

NEW YORK TRANSPORTATION DEVELOPMENT CORPORATION

Meeting of the Directors

Thursday

November 9, 2023 – 11:00 a.m.

AGENDA

FOR CONSIDERATION

1. New York Transportation Development Corporation – Issuance of Bonds by New York Transportation Development Corporation (the “Corporation”) for the Benefit of JFK NTO LLC to Finance Certain Costs of the John F. Kennedy International Airport New Terminal One Project – Authorization to Perform Certain Acts in Connection with the Sale and Delivery of the New York Transportation Development Corporation Special Facilities Revenue Bonds, Series 2023 (John F. Kennedy International Airport New Terminal One Project) (Green Bonds) (the “Series 2023 Bonds”) and to Take Related Actions

Item 1



FOR CONSIDERATION

November 9, 2023

TO: The Directors

FROM: Matthew Bray

SUBJECT: Issuance of Bonds by New York Transportation Development Corporation (the “Corporation”) for the Benefit of JFK NTO LLC to Finance Certain Costs of the John F. Kennedy International Airport New Terminal One Project

REQUEST FOR: Authorization to Perform Certain Acts in Connection with the Sale and Delivery of the New York Transportation Development Corporation Special Facilities Revenue Bonds, Series 2023 (John F. Kennedy International Airport New Terminal One Project) (Green Bonds) (the “Series 2023 Bonds”) and to Take Related Actions

I. INTRODUCTION

In December 2019, the Corporation authorized inducement of the financing of certain aspects of the redevelopment, construction, financing, operation and maintenance of the new Terminal One passenger terminal facility at John F. Kennedy International Airport at terminal facilities known as Terminal One, Terminal Two and Terminal Three (the “Project”), including the commencement of review and preparation of documents necessary in connection therewith. Subsequently, in June, 2022, the Corporation approved the operative provisions, terms and transactions contemplated by the senior debt financing documents, consisting of a credit agreement, common terms agreement, related documents and the Corporation entered into certain bank loans in connection with the Project.

II. BACKGROUND AND PURPOSE

The Lessee has requested that the Corporation issue the Series 2023 Bonds for the following purposes: (i) to finance or refinance a portion of the costs of Phase A of the Project originally financed by the proceeds of a portion of the outstanding bank loans; and (ii) to pay certain costs of issuance related to the Series 2023 Bonds.

The Project is being developed by the project company, JFK NTO LLC, a Delaware limited liability company (“NTO” or the “Lessee”). The Lessee is a special purpose Delaware limited liability company, all of the interests of which on the closing date will be indirectly owned by Mars NTO LLC, JLC Infrastructure, and an affiliate of Ullico Inc., (collectively referred to as the

“Financial Sponsors”, and each a “Financial Sponsor”). The Lessee will be the tenant under the lease agreement between the Lessee and the Port Authority of New York and New Jersey (the “Port Authority”).

Initial financing of the Project commenced in June, 2022 pursuant to (i) an Amended and Restated Credit Agreement (as amended, the “Credit Agreement”) by and among the Lessee, MUFG Bank, Ltd., as administrative agent (the “Administrative Agent”), the lenders and letter of credit issuing banks party thereto from time to time (collectively, the “Lenders”), and the Corporation, pursuant to which certain Lenders, committed to lend to the Corporation a term loan facility, a liquidity facility, a working capital facility and a security deposit facility, (ii) an Amended and Restated Common Terms Agreement, (as amended, the “Common Terms Agreement”) by and among the Lessee, the Corporation, JFK NTO TRS LLC, and MUFG Union Bank, N.A, in its capacities as collateral agent (the “Collateral Agent”) and account bank, and MUFG Bank, Ltd, as intercreditor agent and Administrative Agent, which permits for future bond issuances if certain terms and conditions are met and provides for the sharing of collateral and payments (between the banks/financial institutions and bond trustee/bondholders) and (iii) a Building Loan Agreement and a Project Loan Agreement (collectively, the “Loan Agreements”), among the Corporation, the Lessee and MUFG Bank, Ltd., as intercreditor agent, which agreements effectuate the on-lending to the Lessee of both advances made by banks/financial institutions under the Credit Agreement and the proceeds from future issuances by the Corporation of tax-exempt and taxable bonds.

The Corporation is the conduit issuer under the Credit Agreement and passes through the borrowings under the Credit Agreement to Lessee through the Loan Agreements. The Credit Agreement provided for an initial loan to fund Project Costs in an aggregate principal amount of approximately \$1,430,000,000 and an additional commitment to fund Project Costs in an aggregate principal amount of approximately \$4,900,000,000, a commitment to finance the Lessee’s working capital needs in an aggregate principal amount of approximately \$50,000,000, a liquidity facility to finance the Lessee’s short-term liquidity needs in an aggregate principal amount of approximately \$200,000,000 and security deposit facility payable to the Port Authority under the Lease in an aggregate principal amount of approximately \$50,000,000.

The Project is expected to be completed in three phases, the first of which, Phase A, commenced in June, 2022 and is expected to open in June 2026. The Project has been and will continue to be funded with equity to be provided by the Financial Sponsors and through third-party debt borrowed or to be borrowed and on-loaned by the Corporation or bonds issued by the Corporation. The third-party debt includes and is expected to continue to include (i) bank loan facilities and (ii) letter of credit facilities ((i) and (ii) collectively “Bank Loan Facilities”) and is expected to include tax-exempt and taxable bonds issued by the Corporation (the “Bonds”). A commercial banking syndicate, which does not include any of the Financial Sponsors, has committed to make available the Bank Loan Facilities having a floating rate of interest, which has been and will be disbursed in the form of loans and letters of credit to the Corporation as needed from time to time to fund construction costs, thereby reducing the carrying costs of the financing. Under the plan of finance for the Project, it is anticipated that the Corporation will issue fixed

interest rate tax-exempt and/or taxable bonds at two or more times in two or more series to provide proceeds sufficient in amount to refinance and prepay all or a portion of the Bank Loans and/or pay Project costs, thereby providing long-term financing for the Project. The Lessee entered into certain forward-starting interest rate hedge agreements to mitigate the risk of higher interest rates on its senior debt, including the tax-exempt and/or taxable bonds expected to be issued to refinance and prepay the Bank Loans Facilities incurred to pay such costs or to fund a portion of the costs of the Project. The Lessee has requested that the Corporation designate the Bonds as “Green Bonds” and has engaged Kestrel to provide an opinion regarding such designation.

III. SECURITY

The Series 2023 Bonds will be issued and secured under a Master Indenture of Trust, by and among the Corporation, The Bank of New York Mellon, as trustee (the “Trustee”), and the Lessee (the “Master Indenture”), as amended and supplemented by a First Supplemental Indenture of Trust, by and among the Corporation, the Trustee and the Lessee (the “First Supplemental Indenture”), and together with the Master Indenture, the “Indenture”).

The Series 2023 Bonds will be special limited obligations of the Corporation, to be repaid solely from loan payments and other payments made by the Lessee to the Corporation pursuant to the Loan Agreements. The Series 2023 Bonds, all or a portion of which may be insured by a bond insurance policy, are secured ratably with the other secured obligations in accordance with the Common Terms Agreement by the following: Project revenues; a mortgage lien and security interest on all of the Lessee’s right, title and interest to and under the Lease and premises demised thereunder; an assignment of all of the Corporation’s interest in and to the Loan Agreements and related notes, the leasehold mortgages (subject to certain reserved rights) and certain other security interests. The Corporation has no obligation to use other funds for such purposes. The Series 2023 Bonds, and related financial agreements are not an obligation of the State of New York or any political subdivision thereof and neither the State of New York nor any political subdivision thereof, nor the Corporation, shall be liable thereon.

IV. ENVIRONMENTAL REVIEW

The Corporation, as lead agency, previously has completed an environmental review of the Project, together with certain related actions proposed for John F. Kennedy International Airport, and issued a negative declaration under the State Environmental Quality Review Act (“SEQRA”) on February 24, 2022 finding that the Project would have no significant adverse impacts on the environment. Therefore, no further environmental review is required in connection with the requested action.

V. REQUESTED ACTION

In accordance with the attached resolution, you are hereby requested to: (1) approve the terms and authorize the sale of the Series 2023 Bonds on a negotiated basis; (2) approve the form

and content of the official statement and various other documents in connection with the sale and delivery of the Series 2023 Bonds; and (3) authorize certain officers and employees of the Corporation to take all actions deemed necessary to accomplish the final sale and delivery of the Series 2023 Bonds.

VI. ATTACHMENTS

Resolution with the following Exhibits: (Exhibits to Directors only)

- A. Common Terms Agreement
- B. Credit Agreement
- C. Project Loan Agreement
- D. Building Loan Agreement
- E. Indenture
- F. Preliminary Official Statement
- G. Bond Purchase Agreement

November 9, 2023

NEW YORK TRANSPORTATION DEVELOPMENT CORPORATION – Issuance of bonds by New York Transportation Development Corporation for the benefit of JFK NTO LLC to finance and refinance certain costs of the New Terminal One Project at John F. Kennedy International Airport – Authorization to Perform Certain Acts in Connection with the Sale and Delivery of the New York Transportation Development Corporation Special Facilities Revenue Bonds, Series 2023 (John F. Kennedy International Airport New Terminal One Project) (Green Bonds) and to Take All Related Actions

WHEREAS, the New York Transportation Development Corporation (the “Corporation”), a local development corporation caused to be incorporated by the New York Job Development Authority pursuant to Section 1411 of the New York Not-For-Profit Corporation Law, being Chapter 35 of the Consolidated Laws of New York, and Section 1802, Subtitle I, Title 8, Article 8 of the New York Public Authorities Law (collectively, the “Act”), is authorized by the Act and its by-laws to issue special facility revenue bonds; and

WHEREAS, in December of 2019, the Corporation declared its official intent to assist in the financing of the Project including the redevelopment, construction, financing, operation and maintenance of the New Terminal One passenger terminal facility at John F. Kennedy International Airport in Queens, New York (the “Airport”) at terminal facilities known as (a) the former Terminal 3 site and site of the Green Garage (the “Initial Premises”), (b) the former Terminal 2 site (the “First Additional Premises”) and (c) subject to certain conditions, the existing Terminal 1 site (the “Second Additional Premises”) and together with the Initial Premises and the First Additional Premises, the “Leased Premises”) and to incur loans and to issue bonds and use the proceeds thereof to pay, refinance, or reimburse certain costs of the redevelopment, construction, financing, operation and maintenance of the Leased Premises at the John F. Kennedy International Airport New Terminal One Project (the “Project”), to be undertaken by JFK NTO LLC, a Delaware limited liability company (the “Lessee”). This declaration of official intent was subject to subsequent approval of the Project by the Corporation and the Port Authority (hereinafter defined); and

WHEREAS, the Airport is owned by The City of New York (the “City”) and is leased to The Port Authority of New York and New Jersey, a municipal corporate instrumentality and political subdivision of the States of New York and New Jersey, created and existing by virtue of the Compact of April 30, 1921, made by and between the States of New York and New Jersey, and thereafter consented to by the Congress of the United States (the “Port Authority”) pursuant to the terms and conditions of the Amended and Restated Agreement of Lease of the Municipal Air Terminals dated November 24, 2004, as amended, amended and restated, supplemented or otherwise modified from time to time (the “Basic Lease”); and

WHEREAS, on June 10, 2022, the Port Authority entered into the Agreement of Lease (the "Lease," as such term is defined in the Common Term Agreement defined below and a copy of which is annexed to this Resolution as Exhibit A) with the Lessee, pursuant to which, among other things, the Lessee is obliged to complete the Project; and

WHEREAS, pursuant to a resolution of the Board of Directors of the Corporation (the "Board") dated June 3, 2022, the Corporation entered into (i) an Amended and Restated Credit Agreement among the Lessee, MUFG Bank, Ltd., as administrative agent (the "Administrative Agent") and the lenders and letter of credit issuing banks party thereto (the "Lenders") and the Corporation, referred to herein as the "Credit Agreement," (a copy of which is annexed to this Resolution as Exhibit B), (ii) an Amended and Restated Common Terms Agreement (as amended, the "Common Terms Agreement") by and among the Lessee, JFK NTO TRS LLC (the "Taxable REIT Subsidiary"), MUFG Union Bank, N.A., as collateral agent and account bank (the "Collateral Agent"), on behalf of itself and the other secured parties (the "Secured Parties"), MUFG Bank, Ltd, as the Intercreditor Agent and Administrative Agent, the Corporation and each other secured party that becomes a party thereto from time to time, pursuant to which, among other things, intercreditor terms between such creditors are included, and pursuant to which certain of the Lenders, made available to the Corporation a term loan facility, a liquidity facility, a working capital facility and a security deposit facility, (collectively, "Bank Loans") and the Lessee has requested that the Corporation issue one or more series of senior secured bonds, for the purposes of funding, refinancing, or reimbursing the Project and associated costs, including the cost, if any, of terminating certain hedge agreements in respect of tax-exempt and/or taxable obligations to be issued by the Corporation in respect of the Project; and

WHEREAS, in connection with the anticipated issuance of certain tax-exempt obligations to be used to pay or refinance costs relating to the Project, the Corporation undertook the requirements under Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) to provide for the approval of the plan of financing that includes the Series 2023 Bonds (as defined below); and

WHEREAS, the Lessee has requested that the Corporation issue its Special Facilities Revenue Bonds, Series 2023 (John F. Kennedy International Airport New Terminal One Project) (Green Bonds) (the "Series 2023 Bonds"), all or a portion of which may be insured by a bond insurance policy, the proceeds of which will be loaned to the Lessee to: (i) refinance a portion of the cost of the Project originally financed by the proceeds of a portion of the outstanding Bank Loans, pursuant to the project loan agreement (the "Project Loan Agreement," a copy of which is annexed to this Resolution as Exhibit C) with the Lessee and MUFG Bank, Ltd., as intercreditor agent (the "Intercreditor Agent") and (ii) fund Building Loan Costs (as defined in the Common Terms Agreement), pursuant to the building loan agreement (the "Building Loan Agreement," a copy of which is annexed to this Resolution as Exhibit D, and together with the Project Loan Agreement, the "Loan Agreements") with the Lessee and the Intercreditor Agent and (iii) pay certain costs of issuance related to the Series 2023 Bonds, including hedge termination costs, if any; and

WHEREAS, the Borrower has requested that the Corporation designate the Bonds as “Green Bonds” and has engaged Kestrel to provide an opinion regarding such designation; and

WHEREAS, the Series 2023 Bonds will be issued and secured under a Master Indenture of Trust, by and among the Corporation, The Bank of New York Mellon, as trustee (the “Trustee”) and the Lessee (the “Master Indenture”), as amended and supplemented by a First Supplemental Indenture of Trust, by and among the Corporation, the Trustee and the Lessee (the “First Supplemental Indenture” together with the Master Indenture, the “Indenture”), copies of which are annexed to this Resolution as Exhibit E; and

WHEREAS, the Corporation has assigned certain of its rights under the leasehold mortgages to the Collateral Agent; and

WHEREAS, the Corporation will assign certain of its rights under the Loan Agreements and assign its rights under the related notes to the Trustee as security for the Series 2023 Bonds; and

WHEREAS, the duly authorized officers of the Corporation have caused to be prepared a Preliminary Official Statement, a form of which is annexed to this Resolution as Exhibit F, and will cause to be prepared an Official Statement to be used in connection with the issuance and sale of the Series 2023 Bonds (collectively, the “Official Statement”) and have negotiated a purchase contract for the Series 2023 Bonds (the “Bond Purchase Agreement”) by and among the Corporation, Citigroup Global Markets Inc., as representative of the underwriters named in the Bond Purchase Agreement (the “Underwriters”), and the Lessee, a copy of which is annexed to this Resolution as Exhibit G; and

WHEREAS, the Corporation as lead agency, after considering the potential impacts of the Project together with certain related actions proposed for the Airport, issued a negative declaration under the State Environmental Quality Review Act (“SEQRA”) on February 24, 2022 finding that the Project would have no significant adverse impacts on the environment.

NOW, therefore, the Board, in accordance with the materials presented at this meeting, including the Board Memorandum and the Exhibits annexed to this Resolution (other than the Exhibits attached to this Resolution for informational purposes only) (collectively, the “Materials”), upon motion duly made and seconded, duly adopts the following Resolution; and

RESOLVED, that copies of the Materials are hereby ordered to be filed with the records of the Corporation and are deemed to be incorporated herein by reference; and further

RESOLVED, that the Master Trust Indenture, the First Supplemental Indenture, and the Bond Purchase Agreement (including in each case any exhibits and schedules thereto), in substantially the forms presented to this meeting, are hereby approved, and any Authorized Officer (as hereinafter defined) is hereby authorized and directed to execute and deliver the same on behalf of the Corporation, in such forms as are approved with such changes, supplements and amendments thereto as any Authorized Officer executing the same may approve, such approval to be conclusively evidenced by such Authorized Officer’s execution thereof; and further

RESOLVED, that the Official Statement, in substantially the form of the Preliminary Official Statement presented to this meeting, is hereby approved, and the distribution of the Preliminary Official Statement and the Official Statement in connection with the sale of the Series 2023 Bonds, with such changes, supplements and amendments thereto as may be necessary or appropriate to reflect the documents and the matters described therein or as may be approved by an Authorized Officer, such approval to be conclusively evidenced by the execution of the final Official Statement, is hereby authorized, and any Authorized Officer is hereby authorized and directed to execute the same on behalf of the Corporation; and further

RESOLVED, that the Corporation hereby designates the Bonds as “Green Bonds” in reliance upon the opinion of Kestrel; and further

RESOLVED, that the amount, maturity or maturities, prices and yields, if any, and other terms of or relating to the Series 2023 Bonds (the “Terms”) insofar as set forth in the Indenture, are hereby approved, with the understanding that such Terms will be finalized in connection with the sale of the Series 2023 Bonds, which is subject to the final approval of any Authorized Officer, such approval to be evidenced by such Authorized Officer’s execution of each of the Master Trust Indenture and the First Supplemental Indenture and the Bond Purchase Agreement and that all other documents relating to the Series 2023 Bonds shall similarly, as appropriate, be conformed thereto; provided that the aggregate principal amount of the Series 2023 Bonds shall not exceed \$6,630,000,000, the final maturity shall not extend beyond December 31, 2060 and the interest rates to be borne by the Series 2023 Bonds shall not exceed a net interest cost of 12%; and further

RESOLVED, that, subject to the conditions set forth in the Bond Purchase Agreement, the Corporation shall sell and award the aggregate principal amount of the Series 2023 Bonds to the Underwriters; and further

RESOLVED, that the Corporation shall offer for sale, sell, issue and deliver the Series 2023 Bonds pursuant to the Bond Purchase Agreement and the Indenture and shall apply the proceeds thereof in accordance with the Indenture and certain documents and certificates to be delivered upon the issuance of the Series 2023 Bonds; and further

RESOLVED, that each of the Chief Financial Officer, Deputy General Counsel, Controller, and Treasurer of the Corporation, and any other person duly authorized to act in such capacity, is designated an “Authorized Officer” (each an “Authorized Officer”); and further

RESOLVED, that each of the Authorized Officers is hereby authorized and directed to approve and execute such documents, instruments and certificates, make any changes to the forms of the Indenture, the Bond Purchase Agreement, the Official Statement (including in each case any exhibits and schedules thereto) and all other related documents, as he or she may reasonably deem necessary, desirable or appropriate to consummate the transactions authorized hereby and thereby, make such payments and take such other actions in the name of the Corporation and on its behalf, as he or she may reasonably deem necessary, desirable or appropriate to carry out the foregoing resolutions, including without limitation, the execution and delivery of any and all papers, instruments, opinions, certificates, affidavits, agreements and

other documents necessary, desirable or appropriate to carry out the foregoing resolutions and that all actions heretofore taken in connection with the offering, sale and issuance of the Series 2023 Bonds by any Authorized Officer or his or her designee are hereby ratified and approved; and further

RESOLVED, that each of the Authorized Officers 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.

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