

## **BOND FINANCING COMMITTEE MEETING**

at the offices of the  
New York State Urban Development Corporation  
d/b/a Empire State Development Corporation  
633 Third Avenue – 37<sup>th</sup> Floor Conference Room  
New York, N.Y. 10017

Thursday

February 20, 2020 – 11:30 a.m.

### **AGENDA**

#### **I. FOR CONSIDERATION**

- A. Issuance of State Sales Tax Revenue Bonds - Authorization to Approve the Resolution Concerning the Sale and Issuance by the New York State Urban Development Corporation (the "Corporation") of State Sales Tax Revenue Bonds Series 2020A and Series 2020B Bonds and Authorization to Perform Certain Acts for the Corporation in Connection with the Issuance of Such Bonds and to Take Related Actions

**Item I. A.**



FOR CONSIDERATION

February 20, 2020

TO: The Bond Financing Committee Members

FROM: Eric J. Gertler

SUBJECT: Issuance of State Sales Tax Revenue Bonds

REQUEST FOR: Authorization to Approve the Resolution Concerning the Sale and Issuance by the New York State Urban Development Corporation (the "Corporation") of State Sales Tax Revenue Bonds Series 2020A and Series 2020B Bonds and Authorization to Perform Certain Acts for the Corporation in Connection with the Issuance of Such Bonds and to Take Related Actions

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I. INTRODUCTION/BACKGROUND

The Bond Financing Committee of the New York State Urban Development Corporation d/b/a Empire State Development ("ESD") is being asked to approve the forms of the supplemental resolution, preliminary official statement and official statement, notices of sale, supplemental schedule to the financing agreement and related documents in connection with the proposed sale and delivery of one or more Series or subseries of the Corporation's State Sales Tax Revenue Bonds (which Bonds may be issued as tax-exempt and/or taxable bonds) on one or more dates in an aggregate principal amount not to exceed \$2,200,000,000 (the "Bonds") and the delegation of the power to determine the terms and conditions of the proposed sale of the Bonds to certain officers and employees of the Corporation, and to award the Bonds to one or more successful bidders in public, competitive sales.

The Bonds will be issued by the Corporation pursuant to the Sales Tax Revenue Bond Financing Program and will be secured by a pledge of financing agreement payments from amounts legally required to be deposited into the Sales Tax Revenue Bond Tax Fund. The Sales Tax Revenue Bond Tax Fund receives a statutory allocation of New York State Sales Tax Receipts (net of amounts the Commissioner of Taxation may determine to be necessary for refunds) in an amount equal to a one percent rate of taxation (equivalent to one cent on every dollar taxed). On and after the date that certain obligations of the Local Government Assistance Corporation ("LGAC") are satisfied, the deposit to the Sales Tax Revenue Bond Tax Fund shall be increased to an amount equal to a two percent rate of taxation (equivalent to two cents on every dollar taxed) from the New York State Sales Tax Receipts.

On February 5, 2020, the Bond Financing Committee approved (the "Initial Approval") the appointment of co-bond counsel and the submission of an application to the Public Authorities Control Board ("PACB") for the authorization to fund the projects or programs for which the Bonds will be issued. The PACB must approve such application prior to the sale of the Bonds.

The Corporation now wishes to issue the Bonds under the New York State Urban Development Corporation State Sales Tax Revenue Bonds General Bond Resolution adopted on September 19, 2019 (the "General Resolution") and Supplemental Resolution 2020-1 Authorizing State Sales Tax Revenue Bonds (the "Supplemental Resolution"). The General Resolution includes the "State Sales Tax Revenue Bonds Standard Resolution Provisions" and authorizes the issuance of Bonds pursuant to a Supplemental Resolution. The Bond Financing Committee is being asked to adopt a Supplemental Resolution authorizing the issuance of the Bonds. The Supplemental Resolution also provides that if the Corporation adopts a supplemental resolution and issues State Personal Income Tax Revenue Bonds as contemplated by the Initial Approval, the principal amount of the Bonds authorized by the Supplemental Resolution will be reduced by the amount of such Personal Income Tax Revenue Bonds.

## II. THE BONDS

The Supplemental Resolution delegates to any Authorized Officer of the Corporation, subject to the limitations contained therein and in the General Resolution, among other things, the power to determine whether the Bonds will be issued in one or more Series at one or more times and the principal amount, designations and tax status of interest thereon of each such Series, and whether the Bonds of any Series will be issued in subseries. The Bonds are currently expected to include two Series. One Series is expected to be issued as fixed rate tax-exempt bonds (the "Series 2020A Bonds"). The other Series is expected to be issued as fixed rate taxable bonds (the "Series 2020B Bonds"). The Bonds are expected to be offered pursuant to one preliminary official statement (the "Preliminary Official Statement") with each Series of Bonds being sold on a competitive basis pursuant to separate notices of sale (the "Notices of Sale"). The Master Disclosure Agreement and Financing Agreement (as described below) previously approved by the Bond Finance Committee will also apply to the Bonds.

Pursuant to the State Sales Tax Revenue Bonds Financing Agreement, dated as of October 1, 2019, between the Corporation and the State (the "Financing Agreement"), the State has agreed, subject to annual appropriation, to pay amounts sufficient to pay debt service coming due on the Bonds ("Financing Agreement Payments"). The Financing Agreement Payments are payable from the amounts legally required to be deposited into the Sales Tax Revenue Bond Tax Fund to provide for the payment of debt service on all State Sales Tax Revenue Bonds, including the Bonds. In connection with the issuance of the Bonds, the Bond Financing Committee is being asked to approve a Supplemental Schedule to the Financing Agreement (the "Supplemental Schedule") that will describe the Bonds.

The Bonds are being issued to finance projects relating to certain State projects and programs and other State-supported activities and may refund certain outstanding State-supported debt previously issued by the Corporation and other authorized issuers of State-supported debt. The programs and funding authorities are more fully described in the Supplemental Resolution. Bond proceeds will also be used to finance the cost of issuance of the Bonds.

### III. ENVIRONMENTAL REVIEW

The authorization to approve the sale and issuance of the Bonds constitutes a Type II action as defined by the New York State Environmental Quality Review Act ("SEQRA") and, therefore, no further environmental review is required in connection with this authorization. Prior to the approval of bond-financed funding for individual projects, any applicable environmental review will be completed pursuant to SEQRA.

### IV. REQUESTED ACTIONS

In accordance with the attached resolution (the "Bond Financing Committee Resolution"), you are hereby requested to: (i) adopt the Supplemental Resolution; (ii) approve the form of the Supplemental Schedule; (iii) authorize the sale of each Series of the Bonds on a public, competitive basis pursuant to the applicable Notice of Sale appended to the Preliminary Official Statement; (iv) approve the form and content of the Preliminary Official Statement and Official Statement and various documents connected with the sale and delivery of the Bonds; and (v) authorize certain officers and employees of the Corporation to take all actions deemed necessary to accomplish the final sale and delivery of the Bonds.

Please note that by approving the Bond Financing Committee Resolution you will: (a) establish an aggregate maximum par amount of Bonds that may be issued; (b) establish the maximum true interest cost for each series of the Bonds; and (c) delegate to certain officers and employees the power to (i) determine the terms of the Bonds within the parameters set forth therein, including, but not limited to, the final aggregate principal amount of the Bonds, the principal amount of each series of the Bonds, the principal amount of the Bonds maturing in each year, the final maturity date(s) for such Bonds and the interest rates to be borne by the Bonds, and (ii) make such changes to the related documents as he or she deems necessary and appropriate.

### V. RECOMMENDATION

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

VI. ATTACHMENTS

Resolution

Bond Financing Committee Resolution Exhibits – To be Provided to the Committee Members  
Under Separate Cover:

- Exhibit A Supplemental Resolution
- Exhibit B Supplemental Schedule to the Financing Agreement
- Exhibit C Preliminary Official Statement
- Exhibit D Notices of Sale

February 20, 2020

NEW YORK STATE URBAN DEVELOPMENT CORPORATION d/b/a EMPIRE STATE DEVELOPMENT – Issuance of State Sales Tax Revenue Bonds - Authorization to Approve the Resolution Concerning the Sale and Issuance by the New York State Urban Development Corporation (the “Corporation”) of State Sales Tax Revenue Bonds Series 2020A and Series 2020B Bonds and Authorization to Perform Certain Acts for the Corporation in Connection with the Issuance of Such Bonds and to Take Related Actions

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WHEREAS, pursuant to the New York State Urban Development Corporation Act, Chapter 174 of the Laws of 1968, as amended and supplemented (the “Issuer Act”), the New York State Urban Development Corporation (the “Corporation”) is authorized to issue bonds for any corporate purposes of the Corporation under and pursuant to the State Sales Tax Revenue Bonds General Bond Resolution adopted by the Directors of the Corporation on September 19, 2019, as supplemented (the “General Resolution”);

WHEREAS, pursuant to Article 5-F of the State Finance Law (the “Enabling Act”), the Corporation is authorized to issue State Sales Tax Revenue Bonds;

WHEREAS, consistent with the Issuer Act and the Enabling Act, the Corporation desires to adopt, and officers of the Corporation have caused to be prepared, Supplemental Resolution 2020-1 (the “Supplemental Resolution”) authorizing the issuance of one or more series of bonds at one or more times, including the proposed Corporation’s State Sales Tax Revenue Bonds, Series 2020A (Tax-Exempt) and State Sales Tax Revenue Bonds Series 2020B (Federally Taxable) (collectively, the “Bonds”); and

WHEREAS, the proceeds of the Bonds will be used to finance certain State projects and programs administered by State public benefit corporations or agencies (collectively, the “Projects”), including reimbursing the State for money advanced for such Projects, and may refund certain outstanding State-supported debt previously issued by the Corporation and other authorized issuers of State-supported debt; and

WHEREAS, the Bonds being issued to finance the Projects are being issued pursuant to the Project Acts described in Exhibit A to the Supplemental Resolution and the related appropriations acts (the “Project Acts”); and

WHEREAS, the Series 2020A Bonds and the Series 2020B Bonds shall be fixed rate bonds and are expected to be sold at separate competitive public sales pursuant to which, in each case, different maturity groups of each series may be sold to different bidders; and

WHEREAS, the Corporation has already obtained or will obtain the required approvals of the Director of the Budget and the Public Authorities Control Board (“PACB”); and if required, the State Comptroller prior to the delivery of the Bonds; and

WHEREAS, the Corporation proposes to execute and deliver a Supplemental Schedule (the "Supplemental Schedule") to the State Sales Tax Revenue Bonds Financing Agreement, dated as of October 1, 2019, between the Corporation and the State (the "Financing Agreement"); and

WHEREAS, officers of the Corporation have caused to be prepared a draft Preliminary Official Statement relating to the Bonds (the "Preliminary Official Statement"); and

WHEREAS, certain of the officers and employees of the Corporation intend to participate in the preparation of a final official statement (the "Official Statement") to be used in connection with the issuance and sale of the Bonds; and

WHEREAS, officers of the Corporation have caused to be prepared a Notice of Sale for each Series of Bonds (the "Notices of Sale") pursuant to which the Corporation will sell such Series by means of a public, competitive sale; and

NOW THEREFORE, this Bond Financing Committee, in the name and on behalf of the Corporation, on the basis of the materials presented to this meeting, copies of which are hereby ordered filed with the records of the Corporation related to the Bonds, hereby adopts the following which shall be considered a single resolution:

I. Supplemental Resolution

RESOLVED, that the Supplemental Resolution of the Corporation presented to this meeting, a copy of which shall be annexed to this resolution as Exhibit A, is hereby adopted and approved, with such modifications therein and additions thereto or deletions therefrom prior to the issuance and delivery of the Bonds as may be approved by an Authorized Officer (hereinafter defined) or further resolution of the Bond Financing Committee; and further

II. Supplemental Schedule

RESOLVED, that the Supplemental Schedule to the Financing Agreement presented to this meeting, a copy of which shall be annexed to this resolution as Exhibit B, is hereby adopted and approved, and any Authorized Officer is hereby authorized and directed to execute and deliver the Supplemental Schedule prior to the issuance and delivery of the Bonds, with such changes therein and additions thereto or deletions therefrom as the Authorized Officer executing the same may approve, such execution to be conclusive evidence of such Authorized Officer's approval; and further

III. Preliminary Official Statement

RESOLVED, that the Preliminary Official Statement of the Corporation presented to this meeting, a copy of which shall be annexed hereto as Exhibit C, is hereby authorized and approved with such changes therein and additions thereto or deletions therefrom as an



Authorized Officer may approve, and the distribution thereof and publication on the Internet in connection with the public offering of the Bonds is hereby authorized, such distribution to be conclusive evidence of such Authorized Officer's approval; and further

IV. Official Statement

RESOLVED, that any Authorized Officer is hereby authorized and directed to make such changes to the Preliminary Official Statement as an Authorized Officer executing the same may approve to create a final Official Statement, and to execute and deliver the same on behalf of the Corporation; and further

V. Notices of Sale

RESOLVED, that the Notices of Sale, copies of which are annexed hereto as Exhibit D, and the distribution and publication thereof on the Internet, are hereby authorized, with such changes therein and additions thereto or deletions therefrom as an Authorized Officer may approve, such distribution or publication to be conclusive evidence of such Authorized Officer's approval; and further

VI. Terms of the Bonds

RESOLVED, that the power (i) to establish the final aggregate principal amount of the Bonds at not greater than \$2,200,000,000, the principal amount of the Bonds maturing in each year, the final maturity date for the Bonds of each series (which shall not be later than the date 30 years after the date of issuance or, where the bonds are issued to refund other bonds, not later than the fiscal year of the final maturity of the bonds being refunded), the interest rates to be borne by the Bonds of each series, and the true interest cost of the Bonds of each series (which true interest cost may not exceed 7.5% for the tax-exempt Bonds and 10% for the taxable Bonds), the redemption provisions of each series of the Bonds, the particular programs or projects to be financed with the proceeds of each series of the Bonds and other details of the Bonds and the plan of finance relating thereto, and the date of sale of the Bonds (the "Terms"); (ii) to sell each series of the Bonds at a public, competitive sale pursuant to the applicable Notice of Sale and (iii) to execute and deliver any and all documents required thereby or in connection therewith, is hereby delegated to the Treasurer of the Corporation (or, in such officer's absence, any other Authorized Officer of the Corporation), and action taken by the Treasurer or any other Authorized Officer shall be sufficient, and the approval of the Bond Financing Committee shall be conclusively determined from the signature of any such Authorized Officer on the document or documents evidencing such determinations; that the Supplemental Resolution shall be conformed thereto, with the Terms inserted effective as of the date hereof; and that all other documents relating to the Bonds shall similarly, as appropriate, be conformed thereto; and further

IX. Sale and Issuance of the Bonds

RESOLVED, that the Corporation shall sell and award each series of Bonds at public, competitive sale in accordance with the applicable Notice of Sale to the successful bidder or bidders; and further

RESOLVED, that the Corporation shall issue and deliver each series of Bonds pursuant to the applicable Notice of Sale and shall apply the proceeds thereof in accordance with the General Resolution and Supplemental Resolution and certain other certificates to be delivered upon issuance of the respective series of the Bonds; and further

X. Authorized Officers

RESOLVED, that each of the President and Chief Executive Officer Designate, the Chief Financial Officer, the Executive Vice President- Legal and General Counsel, the Senior Managing Counsel, any Senior Vice President, any Vice President, the Treasurer, the Deputy Chief Financial Officer and Controller, the Secretary, and the Assistant Secretary of the Corporation, and any person duly authorized to act in such capacity, is designated an "Authorized Officer" for the purposes of this resolution; and further

XI. Appointment of Trustee

RESOLVED, that in connection with the Bonds, the Corporation shall appoint The Bank of New York Mellon as the Trustee and as the Paying Agent, and further

XII. Further Action

RESOLVED, that the Authorized Officers or their designee(s) are each hereby authorized and directed to approve and execute such documents, 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 or appropriate to carry out the foregoing resolutions, including without limitation the acceptance of bids for the purchase of each series of the Bonds pursuant to the applicable Notice of Sale, the execution and delivery of the Bonds, the acquisition of investments and/or the entering into investment agreements in connection with the Bonds and certifying as to certain federal income tax matters, and that all such actions heretofore taken in connection with the Bonds by any Authorized Officer, or his or her designee(s), are hereby ratified and approved. Delivery of any documents authorized hereunder, with such changes therein and additions thereto or deletions therefrom as the Authorized Officer executing the same may approve, shall constitute conclusive evidence of the Corporation's due authorization and approval thereof.

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**Exhibit A**

**Supplemental Resolution**

**Exhibit B**

**Supplemental Schedule to  
the Financing Agreement**

**Exhibit C**

**Preliminary Official Statement**

**Exhibit D**

**Notices of Sale**