

FOR CONSIDERATION

June 24, 2010

TO: The Directors

FROM: Dennis Mullen

SUBJECT: New York (Kings County) – Atlantic Yards Land Use Improvement and Civic Project

REQUEST FOR: Authorization to Amend Funding Agreements; Authorization to Take Related Actions

Project Summary

Developer: Forest City Ratner Companies, acting through itself and various affiliates (collectively “Forest City”)

Project Site: The Project Site is generally bounded by Atlantic Avenue, Flatbush Avenue, Dean Street and Vanderbilt Avenue (exclusive of a portion of Block 1128) and also includes a portion of a parcel generally bounded by Atlantic Avenue, Flatbush Avenue, Pacific Street and 4th Avenue (referred to as “Site 5”) in Brooklyn, New York. A portion of the Project will be constructed on what is currently the LIRR Vanderbilt train yard and within the air space above the Vanderbilt train yard, as reconfigured. A Block and Lot Map is attached to the Modified General Project Plan (“MGPP”) previously approved by the Directors.

Project Description: The development of an approximately 18,000 seat arena (the “Barclays Center”), which will serve as the home arena for the relocating New Jersey Nets basketball franchise and for other suitable events; the development of a reconfigured and improved Vanderbilt train yard and subway facility improvements; the development of 16 buildings for residential, office and retail uses and potentially a hotel, including up to 6,430 units of housing, including 4,500 rental units, of which 2,250 units (50%) will be affordable to low, moderate and middle income households; and the creation of 8 acres of publicly accessible open space.

Background

On September 17, 2009, the Directors affirmed a MGPP for the Atlantic Yards Land Use Improvement and Civic Project (the “Project”). The MGPP anticipates an approximate \$4.9 billion Project funded from various funding sources, including \$100 million from the State/ESDC and \$131 million from the City/ New York City Economic Development Corporation (“EDC”).

On December 23, 2009, the initial Project closing occurred. At that time, the remaining State investment (aggregating \$100 million) and the remaining City investment (aggregating \$131 million) was disbursed.

Additional public infrastructure improvements will be made in connection with the development of the Project. These improvements would typically be funded by the municipality. To ensure the timely and efficient completion of the public infrastructure improvements, it is expected that such work will be performed by Forest City and funded, in part, by New York City. City funds will flow through ESDC. Generally, there are two categories of additional infrastructure improvements to be constructed by Forest City under this arrangement, as described below. The additional infrastructure work does not warrant a supplemental environmental review.

Atlantic Avenue Infrastructure Work

The Atlantic Avenue infrastructure work consists of the replacement of a 36 inch cast iron water main in the bed of Atlantic Avenue with a 48 inch high pressure trunk main.

The water main will be replaced from a location on the west side of Flatbush Avenue at the corner of Atlantic Avenue and will cross Flatbush Avenue and extend to a location along Atlantic Avenue approximately 150 feet west of 6th Avenue. All necessary accoutrements, such as valves, fittings, manholes, etc., will be included, as well as the required excavation, sheeting, backfill and roadway restoration.

As a result of other infrastructure improvements necessitated by the development of Barclays Center, certain excavations within Atlantic Avenue are required. Accordingly, the City has determined that it would be opportune to complete the above specified Atlantic Avenue infrastructure work (i.e. water main improvements) in conjunction with construction of the other Barclays Center related infrastructure improvements. The reconstruction of the water main will ensure that the City has the ability to meet water demand from the surrounding neighborhoods.

The cost for the design and construction of the infrastructure is presently estimated at \$8.5 million, including a 20% contingency. Pursuant to the proposed amendment to the City Funding Agreement, described below, the City will disburse funds equal to the actual cost of the Atlantic Avenue infrastructure work.

Carlton Avenue Bridge Related Infrastructure Work

The Carlton Avenue Bridge related infrastructure work is work required to re-open the Carlton Avenue Bridge. In addition to the construction of the bridge itself, work is required in Vanderbilt Yard to be able to construct and open the bridge in such a way to allow trains to pass safely below the bridge. Improvements include (a) the excavation of the north half of Vanderbilt Yard (including the installation of support of excavation, retaining walls and other related work) to provide the clearance necessary to allow trains to pass safely below the bridge; (b) the construction of tracks and switches so that the LIRR can move their operations to the north side of the yard where there will be adequate clearance for trains; and (c) the construction of underground utilities, signal and electric services necessary to allow the LIRR to move their operations to the north yard. The northern half of the bridge will be constructed simultaneously with the work described above, and the southern half of the bridge will be completed once trains are operating on the newly constructed tracks.

As set forth in the MGPP, the Carlton Avenue Bridge is to be constructed and operational at the time or prior to the opening of the Barclays Center. It is expected that the Carlton Avenue Bridge related infrastructure work will cost in excess of \$40 million. The City shall fund \$24 million of the cost of the Carlton Avenue Bridge related infrastructure work. The remaining cost will be funded by Forest City.

State Funding Agreement

On September 12, 2007, ESDC entered into a Funding Agreement with Brooklyn Arena, LLC and Atlantic Yards Development Company LLC that set forth the terms and conditions of the \$100 million State Funding and the original \$100 million City Funding. (ESDC acted as a conduit for City Funding.) As of December 23, 2009, the State Funding Agreement was amended to, among other things, allow for the additional \$31 million of City funding to be made available for the Project. It is proposed that ESDC enter into a Second Amendment to the State Funding Agreement to permit the Corporation to disburse the additional City funds for eligible costs related to the Atlantic Avenue infrastructure improvements and the Carlton Avenue Bridge infrastructure improvements, as described above.

No additional State or Corporation funds are being requested, nor will any additional State or Corporation funds be disbursed. The Corporation's obligation to make available the funds for the Atlantic Avenue infrastructure improvements and the Carlton Avenue Bridge infrastructure improvements shall be explicitly subject to the receipt of the funds by the Corporation from the City.

City Funding Agreement

Consistent with the State Funding Agreement, EDC and ESDC entered into a City Funding Agreement on September 12, 2007. Pursuant to that Agreement, NYCEDC agreed to fund up to \$100 million of costs incurred by Forest City in acquiring portions of the Project site. As of October 10, 2009, the City Funding Agreement was amended to reflect the City agreement to make available additional funds, in the sum of \$31 million. As indicated above, the entire initial City funding for the Project (\$131 million) was disbursed at or prior to the Project closing on December 23, 2009.

It is proposed that the City Funding Agreement be further amended, to provide for the disbursement of additional City funds to ESDC equal to (i) the cost of the Atlantic Avenue infrastructure improvements; and (ii) an additional \$24 million for the Carlton Avenue Bridge infrastructure related improvements.

Under the proposed amendment to the City Funding Agreement, as the additional work for the Atlantic Avenue infrastructure improvements is completed by Forest City and approved by the City, the City will provide funds to the Corporation and ESDC will disburse the same to Forest City. Similarly, as the Carlton Avenue Bridge related infrastructure improvements are completed by Forest City and approved by ESDC, subject to the receipt of funds from the City, the Corporation will then disburse the same to Forest City pursuant to the terms of the State Funding Agreement.

Requested Actions

The Directors are requested to authorize the Corporation to enter into an Amended State Funding Agreement, an Amended City Funding Agreement and to take related actions.

Attachments

Resolutions

June 24, 2010

New York (Kings County) – Atlantic Yards Land Use Improvement Project and Civic Project -
Authorization to Amend Funding Agreements; Authorization to Take Related Actions

RESOLVED, that with respect to the Atlantic Yards Land Use Improvement and Civic Project, the Corporation is hereby authorized to enter into an Amended State Funding Agreement with Brooklyn Arena LLC and/or Atlantic Yards Development Company LLC and an Amended City Funding Agreement with the New York City Economic Development Corporation and/or the City of New York, on the terms substantially described in the materials presented to this meeting, with such changes as the President and Chief Executive Officer, or any Senior Vice President of the Corporation, deem necessary or appropriate; and be it further

RESOLVED, that the President and Chief Executive Officer, or any Senior Vice President of the Corporation be, and each of them hereby is, authorized and directed, in the name and on behalf of the Corporation, and to take any and all such actions as may be necessary or appropriate to effectuate the foregoing resolution

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