

**NEW YORK LIBERTY DEVELOPMENT CORPORATION**

**MEETING OF THE DIRECTORS**

**TUESDAY  
SEPTEMBER 1, 2015**



**NEW YORK LIBERTY DEVELOPMENT CORPORATION**

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

**September 1, 2015 – 10:00 a.m.**

PROPOSED AGENDA

CORPORATE ACTION

1. Approval of the Minutes of the March 5, 2014 Directors' Meeting
2. Procurement of Legal Services – Authorization to Enter into a Contract to Provide Legal Services in Connection with Issuing Refunding Bonds for a Portion of New York Liberty Development Corporation's Revenue Bonds (Goldman Sachs Headquarters Issue) (the "Bonds") and to Take Related Actions
3. Procurement of Legal Services – Authorization to Enter into a Contract to Provide Legal Services for the New York Liberty Development Corporation's Revenue Bonds (Goldman Sachs Headquarters Issue) Series 2005 and 2007 and to Take Related Actions

FOR CONSIDERATION

4. Authorization to Adopt the Established New York State Urban Development Corporation d/b/a Empire State Development Team of Underwriters, Financial Advisors and Financial Product (SWAP) Providers

5. Authorization to Proceed with the Preparation of Documents in Connection with Issuing Refunding Bonds for a Portion of New York Liberty Development Corporation's Revenue Bonds (Goldman Sachs Headquarters Issue), to Take Actions Related to Tax Equity and Fiscal Responsibility Act ("TEFRA") Approval for such Refunding Bonds, Select Underwriter(s) and to Take Related Actions

**ITEM #1**

**Please note Item #1, the Minutes of March 5, 2014 Directors' meeting will be forwarded to you electronically under separate cover.**

**ITEM #2**



FOR CONSIDERATION

September 1, 2015

TO: The Directors

FROM: Robert M. Godley

SUBJECT: Procurement of Legal Services

REQUEST FOR: Authorization to Enter into a Contract to Provide Legal Services in Connection with Issuing Refunding Bonds for a Portion of New York Liberty Development Corporation's Revenue Bonds (Goldman Sachs Headquarters Issue) (the "Bonds") and to Take Related Actions

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I. CONTRACT SUMMARY

Counsel: Mintz, Levin, Cohen, Ferris, Glovsky and Popeo, P.C. ("Counsel")

Scope of Services: Counsel would serve as co-bond counsel (together with the law firm of Gonzalez Saggio and Harlan LLP, for which the directors ("Directors") will be requested to authorize under a separate resolution) to provide legal services to the Corporation in connection with the refunding of Revenue Bonds (Goldman Sachs Headquarters Issue) Series 2005 and/or Series 2007 (the "Bonds") previously issued by the Corporation

Contract Amount: \$250,000 (which includes the fee for co-bond counsel Gonzalez Saggio and Harlan LLP under a separate retainer)

Funding Source: It is expected that the contract would be funded in its entirety from an imprest account to be funded by the Goldman Sachs Headquarters, LLC (the "Borrower") and to be maintained at and by the New York State Urban Development Corporation doing business as Empire State Development ("ESD").

## II. BACKGROUND

The Corporation issued \$1,265,220,000 of its Liberty Bonds in 2005 and \$235,595,000 of its Liberty Bonds in 2007. The bond proceeds were lent to the Borrower to finance the construction of the now fully completed Goldman Sachs Global Headquarters located on West Street in lower Manhattan. The Bonds were secured solely by a Guaranty Agreement from The Goldman Sachs Group, Inc., a global investment banking, securities and investment management firm. The Borrower is a wholly owned subsidiary of the Goldman Sachs Group.

The Borrower now wishes to refund approximately \$22 million of the Bonds which were sold to retail investors with 10 year maturities. The transaction is expected to be a public offering at a negotiated price which will effectively extend the maturities of these Bonds. The proposed Counsel was requested by the Borrower as this firm is the same firm that served as bond counsel on the original transaction. The firm remains on the Corporation's pre-qualified list of bond counsel.

Staff of the Corporation will seek the consent of the Board to the form of documents, as well as the approval by the Board of the terms of the transaction, at a subsequent meeting. Staff will also obtain the approval of the Governor and conduct a hearing as required by Federal tax law.

## III. COUNSEL SELECTION PROCESS

In April 2012, staff of ESD advertised for legal counsel in the following areas: real estate and land use, environmental, construction, condemnation, bankruptcy, labor, taxation, bond financing, foreclosure and, in each case, related litigation. Sixty-six firms responded (including Counsel), the responses were evaluated, and in September 2012 the ESD Directors approved a Pre-Qualified Counsel List. Counsel was pre-qualified in the area of bond financing. On March 5, 2014, the Corporation adopted the ESD slate of pre-qualified counsel and Counsel remains on the slate.

Staff recommends the retention of Counsel as legal counsel for the Bonds based on: (a) knowledge and expertise of the firm; (b) prior satisfactory work which the firm has performed for ESD; (c) rate proposal; and (d) the pre-qualification process. In addition, Counsel was the same counsel that represented the Corporation on both prior issuances for the Goldman Sachs Global Headquarters and their familiarity with Liberty Bonds and transaction documents will enhance the quality and efficiency of their representation. For all the reasons stated above, Borrower requested that Counsel be retained again for this refunding transaction. Finally, Counsel is a national firm with experience in all facets of bonds and related matters.

## IV. SCOPE OF WORK

Counsel would advise the Corporation in securities, bonds, taxes and other related legal matters in connection with ESD's participation in the issuance and sale of the Bonds. Such work

may include, though is not 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 ESD funds at risk. Accordingly, the Borrower will fully fund all counsel costs and expenses. Counsel will work at their typical hourly rates. As noted above, the source of funding will be an internal ESD Imprest Account funded by the Borrower. A Pre-Financing Agreement will provide for advance funding by the Borrower with the obligation to replenish the Imprest Account whenever the balance falls below \$75,000. The Corporation will have no obligation to pay any legal fees.

VI. RESPONSIBLE PARTY

Pursuant to State Finance Law Section 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

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

VIII. NON-DISCRIMINATION AND CONTRACTOR & SUPPLIER DIVERSITY

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this contract. Counsel shall be required to include minorities and women in any job opportunities created, to solicit and utilize Minority and Women 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 Section 142.8) to achieve an overall MWBE

participation goal of 30% related to the total amount of ESD's legal fees. A separate retainer with an MBE (Gonzalez Saggio and Harlan LLP) to act as co-counsel will be entered into to meet these requirements; the Directors are simultaneously being asked to retain this MBE counsel for this bond transaction.

IX. REQUESTED ACTION

The Directors are asked to authorize the retention of Mintz, Levin, Cohen, Ferris, Glovsky and Popeo, P.C. as counsel to the Corporation for such legal services as are described in these materials in an amount not to exceed \$250,000 (this amount includes the fee for co-bond counsel Gonzalez Saggio and Harlan LLP for which the Directors will be requested to authorize under a separate resolution).

X. RECOMMENDATION

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

XI. ATTACHMENT

Resolutions

September 1, 2015

NEW YORK LIBERTY DEVELOPMENT CORPORATION - Authorization to Enter into a Contract to Provide Legal Services in Connection with Issuing Refunding Bonds for a Portion of New York Liberty Development Corporation's Revenue Bonds (Goldman Sachs Headquarters Issue) and to Take Related Actions

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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 Mintz Levin, Cohen, Ferris, Glovsky and Popeo, P.C. ("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.

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**ITEM #3**



FOR CONSIDERATION

September 1, 2015

TO: The Directors

FROM: Robert M. Godley

SUBJECT: Procurement of Legal Services

REQUEST FOR: Authorization to Enter into a Contract to Provide Legal Services for the New York Liberty Development Corporation's Revenue Bonds (Goldman Sachs Headquarters Issue) Series 2005 and 2007 and to Take Related Actions

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I. CONTRACT SUMMARY

Counsel: Gonzalez Saggio & Harlan LLP ("Counsel")

Scope of Services: Counsel would serve as co-bond counsel (together with the law firm of Mintz, Levin, Cohen, Ferris, Glovsky and Popeo, P.C. for which the board of directors (the "Directors") of the New York Liberty Development Corporation (the "Corporation") will be requested to authorize under a separate resolution) to provide legal services to the Corporation in connection with the refunding of Revenue Bonds (Goldman Sachs Headquarters Issue) Series 2005 and/or Series 2007 (the "Bonds") previously issued by the Corporation.

Contract Amount: \$250,000 (which includes the fee for co-bond counsel Mintz, Levin, Cohen, Ferris, Glovsky and Popeo, P.C under a separate retainer)

Funding Source: It is expected that the contract would be funded in its entirety from an imprest account to be funded by the Goldman Sachs Headquarters, LLC (the "Borrower") and to be maintained at and

**New York Liberty Development Corporation**  
633 Third Avenue, 35<sup>th</sup> Floor, New York, NY 10017  
Tel: 212-803-3100 Fax: 212-803-3515

IV. SCOPE OF WORK

Counsel would advise the Corporation in securities, bonds, taxes and other related legal matters in connection with ESD's participation in 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, 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 ESD funds at risk. Accordingly the Borrower will fully fund all counsel costs and expenses. Counsel would work at their typical hourly rates. As noted above, the source of funding will be an internal ESD Imprest Account funded by the Borrower. A Pre-Financing Agreement will provide for advance funding by the Borrower with the obligation to replenish the Imprest Account whenever the balance falls below \$75,000.00. The Corporation will have no obligation to pay any legal fees.

VI. RESPONSIBLE PARTY

Pursuant to State Finance Law Section 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. Base on the foregoing, staff considers Counsel to be responsible.

VII. ENVIRONMENTAL REVIEW

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

by the New York State Urban Development Corporation doing business as Empire State Development (“ESD”).

## II. BACKGROUND

The Corporation issued \$1,265,220,000 of its Liberty Bonds in 2005 and \$235,595,000 in 2007. The bond proceeds were lent to the Borrower to finance the construction of the now fully completed Goldman Sachs Global Headquarters located on West Street in lower Manhattan. The Bonds were secured solely by a Guaranty Agreement from The Goldman Sachs Group, Inc., a global investment banking, securities and investment management firm. The Borrower is a wholly owned subsidiary of the Goldman Sachs Group.

The Borrower now wishes to refund approximately \$22 million of the Bonds which were sold to retail investors with 10 year maturities. The transaction is expected to be a public offering at a negotiated price which will effectively extend the maturities of these Bonds.

Staff of the Corporation will seek the consent of the Directors to the form of documents, as well as the approval by the Directors of the terms of the transaction, at a subsequent meeting. Staff will also obtain the approval of the Governor and conduct a hearing as required by Federal tax law.

## III. COUNSEL SELECTION PROCESS

In April 2012, staff of ESD advertised for legal counsel in the following areas: real estate and land use, environmental, construction, condemnation, bankruptcy, labor, taxation, bond financing, foreclosure and, in each case, related litigation. Sixty-six firms responded (including Counsel), the responses were evaluated, and in September 2012 the Directors approved a Pre-Qualified Counsel List. Counsel was pre-qualified in the area of bond financing. On March 5, 2014, the Corporation adopted the ESD slate of pre-qualified counsel. Counsel remains on the Corporation’s pre-qualified list of bond counsel.

Staff recommends the retention of Counsel as legal counsel for the Bonds based on: (a) knowledge and expertise of the firm; (b) prior satisfactory work which the firm has performed for ESD; (c) rate proposal; (d) the pre-qualification process; and (e) a subsequent competitive solicitation of pre-qualified counsel specific to this transaction. For all these reasons staff recommends the retention of Counsel for this engagement.

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 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 Section 142.8) to achieve an overall MWBE participation goal of 30% related to the total amount of ESD's legal fees. However, by virtue of Counsel's status as an MBE, Counsel satisfies the MWBE requirement without the need for additional MWBE participation.

IX. REQUESTED ACTION

The Directors are asked to authorize the retention of Gonzalez Saggio & Harlan LLP as counsel to the Corporation for such legal services as are described in these materials in an amount not to exceed \$250,000 (which includes the fee for co-bond counsel Mintz, Levin, Cohen, Ferris, Glovsky and Popeo, P.C under a separate resolution).

X. RECOMMENDATION

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

XI. ATTACHMENT

Resolutions

September 1, 2015

NEW YORK LIBERTY DEVELOPMENT CORPORATION – Procurement of Legal Services – Authorization to Enter into a Contract to Provide Legal Services for the New York Liberty Development Corporation’s Revenue Bonds (Goldman Sachs Headquarters Issue) Series 2005 and 2007 and to Take Related Actions

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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 Gonzalez Saggio & Harlan 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.

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**ITEM #4**



FOR CONSIDERATION

September 1, 2015

TO: The Directors

FROM: Robert M. Godley

SUBJECT: Establishment of Pre-Qualified list of Underwriters, Financial Advisors, and Financial Products (SWAP) Providers for Bond Issuance

REQUEST FOR: Authorization to Adopt the Established New York State Urban Development Corporation d/b/a/ Empire State Development Team of Underwriters, Financial Advisors and Financial Product (SWAP) Providers

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I. INTRODUCTION

In March, 2012, the New York State Urban Development Corporation d/b/a/ Empire State Development ("ESD") advertised and solicited responses to select a rotating team of underwriters financial advisors, and financial product (swap) providers to assist in the sale of bonds. Based upon review of all relevant criteria ESD selected a list of underwriters, financial advisors and financial product (swap) providers to remain in effect for two years with options to renew for two additional years.

This action seeks adoption of the ESD approved pre-qualified list which would make these firms available for future recommendation to the Liberty Development Corporation (the "Corporation") Directors for retention as the need may arise, without the need to conduct a further solicitation. No individual firm is being recommended at this time for retention in connection with any particular matter and no funding is being authorized. Rather, only a pre-qualified list is being approved.

II. SELECTION OF FIRMS

On March 13, 2012, ESD placed an advertisement in the New York State Contract Reporter, pursuant to which it solicited responses to its Request for Proposals ("RFP") from firms interested in qualifying to serve as underwriters on a rotating basis, as well as, financial advisors and financial product (swap) providers. In addition, ESD advertised in The Bond Buyer on March 19, 2012 and March 26, 2012 regarding this RFP.

ESD also posted on its website a notice advising that ESD was soliciting for professional services pursuant to this RFP. Further, ESD emailed the RFP to over three hundred representatives of fifty-three firms. In addition, ESD's Office of Contractor and Supplier Diversity sent the RFP to sixty-six MWBE firms.

On April 16, 2012, fifty-one firms responded to the RFP with several firms applying for more than one position. Forty-three firms requested to serve as underwriter, eight requested to serve as financial advisor and twelve firms requested to serve as financial product providers. ESD also received one proposal requesting to be considered only as a member of the Selling Group. A total of twenty-one MWBE firms responded to the RFP.

The Directors are not currently being asked to authorize the retention of any firm in connection with any matter. Instead, the requested approval would serve to make available to the Corporation a selection of candidate firms that have been through a broad solicitation process. This would allow staff to select from among the candidate firms to recommend to the Corporation in the future for retention in connection with particular projects without the need for conducting individual solicitations in each instance. This will save for each project the two or more months that is normally needed to conduct a solicitation, perform the necessary review and formulate a recommendation.

A. Underwriters

A team of staff from ESD Finance, Treasury, and Legal reviewed and rated the firms requesting to serve as underwriters. Rating criteria included:

- Experience of firm and individuals
- Knowledge and technical expertise
- Assistance in secondary markets
- Innovations, ideas, analyses or work provided to ESD Bond sales; retail and institutional distribution
- Commitment to public finance; capital structure

On the basis of overall rankings of the proposals from the responding firms, the recommended group is comprised of fourteen Senior Managers, twenty-one Co-Managers and nine Selling Group members. The Selling Group includes respondents who did not earn sufficient scores to qualify for the Senior or Co-Manager tier, as well as the one firm that requested only to be considered for inclusion in the Selling Group. The composition of the Selling Group may change from time to time. These firms will receive no designations, assume no liability for purchasing bonds and will only sell bonds as requested and as available.

ESD has, in the past, invited selected MWBE firms in the Co-Manager category to serve as Co-Senior Managers, and staff proposes to continue and expand this practice with not only MWBE firms, but also with emerging or small regional firms. This invitation will be based on the firm's

underwriting performance, including demonstrated support of the Corporation and ESD. As in the past, it is hoped that this practice will provide MWBE and emerging or small regional firms an opportunity to gain experience and allow for greater financial participation and compensation.

Given the continuing instability in the financial markets which has seen a number of firm mergers, acquisitions and consolidations, in the event that underwriting firms are acquired, merged or otherwise reconstituted, the new or reconstituted firm may be allowed to take the place held by the former firm.

Based on the foregoing reviews and appraisals, it is recommended that the firms noted in Schedule A be approved to serve as underwriters on a rotating basis for a term co-terminus with ESD's pre-qualified list, currently expected to expire in June, 2016.

#### B. Financial Advisors

Eight firms submitted proposals to serve as financial advisors. ESD staff ranked the responding firms based on the following criteria.

- Experience of firm and individuals
- Knowledge and technical expertise
- Innovations, ideas, analyses or work provided to ESD

On the basis of overall staff ranking of the proposals, it is recommended that the Corporation select the three firms noted in Schedule A to be eligible to serve as financial advisors, as needed, for a term co-terminus with ESD's pre-qualified list, currently expected to expire in June, 2016.

#### C. Financial Product (SWAP) Providers

Twelve firms submitted proposals to serve as financial product (swap) providers. As required by State Finance Law Article 5-D, the financial product (swap) provider shall have credit ratings from at least one nationally recognized statistical rating agency that is within the two highest investment grade categories. Based on this criteria, as well as counterparty structure, it is recommended that five firms be selected as financial product (swap) providers provided that the firms maintain their respective credit rating within the two highest investment grade categories at the time the swap is negotiated. In the event that a selected firm(s) fails to maintain the required credit rating, that firm(s) would be eliminated from the approved list, and an additional financial product (swap) provider(s) may be added with the consent of the ESD CEO, provided that any such firm(s) meets the required credit rating and all appropriate criteria.

It is recommended that the five firms noted in Schedule A be approved as financial product (swap) providers for a term co-terminus with ESD's pre-qualified list, currently expected to expire in June, 2016.

III. REQUESTED ACTION

At this time, the Directors are requested to approve the slate of the underwriters, financial advisors, and financial products (swap) providers as set forth herein.

IV. ATTACHMENTS

Resolution  
Schedule A

September 1, 2015

NEW YORK LIBERTY DEVELOPMENT CORPORATION – Establishment of Pre-Qualified Financial Advisors & Financial Providers List – Authorization to Adopt the Established New York State Urban Development Corporation d/b/a Empire State Development Team of Underwriters, Financial Advisors and Financial Product (SWAP) Providers

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WHEREAS, the New York Liberty Development Corporation (the “Corporation” or “LDC” proposes to select a team of underwriters, financial advisors and financial providers (“Firms”) for all matters related to the Corporation; and

WHEREAS, the New York State Urban Development corporation d/b/a Empire State Development (“ESD”) placed a notice in the New York State Contract Reporter, and issued a Request for Proposals to select a group of Firms to serve ESD and on the basis of the overall ranking of the proposals by the responding Firms, selected qualified Firms and;

WHEREAS, based on ESD’s evaluation of such Firms, the Corporation wishes to adopt the same list of Firms adopted by ESD; and

BE IT RESOLVED, that on the basis of the materials presented to this meeting, a copy which is hereby ordered to be filed with the records of the Corporation, the Firms, listed in Schedule A be and each hereby is, approved in the various areas of expertise, such approval to remain in effect until the termination or expiration of the pre-qualified ESD list.

RESOLVED, that the President and Vice President of the Corporation or his designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to execute and deliver any and all documents and to take all and any related actions as he or she may in his or her sole discretion consider necessary or proper to effectuate the foregoing. Any actions taken by the Corporation prior to the adoption of this resolution complementing or in furtherance of the actions authorized are hereby ratified.

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## SCHEDULE A

### 1. UNDERWRITERS

#### SENIOR MANAGERS:

Bank of America/Merrill Lynch  
Barclays Capital Inc.  
Citigroup Global Markets Inc.  
Goldman, Sachs & Co.  
Jefferies & Company, Inc.  
JP Morgan Securities LLC  
Loop Capital Markets LLC  
Morgan Stanley & Co. LLC  
M.R. Beal & Company  
RBC Capital Markets, LLC  
Rice Securities, LLC  
Samuel A. Ramirez & Co., Inc.  
Seibert Brandford Shank & Co. LLC  
Wells Fargo Bank, N.A.

#### CO-MANAGERS:

Blaylock Robert Van, LLC  
BNY Mellon Capital Markets, LLC  
CastleOak Securities, L.P.  
Fidelity Capital Markets  
Jackson Securities  
Janney Montgomery Scott LLC  
KeyBanc Capital Markets Inc.  
Lebenthal & Co., LLC  
M&T Securities, Inc.  
Mesirow Financial, Inc.  
Morgan Keegan & Company, Inc.  
Oppenheimer & Co. Inc.  
Piper Jaffray & Companies  
Prager & Co., LLC  
Roosevelt & Cross Incorporated  
Southwest Securities  
Sterne Agee  
Stifel, Nicolaus & Company, Incorporated  
TD Securities (USA) LLC  
The Williams Capital Group, L.P.  
US Bancorp Investments, Inc.

2. FINANCIAL ADVISORS:

Acacia Financial Group, Inc.

Public Financial Management, Inc.

Public Resources Advisory Group, Inc./Mohanty Gargiulo LLC

3. FINANCIAL PRODUCT (SWAP) PROVIDERS:

Barclays Capital, Inc.

BNY Mellon Capital Markets, LLC

Goldman, Sachs & Co.

RBC Capital Markets, LLC

Wells Fargo Bank, N.A.

# **ITEM #5**



FOR CONSIDERATION

September 1, 2015

TO: The Directors

FROM: Robert M. Godley

SUBJECT: Refunding of Liberty Bonds

REQUEST FOR: Authorization to Proceed with the Preparation of Documents in Connection with Issuing Refunding Bonds for a Portion of New York Liberty Development Corporation's Revenue Bonds (Goldman Sachs Headquarters Issue), to Take Actions Related to Tax Equity and Fiscal Responsibility Act ("TEFRA") Approval for such Refunding Bonds, Select Underwriter(s) and to Take Related Actions

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I. BACKGROUND

The Liberty Development Corporation (the "Corporation") issued \$1,265,220,000 of its Liberty Bonds in 2005 and \$235,595,000 of its Liberty Bonds in 2007. The bond proceeds were lent to Goldman Sachs Headquarters, LLC (the "Borrower") to finance the construction of the now fully completed Goldman Sachs Global Headquarters located on West Street in lower Manhattan. The Bonds were secured solely by a Guaranty Agreement from The Goldman Sachs Group, Inc., a global investment banking, securities and investment management firm. The Borrower is a wholly owned subsidiary of the Goldman Sachs Group, Inc.

The Borrower now wishes to refund approximately \$22 million of the Bonds which were sold to retail investors with 10 year maturities. The transaction is expected to be a public offering at a negotiated price which will effectively extend the maturities of these Bonds.

Staff of the Corporation now seeks the consent of the Board to prepare documents, send a notice to conduct and hold a hearing, obtain the approval of the Governor and select underwriter(s).

II. DOCUMENTS

The current bonds intended to be refunded mature on October 1, 2015. Accordingly, the documents must be drafted and approved to complete the refunding prior to such date. Staff is requesting consent by the Board to commence drafting documents. An additional meeting of the Board is anticipated to occur during the third week of September, 2015 so that the Board can approve the form of final documents.

III. FEDERAL TAX LAW REQUIREMENTS

Federal tax law ("TEFRA") requires a hearing prior to the sale of certain private activity bonds, and the refunding of such bonds when the maturities are extended. Since the maturities are being extended, a hearing is required and the applicable notice period for the hearing is 14 days.

TEFRA also requires an approval from a senior governmental executive (in this case the "Governor") to approve the transaction. The Governor's approval is intended to be obtained immediately following the hearing.

IV. UNDERWRITERS

An affiliate of the Borrower, namely Goldman Sachs & Co. ("GS") has been selected as the underwriter; GS is on the pre-qualified list of underwriters for the Corporation. The pre-qualified list was established by ESD Board on June 26, 2012 after an extended and in depth selection process. GS was selected for its extensive experience in all aspects of municipal finance, its extensive experience as an underwriter on other Corporation Liberty issuances and its responses and rating in the pre-qualification process. The Corporation also took note that GS is an affiliate of the Borrower and that the Borrower requested the Corporation make this selection. Borrower will have the option to select other co-managers from the Pre-Qualified list.

V. ENVIRONMENTAL REVIEW

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

VI. NON-DISCRIMINATION AND CONTRACTOR & SUPPLIER DIVERSITY

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this Project. The Borrower 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 the Project and shall

be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 30%.

VII. REQUESTED ACTION

The Directors are asked to authorize the preparation of bond documents, comply with Federal tax law regarding the hearing and the Governors approval, and select the underwriter(s).

VIII. RECOMMENDATION

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

IX. ATTACHMENT

Resolution

September 1, 2015

NEW YORK LIBERTY DEVELOPMENT CORPORATION - Authorization to Proceed with the Preparation of Documents in Connection with Issuing Refunding Bonds for a Portion of New York Liberty Development Corporation's Revenue Bonds (Goldman Sachs Headquarters Issue), to Take Actions Related to TEFRA Approval for such Refunding Bonds, to Appoint the Underwriter(s) and to Take Related Actions

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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 authorizes the preparation of documents necessary or desirable in connection with the issuance and sale of Refunding Bonds (the "Refunding Bonds") for a portion of the New York Liberty Development Corporation's Revenue Bonds (Goldman Sachs Headquarters Issue); and be it further

RESOLVED, that the Corporation hereby authorizes the holding of a public hearing (a "TEFRA Hearing"), the publication of prior notice of the TEFRA Hearing and the submission to the Governor of a request for approval following such TEFRA Hearing, all in accordance with and as required by the Internal Revenue Code of 1954, as amended; and be it further

RESOLVED, that the Corporation hereby consents to Goldman, Sachs & Co. to be the senior managing underwriter for such Refunding Bonds, together with such co-managers, if any, as Goldman, Sachs & Co. shall select; 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.

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