

MOYNIHAN STATION DEVELOPMENT CORPORATION

MEETING OF THE DIRECTORS

MONDAY

MARCH 30, 2015

3:30 p.m.

MOYNIHAN STATION DEVELOPMENT CORPORATION

Meeting of the Board of Directors of the Moynihan Station Development Corporation

At the offices of the
New York State Urban Development Corporation
d/b/a Empire State Development
633 Third Avenue –36th Floor
New York, New York 10017

Monday

March 30, 2015 – 3:30 p.m.

PROPOSED AGENDA

CORPORATE ACTION

1. Approval of the Minutes of the February 18, 2015 Directors' Meeting

FOR INFORMATION

2. President's Report (Oral Report)

FOR CONSIDERATION

3. Authorization of Moynihan Station Development Corporation's Spending Plan for FY 2015-2016
4. Authorization to Procure Insurance Policies for Commercial Property and General Liability Insurance Coverage for the James A. Farley Building

ITEM 1

MOYNIHAN STATION DEVELOPMENT CORPORATION

Meeting of the Directors
Held at the Offices of the
Empire State Development
633 Third Avenue
38th Floor Conference Room
New York, New York 10017

February 18, 2015

MINUTES

In Attendance

Directors:

Victor Mendez (Acting Chair) (via video conference)
Anita Romero
Tokumbo Shobowale
Paul Williams (via video conference)

**Present for the Empire
State Development:**

Ingrid Barbosa-Santiago, Director – Insurance, Contracts & Grants
Compliance
Thomas Conoscenti, Director – Real Estate Dev. & Planning
Richard Dorado, Senior Counsel
Carey Gabay, First Deputy General Counsel
Elizabeth Fine, Executive Vice President – Legal & General
Counsel
Kathleen Mize, Deputy CFO and Controller
Maxwell Padden, Director – Subsidiary Finance
Harold Rojas, Manager of Accounting
Sarah Saint-Amand, Senior Vice President – Real Estate Dev. &
Finance
Sankar Singh, Manager – Contract Audit & Admin.
Margaret Tobin, Chief Financial Officer

**Present for the
Moynihan Station**

Development Corporation:

Michael Evans, President
Fred Bartoli, Project Manager
Rebecca Pellegrini, Financial Project Manager
Regina Stephens, Acting Corporate Secretary
Thelma Washington, Executive Secretary

Present for FRA/USDOT: Joe Peraino, USDOT/FRA (via video conference)
Vincent White, USDOT/FRA (via video conference)
Rebecca Reyes-Alicea

Also Attending: Kelly Eustice, PANY&NJ
Andrew Lynn, PANY&NJ
Bruno Signorelli, PANY&NJ
Kevin Pierce, STV

The meeting of the Moynihan Station Development Corporation (“MSDC” or the “Corporation”) was called to order by Victor Mendez at approximately 1:06 pm. Chairman Mendez noted for the record that the meeting was being webcast. He also noted for the record the Corporation’s policy to welcome public comments on the items on the current Agenda. Chairman Mendez briefly reviewed the protocol for comments.

Before beginning with the substantive portion of the meeting, Chairman Mendez asked the Directors whether anyone had any potential conflict of interest with respect to any of the items on the Agenda, and if so, he asked that the Director make the appropriate disclosure on the record and recuse him or herself from any discussion or vote with regard to any such items.

Before moving forward with the Agenda items, Chairman Mendez asked each person seated at the table to introduce themselves so that those on video conference will know who is seated at the table. The following people were seated at the table: Michael Evans, President of MSDC, Anita Romero, Director, Richard Dorado, Counsel, Fred Bartoli, MSDC, Kathleen Mize, ESD Controller, Kelly Eustice, Port Authority, Bruno Signorelli, Port Authority, Andy Lynn, Port Authority, Director of Planning, Carey Gabay, ESD Counsel, Liz Fine, ESD Counsel, Margaret

Tobin, ESD CFO, Tokumbo Shobowale, Director, and Paul Williams, Director.

Next, Chairman Mendez requested a motion for approval of the meeting minutes of the September 26, 2014, Directors meeting. Upon motion duly made and seconded the following resolution was unanimously adopted:

221. MOYNIHAN STATION DEVELOPMENT CORPORATION - APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE SEPTEMBER 26, 2014 MEETING OF THE DIRECTORS OF THE MOYNIHAN STATION DEVELOPMENT CORPORATION

RESOLVED, that the Minutes of the meeting of the Corporation held on September 26, 2014, are hereby approved and all actions taken by the Directors present at such meeting, as set forth in such Minutes, are hereby in all respects ratified and approved as actions of the Corporation.

* * *

Chairman Mendez then asked Michael Evans to present his President's Report. He noted for the record that this report was for the Directors' information only and no vote would be required.

In his report Mr. Evans informed the Directors of the progress made since his last report in September on both Phase I and Phase II final design. Mr. Evans reported that since the last Board meeting there have been 12 weekend outages and all of the steel for the new concourse is now in place according to schedule. He continued, stating that the Project team has discussed for many years the critical 18-month steel installation window and how adhering to the critical 18-month schedule would depend on the success of the Project. He stated that the

Project team has achieved a huge accomplishment and he credits this accomplishment to the Port Authority of New York and New Jersey (“Port Authority”) team, as well as the railroads.

Mr. Evans discussed the fire incident which occurred in January which of course the Directors were aware of, when construction barricades in the West End Concourse caught fire. He continued, stating that the fire was quickly contained by FDNY and there was no structural or any serious damage to either the construction project or to the Farley Building. Mr. Evans stated how well the building management team, FDNY, the Project team and Skanska, as well as, the railroads performed in responding and recovering from the fire, and as a result of everyone’s response there was no impact to the Project schedule or the Project budget. He also stated that there was a slight disruption to the am commute otherwise there was no impact to the public. He continued, stating that as a result of this fire, fire watch and security in both the Farley Building and on the project site has been increased to mitigate this from happening again. Mr. Evans stated that he is confident the steps taken will prevent a re-occurrence of another fire; and it has been conveyed to Skanska, the construction management team and the building security team that safety is paramount in a building and on a Project site like the Moynihan Project.

Mr. Evans explained that there is one major weekend outage remaining which is a five track outage, scheduled and agreed to by Amtrak several years ago. He continued, stating that this major outage will allow the installation of the shield that is required in order to move forward with demolition and construction of the South Plaza in the spring. He then explained

what preparation work would be required in order to move forward with the major outage. He also discussed the issue with procurement of materials by one of Skanska's subcontractors which delayed the preliminary work by a couple of weekends however; the work is scheduled for the upcoming weekend which will allow the project schedule to be maintained without any issues.

Mr. Evans then asked Bruno Signorelli to give his progress report on what has been accomplished in the last six months and what will be expected going forward.

Mr. Signorelli's progress report included, among other things that the support of Amtrak on giving outages during the winter moratorium has enabled the Project to reach its scheduled completion of structural steel for the West End Concourse. He stated that overall the Project is 70 percent complete and is on schedule to be completed by 2016. Mr. Signorelli, asked Ms. Kelly Eustice of his staff to give a report on the overall construction.

Ms. Eustice reported that the last of the structural steel decking and slabs were installed for the West End Concourse which as Mr. Evans mentioned, completed the steel phase for the West End Concourse. She continued, stating that the West End Concourse is now fully enclosed which will allow for work to be done without tracking power outages. Skanska as well as several trades are working within the West End Concourse, installing HVAC, fire stand pipes, elevators shafts, sprinklers and fit outs for the West End Concourse. Ms. Eustice further stated that they are not completely done with outages and anticipates more outages through

the end of the year in order to complete fire proofing, painting and utility work on the platforms. She explained that outages required for this work would be flexible since they have the ability to jump around to complete this work; and the outages for this work are not as sequential as with the steel erection weekend outages and can be coordinated with other Amtrak outages and other scheduled projects.

Ms. Eustice explained in more detail the one major outage for demolition work discussed earlier by Mr. Evans. She stated that the demolition would be over tracks one through five. This is a preparatory outage for the Plaza work which is currently scheduled for this coming weekend and the Plaza work is scheduled for mid- April. Ms. Eustice continued, explaining that in order to do the demolition work, feeder installation work is required to sectionalize tracks in order to isolate the work zones. She continued, reporting that upon installation of the shields the critical path will shift from within the train shed to the exterior of the building to complete sidewalks, bollards entrances, water proofing and the South half of the Eighth Avenue stairs. She stated that all of this work is anticipated to start as soon as the weather changes and there are consistent temperatures above freezing. In conclusion of Ms. Eustice's construction report she stated that currently the schedule is to complete the South Plaza which includes the Eighth Avenue steps and the 33rd Street steps by November and then begin work on the North Plaza which is scheduled to be completed in early 2016.

Following Ms. Eustice's report on construction progress, Mr. Evans gave a brief update on Phase II which he says started after the last Board meeting in September. Mr. Evans stated

among other things, that the design work is progressing and on schedule. He continued, stating that Amtrak has been cooperative sharing information and providing feedback, which has allowed for the Project to meet its goal for schematic designs in early December and it is anticipated that 50 percent of the design phase will be reached by the end of March. Amtrak engineering will begin its thorough review specifically on work in the train shed and FRA will start its review process of that work as well.

Following Mr. Evans' President Report, Chairman Mendez commented on the major outage and the installation of the shield. He expressed his confidence in the team accomplishing this work and wished the team good luck in doing so. Chairman Mendez also thanked Amtrak for their cooperation on this Project.

Director Tokumbo Shobowale also congratulated the team on the progress made so far on the Project.

Following comments by the Directors, Chairman Mendez asked Mr. Evans to present the next Agenda item, requesting authorization to amend the contract with Parson Brinkerhoff ("PB") for architectural, engineering, design and construction phase services.

Mr. Evans reminded the Directors that in September of 2014 the Board authorized an amendment to the PB contract, to have PB review the design for the platform ventilation fan room structures planned for the E-Yard on the south side of the train shed and to incorporate

what was learned from construction in the C-Yard. He continued, stating that as a result of the near completion work in the C-Yard fan rooms, the Project team has determined that a greater degree of survey and investigation work of the structural conditions will be required by PB's sub-consultant Severud Associates ("Severud"). Mr. Evans explained that this amendment to the PB contract will provide the funds necessary for Severud to conduct surveying and to investigate the structural steel in the train shed, so that PB will be able to continue forward and complete their design review and design changes. Lastly, Mr. Evans stated that this amendment will be funded out of FRA funds and will not have a significant impact on the overall Project budget.

Director Anita Romero requested clarification on the language in the material which says the Contract Reporter exemption request was submitted to ESD Legal for this amendment.

Mr. Evans responded by explaining the NYS Contract Reporter process, stating that all new contract are advertised in the Contract Reporter by ESD. If an amendment or new contract will not be advertised, ESD's internal process requires a form explaining why the amendment or new contract should be exempt from being advertised in the Contract Reporter. He continued, stating that ESD Legal has reviewed the Contract Reporter Exemption to provide approval sign-off.

Director Paul Williams asked if PB is confident that the amendment amount is reasonable. Mr. Evans responded affirmatively, further stating that the Port Authority and construction management team had reviewed the amendment to ensure that it's a fair price as well as an adequate amount to complete the work.

There being no other questions and/or comments by the Directors, Chairman Mendez requested a motion for approval. Upon motion duly made and seconded, the following resolution was unanimously adopted:

222. NEW YORK CITY (NEW YORK COUNTY) – Moynihan Station Civic and Land Use Improvement Project – Authorization to Amend Contracts for Architectural, Engineering, Design, and Construction Phase Services with Parsons Brinkerhoff (f/k/a PB Americas, Inc.); and Authorization to Take Related Actions
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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 Parsons Brinkerhoff, formerly known as PB Americas, Inc., ("PB") to be responsible; and be it further

RESOLVED, that in accordance with the Materials, the Corporation is hereby authorized to amend the existing contract with PB and increase the amount of such contract by \$61,156, to a new aggregate limit of \$3,817,559, for the purposes and services, and substantially on the terms and conditions, as set forth in the Materials; and be it further

RESOLVED, that the President, or other Officer of the Corporation, or his 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.

* * *

Mr. Evans presented the next Agenda item, requesting authorization to amend the contract with Amtrak for preliminary engineering and pre-construction support services and authorization to enter into a letter agreement with Amtrak for final design of Moynihan Station. Phase II.

Mr. Evans reminded the Directors of the requirement by Amtrak to enter into a preliminary engineering agreement for Moynihan Station Phase I because of the work occurring in the Amtrak-owned train shed. He continued, explaining that this type of agreement is required by anyone working on or within a certain distance of Amtrak facilities which provides for Amtrak review process and for insurance and indemnification requirements, requested by Amtrak. Mr. Evans stated that even though Phase II does not have the same level of work in the train shed there will be a substantial amount of work going on in the train shed during Phase II. He explained that after consulting with ESD Legal, MSDC's construction counsel, Holland and Knight and Amtrak, it was determined that the best course of action rather than negotiate an entirely new preliminary engineering agreement, would be to amend the existing agreement adding the scope of work for Phase II, with all other terms and conditions of the existing agreement remaining the same. Mr. Evans continued, stating that the remainder of Phase II consists of the renovation of the Farley Building which is property owned by Empire State Development and not Amtrak and therefore, requires an agreement between ESD and Amtrak on design review process for areas in the Farley Building not in Amtrak controlled areas. He explained that with the cooperation of ESD's counsel and construction counsel a straight forward letter agreement with Amtrak has been drafted

covering the design review process and Amtrak's obligations in providing information needed for design review time frames, their turnaround time frames as well as expectations for the design team in getting back to Amtrak. Mr. Evans further stated that the Corporation has agreed with Amtrak to a not-to-exceed cap for all work in the Preliminary Engineering Agreement ("PEA") and the letter agreement of \$350,000 for Amtrak's design costs. Mr. Evans concluded, explaining that the \$350,000 not-to-exceed cap was determined because there is a FRA commitment towards Moynihan Station in the amount of \$350,000, that must be used for Amtrak engineering and design review purposes, and therefore, these funds will now be utilized as required. He continued explaining to the Directors that although he presented the two items together as one action item there will be two separate agreements, an amendment to the PEA and a letter agreement.

Following Mr. Evans' presentation, Director Williams asked if the \$350,000 cap would cover all of the work and would there be funds available for other uses, if need be, in terms of Amtrak's engineering services.

Mr. Evans responded that he expects Amtrak will use all of the \$350,000. He continued, stating that he expects Amtrak's costs could be above the \$350,000 cap and he believes \$350,000 is a fair arrangement. He further stated that he wouldn't be surprised if Amtrak has to spend more than \$350,000 on their internal budget.

Director Romero then asked Mr. Evans if he is confident that Amtrak is not going to come back and ask for an amendment to the agreement. Mr. Evans responded that Amtrak and the Corporation have had a conversation and the agreement is that \$350,000 is the cap.

Chairman Mendez asked if there will be a contractual instrument which states the cap and is signed by all parties. Mr. Evans responded that the cap will be referenced in both the PEA and the letter agreement.

To that point, Director Romero asked if it will be binding. Mr. Evans responded affirmatively. Director Romero then asked if it was binding on Amtrak. Mr. Evans responded, yes.

Margaret Tobin, ESD's CFO, stated that is a good deal. Director Romero stated that she agreed, however, she continued, stating that the history suggest that Amtrak has to get paid, and so, in this amendment and letter agreement there is a cap and she thinks that the Directors just want to be sure that Amtrak will not come back at a later date and say they have this other requirement and we are required to pay additional funds. Mr. Evans stated that he should have mentioned that this commitment was made at the highest levels.

Rebecca Reyes-Alicea from FRA reminded Mr. Evans that since FRA will be overseeing this grant arrangement with Amtrak and MSDC for these funds, FRA can include language to identify the cap amount.

Director Romero stated that she thought that would be helpful. She also stated that she would like the scope to be written so that there's no other way for Amtrak to add in requirements for additional payment.

Following questions and comments by the Directors, Chairman Mendez requested a motion for approval. Upon motion duly made and seconded, the following resolution was unanimously adopted:

- 223. New York (New York County) – Moynihan Station Civic and Land Use Improvement Project Authorization to Amend the Agreement with the National Railroad Passenger Corporation (Amtrak) for Preliminary Engineering and Pre-construction Support Services related to Moynihan Station; Authorization to Enter into a Letter Agreement with Amtrak Regarding Rights and Responsibilities for Final Design of Moynihan Station Phase 2; 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 National Railroad Passenger Corporation ("Amtrak") to be responsible; and be it further

RESOLVED, that in accordance with the Materials, the Corporation is hereby authorized to amended the Preliminary Engineering and Pre-construction Support Services Agreement ("PEA") with Amtrak for pre-construction engineering services and to enter into a letter agreement with Amtrak pertaining to design review rights and obligations for the train hall within the Farley Building, combined costs for which will be reimbursed by the Corporation to Amtrak in payments limited to a total amount not to exceed \$350,000, for the purposes and services, and substantially on the terms and conditions, as set forth in the Materials; 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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There being no additional business, the meeting was adjourned at approximately 10:50
a.m.

Respectfully submitted,

Regina Stephens
Acting Corporate Secretary

ITEM 3



FOR CONSIDERATION

March 30, 2015

TO: The Directors

FROM: Michael Evans

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

REQUEST FOR: Approval of the Moynihan Station Development Corporation (“MSDC” or the Corporation) Operating Budget, Moynihan Station Annual Capital Expense Authorization and the Farley Building Annual Capital Expense Authorization for FY 2015-16

PROJECT UPDATE

The Moynihan Station Civic and Land Use Improvement Project (the “Project”) will create a new intercity passenger rail facility and commercial development within the James A. Farley Post Office Building (the “Farley Building”), located on the Manhattan superblock between Eighth and Ninth Avenues and West 31st and 33rd Streets.

Subject to appropriate Director authorization, activities for the coming 2015-16 Fiscal Year are expected to include:

- Negotiation with the Conditionally Designated Developer on Phase 2 of the train hall project, regarding use of the remaining portions of the Farley Building, and the transfer of 1 million square feet of Farley building Transferable Development Rights (“TDRs”);
- Work with Empire State Development, the Port Authority of New York and New Jersey and the City of New York on plans for the disposition of 1.5 million sq ft of remaining Farley building TDRs—including the hiring of a broker to facilitate the sale of these development rights;
- Planning and design work with Amtrak on Phase 2 of Moynihan Station;
- Development of a revised Phase 2 financing strategy and operating plan; and

Continued operation of the Farley Building, including investments to increase interim uses.

New York State Finance Law requires Directors of the Corporation to approve annual budgets prior to the end of the preceding fiscal year. In order to comply with this Law, the MSDC Directors are being asked to approve MSDC's proposed FY 2015-16 Operating Budget and Capital Expense Authorizations as described below.

MSDC OPERATING BUDGET

Projected expenses for FY2014-15 are tracking 7% below what was budgeted.

For FY2015-2016, MSDC requests authorization of an operating budget of **\$495,827**, which would represent an approximately 1% increase over the \$493,843 in planned spending for FY2014-15.

The Operating Budget reflects a year-over-year increase of \$23,238 (6%) in the Personal Services budget line due to cost-of-living, longevity and performance pay increases authorized this past year by Empire State Development ("ESD") for corporation and subsidiary employees. In addition, Rebecca Pellegrini was awarded a promotion to the role of Senior Project Manager for Finance and Facilities in the past year in accordance with her stellar job performance and her assuming more significant duties relating to oversight of the events business at the Farley Building.

Increases in the Personal Services budget line have been largely off-set by reductions in the Non-Personal Services budget line, reflecting the implementation of effective cost saving strategies over the past year. Of note, MSDC's share of ESD's corporate insurance coverage (Directors and Officers insurance, Worker's Compensation, Accidental Death and Disability) is anticipated to be lower in the coming year, and MSDC is budgeting for reduced IT and telephone expenditures. Consultant Fees in this budget represents MSDC's share of costs for insurance advisory services utilized by ESD as part of its review of the portfolio-wide insurance program.

The budgeted operating expenses for MSDC for FY2015-16 are set forth in **Attachment A**.

Source of Funds

The MSDC Operating Budget is partly funded (50%) from the overall project budget for Phase 1 of the Moynihan Station Project, through a grant administered by the Federal Railroad Administration (FRA).

The remaining portion of the MSDC Operating Budget (50%) is funded from Farley Building rents and fees.

MOYNIHAN STATION CAPITAL EXPENSE AUTHORIZATION

The FY2015-16 capital expense authorization for Moynihan Station totals **\$83,833,975** and includes the following items:

Design & Other Soft Costs

Construction Phase Design Services	\$13,770,000
PANYNJ Program Management	930,000
Integrity Monitor	500,000
<i>Subtotal</i>	<i>\$15,200,000</i>

Legal Costs

(Holland & Knight)	\$95,000
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<i>Insurance</i>	\$538,975	*Phase 2 PPL (projected).
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Construction

Skanska—WEC & C-yard	\$52,975,400
Skanska—Connecting Corridor	6,524,600
Amtrak Force Account	3,500,000
LIRR Force Account	700,000
NYCT Force Account	600,000
Construction Management	3,700,000
<i>Subtotal</i>	<i>\$68,000,000</i>

<i>Total</i>	<i>\$83,833,975</i>
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The above figures are the expected cash payments in FY2015-16 as set forth in **Attachment B**.

Source of Funds

Funding for the Moynihan Station Capital Expense Spending Authorization for FY2015-16 will come from existing funding agreements with the FRA, PANYNJ, Amtrak and the Metropolitan Transit Authority (MTA).

FARLEY BUILDING CAPITAL EXPENSE AUTHORIZATION

This capital expense authorization covers the operation and maintenance of the Farley Building as well as pre-development costs incurred to advance Phase 2 of the Moynihan Station Project and redevelopment of the Farley Building. MSDC is requesting approval of a FY2015-16 Farley Building Capital Expense Authorization of \$7,003,958, which represents a 10% decrease from the FY2014-15 spending plan.

Projected expenses for FY2014-15 are tracking \$282,274 (3.6%) below the budgeted amount of \$7,795,000. This is largely because legal costs relating to Phase 2 of Moynihan Station have been lower than projected. Additionally, capital reserves and contingencies for building repairs and improvements have not been tapped to a significant degree.

The FY2015-16 planned expenses for the Farley Building total **\$7,003,958** and include the following items:

Acquisition Costs -- \$500,000

- \$500,000 to cover two principal payments required as part of the terms of the mortgage, one in August 2015 and another in January 2016.

Design & Other Soft Costs -- \$425,000

- \$20,000 for real estate advisory services provided by Washington Square Partners ("WSP");
- \$10,000 for environmental consulting work by AKRF as may be necessary to advance the redevelopment of the Farley Building and sale of its associated TDRs;
- \$395,000 for infrastructure financing advisory services provided by Ernst & Young.

Legal Costs -- \$300,000

- \$75,000 for Bryan Cave, land use and public approvals counsel;
- \$175,000 for Skadden, real estate transaction counsel;
- \$50,000 for Bryant Rabbino, associate real estate counsel;
- Note that depending on the state of negotiations with Related-Vornado or parties interested in the Farley Building development rights, the amount budgeted for legal services may need to be revisited at a later date.

Property Management/Maintenance -- \$4,950,000

- \$4,950,000 to cover the cost of the property management contract with the New York State Office of General Services ("OGS"). This contract includes within it the steam, electricity, security, and building management and maintenance costs for the Farley building. The amount requested represents an increase of 3% over the previous fiscal year, which is driven by increased security costs and a higher cost for the building engineering contract, which was re-procured this past year by OGS.

Insurance -- \$728,958

- \$728,958 for the cost of commercial property and general liability insurance policies, which represents a \$63,640 (8%) reduction from FY2014-15.

Construction Costs--\$100,000

- Due to invoicing delays, all of the costs for the water tank project were paid in FY2014-15. There are no other Farley Building maintenance projects authorized or anticipated at this time. But given the age and continued deterioration of the Farley Building, MSDC

and ESD believe it prudent to budget \$100,000 for general contingency and capital reserve. Use of these funds would require Board authorization in accordance with the procurement guidelines adopted by MSDC.

The above figures are the expected cash payments in FY2015-16 as set forth in **Attachment C**.

Source of Funds

Farley building spending will be funded from a combination of building rents and fees and other unrestricted funds of the Corporation.

ENVIRONMENTAL REVIEW

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

REQUESTED ACTION

The Directors are requested to approve the attached MSDC Operating Budget together with the Moynihan Station and Farley Capital Expense for Fiscal Year 2015-16.

RECOMMENDATION

Based on the foregoing, MSDC staff recommends approval of the requested action.

ATTACHMENTS

Resolutions

Attachment A – FY2015-16 MSDC Operating Budget

Attachment B – FY2015-16 Moynihan Station Capital Expense Authorization

Attachment C – FY2015-16 Farley Building Capital Expense Authorization

March 30, 2015

NEW YORK (NEW YORK COUNTY) – Moynihan Station Civic and Land Use Improvement Project
– Approval of MSDC Operating Budget Spending Plan, Moynihan Station Annual Capital Expense
Authorization and Farley Building Annual Capital Expense Authorization for FY 2015-16

RESOLVED, that on the basis of the materials submitted to this meeting, a copy of which is ordered filed with the records of the Corporation, the Corporation does hereby authorize, approve, and adopt, subject to the availability of funds, the Moynihan Station Development Corporation – FY2015-16 Operating Budget, the Moynihan Station – FY2015-16 Annual Capital Expense Authorization, and the Farley Building – FY2015-16 Annual Capital Expense Authorization substantially in the form set forth in the materials; and be it further

RESOLVED, that the President of the Corporation or his designees be, and each of them hereby is, authorized and directed to take all actions and execute all documents in connection with the establishment and implementation of the Corporation's Budget; and be it further

RESOLVED, that the President of the Corporation or his designees be, and each of them hereby is, authorized and directed to execute and deliver all documents and to take all related actions as each of them deems necessary or appropriate to effectuate the forgoing resolutions.

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**Empire State Development
Moynihan Station Redev Corp
Operating Spending Plan FYE 2016**

	Actual Expense FYE 2014	Spending Plan FYE 2015	Projected Expense FYE 2015	Spending Plan FYE 2016
<u>PERSONAL SERVICES</u>				
Salaries	257,164	278,271	295,110	295,110
Fringe Benefits	<u>90,191</u>	<u>105,743</u>	<u>113,477</u>	<u>112,142</u>
TOTAL PERSONAL SERVICES	347,355	384,014	408,587	407,252
HEADCOUNT	3	3.5	3.5	3.5
<u>NON-PERSONAL SERVICES</u>				
Professional Fees				
Legal / Accounting Fees	0	0	0	0
Consultant Fees	<u>0</u>	<u>0</u>	<u>4,933</u>	<u>10,000</u>
Total Professional Fees	0	0	4,933	10,000
Other Non-Personal Services				
Employee Travel & Meals	0	1,000	1,774	1,000
On-line Services/ Due & Subscriptions	225	750	0	0
Office Occupancy Expenses	0	0	0	0
Insurance	22,810	26,329	8,840	18,825
Repairs/ Maint /Prop Mgmt/ Outside Serv.	4,176	6,250	2,709	3,250
Telephone/Fax/Internet	36,617	35,500	27,833	30,000
Office Supplies / Printing / Advertising	0	36,500	0	22,500
Computers/Software/Equipment	<u>3,787</u>	<u>3,500</u>	<u>2,990</u>	<u>3,000</u>
Total Other Non Personal Services	67,615	109,829	44,146	78,575
TOTAL NON-PERSONAL SERVICES	67,615	109,829	49,079	88,575
TOTAL OPERATING BUDGET	<u>414,970</u>	<u>493,843</u>	<u>457,665</u>	<u>495,827</u>

**Empire State Development
Moynihan Station Redev Corp
Capital Spending Plan FYE 2016**

	Actual Expense FY 2014	Spending Plan FY 2015	Projected Expense FY 2015	Spending Plan FY 2016
Acquisition Costs	0	0	0	0
Design & Other Soft Costs	5,646,163	3,010,000	3,057,676	15,200,000
Legal Costs	603,637	35,000	98,310	95,000
Property Management/Maintenance Costs	0	0	0	0
Insurance	196,226	0	0	538,975
Demolition & Site Clearance	0	0	0	0
Construction Costs	69,017,685	74,330,000	61,121,797	68,000,000
Other Misc. Costs	0	0	0	0
TOTAL CAPITAL BUDGET	<u><u>75,463,711</u></u>	<u><u>77,375,000</u></u>	<u><u>64,277,784</u></u>	<u><u>83,833,975</u></u>

**Empire State Development
Farley Building
Capital Spending Plan FYE 2016**

	Actual Expense FY 2014	Spending Plan FY 2015	Projected Expense FY 2015	Spending Plan FY 2016
Acquisition Costs	0	250,000	0	500,000
Design & Other Soft Costs	310,673	775,000	700,000	425,000
Legal Costs	131,142	375,000	79,155	300,000
Property Management/Maintenance Costs	2,387,440	4,800,000	4,900,000	4,950,000 ¹
Insurance	776,276	795,000	795,000	728,958
Demolition & Site Clearance	0	0	60,000	0
Construction Costs	800,000	400,000	600,000	100,000
Other Misc. Costs	0	400,000	0	0
TOTAL CAPITAL BUDGET	<u><u>4,405,531</u></u>	<u><u>7,795,000</u></u>	<u><u>7,134,155</u></u>	<u><u>7,003,958</u></u>

¹ This amount represents payments to OGS that may be tolled, and therefore not paid in FYE 2016

ITEM 4



FOR CONSIDERATION

March 30, 2015

TO: The Directors

FROM: Michael Evans

SUBJECT: New York (New York County) - Moynihan Station Civic and Land Use Improvement Project - Insurance for the James A. Farley Post Office Building and Annex

REQUEST FOR: Authorization to Procure Insurance Policies through Willis of NY, Inc. ("Willis") with Zurich American Insurance Company ("Zurich"), Travelers Property Casualty Company of America ("Travelers"), Continental Casualty Company ("CNA") and Ohio Casualty Insurance Company ("Liberty Mutual"); and to Take Related Actions

I. BACKGROUND

In March 2007, Empire State Development ("ESD") acquired the James A. Farley Post Office Building and Annex ("Farley") in Manhattan (bounded by 31st and 33rd Streets and 8th and 9th Avenues) for use in the Moynihan Station Civic and Land Use Improvement Project ("the Project").

To properly insure the Farley Building, there is both a Commercial Property Program, which provides coverage for financial losses stemming from significant physical damage to Farley, and a Commercial Casualty Program, which provides coverage for bodily injury, personal injury and property damage that may result from activity at Farley. There is also a Commercial Casualty Program which is provided through an underlying Commercial General Liability policy and a \$25,000,000 Excess Liability policy. These policies are separate and distinct from the coverage in place for Phase 1 of the re-development project.

For the upcoming FY2015-16 policy period, renewals or replacements must be secured for both the Commercial Property and Commercial Casualty programs.

In January 2015, after a competitive solicitation, ESD appointed Willis as its new Broker of Record for ESD and its subsidiaries. Willis has overseen the solicitation of coverage for the Farley Building for the upcoming FY2015-16 policy period. In addition, ESD contracted with The Keville Insurance Agency, Inc. to advise ESD on its portfolio-wide insurance strategy, which includes the Farley Building.

Willis began the 2015/16 renewal process by soliciting quotations from a wide array of potential carriers. A full list of the carriers solicited is attached as **Attachment A**. All the carriers Willis approached have A.M. Best ratings of A-or better. As part of this process prospective carriers were invited to tour the Farley Building and were provided with information on the building and the redevelopment project.

As in the past, all but a few of the carriers approached declined to provide a quotation. The incumbent carriers also refused to renew coverage. The primary reasons cited were a lack of underwriting appetite for a building in the heart of midtown across the street from Penn Station/Madison Square Garden, concerns with the integrity of the building's roof, vacancy issues and the very high limit of coverage needed on the building (\$250,000,000).

Willis was able to obtain very aggressive pricing on the Property Program with AIG and Zurich Insurance Companies. Both quotes are less than the expiring policy and are being offered by carriers with solid financial strength ratings, renown in the market for having an underwriting appetite for difficult placements, and tremendous financial capacity. AIG and Zurich are each offering to provide the entire \$250,000,000 limit. Although there were other carriers willing to participate in a program, and one other carrier willing to provide the entire limit, none of those options were as competitive in pricing as AIG or Zurich.

Based on proposals received from solicited carriers, Zurich is Willis' recommended market of choice, with strong paper, and an existing relationship with Empire State Development and the Moynihan Station Development Corporation ("MSDC" or the "Corporation"), as they are the insurer on the Skanska's Builders Risk Policy for Phase 1 and are therefore very familiar with the building, the construction project and the underwriting particulars.

In addition to offering to provide the entire \$250,000,000 limit, Zurich is including Replacement Cost coverage on the roof in lieu of the Actual Cash Value coverage currently being provided by Affiliated which is a considerable improvement in cost-to-coverage.

Willis was also able to obtain competitive pricing on the Casualty Program, with Travelers and Hartford providing quotations for the underlying coverage and CNA providing a quotation for the \$25,000,000 Excess Liability. In addition, Willis was able to secure a quotation for an additional \$25,000,000 Excess Liability from Liberty Mutual.

Based on quotations received from solicited carriers, Willis and MSDC staff recommend that the underlying General Liability policy be underwritten by Travelers. Willis and MSDC staff also recommend the first \$25,000,000 be underwritten by CNA and that the board approve an additional \$25,000,000 to be underwritten by Liberty Mutual due to the significantly increased amount of activity in the building from events and other activities.

Below is a comparative summary of the premiums for MSDC's commercial insurance program:

	FY2014-15	FY2015-16
Property	\$563,098	\$461,536
General/Excess Liability	\$229,500	\$244,000
Additional Excess Liability Option	N/A	\$23,422
TOTAL	\$792,598	\$728,958

The overall decrease for the combined Farley Building policies from the previous fiscal year is 8%.

Summary of Changes in Property Coverage from FY2014-15 to FY2015-16

	2014 - 2015 Affiliated FM	2015-2016 Zurich
Total Insurable Values	\$601,979,939	\$601,979,939
Property Premium	\$465,669	\$388,536
Terrorism Premium	\$67,429	\$70,000
Total Premium	\$533,098	\$458,536
Rate	\$0.0886	\$0.0762
% Change in Rate		-14.0%
Premium Savings		\$74,562
Associated Fees	\$30,000	\$3,000
Total Cost*	\$563,098	\$461,536
Total Savings		\$101,562
		-18%

*Cost does not include any taxes, fees or other surcharges that may apply

II. FUNDING

Building insurance for FY2015-16 will be funded out of unrestricted funds of the Corporation.

III. ENVIRONMENTAL REVIEW

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

IV. AFFIRMATION ACTION

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

V. RESPONSIBLE PARTY

Pursuant to State Finance Law Sections 139-j and 139-k and the Corporation’s policy related thereto, staff has: (a) considered the ability of Willis, Zurich, CNA, Liberty Mutual and Travelers 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 Willis, Zurich, Travelers, CNA and Liberty Mutual to be responsible.

VI. REQUESTED ACTIONS

The Directors are requested to: (1) authorize procurement of: (a) Commercial General Liability Insurance and Umbrella Coverages with the Travelers, CNA and Liberty Mutual; (b) Real Property Insurance with Zurich, for March 30, 2015 through March 30, 2016 for an amount not to exceed \$728,958; (2) approve, ratify, and confirm any and all actions previously taken on behalf, or in the name, of ESD/MSDC in connection with this matter; and (3) authorize the taking of related actions.

VII. RECOMMENDATION

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

VIII. ATTACHMENT

List of Solicited Carriers
Resolutions

Attachment A – List of Solicited Carriers

Property:

- Zurich
- AIG
- XL
- ACE
- Partner Re
- Scottsdale
- Great American
- One Beacon
- Chubb
- Starr
- QBE
- Swiss Re
- Travelers
- Arch
- AWAC
- C N A
- Allianz
- Fireman's Fund
- Liberty Mutual
- Axis
- Berkshire Hathaway
- Mitsui Sumitomo
- National Trust Insurance Services

Casualty Primary:

- Travelers
- Hartford
- C N A
- Philadelphia
- Hanover
- Zurich
- Fireman's Fund
- Berkshire Hathaway
- Liberty Mutual
- ACE
- AIG
- Starr

- Swiss Re
- Kinsale
- Endurance
- Markel
- Navigators
- Catlin
- RSUI
- Aspen
- Westen World
- Axis
- First Specialty
- Chubb Custom
- Scottsdale
- Arch
- Cover X
- Ironshore
- AWAC
- WKF&C
- Lexington
- Admiral
- Amtrust
- Ace-Westchester

Casualty Excess:

- C N A
- Liberty Mutual
- Navigators
- Axis
- Starr
- AIG
- AWAC
- ACE
- XL
- Fireman's Fund
- Travelers
- Berkshire
- Zurich
- James River
- RSUI

March 30, 2015

New York (New York County) – Moynihan Station Civic and Land Use Improvement Project – Insurance for the James A. Farley Post Office Building and Annex – Authorization to Procure Insurance Policies through Willis of NY, Inc. (“Willis”) with Zurich American Insurance Company (“Zurich”), Travelers Property Casualty Company of America (“Travelers”), Continental Casualty Company (“CNA”) and Ohio Casualty Insurance Company (“Liberty Mutual”); and to Take Related Actions

RESOLVED, that in accordance with 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 Willis, Zurich, Travelers, CNA and Liberty Mutual; to be responsible; and be it further

RESOLVED, that in accordance with the Materials, the President or Other Officer of the Corporation, or their designee(s), are hereby authorized, in the name and on behalf of the Corporation, to enter into all contracts, agreement, and Instruments necessary or appropriate in connection with the placement of insurance for the James A. Farley Post Office Building and Annex with Willis, Zurich, Travelers, CNA and Liberty Mutual; and be it further

RESOLVED, that the total annual cost of such insurance shall not exceed \$728,958; and be it further

RESOLVED, that all action heretofore taken in regard to the replacement of the foregoing insurance policies are hereby approved, ratified, and confirmed.

* * *