

**MOYNIHAN STATION DEVELOPMENT CORPORATION**

**MEETING OF THE DIRECTORS**

**MONDAY**

**May 4, 2015**

**11:30 a.m.**

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# 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 –37<sup>th</sup> Floor  
New York, New York 10017

**Monday**

**May 4, 2015 – 11:30 a.m.**

### **PROPOSED AGENDA**

#### **CORPORATE ACTION**

1. Approval of the Minutes of the March 30, 2015 Directors' Meeting

#### **FOR INFORMATION**

2. President's Report (Oral Report)

#### **FOR CONSIDERATION**

3. Authorization to Fund Early Action Work
4. Authorization to Amend a Contract with New York State Office of General Services ("OGS") to Extend the Provision of Building Management Services at the James A. Farley Post Office Building and Annex in Manhattan ("Farley")

**ITEM 1**

**MOYNIHAN STATION DEVELOPMENT CORPORATION**

Meeting of the Directors  
 Held at the Offices of the  
 Empire State Development  
 633 Third Avenue  
 38<sup>th</sup> Floor Conference Room  
 New York, New York 10017

**March 30, 2015**

**MINUTES****In Attendance****Directors:**

Victor Mendez (Acting Chair) (via video conference)  
 Sarah Feinberg  
 Anita Romero (via phone)  
 Tokumbo Shobowale (via video conference)  
 Paul Williams (via video conference)

**Present for the Empire  
State Development:**

Thomas Conoscenti, Director – Real Estate Dev. & Planning  
 Richard Dorado, Senior Counsel  
 Elizabeth Fine, Executive Vice President – Legal & General  
 Counsel  
 Carey Gabay, First Deputy General Counsel  
 Nicole Jordan, Manager – Community Relations  
 Kathleen Mize, Deputy CFO and Controller  
 Carlos Otero, Vice President – Contacts Admin. & Subsidiary  
 Finance  
 Maxwell Padden, Director – Subsidiary Finance  
 Harold Rojas, Manager of Accounting  
 Sankar Singh, Manager – Contract Audit & Admin.

**Present for the  
Moynihan Station**

**Development Corporation:** Michael Evans, President  
 Fred Bartoli, Project Manager  
 Rebecca Pellegrini, Financial Project Manager  
 Regina Stephens, Acting Corporate Secretary  
 Thelma Washington, Executive Secretary

**Present for FRA/USDOT:** Vincent White, USDOT/FRA (via video conference)  
Rebecca Reyes-Alicea, USDOT/FRA

**Also Attending:** Kelly Eustice, PANY&NJ  
Jacqueline McCarthy, PANY&NJ  
Michael Vavrica, PANY&NJ  
Kevin Pierce, STV  
Rosemary Keville, The Keville Insurance Agency  
Matthew Hannon, Willis Insurance  
Shaina Barth, Willis Insurance

The meeting of the Moynihan Station Development Corporation (“MSDC” or the “Corporation”) was called to order by Victor Mendez at approximately 3:30 pm. Chairman Mendez noted for the record that the meeting was being webcast. He also noted for the record the Corporation’s policy to welcome public comments on the items on the current Agenda. Chairman Mendez briefly reviewed the protocol for comments.

Before beginning with the substantive portion of the meeting, Chairman Mendez asked the Directors whether anyone had any potential conflict of interest with respect to any of the items on the Agenda, and if so, he asked that the Director make the appropriate disclosure on the record and recuse him or herself from any discussion or vote with regard to any such items.

On behalf Director Anita Romero, Richard Dorado, counsel for MSDC, stated that Director Romero had mentioned that she has a small shareholding in Travelers and she would not be voting in the meeting. He continued stating that Director Romero would participate in the meeting by telephone at some point. Mr. Dorado further stated that there were no other conflicts of interest that the Corporation was aware of.

Before moving forward with the Agenda items, Chairman Mendez asked each person seated at the table to introduce themselves so that those on video conference will know who is seated at the table. The following people were seated at the table: Michael Evans, President of MSDC, Sarah Feinberg, Acting Administrator at Federal Railroad Administration, Carey Gabay, First Deputy Counsel at ESD, Kathleen Mize, Deputy CFO and Controller, Kelly Eustice, Port Authority, Fred Bartoli, Moynihan Station, Transportation – Project Manager, Richard Dorado, ESD's and MSDC's Legal Counsel.

Next, Chairman Mendez requested a motion for approval of the meeting minutes of the February 18, 2015, Directors meeting. Upon motion duly made and seconded the following resolution was unanimously adopted:

221. MOYNIHAN STATION DEVELOPMENT CORPORATION - APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE FEBRUARY 18, 2015 MEETING OF THE DIRECTORS OF THE MOYNIHAN STATION DEVELOPMENT CORPORATION

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RESOLVED, that the Minutes of the meeting of the Corporation held on February 18, 2015, 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.

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Chairman Mendez then asked Michael Evans to present his President's Report. He noted for the record that this report was for the Directors' information only and no vote would be required.

Mr. Evans started by reporting on the biggest accomplishment since the previous meeting which was the five-track outage on the south side of Penn Station. This particular outage allowed for the installation of the demo shield underneath the south Plaza which will allow the demo work to accelerate over the Spring of the year. Mr. Evans reminded the Directors that this particular outage had been closely coordinated and scheduled a year in advance. He continued by thanking all of the railroads and Project team members for their cooperation and for making sure that this outage was successful.

Mr. Evans informed the Directors that the West End Concourse work had accelerated. He stated that Director Sarah Feinberg had been given a tour before the meeting and it's incredible how much work has been accomplished. He further stated that the mechanical rooms had been blocked out and mechanical equipment and fixtures for the ceiling are being installed. With regards to the Connecting Corridor, there have been a few issues, as a result of the tough winter, there have been some delays however the Project team is currently working closely with Con Edison to accelerate some of the work which has been holding the team back from working on some of the street work in the Connecting Corridor. Mr. Evans explained that the Project team is monitoring this situation closely, in addition the Port Authority and the Project team are working on mitigation and a recovery plan.

Mr. Evans then asked Kelly Eustice with the Port Authority to give a more detail report on Phase 1 before he continued with Phase 2.

Ms. Eustice reported among other things, the installation of the south demo shield previously mentioned by Mr. Evans. She stated that this five-track outage required a 55-hour weekend which involved Amtrak de-energizing and re-energizing switches during the weekend. She continued stating that this work required massive coordination efforts which took about three years of planning. Ms. Eustice reported that the work on this outage was a huge success and it was the last major weekend outage.

Ms. Eustice continued reporting that Skanska has commenced with the demolition of the South Plaza on 31<sup>st</sup> Street and Eighth Avenue, so that entrance work can commence on the South Plaza. She explained that now that work has begun in the South moat, they are anticipating similar issues that were encountered in the West moat and carrying a contingency for any issue that may arise in the South moat.

Ms. Eustice continued reporting that the south half of the Eighth Avenue granite stones have been removed and the stone is being refurbished offsite and will be re-installed sometime in July. She stated that they are on schedule for the South Plaza to be 100 percent complete by November which includes the 31<sup>st</sup> Street steps, the south half of Eighth Avenue steps, the bollards and the sidewalk.

Ms. Eustice reiterated what Mr. Evans had reported on the Connecting Corridor with regards to delays due to the tough winter and the fire. She explained that they were working through those issues with Con Edison and continuing to progress; the team is also working to

develop a schedule recovery plan to recapture the Connecting Corridor schedule.

Ms. Eustice continued reporting that the team anticipates meeting milestone one on the Project which entails completing fire proofing of the steel for the West End Concourse by June. She reported that a list of the remaining work needed to be completed after milestone one which is air conditioning utilities and removing all shields that were put up on the Project.

Following Ms. Eustice's report, Mr. Evans continued with his President's Report reporting on Phase 2. He informed the Directors that 50 percent of design submissions have been received and the design submissions are currently being reviewed by the Port Authority as well as Amtrak. He stated that the Project team has also started cost estimation for Phase 2. Lastly, Mr. Evans explained that once these three (3) tasks have been completed and all comments have been incorporate, the Project team will present the current designs and cost estimates as well as any design changes to reduce cost and ensure construction will go smoothly as the Project moves forward with Phase 2.

Following Mr. Evan's President's report, Chairman Mendez congratulated the Project team for a job well done on the major five-track outage.

Chairman Mendez asked Mr. Evens to present the next Agenda item, requesting approval of MSDC's spending plan for fiscal year 2015-16.

In his presentation, Mr. Evans stated among other things, that the Corporation is required to adopt spending plans pursuant to New York State laws. He continued stating that MSDC's spending plans can be broken down into three (3) plans. The first plan is the operating budget for MSDC staff, the second is the capital budget which consists of Phase 1 and Phase 2 capital costs; and the third is the operations and maintenance budget for the James A. Farley Building.

Mr. Evans stated that the Directors had been given the materials for the budget item in advance of the meeting so he would be discussing the high points for each spending plan and then answer any questions from the Directors.

Mr. Evans began, with the operating budget. He stated that the operating budget had increased by one percent. He continued stating that this increase was due to cost of living, longevity and performance pay increases. Mr. Evans explained that even though there has been a slight increase in the personal service budget line, the non-personal services have been trending down over the last few years which have kept the overall operating budget essentially leveled with only a one percent increase.

Mr. Evans continued with the capital budget explaining that it is comprised of projections, developed by the construction management team, Port Authority Engineering Dept. and Rebecca Pellegrini from MSDC, of the spending on Phase 1 for the upcoming year. He mentioned the high design cost amount which reflects the Phase 2 final design and which

will be included in the capital budget going forward. Mr. Evans continued explaining that the higher cost spending in this year's budget will be the highest in terms of construction cost spending. He stated that the Corporation is in the process of closing out the TIGER Grant received from the federal government. He further stated that the TIGER Grant is responsible for moving the Phase 1 Project forward and he realizes that it was important to USDOT and the White House as well as Congress that the grant money be spent quickly, to help put people to work. Mr. Evans believes that the Corporation has been successful in accomplishing those goals.

Lastly, Mr. Evans discussed the operation and maintenance budget for the James A. Farley Building ("Farley Building"). He explained to the Directors that the Farley Building which is 100 year old, is a challenge to maintain and operate, however, it is anticipated there will be a ten percent reduction in the spending plan year-over-year. Mr. Evans reminded the Directors of the Water Tank Project which was a \$600,000 Project. He informed the Directors that the Water Tank Project was completed in the last fiscal year, and with that major project completed there are no other major projects planned at this time, however, the Corporation will carry a \$100,000 contingency for unforeseen repairs.

Mr. Evans concluded his presentation discussing other items in the Farley Building spending plan which includes the operations and maintenance of the building by the Office of General Services ("OGS") and the costs for the engineering firm that they procure. He continued stating that the increasing cost for this item reflects increased security and fire

watch that has been added over the last year.

Following Mr. Evans' presentation, Chairman Mendez asked if there were any questions from the Directors. Director Tokumbo Shobowale commented that the budget as presented seemed pretty straightforward.

Chairman Mendez asked Mr. Evans to explain how the Corporation determined the \$300,000 projected legal costs. Chairman Mendez explained that he thought that was a low figure for legal costs for a project the size of Moynihan Station.

Mr. Evans responded that the legal cost line in the budget reflects what is anticipated to get to a term sheet with the Corporation's development partners and with other stakeholders on the major elements of the deal. He continued explaining that the cost are expected to be above the current projected costs to paper a deal and move to closing however, the budget line will be adjusted if and when they get to a term sheet in this fiscal year. Mr. Evans stated that the Corporation can anticipate having these funds for papering the deal. He continued stating that for the budgeting process, it may be well after conversations with Corporation Counsel and treasury at ESD that the legal costs for papering the deal and going to closing would be incorporated into the overall Phase 2 budget and it might not show up in this budget line too which is something that is being looked at. Mr. Evans however feels that this is a prudent budget for getting to a term sheet and then the budget will be readjusted once they reach that point.

There being no additional questions or comments from the Directors, Chairman Mendez requested a motion for approval. Upon motion duly made and seconded the following resolution was unanimously adopted:

222. NEW YORK (NEW YORK COUNTY) – Moynihan Station Civic and Land Use Improvement Project – Approval of MSDC Operating Budget Spending Plan, Moynihan Station Annual Capital Expense Authorization and Farley Building Annual Capital Expense Authorization for FY 2015-16

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RESOLVED, that on the basis of the materials submitted to this meeting, a copy of which is ordered filed with the records of the Corporation, the Corporation does hereby authorize, approve, and adopt, subject to the availability of funds, the Moynihan Station Development Corporation – FY2015-16 Operating Budget, the Moynihan Station – FY2015-16 Annual Capital Expense Authorization, and the Farley Building – FY2015-16 Annual Capital Expense Authorization substantially in the form set forth in the materials; and be it further

RESOLVED, that the President of the Corporation or his designees be, and each of them hereby is, authorized and directed to take all actions and execute all documents in connection with the establishment and implementation of the Corporation's Budget; and be it further

RESOLVED that the President of the Corporation or his designees be, and each of them hereby is, authorized and directed to execute and deliver all documents and to take all related actions as each of them deems necessary or appropriate to effectuate the forgoing resolutions.

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Chairman Mendez asked Mr. Evans to continue with the next agenda items, requesting authorization to procure insurance policies for commercial property and general liability insurance coverage for the James A. Farley Building.

Mr. Evans explained to the Directors that every year the Corporation is required to secure property and general liability insurance coverage and carry a \$250 million limit per the terms of the mortgage which ESD has on the Farley Building. Mr. Evans continued explaining

there are few insurance carriers willing to underwrite this type of policy given its large limit, location and age of the building, and the fact that the building is located right above Penn Station and across from Madison Square Garden. The Corporation was notified at the end of the past calendar year that our carrier would not be renewing coverage for the Farley Building. In addition, ESD procured a new insurance broker, Willis of NY, Inc. Mr. Evans stated the Corporation is pleased with the Willis team and Willis recommends proposals from AIG and Zurich. After ESD's and MSDC's review of the terms conferred with Willis, the Corporation recommends Zurich. Mr. Evans continued stating that Zurich is the underwriter for Builders Risk Policy for Skanska. They are familiar with the risk involved and with the distinctions between the building, the construction project and the various stakeholders.

Mr. Evans recommended Travelers for the general liability policy with an umbrella of \$25 million from CN and an additional \$25 million policy from Liberty Mutual. He explained that the \$25 million policy with Liberty Mutual is an addition to what the Corporation usually carries. The team believes it's prudent to take out this additional coverage because the quote was so low at \$23,000 and the increase intensity of use of the building, specifically the events taken place in the Farley Building.

Following Mr. Evans presentation, Director Anita Romero joined the meeting by telephone. Mr. Evans acknowledged that she had joined the meeting. Mr. Dorado informed Director Romero that her shareholdings in Travelers Insurance were noted for the record at the beginning of the meeting.

Chairman Mendez stated that he was hearing an echo which was confusing to him. He asked Mr. Evans to help him out. Chairman Mendez asked if there were any questions or comments from the Directors. Directors Feinberg, Shobowale, Romero and Williams responded they had no questions or comments. Chairman Mendez stated that he wanted to be sure he understood the general liability policy, that there will be an additional \$25 million for a minimal amount. Mr. Evans responded affirmatively.

There being no other questions or comments, Chairman Mendez then asked for a motion for approval. Upon motion duly made and seconded, the follow resolution was unanimously adopted:

223. New York (New York County) – Moynihan Station Civic and Land Use Improvement Project – Insurance for the James A. Farley Post Office Building and Annex – Authorization to Procure Insurance Policies through Willis of NY, Inc. (“Willis”) with Zurich American Insurance Company (“Zurich”), Travelers Property Casualty Company of America (“Travelers”), Continental Casualty Company (“CAN”) and Ohio Casualty Insurance Company (“Liberty Mutual”); and to Take Related Actions

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RESOLVED, that in accordance with materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation (the “Materials”), Corporation here by find Willis, Zurich, Travelers, CAN and Liberty Mutual; to be responsible; and be it further

RESOLVED, that in accordance with the Materials, the President or Other Officer of the Corporation, or their designee(s), are hereby authorized, in the name and on behalf of the Corporation, to enter into all contracts, agreement, and Instruments necessary or appropriate in connection with the placement of insurance for the James A. Farley Post Office Building and Annex with Willis, Zurich, Travelers, CAN and Liberty Mutual; and be it further

RESOLVED, that the total annual cost of such insurance shall not exceed \$728,958; and be it further

RESOLVED, that all action heretofore taken in regard to the replacement of the foregoing insurance policies are hereby approved, ratified, and confirmed.

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There being no additional business, the meeting was adjourned at approximately 3:53 p.m.

Respectfully submitted,

Regina Stephens  
Acting Corporate Secretary

# ITEM 3



FOR CONSIDERATION

May 4, 2015

TO: The Directors

FROM: Michael Evans

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

REQUEST FOR: Authorization to Fund Early Action Work

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I. Background

The Moynihan Station Civic and Land Use Improvement Project (“the Project”) will build a new intercity train hall for Amtrak within the Farley Post Office Building. The Project will be accomplished in distinct phases.

Phase 1 is currently under construction and consists of three sub-projects, (1) the West End Concourse Expansion and related Railroad work, (2) the Emergency Platform Ventilation System, and (3) the Connecting Corridor and related Subway work. Phase 1 is a prerequisite to Phase 2, which is the construction of a new Amtrak train hall within the James A. Farley Post Office Building.

Design of the West End Concourse Expansion was executed by Skidmore, Owings, Merrill (“SOM”) under a contract authorized by the Moynihan Station Development Corporation (“MSDC”) Directors. Design for the West End Concourse Expansion was completed at the end of 2011, and a construction contract was competitively bid and awarded to Skanska USA Civil Northeast, Inc. (“Skanska”) on May 9, 2012. Construction is scheduled for completion in August 2016.

Subsequently, due the award of a \$30 million High Speed Rail grant to MSDC from the U.S. Department of Transportation, the Connecting Corridor sub-project and the first part of the Emergency Platform Ventilation sub-project—the fan room structures over C-Yard—were both advanced into construction in 2013. These additional projects will also be completed in August 2016.

In September 2014 the MSDC Directors authorized an amendment to the contract with SOM to provide for the repackaging of designs for the Moynihan Station train hall within the Farley Building. The 100% design submission is scheduled to be completed in September 2015. Consistent with the contract, SOM is accelerating certain elements of the design so that certain long-lead construction work can advance on an expedited schedule, reducing the overall construction schedule for the project and overall project costs. This “Early Action Work” consists of selective demolition, abatement, and roof and steel repairs and replacement all within and pertaining to space that will be part of the Moynihan Station public train hall, all in furtherance of the implementation of the public portion of the Project.

In January 2015, Empire State Development (“ESD”)<sup>1</sup> as the owner of the Farley Building, refinanced the loan that financed a portion of the cost of the 2007 acquisition of the building from USPS. Including capitalizing interest, the total amount of the acquisition debt due in January 2017 is approximately \$113 million; however, the lender agreed to increase the loan amount to \$150 million in order to provide funding for approximately \$37 million of the Early Action Work within the Farley Building. The loan refinancing (including the funding of the early action work) was authorized by the ESD Directors and the Public Authorities Control Board (“PACB”) in December 2014.

Authorization is now sought for Skanska and SOM contract change orders to advance Early Action Work consistent with the designs prepared by SOM and reviewed by the Port Authority of New York and New Jersey (“PANYNJ”). This Early Action Work intersects with the Phase 1 work area and is of a nature such that another contractor would be unable to stage and execute this work concurrent with Skanska’s mobilization within the Farley Building for Phase 1. Further, this Early Action Work can only be completed in the timeframe necessary through change orders to the contract with Skanska. Because SOM is the architect of record for Phase 2, inclusive of the Early Action Work, SOM is required to provide construction-phase advisory services to support the execution of this work.

## II. Scope of Work

Early Action Work for the next phase of the Moynihan Station project is divided into two main parts—work within the Farley Building and work within the train-shed. Funding from the mortgage loan refinance proceeds may only be utilized for work within the Farley Building, consistent with the PACB resolution in December 2014 and the terms of the financing. Advancing this long-lead work now will reduce the overall Phase 2 construction schedule by an estimated 9 – 12 months, reduce the overall project budget and minimize construction risks going forward.

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<sup>1</sup> New York State Urban Development Corporation d/b/a Empire State Development.

The scope for Early Action Work is within and pertains to space that will be part of the Moynihan Station public train hall, and includes the following:

- **Abatement** – Abatement of the basement, first floor and second floor of the original Farley Building;
- **Selective Interior Demolition** – Demolition of the remaining columns and postal inspector walkways in the sorting hall and associated demolition of the 2<sup>nd</sup> floor;
- **Protection of the USPS Storefront** – Demolition related separation and protection of the USPS storefront, including relocation of systems and utilities;
- **System and Utility Relocations** – Relocation of systems and utilities, including steam pipes, electrical conduit and data lines;
- **Roof Repairs** – Roof repairs, including roof-related water damage;
- **Integration and Coordination of Planned Early Work with Phase 1 Concourse-level Work** – Planning and performing the forgoing work in a manner that will allow integration of Phase 1 and Phase 2.

Funds from the mortgage loan proceeds will be used to fund the above described work to be carried out by Skanska as well as the related services by SOM. In addition, these funds will be utilized for previously authorized insurance and PANYNJ project management costs related to the Early Action Work. The total cost for all Early Action Work, inclusive of design, insurance, project management, construction and contingency will not exceed \$37 million, as described in further detail below:

- In order to ensure sufficient funding for the work undertaken, an overall contingency of 20% is recommended, totaling \$7.4 million of the \$37 million in available funding.
- Insurance costs covering the Early Action Work are estimated at \$1.5 million.
- Project management costs for PANYNJ for the Early Action Work are estimated at \$1.5 million.
- Design costs for the Early Action Work are estimated at \$2.5 million.
- Construction-phase architectural services are estimated at \$1.35 million.
- In accounting for the costs detailed above and the recommended overall contingency, initial Early Action Work change orders issued to Skanska will not exceed \$22.35 million plus a 20% contingency of \$4.47 million.

If necessary, scope will be adjusted to meet funding constraints, and Early Action Work will be prioritized by MSDC and PANYNJ according to the overall impact on the Phase 2 construction schedule. All Early Action Work designs will be reviewed as they are completed by PANYNJ Engineering as stipulated by an amended Consulting Services Agreement. In advance of executing each Early Action Work change order, final cost estimates will be prepared and reviewed by PANYNJ and MSDC to ensure consistency with the overall Early Action Work budget and the reasonableness of the cost of the work. Should additional scope be feasible at a later date due to new funding sources or the

availability of unused contingency, MSDC staff will seek authorization for additional work from the Directors, including any Early Action Work within the train-shed, which must also be approved by PACB.

### III. Contract History

#### Skanska

On May 9, the construction contract for the West End Concourse Expansion was awarded to Skanska by the MSDC Directors in the amount of \$162,525,000 (including 10% contingency) after a competitive bid process.

In September 2012 the Federal Railroad Administration awarded MSDC a High Speed Rail grant in the amount of \$30 million to be used for the Connecting Corridor sub-project and the construction of the ventilation system fan room structures over C-Yard, this first element of the Emergency Platform Ventilation System sub-project. Due to the inability of having more than one contractor in the train-shed at one time and the proximity of the C-Yard fan room work to the new West End Concourse, the C-Yard fan room work was advanced through a Change order to the contract with Skanska for the West End Concourse. This change order was authorized by the MSDC Directors in January 2013 and the Skanska contract was increased by the amount of \$24,487,100 (including 10% contingency).

In July 2014 the MSDC Directors authorized an increase of \$9,812,743 in the overall contingency for the combined West End Concourse and C-Yard fan room contract to cover costs incurred as a result of unforeseen conditions, design changes required during construction and required Farley Building work encountered during the construction. In particular, this work was related to geotechnical challenges manifest during the construction of the C-Yard fan rooms—fracturing of the northern Penn Station retaining wall and inconsistent rock depth in the train-shed.

The current authorized Skanska contract amount for the combined West End Concourse Expansion and C-Yard Fan Room contract now stands at \$196,824,843.

Early Action Work change orders up to an amount of \$22,350,000 plus a 20% contingency of \$4,470,000 would increase the total authorized Skanska contract to an amount not to exceed \$223,644,843.

#### SOM

In 1998, after a competitive bidding process and pursuant to Director authorization, MSDC (then Pennsylvania Station Redevelopment Corporation) entered into the Contract pursuant to which SOM would “provide all architectural, structural, mechanical and electrical

engineering services necessary for the programming, design, contract documentation and construction administration of the restoration and redevelopment of a portion of the historic James A. Farley Post Office Building in New York City into an intermodal transportation facility” in an amount not to exceed \$23,000,000. In 1999, the Directors authorized an increase in the total contract amount to \$44,700,000. By 2003, approximately \$34,500,000 had been expended against the Contract, and SOM had performed ably in all aspects of their original scope, including completion of construction documents at the 80% level for the Project iteration current at that time.

With the decision in 2010 to advance the Moynihan Station project in two distinct phases—Phase 1, which is the below-grade critical infrastructure work now under construction, and Phase 2, which is the completion of the train hall—and with all previously performed Contract work having been performed, accepted, and paid for in full, the Directors authorized the amendment and restatement of the Contract. The terms superseded the previous terms, provided for SOM to repackage drawings for the advancement of Phase 1, and established a new maximum Contract amount of \$5,775,928. This amount was within the previously authorized but unspent amount for the contract.

Since 2010, the contract has been amended six times in in order to provide for new insurance requirements for Phase 1, for pedestrian flow modeling work, construction-phase advisory services for Phase 1, the re-bid repacking of designs for the 33rd Street Connector, test-fits for the purposes of updating the feasibility study for potential commercial development surrounding the train hall, and the repackaging of the 2006 train hall designs for Phase 2 of the project. These amendments plus change orders within the authorized contingency amounts have increased the contract’s current maximum value to \$26,604,334.

Construction-phase change order architectural services for the Early Action Work are estimated to cost \$1,352,000 with a 20% contingency of \$270,400, resulting in the SOM contract being increased to a maximum value of \$28,226,734. The design costs applicable to the Early Action Work were included in the previous Phase 2 train hall repackaging work, but will be funded from the \$37 million in mortgage refinance proceeds.

Contract Reporter Exemption requests have been submitted and approved for the SOM and Skanska contracts.

#### **IV. Responsible Parties**

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.

**V. Funding**

Funding for the Early Action Work will come from mortgage loan proceeds currently held in a dedicated account by ESD.

**VI. 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.

**VII. Environmental Review**

The Moynihan Station Development Project was the subject of an environmental review performed by ESD as the lead agency. A Final Environmental Impact Statement ("FEIS") was prepared pursuant to the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations for the New York State Department of Environmental Conservation. SEQRA Findings were adopted by ESD Directors on August 14, 2006. In addition, the ESD Directors made a Determination that No Supplemental Environmental Impact Statement is warranted based on the results of a Technical Memorandum prepared in support of the project changes represented in the 2010 modified General Project Plan that was affirmed on June 24, 2010. The activities in this request for authorization have been addressed in the FEIS, the SEQRA Findings, and the Technical Memorandum, and therefore, no further environmental review is required in connection with this request.

**VIII. Requested Actions**

The Directors are requested to authorize the Corporation to initiate a program of Early Action Work based upon designs prepared by SOM in an amount not to exceed \$37 million inclusive of design, insurance, project management, construction and contingency. In order to effectuate the completion of this work, the Directors are requested to authorize change orders for the Skanska and SOM contracts covering this work.

The Skanska change orders for the Early Action Work as set forth in the description above for a total amount of \$22,350,000 plus a 20% contingency amount of \$4,470,000 resulting in a new contract amount for a total not to exceed amount of \$223,644,843.

The SOM change orders will be \$1,352,000 plus a 20% contingency amount of \$270,400 for construction-phase architectural services for the purposes and services, thereby increasing aggregate limit of the contract to \$28,226,734.

**IX. 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 reviewed and affirmed this request.

**X. Attachments**

Resolution

May 4, 2015

NEW YORK CITY (New York COUNTY) – Moynihan Station Civic and Land Use Improvement Project – Authorization to Fund Early Action Work

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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 Skidmore, Owings, Merrill and Skanska USA Civil Northeast Inc. to be responsible; and be it further

RESOLVED, that in accordance with the Materials, the Directors authorize the funding of change orders for work under the construction contract with Skanska USA Civil Northeast Inc. for work as set forth in the materials for a total amount of \$22,350,000 plus a contingency amount of \$4,470,000 resulting in a contract amount not to exceed \$223,644,843 for the purposes and services, and substantially as set forth in the Materials; and be it further

RESOLVED, that the Directors hereby authorize the funding of additional change order work to be performed by SOM in the amount of \$1,622,400 (inclusive of 20% contingency) for construction-phase architectural services for the purposes and services, and substantially as set forth in the Materials, thereby resulting in contract amount not to exceed \$28,226,734; 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.

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# ITEM 4



FOR CONSIDERATION

May 4, 2015

TO: The Directors

FROM: Michael Evans

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 Extend the Provision of Building Management Services at the James A. Farley Post Office Building and Annex in Manhattan (“Farley”)

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**I. Background**

New York State Urban Development Corporation d/b/a Empire State Development (“ESD”) purchased the Farley Building from the United States Postal Service (“USPS”) on March 30, 2007. Pursuant to a contract effective May 1, 2007, ESD retained OGS to manage Farley and to supervise day-to-day on-site operations. The original contract had a two-year term, which was subsequently extended for additional two-year periods in 2009, 2011 and 2013. The current contract expiration is April 30, 2015, and authorization is now sought to extend the contract for another two years, until April 30, 2017, so that OGS can continue to manage the day-to-day operations of Farley until financial closing with the private developer and the transfer of management of the property.

**II. 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 ESDC).

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 ESDC and OGS by ESDC's written approval of an estimate provided by OGS for such services.

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 management services provided by OGS 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 subsequent extensions of the contract. A Contract Report Exemption Request was once again submitted and granted for this contract.

Note that the contract may be terminated without penalty should MSDC/ESD advance the transfer of management of the Farley Building to a private development partner as part of an overall redevelopment plan.

### **III. Funding**

Funding from this contract will come from a combination of USPS rent, revenues generated from events at the Farley Building, and other unrestricted MSDC Funds

### **IV. Staff Recommendation**

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. OGS has performed the services required under the existing contract in an effective, timely, and cost effective manner. In particular, the OGS staff assigned to the Farley Building have proved critical to the management of the facility as ESD works to increase revenues from events such as Fashion Week—demonstrating a consistent responsiveness and strong commitment to the smooth operation of the building.

Therefore, in order to preserve the continuity of OGS's valuable expertise, MSDC staff recommends that ESDC's contract with OGS be renewed for an additional two years on the same cost plus 2% basis.

Note that 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, staff recommends approval of the requested action.

**VIII. Attachments**

Resolution

May 4, 2015

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

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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.

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