

FOR CONSIDERATION

December 16, 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 of Moynihan Station Development Corporation to enter into a One-Year Renewable Generic Use Permit with Turner Construction Company at the Farley Building; And authorization to take related actions.

BACKGROUND

In 2007, ESDC purchased the Farley Post Office complex (“Farley Complex”) in order to further the Moynihan Station project. ESDC has an agreement with NYS Office of General Services (OGS) to manage the property.

MSDC acting on behalf of ESDC has arranged payment of all building expenses with rent from the United States Postal Service. However, USPS presence in the building has declined over the last year, and, with a final USPS downsizing expected in the 3rd quarter of 2011, the rent is projected to fall below the level of typical building operating expenses.

Although MSDC’s primary goal is to conduct a real estate transaction with a private developer which offers the non-station portion of the Farley Complex in return for a private contribution to the public train station, this will likely not occur in less than two years and could take longer.

Interim uses, such as storage, film shoots, trade shows and events, present the best immediate opportunity for deriving additional income from the property, while maintaining flexibility for pursuing permanent redevelopment of the site.

Turner Construction

Turner Construction Company (“Turner”) is a New York City-based construction company and is currently working on the redesign of Madison Square Garden. Turner contacted Moynihan Station Development Corporation about using a portion of the Farley Complex for storing construction materials during its multi-year job across 8th Avenue from the Farley building.

The location proposed for this storage use is the former “USPS Stamp Vault” in the Farley Annex basement (“Premises”), which is currently vacant and is not targeted for re-use until the Farley Annex is redeveloped under a general agreement with private developers. The Premises is not part of the current USPS lease, and USPS no future rights to the space. The Premises is a 13,388 sf walled area, and would be secured by Turner.

Access to the Premises would be by freight elevator from the loading dock area at street level, one story above. Vehicular access to the loading dock area from both the 33rd Street vehicle entrance, and the Ninth Avenue entrance would be provided. Deliveries would be by larger trucks and tractor-trailers. Removals to the site would be by smaller utility vehicles.

TERMS

Permit

The Permit is a renewable one-year use permit, revocable at any time by either party. Turner will be permitted to enter the Premises under certain General Conditions and other conditions limiting the type of use, location and permitted time for entry, and authorized persons.

The Permit includes insurance, security and indemnification provisions.

Fee

Turner will pay a permit fee of \$9 per square foot, on an annual basis, for a variable amount of space within the Premises. Four quadrants have been identified and Turner may use between one and four of the quadrants, as Turner’s needs change. Initially, Turner will occupy the total space.

The total cost for the space, annually, will be \$120,488, or \$10,041 monthly.

The fee will be payable on a monthly basis and adjusted monthly based on any increase in use of the space.

The annual cost to operate the Farley Complex is about \$5.50/sf. Therefore, any fee amount above that amount is an offset to the operating cost. Given the revocable nature of this proposed permit, the \$9/sf for the basement use is deemed a reasonable rent. Review of and advice regarding the fee was obtained from Washington Square Partners, our real estate consultant, who has a broad knowledge of both conventional and un-conventional real estate transactions in New York City.

Deposit and Application Fee

A deposit of \$12,000 and application fee of \$250 will be submitted.

FARLEY BUILDING BUDGET

MSDC proposes using any revenue derived from this permit to offset operating expenses.

ENVIRONMENTAL REVIEW

ESDC staff has determined that the requested authorization to renew a permit 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 State Department of Environmental Conservation. No further environmental review is required in connection with the project.

REQUESTED ACTION

The Director's are requested to authorize the Corporation to enter into a revocable permit with Turner Construction Company in connection with its proposed storage use within the Farley Annex basement, essentially on the terms and conditions set forth in these materials.

RECOMMENDATION

Based on the foregoing, I recommend approval of required actions.

ATTACHMENT

Resolutions

December 16, 2010

New York (New York County); Moynihan Station Civic and Land Use Improvement Project — Authorization of Moynihan Station Development Corporation to enter into a One-Year Renewable Permit with Turner Construction Company at the Farley Building; and Authorization to Take Related Actions

RESOLVED, that based on the materials presented to this meeting and ordered filed with the records of the Corporation (the “Materials”), the Corporation is hereby authorized to enter into an agreement with Turner Construction Company substantially as described in the materials, with such amendments and modifications as the President, or his designee(s), shall deem necessary and appropriate; and be it further

RESOLVED, that the President or his or her designee(s) be, and the same hereby are authorized to execute and deliver on behalf of the Corporation all documents, instruments and agreements that the President shall deem necessary and appropriate to carry out these resolutions; and be it further

RESOLVED, that the President or his or her designee(s) be, and the same hereby are, authorized to take any action necessary and appropriate to carry out the foregoing.

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