

FOR CONSIDERATION

February 19, 2010

TO: The Directors

FROM: Dennis M. Mullen

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

REQUEST FOR: Authorization to Amend Contract for Abatement Management Services with ATC Associates, Inc.; Authorization to Take Related Actions

CONTRACT SUMMARY

Consultant: ATC Associates, Inc. (“ATC”)

Scope of Service: ATC to continue to assist with abatement management services in connection with the James A. Farley Post Office Building and Annex, including air monitoring services during the abatement process, asbestos inspection as necessary, and asbestos awareness training for building management employees.

Amendment: To increase the amount of ATC’s existing contract by an additional sum not to exceed \$300,000, from the currently authorized \$150,000 to a new total contract amount not to exceed \$450,000.

BACKGROUND AND SCOPE

In July 2009, the Directors authorized ESDC to enter into a contract with ATC Associates, Inc. (“ATC”) to develop remediation plans for the James A. Farley Post Office Building and Annex (“collectively, “Farley”) and to provide air monitoring services when the abatement work is eventually performed. The upset amount of that contract was a total of \$150,000; \$37,000 for design and development of abatement plans and \$100,000 for requisite air monitoring, with the remainder for contingency. At the time, the scope of the abatement work necessary to consolidate the United States Postal Service (“USPS”) was limited to an approximately 80,000 SF portion of the 4th Floor in the Farley Annex where the USPS would be relocated on an interim basis. The \$100,000 air monitoring estimate for the existing ATC contract was based on the abatement required for this initial area.

After subsequent negotiations with USPS, and as authorized by the Directors in October 2009, ESDC and USPS executed the First Amendment to the Interim Lease and Development Agreement (the “Interim Lease Amendment”) which describes the scope and schedule for the

abatement, demolition, and certain fit-out necessary to relocate and further consolidate the space occupied by the USPS within Farley. As part of this agreement, the USPS agreed to turn over the remainder of the 2nd Floor and 4th Floor as well as the entire 5th Floor to ESDC, thus providing an opportunity to abate an additional 283,000 SF concurrently with the previously assumed 80,000 SF. This additional abatement will be of substantial benefit to the Moynihan Project, as all areas of the Farley Building must be abated prior to the commencement of construction of the Project.

ATC updated the abatement plans accordingly and assisted ESDC in competitively bidding out the abatement portion of the Work. ATC has finished this portion of its work for the agreed \$37,000. In November 2009, pursuant to authorization by the Directors, Gramercy Group, Inc. ("Gramercy") was awarded the abatement and selective demolition contract for this expanded scope of work which is now underway at Farley. The original estimates for such work ranged as high as \$5,000,000 but, given current market conditions, the Gramercy contract is for \$4,040,000. ATC will begin the requisite air monitoring of the originally envisioned 80,000 square feet under its existing contract; however, the expansion of abatement scope by an additional 283,000 SF necessitates an increase in the ATC contract amount for the additional air monitoring and to perform related and ancillary services including asbestos inspections as necessary and asbestos awareness training for building management employees.

Therefore, staff recommends that ESDC amend ATC's existing contract by \$300,000, to a new total contract amount not to exceed \$450,000. The total cost of the abatement work, inclusive of design, abatement, air monitoring, disposal, and all related services, will still be below the initially projected amount of \$5,000,000 for the abatement alone.

FUNDING

As with the existing contract for ATC, the amended contract amount of \$450,000 will initially be funded from existing Moynihan operating accounts, subject to and conditioned upon prompt reimbursement by existing Multi-Modal commitments or other Federal funding sources.

GENERAL

Pursuant to State Finance Law Sections 139-j and 139-k and the Corporation's policy related thereto, staff has: (a) considered ATC'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 ATC to be responsible.

ENVIRONMENTAL REVIEW

The acquisition of Farley was the subject of an environmental review performed by ESDC as the lead agency. An Environmental Impact Statement ("EIS") 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. A SEQRA

Findings Statement was adopted by the Directors on August 14, 2006. The activity in this request for authorization have been addressed in the EIS and the Findings Statement, and therefore, no further environmental review is required in connection with this request.

AFFIRMATIVE ACTION

ESDC's non-discrimination and affirmative action policy will apply to this initiative. ESDC has established a project goal of 20% Minority/Women-owned Business Enterprise contractor and/or subcontractor participation during the development of the Project, which includes the preconstruction and construction phases, and an overall goal of 25% minority and female workforce participation during construction.

REQUESTED ACTION

The Directors are requested to authorize the Corporation to increase the amount of existing contract with ATC for abatement management services, as described above, by an additional \$300,000, from the present \$150,000 to a new aggregate limit of \$450,000.

RECOMMENDATION

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

ATTACHMENTS

Resolutions

February 19, 2010

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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 ATC Associates, Inc. (“ATC”) to be responsible; and be it further

RESOLVED, that the Corporation be, and hereby is, authorized to amend the existing contract with ATC to increase the existing amount of such contract by \$300,000 to a new aggregate limit of \$450,000, 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 other 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.

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