

FOR CONSIDERATION

March 26, 2010

TO: The Directors

FROM: Dennis Mullen

SUBJECT: New York (Kings County) - Atlantic Yards Land Use Improvement and Civic Project

REQUEST FOR: Authorization to Enter into Contract with STV Inc. and to Take Related Actions

I. Contract Summary

The Directors are being requested to approve a contract with STV Inc. to provide Owner's Representative (OR) technical services for the Atlantic Yards Land Use Improvement and Civic Project ("the Project"). STV Inc. is proposed to replace Earth Tech (ET) which can no longer perform these services due to a conflict of interest. In 2008 ET was absorbed by the much larger Engineering firm, AECOM Inc which subsequently absorbed Ellerbe Becket ("EB") in November 2009. EB is the architect of record for the Barclay's Center, a component of the Project.

On December 3, 2007 an advertisement for an OR consultant was placed in the New York State Contract Reporter ("NYSCR") to which ten firms responded. A rigorous evaluation of the qualifications of the respondents was made and five were selected to make presentations to ESD staff. After the presentations, Earth Tech was considered as the best suited team for this project, and STV Inc ("STV") was deemed the second most qualified consultant. As such they are an excellent candidate to replace ET as OR. Based on this selection process, an exemption from further advertising in the NYSCR has been granted to contract with STV as OR.

STV will act as ESDC's "eyes and ears" by providing staff to observe construction activity, monitor site safety, review construction and design documents and contractor's requisitions. The fee shall be on hourly basis for time spent by staff. The contract shall be for a 24 month period.

II. Background

The Atlantic Yards Land Use Improvement and Civic Project (the "Project") is the development of a major new complex that will occupy a 22 acre site in the Atlantic Terminal area of Brooklyn. The Project includes the development of a basketball arena, 16 mixed use buildings, a reconfigured Long Island Railroad Yard and 8 acres of publicly accessible open space. The project is expected to be constructed over a period of ten or more years. The Project

developer is Forest City Ratner Companies (“FCRC”) acting through itself and various affiliates collectively. FCRC’s construction advisor is Turner Construction.

ESD is committed to maintain an Owner’s Representative (“OR”) to be on site during Phase I of construction. The OR will not guarantee conformance with all laws and safety regulations but will flag any on-site conditions that appear troublesome and point them out to ESD and FCR.

Specifically, the OR will help ESD identify, investigate and address risks associated with Phase I construction by reviewing FCRC’s Public Safety Plan for protection of the public and workers including provisions for protection of streets and sidewalks, sidewalk bridges, construction fences, site ingress and egress, material storage, protection of adjacent properties and location; use of cranes, waste disposal and truck marshalling. The OR, along with ESD will monitor conformance of the construction with the Project Plan, Design Guidelines, and other project documents. The OR shall provide weekly reports of site conditions, anticipated activities and identify potential difficulties that may arise in the near future.

We anticipate that an average of three people will be on the job during the course of a year and estimate the cost of this service to be \$625,000 per year, including reimbursables. The contract would be for a period of two years, for a total of \$1,250,000.

III. Funding Source

By Agreement dated February 18, 2004, the Project developer agreed to pay all the Corporation’s out-of-pocket costs, including the cost to retain consultants in furtherance of the Project. Accordingly, the STV contract will be funded, in its entirety, from funds provided by FCRC

IV. Environmental Review

ESD staff has determined that the services to be performed by STV, which involve the procurement of professional services for monitoring construction, 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 the project.

V. Design & Construction (“D&C”)

D&C staff will determine staffing that STV is to provide as needs arise and change, monitor their performance, and authorize payments when all of its requirements have been met.

VI. Affirmative Action

The Corporation has established a 20% goal for minority and women business enterprises (M/WBE) participation in the construction of the Project and a goal of 25 % for minority and women workforce participation. In addition, Forest City has signed a community benefits agreement to provide additional benefits and additional opportunities for M/WBE’s and minority and women workers.

VII. Recommendations

The Directors are requested to authorize the Corporation to enter into a contract with STV for a total contract amount not to exceed \$1,250,000.

Attachments
Resolution

March 26, 2009

New York (Kings County) – Atlantic Yards Land Use Improvement and Civic Project -
Authorization to Enter into Contract with STV Inc. and to Take Related Actions.

RESOLVED, that the Corporation is hereby authorized to enter into contract with STV Inc. in an amount not to exceed \$1,250,000 for the purposes and substantially on the terms set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer or any other officer may deem appropriate; and be it further

RESOLVED, that the President and Chief Executive Officer or any such other officer be, and each of them hereby is, authorized to take such action or execute such agreements as he or she may consider necessary or appropriate to effectuate the foregoing.

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