

MOYNIHAN STATION DEVELOPMENT CORPORATION

MEETING OF THE DIRECTORS

MONDAY

July 13, 2015

2:30 p.m.

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

Monday

July 13, 2015 – 2:30 p.m.

PROPOSED AGENDA

CORPORATE ACTION

1. Approval of the Minutes of the May 4, 2015 Directors' Meeting
2. Ratification of Actions Requested at the May 4, 2015 Directors' Meeting

FOR INFORMATION

3. President's Report (Oral Report)

FOR CONSIDERATION

4. Authorization to Extend the Project-Specific Professional Liability Insurance Policy to Cover Phase 2 Design
5. Authorization to Amend the Contract for Legal Services with Holland & Knight
6. Authorization to Amend the Design Services Contract with Skidmore, Owings & Merrill
7. Authorization to Amend the Agreement with the Port Authority of New York & New Jersey

EXECUTIVE SESSION

8. Update on Real Estate Negotiations and Amtrak Negotiations (Oral Report)

ITEM 1

MOYNIHAN STATION DEVELOPMENT CORPORATION

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

May 4, 2015

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

Victor Mendez (Acting Chair) (via video conference)
 Tokumbo Shobowale
 Paul Williams

**Present for the Empire
State Development:**

Thomas Brennan, Senior Vice President- Internal Audit
 Joseph Chan, Executive Vice President – Real Estate Development
 Thomas Consocenti, 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
 Rose-Marie Mahase, Legal Assistant
 Benson Martin, Director of Compliance
 Kathleen Mize, Deputy CFO and Controller
 Maxwell Padden, Director – Subsidiary Finance
 Harold Rojas, Manager of Accounting
 Debbie Royce, Paralegal/Project Associate
 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
 Thelma Washington, Executive Secretary

Present for FRA/USDOT: Vincent White, USDOT/FRA (via video conference)
Joe Peraino, USDOT/FRA (via video conference)

Also Attending: Kelly Eustice, PANY&NJ
Jacqueline McCarthy, PANY&NJ
Bruno Signorelli, PANY&NJ
Keith Adams, AECOM

The meeting of the Moynihan Station Development Corporation (“MSDC” or the “Corporation”) was called to order by Victor Mendez at approximately 11:38 a.m. 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.

Next, Chairman Mendez requested a motion for approval of the meeting minutes of the March 30, 2015 Directors meeting. Upon motion duly made and seconded the following resolution was unanimously adopted:

224. MOYNIHAN STATION DEVELOPMENT CORPORATION - APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE MARCH 30, 2015 MEETING OF THE DIRECTORS OF THE MOYNIHAN STATION DEVELOPMENT CORPORATION

RESOLVED, that the Minutes of the meeting of the Corporation held on March 30, 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.

* * *

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.

In his report, Mr. Evans discussed among other things, an update on Phase I as well as the Phase II design process, and an update on events and operating revenue at the Farley Building.

On Phase I, Mr. Evans reported that since the March Directors' meeting Skanska has completed three (3) full weekend outages as well as one partial weekend outage. He also stated that there was one weekend outage for Amtrak to do self-performance work. Mr. Evans informed the Directors that the Project is on track for reaching milestone number one of the summer. He then asked Kelly Eustice of the New York & New Jersey Port Authority ("Port Authority"), to give an update report on the status of the work in the trainshed.

Ms. Eustice reported that since the last board meeting the focus has been on fireproofing the steel in the West End Concourse, as well as work at the street level. She stated that two-thirds of the West End Concourse steel has been fireproofed and the remainder of fireproofing work is needed between tracks 6 and 9 which are the most difficult locations in the station to be assigned outages.

Ms. Eustice continued stating that there are six weeks left until the due date for milestone one on June 18th. She explained there are three (3) weekend outages coming up and she and the team are confident that the June 18th milestone date will be met. Ms. Eustice further explained that once the fireproofing weekend outages are complete, completion of the stair enclosures on platforms 9, 10 and 11 will be done in July and August; and following completion of the fireproofing and stair enclosures, the team will turn their focus to work on the 10 weekend outages needed after milestone one has been reached. The team is currently working with Amtrak to schedule the 10 required outages.

Ms. Eustice continued on discussing street level work. She stated that the damaged Con Ed feeder discussed at the last Directors' meeting has been replaced and as a result Skanska is working again on the Connecting Corridor Project and it is anticipated that the South Subway stairs in the North Plaza will open the first week in June. Ms. Eustice stated that once the North Plaza subway stairs are open, Skanska shall complete their work on the north half of 33rd Street for the Connecting Corridor. She continued stating that Skanska has demolished the South Plaza which is located on the corner of 31st Street and 8th Avenue. Ms. Eustice

reported that remediation work is required of some steel deterioration that was uncovered during demolition; and this remediation work is expected to be completed this summer. She continued reporting that waterproofing work has begun on the steps on the south half of the 8th Avenue steps. Lastly, Ms. Eustice reported that they are still on track to complete the South Plaza by the end of the year which entails the bollards at the 31st Street steps and sidewalk work.

Following Ms. Eustices' report, Director Shobowale asked Ms. Eustice if there were any schedule or budget implication relating to the uncovered steel deterioration. Ms. Eustice responded that there is enough contingency, so it's not as bad as what was uncovered at the north moat. Director Shobowale then asked if there was some incremental budget but less the contingency that is being carried. Bruno Signorelli of the Port Authority responded that it's much less. He explained that since the team identified the deterioration early and removed the concrete and exposed less of the steel and no further deterioration was found, it was exactly what the team anticipated it would be.

Mr. Evans then stated that the team is comfortable with the place of the construction contingency. He further stated that the Force Account projections are a little high however a working group with Amtrak has been formed to focus in on those high projections; and the group has already developed some strategies that are believed to have significant impact on reducing the Force Account costs.

With regards to Phase II of the Project, Mr. Evans reported that 50 percent of design submissions were received on March 20th, and the Port Authority's Engineering Dept. has reviewed and provided comments. He reported that Amtrak's Engineering Dept. has also reviewed the design submissions and provided comments. Mr. Evans explained that both the Port Authority and Amtrak provided comments within a three-week period which is a great accomplishment by both entities because both were asked for very tight turnaround time frames which both entities have met. Mr. Evans reported that the Project team has reviewed the comments and provided those comments to SOM for response and incorporation into the next round of design submission.

Mr. Evans continued reporting that the team still anticipates the June target date for 75 percent design submission, and they are continuing to work closely with Amtrak on finalizing all of the Amtrak program area and retail layouts. They are also incorporating comments on the scope that have material impact on the design and may need to be resolved between now and the 75 percent submission.

Mr. Evans informed the Directors of a big announcement made in late March or early April by the New York Fashion Week. They announced they would be leaving Lincoln Center and moving downtown and to the west side to two locations, one of which is Moynihan Station. He stated that New York Fashion Week will hold its September and February events at the Farley Building. He continued explaining that New York Fashion week is the biggest event ever held in the Farley Building; and that this event will be a big revenue generator as well as

an opportunity to expose the space to other entities and create a lot of attention around the building and the Project.

Following Mr. Evans' report, Chairman Mendez thanked all the entities for their cooperation in making sure that tight turnaround time frames were met. He also congratulated Mr. Evans and all involved in bringing in the New York Fashion Week show to the Farley Building to help generate additional funds.

Chairman Mendez then asked Mr. Evans to present the third Agenda item requesting authorization to fund early action work in the train hall.

In his presentation, Mr. Evans stated that ESD, MSDC's parent corporation holds the mortgage on the Farley Building. He continued stating that the mortgage was taken out by ESD as part of the acquisition of the building in 2007, and was rolled over and renewed in January 2015.

Mr. Evans further stated that it was determined as a result of conversations with the lenders, the Division of Budget and ESD, that it would be beneficial to take out an additional \$37 million on the mortgage in order to advance work within the Farley Building. This work consists of deferred maintenance, abatement and interior demolition related to the next phase of the Project. He continued stating that the work is a part of what will allow Fashion Week to happen successfully in September and February and generate revenues for the Project. Mr.

Evans explained to the Directors that the work will be coordinated into Phase I and Phase II to reduce risk, reduce the overall schedule as well as reduce the overall phase of work for the next phase of the Project. He continued explaining that although this work is required in the building no matter what happens on Phase II, completing the work now will have a material impact on the next phase of the Project. Mr. Evans continued stating that the Directors are being requested to authorize funding for this early work and specifically the change orders to Skanska and SOM's contracts which will allow the work to move forward. He stated that additional items will be funded out of the \$37 million, specifically, insurance and project management costs. These items will be brought to the Board at another meeting.

Following Mr. Evans' presentation of the item, Director Shobowale asked if the Project team has a plan for creating conditions for a competitive bid for the larger piece of work. Mr. Evans responded affirmatively. Mr. Evans stated that it is anticipated there will be a competitive bid without a doubt on the next phase of the Project. Director Shobowale also asked if SOM will continue as originally procured for the entire Project. Mr. Evans responded affirmatively.

Following comments by the Directors, Chairman Mendez requested a motion for approval of the item. Upon motion duly made and seconded, the following resolution was unanimously adopted:

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

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 a 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.

* * *

Chairman Mendez asked Mr. Evans to continue with the next Agenda item requesting 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 Building”).

Mr. Evans’ presentation began with background information for the Directors, informing them that since the purchase of the Farley Building by ESD in 2007, it has contracted with OGS to manage the day-to-day operations of the building. He continued stating that ESD first evaluated this option and conducted a comparison with the other private sector managers

and determined that OGS could manage the building at a more reasonable cost and a lot more experience. Mr. Evans further stated that OGS's team has been great and has been very diligent, responsive and committed, not just in providing building management services but also to the Project and to the coordination that arises when there is a major construction project happening in and around the building. Mr. Evans also praised OGS's work in making sure that the events at the Farley Building go smoothly which allows the Corporation to generate funds to cover the operating and maintenance costs of the building. He explained that the Corporation's current contract with OGS needs amending and the Directors are being asked to authorize the Corporation to amend OGS's contract for another two years on the same terms and conditions under the current contract.

Following a full presentation of the item and discussion among the Directors regarding what the timing will be for transferring management of the building once the Corporation closes with the private development partner and moves to the next phase of the Project, Chairman Mendez requested a motion for approval of the item. Upon motion duly made and seconded, the following resolution was unanimously adopted:

226. 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.

* * *

There being no additional business, the meeting was adjourned at approximately
11:56 a.m.

Respectfully submitted,

Regina Stephens
Acting Corporate Secretary

ITEM 2



FOR CONSIDERATION

July 13, 2015

TO: The Directors

FROM: Michael Evans, President

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

REQUEST FOR: Ratification of Actions Requested at the May 4, 2015 Directors' Meeting

I. REQUESTED ACTION

For the May 4, 2015 meeting, fewer than the required number of Board Members were available. The Board is now requested to ratify the minutes of the March 30, 2015 meeting and the two actions all of which were unanimously approved by the Board Members present on May 4th.

II. ATTACHMENTS

Minutes of the March 30, 2015 Meeting

Request for Authorization to Amend a Contract with New York State Office of General Services for Building Management Services at the James A. Farley Post Office Building and Annex in Manhattan

Request for Authorization to Fund Early Action Work [by Skidmore, Owings, Merrill and Skanska USA Civil Northeast, Inc.]

Minutes of the March 30, 2015 Directors' Meeting

MOYNIHAN STATION DEVELOPMENT CORPORATION

Meeting of the Directors
Held at the Offices of the
Empire State Development
633 Third Avenue
38th 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

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.

* * *

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 31st 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 31st 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

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.

* * *

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.

* * *

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

p.m.

Respectfully submitted,

Regina Stephens
Acting Corporate Secretary

Board Materials for OGS Contract Amendment



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”)

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

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.

* * *

Board Materials for Funding Early Action Work



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

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”)¹ 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.

¹ 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 2nd 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

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 is 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.

* * *

ITEM 4



FOR CONSIDERATION

July 13, 2015

TO: The Directors

FROM: Michael Evans, President

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

REQUEST FOR: Authorization to Extend the Project-Specific Professional Liability Insurance Policy to Cover Phase 2 Design; Authorization to Take Related Actions

I. BACKGROUND

In September 2014 the Moynihan Station Development Corporation (“MSDC” or the “Corporation”) Directors authorized an amendment to the contract with Skidmore, Owings & Merrill LLP (“SOM”) to provide for the repackaging of designs for the Moynihan Station train hall within the James A. Farley Post Office Building (“Farley Building”) in order to advance Phase 2 of the Moynihan Station project. Design work is now well underway, and the 100% design submission is scheduled to be completed in September 2015.

Therefore, it is now necessary for MSDC to secure professional liability insurance coverage for the risk of negligent design work on the part of the designers of Phase 2, which could cause increased costs of construction and reduction in the value of the Phase 2 investment. This coverage must be in an amount sufficient to meet Amtrak insurance requirements for designs pertaining to the Amtrak-owned and controlled Penn Station New York train-shed as well as to protect MSDC, Empire State Development (“ESD”) and the Port Authority of New York and New Jersey (“Port Authority” or “PANYNJ”), respectively, as the project sponsor, the owner of the Farley Building and the project manager.

Professional liability coverage for Phase 1 is provided through a stand-alone Project-Specific Professional Liability policy (a “PPL”) with Lexington Insurance Company (“Lexington”) and was placed through ESD’s insurance broker in 2011 with the authorization of the MSDC Directors. As the architecture and engineering (“A&E”) team and the project management approach for Phase 2 remains the same as for Phase 1, ESD’s insurance broker recommends extending the current PPL policy to cover the

Phase 2 design work. Willis Group Holdings Ltd. ("Willis"), ESD's broker of record, has consulted with Lexington and negotiated rates and terms for a policy extension that would be substantially more favorable than placing an entirely new policy for the Phase 2 designs.

II. PPL JUSTIFICATION

Regarding the risk of negligent design work, several factors lead to the conclusion that MSDC should extend the PPL policy to cover Phase 2. First, Amtrak requirements for train-shed work call for each design team to carry \$20 million of professional liability coverage (negotiated down from \$40 million). In addition, Amtrak has asked that each design firm defend and indemnify Amtrak against claims arising out of the design. Under current agreements MSDC's design firms have professional liability insurance covering negligent design, but the limit of coverage they currently maintain is \$5 million and their policies are not dedicated to this project and therefore are subject to erosion by claims on other projects. The same will be true of the construction oversight professionals MSDC will be required to retain -- the coverage is not likely to exceed \$5 million and will not be project-specific. Furthermore, while MSDC has engaged highly qualified firms to design Phase 2, given that MSDC has no assets other than grants for design and construction, a patchwork of practice policies that are not project-specific seems inadequate to address the risk of costs and claims due to negligent design and can lead to a host of complications should a claim arise.

As the PPL is a project specific policy that insures all entities having a professional liability exposure, claims made against design professionals for their work at other projects would not erode the limits available for this project. With the PPL the claim process is streamlined with a Joint Defense approach. This means the carrier defends the entire design team against claims. The result is there is no finger pointing between the respective design professionals' carriers should more than one be brought into a claim. The PPL policy also has a Program Manager who would be responsible for claims coordination between Lexington, the design team, the PANYNJ, and the consultant construction manager. And if the MSDC were to make a claim, the claim would be against a single policy as opposed to the multiple practice policies carried by the design professionals. And the PPL, via an endorsement to the policy, would provide full indemnification in favor of both the MSDC and Amtrak.

In evaluating the best option for Phase 2, MSDC staff has consulted with outside construction counsel (Holland & Knight), PANYNJ risk management staff and the ESD Broker of Record, Willis. Willis was recently selected by ESD as Broker of Record after a competitive solicitation and has reviewed the existing PPL policy and the alternative coverage options with a fresh set of eyes. It is the professional opinion of the Willis team that MSDC should extend the Lexington policy to cover Phase 2. Lexington has demonstrated a strong comfort level with the project and with the A&E and project

management team on Phase 1 of the project. Therefore, Lexington is comfortable extending the policy at extremely favorable rates.

III. POLICY RATE SUMMARY

At policy inception in 2011, the rate for the PPL policy was \$15.68 per \$100 of professional fees.

As the project advanced and coverage was extended beyond the A&E team to cover the Port Authority as well as the consultant Construction Manager, the resulting increase in professional fees led to a decrease in the overall rate. The most recent rate used by Lexington for Phase 1 was \$8.73 per \$100 of professional fees.

In negotiations with Willis, Lexington has agreed to an approach for Phase 2 that will provide very competitive rates while also protecting MSDC for unnecessary costs should there be a delay in advancing the project into construction.

Lexington has agreed to a rate of \$3.76 per \$100 of professional fees for the full amount of estimated fees for Phase 2, inclusive of Construction Management fees. Based on an overall professional services fee amount for Phase 2 of an estimated \$85.1M, this would result in a premium of \$3,321,600 inclusive of 3.8% surplus lines taxes and fees.

Recognizing that the Phase 2 financing plan is yet to be finalized, Lexington has agreed to a two part binding for the Phase 2 PPL extension that will allow MSDC to obtain PPL coverage for the Early Action Work that is underway without incurring unnecessary costs should the rest of Phase 2 be delayed. Under this two-part structure, MSDC will first pay for coverage for the initial \$15.1 million in fees for Phase 2, which includes the Final Design fees for Phase 2, the Port Authority costs for Early Action Work and the Construction Phase Design Services for the Early Action Work. This first premium payment will be \$1,307,880 inclusive of 3.8% surplus lines taxes and fees.

The remaining premium of \$2,013,720, inclusive of 3.8% surplus lines taxes and fees, will not be due until the execution of a construction management contract for Phase 2 and will cover the construction-phase architectural services for the train hall, PANYNJ construction management and the consultant construction manager on Phase 2. MSDC will not bind this second part of the coverage without advising the Directors, as part of the process for awarding of the contract for Phase 2 construction management services.

The total PPL cost would be \$3,321,600. Any increases in design or construction management fees and subsequent audits on Phase 2 on a go-forward basis would then be rated at the favorable \$3.76 rate, which is significantly lower than the current \$8.73 rate on Phase 1.

IV. RESPONSIBLE PARTIES

Pursuant to State Finance Law Sections 139-j and 139-k and the Corporation's policy related thereto, staff has: (a) considered Lexington's ability to perform the services provided for in the proposed agreement; and (b) consulted the list of offers 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 Lexington to be responsible.

V. FUNDING

The first premium payment will be made from dedicated funds in the Farley Building mortgage proceeds account intended to cover costs related to the Early Action Work.

Funds for the second payment will come from the private development agreement, and this payment will not be made until such funding is secured.

VI. ENVIRONMENTAL REVIEW

The request to amend a consultant contract constitutes a Type II action as defined by the New York State Environmental Quality Review Act (SEQRA) and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with the authorization.

VII. REQUESTED ACTION

The Directors are requested to make a determination of responsibility with respect to Lexington and to authorize MSDC to extend the PPL policy with Lexington to cover Phase 2 and to execute this extension through Willis. The premium for this extension will be paid in two parts, with an initial amount of \$1,307,880 inclusive of 3.8% surplus lines taxes and fees, and a subsequent amount, due only with the execution of a contract for construction manager services for Phase 2, of \$2,013,720, inclusive of 3.8% surplus lines taxes and fees.

VIII. RECOMMENDATION

Based on the foregoing, staff recommends the adoption of the resolution.

IX. ATTACHMENT

Resolutions

July 13, 2015

NEW YORK (NEW YORK COUNTY) – Moynihan Station Civic and Land Use Improvement Project
– Authorization to Extend the Project Specific Professional Liability Insurance for the Moynihan
Station Project to Cover Phase 2

BE IT RESOLVED, that in accordance with 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 the Lexington Insurance company to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to extend the Project Specific Professional
Liability Insurance Policy provided by Lexington Insurance Company to cover design and
professional services for Phase 2 of Moynihan Station at an overall price not to exceed
\$3,321,600, inclusive of 3.8% surplus lines taxes and fees, and that \$1,307,880 will be payable
immediately and \$2,013,720 will be payable only upon (A) the execution of a contract for
construction management services for Phase 2, and (B) receipt of sufficient appropriate funds
from the closing of the private development agreement, 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 forgoing Resolution.

* * *

ITEM 5



FOR CONSIDERATION

July 13, 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 the Contract with Holland & Knight LLP;
Authorization to take Related Actions

I. BACKGROUND

In April 2010, Empire State Development (“ESD”) Directors authorized a contract with Holland & Knight LLP (“H&K”) to provide legal services for Phase 1 of the Moynihan Station Project, in particular pertaining to the development and drafting of the construction contracts and the railroad agreements. The contract was awarded after interviews were conducted with a number of firms listed on ESD’s pre-qualified counsels list, which Moynihan Station Development Corporation (“MSDC” or the “Corporation”) may rely upon as a subsidiary of ESD.

H&K is a full-service firm with extensive experience in complicated real estate and governmental transactions and a willingness to work within ESD’s “Maximum Rate Structure for Outside Counsel”. To date, H&K has satisfactorily performed legal services for MSDC. H&K continues to advise MSDC on legal matters pertaining to the construction of Phase 1, including issues with the contractors and railroads. H&K is also advising MSDC in the development of the Phase 2 construction contracts as well as supporting MSDC in the development of its insurance program for Phase 2 and its necessary railroad agreements.

This contract was previously amended in July 2013 to provide additional legal services that built on previous work conducted by H&K.

II. CONTRACT SUMMARY

Consultant: Holland & Knight LLP

Scope of Services: In April 2010, ESD Directors authorized the retention of Holland & Knight LLP, to provide real estate, construction, financing, development, land use, and related legal services in connection with the Moynihan Station Project, including but not limited to preparation of legal documents relating to design, construction, and the creation of property interests necessary to complete Phase 1 of the Moynihan Station Project at the James A. Farley Post Office Building. The contract was transferred directly to MSDC in 2013, and also in 2013 the MSDC Directors authorized a contract amendment in the amount of \$150,000 in February 2013, to provide additional legal services that built on previous work. Holland & Knight LLP has performed satisfactorily under the existing contract. As Phase II of the Moynihan Station Civic and Land Use Improvement Project progresses, additional legal services are now necessary. Therefore, MSDC staff recommends that the Holland & Knight by amended to permit such additional services.

Contract Amount: Current limit is \$900,000. Amendment will increase contract amount by \$250,000 to a new total contract amount of \$1,150,000, inclusive of contingency.

A Contract Reporter Exemption Request was submitted to ESD Legal for this amendment.

III. RESPONSIBLE PARTIES

Pursuant to State Finance Law Sections 139-j and 139-k and the Corporation's policy related thereto, staff has: (a) considered Holland & Knight's ability to perform the services provided for in the proposed agreement; 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 Holland & Knight to be responsible.

IV. FUNDING

Funding for the Holland & Knight LLP work will come from mortgage loan proceeds currently held in a dedicated account by ESD.

V. NON-DISCRIMINATION AND CONTRACTOR & SUPPLIER DIVERSITY

ESD's Non-Discrimination and Affirmative Action policy will apply to this contract. There is a 20% Minority/Women-owned Business Enterprise contractor and/or subcontractor

participation goal during the development of the Moynihan Project and an overall goal of 25% minority and female workforce participation during construction.

VI. ENVIRONMENTAL REVIEW

The request to amend a consultant contract constitutes a Type II action as defined by the New York State Environmental Quality Review Act (SEQRA) and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with the authorization.

VII. REQUESTED ACTION

The Directors are requested to authorize the Corporation to amend the existing contract with Holland & Knight for legal services to bring the total contract amount to \$1,150,000.

VIII. RECOMMENDATION

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

IX. ATTACHMENTS

Resolution

July 13, 2015

NEW YORK CITY (New York COUNTY) – Moynihan Station Civic and Land Use Improvement Project – Authorization to Amend the Contract with Holland & Knight LLP; Authorization to Take Related Actions

RESOLVED, that in accordance with the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation (the "Materials"), the Corporation hereby finds Holland & Knight to be responsible; and be it further

RESOLVED, that in accordance with the materials, the Corporation is hereby authorized to Amend Existing Contract for legal services with Holland & Knight LLP to increase the total contract amount to \$1,150,000, for the purposes and services, and substantially on the terms and conditions, set forth in the Materials; and be it further

RESOLVED, that the President, or another Officer of the Corporation, or their designee(s), be, and each of them hereby is, authorized and directed, in the name and on behalf of the Corporation, to execute and deliver any and all documents and to take all actions as may be necessary or proper to implement the foregoing resolutions.

* * *

ITEM 6



FOR CONSIDERATION

July 13, 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 the Contract with Skidmore, Owings & Merrill LLP for Architectural, Engineering, Design, Development, and Related Services; and Authorization to Take Related Actions

I. BACKGROUND

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

Design of the West End Concourse Expansion was executed by Skidmore, Owings & Merrill LLP (“SOM”) under a contract authorized by the Moynihan Station Development Corporation (“MSDC” or the “Corporation”) 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. Phase 1 construction is scheduled for completion 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 in order to advance Phase 2 of the project.

Consistent with the aforementioned contract amendment, 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 May 2015, the MSDC Directors authorized a further amendment to SOM’s contract to provide construction-phase advisory services to support the execution of Early Action Work. SOM is the architect of record for Phase 2, inclusive of the Early Action Work, and is therefore required to provide these services.

In 2014, the United States Department of Transportation (“USDOT”) awarded \$40 million for a resiliency project at the Moynihan Station site, which will consist of water-proofing the existing Farley Building moat slabs that lie above the Penn Station train shed. In advance of this grant application submission, SOM conducted preliminary design work for these improvements.

Authorization is now sought for an amendment to the SOM contract for design services related to the documentation and inclusion of resiliency improvements to the north and south moats adjacent to the Farley Building in the Moynihan Phase 2 construction documents that are currently in preparation. This design work will include SOM waterproofing, steel reinforcement, drainage and landscaping in the area of the existing moat slabs. As SOM prepared the preliminary designs for these resiliency improvements and is the architect of record for Phase 2 of the project, a separate solicitation for these design services is not warranted. The most cost effective and timely manner in which to execute these resiliency improvements in conjunction with the Phase 2 construction project is for SOM to incorporate the design for these improvements into their overall Phase 2 designs.

II. SCOPE OF WORK

SOM will prepare designs for the Farley Building moat water-proofing resiliency improvements, which will include the following:

- Restoration of north and south moats adjacent to the Farley Building;
- Waterproofing of north and south moats adjacent to the Farley Building and sidewalks;
- New drainage systems;
- Structural reinforcement as necessary;
- Landscaping.

A Contract Reporter Exemption Request was filed with ESD Legal.

III. CONTRACT AMOUNT

Architectural services for the resiliency improvements, inclusive of a 10% contingency, are estimated to cost \$525,647 (\$477,861 with a 10% contingency of \$47,786), resulting in the SOM contract being increased to a maximum value of \$28,752,381. The SOM cost proposal was independently reviewed by Port Authority of New York and New Jersey ("PANYNJ" or "Port Authority") Engineering as per the terms of the Consulting Services Agreement between PANYNJ and MSDC and was found to be reasonable.

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 resiliency work will come from the FTA Sandy Relief Fund Resiliency Grant proceeds, which are to be administered by FRA on behalf of FTA through an interagency agreement.

VI. NON-DISCRIMINATION AND CONTRACTOR & SUPPLIER DIVERSITY

MSDC's Disadvantaged, Minority, and Women Business Enterprise Program Plan will apply to these contracts. SOM will be encouraged to use best efforts to achieve a Minority Business Enterprise participation goal of 15% and a Women Business Enterprise participation goal of 5% 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 Disadvantaged Business Enterprise ("DBE") participation, but there is no numerical goal for DBEs.

VII. ENVIRONMENTAL REVIEW

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

VIII. REQUESTED ACTION

In order to preserve the continuity of this valuable Project design and engineering expertise, staff requests that the Contract be further amended substantially in conformance with the terms and conditions set forth in these materials, inclusive of sub-consultant work as described above.

The Directors are requested to:

1. Make a determination of responsibility with respect to SOM; and
2. Authorize the Amendment of the Contract in order to include the update and repackaging of designs for the resiliency moat improvements and to increase the amount of the Contract.

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 FTA and FRA, the Port Authority has reviewed and affirmed this request.

X. ATTACHMENTS

Resolution

July 13, 2015

NEW YORK (NEW YORK COUNTY) – Moynihan Station Civic and Land Use Improvement Project
– Authorization to Amend the Contract with Skidmore, Owings & Merrill LLP for Architectural,
Engineering, Design, Development, and Related Services; and Authorization to Take Related
Actions

BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the
“Materials”), a copy of which is hereby ordered filed with the records of the Corporation, the
Corporation hereby finds Skidmore Owings & Merrill LLP (“SOM”) to be responsible; and be it
further

RESOLVED, that the Directors hereby authorize the amendment of the contract with SOM in the
amount of \$477,861 plus a 10% contingency of \$47,786- for a total of \$525,647 for the
purposes and services, and substantially on the terms and conditions, as set forth in the
Materials, thereby increasing the aggregate limit of the contract to \$28,752,381; 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.

* * *

ITEM 7



FOR CONSIDERATION

July 13, 2015

TO: The Directors

FROM: Michael J. Evans

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

REQUEST FOR: Authorization to Amend the Agreement with the Port Authority of New York and New Jersey for Moynihan Station

I. BACKGROUND

On October 6, 2010 the Board authorized Moynihan Station Development Corporation (“MSDC” or the “Corporation”) to enter into a the Agreement with the Port Authority of New York and New Jersey (“PANYNJ” or the “Port Authority”). The Port Authority planning and construction oversight and management, provided pursuant to the Agreement, are required by the United States Department of Transportation (“USDOT”) as a condition to the award and continued funding of the TIGER grant for the Project. This Agreement covers reimbursement to the Port Authority for engineering support and oversight for Moynihan Station Project (“Project”)_ PANYNJ staff costs for planning, legal and real estate support for the Project are not reimbursed.

The Board authorized an amount of \$4,500,000 to cover the cost of the engineering support and oversight of Phase 1. These funds were dedicated to the staff time and overhead costs for PANYNJ staff serving as Phase 1 Engineering Program Director, Design Manager, Engineer of Construction, and Senior Resident Engineer.

In 2012, the Directors authorized an amendment to the Agreement in order to cover the cost of Materials and Special Testing to be conducted by PANYNJ Engineering and cost estimating services for Phase 2 planning and conceptual design development.

PANYNJ has performed its duties with distinction. MSDC and PANYNJ staffs work together on a daily basis on the construction of Phase 1 and the planning for Phase 2.

As final design for Phase 2 advances and planning for the construction of Phase 2 accelerates, it is now requested that the Agreement be amended to cover Phase 2 of the Project.

II. PROPOSED AMENDMENT

In order to advance the completion of the Phase 2 design work and to provide day-to-day project management services for the construction of Phase 2, similar to an Owner's Representative, it is requested that the Consulting Services Agreement be extended to cover Phase 2 under the same general terms and conditions.

III. SCOPE OF SERVICES & KEY TERMS

- All contracts for design consultant and related services for the project will be held by MSDC.
- The Port Authority will advise MSDC with respect to the work of Skidmore Owings & Merrill, the architect of record, and its subcontractors in preparing the engineering, design and construction contract drawings and specifications for Phase 2 of the Project.
- The Port Authority will provide advisory technical design reviews, peer reviews and advisory audits of the consultants' work.
- MSDC will be responsible during the Project for solicitation of bids, award of construction contracts and administration and payments associated with these contracts.
- The Port Authority will coordinate with MSDC with respect to the procurement of construction contracts by providing advisory support to MSDC with respect to the preparation, bid and award of construction contracts for Phase 2 of the Project.
- On behalf of MSDC, the Port Authority will provide services and staff to advise MSDC on the work of all construction contractors retained by MSDC for building Phase 2 of the Project.
- All required construction management consultants and related construction support services for the project will be procured and administered by MSDC with advice from and consultation with the Port Authority.

A Contract Reporter Exemption Request was submitted to ESD Legal for this amendment.

IV. FEES

Costs for PANYNJ services for Phase 2 are estimated to be \$6.52 million.

MSDC will reimburse the PANYNJ for the direct costs (salary and fringe benefit factor for each employee) for Engineering and Oversight services for Phase 2, consistent with the approach taken for Phase 1 of the Project. PANYNJ will not seek reimbursement for any Planning, Legal and Real Estate Support services provided by staff.

Reimbursement for the Phase 2 services is in line with Phase 1 but accounts for increased staffing due to the larger size of the Phase 2 construction project and also the more extensive peer review services to be provided by PANYNJ during the Phase 2 Final Design phase. A staffing breakdown and the estimated reimbursement of services through 2019 is listed below. Note that hours for 2015, early 2016 and 2019 have been pro-rated to account for reduced hours prior to and post major construction.

	Annual Salary	Benefits Multiplier	Total Annual Reimbursable Compensation	Est. PHASE 2 TOTAL (thru 2019)
Program Director	150,000	1.67	250,500	845,438
Resident Engineer	130,000	1.67	217,100	868,400
Design Manger	124,000	1.67	207,080	880,090
Assistant Resident Engineer	100,000	1.67	167,000	459,250
Design Coordinator	100,000	1.67	167,000	334,000
OE - Consultant	70,000	2.1	147,000	588,000
OE - Consultant	70,000	2.1	147,000	539,000
PA CALL IN SERVICES	2,000,000			2,000,000
			SUB TOTAL	6,514,178

In order to reflect the distinction between the pre-construction phase and construction phase, the reimbursement of fees for Phase 2 will be structured in two parts. MSDC will reimburse up to \$1.5 million for pre-construction services and will not advance construction phase services until the financing plan for Phase 2 is finalized and approved by the Directors. This structure will allow MSDC to plan for the full \$6.52 million PANYNJ reimbursement for Phase 2 while only authorizing an initial \$1.5 million until the balance of funding becomes available.

While the Directors approved the amendment to the Agreement in May 2012 in order to cover materials and special testing for Phase 1 of the Moynihan Station Project, certain delays in finalizing and processing the amendment have meant that this contract will now be amended at one time to include the prior authorization as well as the Phase 2 services. It is requested that an additional 10% contingency be added to the materials and special testing budget for Phase 1, to account for scope that was not anticipated in 2012. This will bring the total amount authorized for materials and special testing for Phase 1 to \$1,000,000. A copy of the prior board resolution is attached.

Inclusive of the \$1,000,000 for materials and special testing for Phase 1, the \$6.52 million for Phase 2 services and a 10% contingency of \$652,000 for Phase 2 services, the total amount of increase in the contract requested is \$8,152,000, for a new total Agreement amount of \$12,652,000.

V. FUNDING

Funding for the initial \$1.5 million for pre-construction services will come from the dedicated Early Action Work account funded out of the Farley Building mortgage proceeds. The balance of funding will come from the private developer payments upon financial closing. Reimbursement to PANYNJ will not exceed \$1.5 million until such additional funding becomes available. Materials and special testing is already funded out of Phase 1 federal and PANYNJ funds.

VI. RESPONSIBLE PARTIES

The Port Authority planning and construction oversight and management, provided pursuant to the Agreement, are required by the United States Department of Transportation as a condition to the award and continued funding of the TIGER grant for the Project. Nevertheless, pursuant to State Finance Law Section 139-j and 139-k and MSDC's policy related thereto, staff has (a) considered the ability of PANYNJ to perform the services as set forth in these materials, 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 finds PANYNJ to be responsible.

VII. AFFIRMATIVE ACTION

PANYNJ's Non-Discrimination and Affirmative Action policies will apply.

VIII. ENVIRONMENTAL REVIEW

The requested authorization to amend this Agreement constitutes a Type II action as defined by the New York State Environmental Quality Review Act (SEQRA) and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required with this authorization.

IX. REQUESTED ACTIONS

The Directors are requested to:

1. make a determination of responsibility with respect to PANYNJ; and
2. authorize the Corporation to amend the Agreement with PANYNJ as set forth in these materials.

X. RECOMMENDATION

Based on the foregoing, MSDC staff recommends approval of the requested actions.

XI. ATTACHMENTS

Resolution
MSDC Board Resolution from May 9, 2012

July 13, 2015

NEW YORK CITY (NEW YORK COUNTY) – Moynihan Station Civic and Land Use Improvement Project – Authorization to Amend the Agreement with the Port Authority of New York and New Jersey; 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 the PANYNJ to be responsible; and be it further

RESOLVED, that in accordance with the Materials, the Corporation is hereby authorized to amend the existing contract with the PANYNJ and increase the amount of such contract by \$8,152,000 (inclusive of a 10% contingency) to a new aggregate limit of \$12,652,000 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.

* * *

May 9, 2012

NEW YORK CITY (NEW YORK COUNTY) – Moynihan Station Civic and Land Use Improvement Project – Authorization to Amend Contracts for Consulting Services with the Port Authority of New York and New Jersey; 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 the PANYNJ to be responsible; and be it further

RESOLVED, that in accordance with the Materials, the Corporation is hereby authorized to amend the existing contract with the PANYNJ and increase the amount of such contract by \$941,250 to a new aggregate limit of \$5,441,250 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.

* * *

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

Monday

July 13, 2015 – 2:30 p.m.

PROPOSED AGENDA

CORPORATE ACTION

1. Approval of the Minutes of the May 4, 2015 Directors' Meeting
2. Ratification of Actions Requested at the May 4, 2015 Directors' Meeting

FOR INFORMATION

3. President's Report (Oral Report)

FOR CONSIDERATION

4. Authorization to Extend the Project-Specific Professional Liability Insurance Policy to Cover Phase 2 Design
5. Authorization to Amend the Contract for Legal Services with Holland & Knight
6. Authorization to Amend the Design Services Contract with Skidmore, Owings & Merrill
7. Authorization to Amend the Agreement with the Port Authority of New York & New Jersey

EXECUTIVE SESSION

8. Update on Real Estate Negotiations and Amtrak Negotiations (Oral Report)