



# **MOYNIHAN STATION PHASE 1**

## **REQUEST FOR PROPOSALS CONNECTING CORRIDOR CONSTRUCTION CONTRACT**

**ISSUED BY  
MOYNIHAN STATION DEVELOPMENT CORPORATION**

**JANUARY 22<sup>ND</sup>, 2013**

**Deadline for responses: 12:00 PM (EST) on Wednesday, February 20<sup>th</sup>, 2013**

*If you intend to submit a proposal, please provide notice of your intention via email to [msdc@esd.ny.gov](mailto:msdc@esd.ny.gov) so that you may receive all future notices for this solicitation.*

*All questions, comments, requests for clarification or any other communication regarding this RFP must be submitted via email to [msdc@esd.ny.gov](mailto:msdc@esd.ny.gov). MSDC will not accept, and cannot respond to, questions, comments, or requests for clarification via any other methods.*

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## **INFORMATION FOR BIDDERS**

Moynihan Station Development Corporation (“MSDC”)<sup>1</sup> hereby invites firms to submit proposals for construction contracting and related services for the Moynihan Station Civic and Land Use Improvement Project (the “Project”).

Phase 1 of the Project involves work in the historic James A. Farley Post Office Building (the “Farley Building”), which is owned by ESDC; in the train shed (the “Train Shed”) of New York Pennsylvania Station (“Penn Station”), owned by the National Railroad Passenger Corporation (“AMTRAK”), and located below the Farley Building; in the West End Concourse (the “WEC”) leased by Long Island Rail Road (“LIRR”) from Amtrak; and in the passageway connecting the West End Concourse to the 8<sup>th</sup> Avenue Subway and Penn Station (the “Connecting Corridor”), which is controlled and operated by LIRR and New York City Transit (“NYCT”).

Phase 1 of the Project consists of three (3) sub-projects:

1. West End Concourse Sub-Project
2. Platform Ventilation Sub-Project
3. Connecting Corridor Sub-Project

MSDC’s goals and objectives for this solicitation are to retain the services of a construction contractor for the Connecting Corridor Sub-Project which will widen and reconfigure the Connecting Corridor to be compliant with the Americans with Disabilities Act (“ADA”). The construction improvements include: selective removal, re-grading and installation of new concrete ramps to meet ADA guidelines; relocation, reconfiguration and widening of stairways between the street, West End Concourse and 8<sup>th</sup> Avenue Subway; rearrangement of the queuing area and fare array for NYCT subway revenue control; and street closures, structural reframing, sewer relocation and other utility relocations necessitated by the above (collectively, the “Work”). The Connecting Corridor will remain under the control of LIRR and NYCT, and the proposed improvements will be closely coordinated with LIRR and NYCT staff.

The Connecting Corridor Sub-Project is funded by a United States Department of Transportation (“USDOT”) grant from the High-Speed Intercity Passenger Rail (HSIPR) Program created under the American Recovery and Reinvestment Act (“ARRA”). The Contract that may be awarded pursuant to this solicitation will be funded in whole or in part with funding provided by the United State of America and the New York State Department of Transportation and is subject to all Federal and New York State law, rules, regulations, orders and requirements applicable to such funding and such agreements, including, without limiting the foregoing, the Federal Funding Requirements and New York State Requirements set forth in the annexed Contract.

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<sup>1</sup> MSDC is a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development (“ESD”), a corporate governmental agency of the State of New York, constituting a political subdivision and public benefit corporation.

## FORM AND SUBMISSION OF PROPOSALS

To respond to this Request for Proposals (“RFP”), bidders shall submit a concise Proposal in accordance with the following:

- A. Proposal Format: The Proposal pages shall be numbered and bound in a 3-ring binder, with **Moynihan Station Phase 1 Connecting Corridor Proposal** and the bidder’s full legal name clearly indicated on the cover. Each section of the Proposal shall be separated with a tab divider that is labeled in accordance with the letter of the requirements specified in the section below entitled *Proposal Submission Requirements*.
- B. Proposal Copies: Each Proposal must be contained in a sealed envelope which shall be conspicuously endorsed with the bidder's full legal name. Bidders shall submit **one (1) reproducible original and five (5) copies of the Proposal, along with one (1) electronic copy in PDF format**. In case of a conflict between the reproducible original and any of the copies, the reproducible original shall take precedence over any of the copies.
- C. Proposal Due Date: Proposals will be received until **12:00 PM (EST) on Wednesday, February 20<sup>th</sup>, 2013** (the “Proposal Due Date”). Proposals will not be accepted after the Proposal Due Date unless a Revised Proposal Due Date has been communicated to bidders by written Addendum issued over the name of the Resident Engineer. Late submittals may be rejected.
- D. Proposal Delivery: **PROPOSALS MUST BE DELIVERED BY HAND between 10:00 AM and 12:00 PM (EST) on Wednesday, February 20<sup>th</sup>, 2013** to a representative of MSDC who will be accepting Proposals in the North Rotunda of the Farley Building (located on 8<sup>th</sup> Avenue between 31<sup>st</sup> and 33<sup>rd</sup> Streets). To get to the North Rotunda, enter the main lobby of the post office at the top of the grand staircase. Make a right once you enter and the North Rotunda is located at the north end of the postal lobby. Please allow sufficient time for delivery of Proposals so that MSDC receives it by the Proposal Due Date. **MSDC assumes no responsibility for delays caused by any delivery services.**
- E. Public Bid Opening: All Proposals received by the Proposal Due Date will be opened and the Lump Sum Price contained in each Proposal will be publicly read in the Old Sorting Room of the Farley Building at **12:30 PM (EST) on Wednesday, February 20<sup>th</sup>, 2013**. Bidders interested in attending the bid opening shall meet in the North Rotunda at the Farley Building at this time and will be directed to the Old Sorting Room by representatives of MSDC.

## PROPOSAL SUBMISSION REQUIREMENTS

To respond to this RFP, the bidder shall provide all of the following information, which together shall comprise a complete Proposal:

- A. Price Proposal.** The bidder shall submit a Lump Sum Price upon the Price Proposal form annexed herewith and must provide all information requested on the form. The Lump Sum Price must be based on the Work described in the annexed Contract Documents including any Addenda issued prior to the Proposal Due Date. The Price Proposal must be signed and the Acknowledgment taken on the annexed form.
- B. Bid Breakdown.** The bidder shall provide a Bid Breakdown upon the form annexed hereto. The submitted Bid Breakdown is not part of the Contract and will be used solely for evaluation of Proposals.
- C. Bid Bond.** The bidder shall provide bid security by a Bid Bond upon the form annexed hereto in an amount not less than five percent (5%) of the total Lump Sum Price contained in the bidder's Price Proposal. All Bonds shall be issued by a Surety Company authorized to do business in the State of New York as evidenced by the Surety Company's most recent Certificate of Solvency under Section 1111 of the New York Insurance Law, a copy of which shall be attached to the Bond. The amount of such Bond shall not exceed the limits set by the aforesaid Certificate of Solvency.
- D. Non-Collusive Bidding Certification.** The bidder shall provide a properly subscribed and affirmed Non-Collusive Bidding Certification per the instructions herein upon the form annexed hereto.
- E. New York State Finance Law Sections 139-j and 139-k Forms.** The bidder shall provide properly subscribed and affirmed New York State Finance Law Sections 139-j and 139-k Forms per the instructions herein.
- F. New York State Tax Law Section 5-a Form.** The bidder shall provide a properly subscribed and affirmed New York State Tax Law Section 5-a Form per the instructions herein.
- G. New York State Vendor Responsibility Questionnaire.** The bidder shall provide a properly subscribed and affirmed Vendor Responsibility Questionnaire per the instructions herein.
- H. Non-Discrimination and Contractor & Supplier Diversity Forms.** The bidder shall provide a properly subscribed and affirmed Equal Employment Opportunity Policy Statement (Form OCSD-1), anticipated Staffing Plan (Form OCSD-2), and MWBE Utilization Plan (Form OCSD-3) per the instructions herein.

- I. Work Plan.** The bidder shall provide a narrative description of the bidder's plan to carry out the Work. The work plan should (a) demonstrate a clear understanding of the Project objectives and the design, construction and scope of the Work; (b) identify the construction methods and staging necessary to construct the major elements of the Project and address methods to be employed for safe and efficient construction; (c) list anticipated problems and proposed solutions, including constructability and maintainability; (d) identify methods to minimize impact on the public and roadways in the vicinity caused by construction; (e) identify a plan for temporary facilities and staging; (f) identify methods to be employed to ensure timely performance in accordance with the Milestone Dates set forth in the Contract.
- J. Key Personnel.** The bidder shall provide the names and qualifications of the individuals proposed to serve as Project Manager, Quality Manager, Safety Manager, Construction Superintendent, and Project Scheduler. The bidder's submission of proposed key personnel shall constitute a commitment by the bidder that such personnel will be available for performance of the Work, subject to approval by the Resident Engineer.
- K. Qualification Statement.** The bidder shall provide a Qualification Statement setting forth the evidence (and certifying such evidence as true and complete) of the bidder's compliance with the prerequisites set forth below. The statement must be signed and certified by a principal of the bidder (or if the bidder is a joint venture, by a principal of each participant in the joint venture) identifying the bidder's (or joint venture participant's) specific relevant experience in the performance of services and work similar to those contemplated herein. For all projects referenced, include the name of the company, the date the services were provided, the nature of the services performed, the name of a contact person and such person's current mailing address, email address and telephone number for verification purposes.
- 1. Minimum Experience of the Firm:** The bidder must have as a prime or general contractor, a minimum of five (5) years of construction experience on contracts of comparable size, type and complexity and demonstrate that during the last five (5) years it has successfully completed or substantially completed as a prime or general contractor at least three (3) contracts of comparable size, type and complexity. In each instance, the services and scope of work must have been completed skillfully, in a satisfactory manner, and on time.
  - 2. Minimum Qualifications of the Project Manager and Superintendent:** The bidder's Project Manager must have a minimum of ten (10) years construction experience with a similar level of responsibility on contracts of comparable size, type and complexity and the bidder's Superintendent must have a minimum of ten (10) years construction experience with a similar level of responsibility on such contracts.

**3. Specific Work Experience Critical to the Project:** The bidder must demonstrate that it has construction experience with New York City Transit (“NYCT”) and New York City Department of Transportation (“NYCDOT”) projects. Specific experience required includes the following:

- i. Planning and scheduling of contractor performed work on or in close proximity to NYCT property.
- ii. Planning and scheduling of road closures in Manhattan with NYCDOT in order to perform contractor work.
- iii. Performance of heavy civil work on or in close proximity to an active roadway in an urban area.
- iv. Coordination, rigging and installation of structural steel and cast in place concrete.
- v. Coordination with NYCT-provided force account support.
- vi. Renovation of an active public transit station.

The bidder must demonstrate to the satisfaction of MSDC that it meets the minimum requirements of the RFP as stated in this section. Company brochures alone **are insufficient** for the purpose of demonstrating experience and technical expertise. MSDC will be the sole judge of whether a bidder meets the prerequisite requirements. MSDC, at its discretion, may consider subcontractor qualifications for the purposes of meeting the NYCDOT experience requirements. Only Proposals from firms demonstrating relevant previous experience in the performance of services similar to those contemplated herein shall be deemed qualified for award pursuant to this RFP.

- L. Statement of Work.** The bidder shall provide a statement of work which the bidder has on hand, including any work on which a bid has been submitted, containing a description of the work, the dollar value, the location by city and state, the current percentage of completion and the expected date for completion.

## **BIDDING DOCUMENTS**

All bidders may pick up a complete set of the Bidding Documents (on a DVD) between **9:00 AM and 3:00 PM (EST) on Wednesday, January 23<sup>rd</sup>, 2013** at the Farley Building. Bidders shall enter the Farley Building at the mid-block entrance on 33<sup>rd</sup> Street between 8<sup>th</sup> Avenue and 9<sup>th</sup> Avenue. After signing in at the security guard booth, bidders shall proceed to Room 3212 on the 3<sup>rd</sup> Floor to pay a **non-refundable deposit of \$250.00, payable by company check to “ESDC Moynihan Phase 1 AC”**, and receive a complete set of the Bidding Documents on a DVD. Arrangements to pick up the Bidding Documents after this date must be submitted in writing via email to [msdc@esd.ny.gov](mailto:msdc@esd.ny.gov) (the subject line of all such emails must read "Moynihan CC Bidding Documents"). Addenda to this RFP, including responses to any questions received, will be provided via email to all bidders that provide a valid email address when picking up a set of Bidding Documents.

## **PRE-BID MEETING**

All bidders are invited to attend a pre-bid meeting at **1:30 PM (EST) on Wednesday, January 30<sup>th</sup>, 2013**. Bidders shall assemble in the North Rotunda at the Farley Building and will be directed to the meeting location by representatives of MSDC. To get to the North Rotunda, enter the main lobby of the post office at the top of the grand staircase. Make a right once you enter and the North Rotunda is located at the north end of the postal lobby.

All bidders shall provide the name of each person that will attend the pre-bid meeting on behalf of the bidder in writing by **5:00PM (EST) on Monday, January 28<sup>th</sup>, 2013**, via email to [msdc@esd.ny.gov](mailto:msdc@esd.ny.gov) (the subject line of all such emails must read "Moynihan CC Pre-Bid Meeting"). A maximum of three (3) representatives from each bidder will be permitted to attend the pre-bid meeting.

Each person in attendance at the pre-bid meeting will be required to present photo identification in order to be admitted. All bidders will also be required to execute an attendance sheet at the pre-bid meeting.

## **QUESTIONS BY BIDDERS**

Questions by prospective bidders concerning the Contract must be submitted in writing no later than **5:00 PM (EST) on Wednesday, February 6<sup>th</sup>, 2013**, via email to [msdc@esd.ny.gov](mailto:msdc@esd.ny.gov) (the subject line of all such emails must read "Moynihan CC Pre-Bid Questions"). No telephone or fax inquiries shall be accepted.

No employee or representative of MSDC is authorized to give interpretations of any portion of the Contract or to give information as to the requirements of the Contract in addition to that contained in the Contract. Interpretations of the Contract or additional information as to its requirements, where necessary, shall be communicated to bidders only by written addendum issued over the name of the Resident Engineer, which addendum shall be considered part of this Contract. Accordingly, nothing contained herein and no representation, statement or promise, oral or in writing, of MSDC, its directors, officers, agents, representatives or employees shall impair or limit the effect of the warranties of the Contractor contained in the clause of the Contract entitled "Contractor's Warranties and Guarantees" or elsewhere in the Contract or any other provisions of the Contract. The provisions of this clause shall apply to questions addressed by prospective bidders both before and after their receipt of Bidding Documents.

## **ACCEPTANCE OR REJECTION OF PROPOSALS**

MSDC may determine that a bidder is not responsible on the basis of the bidder's work plan, key personnel submission, qualification statement or other available information. Proposals from responsible bidders will be compared on the basis of the Lump Sum Price bid, subject to MSDC's available funding.

The responsible bidder with the lowest Lump Sum Price equal to or less than the available funding will be awarded the Work, subject to MSDC's right to reject all bids and to resolicit bids if in its sole opinion it shall deem that so proceeding is in the best interest of MSDC.

MSDC reserves the right to negotiate with the lowest bidder at any time after receipt of the Proposals.

No Proposal will be accepted, or Contract awarded to, a bidder or any substantially owned affiliate of a bidder, that is debarred pursuant to New York Workers' Compensation Law Section 141-b.

No Proposal will be accepted, or Contract awarded to, a bidder or any substantially owned affiliate of a bidder, that is debarred pursuant to New York State Finance Law Section 139-j.

The issuance of this RFP, and the submission of a Proposal by any firm and the acceptance of a Proposal by MSDC, does not obligate MSDC in any manner. MSDC is not responsible for any costs incurred by a firm in the preparation of a Proposal. MSDC reserves the right to amend, modify or withdraw this RFP, including the right to amend deficient responses, at its sole discretion.

Terms used in this Information for Bidders shall have the meaning set forth in the annexed Contract. No effort is made in this Information for Bidders to emphasize any particular provision of the Contract, but bidders must familiarize themselves with every provision and its effect.

Protests by bidders of the award or decision to award the Contract must strictly comply with the annexed Procurement Protest Procedures.

### **NON-COLLUSIVE BIDDING**

By bidding on this Contract, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, that: (a) the prices in its bid have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; (b) the prices quoted in its bid have not been and will not be knowingly disclosed, directly or indirectly, by the bidder prior to the official opening of such bid to any other bidder or to any competitor; (c) no attempt has been made and none will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition; (d) this organization has not made any offers or agreements, or given or agreed to give anything of value (see definition of "anything of value" appearing in the clause of the Contract entitled "No Gifts/Gratuities/Offer of Employment") or taken any other action with respect to any MSDC employee or former employee or immediate family member of either which would constitute a breach of ethical standards under the Code of Ethics and Financial Disclosure dated as of April

11, 1996 (a copy of which is available upon request to the individual named in the clause hereof entitled "Questions by Bidders"), nor does this organization have any knowledge of any act on the part of an MSDC employee or former MSDC employee relating either directly or indirectly to this organization which constitutes a breach of the ethical standards set forth in said Code; (e) no person or selling agency, other than a bona fide employee or bona fide established commercial or selling agency maintained by the bidder for the purpose of securing business, has been employed or retained by the bidder to solicit or secure this Contract on the understanding that a commission, percentage, brokerage, contingent or other fee would be paid to such person or selling agency. Each bidder must submit a properly subscribed and affirmed Non-Collusive Bidding Certification in the form annexed hereto.

The foregoing certification as to "(a)", "(b)", "(c)", "(d)" and "(e)" shall be deemed to have been made by the bidder as follows: if the bidder is a corporation, such certification shall be deemed to have been made not only with respect to the bidder itself, but also with respect to each parent, affiliate, director and officer of the bidder, as well as, to the best of the certifier's knowledge and belief, each stockholder of the bidder with an ownership interest in excess of 10%; if the bidder is a partnership, such certification shall be deemed to have been made not only with respect to the bidder itself, but also with respect to each partner. Moreover, the foregoing certification, if made by a corporate bidder, shall be deemed to have been authorized by the Board of Directors of the bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of such certification as the act and deed of the corporation.

In any case where the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the signed bid a signed statement which sets forth in detail the reasons therefor. If the bidder is uncertain as to whether it can make the foregoing certification, it shall so indicate in a signed statement furnished with its bid, setting forth in such statement the reasons for its uncertainty.

Notwithstanding that the bidder may be able to make the foregoing certification at the time the bid is submitted, the bidder shall immediately notify MSDC in writing during the period of irrevocability of bids on this Contract or any extension of such period, of any change of circumstances which might under this clause make it unable to make the foregoing certification or required disclosure. The foregoing certification or signed statement shall be deemed to have been made by the bidder with full knowledge that it would become a part of the records of MSDC and that MSDC will rely on its truth and accuracy in awarding this Contract. In the event that MSDC should determine at any time prior or subsequent to the award of this Contract that the bidder has falsely certified as to any material item in the foregoing certification or has willfully or fraudulently furnished a signed statement which is false in any material respect, or has not fully and accurately represented any circumstance with respect to any item in the foregoing certification required to be disclosed, MSDC may determine that the bidder is not a responsible bidder with respect to its bid on this Contract or with respect to future bids on MSDC contracts and may, in addition to exercising any other rights or remedies it may have, exercise any of the rights or remedies set forth in the clause of the Contract entitled "Rights and Remedies of MSDC".

In addition, bidders are advised that knowingly providing a false certification or statement pursuant hereto may be the basis for prosecution for offering a false instrument for filing (see e.g., New York Penal Law, Section 175.30 et seq.). Bidders are also advised that the inability to make such certification will not in and of itself disqualify a bidder, and that in each instance MSDC will evaluate the reasons therefor provided by the bidder.

## **NEW YORK STATE FINANCE LAW SECTIONS 139-J AND 139-K**

State Finance Law Sections 139-j and 139-k (collectively, the “Section 139 Requirements”) apply to this solicitation. These requirements (1) govern permissible communications between potential bidders and MSDC or other involved governmental entities with respect to this solicitation during the procurement process; and (2) establish sanctions for knowing and willful violations of the provisions of the requirements, including disqualification from eligibility for an award of any contract pursuant to this solicitation.

In order to comply with the Section 139 Requirements: (i) all communications regarding this solicitation, from the issuance of this solicitation through award and final approvals of any resulting contract (the “Restricted Period”), must be conducted only with the MSDC contact person listed in this solicitation; (ii) the completion by bidders of the Offerer Disclosure of Prior Non-Responsibility Determinations and the Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law, copies of which are available at [www.esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/SF\\_Law139\\_JK.pdf](http://www.esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf), is required; and (iii) periodic updating of such forms during the term of any contract resulting from this solicitation is required. Bidders must submit both of these forms, properly completed, as part of their Proposals.

The Section 139 Requirements also require MSDC and ESD employees to obtain and report certain information when contacted by a prospective bidder during the Restricted Period, make a determination of the responsibility of the bidder, and make all such information publicly available in accordance with applicable law. If a prospective bidder is found to have knowingly and willfully violated the Section 139 Requirements, that prospective bidder and its subsidiaries, and related and successor entities will be determined to be a non-responsible bidder and will not be awarded any contract issued pursuant to this solicitation. In addition, two such findings of non-responsibility within a four-year period can result in debarment from obtaining any New York State governmental procurement contract.

A copy of the Policy Regarding Permissible Contacts under State Finance Law Section 139-j and 139-k, which is applicable to all ESDC subsidiaries, including MSDC, can be found at [www.esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/PermissibleContactsPolicy\\_Jan2007.pdf](http://www.esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/PermissibleContactsPolicy_Jan2007.pdf). Neither this summary nor the referenced Policy is a complete presentation of the provisions of the Section 139 Requirements. A copy of State Finance Law Sections 139-j and 139-k can be found at <http://www.ogs.state.ny.us>. All potential bidders are solely responsible for full compliance with the Section 139 Requirements.

## **NEW YORK STATE TAX LAW SECTION 5-A**

Any contract resulting from this solicitation is also subject to the requirements of State Tax Law Section 5-a (“STL 5-a”). STL 5-a prohibits MSDC from approving any such contract with any entity if that entity or any of its affiliates or subcontractors makes sales within New York State of tangible personal property or taxable services having a value over \$300,000 during the immediately preceding consecutive four sales tax quarters and is not registered for sales and compensating use tax purposes. To comply with STL 5-a, all bidders must include in their Proposals a properly completed Form ST-220-CA, (a copy of the form is available at [www.tax.ny.gov/pdf/current\\_forms/st/st220ca\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf)) or a satisfactory affidavit that the entity is not required to register (a copy of the affidavit form is available at [www.esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/STL\\_5A\\_Affidavit.pdf](http://www.esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/STL_5A_Affidavit.pdf)). Bidders must submit a properly completed ST-220-CA or an Affidavit of Non-Applicability as part of their Proposals.

## **NEW YORK STATE VENDOR RESPONSIBILITY**

New York State Procurement Law requires that state agencies award contracts only to responsible vendors. Vendors are invited to file the required Vendor Responsibility Questionnaire online via the New York State Vendor Responsibility System (“VendRep System”) or may choose to complete and submit a paper questionnaire. Submission of this Vendor Responsibility Questionnaire is a requirement for all State vendors and does not by itself establish responsibility for this Contract.

To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or go directly to the VendRep system online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at [helpdesk@osc.state.ny.us](mailto:helpdesk@osc.state.ny.us).

Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website [www.osc.state.ny.us/vendrep/forms\\_vendor.htm](http://www.osc.state.ny.us/vendrep/forms_vendor.htm) and execute accordingly pertaining to the company’s trade industry.

## **NON-DISCRIMINATION AND CONTRACTOR & SUPPLIER DIVERSITY REQUIREMENTS**

Pursuant to New York State Executive Law Article 15-A, MSDC recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority-and women-owned business enterprises (MWBES) and the employment of minority group members and women in the performance of MSDC contracts.

It is the policy of the State of New York and MSDC to comply with all Federal, State and Local laws, policy, orders, rules and regulations which prohibit unlawful discrimination based on race, creed, color, national origin, sex, sexual orientation, age, disability or marital status, and to take affirmative action in working with contracting parties to ensure that New York State Business Enterprises, MWBEs, minority group members and women share in the economic opportunities

generated by MSDC's participation in projects or initiatives, and/or the use of MSDC funds. MSDC's Non-Discrimination and Contractor & Supplier Diversity goals will apply to this initiative.

***The selected Contractor shall be required to use its Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve the participation of certified Minority Business Enterprises (MBE) totaling 12% and Women Business Enterprise (WBE) totaling 8% of the total value of the project. The overall MWBE participation goal requirement for the project shall be no less than 20% of the total value of project.***

***The selected Contractor shall also ensure the inclusion of Minorities and Women in the project labor force, totaling no less than 25% of the project workforce.***

Bidders shall provide a properly subscribed and affirmed Equal Employment Opportunity Policy Statement (Form OCSD-1), anticipated Staffing Plan (Form OCSD-2), and MWBE Utilization Plan (Form OCSD-3) as part of the response to this RFP. Copies of these forms are available at:

**Form OCSD-1**

[http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD\\_1MWBEEOPolicyStatement.pdf](http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_1MWBEEOPolicyStatement.pdf)

**Form OCSD-2**

[http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD\\_2StaffingPlan.pdf](http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_2StaffingPlan.pdf)

**Form OCSD-3**

[http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD\\_3MWBEUtilizationPlan.pdf](http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_3MWBEUtilizationPlan.pdf)

**Form OCSD-4**

[http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD\\_4GoodFaithEfforts.pdf](http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_4GoodFaithEfforts.pdf)

The forms may also be requested from ESD's Office of Contractor & Supplier Diversity ("OCSD") at [ocsd@esd.ny.gov](mailto:ocsd@esd.ny.gov).

Only the prime contractor shall complete these forms. In the Utilization Plan (Form OCSD-3) the prime contractor must list all of the sub-contractors and sub-consultants it proposes to use in achieving the MWBE goal requirement. OCSD is available to assist in identifying New York State certified MWBEs that can provide goods and services in connection with this contract. If bidders require MWBE listings or have other questions relating to MWBE requirements herein, please contact the OCSD with any inquiries and comments at [ocsd@esd.ny.gov](mailto:ocsd@esd.ny.gov).

**PRICE PROPOSAL**

To: Moynihan Station Development Corporation:

The undersigned\* \_\_\_\_\_  
\*\* \_\_\_\_\_

(hereinafter called "the Contractor") hereby offers to perform all the obligations and to assume all the duties and liabilities of the Contractor provided for in the Moynihan Station Phase 1 - Connecting Corridor Construction Contract, for the following Lump Sum Price:

\_\_\_\_\_ Dollars and \_\_\_\_\_ Cents  
\$ \_\_\_\_\_

The Lump Sum Price is to be written in words and figures. A breakdown of the Lump Sum Price is to be included in the attached Bid Breakdown.

This offer shall be irrevocable for 90 days after the date on which MSDC opens this Proposal.

To induce the acceptance of this Proposal, the undersigned hereby makes each and every certification, statement, assurance, representation and warranty made by the Contractor in said Contract. Moreover as a condition to receipt and consideration by MSDC of the Proposal whether or not it is accepted, the undersigned agrees that all information of any nature whatsoever, regardless of the form of the communication, received from the undersigned (including its officers, agents, or employees) by MSDC, its officers, agents or employees, and notwithstanding any statement therein to the contrary, has not been given in confidence and may be used or disclosed by or on behalf of MSDC without liability of any kind except as may arise under letters patent of the undersigned, if any.

Unless expressly stated otherwise, the Information for Bidders, all papers required by it and submitted in connection herewith at any time, said Contract, and all papers made part of the Contract by the terms of the Contract are made part of this Proposal.

The undersigned hereby designates the following as the Bidder's office:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The telephone number of the bidder is: \_\_\_\_\_

The fax number of the bidder is: \_\_\_\_\_

The E-Mail address of the bidder is: \_\_\_\_\_

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(\*) Insert bidder's name.

(\*\*) If a corporation, give state of incorporation, using the phrase, "a corporation organized under the laws of the State of \_\_\_\_\_."

If a partnership, give full names of partners, using also the phrase, "co-partners doing business under the firm name of \_\_\_\_\_."

If an individual using a trade name, give individual name, using also the phrase, "an individual doing business under the trade name of \_\_\_\_\_."

If a joint venture, give the information required above for each participant in the joint venture.

**SIGNATURE AND CERTIFICATE OF AUTHORITY(\*)**

Dated, \_\_\_\_\_, 2013

(Signature of individual or name  
of corporation or partnership)

\_\_\_\_\_

(Signature of agent, partner or  
corporate officer)

By(\*\*) (\*\*\*) \_\_\_\_\_

(Acknowledgment of signature to  
be taken on proper form on  
following page(s))

\_\_\_\_\_

\_\_\_\_\_

**CERTIFICATE OF AUTHORITY, IF BIDDER  
IS A CORPORATION**

I, the undersigned, as Secretary of the corporation submitting the foregoing Proposal, hereby certify that under and pursuant to the by-laws and resolutions of said corporation, each officer who has signed said Proposal on behalf of the corporation is fully and completely authorized so to do.

(Corporate Seal)

\_\_\_\_\_

- 
- (\*) If bidder is a joint venture, insert signatures as appropriate for one participant of the joint venture on this page and attach and complete an additional signature sheet in the same form as appears on this page for each other participant as required.
  - (\*\*) If Proposal is signed by an officer or agent, give title and address.
  - (\*\*\*) NOTE: The foregoing signature shall be deemed to have been provided with full knowledge that the foregoing Proposal, the accompanying Contract booklet, as well as any certification, statement, assurance, representation, warranty, schedule or other document submitted by the bidder with the Proposal will become a part of the records of MSDC and that MSDC will rely in awarding the Contract on the truth and accuracy of such Proposal and each such certification, statement, assurance, representation, warranty and schedule made therein by the Contractor. Knowingly submitting a false statement in connection with any of the foregoing may be the basis for prosecution for offering a false instrument for filing (see, e.g., N.Y. Penal Law, Section 175.30 et seq.).



**STATEMENT ACCOMPANYING PROPOSAL(\*)**

Names and Residences of Officers, If Bidder  
is a Corporation

Name	Title	Residence (**)
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Names and Residences of Partners, If Bidder  
is a Partnership

Name	General or Limited Partner	Residence (**)
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Name and Residence, If Bidder is an Individual

Name	Residence (**)
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(\*) If bidder is a joint venture, insert signature as appropriate for one participant of the joint venture on this page and attach and complete an additional Statement Accompanying Proposal sheet in the same form as appears on this page for each other participant as required.

(\*\*) Give Street and Number of Residence. Do not give business address.

## BID BREAKDOWN

### Moynihan Station Phase 1 Connecting Corridor Construction Contract

ITEM #	DESCRIPTION	SUBTOTAL
	<b>SUMMARY:</b>	
1	General Conditions	
	Insurance	
2	Hazardous Material Abatement	
3	Demolition	
4	Sitework & Earthwork	
5	Concrete	
	Labor	
	Material & Equipment	
6	Masonry	
7	Structural Steel	
	Labor	
	Material & Equipment	
8	Architectural and Miscellaneous Metals	
9	Rough Carpentry	
10	Architectural Woodwork	
11	Thermal and Moisture Protection	
12	Doors, Frames, and Hardware	
13	Glass and Glazing	
14	Gypsum Board Assembly	
15	Acoustical Panels	
16	Finishes	
17	Specialties & Special Construction	
18	Equipment	
19	Furnishing	
20	Conveying Systems	
21	Mechanical (HVAC)	
22	Plumbing	
23	Fire Protection	
24	Electrical	
25	Security	
<b>TOTAL:</b>		

*This Bid Breakdown is not part of the Contract. No information hereon (whether supplied by MSDC or the bidder) and no information deduced from information hereon, including quantities of materials or work, shall be deemed to vary, alter or modify any provision of the Contract, including provisions therein as to compensation and performance. The items of materials or work contained hereon shall not be deemed to be an exhaustive list of the items of materials or work required by the Contract Drawings and Specifications in their present form. In case of conflict between information hereon (whether supplied by MSDC or the bidder) and the Price Proposal, the Price Proposal shall take precedence.*

## BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned\*

as principal(s); and\*\*

as surety are hereby held and firmly bound unto Moynihan Station Development Corporation (herein called the "Owner") in the penal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

The condition of the above obligation is such that whereas the above named principal(s) has submitted to the Owner a certain Proposal, bound herewith and hereby made a part hereof, to perform the obligations of the Contractor under a contract in writing, known as Moynihan Station Phase 1 Connecting Corridor Contract, now therefore:

- A. If said Proposal shall not be accepted, or
- B. If said Proposal shall be accepted and the principal(s) furnishes a Labor and Material Payment Bond and a Performance Bond satisfactory to the Owner in accordance with the requirements of said Proposal,

Then, this obligation shall be void, otherwise the same shall remain in full force and effect; it being expressly understood and agreed that the liability of the surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The surety, for value received, hereby stipulates and agrees that the obligations of said surety and its bond shall be in no way impaired or affected by any extensions of the times within which the Owner may receive or accept such Proposal or within which the principal(s) may furnish a Labor and Material Payment Bond and Performance Bond or by any waiver by the Owner of any of the requirements of said Proposal; and said surety does hereby waive notice of any such extensions or waivers.

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\* Insert bidder's name. If a corporation, give the state of incorporation using the phrase "a corporation organized under the laws of the \_\_\_\_\_".  
If a partnership, give full names of partners, using also the phrase, "co-partners doing business under the firm name of \_\_\_\_\_".  
If an individual using a trade name, give individual name, using also the phrase, "an individual doing business under the trade name of \_\_\_\_\_".  
If a joint venture, give the information required above for each participant in the joint venture.

\*\* Insert name of surety.

IN WITNESS WHEREOF, the principal(s) and surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

(Seal) \_\_\_\_\_  
Principal \*

By \*\* \_\_\_\_\_

(Seal) \_\_\_\_\_  
Surety

By \*\*\* \_\_\_\_\_

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\* If bidder is a joint venture, insert signature and information required as appropriate for one participant of the joint venture on this page and attach and complete an additional sheet in the same form as appears on this page for each other participant as required.

\*\* If bond is signed by an officer or agent, give title; if signed by a corporation, affix corporate seal.

\*\*\* If bond is signed by an officer or agent, give title; if signed by a corporation, affix corporate seal.

**ACKNOWLEDGMENT(\*)**

**ACKNOWLEDGMENT OF BIDDER, IF A CORPORATION**

State of )  
 ) SS.:  
County of )

On this.....day of....., 2013, before me personally came and appeared \_\_\_\_\_, to me known, who, being by me duly sworn, did depose and say that he/she resides at \_\_\_\_\_, that he/she is the \_\_\_\_\_ of \_\_\_\_\_, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such seal; that it was so affixed by order of the directors of said corporation; and that he signed his name thereto by like order.

(Seal) .....

**ACKNOWLEDGMENT OF BIDDER, IF A PARTNERSHIP**

State of New York.....)  
 ) SS.:  
County of.....)

On this.....day of....., 2013, before me personally came and appeared ....., to me known and known to me to be one of the members of the firm of ..... , described in and who executed the foregoing instrument and he acknowledged to me that he executed the same as and for the act and deed of said firm.

(Seal) .....

**ACKNOWLEDGMENT OF BIDDER, IF AN INDIVIDUAL**

State of.....)  
 ) SS.:  
County of.....)

On this.....day of....., 2013, before me personally came and appeared ....., to me known and known to me to be the person described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

(Seal) .....

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(\*) If bidder is a joint venture, insert signature as appropriate for one participant of the joint venture on this page and attach and complete an additional Acknowledgment sheet in the same form as appears on this page for each other participant as required.

**CERTIFICATE OF SOLVENCY  
UNDER SECTION 1111 OF THE  
NEW YORK INSURANCE LAW**

**NON-COLLUSIVE BIDDING CERTIFICATION**

\_\_\_\_\_ ("Bidder") which has submitted the attached Proposal, each person signing on behalf of Bidder, and in the case of a joint bid each party thereto, as to its own organization, hereby certifies and affirms under penalty of perjury, that to the best of its knowledge and belief:

- (1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
- (2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by Bidder and will not knowingly be disclosed by Bidder prior to opening of the bids, directly or indirectly, to any other bidder or to any competitor; and
- (3) No attempt has been made or will be made by Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

Name of Bidder: \_\_\_\_\_  
By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

IN THE PRESENCE OF:  
Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_

**ACKNOWLEDGMENT(\*)**

**ACKNOWLEDGMENT OF BIDDER, IF A CORPORATION**

State of New York )

) SS.:

County of )

On this.....day of....., 2013, before me personally came and appeared \_\_\_\_\_, to me known, who, being by me duly sworn, did depose and say that he/she resides at \_\_\_\_\_, that he/she is the \_\_\_\_\_ of \_\_\_\_\_, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such seal; that it was so affixed by order of the directors of said corporation; and that he signed his name thereto by like order.

(Seal) .....

**ACKNOWLEDGMENT OF BIDDER, IF A PARTNERSHIP**

State of New York.....)

) SS.:

County of.....)

On this.....day of....., 2013, before me personally came and appeared ....., to me known and known to me to be one of the members of the firm of ..... described in and who executed the foregoing instrument and he acknowledged to me that he executed the same as and for the act and deed of said firm.

(Seal) .....

**ACKNOWLEDGMENT OF BIDDER, IF AN INDIVIDUAL**

State of.....)

) SS.:

County of.....)

On this.....day of....., 2013, before me personally came and appeared ....., to me known and known to me to be the person described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

(Seal) .....

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(\*) If bidder is a joint venture, insert signature as appropriate for one participant of the joint venture on this page and attach and complete an additional Acknowledgment sheet in the same form as appears on this page for each other participant as required.

## PROCUREMENT PROTEST PROCEDURES

The following protest procedure is the sole administrative remedy for protesting procurement decisions of the Moynihan Station Development Corporation (MSDC).

Any bidder or proposer submitting a bid or proposal in response to a MSDC solicitation may protest the award or decision to award a contract by submitting to MSDC Vice President, Development by certified mail or by hand delivery such protest setting forth the basis thereof in writing to the no later than ten (10) calendar days after notice of the award or announcement of the decision to award on MSDC's website or actual knowledge by the protester that a decision by MSDC to award to other than the protester has been made whichever occurs first, addressed as follows:

Vice President, Development  
Moynihan Station Development Corporation  
633 Third Avenue  
New York, NY 10017

The written protest must be received in MSDC office no later than 5:00 p.m. on the tenth (10th) day as set forth above. In the event the tenth (10th) day falls on a weekend or an official holiday, the (10) ten-day period expires at 5:00 p.m. on the next regular business day.

The protest should contain, at a minimum, the following:

- Name and address of the protester including telephone and facsimile numbers and email address;
- The solicitation title and number, if available;
- The contract or purchase order title and number, if available;
- A statement concerning the protester's interest in the award or non-award of the contract and/or purchase order;
- A detailed statement of the basis for the protest including any supportive documents and information;
- The relief requested and the reason therefor.

The MSDC Vice President, Development shall, within three (3) business days of receipt of the protest, appoint a Protest Officer who will be a manager or other employee of MSDC or New York State Urban Development Corporation d/b/a Empire State Development Corporation (ESD) with the requisite procurement knowledge, as designated by the ESD General Counsel.

The Protest Officer shall review the protest and supportive documents and issue a written decision within five (5) business days of the appointment where feasible. The Protest Officer may take any action or make any requests he or she deems necessary in order to investigate the protest including extending the time to issue a decision in order to obtain all evidence and other pertinent information.

The protester will be provided a copy of the written decision. This decision will be final unless within three (3) business days of receipt of the written decision the protester appeals to the ESD General Counsel or her/his designee. The appeal shall be in writing, sent via facsimile and certified mail, or by hand delivery to the ESD General Counsel as follows:

General Counsel  
Empire State Development Corporation  
633 Third Avenue  
New York, NY 10017

Fax: (212) 803-3775

No evidence or information may be introduced or relied upon in the appeal that has not been presented to the Protest Officer prior to Protest Officer's decision. The ESD General Counsel or her/his designee will review the appeal and supportive documents and the decision of the Protest Officer and issue a written decision within five (5) business days of receipt if feasible. The ESD General Counsel or her/his designee may take any action or make any requests she or he deems necessary including extending the time to issue a decision in order to render a decision on the appeal.

The decision of the ESD General Counsel or her/his designee shall be conclusive and final.