

FOR CONSIDERATION

January 21, 2010

TO: The Directors

FROM: Dennis Mullen

SUBJECT: New York City (New York County) – Moynihan Station Civic and Land Use Improvement Project

REQUEST FOR: Authorization to Enter into a Contract with Guardian Engineering Services LLC for Steam System Remediation Services; Authorization to Take Related Actions

I. Contract Summary

Consultant: Guardian Engineering Services LLC (“Guardian”).

Scope of Service: New York State Urban Development Corporation d/b/a Empire State Development Corporation (“ESDC”), with its subsidiary Moynihan Station Development Corporation, is planning and developing the Moynihan project, including redevelopment of the Farley Post Office Building (“Farley” or the “Building”). As a critical first step to the implementation of the Moynihan Project, ESDC acquired Farley from the United States Postal Service (“USPS”) in March 2007, with USPS leasing back more than half the Building from ESDC on an interim basis. NYS Office of General Services (“OGS”) provides Farley management services for ESDC. Of the various operating expenses associated with the Building, steam for winter heating is the costliest. Pursuant to this proposed contract, steam repair technicians will repair leaking steam traps and pipes, replace non-functioning steam system components, and perform work to shut down steam service to various parts of the Building.

Contract Amount: Not to exceed \$165,000.

II. Background

To date, under OGS management, rent received from USPS has more than offset the overall cost of Farley operation and maintenance, inclusive of insurance. However:

(A) Pursuant to previously authorized and executed contract, USPS has downsized its presence in Farley, both by relocating certain services out of the Building and by consolidating within the Building. This downsizing is a pre-requisite to commencement of train station construction, but will also result in USPS paying less rent to ESDC.

(B) Steam costs were substantially greater in the second winter of operation, not merely because of colder average temperatures, but also because, as it did throughout Manhattan, Consolidated Edison installed more sensitive measuring devices that recorded, presumably more accurately, greater consumption of steam within the Building. Farley steam bills from November 2007 through March 2008 (first winter) totaled \$810,953.77. Farley steam bills from November 2008 through March 2009 (second winter) totaled \$1,095,910.98, an increase of 35%. (Note also that due to Con Ed billing issues, most of the 08/09 steam bills did not begin arriving until Spring 2009. No steam bills have been received for the current winter) On an annual basis, steam represents approximately 24% of total Building operation cost. According to Con Ed, it is expected that steam rates will rise in Spring 2010.

In order to ameliorate this situation, ESDC is undertaking property management actions to reduce steam consumption. Importantly, given USPS downsizing, USPS will no longer require open, 24-hour-a-day, truck access through Farley's 9th Avenue and 33rd Street entrances. Therefore OGS has installed roll-down doors on these entrances, and the 33rd Street doors are closed for this winter. Further, pursuant to the contract proposed by these materials, steam repair technicians will: (i) repair leaking valves, pipes and other equipment to reduce steam waste; (ii) replace non-functioning steam system components, particularly in areas serving Farley's perimeter as so as to utilize the perimeter heating system; and (iii) install control valves and/or cap steam risers in order to shut down steam to large unoccupied areas of the Building. The main intent of this steam modification project is to minimize steam waste by:

1. Disabling all steam equipment serving vacant areas of the Building (while maintaining enough heat to prevent freezing); and
2. Repairing or replacing steam traps, leaking valves, and any other equipment (e.g. air handling units, perimeter radiators, etc.) serving occupied areas of the Building, such as public areas, interior work rooms (mail sorting, etc), and miscellaneous offices.

Con Edison noted in its 2007 'best practices' reports ("Steam Use Efficiency and Demand Reduction") that steam leak repairs lead to 'very high' average return on investment—a category associated with payback periods generally under one year.

The scope also includes select removal of asbestos containing materials to the extent required to repair the steam system. Obviously, all of this work will be undertaken within the context of continuing to supply enough heat to preserve and protect, and without compromising the condition of, historic Farley.

III. Contractor Section Process

As a former contractor to USPS at Farley, Guardian has performed general engineering services within Farley for many years, including for ESDC/OGS for the past 2½ years, and so has intimate familiarity with the Building, including its steam heating system. In order to preserve the value of this expertise, ESDC staff recommends that Guardian be retained to perform these specialty steam system remediation services. ESDC's "owner's representative",

URS, has thoroughly vetted Guardian's scope of service and fee proposal. A request for an exemption from advertising in the Contract Reporter is being process.

IV. Contract Term, Price, and Funding

Payment for these services will be at standard hourly rates for "Steam Fitters" as detailed in the current OGS-Guardian contract for Farley, as follows:

- \$129.87 per Straight Time Hour (Monday to Friday, 8am to 4pm)
- \$194.80 per Over Time Hour (all other time except Sundays and Holidays)
- \$259.74 per Double Time Hour (Sundays and Holidays)

URS has issued a cost/benefit analysis of the proposed steam system modifications. Using the 2008/2009 steam usage as a baseline, URS calculates that the anticipated annual energy savings due to the proposed steam system modifications is approximately 10,270 Million BTU/year. At an average unit cost of \$10.00 per Million BTU/year, this energy savings equals a projected cost savings of \$100,300 per year, relative to the baseline usage. This represents approximately a 10% reduction from the present annual heating expenditure.

Using the current projected cost of \$165,000, URS has projected the payback period for the proposed project to be 1.65 years, or, to be more precise, winters ($\$165,000/\$100,300$). Construction of the Moynihan train hall in the original Farley Building, and private development in Farley's Annex, to the point where such new construction would supplant Farley's existing antiquated steam system, cannot be expected within this time frame. Thus, a multiple payback on this investment would be anticipated.

Accordingly, ESDC Directors are requested to authorize ESDC to enter into a contract with Guardian on the terms and condition outlined above, for an amount not to exceed \$165,000, for requisite steam system remediation services, expenses, and materials. The sources of funds for such contract are: USPS rent, received monthly; and USPS \$10M Remediation Account, which, pursuant to contract with USPS, can be used for, among other things, Farley operational expenses.

Pursuant to State Finance Law Section 139-j and 139-k and ESDC's policy related thereto, staff has (a) considered Guardian's ability to perform the services provided for in the proposed amendment, and (b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff considers Guardian to be responsible.

V. Environmental Review

The requested authorization to enter into a contract for building maintenance constitutes a Type II action as defined by the New York State Environmental Quality Review Act (SEQRA) and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with this authorization.

VI. Affirmative Action

The Corporation's non-discrimination and affirmative action policy will apply to this contract. ESDC has established a project goal of 20% Minority/ Women-owned Business Enterprise contractor and/or subcontractor participation during the development of the Project, which includes the pre-construction and construction phases, and an overall goal of 25% minority and female workforce participation during construction.

VII. Requested Actions

The Directors are requested to: (1) make a determination of responsibility with respect to Guardian; and (2) authorize ESDC to execute a contract with Guardian in an amount not to exceed \$165,000 for steam system remediation services, on the terms and conditions set forth in these materials.

VII. Recommendation

Based on the foregoing, I recommend approval of the requested actions.

VIII. Attachments

Resolutions

January 21, 2010

NEW YORK CITY (NEW YORK COUNTY) – Moynihan Station Civic and Land Use Improvement Project – Authorization to Enter into a Contract with Guardian Engineering Services LLC for Steam System Remediation Services; Authorization to Take Related Actions

BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds Guardian Engineering Services LLC (the “Contractor”) to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into a contract with Contractor in an amount not to exceed \$165,000, for the purposes and services, and substantially on the terms and conditions, set forth in the Materials; and be it further

RESOLVED, that the Chief Executive Officer-Designate, or other Officer of the Corporation, or his or her designee(s), be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing Resolutions.

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