

NEW YORK TRANSPORTATION DEVELOPMENT CORPORATION

Meeting of Directors

Thursday

October 14, 2021

2:00 p.m.

NEW YORK TRANSPORTATION DEVELOPMENT CORPORATION

Meeting of the Directors

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October 14, 2021 – 2:00 p.m.

AGENDA

CORPORATE ACTION

1. Approval of the Minutes of May 21, 2021 Meeting of the Directors

FOR CONSIDERATION

2. New York Transportation Development Corporation - Appointment of Senior Managing Underwriter; Appointment of Additional Underwriters; Appointment of Financial Advisor(s); Authorization to Take Actions Related to the Tax Equity and Fiscal Responsibility Act (“TEFRA”); Authorization to Induce the Project for Private Activity Financing and Declare the Official Intent of the Corporation to Provide Funds for the Reimbursement of Pre-Issuance Expenditures for the Project; Authorization to Proceed with the Preparation of Related Documents; and Authorization to Take Related Actions.
3. New York Transportation Development Corporation – Procurement of Legal Services - Authorization to Enter into a Contract for Co-Bond Counsel Services in Connection with the Phase 2.5 Terminal 4 Redevelopment Project at John F. Kennedy International Airport; and Authorization to Take Related Actions.
4. New York Transportation Development Corporation – Procurement of Legal Services - Authorization to Enter into a Contract for Legal Services in Connection with the Phase 2.5 Terminal 4 Redevelopment Project at John F. Kennedy International Airport; and Authorization to Take Related Actions.
5. New York Transportation Development Corporation – Procurement of Legal Services - Authorization to Enter into a Contract for Bond Disclosure Legal Services in Connection with the Phase 2.5 Terminal 4 Redevelopment Project at John F. Kennedy International Airport; and Authorization to Take Related Actions.

Item 1

New York Transportation Development Corporation
Meeting of the Directors
Held Via Teleconference

May 21, 2021

MINUTES

In Attendance

Directors: Howard Zemsky – Chair
George Haggerty
Kathleen Mize
Pravina Raghavan

NYTDC Staff: Elizabeth Fine – General Counsel
Elaine A. Kloss – CFO
Regina Stephens – Assistant Secretary

ESD Staff: Julene Beckford- Senior Counsel and Records Appeal Access Officer
Jason Easterly – Senior Counsel
Debbie Royce, Corporate Secretary

Others Attending: Alexander Deland, Katten
Robert Drillings, BurgherGray
Steve Adnopo, Pearlman Miranda
Isabel Miranda, Pearlman Miranda

Before calling the meeting officially to order by the Chair, the Assistant Secretary of the New York Transportation Development Corporation welcomed everyone to the meeting and conducted a roll call of the Directors to be sure a quorum was present on record.

Following roll call and confirmation of a present quorum, the meeting of the New York Transportation Development Corporation (the “Corporation” or “TDC”), a Local Development Corporation created under New York State law, was called to order at approximately 11:30 p.m. Chair Howard Zemsky noted for the record that due to public health concerns and as authorized by an Executive Order of the Governor, this meeting would be conducted by teleconference.

Chair Zemsky noted for the record that the Directors had received relevant written materials in advance of the meeting and that the public had been given the opportunity to comment on the meeting’s Agenda items by submitting their written comments at or before 5:00 p.m. on May 20, 2021, and no comments were received.

Before beginning with the substantive portion of the meeting, Chair Zemsky asked the Directors whether they had any potential conflict of interest with respect to any items on the proposed Agenda. Hearing none, Chair Zemsky, stated that the first order of business would be approval of the Minutes for the Directors’ meetings of March 5, 2021. He asked if there were any questions, comments, additions or deletions to the minutes. Hearing none, he requested a motion for approval of the meeting minutes.

Upon a motion duly made and seconded, the following resolution were unanimously adopted:

APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE MARCH 5, 2021 MEETING OF THE DIRECTORS OF THE NEW YORK TRANSPORTATION DEVELOPMENT CORPORATION

RESOLVED, that the Minutes of the meeting of the Corporation held on March 5, 2021 as presented to the Directors at the meeting, is 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.

* * *

Chair Zemsky then asked Julene Beckford to present the next item on the Agenda, requesting authorization to appoint Underwriters and take actions related to Tax Equity and Fiscal Responsibility Act (“TEFRA”), appoint a financial advisor and request authorization to proceed with the review and preparation of related documents and request authorization to take all related actions.

In her presentation, Ms. Beckford stated that TDC has been asked by American Airlines, Inc. to issue approximately 200 million aggregate principal Bonds. She stated that American Airlines operates Terminal 8 at John F. Kennedy International Airport (“JFK”), and these Bonds will finance the renovation and expansion of JFK’s Terminal 8 and refinance existing Bonds previously issued by the Corporation.

Ms. Beckford informed the Directors that the Project to be financed by the Bonds will include the creation of five more wide-bodied gates through both a modest building expansion and reconfiguration of certain existing gates; construction of a new aircraft parking stand; expansion of the baggage system capacity and construction of approximately 51,000 square feet of new building space and the refurbishment of existing space.

She further explained to the Directors that they were being asked to authorize the following actions: (i) selection of a managing underwriter and additional underwriters (ii) appointment of a financial advisor (iii) holding a TEFRA public hearing and (iv) preparation of all documents in connection with the Bonds.

Ms. Beckford further explained that Citigroup Global Markets Inc. (“Citi”) has been selected from TDC’s Pre-Qualified List of Underwriters, which was created after an RFP process by Empire State Development (“ESD”) and adopted by TDC at its February 24, 2020 Directors’ meeting. She further stated that American Airlines, in consultation with TDC, will have the option to select other co-managers from TDC’s Pre-Qualified List of Underwriters.

Ms. Beckford further explained that the Directors are also being asked to authorize the selection of a financial advisor from the Pre-Qualified List of Financial Advisors also created after an RFP process by ESD and adopted by the Directors at TDC’s February 24, 2020 Directors’ meeting. A financial advisor may be selected based on its extensive experience in all aspects of

municipal finance, particularly airport financing, hourly rate proposal subject to a cap, extensive experience as a financial advisor on other bond issuances, and responses and ratings in the pre-qualification process.

Ms. Beckford stated that TDC has been requested to act as an issuer of Qualified Private Activity Bonds for this Project. As a result, the law requires a TEFRA hearing prior to issuance of Qualified Private Activity Bonds. Consequently, a hearing may be required, and the public must be given proper notice of such hearing. Ms. Beckford explained the applicable notice period for the TEFRA hearing as well as the requirement of an elected representative of the issuer of the Qualified Private Activity Bonds; in this case, she explained, approval of the Project and/or the plan of the project financing would come from the Governor of the State of New York.

Lastly, Ms. Beckford informed the Directors that the Bonds to be utilized defines the work being done at JFK Terminal 8 and to refinance a portion of the 2016 and 2020 American Airlines Bonds. She continued explaining to the Directors that staff is requesting authorization to commence review in drafting of the Bond documents. She stated that an additional TDC Directors' meeting will be scheduled for the approval of the form of the final documents and to authorize the bond transaction terms including providing any mortgage recording tax exceptions.

In conclusion, Ms. Beckford requested that the Directors authorize (i) selection of Citi as the senior managing underwriter for the Bonds and the ability to appoint additional underwriters; (ii) appoint a financial advisors if utilized; (iii) authorize TDC to hold a TEFRA public hearing; (iv) publish a Notice of the TEFRA hearing and the submission of the Project to the Governor for approval following the TEFRA Hearing; and (v) prepare documents in connection with the Bonds.

Following the presentation of the item, Chairman Zemsky asked if there were any questions or comments from the Directors. There being no questions or comments from the Directors, and no comments from the public, Chair Zemsky requested a motion for approval.

Upon motion duly made and seconded the following resolution was unanimously adopted:

NEW YORK TRANSPORTATION DEVELOPMENT CORPORATION – John F. Kennedy International Airport Terminal 8 (American Airlines) Redevelopment Project - Appointment of Underwriter; Appointment of Additional Underwriters; Authorization to Take Actions Related to the Tax Equity and Fiscal Responsibility Act (“TEFRA”); Appointment of Financial Advisors; Authorization to Proceed with the Review and Preparation of Related Documents; and Authorization to Take Related Actions

WHEREAS, the New York Transportation Development Corporation (“TDC” or the “Corporation”) has been requested to issue bonds (“Bonds”) to finance the renovation and expansion of Terminal 8 at John F. Kennedy International Airport Redevelopment Project (the “Project”) and to refinance a portion of prior bonds issued by the Corporation in 2016 and 2020 (the “2016 and 2020 Bonds”); and

WHEREAS, in order to facilitate the issuance of the Bonds as requested, the officers of the Corporation propose to authorize: selection of a senior managing underwriter and appointment of additional underwriters; actions related to TEFRA; retention of financial advisors; preparation of documents necessary or desirable related to the forgoing; and taking any related actions.

RESOLVED, in accordance with the materials presented to this meeting a copy of which is incorporated by reference and hereby ordered to be filed with the records of the Corporation, the Corporation takes the following actions:

Selection of Underwriter

RESOLVED, that the Corporation hereby consents to Citigroup Global Markets, Inc. to be the senior managing underwriter for the Bonds, together with the right to appoint additional co-managers.

Selection of Financial Advisor

RESOLVED, that the Corporation hereby consents to the right to appoint financial advisors for the Project.

Actions Related to the Tax Equity and Fiscal Responsibility Act (“TEFRA”)

RESOLVED, that the Corporation hereby authorizes the holding of public hearings (“TEFRA Hearings”), the publication of prior notices of the TEFRA Hearings and the submission to the Governor of requests for approval following such TEFRA Hearings, all in accordance with, and as may be required by, the Internal Revenue Code of 1986, as amended.

Preparation of Bond Documents

RESOLVED, that the Corporation hereby authorizes the review and preparation of documents necessary or desirable in connection of the financing of the Project.

Miscellaneous

RESOLVED, that the President and his or her designee(s) be, and each of them hereby is, authorized and directed, in the name and on behalf of the Corporation to execute and deliver any and all documents and to take all such actions as may be necessary or appropriate to effectuate the foregoing. Any actions previously taken by the Corporation consistent with this authorization are hereby ratified and affirmed.

* * *

Next, Ms. Beckford made one presentation on the next three Agenda items. In her presentation, Ms. Beckford stated that the Directors were being asked to authorize the Corporation to enter into legal services contracts for bond and disclosure counsel in connection with the issuance of the Bonds to renovate, expand and refund bonds previously issued for JFK Terminal 8 in Queens.

She explained that bond counsel is required to ensure TDC’s compliance with the federal tax law requirements, for an opinion from bond counsel on tax exempted bonds and to ensure compliance with applicable federal securities laws and market practices. She stated that Katten Muchin Rosenman, LLP and BurgherGray, LLP, a certified MWBE firm, are recommended to serve as co-bond counsel on this transaction. Ms. Beckford continued stating that both firms were selected from TDC’s Pre-Qualified Counsel List. In addition, both firms

previously served as co-bond counsel for the 2020 issuance of bonds to finance the renovation and expansion of JFK Terminal 8.

Ms. Beckford explained that disclosure counsel is also required to ensure TDC's compliance with disclosure requirements for tax exempt bond issuers under the federal security's law and market practices. She continued stating the staff recommends Pearlman & Miranda, LLC serve as disclosure counsel. Pearlman was also selected from TDC's Pre-Qualified Counsel List. Ms. Beckford stated that Pearlman has bond financing expertise as well as experience working on a variety of transactions. Additionally, Pearlman also served as disclosure counsel on the 2020 issuance of bonds to finance the renovation and expansion of JFK Terminal 8.

In conclusion, Ms. Beckford explained that the appointment of these three firms will represent an equitable distribution of work among TDC's rotating slate of senior and junior bond law firms, as well as MWBEs, to handle TDC's debt as it relates to size, number of transactions, fees received, and length of times with their last engagement with TDC. Lastly, she explained that the cost to retain these firms will be funded entirely by American Airlines from bond proceeds on or about the closing of the bonds as specified in a Pre-Financing Agreement between the TDC and American Airlines.

Following Ms. Beckford's presentation of the item, Chair Zemsky asked if the Directors had any questions or comments regarding any of the three items. There being no questions or comments from the Directors and no comments from the public, Chair Zemsky requested a motion for approval of the three items. Upon motion duly made and seconded the following resolutions were unanimously adopted:

**NEW YORK TRANSPORTATION DEVELOPMENT CORPORATION – Procurement of Legal Services
Katten Muchin Rosenman LLP - Authorization to Enter into a Contract to Provide Legal Services**

for the New York Transportation Development Corporation (the “Corporation”) in Connection with Issuing Bonds to Renovate, Expand, and Refund Bonds Previously Issued for, Terminal 8 at John F. Kennedy International Airport and to Take Related Actions

RESOLVED, that in accordance with the materials presented to this meeting, a copy of which is hereby ordered to be filed with the records of the Corporation (the “Materials”), the Corporation hereby finds the law firm of Katten Muchin Rosenman LLP (“Counsel”) to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into a contract with Counsel 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 and his designee(s) be, and each of them hereby is, authorized and directed, in the name and on behalf of the Corporation to execute and deliver any and all documents and to take all such actions as may be necessary or appropriate to effectuate the foregoing. Any actions previously taken by the Corporation or Counsel consistent with this authorization are hereby ratified and affirmed.

* * *

NEW YORK TRANSPORTATION DEVELOPMENT CORPORATION – Procurement of Legal Services--
BurgherGray LLP -- Authorization to Enter into a Contract to Provide Legal Services for the New York Transportation Development Corporation (the “Corporation”) in Connection with Issuing Bonds to Renovate, Expand, and Refund Bonds Previously Issued for, Terminal 8 at John F. Kennedy International Airport and to Take Related Actions

RESOLVED, that in accordance with the materials presented to this meeting, a copy of which is hereby ordered to be filed with the records of the Corporation (the “Materials”), the Corporation hereby finds the law firm of BurgherGray LLP (“Counsel”) to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into a contract with Counsel 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 and his designee(s) be, and each of them hereby is, authorized and directed, in the name and on behalf of the Corporation to execute and deliver any and all documents and to take all such actions as may be necessary or appropriate to effectuate the foregoing. Any actions previously taken by the Corporation or Counsel consistent with this authorization are hereby ratified and affirmed.

* * *

NEW YORK TRANSPORTATION DEVELOPMENT CORPORATION– Procurement of Legal Services – Pearlman & Miranda, LLC - Authorization to Enter into a Contract to Provide Legal Services for the New York Transportation Development Corporation (the “Corporation”) in Connection with Issuing Bonds to Renovate, Expand, and Refund Bonds Previously Issued for, Terminal 8 at John F. Kennedy International Airport and to Take Related Actions

RESOLVED, that in accordance with the materials presented to this meeting, a copy of which is hereby ordered to be filed with the record of the Corporation (the “Materials”), the Corporation hereby finds Pearlman & Miranda, LLC (“Counsel”) to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into a contract with Counsel 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 and his designee(s) be, and each of them hereby is, authorized and directed, in the name and on behalf of the Corporation to execute and deliver any and all documents and to take all such actions as may be necessary or appropriate to effectuate the foregoing. Any actions previously taken by the Corporation or Counsel consistent with this authorization are hereby ratified and affirmed.

* * *

Chair Zemsky then thanked Ms. Beckford on behalf of TDC for her incredible service to the Corporation and ESD. He stated that Ms. Beckford is leaving ESD and is headed to NYPA which is a great gain to that agency but a loss to TDC and ESD. Chair Zemsky continued stating that Ms. Beckford has been a tremendous asset and a professional in her service to ESD, TDC’s board and the people of New York. Chair Zemsky thanked, congratulated and wished Ms. Beckford continued success in her new position at NYPA.

Directors Pravina Raghavan, Kathleen Mize and George Haggerty all echoed Chair Zemsky’s comments and they also thanked her for all her help and amazing service to the TDC’s board and ESD.

Elizabeth Fine, Executive Vice President, Legal and General Counsel and Elaine Kloss, CFO both congratulated and thanked Ms. Beckford for the excellent work she has done on ESD's bond deals.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Regina Stephens
Assistant Corporate Secretary

Item 2

FOR CONSIDERATION

October 14, 2021

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Phase 2.5 Terminal 4 Redevelopment Project at John F. Kennedy International Airport – Series 2021 Bonds

REQUEST FOR: Appointment of Senior Managing Underwriter; Appointment of Additional Underwriters; Appointment of Financial Advisor(s); Authorization to Take Actions Related to the Tax Equity and Fiscal Responsibility Act (“TEFRA”); Authorization to Induce the Project for Private Activity Financing and Declare the Official Intent of the Corporation to Provide Funds for the Reimbursement of Pre-Issuance Expenditures for the Project; Authorization to Proceed with the Preparation of Related Documents; and Authorization to Take Related Actions

I. BACKGROUND

As part of the modernization, expansion, and equipping of the existing Terminal 4 and other related facilities at John F. Kennedy International Airport, located in Jamaica, New York 11430 (the “Airport”), JFK International Air Terminal LLC (the “Borrower”) has requested the New York Transportation Development Corporation (the “Corporation” or “TDC”) to issue Special Facility Revenue Bonds, in one or more series or subseries including, but not limited to, Series 2021A (Tax-Exempt/AMT) and Series 2021B (Taxable) (Terminal 4 John F. Kennedy International Airport Project), in which may be fully or partially supported by a bond insurance policy or a reserve fund surety (the “Bonds”), the proceeds of which will be used by the Borrower to (i) pay costs relating to the modernization, expansion, and equipping of the existing Terminal 4 and other related facilities at the Airport (collectively, the “Project”); (ii) pay a portion of the interest on the Bonds accruing during construction of the Project; (iii) fund a debt service reserve fund for the Bonds; and (iv) pay costs of issuance related to the Bonds.

II. SELECTION OF SENIOR MANAGING UNDERWRITER

The Borrower has selected J.P. Morgan Securities LLC (“J.P. Morgan” or “Underwriter”) as the senior managing underwriter. J.P. Morgan is on the pre-qualified list of underwriters of the Corporation (the “Pre-Qualified List of Underwriters”). The Pre-Qualified List of Underwriters was created after an RFP process by Empire State Development (“ESD”) and was adopted by the Corporation’s Board of Directors (the “Board of Directors”) on February 24, 2020. The Borrower selected J.P. Morgan for its extensive experience in all aspects of municipal finance, its extensive experience as an underwriter on other TDC and ESD bond issuances, and its response and rating

in the pre-qualification process. The Corporation, in consultation with the Borrower, will have the option to select other underwriters from the Pre-Qualified List of Underwriters, including co-managers from the Pre-Qualified List of Underwriters to the extent necessary to satisfy the requirements in section IV below.

The Corporation staff now seeks the consent of the Board of Directors to adopt the selection of senior managing underwriter for the Bond issuance and to delegate to the Corporation, in consultation with the Borrower, the ability to appoint additional underwriters as the deal progresses.

III. SELECTION OF FINANCIAL ADVISOR

The Corporation also may select a financial advisor from TDC's Pre-Qualified List of Financial Advisors ("FAs") (the "Pre-Qualified List of FAs"). The Pre-Qualified List of FAs was created after an RFP process by ESD and adopted by the Corporation on February 24, 2020.

A financial advisor may be selected based on its: (i) extensive experience in all aspects of municipal finance, particularly airport financing, (ii) hourly rate proposal subject to a cap of \$250,000, (iii) extensive experience as a financial advisor on other bond issuances and (iv) responses and ratings in the pre-qualification process. Relative to section IV below, the financial advisor will sub-contract to a Minority and Women-Owned Business Enterprise ("MWBE") to address applicable participation goals.

The Corporation staff now seeks the consent of the Board of Directors to adopt the selection of a financial advisor, if one is utilized, for the Bond issuance for the reasons and on the terms noted above. The firm will be paid by the Borrower pursuant to a Pre-Financing Agreement.

IV. NON-DISCRIMINATION AND CONTRACTOR & SUPPLIER DIVERSITY

The Corporation's Non-Discrimination and Contractor & Supplier Diversity policies will apply to these contracts. The Underwriter shall be required to include minorities and women in any job opportunities created, to solicit and utilize MWBEs for any contractual opportunities generated in connection with the Project and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve MWBE Participation.

In accordance with Article 17-B of the Executive Law, vendors will be strongly encouraged to the maximum extent practical and consistent with legal requirements to use responsible and responsive Service-Disabled Veteran-Owned Businesses in the fulfillment of the requirements of this contract.

V. FEDERAL TAX LAW REQUIREMENTS

Federal tax law, specifically the Tax Equity and Fiscal Responsibility Act ("TEFRA"), requires a hearing prior to the issuance of qualified private activity bonds in certain circumstances. The Corporation has been requested to act as issuer of qualified private activity

bonds for the Project. Consequently, a TEFRA hearing is required and the applicable notice period for the TEFRA hearing is seven days.

TEFRA also requires an approval from an applicable elected representative of the issuer of qualified private activity bonds (in this case the Governor) to approve the transaction. The Governor's approval is intended to be obtained immediately following the TEFRA hearing.

Accordingly, the Board of Directors is requested to authorize the holding of a public TEFRA hearing, the publication of the prior notice of the TEFRA hearing and the subsequent request to the Governor for approval of the Bonds.

VI. PROJECT INDUCEMENT

Inducement of the Project and the declaration of the Corporation's official intent to provide funds for the reimbursement of pre-issuance expenditures will enable proceeds of the Bonds in an expected maximum principal amount of \$1.6 billion to be used, among other things, to reimburse Project expenditures made by the Borrower prior to the date or dates of the issuance of the Bonds, thereby expediting the Project. Prior to the issuance of the Bonds, the form of financing documents and the issuance of the Bonds must be reviewed and approved by the Corporation. Prior to such review and approval, the Project's compliance with all applicable procedures, guidelines and requirements must be fully and formally confirmed including, without limitation, the New York State Environmental Quality Review Act ("SEQRA"). The Corporation is not obligated to approve the Project, to issue the Bonds or to take any other actions related to the Project.

The attached Resolution does not authorize or require the Corporation to issue the Bonds. Without the inducement, only limited types of Project expenditures paid by the Borrower more than 60 days prior to the issuance of the Bonds may be reimbursed with the tax-exempt bond proceeds.

VII. DOCUMENTS

It is intended that the Bonds will be issued to finance a portion of the Project. Accordingly, the related Bond documents must be drafted and approved for the issuance of the Bonds expeditiously. The Board of Directors is requested to consent to the commencement of drafting documents. An additional Board of Directors meeting will occur to approve the form of final documents.

VIII. ENVIRONMENTAL REVIEW

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

IX. REQUESTED ACTION

Staff recommends that the Board of Directors take actions related to TEFRA for the Bonds, authorize the selection of a senior managing underwriter, the appointment of additional underwriters, the appointment of financial advisor(s), authorize the inducement of the Project and declare the official intent of the Corporation to provide funds for the reimbursement of pre-issuance expenditures for the Project, the preparation of the required Bond documents and take any related actions.

X. RECOMMENDATION

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

XI. ATTACHMENT

Resolution

October 14, 2021

NEW YORK TRANSPORTATION DEVELOPMENT CORPORATION — Phase 2.5 Terminal 4 Redevelopment Project at John F. Kennedy International Airport - Appointment of Senior Managing Underwriter; Appointment of Additional Underwriters; Appointment of Financial Advisor(s); Authorization to Take Actions Related to the Tax Equity and Fiscal Responsibility Act (“TEFRA”); Authorization to Induce the Project for Private Activity Financing; Authorization to Proceed with the Preparation of Required Bond Documents; and Authorization to Take Related Actions

WHEREAS, JFK International Air Terminal LLC (the “Borrower”) has requested the New York Transportation Development Corporation (the “Corporation” or “TDC”) to issue its Special Facility Revenue Bonds, in one or more series or subseries including, but not limited to, Series 2021A (Tax-Exempt /AMT) and Series 2021B (Taxable) (Terminal 4 John F. Kennedy International Airport Project), in which may be fully or partially supported by a bond insurance policy or a reserve fund surety (the “Bonds”) to (i) pay costs relating to the modernization, expansion, and equipping of the existing Terminal 4 and other related facilities at the John F. Kennedy International Airport (collectively, the “Project”); (ii) pay a portion of the interest on the Bonds accruing during construction of the Project; (iii) fund a debt service reserve fund for the Bonds; and (iv) pay costs of issuance related to the Bonds.

WHEREAS, in order to facilitate the issuance of the Bonds as requested, the officers of the Corporation propose to authorize selection of a senior managing underwriter and appointment of additional underwriters, authorize selection of financial advisor(s), take actions related to the TEFRA hearing, induce the Project and declare the Corporation’s official intent to provide funds for the reimbursement of pre-issuance expenditures for the Project, authorize the preparation of required Bond documents in connection with the issuance of the Bonds and to take any related actions.

RESOLVED, in accordance with the materials presented to this meeting a copy of which is hereby ordered to be filed with the records of the Corporation, the Corporation takes the following actions:

Selection of Underwriters

RESOLVED, that the Corporation hereby consents to J.P. Morgan Securities LLC to be the senior managing underwriter for the Bonds, together with the right to appoint other underwriters, including co-managers, if any, as the Corporation, in consultation with the Borrower, shall select.

Selection of Financial Advisors

RESOLVED, that the Corporation hereby consents to the right to appoint financial advisor(s) for the Project.

Actions Related to the Tax Equity and Fiscal Responsibility Act (“TEFRA”)

RESOLVED, that the Corporation hereby authorizes the holding of a public hearing (“TEFRA Hearing”), the publication of prior notice of the TEFRA Hearing and the submission to the Governor of request for approval following such TEFRA Hearing, all in accordance with and as may be required by the Internal Revenue Code of 1986, as amended.

Inducement Resolution and Declaration of Official Intent

RESOLVED, that the Corporation hereby declares its official intent, solely for purposes of United States Treasury Regulations §1.150-2, to issue the Bonds and use the proceeds thereof to pay or reimburse the Borrower for eligible Project costs. This declaration of official intent is subject to subsequent approval of the Project by the Corporation. The Corporation understands that the Borrower has paid and will pay certain capital expenditures in connection with the Project prior to the issuance of the Bonds for the Project. The Borrower may use temporary funds that are or will be available on a short-term basis to pay for preliminary expenditures, construction costs and certain equipping costs for the Project. Said declaration is based upon the representations of the Borrower that the Borrower reasonably expects to be reimbursed for the use of such funds with the proceeds of the Bonds to be issued by the Corporation or another authorized governmental issuer to finance the Project costs. The maximum principal amount of Bonds currently expected to be issued for the Project is \$1.6 billion.

Preparation of Bond Documents

RESOLVED, that the Corporation hereby authorizes the preparation of Bond documents necessary or desirable in connection of the issuance of the Bonds.

Miscellaneous

RESOLVED, that the President and his or her designee(s) be, and each of them hereby is, authorized and directed, in the name and on behalf of the Corporation to execute and deliver any and all Bond documents and to take all such actions as may be necessary or appropriate to effectuate the foregoing. Any actions previously taken by the Corporation consistent with this authorization are hereby ratified and affirmed.

* * *

Item 3



FOR CONSIDERATION

October 14, 2021

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Procurement of Legal Services – Squire Patton Boggs (US) LLP

REQUEST FOR: Authorization to Enter into a Contract for Legal Services in Connection with the Phase 2.5 Terminal 4 Redevelopment Project at John F. Kennedy International Airport; and Authorization to Take Related Actions

CONTRACT NEED AND JUSTIFICATION

I. CONTRACT SUMMARY

Counsel: Squire Patton Boggs (US) LLP (“Squire” or “Counsel”)

Scope of Services: Counsel would serve as co-bond counsel together with the law firm of Joseph C. Reid, P.A. (“Reid”) for which the board of directors (the “Board of Directors”) of the New York Transportation Development Corporation (the “Corporation” or “TDC”) will be requested to authorize under a separate resolution to provide legal services to the Corporation in connection with the issuance of Special Facility Revenue Bonds, in one or more series or subseries including, but not limited to, Series 2021A (Tax-Exempt/AMT) and Series 2021B (Taxable) (Terminal 4 John F. Kennedy International Airport Project), in which may be fully or partially supported by a bond insurance policy or a reserve fund surety (the “Bonds”) to (i) pay costs relating to the modernization, expansion, and equipping of the existing Terminal 4 and other related facilities at the Airport (collectively, the “Project”); (ii) pay a portion of the interest on the Bonds accruing during construction of the Project; (iii) fund a debt service reserve fund for the Bonds; and (iv) pay costs of issuance related to the Bonds.

Contract Amount: All Counsel fees for the Bonds, including Counsel’s fee and all affiliated eligible costs of the Bond transaction, shall be payable only up to an aggregate amount equal to 2% of the of the par amount of the Bonds. Counsel will be required to use good faith efforts to allocate at least 30% participation on this matter to Reid.

Funding Source: JFK International Air Terminal LLC (“JFK-IAT” or the “Borrower”) will fund the contract in its entirety on or about the closing date of the Bonds. Counsel will agree that the Corporation will not be obligated to pay any amounts for services described herein except to the extent, if any, that the Corporation receives funds from the Borrower for that purpose.

II. BACKGROUND

JFK-IAT has requested the Corporation serve as the issuer for the Bonds, the proceeds of which will be used by the Borrower to (i) pay costs relating to the modernization, expansion, and equipping of the existing Terminal 4 and other related facilities at John F. Kennedy International Airport; (ii) fund a debt service reserve fund for the Bonds; and (iv) pay the Bond issuance costs.

The Corporation staff will seek the consent of the Board of Directors to the form of the Bond documents, as well as the approval by the Board of Directors of the terms of the transaction, at a subsequent Board meeting.

III. COUNSEL SELECTION PROCESS

On June 27, 2016 the New York State Urban Development Corporation d/b/a Empire State Development (“ESD”) staff reached out to multiple firms, including firms on the existing Pre-Qualified Counsel List and placed an advertisement in the *New York State Contract Reporter* requesting proposals from law firms to create a new Pre-Qualified Counsel List in the following practice areas (including, in each instance, litigation capabilities): (1) real estate and land use; (2) construction; (3) environmental; (4) condemnation; (5) bankruptcy; (6) taxation; (7) bond financing; (8) foreclosure; (9) employment; (10) transactional direct and indirect investments; and (11) regulatory litigation.

Seventy-eight Firms responded to the solicitation. The responses were evaluated by a Review Committee consisting of seven ESD attorneys, including the Senior Counsels responsible for environmental, litigation, contractor and supplier diversity and employment matters and the Deputy General Counsel. The Review Committee recommended a new Pre-Qualified Counsel List, which ESD approved on February 16, 2017. Based on ESD’s review process and board approval, the Corporation’s Board of Directors adopted the ESD Pre-Qualified Counsel List on February 16, 2017. Counsel is on this Pre-Qualified Counsel List for bond counsel services.

Corporation staff recommends that Squire serve as co-bond counsel for this transaction. Selection of Counsel for this transaction was predicated on the experience of the attorneys from Squire who previously served as co-bond counsel for the Corporation’s Special Facility Revenue Bonds, Series 2020A (Tax-Exempt/AMT) (Terminal 4 John F. Kennedy International Airport Project) (the “Series 2020A Bonds”), Special Facility Revenue Bonds, Series 2020B (Taxable) (Terminal 4 John F. Kennedy International Airport Project) (the “Series 2020B Bonds”) and Special Facility Revenue Bonds, Series 2020C (Tax-Exempt/Non-AMT) (Terminal 4 John F. Kennedy International Airport Project) (the “Series 2020C Bonds,” and together with the Series 2020A

Bonds and Series 2020B Bonds, the “Series 2020 Bonds”). Accordingly, staff recommends the retention of Counsel for the Bonds based on: (a) Counsel’s specific and necessary expertise as bond counsel, (b) Counsel’s performance with distinction on other airport transactions, including for the Series 2020 Bonds, (c) Counsel’s rate proposal, and (d) the ESD pre-qualification process.

IV. SCOPE OF WORK

Counsel will advise the Corporation in securities, bonds, taxes and other related legal matters in connection with the issuance and sale of the Bonds. Such work may include, but not be limited to, drafting, negotiating, and finalizing the bond sale contracts, resolution amendments, disclosure documents and tax opinions. Counsel also would coordinate documentation with other involved agencies.

V. CONTRACT - NEED, PRICE AND FUNDING

A. NEED FOR CONTRACT

In accordance with federal tax law, an opinion from bond counsel is required to opine upon tax-exempt bonds. In addition, bond counsel expertise is necessary to ensure compliance with applicable securities laws and market practices. The Corporation has used experienced bond counsel on every issuance of its bonds.

B. CONTRACT PRICE AND FUNDING

This is a conduit financing with no Corporation funds at risk. Accordingly, the Borrower will fully fund all Counsel costs and expenses. Counsel would work at their typical hourly rate less a small discount. The Borrower will pay all Counsel costs and expenses from Bond proceeds on or about the Bond closing. All Counsel fees on the Bonds, including Reid and other affiliated eligible costs of the Bond transaction, shall be payable only up to an aggregate amount equal to 2% of the par amount of the Bonds. In addition, Counsel will acknowledge that the Corporation will have no obligation to pay any legal fees except to the extent funds are received from the Borrower for that purpose.

VI. RESPONSIBLE PARTY

Pursuant to State Finance Law Sections 139-j and 139-k and the Corporation’s policy related thereto, Corporation staff has: (a) considered Counsel’s ability to perform the services provided for in the proposed contract; and (b) consulted the list of offerors determined to be non-responsible bidders and debarred offerors maintained by the New York State Office of General Services. Based on the foregoing, staff considers Counsel to be responsible.

VII. 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 and the implementing

regulations for the New York Department of Environmental Conservation. No further environmental review is required in connection with this authorization.

VIII. NON-DISCRIMINATION AND CONTRACTOR & SUPPLIER DIVERSITY

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this contract. Counsel shall be required to include minorities and women in any job opportunities created, to solicit and utilize Minority and Women-Owned Business Enterprises ("MWBEs") for any contractual opportunities generated in connection with this procurement, and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR § 142.8) to achieve an overall MWBE participation goal of at least 30% related to the total amount of ESD's bond counsel fees. Squire has agreed to use good faith efforts to allocate work to Reid. The Board of Directors is simultaneously being asked to separately retain Reid as MWBE counsel for this bond transaction to meet these requirements.

IX. REQUESTED ACTION

The Board of Directors is asked to authorize the retention of Squire as counsel to the Corporation for such legal services as are described in these materials.

X. RECOMMENDATION

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

XI. ATTACHMENT

Resolution

October 14, 2021

NEW YORK TRANSPORTATION DEVELOPMENT CORPORATION – Procurement of Legal Services
Squire Patton Boggs (US) LLP - Authorization to Enter into a Contract for Legal Services in
Connection with the Phase 2.5 Terminal 4 Redevelopment Project at John F. Kennedy
International Airport

RESOLVED, that in accordance with the materials presented to this meeting, a copy of which is hereby ordered to be filed with the records of the Corporation (the “Materials”), the Corporation hereby finds the law firm of Squire Patton Boggs (US) LLP (“Counsel”) to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into a contract with Counsel 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 and his designee(s) be, and each of them hereby is, authorized and directed, in the name and on behalf of the Corporation to execute and deliver any and all Bond documents and to take all such actions as may be necessary or appropriate to effectuate the foregoing. Any actions previously taken by the Corporation or Counsel consistent with this authorization are hereby ratified and affirmed.

* * *

Item 4

FOR CONSIDERATION

October 14, 2021

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Procurement of Legal Services – Law Offices of Joseph C. Reid, P.A.

REQUEST FOR: Authorization to Enter into a Contract for Legal Services in Connection with the Phase 2.5 Terminal 4 Redevelopment Project at John F. Kennedy International Airport

CONTRACT NEED AND JUSTIFICATION

I. CONTRACT SUMMARY

Counsel: The Law Offices of Joseph C. Reid P.A. (“Reid” or “Counsel”)

Scope of Services: Counsel would serve as co-bond counsel together with the law firm of Squire Patton Boggs (US) LLP (“Squire”) for which the board of directors (the “Board of Directors”) of the New York Transportation Development Corporation (the “Corporation” or “TDC”) will be requested to authorize under a separate resolution to provide legal services to the Corporation in connection with the issuance of Special Facility Revenue Bonds, in one or more series or subseries including, but not limited to, Series 2021A (Tax-Exempt/AMT) and Series 2021B (Taxable) (Terminal 4 John F. Kennedy International Airport Project), in which may be fully or partially supported by a bond insurance policy or a reserve fund surety (the “Bonds”) to (i) pay costs relating to the modernization, expansion, and equipping of the existing Terminal 4 and other related facilities at the John F. Kennedy International Airport (collectively, the “Project”); (ii) pay a portion of the interest on the Bonds accruing during construction of the Project; (iii) fund a debt service reserve fund for the Bonds; and (iv) pay costs of issuance related to the Bonds.

Contract Amount: All counsel fees for the Bonds, including Counsel’s fee and all affiliated eligible costs of the Bond transaction, shall be payable only up to an aggregate amount equal to 2% of the of the par amount of the Bonds. Squire will be required to use good faith efforts to allocate at least 30% participation on this matter to Counsel.

Funding Source: The contract will be funded in its entirety by JFK International Air Terminal LLC (“JFK-IAT” or the “Borrower”) on or about the closing date of the Bonds. Counsel will agree that the Corporation will not be obligated to pay any amounts for services described herein except to the extent, if any, that the Corporation receives funds from the Borrower for that purpose.

II. BACKGROUND

JFK-IAT has requested the Corporation serve as the issuer of the Bonds, the proceeds of which will be used by the Borrower to (i) pay costs relating to the modernization, expansion, and equipping of the existing Terminal 4 and other related facilities at the John F. Kennedy International Airport (collectively, the “Project”); (ii) pay a portion of the interest on the Bonds accruing during construction of the Project; (iii) fund a debt service reserve fund for the Bonds; and (iv) pay costs of issuance related to the Bonds.

The Corporation will seek the consent of the Board of Directors to the form of the Bond documents, as well as the approval by the Board of Directors of the terms of the transaction, at a subsequent meeting.

III. COUNSEL SELECTION PROCESS

On June 27, 2016 the New York State Urban Development Corporation d/b/a Empire State Development (“ESD”) staff reached out to multiple firms, including firms on the existing Pre-Qualified Counsel List and placed an advertisement in the *New York State Contract Reporter* requesting proposals from law firms to create a new Pre-Qualified Counsel List in the following practice areas (including, in each instance, litigation capabilities): (1) real estate and land use; (2) construction; (3) environmental; (4) condemnation; (5) bankruptcy; (6) taxation; (7) bond financing; (8) foreclosure; (9) employment; (10) transactional direct and indirect investments; and (11) regulatory litigation.

Seventy-eight Firms responded to the solicitation. The responses were evaluated by a Review Committee consisting of seven ESD attorneys, including the Senior Counsels responsible for environmental, litigation, contractor and supplier diversity and employment matters and the Deputy General Counsel. The Review Committee recommended a new Pre-Qualified Counsel List, which ESD approved on February 16, 2017. Based on ESD’s review process and board approval, the Corporation’s Board of Directors adopted the ESD Pre-Qualified Counsel List on February 16, 2017. Counsel is on this Pre-Qualified Counsel List for bond counsel services.

Staff recommended the retention of Counsel as co-bond counsel for the Financings based on: (a) knowledge and expertise of the firm; (b) prior satisfactory work which the firm has performed for ESD and the Corporation including serving as co-bond counsel on several other Corporation airport financings; (c) rate proposal; and (d) the ESD pre-qualification process. For all the reasons stated above, staff is requesting that Counsel be retained for this transaction.

IV. SCOPE OF WORK

Counsel will advise the Corporation in securities, bonds, taxes and other related legal matters in connection with the issuance and sale of the Bonds. Such work may include, but not be limited to, drafting, negotiating, and finalizing the following types of Bond documents: sale contracts, resolution amendments, disclosure documents and tax opinions. Counsel also would coordinate documentation with other involved agencies.

V. CONTRACT - NEED, PRICE AND FUNDING

A. NEED FOR CONTRACT

In accordance with federal tax law, an opinion from bond counsel is required to opine upon tax-exempt bonds. In addition, bond counsel expertise is necessary to ensure compliance with applicable securities laws and market practices. The Corporation has used experienced bond counsel on every issuance of its bonds.

B. CONTRACT PRICE AND FUNDING

This is a conduit financing with no Corporation funds at risk. Accordingly, the Borrower will fully fund all Counsel costs and expenses. Counsel would work at their typical hourly rate less a small discount. All Counsel costs and expenses are expected to be paid by the Borrower from Bond proceeds on or about the closing on the Bonds. All Counsel fees on the Bonds, including Squire and other affiliated eligible costs of the Bond transaction, shall be payable only up to an aggregate amount equal to 2% of the par amount of the Bonds. In addition, Counsel will acknowledge that the Corporation will have no obligation to pay any legal fees except to the extent funds are received from the Borrower for that purpose.

VI. RESPONSIBLE PARTY

Pursuant to State Finance Law Sections 139-j and 139-k and the Corporation's policy related thereto, staff has: (a) considered Counsel's ability to perform the services provided for in the proposed contract; and (b) consulted the list of offerors determined to be non-responsible bidders and debarred offerors maintained by the New York State Office of General Services. Based on the foregoing, staff considers Counsel to be responsible.

VII. 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 and the implementing regulations for the New York Department of Environmental Conservation. No further environmental review is required in connection with this authorization.

VIII. NON-DISCRIMINATION AND CONTRACTOR & SUPPLIER DIVERSITY

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this contract. Counsel shall be required to include minorities and women in any job opportunities created, to solicit and utilize Minority and Women-Owned Business Enterprises ("MWBEs") for any contractual opportunities generated in connection with this procurement, and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR § 142.8) to achieve an overall MWBE participation goal of 30% related to the total amount of the Corporation's bond counsel fees. However, by virtue of Counsel's status as an MWBE, Counsel satisfies the MWBE requirement without the need for additional MWBE participation. Squire has agreed in a separate retainer to use good faith efforts to achieve this participation goal.

IX. REQUESTED ACTION

The Board of Directors is asked to authorize the retention of Reid as Counsel to the Corporation for such legal services as are described in these materials.

X. RECOMMENDATION

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

XI. ATTACHMENT

Resolution

October 14, 2021

NEW YORK TRANSPORTATION DEVELOPMENT CORPORATION – Procurement of Legal Services
Law Offices of Joseph C. Reid, P.A. - Authorization to Enter into a Contract for Legal Services in
Connection with the Phase 2.5 Terminal 4 Redevelopment Project at John F. Kennedy
International Airport

RESOLVED, that in accordance with the materials presented to this meeting, a copy of which is hereby ordered to be filed with the records of the Corporation (the “Materials”), the Corporation hereby finds the law firm of Joseph C. Reid, P.A. (“Counsel”) to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into a contract with Counsel 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 and his designee(s) be, and each of them hereby is, authorized and directed, in the name and on behalf of the Corporation to execute and deliver any and all Bond documents and to take all such actions as may be necessary or appropriate to effectuate the foregoing. Any actions previously taken by the Corporation or Counsel consistent with this authorization are hereby ratified and affirmed.

* * *

Item 5

FOR CONSIDERATION

October 14, 2021

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Procurement of Legal Services – Hardwick Law Firm, LLC

REQUEST FOR: Authorization to Enter into a Contract for Legal Services in Connection with the Phase 2.5 Terminal 4 Redevelopment Project at John F. Kennedy International Airport; and Authorization to Take Related Actions

I. CONTRACT SUMMARY

Counsel: Hardwick Law Firm, LLC (“Counsel”)

Scope of Services: Counsel would serve as bond disclosure counsel for which the board of directors (the “Board of Directors”) of the New York Transportation Development Corporation (the “Corporation” or “TDC”) will be requested to authorize under a separate resolution to provide legal services to the Corporation in connection with the issuance of Special Facility Revenue Bonds, in one or more series or subseries including, but not limited to, Series 2021A (Tax-Exempt/AMT) and Series 2021B (Taxable) (Terminal 4 John F. Kennedy International Airport Project), in which may be fully or partially supported by a bond insurance policy or a reserve fund surety (the “Bonds”) to (i) pay costs relating to the modernization, expansion, and equipping of the existing Terminal 4 and other related facilities at the John F. Kennedy International Airport (collectively, the “Project”); (ii) pay a portion of the interest on the Bonds accruing during construction of the Project; (iii) fund a debt service reserve fund for the Bonds; and (iv) pay costs of issuance related to the Bonds.

Contract Amount: All Counsel fees for the Bonds, including Counsel’s fee and all affiliated eligible costs of the Bond transaction, shall be payable only up to an aggregate amount equal to 2% of the of the par amount of the Bonds.

Funding Source: The contract will be funded in its entirety by JFK International Air Terminal LLC (“JFK-IAT” or the “Borrower”) on or about the Bond closing date. Counsel will agree that the Corporation will not be obligated to pay any amounts for services described herein except to

the extent, if any, that the Corporation receives funds from the Borrower for that purpose.

II. BACKGROUND

JFK-IAT has requested the Corporation serve as the issuer of the Bonds, the proceeds of which will be used by the Borrower to (i) pay costs relating to the modernization, expansion, and equipping of the existing Terminal 4 and other related facilities at the John F. Kennedy International Airport (collectively, the "Project"); (ii) pay a portion of the interest on the Bonds accruing during construction of the Project; (iii) fund a debt service reserve fund for the Bonds; and (iv) pay costs of issuance related to the Bonds.

The Corporation staff will seek the consent of the Board of Directors to the form of the Bond documents, as well as the approval by the Board of Directors of the terms of the transaction, at a subsequent meeting.

III. COUNSEL SELECTION PROCESS

On June 27, 2016 staff of New York State Urban Development Corporation d/b/a Empire State Development ("ESD") reached out to multiple firms, including firms on the existing Pre-Qualified Counsel List and placed an advertisement in the New York State Contract Reporter requesting proposals from law firms to create a new Pre-Qualified Counsel List in the following practice areas (including, in each instance, litigation capabilities): (1) real estate and land use; (2) construction; (3) environmental; (4) condemnation; (5) bankruptcy; (6) taxation; (7) bond financing; (8) foreclosure; (9) employment; (10) transactional direct and indirect investments; and (11) regulatory litigation.

Seventy-eight Firms responded to the solicitation. The responses were evaluated by a Review Committee consisting of seven ESD attorneys, including the Senior Counsels responsible for environmental, litigation, contractor and supplier diversity and employment matters and the Deputy General Counsel. The Review Committee recommended a new Pre-Qualified Counsel List, which ESD approved on February 16, 2017. Based on ESD's review process and board approval, the Corporation's Board of Directors adopted ESD's Pre-Qualified Counsel List on February 16, 2017. The Hardwick Law Firm, LLC ("Hardwick") is on this Pre-Qualified Counsel List for bond counsel services.

It is recommended that Hardwick serve as disclosure counsel for this transaction. Selection of Counsel for this transaction was predicated on the fact that Hardwick is a certified Minority and Women-Owned Business Enterprise ("MWBE") and previously served as co-bond counsel and disclosure counsel for several recent airport financings by the Corporation. Accordingly, staff recommends the retention of Counsel for the Bonds based on: (a) Counsel's specific and necessary expertise as disclosure counsel, (b) Counsel's performance with distinction on other airport transactions, (c) Counsel's rate proposal, and (d) the ESD pre-qualification process.

IV. SCOPE OF WORK

Counsel will advise the Corporation in securities, bonds, taxes and other related disclosure matters in connection with the issuance and sale of the Bonds. Such work may include, but not be limited to, drafting, negotiating, and finalizing the following types of Bond documents: sale contracts, resolution amendments, and disclosure documents.

V. CONTRACT - NEED, PRICE AND FUNDING

A. NEED FOR CONTRACT

As a result of recent changes to federal securities laws, in particular the Dodd-Frank Act, there are an increasing number of rules and an increasing amount of oversight with respect to disclosure and continuing disclosure for issuers of tax-exempt bonds. In order to fully address these requirements many issuers are retaining separate disclosure counsel. This additional expertise will help ensure compliance with applicable securities laws and market practices.

B. CONTRACT PRICE AND FUNDING

This is a conduit financing with no Corporation funds at risk. Accordingly, the Borrower will fully fund all Counsel costs and expenses. Counsel would work at their typical hourly rate less a small discount. All Counsel costs and expenses are expected to be paid by the Borrower from Bond proceeds on or about the closing on the Bonds. All counsel fees on the Bonds, including Hardwick and other affiliated eligible costs of the Bond transaction, shall be payable only up to an aggregate amount equal to 2% of the par amount of the Bonds. In addition, Counsel will acknowledge that the Corporation will have no obligation to pay any legal fees except to the extent funds are received from the Borrower for that purpose.

VI. RESPONSIBLE PARTY

Pursuant to State Finance Law Sections 139-j and 139-k and the Corporation's policy related thereto, staff has: (a) considered Counsel's ability to perform the services provided for in the proposed contract; and (b) consulted the list of offerors determined to be non-responsible bidders and debarred offerors maintained by the New York State Office of General Services. Based on the foregoing, staff considers Counsel to be responsible.

VII. 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 and the implementing regulations for the New York Department of Environmental Conservation. No further environmental review is required in connection with this authorization.

VIII. NON-DISCRIMINATION AND CONTRACTOR & SUPPLIER DIVERSITY

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this contract. Counsel shall be required to include minorities and women in any job opportunities created, to solicit and utilize Minority and Women-Owned Business Enterprises ("MWBEs") for any contractual opportunities generated in connection with this procurement, and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR § 142.8) to achieve MWBE participation. Counsel is a Minority-owned Business Enterprise certified by the State of New York and may utilize its certification to satisfy the above requirement.

IX. REQUESTED ACTION

The Board of Directors is requested to authorize the retention of Hardwick as Counsel to the Corporation for such legal services as are described in these materials.

X. RECOMMENDATION

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

XI. ATTACHMENT

Resolution

October 14, 2021

NEW YORK TRANSPORTATION DEVELOPMENT CORPORATION – Procurement of Legal Services
Hardwick - Authorization to Enter into a Contract for Legal Services in Connection with the Phase
2.5 Terminal 4 Redevelopment Project at John F. Kennedy International Airport; and
Authorization to Take Related Actions

RESOLVED, that in accordance with the materials presented to this meeting, a copy of which is hereby ordered to be filed with the records of the Corporation (the “Materials”), the Corporation hereby finds the law firm of Hardwick Law Firm, LLC (“Counsel”) to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into a contract with Counsel 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 and his designee(s) be, and each of them hereby is, authorized and directed, in the name and on behalf of the Corporation to execute and deliver any and all Bond documents and to take all such actions as may be necessary or appropriate to effectuate the foregoing. Any actions previously taken by the Corporation or Counsel consistent with this authorization are hereby ratified and affirmed.

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