

**NEW YORK STATE URBAN DEVELOPMENT CORPORATION
d/b/a Empire State Development**

Empire State Development works to promote business investment and growth that leads to job creation and prosperous communities across New York State

AGENDA

Meeting of the Directors

Tuesday

May 16, 2017 – 9:30 a.m.

AGENDA

FOR CONSIDERATION

I. PROJECT

- A. New York City (New York County) – Penn Station – Farley Complex – Moynihan Station Civic and Land Use Improvement Project – Authorization to Amend the Interim Lease Agreement and Interim Development Agreement; and Authorization to Take Related Actions

Item I. A.



FOR CONSIDERATION

May 16, 2017

TO: The Directors

FROM: Howard A. Zemsky

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

REQUEST FOR: Authorization to Amend the Interim Lease Agreement and Interim
Development Agreement; and Authorization to Take Related Actions

I. Summary of Requested Authorization

Agreement(s): Interim Lease Agreement
Interim Development Agreement

Requested Action: Amendment

New Date: June 15, 2017

New Amount: Not to exceed \$80 million

Additional Scope: Steel and concrete demolition in the main concourse and
skylight area

Funding: The Port Authority of New York & New Jersey
Metropolitan Transportation Authority

II. Background

In January of 2016, Governor Andrew M. Cuomo commenced implementation of an initiative for the redevelopment of the Penn-Farley Railway Station Complex. In furtherance of that initiative, New York State Urban Development Corporation d/b/a Empire State Development (“ESD” or the “Corporation”) with the Metropolitan Transportation Authority (“MTA”), MTA’s operating entity Long Island Rail Road (“LIRR”) and National Passenger Railroad Corporation (“Amtrak”) are jointly pursuing the private redevelopment of the ESD-owned James A. Farley Building property (“Farley Building”) to include (i) a new railroad passenger train hall (the “Train Hall”), (ii) new facilities in the Amtrak controlled Penn Station train-shed (the “Train Shed”) that will provide vertical circulation between the new Train Hall to be constructed by or on behalf of

the Tenant (as defined below) and the existing passenger platforms and concourses in Train Shed, (iii) and passenger facing operations and back office facilities for LIRR and Amtrak.

To effectuate the redevelopment of the Farley Building, ESD conducted a competitive request for proposals ("RFP") process for the lease disposition and tenant redevelopment of the Farley Building. The process obtained conforming proposals from several major real estate development teams, which were reviewed, analyzed and evaluated by an Evaluation Committee representing the Project Sponsors supported by Technical Committees in the areas of railroad operations, real estate, finance and design. The submissions of the respondents that provided the required best and final offers were scored according to the evaluation criteria and weightings set forth in the RFP. The respondent with the best score is RVS Partners LLC, a team composed of Vornado Realty, L.P. ("Vornado") and The Related Companies, L.P. ("Related"), as project developers and equity investors, Skanska USA Building, Inc. and Skanska USA Civil Northeast, Inc., as the developers' construction contractors.

Related and Vornado have formed affiliated entities: Moynihan Train Hall Interim Tenant LLC that will long-term net lease Farley and Moynihan Train Hall Developer LLC ("Developer"), that will undertake to complete the Train Hall improvements for a fixed-price amount of \$1.264 billion with adjustments for certain excluded concealed and environmental conditions and as may be otherwise agreed between Developer and ESD (the "Train Hall Improvements Cost"). ESD expects to disburse to Developer funding in the amount of the Train Hall Improvements Cost that will be used by Developer to pay for the Train Hall improvements work and ESD has also budgeted an additional amount of approximately \$330 million for project management, change orders, contingencies and other costs for an aggregate Train Hall project cost of approximately \$1.594 billion.

On January 23, 2017, the Directors authorized the Corporation to enter into an Interim Lease Agreement, as described below and the related Interim Development Agreement, as described below, (collectively, the "Interim Agreements") with the Developer. These interim agreements allowed the Developer to proceed with preconstruction work for the Train Hall Improvements and for ESD to provide up to \$40 million for such work.

On April 17, 2017, the Director's authorized the full commercial transaction with RVS. While major issues are resolved on the transaction, as indicated in the April Director's materials and resolution, the completion and final review of the extensive documentation of the deal, including numerous exhibits and ancillary agreements will extend past May 15, 2017. Several technical items, such as site surveys, drawing updates and various necessary filings also require some additional time to complete in advance of actual financial close. Therefore it is necessary to extend the interim agreements to allow work to continue on the train hall prior to execution of the final deal documents.

Work under the interim agreements is progressing well and as planned. Extending the agreements for one month will ensure adequate time for the preparation and execution of the final agreements while allowing critical path work to continue and the maintenance of the

project schedule. Extending the interim agreements will also provide additional time for Office of the New York State Comptroller and Office of the New York State Attorney General to complete their review of the substantial volume of transaction documents.

III. The Interim Lease Agreement and Interim Development Agreement

The Interim Agreements authorized on January 23, 2017 by the Directors allowed the Developer to proceed with preconstruction work for the Train Hall Improvements and for ESD to provide up to \$40 million for such work. The Interim Agreements currently expire on May 15, 2017.

ESD anticipates finalizing the full Project agreements and achieving financial close for the Project on or about June 15, 2017. Accordingly, the Directors are being asked to extend the Interim Agreements until June 15, 2017, to expand the current preconstruction scope of work to extend the demolition work to the Train Hall concourse area, and to authorize an additional \$40 million for the preconstruction work so that the aggregate amount to be disbursed by ESD pursuant to the Interim Development Agreement will not exceed \$80 million.

During the extended term of the Interim Agreements, Developer will continue to advance the development of the Train Hall improvements by conducting preconstruction work, including engaging contractors and subcontractors, conducting demolition and abatement work, and arranging for the ordering and fabrication of long lead-time materials and fixture (*e.g.*, elevators, escalators, skylight glass and structures, *etc.*).

During the term of the Interim Lease Agreement, ESD retains operational control of Farley on Tenant's behalf and complies with all landlord obligations under the United States Postal Service lease. ESD has the right to terminate the Interim Agreements at any time. Developer is permitted to perform work at Farley only as permitted pursuant to the Interim Development Agreement and cannot transfer the Interim Lease Agreement or sublet any portion of Farley.

The amounts to be funded by ESD for the preconstruction work will not exceed an aggregate of \$80 million, and all of this funding will be provided to ESD pursuant to grants from the Metropolitan Transportation Authority and the Port Authority of New York and New Jersey. Amounts disbursed by ESD pursuant to the Interim Development Agreement will be counted as part of the Train Hall Improvements Cost.

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 the ability of the Developer and its contractors to perform the Interim Development 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 the Developer and its contractors to be responsible.

V. Funding

Funding for the Interim Agreements will be provided to ESD by the Metropolitan Transportation Authority ("MTA") and Port Authority of New York and New Jersey ("PANYNJ").

VI. Non-Discrimination and Contractor & Supplier Diversity

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this contract. The Developer shall be required to use good faith efforts (pursuant to 5 NYCRR Section 142.8) to achieve a Minority/Womens' Business Enterprise participation goal of 30% 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 MWBE goal for the project is 30%.

ESD's Service-Disabled Veteran-Owned Business ("SDVOB") policies will also apply to this contract. The Developer shall be required to solicit and utilize SDVOBs in the fulfillment of the requirements of the Interim Development Agreement. The Developer must demonstrate the use of good faith efforts pursuant to 9 NYCRR §252.2 to achieve a goal of 3% for SDVOB participation.

VII. Environmental Review

The Interim Lease Agreement and the work permitted pursuant to the Interim Development Agreement have been covered by environmental review undertaken by ESD as lead agency pursuant to the State Environmental Quality Review Act ("SEQRA"). The requested authorization for an interim lease extension and preconstruction work does not necessitate additional SEQRA environmental review.

VIII. Property Disposition

The proposed property transfers are within the purposes, mission, and powers of ESD under UDC Act, including UDC Act Sections 2, 3, 5, 6, and 9. ESD's purpose and mission include: (i) promotion of a vigorous and growing economy, to prevent economic stagnation and to encourage the creation of new job opportunities in order to protect against the hazards of unemployment and to achieve stable and diversified local economies; (ii) encouraging maximum participation by the private sector of the economy, including the sale or lease of the Corporation's interest in projects at the earliest time deemed feasible; (iii) providing or obtaining the capital resources necessary to acquire, construct, reconstruct, rehabilitate or improve such industrial, manufacturing, commercial, educational, recreational, civic and cultural facilities and facilities incidental or appurtenant thereto; (iv) implementing projects, or portions of projects, designed and intended for the purpose of providing facilities for

educational, cultural, recreational, community, municipal, public service or other civic purposes.

The estimated initial ten-year net economic impact of the Project is approximately 12,666 construction related jobs with an estimated economic impact of approximately \$1,283,000,000 and approximately 2,455 long-term jobs with an estimated economic impact of approximately \$3,337,300,000 and an aggregate economic impact of approximately \$4,620,300,000. The proposed transfers will: create a mixed-use facility with civic, cultural, and commercial uses that will create a new commuter and inter-city railroad passenger facility; substantially improve the commuter and inter-city passenger rail transportation in the region; restore and preserve a culturally significant historic landmarked building; revitalize a mostly vacant, underused, and deteriorating commercial facility; create jobs; and spur private investment. Accordingly, the proposed dispositions will promote a vigorous and growing economy, encourage maximum participation of the private sector, provide necessary capital resources for the Project, and provide facilities for cultural, community and civic purposes.

As described in the Background section of these materials, ESD conducted competitive disposition for the lease disposition that is the subject of these materials.

Based on the foregoing: (i) the competitive RFP process for the disposition of Farley obtained such competition as is feasible under the circumstances; (ii) the contemplated transfers of real property described in these materials are consistent with the purpose, mission and governing statute of ESD; and (iii) there is no reasonable alternative to the proposed transfers that would achieve the purposes of Project.

IX. Requested Actions

Based on the foregoing, ESD staff requests the Directors to: authorize the Corporation to amend the Interim Lease Agreement and Interim Development Agreement to extend to June 15, 2017 the term of each agreement and to include additional preconstruction work and \$40 million in additional funding for the preconstruction work so that such funding shall not exceed in aggregate \$80 million.

X. Recommendation

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

XI. Attachments

Resolutions

May 16, 2017

NEW YORK (NEW YORK COUNTY) – Penn Station - Farley Complex - Moynihan Station Civic and Land Use Improvement Project – Authorization to Amend the Interim Lease Agreement and Interim Development Agreement; 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 Vornado Realty, L.P., The Related Companies, L.P., Moynihan Train Hall Developer LLC, Skanska USA Building, Inc. and Skanska USA Civil Northeast, Inc. to be responsible; and be it further

RESOLVED, that the Directors hereby authorize the Corporation (i) to amend the Interim Lease Agreement and the Interim Development Agreement with Moynihan Train Hall Developer LLC ("Developer") to extend the terms of each agreement to June 15, 2017, as set forth in the Materials so that Developer shall continue to Lease the James A. Farley Post Office Building (the "Leasehold Premises") and perform preconstruction improvements to the Leasehold Premises related to the Daniel Patrick Moynihan Train Hall and (ii) to provide, as described in the materials, for additional preconstruction work and for an additional \$40 million in funding so that the Corporation will provide to Developer pursuant the Interim Development Agreement up to an aggregate of \$80 million in funding for such improvements; 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.

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