

NEW YORK TRANSPORTATION DEVELOPMENT CORPORATION

MEETING OF THE DIRECTORS

FRIDAY

May 21, 2021

11:30 a.m.

NEW YORK TRANSPORTATION DEVELOPMENT CORPORATION

Meeting of the Directors

Friday

May 21, 2021 – 11:30 a.m.

AGENDA

CORPORATE ACTION

1. Approval of the Meeting Minutes of March 5, 2021 Meetings of the Directors

FOR CONSIDERATION

2. New York Transportation Development Corporation – Appointment of Underwriter; Appointment of Additional Underwriters; Authorization to Take Actions Related to the Tax Equity and Fiscal Responsibility Act (“TEFRA”); Appointment of Financial Advisor; Authorization to Proceed with the Review and Preparation of Related Documents; and Authorization to Take All Related Actions
3. New York Transportation Development Corporation – Authorization to Enter Into a Contract to Provide Co-Bond Counsel Services for the New York Transportation Development Corporation in Connection with Issuing Bonds to Renovate, Expand, and Refund Bonds Previously Issued for Terminal 8 at John F. Kennedy International Airport in Queens and to Take Related Actions
4. New York Transportation Development Corporation – Authorization to Enter into a Contract for Co-Bond Counsel Services for the New York Transportation Development Corporation in Connection with Issuing Bonds to Renovate, Expand, and Refund Bonds Previously Issued for Terminal 8 at John F. Kennedy International Airport in Queens and to Take Related Actions
5. New York Transportation Development Corporation – Authorization to Enter into a Contract to Serve as Disclosure Counsel for the New York Transportation Development Corporation in Connection with Issuing Bonds to Renovate, Expand, and Refund Bonds Previously Issued for Terminal 8 at John F. Kennedy International Airport in Queens and to Take Related Actions

Item No. 1

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

March 5, 2021

MINUTES

In Attendance

Directors:

Howard Zemsky – Chair
George Haggerty
Kathleen Mize
Pravina Raghavan

NYTDC Staff:

Elaine A. Kloss – CFO
Regina Stephens – Assistant Secretary

ESD Staff:

Julene Beckford – Senior Counsel and Records
Access Appeal Officer
Peter Heilbrunn, Assistant Treasurer, Debt Management
Felisa Hochheiser – Director of Compliance
Debbie Royce, Corporate Secretary

Others Attending:

Kathie McManus, Hardwick Law Firm, LLC
Jonathan Ballan, Cozen O’Connor

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 that a quorum was present, 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 March 4, 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 the 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 August 18, 2020, and November 10, 2020. He asked if there were any questions, comments, additions or deletions to the minutes. Hearing none, he requested a motion to approve the meeting minutes.

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

APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE AUGUST 18, 2020 AND NOVEMBER 10, 2020 MEETINGS OF THE DIRECTORS OF THE NEW YORK TRANSPORTATION DEVELOPMENT CORPORATION

RESOLVED, that the Minutes of the meetings of the Corporation held on August 18, 2020 and November 10, 2020 as presented to the Directors at these meetings, are hereby approved and all actions taken by the Directors present at such meetings as set forth in such Minutes, are hereby in all respects ratified and approved as actions of the Corporation.

* * *

Chair Zemsky then asked Peter Heilburnn to present the next item on the Agenda, requesting authorization to perform certain acts in connection with the sale and delivery of the

New York Transportation Development Corporation Exempt Facility Revenue Bonds, Series 2021 tax exempt bonds, for the New York State Thruway Service Areas Project.

In his presentation, Mr. Heilburnn stated that the Directors were being asked to approve the operative provisions, sale terms, official statement, bond purchase agreement, related documents and related actions in connection with the sale and delivery of TDC's Exempt Facility Revenue Bonds, Series 2021 to be issued in an amount not to exceed \$350 million for the benefit of Empire State Thruway Partners LLC, (the "Borrower"). He explained that this Project was introduced to the board at its February 24, 2020 meeting. He continued stating that the Borrower has requested the issuance of TDC's Series 2021 Bonds to finance the design, construction, equipping, commissioning, financing and otherwise providing for qualified highway facilities along the NY State Thruway. Mr. Heilburnn further stated that the elements of the Project would include: new food and non-fuel retail facilities and related infrastructure to replace 23 existing facilities; renovations and repairs to food and non-fuel retail facilities and related infrastructure at four existing facilities along the NY State Thruway; and, demolition of existing facilities to allow for construction of new facilities on the Thruway.

Mr. Heilburnn explained that the proceeds of the 2021 Bonds will be used to (a) pay for expenses incurred in connection with the construction and financing of the Project; (b) pay for a portion of the interest payable on the Series 2021 Bonds during the Project's construction; (c) pay the costs of the issuance and financing of the Series 2021 Bonds; and (d) fund a debt service reserve fund for the Series 2021 Bonds. He continued explaining that the Project's land and facilities are owned by the NY State Thruway Authority and the Borrower leases the land and facilities from the Thruway Authority pursuant to an agreement dated 7/21/2020. Mr. Heilburnn continued explaining the terms of the lease agreement in which the Borrower is

obligated to construct the project and operate and maintain the project during the existence of the lease agreement, which is scheduled to expire on June 30, 2054.

He further explained that the 2021 Bonds would be issued and secured under an Indenture of Trust between the Corporation and the Bank of New York Mellon as Trustee and paying agent. He continued explaining the terms of the lease and operative agreements, building loan and project leasehold mortgages.

Mr. Heilburnn stated that the Series 2021 Bonds shall be special limited obligations of the Corporation and shall not be a debt of the State or any political subdivision, the Thruway Authority, New York Job Development Authority, New York State Urban Development Corporation d/b/a Empire State Development or any other local development agency or authority of the State.

He continued, stating that as part of the transaction, the Corporation will also enter into a Bond Purchase Agreement for the initial underwriting of the Series 2021 Bonds. The Corporation is being asked to delegate authority to its officers to approve the maturities, prices, yields and other terms of the Series 2021 Bonds. Also, these bonds are expected to be issued as tax-exempt fixed rate bonds and will be subject to optional and mandatory redemption in whole or, under certain circumstances, in part, at the option of the Borrower as permitted by the indenture.

Lastly, Mr. Heilburnn stated that the Directors were requested to approve the terms and authorize the sale of the Series 2021 Bonds on a negotiated basis; confirm the appointment of certain professionals; approve the form and content of the preliminary statement and various other documents in connection with the sale and delivery of the Bonds; and authorize certain

officers and employees of the Corporation to take all actions deemed necessary to accomplish the final sale and delivery of the Series 2021 Bonds.

Following the presentation of the item, Chair Zemsky asked if the Directors had any questions or comments regarding the item.

Director George Haggerty asked how the lease payments are calculated, and whether the payments are calculated to make the minimum payments under the \$350 million. Director Haggerty clarified his question stating that he wanted to know if the lease payments would ever exceed the amount due on the \$350 million loan such that the Corporation or the NY Thruway Authority will ever receive money for the lease.

Mr. Heilburnn responded that he believed that a certain minimum payment is to be made to the Thruway Authority pursuant to an operating agreement, but he deferred to others on the call with additional information to elaborate. Elaine Kloss, ESD's and the TDC's CFO, asked TDC's bond counsel to answer.

Jonathan Ballan of Cozen O'Connor responded that the lease sets forth the rental payments and the rental payments have minimum and variable components. He continued stating that the Thruway Authority will receive lease revenue payment in addition to the bond being paid.

There being no additional questions or comments from the Directors, Chair Zemsky reiterate that there were no comments received from the public regarding the item. He then requested a motion for approval.

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

NEW YORK TRANSPORTATION DEVELOPMENT CORPORATION – Authorization to Perform Certain Acts in Connection with the Sale and Delivery of the New York Transportation Development Corporation Exempt Facility Revenue Bonds, Series 2021 (Tax-Exempt) (AMT) (New York State Thruway Service Areas Project) and to Take 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 exempt facility revenue bonds; and

WHEREAS, on February 24, 2020, the Board of Directors of the Corporation (the “Board”) adopted a resolution (the “Initial Resolution”) in connection with the Project (as defined below), which Initial Resolution addressed certain matters including, among others, the appointment of underwriters and a financial advisor, authorization of steps to be taken under the Tax Equity and Fiscal Responsibility Act of 1982 (“TEFRA”), authorization to induce a project for private activity financing, authorization to draft certain documents and related matters; and

WHEREAS, in connection with the anticipated issuance of certain tax-exempt obligations to be used to finance the Project (as defined below), the Corporation took steps under TEFRA to provide for the approval of the financing plan that includes the Series 2021 Bonds (as defined below), and a copy of the certificate of publication of notice published on January 25, 2021, a copy of the information made available to the public pursuant to the TEFRA public hearing, and a copy of the TEFRA public hearing transcript are annexed to this Resolution as Exhibit A; and

WHEREAS, Empire State Thruway Partners LLC (the “Borrower”) has requested that the Corporation issue its Exempt Facility Revenue Bonds, Series 2021 (New York State Thruway Service Areas Project) (the “Series 2021 Bonds”) to finance the design, construction, equipping, commissioning, financing and otherwise providing for qualified highway facilities under 26 U.S.C. 142(a)(15) for the Governor Thomas E. Dewey Thruway, a 570-mile superhighway system crossing the State of New York (the “State”) commonly known as the New York State Thruway, including: (a) new food and non-fuel retail facilities and related infrastructure and other facilities functionally related and subordinate thereto, to replace 23 existing food and non-fuel retail facilities located at food and fuel facilities on the New York State Thruway; (b) renovations and repairs to the food and non-fuel retail facilities and related infrastructure and other facilities functionally related and subordinate thereto at four existing food and non-fuel retail facilities located at food and fuel facilities on the New York State Thruway (the food and non-fuel retail facilities in (a) and (b) above collectively the “Service Areas”); and (c) demolishing existing facilities to enable the construction of the new facilities (the “Project”). The Borrower will use the proceeds of the Series 2021 Bonds to (a) pay a portion of the costs and expenses incurred in connection with the construction and financing of the Project; (b) pay a portion of the interest payable on the Series 2021 Bonds during construction of the Project; (c) pay certain costs of issuing the Series 2021 Bonds and other permitted financing costs; and (d) fund a debt service reserve fund for the Series 2021 Bonds; and

WHEREAS, the land on which the Project is located, together with the buildings, structures, improvements and related facilities on such land are owned by the New York State Thruway Authority (the “Thruway Authority”) and leased by the Thruway Authority to the Borrower pursuant to a lease agreement, dated July 21, 2020 (as amended, supplemented or otherwise modified from time to time, the “Lease Agreement”). The Lease Agreement provides, among other things, that the Borrower is obligated to construct the Project and, during the term of the Lease Agreement, operate and maintain the Project. The Lease Agreement is currently scheduled to expire on June 30, 2054, but it is subject to earlier termination in certain circumstances; and

WHEREAS, the Thruway Authority will retain ownership of the Service Areas and title to the improvements will vest in the Thruway Authority as they are constructed. Furthermore, the Borrower will pay the Thruway Authority a monthly operational rent subject to a minimum annual guaranteed rent payment; and

WHEREAS, the duly authorized officers of the Corporation have caused to be prepared a Building Loan Agreement and a Project Loan Agreement (together the “Loan Agreements”), by and between the Corporation and the Borrower, copies of which are annexed to this Resolution as Exhibit B-1 and Exhibit B-2, pursuant to which the Corporation will loan the proceeds of the Series 2021 Bonds to the Borrower; and

WHEREAS, the Borrower will execute Series 2021 Notes in connection with the Loan Agreements (collectively, the “Series 2021 Notes”), which will secure the Borrower’s payment obligations under the Loan Agreements, form copies of such Series 2021 Notes are attached to the Loan Agreements; and

WHEREAS, the Series 2021 Bonds will be issued and secured under an Indenture of Trust (the “Indenture”), dated as of March 1, 2021 by and between the Corporation and The Bank of New York Mellon as trustee and paying agent (the “Trustee”), a copy of which is annexed to this Resolution as Exhibit C; and

WHEREAS, the Borrower will enter into a Collateral Agency, Intercreditor and Accounts Agreement, among the Borrower, The Bank of New York Mellon, as the Collateral Agent, HSBC Bank USA N.A. (or an affiliate thereof), as the Depositary, the Trustee and each Secured Party thereto (the “Collateral Agency Agreement”), in connection with the administration of certain funds and accounts, for informational purposes only; and

WHEREAS, the Borrower will grant to the Corporation and the Collateral Agent (for the benefit of the bondholders) mortgages in the Borrower’s leasehold interest under the Lease Agreement pursuant to a Building Loan Leasehold Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing and a Project Loan Leasehold Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing (collectively, the “TDC Leasehold Mortgages”), copies of which is annexed to this Resolution as Exhibit D-1 and Exhibit D-2; and

WHEREAS, the Corporation will assign its interest in the TDC Leasehold Mortgages, the Loan Agreements and the Series 2021 Notes to the Collateral Agent pursuant to an Assignment Agreement (Building Loan) and Assignment Agreement (Project Loan) (collectively, the

“Assignment Agreements”) as security for the Series 2021 Bonds, copies of which are annexed to this Resolution as Exhibit E-1 and E-2; and

WHEREAS, to further secure its obligations with respect to the Series 2021 Bonds, the Borrower will execute a security agreement with the Collateral Agent (the “Security Agreement”), for informational purposes only; and

WHEREAS, to further secure its obligations with respect to the Series 2021 Bonds, Empire State Thruway Partners Holding LLC, a Delaware limited liability company and sole member of the Borrower, will execute a pledge agreement with the Collateral Agent (the “Pledge Agreement”), for informational purposes only; 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 2021 Bonds (the “Official Statement”) and have negotiated a purchase contract for the Series 2021 Bonds (the “Bond Purchase Agreement”), a form of which is annexed to this Resolution as Exhibit G, by and among the Corporation, Citigroup Global Markets Inc., Loop Capital Markets, Ramirez & Co., Inc., Siebert Williams Shank & Co, LLC and National Bank of Canada Financial Inc. (collectively, the “Underwriters”), and the Borrower.

NOW, THEREFORE, the Board of Directors of the Corporation, 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:

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 Loan Agreements, the Indenture, the TDC Leasehold Mortgages, the Assignment Agreements and the Bond Purchase Agreement, in substantially the forms presented to this meeting, are hereby approved, and any Authorized Officer (as defined below) 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 2021 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 amount, maturity or maturities, prices and yields, if any, and other terms of or relating to the Series 2021 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 2021 Bonds, which is expected to occur in March 2021 subject to the final approval of any Authorized Officer, such approval to be evidenced by such Authorized Officer’s execution of each of the Indenture and the Bond Purchase Agreement and that all other documents relating to the Series 2021 Bonds shall similarly, as appropriate, be conformed thereto; provided that the aggregate principal amount of the Series 2021 Bonds shall not exceed \$350 million, the final maturity shall not extend past April 30, 2053; and further

RESOLVED, that in connection with the issuance of the Series 2020 Bonds, the Corporation hereby appoints The Bank of New York Mellon as Trustee and Paying Agent under the Indenture; and further

RESOLVED, that in accordance with the issuance of the Series 2021 Bonds, the Corporation hereby appoints Citigroup Global Markets, Inc., as representative of a group of underwriters, consisting of itself and Loop Capital Markets, Ramirez & Co., Inc., Siebert Williams Shank & Co, LLC and National Bank of Canada Financial, Inc. (and authorizes the appointment of such other underwriters as may be determined by an Authorized Officer of the Corporation); 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 2021 Bonds to the Underwriters; and further

RESOLVED, that the Corporation shall offer for sale, sell, issue and deliver the Series 2021 Bonds pursuant to the Bond Purchase Agreement and the Indenture and shall apply the proceeds thereof in accordance with the Indenture and the Collateral Agency Agreement; and further

RESOLVED, that each of the Chair, President, Chief Financial Officer, General Counsel and Treasurer of the Corporation, and any other person duly authorized to act in such capacity, is designated 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 Loan Agreements (including any exhibits thereto), the Indenture, the TDC Leasehold Mortgages, the Assignment Agreements, the Bond Purchase Agreement, the Preliminary the Official Statement and the Official Statement and all other related documents as he or she may reasonably deem necessary, desirable or appropriate to consummate the transactions authorized hereby and thereby including, without limitation, a tax compliance certificate relating to the Series 2021 Bonds (the “Tax Compliance Certificate”), 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, sale and delivery of the Series 2021 Bonds, the execution and delivery of the Tax Compliance Certificate, 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 2021 Bonds by any Authorized Officer or his or her designee are hereby ratified and approved.

* * *

There being no further business, the meeting was adjourned.

Respectfully submitted,

Regina Stephens
Assistant Corporate Secretary

Item No. 2

FOR CONSIDERATION

May 21, 2021

TO: The Directors

FROM: Howard Zemsky

SUBJECT: New York Transportation Development Corporation – John F. Kennedy International Airport Terminal Eight (American Airlines) Redevelopment Project

REQUEST FOR: Appointment of Underwriter; Appointment of Additional Underwriters; Authorization to Take Actions Related to the Tax Equity and Fiscal Responsibility Act (“TEFRA”); Appointment of Financial Advisor; Authorization to Proceed with the Review and Preparation of Related Documents; and Authorization to Take All Related Actions

I. BACKGROUND

The New York Transportation Development Corporation (“TDC” or the “Corporation”) has been requested by American Airlines, Inc. (“AA” or the “Company”) to issue approximately \$200 million aggregate principal amount of bonds (the “Bonds”). The Bonds will finance the renovation and expansion of Terminal 8 (“Terminal 8” or the “Project”) at John F. Kennedy International Airport (“JFK”) and refinance existing bonds issued by the Corporation, including \$47,835,000 of the Special Facility Revenue Refunding Bonds, Series 2016 due on August 1, 2021 and \$13,025,000 of the Special Facility Revenue Bonds, Series 2020 due on August 1, 2021 (collectively, the “2016 and 2020 Bonds”). The Company operates Terminal 8, which consists of an approximately 1.5 million square foot building containing a main terminal building and a remote concourse, a total of 35 aircraft gates, public concession space and related service facilities.

The Project to be financed by the Bonds includes: (i) the creation of five more widebody gates through both a modest building expansion and reconfiguration of certain existing gates, (ii) the construction of new aircraft parking hardstands, (iii) expansion of the baggage system capacity and (iv) improvements to the premium passenger lounges, check-in and security access areas. Total construction includes approximately 51,000 square feet of new building space and the refurbishment of 73,300 square feet of existing space.

The Corporation has the authority to serve as a conduit issuer for tax-exempt debt financings and to provide an exemption from the Mortgage Recording Tax (“MRT”) on any mortgages securing the Bonds. The Corporation will be fully indemnified by the Company for all

liabilities and obligations related to its participation in the Project.

At a subsequent meeting, the Corporation staff will seek the consent of TDC's Board of Directors (the "Directors") approval of the form of Bond documents and the terms of the transactions. Staff will also obtain the approval of the Governor and conduct a hearing as required by federal tax law.

II. SELECTION OF UNDERWRITERS

Citigroup Global Markets Inc. ("Citi") has been selected as the senior managing underwriter for the Bonds. Citi is on the pre-qualified list of underwriters for 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 adopted by the Corporation on February 24, 2020.

The Company selected Citi for its extensive experience in all aspects of municipal finance, including as underwriters on other Corporation and ESD bond issuances.

The Company, in consultation with the Corporation, will have the option to select other co-managers from TDC's Pre-Qualified List of Underwriters including other co-managers from the Pre-Qualified List of Underwriters to the extent necessary to satisfy the requirements in section IV below.

Corporation staff now seeks the consent of the Directors to adopt the selection of Citi as the senior managing underwriter for the Bonds and 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 (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.

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 Company 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 vendors 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 issuance of the Bonds 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 TEFRA, requires a hearing prior to the issuance of qualified private activity bonds in certain circumstances. The Corporation has been requested to act as an issuer of qualified private activity bonds for the Project. Consequently, a TEFRA hearing may be required and the applicable notice period for the TEFRA hearing is seven days.

TEFRA also requires that, following the hearing, the applicable elected representative of the issuer of qualified private activity bonds (in this case the Governor) approve the Project and/or the plan of financing for the Project.

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

VI. DOCUMENTS

It is intended that the Bonds will be utilized to finance the Project and to refinance a portion of the 2016 and 2020 Bonds. Accordingly, the documents relating to such financing must be reviewed and drafted expeditiously. Staff is requesting consent by the Board of Directors to commence review and drafting documents. An additional TDC Board meeting will occur so that the Board of Directors can approve the form of final documents and authorize transaction terms, including providing any mortgage recording tax exemptions.

VII. ENVIRONMENTAL REVIEW

The Corporation, as lead agency, has completed an environmental review of the Project, pursuant to the requirements of the State Environmental Quality Review Act and the implementing regulations of the New York State Department of Environmental Conservation. Based on this review, the Corporation previously made a Determination of No Significant Effect on the Environment. Therefore, no further environmental review is required in connection with

the requested authorization.

VIII. REQUESTED ACTION

Staff recommends that the Board of Directors take actions related to TEFRA for the Bonds, authorize the selection of the senior managing underwriter, the appointment of additional underwriters, the appointment of financial advisors, if utilized, authorize the preparation of documents in connection with the Bonds, and take any related actions.

IX. RECOMMENDATION

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

X. ATTACHMENT

Resolution

May 21, 2021

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.

* * *

Item No. 3

FOR CONSIDERATION

May 21, 2021

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Procurement of Legal Services – Katten Muchin Rosenman LLP

REQUEST FOR: Authorization to Enter into a Contract to Provide Legal Services for the New York Transportation Development Corporation in Connection with Issuing Bonds to Renovate, Expand, and Refund Bonds Previously Issued for, Terminal 8 at John F. Kennedy International Airport in Queens and to Take Related Actions

I. CONTRACT SUMMARY

Counsel: Katten Muchin Rosenman LLP (“Katten” or “Counsel”)

Scope of Services: Counsel would serve as co-bond counsel, together with the law firm of BurgherGray LLP (“Burgher”) for which the directors (the “Directors”) of the New York Transportation Development Corporation (the “Corporation”) will be requested to authorize under a separate resolution, to provide legal services to the Corporation in connection with the issuance of revenue bonds (the “Bonds”), in order to renovate, expand, and refund bonds previously issued for, Terminal 8 at John F. Kennedy International Airport (“JFK”).

Contract Amount: All counsel fees for the Bonds, including Counsel’s fee and all affiliated eligible costs of the Bonds and amounts paid, if any, pursuant to a Notice to Proceed, shall be payable only up to an aggregate amount equal to 2% of the amount of the Bonds. Burgher and Counsel will be required to use good faith efforts to have a division of labor such that Burgher as a certified Minority Owned Business Enterprise will be allocated at least 30% participation in this matter.

Funding Source: The contract will be funded in its entirety by American Airlines, Inc. (“AA” or the “Company”) on or about the closing of the Bonds in

tranches or as otherwise agreed by the AA and the Corporation in a pre-financing agreement. 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 AA for that purpose.

II. BACKGROUND

The New York Transportation Development Corporation (“TDC” or the “Corporation”) has been requested by American Airlines, Inc. (“AA” or the “Company”) to issue approximately \$200 million aggregate principal amount of bonds (the “Bonds”). The Bonds will finance the renovation and expansion of Terminal 8 (“Terminal 8” or the “Project”) at John F. Kennedy International Airport (“JFK”) and refinance existing bonds issued by the Corporation, including \$47,835,000 of the Special Facility Revenue Refunding Bonds, Series 2016 due on August 1, 2021 and \$13,025,000 of the Special Facility Revenue Bonds, Series 2020 due on August 1, 2021 (collectively, the “2016 and 2020 Bonds”). The Company operates Terminal 8, which consists of an approximately 1.5 million square foot building containing a main terminal building and a remote concourse, a total of 35 aircraft gates, public concession space and related service facilities.

The Project to be financed by the Bonds includes: (i) the creation of five more widebody gates through both a modest building expansion and reconfiguration of certain existing gates, (ii) the construction of new aircraft parking hardstands, (iii) expansion of the baggage system capacity and (iv) improvements to the premium passenger lounges, check-in and security access areas. Total construction includes approximately 51,000 square feet of new building space and the refurbishment of 73,300 square feet of existing space.

The Corporation has the authority to serve as a conduit issuer for tax-exempt debt financings and to provide an exemption from the Mortgage Recording Tax (“MRT”) on any mortgages securing the Bonds. The Corporation will be fully indemnified by the Company for all liabilities and obligations related to its participation in the Project.

At a subsequent meeting, the Corporation staff will seek the consent of TDC’s Board of Directors (the “Directors”) approval of the form of Bond documents and the terms of the transactions. Staff will also obtain the approval of the Governor and conduct a hearing as required by federal tax law.

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 Directors adopted the ESD Pre-Qualified Counsel List on February 16, 2017. Winston & Strawn LLP ("Winston") is on this Pre-Qualified Counsel List for bond counsel services.

The Pre-Qualified Counsel List provides that in the event that the principal partners and attorneys from a firm identified as being responsible for a particular area, such as the Corporation's bond financing matters, leave the firm, the pre-qualification will "follow" these key law firm member(s) to the new firm. The principal bond financing partners and attorneys from Winston moved to Katten on or about February 14, 2017. Accordingly, these attorneys, now at Katten, are eligible to work on the Corporation's bond matters, including the Bonds.

It is recommended that Katten serve as co-bond counsel for this transaction. Selection of Counsel for this transaction was predicated on the experience of the attorneys from Winston (that are now with Katten) that previously served as bond counsel on multiple World Trade Center bond transactions and State Personal Income Tax transactions. Bond Counsel from Winston, now at Katten, also served as co-bond counsel on the recent issuances of bonds by the Corporation to refinance two airport terminals. Further, Katten served as disclosure counsel for the Corporation on the financing of a new Delta Terminal at LaGuardia Airport that closed in May 2018. Finally, Katten previously served as co-bond counsel, with Burgher, in 2020 on the issuance of the 2020 Bonds to finance the renovation and expansion of T8 at JFK. 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, (c) Counsel's rate proposal; and (d) the ESD pre-qualification process.

IV. SCOPE OF WORK

Counsel would advise the Corporation in securities, bonds, taxes and other related legal matters in connection with the Bonds. Such work may include, but not be limited to, drafting, negotiating, and finalizing the following types of 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. All counsel costs and expenses are expected to be paid by AA or other source, on or about the closing of the Bonds, or such other dates, all as set forth in a pre-financing agreement. All counsel fees on the Bonds, including Burgher and other affiliated eligible costs of the Bond transactions including any amounts paid, if any, pursuant to a Notice to Proceed shall be payable only up to an aggregate amount equal to 2% of the amount of the Bonds. Counsel would work at their typical hourly rates less a discount. 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 AA or from any source 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

The authorization to enter into contracts with bond counsel in connection with the Bonds constitutes a Type II action as defined by the 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 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 ESD's bond counsel fees. Katten has agreed to use good faith efforts to allocate work to Burgher.

The Directors are simultaneously being asked to separately retain Burgher as MWBE counsel for this bond transaction to meet these requirements.

IX. REQUESTED ACTION

The Directors are asked to authorize the retention of Katten as co-bond counsel to the Corporation and authorize the retention of the Subcontractor for such legal services as are described in these materials.

X. RECOMMENDATION

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

XI. ATTACHMENT

Resolution

May 21, 2021

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.

* * *

Item No. 4



FOR CONSIDERATION

May 21, 2021

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Procurement of Legal Services – BurgherGray LLP

REQUEST FOR: Authorization to Enter into a Contract to Provide Legal Services for the New York Transportation Development Corporation in Connection with Issuing Bonds to Renovate, Expand, and Refund Bonds Previously Issued for, Terminal 8 at John F. Kennedy International Airport in Queens and to Take Related Actions

I. CONTRACT SUMMARY

Counsel: BurgherGray LLP (“Burgher” or “Counsel”)

Scope of Services: Counsel would serve as co-bond counsel, together with the law firm of Katten Muchin Rosenman LLP (“Katten”) for which the directors (the “Directors”) of the New York Transportation Development Corporation (the “Corporation”) will be requested to authorize under a separate resolution, to provide legal services to the Corporation in connection with the issuance of revenue bonds (the “Bonds”) in order to renovate, expand, and refund bonds previously issued for, Terminal 8 at John F. Kennedy International Airport (“JFK”).

Contract Amount: All counsel fees for the Bonds, including Counsel’s fee and all affiliated eligible costs of the Bonds and amounts paid, if any, pursuant to a Notice to Proceed, shall be payable only up to an aggregate amount equal to 2% of the amount of the Bonds. Katten and Counsel will be required to use good faith efforts to have a division of labor such that Burgher as a certified Minority Owned Business Enterprise will be allocated at least 30% participation in this matter.

Funding Source: The contract will be funded in its entirety by a by American Airlines, Inc. (“AA” or the “Company”) on or about the closing of the Bonds in tranches or as otherwise agreed by the AA and the Corporation in a pre-financing agreement. 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 AA for that purpose.

II. BACKGROUND

The New York Transportation Development Corporation (“TDC” or the “Corporation”) has been requested by American Airlines, Inc. (“AA” or the “Company”) to issue approximately \$200 million aggregate principal amount of bonds (the “Bonds”). The Bonds will finance the renovation and expansion of Terminal 8 (“Terminal 8” or the “Project”) at John F. Kennedy International Airport (“JFK”) and refinance existing bonds issued by the Corporation, including \$47,835,000 of the Special Facility Revenue Refunding Bonds, Series 2016 due on August 1, 2021 and \$13,025,000 of the Special Facility Revenue Bonds, Series 2020 due on August 1, 2021 (collectively, the “2016 and 2020 Bonds”). The Company operates Terminal 8, which consists of an approximately 1.5 million square foot building containing a main terminal building and a remote concourse, a total of 35 aircraft gates, public concession space and related service facilities.

The Project to be financed by the Bonds includes: (i) the creation of five more widebody gates through both a modest building expansion and reconfiguration of certain existing gates, (ii) the construction of new aircraft parking hardstands, (iii) expansion of the baggage system capacity and (iv) improvements to the premium passenger lounges, check-in and security access areas. Total construction includes approximately 51,000 square feet of new building space and the refurbishment of 73,300 square feet of existing space.

The Corporation has the authority to serve as a conduit issuer for tax-exempt debt financings and to provide an exemption from the Mortgage Recording Tax (“MRT”) on any mortgages securing the Bonds. The Corporation will be fully indemnified by the Company for all liabilities and obligations related to its participation in the Project.

At a subsequent meeting, the Corporation staff will seek the consent of TDC’s Board of Directors (the “Directors”) approval of the form of Bond documents and the terms of the transactions. Staff will also obtain the approval of the Governor and conduct a hearing as required by federal tax law.

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 Directors adopted the ESD Pre-Qualified Counsel List on February 16, 2017. Burgher is on this Pre-Qualified Counsel List for bond counsel services.

It is recommended that Burgher serve as co-bond counsel for this transaction. Selection of Counsel for this transaction was based on the fact that Burgher is a certified Minority Owned Business Enterprise ("MBE") and recently hired a very senior and qualified attorney who has extensive public sector, tax-exempt bond, real estate and sophisticated transaction experience. In addition, Burgher capably served as disclosure counsel in connection with the recently completely refunding by Liberty Development Corporation of outstanding bonds issued for Bank of America Tower at One Bryant Park. Finally, Burgher previously served as co-bond counsel, with Katten, in 2020 on the issuance of the 2020 Bonds to finance the renovation and expansion of T8 at JFK. 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 another transaction, (c) Counsel's rate proposal; and (d) the ESD pre-qualification process.

The appointment of this firm also represents an equitable distribution of work among ESD's rotating slate of Senior and Junior Tier law firms and firms certified as Minority and Women-Owned Business Enterprises ("MWBEs") to handle ESD's and the Corporation's debt in terms of size of transaction, fees received, length of time since their last engagement and total number of transactions.

IV. SCOPE OF WORK

Counsel would advise the Corporation in securities, bonds, taxes and other related legal matters in connection with the Bonds. Such work may include, but not be limited to, drafting, negotiating, and finalizing the following types of 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. All counsel costs and expenses are expected to be paid by AA or other source, on or about the closing of the Bonds, or such other dates as set forth in a pre-financing agreement. All counsel fees on the Bonds, including Burgher and other affiliated eligible costs of the Bond transactions including any amounts paid, if any, pursuant to a Notice to Proceed, shall be payable only up to an aggregate amount equal to 2% of the amount of the Bonds. Counsel would work at their typical hourly rates less a discount. 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 AA or from any source 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

The authorization to enter into contracts with bond counsel in connection with the Bonds constitutes a Type II action as defined by the 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 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 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 ESD's bond counsel fees. Counsel is an MWBE and will satisfy this requirement.

IX. REQUESTED ACTION

The Directors are asked to authorize the retention of Burgher as co-bond counsel to the Corporation and authorize the retention of the Subcontractor for such legal services as are described in these materials.

X. RECOMMENDATION

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

XI. ATTACHMENT

Resolution

May 21, 2021

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.

* * *

Item No. 5

FOR CONSIDERATION

May 21, 2021

TO: The Directors

FROM: Howard A. Zemsky

SUBJECT: Procurement of Legal Services – Pearlman & Miranda, LLC

REQUEST FOR: Authorization to Enter into a Contract to Provide Legal Services for the New York Transportation Development Corporation in Connection with Issuing Bonds to Renovate, Expand, and Refund Bonds Previously Issued for, Terminal 8 at John F. Kennedy International Airport in Queens and to Take Related Actions

I. CONTRACT SUMMARY

Counsel: Pearlman & Miranda, LLC (“Counsel” or “Pearlman”)

Scope of Services: Counsel would serve as disclosure counsel for the New York Transportation Development Corporation (the “Corporation”) in connection with the issuance of revenue bonds (the “Bonds”), in order to renovate, expand, and refund bonds previously issued for, Terminal 8 at John F. Kennedy International Airport (“JFK”).

Contract Amount: All counsel fees for the Bonds, including Counsel’s fee and all affiliated eligible costs of the Bonds and amounts paid, if any, pursuant to a Notice to Proceed, shall be payable only up to an aggregate amount equal to 2% of the amount of the Bonds.

Funding Source: The contract will be funded in its entirety by American Airlines, Inc. (“AA” or the “Company”) on or about the closing of the Bonds in tranches or as otherwise agreed by the AA and the Corporation in a pre-financing agreement. 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 AA for that purpose.

II. BACKGROUND

The New York Transportation Development Corporation (“TDC” or the “Corporation”) has been requested by American Airlines, Inc. (“AA” or the “Company”) to issue approximately \$200 million aggregate principal amount of bonds (the “Bonds”). The Bonds will finance the renovation and expansion of Terminal 8 (“Terminal 8” or the “Project”) at John F. Kennedy International Airport (“JFK”) and refinance existing bonds issued by the Corporation, including \$47,835,000 of the Special Facility Revenue Refunding Bonds, Series 2016 due on August 1, 2021 and \$13,025,000 of the Special Facility Revenue Bonds, Series 2020 due on August 1, 2021 (collectively, the “2016 and 2020 Bonds”). The Company operates Terminal 8, which consists of an approximately 1.5 million square foot building containing a main terminal building and a remote concourse, a total of 35 aircraft gates, public concession space and related service facilities.

The Project to be financed by the Bonds includes: (i) the creation of five more widebody gates through both a modest building expansion and reconfiguration of certain existing gates, (ii) the construction of new aircraft parking hardstands, (iii) expansion of the baggage system capacity and (iv) improvements to the premium passenger lounges, check-in and security access areas. Total construction includes approximately 51,000 square feet of new building space and the refurbishment of 73,300 square feet of existing space.

The Corporation has the authority to serve as a conduit issuer for tax-exempt debt financings and to provide an exemption from the Mortgage Recording Tax (“MRT”) on any mortgages securing the Bonds. The Corporation will be fully indemnified by the Company for all liabilities and obligations related to its participation in the Project.

At a subsequent meeting, the Corporation staff will seek the consent of TDC’s Board of Directors (the “Directors”) approval of the form of Bond documents and the terms of the transactions. Staff will also obtain the approval of the Governor and conduct a hearing as required by federal tax law.

III. COUNSEL SELECTION PROCESS

On June 27, 2016 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 practicing 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 Directors adopted the ESD List of pre-qualified counsel on February 16, 2017. Counsel is on the Pre-Qualified Counsel List for bond counsel services.

It is recommended that Pearlman serve as disclosure counsel for this transaction. The Corporation reached out to four firms on the Pre-Qualified List to assess their qualifications and experience. Selection of Counsel for this transaction was based on the fact that Pearlman is a certified Minority and Women-Owned Business Enterprise ("MWBE") and has extensive public sector, tax exempt bond, real estate and sophisticated transaction experience. Additionally, Pearlman previously served as disclosure, in 2020 on the issuance of the 2020 Bonds to finance the renovation and expansion of T8 at JFK. 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 expertise on other transactions, including real estate, (c) Counsel's rate proposal, and (d) the ESD pre-qualification process.

The appointment of this firm also represents an equitable distribution of work among ESD's rotating slate of Senior and Junior Tier law firms and MWBE firms to handle ESD's and the Corporation's debt in terms of size of transaction, fees received, length of time since their last engagement and total number of transactions.

IV. SCOPE OF WORK

Counsel would 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 documents: sale contracts, resolutions, amendments, disclosure documents and tax opinions.

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. All counsel costs and expenses are expected to be paid by AA, or other source, on or about the closing of the Bonds, or such other dates, all as set forth in a pre-financing agreement. All counsel fees associated with the Bonds, including bond counsel, 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. Counsel would work at their typical hourly rates less a discount. In addition, Counsel will acknowledge that the Corporation will have no obligation to pay any legal fees except to the extent funds, if any, are received from AA or from any source 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 offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff considers Counsel to be responsible.

VII. ENVIRONMENTAL REVIEW

The authorization to enter into a contract with Counsel in connection with the Financings constitutes a Type II action as defined by the 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 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 MWBE's 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 disclosure counsel fees. Counsel is an MWBE and will satisfy this requirement.

IX. REQUESTED ACTION

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

X. RECOMMENDATION

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

XI. ATTACHMENT

Resolution

May 21, 2021

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.

* * *