

# Marshalling Subsidies:

A Guide to the Lower Manhattan Commercial  
Subsidy Package and the New Agreement to  
Redevelop Ground Zero

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*GJNY investigates and publicizes the way in which public resources are allocated in the name of corporate retention. With this knowledge we hold government officials and companies accountable to taxpayers.*

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## Executive Summary

As reported over the past few weeks, a new financial plan to redevelop Ground Zero was agreed upon by the major players in the rebuilding effort—the Port Authority of New York and New Jersey, Silverstein Properties, and New York City and State. This report dissects the new arrangement, which reduces the role of leaseholder Larry Silverstein and features a set of new public sector commitments, and lists the various benchmarks that must be met if the terms of the deal are to be officially adopted by the Port Authority at its September Board meeting.

This report also examines the package of subsidies passed by the New York State Legislature in June, 2005, intended to bolster the Downtown economy and accelerate the redevelopment of the World Trade Center site. The programs have been dubbed “the Marshall Plan” by New York State Assembly Speaker Sheldon Silver, who spearheaded the legislation and has represented the Lower Manhattan district for 30 years. GJNY estimates that the total cost of these programs will exceed \$300 million in direct subsidies and forgone taxes.

### Renegotiated Financial Plan for Ground Zero

On April 25, 2006, Larry Silverstein, who leases the World Trade Center site from the Port Authority, accepted the terms of a new “Conceptual Framework” for redeveloping Ground Zero. While it is being touted by prominent public officials and much of the news media as a significant milestone in the beleaguered rebuilding process, the new agreement is not final and there is still much to be resolved before the Port Authority board meets in September to consider officially adopting its terms.

This report breaks down the responsibilities of the various parties involved in the rebuilding effort to help foster a better understanding of what must be accomplished over the summer months. To broadly summarize, under the new arrangement:

- Silverstein Properties retains the right to build three office towers but relinquishes control of two other buildings, including the Freedom Tower, to the Port Authority.
- Silverstein Properties splits the remaining insurance proceeds and tax-exempt Liberty Bonds with the Port Authority, which would also utilize \$250 million from New York State to help finance the Freedom Tower.
- New York City and the Port Authority have committed to occupying a combined 1.2 million square feet of space in Silverstein’s new office towers, while Governor Pataki promised to find at least one million square feet of leases for the Freedom Tower.
- Several construction and infrastructure issues must still be resolved.

- Silverstein Properties is being offered the rights to the lucrative retail portion of the site when another company, the Westfield Group, currently owns the “right of first offer” to build and own this space.

#### New Commercial Incentives for Lower Manhattan

Instead of cash grants and loans, such as those in the \$20 billion Federal package approved shortly after 9/11 and documented in previous Reconstruction Watch reports, the new program provides an array of incentives in the form of city and state tax exemptions, relocation credits, and rent assistance to reward businesses that locate operations in Lower Manhattan.

This report covers the five components of the legislation and discusses eligibility, benefits, and program costs. These are as follows:

- *A commercial rent tax exemption* for World Trade Center tenants and retail businesses below Murray Street, and a five-year reduction of the commercial rent tax for other eligible businesses in the Liberty Zone, which includes most of Lower Manhattan below Canal Street.
- *A rent subsidy* of \$5.00 per square foot for the first 750,000 square feet leased at the World Trade Center site, and a \$3.80 per square foot rent subsidy for the first 750,000 square feet leased at 7 World Trade Center.
- *A sales tax exemption* on build-out costs for businesses leasing space in the Financial District. A sales tax exemption on office furniture, equipment, and build-out costs for businesses leasing space at the World Trade Center sites and the World Financial Center/Battery Park City area.
- Expansion of the *Relocation and Employment Assistance Program (REAP)*, which provides a tax credit of \$3,000 per job for businesses relocating to Lower Manhattan.
- Elimination of tax incentives for the conversion of commercial property to residential use in Lower Manhattan.

The legislation was passed in June, 2005, under “a message of necessity” from the Governor, a tool used to bypass the state’s constitutional requirement that the final version of a bill must be on each legislator’s desk for three days before it can pass.<sup>1</sup> As a result, many legislators were forced to vote on the bill almost immediately after receiving it.

A spokesperson for Assembly Speaker Sheldon Silver said the total costs of the commercial rent and sales tax breaks and changes to the REAP program will amount to approximately \$200 million over five years<sup>2</sup>. This is consistent with the

projections of the New York City Office of Management and Budget and the New York State Division of the Budget. The rent subsidy program itself is capped at \$115 million, meaning the cost of the entire set of programs could exceed \$300 million by the time the World Trade Center site is redeveloped and partially leased out.

Due to other business incentives that were enacted in 1995 as part of the Lower Manhattan Commercial Revitalization Program, the downtown area now features special real estate tax abatements, sales and commercial rent tax exemptions, rent and energy subsidies, relocation benefits, and tax breaks for the development of energy-efficient office buildings.

### **A Conceptual Framework for Rebuilding Ground Zero**

The latest agreement to redevelop the World Trade Center site takes the form of a “Conceptual Framework” that divides responsibilities and resources among the site’s owner, the Port Authority of New York and New Jersey, and World Trade Center leaseholder Silverstein Properties. It also contains numerous commitments on behalf of New York City and New York State. A copy of the Conceptual Framework is available at [www.goodjobsny.org](http://www.goodjobsny.org).

The terms of this new arrangement will not be officially voted on by the Board of the Port Authority until its September 2006 meeting, and the deal is contingent on both Silverstein and the Port Authority fulfilling a set of commitments in the meantime. Below is a summary of the new redevelopment deal:

<u><b>Development Rights</b></u>	
<i>Silverstein Properties</i>	<i>Port Authority</i>
<ul style="list-style-type: none"> <li>• Silverstein Properties will develop and retain the ground leases for Tower 2 (2.4 mm sf), Tower 3 (2 mm sf), and Tower 4 (1.8 mm sf). These buildings would be located on the most valuable parcels of land on the World Trade Center site.</li> <li>• Silverstein Properties will receive developer fees of 1.0% of hard and design costs for the Freedom Tower and 2.5% of hard and design costs for Towers 2, 3, and 4. These fees may amount to at least \$155 million.<sup>3</sup></li> </ul>	<ul style="list-style-type: none"> <li>• The Port Authority will take over the ground leases for the Freedom Tower (2.6mm sf) and Tower 5 (1.2mm sf). The Freedom Tower is estimated to cost about \$2.1 billion to build.</li> </ul>
<b>Next Steps</b>	
<ul style="list-style-type: none"> <li>• The Lower Manhattan Development Corporation must transfer title of 130 Liberty Street to the Port Authority.</li> </ul>	

<b><u>Financial Resources for Developing WTC Site</u></b>	
<i>Silverstein Properties</i>	<i>Port Authority</i>
<ul style="list-style-type: none"> <li>• \$2.5935 billion in tax-exempt Liberty Bonds, composed of the state’s remaining portion of Liberty Bonds with the city covering the balance.</li> <li>• 56.5% of the remaining insurance proceeds, amounting to roughly \$1.5 billion.</li> <li>• New York City and the Port Authority each agree to lease 600,000 square feet of space for a term of between 15 and 25 years, at market value based on rental rates for Class A office space in Lower Manhattan. Until January 1, 2008, Silverstein has the right to require the Port Authority and city to sign these leases for Tower 4. These guaranteed revenues could be used to secure debt issued to build the towers.</li> </ul>	<ul style="list-style-type: none"> <li>• After the Liberty Bond allocation to Silverstein Properties, the Port Authority and WTC Retail will receive the remaining amount, which GJNY estimates to be approximately \$700 million.</li> <li>• The Port Authority will receive 34.6% of the remaining insurance proceeds, valued at approximately \$970 million.</li> <li>• New York State will contribute \$250 million of Port Authority capital funds that the governor has the discretion to use within the Port Authority district under the Port Authority’s Regional Transportation Program.</li> <li>• New York State has committed to finding at least 1 million square feet of lease commitments at market rates, most likely from Federal agencies, and these leases could be used by the Port Authority to get a mortgage which would help cover the cost of the Freedom Tower.<sup>4</sup></li> <li>• It has been reported that the Port Authority is expected to sell development rights to Tower 5, worth between \$250 and \$300 million, and that these proceeds will help pay for the Freedom Tower.<sup>5</sup></li> </ul>

- |  |   |
|--|---|
|  | <ul style="list-style-type: none"> <li>• Silverstein Properties will give the Port Authority the right to 15% of the proceeds of any sale, refinancing or other capital event with respect to Towers 2/3/4. According to Silverstein, the Port Authority values this interest at almost \$200 million.<sup>6</sup></li> </ul> |
|--|---|

**Next Steps/Unresolved Issues**

- The Port Authority must complete a Freedom Tower Plan of Financing and work with Silverstein Properties to complete a Freedom Tower Development Agreement.
- According to Larry Silverstein, some insurers have indicated that they may renege on their payment obligations due to the new plan for the World Trade Center site.
- The Port Authority is currently exploring whether the Freedom Tower can be partially financed with its own tax-exempt bonds.<sup>7</sup> If this is legally permitted, any excess Liberty Bonds would be allocated to a different project.

<b><u>Retail</u></b>	
<i>Silverstein Properties</i>	<i>Port Authority</i>
<ul style="list-style-type: none"> <li>WTC Retail, a wholly owned subsidiary of the Port Authority which is charged with developing all retail uses on the site, will be sold by the Port Authority to Silverstein Properties. Silverstein will then be required to retain an independent third-party to manage the development and operation of the retail components of the site, which would be concentrated in Towers 3 and 4 (400,000 sf of space).</li> </ul>	<ul style="list-style-type: none"> <li>See below.</li> </ul>
<b>Next Steps/Unresolved Issues</b>	
<p>Although the “conceptual framework” outlines a plan to sell WTC Retail (the right to develop 400,000 sf of retail the site) to Silverstein, the Westfield Group, a former business partner of Silverstein, owns a “right of first offer” (ROFO) to build and own this retail space as part of a 2003 agreement. This entails that Westfield has the first right to make an offer for the purchase of WTC Retail before the Port Authority can sell it to Silverstein, and that Westfield would have 120 days to negotiate a price after a Request for Proposals is issued. If Westfield makes an offer that the Port Authority rejects, it can sell WTC retail to Silverstein or another third party, with the only restriction being that it must be sold at a higher price than that offered by Westfield.</p> <p>The Conceptual Framework simply calls for a resolution by the Port Authority and Westfield of the right of first offer. Officials from the Port Authority stated that they would explore either buying Westfield out of their ROFO or including them in a revised transaction. According to these officials, negotiations with Westfield would begin in early June.<sup>8</sup></p>	

<b><u>Infrastructure Responsibilities</u></b>	
<i>Silverstein Properties</i>	<i>Port Authority</i>
<ul style="list-style-type: none"> <li>• Silverstein Properties will contribute \$140 million for common infrastructure costs and security screening costs for Towers 2/3/4.</li> <li>• Silverstein Properties will be responsible for the cost of east bathtub lateral load supports associated with the east bathtub slurry wall as part of the construction of Towers 2/3/4.</li> </ul> <p>Silverstein must complete the following work related to the construction of the Freedom Tower:</p> <ul style="list-style-type: none"> <li>➤ PATH utility relocation work and installation of the foundations for the PATH east-west corridor in the area contiguous to the Freedom Tower;</li> <li>➤ Site Excavation for the Freedom Tower;</li> <li>➤ 30% of the foundation of the Freedom Tower;</li> <li>➤ Award contract, complete shop drawing and place mill orders for subgrade structural steel from foundations to grade;</li> <li>➤ Complete the design development documents for the concrete construction for the foundation and above grade portions of the tower.</li> </ul>	<ul style="list-style-type: none"> <li>• The Port Authority is responsible for completing the excavation of the east bathtub and the installation of the east bathtub slurry wall.</li> <li>• The Port Authority will bear the cost of its exclusive infrastructure components of the east bathtub.</li> </ul>

**Next Steps/Unresolved Issues**

- Confirmation by the Port Authority that sufficient third party funds will be available to cover common infrastructure costs not currently assigned and that sufficient third party funds will be available to fully cover the cost of sidewalk and street improvements at the World Trade Center site.
- Preparation of an East Bathtub Development Plan detailing each party’s requirements and identifying a funding mechanism to ensure that sufficient funds will be available to pay Silverstein’s and the Port Authority’s respective shares of these costs;
- Preparation of a Site Access Agreement;
- Preparation of a Freedom Tower Development Agreement for the design and construction of the Freedom Tower.

**Development Schedule**

<i>Silverstein Properties</i>	<i>Port Authority</i>
<ul style="list-style-type: none"> <li>• Silverstein must commence construction of Towers 3 and 4 promptly after the Port Authority completes the east bathtub. Silverstein must then complete construction of these buildings within 4 years.</li> <li>• Silverstein must complete construction of Tower 2 (including the retail components) by December 31, 2012.</li> </ul>	<ul style="list-style-type: none"> <li>• Enforcement mechanisms exist which allow the Port Authority to foreclose upon Silverstein’s ownership interests and remove funds that were placed in an escrow account if the development schedule is not adhered to.</li> </ul>

## **Lower Manhattan Business Incentives**

The following section of the report provides detailed descriptions of each of the five components of the legislation enacted in June, 2005, intended to strengthen the Lower Manhattan economy, especially the Financial District. Eligibility, benefits, and program costs are discussed for each program.

### **Commercial Rent Tax Exemption**

#### **Description:**

Permanently eliminates the Commercial Rent Tax (CRT) for businesses located in the World Trade Center site. It also permanently eliminates the CRT for retail businesses located in a zone bounded by Murray Street and Frankfort Street to the north, West Street and State Street to the south, and South Street to the east.

The law provides a five-year reduction for any commercial tenant located in the the area south of Canal Street, East Broadway (east of its intersection with Canal Street), and Grand Street (east of its intersection with East Broadway).

#### **Intended Beneficiaries:**

This component of the subsidy package is aimed at increasing tenant occupancy in office and retail space in Lower Manhattan by providing tax benefits to commercial business tenants, particularly the ones which relocate to the new buildings on the World Trade Center site. It is also intended to promote retail activity in Lower Manhattan.

#### **Background:**

The Commercial Rent Tax (CRT) is a tax imposed on tenants of premises used to conduct businesses, professions, or commercial activities in Manhattan south of 96<sup>th</sup> Street. The tax does not apply unless a tenant's annual gross rent is at least \$250,000. The tax is based on the rent paid for the premises, and the tax rate increases as the rent increases. There are a number of exemptions from the tax, such as governmental entities, short rental periods, use of the premises for theatrical productions and not-for-profit tenants. In addition, the amount of base rent that is subject to the tax can be reduced by subtracting the amount attributed to residential use, rent received from subtenants, and other permissible deductions under the Commercial Revitalization Program, which was designed to increase tenant occupancy in office and retail space in Lower Manhattan and certain other areas of the City.

#### **How It Works:**

World Trade Center businesses and retail businesses below Murray Street are now permanently exempt from paying commercial rent taxes.

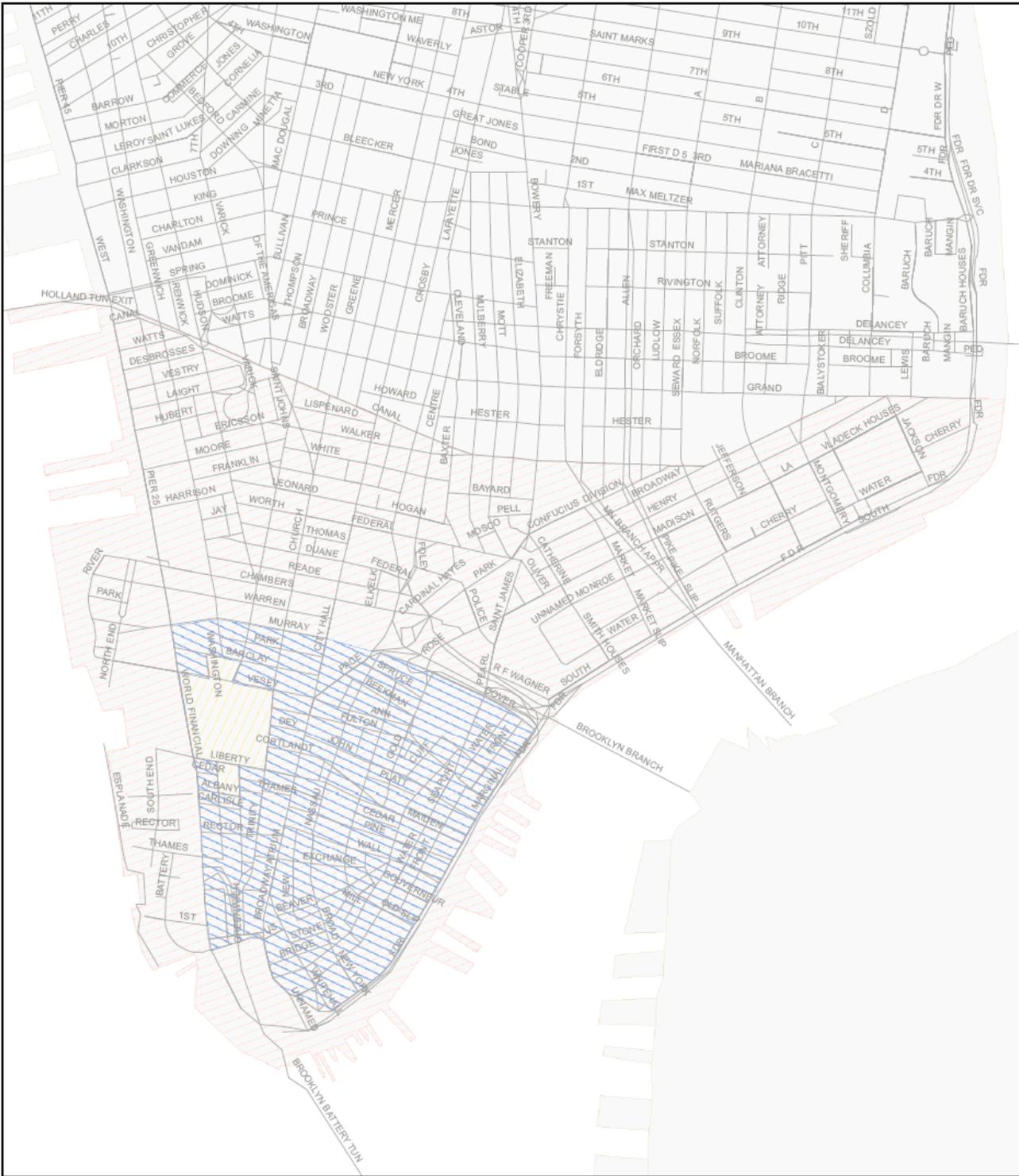
For other downtown commercial businesses, the new legislation enhances the existing CRT abatement established in 1995 by providing a five-year CRT reduction and establishing that any leased space south of Canal Street can qualify for the benefits regardless of when the building was constructed. The new or renewal lease must be a direct lease, not a sublease, with a term of at least five years that must commence between July 1, 2005 and June 30, 2009.

Businesses that qualify for the five-year CRT exemption must fill out and submit the Lower Manhattan Commercial Revitalization Program Application to the Department of Finance within 180 days of the lease commencement date. The application is available online:

<http://www.nyc.gov/html/dof/html/pdf/commrevp.pdf>.

**Budget Impacts<sup>9</sup>:**

<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
-\$0.3 million	-\$6.7 million	-\$13.0 million	-\$19.8 million



**Lower Manhattan Subsidy Programs**

- Commercial Rent Tax Exemptions**
- Five-year Exemption for Commercial Businesses South of Canal Street
  - Businesses Located in the World Trade Center Area
  - Retail Businesses South of Murray Street

## **Sales Tax Exemption on Build-out Materials, Equipment and Furnishings**

### **Description:**

Provides State and City sales tax exemptions on build-out materials, equipment, and office furniture investments (and related service costs) made by businesses located in the World Trade Center site, the World Financial Center, and Battery Park City (Eligible Area B). The sales tax exemption for build-out costs (not furniture and equipment) also applies to any business leasing space in Lower Manhattan below Murray Street (Eligible Area A).

All of these exemptions only apply during the first year of the tenant's lease, but eligible items may be delivered and services rendered within 90 days after the first year. Unlike the terms of Area A, sales-tax exempted property used to improve commercial office space within Eligible Area B is not required to become an integral component of the building, and items used to furnish or equip the space such as desks, chairs, and computer equipment qualify for the exemption.

### **Intended Beneficiaries:**

This tax exemption is meant to encourage businesses to locate to Lower Manhattan by reducing the cost of office investment on long-term leases.

### **Background:**

A business's purchase of tangible property to furnish or equip an office is normally subject to State and City sales taxes. The services to install such property are also subject to these taxes, unless it constitutes a capital improvement to the building.

### **How It Works:**

An eligible new space lease must be a direct lease with a term of ten years or more, commencing on or after September 1, 2005 and no later than September 1, 2011 in the World Trade Center area, and no later than September 1, 2009 elsewhere below Murray Street. For tenants signing renewal leases, the existing lease must expire before September 1, 2011 for the World Trade Center area, and September 1, 2009 elsewhere below Murray Street, and the renewal lease must extend at least ten years beyond the term of the original lease. The exemptions expire on December 1, 2010, for Eligible Area A, and on December 1, 2012 for Eligible Area B.

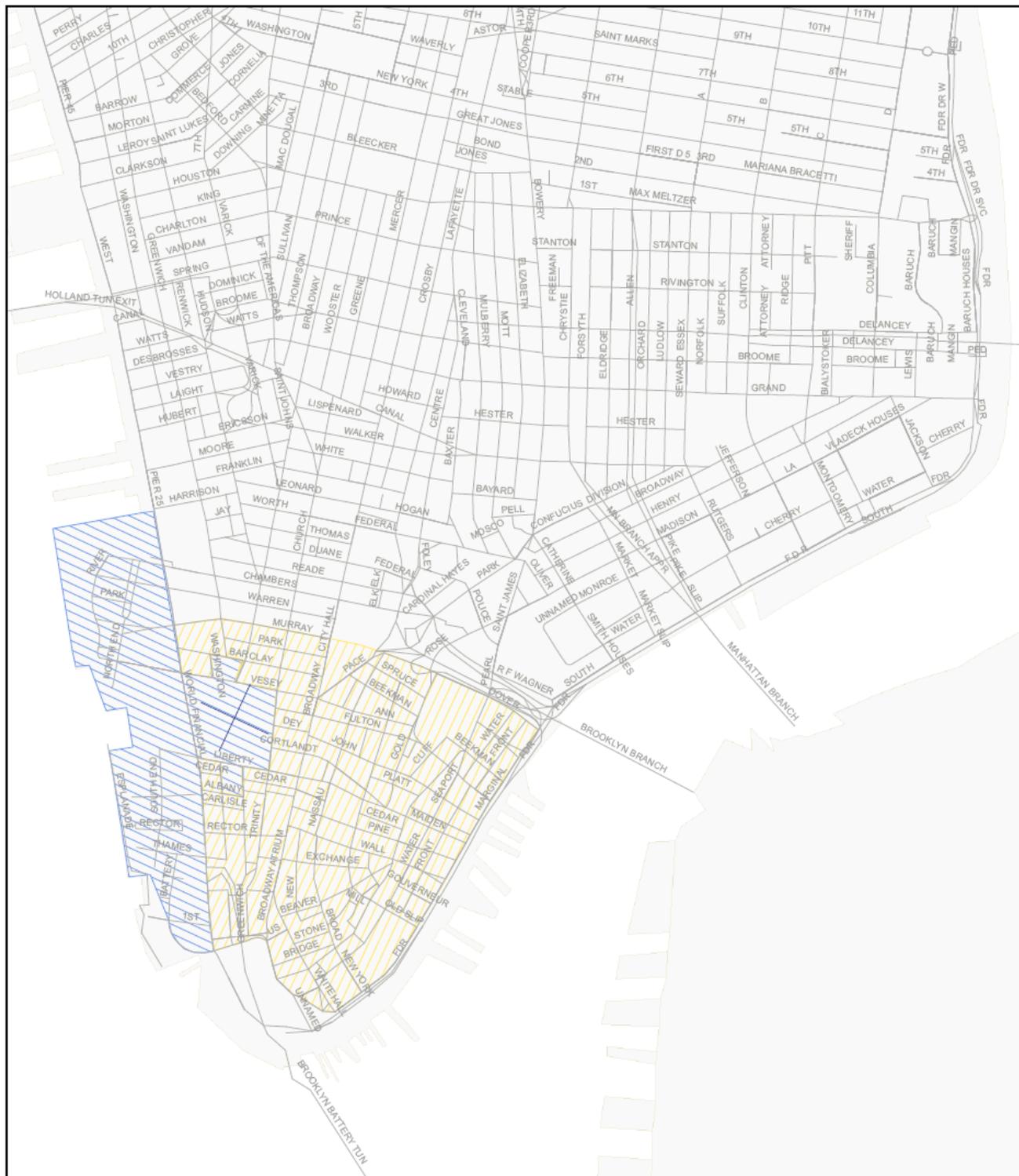
To receive the exemption, the tenant or landlord must submit a completed Form ST-121, *Exempt Use Certificate*, to the vendor at the time of purchasing eligible goods or services. Contractors must submit to the vendor a completed Form ST-120.1, *Contractor's Exempt Purchase Certificate*.<sup>10</sup>

**Budget Impacts<sup>11</sup>:**

<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
-\$15.8 million	-\$16.2 million	-\$14.0 million	-\$18.8 million

The Memorandum of Support that accompanied the bill in the state legislature provided the following cost estimates based on the state's Fiscal Year, which differs from the City's<sup>12</sup>:

New York City		New York State	
<b>2006</b>	<b>2007</b>	<b>2006</b>	<b>2007</b>
-\$7.7 million	-\$19.8 million	-\$7.0 million	-\$18.1 million



### Lower Manhattan Subsidy Programs

#### State & City Sales Tax Exemptions for Leased Commercial Space

-  Sales Tax Exemptions: Build-out Materials
-  Sales Tax Exemptions: Build-out Materials, Equipment, and Office Furniture Investments

### **Rent Subsidy for the World Trade Center Site**

#### **Description:**

The law provides a \$5-per-square-foot rent subsidy for the first 750,000 square feet leased at the World Trade Center site, and \$3.80 per square foot for the first 750,000 square feet at 7 World Trade Center.

#### **Intended Beneficiaries:**

The subsidy is intended to lower rents for commercial tenants of new buildings at the World Trade Center site.

#### **Background:**

Larry Silverstein, who leases the World Trade Center properties from the Port Authority of New York and New Jersey, has struggled to enlist tenants at newly opened 7 World Trade Center.<sup>13</sup> Some have argued this is because the space is being advertised at around \$50 to \$60 per square foot when the Class A average asking rents for Downtown office space is about \$42.00/sf.<sup>14</sup> Silverstein maintains that most other downtown office buildings are at least two decades old, and that energy and tax savings connected to his buildings will lower the occupancy costs. In any case, there is concern that the state's rent subsidy could allow Larry Silverstein to maintain his pricing power above market levels, making him the primary beneficiary of the subsidy program.

The Empire State Development Corporation and the Port Authority will scrutinize the leases to make sure Silverstein Properties is subtracting the rent subsidy from its bills, and officials pledged that the State of New York would not enter a contract if inflated rents were discovered.

#### **How it Works:**

The Empire State Development Corporation will compensate the Port Authority for collecting less in payments in-lieu-of taxes from Silverstein Properties, as long as Silverstein Properties passes this subsidy on to its tenants in the form of reduced rent. These incentives are subject to an agreement between the State of New York, the Port Authority, and Silverstein Properties, and will amount to a discounted rent of \$3.80 per square foot of for the first 750,000 square feet at 7 World Trade Center and \$5-per-square-foot rent subsidy for the first 750,000 square feet leased at the rest of the commercial buildings developed at the World Trade Center site.

The rent subsidy will be provided for the entire term of the lease, not to exceed 20 years, or until the cost of the entire program reaches \$115 million. In order for a lease to qualify, it must meet the following criteria:

- i) first 750,000 square feet of one of the WTC buildings;
- ii) the lease must be primarily for commercial office space;
- iii) the lease must be for a minimum term of 5 years;

- iv) the lease must commence no later than December 15, 2015;
- v) the lease must reflect that rent payments under the lease shall be reduced to the extent of assistance being provided by ESDC to the Port Authority;

In order to qualify for the assistance, tenants must submit an application to ESDC within three months of signing a lease. Applications are available online at <http://www.empire.state.ny.us/wtc/WTCRentReductionApplication.pdf>.

**Budget Impacts:**

The maximum amount of funding available for the program is \$115 million. The New York State Division of the Budget estimates that this subsidy would cost the state approximately \$2.8 million in 2006-07.



### Lower Manhattan Subsidy Programs

#### World Trade Center Rent Subsidy

-  \$5.00/sf World Trade Center Rent Subsidy
-  \$3.80/sf 7 World Trade Center Rent Subsidy

## Lower Manhattan Relocation and Employment Assistance Program

### **Description:**

The Lower Manhattan Relocation and Employment Assistance Program (REAP) is amended to permit businesses that already have existing operations in Manhattan to participate in the program.

### **Intended Beneficiaries:**

The Lower Manhattan REAP program had previously been restricted to benefit companies that had no operations in New York City. The new provisions conditionally allow businesses which relocate to Lower Manhattan, that already have existing operations in Manhattan, to take advantage of the program.

### **Background:**

The REAP program was designed to encourage qualified businesses to relocate employees to targeted areas of the city. Under the original program, a tax credit of \$500 per employee was available for up to 12 years. Legislation enacted in 2000 significantly enhanced REAP benefits to \$3,000 per employee and legislation enacted in 2001 expanded the REAP program to cover firms that relocate to Lower Manhattan from outside New York City. In order to qualify under the previous eligibility requirements, a firm must have been conducting substantial business operations outside the City for at least 24 months prior to the year of relocation, and must not have had any employees in the City.

### **How It Works:**

Firms with existing operations in Manhattan may now receive REAP benefits for relocating existing, non-New York City employees to Lower Manhattan. These businesses must relocate at least 250 employees or the equivalent of 25% of its total existing New York City workforce. The tax credit is \$3,000 per employee for twelve years against NYC General Corporate Tax, Bank Tax, or Unincorporated Business Tax. If the company does not have sufficient tax liability in the first five years, unused credits may be carried forward for up to five years.

Newly eligible firms may also receive credits for the creation of new jobs in Lower Manhattan during the first five years after the relocation, although these jobs must be additions to both their total New York City employment and Lower Manhattan employment. The number of employees eligible for this credit is determined through the following equation:

$$\begin{array}{l}
 \text{(# of jobs created)} \quad X \quad \text{(# of jobs relocated into Lower Manhattan from outside NYC)} \\
 \hline
 \text{(# of jobs relocated + the firm's total NYC employment before relocation)}
 \end{array}$$

The property to which the business relocates must have been improved by construction or renovation, with expenditures for improvements in excess of 50% of the assessed value of the property for commercial buildings or over 25% of the assessed value for industrial buildings.

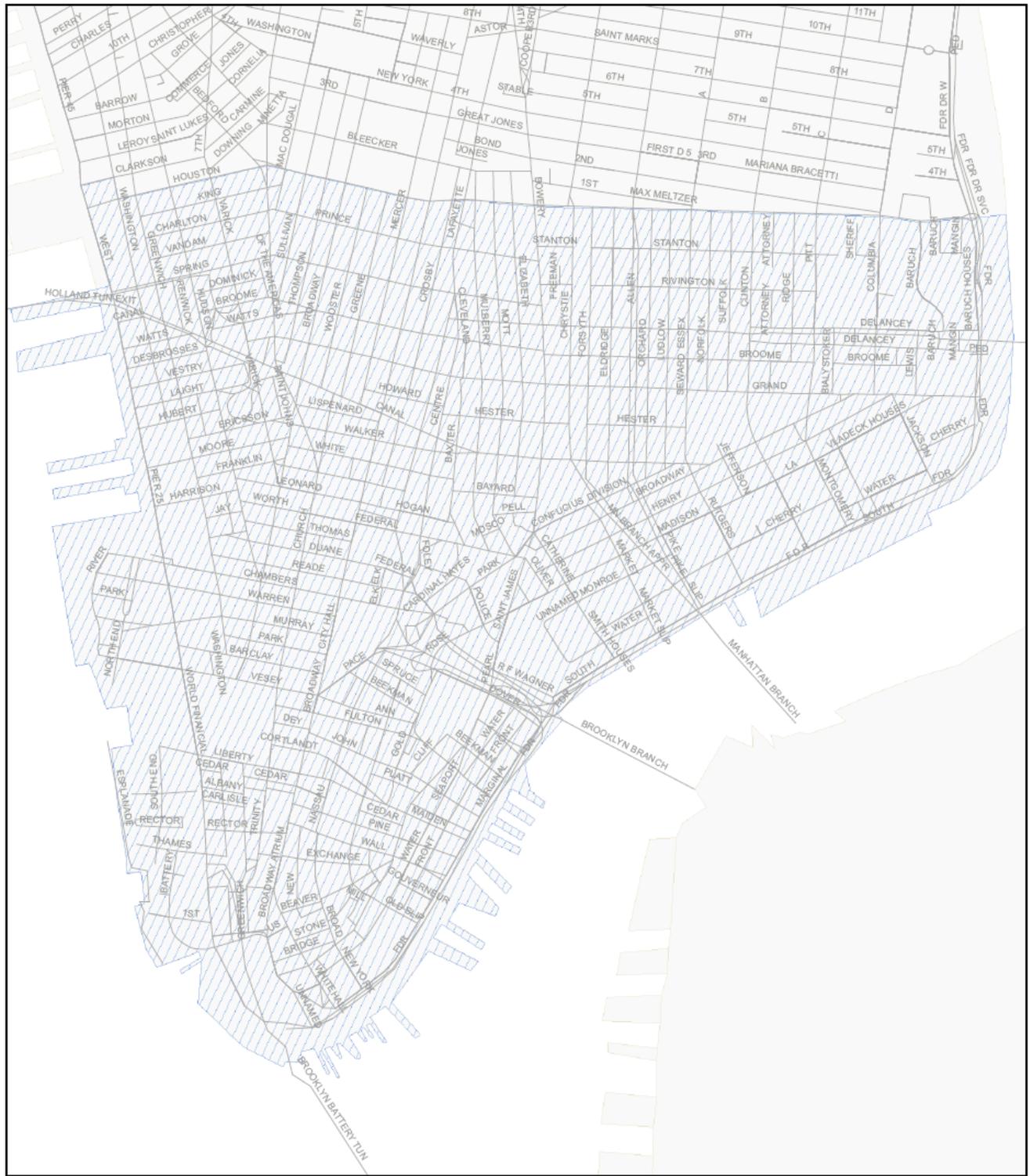
To obtain these benefits, each firm must submit an application for certificate of eligibility for REAP benefits to the Department of Finance. The application can be found at:

[http://www.nyc.gov/html/dof/html/property/property\\_tax\\_reduc\\_reap\\_lm\\_seb.shtml](http://www.nyc.gov/html/dof/html/property/property_tax_reduc_reap_lm_seb.shtml).

**Budget Impacts:**

The New York City Office of Management and Budget's FY2006 adopted budget financial plan provides the following estimates for future budget impacts of the expanded Lower Manhattan REAP program:

2006	2007	2008	2009
-\$0.6 million	-\$1.2 million	-\$1.9 million	-\$2.5 million



### Lower Manhattan Subsidy Programs

Businesses Eligible for the Lower Manhattan REAP Program

-  Lower Manhattan Relocation & Employment Assistance Program

## **Termination of the Lower Manhattan Residential Conversion Program**

### **Description/Action:**

Termination of Section 421-g of the Real Property Tax Law, which provided incentives for the conversion of commercial property to residential property in Lower Manhattan.

### **History of the Program:**

One of the cornerstones of Mayor Rudolph Giuliani's plan for the transformation of Lower Manhattan before 9/11 was to provide incentives for the conversion of obsolete commercial buildings into residences. Created as part of the Commercial Revitalization Program, section 421-g provided a real property tax exemption on the incremental increase in assessed value due to conversion of non-residential buildings to residential use. The program also provided for an abatement of existing property taxes.

All rental units created under the 421-g program became subject to rent stabilization for the duration of the benefits<sup>15</sup>, making it one of the only existing programs that added stabilized units to the city's housing stock. Since 1994 the program has granted property tax reductions to create 1,094 rent-stabilized units in Lower Manhattan, a substantial amount considering that a tiny percentage of new apartments in Lower Manhattan are affordable. At the same time, this program was never intended to be, nor did it function as, a cost-effective way to create affordable housing, since the units created do not usually maintain their affordability for long.

### **How it worked:**

Building owners were required to fill out a 421-g form and submit it to the Tax Incentive Programs unit at the Department of Housing, Preservation and Development. After the Housing Department granted a Certificate of Eligibility, the Department of Finance implemented the benefits.

The program provided a property tax exemption of the increase in assessed value due to the conversion to residential use, while also providing an abatement of the existing property taxes.

### **Budget Impacts:**

The cost of the program increased from \$19.9 million at its inception in 2002 to just over \$31 in each of the past two fiscal years.<sup>16</sup> This provides an idea of how much its elimination will save this year, which was slated to be its final year barring extension.

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<sup>1</sup> The legislation passed both the State Senate and the Assembly on June 24<sup>th</sup>, 2005, and was signed into law by Governor George Pataki on August 31<sup>st</sup>.

<sup>2</sup> Josh Rogers, "Silver's Marshall Plan is Hailed and Assailed," Downtown Express. Volume 18 • Issue 7 | July 8-14, 2005.

<sup>3</sup> The Industrial Development Agency estimated that the cost of constructing the four towers would be \$7.46 billion. Assuming the Freedom Tower costs \$2.1 billion, GJNY used these cost estimates to project the value of the developer fees.

<sup>4</sup> On June 29, 2006, Governor Pataki announced a memo of agreement with the U.S. General Services Administration to negotiate a lease for about 600,000 square feet of office space in the Freedom Tower.

<sup>5</sup> Alex Frangos, "World Trade Center Rebuilding Pact Is Reached," Wall Street Journal, April 26, 2006.

<sup>6</sup> Transcript from hearing on "The Status of the Redevelopment of Lower Manhattan and Ground Zero," convened by Assembly Speaker Sheldon Silver on May 18, 2006.

<sup>7</sup> The Port Authority is authorized to issue tax-exempt debt for governmental purposes.

<sup>8</sup> Transcript from hearing on "The Status of the Redevelopment of Lower Manhattan and Ground Zero," convened by Assembly Speaker Sheldon Silver on May 18, 2006.

<sup>9</sup> New York City Office of Management and Budget's FY2006 adopted budget financial plan tax forecast materials.

<sup>10</sup> These forms are available on the New York State Department of Taxation and Finance's website: [http://www.tax.state.ny.us/forms/sales\\_cur\\_forms.htm](http://www.tax.state.ny.us/forms/sales_cur_forms.htm). The agency also released a Tax Memo on the sales tax exemption program available at [http://www.tax.state.ny.us/forms/sales\\_cur\\_forms.htm](http://www.tax.state.ny.us/forms/sales_cur_forms.htm).

<sup>11</sup> New York City Office and Management and Budget's tax forecast materials, which accompanied the FY2006 adopted budget financial plan.

<sup>12</sup> New York State Senate and Assembly rules require that every bill introduced be accompanied by a "Memorandum in Support," which contains the introducer's statement of the intent of the bill and information relating to its economic impacts.

<sup>13</sup> Real Estate Weekly recently reported that Moody's Investors Service would lease 600,000 s/f in the tower, and that several other firms are negotiating leases that would bring occupancy in the building past the halfway point. Daniel Geiger, "New tenants poised to sign 7 WTC deals," Real Estate Weekly, July 26, 2006.

<sup>14</sup> Colliers ABR, New York-June 2006 monthly report. When the subsidies were initially approved, Downtown asking rents were around \$35 per s/f. Joseph P. Fried, "7 World Trade Center Is Said to Be Close to Signing Its First Tenant", The New York Times, July 26, 2005, B1.

<sup>15</sup> These units are subject to High Rent/Vacancy decontrol if the initial rent level is \$2,000 or more.

<sup>16</sup> *Annual Report on Tax Expenditures, Fiscal Year 2004*. New York City Department of Finance. 42