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LOWER MANHATTAN DEVELOPMENT CORPORATION

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EMPIRE STATE DEVELOPMENT
and
NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION

Partial Action Plan
for
Utility Restoration and Infrastructure Rebuilding

Overview

The Lower Manhattan Development Corporation (LMDC) has prepared the following Partial Action Plan with regards to the $783 million federal appropriation administered by the United States Department of Housing and Urban Development (HUD) for damaged properties and businesses (including the restoration of utility infrastructure) as well as economic revitalization related to the terrorist attacks at the World Trade Center. LMDC received a separate $2 billion federal appropriation through HUD for the World Trade Center disaster recovery and rebuilding efforts. This plan details the proposed expenditure of $750,000,000.00 of the $783 million appropriation to fund the following items:

1. Tier One - Emergency and Temporary Service Response totaling up to $250,000,000.00.
2. Tier Two - Permanent Restoration and Infrastructure Improvements, Construction of Carrier Neutral Lateral Conduits, Construction of Redundant Fiber Connections to Critical Facilities, and Mandated Infrastructure Improvements totaling up to $421,500,000.00.
3. Tier Three - Service Interference totaling up to $60,000,000.00
4. Program administration totaling up to $18,500,000.00.

To date, HUD has approved two Partial Action Plans for the separate $2 billion federal appropriation allocating approximately $656 million to LMDC. On June 7, 2002, HUD approved the Partial Action Plan calling for the expenditure of approximately $306 million for the Residential Grant Program, the Employment Training Assistance Program, the Interim Memorial Program, and Administration and Planning. This Partial Action Plan was amended on

September 25, 2002. On November 22, 2002, HUD approved the Partial Action Plan for Business Recovery and Economic Revitalization calling for the expenditure of an additional $350 million for the WTC Business Recovery Grant Program, the Small Firm Attraction and Retention Grant Program, and the Job Creation and Retention Program. On May 7, 2003, LMDC submitted Partial Action Plan 3 to HUD, calling for the expenditure of approximately $24 million from the $2 billion federal appropriation for Cultural and Community Development. Versions of these Plans with public comments and responses thereto are available on the LMDC web site: www.RenewNYC.com.

LMDC is releasing for public comment a separate Partial Action Plan on May 28, 2003 detailing the proposed expenditure of approximately $150 million from the $2 billion federal allocation for Short-Term Capital Projects, Long-Term Planning, and Supplemental Funds for Business Recovery. Future partial action plans will detail the projected expenditure of the remainder of funds available from the $2 billion appropriation and will be subject to a public comment period with later submission to HUD.

The Lower Manhattan Development Corporation (LMDC) has prepared the following Partial Action Plan with respect to the $783 million federal appropriation to the United States Department of Housing and Urban Development (HUD). This Partial Action Plan allocates $750 million of the $783 million appropriation. The balance of $33 million is addressed in a separate partial action plan released for public comment on May 28, 2003.

This Plan details LMDC's proposed expenditure of $750 million to fund a program to restore and rebuild utility infrastructure in Lower Manhattan. The program will be administered by Empire State Development (ESD), New York State's economic development agency, in cooperation with the New York City Economic Development Corporation (EDC), and in consultation with the Lower Manhattan Development Corporation.

Partial Action Plan Activities	**Allocation from $783 million**
Tier 1	**$ 250,000,000.00**
1. Emergency and Temporary Service Response	$ 250,000,000.00
Tier 2	**$ 421,500,000.00**
2. Permanent Restoration and Infrastructure Improvements	$ 330,000,000.00
3. Construction of Carrier Neutral Lateral Conduits	$ 50,000,000.00
4. Construction of Redundant Fiber Connections to Critical Facilities	$ 20,000,000.00
5. Mandated Infrastructure Improvements	$ 21,500,000.00
Tier 3	**$ 60,000,000.00**
6. Service Interference	$ 60,000,000.00
Program Administration	**$ 18,500,000.00**
a. ESD Program administration	**$** 7,500,000.00
b. LMDC Program monitoring	$ 3,500,000.00
b. NYC MOSAICS permit management system	**$** 7,500,000.00
TOTAL	**$ 750,000,000.00**

Any of the following constitutes a substantial amendment and such amendment will be available for public review and approval by HUD:

- The reallocation of funds in excess of $75 million, (or 10% of the total fund), from one Tier to another Tier within this spending plan.
- The elimination of any of the activities defined by this Partial Action Plan.
- Any change in the eligibility criteria for funding under this plan.

National Objective

The Lower Manhattan Development Corporation is a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development created in December 2001 to oversee the rebuilding and revitalization of Lower Manhattan. The activities contained in this Partial Action Plan have been designed to meet community and development needs resulting from the September 11th World Trade Center disaster. These activities have particular urgency because LMDC has determined that existing conditions pose a serious and immediate threat to the health or welfare of the City of New York and the individual residents of the City and other financial resources are not available to meet such needs.

Public Comment to the Partial Action Plan

This Partial Action Plan allocates funds to restore and rebuild utility infrastructure in Lower Manhattan.

This Partial Action Plan is open to public comment for fifteen calendar days from the date of publication of this plan. Public comment must be made in writing and may be delivered to LMDC either by posted mail or by electronic mail, addressed as follows:

By post to: Public Comment on LMDC Partial Action Plan - $750 Million
Lower Manhattan Development Corporation
1 Liberty Plaza, 20th Floor
New York, NY 10006

Electronically at LMDC's web site www.renewnyc.com under Funding Initiatives - Partial Action Plans – Comments.

The deadline for receipt of public comment is June 12, 2003. Comments delivered by fax or telephone cannot be considered.

I. Utility Restoration and Infrastructure Rebuilding

Program Objectives

The World Trade Center attacks inflicted widespread destruction upon the energy (electric, gas, and steam) and telecommunications utility infrastructure, resulting in extensive disruptions in service to the business and residential communities of Lower Manhattan. The energy and telecommunications firms responded rapidly in the aftermath of the disaster to provide emergency and temporary services and they are currently working to restore permanent service to all customers located within Lower Manhattan. The costs to deliver emergency and temporary services and to rebuild damaged infrastructure for permanent service delivery are considerable and have been borne by the affected utility service providers to the extent not covered by their insurance providers or funds from other sources such as lawsuits.

Congress appropriated $750 million to assist with the revitalization of Lower Manhattan for the restoration of utility service, the rebuilding of utility infrastructure, and to help properties and businesses.[1] The objectives of the Utility Restoration and Infrastructure Rebuilding program are (1) to protect business and residential customers from bearing the cost of the infrastructure rebuilding; and (2) to enhance the revitalization and redevelopment of Lower Manhattan as a world-class commercial and residential community by encouraging investment in energy and telecommunications infrastructure. Funds allocated through this program will accordingly seek to:

- Offset uncompensated emergency response, restoration, and rebuilding costs borne by the utility service providers that might otherwise be passed through to customers. Uncompensated costs are those costs borne by the utility service provider after they have diligently and aggressively pursued all insurance recoveries within the terms and conditions of the applicable insurance policies covering their losses.

- Maintain Lower Manhattan as a competitive and attractive location for business, cultural, and residential development by assisting in the redevelopment of cost-competitive and quality-competitive energy and telecommunications services.

This program will provide financial assistance directly to energy and telecommunications service companies for reimbursement of qualified emergency and temporary restoration costs and will provide monies for permanent restoration.

Program Coordination

ESD/EDC seeks to coordinate the efforts of federal and state grant programs to the fullest extent possible. The program priorities are to ensure construction efficiencies, avoid duplicative construction work, and to maximize the use of state and federal funding. Thus, close coordination of projects resulting from the various federally funded programs administered by New York State and City agencies and ESD/EDC is necessary. Work on the streets will be coordinated with NYS Department of Transportation (NYS DOT) and New York City Department of Transportation (NYC DOT). This action plan will encourage and promote joint work proposals and programs whenever and wherever possible.

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[1] An Act Relative to Making Supplemental Appropriations, Pub.L.No. 107-206, 116 Stat. 889 (2002).

Coordination is required for utility infrastructure work eligible for Tier Two or Tier Three funding that occurs along the same street segments with City administered programs, notably the Federal Highway Administration Emergency Relief program[2] (ER program) and work initiated after the publication date of this Draft Action Plan. This includes voluntary and/or mandated service enhancements/ improvements and/or interference/maintenance project costs. All work that is coordinated and completed in conjunction with the ER program will be up to 100% reimbursable to the extent that funds are available. In such cases this program will make HUD funds available for the City for up to 100% of the costs associated with the infrastructure portion of coordinated utility work.

In situations where utility and City federally funded work (funds coming from HUD or the ER program) occur in the same street segment, the City and participating companies are directed, to the maximum extent possible and reasonable, to proceed in the following fashion:

- All participating entities shall coordinate with the City and State to develop an implementation program. To the greatest extent possible, it is expected that the City's or State's schedule will be preferred.

- A joint plan should be developed among the affected utilities, the City, and the State, that includes, to the fullest extent possible, coordinated methods of procurement that combine the planned utility infrastructure work with the City or State street restorations to maximize the use of the available funds and minimize delays in the progression of the infrastructure work.

- The City or State will coordinate all work scopes and service requirements for both utility and City or State infrastructure work into one bid package and follow applicable procurement rules to procure all project work.

- The City will manage the implementation of the coordinated procurement contract. All participating entities in a particular project are required to work closely with the City through implementation and approval of all appropriate work.

- And in cases where coordination between utilities, the City, and State is not possible, and such work is necessary for utility restoration of permanent service, funds will be made available directly to the utilities for required interference cost reimbursement. Sole, eligible service provider costs will be reimbursed up to 75% of actual, uncompensated, incurred and documented costs to the extent that funds are available. Uncompensated costs are those costs borne by the utility service provider after they have diligently and aggressively pursued all insurance recoveries within the terms and conditions of the applicable insurance policies covering their losses.

[2] The Emergency Relief program provides funds to State and local governments for the repair of federal-aid highways seriously damaged by disasters. Congress made two appropriations to New York City and State for Lower Manhattan, for up to $267 million. Pub.L.No. 107-117, 115 STAT. 2328, Pub.L. No. 107-206, 116 STAT. 882.

In addition, for all work completed under this Action Plan, the utilities, firms selected through the RFP processes, and the City will jointly create an inventory of underground facilities in Lower Manhattan. The utilities are responsible for providing as-built drawings to the City, preferably in electronic format. Each organization will map its own facilities, accurately showing the work as installed. The standard for submitting these drawings is available at the City Department of Transportation Office of Construction, Mitigation, and Coordination. The current standard requires that such record drawings be signed, stamped and sealed by a Professional Engineer. These record drawing requirements are to be considered part of the permitting process and the original record drawings are to be submitted to DOT Office of Construction, Mitigation, and Coordination.

Program Eligibility

Eligible applicants for this program are limited to investor-owned utility service providers under the jurisdiction of the New York State Public Service Commission (NYSPSC), the Federal Energy Regulatory Commission (FERC), or the Federal Communications Commission (FCC), with service territory in the affected area in Lower Manhattan, that incurred unreimbursed expenditures resulting from impact damage related to the attacks on September 11, 2001. (Note exception to eligibility below.)

For the purposes of this program, Lower Manhattan is the area south of Canal Street, from the East River to the Hudson River.[3] Publication of the final version of this Partial Action Plan will serve as the solicitation for eligible submissions for damage reimbursement from utility service providers.

This Plan makes one exception to eligibility requirements above, for funding categories 3) construction of carrier neutral lateral telecommunications conduit and 4) construction of redundant fiber connections to critical facilities. Funding under these two categories is not restricted to regulated utilities that suffered damage related to the September 11, 2001 attacks. Eligible applicants under these two categories will be solicited through a Request for Proposals (RFP) process under the plan. Any firm able to demonstrate its qualifications to perform the proposed work may submit a proposal.

Eligible Costs

Eligible utility service providers may submit a request for reimbursement of uncompensated costs (uncompensated costs are those costs borne by the utility service provider after they have diligently and aggressively pursued all insurance recoveries within the terms and conditions of the applicable insurance policies covering their losses and not compensated by any other source of funds, including, but not limited to, other state or federal funds, or lawsuits;) incurred for: (1) providing emergency, temporary and permanent restoration of utility service to Lower Manhattan; and (2) the rebuilding of utility infrastructure. Lost revenues and business interruption losses are not eligible costs under this fund.

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[3] Except for Tier 2, category 5. See page 14.

With respect to claims for reimbursement of damages sustained as a result of the events of September 11, 2001: reimbursement covered under any applicable insurance policy shall be primary to any consideration for receipt of funding through this Partial Action Plan. As such, coverage under all applicable insurance policies shall pay first in the event that coverage was in place. Any uncompensated costs that remain after receipt of all applicable insurance recoveries may then be submitted for consideration under this Plan.

Eligible cost categories include:

Tier 1
1. Emergency and temporary service response

Tier 2
2. Permanent restoration and infrastructure improvements
3. Construction of carrier neutral lateral conduit
4. Construction of redundant fiber connections to critical facilities
5. Mandated infrastructure improvements

Tier 3
6. Service interference

ESD/EDC will allocate the $750 million among the categories listed above and recognizes that eligible costs (defined below) incurred by the utility service providers and other eligible parties may exceed the total $750 million fund. The eligible cost categories are listed in order of reimbursement priority. In the event that eligible costs exceed allocated funds, eligible costs for emergency and temporary response will be addressed first, within the reallocation limits defined by the substantive amendment conditions on page 3. However, in all instances, ESD/EDC reserves the right to amend the allocation of funds as outlined herein, in consultation with LMDC.

Review of Eligible Costs

ESD/EDC has established a cooperative, multi-agency review process for the evaluation and validation of eligible costs and disbursement of funds with the New York State Department of Public Service (DPS). ESD will administer the program in cooperation with EDC. DPS staff will provide technical consultation to ESD/EDC to help determine the validity of eligible, incurred costs submitted by the utility service providers for reimbursement and their appropriate categorization within the priority hierarchy established above. Eligible service providers must submit incurred expenses for reimbursement in accordance with the expense categories outlined in this Partial Action Plan and the eligibility criteria described below. Service providers must allow DPS staff access to the financial books and records of the company and its affiliates (both regulated and unregulated) related to Lower Manhattan service delivery, in order to ensure confirmation of expenditures claimed for reimbursement and their appropriate categorization within the fund allocation hierarchy.

For Tier 2 and Tier 3 only, in instances where work is coordinated with City street work funded by FHWA, the service providers will also make available to City and State DOT and FHWA staff cost estimates and related financial records as the basis for contracting City street work.

Any service provider not seeking reimbursement for Tier One expenditures (that have already been reimbursed through insurance or other funds) is nonetheless encouraged to provide information about those costs and reimbursements to this program. This will assist ESD/EDC in establishing a clearer picture of total infrastructure costs incurred by category in recovering from the attack-inflicted damage.

Eligible costs are limited to those incurred for: (1) providing emergency, temporary, and permanent restoration of utility service to Lower Manhattan; and (2) the rebuilding of utility infrastructure. In the event that total reimbursement from all sources, including this fund, exceed uncompensated losses, the recipient will return to ESD the excess funds.

Service providers seeking reimbursement must disclose all related insurance coverage and the status of pending and settled claims.

Role of Department of Public Service Staff

DPS staff will assist ESD/EDC in the examination and review of the costs incurred, including a recommendation of the cost category in which expenditures qualify for recovery. DPS staff will also review and check costs charged to the eligible companies' relevant books and records and will evaluate, to the extent possible, whether the requested reimbursement represents necessary improvement to the system. DPS staff will check costs for which companies seek reimbursement based on Generally Accepted Auditing Standards using sampling methods outlined in Statement on Auditing Standards (SAS) No. 39. SAS #39 generally defines Audit Sampling as "the application of an audit procedure to less than 100% of the items within an account balance or class of transactions for the purpose of evaluating some characteristic of the balance or class."

Categories of Eligible Costs

The following sections *II through V* outline the six categories for classification and reimbursement of expenditures for utility operations in Lower Manhattan. Required deadlines for application and submission of eligible costs are noted under each cost category. Applicants are encouraged to submit their application as early as possible.

Allocation of Program Funds

ESD/EDC anticipates that the majority of non-reimbursed, uncompensated expenses incurred in Tier One (category 1) should be reimbursed up to 100%, once audited and verified. Uncompensated costs are those costs borne by the utility service provider after they have diligently and aggressively pursued all insurance recoveries within the terms and conditions of the applicable insurance policies covering their losses. Pending the availability of remaining funds, expenses incurred in Tier Two (categories 3, 4, and 5) should be reimbursed at a partial level to ensure that available funds are apportioned among all affected firms except if the work is coordinated with the City as provided under Program Administration, in which case the reimbursement will be up to 100%. Finally, the reimbursement of Tier Three (category 6) costs will be subject to fund availability after the prior five categories have been considered.

ESD/EDC recognizes that because of the scope and complexities of the different utility infrastructures involved, the time required to complete the audit and verification of each firm's respective submissions may differ substantially. The Action Plan is structured to ensure that available funds will not be allocated simply on a "first come, first served" basis, but rather that each category of expense submitted by each utility will receive fair and equitable consideration.

As noted previously category 1 is considered the highest priority for reimbursement of incurred and confirmed costs. Should funds presently allocated to that category prove insufficient to cover verified submissions by utility service providers, available funds from Tier Two and Tier Three may be reallocated to address eligible expenses in Tier One.

Finally, as a condition for receiving reimbursement for eligible costs, as described previously, applicants must certify that the expenditures for which they have received compensation, either through insurance, jurisdictional cost allocations, other revenue recovery methods, and from this federal appropriations program, will not be assessed against customers. Moreover, recipients of funds will be under a continuing obligation to inform ESD/EDC of monies received from any outside source that compensate the recipient for any costs for which the recipient has been reimbursed pursuant to this plan. Service providers receiving funds will be in compliance with all applicable local, state, and federal regulatory requirements.

Environmental Regulations Compliance

Once HUD approves the final version of this Partial Action Plan, any application from a utility service provider for funds under this plan will be considered by HUD as a federal action. Unless the project has already been determined to be an *exempt activity* as defined by federal regulations, all physical development activities for the project site or activity proposed for receiving HUD financial assistance must halt pending environmental clearance of the project site or activity. A violation of these regulations by the state, its corporations, applicants, or the applicants' partners or contractors may result in disqualifying the use of HUD financial assistance for projects and activities found in violation under this program.

Generally, neither HUD funds nor non-HUD funds are to be committed or expended for a project receiving HUD assistance until there is compliance with National Environmental Policy Act (NEPA) and related federal laws and authorities and HUD has approved the environmental certification and a request for release of funds.

II. Tier One (highest priority) - Emergency and Temporary Service Response

Category 1 - Emergency and Temporary Service Response - $ 250 Million

Eligible costs under this category were incurred to stabilize service delivery to Lower Manhattan, preserve public safety and public health, prevent additional destruction, provide rescue assistance, and construct the infrastructure necessary for temporary restoration of critical energy and communications services. Temporary restoration of service enabled the resumption of commerce and the start of recovery and rebuilding and assisted in preparation for the restoration of permanent service. Eligible costs will be reimbursed up to 100% of actual, incurred, uncompensated, and documented costs. Uncompensated costs are those costs borne by the utility service provider after they have diligently and aggressively pursued all insurance recoveries within the terms and conditions of the applicable insurance policies covering their losses.

To the extent the total amounts requested for Tier 1 funding exceeds the funding allocated to Tier 1 ($250 million) in the table on page 2 hereof, awards of funding will be based on the following criteria:

(1) The degree to which a direct and dollar for dollar beneficial effect of funding on rates to consumers of the relevant public service is proven and assured;

(2) The extent to which the amount requested is for reimbursement of equipment and installation costs for repair or replacement of damaged infrastructure facilities and equipment that provide direct service to the public (as opposed to ancillary facilities serving the applicant that only indirectly service the public); and

(3) The extent to which the applicant has diligently and aggressively pursued its claims with its insurance companies within the terms and conditions of the applicable insurance policies covering their losses.

ESD/EDC recognizes that full audit and verification of submitted costs may be time consuming. Utility service providers may have carried the eligible costs of emergency service response for more than a year without reimbursement from insurance or other sources. ESD/EDC will extend immediate reimbursement, in the form of advance payments equivalent to one-third of requested, eligible costs for emergency and temporary service response reimbursement, within 30 days of receipt of a completed application with full documentation, and prior to completion of review and verification by ESD/EDC and DPS staff. The advance payments may be adjusted and will be subject to refund, upon review and confirmation of submitted documentation, with such adjustments incorporated into the full reimbursement payment for eligible costs under these categories.

The deadline for application and submittal for reimbursement of documented, incurred Emergency and Temporary Service Restoration costs not otherwise covered by settled or pending insurance claims is September 30, 2003. The deadline for submittal for reimbursement of incurred costs that may or may not be partially covered by pending/settled insurance claims is March 31, 2004.

The total estimated cost for Tier 1 is up to $250,000,000.00.

III. Tier Two - Permanent Restoration and Infrastructure Improvements, Construction of Carrier Neutral Lateral Conduits, Construction of Redundant Fiber Connections to Critical Facilities, and Mandated Infrastructure Improvements

Category 2 - Permanent Restoration and Infrastructure Improvements - $330 Million

Eligible costs under this category are those incurred to permanently replace, restore, and enhance the equipment and infrastructure to deliver utility service. Where appropriate and cost effective, infrastructure restoration using current technology will likely exceed the service quality and/or capacity of the pre-September 11, 2001 systems being restored. Technology advances over the past two decades have brought significant improvements in utility infrastructure capacity and capabilities, particularly in telecommunications. In certain cases, restoration of permanent service in Lower Manhattan will reasonably entail the replacement of some infrastructure with more modern or resilient technology options. These options may improve the system by increasing capacity, service quality and/or public safety as compared to September 10, 2001 levels, at a marginally higher cost than that of prior generations of equipment or other options. Alternatively, companies may desire to implement significant infrastructure improvements at a greater than marginally higher cost.

ESD/EDC, in consultation with DPS staff, will evaluate the infrastructure improvement for its delivery of technological currency, increased capacity and/or capability, and improved resiliency. The applicant must demonstrate how local government and the business community were consulted in the development of the infrastructure improvement plan, and how that plan reflects the priority needs of Lower Manhattan redevelopment and public safety.

ESD/EDC consultations with local government and the business community have identified clear priorities for telecommunications infrastructure improvement that must be incorporated into any proposal in order to qualify for funds under Category 2. Telecommunications infrastructure improvement must include, prioritized as follows:

(1) Plans for development of fully redundant central office capacity
(2) A self-healing fiber optic ring for the Lower Manhattan service area.

Expenditures under this category will be reimbursed at 75% of incurred costs, subject to availability of funds, with the exception of street-related work coordinated with the City as provided under Program Coordination, in which case the reimbursement will be up to 100%. Provision of redundant central office service enhancement to customers must be offered under a cost-structure approved by the PSC, which reflects the benefits of this substantial public investment in infrastructure.

Tier 2(2) funding awards will be based on the following criteria:

1) The extent to which the investment reflects the needs of local government and the business community regarding utility infrastructure in Lower Manhattan through:
    1)a. increased resiliency of utility service;
    1)b. increased capacity of utility service;
    1)c. other benefits of technology and advanced utility infrastructure.

2) The scope of the project proposal given the amount of funding requested.

The applicant bears the burden of proving that expenditures in this category provide for infrastructure restoration to similar or enhanced service levels prior to the attacks. Further, the application must clearly identify what was installed as permanent service improvements and restorations and further provide rationales as to why the investment in improved technology is in the best interests of the business and residential customers. Documentation must explain and justify fully why the selected technology is the most cost and quality competitive option available and why such system improvements should be assisted through federal recovery funds. Eligible costs will be reimbursed up to 75% of actual incurred, uncompensated, and documented costs (except street-related work coordinated with the City). Uncompensated costs are those costs borne by the utility service provider after they have diligently and aggressively pursued all insurance recoveries within the terms and conditions of the applicable insurance policies covering their losses.

In the event that sufficient funding is not available to meet all applications and submittals made under this category, reimbursement may be limited to such amount per applicant as ESD/EDC determines best meets the objectives of this plan within the established review process. Applicants are encouraged to submit proposals to incur costs for advance review prior to commitment of capital investment.

The deadline for submittal of documented incurred permanent service restoration and improvement costs is December 31, 2004. The deadline may be extended at the discretion of ESD/EDC.

Category 3 - Construction of Carrier Neutral Lateral Telecommunications Conduit - $50 million

To enhance telecommunications diversity and competition in Lower Manhattan, up to $50 million will be allocated for the construction of carrier neutral lateral conduit. This conduit will provide housing for fiber optic or other telecommunication lines connecting the trunk lines that run down the main avenues with cross streets where customers for telecommunications services are located. This plan recognizes the need to facilitate the ability of telecommunications providers to connect fiber lines to their customers in a manner that minimizes the impact on traffic, pedestrians, and streets where the needed lines and buildings are located. Because the conduit will be carrier-neutral, it will be available to all telecommunications providers.

ESD/EDC will issue a Request for Proposals (RFP) following finalization of Categories 1 and 2 from companies that would be interested in constructing, owning, maintaining, and leasing the carrier-neutral lateral conduit. The company that is designated under this RFP for this task will be required to provide a scope of work to be included in the City-coordinated bidding described on page 6 above, and coordinated with City street restoration work. Eligible incurred costs to provide carrier neutral conduit at city-designated locations will be reimbursed at up to $50 million, subject to availability of funds.

In evaluating the responses to the RFP for carrier neutral lateral conduit (Tier 2(3)), ESD/EDC will be guided by the following decision-making criteria:

1. Managerial and financial capability of the applicant to perform the project

2. The scope of the project the applicant is prepared to construct with the available funding.

3. The degree to which the applicant's proposed plan for operating and pricing the carrier neutral conduit would meet the goals of the project.

As noted under program eligibility, applicants for funds in this category need not qualify as regulated service providers that incurred unreimbursed expenditures resulting from the September 11, 2001 attacks. The RFP will be issued no later than December 31, 2004.

Category 4 - Construction of Redundant Fiber Connections to Critical Facilities - $20 million

To enhance public safety, up to $20 million will be allocated for the provision of fully redundant telecommunications services by delivery of fiber optic cable and supporting equipment, to critical business and government facilities that provide critical public services in Lower Manhattan. Local government, in consultation with the affected utilities and ESD/EDC, will designate such critical facilities. ESD/EDC will issue a Request for Proposals (RFP) following finalization of this plan from companies that would be interested in constructing, owning, maintaining, and leasing the redundant fiber connections to the designated facilities. The company that is designated under this RFP for this task will be required to enter into the joint bidding relationship with the City described on page 6 above. Eligible incurred costs to provide such fiber cable connections to these facilities will be reimbursed at up to $20 million, subject to availability of funds.

In evaluating the responses to the RFP for construction of redundant fiber connections to critical facilities, (Tier 2(4)), ESD/EDC will use the following decision-making criteria:

1. Managerial and financial capability of the applicant to perform the project

2. The scope of the project the applicant is prepared to construct with the available funding.

3. The degree to which the applicant's proposed plan for constructing, operating, and pricing the redundant fiber connections would meet the goals of the project

As noted under program eligibility, applicants for funds in this category need not qualify as regulated service providers that incurred unreimbursed expenditures resulting from the September 11, 2001 attacks. The RFP will be issued no later than December 31, 2004.

Category 5 - Mandated Infrastructure Improvements - $21.5 Million

This category anticipates that utilities may face new regulatory mandates or be the subject of other government programs aimed at improving the security of vital utility services in Lower Manhattan. For this category, the eligible area is defined as the area south of Houston Street.

Eligible costs will be considered for upgrades to service delivery infrastructure to meet federal, state, and municipal regulatory mandates and participate in programs for system security and redundancy. ESD/EDC and DPS staff will review costs submitted for reimbursement under the mandated upgrade category to ensure that they directly reflect the cost of conformance to mandated directives. Eligible costs will be reimbursed up to 100% of actual incurred and documented costs. In the event that sufficient funding is not available to meet all applications and submittals made under this category, reimbursement may be limited to such amount per applicant as ESD/EDC determines best meets the objectives of this plan within the established review process.

The deadline for application and submittal of cost documentation under this category is December 31, 2004. This deadline may be extended if regulatory developments remain unresolved at that time, and if program funds are still available to address costs under this category.

The total estimated cost for Tier 2 is up to $421,500,000.00.

IV. Tier Three – Service Interference

Category 6 - Service Interference - $60 Million

New York City has received monies from the Federal Emergency Management Agency (FEMA) and the Federal Highway Administration (FHWA) for street repairs and restoration to be accomplished over the five-year span designated by the FHWA plan. LMDC received funds from HUD (for this program) to help the utilities permanently restore damaged infrastructure and facilities, much of which is located under City and State streets. Coordinating City and State street restoration with utility infrastructure restoration will make maximum use of allocated federal funds, while minimizing costs and disruptions. The coordination of these program funds is outlined on pages 5 and 6 of this plan. ESD/EDC and DPS staff will review incurred costs under the service interference category, in partnership with applicable State, local, and federal agencies to ensure that approved costs are necessitated by conflicts with other rerouted City and State infrastructure.

This $60 million will be made jointly available to the utilities and the City or the State to pay for service interference costs associated with City or State street restoration. In this manner coordinated expenditures will accrue to the benefit of all parties and ensure that utilities are not responsible for incurring these costs. In the event that sufficient funding is not available to meet all applications and submittals made under this category, reimbursement may be limited to such an amount per applicant as ESD/EDC determines best meets the objectives of this plan within the established review process.

Utilities may have incurred unreimbursed interference costs prior to the publication of this draft plan which were not coordinated with City-managed street restoration. Those costs are eligible for recovery under this category.

Work under this category is distinct from construction of carrier-neutral conduit described in Category 3. Service interference costs pertain only to replacement/upgrade of existing utility infrastructure, but not to the placement of new conduit.

The deadline for application and submittal of cost documentation under this category is December 31, 2007. This deadline may be extended if redevelopment efforts remain unresolved at that time and if program funds are still available to address costs under this category.

The total estimated cost for Tier 3 is up to $60,000,000.00.

V. Program Administration

This Partial Action Plan reserves \$18.5 million, or less than 2.5% of the total fund, for costs related to ESD/EDC administration of the program as well as LMDC's oversight.

The Plan reserves \$3.5 million for program monitoring costs by LMDC and \$7.5 million to be administered by ESD for program management costs. Program administration costs are anticipated for program publication, review of proposed infrastructure investments, environmental review clearance, financial evaluation and processing of funding requests, and auditing of disbursed funds.

The Plan sets aside \$7.5 million to upgrade the New York City MOSAICS system. Roadway construction to be performed with Partial Action Plan funds is administered via a City Department of Transportation permit and construction administration system known as MOSAICS. Upgrading the MOSAICS system will facilitate and improve permit administration, construction planning and program audit functions for the level of work proposed by this Partial Action Plan.

Any unused funds from the Program Administration category may be reallocated to meet funding needs in other categories.

The total estimated cost for Program Administration is up to \$18,500,000.00.