

MOYNIHAN STATION DEVELOPMENT CORPORATION

Meeting of the Board of Directors of the Moynihan Station Development Corporation

At the offices of the
New York State Urban Development Corporation
d/b/a Empire State Development
633 Third Avenue – 37th Floor
New York, New York 10017

Friday

January 18, 2013 – 9:30 a.m.

PROPOSED AGENDA

CORPORATE ACTION

1. Approval of the Minutes of the November 29, 2012 and December 19, 2012 Directors' Meetings

FOR CONSIDERATION

2. Authorization of a Change Order for the Construction Contract with Skanska USA Civil Northeast, Inc. ("Skanska")
3. Authorization to Amend a Contract with New York State Office of General Services ("OGS") to provide Building Management Services at the James A. Farley Post Office Building and Annex in Manhattan

FOR INFORMATION

4. President's Report (Oral Report)

ITEM 1

MOYNIHAN STATION DEVELOPMENT CORPORATION

Meeting of the Directors
Held at the Offices of the
Empire State Development Corporation
633 Third Avenue
37th Floor Conference Room
New York, New York 10017

November 29, 2012

MINUTES

In Attendance

Directors:

John Porcari, Chairman (via video conference)
Timothy J. Gilchrist
Rebecca Reyes-Alicea – Designee for Karen Hedlund –
(via video conference)
Anita Romero
Tokumbo Shobowale
Paul Williams

**Present for the Empire
State Development
Corporation:**

Natalie Dennery, Senior Counsel
Richard Dorado, Senior Counsel
Vikas Geras, Project Manager – Community Economic Devel.
Justin Ginsburgh, Chief of Staff
Andrew Grossman, Special Advisor to CF&AO
Howard Kramer, Assistant Vice President
Carlos Otero, Vice President – Contract Admin./Subsidiary Finance
Sankar Singh, Manager – Contract Audit & Admin.

**Present for the
Moynihan Station**

Development Corporation:

Fred Bartoli, Project Manager
Michael Evans, Vice President
Mehul Patel, Vice President - Development
Rebecca Pellegrini – Project Manager
Regina Stephens, Acting Corporate Secretary
Thelma Washington, Executive Secretary

Also Attending: Chris Burke, PANY&NJ
Ron Calvosa, PANY&NJ
Andrew Lynn, PANY&NJ
Angel Martinez, PANY&NJ
Steve Pasicho, PANY&NJ
Kenneth Hanson, Amtrak
Dana Schaefer, Amtrak
Joseph DeLuca, Thacher Associates
Paul Ryan, Thacher Associates

The meeting of the Moynihan Station Development Corporation (“MSDC” or the “Corporation”) was called to order at approximately 1:03 p.m. by Chairman John Porcari. It was noted for the record that the meeting was being web cast and that the Directors had received relevant written materials in advance of the meeting. Also noted for the record was the Corporation’s policy to welcome public comment on the items on the current Agenda. The Chairman briefly reviewed the protocol for comments.

The first order of business was approval of the Minutes of the October 12, 2012 Directors’ meeting. There being no changes or corrections, upon motion duly made and seconded, the following resolution was unanimously adopted:

176. MOYNIHAN STATION DEVELOPMENT CORPORATION - APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE OCTOBER 12, 2012 MEETING OF THE DIRECTORS OF THE MOYNIHAN STATION DEVELOPMENT CORPORATION

RESOLVED, that the Minutes of the meeting of the Corporation held on October 12, 2012, are hereby approved and all actions taken by the Directors present at such meeting, as set forth in such Minutes, are hereby in all respects ratified and approved as actions of the Corporation.

* * *

Michael Evans presented the next Agenda item, requesting authorization to enter into a Subway/Railroad Indemnity Licensing Agreement with the MTA, New York City Transit Authority and the Long Island Railroad for Phase 1.

Mr. Evans explained that the Corporation is ready to move forward with the connecting corridor work. He further explained that the connecting corridor work is located in an area owned and controlled by the MTA, New York City Transit and Long Island Railroad. Mr. Evans stated that a draft agreement which covers insurance and indemnity provisions as well as, addresses the force accounts costs has been negotiated with the MTA. This agreement will allow the Corporation to go into the needed work areas to proceed with construction. Mr. Evans stated that the agreement also covers the issue of space required to make the ramp ADA compliant. He informed the Directors that the space is subleased by the MTA to Vornado Realty Trust (“Vornado”) and then Vornado subleases the space to HSBC Bank. He stated that the Corporation would pay to have the MTA re-acquire the space, and then the MTA will amend their lease with Vornado to return the space in perpetuity to the MTA. Mr. Evans further stated that a valuation was done in consultation with MTA, Vornado and outside real estate advisors. He explained that the valuation is a standard valuation which is based on the rents expected in the corridor space of Penn Station.

Following Mr. Evans’ presentation, Chairman Porcari stated that he had a conversation with Joe Lhota regarding the \$114,000 that the MTA’s Real Estate Department is proposing to charge. Chairman Porcari further stated that he felt that the proposed charge was

inappropriate, and has asked Mr. Lhota to review the matter. Chairman Porcari then proposed that the Board approve the item with the understanding that the \$114,000 is subtracted from the total project cost and it be noted that the Corporation's Board Chairman and MTA Chairman are working to resolve this issue with the MTA.

Anita Romero requested that Mr. Evans clarify the language in the board materials, which states that the MTA, New York City Transit and LIRR will be included and indemnified by insurance coverage; she asked if it meant that they were additionally insured. Mr. Evans responded affirmatively. He stated that the contractor will be required to procure general liability coverage which will also provide coverage to the MTA. Ms. Romero then asked if there is a separate indemnity requirement. Mr. Evans responded that there isn't a separate indemnity requirement. He stated that the insurance provisions are standard provisions and that the Corporation negotiated which insurance provisions were required in order for the contractor to do the work.

There being no other questions or comments from the Directors or the public, Chairman Porcari entertained a motion for approval, upon motion duly made and seconded, the following resolution was unanimously adopted:

177. MOYNIHAN STATION DEVELOPMENT CORPORATION - New York (New York County) – Moynihan Station Civic and Land Use Improvement Project – Authorization to Enter into a Subway/Railroad Indemnity and License Agreement with the Metropolitan Transportation Authority, the New York City Transit Authority and the Long Island Railroad for Phase 1 of the Project; and Authorization to Take Related Actions.
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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 Metropolitan Transportation Authority (“MTA”) and New York City Transit Authority (“NYCT”) to be responsible; and be it further

RESOLVED, that the Corporation may enter into a Subway Indemnity and License Agreement (the “License Agreement”) with MTA, NYCT and LIRR for a license to enter and perform work in certain space leased by MTA and LIRR from Amtrak and that the Corporation may pay to MTA an amount not to exceed \$1.140 million (\$1.254 million minus \$114,000 as directed by the Board) for real estate costs to be incurred by MTA in connection with the work;

RESOLVED, that in accordance with the Materials, the Corporation is hereby authorized to reimburse MTA and NYCT for their staff and out-of-pocket costs related to the work to be performed on the licensed premises in an amount not to exceed \$1,250,000; and be it further

RESOLVED, that the President, or other Officer of the Corporation, or his 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.

* * *

Next, Chairman Porcari requested that Director Timothy Gilchrist present his President’s report. He noted for the record that this report is for the Directors’ information and no vote would be required.

In his report Director Gilchrist stated that prior to super storm Sandy, construction had progressed and that the Project was ahead of schedule due to the cooperation of Amtrak and LIRR and the means and methods relating to barricades that was developed by Skanska. He

stated that weekend work had been lost and that he had anticipated that work would progress in the coming weekend; however, Amtrak has informed them that due to work still needed to be done in the tunnels, as a result of storm Sandy, Amtrak would not be able to accommodate any outages for the upcoming weekend. Director Gilchrist informed the Directors' that he would discuss with Amtrak whether it's possible to schedule outages over one of the next two weekends.

Director Gilchrist stated that plans and contract documents are ready to go out for the Connecting Corridor, and once final sign-offs are received documents will go out for bid and depending on the holidays will be opened in December or early January. He anticipates that the prices for platform ventilation work will come in shortly and will be under contract sometime in January or February.

Next, Director Gilchrist asked Angle Martinez of the PANYNJ to update the Directors on the construction progress. Mr. Martinez mentioned among other things, that up until storm Sandy, the construction had been ahead of schedule. He stated that three weekends had been lost as a result of the storm. Mr. Martinez explained that work continues to progress under the platforms behind the barricades. He stated that it had been their goal to complete the caisson work, and the drilling work needed between platforms during the coming and prior weekend outages. He explained that if it's possible to complete this work it would allow them to restore those platforms and ease up some of the congestion that has occurred as a result of the barricades. Lastly, Mr. Martinez stated that the project is in good standing and that they

will continue to monitor the work and work at moving forward with the Project.

Following Mr. Martinez's report, Tokumbo Shobowale asked when the moratorium will end. Director Gilchrist responded that the moratorium starts from the weekend before Thanksgiving through Martin Luther King Day. Andrew Lynn of the PANYNJ added that it was brought to attention by Amtrak that starting on Memorial Day and extending for several weeks, there is a major outage for the East Side Access which will need to be coordinated; Director Gilchrist stated that East Side Access outage is an issue that will be dealt with by the Steering Committee and the Tri-Venture Executive Committee.

Director Gilchrist then introduced John DeLuca and Paul Ryan representatives from Thacher Associates, the project's integrity monitor, and Steve Pasichow and Ron Calvosa from the Port Authority Inspector General's office.

On behalf of Thacher Associates ("Thacher"), Mr. Deluca expressed thanks and appreciation for the opportunity to be a part of the Project. He gave the Directors a brief history of the Thacher firm as well as discussed Thacher's plan of action to successfully complete the project on time, within budget, with integrity and without any scandals during the Project. Mr. Deluca then introduced Paul Ryan, Thacher's Project Manager for the Project. Mr. Ryan gave a brief status update on where they are on the Project. He stated that their work plan has been approved and that they have met with MSDC staff, Port Authority, STA and Skanska. Mr. Ryan explained that he and his team will be focusing on risk assessment, by

selecting certain processes for review. Mr. Ryan also mentioned that his work plan would focus on payment of prevailing wage, conformation and performance review of subcontractors and suppliers and the initial work plan on MWBE subcontractors and suppliers.

Director Tokumbo Shobowale asked Mr. Ryan if there was anything that seemed different about this Project than other projects that he has monitored. Mr. Ryan responded that what makes this project different is that this project's work is primarily performed on weekends and during late evening hours however, he did not view it as a problem. Director Shobowale then asked if this had changed their methodology approach in any way. Mr. Ryan responded that it has changed the way they conduct their site presence. He stated that they schedule their presence on the site to accommodate the work schedule.

Director Gilchrist then asked Michael Evans to give a brief update on the interim uses at the Farley Building. Mr. Evans stated that there had been a Samsung event which generated \$135,000, HBO shot a pilot program in the building generating about \$75,000 and the space was used during the Thanksgiving holiday by Feeding NYC, a non-profit organization that packs and distributes meals to shelters around the City. Feeding NYC was very grateful to the Corporation for providing the space since their space was destroyed during the storm. Mr. Evans stated that he is continuing to have discussions with organizations interested in holding events at the Farley Building and he is currently reviewing a contract for Fashion Week. Lastly, he stated that MSDC has a contract for a two-week Park Fair in March 2013.

Following the Project's status updates and comments by the Directors, Chairman Porcari called for a motion to conduct an Executive Session, pursuant to paragraph (h) of subdivision 1, Section 105 of the New York State Open Meetings Law. Upon motion duly made and seconded, the following resolution was unanimously adopted:

178. EXECUTIVE SESSION - Pursuant to Paragraph (h) of the Subdivision 1 Section 105 of the New York State Open Meetings Law

RESOLVED, that the Directors conduct an Executive Session to consider matters pertaining to paragraph (h) of Subdivision 1 of Section 105 of the New York State Open Meetings Law.

* * *

The Directors' meeting was temporarily adjourned at 1:23 p.m. to conduct an Executive Session. All persons were requested to leave the room with the exception of the Directors and members of senior staff.

The Executive Session concluded at 1:28 p.m. Once the meeting was back in Open Session, Chairman Porcari noted for the record that no votes were taken during the Executive Session.

There being no additional business, the meeting was adjourned at approximately
1:29 p.m.

Respectfully submitted,

Regina Stephens
Acting Corporate Secretary

MOYNIHAN STATION DEVELOPMENT CORPORATION

Meeting of the Directors
Held at the Offices of the
Empire State Development Corporation
633 Third Avenue
37th Floor Conference Room
New York, New York 10017

December 19, 2012

MINUTES

In Attendance

Directors:

Karen Hedlund, Acting Chair (via video conference)
Timothy J. Gilchrist
Anita Romero (via telephone)
Paul Williams (via telephone)

**Present for the Empire
State Development
Corporation:**

Thomas Brennan, Senior Vice President – Internal Audit
Natalie Dennery, Senior Counsel
Richard Dorado, Senior Counsel
Vikas Geras, Project Manager – Community Economic Devel.
Justin Ginsburgh, Chief of Staff
Andrew Grossman, Special Advisor to CF&AO
Howard Kramer, Assistant Vice President
Carlos Otero, Vice President – Contract Admin./Subsidiary Finance
Sankar Singh, Manager – Contract Audit & Admin.

**Present for the
Moynihan Station**

Development Corporation:

Fred Bartoli, Project Manager
Michael Evans, Vice President
Mehul Patel, Vice President - Development
Rebecca Pellegrini – Project Manager
Regina Stephens, Acting Corporate Secretary
Thelma Washington, Executive Secretary

Also Attending:

Chris Burke, PANY&NJ
Eustice Kelly, PANY&NJ

Andrew Lynn, PANY&NJ
Angel Martinez, PANY&NJ
Marco Pirozzi, PANY&NJ
Bruno Signorelli, PANYNJ
Vincent White, USDOT/FRA (via video conference)

The meeting of the Moynihan Station Development Corporation (“MSDC” or the “Corporation”) was called to order at approximately 4:00 p.m. by Acting Chair Karen Hedlund. It was noted for the record that the meeting was being web cast. Also noted for the record was the Corporation’s policy to welcome public comment on the items on the current Agenda. Acting Chair Hedlund briefly reviewed the protocol for comments.

Acting Chair Hedlund then asked Director Timothy Gilchrist to give the President’s Report. She noted for the record that the President’s Report is for the Directors’ information and no votes would be required.

In his report Director Gilchrist stated among other things, that the past weekend was the first weekend outage post the Sandy storm. He stated that it was a productive weekend. Director Gilchrist explained that there were 14 minipiles drilled in between the tracks, rebars were put in and grouting was started. It is anticipated that the grouting work will be completed during the coming week. He stated that the results of working the past weekend will allow Skanska the ability to have fully productive work during the day from now until after the holiday. Director Gilchrist stated that the next weekend outage is scheduled for January 12. He informed the Directors that the MTA Board had adopted their version of the MTA and Long Island Railroad agreement which had been adopted by MSDC’s Board at the prior

Directors' meeting. He stated that the Project team has done well with the work over the past year and that if not for Hurricane Sandy, he believes the year would have been more productive. Director Gilchrist informed the Directors that Skanska has impressed Amtrak and others on the Project with their quality of work and productivity.

Director Gilchrist then introduced other staff members of the Port Authority team, Bruno Signorelli, Engineer of Construction, Marco Pirozzi, Assistant Resident Engineer and Kelly Eustice, Associate Resident Engineer. He explained that Marco and Kelly share the overnight and weekend shifts and sometimes arrive at the site at 3:00 am. Director Gilchrist thanked the team for all their work over the past year. Director Gilchrist then asked Mr. Pirozzi to give a report on the accomplishments over the year.

In his report Mr. Pirozzi stated among other things, that Skanska was selected in June and they spent July and August preparing and mobilizing on the site. He stated that the first weekend outage took place on September 15 and there have been a total of eight weekend outages to date. Mr. Pirozzi informed the Directors that Hurricane Sandy did affect the work with a net loss of two weekend outages, however due to Amtrak allowing a weekend outage this past weekend, one lost weekend outage has been recovered. He stated that Skanska has completed 25% of the Project's minicaissions. Mr. Pirozzi explained that Skanska came up with the innovative means and methods to install platform barricades and stair tower from the platforms up into the concourse level of the Farley Building. This will allow Skanska to work during the daytime shifts without affecting Amtrak's operations. He stated that the stair towers

and barricades were installed during the earlier weekend outages. Mr. Pirozzi explained that Skanska mobilized the staging area on the Empire line as a point to load and unload their work trains and they have installed a fence line which separates their work area from the active tracks and allows them to work without having Amtrak protection. He stated that Skanska has completed footing and pile cap work on Platforms 3, 4 and 5 as well as, surveyed for utility conflicts under the platforms with help from Amtrak. Mr. Pirozzi stated that demolition has begun on the concourse level in the Farley Building and he anticipates that asbestos abatement will begin in the coming week. Mr. Pirozzi then informed the Directors of significant milestones anticipated for Skanska in 2013. He stated that Skanska will complete the remaining 89 minicaissons by the fourth quarter of 2013 and will work with Amtrak on their foundation work, identify and relocate any utilities that may conflict with the minicaisson installation and the foundation work. Skanska will also identify any utilities above the platform that may preclude them from coming and erecting steel which they project to begin on Platforms 3 and 4 by the end of the fourth quarter of 2013. Mr. Pirozzi anticipates that the steel erection will signify the next major step of the construction work and anticipates all the foundation work to be completed which will allow Skanska to proceed with work above the platform, erecting tracks on the weekend. Skanska will install a horizontal shield above Tracks 1 through 4 which will protect work happening in the South Plaza of the Farley Building. Mr. Pirozzi stated that he expects Amtrak to have more involvement in the coming year. Amtrak will remove the catenary on Tracks 13 through 21, support Skanska in identifying utilities and begin the catenary work to support the steel erection. He explained that Amtrak will need to reprofile their catenary work prior to Skanska erecting the cross platform above the track steel.

This work is anticipated to begin in the second half of 2013. Mr. Pirozzi then informed the Directors that the passengers that will be mostly impacted in 2013 will be Amtrak and Long Island Railroad passengers. He stated that the New Jersey Transit and Amtrak passengers will also be affected and that they are working with the New Jersey Transit and Amtrak to give enough notice to minimize the impact to the passengers that may arise for a particular weekend. Lastly, Mr. Pirozzi stated that once the horizontal shield is erected passengers will begin to see the street level work occur in the south area of the Farley Building.

Following Mr. Pirozzi's report Acting Chair Hedlund asked if there was a sense of what the delay as a result of Hurricane Sandy and Amtrak's inability to move forward may ultimately cost the Corporation. Director Gilchrist responded that currently the canceled weekend outage probably cost approximately \$20,000 to \$30,000. He stated that so far, Skanska has stated that they have no cost on the remaining shift. Director Gilchrist explained that with the work that is being done they will have had ten weekend outages toward the 32 that were promised in the year and that it is anticipated that Skanska will get all 32 of the promised outages in the first year. He informed the Directors that there is fear that the impact of the salt water on the signal system will cause emergencies that may cancel outages in the future. Nonetheless, Skanska anticipates to be back on the regular schedule on January 12. Director Gilchrist stated that the Project had not experienced the impact of Hurricane Sandy as other Projects have, which is primarily due to the Project being ahead of schedule and also due to the hurricane hitting just before the moratorium period which contractually Skanska was not scheduled for any outages.

Acting Chair Hedlund explained that the reason she inquired was because Congress is going to take up a supplemental that is Sandy related and if there were any expenses, the Corporation might want to apply. Director Gilchrist stated that the Project was lucky not to have been impacted by Sandy.

Lastly, Director Gilchrist mentioned that the Corporation acquired a new \$30 million grant from the FRA and that the plans and contract for the Connecting Corridor are being finalized. He anticipates getting the contract out after the first of year. However, bids will be opened at the end of January.

Following the President's report, Acting Chair Hedlund entertained a motion to conduct an Executive Sessions pursuant to paragraph (h) of Subdivision 1, Section 105 of the New York State Open Meetings Law. Upon motion duly made and seconded, the following resolution was unanimously adopted:

179. EXECUTIVE SESSION - Pursuant to Paragraph (h) of the Subdivision 1 Section 105 of the New York State Open Meetings Law

RESOLVED, that the Directors conduct an Executive Session to consider matters pertaining to paragraph (h) of Subdivision 1 of Section 105 of the New York State Open Meetings Law.

* * *

The Directors' meeting was temporarily adjourned to conduct an Executive Session. All persons were requested to leave the room with the exception of the Directors and members of senior staff.

The Executive Session concluded at approximately 4:24 p.m. Once the meeting was back in Open Session, Acting Chair Hedlund noted for the record that no votes were taken during the Executive Session.

There being no additional business, the meeting was adjourned at approximately 4:26 p.m.

Respectfully submitted,

Regina Stephens
Acting Corporate Secretary

ITEM 2

Moynihan Station Development Corporation

FOR CONSIDERATION

January 18, 2013

TO: The Directors

FROM: Tim Gilchrist

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

REQUEST FOR: Authorization of a Change Order for the Construction Contract with Skanska USA Civil Northeast, Inc. ("Skanska Civil")

CONTRACT NEEDS AND JUSTIFICATION

I. Contract Summary

| | |
|------------------------------------|--|
| Contractor: | Skanska USA Civil Northeast, Inc. |
| Scope of Services: | Construction Phase 1 Moynihan Station, West End Concourse & Related Trainshed work |
| Contract Term: | June 1, 2012 to December 31, 2016 |
| Contract Amount: | Not to exceed \$ 147,750,000 +\$14,775,000 contingency |
| [Proposed Change Order Amount]: | Not to exceed \$22,261,000 + \$2,226,100 contingency |
| New Proposed Total Contact Amount: | \$170,011,000 + 17,001,100 contingency |

Funding Source(s):

Original contract funded by a combination of FRA, MTA and PA funds.

Change Order – \$15,000,000 new FRA High Speed Rail funds through grant from NYSDOT. \$7,261,100 and contingency from FRA Appropriation funds. Both funding sources are reimbursed at 100%.

Authorization is sought to enter into a change order with Skanska USA Civil Northeast, Inc. for its performance of trainshed structural work associated with the Project's Platform Ventilation System.

The Moynihan Station Project will build a new intercity train hall for Amtrak within the Farley Post Office Building.

Phase 1 consists of three sub-projects:

- West End Concourse (“WEC”) Expansion and related Railroad work, including an alternate for creating a new waiting area;
- Platform Ventilation System;
- Connecting Corridor and related Subway work.

Phase 1 is a pre-requisite to Phase 2, which is the construction of a new Amtrak Station within the James A. Farley Post Office Building.

The contract for the first sub-project, the expansion of the West End Concourse, was approved by the MSDC Board on May 9, 2012, with the contract awarded to Skanska USA Civil Northeast, Inc. at a cost of \$147,500,000.

MSDC, in September 2012, was awarded by FRA, through NYSDOT, FRA High Speed Rail funds in the amount of \$30 million for additional Phase 1 work. This additional work includes the completion of the Connecting Corridor sub-project concurrently with the WEC sub-project (scheduled completion September 2016) which will minimize the construction impact on Penn Station customers. The funding will also allow MSDC to advance the Platform Ventilation System sub-project in several stages.

The first stage will consist of the work in the Penn Station trainshed C Yard, which involves the structural work to build the rooms that would hold the fans and the substation that would provide power to the fans. To the extent funds are available in the grant and existing grants, the rooms in E Yard will be constructed. (Prior to the original bid, it was agreed with Amtrak and LIRR that this work, on the north side of the trainshed in C Yard and the south side in E Yard, could be carried out in two 70 day periods with 24/7 construction rather than on weekends to minimize the impact on train operations and the need for Amtrak Electrical staff to lower and raise the catenary (power lines) in the Yards after each weekend outage.). The next stage of the Platform Ventilation System sub-project would consist of furnishing and installing the ventilation fans and performing the related electrical and mechanical work.

This staged implementation approach has the concurrence of USDOT, FRA, Amtrak, MTA, LIRR, NJ Transit and the New York City Fire Department.

The project team (MSDC staff, PA staff, Construction Manager STA JV and Holland & Knight) have reviewed the contracting options for constructing the Connecting Corridor sub-project and the trainshed structural work for the Platform Ventilation System sub-project using the current funding and the additional \$30 million in funding from FRA.

Due to its nature, the Connecting Corridor sub-project can be independently bid to a broader group of contractors than the seven that were prequalified for the WEC and Platform Ventilation System sub-projects. The current WEC contract includes all trainshed foundation work for the Connecting Corridor. The only coordination between the Connecting Corridor contractor and the WEC contractor, Skanska, will be minor changes to the Skanska 33rd Street Plaza work to include the new A/C/E Subway entrance and at the border of the Subway mezzanine and the WEC entrance. Unlike the WEC sub-project work, the Connecting Corridor sub-project work will only require minor outages from Amtrak.

The Platform Ventilation System sub-project work is more complicated. Having a second contractor perform the Platform Ventilation System structural work in the trainshed would severely impact the WEC sub-project work:

- The Platform Ventilation System and WEC sub-projects are very close in proximity in the trainshed (as close as 8 feet) and in certain areas the access would need to be provided by a common work train. The additional cost, delays, and operational variables of the coordination of such proximate work and limited work train access would negatively affect the currently contracted WEC sub-project work and the work to be contracted for the Platform Ventilation System sub-project.
- The WEC sub-project construction contract guarantees the contractor 32 weekend outages per year, the maximum that are available, and no additional outages are available due to the moratorium (mid November to mid January) and holiday restrictions. Taking outages from the WEC contractor for another contractor's performance of Platform Ventilation System work would lead to contractor claims against MSDC and failure to meet the deadline for the completion of the WEC sub-project.
- Amtrak agreed to weekend track outages for the WEC sub-project. The Platform Ventilation System sub-project work in C and E Yards can be carried out only if the work outages are coordinated and designed to minimize the need for additional Amtrak electrical and protection staff. Voluntary coordination would be practically impossible with multiple contractors. Using multiple contractors would require MSDC to manage each contractor's work schedule and means and methods, and this would expose MSDC to potentially substantial contractor claims for delay and extra work.
- The WEC sub-project contractor already has control of the laydown/staging areas on the Empire Line and no additional areas are available. A separate contractor for the Platform Ventilation System sub-project work would not have access to a laydown/staging area, which is required to perform the work. Amtrak requires that

all steel be onsite prior to the start of the extended outage, and a separate Platform Ventilation System sub-project contractor could not comply with this requirement given the unavailability of an additional laydown/staging area.

- Even if alternative laydown/staging areas were available, the movement of work trains to the trainshed would require precise coordination between separate contractors, and inevitable conflicts between the two and would lead to claims by both contractors against MSDC; and multiple contractors also would require additional Amtrak protective staff beyond the staff that included in the current Force Account Agreement between MSDC and Amtrak. Amtrak is already stretched in providing sufficient staff to support the project and cannot be expected to provide additional support to accommodate a second contractor working in the trainshed.
- Per Amtrak, independent of this staff constraint, the movement of multiple independent work trains could reduce productivity by up to 1 hour per event for either or both contractors.
- Any mitigations undertaken to accommodate a separate contractor would come at the expense of Skanska, either in terms of laydown/staging area space, Amtrak work force availability, or scheduled track outages, all of which can be expected to automatically result in expensive delay/damage claims from Skanska against MSDC.

In summary, the introduction of a second contractor to carry out the Platform Ventilation System sub-project work in the trainshed: (i) would result in claims against MSDC for delay and interference from the WEC sub-project contractor; (ii) possibly delay the WEC and the Platform Ventilation System sub-projects beyond the timeframe for which project funding is available; and (iii) require practically impossible coordination of laydown/storage areas, work train access to the trainshed, and performance of the work. It is therefore recommended to negotiate with Skanska USA Civil Northeast, Inc. in order to obtain a competitive price to carry out the trainshed structural work associated with the Platform Ventilation System.

The Connecting Corridor sub-project work contract will be released for bid shortly with an anticipated contract award in February 2013.

The project team has negotiated with Skanska USA Civil Northeast, Inc. for the C Yard work. The negotiation resulted in Skanska agreeing to perform the C Yard work for a total of \$22,261,000 compared to the Engineer's Estimate, prepared by STA JV, the Construction Manager, of \$21,052,000. The project team considers this price to be a good value to MSDC and recommends that the Board approve a change in the existing Skanska contract to include this change order.

Once prices are received for the Connecting Corridor project it will be determined if it is feasible to proceed with the work for the Platform Ventilation rooms in E Yard.

As this is not a competitive bid contract the justification for this award will be posted on the MSDC web site as required in the FRA Grant.

II. Contractor Selection Process

- Request for Qualifications for prequalifying contractors was advertised in NYS Contract Reporter May 20, 2011. Contractors were qualified based upon Experience of Firm, Qualifications of Project Manager, Specific Work Experience critical to the Project, Bonding and Financial Capacity and Safety Record.
- Twelve firms responded and the MSDC Board prequalified seven contractors on August 11, 2011.
- After prequalification selection criteria was low bid.
- Original bid packages made available to prequalified contractors on September 30, 2011. Seven bids received on January 12, 2012. All bids rejected on February 3, 2012. Revised package released March 1, 2012. Bids opened April 26, 2012. Three bids received and Skanska USA Civil Northeast, Inc. was low bidder, and MSDC Board approved award on May 9, 2012.
- Skanska USA Civil Northeast, Inc. was reviewed and found responsible in both the MSDC Board action of August 11, 2011 and May 9, 2012. This included a review by PANYNJ staff in addition to consulting the list of non-responsible bidders and debarred offenders maintained by the NYS Office of General Services.

Pursuant to State Finance Law Section 139-j and 139-k and the Corporation's policy related thereto, staff has; a) considered proposed contractor's ability to perform the services provided for in the proposed contract; 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 the proposed contractor to be responsible.

III. Scope of Work

Platform Ventilation System C Yard Sub-Project construction includes three new fan rooms and a sub-station room structures in the train shed for the Platform Ventilation System. The trainshed structures include all of the fan rooms and support structures necessary to hold the ventilation fans, conduit and other mechanical equipment that constitute the completed Platform Ventilation System. Construction includes the electrical sub-station structure. Structures consist of three new Fan Rooms, located to the north of the Amtrak controlled trainshed. The completed electrical sub-station room will accommodate the main termination/switching for the new power feeds to service

the fan rooms. Work also includes all necessary steel erection and concrete and masonry work.

IV. Contract Term, Price and Funding

This change order does not impact the original contract schedule; the change order will be paid upon completion.

Funding for this construction contract will be from the FRA High Speed Rail grant and the Appropriations grant administered by FRA. Both grants reimburse 100% of project costs so no match is required.

V. Non-Discrimination and Contractor & Supplier Diversity

MSDC's DBE/MBE/WBE Program Plan will apply to this contract. Skanska USA Civil Northeast Inc. will be required to use its best efforts to achieve a Minority/Women's Business Enterprise participation goal of 20% of the total dollar value of work performed pursuant to contracts or purchase orders entered into in connection with the construction work related to the Project. This is a comprehensive goal for all areas of the project (i.e., professional, construction and purchasing of supplies), and therefore the overall goal for the project is 20%. MSDC will also encourage DBE participation, but there is no numerical goal for DBEs.

For the base project Skanska USA Civil Northeast Inc. has submitted a plan to achieve up to 21% participation.

VI. Environmental Review

ESD staff, on behalf of MSDC, has determined that the requested authorization to amend a construction contract constitutes a Type II action as defined by the New York State Environmental Quality Review Act and the implementing regulations for the New York State Department of Environmental Conservation. No further environmental review is required in connection with this request.

VII. Requested Actions

The Directors are requested to authorize the Corporation to authorize a change order for the construction contract with Skanska USA Civil Northeast, Inc. in the amount of \$22,261,000 to a total of \$170,011,000 with a 10% contingency of \$17,001,100 for a total amount of \$187,012,100, as set forth in these materials.

VIII. Recommendation

Based on the foregoing, MSDC staff recommends approval of the requested actions. Pursuant to the Board-approved consulting services agreement between MSDC and PANYNJ and the grant conditions set forth by USDOT/FRA, the Port Authority has submitted to MSDC the Port Authority's Letter of Recommendation to Award.

IX. Attachments

Letter of Recommendation to Award – Port Authority of New York and New Jersey
Resolution

MEMORANDUM

Engineering Department

To: Timothy Gilchrist, President, Moynihan Station Development Corporation

From: Bruno Signorelli, PE
Engineer of Construction
Moynihan Station

Date: January 10, 2013

Subject: MOYNIHAN STATION – PHASE 1: PACC #6 – ‘C’ YARD
RECOMMENDATION TO AWARD CONSTRUCTION CHANGE

Copy To:

A Request for Proposal was issued to Skanska to construct three fan room enclosures and one electrical substation room enclosure in ‘C’ yard of Penn Station. This Work is funded by the recently awarded FRA grant and is necessary prior to completion of Phase II. Issuing this change order in the current Contract eliminates coordination issues that would arise if two contractors were working within the Train Shed and reduces the competition for Amtrak resources.

Skanska submitted an original proposal of \$24,755,425, which was negotiated to \$22,260,679 inclusive of all insurance and general conditions costs. The revised proposal is within 10% of the construction managers estimate of \$21,052,000. Commencing survey work in “C” Yard by the end of January will allow Skanska to detail and procure their steel in time for the June, 2013 closure of “C” Yard for the installation of the ventilation and electrical structures. The Port Authority therefore recommends the issuance of the change order to proceed with the aforementioned structural installations in “C” Yard for the amount of \$22,260,679.



Bruno Signorelli, PE
Engineer of Construction – Moynihan Station

January 18, 2013

NEW YORK CITY (New York COUNTY) – Moynihan Station Civic and Land Use Improvement Project – Authorization of a Change Order for the Construction Contract with Skanska USA Civil Northeast and Authorization to Take Related Actions

BE IT RESOLVED, that based on the materials presented at this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds Skanska USA Civil Northeast Inc. to be responsible; and be it further

RESOLVED, that in accordance with the Materials, a Change Order for the contract with Skanska USA Civil Northeast Inc. for an additional amount not to exceed \$22,261,000 plus a 10% contingency (totaling \$2,226,100) new contract amount for a total not to exceed one hundred eighty seven million twelve thousand and one hundred dollars (\$187,012,100) for the purposes and services, and substantially on the terms and conditions, as set forth in the Materials; and be it further

RESOLVED, that the President, 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.

* * *

ITEM 3

FOR CONSIDERATION

January 18, 2013

TO: The Directors

FROM: Tim Gilchrist

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

REQUEST FOR: Authorization to Amend a Contract with New York State Office of General Services (“OGS”) to provide Building Management Services at The James A. Farley Post Office Building and Annex in Manhattan (“Farley”)

I. Contract Summary

Contractor: New York State Office of General Services (“OGS”)

Scope of Services: Building management services for the James A. Farley Post Office Building and Annex (“Farley”), including day-to-day operation, management, and maintenance of the building and building systems.

Contract Term: Existing: May 1, 2011 to April 30, 2013
Amended: May 1, 2013 to April 30, 2015

Contract Amount: Existing: Cost plus 2%.
Amended: Unchanged, at cost plus 2%.

Funding Source(s): USPS Remediation Account

II. Background

New York State Urban Development Corporation d/b/a Empire State Development (“ESD” or the “Corporation”) purchased Farley from the United States Postal Service (“USPS”) on March 30, 2007. Pursuant to contract effective May 1, 2007, ESD retained OGS to manage Farley and to supervise day-to-day on-site operations. This contract had a two-year term (expired April 30, 2009) which was subsequently extended for an additional two-year period ending April 30, 2011 and again to April 30, 2013. The contract is on a cost plus 2% basis which covers the cost of OGS Farley management services and for OGS regional and central administration of the contract. The funding for the contract will be funded from the Farley

Operating Budget which will be presented to the Board at the March meeting. Authorization is requested for the extension at this time in order for OGS to procure sub contractors for building engineering and security. The services were publicly advertised in February 2007, but, ultimately, ESD determined to retain OGS (at that time, it was thought that the contract might be very short-lived, and the OGS cost compared favorably to private-market bids) and Contract Reporter exemptions were granted for the contract and the first extension of the contract.

III. Scope of Work

1. Custodial services for all space in Farley not occupied by USPS.
2. Minor repairs and emergency repairs for the entire building as needed.
3. Holding all building services contracts required to allow for the building to operate at a level consistent with current operations, including cleaning, maintenance, and pest management contracts.
4. OGS building management personnel.
5. Security for the entire building, including all moats, bridges and building entrances, exclusive of areas under USPS jurisdiction.
6. Building access for the entire building, including contractor and visitor badging and logs, exclusive of areas under USPS jurisdiction.
7. Payment of utility bills (with such payments to be reimbursed to OGS by ESD).
8. Testing of all life safety systems and equipment for compliance with State standards and the best practices used by OGS for facilities of the State of New York.
9. Such other services as may be agreed between ESD and OGS by ESD's written approval of an estimate provided by OGS for such services.

IV. Staff Recommendation

OGS has performed the services required under the existing contract in an effective, timely, and cost effective manner. Obviously, OGS has unique experience in managing large State-owned facilities, including those within New York City, and at this point also has expertise in managing Farley operations. Therefore, in order to preserve the continuity of OGS's valuable expertise, MSDC staff recommends that ESD's contract with OGS be renewed for an additional two years on the same cost plus 2% basis. A Contract Reporter exemption has been granted for the recommended extension. The contract between OGS and ESD is an intergovernmental agreement and therefore not subject to State Finance Law Section 139-j and 139-k and the Corporation's policy related thereto.

V. Non-Discrimination/Affirmative Action

OGS, as a NYS agency, is subject to the State's MWBE regulations and the State's non-discrimination laws, regulations, orders, and policies.

VI. Requested Action

The Directors are requested to authorize the Corporation to amend the contract with OGS for building management services at Farley upon the terms and conditions set forth herein.

VII. Recommendation

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

VIII. Attachments

Resolution

January 18, 2012

Moynihan Station Development Corporation – Moynihan Station Development Project – Authorization to Amend a Contract with New York State Office of General Services to provide Building Management Services at the James A. Farley Post Office Building and Annex in Manhattan

RESOLVED, that the Corporation hereby is authorized to amend the Corporation's existing contract with New York State Office of General Services, to provide building management services for the James A. Farley Post Office Building and Annex in Manhattan, by extending the term of such contract for up to two additional years, in an amount not to exceed \$5,500,000 per year or \$11,000,000 for the two year period, and otherwise substantially on the terms and conditions set forth in these Materials; and be it further

RESOLVED, that the Chief Executive Officer of the Corporation, 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 resolution.

* * *