

FOR CONSIDERATION

December 21, 2023

TO: The Directors

FROM: Hope Knight

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

REQUEST FOR: Authorization of Addendum to Supplemental Long Term Supply Agreement with Power Authority of the State of New York; and Authorization to Take Related Actions

CONTRACT NEED AND JUSTIFICATION

I. Contract Summary

Supplier: Power Authority of the State of New York (“NYPA”)

Addendum: Addendum to the Supplemental Long Term Supply Agreement pursuant to which NYPA supplies electrical power to the James A. Farley Building, including the Moynihan Train Hall and other areas of the James A. Farley Condominium

Term of Contract: January 1, 2018, through December 31, 2027

Contract Amount: Contract is for delivery electricity service from Consolidated Edison Corporation of New York, Inc. (“Con Edison”) via Con Edison’s NYPA tariff so that NYPA will only charge the ESD for costs incurred by NYPA to provide power to the ESD.

Funding Source: Imprest Account maintained by The James A. Farley Condominium

II. Background

In January of 2016, New York commenced an initiative for the redevelopment of the New York Pennsylvania Station complex (“Penn Station”). 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”) jointly pursued the private redevelopment of the ESD-owned James A. Farley Building property (the “Farley Building”) to include (i) the Moynihan Train Hall (the “Train Hall”) a new railroad passenger train

hall, (ii) new facilities in the Penn Station train-shed that would provide vertical circulation between the Train Hall and the train shed's passenger platforms and concourses, (iii) and passenger facing operations and back office facilities for LIRR and Amtrak.

In June 2017 ESD and a joint venture of Related Companies and Vornado Realty Trust (the "Developer") entered into agreements for the Developer's net ground lease and redevelopment of the Farley Building, including the design and construction of the Train Hall.

The Train Hall's construction was completed. In accordance with the General Project Plan for the Farley Building's redevelopment, ESD, as the fee owner of the Farley, declared the Farley Building a commercial condominium, The James A. Farley Condominium (the "Condominium"). The Train Hall and public facing areas of the Farley Building are common elements of the Condominium. One Condominium unit was conveyed in fee to Amtrak. ESD owns the other units. ESD long-term net leases Condominium units respectively to MTA/LIRR, a retail tenant (an affiliate of the Developer), and a commercial tenant (an affiliate of the Developer). ESD owns and occupies a Condominium unit comprised of space in which ESD operates digital and static displays and other equipment (the "Core Network") to operate the displays for advertising, media, and promotional activities. The Train Hall and public facing areas of the Farley Building are the common elements of the condominium.¹

In December 2017, NYPA and ESD entered the Supplemental Long Term Supply Agreement for the delivery to the Farley Building of electricity service from Consolidated Edison Corporation of New York, Inc. ("Con Edison") via Con Edison's NYPA tariff so that NYPA will only charge for costs incurred by NYPA to provide power to the Farley Building. Upon commencement of the Condominium Regime in 2018 the cost of electricity became an obligation of the Condominium. In 2021, the ESD, the Condominium, and NYPA entered an agreement to ensure funds availability to pay NYPA invoices for delivered electricity pursuant to which the Condominium maintains with NYPA an imprest account with balance or at least \$300,000 to be replenished monthly upon payment of the NYPA invoice for delivered electricity and to be adjusted as necessary to ensure the availability of funds to pay the cost of NYPA power.

III. Addendum to the Supplemental Long Term Supply Agreement

The proposed Addendum to the Supplemental Long Term Supply Agreement (the "Addendum") will provide for ESD (along with other New York City metropolitan area governmental electricity customers) to participate in a pricing arrangement that NYPA has with the City of New York. The arrangement allows the City of New York to select between two options for the determination of the rate for each calendar year: option one is the continuation of the delivery of electricity at

¹ The Farley Building has separate signage for train departure and passenger information displays ("PID") that are managed independently by the MTA and Amtrak and are not part of the Core Network, although the Core Network and PID system share common infrastructure for efficiency and consistency. ESD also owns and controls other Train Hall related assets, such as free public Wi-Fi, and the Moynihan Train Hall brand. The Core Network, the Train Hall related assets, the Moynihan Train Hall brand, and related promotional opportunities in the Farley Building can be used and coordinated for advertising, media sales, and promotional activities that generate revenue for ESD.

the rate in effect under an existing NYPA tariff; and option 2 is based on 10% discount of a single market forward rate calculated on shared pricing from Niagara and St. Lawrence hydroelectric generation facilities for the applicable period. The City of New York elected option one for calendar years 2023 and 2024. NYPA's key governmental customers, which includes ESD, will align with the option decisions elected by the City of New York. Should no option decision be made by the City of New York, ESD shall have electricity delivered at option one pricing for the succeeding period.

IV. Responsible Party

Regarding NYPA's "responsibility" as defined in State Finance Law §163, and as provided in ESD's Procurement Guidelines, Article 8.13, the Office of the State Comptroller has determined that public authorities are exempt from the vendor responsibility documentation requirements as they are considered responsible vendors. Based upon this determination, NYPA, as a public authority, is a responsible vendor.

V. Environmental Review

Staff has determined that the proposed authorization constitutes a Type II action as defined by the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations for the New York Department of Environmental Conservation. No further environmental review is required in connection with this authorization.

VI. Non-Discrimination and Contractor & Supplier Diversity

Pursuant to New York State Executive Law Article 15-A and 17-B, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority- and women-owned business enterprises (MWBEs) and service-disabled veteran-owned businesses (SDVOBs) in the performance of ESD projects and procurements. The ESD Office of Contractor and Supplier Diversity has reviewed the project and has determined that there exists no potential for MWBE and SDVOB participation. As such, participation goals will not be established or required for this procurement.

VII. Requested Actions

The Directors are requested to authorize ESD to enter into for the Addendum.

IX. Recommendation

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

VIII. Attachment

Resolution

December 21, 2023

NEW YORK STATE URBAN DEVELOPMENT CORPORATION D/B/A EMPIRE STATE DEVELOPMENT – New York (New York County) – Moynihan Station Civic and Land Use Improvement Project – Authorization of Addendum to Supplemental Long Term Supply Agreement with Power Authority of the State of New York; 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 Power Authority of the State of New York ("NYPA") to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into the Addendum to Supplemental Long Term Supply Agreement, substantially on the terms and conditions as set forth in the Materials; and be it further

RESOLVED, that the President and 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 Resolutions. Any actions previously taken by the Corporation consistent with this authorization are hereby ratified and affirmed.

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