

NEW YORK LIBERTY DEVELOPMENT CORPORATION

PUBLIC HEARING – JUNE 14, 2010

BANK OF AMERICA TOWER AT ONE BRYANT PARK

Applicant:

One Bryant Park LLC (“OBP”)
c/o The Durst Organization
One Bryant Park
New York, NY 10036

Applicants’ Interest:

OBP is leasing the building known as Bank of America Tower at One Bryant Park (the “Project”) and the site on which the Project is situated (the “Project Site”) from the New York State Urban Development Corporation d/b/a Empire State Development Corporation (“ESDC”) pursuant to an approximately 99 year ground lease between ESDC as landlord and OBP as tenant. The ground lease permits OBP to purchase the Project and the Project Site from ESDC for a nominal amount on the 20th anniversary of the completion date of the Project.

Project Location:

The Project is located at the northwest corner of West 42nd Street and Avenue of the Americas (Sixth Avenue) in the Borough of Manhattan in the City of New York. The street address of the Project is One Bryant Park, New York, New York 10036.

Project Description/Use(s):

The Project Building consists of a 51-story Class A+ office building with an approximate total of 2.354 million rentable square feet of commercial space (96.2% office and 3.8% retail) known as Bank of America Tower at One Bryant Park. The Project Building was constructed for an all-in cost of approximately \$1.84 billion. Approximately 76.4% of the leasable building square footage (1.798 million sq. ft.) serves as the New York headquarters of Bank of America and houses its global corporate and investment banking, wealth and investment management, consumer and commercial banking businesses. The remainder of the Building is occupied by various third-party commercial office tenants, the Henry Miller Theater and other retail space.

**Name and Amount
of Liberty Bonds to be Issued:**

A maximum aggregate principal amount of **\$650,000,000 New York Liberty Development Corporation Second Priority Liberty Revenue Refunding Bonds, Series 2010 (Bank of America Tower at One Bryant Park Project)** (“Series 2010 Liberty Bonds”).

Designation of Liberty Bonds:

The Governor and the Mayor will each be requested to designate a portion of the Series 2010 Liberty Bonds as “Qualified New York Liberty Bonds”, as follows:

- a) \$325,000,000 of Series 2010 Liberty Bonds to be designated by the Governor of The State of New York.
- b) \$325,000,000 of Series 2010 Liberty Bonds to be designated by the Mayor of The City of New York.
- c) The aggregate of the above designations (\$650,000,000) does not exceed the original \$650,000,000 Liberty Bond designation made by the Governor and the Mayor in respective amounts shown above for the Refunded 2004 Liberty Bonds (defined below) which are being refunded by the Series 2010 Liberty Bonds.

Purpose of the Series 2010 Liberty Bonds:

Proceeds from the Series 2010 Liberty Bonds will be used to refund in whole the outstanding **\$650,000,000 New York City Industrial Development Agency Liberty Revenue Bonds, Series 2004 (One Bryant Park LLC Project)** (“Refunded 2004 Liberty Bonds”) issued for the purposes of providing original financing for the Project, as described below.

Financing Rates and Terms:

The Series 2010 Liberty Bonds will pay a fixed rate of interest (to be determined when the bonds are sold) and will have a final maturity in excess of 35 years. No principal of the Series 2010 Liberty Bonds will be due for approximately 30 years and then will be payable in installments until the final maturity. It is anticipated that the Series 2010 Liberty Bonds will be divided into three classes, corresponding to an order of priority of payment. Series 2010 Liberty Bonds in the first class will have a prior claim payment over Series 2010 Liberty Bonds in the second class, which in turn will be prior in claim of payment to Series 2010 Liberty Bonds in the third class.

Issuer of Series 2010 Liberty Bonds:

New York Liberty Development Corporation (“LDC”)

Anticipated Issuance Date:

Early Summer 2010

PURPOSE OF THE SERIES 2010 LIBERTY BONDS

The Series 2010 Liberty Bonds will be issued by the LDC in order to make a loan to OBP, which will use the proceeds of said loan (the “LDC Loan”), together with other funds, to retire the Refunded 2004 Liberty Bonds on the date of issue of the Series 2010 Liberty Bonds.

PURPOSE OF THE REFUNDED 2004 LIBERTY BONDS

The Refunded 2004 Liberty Bonds were issued on November 18, 2004 by the New York City Industrial Development Agency (the “NYCIDA”) in order to make available the proceeds of such bonds to OBP for use to pay a portion of the cost of the Project, including a portion of the cost of acquisition of the Project Site. The total cost of the Project (including the land cost relating to the acquisition of the Project Site) was approximately \$1,840,000,000 (including the cost of tenant improvements). The portion of such total cost not funded from the proceeds of the Series 2004 Liberty Bonds was paid from equity contributions by the members of OBP, tenant contributions, interest income, rental income from tenants and taxable supplemental mortgage loans made to OBP by various private lenders.

DETAILED PROJECT DESCRIPTION

The Project was designed by Cook+Fox Architects. It is fifty-one stories in height and contains 2,354,345 square feet of rentable space. Construction of the Project commenced in August 2004 and was completed in April, 2008. The Project is a glass, steel and aluminum building. At a height of 945 feet, the Project is the second tallest building in New York City and the fourth tallest building in the United States.

The Project includes office and retail space, which includes the Henry Miller Theater. The Project has six state-of-the-art trading floors ranging in size from 43,000 to 99,000 square feet. On the four largest trading floors, ceiling heights are eighteen feet above the floor. The Project incorporates slab-to-slab heights of 14’6”, which allow for office ceiling heights of 9’6”.

With the use of advanced environmental technologies, the Project is the first office tower to achieve LEED Platinum Certification in the United States. The Project uses 35% less energy than a comparably sized traditional office tower. Translucent insulating glass combined with automatic daylight dimming and floor-to-ceiling windows reduces thermal loss and energy consumption while maximizing natural light and views. A state-of-the-art 5.0 megawatt cogeneration plant provides 65% of the Project’s annual electricity requirements and is a net provider of electricity to the power grid. A “grey-water” system traps and reuses all rain and most waste water which, combined with other water conservation features, saves an estimated 7.7 million gallons of water each year.

A thermal storage system located at the cellar level employs technology to store energy for later use. The system produces ice in the evening and overnight hours when electricity rates are lowest. The ice is used in the Project’s cooling system during daylight hours, providing 25% of the Project’s annual cooling requirements and reducing peak daytime demand on the electric grid.

The design of the Project incorporates widened sidewalks and a glass-enclosed subway entrance at 42nd Street and 6th Avenue to facilitate improved pedestrian traffic flows.

As of April, 2010, the Project is 96.9% physically occupied and 96.5% economically occupied. In addition to Bank of America, which occupies 76.4% of the space in the Project, other major tenants include Akin Gump Strauss Hauer & Feld LLP (10.2%) and Marathon Asset Management (3.2%). Other tenants, including the Henry Miller Theater, retail, office and storage spaces, occupy 7.2% of the Project.

SOURCE OF PAYMENT OF SERIES 2010 LIBERTY BONDS; SIMULTANEOUS BANK LOAN; SHARED COLLATERAL

The Series 2010 Liberty Bonds are secured by and payable from loan payments by OBP under the LDC Loan, which payments will be derived from tenant rents and other income in respect of the Project. At the same time as the Series 2010 Liberty Bonds are to be issued and the LDC Loan is made to OBP, certain co-lending banks will make a separate \$650,000,000 loan (the "Bank Loan") to OBP in order to enable OBP to refinance certain indebtedness with respect to the Project and pay transaction costs. Like the LDC Loan, the Bank Loan will be payable from tenant rents and other income in respect of the Project. The LDC Loan and the Bank Loan will be secured by and share the same collateral, which will consist of a mortgage on OBP's leasehold interest under its ground lease with the ESDC, tenant leases and rents from the Project and certain other Project-related collateral. Both the LDC Loan and the Bank Loan will be administered and serviced by the same loan servicer acting under and pursuant to the terms of a servicing agreement. The servicer will perform the customary functions of a servicer of commercial mortgage loans, including collection of payments due from OBP under the LDC Loan and the Bank Loan. The servicing agreement establishes a priority of application of Project rent and other revenue among certain required deposits and payments, including payments on the LDC Loan and the Bank Loan. In general, interest on the Bank Loan is paid prior to interest on the LDC Loan, followed by principal on the Bank Loan and then principal on the LDC Loan. However, if financial difficulties occur and the collateral for the two loans is liquidated, interest and principal on the Bank Loan is paid prior to interest and principal on the LDC Loan. The servicing agreement contains certain other provisions governing the relationship between the LDC Loan and the Bank Loan. Also, under the servicing agreement, in certain limited circumstances, the loan servicer is obligated to make advances to protect the Project and to make advances against delinquent payments on the LDC Loan and the Bank Loan.

USES OF PROCEEDS OF SERIES 2010 LIBERTY BONDS AND BANK LOAN

The proceeds of the Series 2010 Liberty Bonds and the Bank Loan will be used to refinance existing debt for the Project outstanding in the amount of approximately \$1,275,000,000 and to pay costs incurred in connection with issuing the Series 2010 Liberty Bonds and obtaining the Bank Loan.

PUBLIC AGENCY PARTICIPATION, REQUIRED PERMITS AND APPROVALS

OBP is required to pay below-market real estate taxes for twenty years from the fiscal tax year that commenced on July 1, 2009 on the One Bryant Park site via a Payment in Lieu of Taxes (PILOT) paid pursuant to the ESDC ground lease. The Project will convert to full real estate tax equivalent levels beginning on July 1, 2029.

One Bryant Park is the beneficiary of tax-exempt financing rates on the currently outstanding \$650 million Refunded 2004 Liberty Bonds, which will be refunded by the Series 2010 Liberty Bonds.

One Bryant Park has previously received ULURP approval and has completed all required environmental reviews. The Project was built pursuant to an ESDC Zoning and Landmarks override and has received a Temporary Certificate of Occupancy for all occupied spaces.

APPLICANT QUALIFICATIONS

The Applicant, OBP, is a limited liability company formed in Delaware in May 2003 and is qualified to do business in New York State. OBP is 50.01% owned by One Bryant Park Development Partners LLC (“OBPDP”), which serves as the managing member of OBP, and 49.99% by Bank of America N.A. (“BANA”).

OBPDP is 91.667% owned by trusts f/b/o Durst family members, with the balance held by a trust f/b/o non-Durst family members.

BANA is a 100%-owned subsidiary of Bank of America Corporation (“BAC”). BAC is a public company with many subsidiaries domiciled throughout the United States. Its public website is Bankofamerica.com.

The Durst Organization: The Durst Organization is one of New York’s oldest and largest family-owned real estate firms, and the Durst family has owned, developed and managed real estate in New York City since 1915. Currently, the Durst portfolio consists of more than nine million square feet of first-class office and residential space in New York City.

Bank of America N.A.: Bank of America N.A. is a 100%-owned subsidiary of Bank of America Corporation (“BAC”), a public company with many subsidiaries domiciled throughout the United States. As of December 2009, BAC operated in all 50 states, the District of Columbia and more than 40 foreign countries with approximately 284,000 full-time equivalent employees. Through its banking and various nonbanking subsidiaries throughout the United States and in selected international markets, BAC provides banking and nonbanking financial services and products through six business segments: Deposits; Global Card Services; Home Loans & Insurance; Global Banking; Global Markets, and Global Wealth & Investment Management. On January 1, 2009, BAC acquired Merrill Lynch & Co., Inc. (Merrill Lynch). Bank of America is a member of the Dow Jones Industrial Average.