~drop cloth~~ *PLASTIC SHEETING 2* (two layers of six mil poly, at a minimum) on the horizontal *CM 6/2/05*

130 LIBERTY STREET, NEW YORK, - -
REQUEST FOR VARIANCE

05 08 18

PHASE II: EXTERIOR ABATEMENT AND STRUCTURAL DECONSTRUCTION

working surface. The equipment area shall be of sufficient size to accommodate cleaning of equipment and removing the outer disposable personal protective clothing without spreading visible accumulations of contamination beyond the equipment area boundaries. *OK 6/21/05*

- 13. Air sampling and analysis shall be conducted, in each work area, according to the requirements of Subpart 56-17. *Two, OK 6/21/05* ~~An~~ area samples will be taken within ten (10) feet of the work area boundary in an adjacent non work area, for each day of work in that area. *TWO WORKSHIFTS OK 6/21/05*
- 14. In addition to the requirements of Subpart 56-17, air monitoring of the entire work area shall be conducted when abatement activities are being conducted. If air sample results indicate any airborne asbestos fiber concentration(s) at or above 0.01 fibers per cubic centimeter, or the background level, whichever is greater, work shall be stopped immediately, methods shall be altered to reduce the airborne asbestos fiber concentrations(s) to the aforementioned level and work shall not resume until that level is attained.
- 15. If at any time *AIRLOCK (CHANGING CHAMBER) OK 6/21/05* a worker has to pass through an uncontaminated area to access a remote decontamination unit or the next work area, the worker shall don two suits of PPE, remove one suit while in the ~~work area~~, wet wipe the inner suit, don a clean suit and proceed either to the next work area or the decontamination unit.

ROOFTOP
II. NON-FRIABLE EXTERIOR ACM WASTE CONSOLIDATION AREA *PACKAGING OK 6/21/05*

- 1. The Contractor shall establish a *ROOFTOP* waste consolidation area in close proximity to the regulated exterior work area for the preparation and packaging of non-friable waste for transportation and disposal. The *ROOFTOP* waste consolidation area shall consist of an area covered with an impermeable drop cloth (consisting of two layers of six mil poly, at a minimum) on the floor/deck or horizontal working surface. *PACKAGING/ OK 6/21/05*
- 2. The *ROOFTOP* waste consolidation area shall be of sufficient size to accommodate consolidation and packaging of waste. *PACKAGING/ OK 6/21/05*
- 3. The waste consolidation area shall be enclosed with barrier tape at a minimum distance of *TWENTY-FIVE* feet from the edge of the impermeable drop cloth. *OR TO THE ROOF EDGE, WHICHEVER IS LESS OK 6/21/05*
- 4. Prior to being removed from the *ROOFTOP* waste consolidation area, all waste will be wrapped in two layers of 6-mil poly, sealed leak tight. *PACKAGING/ OK 6/21/05*
- 5. The exterior surface of the properly packaged waste shall be wet-wiped prior to removal from the *ROOFTOP* waste consolidation area. Properly packaged waste will be transported from the waste consolidation area directly to the disposal container. *PACKAGING/ OK 6/21/05*

PROJECT SCOPE

Exterior Caulk (Roof Level)	100	LF
Cooling Tower Transite (Roof Level)	20,000	SF

PART IV

Attachment 14:

Coordinated Construction Act for Lower Manhattan dated 7/27/04

McKINNEY'S 2004 SESSION LAW NEWS OF NEW YORK
227th Legislature

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CHAPTER 259
A. 11700
COORDINATED CONSTRUCTION ACT FOR LOWER MANHATTAN

Approved and effective July 27, 2004

AN ACT in relation to enacting the Coordinated Construction Act for Lower Manhattan

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. This act shall be known and may be cited as the "Coordinated Construction Act for Lower Manhattan".

§ 2. Legislative findings. The city and state of New York have a compelling interest in the 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.

The legislature recognizes the historic importance of lower Manhattan to the economy of the city, state and region. Lower Manhattan is the third largest business district in the nation. Before the attack, the area accounted for more than \$114 billion in economic output and about 15 percent of the city's tax revenues. On September 11, 2,792 lives were lost, and lower Manhattan sustained losses of more than \$80 billion. The economic losses have continued in the ensuing years. The legislature recognizes that decisive action is needed to prevent these losses from generating a devastating downward spiral and to assure that lower Manhattan retains and even enhances its position as a vital contributor to the economy of the city, state, and region.

In response to the damage caused by the attack, the federal government thus far

has committed approximately \$6 billion over a 10-year period for redevelopment projects in lower Manhattan. The public interest will be served by ensuring that these projects, as well as any projects in the area funded by the state and city governments, are constructed quickly, safely, fairly, and cost effectively. Assuring that public funds are spent wisely will, in turn, encourage private sector firms now located in lower Manhattan to remain, and stimulate other firms to invest in the area.

The primary purpose of this legislation in promoting the fast, safe, and fair redevelopment of lower Manhattan is to allow the city to adopt procedures that have been used effectively by state agencies and authorities. These procedures include those that the city now cannot use at all (such as bidding jointly with the utilities and establishing goals for participation of minority and women-owned contractors) and those that the city now can use only under limited circumstances, such as purchasing cooperatively with other agencies. In a few instances, the legislation affects the procedures of state as well as city agencies, allowing them to adopt procedures that have been effective for public benefit corporations such as the Metropolitan Transportation Authority (MTA). The legislation allows the city and state agencies to prequalify bidders under defined criteria including, for projects over \$1 million, having a successful New York state approved apprenticeship program for at least three years.

By allowing city agencies to plan their work with the utilities and establish goals for participation in accordance with article 15-A of the executive law, the legislation will promote speed and fairness, reduce public disruption, and lower costs. By allowing city and state agencies to prequalify bidders on the basis of defined criteria, the legislation will again promote speed but also ensure that it cannot be purchased at the price of quality or safety for workers and community residents. Safety is also enhanced by including in the statute the public agencies' agreement to use ultra-low sulfur diesel fuel, thereby reducing harmful emissions and protecting our environment.

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

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

a. "Public agency" shall mean any agency of the state of New York or the city of New York and the Metropolitan Transportation Authority.

b. "Lower Manhattan" shall mean the area to the south of and within the following lines: a line beginning at a point where the United States pierhead line in the Hudson river as it exists now or may be extended would intersect with the southerly line of West Houston street in the borough of Manhattan extended, thence easterly along the southerly side of West Houston street to the southerly side of Houston

street, thence easterly along the southerly side of Houston street to the southerly side of East Houston street, thence northeasterly along the southerly side of East Houston street to the point where it would intersect with the United States pierhead line in the East river as it exists now or may be extended, including tax lots within or immediately adjacent thereto.

c. "Lower Manhattan redevelopment project" shall mean any project in lower Manhattan that is funded in whole or in part with federal funding, or any project intended to improve transportation between lower Manhattan and the two air terminals in the city of New York known as LaGuardia Airport and John F. Kennedy International Airport, or between lower Manhattan and the air terminal in Newark known as Newark Liberty International Airport, and that is funded in whole or in part with federal funding.

d. "Project" shall include construction and reconstruction, rehabilitation, restoration, and modernization of buildings, structures and monuments and memorials on land or in water, including landfill or any pilings, piers, platforms, or decks, streets, transit facilities, ferry terminals, bikeways, parks and park facilities, telecommunication facilities, parking facilities, system replacements, and landscaping, and in addition, any dredging or filling or other activities related thereto.

§ 4. a. Notwithstanding any general, special or local law or rule or regulation to the contrary, a public agency awarding a contract for a lower Manhattan redevelopment project may establish guidelines governing the qualifications of bidders entering into contracts for a lower Manhattan redevelopment project. If a public agency maintains an appropriate list of qualified bidders, the bidding shall be restricted to those who have qualified prior to the receipt of bids according to standards fixed by the public agency. In determining whether a prospective bidder qualifies for inclusion on a list of pre-qualified bidders, the public agency shall consider the experience and record of performance of the prospective bidder in the particular type of work; as well as (1) the prospective bidder's ability to undertake the particular type and complexity of work; (2) the financial capability, responsibility and reliability of the prospective bidder for this type and complexity of work; (3) the record of the prospective bidder in complying with existing labor standards and maintaining harmonious labor relations; (4) the prospective bidder's compliance with equal employment opportunity requirements and antidiscrimination laws, and commitment to working with minority and women-owned businesses through joint ventures or subcontractor relationships; and (5) the record of the prospective bidder in protecting the health and safety of workers on construction projects and job sites as demonstrated by the prospective bidder's experience modification rate for each of the last three years. In addition to such considerations, for contracts that exceed one million dollars, the public agency shall consider the prospective bidder's commitment to training a skilled workforce through apprenticeship agreements appropriate for the type and scope of work to be performed, that have been registered with and approved by the commissioner of the department of labor, and that have been in successful operation for a period of not

less than three years. Successful operation shall be defined as placement of 75 percent of all graduates in an appropriate trade.

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

Unless otherwise specifically provided in this act, the city of New York shall comply with all the requirements for procurement, including for appeals of agency decisions, that are set forth in chapter 13 of the New York city charter and in the rules of the New York city procurement policy board.

b. Notwithstanding any general, special or local law or rule or regulation to the contrary, for lower Manhattan redevelopment contracts the public agency shall require contractors and subcontractors to have, prior to entering into such contracts, a record of maintaining harmonious labor relations, a commitment to working with minority and women-owned businesses through joint ventures or subcontractor relationships, and a record of protecting the health and safety of workers on construction projects and job sites demonstrated by their experience modification rates for each of the last three years. In addition, for lower Manhattan redevelopment contracts that exceed one million dollars, the public agency shall require contractors and subcontractors to have, prior to entering into such contracts, apprenticeship agreements appropriate for the type and scope of work to be performed, that have been registered with and approved by the commissioner of the department of labor, and that have been in successful operation for a period of not less than three years.

c. Contracts awarded pursuant to this act are contracts subject to the requirements of article 15-A (or its successor) of the executive law. For the award of contracts pursuant to this act, the city of New York shall be considered a state agency under article 15-A (or its successor) of the executive law for purposes of establishing goals for the participation of certified minority and women-owned business enterprises in contracts for lower Manhattan redevelopment projects, as defined in subsections c and d of section 3 of this act and including contracts for the design of projects.

d. Notwithstanding any general, special or local law or rule or regulation to the contrary, to facilitate the timely and cost effective completion of utility work in lower Manhattan, the public agency may include in any contract for a lower Manhattan redevelopment project any work that it deems necessary or desirable for

the completion of such project that requires the maintenance, support, protection or other accommodation of energy, telecommunications or other private facilities or structures not publicly owned which are located within, traversing or adjacent to the construction area of such project, whether above, below or at ground level, including the removal, relocation, alteration, replacement, reconstruction or improvement of such facilities or structures, provided that the costs of work performed pursuant to this paragraph, including any incremental or administrative costs attributable to such work, shall not be borne by such public agency except as otherwise provided by chapter 357 of the laws of 1998. If a public agency includes such work in a contract pursuant to this paragraph, the public agency shall award the contract to the lowest responsible bidder based upon the combined cost of the public work and the utility work and the public agency shall be reimbursed by the entity responsible for the utility work for any incremental cost increase equal to the difference between the cost of the public agency work in the overall low bidder and the cost of the public agency work of the lowest bidder for the public agency work alone. However, if the cost of the public agency work of the lowest bidder for the public agency work alone is more than twenty percent below the average of the next two lowest bids for the public agency work, then the public agency shall award the contract to the lowest responsible bidder for the public agency work alone. In the event that the utility work is not included in the public agency's contract, nothing in this paragraph shall prevent the public agency from including provisions in its contracts requiring contractors to engage in alternate methods of dispute resolution regarding utility work.

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

f. A public agency may participate in, sponsor, conduct or administer contracts for the purchase of goods or supplies necessary for a lower Manhattan redevelopment project by acting alone or in collaboration with one or more other public agencies or the port authority of New York and New Jersey. When a public agency acts in collaboration with another entity as authorized by this section, they shall enter into a memorandum of understanding prior to soliciting bids or proposals, which shall identify which public agency's procurement policies are to be followed for the particular project.

g. A lower Manhattan redevelopment project shall not be subject to the provisions of this act where compliance with the provisions of this act would violate the terms or conditions of any applicable federal law or regulation.

h. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall

not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 5. This act shall take effect immediately.

NY LEGIS 259 (2004)

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Legislative Memorandum relating to Ch. 259
COORDINATED CONSTRUCTION ACT FOR LOWER MANHATTAN

Memorandum of Legislative Representative of City of New York

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

This legislation seeks to revitalize lower Manhattan by strengthening coordination among the public and private sector organizations that will be responsible for redevelopment in order to assure that it 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 legislation promotes coordination among these public and private organizations in several ways.

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. This bill 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 and implementing interagency purchases. These more 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.

In authorizing agencies to solicit bids only from pre-qualified contractors, the legislation aligns the rules governing city and state agencies and the Metropolitan Transportation Authority with those that govern the Port Authority. Pre-qualifying 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. Pre-qualifying 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. Furthermore, the agencies are required to use contractors with approved apprentice training programs, promoting opportunity as well as high quality work.

Another key provision will permit the agencies responsible for infrastructure to institute a joint bidding process. This process will allow for the inclusion of the work of the utilities, where applicable, in bids submitted for a public works project, which will permit city agencies and utilities to coordinate their work on street reconstruction and repair, eliminating duplication, reducing public inconvenience, promoting speed, and saving costs.

The legislation also requires public 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.

Another key provision encourages 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.

Lastly, the legislation requires 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 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 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.

Before the attacks, 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 the City and region. This lower Manhattan economy had a multiplier effect, particularly on the travel, hotel, restaurant, and real estate industries.

As a result of the attacks, 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.

In conclusion, the ultimate goal of this legislation 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. If enacted, the Coordinated Construction Act for Lower Manhattan will help make the redevelopment of this most prominent and symbolic area as seamless as possible.

Accordingly, I respectfully urge approval of this bill which is part of the City's 2004 Legislative Program.

NY LEGIS LEG. MEMO 259 (2004)

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227th Legislature**

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CHAPTER 231

S. 7652

COORDINATED CONSTRUCTION ACT FOR LOWER MANHATTAN--FUEL--TECHNICAL CORRECTIONS

Approved July 27, 2004, effective as provided in section 3

AN ACT to amend a chapter of the laws of 2004, relating to enacting the Coordinated Construction Act for Lower Manhattan, as proposed in legislative bills numbers S. 7626 and A. 11700, in relation to fuel used to power vehicles used on Lower Manhattan redevelopment projects, making technical changes thereto and relating to the effectiveness of the provisions of such chapter

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Subdivisions d and e of section 4 of a chapter of the laws of 2004 relating to enacting the Coordinated Construction Act for Lower Manhattan, as proposed in legislative bills numbers S. 7626 and A. 11700, are amended to read as follows:

d. Notwithstanding any general, special or local law or rule or regulation to the contrary, to facilitate the timely and cost effective completion of utility work in lower Manhattan, the public agency may include in any contract for a lower Manhattan redevelopment project any work that it deems necessary or desirable for the completion of such project that requires the maintenance, support, protection or other accommodation of energy, telecommunications or other private facilities or structures not publicly owned which are located within, traversing or adjacent to the construction area of such project, whether above, below or at ground level, including the removal, relocation, alteration, replacement, reconstruction or improvement of such facilities or structures, provided that the costs of work performed pursuant to this paragraph, including any incremental or administrative costs attributable to such work, shall not be borne by such public agency except as otherwise provided by chapter 357 of the laws of ~~1998~~ 1988. If a public agency

includes such work in a contract pursuant to this paragraph, the public agency shall award the contract to the lowest responsible bidder based upon the combined cost of the public work and the utility work and the public agency shall be reimbursed by the entity responsible for the utility work for any incremental cost increase equal to the difference between the cost of the public agency work in the overall low bidder and the cost of the public agency work of the lowest bidder for the public agency work alone. However, if the cost of the public agency work of the lowest bidder for the public agency work alone is more than twenty percent below the average of the next two lowest bids for the public agency work, then the public agency shall award the contract to the lowest responsible bidder for the public agency work alone. In the event that the utility work is not included in the public agency's contract, nothing in this paragraph shall prevent the public agency from including provisions in its contracts requiring contractors to engage in alternate methods of dispute resolution regarding utility work. Further, nothing in this subdivision is to be deemed to alter, modify, amend, or revoke any of the rules presently existing that govern the responsibility between the Metropolitan Transportation Authority and the public utilities for the payment of any of the costs required for the maintenance, support, protection, or other accommodation of any energy, telecommunication, or other private facilities or structures.

e. Notwithstanding any general, special or local law or rule or regulation to the contrary, a public agency shall require contractors and subcontractors to use only ultra-low sulfur diesel fuel to power the diesel-powered nonroad vehicles with engine horsepower (HP) rating of 60 50 HP and above used on lower Manhattan redevelopment projects and, ~~where practicable,~~ to reduce the emission of pollutants by requiring retrofitting such nonroad vehicles with oxidation catalysts, particulate filters, or technology ~~with comparable or better effectiveness,~~ that achieves lowest particulate matter emissions. For purposes of this subdivision, the following terms shall have the following meanings:

(1) "Ultra-low sulfur diesel fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.

(2) "Nonroad engine" means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 7411 or section 7521 of title 42 of the United States code, except that this term shall apply to internal combustion engines used to power generators, compressors or similar equipment used in any construction program or project.

(3) "Nonroad vehicle" means a vehicle that is powered by a nonroad engine, fifty horsepower and greater, and that is not a motor vehicle or a vehicle used solely for competition, which shall include, but not be limited to, excavators, backhoes, cranes, compressors, generators, bulldozers and similar equipment.

(4) "Public agency" means:

- (i) any agency of the state of New York or the city of New York;
- (ii) the Metropolitan Transportation Authority; and
- (iii) the Port Authority of New York and New Jersey.

(5) "Lower Manhattan redevelopment project" means any project in lower Manhattan that is funded in whole or in part with federal or state funding, or any project intended to improve transportation between lower Manhattan and the two air terminals in the city of New York known as LaGuardia Airport and John F. Kennedy International Airport, or between lower Manhattan and the air terminal in Newark known as Newark Liberty International Airport, and that is funded in whole or in part with federal funding.

§ 2. Section 5 of a chapter of the laws of 2004 relating to enacting the Coordinated Construction Act for Lower Manhattan, as proposed in legislative bills numbers S. 7626 and A. 11700, is amended to read as follows:

§ 5. This act shall take effect immediately and shall expire and be deemed repealed December 31, 2014.

§ 3. This act shall take effect on the same date as a chapter of the laws of 2004 relating to enacting the Coordinated Construction Act for Lower Manhattan, as proposed in legislative bills numbers S. 7626 and A. 11700, takes effect; provided, however, that subparagraph (iii) of paragraph 4 of subdivision e of section 4 of a chapter of the laws of 2004 relating to enacting the Coordinated Construction Act for Lower Manhattan, as proposed in legislative bills numbers S. 7626 and A. 11700, as added by section one of this act shall take effect upon the enactment into law by the state of New Jersey of legislation having an identical effect with this act, but if the state of New Jersey shall have already enacted such legislation, this act shall take effect immediately; provided, further, that the chairperson of the port authority shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in section one of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law.

NY LEGIS 231 (2004)

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Legislative Memorandum relating to Ch. 231
COORDINATED CONSTRUCTION ACT FOR LOWER MANHATTAN--FUEL--TECHNICAL CORRECTIONS

Memorandum in Support, New York State Senate

BILL NUMBER: S7652

TITLE OF BILL: An act to amend a chapter of the laws of 2004, relating to enacting the Coordinated Construction Act for Lower Manhattan, as proposed in legislative bills numbers S. 7626 and A. 11700, in relation to fuel used to power vehicles used on Lower Manhattan redevelopment projects, making technical changes thereto and relating to the effectiveness of the provisions of such chapter

SUMMARY OF PROVISIONS:

This bill makes technical changes to the Coordinated Construction Act for Lower Manhattan, S. 7626/ A. 11700, to assure that 1) the new law will not affect existing agreements between the MTA and the public utilities for the payment of any of the state costs required for the maintenance, support, protection, or other accommodation of any energy, telecommunications, or other private facilities or structures, 2) to insure that the ultra-low sulfur diesel fuel requirements in place in the City pursuant to local law are not overridden, 3) to correct an incorrect reference in the main bill, 4) to place a sunset on the main act of December 31, 2014, and 5) to include the Port Authority in the ultra-low sulfur diesel fuel requirements upon enactment of a law requiring ultra-low sulfur diesel fuel by New Jersey.

JUSTIFICATION: The chapter is required to fix certain technical deficiencies in the main bill, and to reflect agreements with the Mayor and the City council.

LEGISLATIVE HISTORY: New bill.

FISCAL IMPLICATIONS: To be determined.

EFFECTIVE DATE: Immediately (the same date as the main chapter).

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