



**NY Power
Authority**

**Canal
Corporation**

**MINUTES OF THE JOINT MEETING
OF THE
POWER AUTHORITY OF THE STATE OF NEW YORK AND
NEW YORK STATE CANAL CORPORATION**

July 27, 2021

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Minutes of the Joint Meeting of the New York Power Authority's Trustees and Canal Corporation's Board of Directors held via video conference at approximately 9:30 a.m.

Members of the Board present were:

John R. Koelmel, Chairman
Eugene L. Nicandri, Vice Chairman
Tracy McKibben
Michael A.L. Balboni
Dennis T. Trainor
Bethaida Gonzalez

Anthony J. Picente, Jr. – excused

Gil Quiniones	President and Chief Executive Officer
Philip Toia	President – NYPA Development
Justin Driscoll	Executive Vice President and General Counsel
Adam Barsky	Executive Vice President and Chief Financial Officer
Joseph Kessler	Executive Vice President and Chief Operating Officer
Kristine Pizzo	Executive Vice President and Chief Human Resource & Administrative Officer
Sarah Salati	Executive Vice President and Chief Commercial Officer
Daniella Piper	Regional Manager and CTO
Sal Rojas	Regional Manager – Site Administration – SENY
Yves Noel	Senior Vice President and Chief Strategy Officer
Robert Piascik	Senior Vice President – Chief Information & Technology Officer
Keith Hayes	Senior Vice President – Clean Energy Solutions
Patricia Lombardi	Senior Vice President – Project Delivery
Brian Saez	Senior Vice President – Power Supply
Paul Tartaglia	Senior Vice President – EHS & Crisis Management
Bradford Van Auken	Senior Vice President – Operations Support Services & Chief Engineer
Karen Delince	Vice President and Corporate Secretary
Adrienne Lotto	Vice President and Chief Risk & Resilience Officer
John Canale	Vice President – Strategic Supply Management
Eric Meyers	Vice President – Chief Information Security Officer
Anne Reasoner	Vice President – Budgets & Business Controls
Lisa Wansley	Vice President – Environmental Justice
Victor Costanza	Senior Director – Cyber Security & Deputy CISO
Earl Faunlagui	Senior Director – Market & Commodities Risk
Lawrence Mallory	Senior Director – Security & Crisis Manager
Joseph Rende	Senior Director – Key Account Management
Dave Work	Senior Director – Contract & Program Operations
Christopher Fry	Director – Business Development
Thakur Sundeep	Controller
Carley Hume	Deputy Chief of Staff – President's Office
Mary Cahill	Manager – Executive Office
Teri Pegnataro	Manager – Service Fulfillment
Christopher Vitale	Financial Performance & Reporting Manager
Lorna Johnson	Senior Associate Corporate Secretary
Sheila Quatrocci	Associate Corporate Secretary
Kelli Higgs	Assistant Corporate Secretary
Michele Stockwell	Project Coordinator – Executive Office
Joy Ditto	President – American Public Power Association
Malik Robinson	P-TECH Intern (Nottingham, High School, Syracuse)
Edina Hasic	P-TECH Intern (Utica)

July 27, 2021

Fatoumata Dabo
Ousmane Dabo
Cavin Robinson
Franche Robinson

P-TECH Intern (Clermont International High School, Bronx)

Chairman Koelmel presided over the meeting. Corporate Secretary Delince kept the Minutes.

Introduction

Chairman Koelmel welcomed the Trustees/Directors and NYPA and Canal staff members who were present at the meeting. He also welcomed new member, Bethaida Gonzalez of Syracuse, New York, to the Board. He said that the members were happy to have her expertise in community relationships, as well as her perspectives from a long and distinguished career in education, SUNY Binghamton and, primarily, Syracuse University for the last 36 years. He said that the members were excited to have her join the team and look forward to her contributions in the years to come.

Chairman Koelmel continued that the meeting had been duly noticed as required by the Open Meetings Law and called the meeting to order pursuant to the Authority's Bylaws, Article III, Section 3.

1. **Adoption of the July 27, 2021 Proposed Meeting Agenda**

On motion made by Trustee Balboni and seconded by Trustee McKibben, the members adopted the meeting Agenda.

Conflicts of Interest

Trustee Picente declared a conflict of interest as it relates to Cree, Inc. (Item #5a ii). Chairman Koelmel and members, Nicandri, McKibben, Balboni, Trainor and Gonzalez declared no conflicts of interest based on the list of entities previously provided for their review.

2. **Motion to Conduct an Executive Session**

“Mr. Chairman, I move that the NYPA and Canal Boards conduct an executive session to discuss the financial and credit history of a particular corporation, pursuant to §105 of the Public Officers Law.” On motion made by Vice Chair Nicandri and seconded by Trustee McKibben, the members held an executive session.

3. **Motion to Resume Meeting in Open Session**

“Mr. Chairman, I move to resume the meeting in Open Session.” On motion made by Trustee Balboni and seconded by Trustee McKibben, the meeting resumed in Open Session.

Chairman Koelmel said that no votes were taken during the Executive Session.

4. DISCUSSION AGENDA:

a. Strategic Initiatives

i. President and Chief Executive Officer's Report

President Quiniones said he would begin his report with an update on NYPA's Performance Scorecard and on NYPA's Strategy (Exhibit "4a i-A"). Yves Noel would then provide an update on the Authority's Key Performance Indicators, Scorecard, and Dashboard used to track the Authority's progress with VISION2030. Special guest, Joy Ditto, President of the American Public Power Association would present a special award, and Lisa Wansley would report on the Future Leaders Scholarship Program as well as the Authority's P-TECH Internship Program. Kristine Pizzo would end with an update on NYPA's Return-to-Work Plan.

June 2021 – VISION2030 Scorecard

President Quiniones presented the new scorecard used to track the day-to-day operations of the Power Authority. He said, to date, all of the Key Performance Indicators are meeting or exceeding their targets; therefore, the Authority and Canal Corporation are operating according to the plan.

Strategic Initiatives:

1) Preserve and enhance the value of Hydropower

Next Generation Niagara

The Next Generation Niagara Life Extension and Modernization Program is a \$1.1 Billion Program to revamp and modernize the Niagara Power Project, the Authority's flagship asset, to serve the people of the state of New York for the next 50 years. To date, the integrated controls upgrade of the first turbine (Unit 12) will be completed as scheduled. Estimated completion of the program is 2034 and the Authority is on track to meet this goal.

2) Pioneer the path to decarbonize natural gas plants

Green Hydrogen Demonstration Project

NYPA will be the first utility in the United States to demonstrate the use of green hydrogen at an existing natural gas power plant, blending it with natural gas to run a Power Plant, in this case, the Authority's Power Plant in Brentwood, Long Island, a "peaker" plant used on the hottest days when demand for electricity is high.

In the fall, NYPA will test the use of green hydrogen. In addition, NYPA is exploring other technologies such as short duration battery storage and long- or multi-duration battery storage, to be used to decarbonize its natural gas power plants in New York City and Long Island, while keeping the reliability and resiliency of the systems.

3) Be the Leading Transmission Developer, Owner and Operator for New York State

Smart Path Upgrade Project

The Smart Path project is for the upgrade of the Authority's almost 80-year-old transmission lines from Massena to the Adirondacks. Approximately one-third of the project is completed; the project is scheduled to be completed on schedule, June 2023.

4) Partner with our Customers and the State to meet their Energy Goals

Javits Solar + Storage

One of the Authority's strategic initiatives is to partner with its customers to help them decarbonize their own operations. The rooftop solar and storage being installed at the Javits Convention Center in New

York City in partnership with Siemens Energy, will be the largest rooftop solar and storage in Manhattan after its anticipated completion in March 2022.

5) Reimagine the New York State Canal System for economic and recreational benefit

“On the Canals Excursions”

NYPA continues to reimagine the canals. Last year, “Staycation” programs were initiated so that the canal communities and New Yorkers upstate were able to enjoy the canals as a recreation asset. This year, the “Beyond the Canals Excursions” was launched, expanding the canals recreational opportunities for New Yorkers along the canal communities.

a. VISION2030 Scorecard Refresh and Dashboard Introduction

Mr. Yves Noel, Senior Vice President of Strategy and Corporate Development provided an update on VISION2030 (Exhibit 4a i a-A).

President Quiniones said that NYPA created the scorecard and milestones to achieve the targets of the VISION2030 Scorecard and Dashboard.

The Scorecard, with its 9 Key Performance Indicators (“KPIs”), will check the health of the Authority’s business on a monthly basis and the Dashboard tracks the progress of the VISION2030 targets as well as major deliverables and milestones.

VISION 2030 Priorities & Pillars contain multiple tactics to achieve Targets

VISION2030 utilizes five Strategic Priorities to manage the Authority’s business, namely, Preserve Hydropower; Decarbonize NG Plants; Lead Transmission; Serve Customers and the State; and Reimagine the Canals) and five Foundational Pillars (Digitization, Environmental, Social and Governance (“ESG”), Diversity, Equity and Inclusion (“DEI”), Resilience, and Resource Alignment.

Reviews drive Accountability and Insight into NYPA’s VISION2030 Progress

Scorecard – provide a view of short-term organizational health to be distributed monthly at each Board meeting.

Dashboard – Review outcomes and discuss progress toward theSVISION2030 goals and organizational health and implement the Plan’s progress against VISION2030 targets, and report to the Board semi-annually.

As part of cascading VISION2030 NYPA’s revamped its Scorecard

The Scorecard is used to check the health or the Authority’s business on a monthly basis.

The Scorecard refresh process included industry benchmarking, collaboration with consultants and multiple iterations with the Executive Management Committee.

Dashboard measures VISION 2030 Progress through three lenses (Implementation Plans, Performance Measures and Capital Spend)

Strategic Planning Sessions are held semi-annually in order to enhance and to make adjustments to the Authority’s Strategic Plan. This is broken up into three components 1) progress against the implementation plans; 2) performance against the outcomes, which are the 30 measures identified in VISION2030; and 3) ‘Big Rock’ capital projects and the progress of spend against these projects.

Mr. Yves Noel added that two mechanisms were designed for reporting to the Board, a monthly report on NYPA’s operations and the VISION2030 Dashboard which every six months provides the Board with a report on how the Authority performed against the targets.

1. Presentation of the APPA Award to Chairman Koelmel

Ms. Joy Ditto, President of the American Public Power Association (“APPA”), thanked President Quiniones and the Board members for inviting her to the meeting to present an award to Chairman Koelmel. She said, as background information, APPA was established in 1940 in Washington, D.C. with a diversity of members in the more than 2,000 publicly-owned utilities in the country, in 49 states and five territories. NYPA is considered one of APPA’s largest members along with the Department of Water and Power in Los Angeles, which has 1.4 million utility customers. Other members of APPA include some of the small utilities in Orlando and Oklahoma.

The APPA primary focus, (99%), is on federal issues; however, in very targeted circumstances, and at the request of its members in a given state, APPA will provide expert advice or testimony at the state or regional levels. In addition, APPA has approximately 65 subject-matter experts working on its members’ behalf in Washington, D.C.

APPA’s vision is to shape the future of public power to drive a new era of community-owned electric service. APPA’s mission is to partner with its members to promote public power, helping community-owned utilities deliver superior services through joint advocacy, education, and collaboration, which aligns with its strategic plan. Advocacy is a primary driver, i.e., regulatory and legislative advocacy, as well agency advocacy and advocacy in the media. Also, utility operations and technical services, including mutual aid, which NYPA has been an extremely valuable partner, providing mutual aid to Puerto Rico.

APPA also provides professional development and knowledge sharing, news, and information through its publications. NYPA has been featured many times in APPA’s Public Power newsletter and magazine. APPA also focus inwardly, looking at association excellence and some of the KPIs, and making sure that the association is providing optimal value to its members.

In terms of APPA’s strategic direction, the association’s four “big buckets” projects comport with advocating for public power. Another is Association Excellence, two of which NYPA is focused on, promoting grid security, and moving public power forward. NYPA and the State of New York is forward-looking in this regard.

NYPA has been a member of APPA since 1980, and a long-time member of APPA’s small R&D program called Demonstration of Energy and Efficiency Developments (“DEED”), and has received DEED grants, eight in total since 2005. NYPA has contributed to the program and received grants in return.

NYPA also participates in APPA’s Reliable Public Power Provider program (RP3), which is a peer-supported program where public power utility peers evaluate each other’s reliability; NYPA is a Diamond Level, the top level RP3 designee.

During the period 2018-2019, APPA also created a new program called Smart Energy Provider Program, where there is peer evaluation of various elements. NYPA is one of APPA’s first designees of the Smart Energy Provider Program.

APPA engages with the governing bodies of its members, such as NYPA, locally elected officials, mayors, city council members, and appointed or elected boards. APPA formed a group to ensure that it is getting a perspective of its governing boards when they go to Capitol Hill and elsewhere in D.C. to advocate for its members.

APPA also has group called Policy Makers Council, which, similar to its board of directors, has regional representation from across the country. Chairman Koelmel was nominated by the CEO of NYPA to be part of the That Policy Makers group. The nominee will participate in helping APPA advocate on behalf of public power in Washington. NYPA’s Chairman, John Koelmel, has received the Spence Vanderlinden Public Official Award, which was created in 1984 to recognize personal service to APPA by elected and appointed officials. It honors Spence Vanderlinden of Harlan, Iowa, who was the first Chair

of the APPA Policy Makers Council. Any elected or appointed member of an APPA member utility who actively participated in APPA's Policy Makers Council group for at least five years is eligible for this award. The awards were presented at APPA's National Conference in Orlando, Florida. Ms. Ditto congratulated Chairman Koelmel on receiving this award. She said his leadership, and the support of NYPA in the broader public power community, is appreciated.

Chairman Koelmel thanked Ms. Ditto for the recognition and consideration for the award. He thanked President Quiniones for the nomination and for the leadership which he displayed across the industry. He continued that it has been an honor for him to serve the organization, and this board, in particular. He is proud of the great work NYPA does, and the great team the organization has, and he is proud to be associated with the organization.

President Quiniones thanked Ms. Ditto for her presentation at the meeting today, and congratulated Chairman Koelmel, on behalf of everyone at NYPA and the New York State Canals for the recognition.

Vice Chair Nicandri added that APPA provides a lot of opportunity, knowledge, and information to the Power Authority and the award is well deserved.

2. Introduction of Scholarship Recipients & P-TECH Interns

Ms. Lisa Payne Wansley, Vice President – Environmental Justice, provided an overview of the Future Leaders Scholarship program and P-TECH Intern program, introduced the Scholarship Recipients and P-TECH interns to the Board and shared some of the successes of the department's inaugural programs under the DEI commitment which focusses on STEM and opening career opportunities for young people in underserved communities.

DEI EJ Commitment #9

Building a Pipeline of Future NYS Energy industry employees

NYPA Future Energy Leader Scholarships

The Energy Leaders Scholarships provided ten, \$10,000 scholarships to students across New York State. This was done in partnership with industry organizations and existing community partners.

NYPA P-TECH Scholars

The Pathways in Technology Early College High School (P-TECH) program is an IBM-created innovative learning model, which allows eligible High School students to gain industry knowledge and experience through mentorships and a paid internship.

NYPA assists in building the curriculum by providing information on current energy industry needs in order to develop the students' professional and technical skills. The result is an Associate Degree in a discipline related to the energy and utility field.

NYPA Future Energy Leaders Scholarship

Ten students were awarded a one-time, \$10,000 scholarship to pursue a STEM-related, four-year college degree. NYPA did this with the assistance of five industry administrative partners: The American Association of Blacks in Energy, Eagle Academy Foundation, National Action Council of Minorities in Engineering, National Society of Black Engineers, and United Neighborhood Houses.

The eligibility criteria were as follows: Candidates must be residents of New York State, in good academic standing, with a cumulative grade point average of 80% or above, reside in an underserved community, and demonstrate economic need.

2021 NYPA Future Energy Leader Scholars

NYPA's inaugural 2021 class of scholars representing communities from all over New York State consists of one student from Western New York, two from Northern New York, two from Central New York, and five from New York City. Out of ten recipients, five students were of African descent, one was Muslim, two were Asian-Pacific Islanders, one was Transgender, and one was of Native American Indigenous heritage. Students will be attending Loyola College, Columbia University, Fordham University, Nazareth College, Boston College, Mercy College, Cornell University, and several Community Colleges.

Ms. Wansley then invited two of the students to briefly share their stories with the members. Malik Robinson who graduated from Nottingham High School in Syracuse and who will attend Boston College and major in Chemistry and Environmental Engineering; and Fatoumata Dabo, who graduated from Claremont International High School in the Bronx and who will attend Fordham University in the fall, majoring in Computer Science.

NYPA P-TECH Interns

After approval of the DEI Plan last year, Environmental Justice joined existing P-TECH partnerships in three High Schools in New York State. The Energy Tech High School in Queens, whose college partner is LaGuardia Community College, with an Associate Degree program in Mechanical and Electrical Engineering. Be Solar High School in Buffalo, whose college partner is Erie Community College, with an Associate Degree program in Computer Science and electronics, and Oneida Herk Madison BOCES in

Utica, whose college partner is Mohawk Community College, with an Associate Degree program in Cyber Security, Computer Science, and Mechanical and Electrical Engineering.

On June 28, NYPA began an all-virtual internship program with teams of five students from each of the schools. Each group was led by a NYPA employee who served as Project Facilitator, and each student was assigned a NYPA employee who served as their mentor. Each group will work on NYPA-specific projects and give presentations at the end of their internship. An update on these internships will be provided to the Board members at a later date.

One of the students, Adeana Hassick, attended Thomas R. Proctor High School in Utica, where she joined the PTECH program. She recently graduated with an Associate Degree in Mechanical Engineering, Technology from Mohawk Valley Community College. Adeana gave a brief overview of her experience as a NYPA PTECH intern.

In closing, Ms. Wansley said that NYPA's investment in the students' future is a positive life-changing experience and thanked the families and students for attending the meeting and sharing their stories. She also thanked President Quiniones and the Board members for their support and encouragement. President Quiniones thanked the Board of Trustees for their support and added that NYPA is off to a good start in building the pipeline of more diverse employees, not just for NYPA but for the Clean Energy industry.

3. COVID-19/Return to the Workplace Update

Ms. Kristine Pizzo, Executive Vice President of Human Resources and Administration, provided an update of NYPA's Return-to-Work Plan (Exhibit "4a i-3-A"). She said that throughout the pandemic, NYPA had its Incident Command Structure team help guide its decisions regarding coming into the workplace to maintain health and safety for staff working on the site and at home. The HR team is now working on developing the longer-term plan to increase the presence of staff in the workplace.

Throughout the pandemic, NYPA had staff coming into the workplace. Over the past year, NYPA gradually increased the presence of staff throughout the sites, consistent with state guidelines, and maintenance of health and safety, in order to fulfill the work that NYPA needed to accomplish, not only on the site, but at customer sites as well.

The Return to the Workplace Plan, which will be in two phases, one in the summer and the other in the fall, is informed by benchmarking, looking at peer results, local and national utilities and agencies, to see what their plans are and what they are doing for their workplace re-entry.

Summer Plan (June – August)

Prior to this summer, approximately 75 percent of staff were either working full-time or part-time. The Summer Plan that will be introduced for June, July and August will increase the presence of staff that were working remotely to return to the workplace a minimum of three days every pay period, consistent with the guidelines that are in place.

Fall Plan (September – December)

The Fall Plan will increase in-person presence with a more structured approach for hybrid-working. Human Resources will be looking at benchmarking, listening to staff feedback, monitoring the internal workplace, and the external markets, so that they can create a plan that is meaningful and that brings everyone back to working together.

Guiding Principles

The plan is guided by certain "Guiding Principles" that are informing NYPA's work rules and decisions:

Protect Health and Safety

The health and safety of the Authority's staff is paramount; therefore, NYPA is making sure that the conditions created within the organization maintains a safe work environment.

Serve NYPA's Mission

NYPA wants to make sure that it fulfills the needs of the business to provide safe, reliable, affordable power, but also being cognizant of the marketplace and maintaining its competitiveness in the workforce.

Support Inclusion

NYPA also wants to support inclusion and make sure that it is listening to feedback from staff and create rules that are equitable across-the-board.

Foster Community

NYPA also wants to increase and foster collaboration to make those times in the office when staff is not on remote teams call or doing things virtually, meaningful.

Build Agility

NYPA wants to be able adjust quickly, and continuously respond to changes.

Further updates will be presented to the members at the next Board meeting in September.

Mr. Paul Tartaglia, Senior Vice President – EHS & Crisis Management, provided an update on the Authority's employees' vaccination status. He said that the Authority has not taken a position where it mandates employees to provide their vaccination status; it is voluntary. Based on that, approximately 60 percent of NYPA's employees have voluntarily reported that they are vaccinated. However, based on NYPA's data points, it is estimated that approximately 80 percent of the employees have been vaccinated.

NYPA has updated its countermeasures plan to reflect the most current CDC, and New York State Department of Health goals and what the Authority has learned from the Delta variant. To date, two employees are out sick with reported COVID, and contact tracing has been done. In addition, two employees who have reported signs and symptoms of COVID are currently under investigation.

Three of New York State's Economic Development regions are at stage one of NYPA's countermeasures, Long Island, affecting the Authority's Flynn and Brentwood plants; the Finger Lakes, which have relatively no impact on the Authority, and the Capital region which affects some of the Canal sites and Albany. The Incident Command Center team monitors the data daily. The team meets every Monday morning, and ad hoc, as needed. Based on the countermeasures, the pace and frequency of those meetings will increase.

At present, the main work effort is the preplanning for testing if, and when, NYPA either mandate testing for non-vaccinated employees, or when NYPA gets to stage three in its countermeasures, at which time it will mandate testing for its employees to ensure employee safety and continuity of the Authority's operations.

b. NYPA Development Report

Mr. Philip Toia, President of NYPA Development, provided an overview of the group and some of the projects that they are working on. He said that NYPA Development was formed earlier this year and the group's main focus is supporting NYPA's VISION2030 in support of the New York Climate, Leadership, and Community Protection Act ("CLCPA") goals.

NYPA Development was established to assist the Authority in its goal to become the leading developer, owner, and operator of transmission in New York State. The team supports NYPA's VISION2030 by looking at preserving and enhancing the value of hydropower within NYPA, and also working with NYPA's Operations Department and other groups to pioneer the path to decarbonize the Authority's natural gas fleet.

The department's three areas of concentration are new transmission for NYPA, large-scale renewables and developing utility-scale storage within New York State. Although actively engaged in large-scale renewables and utility-scale storage, the group's main focus has been on transmission.

Project & Business Development

The basis for NYPA Development was the Project and Business Development group which was formerly a part of Commercial Operations; that group, under the leadership of Girish Behal, became a part of the NYPA Development team. The Project Development team, within that group, focuses mainly on transmission. The Project Development group explores energy storage, utility-scale and large-scale renewables, and the Licensing and Development group supports the licensing of the transmission projects.

Asset Strategy

Asset Strategy is headed by Tim Zandes, former Regional Manager of SENY. The Studies and Standards team, within that group, supports development in identifying projects, working with NYPA's staff, as well as consultants, to identify the projects that will enhance NYPA's portfolio, as well as meeting VISION2030 as it relates to the state's emissions goals. The Asset Strategy group also explore projects that will enhance the existing portfolio, preserving the value of hydropower and building projects that will support NYPA's VISION2030.

The Project Manager bridges the gap between the Development groups and Utility operations.

NYPA Development team also works closely with the Finance and Legal Departments, as well as other groups within NYPA, to competitively bid on projects and develop the best projects for the group.

Some of the projects currently underway to enhance NYPA's existing portfolio and support its VISION2030 includes:

Transmission:

- Smart Path Project – this project is currently under construction
- The Smart Path Connect Project – this project is in the licensing phase.
- The Central-East Energy Connect Project (formally the Marcy to New Scotland Reinforcement Project) – this project is under construction.
- Clean Path New York Project – NYPA submitted proposals in response to NYSERDA Tier 4 RFP for Tier 4 RECs which is in the competitive process.
- Southeastern New York (SENY) Public Policy Transmission Needs Project – The Public Service Commission issued an Order for this project. NYPA is actively engaged in putting together proposals for that project.

Energy Storage

NYPA Development Supports:

- NYPA's Operations Department, and other groups, on the North Country Energy Storage Project.
- The Brentwood Hydrogen Development Project; and
- 174 Global, a battery storage project to support Con Edison's system located on NYPA's Zeltmann Astoria Project.

Growing Transmission Capacity in New York State

There are five active transmission projects in New York State. NYPA is involved in three of those projects.

- 1) Smart Path Connect in Northern New York (there is also a southern portion that is being developed by National Grid).
- 2) Smart Path (extending from Northern New York towards Central New York) is in construction.
- 3) Central-East Energy Connect – runs from the Marcy area in Utica to Eastern New York and the New Scotland, Albany area.

These projects are geared towards getting renewables that are being developed in Upstate New York across the eastern interconnect, the Central-East interface, to the New York City area.

NYPA Development remains aggressive and agile in the development of these projects and putting together a portfolio of competitive projects that will enhance NYPA's portfolio and help NYPA meet its VISION2030, and the State meet the CLCPA goals.

C. Chief Operations Officer's Report

Mr. Bradford Van Auken, Senior Vice President – Operations Support Services and Chief Engineer, provided highlights of Utility Operations' key performance metrics. (Exhibit "4c-A").

Performance Measures – Year-to-Date

Generation Market Readiness

- Generation Market Readiness factor was at 96.39%. This is below the target of 99.40%.

This result was driven primarily by the outages at the Blenheim-Gilboa Power Plant, Unit 3, as well as the Flynn Plant. These unplanned outages originated in April, and, as the year progressed, started weighing more heavily upon this metric. In the past, NYPA was meeting this metric; however, the Authority experienced two significant equipment issues which put the Plant into the forced outages. The B-G Unit 3 breaker has returned to service and is now available for dispatch in the market.

Transmission System Reliability

- Transmission System Reliability factor was at 91.78%. The target is 91.45%.

Environmental Incidents

- Year-to-date, there were 13 incidents. The Target is not to exceed 22 incidents.

Safety

DART (Days Away, Restricted or Transferred) is the Authority's safety metrics.

- The year-to-date DART Rate is 0.49. The target is 0.78.

T-LEM – Niagara Switchyard

- The Niagara Switchyard project is part of the Transmission Life Extension and Modernization ("T-LEM") program approved in 2012 for an estimated cost of \$726 million. In early June, work within Bay 25, which included the replacement of three 230kV breakers, six disconnect switches, two potential transformers and various other ancillary equipment, was completed. This work required modifications and replacement of equipment and foundation work, which was very challenging. It was also part of a larger program that continued through the height of the COVID-19 pandemic. The team kept NYPA's large-scale capital programs moving forward for the reliability of the system and for New York State. The overall Niagara Switchyard LEM is approximately 60% complete.

Central East Energy Connect

(Marcy-New Scotland Transmission Upgrade Project)

- The Marcy-New Scotland Transmission Upgrade Project was officially renamed Central-East Energy Connect, spanning across Central East load zone, from NYPA's Clark Energy Center to new substitutions at Princetown and Gordon Road, continuing on to New Scotland. This transmission project will unbundle the transmission-congestion constraints and enable significant additional power flow transfer.
- Through NYPA's partnership with LS Power, construction on this project began in the spring of this year. The first milestone was reached in May, and the first five-mile segment between the towns of Princetown and Rotterdam in Schenectady County was energized.

- Work is progressing from the east to the west; construction on NYPA-owned assets will begin in 2022; the overall project completion is estimated for 2023.
- NYPA and LS Power also recently completed a maintenance and emergency response agreement that outlines NYPA's long-term project investment and role in maintaining all of the overhead transmission, assets, and facilities for the entire project.
- The New York Independent System Operator ("NYISO") has also filed, with FERC, on behalf of the Power Authority, for cost containment measures for the project.
- With the specifications and the engineering plans for the Marcy Switchyard finalized, the Authority is advancing the station upgrades for Clark Energy Center 345 yardwork, which will begin in early 2022. Two additional outages are scheduled for this project; an additional 11 miles of the project will be completed before the end of this year.

d. Chief Commercial Officer's Report

Ms. Sarah Salati, Executive Vice President and Chief Commercial Operations Officer, provided highlights of the report to the Board (Exhibit "4d-A"). She said that, as Chief Commercial Officer, is reporting under the Operations group with respect to VISION2030 with particular focus and ownership over three of the five initiatives, in addition to preserving and enhancing the value of the Authority's hydropower, supporting the responsible transition from natural gas by 2035, and the Authority's customers and the state with respect to clean energy transition.

Electricity Supply – June 2021

2021 Merchant Gross Margin Projections

With respect to the merchant volumes, the Authority is on track to meet its budget and the commitment on its financials by the end of the year.

Economic Development

Economic Development provides budget certainty for organizations across the state to invest in the economic growth and development of New York; it also provides budget and financial certainty for NYPA. As a result of the work done by the Key Account Managers under the direction of Keith Hayes, for the Board's approval are requests from 15 new customers for more than 20 megawatts of power, securing and preserving over 2700 jobs and committing over half a billion dollars into the economic investment in New York State.

Customer Business Lines: June YTD Results

With respect to the strategy and the outcomes that New York State requires from an Energy Policy standpoint, and the most effective delivery of that outcome across all the products and services and business lines within Commercial Operations, the result is positive year-over-year P&L trajectories.

Clean Energy Solutions

With respect to Clean Energy Solutions, the team executed on over \$200 million in capital projects annually, supporting the state's goal of 185 trillion BTUs reduction in the next few years.

e-Mobility

Four Charging Ports have been fully commissioned. More than 100 chargers are currently in construction and is anticipated to be online by the end of the year. The Authority is very close to its annual commitment of 124 Charging Ports. In addition, there has been an increase of over 50% higher utilization than anticipated of the Authority's charging network, supporting electrification of the system.

NY Energy Manager & DER Flexibility

To date, the Authority is ahead of its target as it relates to NY Energy Manager and DER Flexibility.

- The Department of Corrections and Community Services has commissioned over 20 MW of Solar.
- The Authority has a contract with JFK, sponsoring 14 of their buildings and providing them energy management services.

Leading Decarbonization and Clean Energy Services while Applying Continuous Learning and Efficiency

Commercial Operations is looking to execute on the VISION2030 Strategy and to do it in the most cost-effective and efficient way possible, looking at driving increased revenues from products and services that customers desire, and having it have an impact on NYPA's bottom line for its continued financial liability, while, at the same time, improving the margins across all of the Authority's customers' products and services by driving continuous improvement.

Clean Energy Master Plan

The Clean Energy Master Plan is an example of the evolution of NYPA's products and services. NYPA is looking at integrating and providing even more holistic advisory services, using all the technologies that it has at its disposal, and elevating its relationship with its customers.

Distributed Energy Resources for Virtual Power Plant

NYPA is working towards a Virtual Power Plant and having 25 MW by 2025 of controllable load taking all the technologies that are behind the meter.

NYPA partnered with R&D and have a pilot at the White Plains office where it is participating with the Cadenza Energy Storage Project in responding to demand response, specifically, dynamic load management.

Continuous Process Improvement Mid-Year Achievements

NYPA is looking at continued delivery of efficient and effective processes to eliminate waste. The team is empowered through the discipline developed by Toyota and other organizations, historically, around identifying lean and agile ways to increase productivity and to eliminate waste.

Ms. Salati ended by saying that Commercial Operations has made great progress across the board as it relates to preserving and enhancing NYPA's hydropower and driving more sophisticated electricity supply offers and behind the meter with products and services that the Authority's customers want, and that the Authority will deliver on its Clean Energy transition.

e. Chief Financial Officer's Report

Mr. Adam Barsky, Executive Vice President and Chief Financial Officer, provided highlights of the report to the Board (Exhibit "4e-A").

Year-To-Date Actuals (January-June 2021)

Through the six months ending June 2021, NYPA is operating in line with its Budget Plan.

Margins - Generation – slightly below the budget due primarily to lower than originally forecasted hydro flows out of the Niagara Project.

Margins - Transmission – revenues are ahead of the budget target. This is due to the NYPA Transmission Adjustment Charge ("NTAC") revenues, the revenue that the Authority receives based on congestion pricing through the transmission system, which is ahead of what was previously forecasted; as well as other transmission revenues that are also trending upwards.

Margins - Non-Utilities is below the budget. This is due to timing issues related to energy efficiency and other energy storage projects in terms of when those revenues will be realized. This should narrow towards the end of the year.

Operating Expenses are also tracking lower than budgeted due to allocation of capital, which is based on the rate of spend on the Authority's capital programs; It is expected that this will track close towards the Budget Plan between now and the end of the year.

Full-Year Forecast

The Authority is tracking towards the Budget Plan between now and the end of the year.

Transmission Revenue is higher than what was originally forecasted. This is due mainly to the new transmission revenue requirement from July 1st to June 2022.

Margins – Non-Utility – is down slightly.

Operating Expenses – although under the projections, is tracking towards the Budget Plan.

In reviewing the "low-case/high-case" range projections, there is an opportunity for the Authority to improve by the end of the year. This is based on the results of the "bending the cost" program initiatives that the Authority is undertaking, and some of the work around the OPEB health costs, based on the merger of the Canals and the Medicare Advantage. In addition, the Authority is expecting to realize some benefit from the pension expenses this year, based on the performance of the State Pension System.

f. Finance and Risk Committee Report

Chair Tracy McKibben provided the following report:

The Finance and Risk Committee met on July 15, 2021, adopted the Minutes of the May 12, 2021 meeting, received two staff reports and recommended the following five resolutions to the full Board for adoption:

i. Proposed Issuance of Energy Efficiency Revenue Bonds

RESOLVED, that the Trustees hereby authorize the Energy Efficiency Program Revenue Bond Resolution (the "EE Bond Resolution") a copy of which is attached hereto as Exhibit "4f i-A," the issuance of Energy Efficiency Revenue Bonds (the "EE Bonds") in an unlimited amount and the assignment and pledge to the bond trustee under the EE Bond Resolution (the "EE Bond Trustee") to secure the payment of the EE Bonds of payments to be made under such Long Term Financing Supplements to Final Customer CICs or CPCs (the "Long Term Financing Supplement") a form of which is attached hereto as Exhibit "4f i-B," and/or such Long Term Financing Supplements with respect to certain outstanding Energy Efficiency loans, made by the Authority to certain customers in order to finance the design, development, construction, implementation and administration of energy-related projects, programs, and services for such customers in accordance with Section 1005 (17) of the Power Authority Act; and be it further

RESOLVED, That the EE Bond Resolution pledge and assignment of payments under the Long Term Financing Supplements with respect to outstanding energy efficiency loans as described above is advisable and payments under such Long Term Financing Supplements are not essential to the maintenance and continued operation of the rest of the Authority's Projects (as defined in the Authority's General Resolution Authorizing Revenue Obligations, as amended and supplemented (the "General Resolution")); and be it further

RESOLVED, That the assignment and pledge to the EE Bond Trustee of payments under the Long Term Financing Supplements and/or such Long Term Financing Supplements with respect to such energy efficiency loans includes the release of such Long Term Financing Supplements and any future payments under such Long Term Financing Supplements and any security interests relating to the same and such assignment and pledge will be undertaken pursuant to a Long Term Financing Supplement, to be executed by and between the Authority and the applicable customers; and be it further

RESOLVED, That projects financed with the proceeds of EE Bonds will constitute Separately Financed Projects pursuant to Section 203 of the General Resolution and the Long Term Financing Supplements and payments made under the Long Term Financing Supplements and assigned to the EE Bond Trustee will not constitute "Revenues" and will not constitute a part of the "Trust Estate" as those terms are defined in the General Resolution; and be it further

RESOLVED, That in order to provide additional security for the EE Bonds, the Authority is authorized to provide and secure certain reserve funds established under the EE Bond Resolution from proceeds of the EE Bonds and from surplus funds of the Authority, a limited obligation of the Authority and/or a surety bond policy or a letter of credit provided by the Authority to the EE Bond Trustee.

RESOLVED, That the proceeds of the EE Bonds will be loaned to the customers under the Long-Term Financing Supplements and a portion of such proceeds will be applied by the customers to satisfy outstanding payment obligations of the customers to the Authority with respect to completed Energy Efficiency Projects or to finance new energy efficiency projects for the customer; and be it further

RESOLVED, That the payments made by customers to the Authority in satisfaction of outstanding payment obligations of the customer to the Authority with respect to completed Energy Efficiency Projects

will be deposited into the Operating Fund pursuant to Section 503 of the General Resolution; and be it further

RESOLVED, That the payments made by customers to the Authority in satisfaction of outstanding payment obligations of the customers to the Authority shall be applied to the payment of any related outstanding commercial paper obligations of the Authority or may be used for any other lawful purpose of the Authority in accordance with the General Resolution; and be it further

RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer, the Executive Vice President and General Counsel, the Executive Vice President and Chief Financial Officer, the Corporate Secretary, the Treasurer and all other officers of the Authority be, and each of them hereby is, authorized and directed to deliver the Long Term Financing Supplements, the EE Bond Resolution and any resolution supplemental to the EE Bond Resolution (including the form of Supplemental Resolution 2021-1 attached hereto as Exhibit "4f i-C"), with such amendments, supplements, changes, insertions and omissions thereto as may be approved by the Chairman or the President and Chief Executive Officer, which amendments, supplements, insertions and omissions shall be deemed to be part of such documents and resolutions as approved and adopted by the Authority, and the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer, the Executive Vice President and General Counsel, the Executive Vice President and Chief Financial Officer, the Corporate Secretary, the Treasurer and all other officers of the Authority be, and each of them hereby is, authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements (including the Long Term Financing Supplements, the EE Bond Resolution and any resolution supplemental to the EE Bond Resolution) and any other documents that they, or any of them, may deem necessary or advisable to effectuate the foregoing resolution, subject to approval as to the form thereof by the Executive Vice President and General Counsel.

ii. Renewable Energy Certificate Purchase Agreement

RESOLVED, That the Trustees approve and authorize the execution of a Renewable Energy Certificate Purchase Agreement with the New York State Energy and Research Development Authority ("NYSERDA") for the purchase of renewable energy certificates in accordance with the report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

iii. Smart Path Connect Project – Capital Expenditure Authorization Request

RESOLVED, That pursuant to the Authority's Capital Planning and Budgeting Procedures, capital expenditures in the amount of \$595,070,000 for continuation of the Smart Path Connect Project are hereby authorized in accordance with, and as recommended in, the report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Authority, in accordance with Treasury Regulation Section 1.150-2, hereby declares its official intent to finance as follows: The Authority intends to reimburse to the maximum extent permitted by law with the proceeds of tax-exempt obligations to be issued by the Authority, all expenditures made, and which may be made in accordance with the Project described in the report of the President and Chief Executive Officer.

<u>Capital</u>	<u>Expenditure Authorization</u>
Smart Path Connect Project	<u>\$595,070,000</u>

AND BE IT FURTHER RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, and take any and all actions and execute and deliver any and all certificates, agreements and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

iv. Energy Efficiency Program – Authorization to Extend Maximum Cost Recovery Period from Twenty-Five to Thirty Years

RESOLVED, That in support of the Authority's Energy Efficiency Program, including Governor Cuomo's BuildSmart 2025 Initiative, and to assist eligible Authority program participants to achieve their energy efficiency goals, the Trustees hereby authorize a maximum cost-recovery period of 30 years for projects under the Authority's Energy Efficiency Programs completed in the future, provided that (1) the Senior Vice President – Clean Energy Solutions determines that (1) the equipment to be financed under such project has a useful life equal to, or longer than, the cost recovery period chosen; (2) the cost of these projects, including financing costs, will be recovered directly from participants, with the participants being responsible, among other things, for interest rate costs during the repayment period; and (3) long-term financing will be provided through a third-party bond conduit fixed rate debt instrument having a term equal to the life of the useful equipment; and be it further

RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, and take any and all actions and execute and deliver any and all certificates, agreements and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

v. Finance and Risk Committee Charter Update

RESOLVED, That the attached Finance and Risk Committee Charter be approved in the form proposed in Exhibit "4f v-A;" and be it further

RESOLVED, That the Executive Vice President and Chief Financial Officer and the Finance and Risk Committee recommends that the Trustees approve the Finance and Risk Committee Charter; and be it further

RESOLVED, That the Chairman, the Vice Chair, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

On motion made by Trustee Balboni and seconded by Trustee Trainor, the foregoing resolutions, as submitted by the President and Chief Executive officer, were unanimously adopted.

g. Cyber and Physical Security Committee Report

Chair Michael Balboni reported that at its meeting earlier, the Cyber and Physical Security Committee received a report on NYPA's cyber security posture and the response to the numerous high-profile cyber security incidents that have been reported in the media, none of which impacted NYPA. NYPA's cyber security team continues to monitor the threat landscape in close collaboration with industry, state and federal partners and make adjustments to its cyber security posture to keep pace with current and emerging threats.

The committee also received a report on NYPA's site visit and inspection activities pursuant to NYS Executive Law, Article 26 which mandates periodic security reviews of the energy, chemical and pipeline industries, and a report on the effectiveness of security regulations and practices.

He ended that the members were also updated on a briefing between NYPA / Canals Security and the Cybersecurity and Infrastructure Security Agency of Department of Homeland Security ("DHS"). These partnerships are considered essential to the continued development of the NYPA security program to protect both NYPA and Canals.

h. Audit Committee Report

Chair Eugene Nicandri reported that the Audit Committee met on July 15, 2021 and received an Internal Audit update for the 2021 Audit Plan from Angela Gonzalez, Senior Vice President of Internal Audit, and, in the Consent Agenda, the updated Audit Committee and Internal Audit Charters were presented. The Audit Committee approved the Audit Committee and Internal Audit Charters. The committee made a motion to recommend adoption of the Charters to the full Board (Exhibits "4h-A," "4h-B," and "4h-C"). He ended that the Audit Committee and Internal Audit Charters are now before the members for a vote.

On motion made by Chair Eugene Nicandri and seconded by Trustee Michael Balboni, the Audit Committee and Internal Audit Charters were unanimously adopted.

5. CONSENT AGENDA:

On motion made by Trustee Michael Balboni and seconded by Trustee Dennis Trainor, the Consent Agenda was adopted.

a. Commercial Operations

Chairman Koelmel invited Mr. Dave Work, Senior Director of Contract and Program Operations, to provide highlights the new legislation related to the Recharge New York Power and also the Authority's Economic Development programs/initiatives to the Board.

Mr. Work said that the Recharge New York Program is made up of 910 megawatts of power, half Hydropower and the other half, Market Power. That power is further broken down into buckets, one of which is 100 megawatts that have been capped for small businesses and not-for-profit corporations, historically. Small businesses and not-for-profit corporations typically have the largest job and capital investment accounts per megawatt, but they are also the smallest internal bucket, which the Authority has been allocating for several years.

This group of customers account for over 200,000 jobs and more than \$9 Billion in capital investment, which is nearly half of the program, as far as jobs and Cap X, but it is only about 11 percent of the total program, as it relates megawatts.

Historically, this has required the Authority, from time to time, to hold applications until power is returned to the Authority. Recently, the Authority requested a change in the Law to shift an additional 50 megawatts, reallocating power from the large business bucket, to allow the Authority to make meaningful allocations and return the greatest economic development to the State of New York. That change was recently signed into Law.

Mr. Work, on behalf of NYPA, thanked the Governor, as well as Assemblyman Steve Stern, and Senator Sean M. Ryan, who sponsored the Bill.

Mr. Work continued that staff is recommending the following hydropower allocations for the Board's approval:

ReCharge New York Allocations:

- Cree Inc., Mohawk Valley, for 11.9 megawatts of power. The company has committed to create 320 new green jobs, and more than \$500 million in capital investment.
- Intergrow Holding Company Incorporated, the Finger Lakes, for 5.8 megawatts of power. The company has committed to create a total of 85 jobs, and \$8.5 million in capital investment.
- Bon Secours Charity Health System, for 1.2 megawatts of power. The company has committed to retain 1,800 jobs and more than \$5 million in capital investment.

Western New York Hydropower Program:

- Polymer Conversions, Erie County, for 300 kilowatts of hydropower. The company has committed to create 165 jobs, and \$10.5 million in capital investment.
- Surmet Ceramics, Erie County, for 640 kilowatts of hydropower. The company has committed to provide 32 jobs, and \$13 million in capital investment.

i. **Expansion Power Allocations**

The President and Chief Executive Officer submitted the following report:

"SUMMARY"

The Trustees are requested to:

1. Approve: (a) an allocation of 300 kilowatts ('kW') of Expansion Power ('EP') to Polymer Conversions, Inc. ('Polymer') to support the company's proposed expansion at 5732 Big Tree Road, Orchard Park (Erie County); and (b) an allocation of 640 kW of EP to Surmet Ceramics Corporation ('Surmet') to support the company's proposed expansion at 699 Hertel Avenue, Buffalo (Erie County). These projects are discussed in more detail below and in Exhibits '5a i-A' and '5a i-B.'
2. Authorize a public hearing, in accordance with Public Authorities Law ('PAL') §1009, on a proposed form of contract ('Proposed Contract') with Polymer and Surmet that would, along with Authority Service Tariff No. WNY-2 ('ST WNY-2'), apply to the sale of EP to Polymer and Surmet. Copies of the Proposed Contract and ST WNY-2 are attached as Exhibits '5a i-A-1' and '5a i-B-1.'

BACKGROUND

Under PAL §1005(13), the New York Power Authority ('NYPA' or 'Authority') may contract to allocate 250 megawatts ('MW') of firm hydroelectric power as EP and up to 445 MW of Replacement Power ('RP') to businesses in the State located within 30 miles of the Niagara Power Project, provided that the amount of power allocated to businesses in Chautauqua County on January 1, 1987 shall continue to be allocated in such county.

Each application for an allocation of EP and RP are evaluated under criteria that include but need not be limited to, those set forth in PAL §1005(13)(a), which details general eligibility requirements. Among the factors to be considered when evaluating a request for an allocation of hydropower are the number of jobs created as a result of the allocation; the business' long-term commitment to the region as evidenced by the current and/or planned capital investment in the business' facilities in the region; the ratio of the number of jobs to be created to the amount of power requested; the types of jobs to be created, as measured by wage and benefit levels, security and stability of employment, and the type and cost of buildings, equipment and facilities to be constructed, enlarged or installed.

The Authority works closely with business associations, local distribution companies, and economic development entities to gauge support for the projects that would be supported with allocations of Authority hydropower. Discussions routinely occur with National Grid, New York State Electric & Gas, Empire State Development, Invest Buffalo Niagara, the Niagara County Center for Economic Development, and the Erie County Industrial Development Agency (collectively, the 'Economic Development Entities') to coordinate other economic development incentives that may help bring economic development to New York State. Staff confers with the Economic Development Entities to help maximize the value of hydropower to improve the economy of Western New York and the State of New York. Each organization has expressed support for today's recommended EP allocations.

At this time, 8,885 kW of unallocated EP and 82,279 kW of unallocated RP is available to be awarded to businesses under the criteria set forth in PAL §1005(13)(a).

DISCUSSION

Polymer Conversions, Inc.

Headquartered in Western New York, Polymer is a full-service medical device contract manufacturer that specializes in complex thermoplastic injection molding and value-add assembly. Polymer was acquired by MedBio, LLC ('MedBio') in September 2020. Headquartered in Grand Rapids, Michigan, MedBio is a manufacturer of medical devices and disposable products.

To respond to new growth opportunities presented by the acquisition, Polymer is proposing to significantly expand its manufacturing presence at its Orchard Park facility. The project requires additional space for advanced manufacturing processes, cleanroom operations, and engineering and warehousing functions. The expansion would more than double the size of the current Orchard Park facility.

Polymer's expansion project would involve a capital investment expenditure of at least \$10.5 million. This includes office space, cleanroom space, and associated manufacturing functions (a capital investment expenditure of at least \$6.5 million), and new injection molding machinery and equipment purchases (a capital investment expenditure of at least \$4 million).

Polymer is planning to begin construction on the expansion project in 2021. The company would commit to the creation of 45 new, permanent, full-time jobs at the Orchard Park facility. Average annual compensation/benefits are estimated to be \$62,000 per job.

The company applied for a 400 kW allocation of hydropower in connection with the expansion. Staff recommends an EP allocation in the amount of 300 kW for a term of ten years.

The job creation ratio for the proposed allocation of 300 kW is 150 new jobs per MW. This ratio is above the historic average of 65 new jobs per MW based on allocations previously awarded. The total investment of at least \$10.5 million would result in a capital investment ratio of \$35 million per MW. This ratio is above the historic average of \$18 million per MW.

The Economic Development Entities have expressed support for the recommended allocation to Polymer.

Surmet Ceramics Corporation

Established in 1982, Surmet is a manufacturer of transparent armor products used in the defense and security industries. The company maintains 14 employees at its Buffalo site.

Surmet is proposing to construct a new 3,400 square-foot building at its Buffalo facility to accommodate the purchase and utilization of a new cold isostatic press ('CIP') unit. The new building would consist of a press room with a recessed pit, a high-pressure room, and a pump room.

The addition to the existing site would facilitate Surmet's production of large aluminum oxynitride ('ALON') windows which serve as transparent armor for various aircraft and ground vehicles.

Surmet's expansion project would involve a capital investment expenditure of at least \$13 million. This includes new building construction costs (a capital investment expenditure of at least \$2.5 million), the purchase of a new CIP unit (a capital investment expenditure of at least \$6.5 million), new furnace machinery and equipment purchases (a capital investment expenditure of at least \$2.8 million) and associated electric upgrades (a capital investment expenditure of at least \$1.2 million).

Surmet is planning to begin construction on the expansion project in 2021. The company would commit to the creation of 18 new, permanent, full-time jobs that would be located at the Buffalo facility. The average compensation/benefits are estimated to be \$85,000 per job.

The company applied for a 946 kW allocation of hydropower in connection with the expansion. Staff recommends an EP allocation in the amount of 640 kW for a term of ten years.

The job creation ratio for the proposed allocation of 640 kW is 28 new jobs per MW. This ratio is below the historic average of 65 new jobs per MW based on allocations previously awarded. The total investment of at least \$13 million would result in a capital investment ratio of \$20.3 million per MW. This ratio is above the historic average of \$18 million per MW.

The Economic Development Entities have expressed support for the recommended allocation to Surmet.

CONTRACT INFORMATION

The following is a summary of some of the matters that would be addressed in ST WNY-2 and the Proposed Contracts with Polymer and Surmet:

- Base rates for demand and energy, an annual adjustment factor, and a minimum monthly charge which helps the Authority cover fixed costs of serving a customer even when the customer does not utilize the allocation in a billing period.
- Direct billing of all production charges (i.e., demand and energy) as well as all New York Independent System Operator, Inc. charges, taxes and any other required assessments.
- The provision of substitute energy in the event of hydropower curtailments caused by adverse water conditions that impact power project operations.
- Basic requirements for customer metering.
- Early outreach to the customer concerning allocation extension initiatives by the Authority.
- Requirements for energy audits at the facility receiving the allocation. The customer would have the option to satisfy the audit requirement through either a traditional physical audit, or a virtual audit using the Authority's New York Energy Manager which is expected to provide considerable savings for customers who select it.
- Periodic communications to customer about energy-related projects, programs and services offered by the Authority.
- Compliance provisions that allow the Authority to reduce a customer's allocation for a failure to meet supplemental commitments, with an opportunity for the customer to present a proposed plan with actionable milestones to cure deficiencies.
- The collection of a Zero Emission Credit Charge and Monthly Renewable Energy Credit Charge to allow the Authority to recover costs it incurs relating to its purchase of Zero Emission Credits and Renewable Energy Credits attributable to the customer's load.

Staff intends to discuss the form of the Proposed Contracts with Polymer and Surmet and anticipates reaching agreement on a contract substantially similar to the form attached as Exhibits '5a i-A-1' and '5a i-B-1.' Accordingly, the Trustees are requested to authorize a public hearing, pursuant to PAL §1009, on the form of the Proposed Contracts attached as Exhibits '5a i-A-1' and '5a i-B-1.' The form of the Proposed Contracts is consistent with recently approved contracts for the sale of EP and RP.

As required by PAL §1009, when the Authority believes it has reached agreement with its prospective co-party on a contract for the sale of EP or RP, it will transmit the proposed form of the

contract to the Governor and other elected officials and hold a public hearing on the contract. At least 30-days' notice of the hearing must be given by publication once in each week during such period in each of six selected newspapers. Following the public hearing, the form of the contract may be modified, if advisable. Staff will report to the Board of Trustees on the public hearing and the Proposed Contract at a later time and make any additional recommendations regarding the Proposed Contract as are appropriate.

Upon approval of the final proposed contract by the Authority, the Authority must 'report' the Proposed Contract, along with its recommendations and the public hearing records, to the Governor and other elected officials. Upon approval by the Governor, the Authority is authorized to execute the final contract.

FISCAL INFORMATION

The actions recommended herein will not have a negative impact on the Authority's finances.

RECOMMENDATION

The Senior Vice President, Clean Energy Solutions, recommends that the Trustees:

1. Approve an allocation of 300 kW of Expansion Power ('EP') to Polymer Conversions, Inc. ('Polymer') as described herein and in Exhibit '5a i-A' for a term of ten years; and approve an allocation of 640 kW of EP to Surmet Ceramics Corporation ('Surmet') as described herein and in Exhibit '5a i-B' for a term of ten years.
2. Authorize a public hearing, in accordance with PAL §1009, on the Proposed Contracts with Polymer and Surmet attached hereto as Exhibits '5a i-A-1' and '5a i-B-1.'

For the reasons stated, I recommend the approval of the above-requested actions by adoption of the resolution below."

On motion made and seconded, the following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That an allocation of 300 kilowatts of Expansion Power ("EP") be awarded to Polymer Conversions, Inc. for a term of 10 years as detailed in the foregoing report of the President and Chief Executive Officer ("Report") and Exhibit "5a i-A," be and hereby is approved, subject to rates previously approved by the Trustees; and be it further

RESOLVED, That an allocation of 640 kilowatts of EP be awarded to Surmet Ceramics Corporation for a term of 10 years as detailed in the foregoing Report and Exhibit "5a i-B," be and hereby is approved, subject to rates previously approved by the Trustees; and be it further

RESOLVED, That the Trustees hereby authorize a public hearing pursuant to Public Authorities Law ("PAL") §1009 on the terms of the proposed form of the direct sale contract with Polymer Conversions, Inc., and Surmet Ceramics Corporation for the sale of the EP allocations (the "Contract"), the current forms of which is attached as Exhibits "5a i-A-1" and "5a i-B-1"; and be it further

RESOLVED, That the Corporate Secretary be, and hereby is, authorized to transmit a copy of the proposed Contract to the

Governor, the Speaker of the Assembly, the Minority Leader of the Assembly, the Chairman of the Assembly Ways and Means Committee, the Temporary President of the Senate, the Minority Leader of the Senate, and the Chairman of the Senate Finance Committee pursuant to PAL §1009; and be it further

RESOLVED, That the Chairman, the Vice Chair, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

ii. **Recharge New York Power – New, Extended and Modified Allocations**

The President and Chief Executive Officer submitted the following report:

“SUMMARY

The Trustees are requested to:

- (a) authorize the extension of the 15 allocations of Recharge New York ('RNY') Power awarded to the businesses listed in Exhibit '5a ii-A' as described below for a term of 7 years, to commence on the expiration of each such allocation, or in the Authority's discretion, on a date to be agreed upon by the Authority and the customer for a term not to exceed 7 years (collectively, the 'Extended Term'), subject to the following conditions: A customer whose allocation would be extended would have to agree to provide supplemental commitments for, among other things, jobs and capital investments, as it has in its current RNY Power agreement(s) with the Authority (collectively, 'Current RNY Power Agreement') for the length of any Extended Term, through the incorporation of such supplemental commitments in the proposed final contract that is executed by the parties. With respect to capital investments, the vast majority of RNY Power customers (i.e., those that do not have project/expansion capital investment commitments) would be expected to meet a minimum capital investment commitment;
- (b) award new allocations of RNY Power available for 'retention' purposes to the businesses listed in Exhibit "5a ii-B' in the amounts indicated therein;
- (c) award new allocations of RNY Power available for 'expansion' purposes to the businesses listed in Exhibit '5a ii-C' in the amounts indicated therein;
- (d) award new allocations of RNY Power available for eligible small businesses and/or not-for-profit corporations to the entities listed in Exhibit '5a ii-D' in the amounts indicated therein; and
- (e) approve modifications related to the previously approved RNY Power allocations and/or supplemental commitments for the customers listed in Exhibit '5a ii-E'.

The sale of any extended or new allocation as proposed herein would be governed by the form of the RNY Power contract that was approved by the Trustees on March 26, 2019, and existing Authority Service Tariff RNY-1.

All of the above actions have been recommended by the Economic Development Power Allocation Board ('EDPAB') at its July 26, 2021 meeting.

BACKGROUND

On April 14, 2011, Governor Andrew M. Cuomo signed into law the RNY Power Program as part of Chapter 60 (Part CC) of the Laws of 2011. The RNY Power Program is codified primarily in Economic Development Law ('EDL') §188-a and Public Authorities Law §1005(13-a) (the 'RNY Statutes'). The program makes available 910 megawatts ('MW') of 'RNY Power,' 50% of which will be provided by certain Authority hydropower resources and 50% of which will be procured by the Authority from other sources. RNY Power contracts can be for a term of up to 7 years in exchange for job and capital investment commitments. RNY Power is available to businesses and not-for-profit corporations for job retention and business expansion and attraction.

As part of Governor Cuomo's initiative to foster business activity and streamline economic development, applications for all statewide economic development programs, including the RNY Power Program, have been incorporated into a single on-line Consolidated Funding Application ('CFA') marking a fundamental shift in how State economic development resources are marketed and allocated. Beginning in September 2011, the CFA was available to applicants. The CFA continues to serve as an

efficient and effective tool to streamline and expedite the State's efforts to generate sustainable economic growth and employment opportunities. All applications that are considered for an RNY Power allocation are submitted through the CFA process.

RNY Power is available to businesses and not-for-profit corporations for job retention and business expansion and attraction purposes. Specifically, Chapter 60 provides that at least 350 MW of RNY Power shall be dedicated to facilities in the service territories served by the New York State Electric and Gas, National Grid, and Rochester Gas and Electric utility companies; at least 200 MW of RNY Power shall be dedicated to the purpose of attracting new businesses and encouraging expansion of existing businesses statewide; and up to 100 MW shall be dedicated for eligible not-for-profit corporations and eligible small businesses statewide.

'Eligible applicant' is defined by statute to mean an eligible business, eligible small business, or eligible not-for-profit corporation; however, an eligible applicant shall not include retail businesses as defined by EDPAB, including, without limitation, sports venues, gaming or entertainment-related establishments or places of overnight accommodations.

RNY Power allocation awards are comprised of 50% hydropower and 50% Authority-procured market power. Prior to entering into a contract with an eligible applicant for the sale of RNY power, and prior to the provision of electric service relating to the RNY power allocation, the Authority shall offer each eligible applicant the option to decline to purchase the RNY market power component of such allocation. If an eligible applicant declines to purchase the RNY market power component, the Authority has no responsibility for supplying such market power to the eligible applicant.

Under applicable law, applications for RNY Power are first considered by EDPAB. EDPAB is authorized to recommend applicants to the Authority's Trustees that it believes should receive an award of RNY Power based on applicable statutory criteria and other pertinent considerations. The criteria provided for in the RNY Statutes are summarized in Exhibit '5a ii-H' to this report. An allocation recommended by EDPAB qualifies the subject applicant to enter a contract with the Authority for the purchase of the RNY Power if the Authority makes an allocation award.

In arriving at recommendations for EDPAB's consideration, Staff, among other things, attempted to maximize the economic benefits of low-cost NYPA hydropower, the critical state asset at the core of the RNY Power Program, while attempting to ensure that each recipient receives a meaningful RNY Power allocation.

Unless otherwise noted in Exhibits '5a ii-B', '5a ii-C', and '5a ii-D' (recommendations for new RNY Power allocations), new business applicants with relatively high scores were recommended for allocations of retention RNY Power of 50% of the requested amount or average historic demand, whichever was lower. These allocations were capped at 10 MW for any recommended allocation. Not-for-profit corporation applicants that score relatively high are typically recommended for allocations of 33% of the requested amount or average historic demand, whichever is lower. These allocations are capped at 5 MW. While not applicable to the recommendations presented herein, applicants currently receiving hydropower allocations under other Authority power programs are typically recommended for allocations of RNY Power of 25% of the requested amount, subject to the caps as stated above.

RNY Power allocation extensions have been awarded by the Trustees on eleven prior occasions spanning from October 2018 through March 2021. These recommendations pertain to existing RNY Power customers receiving an Extended Term of 7 years.

RNY Power allocations pertaining to new applicants have been awarded by the Trustees on thirty-one prior occasions spanning from April 2012 through March 2021. Of the 200 MW block of RNY Power made available pursuant to Chapter 60 for business 'expansion' purposes, 15.7 MW remain unallocated. Of the 100 MW block of RNY Power that is set aside for not-for-profit corporations and small businesses pursuant to Chapter 60, 2.7 MW remain unallocated. Of the remaining RNY Power made

available pursuant to Chapter 60, 5.2 MW remain unallocated. These figures reflect Trustee actions on RNY Power applications taken prior to any actions the Trustees take today.

EDPAB, at its meeting held on July 26, 2021, recommended that:

- (a) the Trustees approve extensions for the 15 RNY Power allocations that are listed in Exhibit '5a ii-A' for a term of 7 years;
- (b) each of the applicants identified in Exhibits '5a ii-B', '5a ii-C', and '5a ii-D' be awarded an RNY Power allocation in the amount indicated for a term of 7 years; and
- (c) the Trustees approve the modifications related to the RNY Power allocations listed in Exhibit '5a ii-E' for the reasons discussed in Exhibit '5a ii-E'.¹

Consistent with the RNY Statutes, EDPAB recommended that the contracts for the sale of extended and new allocations contain:

- (1) provisions for effective periodic audits of the recipient of an allocation for the purpose of determining contract and program compliance, and for the partial or complete withdrawal of an allocation if the recipient fails to maintain commitments, relating to such things as employment levels, power utilization, capital investments, and/or energy efficiency measures;
- (2) requirements for an agreement by the recipient of an allocation undertake at its own expense an energy audit of its facilities at which the allocation is consumed modified by the Authority on a showing of good cause by the recipient, and that the recipient provide the Authority with a copy of any such audit or a report describing the results of such audit;
- (3) a requirement for an agreement by the recipient of an allocation to make its facilities available at reasonable times and intervals for energy audits and related assessments that the Authority desires to perform; and
- (4) a recommendation shall require that if the actual metered load at the facility where the allocation is utilized is less than the allocation, such allocation will be reduced accordingly.

The sale of RNY Power allocations that are awarded by the Trustees today would be governed by the form of RNY Power contract that was approved by the Trustees on March 26, 2019, and Authority Service Tariff RNY-1. The terms and conditions in the RNY Power contract form are consistent with the terms and conditions recommended by EDPAB as described above.

DISCUSSION

1. Extension of Existing RNY Power Allocations

For the current round of recommendations, Authority Staff has reviewed applications from 15 RNY Power customers listed in Exhibit '5a ii-A' who are seeking extensions, and a copy of each application has been made available to the Board. Staff's review has consisted of a review on a customer-specific basis of such issues as the amount of each allocation that would be extended, the supplemental commitments that these customers have made under their Current RNY Power Agreement and are prepared to make as consideration for an extension, and the customer's compliance status under its Current RNY Power Agreement, including its compliance with supplemental commitments for jobs and capital investments.

¹ EDPAB determined that the applicants listed in Exhibit '5a ii-F' are not eligible to receive an RNY Power allocation for the reasons discussed in Exhibit '5a ii-F.' EDPAB also terminated the application review process for the applicants listed in Exhibit '5a ii-G' for the reasons discussed in Exhibit '5a ii-G.' No action is required by the Trustees on these matters.

In summary, the businesses listed in Exhibit '5a ii-A' which are located throughout the State bring valuable benefits to the State. In total, the allocations listed in Exhibit '5a ii-A' are supporting the retention of more than 2,050 jobs and nearly \$28.2 million in capital investments throughout New York State, and the Authority will require customers to commit to the same or substantially similar supplemental commitments for jobs and capital investments that are summarized in Exhibit '5a ii-A' for the Extended Term.

Based on the foregoing discussion and EDPAB's recommendations, Staff recommends that the Trustees extend the allocations listed in Exhibit '5a ii-A' as described above and in Exhibit '5a ii-A' subject to the following conditions:

- (a) The sale of any allocation extended as proposed herein will be governed by the RNY Power contract form that was approved by the Trustees on March 26, 2019, and Authority Service Tariff RNY-1.
- (b) In order to receive an extension of its allocation, the customer must agree, for the Extended Term, to provide the supplemental commitments for jobs and capital investments that are the same or substantially similar to those that are summarized generally in Exhibit '5a ii-A' (subject to adjustments described above), through the incorporation of such supplemental commitments in the final contract that is executed by the parties. With respect to capital investments, RNY Power customers who do not have current project/expansion capital investment commitments would be expected to meet a minimum capital investment commitment which may be satisfied through capital expenditures made over a five-year period.
- (c) Unless otherwise noted in Exhibit '5a ii-A,' the customer is in compliance with its contractual obligations to the Authority under its Current RNY Power Agreement.

Staff believes that an extension of each allocation listed in Exhibit '5a ii-A' is appropriate and is consistent with the applicable statutory criteria listed in Exhibit '5a ii-H.' In addition, the terms and conditions in the RNY Power contract form approved by the Trustees on March 26, 2019, are consistent with the terms and conditions recommended by EDPAB.

2. Retention-Based RNY Power Allocations

The Trustees are asked to address applications submitted via the CFA process for RNY Power retention-based allocations. Unless otherwise indicated in Exhibit '5a ii-B,' these applications seek an RNY Power allocation for job retention purposes only.

Consistent with the evaluation process as described above, EDPAB recommended, at its July 26, 2021 meeting, that RNY Power retention allocations be awarded to the businesses listed in Exhibit '5a ii-B.' Each business has committed to retain jobs in New York State and to make capital investments at their facilities in exchange for the recommended RNY Power allocations.

Staff recommends that the Trustees accept EDPAB's recommendations and award RNY Power allocations to each of the businesses listed in Exhibit '5a ii-B' in the amounts and terms indicated therein.

3. Expansion-Based RNY Power Allocations

The Trustees are also asked to address applications requesting RNY Power allocations for expansion purposes. Allocations for this purpose would be sourced from the 200 MW block of RNY Power dedicated by statute for 'for-profit' businesses that propose to expand existing businesses or create new business in the State. Unless otherwise indicated in Exhibit '5a ii-C,' these applications seek an RNY Power allocation to support expansion of an existing business or a new business/facility. EDPAB recommended, at its July 26, 2021 meeting, that RNY Power expansion-based allocations be made to the

businesses listed in Exhibit '5a ii-C.' Each such allocation would be for a term of 7 years unless otherwise indicated.

As with the evaluation process used for the retention recommendations described above, applications for the expansion-based RNY Power were scored based on the statutory criteria, albeit with a focus on information regarding each applicants' specific project to expand or create their new facility or business (e.g., the expansion project's cost, associated job creation, and new electric load due to the expansion).

The proposed amounts of the expansion-based allocations listed in Exhibit '5a ii-C' are largely intended to provide approximately 70% of the individual expansion projects' estimated new electric load. Because these projects have estimated new electric load amounts, and to ensure that an applicant's overestimation of the amount needed would not cause that applicant to receive a higher proportion of RNY Power to new load, the allocations in Exhibit '5a ii-C' are recommended based on an 'up to' amount basis. Each of these applicants would be required to, among other commitments, add the new electric load as stated in its application, and would be allowed to use up to the amount of their RNY Power allocation in the same proportion of the RNY Power allocation to requested load as stated in Exhibit '5a ii-C.'

Staff recommends that the Trustees accept EDPAB's recommendations and award RNY Power allocations to each of the businesses listed in Exhibit '5a ii-C' in the amounts indicated therein.

4. Small Business and/or Not-for-Profit-Based RNY Power Allocations

The Trustees are also asked to address applications for RNY Power for eligible small businesses and/or not-for-profit corporations. Chapter 60 specifies that no more than 100 MW of RNY Power may be made available for eligible small businesses and eligible not-for-profit corporations.

Consistent with the evaluation process described above, EDPAB recommended, at its July 26, 2021 meeting, that RNY Power allocations be awarded to the small businesses and/or not-for-profit applicants listed in Exhibit '5a ii-D.' These applicants have committed to retain or create jobs in New York State and make capital investments to the extent indicated in Exhibit '5a ii-D' in exchange for the recommended RNY Power allocations as described in Exhibit '5a ii-D.' The RNY Power allocations identified in Exhibit '5a ii-D' are recommended for a term of 7 years unless otherwise indicated.

Staff recommends that the Trustees accept EDPAB's recommendations and award RNY Power allocations to each of the not-for-profit entities and/or small businesses listed in Exhibit '5a ii-D' in the amounts indicated therein.

If the recommended allocations are made, the 100 MW block of power will be close to fully allocated. Accordingly, Staff is prepared to establish a waiting list for small businesses and not-for-profit corporations that wish to apply for RNY Power.

5. Modifications to Existing Allocations and/or Related Supplemental Commitments

At its meeting held on July 26, 2021, EDPAB recommended that the Trustees approve modifications relating to the previously approved RNY Power allocations listed in Exhibit '5a ii-E' for Norwich Pharmaceuticals, Inc., NYU Langone Hospitals, and RSM Electron Power, Inc.

Due to a processing error associated with its expansion-based allocation, Norwich Pharmaceuticals, Inc. was previously approved for an extension of its retention-based RNY Power allocation in the amount of 450 kW. The corrected retention-based extension amount is 500 kW. Staff reviewed this request and is recommending that this retention-based extended RNY Power allocation be modified to 500 kW.

NYU Langone Hospitals was previously approved for a retention-based RNY Power allocation in the amount of 1,940 kW that would be available for use at multiple facilities/address in Brooklyn. After the approval, the customer discovered it did not include in its application additional facilities located in Manhattan. Staff reviewed this request and is recommending that the company's 1,940 kW retention-based RNY Power allocation be modified to include additional multiple facilities/addresses in Manhattan. The customer's original commitments of 4,000 retained jobs and \$250 million in capital spending would not change.

RSM Electron Power, Inc. was previously approved for a retention-based RNY Power allocation in the amount of 156 kW at its Hauppauge facility. The associated commitments are 76 retained jobs and \$750,000 in capital spending. Since the approval in March 2015, the customer has experienced load growth and has added jobs beyond its original commitment. For this reason, the customer has applied for additional retention-based RNY Power. Staff has reviewed this request and is recommending that the company's retention-based RNY Power allocation be modified from 156 kW to 206 kW, and that the company's job retention commitment be modified from 76 jobs to 120 jobs.

Staff has no objection to the requested modifications, and therefore recommends that the Trustees approve the modifications listed in Exhibit '5a ii-E.'

6. Applicants Not Eligible

At its meeting on July 26, 2021, EDPAB determined that the applicants listed in Exhibit '5a ii-F' are not eligible to receive an RNY Power allocation for the reasons listed in Exhibit '5a ii-F.' No action by the Trustees is required on this matter.

7. Termination of Application/Review Process

At its meeting on July 26, 2021, EDPAB terminated the application review process for the applicants listed in Exhibit '5a ii-G' for the reasons listed in Exhibit '5a ii-G.' No action by the Trustees is required on this matter. In the past, some applicants in these circumstances have refiled if able to advance a more complete RNY Power application.

FISCAL INFORMATION

The actions recommended herein will not have a negative impact on the Authority's finances.

RECOMMENDATION

The Senior Vice President – Clean Energy Solutions recommends that the Trustees accept the recommendations of the Economic Development Power Allocation Board ('EDPAB') and:

- (1) authorize the extension of each of the existing 15 allocations of RNY Power in the manner described above for the customers listed in Exhibit '5a ii-A' for a term of 7 years to commence on the expiration of the allocation, or commencing on a date to be agreed upon by the parties for a term not to exceed 7 years, subject to the conditions described above;
- (2) award the new allocations of RNY Power for retention purposes to the businesses listed in Exhibit '5a ii-B' as indicated therein;
- (3) award the new allocations of RNY Power for expansion purposes to the businesses listed in Exhibit '5a ii-C' as indicated therein;
- (4) award the new allocations of RNY Power to the small business and/or not-for-profit applicants identified in Exhibit '5a ii-D' for retention and/or expansion purposes as indicated therein; and

- (5) approve the modifications related to the allocations and/or supplemental commitments described in Exhibit '5a ii-E' for the reasons discussed above and in Exhibit '5a ii-E.'

For the reasons stated, I recommend the approval of the above-requested actions by adoption of the resolution below."

On motion made and seconded, the following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That the Trustees hereby accept the recommendations of the Economic Development Power Allocation Board ("EDPAB") and approve the extension of each of the existing 15 Recharge New York ("RNY") Power allocations previously awarded to the customers listed in Exhibit "5a ii-A" in the manner described in the accompanying report of the President and Chief Executive Officer ("Report") for a term of 7 years, to commence on (1) the expiration of the term of the allocation, or (2) in the Authority's discretion, commencing on a date to be agreed upon by the Authority and the customer for a term not to exceed 7 years (collectively, the "Extended Term"), subject to the following conditions:

- (a) the sale of the allocations as extended hereunder shall be made pursuant to the contract form approved by the Board on March 26, 2019, and Authority Service Tariff RNY-1; and**
- (b) in order to receive an extension of its allocation, the customer agrees to provide the supplemental commitments for jobs, capital investment and power utilization that are the same or determined by the Authority to be substantially similar to those contained in Exhibit "5a ii-A" (subject to adjustments described above) for the Extended Term, through the incorporation of such supplemental commitments in the final contract that is executed by the parties, and RNY Power customers that do not have an ongoing project/expansion capital investment commitment shall meet a minimum capital investment commitment which may be satisfied through capital expenditures made over a five-year period; and be it further**

RESOLVED, That the Trustees hereby accept the recommendation of the EDPAB and approve the new RNY Power allocations for retention purposes to the applicants listed in Exhibit "5a ii-B" in the amounts indicated therein for the reasons indicated in the Report and Exhibit "5a ii-B"; and be it further

RESOLVED, That the Trustees hereby accept the recommendation of the EDPAB and approve the new RNY Power allocations for expansion purposes to the applicants listed in Exhibit "5a ii-C" in the amounts indicated therein for the reasons indicated in the Report and Exhibit "5a ii-C"; and be it further

RESOLVED, That the Trustees hereby accept the recommendation of the EDPAB and approve the new RNY Power allocations for retention and/or expansion purposes to the small businesses and/or not-for-profit applicants listed in Exhibit "5a ii-D"

in the amounts indicated therein for the reasons indicated in the Report and Exhibit “5a ii-D”; and be it further

RESOLVED, That the Trustees hereby accept the recommendation of the EDPAB and approve the modifications/adjustments to the allocations and/or supplemental commitments described in Exhibit “5a ii-E” for the reasons indicated in the Report and Exhibit “5a ii-E”; and be it further

RESOLVED, That the Chief Commercial Officer – Commercial Operations, or such official’s designee, hereby is authorized on behalf of the Authority to provide for final terms and conditions that will be applicable to the foregoing allocations and/or projects, including without limitation progress milestones and provisions for the expiration of any allocation in the event that such milestones are not met; and be it further

RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

iii. **Request for Increased Funding – Municipal and Rural Cooperative Electric Utilities Electric-Drive Vehicle Program**

The President and Chief Executive Officer submitted the following report:

SUMMARY

The Trustees are requested to approve \$1.1 million in additional funding for the Municipal and Rural Cooperative Electric Utilities Electric-Drive Vehicle Program ('Muni-Coop E-D Program' or 'Program'). This amount is in addition to the \$11 million previously approved by the Trustees at their May 2003, February 2009, December 2013, January 2017, and January 2019 meetings, respectively. This Program enables the Authority's Municipal ('Munis') and Rural Electric Cooperative ('Coops') utility customers to purchase electric and hybrid-electric vehicles for use in their fleets, as well as associated battery charging equipment, where required. These funds will be recovered from the Program participants over a period of up to three years through a surcharge to their electric bills.

BACKGROUND

Since the 1980s, through its Energy Services Programs ('ESP'), the Authority has offered various types of energy services and clean energy technologies programs to participants throughout the state to help lower energy usage and/or achieve a cleaner and more energy efficient use of energy and natural resources.

At their May 29, 2003 meeting, the Trustees authorized \$1.2 million to finance the Muni-Coop E-D Program, a new partnership program between NYPA and the Munis and Coops. This Program facilitated the purchase of electric and hybrid-electric vehicles for the Muni and Coop systems' municipal fleets. At their meeting on February 24, 2009, the Trustees authorized an additional \$1.8 million. At their meeting on December 17, 2013, the Trustees authorized an additional \$2 million. At their meeting on January 31, 2017, the Trustees authorized an additional \$3 million. At their meeting on January 30, 2019, the Trustees authorized an additional \$3 million. As of June 4, 2021, eighty-six (86) such vehicles were placed with 25 participants.

DISCUSSION

The current Muni-Coop E-D Program is available to all Muni and Coop utilities. The Muni and Coop utilities apply to the Authority for funding to purchase certain vehicles for use by the Muni and Coop utilities' personnel and/or their affiliated municipal agencies to carry out their functions. These vehicles are generally high value items such as bucket trucks, heavy-duty work vehicles and off-road work vehicles. The funds made available to the Muni and Coop utilities for the purchase of these vehicles are recovered over three years through a monthly bill to the participating utility.

In addition, the Trustees have previously authorized that the full-requirements Muni and Coop utility customers, regulated by the Authority, be permitted to recover from their retail customers all costs associated with the electric-drive vehicle finance program, as well as any other energy-efficiency programs and initiatives that the Authority offers to the Muni and Coop Systems. Recovery of these costs will be through the Purchased Power Adjustment Charge. The partial-requirements systems, regulated by the New York Public Service Commission ('PSC'), may request similar permission from the PSC to recover costs associated with the vehicle purchase and other energy-efficiency programs from their customers.

The additional funding requested today will enable the Authority to continue its successful partnership with the Munis and Coops to expand the integration of electric-drive vehicles into their municipal fleets.

FISCAL INFORMATION

With the addition of the requested funding, the Muni-Coop E-D Program will have provided financing of up to \$12.1 million for the purchase of vehicles and the purchase and installation of battery charging equipment, where applicable. The costs associated with the instant funding request will be recovered directly from the Program participants over a period of up to three years through a monthly invoice or an electric bill surcharge, which is also how the Authority recovered the costs of the previously authorized funding requests. To date, there have been no issues with the repayment of loans in the initial or subsequent phases of the program.

The Program will be funded from Commercial Paper Note proceeds and/or Operating Fund monies. A small portion of the funding will be supplemented by Petroleum Overcharge Restitution ('POCR') funds allocated to the Authority by the New York State legislature; the POCR funding will be used strictly to offset the internal NYPA interest charges.

RECOMMENDATION

The Senior Vice President – Clean Energy Solutions recommends that the Trustees authorize an additional \$1.1 million in funding for the implementation of the Municipal and Rural Cooperative Electric Utilities Electric-Drive Vehicle Program and continue the use of the Purchased Power Adjustment Charge to allow the full-requirements municipal and rural cooperative electric utilities regulated by the Authority to recover their costs for the program.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below.”

On motion made and seconded, the following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That an additional funding in the amount of \$1.1 million for the Municipal and Rural Cooperative Electric Utilities Electric-Drive Vehicle Program, as described in the foregoing report of the President and Chief Executive Officer, is hereby authorized; and be it further

RESOLVED, That the Electric-Drive Vehicle Program may be funded with the proceeds of Series 1, 2, or 3 Commercial Paper Notes, Operating Fund monies, and/or Petroleum Overcharge Restitution (“POCR”) funds allocated to the Authority by New York State legislation, with such POCR funding being in amounts as deemed advisable by the Senior Vice President of Clean Energy Solutions; and be it further

RESOLVED, That the Trustees hereby authorize the full-requirements Municipal and Rural Co-operative systems served by the Authority to recover costs for this, and other energy-efficiency programs, through the Purchased Power Adjustment Charge; and be it further

RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the

July 27, 2021

foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

b. Procurement (Services) Contracts

**i. Procurement (Services) and Other Contracts
Business Units and Facilities –
Awards, Extensions, and/or Additional Funding**

The President and Chief Executive Officer submitted the following report:

SUMMARY

The Trustees are requested to approve the award and funding of the multiyear procurement (services) contracts listed in Exhibit '5b i-A,' in support of projects and programs for the Authority's Business Units/Departments and Facilities. Detailed explanations of the recommended awards and extensions, including the nature of such services, the basis for the new awards if other than to the lowest-priced, lowest total cost of ownership or 'best valued' bidders and the intended duration of such contracts, or the reasons for the extension and the projected expiration dates, are set forth in the discussion below.

BACKGROUND

Section 2879 of the Public Authorities Law and the Authority's Guidelines for Procurement Contracts require the Trustees' approval for procurement contracts involving services to be rendered for a period in excess of one year.

The Authority's Expenditure Authorization Procedures ('EAPs') require the Trustees' approval for the award of non-personal services, construction, equipment purchase or non-procurement contracts in excess of \$10 million, as well as personal services contracts in excess of \$10 million if low bidder or best value, or \$1 million if sole-source, single-source or other non-competitive awards.

The Authority's EAPs also require the Trustees' approval when the cumulative change order value of a personal services contract exceeds \$500,000, or when the cumulative change order value of a non-personal services, construction, equipment purchase, or non-procurement contract exceeds the greater of \$10 million or 25% of the originally approved contract amount not to exceed \$6 million.

DISCUSSION

Awards

The Trustees are requested to approve the award and funding of the multiyear procurement (services) contracts listed in Exhibit '5b i-A,' where the EAPs require approval based upon contract value or the terms of the contracts will be more than one year. Except as noted, all of these contracts contain provisions allowing the Authority to terminate the services for the Authority's convenience, without liability other than paying for acceptable services rendered to the effective date of termination. Approval is also requested for funding all contracts. Except as noted, these contract awards do not obligate the Authority to a specific level of personnel resources or expenditures.

The issuance of multiyear contracts is recommended from both cost and efficiency standpoints. In many cases, reduced prices are negotiated for these long-term contracts. Since these services are typically required on a continuous basis, it is more efficient to award long-term contracts than to rebid these services annually.

Extensions

Although the firms identified in Exhibit '5b i-B' have provided effective services, the issues or projects requiring these services have not been resolved or completed and the need exists for continuing these contracts. The Trustees' approval is required because the terms of these contracts will exceed one

year including the extension, the term of extension of these contracts will exceed one year and/or because the cumulative change-order limits will exceed the levels authorized by the EAPs in forthcoming change orders. The subject contracts contain provisions allowing the Authority to terminate the services at the Authority's convenience, without liability other than paying for acceptable services rendered to the effective date of termination. These contract extensions do not obligate the Authority to a specific level of personnel resources or expenditures.

Extension of the contracts identified in Exhibit '5b i-B' is requested for one or more of the following reasons: (1) additional time is required to complete the current contractual work scope or additional services related to the original work scope; (2) to accommodate an Authority or external regulatory agency schedule change that has delayed, reprioritized or otherwise suspended required services; (3) the original consultant is uniquely qualified to perform services and/or continue its presence and rebidding would not be practical or (4) the contractor provides proprietary technology or specialized equipment, at reasonable negotiated rates, that the Authority needs to continue until a permanent system is put in place.

The following is a detailed summary of each recommended contract award and extension.

Contract Awards in Support of Business Units/Departments and Facilities:

Information Technology and Cyber Security - Digital Innovation & Transformation

The proposed personal services contract with **Red River Technology LLC ('Red River') (Q20-7100CC)** would provide Wi-Fi Expansion Survey and WLAN Design. The purpose of this contract is to assess the current state and level of digital adoption readiness as it relates to network constraints, bandwidth support, cellular connectivity, device landscape, etc., in order to extend the Authority's current Wi-Fi coverage across all locations where work is currently being performed but lacks Wi-Fi connectivity. The Request for Quotations was advertised on the New York State *Contract Reporter* website and posted on the Procurement page of the Authority's website. Fifty-five firms/entities were listed as having been invited to, or requested to participate in, the Ariba event. Eight proposals were received electronically via Ariba and were evaluated. Staff recommends the award of a contract to Red River which is technically and commercially qualified. The contract is for a term of two years with a one-year option to extend and an amount of \$442,048. Red River is a Small Business Enterprise.

Operations - Clean Energy Solutions

The proposed personal services contracts with **AECOM USA, Inc. ('AECOM'), Arcadis of New York, Inc. ('Arcadis'), Hill International, Inc. ('Hill'), and Nautilus Consulting LLC ('Nautilus'), (Q21-7132CC)** would provide Risk Management Consulting Services. The Authority's Energy Services Program is a comprehensive project implementation program to provide energy efficiency and clean energy technologies and services at customer facilities through the implementation and construction of capital projects and services. The Request for Quotations was advertised on the New York State *Contract Reporter* website and posted on the Procurement page of the Authority's website. Thirty-five firms/entities were listed as having been invited to, or requested to participate in, the Ariba event. Fourteen proposals were received electronically via Ariba and were evaluated. Staff recommends the award of contracts to AECOM, Arcadis, Hill and Nautilus which are technically and commercially qualified and meet the bid requirements based on 'best value,' which optimizes quality, cost and efficiency among responsive and responsible offerors. These contracts are for a term of five years and an aggregate amount of \$5 million. Nautilus is a Small Business Enterprise.

Operations - Environmental Health & Safety

The proposed non-personal services contract with **Veolia North America, Inc. dba Veolia ES Technical Solutions LLC ('Veolia') (Q21-7115DK-M1)** would provide Recycling of Electronic Equipment. The Authority and Canals offices and operating project locations generate non-functioning

and obsolete electronic equipment, including desktop and laptop computers, printers, and peripherals (also, referred to as 'e-Waste') which can contain materials that may contain hazardous substances (e.g., lead solder, heavy metals in circuit boards, mercury switches and relays). The Authority manages this equipment at the end of its useful life for recycling in accordance with a regulatory exemption provided from the hazardous waste regulations at 6 NYCRR 371.1(c) (7) for materials being recycled. The Request for Quotations was advertised on the New York State *Contract Reporter* website and posted on the Procurement page of the Authority's website. Ten firms/entities were listed as having been invited to, or requested to participate in, the Ariba event. One proposal was received electronically via Ariba and was evaluated. Staff recommends the award of a contract to Veolia which is technically and commercially qualified. The contract is for a term of five years and an amount of \$400,000. Veolia is a Small Business Enterprise.

Operations - Environmental Health & Safety

The proposed non-personal services contract with **Veolia North America, Inc. dba Veolia ES Technical Solutions LLC ('Veolia') (Q21-7115DK-M4)** would provide Light Waste, Meter and Recycling Services. The purpose of this contract is to manage the recycling and disposal of waste ballasts and lamps generated from the Authority's Energy Efficiency projects. These lamps and ballasts are shipped and recycled in accordance with applicable environmental regulations and the Authority's policy and procedure. The Request for Quotations was advertised on the New York State *Contract Reporter* website and posted on the Procurement page of the Authority's website. Ten firms/entities were listed as having been invited to, or requested to participate in, the Ariba event. One proposal was received electronically via Ariba and was evaluated. Staff recommends the award of a contract to Veolia which is technically and commercially qualified. The contract is for a term of five years and an amount of \$3 million. Veolia is a Small Business Enterprise.

Operations - General Maintenance

The proposed non-personal services contract with **Morrisonville Septic LLC ('Morrisonville') (6000190604)** would provide septic service for the Plattsburgh Substation. The Request for Quotations was advertised on the New York State *Contract Reporter* website and posted on the Procurement page of the Authority's website. Three firms/entities were listed as having been invited to, or requested to participate in, the Ariba event. One proposal was received electronically via Ariba and was evaluated. Staff recommends the award of a contract to Morrisonville which is technically and commercially qualified. The contract is for a term of three years and an amount of \$30,000. Morrisonville is a Small Business Enterprise.

Operations – Project Management

Due to the need to meet and maintain the Authority's project schedule, the proposed construction services contract with **DV Brown & Associates, Inc. ('DV Brown') (4500332650)**, for BSNY Chiller Replacement at Niagara became effective June 14, 2021, with an interim award amount of \$750,000, subject to Trustee ratification which is hereby requested, in accordance with the Authority's Guidelines for Procurement Contracts and EAP's. The existing chillers and auxiliary equipment in the Service & Relay Building (S&R), Robert Moses Control Building G1 Gallery, and Power Vista Reception Building Basement range from 18 to 22 years old and have experienced maintenance issues. DV Brown will design, furnish, deliver, and install mechanical equipment and demand flow systems required for the BSNY Chiller Replacement. The Request for Quotations was advertised on the New York State *Contract Reporter* website and posted on the Procurement page of the Authority's website. Ten firms/entities were listed as having been invited to, or requested to participate in, the Ariba event. Three proposals were received electronically via Ariba and were evaluated. Staff recommends the award of a contract to DV Brown which is technically and commercially qualified. The contract is for a term of two years and an amount of \$5,149,035. DV Brown is a Small Business Enterprise.

Operations - Project Management

The proposed personal services contract with **Narchitects, PLLC ('Narchitects') (Q21-7153NF)** would provide planning, architecture, landscape architecture and engineering services for the Little Falls Connector project. As part of the Reimagine the Canals initiative, the intent of this project is to connect trail users to downtown Little Falls with a pedestrian bridge and promenade, and to provide public recreational amenities at a canalside park. The Request for Quotations was advertised on the New York State *Contract Reporter* website and posted on the Procurement page of the Authority's website. One hundred twenty-five firms/entities were listed as having been invited to, or requested to participate in, the Ariba event. Twenty-one proposals were received electronically via Ariba and were evaluated. Staff recommends the award of a contract to Narchitects which is technically and commercially qualified. The contract is for a term of five years and an amount of \$1,612,155.15 (including a contingency of \$268,692.53 to account for uncertainty related to the existing retention dam and buttress wall and for the fact that the City of Little Falls will need to provide input to the design process). Narchitects is a NYS certified Minority-owned Business Enterprise, NYS certified Women-owned Business Enterprise and Small Business Enterprise.

Operations - Quality Assurance & Code Compliance

The proposed personal services contracts with **C.T. Male Associates Engineering, Surveying, Architecture, Landscape Architecture & Geology, D.P.C. ('C.T. Male'),** and **Delta Engineers, Architects, Land Surveyors & Landscape Architects, D.P.C. ('Delta') (Q21-7111CC)** would perform and provide Electrical Plan Reviews for the Authority's facilities. Electrical Plan Reviews Reports identify deficiencies in selected plans within the scope of project in a comprehensive and fully detailed report. The Request for Quotations was advertised on the New York State *Contract Reporter* website and posted on the Procurement page of the Authority's website. Fifty-five firms/entities were listed as having been invited to, or requested to participate in, the Ariba event. Four proposals were received electronically via Ariba and were evaluated. Staff recommends the award of contracts to C.T. Male and Delta which are technically and commercially qualified and meet the bid requirements based on 'best value', which optimizes quality, cost and efficiency among responsive and responsible offerors. These contracts are for a term of three years with an option to extend an additional two years and an aggregate amount of \$150,000. C.T. Male and Delta are Small Business Enterprises.

Extensions and/or Additional Funding Requests:

Legal Affairs - Contracts, Licensing & Environmental

On August 1, 2018, a one-year, single-source contract was awarded to **Covington & Burling LLP ('C&B') (4500304105)** in the amount of \$25,000 for legal representation of the Authority as one of a group of electric power utilities in connection with a review in the U.S. Court of Appeals for the District of Columbia of the U.S. Environmental Protection Agency's Mid-term Evaluation of Greenhouse Gas Emissions Standards. The matter continues and the representation needs to be extended. The group will be responding to two petitions filed with the U. S. Supreme Court seeking to overturn the D.C. Circuit Court's decision affirming the U.S. EPA's authority to regulate GHGs under the Clean Air Act and from power plants, in particular. The Authority's share for this filing is \$10,000. After the initial two-year term, a two-year extension was requested and approved at the July 30, 2019 Trustee meeting. Additional funding in the amount of \$6,250 was added in accordance with the EAPs increasing the contract value to \$31,250. Staff requests Trustee approval for the extension of the C&B contract for a two-year term through July 31, 2023 and additional funding in the amount of \$50,000 is being requested at this time.

Operations - Project Delivery

On September 1, 2019, the Authority issued a one-year personal services contract to **Hatch Associates Consultants, Inc. ('Hatch') (4500313097)** in the amount of \$479,000 for the Niagara AGC Improvements & Flow Optimization Project. Due to COVID-19, the project was unable to complete in the contracted time frame. At their July 28, 2020 meeting, the Trustees approved a one-year contract

extension, however, the continuing COVID-19 restrictions have limited Hatch's progress toward final completion. Staff requests Trustee approval for the extension of the Hatch contract for an additional one-year term through August 31, 2021 to allow Hatch to complete the optimization of the new flow control program. No additional funding is being requested at this time. Hatch is a Small Business Enterprise.

FISCAL INFORMATION

Funds required to support contract services for various Business Units/Departments and Facilities have been included in the 2020 Approved Operating or Capital Budget. Funds for subsequent years, where applicable, will be included in the budget submittals for those years. Payment will be made from the Operating or Capital Fund, as applicable.

Funds required to support contract services for capital projects have been included as part of the approved capital expenditures for those projects and will be disbursed from the Capital Fund in accordance with the project's Capital Expenditure Authorization Request, as applicable.

RECOMMENDATION

The Senior Vice President – Operations Support Services and Chief Engineer; the Senior Vice President – Power Supply; the Senior Vice President – Project Delivery; the Senior Vice President – Clean Energy Solutions; the Senior Vice President – Chief Information and Technology Officer; the Senior Vice President – EHS and Crisis Management; the Vice President – Engineering and Construction Management; the Vice President – Strategic Supply Management; the Vice President – Environmental Health and Safety; the Vice President – O&M Services and Technical Compliance; the Regional Manager of STL and the Assistant General Counsel recommend that the Trustees approve the award of multiyear procurement (services) and other contracts to the companies listed in Exhibit '5b i-A,' and the extension and/or funding of the procurement (services) contracts listed in Exhibit '5b i-B,' for the purposes and in the amounts discussed within the item and/or listed in the respective exhibits.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

On motion made and seconded, the following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, the award and funding of the multiyear procurement services contracts set forth in Exhibit "5b i-A," attached hereto, are hereby approved for the period of time indicated, in the amounts and for the purposes listed therein, as recommended in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, the contracts listed in Exhibit "5b i-B," attached hereto, are hereby approved and extended for the period of time indicated, in the amounts and for the purposes listed therein, as recommended in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all

July 27, 2021

agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

c. Governance Matters

i. Approval of the Minutes

**1. Minutes of the Joint Meeting of the New York Power
Authority's Board of Trustees and Canal Corporation's
Board of Directors held on May 25, 2021**

On motion made and seconded the Minutes of the Joint Meeting of the New York Power Authority's Board of Trustees and Canal Corporation's Board of Directors held on May 25, 2021 were unanimously adopted.

ii. **Committee Appointments**

The Chairman submitted the following report:

SUMMARY

The Authority's Board of Trustees and the Canal Corporation's Board of Directors are requested to adopt the committee appointments as indicated below.

BACKGROUND and DISCUSSION

The following changes in committee composition are recommended in order to achieve an even distribution of assignments for each member. Board members Koelmel, Nicandri and Trainor remain the same on all boards. (Additions indicated in **bold**.)

Audit Committee

John R. Koelmel, Eugene L. Nicandri (Chair), Anthony J. Picente, Jr., Dennis G. Trainor, **Bethaida Gonzalez**

Finance Committee

John R. Koelmel, Eugene L. Nicandri, Tracy B. McKibben (Chair), Anthony J. Picente, Jr., Michael A.L. Balboni, Dennis G. Trainor, **Bethaida Gonzalez**

Governance Committee

John R. Koelmel, Eugene L. Nicandri, Tracy B. McKibben, Dennis G. Trainor (Chair), **Bethaida Gonzalez**

Cyber and Physical Security Committee

John R. Koelmel, Eugene L. Nicandri, Michael A.L. Balboni (Chair), Dennis G. Trainor, **Bethaida Gonzalez**

RECOMMENDATION

I recommend the approval of the above-requested action by adoption of the resolution below.”

On motion made and seconded, the following resolution, as submitted by the Chairman, was unanimously adopted.

RESOLVED, That the members of the Audit Committee shall be: John R. Koelmel, Eugene L. Nicandri (Chair), Anthony J. Picente, Jr., Dennis G. Trainor, Bethaida Gonzalez; and be it further

RESOLVED, That the members of the Finance Committee shall be: John R. Koelmel, Eugene L. Nicandri, Tracy B. McKibben (Chair), Anthony J. Picente, Jr., Michael A.L. Balboni, Dennis G. Trainor, Bethaida Gonzalez; and be it further

RESOLVED, That the members of the Governance Committee shall be: John R. Koelmel, Eugene L. Nicandri, Tracy B. McKibben, Dennis G. Trainor (Chair), Bethaida Gonzalez; and be further

RESOLVED, That the members of the Cyber and Physical Security Committee shall be: John R. Koelmel, Eugene L. Nicandri, Michael A.L. Balboni (Chair), Dennis G. Trainor, Bethaida Gonzalez.

iii. **Executive Risk and Resilience Management Committee Charter**

The President and Chief Executive Officer submitted the following report:

The Trustees are requested to approve the Executive Risk and Resilience Management Committee ('ERRMC') Charter (Exhibit '5c iii-A'). The ERRMC approved the updated Charter at its April meeting. The changes are set forth in the redlined copy attached as Exhibit '5c iii-A-1.'

BACKGROUND

In 2021, NYPA combined the Risk and Resilience departments, and initiated a new, expanded Chief Risk and Resilience Officer ('CRRO') role. The ERRMC revised its Charter commensurate with the new organizational structure.

The Charter calls for the Board of Trustees to delegate to the ERRMC the authority to:

- a. Establish and assess the Authority's Risk Profile and Risk Appetite;
- b. Assign risk and resilience sponsors the authority to pursue risk and resilience response plans;
- c. Sponsor and promote a risk and resilience awareness culture at NYPA; and
- d. Ensure the Authority has the proper allocation of resources for the effective implementation of risk management and resilience.

DISCUSSION

The ERRMC Charter has been updated to reflect the new organizational structure at NYPA, addition of the Resilience governance mission, expanded roles and responsibilities for Committee members, and the continuous improvement of the risk and resilience programs.

The key changes were to expand membership to ensure a broad, cross functional team is present at Committee meetings, and to increase the quorum from three (3) to six (6) members, comprised of all the Executive Management Committee members with the exception of the Chief Executive Officer.

The Charter now expands the oversight of risk to also include the resilience culture at NYPA, and program effectiveness. Further references were made to sustainability initiatives, emerging risks, and oversight of Sub-Committees of the ERRMC.

Additionally, the Charter further delineates the role of the CRRO in guiding the ERRMC, and to ensure clear lines of communication between the Committee and the Board of Trustees.

RECOMMENDATION

The Chief Risk and Resilience Officer requests the Board of Trustees to approve these changes to the Executive Risk and Resilience Management Committee ('ERRMC') Charter.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

On motion made and seconded, the following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, that the Board of Trustees approves the Executive Risk and Resilience Management Committee ("ERRMC") Charter; and be it further

RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

6. Next Meeting

The regular joint meeting of the New York Power Authority's Board of Trustees and the Canal Corporation's Board of Directors will be held on September 30, 2021, unless otherwise designated by the Chairman with the concurrence of the Trustees.

Closing

On motion made by Chairman Koelmel and seconded by Trustee McKibben, the meeting was adjourned at approximately 12:10 a.m.

Karen Delince
Karen Delince
Corporate Secretary

POWER AUTHORITY OF THE STATE OF NEW YORK
AND
NEW YORK STATE CANAL CORPORATION

EXHIBITS

For

July 27, 2021

Joint

Meeting Minutes



**NY Power
Authority**

**Canal
Corporation**

President and Chief Executive Officer's Report

Gil Quiniones

President & Chief Executive Officer

July 27, 2021



**NY Power
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VISION2030

June Scorecard and 2021 progress to date

Gil Quiniones

President & Chief Executive Officer

June 2021 – VISION2030 Scorecard

Progress toward VISION2030 goals and organizational health

	YTD Target	YTD Actual
Operations		
● Commercial Availability (%)	95.0%	96.9%
● Transmission Asset Base (\$M)	\$1,080	\$1,086
● Greenhouse Gas Saved (Tons)	8,843	19,257
Workforce Management		
● Days Away, Restricted or Transferred (DART) Rate (#)	0.78	0.49
● Workforce Engagement & Development (#) (Q)	2,543	4,218
Financials		
● Days Liquidity On Hand (#)	200	308
● Earnings Before Interest, Depreciation & Amortization (EBIDA) (\$M)	\$224.4	\$227.1
Key Public Milestones		
● Natural Gas Milestones (%)	90.0%	97.6%
● Reimagine the Canals Priority Project Milestones (%)	90.0%	95.7%

Legend	
● Meeting or exceeding target	◆ No update
▲ Off target	■ Informational, no target
■ Significantly off target	

Preserve and enhance the value of hydropower

Next Generation Niagara

- \$1.1B project to extend the operating life of New York's largest power plant
- 2021 progress to date includes the integrated controls update of the first turbine (unit 12)
- On track of estimated completion in 2034



Pioneer the path to decarbonize natural gas plants

Green Hydrogen Demonstration Project

- Nation's first retrofit of existing natural gas facility to use hydrogen
- Fall 2021 demonstration project will blend up to 30% green hydrogen to study the effects on emissions and equipment
- All findings will be shared publicly

LONG ISLAND / SUFFOLK

ONLY IN NEWSDAY

Brentwood power plant to test green hydrogen fu



By Mark Harrington
mark.harrington@newsday.com @MHarringtonNews
Updated July 8, 2021 7:54 PM

New York State's newly announced plan to explore the use of green hydrogen by blending the clean fuel into the mix at an existing power plant in Suffolk County.

Under the \$8.5 million pilot program, the New York Power Authority will test blending green hydrogen into the natural gas feed at its gas-fired power plant that is used chiefly for electricity production during peak times.

But a group that has worked with NYPA on transition plans for the region's power plants to the conclusion is "hardly an effective decarbonization strategy."

Green hydrogen is billed as a considerably cleaner fuel for power generation than natural gas, but its production emissions in the state are still being debated.

Environment
+ Energy
LEADER

E+E SUMMIT E+E 100 E+E AWARDS RESOURCE HUB SUBSCRIPTIONS

EHS&S ENERGY MANAGEMENT COMPLIANCE & GOV PLANTS & BUILDINGS SUPPLY CHAIN CITIES

NYPA Testing Green Hydrogen At Brentwood Power Station

JULY 13, 2021 BY HARUN ASAD

UTILITY DIVE Deep Dive Opinion Podcasts Library Events

Generation T&D Solar Storage Demand Response Distributed Energy R&D

New York to test green hydrogen at Long Island power plant

Published July 12, 2021

By Scott Voorhis

in f t e



Adeline Korn/Utility Dive

Dive Brief:

- The New York Power Authority is gearing up to launch a green hydrogen demonstration project at its gas-fired power plant on Long Island.



NY Power
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**Be the leading transmission
developer, owner and
operator for New York State**

Smart Path

- 70-year-old lines essential for grid reliability and system restoration
- Segment 1 energized in May 2021
- On track for June 2023 completion



Partner with our customers
and the state to meet their
energy goals

Javits Solar + Storage

- Largest rooftop solar install in Manhattan will offset more than 1.3M lbs CO₂/year
- Construction commenced in Q1 2021
- Anticipated completion in March 2022



Reimagine the New York State Canal System for economic and recreational benefit

“On the Canals” Excursions

- Free, recreational program to experience the NYS Canal System
- Six outdoor excursions in five canalside communities launched in June 2021
- Part of Reimagine the Canals’ \$300M initiative to revitalize the Erie Canal corridor as a tourism and recreation destination





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VISION2030 Scorecard Refresh and Dashboard Introduction

Yves Edouard Noel
Senior Vice President
Strategy & Corporate Development

July 27, 2021

Executive Summary

- As we launch VISION2030, **we aim to promote progress toward our strategic goals and regularly update and engage the public and our Trustees** through a defined cadence of structured discussions
- **The focus of these structured discussions will be outcomes and the key milestones to get us to our goals**
- We recommend two review sessions to cover this scope – a refreshed **monthly Scorecard** reviewed at each Trustees meeting, and a new **strategic Dashboard** reviewed with the Trustees semiannually
- **The Scorecard provides a “10-minute pulse check” of organizational health** – this is the focus of our discussion today and is composed of 9 KPIs. We shared the first refreshed Scorecard during the May Trustees meeting and intend to provide additional background today
- The nine KPIs cover our main operations activities, workforce interactions, financials and key public milestones
- We set monthly, quarterly and/or annual targets which align to our major VISION2030 2025 and 2030 targets to ensure progress
- We will inform the board our YTD status against plan (Red, Amber or Green)
- **The Dashboard provides a strategic perspective** and tracks progress toward the VISION2030 targets as well as major deliverables and milestones

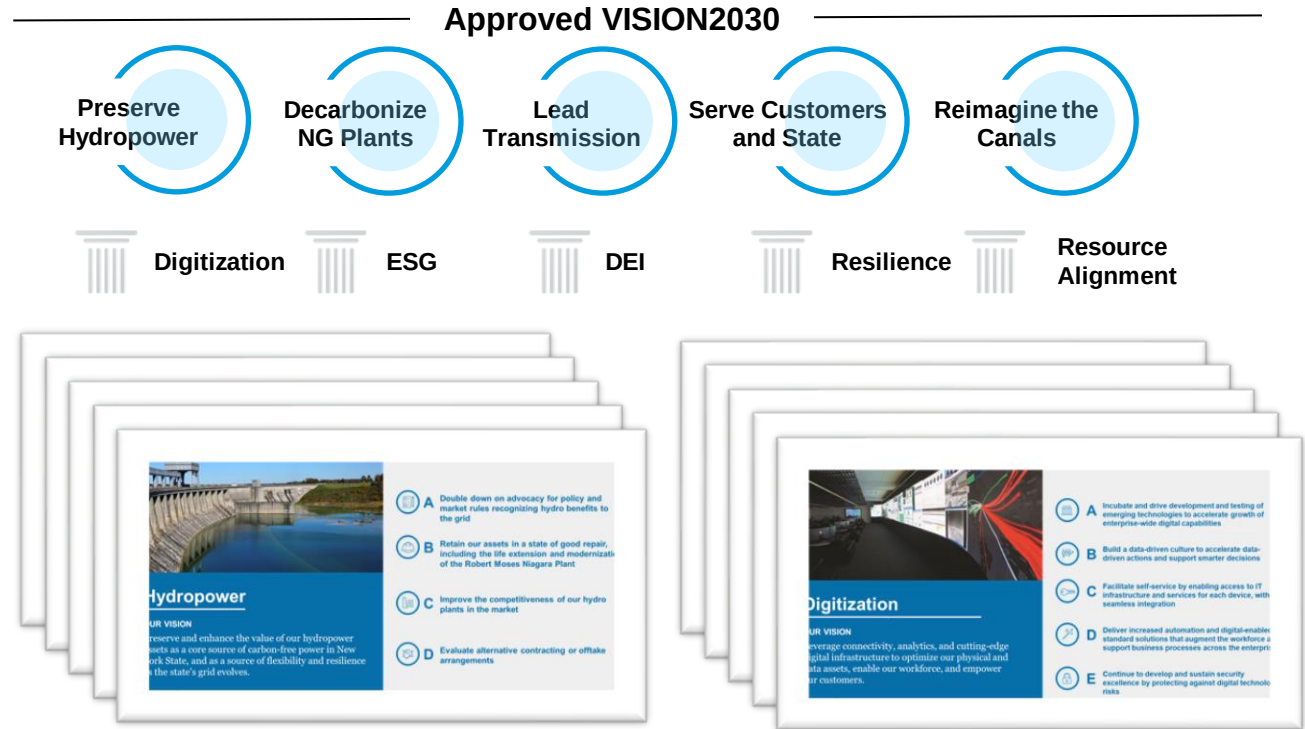
VISION2030 Priorities & Pillars contain multiple Tactics to achieve Targets

1. Strategic Priorities

2. Foundational Pillars

3. Tactics & Implementation Plans

4. Targets



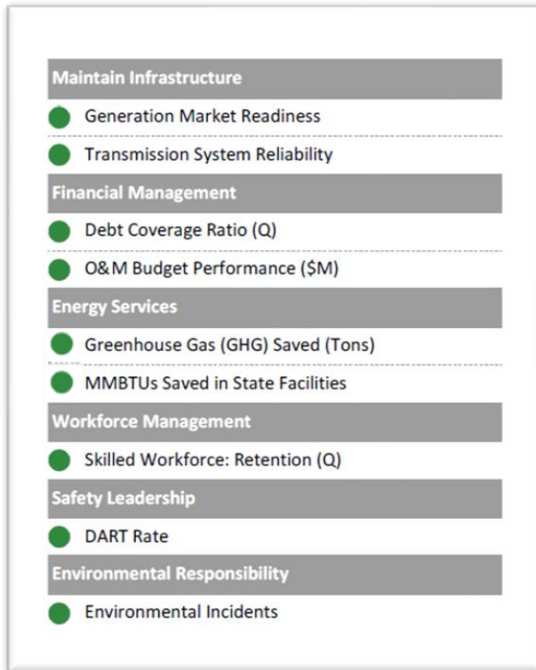
Two reviews drive accountability and insight into NYPA's VISION2030 progress

	<u>Scorecard</u> Succinct board update	<u>Dashboard</u> VISION2030 Strategic Review
Purpose	Provide view of short-term organizational health	Review outcomes and discuss progress toward VISION2030 goals as well as organizational health
Content	9 KPIs	Implementation Plan progress, progress against VISION2030 targets & big rock project capital spend
When	Distributed monthly, presented at each Trustees meeting	Semi-annually
	Focus of today's discussion	

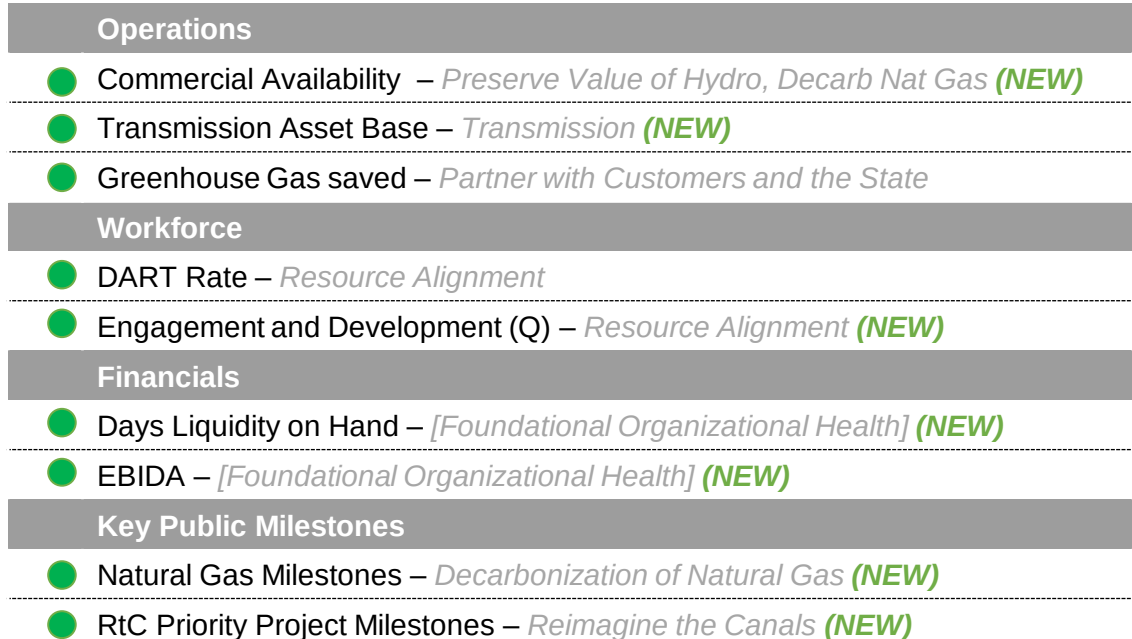
As part of cascading VISION2030 we revamped our scorecard

Scorecard refresh process included industry benchmarking, collaboration with consultants, and multiple iterations with EMC

Previous Scorecard



New VISION2030 Scorecard



The Dashboard review provides transparency into NYPA's VISION2030 progress

	<u>Scorecard</u>	<u>Dashboard</u>
	Succinct board update	VISION2030 Strategic Review
Purpose	Provide view of short-term organizational health	Review outcomes and discuss progress toward VISION2030 goals as well as organizational health
Content	9 Measures	Implementation Plan progress, progress against VISION2030 targets & big rock project capital spend
When	Distributed monthly, presented at each Trustees meeting	Semi-annually
		Preview





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COVID-19/RTW Update

Kristine Pizzo

EVP Human Resources and Administration

July 27, 2021

Return to the Workplace Update

Summer Plan

June – September

- Essential staff continue to report full-time with supporting staff 2-3 days weekly. Balance of employees in office 3 days per pay-period.
- Hybrid schedules are flexible for staff, foster collaboration and meet business needs.
- Aligned to GOER guidance accommodations, work rules and oversight.



- Staff feedback (e.g., surveys)
- Benchmarking
- Communication plan

Fall Plan

September – December

- Increased in-person presence with a more structured approach for hybrid-working.
- Continue to monitor health and safety guidelines. Adjust if conditions change.
- Align to GOER guidance on accommodations, work rules and oversight.



NYPA Development - Overview

Philip Toia

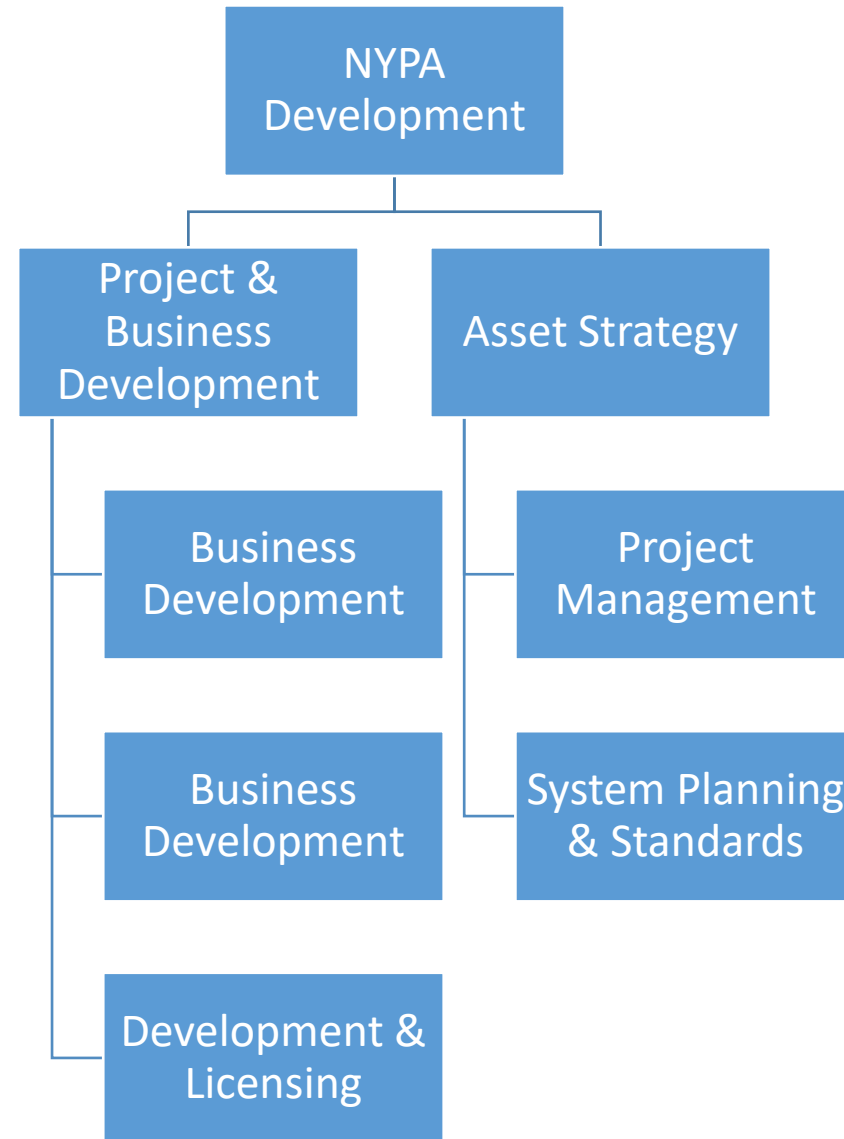
President, NYPA Development

July 27th, 2021

NYPA Development

- **Support VISION2030**
 - Leading transmission developer, owner and operator
 - Preserve and enhance the value of hydropower
 - Pioneer the path to decarbonize natural gas plants
- **Focus on developing and rapidly growing**
 - New transmission
 - Large scale renewables
 - Utility-scale storage

NYPA Development



NYPA Development

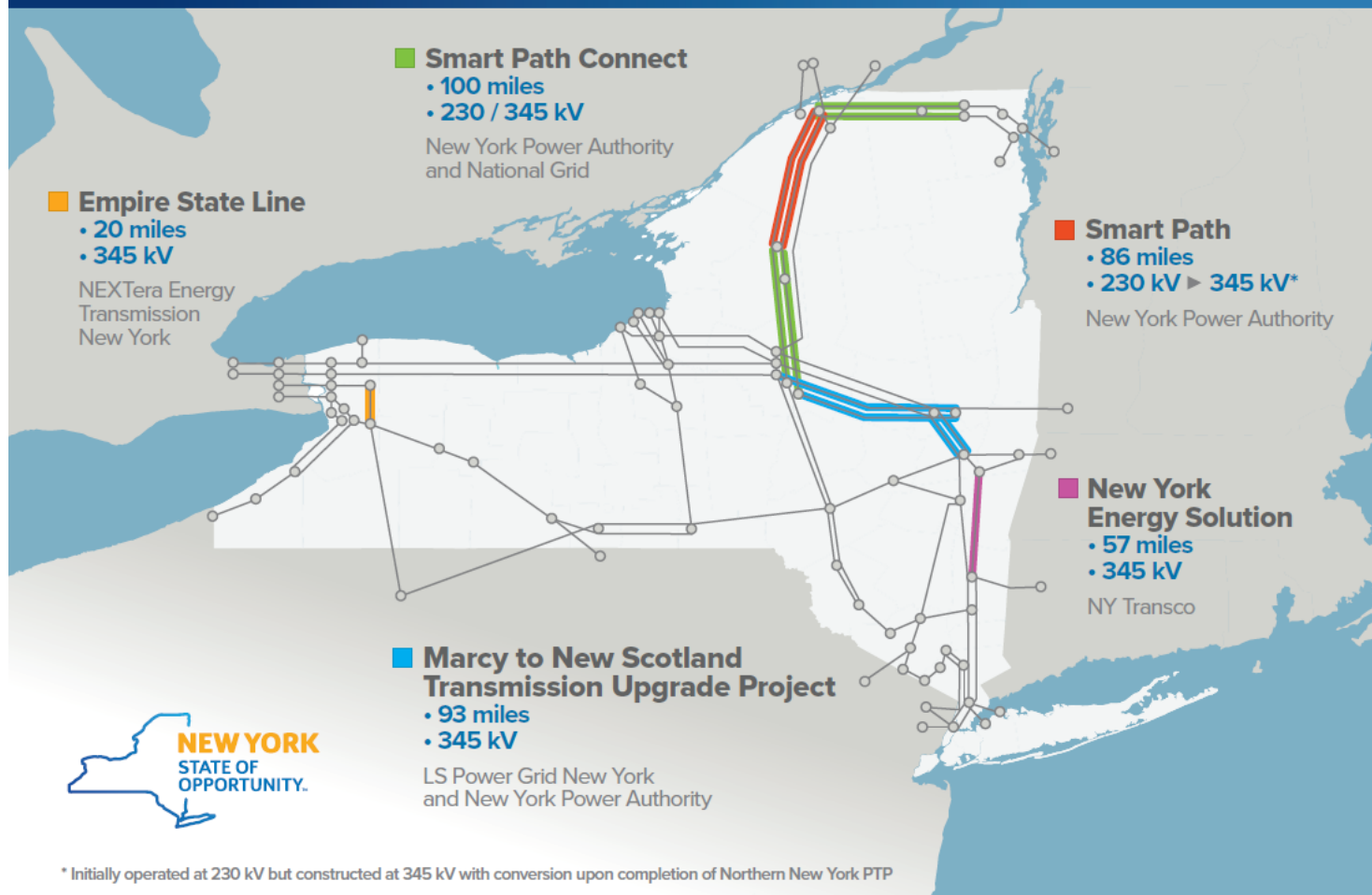
- **Transmission**

- Smart Path
- Smart Path Connect
- Central-East Energy Connect
- Clean Path NY
- SENY Public Policy Transmission Needs

- **Energy Storage**

- Supporting North Country Energy Storage
- Supporting Brentwood Hydrogen
- 174 Global (Battery Storage to support ConEd on NYPA Astoria property)

Growing Transmission Capacity in New York State





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**Canal
Corporation**

Chief Operations Officer's Report

Bradford Van Auken

SVP Operations Support Services & Chief Engineer

July 27, 2021

Utility Operations KPIs: YTD June 2021

KPI Name	2021 Annual Target	YTD Target	YTD Actual	Status
Generation Market Readiness	99.40%	99.40%	96.39%	
Transmission System Reliability	92.11%	91.45%	91.78%	
Environmental Incidents	50	22	13	
DART Rate	0.78	0.78	0.49	

Legend:



Meeting or exceeding target



Missing target



Significantly missing target



NY Power
Authority

Canal
Corporation

TLEM – Niagara Switchyard

- **Bay 25 Completed**
 - Replacement of 3 breakers, 6 disconnect switches and 2 potential transformers
 - Foundation modifications/replacements
 - New breaker failure relay schemes
 - Outage Duration: 2/16/2021 - 6/8/2021
- **Next Scheduled Work**
 - Continuing 13.8kV switchgear installation work
 - Bay 14 overhaul planned for fall 2021
 - Engineering activities for future bays 2022+
- **Niagara TLEM Program - Approximately 60% Complete**



Central East Energy Connect

(Marcy-New Scotland Transmission Upgrade Project)

- **First 5-miles rebuilt and energized**
- Maintenance and Emergency Response Agreement executed between LS Power and NYPA
- NYISO filed with FERC to incorporate cost containment measures for the project on behalf of NYPA
- Specifications for Marcy Switchyard upgrades finalized
- Fall outages scheduled to complete a total of 11 miles between two lines by early winter 2021





**NY Power
Authority**

**Canal
Corporation**



Chief Commercial Officer Report

Sarah Orban Salati

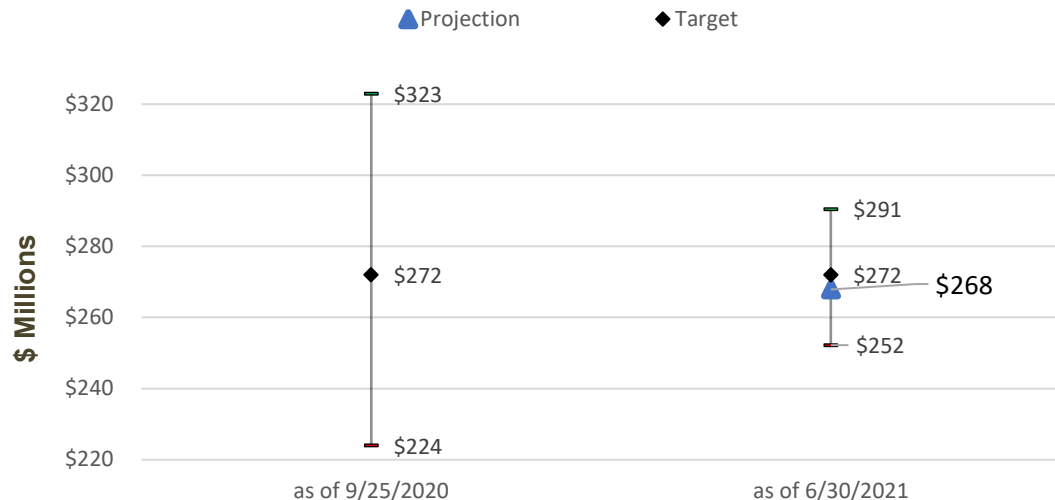
EVP & Chief Commercial Officer

July 27, 2021

Electricity Supply – Through June 2021



2021 Merchant Gross Margin Projections



- YTD Merchant Margin is \$131M; \$4M below Target \$135.1M
- Full Year Expected Value is \$267.9M; -1.5% of Target \$272.4M



Economic Development



1,781 Megawatts

Power Allocated



402,146

Jobs Retained and Created



\$22 Billion

Capital Committed

Customer Business Lines: June YTD Results

Key Performance Indicator	Actuals - Year to Date	YTD Target / 2021 YE Target
 Clean Energy Solutions	● \$121M Capital Spend ● \$236M Capital Project Contracts Signed	\$125M / \$253M \$78M / \$223M
 e-Mobility	● 4 EVolve NY DCFC Charging Ports ● \$49M Customer Contracts Signed for DCFCs	4 / 124 Charging Ports \$49M / \$49M
 NY Energy Manager + DER + Flexibility	● 24MW Solar & 0.5 MW Storage Installed ● 13.7K Cumulative MMBtus (Saved/Recommended)	13 MW / 33 MW Solar & 0.5 MW / 3 MW Storage 15.9K / 20K MMBtus



Within Target



Outside of Target



Significantly Outside of Target Range

Leading Decarbonization and Clean Energy Services while Applying Continuous Learning and Efficiency

Clean Energy Master Plans



- Advancing Customer Offerings
- 40 CEMP; 14 customers
- Able to obtain project cost support from sister agency

Distributed Energy Resources for Virtual Power Plant



- First Dynamic Load Management events in WPO with virtual and automated responses
- Pilot for Grid Flexibility to use lessons learned and apply to customers' facilities

Continuous Process Improvement Mid-Year Achievements

Increased productivity



Improved quality



Better safety



Improved communication



Higher morale & employee satisfaction

- In total, over \$1M in Process Time Reduction Costs since January 2021
- Cycle Time Reduction through multiple Kaizen events yielded 12.2% to target of 12.5%





**NY Power
Authority**

**Canal
Corporation**

Chief Financial Officer Report

Adam Barsky

EVP & Chief Financial Officer

July 27, 2021

YEAR-TO-DATE ACTUALS THROUGH JUNE 30th

YTD ACTUALS (JANUARY-JUNE 2021)

In \$ Thousands	2021 Budget (\$)	2021 Current (\$)	Variance (\$)	
Net Operating Income				
Operating Revenue				
Customer Revenue	\$880,176	\$846,750	(\$33,426)	
Market-Based Power Sales	213,984	227,235	13,250	
Non Utility Revenue	12,520	12,498	(22)	
Ancillary Service Revenue	13,434	16,828	3,394	
NTAC and Other	123,651	132,802	9,151	
Operating Revenue Total	1,243,766	1,236,113	(7,653)	
Operating Expense				
Purchase Power	(311,026)	(280,477)	30,549	
Ancillary Service Expense	(31,216)	(26,873)	4,343	
Fuel Consumed	(60,534)	(81,228)	(20,694)	
Wheeling	(293,981)	(299,294)	(5,313)	
Operations & Maintenance	(288,503)	(272,218)	16,284	
Other Expense	(64,753)	(70,304)	(5,551)	
Allocation to Capital	30,633	21,386	(9,247)	
Operating Expense Total	(1,019,380)	(1,009,008)	10,371	
EBIDA Total	224,386	227,105	2,719	2,719
<i>EBIDA NYPA</i>	<i>266,952</i>	<i>269,760</i>	<i>2,808</i>	
<i>EBIDA Canals</i>	<i>(42,566)</i>	<i>(42,655)</i>	<i>(90)</i>	
Non Operating				
Interest and Other Expenses				
Interest & Other Expenses	(65,023)	(62,498)	2,524	
Investment and Other Income	10,183	9,226	(957)	
Mark to Market Adjustments	0	(591)	(591)	
Depreciation	(129,187)	(131,289)	(2,102)	
Interest and Other Expenses Total	(184,026)	(185,153)	(1,126)	
NET INCOME	\$40,360	\$41,952	\$1,593	\$1,593

Margins - Generation (\$6,112)

Margins - Transmission 10,532

Margins - Non Utility (3,188)

Operating Expenses 1,486

Non-Operating Net (1,126)

EBIDA: Earnings Before Interest Depreciation & Amortization

Margin View: Excludes revenues and expenses related to Y-49 / Long Island Sound cable fault

FULL-YEAR FORECAST

YEAR END PROJECTION (JANUARY - DECEMBER 2021)

In \$ Thousands	2021 Budget (\$)	2021 Current (\$)	Variance (\$)	
Net Operating Income				Current vs Budget
Operating Revenue				
Customer Revenue	\$1,817,582	\$1,782,835	(\$34,747)	
Market-Based Power Sales	430,499	479,894	49,394	
Non Utility Revenue	27,375	27,309	(67)	
Ancillary Service Revenue	27,662	32,865	5,203	
NTAC and Other	237,488	255,341	17,853	
Operating Revenue Total	2,540,607	2,578,243	37,636	
Operating Expense				
Purchase Power	(629,343)	(616,098)	13,245	
Ancillary Service Expense	(62,475)	(57,538)	4,936	
Fuel Consumed	(119,206)	(153,278)	(34,072)	
Wheeling	(642,170)	(648,150)	(5,980)	
Operations & Maintenance	(607,911)	(614,444)	(6,533)	
Other Expense	(129,657)	(135,519)	(5,862)	
Covid-19 Expense*	0	286	286	
Allocation to Capital	59,143	58,518	(625)	
Operating Expense Total	(2,131,619)	(2,166,223)	(34,605)	
EBIDA Total	408,989	412,020	3,031	3,031
EBIDA NYPA	495,601	502,316	6,714	
EBIDA Canals	(86,613)	(90,296)	(3,683)	
Non Operating				
Interest and Other Expenses				
Interest & Other Expenses	(129,262)	(121,116)	8,146	
Investment and Other Income	19,626	18,591	(1,035)	
Mark to Market Adjustments	0	(591)	(591)	
Depreciation	(258,373)	(262,525)	(4,152)	
Interest and Other Expenses Total	(368,009)	(365,642)	2,367	
NET INCOME	\$40,980	\$41,115	\$46,377	\$68,395
		<i>Low Case</i>	<i>Expected</i>	<i>High Case</i>
				\$5,398

Margins - Generation** (\$3,780)

Margins - Transmission 21,990

Margins - Non Utility (2,444)

** Includes Merchant Gross Margin Variance of (\$4,504):
Budget @ \$272,411 vs Current @ \$267,908

Operating Expenses (12,734)

Non-Operating Net 2,367

*Covid-19 Expense: Expected incremental expenses into the forecast

EBIDA: Earnings Before Interest Depreciation & Amortization

Low/High Cases: Taken from Risk's Merchant Portfolio Daily Performance Summary

Margin View: Excludes revenues and expenses related to Y-49 / Long Island Sound cable fault



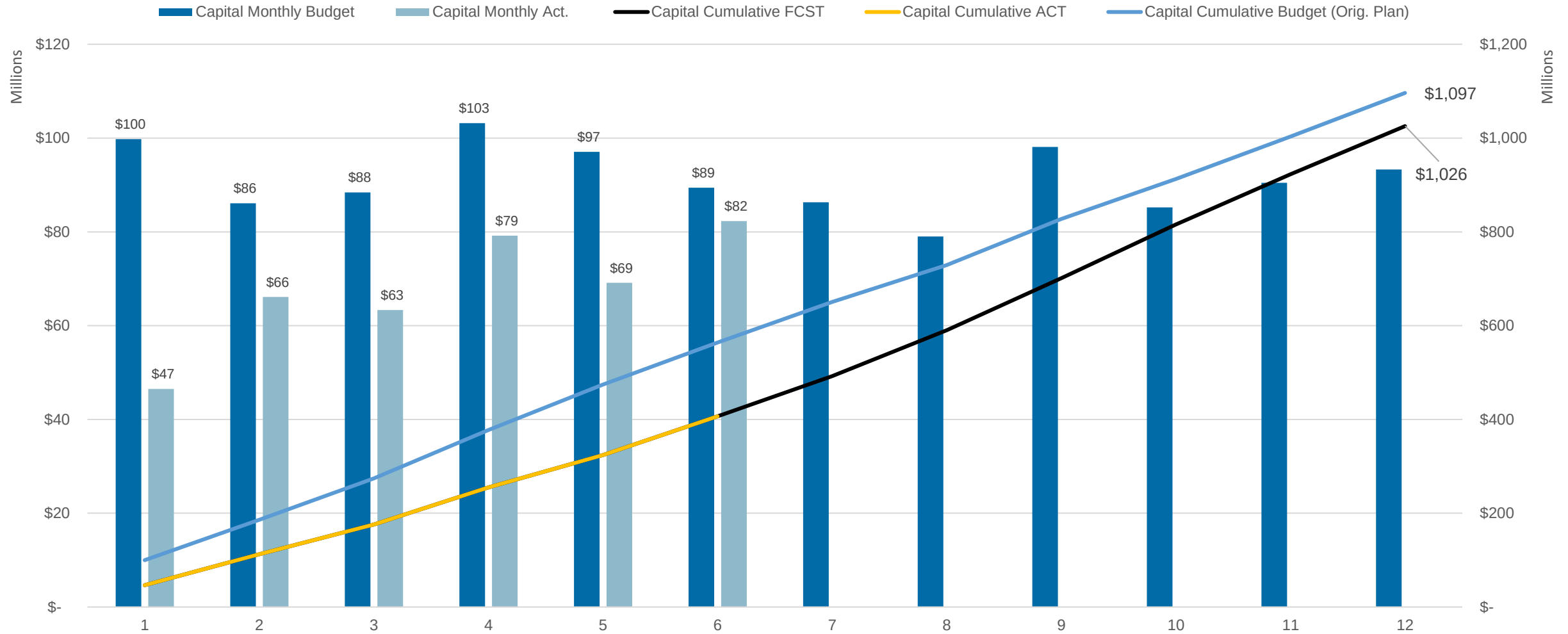
**NY Power
Authority**

**Canal
Corporation**

Enterprise Portfolio Update

July 27, 2021

Capital – Annual Plan & Year-to-Date June 2021 Performance



Represents all NYPA capital projects (including Energy Efficiency)

Major Program / Project Performance

All financials in millions

Project/Program		Board Approval	Total Estimate	Authorized	Total Spent	2021 Plan			Cost	Sch.	Duration & End Date	Next Major Milestone	Risks/Comments
			\$	\$	\$	Budget	Forecast	Actuals					
Next Generation Niagara		1,100 07/2019	1,100	369	62	44	33 ▾	20			20yrs 2035	Return Control System to Service (Seq 1-RM 12) in Q2 2021	Increase in authorization up to 369M approved. Decrease in forecast due to replacement vs. refurbishment decision on 630T crane. Milestone delayed return to service date Q3.
Transmission LEM*		726 12/2012	726	726	419	74	70	17			18yrs 2026	Complete Bay 25 Installation and Testing in Q2 2021 at NIA	Milestone achieved, next major milestone TBD.
Smart Path Connect		Prelim. Funding	600	10 ▴	8	8	10	7			6yrs 2025	Submit Article VII in Q2 2021	Authorization increase to 10M approved. Increase to 600M is in progress. Milestone achieved.
Smart Path		484 12/2019	484	484	253	114	119	69			11yrs 2023	Complete Segment 1, both MA1 and MA2 (9/1 to 33/4) in Q2 2021	Milestone achieved, next major milestone TBD.
Lewiston Pump Generating Plant LEM		460 12/2017	400	460	370	26	26	13			14yrs 2023	Return Unit 12 to Service in Q3 2021	
Central East Energy Connect		281 1/2021	281	239	41	95	68 ▾	26			6yrs 2023	Submit transmission outage plan for 2022 in Q3 2021	Decrease in forecast due to the finalized participation agreement and revised steel procurement.
Strategic EV Charging Stations		250 5/2018	250	43	11	34	27	3			13yrs+ 2030+	Install 150 DCFC in Q4 2021	
Reimagine the Canals*		300 01/2020	300	33*	16	37	34	9			11yrs+ 2030+	Complete Four Iconic Lighting Locations by Q4 2021	
Communications Backbone		178 01/2021	178	178	105	53	70	27			8yrs 2022	Complete Installation of OPGW (all lines) in Q4 2021	

**includes Capital & O&M*

Major Program / Project Performance

All financials in millions

Project/Program	Board Approval	Total Estimate	Authorized	Total Spent	2021 Plan			Cost	Sch.	Duration & End Date	Next Major Milestone	Risks/Comments
		\$	\$	\$	Budget	Forecast	Actuals					
Sensor Deployment (All Locations)	108 10/2018	111	111	93	19	14	8			6yrs 2022	Complete TSI Commissioning Phase II EPC – SENY in Q3 2021	
Y-49 LEM	Prelim. Funding	97	2	1	1	1	1			<i>Project in Development</i>	<i>Project in development</i>	
Niagara Power Project Fire Detection System	38 12/2018	40	40	11	7	7	3			6yrs 2023	Complete Design Package Review (Phase 4) in Q3 2021	
Customer Digital Experience Software	36 1/2020	36	16 ^	16	15	13	5			11yrs+ 2030+	Release Energy Projects Overview to first phase of customers in Q1 2021	Increase in authorization to 24M is in progress. Milestone achieved, next major milestone TBD.
Rotor Modification Stress Redistribution	32 9/2020	32	32	7	1	1	1			20yrs 2033	Complete Construction (4th Unit Outage) in Q2 2021	Milestone achieved, next major milestone TBD.
Zone D Battery Storage	30 7/2019	32	32	22	1	6	6			5yrs 2022	Complete Full commissioning in Q3 2021	Full commissioning will be delayed, final in-service date Q1 2022
IT Cyber Resiliency	31 3/2020	31	31	10	8	8	3			5yrs 2023	CoE: ACI MoU development, IronNet muni/co-op pilot, and Siemens MDR solution at Flynn in Q2 2021.	Milestone achieved, next major milestone TBD.
L33P & L34P Phase Shifter	31 9/2020	31	31	9	17	17	8			4yrs 2023	Complete Construction Kick-Off in Q4 2021	
Utica Visitor Center	30 10/2019	31	31	28	2	3	1			6yrs 2021	Complete Project Closeout in Q3 2021	

*includes Capital & O&M



**NY Power
Authority**

**Canal
Corporation**

**POWER AUTHORITY
OF THE STATE OF NEW YORK**

MASTER ENERGY EFFICIENCY PROGRAM

REVENUE BOND RESOLUTION

Adopted [____], 2021

A RESOLUTION AUTHORIZING THE ISSUANCE BY THE POWER AUTHORITY OF THE STATE OF NEW YORK OF A SERIES OF ENERGY EFFICIENCY REVENUE BONDS; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SUCH BONDS; AND PROVIDING FOR THE RIGHTS OF THE HOLDERS THEREOF.

MASTER ENERGY EFFICIENCY PROGRAM
REVENUE BOND RESOLUTION

A RESOLUTION AUTHORIZING THE ISSUANCE BY THE POWER AUTHORITY OF THE STATE OF NEW YORK OF SERIES OF ENERGY EFFICIENCY REVENUE BONDS; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SUCH BONDS; AND PROVIDING FOR THE RIGHTS OF THE HOLDERS THEREOF.

WHEREAS, pursuant to Section 1005 (17) of Title 1 of Article 5 of the Public Authorities Law, (Chapter 43-A of the Consolidated Laws of the State of New York, as amended from time to time) the Authority is authorized to undertake energy efficiency measures and/or clean energy technologies construction projects on behalf of Public Entities and provide financing to such Public Entities for the cost of such projects; and

WHEREAS, the Authority has provided financing to Public Entities for such projects through current funds of the Authority and through the issuance of Commercial Paper by the Authority under its General Resolution authorizing Revenue Obligations Adopted February 24, 1998, as amended by a Third Supplemental Resolution adopted on June 26, 2001, as further amended (the “General Resolution”); and

WHEREAS, the Authority has now determined to finance such projects as “separately financed projects” pursuant to Section 203 of the General Resolution of the Authority; and

WHEREAS, pursuant to this Master Energy Efficiency Program Revenue Bond Resolution, the Authority will issue Energy Efficiency Revenue Bonds to finance such projects and such Energy Efficiency Revenue Bonds will be separately secured pursuant to the provisions of this Master Energy Efficiency Program Revenue Bond Resolution and will not be secured by the provisions of the General Resolution.

BE IT RESOLVED BY THE POWER AUTHORITY OF THE STATE OF NEW YORK AS FOLLOWS:

ARTICLE I – DEFINITIONS; CONTRACT AND AUTHORITY

SECTION 1.01. Definitions. Terms used but not otherwise defined herein, if used in the Applicable Long Term Financing Supplement, shall have the meanings ascribed thereto in the Applicable Long Term Financing Supplement. As used in this resolution, unless a different meaning clearly appears from the context:

“**Accreted Value**” means with respect to any Capital Appreciation Bond (i) as of any Valuation Date, the amount set forth for such date in the Supplemental Resolution authorizing such Capital Appreciation Bond or the Bond Series Certificate relating to such Bond and (ii) as of any date other than a Valuation Date, the sum of (a) the Accreted Value on the preceding Valuation Date and (b) the product of (1) a fraction, the numerator of which is the number of days having elapsed from the preceding Valuation Date and the denominator of which is the number of days from such preceding Valuation Date to the next succeeding Valuation

Date, calculated based on the assumption that Accreted Value accrues during any semi-annual period in equal daily amounts on the basis of a year of twelve (12) thirty-day months, and (2) the difference between the Accreted Values for such Valuation Dates;

“Act” means the Power Authority Act, being and constituting Title 1 of Article 5 of the Public Authorities Law, Chapter 43-A of the Consolidated Laws of the State of New York, as amended from time to time;

“Agreement” or “Agreements” mean, individually or collectively, as applicable, the initial CIC, final CIC, initial CPC, final CPC, Long Term Financing Supplement relating to such final CIC, or such final CPC, Energy Efficiency Services Program Agreement and Master Cost Recovery Agreement between the Authority and the Applicable Public Entity, pursuant to which the Authority and the Applicable Public Entity have agreed to a plan for a Project pursuant to the terms of the Act;

“Allocable Portion” means each Public Entity’s proportionate share of certain obligations arising under the Applicable Series of Bonds from time to time and the respective Agreements, particularly with respect to the Applicable Arbitrage Rebate Fund, the Costs of Issuance of such Series of Bonds, and the payment of principal, interest and redemption price of such Series of Bonds as particularly determined by the Applicable Supplemental Resolution.

“Applicable” means (i) with respect to any Supplemental Resolution, the Supplemental Resolution relating to particular series of Bonds, (ii) with respect to any Series of Bonds, the Series of Bonds issued under a Supplemental Resolution for a particular Public Entity or Public Entities, (iii) with respect to any CIC or CPC, the CIC or CPC entered into by and between a Public Entity and the Authority, (iv) with respect to any Long Term Financing Supplement, the Long Term Financing Supplement entered into by and between a Public Entity and the Authority; (v) with respect to a Public Entity, the Public Entity for which all or a part of a Series of Bonds is issued, (vi) with respect to any Project Fund, Debt Service Fund, Arbitrage Rebate Fund or Costs of Issuance Account in a Project Fund, the Fund or Account established in a particular Supplemental Resolution, and with respect to a particular Project Account in a Project Fund, means the Project Account established and undertaken with respect to each Applicable Public Entity, (vii) with respect to a Trustee or Paying Agent, the Trustee or Paying Agent accepting the responsibility to perform the obligations set forth therefore with respect to a particular Series of Bonds, (viii) with respect to a Credit Facility or Liquidity Facility, the Credit Facility or Liquidity Facility, if any, identified in the Applicable Supplemental Resolution, (ix) with respect to a Bond Series Certificate, such certificate authorized pursuant to an Applicable Supplemental Resolution and (x) with respect to Revenues, the amounts payable to the Authority on account of a Public Entity and any Authority Surplus Revenues pledged with respect to a particular Series of Bonds;

“Appreciated Value” means with respect to any Deferred Income Bond (i) as of any Valuation Date, the amount set forth for such date in the Applicable Supplemental Resolution authorizing such Deferred Income Bond or in the Bond Series Certificate relating to such Bond and (ii) as of any date other than a Valuation Date, the sum of (a) the Appreciated Value on the preceding Valuation Date and (b) the product of (1) a fraction, the numerator of which is the number of days having elapsed from the preceding Valuation Date and the

denominator of which is the number of days from such preceding Valuation Date to the next succeeding Valuation Date, calculated based on the assumption that Appreciated Value accrues during any semi-annual period in equal daily amounts on the basis of a year of twelve (12) thirty-day months, and (2) the difference between the Appreciated Values for such Valuation Dates, and (iii) as of any date of computation on and after the Interest Commencement Date, the Appreciated Value on the Interest Commencement Date;

“Arbitrage Rebate Fund” means each such fund so designated, created and established by the Applicable Supplemental Resolution pursuant to Section 5.02 hereof;

“Authority” means the Power Authority of the State of New York established under the Act, and any entity which may succeed to its rights and duties.

“Authority Surplus Revenues” means funds of the Authority withdrawn by the Authority pursuant to paragraph (e) of subsection 1 of Section 503 of General Resolution.

“Authorized Newspaper” means **The Bond Buyer** or any other newspaper of general circulation printed in the English language and customarily published at least once a day for at least five days (other than legal holidays) in each calendar week in the Borough of Manhattan, City and State of New York, designated by the Authority;

“Authorized Officer” means (i) in the case of the Authority, any trustee of the Authority or officer of the Authority and any other person authorized by by-laws or resolution of the Authority to perform the act or sign the document in question; (ii) in the case of a Public Entity, when used with reference to any act or document, means the person identified herein or in the Applicable Long Term Financing Supplement as the Authorized Customer Representative or any other person authorized to perform such act or execute such document, and in all other cases means any officer or employee of a Public Entity authorized in a written instrument adopted by such Public Entity; and (iii) in the case of the Trustee, the President, a Vice President, a Corporate Trust Officer, an Assistant Corporate Trust Officer, a Trust Officer or an Assistant Trust Officer of the Trustee, and when used with reference to any act or document also means any other person authorized to perform any act or sign any document by or pursuant to a resolution of the [Board of Directors of the Trustee] or the by-laws of the Trustee;

“Basic Debt Service Payment” means all amounts payable pursuant to the Applicable Long Term Financing Supplement in accordance with the amortization of the Final Project Cost as set forth in such Long Term Financing Supplement;

“Bond” or **“Bonds”** means any of the bonds of the Authority pursuant to the Authority’s Energy Efficiency Program, authorized and issued pursuant to this Master Resolution and an Applicable Supplemental Resolution;

“Bond Counsel” means an attorney or a law firm, appointed by the Authority with respect to a particular Series of Bonds, having a national reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds;

“Bond Series Certificate” means the certificate of an Authorized Officer of the Authority fixing terms, conditions and other details of Bonds of an Applicable Series in

accordance with the delegation of power to do so hereunder or under the Applicable Supplemental Resolution authorizing the issuance of such Bonds;

["Bond Year"] means unless otherwise stated in the Applicable Supplemental Resolution or Applicable Bond Series Certificate a period of twelve (12) consecutive months beginning [January 1] in any calendar year and ending on [December 31] of the succeeding calendar year;] [TBD]

"Bondholder," "Holder of Bonds" or "Holder" or any similar term, when used with reference to a Bond or Bonds, means the registered owner of any Bond;

"Book Entry Bond" means a Bond authorized to be issued to, and issued to and registered in the name of, a Depository directly or indirectly for the beneficial owners thereof;

"Business Day" means any day which is not a Saturday, Sunday or a day on which banking institutions chartered by the State or the United States of America are legally authorized to close in The City of New York; provided, however, that, with respect to Option Bonds or Variable Interest Rate Bonds of a Series, such term means any day which is not a Saturday, Sunday or a day on which the New York Stock Exchange, banking institutions chartered by the State or the United States of America, the Trustee or the issuer of a Credit Facility or Liquidity Facility for such Bonds are legally authorized to close in The City of New York;

"Capital Appreciation Bond" means any Bond as to which interest is compounded on each Valuation Date therefor and is payable only at the maturity or prior redemption thereof;

"CIC" means the Final Customer Installment Commitment of the Applicable Public Entity;

"CPC" means the Final Customer Project Commitment of the Applicable Public Entity.

"Code" means the Internal Revenue Code of 1986 and the applicable regulations promulgated thereunder;

"Costs of Issuance" means the items of expense incurred in connection with the authorization, sale and issuance of an Applicable Series of Bonds, which items of expense shall include, but not be limited to, document printing and reproduction costs, filing and recording fees, costs of credit ratings, initial fees and charges of the Trustee or a Depository, legal fees and charges, professional consultants' fees, fees and charges for execution, transportation and safekeeping of such Bonds, premiums, fees and charges for insurance on Bonds, commitment fees or similar charges of a Remarketing Agent or relating to a Credit Facility or a Liquidity Facility, costs and expenses of refunding such Bonds and other costs, charges and fees, including those of the Authority, in connection with the foregoing;

"Costs of the Project" means with respect to an Applicable Project costs and expenses or the refinancing of costs and expenses determined by the Authority to be necessary

in connection with the Project, including, but not limited to, the Final Project Cost as set forth in the Notice of Final Amortization appended to the Applicable Long Term Financing Supplement including capitalized interest, if any;

“Credit Facility” means an irrevocable letter of credit, surety bond, loan agreement, Standby Purchase Agreement, municipal bond insurance policy or other agreement, facility or insurance or guaranty arrangement issued or extended by a bank, a trust company, a national banking association, an organization subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provisions of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provisions of law, a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, a savings bank, a saving and loan association, an insurance company or association chartered or organized under the laws of any state of the United States of America, the Government National Mortgage Association or any successor thereto, the Federal National Mortgage Association or any successor thereto, or any other federal agency or instrumentality approved by the Authority, pursuant to which the Authority is entitled to obtain moneys to pay the principal, purchase price or Redemption Price of Bonds due in accordance with their terms or tendered for purchase or redemption, plus accrued interest thereon to the date of payment, purchase or redemption thereof, in accordance herewith and with the Supplemental Resolution authorizing such Bonds or a Bond Series Certificate, whether or not the Authority is in default hereunder;

“Debt Service Fund” means each such fund so designated, created and established by the Applicable Supplemental Resolution pursuant to Section 5.02 hereof;

“Defeasance Security” means:

(a) a Government Obligation of the type described in clauses (a), (b), (c) or (d) of the definition of Government Obligations;

(b) a Federal Agency Obligation described in clauses (a) or (b) of the definition of Federal Agency Obligations;

(c) an Municipal Obligation, provided such Municipal Obligation (i) is not subject to redemption prior to maturity other than at the option of the holder thereof or as to which irrevocable instructions have been given to the trustee of such Municipal Obligation by the obligor thereof to give due notice of redemption and to call such Municipal Obligation for redemption on the date or dates specified in such instructions and such Municipal Obligation is not otherwise subject to redemption prior to such specified date other than at the option of the holder thereof, (ii) is secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or Government Obligations, which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such Municipal Obligation on the maturity date thereof or the redemption date specified in the irrevocable instructions referred to in clause (i) above, (iii) as to which the principal of and interest on the direct obligations of the United States of America which have been deposited in such fund, along with any cash on deposit in such fund, are sufficient to pay the principal of and interest and

redemption premium, if any, on such Municipal Obligation on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to in clause (i) above, and (iv) is rated by at least two Rating Agencies in the highest rating category for such Municipal Obligation; and

(d) any other investments acceptable to the Rating Agency(ies) for defeasance.

Notwithstanding the foregoing, for purposes of (a), (b) and (c) above, “Defeasance Security” shall not include (i) any interest in a unit investment trust or mutual fund, or (ii) any obligation that is subject to redemption prior to maturity other than at the option of the holder thereof;

“Deferred Income Bond” means any Bond as to which interest accruing thereon prior to the Interest Commencement Date of such Bond is compounded on each Valuation Date for such Deferred Income Bond, and as to which interest accruing after the Interest Commencement Date is payable semi-annually on each Interest Payment Date;

“Depository” means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State, or its nominee, or any other person, firm, association or corporation designated in the Supplemental Resolution authorizing a Series of Bonds or a Bond Series Certificate relating to a Series of Bonds to serve as securities depository for the Bonds of such Series;

“Energy Efficiency Program” means energy efficiency projects and services, clean energy technology projects and services, and high performance and sustainable building programs and services, and the construction, installation and/or operation of facilities or equipment done in connection with any such projects, programs or services undertaken by the Authority pursuant to Section 1005 (17) of the Act.

“Facility Provider” means the issuer of a Credit Facility or a Liquidity Facility delivered to the Applicable Trustee;

“Federal Agency Obligation” means:

(a) an obligation issued by any federal agency or instrumentality approved by the Authority;

(b) an obligation the principal of and interest on which are fully insured or guaranteed as to payment by a federal agency approved by the Authority;

(c) a certificate or other instrument which evidences the beneficial ownership of, or the right to receive all or a portion of the payment of the principal of or interest on, any of the foregoing; and

(d) a share or interest in a mutual fund, partnership or other fund registered under the Securities Act of 1933, as amended, and operated in accordance with Rule 2a-7 of the

Investment Company Act of 1940, as amended, wholly comprised of any of the foregoing obligations;

“Fitch” means Fitch IBCA, Inc., a corporation organized and created under the laws of the State of Delaware and its successors and assigns.

“General Resolution” has the same meaning as set forth in the recitals hereto.

“Government Obligation” means:

- (a) a direct obligation of the United States of America;
- (b) an obligation the principal of and interest on which are fully insured or guaranteed as to payment by the United States of America;
- (c) an obligation to which the full faith and credit of the United States of America are pledged;
- (d) a certificate or other instrument which evidences the beneficial ownership of, or the right to receive all or a portion of the payment of the principal of or interest on, any of the foregoing; and
- (e) a share or interest in a mutual fund, partnership or other fund registered under the Securities Act of 1933, as amended, and operated in accordance with Rule 2a-7 of the Investment Company Act of 1940, as amended, wholly comprised of any of the foregoing obligations;

“Interest Commencement Date” means, with respect to any particular Deferred Income Bond, the date prior to the maturity date thereof specified in the Applicable Supplemental Resolution authorizing such Bond or in the Bond Series Certificate relating to such Bond, after which interest accruing on such Bond shall be payable on the Interest Payment Date immediately succeeding such Interest Commencement Date and semi-annually thereafter on each Interest Payment Date;

“Interest Payment Date” means, unless otherwise provided in the Applicable Supplemental Resolution, [June] 1 and [December] 1 of each Bond Year;

“Investment Agreement” means a repurchase agreement or other agreement for the investment of money with a Qualified Financial Institution;

“Liquidity Facility” means an irrevocable letter of credit, surety bond, loan agreement, Standby Purchase Agreement, line of credit or other agreement or arrangement issued or extended by a bank, a trust company, a national banking association, an organization subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provisions of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provisions of law, a savings bank, a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America,

a savings and loan association, an insurance company or association chartered or organized under the laws of any state of the United States of America, the Government National Mortgage Association or any successor thereto, the Federal National Mortgage Association or any successor thereto, or any other federal agency or instrumentality approved by the Authority, pursuant to which moneys are to be obtained upon the terms and conditions contained therein for the purchase or redemption of Option Bonds tendered for purchase or redemption in accordance with the terms hereof and of the Applicable Supplemental Resolution authorizing such Bonds or the Applicable Bond Series Certificate relating to such Bonds;

“Long Term Financing Supplement” means any Long Term Financing Supplement to the CIC or CPC entered into between the Authority and the Applicable Public Entity pursuant to which the Authority provides financing to such Public Entity in connection with energy-related projects, programs and services, and the Applicable Public Entity makes monthly payments to the Authority with respect to the same as such Long Term Financing Supplement may be amended or modified in accordance with the terms thereof and in effect from time to time.

“Maximum Interest Rate” means, with respect to any particular Variable Interest Rate Bond, the numerical rate of interest, if any, set forth in the Supplemental Resolution authorizing such Bond or in the Bond Series Certificate relating to such Bond, that shall be the maximum rate at which such Bond may bear interest at any time;

“Minimum Interest Rate” means, with respect to any particular Variable Interest Rate Bond, a numerical rate of interest, if any, set forth in the Supplemental Resolution authorizing such Bond or in the Bond Series Certificate relating to such Bond, that shall be the minimum rate at which such Bonds may bear interest at any time;

“Moody’s” means Moody’s Investors Service, a corporation organized and existing under the laws of the State of Delaware, or its successors and assigns;

“Municipal Obligation” means:

(a) an obligation of any state or territory of the United States of America, any political subdivision of any state or territory of the United States of America, or any agency, authority, public benefit corporation or instrumentality of such state, territory or political subdivision, which is not a “specified private activity bond” within the meaning of Section 57(a)(5) of the Code and which, at the time an investment therein is made or such obligation is deposited in any fund or account hereunder, is rated, without regard to qualification of such rating by symbols such as “+” or “-” and numerical notation, no lower than the second highest rating category for such obligation by at least two Rating Agencies;

(b) a certificate or other instrument which evidences the beneficial ownership of, or the right to receive all or a portion of the payment of the principal of or interest on any of the foregoing; and

(c) a share or interest in a mutual fund, partnership or other fund registered under the Securities Act of 1933, as amended, and operated in accordance with Rule 2a-7 of the

Investment Company Act of 1940, as amended, wholly comprised of any of the foregoing obligations;

“Option Bond” means any Bond which by its terms may be tendered by and at the option of the Holder thereof for redemption by the Authority prior to the stated maturity thereof or for purchase thereof, or the maturity of which may be extended by and at the option of the Holder thereof in accordance with the Supplemental Resolution authorizing such Bonds or the Bond Series Certificate related to such Bonds;

“Outstanding” when used in reference to Bonds, means, as of a particular date, all Bonds authenticated and delivered hereunder and under any Applicable Supplemental Resolution except: (i) any Bond cancelled by the Applicable Trustee at or before such date; (ii) any Bond deemed to have been paid in accordance with Section 12.01 hereof; (iii) any Bond in lieu of or in substitution for which another Bond shall have been authenticated and delivered pursuant to Article III, Section 4.06 or Section 10.07 hereof; and (iv) Option Bonds tendered or deemed tendered in accordance with the provisions of the Supplemental Resolution authorizing such Bonds or the Bond Series Certificate related to such Bonds on the applicable adjustment or conversion date, if interest thereon shall have been paid through such applicable date and the purchase price thereof shall have been paid or amounts are available for such payment as provided herein and in the Supplemental Resolution authorizing such Bonds;

“Paying Agent” means, with respect to the Bonds of any Series, the Trustee and any other bank or trust company and its successor or successors, appointed pursuant to the provisions hereof and of a Supplemental Resolution, a Bond Series Certificate or any other resolution of the Authority adopted prior to authentication and delivery of the Series of Bonds for which such Paying Agent or Paying Agents shall be so appointed;

“Permitted Collateral” means:

(a) Government Obligations described in clauses (a), (b) or (c) of the definition of Government Obligation;

(b) Federal Agency Obligations described in clauses (a) or (b) of the definition of Federal Agency Obligation;

(c) commercial paper that (i) matures within two hundred seventy (270) days after its date of issuance, (ii) is rated in the highest short term rating category by at least one Rating Agency and (iii) is issued by a domestic corporation whose unsecured senior debt is rated by at least one Rating Agency no lower than in the second highest rating category;

(d) financial guaranty agreements, surety or other similar bonds or other instruments of an insurance company that has an equity capital of at least \$125,000,000 and is rated by Bests Insurance Guide or a Rating Agency in the highest rating category; and

(e) bankers’ acceptances issued by a bank rated, at the time an investment therein is made or the same is deposited in any fund or account hereunder, in the highest short term rating category by at least one Rating Agency and having maturities of no longer than three hundred sixty five (365) days from the date they are pledged;

“Permitted Investments” means any of the following:

- (a) Government Obligations;
- (b) Federal Agency Obligations;
- (c) Municipal Obligations;
- (d) uncollateralized certificates of deposit that are fully insured by the Federal Deposit Insurance Corporation and issued by a banking organization authorized to do business in the State;
- (e) collateralized certificates of deposit that are (i) issued by a banking organization authorized to do business in the State that has an equity capital of not less than \$125,000,000, whose unsecured senior debt, or debt obligations fully secured by a letter or credit, contract, agreement or surety bond issued by it, are, at the time an investment therein is made or the same is deposited in any fund or account hereunder, rated by at least one Rating Agency in at least the second highest rating category, and (ii) fully collateralized by Permitted Collateral;
- (f) commercial paper issued by a domestic corporation rated, at the time an investment therein is made or the same is deposited in any fund or account hereunder, in the highest short term rating category by at least one Rating Agency and having maturities of no longer than two hundred seventy (270) days from the date of purchase;
- (g) bankers’ acceptances issued by a bank rated, at the time an investment therein is made or the same is deposited in any fund or account hereunder, in the highest short term rating category by at least one Rating Agency and having maturities of no longer than three hundred sixty five (365) days from the date they are purchased;
- (h) Investment Agreements that are fully collateralized by Permitted Collateral; and
- (i) a share or interest in a mutual fund, partnership or other fund registered under the Securities Act of 1933, as amended, and operated in accordance with Rule 2a-7 of the Investment Company Act of 1940, as amended, whose objective is to maintain a constant share value of \$1.00 per share and that is rated, at the time an investment therein is made or the same is deposited in any fund or account hereunder, in the highest short term rating category by at least one Rating Agency;

[“Project Account” means each such account in a Project Fund so designated, created and established for each Applicable Public Entity by the Applicable Supplemental Resolution pursuant to Section 5.04 hereof;]

[“Project Fund” means each such fund so designated, created and established by the Applicable Supplemental Resolution pursuant to Section 5.02 hereof;]

“Project” or “Projects” means any Energy-related project programs and services as described in Section 1005 17.(b)(2) of the Act as the same may be amended;

“Public Entity” or “Public Entities” means, individually and collectively, a public entity, as defined in the Act, duly organized and existing under the laws of the State of New York that has entered into an Agreement with the Authority.

“Qualified Financial Institution” means any of the following entities that has an equity capital of at least \$125,000,000 or whose obligations are unconditionally guaranteed by an affiliate or parent having an equity capital of at least \$125,000,000:

(a) a securities dealer, the liquidation of which is subject to the Securities Investors Protection Corporation or other similar corporation, and (i) that is on the Federal Reserve Bank of New York list of primary government securities dealers and (ii) whose senior unsecured long term debt is at the time an investment with it is made is rated by at least one Rating Agency no lower than in the second highest rating category, or, in the absence of a rating on long term debt, whose short term debt is rated by at least one Rating Agency no lower than in the highest rating category for such short term debt; provided, however, that no short term rating may be utilized to determine whether an entity qualifies under this paragraph as a Qualified Financial Institution if the same would be inconsistent with the rating criteria of any Rating Agency or credit criteria of an entity that provides a Credit Facility or financial guaranty agreement in connection with Outstanding Bonds;

(b) a bank, a trust company, a national banking association, a corporation subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provisions of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provisions of law, a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, a savings bank, a savings and loan association, an insurance company or association chartered or organized under the laws of the United States of America, any state of the United States of America or any foreign nation, whose senior unsecured long term debt is at the time an investment with it is made is rated by at least one Rating Agency no lower than in the second highest rating category, or, in the absence of a rating on long term debt, whose short term debt is rated by at least one Rating Agency no lower than in the highest rating category for such short term debt; provided, however, that no short term rating may be utilized to determine whether an entity qualifies under this paragraph as a Qualified Financial Institution if the same would be inconsistent with the rating criteria of any Rating Agency or credit criteria of an entity that provides a Credit Facility or financial guaranty agreement in connection with Outstanding Bonds;

(c) a corporation affiliated with or which is a subsidiary of any entity described in (a) or (b) above or which is affiliated with or a subsidiary of a corporation which controls or wholly owns any such entity, whose senior unsecured long term debt is at the time an investment with it is made is rated by at least one Rating Agency no lower than in the second highest rating category, or, in the absence of a rating on long term debt, whose short term debt is rated by at least one Rating Agency no lower than in the highest rating category for such short term debt; provided, however, that no short term rating may be utilized to determine whether an

entity qualifies under this paragraph as a Qualified Financial Institution if the same would be inconsistent with the rating criteria of any Rating Agency or credit criteria of an entity that provides a Credit Facility or financial guaranty agreement in connection with Outstanding Bonds;

(d) the Government National Mortgage Association or any successor thereto, the Federal National Mortgage Association or any successor thereto, or any other federal agency or instrumentality approved by the Authority; or

(e) a corporation whose obligations, including any investments of any money held hereunder purchased from such corporation, are insured by an insurer that meets the applicable rating requirements set forth above;

"Qualified Swap" means, to the extent from time to time permitted by law, with respect to Bonds, any financial arrangement (i) which is entered into by the Authority with an entity that is a Qualified Swap Provider at the time the arrangement is entered into, (ii) which is a cap, floor or collar; forward rate; future rate; swap (such swap may be based on an amount equal either to the principal amount of such Bonds of the Authority as may be designated or a notional principal amount relating to all or a portion of the principal amount of such Bonds); asset, index, price or market-linked transaction or agreement; other exchange or rate protection transaction agreement; other similar transaction (however designated); or any combination thereof; or any option with respect thereto, executed by the Authority for the purpose of moderating interest rate fluctuations or otherwise, and (iii) which has been designated in writing to the Trustee by an Authorized Officer as a Qualified Swap with respect to such Bonds.

"Qualified Swap Provider" means an entity whose senior long term obligations, other senior unsecured long term obligations, financial program rating, counterparty rating, or claims paying ability, or whose payment obligations under an interest rate exchange agreement are guaranteed by an entity whose senior long term debt obligations, other senior unsecured long term obligations, financial program rating, counterparty rating, or claims paying ability, are rated either (i) at least as high as the third highest Rating Category of each Rating Agency then maintaining a rating for the Qualified Swap Provider, but in no event lower than any Rating Category designated by each such Rating Agency for the Obligations subject to such Qualified Swap, or (ii) any such lower Rating Categories which each such Rating Agency indicates in writing to the Authority and the Trustee will not, by itself, result in a reduction or withdrawal of its rating on the Bonds subject to such Qualified Swap that is in effect prior to entering into such Qualified Swap.

"Rating Agency" means each of Moody's and Fitch, in each case, which has assigned a rating to Outstanding Bonds at the request of the Authority, or their respective successors and assigns or any other Nationally Recognized Rating Agency then rating a Series of Bonds;

"Record Date" means, unless the Supplemental Resolution or the Bond Series Certificate relating to the Applicable Series of Bonds provides otherwise, the fifteenth (15th) day (whether or not a Business Day) of the calendar month preceding an Interest Payment Date;

“Redemption Price”, when used with respect to a Bond, means the principal amount of such Bond plus the applicable premium, if any, payable upon redemption prior to maturity thereof pursuant hereto or to the Applicable Supplemental Resolution or Bond Series Certificate;

“Refunding Bonds” means all Bonds, whether issued in one or more Series of Bonds, authenticated and delivered on original issuance pursuant to Section 2.04 hereof, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III, Section 4.06 or Section 10.07 hereof;

“Remarketing Agent” means the person appointed by or pursuant to a Supplemental Resolution authorizing the issuance of Option Bonds to remarket such Option Bonds tendered or deemed to have been tendered for purchase in accordance with such Supplemental Resolution or the Bond Series Certificate relating to such Option Bonds;

“Remarketing Agreement” means, with respect to Option Bonds of a Series, an agreement between the Authority and the Remarketing Agent relating to the remarketing of such Bonds;

“Resolution” or **“Master Resolution”** means this Master Energy Efficiency Program Revenue Bond Resolution, as from time to time amended or supplemented by any Supplemental Resolution in accordance with the terms and provisions hereof;

“Revenues” means (a) (i) the Basic Debt Service Payment paid by a Public Entity pursuant to the Applicable Long Term Financing Supplement and any other amounts paid by a Public Entity to the Authority with respect to the payment of the Final Project Cost as set forth in the Applicable Long Term Financing Supplement and (ii) the right to receive the same and the proceeds thereof and of such right and any investment income related thereto and (b) Authority Surplus Revenues;

“Serial Bonds” means, with respect to Bonds of a Series, the Bonds so designated in an Applicable Supplemental Resolution or Bond Series Certificate;

“Series” means all of the Bonds authenticated and delivered on original issuance and pursuant hereto and to the Applicable Supplemental Resolution authorizing such Bonds as a separate Series of Bonds, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III, Section 4.06 or Section 10.07 hereof, regardless of variations in maturity, interest rate, Sinking Fund Installments or other provisions;

“Sinking Fund Installment” means, as of any date of calculation, when used with respect to any Bonds of a Series, other than Option Bonds or Variable Interest Rate Bonds, so long as any such Bonds are Outstanding, the amount of money required hereby or by the Supplemental Resolution pursuant to which such Bonds were issued or by the Bond Series Certificate relating thereto, to be paid on a single future [April 1] or [October 1] for the retirement of any Outstanding Bonds of said Series which mature after said future [April 1] or [October 1], but does not include any amount payable by the Authority by reason only of the maturity of a Bond, and said future [April 1] or [October 1] is deemed to be the date when a Sinking Fund Installment is payable and the date of such Sinking Fund Installment and said

Outstanding Bonds are deemed to be Bonds entitled to such Sinking Fund Installment, and when used with respect to Option Bonds or Variable Interest Rate Bonds of a Series, so long as such Bonds are Outstanding, the amount of money required by the Supplemental Resolution pursuant to which such Bonds were issued or by the Bond Series Certificate relating thereto, to be paid on a single future date for the retirement of any Outstanding Bonds of said Series which mature after said future date, but does not include any amount payable by the Authority by reason only of the maturity of a Bond, and said future date is deemed to be the date when a Sinking Fund Installment is payable and the date of such Sinking Fund Installment and said Outstanding Option Bonds or Variable Rate Interest Bonds of such Series are deemed to be Bonds entitled to such Sinking Fund Installment;

“Standby Purchase Agreement” means an agreement by and between the Authority and another person or by and among the Authority, one or more Public Entities and another person, pursuant to which such person is obligated to purchase an Option Bond tendered for purchase;

“State” means the State of New York;

“Subordinated Contract Obligation” means any payment obligation arising under (a) any Credit Facility which has been designated as constituting a "Subordinated Contract Obligation" in a certificate of an Authorized Officer of the Authority delivered to the Trustee, (b) any Qualified Swap which has been designated as constituting a "Subordinated Contract Obligation" in a certificate of an Authorized Officer of the Authority delivered to the Trustee, and (c) any other contract, agreement or other obligation authorized by resolution of the Authority and designated as constituting a "Subordinated Contract Obligation" in a certificate of an Authorized Officer of the Authority delivered to the Trustee. Each Subordinated Contract Obligation shall be payable from the Revenues subject and subordinate to the payments to be made with respect to the Bonds, and shall be secured by a lien on and pledge of the Revenues junior and inferior to the lien on and pledge of the Revenues herein created for the payment of the Bonds.

“Supplemental Resolution” means any resolution amending or supplementing this Resolution adopted by the Authority in accordance with this Resolution;

“Tax Certificate” means the Tax Certificate concerning certain matters pertaining to the use of proceeds of the Bonds executed by and delivered to the Authority and the Trustee on the date of issuance of the Bonds, including any and all exhibits attached thereto;

“Term Bonds” means, with respect to Bonds of a Series, the Bonds so designated in an Applicable Supplemental Resolution or an Applicable Bond Series Certificate and payable from Sinking Fund Installments;

“Trustee” means the bank or trust company appointed as Trustee for the Bonds pursuant to the Applicable Supplemental Resolution or Applicable Bond Series Certificate and having the duties, responsibilities and rights provided for herein with respect to such Series, and its successor or successors and any other bank or trust company which may at any time be substituted in its place pursuant hereto;

“Valuation Date” means (i) with respect to any Capital Appreciation Bond, the date or dates set forth in the Supplemental Resolution authorizing such Bond or in the Bond Series Certificate relating to such Bond on which specific Accreted Values are assigned to such Capital Appreciation Bond, and (ii) with respect to any Deferred Income Bond, the date or dates prior to the Interest Commencement Date and the Interest Commencement Date set forth in the Supplemental Resolution authorizing such Bond or in the Bond Series Certificate relating to such Bond on which specific Appreciated Values are assigned to such Deferred Income Bond;

“Variable Interest Rate” means the rate or rates of interest to be borne by a Series of Bonds or any one or more maturities within a Series of Bonds which is or may be varied from time to time in accordance with the method of computing such interest rate or rates specified in the Supplemental Resolution authorizing such Bonds or the Bond Series Certificate relating to such Bonds, which shall be based on (i) a percentage or percentages or other function of an objectively determinable interest rate or rates (e.g., a prime lending rate) which may be in effect from time to time or at a particular time or times or (ii) a stated interest rate that may be changed from time to time as provided in the Supplemental Resolution authorizing such Bonds or the Bond Series Certificate relating to such Bond; provided, however, that such variable interest rate may be subject to a Maximum Interest Rate and a Minimum Interest Rate and that there may be an initial rate specified, in each case as provided in such Supplemental Resolution or a Bond Series Certificate; provided, further, that such Supplemental Resolution or Bond Series Certificate shall also specify either (x) the particular period or periods of time or manner of determining such period or periods of time for which each variable interest rate shall remain in effect or (y) the time or times at which any change in such variable interest rate shall become effective or the manner of determining such time or times; and

“Variable Interest Rate Bond” means any Bond which bears a Variable Interest Rate; provided, however, that a Bond the interest rate on which shall have been fixed for the remainder of the term thereof shall no longer be a Variable Interest Rate Bond.

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neutral genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies as well as natural persons.

The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder,” and any similar terms, as used in this Resolution, refer to this Resolution.

SECTION 1.02. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of the Act.

SECTION 1.03. Master Resolution, the Supplemental Resolutions and the Bonds Constitute Separate Contracts. It is the intent of this Master Resolution to authorize the issuance by the Authority, from time to time, of its revenue bonds in one or more Series, each such Series to be authorized by an Applicable Supplemental Resolution and, inter alia, to be separately secured from each other Series of Bonds. Each such Series of Bonds shall be separate and apart from any other Series of Bonds and the Holders of Bonds of such Series shall not be

entitled to the rights and benefits conferred upon the Holders of Bonds of any other Series of Bonds by the respective Supplemental Resolution authorizing such Series of Bonds. With respect to each Applicable Series of Bonds, in consideration of the purchase and acceptance of any and all of the Bonds of an Applicable Series authorized to be issued hereunder and under the Applicable Supplemental Resolution by those who shall hold or own the same from time to time, this Master Resolution and the Applicable Supplemental Resolution shall be deemed to be and shall constitute a contract among the Authority, the Trustee and the Holders from time to time of the Bonds of an Applicable Series, and the pledge and assignment made herein and the covenants and agreements set forth to be performed by or on behalf of the Authority shall be for the equal and ratable benefit, protection and security of the Holders of any and all of the Bonds of such Series, all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of any Bonds of a Series over any other Bonds of such Series except as expressly provided herein or permitted hereby or by the Applicable Supplemental Resolution.

SECTION 1.04. [Intentionally Omitted]

(a) [Reserved]

ARTICLE II – AUTHORIZATION AND ISSUANCE OF BONDS

SECTION 2.01. Authorization of Bonds. There are hereby authorized Bonds of the Authority of each Applicable Series to be issued as hereinafter provided. The Bonds of each Series shall be limited obligations of the Authority payable solely from the Revenues pledged for the payment thereof and all funds and accounts (excluding the Applicable Arbitrage Rebate Fund) authorized by this Resolution and established by the Applicable Supplemental Resolution, all in the manner more particularly provided herein or in the Applicable Supplemental Resolution. The aggregate principal amount of Bonds of a Series which may be executed, authenticated and delivered is not limited except as provided hereby and by the Applicable Supplemental Resolution.

The Bonds of each Series of the Authority shall not be a debt of the State, nor shall the State be liable thereon, nor shall the Bonds be payable out of any funds other than those of the Authority hereby pledged to the payment of the principal, Sinking Fund Installments, if any, and Redemption Price of and interest on such Series of Bonds.

The Bonds may, if and when authorized by the Authority pursuant hereto and to one or more Supplemental Resolutions, be issued in one or more Series and the Bonds of each Series shall contain an appropriate Series designation.

Nothing contained herein shall be deemed to preclude or restrict the consolidation pursuant to a Supplemental Resolution of any Bonds of any two or more separate Series authorized pursuant hereto and to any such Supplemental Resolution to be issued pursuant to any of the provisions of Sections 2.03 and 2.04 hereof into a single Series of Bonds for purposes of sale and issuance; provided, however, that each of the tests, conditions and other requirements contained in Sections 2.02, 2.03 and 2.04 hereof as applicable to each such separate Series shall be met and complied with. Except as otherwise provided in this Section or in such Supplemental Resolution, such a consolidated Series shall be treated as a single Series of Bonds for all purposes hereof.

In connection with the issuance of any Series of Bonds the Authority shall be authorized to apply Authority Surplus Revenues to secure the payment of a Series of Bonds including the deposit of such revenues into one or more reserves with respect to such Series of Bonds and/or to provide for the application of such revenues with respect to any agreement by the Authority to provide security for such Series of Bonds all as may be established and determined by the Authority pursuant to a Supplemental Resolution.

SECTION 2.02. Provisions for Issuance of a Series of Bonds. The issuance of Bonds of a Series or subseries shall be authorized by a Supplemental Resolution or Resolutions adopted at the time of or subsequent to the adoption hereof. The Bonds of a Series or subseries authorized to be issued shall be executed in accordance with Section 3.03 hereof and delivered to the Trustee. Such Bonds of a Series or subseries shall be authenticated by the Trustee from time to time and in such amounts as directed by the Authority and delivered by it to or upon the order of the Authority upon receipt of the consideration therefore and upon delivery to the Trustee of:

(a) A copy of this Resolution and a copy of the Supplemental Resolution authorizing such Series of Bonds, certified by the Authority;

(b) A copy of the Applicable Agreements including the Applicable Long Term Financing Supplement (or any Supplement thereto in the case of Refunding Bonds), executed by the Authority and the Applicable Public Entity, certified by the Authority and approved by an Authorized Officer of the Applicable Public Entity together with all fully executed Appendices thereto;

(c) A copy of the Bond Series Certificate executed in connection with such Series of Bonds;

(d) A written executed order as to the delivery of such Series of Bonds, describing such Bonds to be delivered, designating the purchaser or purchasers to whom such Bonds are to be delivered and stating the consideration for such Bonds;

(e) Except in the case of Refunding Bonds, a certificate of the Authority stating that the Authority is not in default in the performance of any of the covenants, conditions, agreements or provisions contained in the Applicable Supplemental Resolution;

(f) A certificate of the Authority stating that the requirements of Section 7.12 of this Master Resolution are satisfied with respect to such Series of Bonds;

(g) An opinion of Bond Counsel stating that this Master Resolution and the Applicable Supplemental Resolution authorizing the Series of Bonds have been duly and lawfully adopted by the Authority, that this Master Resolution and the Applicable Supplemental Resolution are in full force and effect and are valid and binding upon the Authority and enforceable in accordance with their terms; that this Master Resolution and Applicable Supplemental Resolution create a valid pledge and a valid lien upon the Revenues which it purports to create, subject only to the provisions of this Master Resolution and Applicable Supplemental Resolution permitting the withdrawal, payment, setting apart or appropriation thereof for the purposes and on the terms and conditions set forth in this Master Resolution and the Applicable Supplemental Resolution; and that the Authority is duly authorized and entitled to issue such Series of Bonds and, upon the execution and delivery thereof and upon authentication by the Trustee, such Series of Bonds will be duly and validly issued and will constitute a valid and binding limited obligation of the Authority entitled to the benefits of this Master Resolution and Applicable Supplemental Resolution; provided, however, that such opinion may be qualified to the extent that enforceability of rights and remedies may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally or as to the availability of any particular remedy.

SECTION 2.03. Supplemental Resolutions Authorizing Series of Bonds. Each Supplemental Resolution authorizing the issuance of a Series of Bonds shall specify, or delegate to an Authorized Officer of the Authority the power to determine and carry out, the following:

(a) The authorized principal amount, designation and Series of such Bonds;

(b) The sale of the Bonds of such Series at a public or private sale or pursuant to a direct placement; the approval of the terms of and publication of an official statement or other offering document describing the Bonds of such Series and, if such Bonds are to be sold at a public sale, publication of a notice of sale; and the execution of a contract or contracts of purchase at a public or private sale or pursuant to a direct placement on behalf of the Authority;

(c) The Public Entity or Public Entities for whose benefit the Bonds of such Series are to be issued, and the purposes for which such Series of Bonds is being issued, which purposes shall be limited to (i) providing the proceeds of such Series of Bonds to Public Entities to finance or refinance Costs of the Projects, (ii) paying the Costs of Issuance of a Series of Bonds, (iii) reimbursing Public Entities for funds expended on Projects, (iv) establishing certain reserves with respect to a Series of Bonds, (iv) paying capitalized interest, if any with respect to a Series of Bonds and (v) doing any combination thereof;

(d) The date or dates, the maturity date or dates and principal amounts of each maturity of the Bonds of such Series, the amount and date of each Sinking Fund Installment, if any, which Bonds of such Series are Serial Bonds or Term Bonds, if any, and the Record Date or Record Dates of the Bonds of such Series for which the Record Date or Record Dates is other than the fifteenth (15th) day of the calendar month preceding an Interest Payment Date for such Bonds;

(e) Except in the case of Capital Appreciation Bonds and Deferred Income Bonds prior to the Interest Commencement Date, the interest rate or rates, if any, of the Bonds of such Series or the manner of determining such rate or rates, the date from which interest on the Bonds of such Series shall accrue, the first date on which interest on the Bonds of such Series shall be payable and the date or dates on which the rate at which Variable Interest Rate Bonds of such Series bear interest shall be adjusted and the date or dates on which interest on such Variable Interest Rate Bonds shall be paid, or the manner of determining the same and the manner in which interest is to be paid on such Variable Interest Rate Bonds;

(f) If Bonds of such Series are Capital Appreciation Bonds, the Valuation Dates for such Bonds and the Accreted Value on each such Valuation Date;

(g) If Bonds of such Series are Deferred Income Bonds, the Interest Commencement Date for such Bonds, the Valuation Date or Dates prior to the Interest Commencement Date for such Bonds and the Appreciated Value on each such Valuation Date;

(h) The Maximum Interest Rate, if any, in connection with any Variable Interest Rate Bonds or Option Bonds of such Series;

(i) If Bonds of such Series are Option Bonds, provisions regarding the tender for purchase or redemption thereof, payment of the purchase or Redemption Price thereof and the appointment of a Remarketing Agent with respect thereto;

(j) The denomination or denominations of and the manner of numbering and lettering the Bonds of such Series;

(k) The Trustee for such Series of Bonds;

(l) The Paying Agent or Paying Agents for such Bonds and, subject to the provisions of Section 3.01 hereof, the place or places of payment of the principal, Sinking Fund Installments, if any, or Redemption Price of and interest on the Bonds of such Series; provided, however, that such Paying Agent or Paying Agents may be appointed by resolution adopted prior to authentication and delivery of such Series of Bonds in accordance with the provisions of Section 8.02 hereof;

(m) The Redemption Price or Redemption Prices, if any, and, subject to Article IV hereof, the redemption terms, if any, for the Bonds of such Series;

(n) Provisions for the sale or exchange of the Bonds of such Series and for the delivery thereof, to the extent not provided in this Resolution;

(o) The form of the Bonds of such Series and the form of the Trustee's certificate of authentication thereon, and whether any Bonds of such Series are to be issued as Book Entry Bonds and the Depository therefore;

(p) Directions for the application of the proceeds of the Bonds of such Series;

(q) Whether the tax covenants in Section 7.14 hereof are applicable to the Bonds of such Series, and additional tax covenants applicable to the Bonds of such Series, if any;

(r) The rights, powers and privileges of the Facility Provider providing a Credit Facility for Bonds of such Series;

(s) If Bonds of such Series are to be Secured by a debt service reserve fund, liquidity reserve or other reserve fund the provisions of such reserve fund including but not limited to the amount to be deposited into such debt service reserve fund, liquidity reserve fund or other reserve fund with respect to such Series of Bond; and

(t) Any other provisions deemed advisable by an Authorized Officer of the Authority, not in conflict with the provisions hereof or of any Supplemental Resolution.

An Authorized Officer to whom a Supplemental Resolution has delegated the power to determine any of the foregoing shall execute an Applicable Bond Series Certificate evidencing such determinations or other actions taken pursuant to such delegation, and such Bond Series Certificate shall be conclusive evidence of the determinations or actions of such Authorized Officer as to the matters stated therein.

SECTION 2.04. Refunding Bonds. All or any portion of one or more Series of Refunding Bonds may be authenticated and delivered upon original issuance to refund all Outstanding Bonds, one or more Series of Outstanding Bonds, a portion of a Series of Outstanding Bonds or a portion of a maturity of a Series of Outstanding Bonds. The Authority may issue Refunding Bonds in an aggregate principal amount sufficient, together with other moneys available therefore, to accomplish such refunding and to make such deposits required by the provisions of this Section and of the Supplemental Resolution authorizing such Series of Refunding Bonds.

The Refunding Bonds of such Series shall be authenticated and delivered by the Trustee only upon receipt by the Trustee (in addition to the documents required by Section 2.02 hereof) of:

(a) If the Bonds to be refunded are to be redeemed, irrevocable instructions to the Trustee, satisfactory to it, to give due notice of redemption of all the Bonds to be refunded on a redemption date specified in such instructions;

(b) Irrevocable instructions to the Trustee, satisfactory to it, to duly give the notice provided for in Section 12.01 hereof to the Holders of the Bonds being refunded;

(c) Either (i) moneys in an amount sufficient to effect payment of the principal at maturity or the Redemption Price at the applicable Redemption Price of the Bonds to be refunded, together with accrued interest on such Bonds to the maturity or redemption date, which money shall be held by the Trustee or any one or more of the Paying Agents in a separate account irrevocably in trust for and assigned to the respective Holders of the Bonds to be refunded or (ii) Defeasance Securities in such principal amounts, of such maturities, bearing such interest and otherwise having such terms and qualifications, as shall be necessary to comply with the provisions of said Section 12.01 hereof, which Defeasance Securities and moneys shall be held in trust and used only as provided in said Section;

(d) A certificate of the Authority stating that the requirements of Section 7.12 of this Master Resolution are satisfied with respect to such Series of Refunding Bonds; and

(e) A certificate of an Authorized Officer of the Authority containing such additional statements as may be reasonably necessary to show compliance with the requirements of this Section.

The proceeds, including accrued interest, of Refunding Bonds shall be applied simultaneously with the delivery of such Refunding Bonds in the manner provided in or as determined in accordance with the Supplemental Resolution authorizing such Refunding Bonds.

SECTION 2.05. Additional Obligations. The Authority reserves the right to issue bonds, notes or any other obligations or otherwise incur indebtedness pursuant to other and separate resolutions or agreements of the Authority, so long as such bonds, notes or other obligations are not, or such other indebtedness is not entitled to a charge, lien or right prior or equal to the charge or lien created hereby and pursuant to an Applicable Supplemental Resolution, or prior or equal to the rights of the Authority and Holders of an Applicable Series of Bonds provided hereby or with respect to the moneys pledged hereunder or pursuant to an Applicable Supplemental Resolution.

ARTICLE III – GENERAL TERMS AND PROVISIONS OF BONDS

SECTION 3.01. Medium of Payment; Form and Date. Except as otherwise provided in the Applicable Supplemental Resolution authorizing particular Bonds, the Bonds shall be payable, with respect to interest, principal and Redemption Price, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Except as otherwise provided in the Applicable Supplemental Resolution authorizing particular Bonds, Bonds shall be issued in the form of fully registered Bonds without coupons. Bonds, the certificate of authentication, if any, and the form of assignment shall be in substantially the form specified in the Applicable Supplemental Resolution authorizing such Bonds with such appropriate variations, omissions, substitutions and insertions as are permitted or required hereby or thereby or are required by law, and may have such letters, numbers or other marks of identification and such legends and endorsements placed thereon as may be required to comply with any applicable laws or rules or regulations, or as may, consistent with this Resolution, be determined by the officers executing such Bonds, as evidenced by their execution of the Bonds. Any portion of the text of any Bond may be set forth on the reverse thereof, with an appropriate reference thereto on the face of such Bond, or as multiple pages (with or without such a reference). Bonds may be typewritten, printed, engraved, lithographed or otherwise produced. Bonds shall be dated, and shall bear or not bear interest, as provided in the Applicable Supplemental Resolution authorizing such Bonds.

SECTION 3.02. Legends. The Bonds may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of the Resolution or with any Supplemental Resolution authorizing the same, as may be necessary or desirable to comply with custom, the rules of any securities exchange or commission or brokerage board, or otherwise, and as may be determined by the Authority.

SECTION 3.03. CUSIP Numbers. The Authority shall provide for the assignment of CUSIP numbers for such Bonds and cause such CUSIP numbers to be printed thereon, and the Trustee shall use such CUSIP numbers in notices of redemption, of the tender of Option Bonds and on all checks payable to Bondholders as a convenience to Bondholders; provided, however, that any such notice shall state that no representation is made as to the correctness of such number either as printed on such Bonds or as contained in any notice of redemption or tender, and that an error in a CUSIP number as printed on such Bond or as contained in any notice of redemption or of tender shall not affect the validity of the proceedings for redemption or tender.

SECTION 3.04. Execution and Authentication. The Bonds shall be executed in the name of the Authority by the manual or facsimile signature of its Chairman or its Vice Chairman and its corporate seal (or a facsimile thereof) shall be affixed, imprinted, engraved or otherwise reproduced, and attested by the manual or facsimile signature of its Secretary, Deputy Secretary, or an Assistant Secretary, or in such other manner as may be required by law or specified in a Supplemental Resolution. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer before the Bonds so signed and sealed shall have been actually delivered, such Bonds may, nevertheless, be delivered as herein provided, and may be issued as if the Persons who signed or sealed such Bonds had not ceased to

hold such offices. Any Bond may be signed and sealed on behalf of the Authority by such Persons as at the actual time of the execution of such Bond shall be duly authorized or hold the proper office in the Authority, although at the date of the Bonds such Persons may not have been so authorized or have held such office.

Except as may be otherwise provided in a Supplemental Resolution, the Bonds of each Series shall bear thereon a certificate of authentication, in the form set forth in the Supplemental Resolution authorizing such Bonds, executed manually by the Trustee. Except as may otherwise be provided in a Supplemental Resolution, only such Bonds as shall bear thereon such certificate of authentication shall be entitled to any right or benefit under this Resolution and no Bond shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Trustee. Such certificate of the Trustee upon any Bond executed on behalf of the Authority shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered under this Resolution and that the Owner thereof is entitled to the benefits of this Resolution.

SECTION 3.05. Interchangeability of Bonds. Bonds, upon surrender thereof at the office of the Registrar with a written instrument of transfer satisfactory to the Registrar, duly executed by the Owner or his duly authorized attorney, may, at the option of such Owner, be exchanged for an equal aggregate principal amount of Bonds of the same Series, maturity and interest rate of any other authorized denomination.

SECTION 3.06. Negotiability, Transfer and Registry. All Bonds issued under this Resolution shall be negotiable, subject to the provisions for registration and transfer contained in this Resolution and in the Bonds. So long as any of the Bonds shall remain Outstanding, the Authority shall maintain and keep, at the office of the Registrar, books for the registration and transfer of Bonds; and, upon presentation thereof for such purpose at said office, the Authority shall register or cause to be registered therein, and permit to be transferred thereon, under such reasonable regulations as it or the Registrar may prescribe, any Bond entitled to registration or transfer. So long as any of the Bonds remain Outstanding, the Authority shall make all necessary provision to permit the exchange of Bonds at the office of the Registrar.

SECTION 3.07. Transfer of Bonds. Except as may be otherwise provided in a Supplemental Resolution authorizing Bonds in book-entry-only form, each Bond shall be transferable only upon the books of the Authority, which shall be kept for that purpose at the office of the Registrar, by the Owner thereof in person or by his attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar duly executed by the Owner or his duly authorized attorney. Upon the transfer of any such Bond, the Authority shall issue in the name of the transferee a new Bond or Bonds of the same aggregate principal amount, Series, maturity and interest rate as the surrendered Bond.

The Authority and each Fiduciary may deem and treat the Person in whose name any Outstanding Bond shall be registered upon the books of the Authority as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and Redemption Price, if any, of and interest on such Bond and for all other purposes, and all such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the

extent of the sum or sums so paid, and neither the Authority nor any Fiduciary shall be affected by any notice to the contrary. The Authority agrees to indemnify and save each Fiduciary harmless from and against any and all loss, cost, charge, expense, judgment or liability incurred by it, acting in good faith and without negligence under this Resolution and the Applicable Supplemental Resolution, in so treating such registered owner.

SECTION 3.08. Regulations With Respect to Exchanges and Transfers. In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, the Authority shall execute and the Registrar shall deliver Bonds in accordance with the provisions of this Resolution. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Registrar. For every such exchange or transfer of Bonds, whether temporary or definitive, the Authority or the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer. The Authority shall not be obliged to make any such exchange or transfer of Bonds during the twenty (20) days next preceding an interest payment date on such Bonds or, in the case of any proposed redemption of Bonds of such Series, next preceding the mailing of such notice of such redemption.

SECTION 3.09. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, lost or stolen, the Authority shall execute, and thereupon the Registrar shall deliver, a new Bond of like Series, maturity, interest rate and principal amount as the Bond so mutilated, destroyed, lost or stolen, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, lost or stolen, upon filing with the Registrar evidence satisfactory to the Authority and the Registrar that such Bond has been destroyed, lost or stolen and proof of ownership thereof, and upon furnishing the Authority and the Registrar with indemnity satisfactory to them and complying with such other reasonable regulations as the Authority and the Registrar may prescribe and paying such expenses as the Authority and the Registrar may incur. All Bonds so surrendered to the Registrar shall be cancelled by it. If any such Bond shall have matured, or if such Bond shall have been called for redemption or a redemption date pertaining thereto shall have passed, instead of issuing a new Bond the Authority may cause the same to be paid without surrender thereof upon indemnity satisfactory to the Authority and the Registrar. Any such new Bonds issued pursuant to this Section in substitution for Bonds alleged to be destroyed, stolen or lost shall constitute original additional contractual obligations on the part of the Authority, whether or not the Bonds so alleged to be destroyed, stolen or lost be at any time enforceable by anyone, and shall be equally secured by and entitled to equal and proportionate benefits with all other Bonds issued under this Resolution, in any moneys or securities held by the Authority or the Fiduciary for the benefit of the Owners of Bonds.

SECTION 3.10. Book Entry Bonds. Notwithstanding any other provision of this Resolution, the Authority may employ a book-entry-only system of registration with respect to any Bonds, and the procedures regarding such registration shall be set forth in the Applicable Supplemental Resolution. Any provisions of this Resolution inconsistent with book-entry-only Bonds shall not be applicable to book-entry-only Bonds.

SECTION 3.11. Credit Facilities; Qualified Swaps and Other Similar Arrangements; Parity Debt.

(a) The Authority may include such provisions in a Supplemental Resolution authorizing the issuance of a Series of Bonds secured by a Credit Facility as the Authority deems appropriate, and no such provisions shall be deemed to constitute an amendment to this Resolution requiring action under Sections 7.01, 7.02 or 7.03, including:

(i) So long as a Credit Facility providing security (but not liquidity) is in full force and effect, and payment on the Credit Facility is not in default and the issuer of the Credit Facility is qualified to do business, then, in all such events, the issuer of the Credit Facility shall be deemed to be the sole Owner of the Outstanding Bonds the payment of which such Credit Facility secures when the approval, consent or action of the Owners for such Bonds is required or may be exercised under this Resolution, or, in the alternative, that the approval, consent or action of the issuer of the Credit Facility shall be required in addition to the approval, consent or action of the applicable percentage of the Owners of the Outstanding Obligations including, without limitation, Section 7.03 hereof, and following an Event of Default under Section 11.01 hereof.

(ii) In the event that the principal, sinking fund installments, if any, and Redemption Price, if applicable, and interest due on any Outstanding Bonds shall be paid under the provisions of a Credit Facility, all covenants, agreements and other obligations of the Authority to the Owners of such Bonds shall continue to exist and such issuer of the Credit Facility shall be subrogated to the rights of such Owners in accordance with the terms of such Credit Facility.

(b) In addition, the Applicable Supplemental Resolution may establish such provisions as are necessary (i) to comply with the provisions of each such Credit Facility, (ii) to provide relevant information to the issuer of the Credit Facility, (iii) to provide a mechanism for paying principal installments and interest on Bonds secured by the Credit Facility, and (iv) to make provision for any events of default or for additional or improved security required by the issuer of a Credit Facility.

(c) In connection therewith the Authority may enter into such agreements with the issuer of such Credit Facility providing for, inter alia: (i) the payment of fees and expenses to such issuer for the issuance of such Credit Facility, (ii) the terms and conditions of such Credit Facility and the Bonds affected thereby, and (iii) the security, if any, to be provided for the issuance of such Credit Facility.

(d) The Authority may secure such Credit Facility by an agreement providing for the purchase of the Bonds secured thereby with such adjustments to the rate of interest, method of determining interest, maturity, or redemption provisions as specified by the Authority in the Applicable Supplemental Resolution. The Authority may also in an agreement with the issuer of such Credit Facility agree to directly reimburse such issuer for amounts paid under the terms of such Credit Facility (together with interest thereon, the **"Reimbursement Obligation"**); provided, however, that no Reimbursement Obligation shall be created, for purposes of this Resolution, until amounts are paid under such Credit Facility. Any such

Reimbursement Obligation, which may include interest calculated at a rate higher than the interest rate on the related Obligation, may be secured by a pledge of, and a lien on, the Revenues on a parity with the lien created by the Applicable Supplemental Resolution to secure the Bonds (a "**Parity Reimbursement Obligation**"), but only to the extent principal amortization requirements with respect to such reimbursement are equal to the amortization requirements for such related Bonds, without acceleration, or may constitute a Subordinated Contract Obligation, as determined by the Authority. Parity Reimbursement Obligations shall not include any payments of any fees, expenses, indemnification, or other obligations to any such provider, or any payments pursuant to term-loan or other principal amortization requirements in reimbursement of any such advance that are more accelerated than the amortization requirements on such related Bonds or Parity Debt, which payments shall be Subordinated Contract Obligations. In addition, the Authority may enter into a Reimbursement Obligation with respect to a Credit Facility securing Parity Debt, and any such Reimbursement Obligation may be a Parity Reimbursement Obligation (but only to the extent principal amortization requirements with respect to such reimbursement are substantially equal to the amortization requirements including principal payments in connection with any optional or mandatory tender for purchase for such related Parity Debt, without acceleration) or may constitute a Subordinated Contract Obligation, as determined by the Authority.

(e) Any such Credit Facility shall be for the benefit of and secure such Bonds or portion thereof as specified in the Applicable Supplemental Resolution.

(f) In connection with the issuance of any Bonds or at any time thereafter so long as Bonds remain Outstanding, the Authority may, to the extent from time to time permitted pursuant to law, enter into Qualified Swaps. The Authority's obligation to pay any amount under any Qualified Swap may be secured by a pledge of, and a lien on, the Revenues on a parity with the lien created by the Applicable Supplemental Resolution to secure the Bonds (a "**Parity Swap Obligation**"), or may constitute a Subordinated Contract Obligation, as determined by the Authority. Parity Swap Obligations shall not include any payments of any termination or other fees, expenses, indemnification or other obligations to a counterparty to a Qualified Swap, which payments shall be Subordinated Contract Obligations.

(g) Parity Debt shall not be a debt of the State and the State shall not be liable thereon, nor shall Parity Debt be payable out of any funds other than those of the Authority pledged therefor pursuant to the Resolution.

ARTICLE IV – REDEMPTION OF BONDS

SECTION 4.01. Privilege of Redemption and Redemption Price. Bonds subject to redemption prior to maturity pursuant to the Applicable Supplemental Resolution or a shall be redeemable, upon written notice as provided in this Article IV, at such times, at such Redemption Prices and upon such terms (in addition to and consistent with the terms contained in this Article IV) as may be specified in this Resolution or in the Applicable Supplemental Resolution authorizing such Series of Bonds.

SECTION 4.02. Redemption at the Election of the Authority. In the case of any redemption of Bonds at the election of the Authority, the Authority shall give written notice to the Trustee of its election so to redeem, of the redemption date, of the Series and of the principal amounts of the Bonds of each maturity and interest rate of such Series to be redeemed (which Series, maturities, interest rates and principal amounts thereof to be redeemed shall be determined by the Authority in its sole discretion, subject to any limitations with respect thereto contained in the Applicable Supplemental Resolution). Such notice shall be given to the Trustee at least forty-five (45) days prior to the redemption date or such shorter period as may be provided in the Applicable Supplemental Resolution or as shall be acceptable to the Trustee. In the event notice of redemption shall have been given as in Section 4.05 provided, the Authority shall on or prior to the redemption date cause to be paid out to the appropriate Paying Agent or Paying Agents out of moneys available therefor an amount in cash which, in addition to other moneys, if any, available therefor held by such Paying Agent or Paying Agents, will be sufficient to redeem on the redemption date at the Redemption Price thereof, all of the Bonds to be redeemed.

SECTION 4.03. Redemption Otherwise Than at the Authority's Election. Whenever by the terms of this Resolution, Bonds are required to be redeemed otherwise than at the election of the Authority, the Trustee shall select the Bonds to be redeemed in the manner provided in Section 4.04 hereof, give the notice of redemption and pay out of moneys available therefore the Redemption Price, to the appropriate Paying Agents in accordance with the terms of this Article IV.

SECTION 4.04. Selection of Bonds to Be Redeemed. In connection with any partial redemption other than a sinking fund redemption, the Authority shall specify the Series to be redeemed and the maturities within such Series to be redeemed, which selection shall be made in accordance with applicable federal tax requirements, and if no maturities are so specified, the Trustee shall make a pro rata redemption among the maturities of a Series (and the mandatory sinking fund amounts thereof shall also be reduced on a pro rata basis). So long as the Bonds are in book-entry form, when Bonds are called, allocation within each maturity shall be made by DTC or any successor securities depository and not by the Authority or the Trustee. In the event the Bonds are not in book-entry form and there is a redemption of less than all the Outstanding Bonds of like Series and maturity, the Trustee shall select by lot (except with respect to Bonds, the interest on which is subject to federal income taxation the Trustee may select pro rata) using such method of selection as it shall deem proper in its discretion, the Bonds to be redeemed in Authorized Denominations, provided that the unredeemed portion of the Bonds remaining Outstanding shall be in Authorized Denomination. For purposes of this Section 4.04, Bonds or portions of Bonds which have theretofore been selected for redemption shall not be deemed Outstanding.

SECTION 4.05. Notice of Redemption. Whenever the Trustee shall receive notice from the Authority of its election to redeem Bonds pursuant to Section 4.02 hereof, and when redemption of Bonds is required by this Resolution pursuant to Section 4.03 hereof, the Trustee shall give in the name of the Authority, of the redemption of such Bonds, which notice shall specify: the Series, maturities and, if any maturity shall include Bonds bearing different interest rates and all Bonds of such maturity are not being redeemed, interest rate of the Bonds to be redeemed, the redemption date and the place or places where amounts due upon such redemption will be payable and, if less than all of the Bonds of any like Series, maturity and interest rate are to be redeemed, the letters and numbers or other distinguishing marks of such Bonds so to be redeemed, and, in the case of Bonds to be redeemed in part only, such notice shall also specify the respective portions of the principal amount thereof to be redeemed, and, if applicable, that such notice is conditional and the conditions that must be satisfied. Such notice shall further state that on such date there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof, or the Redemption Price of the specified portions of the principal thereof in the case of Bonds to be redeemed in part only, together with interest accrued to the redemption date, and that from and after such date interest thereon shall cease to accrue and be payable. Such notice, shall be given by first class mail, postage prepaid, not less than thirty (30) days nor more than forty-five (45) days, or such other period as may be specified in the Applicable Supplemental Resolution authorizing a particular Series, before the redemption date, to the Owners of any Bonds or portions of Bonds which are to be redeemed, at their last addresses, if any, appearing upon the registry books. Failure so to mail any such notice to any particular Owner shall not affect the validity of the proceedings for the redemption of Bonds not owned by such Owner and failure of any Owner to receive such notice shall not affect the validity of the proposed redemption of Bonds.

Any notice of optional redemption given pursuant to this Section may state that it is conditional upon receipt by the Trustee of moneys sufficient to pay the Redemption Price of such Bonds or upon the satisfaction of any other condition, or that it may be rescinded upon the occurrence of any other event, and any conditional notice so given may be rescinded at any time before payment of such Redemption Price if any such condition so specified is not satisfied or if any such other event occur. Notice of such rescission shall be given by the Trustee to affect Owners of Bonds as promptly as practicable upon the failure of such condition or the occurrence of such other event.

Notice of redemption of any Series of Bonds shall also be sent by the Trustee to such additional Persons as may be specified in the Applicable Supplemental Resolution authorizing such Series.

SECTION 4.06. Payment of Redeemed Bonds. Notice having been in the manner provided in Section 4.05 hereof, the Bonds or portions thereof so called for redemption shall, subject to the second paragraph of Section 4.05 hereof, become due and payable on the redemption date so designated at the Redemption Price, plus interest accrued and unpaid to the redemption date, and, upon presentation and surrender thereof at the office specified in such notice, such Bonds or portions thereof, shall be paid at the Redemption Price plus interest accrued and unpaid to the redemption date. If there shall be called for redemption less than all of a Bond, the Authority shall execute and cause to be delivered, upon the surrender of such Bond, without charge to the owner thereof, for the unredeemed balance of the principal amount of the registered

Bond so surrendered, at the option of the owner thereof, Bonds of like Series, maturity and interest rate in any of the authorized denominations. If, on the redemption date, moneys for the redemption of all Bonds or portions thereof of any like Series, maturity and interest rate to be redeemed, together with interest to the redemption date, shall be held by the Paying Agents so as to be available therefor on such date and if notice of redemption shall have been mailed as aforesaid, then, from and after the redemption date, interest on the Bonds or portions thereof so called for redemption shall cease to accrue and become payable. If said moneys shall not be so available on the redemption date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

**ARTICLE V – PLEDGE OF REVENUES; FUNDS AND ACCOUNTS;
REVENUES AND APPLICATION THEREOF**

SECTION 5.01. Pledge of Revenues. The proceeds from the sale of an Applicable Series of Bonds, the Applicable Revenues and all funds established pursuant to an Applicable Supplemental Resolution, other than an Applicable Arbitrage Rebate Fund, are hereby, subject to the adoption of an Applicable Supplemental Resolution, pledged and assigned to the Trustee as security for the payment of the principal, Sinking Fund Installments, if any, and Redemption Price of and interest on the Applicable Series of Bonds and as security for the performance of any other obligation of the Authority hereunder and under an Applicable Supplemental Resolution with respect to such Series, all in accordance with the provisions hereof and thereof. The pledge made hereby, subject to the adoption of an Applicable Supplemental Resolution, shall relate only to the Bonds of an Applicable Series authorized by a Supplemental Resolution and no other Series of Bonds and such pledge shall not secure any such other Series of Bonds. The pledge made hereby is valid, binding and perfected from the time when the pledge attaches and the proceeds from the sale of the Applicable Series of Bonds, the Applicable Revenues and all funds and accounts established hereby and pursuant to the Applicable Supplemental Resolution which are pledged hereby and pursuant to the Applicable Supplemental Resolution shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid, binding and perfected as against all parties having claims of any kind in tort, contract or otherwise against the Authority irrespective of whether such parties have notice thereof. No instrument by which such pledge is created nor any financing statement need be recorded or filed. The Bonds of each Applicable Series shall be special obligations of the Authority payable solely from and secured by a pledge of the proceeds from the sale of such Series of Bonds, the Applicable Revenues and the funds established hereby and pursuant to the Applicable Supplemental Resolution, which pledge shall constitute a first lien thereon. Notwithstanding the foregoing, interest earnings on the Debt Service Fund held by the Trustee and properly allocable to one Public Entity may not be used to make up a deficiency caused by the failure of another Public Entity to pay its Basic Debt Service Payment. **[To be confirmed]**

SECTION 5.02. Establishment of Funds. Unless otherwise provided by the Applicable Supplemental Resolution, the following funds are authorized to be established, held and maintained for each Applicable Series by the Trustee under the Applicable Supplemental Resolution separate from any other funds established and maintained pursuant to such Supplemental Resolution or any other Supplemental Resolution:

[Project Fund];

Debt Service Fund; and

Arbitrage Rebate Fund

Accounts and sub-accounts within each of the foregoing funds may from time to time be established in accordance with an Applicable Supplemental Resolution, an Applicable Bond Series Certificate or upon the direction of the Authority. In addition, an Applicable Supplemental Resolution may provide for the establishment of additional funds and accounts

including but not limited to a debt service reserve fund, an equity reserve fund or other reserve fund which may be funded by the Authority from Authority Surplus Revenues and/or the proceeds of a Series of Bonds. All moneys at any time deposited in any fund created hereby, other than the Applicable Arbitrage Rebate Fund, shall be held in trust for the benefit of the Holders of the Applicable Series of Bonds, but shall nevertheless be disbursed, allocated and applied solely in connection with Applicable Series of Bonds for the uses and purposes provided herein.

SECTION 5.03. Application of Bond Proceeds and Allocation Thereof. Upon the receipt of proceeds from the sale of a Series of Bonds, the Authority shall apply such proceeds as specified herein and in the Supplemental Resolution authorizing such Series or in the Bond Series Certificate relating to such Series.

Accrued interest, if any, received upon the delivery of a Series of Bonds shall be deposited in the Debt Service Fund unless all or any portion of such amount is to be otherwise applied as specified in the Supplemental Resolution authorizing such Series or the Bond Series Certificate relating to such Series.

[SECTION 5.04. Application of Moneys in the Project Fund.] [TBD]

(a) A separate Project Fund shall be established by each Supplemental Resolution and separate Project Accounts shall be established therein with respect to each Public Entity for whose benefit such Series of Bonds is issued. As soon as practicable after the delivery of each Series of Bonds, there shall be deposited in each Applicable Project Account the amount required to be deposited therein pursuant to the Supplemental Resolution authorizing such Series or the Bond Series Certificate relating to such Series.

(b) Except as otherwise provided in this Article V and in any applicable Supplemental Resolution or Bond Series Certificate, moneys deposited in the Applicable Project Account shall be used only to pay the Public Entity's Allocable Portion of the Costs of Issuance of the Applicable Bonds and the Applicable Costs of the Project or Projects.

(c) Payments from the Applicable Project Account shall be made by the Trustee upon the filing in the records of the Authority of, and in accordance with, a requisition signed by an Authorized Officer of the Authority stating with respect to each payment to be made (i) the names of the payees, (ii) the purpose for which payment is to be made in terms sufficient for identification, (iii) the respective amount of each such payment and (iv) that such purpose constitutes a proper purpose for which moneys in the Project Account may be applied and has not been the basis of any previous withdrawal from the Project Account.

(d) Upon receipt by the Trustee of the certificate required pursuant to this subdivision, the moneys, if any, then remaining in the Project Account, after making provision in accordance with the direction of the Authority for the payment of the Public Entity's Allocable Portion of any Costs of Issuance of an Applicable Series of Bonds and an Applicable Cost of the Project then unpaid, shall be paid by the Trustee as follows and in the following order of priority:

(i) First: To the Applicable Arbitrage Rebate Fund, the amount determined by the Authority to be required to be deposited therein as the Allocable Portion of the Applicable Public Entity, and;

(ii) Second: To the Applicable Debt Service Fund, to be applied in accordance with Section 5.07 hereof, any balance remaining.

SECTION 5.05. Deposit of Revenues and Allocation Thereof.

(a) Except as otherwise provided in the Applicable Supplemental Resolution or Bond Series Certificate, the Applicable Revenues and any other moneys which, by any of the provisions of the Applicable Long Term Financing Supplement, are required to be deposited in each Applicable Debt Service Fund, shall upon receipt by the Trustee be deposited to the credit of the Applicable Debt Service Fund. To the extent not required to pay, (i) each Public Entity's Allocable Portion of the interest becoming due on Outstanding Bonds of the Applicable Series on the next succeeding Interest Payment Date of such Bonds; (ii) each Public Entity's Allocable Portion of the amount necessary to pay the principal and Sinking Fund Installments becoming due on the Applicable Series of Outstanding Bonds on Interest Payment Date; [(iii) a Public Entity's Allocable Portion of the amount necessary to replenish the Applicable Debt Service Reserve Fund to its requirement with respect to an Applicable Series of Outstanding Bonds] and (iv) moneys which are required or have been set aside for the redemption of Bonds of the Applicable Series, moneys in the Applicable Debt Service Fund shall be paid by the Trustee on or before the Business Day preceding each Interest Payment Date to the Authority, unless otherwise paid, such amounts as are payable to the Authority relating to such Series for: (a) any expenditures of the Authority for fees and expenses of auditing, and fees and expenses of the Applicable Trustee and Paying Agents, all as required hereby, (b) all other expenditures reasonably and necessarily incurred by the Authority in connection with the financing of the Applicable Project, including expenses incurred by the Authority to compel full and punctual performance of all the provisions of the Applicable Long Term Financing Supplement in accordance with the terms thereof, and (c) any fees of the Authority; but only upon receipt by the Trustee of a certificate of the Authority, stating in reasonable detail the amounts payable to the Authority pursuant to this clause (c). **[TBD whether amounts are to be paid to NYPA for reimbursement for reserve funds provided by NYPA]**

(b) After making the payments required by subdivision (a) of this Section, any balance remaining on the immediately succeeding Interest Payment Date shall be paid by the Trustee upon and in accordance with the direction of the Authority to each of the respective Applicable Public Entities in the respective amounts set forth in such direction, free and clear of any pledge, lien, encumbrance or security interest created hereby or by any of the Agreements; provided that the Trustee shall not pay any such money to the Authority in the event that such money is allocable to a Public Entity that is in default in the payment of its Basic Debt Service. The Trustee shall notify the Authority promptly after making the payments required by subdivision (a) of this Section of any balance remaining in the Applicable Debt Service Fund on the immediately succeeding Interest Payment Date.

SECTION 5.06. Reserved.

SECTION 5.07. Debt Service Fund.

(a) The Trustee shall on or before the Business Day preceding each Interest Payment Date pay to itself and any other Paying Agent out of the Applicable Debt Service Fund:

(i) each Public Entity's Allocable Portion of the interest due and payable on all Outstanding Bonds of the Applicable Series on such Interest Payment Date;

(ii) each Public Entity's Allocable Portion of the principal amount due and payable on all Outstanding Bonds of the Applicable Series on such Interest Payment Date; and

(iii) each Public Entity's Allocable Portion of the Sinking Fund Installments or other amounts related to a mandatory redemption, if any, due and payable on all Outstanding Bonds of the Applicable Series on such Interest Payment Date.

(b) The amounts paid out pursuant to this Section shall be irrevocably pledged to and applied to such payments.

(c) Notwithstanding the provisions of subdivision (a) of this Section, the Authority may, at any time subsequent to the first day of any Bond Year but in no event less than forty-five (45) days prior to the succeeding date on which a Sinking Fund Installment is scheduled to be due, direct the Trustee to purchase, with moneys on deposit in the Applicable Debt Service Fund, at a price not in excess of par plus interest accrued and unpaid to the date of such purchase, Term Bonds of the Applicable Series to be redeemed from such Sinking Fund Installment. Any Term Bond so purchased shall be cancelled upon receipt thereof by the Trustee and evidence of such cancellation shall be given to the Authority. The principal amount of each Term Bond so cancelled shall be credited against the Sinking Fund Installment due on such date; provided, however, that such Term Bond is cancelled by the Trustee prior to the date on which notice of redemption is given.

(d) Moneys in the Applicable Debt Service Fund in excess of the amount required to pay the principal and Sinking Fund Installments of Outstanding Bonds of the Applicable Series payable during the next succeeding Bond Year, the interest on Outstanding Bonds of the Applicable Series payable on and prior to the next succeeding Interest Payment Date assuming that a Variable Interest Rate Bonds will bear interest, from and after the next date on which the rate at which such Variable Interest Rate Bond bears interest is to be adjusted, at a rate per annum equal to the rate per annum at which such Bonds then bear interest, plus one percent (1%) per annum, and the purchase price or Redemption Price of Outstanding Bonds theretofore contracted to be purchased or called for redemption, plus accrued interest thereon to the date of purchase or redemption, shall be paid or applied by the Trustee in accordance with the direction of an Authorized Officer of the Authority (i) to the purchase of Outstanding Bonds of the Applicable Series at purchase prices not exceeding the Redemption Price applicable on the next Interest Payment Date on which such Bonds are redeemable, plus accrued and unpaid interest to such date, at such times, at such purchase prices and in such manner as an Authorized Officer of the Authority shall direct or (ii) to the redemption of Bonds of the Applicable Series as

provided in Article IV hereof, at the Redemption Prices specified in the Applicable Supplemental Resolution authorizing the issuance of the Bonds to be redeemed or Applicable Bond Series Certificate relating to such Bonds.

SECTION 5.08. Reserved.

SECTION 5.09. Arbitrage Rebate Fund. The Arbitrage Rebate Fund shall be maintained by the Trustee as a fund separate from any other fund established and maintained hereunder. The Trustee shall deposit to the Applicable Arbitrage Rebate Fund any moneys delivered to it by the Applicable Public Entities for deposit therein and, notwithstanding any other provisions of this Article V, shall transfer to the Applicable Arbitrage Rebate Fund, in accordance with the directions of an Authorized Officer of the Authority, moneys on deposit in any other funds held by the Trustee hereunder at such times and in such amounts as shall be set forth in such directions. Within the Arbitrage Rebate Fund, the Trustee shall maintain such accounts as shall be required by the Authority in order to comply with the terms and requirements of the Tax Certificate. All money at any time deposited in the Arbitrage Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the Rebate Requirement (as defined in the Tax Certificate), for payment to the Treasury Department of the United States of America, and the Authority or the owner of any Bonds shall not have any rights in or claim to such money. All amounts deposited into or on deposit in the Arbitrage Rebate Fund shall be governed by this Section and by Section 7.14 hereof and by the Tax Certificate (which is incorporated herein by reference). The Trustee shall be deemed conclusively to have complied with this Section and with such provisions of the Tax Certificate if it follows the directions of an Authorized Officer of the Authority including supplying all necessary written information in the manner provided in the Tax Certificate and shall have no liability or responsibility for compliance (except as specifically set forth herein or in the Tax Certificate) or to enforce compliance by the Authority with the terms of the Tax Certificate.

Upon the written direction of the Authority, the Trustee shall deposit in the Arbitrage Rebate Fund funds received from the Authority, so that the balance of the amount on deposit thereto shall be equal to the Rebate Requirement. Computations of the Rebate Requirement shall be furnished by or on behalf of the Authority in accordance with the Tax Certificate.

The Trustee shall have no obligation to rebate any amounts required to be rebated pursuant to this Section, other than from moneys held in the funds and accounts created under this Resolution or from other moneys provided to it by the Authority.

The Trustee shall invest all amounts held in the Arbitrage Rebate Fund as provided in written directions of the Authority. The Authority, in issuing such directions, shall comply with the restrictions and instructions set forth in the Tax Certificate. Moneys may only be applied from the Arbitrage Rebate Fund as provided in this Section.

The Trustee, upon the receipt of written instructions and certification of the Rebate Requirement from an Authorized Officer of the Authority, shall pay the amount of such Rebate Requirement to the Treasury Department of the United States of America, out of amounts in the Arbitrage Rebate Fund, as so directed.

Notwithstanding any other provisions of this Resolution, including in particular Section 7.14 hereof, the obligation to remit the Rebate Requirement to the United States of America and to comply with all other requirements of this Section, Section 7.14 hereof and the Tax Certificate shall survive the defeasance or payment in full of the Bonds.

SECTION 5.10. Application of Moneys in Certain Funds for Retirement of Bonds. Notwithstanding any other provisions hereof, if at any time the amounts held in the Applicable Debt Service Fund are sufficient to pay the principal or Redemption Price of all Outstanding Bonds of the Applicable Series and the interest accrued and unpaid and to accrue on such Bonds to the next date of redemption when all such Bonds are redeemable, or to make provision pursuant to subdivision (c) of Section 12.01 hereof for the payment of the Outstanding Bonds at the maturity or redemption dates thereof, the Authority may (i) direct the Trustee to redeem all such Outstanding Bonds, whereupon the Trustee shall proceed to redeem or provide for the redemption of such Outstanding Bonds in the manner provided for redemption of such Bonds hereby and by each Applicable Supplemental Resolution as provided in Article IV hereof, or (ii) give the Trustee irrevocable instructions in accordance with subdivision (c) of Section 12.01 hereof and make provision for the payment of the Outstanding Bonds at the maturity or redemption dates thereof in accordance therewith.

SECTION 5.11. Transfer of Investments. Whenever moneys in any fund or account established under an Applicable Supplemental Resolution are to be paid in accordance herewith to another such fund or account, such payment may be made, in whole or in part, by transferring to such other fund or account investments held as part of the fund or account from which such payment is to be made, whose value, together with the moneys, if any, to be transferred, is at least equal to the amount of the payment then to be made; provided, however, that no such transfer of investments would result in a violation of any investment standard or guideline applicable to such fund.

ARTICLE VI – SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

SECTION 6.01. Security for Deposits. All moneys held hereunder by the Trustee shall be continuously and fully secured, for the benefit of the Authority and the Holders of the Applicable Series of Bonds, by direct obligations of the United States of America or obligations the principal of and interest on which are guaranteed by the United States of America of a market value equal at all times to the amount of the deposit so held by the Trustee; provided, however, (a) that if the securing of such moneys is not permitted by applicable law, then in such other manner as may then be required or permitted by applicable State or federal laws and regulations regarding the security for, or granting a preference in the case of, the deposit of trust funds, and (b) that it shall not be necessary for the Trustee or any Paying Agent to give security for the deposit of any moneys with them pursuant to Section 5.07 or Section 12.01 hereof and held in trust for the payment of the principal, Sinking Fund Installments, if any, or Redemption Price of or interest on any Bonds, or for the Trustee to give security for any moneys which shall be represented by obligations purchased or other investments made under the provisions hereof as an investment of such moneys.

SECTION 6.02. Investment of Funds and Accounts Held by the Trustee.

(a) Moneys held hereunder by the Trustee, if permitted by law, shall, as nearly as may be practicable, be invested by the Trustee, upon direction of the Authority given or confirmed in writing, signed by an Authorized Officer of the Authority (which direction shall specify the amount thereof to be so invested), in Government Obligations, Federal Agency Obligations, Municipal Obligations, and, if not inconsistent with the investment guidelines of a Facility Provider or a Rating Agency applicable to funds held hereunder, any other Permitted Investment; provided, however, that each such investment shall permit the moneys so deposited or invested to be available for use at the times at which the Authority reasonably believes such moneys will be required for the purposes hereof; provided, further, that (x) any Permitted Collateral required to secure any Permitted Investment shall have a market value, determined by the Trustee or its agent periodically, but no less frequently than weekly, at least equal to the amount deposited or invested including interest accrued thereon, (y) the Permitted Collateral shall be deposited with and held by the Trustee or an agent of the Trustee approved by an Authorized Officer of the Authority, and (z) the Permitted Collateral shall be free and clear of claims of any other person.

(b) Permitted Investments purchased as an investment of moneys in any fund or account held by the Trustee under the provisions hereof shall be deemed at all times to be a part of such fund or account and the income or interest earned, profits realized or losses suffered by a fund or account due to the investment thereof shall be retained in, credited or charged, as the case may be, to such fund or account.

(c) In computing the amount in any fund or account held by the Trustee under the provisions hereof, each Permitted Investment shall be valued at par or the market value thereof, plus accrued interest, whichever is lower.

(d) Notwithstanding anything to the contrary herein, the Authority, in its discretion, may direct the Trustee to, and the Trustee shall, sell, present for redemption or

exchange any investment held by the Trustee pursuant hereto and the proceeds thereof may be reinvested as provided in this Section. Except as otherwise provided herein, the Trustee shall sell at the best price obtainable, or present for redemption or exchange, any investment held by it pursuant hereto whenever it shall be necessary in order to provide moneys to meet any payment or transfer from the fund or account in which such investment is held. The Trustee shall advise the Authority, and, upon the written request of a Facility Provider, such Facility Provider, on or before the fifteenth (15th) day of each calendar month, of the amounts required to be on deposit in each fund and account hereunder and of the details of all investments held for the credit of each fund and account in its custody under the provisions hereof as of the end of the preceding month and as to whether such investments comply with the provisions of paragraphs (a) and (b) of this Section. The details of such investments shall include the par value, if any, the cost and the current market value of such investments as of the end of the preceding month. The Trustee shall also describe all withdrawals, substitutions and other transactions occurring in each such fund and account in the previous month.

(e) No part of the proceeds of any Series of Bonds or any other funds of the Authority shall be used directly or indirectly to acquire any securities or investments the acquisition of which would cause any Bond to be an “arbitrage bond” within the meaning of Section 148(a) of the Code.

SECTION 6.03. Liability for Investments. Neither the Authority nor the Trustee shall have any liability arising out of or in connection with the making of any investment authorized by the provisions of this Article VI, in the manner provided in this Article VI, for any depreciation in value of any such investment, or for any loss, direct or indirect, resulting from any such investment.

ARTICLE VII – PARTICULAR COVENANTS

The Authority covenants and agrees with the Holders of Bonds of each Applicable Series as follows; provided, however, that such covenants and agreements shall accrue to the benefit of Bondholders on a Series by Series basis, and the Bondholders of any Applicable Series shall not be entitled to the benefit of any of the covenants except to the extent they relate to such Series:

SECTION 7.01. Payment of Principal and Interest. The Authority shall pay or cause to be paid the principal, Sinking Fund Installments, if any, or Redemption Price of and interest on every Bond of each Series on the date and at the places and in the manner provided in the Bonds according to the true intent and meaning thereof.

SECTION 7.02. Extension of Payment of Bonds. The Authority shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or claims for interest by the purchase or funding of such Bonds or claims for interest or by any other arrangement and, in case the maturity of any of such Bonds or the time for payment of any such claims for interest shall be extended, such Bonds, or claims for interest shall not be entitled, in case of any default hereunder, to the benefit hereof or of any Supplemental Resolution or to any payment out of any assets of the Authority or the funds (except funds held in trust for the payment of particular Bonds or claims for interest pursuant hereto and to any Supplemental Resolution) held by the Trustee, except subject to the prior payment of the principal of all Outstanding Bonds the maturity of which has not been extended and of such portion of the interest on such Bonds as shall not be represented by such extended claims for interest. Nothing herein shall be deemed to limit the right of the Authority to issue Option Bonds or Refunding Bonds or other bonds or notes to refund Outstanding Bonds as permitted hereby and by the Act and such issuance shall not be deemed to constitute an extension of the maturity of the Bonds.

SECTION 7.03. Powers as to Bonds of an Applicable Series and Pledge. The Authority is duly authorized under the Act and all applicable laws to create and issue the Bonds of each Applicable Series, to adopt this Master Resolution and each Applicable Supplemental Resolution and to pledge and assign the proceeds from the sale of such Bonds, the Applicable Revenues, and all funds established hereby which are pledged hereby, in the manner and to the extent provided herein and in the Applicable Supplemental Resolution. The Authority further covenants that the proceeds from the sale of each Applicable Series of Bonds, the Applicable Revenues, and all funds established hereby and pursuant to the Applicable Supplemental Resolution are and shall be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto, prior to, or of equal rank with, the pledge created hereby and pursuant to the Applicable Supplemental Resolution, and that all corporate action on the part of the Authority to that end has been duly and validly taken. The Authority further represents that the Bonds of each Applicable Series and the provisions hereof and of each Applicable Supplemental Resolution are and shall be the valid and legally enforceable obligations of the Authority in accordance with their terms and the terms hereof and of each Applicable Supplemental Resolution. The Authority further covenants that it shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Applicable Revenues, and all funds established hereby which are pledged hereby and by the Applicable Supplemental Resolution and all of the rights of the

Holders of the Applicable Series of Bonds under this Master Resolution and the Applicable Supplemental Resolution against all claims and demands of all persons whomsoever.

SECTION 7.04. Further Assurance. The Authority, at any and all times, shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights, and the pledges made hereby and pursuant to Applicable Supplemental Resolution or intended so to be, or which the Authority may hereafter become bound to pledge or assign.

SECTION 7.05. Accounts and Audits. The Authority shall keep proper books of record and accounts (separate from all other records and accounts), which may be kept on behalf of the Authority by the Trustee, in which complete and correct entries shall be made of its transactions relating to each Applicable Series of Bonds, which books and accounts, at reasonable hours and subject to the reasonable rules and regulations of the Authority, shall be subject to the inspection of the Applicable Public Entities, the Trustee or of any Holder of a Bond of the Applicable Series or his representative duly authorized in writing. The Applicable Trustee shall annually prepare a report which shall be furnished to the Authority, each Facility Provider, each Credit Facility Issuer and the Applicable Public Entities. Such report shall include at least: a statement of all funds and accounts (including investments thereof) held by such Trustee and the Authority pursuant to the provisions hereof and of each Applicable Supplemental Resolution; a statement of the Applicable Revenues collected from each Applicable Public Entity in connection herewith and with each Applicable Supplemental Resolution; and complete and correct entries of all transactions relating to an Applicable Series of Bonds. A copy of such report, shall, upon receipt of a written request therefor, and payment of any reasonable fee or charge made in connection therewith, be furnished to the registered owner of a Bond of the Applicable Series or any beneficial owner of a Book Entry Bond of the Applicable Series requesting the same.

SECTION 7.06. Creation of Liens. Except as permitted hereby the Authority shall not create or cause to be created any lien or charge prior or equal to that of the Bonds of an Applicable Series on the proceeds from the sale of such Bonds, the Applicable Revenues, or the funds and accounts established hereby and pursuant to the Applicable Supplemental Resolution which are pledged hereby; provided, however, that nothing contained herein shall prevent the Authority from issuing bonds, notes or other obligations under another and separate resolution so long as the charge or the lien created by such resolution is not prior or equal to the charge or lien created hereby; and provided further, that if the Authority shall have issued more than one Series of Bonds for the benefit of a Public Entity and the Applicable Revenues payable under each Long Term Financing Supplement with respect to such Public Entity are insufficient to pay in full all Basic Debt Service Payments then due under all of the Long Term Financing Supplements to which such Public Entity is a party, then the Authority shall pay a proportionate share of Applicable Revenues to each Applicable Trustee for each Series of Bonds.

SECTION 7.07. Enforcement of Obligations of the Public Entities. The Authority shall take all legally available action to cause a Public Entity to fully perform its obligation to separately pay to the Trustee the Basic Debt Service Payment and other amounts

which under the Applicable Long Term Financing Supplement are to be paid to the Trustee, in the manner and at the times provided in the Applicable Long Term Financing Supplement; provided, however, that the Authority may delay, defer or waive enforcement of one or more provisions of said Long Term Financing Supplement (other than provisions requiring the payment of moneys to the Trustee for deposit to any fund or account established hereunder) if the Authority determines such delay, deferment or waiver will not materially adversely affect the interests of the Holders of the Bonds of a Series.

SECTION 7.08. [Intentionally Omitted]

SECTION 7.09. Offices for Payment and Registration of Bonds. The Authority shall at all times maintain an office or agency in the State where Bonds may be presented for payment. The Authority may, pursuant to a Supplemental Resolution or pursuant to a resolution adopted in accordance with Section 8.02 hereof, designate an additional Paying Agent or Paying Agents where Bonds of the Series authorized thereby or referred to therein may be presented for payment. The Authority shall at all times maintain an office or agency in the State where Bonds may be presented for registration, transfer or exchange and the Trustee is hereby appointed as its agent to maintain such office or agency for the registration, transfer or exchange of Bonds. The provisions of this Section shall be subject to the provisions of Section 3.01 hereof.

SECTION 7.10. Amendment, Change, Modification or Waiver of Agreement. An Applicable Long Term Financing Supplement (and the related Applicable Bonds) may not be amended, changed, modified, altered or terminated so as to materially adversely affect the interest of the Holders of the Outstanding Bonds of the Applicable Series without the prior written consent of the Holders of at least a majority in aggregate principal amount of such Bonds then Outstanding; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any Applicable Series remain Outstanding, the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds of the Applicable Series under this Section; provided, further, that no such amendment, change, modification, alteration or termination will reduce the percentage of the aggregate principal amount of Outstanding Bonds of such Series the consent of the Holders of which is a requirement for any such amendment, change, modification, alteration or termination, or decrease the amount of any payment required to be made by the Public Entity under the Applicable Long Term Financing Supplement that is to be deposited with the Trustee or extend the time of payment thereof. Except as otherwise provided in this Section, a Long Term Financing Supplement may be amended, changed, modified or altered without the consent of the Holders of Outstanding Bonds of the Applicable Series or the Applicable Trustee. Specifically, and without limiting the generality of the foregoing, a Long Term Financing Supplement may be amended, changed, modified or altered without the consent of the Trustee and the Holders of Outstanding Bonds of such Series (i) to provide changes in connection with the acquisition, construction, reconstruction, rehabilitation, renovation and improvement or otherwise, the providing, furnishing and equipping of any facilities constituting a part of the Applicable Project or which may be added to such Project; (ii) to provide for the issuance of Bonds of an Applicable Series; or (iii) to cure any ambiguity or correct or supplement any provisions contained in the

Applicable Long Term Financing Supplement, which may be defective or inconsistent with any other provisions contained herein or in such Long Term Financing Supplement.

For the purposes of this Section, an Applicable Series shall be deemed to be adversely affected by an amendment, change, modification or alteration of the Agreement if the same adversely affects or diminishes the rights of the Holders of the Bonds of such Series in any material respect. The Trustee may in its discretion determine whether or not, in accordance with the foregoing provisions, Bonds of an Applicable Series would be adversely effected in any material respect by any amendment, change, modification or alteration, and any such determination shall be binding and conclusive on the Authority and all Holders of such Bonds.

For the purposes of this Section, the purchasers of the Bonds of a Series, whether purchasing as underwriters, for resale or otherwise, upon such purchase from the Authority, may consent to an amendment, change, modification, termination or waiver permitted by this Section with the same effect as a consent given by the Holder of such Bonds.

For the purposes of this Section, the Trustee shall be entitled to rely upon an opinion of counsel, including an opinion of Bond Counsel, which counsel shall be satisfactory to the Trustee, with respect to whether any amendment, change, modification or alteration adversely affects the interests of any Holders of Bonds of the Applicable Series then Outstanding in any material respect.

SECTION 7.11. Notice as to Agreement Default. The Authority shall notify the Applicable Trustee in writing that an “Event of Default” under the Applicable Long Term Financing Supplement, as such term is defined in the Applicable Long Term Financing Supplement (including the failure to pay the amounts due thereunder), has occurred and is continuing, or that which notice shall be given within five (5) days after the Authority has obtained actual knowledge thereof.

SECTION 7.12. Basic Debt Service Payment. No Series of Energy Efficiency Bonds shall be issued hereunder unless payments under the Applicable Long Term Financing Supplements pledged to payment of a Series of Bonds together with any other amounts pledged to the payment of such Series of Bonds shall in the aggregate be sufficient at all times to pay Basic Debt Service Payments with respect to such Series of Bonds as the same become due and payable and payments under the Applicable Long Term Financing Supplement together with any other amounts pledged to the payment of such Series of Bonds shall be sufficient at all times to pay the applicable Public Entity’s Allocable Portion of the principal and Sinking Fund Installments of and interest on such Bonds as the same become due and payable. Each Long Term Financing Supplement shall require that payments by a Public Entity thereunder shall be due and payable not less than fifteen (15) days prior to the payment date of principal, Sinking Fund Installments and interest due with respect to Applicable Series of Bonds secured by such Long Term Financing Supplement.

SECTION 7.13. Application of Long Term Financing Supplement Payments. The Authority covenants that each payment received by the Authority with respect to a Long Term Financing Supplement the payments under which have been pledged to a particular Series

of Bonds shall be deposited by the Authority into the Applicable Debt Service Fund established for such Series of Bonds within two Business Days of the receipt thereof by the Authority.

SECTION 7.14. Tax Covenants. Unless otherwise provided in a Supplemental Resolution, the Authority covenants that it shall not take any action or inaction, or fail to take any action, or permit any action to be taken on its behalf or cause or permit any circumstance within its control to arise or continue, if any such action or inaction would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds under Section 103 of the Code. Without limiting the generality of the foregoing, the Authority covenants that it will comply with the instructions and requirements of the Tax Certificate, which is incorporated herein as if fully set forth herein. This covenant shall survive payment in full or defeasance of the Bonds.

In the event that at any time the Authority is of the opinion that for purposes of this Section it is necessary or helpful to restrict or limit the yield on the investment of any moneys held by the Trustee under this Resolution, the Authority shall so instruct the Trustee under this Resolution in writing, and the Trustee shall take such action as may be necessary in accordance with such instructions.

Notwithstanding any provisions of this Section, if the Authority shall provide to the Trustee an opinion of Bond Counsel that any specified action required under this Section is no longer required or that some further or different action is required to maintain the exclusion from federal income tax of interest on the Bonds, the Trustee may conclusively rely on such opinion in complying with the requirements of this Section and of the Tax Certificate, and the covenants hereunder shall be deemed to be modified to that extent

SECTION 7.15. General. The Authority shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the Authority under the provisions hereof in accordance with the terms of such provisions.

Upon the date of issuance of a Series of Bonds, all conditions, acts and things required by the statutes of the State and hereby to exist, to have happened and to have been performed precedent to and in the issuance of such Bonds, shall exist, have happened and have been performed and the issuance of such Bonds, together with all other indebtedness of the Authority, shall be within every debt and other limit prescribed by the laws of the State.

ARTICLE VIII – CONCERNING THE TRUSTEE, PAYING AGENTS AND REGISTRAR

SECTION 8.01. Trustee; Appointment and Acceptance of Duties. Prior to the delivery of any Bonds, the Authority shall appoint a Trustee. The Trustee shall signify its acceptance of the duties and obligations imposed upon it by this Resolution by executing and delivering to the Authority a written acceptance thereof.

SECTION 8.02 Duties and Liability of the Trustee.

(a) Prior to the occurrence of an Event of Default of which a Responsible Officer of the Trustee has written notice hereunder, and after the curing of any Event of Default which may be occurred:

(i) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Resolution, and no implied covenants or obligations shall be read into this Resolution against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Resolution; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee is under a duty to examine same to determine whether or not they conform to the requirements of this Resolution.

(b) In case an Event of Default of which a Responsible Officer of the Trustee has written notice hereunder has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Resolution, and use the same degree of care and skill in their exercise, as a prudent Person would exercise or use in the conduct of such Person's own affairs.

(c) No provision of this Resolution shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) this subsection (c) shall not be construed to limit the effect of subsection (a) of this Section 7.02;

(ii) the Trustee is not liable for any error of judgment made in good faith by a Responsible Officer of the Trustee, unless it is proven that the Trustee was negligent in ascertaining the pertinent facts;

(iii) the Trustee is not liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owners of the applicable percentage of Obligations then Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under the Resolution;

(iv) no provision of the Resolution shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it has reasonable grounds for believing that the repayment of such funds or indemnity satisfactory to it against such risk or liability is not reasonably assured to it;

(v) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit;

(vi) the Trustee shall not be charged with knowledge of an Event of Default unless a Responsible Officer or the Trustee shall have received written notice from an Owner or the Authority;

(vii) the Trustee shall not be under any obligation to take any action that is discretionary hereunder absent written direction from the Authority;

(viii) neither the Trustee nor any of its directors, officers, employees or agents shall be personally liable for any action taken, suffered or omitted by the Trustee in good faith and believed by it to be authorized or within the discretion or rights of powers conferred upon the Trustee by this Resolution; and

(ix) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, custodians, or nominees and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent, attorney, custodians or nominees appointed with due care by it hereunder.

(d) Whether or not expressly so provided, every provision of the Resolution relating to the conduct or affecting the liability of or affording protection to the Trustee is subject to the provisions of this Section 702.

(e) In the event that the Trustee is also acting as Paying Agent or Registrar hereunder, the rights and protections afforded to the Trustee pursuant to this Article VII shall also be afforded to the Paying Agent and Registrar.

SECTION 8.02. Appointment and Acceptance of Paying Agents. In addition to the Trustee, the Authority may appoint one or more Paying Agents for the Bonds of any Series in the Supplemental Resolution authorizing such Bonds or in the manner provided herein or in such Supplemental Resolution or shall appoint such Paying Agent or Paying Agents by resolution of the Authority adopted prior to the authentication and delivery of the Bonds, and may at any time or from time to time appoint one or more other Paying Agents in the manner and subject to the conditions set forth in Section 8.13 hereof for the appointment of a successor Paying Agent. Each Paying Agent shall signify its acceptance of the duties and obligations imposed upon it hereby by written instrument of acceptance deposited with the Authority and the Trustee.

SECTION 8.03. Responsibilities of Trustee and Paying Agent. The recitals of fact contained herein and in each Applicable Supplemental Resolution and in the Bonds of the Applicable Series shall be taken as the statements of the Authority and neither the Trustee nor any Paying Agent assumes any responsibility for the correctness of the same. Neither the Trustee nor any Paying Agent makes any representations as to the validity or sufficiency hereof, of any Supplemental Resolution or of any Bonds, or in respect of the security afforded hereby or by each Supplemental Resolution, and neither the Trustee nor any Paying Agent shall incur any responsibility in respect thereof. Neither the Trustee nor any Paying Agent shall be under any responsibility or duty with respect to: (i) the issuance of the Bonds for value; (ii) the application of the proceeds thereof except to the extent that such proceeds are received by it in its capacity as Trustee or Paying Agent; or (iii) the application of any moneys paid to the Authority or others in accordance herewith and with each Supplemental Resolution except as to the application of any moneys paid to it in its capacity as Trustee or Paying Agent. Neither the Trustee nor any Paying Agent shall be liable in connection with the performance of or failure to perform its duties hereunder and under each Supplemental Resolution except for its own negligence or default; provided, however, that neither the Trustee nor any Paying Agent shall be liable for any default based upon an action taken or omitted to be taken by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it hereby or by any Supplemental Resolution.

The duties and obligations of the Trustee and any Paying Agent shall be determined by the express provisions hereof and of each Applicable Supplemental Resolution and neither the Trustee nor any Paying Agent shall be liable except for the performance of or failure to perform such duties and obligations as are specifically set forth herein and in each Supplemental Resolution.

SECTION 8.04. Property Held in Trust. All moneys and securities conveyed to or held by the Trustee, except for amounts held in the Applicable Arbitrage Rebate Fund, at any time pursuant to the terms hereof and of each Supplemental Resolution shall be and hereby are signed, transferred and set over unto the Trustee in trust for the purposes and under the terms and conditions hereof and of each Supplemental Resolution.

The Trustee shall hold all moneys in the Applicable Arbitrage Rebate Fund as the agent of the Authority and shall not disburse amounts therefrom except pursuant to the written instructions of an Authorized Officer of the Authority.

SECTION 8.05. Evidence on Which Fiduciaries May Act. The Trustee and any Paying Agent shall be protected in acting upon any notice, resolution, request, consent, order, certificate, report, opinion, bond or other paper or document reasonably believed by it in good faith to be genuine, and to have been signed or presented by the proper party or parties. The Trustee and any Paying Agent may consult with counsel, who may or may not be of counsel to the Authority, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it in good faith and in accordance therewith.

Whenever the Trustee or any Paying Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder and under

any Supplemental Resolution, such matter (unless other evidence in respect thereof be specifically prescribed hereby) may be deemed to be conclusively proved and established by a certificate signed by an Authorized Officer of the Authority or, with the permission of an Authorized Officer of the Authority, signed by an Authorized Officer of the Public Entity. Such certificate shall be full warrant for any action taken or suffered in good faith under the provisions hereof and of the Supplemental Resolution upon the faith thereof, but in its discretion the Trustee or any Paying Agent may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as it may deem reasonable. Except as otherwise expressly provided herein and in each Supplemental Resolution, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision hereof and of any Supplemental Resolution by the Authority to the Trustee or any Paying Agent shall be sufficiently executed if executed in the name of the Authority by an Authorized Officer.

SECTION 8.06. Compensation. Unless otherwise provided by contract with the Trustee or any Paying Agent, the Authority shall pay to the Trustee and to each Paying Agent, from time to time, reasonable compensation for all services rendered by it hereunder and under the applicable Supplemental Resolution, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of their attorneys, agents and employees, incurred in and about the performance of their powers and duties hereunder and under the applicable Supplemental Resolution and the Trustee and each Paying Agent shall have a lien therefor on any and all funds at any time held by it hereunder and under the applicable Supplemental Resolution (other than the Applicable Arbitrage Rebate Fund) prior to any of the Bonds for which such services have been rendered. The Authority shall indemnify and save the Trustee and each Paying Agent harmless against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder and under the applicable Supplemental Resolution and which are not due to its negligence or default. None of the provisions contained herein or in any Supplemental Resolution shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if there is reasonable ground for believing that the repayment of such funds or liability is not reasonably assured to it. The Trustee shall not be required to take any action at the request or direction of a Facility Provider made or given pursuant to Article XI hereof unless and until such Facility Provider shall have indemnified and saved the Trustee harmless against any liabilities and all reasonable expenses, charges, counsel fees and other disbursements, including those of the Trustee's attorneys, agents and employees, incurred in connection with or as a result of taking the action requested or directed by the Facility Provider to be taken.

SECTION 8.07. Permitted Acts. The Trustee and any Paying Agent may become the owner of or may deal in Bonds as fully and with the same rights as if it were not such Trustee or Paying Agent. The Trustee and any Paying Agent may act as depository for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, the Authority or any committee formed to protect the rights of Holders of Bonds or to effect or aid in any reorganization growing out of the enforcement hereof or of the Bonds or any Supplemental Resolution whether or not such committee shall represent the Holders of a majority in principal amount of the Outstanding Bonds in respect of which any such action is taken.

SECTION 8.08. Resignation of Trustee. The Trustee, or any successor thereof, may at any time resign and be discharged of its duties and obligations hereunder and under an Applicable Supplemental Resolution by giving not less than sixty (60) days written notice to the Authority, the Applicable Public Entities and each Applicable Facility Provider and publishing notice thereof, specifying the date when such resignation shall take effect, at least once in an Authorized Newspaper, the first publication to be made within ten (10) days after the giving of such written notice. Such resignation shall take effect upon the date specified in such notice unless previously a successor shall have been appointed as provided in Section 8.10 hereof, in which event such resignation shall take effect immediately on the appointment of such successor; provided, however, that such resignation shall not take effect until a successor Trustee has been appointed and has accepted such appointment pursuant to Section 8.10 hereof.

SECTION 8.09. Removal of Trustee. The Trustee, or any successor thereof, may be removed at any time by the Holders of a majority in principal amount of the Outstanding Bonds of an Applicable Series, excluding any Bonds held by or for the account of the Authority, by an instrument or concurrent instruments in writing signed and acknowledged by such Bondholders or by their attorneys-in-fact duly authorized and delivered to the Authority. The Trustee, or any successor thereof, may also be removed at any time for cause or any breach of trust or for acting or proceeding in violation of, or failing to act or proceed in accordance with, any provisions hereof or of any Applicable Supplemental Resolution with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon application by the Holders of not less than twenty per centum (20%) in aggregate principal amount of the Outstanding Bonds of an Applicable Series, excluding any Bonds held by or for the account of the Authority. The Trustee may also be removed at any time, other than during the continuance of an event of default hereunder, by the Authority, by an instrument in writing signed and acknowledged by an Authorized Officer of the Authority. No removal hereunder shall take effect until a successor Trustee has been appointed. A copy of each instrument or order providing for the removal of the Trustee, or any successor thereof, shall be delivered by the Authority to the Trustee or such successor thereof, to the Public Entity and to each Applicable Facility Provider.

SECTION 8.10. Successor Trustee. In case the Trustee, or any successor thereof, shall resign, be removed, become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee or of its property shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, the Authority shall forthwith appoint a Trustee to act as Trustee and Paying Agent. Copies of any instrument executed by an Authorized Officer of the Authority providing for any such appointment shall be delivered by the Authority to the Trustee so appointed, the predecessor Trustee, to each Facility Provider and to the Public Entity. The Authority shall give notice of any such appointment to each registered owner of a Bond. Such notice shall be sent not later than thirty (30) days after such appointment, by first class mail, postage prepaid, to each registered owner at its last known address, if any, appearing on the registration books of the Authority.

If in a proper case no appointment of a successor shall be made within forty-five (45) days after the giving of written notice in accordance with Section 8.08 hereof or after the occurrence of any other event requiring or authorizing such appointment, the Trustee or any Bondholder may apply to any court of competent jurisdiction for the appointment of such a

successor, and such court may thereupon, after such notice, if any, as such court may deem proper, appoint such successor. Any successor appointed under the provisions of this Section shall be a bank located in the State having trust powers or a trust company organized under the laws of the State or national banking association located in the State having a capital and surplus aggregating at least \$50,000,000, if there be such a bank having trust powers or trust company or national banking association willing and able to accept the appointment on reasonable and customary terms and authorized by law to perform all the duties required hereby and by each Supplemental Resolution.

SECTION 8.11. Transfer of Rights and Property to Successor Trustee. Any successor appointed under the provisions of Section 8.10 hereof shall execute, acknowledge and deliver to its predecessor, and also to the Authority, an instrument accepting such appointment, and thereupon such successor, without any further act, deed or conveyance shall become fully vested with all moneys, estates, properties, rights, powers, duties and obligations of its predecessor hereunder and under each Supplemental Resolution, with like effect as if originally appointed as Trustee. However, the Trustee then ceasing to act shall nevertheless, on request by the Authority or of such successor, execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor all the right, title and interest of such Trustee in and to any property held by it hereunder, and shall pay over, assign and deliver to such successor any moneys or other properties subject to the trusts and conditions set forth herein. Should any deed, conveyance or instrument in writing from the Authority be required by such successor for more fully and certainly vesting in and confirming to it any such moneys, estates, properties, rights, powers, duties or obligations, any and all such deeds, conveyances and instruments in writing shall, on request, and so far as may be authorized by law, be executed, acknowledged and delivered by the Authority.

SECTION 8.12. Merger or Consolidation of the Trustee. Any company into which the Trustee may be merged or with which it may be consolidated or any company resulting from any merger or consolidation to which it shall be a party or any company to which such Trustee may sell or transfer all or substantially all of its corporate trust business, provided such company shall be a bank having trust powers or trust company or national banking association qualified to be a successor to such Trustee under the provisions of Section 8.10 hereof, shall be the successor to such Trustee, without any further act, deed or conveyance.

SECTION 8.13. Resignation or Removal of the Paying Agents and Appointment of Successors. Any Paying Agent (other than the Trustee) may at any time resign and be discharged of the duties, and obligations created hereby and by the applicable Supplemental Resolution by giving at least sixty (60) days' written notice to the Authority and Trustee. Any Paying Agent may be removed at any time by an instrument filed with such Paying Agent and the Trustee and signed by an Authorized Officer of the Authority. Any successor Paying Agent shall be appointed by the Authority and (subject to the requirements of Section 7.09 hereof) shall be a bank having trust powers or trust company organized under the laws of any state of the United States of America or a national banking association, having a capital and surplus aggregating at least \$25,000,000, and willing and able to accept the office of Paying Agent on reasonable and customary terms and authorized by law to perform all the duties imposed upon it hereby and by the applicable Supplemental Resolution.

In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign and deliver any moneys held by it to its successor, or if there be no successor then appointed, to the Trustee until such successor be appointed. The Authority shall give written notice of the resignation or removal of any Paying Agent of any Series of Bonds to the Applicable Public Entity and to each Applicable Facility Provider.

SECTION 8.14. Amortization Schedule. Upon the request of an Authorized Officer of the Authority or an Applicable Public Entity, the Trustee shall prepare a schedule setting forth as of the date of such schedule the principal amount of Outstanding Bonds of the Applicable Series, the dates on which the principal and Sinking Fund Installments, if any, of all Outstanding Bonds of each Series are payable, the dates on which the interest on all Outstanding Bonds other than Variable Interest Rate Bonds are payable, the amount payable on each such date for the principal and Sinking Fund Installments, if any, of and interest on Outstanding Bonds of each Series, exclusive of the interest payable on Variable Interest Rate Bonds, the aggregate amount thereof payable on each such date and the aggregate amount payable on each such date for the principal and Sinking Fund Installments, if any, of Outstanding Bonds of all Series and interest on Outstanding Bonds of all Series other than Variable Interest Rate Bonds. Such schedule shall also set forth each Public Entity's Allocable Share of such amounts.

ARTICLE IX – SUPPLEMENTAL RESOLUTIONS

SECTION 9.01. Adoption and Filing. The Authority may adopt at any time or from time to time an Applicable Supplemental Resolution to authorize the issue of an Applicable Series of Bonds as provided in Section 2.02. A copy of each such Supplemental Resolution, together with a copy of this Master Resolution, each certified by the Authority, shall be filed with the Trustee.

SECTION 9.02. Modification and Amendment without Consent. Notwithstanding any other provisions of this Article IX or Article X hereof, the Authority may adopt at any time or from time to time Supplemental Resolutions for any one or more of the following purposes, and any such Supplemental Resolution shall become effective in accordance with its terms upon the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority:

(a) To add additional covenants and agreements of the Authority for the purpose of further securing the payment of the Bonds of an Applicable Series, provided such additional covenants and agreements are not contrary to or inconsistent with the covenants and agreements of the Authority contained herein;

(b) To prescribe further limitations and restrictions upon the issuance of Bonds of an Applicable Series and the incurring of indebtedness by the Authority which are not contrary to or inconsistent with the limitations and restrictions thereon theretofore in effect;

(c) To surrender any right, power or privilege reserved to or conferred upon the Authority by the terms hereof, provided that the surrender of such right, power or privilege is not contrary to or inconsistent with the covenants and agreements of the Authority contained herein;

(d) To confirm, as further assurance, any pledge hereunder or under the Applicable Supplemental Resolution, and the subjection to any lien, claim or pledge created or to be created by the provisions hereof, of the Applicable Revenues, or any pledge of any other moneys, investments thereof or funds;

(e) To modify any of the provisions hereof or of any previously adopted Supplemental Resolution in any other respects, provided that such modifications shall not be effective until after all Bonds of an Applicable Series of Bonds Outstanding as of the date of adoption of such Supplemental Resolution shall cease to be Outstanding, and all Bonds of an Applicable Series issued under an Applicable Supplemental Resolution shall contain a specific reference to the modifications contained in such subsequent resolutions;

(f) To authorize Bonds of a Series and, in connection therewith, specify and determine the matters and things referred to in Section 2.03 and also any other matters and things relative to such Bonds which are not contrary to or inconsistent with this Resolution as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination at any time prior to the first authentication and delivery of such Bonds; or

(g) With the consent of the Trustee, to cure any ambiguity or defect or inconsistent provision herein or to insert such provisions clarifying matters or questions arising hereunder as are necessary or desirable, provided that any such modifications are not contrary to or inconsistent herewith as theretofore in effect, or to modify any of the provisions hereof or of any previously adopted Applicable Supplemental Resolution or other Supplemental Resolution in any other respect, provided that such modification shall not adversely affect the interests of the Bondholders of the Applicable Series in any material respect.

SECTION 9.03. Supplemental Resolutions Effective with Consent of Bondholders. The provisions hereof and of an Applicable Supplemental Resolution may also be modified or amended at any time or from time to time by a Supplemental Resolution, subject to the consent of the Applicable Bondholders in accordance with and subject to the provisions of Article X hereof, such Supplemental Resolution to become effective upon the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority.

SECTION 9.04. General Provisions Relating to Supplemental Resolutions. This Master Resolution shall not be modified or amended in any respect except in accordance with and subject to the provisions of this Article IX and Article X hereof. Nothing contained in this Article IX or Article X hereof shall affect or limit the rights or obligations of the Authority to adopt, make, do, execute or deliver any resolution, act or other instrument pursuant to the provisions of Section 7.04 hereof or the right or obligation of the Authority to execute and deliver to the Trustee or any Paying Agent any instrument elsewhere herein provided or permitted to be delivered to the Trustee or any Paying Agent.

A copy of every Supplemental Resolution adopted by the Authority, when filed with the Trustee, shall be accompanied by an opinion of Bond Counsel stating that such Supplemental Resolution has been duly and lawfully adopted in accordance with the provisions hereof, is authorized or permitted hereby and is valid and binding upon the Authority and enforceable in accordance with its terms.

The Trustee is hereby authorized to accept delivery of a certified copy of any Supplemental Resolution permitted or authorized pursuant to the provisions hereof and to make all further agreements and stipulations which may be contained therein, and, in taking such action, the Trustee shall be fully protected in relying on the opinion of Bond Counsel that such Supplemental Resolution is authorized or permitted by the provisions hereof.

No Supplemental Resolution changing, amending or modifying any of the rights or obligations of the Trustee or of any Paying Agent shall become effective without the written consent of the Trustee or Paying Agent affected thereby.

ARTICLE X – AMENDMENTS OF RESOLUTIONS

SECTION 10.01. Powers of Amendment. Any modification or amendment hereof and of the rights and obligations of the Authority which shall affect an Applicable Series of Bonds and of the Holders of the such Applicable Series of Bonds hereunder, in any particular, may be made by a Supplemental Resolution, with the written consent given as hereinafter provided in Section 10.02 hereof, (i) of the Holders of at least a majority in principal amount of the Bonds of such Series Outstanding at the time such consent is given, or (ii) in case the modification or amendment changes the amount or date of any Sinking Fund Installment, of the Holders of at least a majority in principal amount of the Bonds of the Applicable Series, maturity and interest rate entitled to such Sinking Fund Installment, Outstanding at the time such consent is given; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series, maturity and tenor remain Outstanding, the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section. No such modification or amendment shall permit a change in the terms of redemption or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment. For the purposes of this Section, a Series shall be deemed to be affected by a modification or amendment hereof if the same adversely affects or diminishes the rights of the Holders of Bonds of such Series in any material respect. The Trustee may in its discretion determine whether or not, in accordance with the foregoing provisions, the Bonds of any particular Series or maturity would be affected by any modification or amendment hereof and any such determination shall be binding and conclusive on the Authority and all Holders of Bonds. The Trustee may receive an opinion of counsel, including an opinion of Bond Counsel, as conclusive evidence as to whether the Bonds of any particular Series or maturity would be so affected by any such modification or amendment hereof.

SECTION 10.02. Consent of Bondholders. The Authority may at any time adopt a Supplemental Resolution making a modification or amendment permitted by the provisions of Section 10.01 hereof to take effect when and as provided in this Section. A copy of such Supplemental Resolution (or brief summary thereof or reference thereto in form approved by the Trustee) together with a request to the Bondholders for their consent thereto in form satisfactory to the Trustee, shall promptly after adoption be mailed by the Authority to the Bondholders (but failure to mail such copy and request to any particular Bondholder shall not affect the validity of the Supplemental Resolution when consented to as in this Section provided). Such Supplemental Resolution shall not be effective unless and until (i) there shall have been filed with the Trustee (a) the written consent of the Holders of the percentages of Outstanding Bonds specified in Section 10.01 hereof and (b) an opinion of Bond Counsel stating that such Supplemental Resolution has been duly and lawfully adopted and filed by the Authority in accordance with the provisions hereof, is authorized or permitted hereby, and is valid and binding upon the Authority and enforceable in accordance with its terms, and (ii) a notice shall have been mailed as hereinafter in this Section provided. Each such consent shall be effective only if accompanied by proof of the holding or owning at the date of such consent, of the Bonds with respect to which such consent is given, which proof shall be such as is permitted by Section 13.01 hereof. A

certificate or certificates by the Trustee filed with the Trustee that it has examined such proof and that such proof is sufficient in accordance with Section 13.01 hereof shall be conclusive proof that the consents have been given by the Holders of the Bonds described in the certificate or certificates of the Trustee. Any consent given by a Bondholder shall be binding upon the Bondholder giving such consent and, anything in Section 13.01 hereof to the contrary notwithstanding, upon any subsequent Holder of such Bond and of any Bonds issued in exchange therefor (whether or not such subsequent Holder thereof has notice thereof), unless such consent is revoked in writing by the Bondholder giving such consent or a subsequent Holder thereof by filing such revocation with the Trustee, prior to the time when the written statement of the Trustee hereinafter in this Section provided for is filed. The fact that a consent has not been revoked may likewise be proved by a certificate of the Trustee filed with the Trustee to the effect that no revocation thereof is on file with the Trustee. At any time after the Holders of the required percentages of Bonds shall have filed their consents to the Supplemental Resolution, the Trustee shall make and file with the Authority and the Trustee a written statement that such Holders of such required percentages of Bonds have filed such consents. Such written statement shall be conclusive that such consents have been so filed. At any time thereafter notice, stating in substance that the Supplemental Resolution (which may be referred to as a Supplemental Resolution adopted by the Authority on a stated date, a copy of which is on file with the Trustee) has been consented to by the Holders of the required percentages of Bonds and will be effective as provided in this Section, shall be given to the Bondholders by the Authority by mailing such notice to the Bondholders and, at the discretion of the Authority, by publishing the same at least once not more than ninety (90) days after the Holders of the required percentages of Bonds shall have filed their consents to the Supplemental Resolution and the written statement of the Trustee hereinabove provided for is filed (but failure to publish such notice shall not prevent such Supplemental Resolution from becoming effective and binding as in this Section provided). The Authority shall file with the Trustee proof of the mailing of such notices and, if the same shall have been published, of the publication thereof. A transcript, consisting of the papers required or permitted by this Section to be filed with the Trustee, shall be proof of the matters therein stated. Such Supplemental Resolution making such amendment or modification shall be deemed conclusively binding upon the Authority, the Trustee, each Paying Agent and the Holders of all Bonds upon the filing with the Trustee of proof of the mailing of such notice or at the expiration of thirty (30) days after the filing with the Trustee of the proof of the first publication of such last mentioned notice, if such notice is published, except in the event of a final decree of a court of competent jurisdiction setting aside such Supplemental Resolution in a legal action or equitable proceeding for such purpose commenced within such thirty (30) day period; provided, however, that the Authority, the Trustee and any Paying Agent during such thirty (30) day period and any such further period during which any such action or proceeding may be pending shall be entitled in their reasonable discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Resolution as they may deem expedient.

For the purposes of this Article X, the purchasers of the Bonds of a Series, whether purchasing as underwriters, for resale or otherwise, upon such purchase from the Authority, may consent to a modification or amendment permitted by Section 10.01 or 10.03 hereof in the manner provided herein, except that no proof of ownership shall be required, and with the same effect as a consent given by the Holder of such Bonds; provided, however, that, if such consent is given by a purchaser who is purchasing as an underwriter or for resale, the

nature of the modification or amendment and the provisions for the purchaser consenting thereto shall be described in the official statement, prospectus, offering memorandum or other offering document prepared in connection with the primary offering of the Bonds of such Series by the Authority.

SECTION 10.03. Modifications by Unanimous Consent. The terms and provisions hereof and the rights and obligations of the Authority and of the Holders of the Bonds of an Applicable Series may be modified or amended in any respect upon the adoption and filing with the Trustee by the Authority of a copy of a Supplemental Resolution certified by an Authorized Officer of the Authority and the consent of the Holders of all of the Applicable Bonds then Outstanding, such consent to be given as provided in Section 10.02 hereof, except that no notice to the Bondholders either by mailing or publication shall be required.

SECTION 10.04. Consent of Facility Provider. Whenever by the terms of this Article X the consent of any of the Holders of the Bonds to a modification or amendment hereof made by a Supplemental Resolution is required, such modification or amendment shall not become effective until the written consent of each Applicable Facility Provider has been obtained; provided, however, that the consent of a Facility Provider which has provided a Credit Facility or a Liquidity Facility shall not be required unless the modification or amendment requires the consent of the Holders of any percentage in principal amount of Outstanding Bonds or of the Holders of any percentage in principal amount of the Bonds of the Series in connection with which such Credit Facility or Liquidity Facility was provided. No modification or amendment hereof which adversely affects a Facility Provider shall be made without the written consent thereto of the Facility Provider affected thereby. Notice of the adoption of any such Supplemental Resolution and of the effectiveness of the modification or amendment made thereby shall be given to each Facility Provider by mail at the times and in the manner provided herein with respect to notices thereof required to be given to the Holders of the Bonds. Notice thereof shall also be given to the Rating Agency as soon as practical after adoption of such Supplemental Resolution and of the effectiveness thereof.

SECTION 10.05. Mailing and Publication. Any provision in this Article X for the mailing of a notice or other document to Bondholders shall be fully complied with if it is mailed postage prepaid only (i) to each registered owner of Bonds then Outstanding at such person's address, if any, appearing upon the registry books of the Authority and (ii) to the Trustee.

Any provision in this Article X for publication of a notice or other matter shall require the publication thereof only in an Authorized Newspaper.

SECTION 10.06. Exclusion of Bonds. Bonds owned or held by or for the account of the Authority shall not be deemed Outstanding for the purpose of consent or other action provided for herein, and the Authority shall not be entitled with respect to such Bonds to give any consent or take any other action provided for herein. At the time of any consent or other action taken hereunder, the Authority shall furnish the Trustee a certificate of an Authorized Officer, upon which the Trustee may rely, describing all Bonds so to be excluded.

SECTION 10.07. Notation on Bonds. Bonds delivered after the effective date of any action taken as provided in Article IX hereof or this Article X may, and if the Trustee so determines, shall, bear a notation by endorsement or otherwise in form approved by the Authority and the Trustee as to such action, and in that case upon demand of the Holder of any Bond Outstanding at such effective date and upon presentation of his Bond for such purpose at the principal corporate trust office of the Trustee, suitable notation shall be made on such Bond by the Trustee as to any such action. If the Authority or the Trustee shall so determine, new Bonds so modified as, in the opinion of the Trustee and the Authority, conform to such action shall be prepared and delivered, and upon demand of the Holder of any Bond then Outstanding shall be exchanged, without cost to such Bondholder, for Bonds of the same Series and maturity then Outstanding, upon surrender of such Bonds.

ARTICLE XI – DEFAULTS AND REMEDIES

SECTION 11.01. Events of Default. An event of default shall exist hereunder and under an Applicable Supplemental Resolution (herein called an “event of default”) if:

(a) With respect to an Applicable Series of Bonds, payment of the principal, Sinking Fund Installments or Redemption Price of any such Bond shall not be made by the Authority when the same shall become due and payable, either at maturity or by proceedings for redemption or otherwise; or

(b) With respect to an Applicable Series of Bonds, payment of an installment of interest on any such Bond shall not be made by the Authority when the same shall become due and payable; or

(c) With respect to an Applicable Series of Bonds, the Authority shall default in the due and punctual performance of any covenants, if any, contained in the Supplemental Resolution authorizing the issuance thereof to the effect that the Authority shall comply with the provisions of the Code applicable to such Bonds necessary to maintain the exclusion of interest thereon from gross income under Section 103 of the Code and shall not take any action which would adversely affect the exclusion of interest on such Bonds from gross income under Section 103 of the Code and, as a result thereof, the interest on the Bonds of such Series shall no longer be excludable from gross income under Section 103 of the Code; or

(d) With respect to an Applicable Series of Bonds, the Authority shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained herein or in the Bonds of the Applicable Series or in the Applicable Supplemental Resolution on the part of the Authority to be performed and such default shall continue for thirty (30) days after written notice specifying such default and requiring same to be remedied shall have been given to the Authority by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the Holders of not less than twenty-five per centum (25%) in principal amount of such Outstanding Bonds, unless, if such default is not capable of being cured within thirty (30) days, the Authority has commenced to cure such default within said thirty (30) days and diligently prosecutes the cure thereof; or

An Event of Default under this Master Resolution in respect of an Applicable Series of Bonds shall not in and of itself be or constitute an Event of Default in respect of any other Applicable Series of Bonds.

SECTION 11.02. No Acceleration of Maturity. The Bonds are not subject to acceleration upon an event of default hereunder.

SECTION 11.03. Enforcement of Remedies. Upon the happening and continuance of any event of default specified in Section 11.01 hereof, then and in every such case, the Trustee may proceed, and upon the written request of the Applicable Facility Provider or the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of the Applicable Series shall proceed (in either case with the written consent of the Facility Provider for such Series) or, in the case of a happening and continuance of an event of default specified in paragraph (c) of Section 11.01 hereof, upon the written request of

the Applicable Facility Provider or the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of the Applicable Series with the written consent of the Facility Provider for such Series, shall proceed (subject to the provisions of Section 8.06 hereof), to protect and enforce its rights and the rights of the Bondholders or of such Facility Provider hereunder or under the Applicable Supplemental Resolution or under the laws of the State by such suits, actions or special proceedings in equity or at law, either for the specific performance of any covenant contained hereunder or under the Applicable Supplemental Resolution or in aid or execution of any power herein or therein granted, or for an accounting against the Authority as if the Authority were the trustee of an express trust, or for the enforcement of any proper legal or equitable remedy as the Trustee shall deem most effectual to protect and enforce such rights.

In the enforcement of any remedy hereunder and under the Applicable Supplemental Resolution the Trustee shall be entitled to sue for, enforce payment of, and receive any and all amounts then, or during any default becoming, and at any time remaining, due from the Authority for principal or interest or otherwise under any of the provisions of this Resolution or of the Applicable Supplemental Resolution or of the Applicable Bonds, with interest on overdue payments of the principal of or interest on the Applicable Bonds at the rate or rates of interest specified in such Bonds, together with any and all costs and expenses of collection and of all proceedings hereunder and under the Applicable Supplemental Resolution and under such Bonds, without prejudice to any other right or remedy of the Trustee or of the Holders of such Bonds, and to recover and enforce judgment or decree against the Authority but solely as provided herein, in the Applicable Supplemental Resolution and in such Bonds, for any portion of such amounts remaining unpaid, with interest, costs and expenses, and to collect in any manner provided by law, the moneys adjudged or decreed to be payable.

SECTION 11.04. Priority of Payments after Default. If at any time the moneys held by the Trustee hereunder and under the Applicable Supplemental Resolution shall not be sufficient to pay the principal of and interest on the Bonds of the Applicable Series as the same become due and payable (by their terms), such moneys together with any moneys then available or thereafter becoming available for such purpose, whether through exercise of the remedies provided for in this Article XI or otherwise, shall be applied (after payment of all amounts owing to the Trustee hereunder) as follows:

(a) Unless the principal of all the Applicable Bonds shall have become due and payable, all such moneys shall be applied:

First: To the payment to the persons entitled thereto of all installments of interest then due in the order of the maturity of the installments of such interest, and, if the amount available shall not be sufficient to pay in full any installment, then to the payment thereof ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or preference; and

Second: To the payment to the persons entitled thereto of the unpaid principal, Sinking Fund Installments or Redemption Price of such Bonds which shall have become due whether at maturity or by call for redemption in the order of their due dates and, if the amount available shall not be sufficient to pay in full all such amounts due on any date, then to the

payment thereof ratably, according to the amount of principal, Sinking Fund Installments or Redemption Price due on such date, to the persons entitled thereto, without any discrimination or preference.

(b) If the principal of all of the Applicable Bonds shall have become due and payable, all such moneys shall be applied to the payment of the principal and interest then due and unpaid upon such Bonds without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any such Bond over any other such Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto, without any discrimination or preference except as to the difference in the respective rates of interest specified in such Bonds.

The provisions of this Section are in all respects subject to the provisions of Section 7.02 hereof.

Whenever moneys are to be applied by the Trustee pursuant to the provisions of this Section, such moneys shall be applied by the Trustee at such times, and from time to time, as the Trustee in its sole discretion shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. The setting aside of such moneys in trust for application in accordance with the provisions of this Section shall constitute proper application by the Trustee, and the Trustee shall incur no liability whatsoever to the Authority, to any Holder of Bonds or to any other person for any delay in applying any such moneys so long as the Trustee acts with reasonable diligence, having due regard to the circumstances, and ultimately applies the same in accordance with such provisions hereof as may be applicable at the time of application by the Trustee. Whenever the Trustee shall exercise such discretion in applying such moneys, it shall fix the date (which shall be on an Interest Payment Date unless the Trustee shall deem another date more suitable) upon which such application is to be made, and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the fixing of any such date. The Trustee shall not be required to make payment to the Holder of any Bond of the Applicable Series unless such Bond shall be presented to the Trustee for appropriate endorsement.

Amounts held by the Trustee after payments to be made pursuant to this Section 11.04 have been made and no Bonds are Outstanding shall be paid and applied in accordance with Section 12.01 hereof.

SECTION 11.05. Termination of Proceedings. In case any proceedings commenced by the Trustee on account of any default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee, then and in every such case the Authority, the Trustee, each Applicable Facility Provider, the Public Entity and the Applicable Bondholders shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Trustee shall continue as though no such proceeding had been commenced.

SECTION 11.06. Bondholders' Direction of Proceedings. Anything herein to the contrary notwithstanding, the Holders of a majority in principal amount of the Outstanding

Bonds of the Applicable Series or, in the case of an event of default specified in paragraph (c) of Section 11.01 hereof, the Holders of a majority in principal amount of the Outstanding Bonds of the Applicable Series shall have the right by an instrument in writing executed and delivered to the Trustee, to direct the method and place of conducting all remedial proceedings to be taken by the Trustee hereunder and under the Applicable Supplemental Resolution, provided, such direction shall not be otherwise than in accordance with law and the provisions hereof and of the Applicable Supplemental Resolution, and that the Trustee shall have the right to decline to follow any such direction which in the opinion of the Trustee would be unjustly prejudicial to Bondholders of the Applicable Series not parties to such direction.

SECTION 11.07. Limitation of Rights of Individual Bondholders. No Holder of any of the Bonds shall have any right to institute any suit, action or proceeding in equity or at law for the execution of any trust hereunder, or for any other remedy hereunder unless such Holder previously shall have given to the Trustee written notice of the event of default on account of which such suit, action or proceeding is to be instituted, and unless also the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of the Applicable Series or, in the case of an event of default specified in paragraph (c) of Section 11.01 hereof, the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of the Applicable Series, shall have made written request to the Trustee after the right to exercise such powers or right of action, as the case may be, shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers granted hereby or to institute such action, suit or proceeding in its or their name, and unless, also, there shall have been offered to the Trustee reasonable security and indemnity against the costs, expenses, and liabilities to be incurred therein or thereby, and the Trustee shall have refused or neglected to comply with such request within a reasonable time. Such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts hereof or for any other remedy hereunder and in equity or at law. It is understood and intended that no one or more Holders of the Bonds secured hereby shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security hereof or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted and maintained for the benefit of all Holders of the Outstanding Bonds of the Applicable Series. Notwithstanding any other provision hereof, the Holder of any Bond shall have the right which is absolute and unconditional to receive payment of the principal of (and premium, if any) and interest on such Bond on the stated maturity expressed in such Bond (or, in the case of redemption, on the redemption date) and to institute suit for the enforcement of any such payment, and such right shall not be impaired without the consent of such Holder.

SECTION 11.08. Actions by Trustee; Possession of Bonds by Trustee Not Required. All rights of action hereunder or under any of the Bonds secured hereby and thereby, enforceable by the Trustee, may be enforced by it without the possession of any of such Bonds or the production thereof at the trial or other proceeding relative thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in its name for the benefit of all the Holders of the Bonds to which such action relates, subject to the provisions hereof.

SECTION 11.09. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Trustee or to the Bondholders is intended to be exclusive of any other remedy or

remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

SECTION 11.10. Waiver and Non-Waiver of Default. No delay or omission of the Trustee or any Bondholder to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein. Every power and remedy given by this Article XI to the Trustee and the Bondholders, respectively, may be exercised from time to time and as often as may be deemed expedient.

The Trustee may, and upon written request of the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of the Applicable Series or, in the case of a default specified in paragraph (c) of Section 11.01 hereof, the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of the Applicable Series, shall waive any default which in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions hereof or before the completion of the enforcement of any other remedy hereunder; provided, however, that no such waiver shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies consequent thereon.

SECTION 11.11. Notice of Event of Default. The Trustee shall give notice of each event of default hereunder known to the Trustee to the Public Entity and to each Applicable Facility Provider within five (5) days after knowledge of the occurrence thereof and to the Holders of Bonds of the Applicable Series within thirty (30) days after knowledge of the occurrence thereof, unless such event of default shall have been remedied or cured before the giving of such notice; provided, however, that, except in the case of default in the payment of the principal, Sinking Fund Installments or Redemption Price of, or interest on, any of the Bonds, the Trustee shall be protected in withholding notice thereof to the Holders of Bonds if and so long as the Trustee in good faith determines that the withholding of such notice is in the best interests of the Holders of the Bonds of the Applicable Series. Each such notice of event of default shall be given by the Trustee by mailing written notice thereof: (i) to all registered Holders of Bonds of the Applicable Series, as the names and addresses of such Holders appear on the books for registration and transfer of Bonds as kept by the Trustee, (ii) to each Applicable Facility Provider and (iii) to such other persons as is required by law. Any such notice required to be mailed to Holders of Bonds may, in the sole discretion of the Authority, be published by the Trustee in an Authorized Newspaper.

ARTICLE XII – DEFEASANCE

SECTION 12.01. Defeasance.

(a) If the Authority shall pay or cause to be paid to the Holders of Bonds of an Applicable Series the principal, Sinking Fund Installments, if any, or Redemption Price of and interest thereon, at the times and in the manner stipulated therein, herein, and in the applicable Supplemental Resolution and Bond Series Certificate, then the pledge of the Revenues or other moneys and securities pledged to such Bonds and all other rights granted hereby to such Bonds shall be discharged and satisfied. In such event, the Trustee shall, upon the request of the Authority, execute and deliver such documents to evidence such discharge and satisfaction as may be reasonably required by the Authority, and all moneys or investments thereof held by it pursuant hereto and to the Applicable Supplemental Resolution which are not required for the payment or redemption of Bonds of such Series shall be paid or delivered by the Trustee as follows: first, to the Applicable Arbitrage Rebate Fund, the amount required to be deposited therein in accordance with the direction of an Authorized Officer of the Authority; second, to the Authority the amount certified by an Authorized Officer of the Authority to be then due or past due pursuant to any Applicable Long Term Financing Supplement for fees and expenses of the Authority or pursuant to any indemnity related to such Applicable Series of Bonds; and, then, the balance thereof to the Applicable Public Entities. Such moneys or investments thereof so paid or delivered shall be released from any trust, pledge, lien, encumbrance or security interest created hereby.

(b) Notwithstanding any provision of this Resolution to the contrary, if any Public Entity shall have prepaid the amounts due under its Agreement and in accordance therewith shall pay or cause to be paid its Allocable Portion of the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, and interest on the Bonds or portions thereof applicable to such Agreement at the times and in the manner stipulated therein, herein, and in the Applicable Supplemental Resolution and the Applicable Bond Series Certificate, then the pledge of the Revenues or other moneys and securities pledged with respect to such Agreement or any portion thereof and all other rights granted under such Agreement shall be discharged and satisfied. In such event, the Trustee shall, upon the request of the Authority, execute and deliver such documents to evidence such discharge and satisfaction as may be reasonably required by the Public Entity, and the Authority, and all moneys or other securities held by it pursuant hereto and to a Supplemental Resolution which are not required for the payment or redemption of its Allocable Portion of the Bonds of such Series to be defeased or any portion thereof not theretofore surrendered for such payment or redemption shall be paid or delivered by the Trustee as follows: first, to the Arbitrage Rebate Fund, the amount required to be deposited therein in accordance with the direction of the Authority; second, to the Authority the amount certified by the Authority to be then due or past due pursuant to the Applicable Long Term Financing Supplement to be prepaid for fees and expenses of the Authority or pursuant to any indemnity; and, then, the balance thereof to the Public Entity. Such moneys or investments so paid or delivered shall be released from any trust, pledge, lien, encumbrance or security interest created hereby, by a Supplemental Resolution or by such Agreement.

(c) Bonds for the payment or redemption of which moneys shall have been set aside and shall be held in trust by the Trustee (through deposit of moneys for such payment or

redemption or otherwise) at the maturity or redemption date thereof shall be deemed to have been paid within the meaning and with the effect expressed in subdivision (a) of this Section. All Outstanding Bonds of any Applicable Series or any maturity within a Series or a portion of a maturity within a Series shall prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in subdivision (a) of this Section if (i) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Authority shall have given to the Trustee, in form satisfactory to it, irrevocable instructions to give as provided in Article IV hereof notice of redemption on said date of such Bonds, (ii) there shall have been deposited with the Trustee either moneys in an amount which shall be sufficient, or Defeasance Securities the principal of and interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient to pay when due the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, and interest due and to become due on said Bonds on and prior to the redemption date or maturity date thereof, as the case may be, as evidenced by a verification report to be delivered to the Trustee, (iii) the Trustee shall have received the written consent of each Applicable Facility Provider which has given written notice to the Trustee and the Authority that amounts advanced under an Applicable Credit Facility or Liquidity Facility issued by it or the interest thereon have not been repaid to such Facility Provider, and (iv) in the event said Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, the Authority shall have given the Trustee, in form satisfactory to it, irrevocable instructions to give, as soon as practicable, by first class mail, postage prepaid, to the Holders of said Bonds at their last known addresses appearing on the registration books, and, if directed by an Authorized Officer of the Authority, by publication, at least twice, at an interval of not less than seven (7) days between publications, in an Authorized Newspaper, a notice to the Holders of such Bonds that the deposit required by (ii) above has been made with the Trustee and that said Bonds are deemed to have been paid in accordance with this Section and stating such maturity or redemption date upon which moneys are to be available for the payment of the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest on said Bonds. The Authority shall give written notice to the Trustee of its selection of the Series and maturity payment of which shall be made in accordance with this Section. The Trustee shall select the Bonds of like Series and maturity payment of which shall be made in accordance with this Section in the manner provided in Section 4.04 hereof. Neither the Defeasance Securities nor moneys deposited with the Trustee pursuant to this Section nor principal or interest payments on any such Defeasance Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest on said Bonds; provided, however, that any moneys received from such principal or interest payments on such Defeasance Securities deposited with the Trustee, if not then needed for such purpose, shall, to the extent practicable, be reinvested in Defeasance Securities maturing at times and in amounts sufficient to pay when due the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest to become due on said Bonds on and prior to such redemption date or maturity date hereof, as the case may be. Any income or interest earned by, or increment to, the investment of any such moneys so deposited, shall, to the extent certified by the Trustee to be in excess of the amounts required hereinabove to pay the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest on such Bonds, as realized, be paid by the Trustee as follows: first, to the Applicable Arbitrage Rebate Fund, the amount required to be

deposited therein in accordance with the direction of an Authorized Officer of the Authority; second, to each Facility Provider the payments owed to it which have not been repaid, pro rata, based upon the respective amounts then unpaid to each Facility Provider; third, to the Authority the amount certified by an Authorized Officer of the Authority to be then due or past due pursuant to the Applicable Long Term Financing Supplement for fees and expenses of the Authority or pursuant to any indemnity; and, then, the balance thereof to the Public Entity. The moneys so paid by the Trustee shall be released of any trust, pledge, lien, encumbrance or security interest created hereby.

(d) For purposes of determining whether Variable Interest Rate Bonds shall be deemed to have been paid prior to the maturity or redemption date thereof, as the case may be, by the deposit of moneys, or Defeasance Securities and moneys, if any, in accordance with clause (ii) of the second sentence of subdivision (c) of this section 12.01, the interest to come due on such Variable Interest Rate Bonds on or prior to the maturity date or redemption date thereof, as the case may be, shall be calculated at the Maximum Interest Rate permitted by the terms thereof; provided, however, that if on any date, as a result of such Variable Interest Rate Bonds having borne interest at less than such Maximum Interest Rate for any period, the total amount of moneys and Defeasance Securities on deposit with the Trustee for the payment of interest on such Variable Interest Rate Bonds is in excess of the total amount which would have been required to be deposited with the Trustee on such date in respect of such Variable Interest Rate Bonds in order to satisfy clause (ii) of the second sentence of subdivision (c) of this Section 12.01, the Trustee shall pay the amount of such excess as follows: first, to the Applicable Arbitrage Rebate Fund, the amount required to be deposited therein in accordance with the direction of an Authorized Officer of the Authority; second, to each Applicable Facility Provider the payments owed to it which have not been repaid, pro rata, based upon the respective amounts then unpaid to each Facility Provider; third, to the Authority the amount certified by an Authorized Officer of the Authority to be then due or past due pursuant to the Applicable Long Term Financing Supplement for fees and expenses of the Authority or pursuant to any indemnity; and, then, the balance thereof to the Public Entity. The moneys so paid by the Trustee shall be released of any trust, pledge, lien, encumbrance or security interest created hereby.

(e) Option Bonds shall be deemed to have been paid in accordance with clause (ii) of the second sentence of subdivision (c) of this Section 12.01 only if, in addition to satisfying the requirements of clauses (i) and (iii) of such sentence, there shall have been deposited with the Trustee moneys in an amount which shall be sufficient to pay when due the maximum amount of principal of and premium, if any, and interest on such Bonds which could become payable to the Holders of such Bonds upon the exercise of any options provided to the Holders of such Bonds; provided, however, that if, at the time a deposit is made with the Trustee pursuant to subdivision (c) of this Section 12.01, the options originally exercisable by the Holder of an Option Bond are no longer exercisable, such Bond shall not be considered an Option Bond for purposes of this subdivision (e). If any portion of the moneys deposited with the Trustee for the payment of the principal of and premium, if any, and interest on Option Bonds is not required for such purpose, the Trustee shall, if requested by the Authority, pay the amount of such excess as follows: first, to the Applicable Arbitrage Rebate Fund, the amount required to be deposited therein in accordance with the direction of an Authorized Officer of the Authority; second, to each Applicable Facility Provider the payments owed to it which have not been repaid, pro rata, based upon the respective amounts then unpaid to each Facility Provider; third, to the Authority the

amount certified by an Authorized Officer of the Authority to be then due or past due pursuant to the Applicable Long Term Financing Supplement for fees and expenses of the Authority or pursuant to any indemnity; and, then, the balance thereof to the Public Entity. The moneys so paid by the Trustee shall be released of any trust, pledge, lien, encumbrance or security interest created hereby.

(f) Anything herein to the contrary notwithstanding, any moneys held by the Trustee or a Paying Agent in trust for the payment and discharge of any of the Bonds of a Series or the interest thereon which remain unclaimed for one (1) year after the date when all of the Bonds of such Series have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the Trustee or Paying Agent at such date, or for one (1) year after the date of deposit of such moneys if deposited with the Trustee or Paying Agent after said date when all of the Bonds of such Series become due and payable, or one (1) year after the date when the principal or Redemption Price of or interest on the Bonds for which said moneys is held was due and payable, shall, at the written request of the Authority, be repaid by the Trustee or Paying Agent to the Authority as its absolute property and free from trust, and the Trustee or Paying Agent shall thereupon be released and discharged with respect thereto and the Holders of Bonds shall look only to the Authority for the payment of such Bonds; provided, however, that, before being required to make any such payment to the Authority, the Trustee or Paying Agent may, at the expense of the Authority, cause to be published in an Authorized Newspaper a notice that such moneys remain unclaimed and that, after a date named in such notice, which date shall be not less than thirty (30) nor more than sixty (60) days after the date of publication of such notice, the balance of such moneys then unclaimed shall be returned to the Authority.

ARTICLE XIII – EXECUTION OF INSTRUMENTS BY BOND HOLDERS AND PROOF OF OWNERSHIP OF BONDS

SECTION 13.01. Evidence of Signatures of Bondholders and Ownership of Bonds. Any request, consent or other instrument which this Resolution may require or permit to be signed and executed by the Holder or Holders of Bonds may be in one or more instruments of similar tenor, and shall be signed or executed by such Holder or Holders of Bonds in person or by his or their attorneys duly appointed in writing. Proof of the execution of any such instrument, or of an instrument appointing any such attorney, or the holding or owning by any person of such Bonds, shall be sufficient for any purpose hereof (except as otherwise herein expressly provided) if made in the manner set forth below, but the Trustee may nevertheless in its discretion require further or other proof in cases where it deems the same desirable.

The fact and date of the execution by any Bondholder or his attorney of such instrument may be proved by the certificate, which need not be acknowledged or verified, of any officer of a bank or trust company satisfactory to the Trustee or of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such executions duly sworn to before such notary public or other Officer. The authority of the person or persons executing any such instrument on behalf of a corporate Bondholder may be established without further proof if such instrument is signed by a person purporting to be the president or a vice-president of such corporation with a corporate seal affixed and attested by a person purporting to be its secretary or an assistant secretary.

The ownership of Bonds and the amount, numbers and other identification, and date of holding or owning the same shall be proved by the registry books. Any request, consent or vote of the owner of any Bond shall bind all future owners of such Bond in respect of anything done or suffered to be done or omitted to be done by the Authority or the Trustee in accordance therewith.

ARTICLE XIV – MISCELLANEOUS

SECTION 14.01. Preservation and Inspection of Documents. All documents received by the Trustee from the Authority or from Bondholders under the provisions hereof or of any Supplemental Resolution shall be retained in its possession and shall be subject at all reasonable times to the inspection of the Authority, the Public Entities, any Applicable Bondholder and their agents and their representatives, any of whom may make copies thereof; provided, however, that with respect to inspection by a Bondholder a written request of such Bondholder must have been received by the Trustee at least five (5) Business Days prior to the date of inspection.

The Trustee shall maintain such records as a Facility Provider shall reasonably request with respect to matters relating to such Facility Provider.

SECTION 14.02. Moneys and Funds Held for Particular Bonds. The amounts held by the Trustee or any Paying Agent for the payment of the principal, Sinking Fund Installments, if any, or Redemption Price of and interest on the Bonds due on any date with respect to particular Bonds shall, pending such payment, be set aside and held in trust by it for the Holders of such Bonds entitled thereto, and for the purposes hereof such principal, Sinking Fund Installments, if any, or Redemption Price of and interest on such Bonds, due after such date thereof, shall no longer be considered to be unpaid.

SECTION 14.03. Cancellation of Bonds. The Trustee or any Paying Agent shall forthwith cancel all Bonds which have been redeemed or paid by it and may destroy such Bonds and deliver a certificate to that effect to the Authority. No such Bonds shall be deemed Outstanding Bonds hereunder and no Bonds shall be issued in lieu thereof.

SECTION 14.04. No Recourse under Resolution or on the Bonds. All covenants, stipulations, promises, agreements and obligations of the Authority contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Authority and not of any member, officer or employee of the Authority in his individual capacity, and no recourse shall be had for the payment of the principal, Sinking Fund Installments, if any, or Redemption Price of or interest on the Bonds or for any claims based thereon, hereon or on the Supplemental Resolution against any member, officer or employee of the Authority or any person executing the Bonds, all such liability, if any, being expressly waived and released by every Holder of Bonds by the acceptance of the Bonds.

SECTION 14.05. Severability of Invalid Provision. If one or more of the covenants, stipulations, promises, agreements and obligations provided herein or in any Supplemental Resolution on the part of the Authority or the Trustee to be performed should be contrary to law, then such covenant or covenants, stipulation or stipulations, promise or promises, agreement or agreements or obligation or obligations shall be null and void, shall be deemed and construed to be severable from the remaining covenants, stipulations, promises, agreements and obligations herein contained and shall in no way affect the validity of the other provisions hereof or of such Supplemental Resolution or of the Bonds.

SECTION 14.06. Parties in Interest. Nothing herein or in any Supplemental Resolution adopted pursuant to the provisions hereof, expressed or implied, is intended to or shall be construed to confer upon or to give to any person or party other than the Authority, Trustee, Paying Agents, each Facility Provider and the Holders of the Bonds any rights, remedies or claims hereunder or by reason hereof or of any Supplemental Resolution or any covenant, condition or stipulation thereof; provided, however, that without respect to the provisions hereof which require the Trustee to pay or deliver to a Public Entity any moneys or securities held by the Trustee hereunder, such provisions shall also be for the benefit of such Public Entity and, upon the failure of the Trustee to comply therewith, such Public Entity shall have such rights, remedies and claims as are provided hereunder or by reason hereof or by law. All covenants, stipulations, promises and agreements herein or in any Supplemental Resolution contained by or on behalf of the Authority shall be for the sole and exclusive benefit of the Authority, Trustee and Paying Agents and the Holders from time to time of the Bonds.

SECTION 14.07. Certain Provisions Relating to Capital Appreciation Bonds and Deferred Income Bonds.

(a) For the purposes of (i) receiving payment of the Redemption Price if a Capital Appreciation Bond is redeemed prior to maturity or (ii) computing the principal amount of Bonds held by the registered owner of a Capital Appreciation Bond in giving to the Authority, the Public Entity or the Trustee any notice, consent, request, or demand pursuant hereto for any purpose whatsoever, the then current Accreted Value of such Bond shall be deemed to be its principal amount. Notwithstanding any other provision hereof, the amount payable at any time with respect to the principal of and interest on any Capital Appreciation Bond shall not exceed the Accreted Value thereof at such time. For purposes of receiving payment of the Redemption Price or principal of a Capital Appreciation Bond called for redemption prior to maturity, the difference between the Accreted Value of such Bond when the Redemption Price or principal thereof is due upon such redemption or declaration and the principal of such Bond on the date the Bonds of the Series of which it is a part were first issued shall be deemed not to be accrued and unpaid interest thereon.

(b) For the purposes of (i) receiving payment of the Redemption Price if a Deferred Income Bond is redeemed or (ii) computing the principal amount of Bonds held by the registered owner of a Deferred Income Bond in giving to the Authority or the Trustee any notice, consent, request, or demand pursuant to this Resolution for any purpose whatsoever, the then current Appreciated Value of such Bond shall be deemed to be its principal amount. Notwithstanding any other provision hereof, the amount payable at any time prior to the Interest Commencement Date with respect to the principal of and interest on any Deferred Income Bond shall not exceed the Appreciated Value thereof at such time. For purposes of receiving payment prior to the Interest Commencement Date of the Redemption Price or principal of a Deferred Income Bond called for redemption prior to maturity, the difference between the Appreciated Value of such Bond when the Redemption Price or principal thereof is due upon such redemption or declaration and the principal of such Bond on the date the Bonds were first issued shall be deemed not to be accrued and unpaid interest thereon.

SECTION 14.08. Termination of Facility Provider's Rights. Whenever by the terms hereof the consent or approval of a Facility Provider is required or a Facility Provider,

alone or together with any other Facility Provider or the Holders of Bonds, is authorized to request or direct the Trustee to take any action, such consent or approval shall not be required and the Trustee shall not be obligated to comply with such request or direction if such Facility Provider is then in default in its payment obligations under the provisions of the Credit Facility or Liquidity Facility issued by such Facility Provider. Nothing contained herein shall limit or impair the rights of the Holders of Bonds to give any consent or approval or to request or direct the Trustee to take any action and, if a Facility Provider is then in default under such Credit Facility or Liquidity Facility, such consent or approval shall be effective without the consent or approval of such Facility Provider otherwise required hereby and the Trustee shall comply with such request or direction notwithstanding that such request or direction is required to be made or given together with such Facility Provider.

SECTION 14.09. Actions by the Authority. Any time the Authority is permitted or directed to act pursuant to this Master Resolution or a Supplemental Resolution, such action may be taken by an Authorized Officer of the Authority except that the following actions may only be taken by resolution of the members of the Authority: authorization and issuance of bonds; adoption of resolutions; modifications and amendments pursuant to Articles IX and X herein. Any certificates of the Authority to be delivered hereunder shall be executed by an Authorized Officer.

SECTION 14.10. Notices. Except as otherwise provided herein, any notices, directions or other instruments required to be given or delivered pursuant hereto or to any Supplemental Resolution shall be in writing and shall be delivered by hand against the written receipt therefor or sent by registered or certified mail addressed: in the case of the Authority, to it to the attention of the Authority's [Vice President of Finance] with a copy to the Authority's General Counsel, 123 Main Street, 11th Floor, White Plains, NY 10601; in the case of the Trustee, addressed to it at the principal corporate trust office of the Trustee at the address of such principal corporate trust office; in the case of each Public Entity, addressed to it as specified in the Applicable Long Term Financing Supplement; or, in each case, to such other individual and at such other address as the person to be notified shall have specified by notice to the other persons.

SECTION 14.11. Other Resolutions. The Authority expressly reserves the right to adopt one or more other bond resolutions and to issue bonds, bond anticipation notes, notes and other obligations thereunder without compliance with the provisions hereof.

SECTION 14.12. Headings. Any headings preceding the text of the several Articles and Sections hereof, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part hereof nor shall they affect its meaning, construction or effect.

SECTION 14.13. Governing Laws. This Resolution shall be governed by and construed in accordance with the laws of the State.

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[Bond Program Long Term Financing Supplement for Multiple Projects]



**NY Power
Authority**

NYPA's Energy Efficiency Program

LONG TERM FINANCING SUPPLEMENT

OF THE

Power Authority of the State of New York

FOR

Customers, Job Numbers and Projects Listed on
Appendix 7 Hereto



**BuildSmart
NY**

Job Number(s): _____

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Section A. Agreement

THIS LONG TERM FINANCING SUPPLEMENT, dated as of the date set forth on Appendix 7 hereto, is by and between the POWER AUTHORITY OF THE STATE OF NEW YORK, a corporate municipal instrumentality of the State of New York (“**NYPA**”), and the CUSTOMER as defined in Appendix 7 hereto a Public Entity as defined in the Act (herein defined) (the “**Customer**”).

WHEREAS, this Long Term Financing Supplement is being entered into by NYPA and the Customer pursuant to the terms of certain existing energy efficiency services program agreements described in Appendix 7 hereto in order to provide the Customer with long term financing for the Customer’s Repayment Obligation (herein defined) described in Appendix 7 hereto with respect to the Project or Projects described in Appendix 7 hereto; and

WHEREAS, NYPA intends to issue and sell the Energy Efficiency Bonds (herein defined) the proceeds of which will be applied to provide long term financing for the Customer’s Repayment Obligation to NYPA; and

WHEREAS, this agreement shall be deemed executory only to the extent of the monies appropriated and available for the purpose of the agreement, and no liability on account therefor shall be incurred beyond the amount of such monies. It is understood that neither this agreement nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available monies for the purpose of the agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

Section B. Defined Terms

Each capitalized term as used in this Long Term Financing Supplement shall have the following meanings:

“Act” means the Power Authority Act, being and constituting Title 1 of Article 5 of the Public Authorities Law of the State of New York, as amended.

“Bond Closing Date” shall mean the date of issuance of the Energy Efficiency Bonds.

“Bond Trustee” shall be the Bond Trustee described in Appendix 7 hereto and shall be the Trustee under the Energy Efficiency Project Revenue Bond Resolution dated _____ of NYPA.

“Code” means the Internal Revenue code of 1986, as amended, and the applicable regulations promulgated thereunder.

“Continuing Disclosure Agreement” means the Master Continuing Disclosure Agreement, Continuing Disclosure Agreement or Continuing Disclosure Undertaking of the Customer set forth in Appendix 5 hereto.

“Contract Rate” means with respect to each Project and each respective Notice of Final Amortization, the Contract Rate so identified in such Notice of Final Amortization.

“Customer Closing Certificate” means the Closing Certificate of the Customer substantially in the form of Appendix 3 hereof.

“Customer Basic Documents” shall have the same meaning as set forth in Appendix 7 hereto.

“Customer Closing Documents” shall mean the Continuing Disclosure Agreement, the Customer Closing Certificate, the Customer Incumbency Certificate, the Tax Compliance Certificate, the Letter of Representation and any other agreements or documents defined as Customer Closing Documents in Appendix 7 hereto.

“Customer Documents” shall mean the Customer Basic Documents, the Customer Closing Documents and the Letter of Representation.

“Customer Incumbency Certificate” means the Incumbency Certificate of the Customer substantially in the form of Appendix 4 hereof.

“Customer’s Proportionate Share” shall mean the proportion that the outstanding Financed Amount bears to the outstanding principal amount of the Energy Efficiency Bonds.

“Determination of Taxability” means (a) the receipt by the Customer, NYPA or the Bond Trustee or the owner of any Energy Efficiency Bond of an original or a copy of an Internal Revenue Service Technical Advice Memorandum or Statutory Notice of Deficiency or other written correspondence which legally holds that the interest component of any Long Term Payment Obligation or the interest on any Energy Efficiency Bond is includable in the gross income of the owner thereof; (b) the issuance of any public or private ruling of the Internal Revenue Service that the interest component of any Long Term Payment Obligation or the interest on any Energy Efficiency Bond is includable in the gross income of the

owner thereof; or (c) receipt by the Customer, NYPA, the Bond Trustee or the owner of any Energy Efficiency Bond of a written opinion of a nationally recognized firm of attorneys experienced in matters pertaining to the tax-exempt status of interest on obligations issued by states and their political subdivisions, selected by NYPA, to the effect that the interest component of any Long Term Payment Obligation or the interest on any Energy Efficiency Bond has become includable in the gross income of the owner thereof for Federal income tax purposes.

“Default Rate” means with respect to each Project and each respective Notice of Final Amortization the rate so identified as the Default Rate in such Notice of Final Amortization.

“Energy Efficiency Bonds” shall mean the Energy Efficiency Project Revenue Bonds of the Series described in Appendix 7 hereto.

“Energy Service Projects Public/Private Use Questionnaire” shall have the same meaning as set forth in Appendix 7 hereto.

“Event of Default” shall have the same meaning as set for the Section F hereof.

“Financed Amount” shall have the same meaning as described in the Notice of Final Amortization.

“Initial Amortization” shall mean with respect to each Project or Projects, the respective Initial Amortization or Initial Amortizations set forth in Appendix 7 hereto.

“Letter of Representation” shall mean the Letter of Representation of the Customer delivered by the Custom in conjunction with the sale of the Energy Efficiency Bonds substantially in the Form set forth in Appendix 6 hereto.

“Long Term Financing” shall mean the long term financing made available by NYPA to the Customer pursuant to this Long Term Financing Supplement in order to finance the Customer’s Project or Projects in accordance with the provisions hereof.

“Long Term Financing Supplement” means this Long Term Financing Supplement dated the date identified on Appendix 7 hereto between the Customer and NYPA.

“Maximum Rate” shall have the same meaning as described in Appendix 7 hereto.

“Net Proceeds” shall mean the amount remaining from the gross proceeds of any insurance claim or condemnation award or sale under threat of condemnation after deducting all expenses, including attorneys’ fees, incurred in the collection thereof.

“Notice of Final Amortization” shall mean the Notice of Final Amortization in the form of Appendix 8 hereto setting forth and confirming the definitive Financed Amount, Payment Dates, and payment amounts due and payable by the Customer and certain other final terms of the Long Term Financing provided by NYPA to the Customer with respect to each Project or Projects.

“Official Statement” shall mean the Official Statement of NYPA with respect to the sale and issuance of the Energy Efficiency Bonds.

“Payment Date” means each date on which the Customer is required to make a payment under this Long Term Financing Supplement as specified in any Notice of Final Amortization.

“Permitted Encumbrances” shall mean:

- i. liens in favor of the Bond Trustee created by this Long Term Financing Supplement;
- ii. liens for real estate taxes, assessments, levies and other governmental charges, the payment of which is not yet due and payable;
- iii. any judgment lien against the Customer, so long as the finality of such judgment is being contested in good faith and execution thereon is stayed by the posting of a bond the payment of which would not give rise to a lien;
- iv. any lien, security interest, encumbrances or charge to which the NYPA or the Bond Trustee shall consent in writing; and
- v. a lien, restrictive declaration or performance mortgage with respect to the operation of any Project arising by reason of a grant or other funding received by the Customer from any municipal, State or any governmental agency or instrumentality.

“Preliminary Official Statement” shall mean the Preliminary Official Statement of NYPA with respect to the issuance and sale of the Energy Efficiency Bonds.

“Project” or “Projects” shall mean the items and improvements as described in Appendix 7.

“Repayment Obligation” shall have the same meaning as set forth in Appendix 7.

“Tax Compliance Certificate” shall be the bring down certification of the Customer substantially in the form of Appendix 1 hereof.

“Taxable Rate” means the rate identified as such in any Notice of Final Amortization.

“Tax-Exempt Energy Efficiency Bonds” shall mean Energy Efficiency Bonds the interest on which is excludable for Federal income tax purposes.

“Termination Date” shall have the same meaning as described in Appendix 7.

“Underwriter” or “Underwriters” shall have the meaning as defined in Section C (viii) hereto.

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Section C. **Financing Terms.**

i. Provision of Long Term Financing. Subject to the conditions and in accordance with the terms of this Long Term Financing Supplement, NYPA hereby agrees to provide the Customer with Long Term Financing for the Customer's Repayment Obligation with respect to the Project or Projects and the Customer hereby agrees to accept and repay such Long Term Financing in an amount equal to the Financed Amount at an annual interest rate not to exceed the Maximum Rate. The repayment of the Financed Amount is expected to be made on the payment dates and payable in the amounts as set forth in the Notice of Final Amortization. Subject to the provisions of this Section C, the definitive terms of the Long Term Financing shall be as set forth in the Notice of Final Amortization (a form of which is set forth in Appendix 8) which shall be delivered by NYPA to the Customer subsequent to the pricing of the Energy Efficiency Bonds.

ii. Termination. The Customer shall have the right to terminate this Long Term Financing Supplement, not later than the Termination Date in which case this Long Term Financing Supplement shall be of no further effect. NYPA shall have the right to terminate this Long Term Financing Supplement if the Customer has not provided the document deliverables described in subsections (vii)(a) and (vii)(c) of this Section C by the seventh day preceding the Termination Date.

iii. Payment of Long Term Payment Obligation. Subject to Section E (xi) hereof, the Customer covenants and agrees that it shall duly and punctually pay or cause to be paid the amounts set forth in Notice of Final Amortization with respect to each Project and Amortization on the dates and in places and in the manner stated in such Notice of Final Amortization.

iv. Other Amounts Payable. The Customer hereby expressly agrees to pay:

- (a) Upon the issuance of the Energy Efficiency Bonds, the Customer's Proportionate Share (or such other portion thereof as shall be agreed upon by the Customer and the NYPA) of the costs and expenses of NYPA in the preparation, sale and delivery of the Energy Efficiency Bonds, the preparation and delivery of any legal instruments, closing transcripts and documents necessary in connection herewith and therewith and their filing and recording, if required, and all taxes and charges payable in connection with any of the foregoing, all as specified in the Notice of Final Amortization. Such costs shall be payable from the proceeds of the Energy Efficiency Bonds;
- (b) When due, other costs of issuance payable to consultants and attorneys retained by the Customer in connection with execution of the Long Term Financing Supplement by the Customer and the issuance of the Energy Efficiency Bonds as set forth in the Notice of Final Amortization;
- (c) As such expenses are incurred, the amount of any NYPA expenses (including but not limited to investment losses and the reasonable fees and expenses of NYPA, the Bond Trustee, the owners of Energy Efficiency Bonds, and attorneys representing any of the foregoing) incurred as a result of the Customer's failure to make any payments due under the Notice of Final Amortization when due or failure to otherwise comply with the terms of this Long Term Financing Supplement; and
- (d) In the event that after the Termination Date the Customer does not proceed with the closing of the Long Term Financing, the Customer shall pay to NYPA the fees of NYPA's bond counsel incurred with respect to the Customer's Long Term Financing.

v. Redemption of Energy Efficiency Bonds.

- (a) The Customer's payment obligations under the Notice of Final Amortization shall be subject to prepayment prior to maturity in accordance with the Notice of Final Amortization.
- (b) The Customer shall pay all costs and expenses of NYPA in effecting the redemption of any Energy Efficiency Bonds prior to maturity as a result of any prepayment of the Customer's payment obligation under the Notice of Final Amortization, including any difference in the amount of interest due with respect to a payment obligation under the Notice of Final Amortization and the amount of interest due on the Energy Efficiency Bonds.

vi. Application of Proceeds. The Customer agrees that the proceeds of the sale of the Energy Efficiency Bonds shall be deposited with the Bond Trustee and will be applied at the direction of NYPA to pay any amounts payable to NYPA under this Long Term Financing Supplement and amounts due to NYPA for the Customer's Repayment Obligation with respect to the Project or Projects and to pay costs of issuance and closing cost relating in an amount equal to the Customer's Proportionate Share of such costs.

vii. Execution and Delivery of Documents.

- (a) On or prior to the date of execution of this Long Term Financing Supplement, the Customer shall have delivered to NYPA, fully executed copies of the Customer Basic Documents and the Energy Service Projects Public/Private Use Questionnaire.
- (b) Not less than two (2) days and no more than seven (7) days prior to the Bond Closing Date the Customer shall deliver to NYPA fully executed copies of the following:
 - (1) Bring Down Certification of the Customer dated the date of issuance of the Energy Efficiency Bonds as to Tax Compliance in substantially the form attached hereto as Appendix 1 and Form 8038-G completed and signed by Customer.
 - (2) A closing certificate of the Customer dated the date of issuance of the Energy Efficiency Bonds in the form of Appendix 2 as to (i) confirmation of certain matters set forth in this Long Term Financing Supplement, (ii) 10b-5 and deemed final representations as to Customer disclosure set forth in offering documents relating to the Energy Efficiency Bonds, and (iii) certain other matters.
 - (3) An incumbency certificate of the Customer dated the date of issuance of the Energy Efficiency Bonds in the form of Appendix 3 as to signatures, authorization and incumbency of signatories.
 - (4) The opinion of counsel to the Customer, dated the date of issuance of the Energy Efficiency Bonds, in the form of Appendix 4 hereto.
 - (5) The Continuing Disclosure Undertaking dated the date of issuance of the Energy Efficiency Bonds in the form of Appendix 5.
 - (6) A certificate of insurance evidencing the insurance dated the date of issuance of the Energy Efficiency Bonds required by Section E hereof.

- (c) Subsequent to the execution of this Long Term Financing Agreement but prior to the mailing of the Preliminary Official Statement, the Customer shall deliver to NYPA disclosures concerning the Customer for inclusion in the Preliminary Official Statement and the Official Statement and the executed Letter of Representation, substantially in the form of Appendix 6 hereto.

The obligations of NYPA to provide the Long Term Financing to the Customer and to issue, deliver and sell the Energy Efficiency Bonds are conditioned upon the delivery of the opinions, certificates and documents required by this Section C, in form and substance satisfactory to NYPA. With respect to such opinions, certificates and documents the forms of which are appended hereto, the Customer hereby acknowledges that it has reviewed such forms and the Customer hereby agrees to deliver or cause to be delivered such items in the forms appended hereto (except for the insertion of the appropriate names and titles).

viii. NYPA's Obligation to provide the Long Term Financing. The Customer acknowledges that NYPA's commitment to provide the Long Term Financing to the Customer shall be satisfied solely from the proceeds of the Energy Efficiency Bonds. In accordance therewith, the obligation of NYPA to provide the Long Term Financing is subject to the purchase of the Energy Efficiency Bonds (i) in the case of a negotiated sale, by the Underwriters (hereinafter defined) pursuant to a bond purchase agreement between NYPA and certain underwriters identified therein (the "**Underwriters**") and (ii) in the case of a competitive sale, pursuant to a notice of sale and the winning bid submitted pursuant thereto by the purchasers identified in such winning bid (also the "**Underwriters**"). In the event that the Underwriters do not purchase the Energy Efficiency Bonds, then upon written notice delivered to the Customer by NYPA, NYPA may terminate both its obligation to make the Long Term Financing available to the Customer and the obligation of the Customer to comply with the terms set forth in this Long Term Financing Supplement, provided that the Customer's obligation to pay its Proportionate Share of costs and expenses related to preparation of the Preliminary Official Statement and the Official Statement shall survive any such termination.

ix. Commitment to Proceed; Agreement to Pay Proportionate Share of Certain Expenses. The Customer hereby commits to participate as an obligor with respect to the Customer's Proportionate Share of the Energy Efficiency Bonds to be issued by NYPA. The terms of the Customer's obligation are as set forth in this Long Term Financing Supplement and are to be set forth in the Notice of Final Amortization. In order to induce NYPA to make the Long Term Financing available from the proceeds of the Energy Efficiency Bonds, the Customer hereby:

- (a) represents that (i) it has provided the information concerning the Customer and the Project or Projects submitted to NYPA, including any supplemental information provided to NYPA on or before the date of this Long Term Financing Supplement, (ii) such information was true and complete in all material respects as of its date, (iii) there have been no material adverse changes in such information, and (iv) this information may be relied upon by the NYPA and the Underwriters in connection with the issuance of the Energy Efficiency Bonds.
- (b) agrees that it will accept the Long Term Financing hereunder in accordance with the terms to be specified by NYPA in the Notice of Final Amortization; provided that such Notice of Final Amortization shall include terms to the following effect:
 - (1) except to the extent that the Customer otherwise agrees (as evidenced by its acceptance of a Notice of Final Amortization containing different maturity dates and

principal amounts), Financed Amounts, payment date, place of payment, payment amounts including principal and interest as set forth in the Initial Amortization;

- (2) An annual interest rate not to exceed the Maximum Rate; and
 - (3) prepayment provisions consistent with the prepayment terms described in the Initial Amortization.
- (c) agrees that in the event of a market failure resulting in the Underwriter's inability to successfully market the Energy Efficiency Bonds, the Customer will pay an amount equal to what would have been such Customer's Proportionate Share of the costs and expenses incurred by NYPA to provide for the issuance of the Energy Efficiency Bonds and shall have full responsibility for paying the fees and expenses of any consultants or attorneys retained by the Customer in connection with this Long Term Financing Supplement and the Energy Efficiency Bonds.
- (d) agrees that in the event that the Customer fails to proceed to close the Long Term Financing, it will pay an amount equal to the payment that would have been its Proportionate Share of: (1) any costs of issuance that, in the reasonable judgment of NYPA would have been allocable to the Customer had the Customer proceeded to closing of the Long Term Financing; and (2) any other costs and expenses incurred by NYPA as a result of the failure of such Customer to proceed to closing of the Long Term Financing. The Customer shall have full responsibility for paying the fees and expenses of any consultants or attorneys retained by the Customer in connection this Long Term Financing Supplement and the Energy Efficiency Bonds. Further, in the event that the Customer fails to proceed to close the Long Term Financing, the Customer will be required to pay the Repayment Obligation in a lump sum or will be required to finance the Repayment Obligation at an interest rate equal to NYPA's long term cost of borrowing.

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Section D. Representations and Warranties of the Customer

In connection with the execution of this Long Term Finance Supplement and in connection with the issuance of the Energy Efficiency Bonds, the Customer makes the following representations and warranties to NYPA:

- i. Existence and Authority; Legal Power. The Customer is a “public entity” as defined in Section 1005 (17(b)(5)) of the Act, duly created and existing under the laws of the State and has full legal right, power and authority to (A) conduct its business and own its properties, (B) enter into the Customer Documents, and (C) carry out and consummate all other transactions contemplated by each of the aforesaid documents.
- ii. Delivery of Documents with Financing Agreement. (A) The Customer has delivered or caused to be delivered to NYPA, the Customer Basic Documents prior to or concurrently with the execution and delivery of this Long Term Financing Supplement; (B) the Customer will deliver or cause to be delivered to NYPA prior to the mailing of the Preliminary Official Statement, the Letter of Representation and disclosure concerning the Customer for inclusion in the offering document for the Energy Efficiency Bonds in the form requested by NYPA; (C) and the Customer will deliver or cause to be delivered prior or concurrently with the Bond Closing Date the Customer Closing Documents.
- iii. Compliance. The Customer has complied and will comply with the Customer Basic Documents and with all applicable laws of the State.
- iv. Authorization. The Customer has duly approved the execution and delivery of the Customer Documents and has authorized the taking of any and all action as may be required on the part of the Customer to carry out, give effect to and consummate the transactions contemplated by each of the foregoing.
- v. Binding Obligation. The Customer Basic Documents, the Continuing Disclosure Agreement and the Letter of Representation have been or upon execution thereof will be duly authorized, executed and delivered by the Customer and, constitute or will constitute legal, valid and binding obligations of the Customer enforceable in accordance with their respective terms. The Customer acknowledges and agrees that the defense of sovereign immunity is not available to the Customer in any proceedings by NYPA or the Bond Trustee to enforce any of the obligations of the Customer under this Long Term Financing Supplement or by the Underwriters to enforce any of the obligations of the Customer and the Letter of Representation and, to the fullest extent permitted by law, the Customer consents to the initiation of any such proceedings in any court of competent jurisdiction and agrees not to assert the defense of sovereign immunity in any such proceedings. The enforceability (but not the validity) of rights or remedies with respect to the Customer Basic Documents, the Continuing Disclosure Agreement and the Letter of Representation may be limited by bankruptcy, insolvency or other laws affecting creditors’ rights or remedies heretofore or hereafter enacted.
- vi. Consents and Approvals. All consents, approvals, authorizations or orders of, or filings, registrations or declarations with any court, governmental authority, legislative body, board, agency or commission, including but not limited to those required by the State Environmental Quality Review Act, which are required for the due authorization of, which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by the Customer of its obligations under the Customer Basic Documents or the consummation of the transactions contemplated the Customer Basic Documents have been duly obtained and are in full force and effect.

vii. No Litigation. There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or, to the knowledge of the Customer, threatened against the Customer nor is there any basis therefor, (i) affecting the creation, organization or existence of the Customer or the title of its officers to their respective offices, (ii) seeking to prohibit, restrain or enjoin the execution of the Customer Basic Documents, the Continuing Disclosure Agreement or the Letter of Representation, (iii) in any way contesting or affecting the validity or enforceability of the Customer Basic Documents, the Continuing Disclosure Agreement or the Letter of Representation or any agreement or instrument relating to any of the foregoing or used or contemplated for use in the consummation of the transactions contemplated by any of the foregoing.

viii. No Violation. The Customer is not in any material respect in breach of or in default under any applicable law or administrative regulation of the State or the United States of America or any applicable judgment or decree or any agreement or other instrument to which the Customer is a party or by which it or any of its properties is bound, and no event has occurred which with the passage of time, the giving of notice or both would constitute such a breach or default; and the execution and delivery of the Customer Basic Documents and the Continuing Disclosure Agreement and the Letter of Representations and compliance with the respective provisions thereof will not conflict and do not conflict with or constitute a breach of or default under any applicable law or administrative regulation of the State or the United States of America or any applicable judgment or decree or any agreement or other instrument to which the Customer is a party or by which it or any of its property is bound.

ix. Authority to Act. The Customer has full legal right and authority and all necessary licenses, regulatory approvals and permits required as of the date hereof to own the Project, to carry on its activities relating thereto, to operate or cause the Project to be operated, and to carry out and consummate all transactions contemplated by the Customer Basic Documents, the Continuing Disclosure Agreement and the Letter of Representations.

x. Project. The description of the Project or Projects set forth in Appendix 7 is an accurate description of the same. The Project or Projects constitute energy-related projects, programs and services as defined in Section 1005 (17(b)(2)) of the Act.

xi. Project Completion. Each Project is complete and operational in accordance with the respective plans and specifications of the respective Project and has been accepted for use by the Customer as evidenced by the Final Inspection Report and certification contained in the Customer Basic Documents.

xii. Tax Compliance. The Customer has not taken and will not take any action, and knows of no action that any other person, firm or corporation has taken or intends to take, which would cause interest on the Tax-Exempt Energy Efficiency Bonds to be includable in the gross income of owners thereof for federal income tax purposes.

xiii. No Default. The Customer is not in default under any loan agreement, note, bond, mortgage or other instrument evidencing or securing indebtedness of the Customer.

xiv. Approvals. All consents, authorizations and approvals, if any, of any third party with respect to the financing or refinancing of the Project or Projects, have been duly obtained.

xv. No Material Adverse Change. There has been no material adverse change in the business condition, operations, performance of the Customer since release of its most recent audited financial statements.

xvi. No Change of Law. There has been no change in any law, rule or regulation affecting the Customer that may adversely affect the consummation of the transactions undertaken or to be undertaken pursuant to the Customer Basic Documents, the Continuing Disclosure Agreement or the Letter of Representation.

xvii. Representations Complete. All representations made herein by the Customer are true, complete and accurate as of the date hereof and as of the execution date of each of the Customer Basic Documents and will be true, complete and accurate as of the date of issuance of the Energy Efficiency Bonds.

xviii. Disclosure Correct and Complete. The information supplied or to be supplied by the Customer to NYPA for inclusion in the Preliminary Official Statement, Official Statement or other disclosure material with respect to the offering of the Energy Efficiency Bonds did not and will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

xix. Title. The Customer has good and valid title to the respective Project or Projects. The Customer will not sell, offer for sale, transfer, or dispose of the Project or Projects or any part thereof without the prior written consent of NYPA.

xx. Useful Life. The useful life of the Project or Projects shall not exceed the term of this Long Term Financing Supplement.

xxi. No Lien. There exists no mortgage, pledge, lien, security interest, charge or other encumbrances of any nature whatsoever (each a “**Lien**”) on or with respect to any Project (or on or with respect to the real property where any Project is or will be located which could result in a Lien on any Project) except for Permitted Encumbrances. The Customer will keep each Project free from any and all liens, claims encumbrances and the like except for Permitted Encumbrances. The Customer will not grant a security interest in any Project to any party without the prior written consent of NYPA.

[remainder of page left intentionally blank]

Section E. Covenants

In consideration of NYPA making the Long Term Financing available to the Customer, the Customer agrees to the following covenants:

i. Tax Covenant. The Customer covenants that it shall not take any action or inaction, nor fail to take any action or permit any action to be taken, with respect to the Projects or the portion of the proceeds of the Tax-Exempt Energy Efficiency Bonds made available to it as part of any Long Term Financing including amounts treated as proceeds of the Energy Efficiency Bonds for any purpose of Section 103 of the Code, if any such action or inaction would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Tax-Exempt Energy Efficiency Bonds under Section 103 of the Code. This provision shall control in case of conflict or ambiguity with any other provision of the Customer Basic Documents. Without limiting the generality of the foregoing, the Customer covenants that it will comply with the instructions and requirements of the Tax Compliance Certificate, which is incorporated herein as if fully set forth herein. The Customer (or any related party within the meaning of Treasury Regulation Section 1.150-1(b)) shall not, pursuant to an arrangement, formal or informal, purchase Tax-Exempt Energy Efficiency Bonds. The Customer will, on a timely basis, provide NYPA with all necessary information and funds to the extent required to enable NYPA to comply with the arbitrage and rebate requirements of the Code with respect to Tax-Exempt Energy Efficiency Bonds.

ii. Insurance Requirements. So long as any portion of any payment obligation of the Customer hereunder remains unpaid, the Customer shall procure an all risk policy of insurance which will insure each Project for full replacement cost value against loss while such Project is in the Customer's care, custody and control. The insurance policy shall name NYPA and the Bond Trustee as an additional insured and loss payees, and shall contain a full waiver of subrogation against NYPA, the Bond Trustee and its respective assigns. The Customer shall also procure a Commercial General Liability insurance policy with minimum limits of \$5,000,000 per occurrence for bodily injury and property damage naming NYPA and the Bond Trustee as additional insured. In lieu of obtaining all risk and commercial general liability insurance, the Customer may request in writing to NYPA to self-insure against risk loss. NYPA may approve or deny such request in its sole discretion. The Customer agrees to provide any relevant documents or information requested by NYPA or its assigns in order for NYPA or its assigns to make the determination that the Customer has sufficient resources to self-insure. The decision to self-insure will not relieve the Customer of any other obligations imposed herein and shall afford NYPA and the Bond Trustee and its respective assigns the protection against loss and rights it would have received, if the Customer had obtained such policies of insurance. Customer shall furnish to the Bond Trustee and NYPA evidence of such insurance coverage upon request and shall not cancel or modify such insurance without 30 days prior written notice to the Bond Trustee and NYPA.

iii. Payment Absolute. The obligation of the Customer to pay the amounts set forth on the Notice of Final Amortization shall not be subject to any defense (other than non-appropriation) or any rights of setoff, recoupment, abatement, counterclaim or deduction, shall not be contingent upon performance of any Project and shall be without any rights of suspension, deferment, diminution or reduction it might otherwise have against NYPA, the Bond Trustee or the owner of any Energy Efficiency Bond.

iv. Annual Reporting. The Customer promptly on publication or release will provide NYPA and the Bond Trustee with its annual information statement, audited and any amended annual financial reports, and evidence of downgrades of publically rated debt. Customer agrees to such information to file such information on the Municipal Securities Rulemaking Board's ("MSRB") Electronic Municipal Market Access ("EMMA") System. The Customer will provide NYPA with a copy of their enacted

budget on an annual basis to demonstrate that the funds for payment of the Notice of Final Amortization have been provided for in the budget.

v. Event of Taxability. With respect to any Long Term Financing made from the proceeds of Tax-Exempt Energy Efficiency Bonds, in the event a Determination of Taxability shall occur as a result of the Customer's acts and/or omissions, in addition to the amounts required to be paid with respect to such Long Term Financing, the Customer shall be obligated to pay to NYPA or its assigns on demand an amount equal to (A) the positive difference, if any, between the amount of interest that would have been paid during the period of taxability if such Long Term Financing had borne interest at the Taxable Rate and the interest actually paid to NYPA or the Bond Trustee as the owner or assign of such Long Term Financing and (B) any payments, including any taxes, interest, penalties or other charges, such owner or assign (or beneficial owner of the Energy Efficiency Bonds) of the Energy Efficiency Bonds or former owner or assign (or beneficial owner of the Energy Efficiency Bonds) shall be obligated to make as a result of the Determination of Taxability. Following a Determination of Taxability the interest component of the applicable Long Term Financing shall accrue and be payable at the Taxable Rate retroactive to the earliest date as of which the interest component of any such Long Term Financing is deemed includible in the gross income of the owner or owners thereof of the Energy Efficiency Bonds for Federal income tax purposes (which may be earlier than the date of the Determination of Taxability), and the Customer will pay such additional amount as will result in the owner receiving the interest component at the Taxable Rate.

vi. Operation. The Customer hereby covenants that it will operate the Project or Projects properly and in a sound and economical manner and shall maintain, preserve, and keep the same preserved and kept with the appurtenances and every part and parcel thereof, in good repair, working order and maintain the original value, utility and condition thereof normal wear and tear excepted, and shall from time to time make, or cause to be made, all necessary and proper repairs, replacements and renewals so that at all times the operation of the Project or Projects may be properly conducted. NYPA and its assigns may inspect any Project or Projects at reasonable times during regular business hours provided that NYPA shall have no obligation to inspect any Project. If the lease, sale, purchase, operation, ownership, use, possession or acquisition of all or any portion of any Project or Projects is subject to taxation, utility, taxes, governmental and other charges, Customer shall pay when due all taxes, utilities, governmental and other charges lawfully assessed or levied against or with respect to such Project or against NYPA or its assigns. If all or any portion of any Project or Projects is in any material respect damaged or destroyed, condemned or taken by power of eminent domain (i) Customer will cause the Net Proceeds to be applied to the prompt and full replacement, repair or restoration of such Project or Projects to its original value, utility and condition or (ii) Customer will prepay the obligations hereunder in accordance with the Notice of Final Amortization applicable to the Project or Projects. Customer will promptly notify NYPA and the Bond Trustee of its choice as to (i) or (ii).

vii. Benefit of Long Term Financing Supplement. This Long Term Financing Supplement is executed, among other reasons, to induce NYPA to make the Long Term Financing available to the Customer and to secure the Energy Efficiency Bonds. Accordingly, those rights of NYPA to enforce the duties, covenants, obligations and agreements of the Customer set forth in this Long Term Financing Supplement, (including the right to enforce payment of amounts due under any Long Term Financing) may at any time, in whole or in part, be assigned and pledged by NYPA to the Bond Trustee for the benefit of the owners of the Energy Efficiency Bonds and thereafter such duties, covenants, obligations and agreements so assigned and pledged shall be for the benefit of and enforceable by the Bond Trustee. The Customer assumes all risk of loss and liability related to any Project and this Long Term Financing Supplement from any cause whatsoever, and no such loss, damage or liability shall relieve the Customer of its obligation to pay any amounts due under Notice of Final Amortization. The provisions of this paragraph shall survive termination of this Long Term Financing Supplement. Nothing in this provision

shall be construed as limiting the liability of a contractor or subcontractor to the Customer or NYPA and its assigns in connection with the performance of such contractor's or subcontractor's work on the Customer's premises. Subject to the availability of lawful appropriations and consistent with the New York State Court of Claims Act, the Customer shall hold harmless from and indemnify NYPA and the Bond Trustee for any final judgment of a court of competent jurisdiction to the extent attributable to the negligence of Customer or of its officers or employees when acting within the course and scope of their employment in connection with this Long Term Financing Supplement with respect to or in connection with, or as a consequence of (a) the disposition or use of retained equipment by the Customer, and (b) any cleanup costs associated with any site where waste and debris are disposed of or come to be situated traceable to such waste and debris including, but not limited to, response and remedial costs.

viii. Further Assurances; Disclosure of Financial Information, Operating Data and Other Information. The Customer shall, at the request of NYPA or the Bond Trustee, authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be deemed necessary or desirable by NYPA or the Bond Trustee, in their sole discretion, for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Long Term Financing Supplement. The Customer also agrees to furnish to NYPA such additional information concerning the financial condition of the Customer as NYPA may from time to time reasonably request. Customer agrees to comply with all applicable laws and regulations applicable to the Customer.

ix. Assignment of Customer Documents. The Customer hereby provides its prior written consent to the pledge and assignment at any time of all or any portion of NYPA's estate, right, title and interest and claim in, to and under this Long Term Financing Supplement, the Customer Documents, and the right to exercise remedies and make all related waivers and agreements in the name and on behalf of NYPA, and the right to receive notices, reports and other information to be provided to NYPA hereunder, as agent and attorney-in-fact, and to perform all other related acts which are necessary and appropriate under the Customer Documents, if any, to the Bond Trustee and its assignees.

x. Financing Supplement Supersedes Prior Agreements. This Long Term Financing Supplement supersedes any other prior or contemporaneous agreements or understandings, written or oral, between NYPA and the Customer relating to the financing of any Project.

xi. Subject to Appropriation Obligation. The Long Term Financing and the obligations of the Customer under this Long Term Financing Supplement shall be deemed executory only to the extent of the monies appropriated and available for such purpose, and no liability on account therefor shall be incurred beyond the amount of such monies. The obligation of the Customer to pay amounts under the Customer Documents does not constitute a debt or general obligation of the Customer. It is understood that neither this Long Term Financing Supplement nor any representation by any public employee or officer of the Customer creates any legal or moral obligation to appropriate or make available monies for the purpose of the Long Term Financing Supplement.

xii. Annual Budget With respect to amounts payable by the Customer under this Long Term Financing Supplement, the Customer hereby covenants and agrees to include in the annual budget of the Customer (operating or capital), a request for appropriation (including authorization for payment) of funds sufficient to pay all such amounts due and owing from the Customer under this Long Term Financing Supplement and if such appropriation is not made by the Customer, include a request for appropriation for such amounts due and owing under this Long Term Financing Supplement in each annual budget of the Customer thereafter until such amounts have been paid by the Customer; and if appropriated and available for payment, pay to NYPA or the Bond Trustee as the case may be all amounts due and owing under this Long Term Financing Supplement.

Section F. Defaults

An “event of default” or a “default” of the Customer shall mean, whenever such terms are used herein, any one or more of the following events:

(A) Failure by the Customer to (i) pay or to cause to be paid when due any payment required to be made pursuant to the Notice of Final Amortization which failure continues for a period of five (5) days after payment thereof was due other than due to a non-appropriation event; (ii) maintain insurance as required herein, or (iii) observe and perform any covenant, condition or agreement on its part to be observed or performed under Section E hereof;

(B) Failure by the Customer to pay any amounts due and payable by the Customer under the Customer Documents other than as referred to in subsection (A) above, and other than due to a non-appropriation event, or failure of the Customer to observe and perform any covenant, condition or agreement on its part to be observed or performed under the Customer Documents, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Customer by NYPA or its Assigns, or such longer period, as is required to cure such default, if by reason of the nature of such failure the same cannot be remedied within such thirty (30) day period and the Customer has within such thirty (30) day period commenced to take appropriate actions to remedy such failure and is diligently pursuing such actions;

(C) Any representation or warranty of the Customer contained in this Long Term Financing Supplement or any Customer Document shall have been at the time it was made untrue or misleading in any material respect; or

(D) The Customer shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or any proceeding shall be instituted by or against the Customer seeking to adjudicate it bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian, liquidator or other similar official for it for any substantial part of its property; or the Customer shall authorize any of the actions set forth above in this subsection (D).

[remainder of page left intentionally blank]

Section G. Remedies

i. Remedies. Whenever any event of default shall have happened and is continuing, NYPA and its assigns may take whatever action at law or in equity may appear necessary or desirable to collect the payments then due and thereafter to become due under this Long Term Financing Supplement, or to enforce performance and observance of any obligation, agreement or covenant of the Customer under this Long Term Financing Supplement, including requiring any administrative enforcement action and actions for breach of contract.

In the event the Customer shall fail to make or cause to be made any of the payments required under this Long Term Financing Supplement or any other Customer Document other than due to a non-appropriation event, the item or installment not so paid shall continue as an obligation of the Customer until the amount not so paid shall have been fully paid including all unpaid accrued interest thereon at the applicable Default Rate.

ii. No Remedy Exclusive. No remedy herein conferred upon or reserved hereunder is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle NYPA and its assigns to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

iii. Waiver and Non-Waiver. In the event any agreement of the Customer contained herein should be breached and thereafter waived by NYPA or its Assigns, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No delay or omission by NYPA or its Assigns and its assigns to exercise any right or power accruing upon default shall impair any right or power or shall be construed to be a waiver of any such default or acquiescence therein.

Appendices

TAX COMPLIANCE CERTIFICATE

BRING DOWN CERTIFICATION AS TO TAX COMPLIANCE

[Bond Closing Date]

Reference is made to that certain [Tax Certificate], dated _____, (the “**Tax Certificate**”) provided by [Customer Name] (the “**Customer**”) to the Power Authority of the State of New York (“**NYPA**”) in connection with the issuance of Commercial Paper by NYPA.

The Customer hereby certifies to NYPA that all of the representations, certifications and covenants contained in the Tax Certificate were from the date of the Tax Certificate through the date hereof true and accurate and have been complied with, and the Customer expects that all such representations, certifications and covenants will continue to be true and accurate and complied with through the term of the Long Term Financing Supplement dated _____ to the Final Customer Installation Commitment(s) dated _____ (the “**Long Term Financing Supplement**”), by and between NYPA and the Customer.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the date first written above.

[CUSTOMER NAME]

By:

Name: [Customer’s Authorized Officer]

Title: [_____]

CUSTOMER CLOSING CERTIFICATE

[Bond Closing Date]

I am an authorized officer of [Customer Name] (the “**Customer**”), and hereby certify that:

1. This Certificate has been executed in connection with the execution by the Power Authority of the State of New York (“**NYPA**”) of a Long Term Financing Supplement dated _____ to the Final Customer Installation Commitment(s) dated _____ (the “**Long Term Financing Supplement**”), by and between NYPA and the Customer.

2. The representations and warranties of the Customer set forth in the Long Term Financing Supplement are true and correct as of the date hereof as if made on and as of the date hereof, the Long Term Financing Supplement remains in full force and effect as of the date hereof, and the Customer has complied with and performed and will continue to comply with and perform all of its covenants and agreements in the Long Term Financing Supplement and with all applicable laws of the State of New York.

3. The representations and warranties of the Customer set forth in the Letter of Representation are true and correct as of the date hereof as if made on and as of the date hereof, the Letter of Representation remains in full force and effect as of the date hereof.

4. The Customer is not in default in the performance of any of the covenants, conditions, agreements or provisions contained in the Customer Basic Documents.

5. The Customer has duly approved the execution and delivery of the Customer Documents and has authorized the taking of any and all action as may be required on the part of the Customer to carry out, give effect to and consummate the transactions contemplated by the Long Term Financing Supplement.

6. No litigation of any nature is now pending or, to our knowledge, threatened against the Customer nor is there any basis therefor (a) affecting the creation, organization or existence of the Customer or the title of its officers to their respective offices, (b) seeking to prohibit, restrain or enjoin the execution of the Customer Documents (c) in any way contesting or affecting the validity or enforceability of the Customer Documents or any agreement or instrument relating to any of the foregoing or used or contemplated for use in the consummation of the transactions contemplated by any of the foregoing, or (d) contesting the corporate existence or authority of the Customer or the title of the undersigned officers to their respective offices.

7. No authority or proceedings for the authorization, execution and delivery of the Customer Documents has been repealed, revoked or rescinded, and compliance with the covenants contained in the Customer Documents is not prohibited by or in violation of any provision of local or special law, regulation or resolution applicable to the Customer.

8. The information supplied by the Customer to NYPA for inclusion in the Preliminary Official Statement, the Official Statement or other disclosure material with respect to the offering of the Energy Efficiency Bonds does not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

9. Capitalized terms used herein but not otherwise defined shall have the same meaning as defined in the Long Term Financing Supplement.

IN WITNESS WHEREOF, I have hereunto set my hand as of the date first written above.

[CUSTOMER NAME]

By: _____

[Customer's Authorized Officer]

FORM OF INCUMBENCY AND AUTHORIZATION CERTIFICATE

[Bond Closing Date]

The undersigned, a duly elected or appointed and acting _____ [Secretary] of [Customer Name] (the “**Customer**”) certifies as follows:

A. The following listed persons are duly elected or appointed and acting officials of Customer (the “**Officials**”) in the capacity set forth opposite their respective names below and the facsimile signatures below are true and correct as of the date hereof;

B. The Officials are duly authorized, on behalf of Customer, to negotiate, execute and deliver the Long Term Financing Supplement dated _____ to the Final Customer Installation Commitment(s) dated _____, and all documents delivered in connection therewith.

Name of Official	Title	Signature
_____	_____	_____
_____	_____	_____
_____	_____	_____

Dated: _____ By: _____
 Name: _____
 Title: _____

(The signer of this Certificate cannot be listed as an Official above.)

OPINION OF CUSTOMER COUNSEL

[Letterhead of Customer Counsel]

[Bond Closing Date]

[Customer Name]

[•]

[•]

Power Authority of the State of New York
123 Main Street
White Plains, New York 10601

[Bond Trustee]

[•]

[•]

Ladies and Gentlemen:

I am an attorney admitted to practice in the State of New York (the “**State**”) and have acted as counsel to the customer referred to above (the “**Customer**”), which has entered into a Long Term Financing Supplement (as hereinafter defined) with the New York Power Authority (“**NYP**A”). Terms used but not otherwise defined herein shall have the respective meanings set forth in such Long Term Financing Supplement.

I have examined originals, or copies certified or otherwise identified to my satisfaction, of the following:

(A) the Long Term Financing Supplement dated _____ to the Final Customer Installation Commitment(s) dated _____ (the “**Long Term Financing Supplement**”), by and between NYPA and the Customer, in the form executed by the Customer;

(B) the Construction and Construction-Related Energy Efficiency Services Program Agreement effective _____ as amended and supplemented between the Customer and NYPA, [the Initial Customer Installation Commitment(s) dated _____ by and between NYPA and the Customer, the Final Customer Installation Commitment(s) dated _____ by and between NYPA and the Customer, the Letter of Representation and the Continuing Disclosure Agreement both as defined in the Long Term Financing Supplement] (collectively, with the Long Term Financing Supplement, the “**Customer Documents**”); and

(C) proceedings of the Customer relating to the approval of the Customer Documents and the execution, issuance and delivery thereof on behalf of NYPA.

I have also examined and relied upon originals, or copies certified or otherwise authenticated to my satisfaction, of such other records, documents, certificates and other instruments, and

made such investigation of law as in my judgment I have deemed necessary or appropriate to enable me to deliver this opinion.

Based upon the foregoing, I am of the opinion that:

1. Customer has the requisite power and authority to acquire the Projects and to execute and deliver the Customer Documents and to perform its obligations under the Customer Documents. The authorization, approval, execution and delivery of the Customer Documents and all other proceedings of Customer relating to the transactions contemplated thereby have been performed in accordance with all applicable State of New York and federal laws.

2. There is no litigation of any nature pending or, to my knowledge, threatened to restrain or enjoin the authorization, execution or delivery of the Customer Documents or any of the proceedings taken with respect to the authorization of the Customer Documents or in any manner questioning the proceedings and authority under which the Customer Documents were authorized or affecting the validity of the Customer Documents, the existence or authority of the Customer or the title of officials of the Customer who have acted with respect to the proceedings for the authorization of the Customer Documents to their respective offices, and no authority or proceedings for the authorization of the Customer Documents have been repealed, revoked or rescinded.

3. The Customer Documents have been duly authorized, executed and delivered by the Customer and each constitutes a legal, valid and binding obligation of the Customer, enforceable in accordance with their respective terms.

4. The execution and delivery by the Customer of the Customer Documents and compliance with the provisions thereof will not conflict with or constitute a breach of or a default under any law or administrative regulation, or any judgment, decree or any agreement or other instrument known to me to which the Customer is a party or otherwise subject.

The enforceability of rights or remedies with respect to the Customer Documents may be limited by bankruptcy, insolvency or other laws affecting creditors' rights or remedies heretofore or hereafter enacted, and may also be subject to the exercise of the State's police powers and of judicial discretion in appropriate cases.

Very truly yours,

CONTINUING DISCLOSURE UNDERTAKING

[To be aligned with existing Customer Continuing Disclosure Obligations]

POWER AUTHORITY OF THE STATE OF NEW YORK
ENERGY EFFICIENCY PROJECT REVENUE BONDS
SERIES 20[]

LETTER OF REPRESENTATION

Power Authority of the State of New York
123 Main Street
White Plains, New York 10601

[Underwriter],
acting on its own behalf and, if applicable, on behalf
of the other underwriters named in the Bond Purchase
Agreement relating to the Energy Efficiency Bonds
(defined herein) between the Power Authority of the
State of New York and such underwriters

Ladies and Gentlemen:

The Power Authority of the State of New York (“**NYPA**”) and the Public Entity executing this Letter of Representation (the “**Customer**”) are entering into a Long Term Financing Supplement dated _____, 2021 (the “**Long Term Financing Supplement**”), which contemplates the provision of long term financing for the Customer from the proceeds of a portion of the proceeds of the Energy Efficiency Project Revenue Bonds, Series 20[] to be issued by NYPA (the “**Energy Efficiency Bonds**”), as described in the heading of this Letter of Representation (the “**Letter of Representation**”). Pursuant to a Bond Purchase Agreement (the “**Bond Purchase Agreement**”), between NYPA and the underwriter named therein (the “**Underwriter**”), the Underwriter will purchase the Energy Efficiency Bonds from NYPA for a public offering. The Energy Efficiency Bonds shall be as described in, and shall be issued and secured under the provisions of, the Master Energy Efficiency Program Revenue Bond Resolution adopted by NYPA on _____, 2021 and authorized by the applicable Supplemental Resolution subsequently adopted by NYPA (together the “**Resolutions**”).

In order to induce NYPA and the Underwriter to enter into the Bond Purchase Agreement and to make the offering and sale of the Energy Efficiency Bonds contemplated therein, the Customer hereby makes and undertakes the following representations, warranties, agreements and indemnities. All terms not defined in the Letter of Representation shall have the meanings attributed to them in the Bond Purchase Agreement or the Long Term Financing Supplement.

1. Representations and Warranties of the Customer. The Customer hereby affirms and represents and warrants to NYPA and to the Underwriter as follows:

- (a) the representations and warranties of the Customer contained in Section D of the Long Term Financing Supplement, are incorporated herein by reference and the Customer hereby represents and warrants that the same are true and correct as of the date hereof as though made on and as of the date hereof
- (b) The information relating to the Customer and contained in Appendix __ of the Preliminary Official Statement and the Official Statement has been duly authorized for inclusion in such

documents by all necessary actions on the part of the Customer. With respect to the information described above in the Official Statement and the Preliminary Official Statement, at the date hereof, the Official Statement is, and the Preliminary Official Statement as of its date was, true and correct in all material respects for the purposes for which their respective uses are or were authorized and the Official Statement does not, and the Preliminary Official Statement as of its date did not, contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The Customer hereby authorizes the use by the Underwriter of such information (including the use by the Underwriter prior to the date hereof of such information contained in the Preliminary Official Statement), and the Long Term Financing Supplement in connection with the offering and sale of the Bonds.

- (c) The Customer confirms that copies of its most recent audited financial statement have been filed with at least one nationally recognized municipal securities repository.
- (d) All consents, approvals, authorizations or orders of, or filings, registrations or declarations with, any court, governmental authority, legislative body, board, agency or commission which are required for the due authorization of, which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by the Customer of its obligations under the Long Term Financing Supplement, or the Letter of Representation or the consummation of the transactions to which the Customer is or is to be a party as contemplated by, the Long Term Financing Supplement, the Official Statement, the Bond Purchase Agreement, the Letter of Representation and the Energy Efficiency Bonds, which are required to be obtained by the Customer, have been duly obtained and are in full force and effect except for (i) approvals, recordings and filings to be done or obtained at or prior to the Bond Closing Date and (ii) such approvals, consents and other actions as may be required under Federal or the blue sky or other securities laws of any state or other jurisdiction of the United States in connection with the offering and sale of the Energy Efficiency Bonds.
- (e) Except as specifically set forth in the Official Statement, no action, suit, proceeding or investigation, in equity or at law, before or by any court or governmental agency or body, is pending against Customer or to the best knowledge of the Customer, against any other person or threatened: (i) that reasonably might (A) result in material liability on the part of the Customer or (B) materially and adversely affect the construction, operation, condition or feasibility of the Project or Projects; or (ii) wherein an adverse decision, ruling or finding might adversely affect (A) the transactions contemplated by the Bond Purchase Agreement, the Long Term Financing Supplement or the Letter of Representation or (B) the validity or enforceability of the Long Term Financing Supplement, the Bond Purchase Agreement, the Letter of Representation or any agreement or instrument to which the Customer is a party and which is used or is contemplated for use in the consummation of the transactions contemplated hereby and by the Resolutions, the Long Term Financing Supplement, the Official Statement and the Energy Efficiency Bonds.
- (f) Since the end of the most recent fiscal year for which audited financial statements have been delivered to NYPA and the Underwriter, no material adverse change has occurred in the financial position of the Customer or in its results of operations, except as set forth in or contemplated by the Preliminary Official Statement and the Official Statement, nor has the Customer, since such date, incurred any material liabilities other than in the ordinary

course of business or as set forth or contemplated in the Preliminary Official Statement and the Official Statement.

- (g) The Customer's audited financial statements have been prepared in accordance with generally accepted accounting principles consistently applied throughout the periods concerned (except as otherwise disclosed in the notes to such financial statements) and fairly present the financial position and results of operations of the Customer at the respective dates and for the respective period indicated therein.
- (h) The information provided by the Customer in the Tax Compliance Certificate is accurate and complete as of the date hereof.
- (i) Except as described in the Preliminary Official Statement and the Official Statement, the Customer has in the previous five years complied, in all material respects, with any previous undertakings pursuant to Rule 15c2-12.

Any certificate signed by any officer of the Customer and delivered to the Underwriter pursuant hereto or to the Bond Purchase Agreement shall be deemed to be a representation and warranty by the Customer as to the statements made therein with the same effect as if such representations and warranty were set forth herein.

2. Agreements of the Customer. The Customer agrees with the Underwriter as follows:

(a) The Customer will furnish such information, execute such instruments and take such other actions in cooperation with the Underwriter as the Underwriter may request in order to: (i) qualify the Energy Efficiency Bonds for offer and sale under the blue sky or other securities laws of such states and other jurisdictions of the United States as the Underwriter may designate, and the Customer will use its best efforts to continue such qualifications in effect so long as required for the distribution of the Energy Efficiency Bonds and (ii) determine the eligibility of the Energy Efficiency Bonds for investment under the laws of such states and other jurisdictions; provided, however, that the Customer shall not be required to execute a general or special consent to service of process or to qualify to do business in connection with any such qualification or determination. The Customer hereby consents to the use of the Long Term Financing Supplement, the Preliminary Official Statement, the Official Statement, the Bond Purchase Agreement and the Letter of Representation by the Underwriter in obtaining such qualifications and determining such eligibilities.

(b) If, prior to the Bond Closing Date or within twenty-five (25) days subsequent to the end of the "underwriting period" (as defined in the Bond Purchase Agreement), any event shall occur that might or would cause the information relating to the Customer contained in Appendix __ of the Official Statement or the Customer's audited financial statements to contain any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading, the Customer shall so notify NYPA and the Underwriter. If, in the opinion of the Underwriter or counsel for the Underwriter, such event requires the preparation and publication of an amendment of or a supplement to the Official Statement, NYPA will cause the Official Statement to be amended or supplemented in form and substance satisfactory to the Underwriter and NYPA, and all expenses thereby incurred will be paid by the Customer if such amendment or supplement is prepared and furnished to the Underwriter on or prior to the twenty-fifth day following the Bond Closing Date. After the twenty-fifth day following the Bond Closing Date, the Customer shall have no liability for expenses incurred in the preparation and publication of an amendment or supplement to the Official Statement. For the purposes of this Section

2(b), the Customer will furnish such information with respect to itself as the Underwriter reasonably may from time to time request.

3. Indemnification. (a) The Customer shall indemnify and hold harmless NYPA, the Underwriter, each of their respective members, officers and employees and each person who controls an Underwriter within the meaning of Section 15 of the Securities Act of 1933, as amended (such Act being herein called the "Securities Act" and any of the foregoing being herein called an "Indemnified Party"), against any and all losses, claims, damages or liabilities, joint or several, to which they or any of them may become subject under any statute or at law or in equity or otherwise, and shall reimburse any such Indemnified Party for any reasonable legal or other expenses incurred by it in connection with investigating any claims against it and defending any actions, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon (i) an allegation or determination that the Customer took action or failed to take action or failed to qualify for an exemption and as a result, the Energy Efficiency Bonds should have been registered under the Securities Act or the Resolutions should have been qualified under the Trust Indenture Act of 1939, as amended, or (ii) any statement or information relating to the Customer in Appendix ___ of the Official Statement or any amendment thereof or supplement thereto or in the Preliminary Official Statement, that is (or is alleged to be) untrue, incorrect or misleading in any material respect or the omission (or alleged omission) there from of any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that (A) the Customer will not be liable for the amount of any settlement of any claim or action made without its prior written consent and (B) the foregoing indemnity agreement with respect to any Preliminary Official Statement shall not inure to the benefit of the Underwriter (or member, officer, employee or agent thereof or any person controlling such Underwriter) from whom the person asserting any such losses, claims, damages or liabilities purchased Energy Efficiency Bonds if a copy of the Official Statement (as then amended or supplemented if the Customer shall have furnished any amendments or supplements thereto) was not sent or given by or on behalf of such Underwriter to such person at or prior to delivery of Energy Efficiency Bonds to such person, and if the Official Statement (as so amended or supplemented) would have cured the alleged defect giving rise to such loss, claim, damage or liability. This indemnity agreement shall not be construed as a limitation on any other liability which the Customer may otherwise have to any Indemnified Party, provided that in no event shall the Customer be obligated for double indemnification.

(b) An Indemnified Party shall, promptly after the receipt of notice of the commencement of any action against such Indemnified Party in respect of which indemnification will be sought against the Customer under this Section 3, notify the Customer in writing of the commencement thereof. Failure of the Indemnified Party to give such notice will reduce the liability of the Customer by the amount of damages attributable to the failure of the Indemnified Party to give such notice to the Customer, but the failure to notify the Customer of any such claim or action shall not relieve the Customer from any liability that it may have to such Indemnified Party otherwise than under the indemnity agreement contained in this Section 3. In case any such action shall be brought against an Indemnified Party and such Indemnified Party shall notify the Customer of the commencement thereof, the Customer may, or if so requested by such Indemnified Party shall, participate therein or assume the defense thereof, with counsel satisfactory to such Indemnified Party and after notice from the Customer to such Indemnified Party of an election so to assume the defense thereof and approval of counsel by the Indemnified Party the Customer will not be liable to such Indemnified Party under this Section 3 for any legal or other expenses subsequently incurred by such Indemnified Party in connection with the defense thereof other than reasonable costs of investigation; provided, however, that unless and until the Customer assumes the defense of any such action, the Customer shall have the right to participate at its own expense in the defense of any such action. If the Customer shall not have employed counsel, satisfactory to the Indemnified Party, to have charge of the defense of any such action within a reasonable time after notice of commencement of such action, or if an Indemnified Party shall have reasonably concluded that there

may be defenses available to it and/or any other Indemnified Party that are different from or additional to those available to the Customer (in which case the Customer shall not have the right to direct the defense of such action on behalf of such Indemnified Party), legal and other expenses, including the expenses of separate counsel, incurred by such Indemnified Party shall be borne by the Customer.

(c) (i) The Underwriter agree to indemnify and hold harmless the Customer and each of its officers, employees and agents (such person being herein called an "Indemnatee") against any and all claims, causes of action, damages, liabilities, amounts paid in settlement of litigation, losses or expenses whatsoever incurred by it in connection with investigating any claims against it and defending any actions, insofar as such losses, claims, damages, liabilities (or actions in respect thereof), arise out of or are based upon any statement or information contained under the caption "Underwriting" in the Preliminary Official Statement or the Official Statement or any amendment thereof or supplement thereto and that is (or is alleged to be) untrue, incorrect or misleading in any material respect, or the omission (or alleged omission) of any material fact necessary in order to make the statements therein (under said caption), in the light of the circumstances under which they were made, not misleading.

(ii) An Indemnatee shall, promptly after the receipt of notice of commencement of any action against such Indemnatee in respect of which indemnification will be sought against the Underwriter under this Section 3(c), notify the Underwriter in writing of the commencement thereof. Failure of the Indemnatee to give notice will reduce the liability of the Underwriter by the amount of damages attributable to the failure of the Indemnatee to give such notice to the Underwriter, but the omission to notify the Underwriter of any such claim or action shall not relieve the Underwriter from any liability that they may have to such Indemnatee otherwise than under the indemnity agreement contained in this Section 3(c). In case any such action shall be brought against an Indemnatee and such Indemnatee shall notify the Underwriter of the commencement thereof: the Underwriter may, or if so requested by such Indemnatee shall participate therein or assume the defense thereof, with counsel satisfactory to such Indemnatee and after notice from the Underwriter to such Indemnatee of an election so to assume the defense thereof and approval of counsel by the Indemnatee the Underwriter will not be liable to such Indemnatee under this Section 3(c) for any legal or other expenses subsequently incurred by such Indemnatee in connection with the defense thereof other than reasonable costs of investigation; provided, however, that unless and until the Underwriter assume the defense of any such action at the request of such Indemnatee, the Underwriter shall have the right to participate at their own expense in the defense of any such action. If the Underwriter shall not have employed counsel, satisfactory to the Indemnatee, to have charge of the defense of any such action within a reasonable time after notice of commencement of such action, or if an Indemnatee shall have reasonably concluded that there may be defenses available to it and/or any other Indemnatee that are different from or additional to those available to the Underwriter (in which case the Underwriter shall not have the right to direct the defense of such action on behalf of such Indemnatee), legal and other expenses, including the expenses of separate counsel, incurred by such Indemnatee shall be borne by the Underwriter.

(d) In order to provide for just and equitable contribution in circumstances in which the indemnification provided for in subsections (a) or (c) of this Section 3 is due in accordance with its terms but is for any reason held by a court to be unavailable from the Customer or the Underwriter on grounds of policy or otherwise, the Customer and the Underwriter shall contribute to the aggregate losses, claims, damages and liabilities (including legal or other expenses reasonably incurred in connection with investigating or defending same) to which the Customer and one or more of the Underwriters may be subject in such proportion so that the Underwriters are responsible for that portion represented by the percentage that the underwriting discount bears to the initial offering prices set forth on the cover of the Official Statement and the Customer is responsible for the balance; provided, however, that (i) in no case shall any Underwriter (except as may be provided in the Agreement Among Underwriters relating to the offering and sale of the Energy Efficiency Bonds) be responsible for any amount in excess of the

underwriting discount applicable to the Energy Efficiency Bonds purchased by such Underwriter and (ii) no person guilty of fraudulent misrepresentation within the meaning of Section 11(f) of the Securities Act shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 3, each person who controls an Underwriter within the meaning of Section 15 of the Securities Act shall have the same rights as such Underwriter. Any party entitled to contribution shall, promptly after receipt of notice of any claim or commencement of any action, suit or proceeding against such party in respect of which a claim for contribution may be made against another party or parties under this Section 3(d), notify such party or parties from whom contribution may be sought, but the omission so to notify such party or parties shall not relieve the party or parties from whom contribution may be sought from any other obligation it or they may have hereunder or otherwise than under this Section 3(d).

4. Notices. Any notice or other communication to be given to NYPA or the Underwriter under the Letter of Representation may be given by delivering the same in writing to the respective addresses set forth in the Bond Purchase Agreement; and any notice or other communication to be given to the Customer under the Letter of Representation may be given by delivering the same in writing to the addresses set forth in the Long Term Financing Supplement.

5. Parties in Interest; Survival of Representations, Warranties and Indemnities, Payment of Expenses. (a) The Letter of Representation is made solely for the benefit of NYPA, the Underwriter, the Customer (including their respective successors or assigns) and, to the extent set forth herein, persons to be indemnified pursuant to Section 3 of the Letter of Representation (including their respective personal representatives, successors and assigns), and no other person, partnership, association or corporation shall acquire or have any right under or by virtue hereof.

(b) All the representations, warranties and indemnities made by the Customer in the Letter of Representation shall remain operative and in full force and effect and shall survive the date of the Closing (as defined in the Bond Purchase Agreement), regardless of (i) any investigations made by or on behalf of the Underwriter, NYPA or any other person to be indemnified pursuant to Section 3 hereof, (ii) delivery of and payment for the Energy Efficiency Bonds and (iii) any termination of the Bond Purchase Agreement.

6. Miscellaneous. The headings of the sections of the Letter of Representation are inserted for convenience only and shall not be deemed to be a part hereof.

No recourse under or upon any obligation, covenant or agreement contained in the Letter of Representation shall be had against any officers or board of trustees of the Customer or the Underwriter, as individuals. In the event of a conflict between the Long Term Financing Supplement and the Letter of Representation, the Long Term Financing Supplement shall be controlling. The Letter of Representation shall be governed by and construed in accordance with the laws of the State of New York.

[remainder of page left intentionally blank]

If the foregoing is in accordance with your understanding of the agreement among us, please sign and return to each of us the enclosed duplicates of the Letter of Representation, whereupon this will constitute a binding agreement among us in accordance with the terms hereof. NYPA and the Underwriter may execute their respective acceptances hereof in counterparts.

Very truly yours,

[CUSTOMER]

By: _____

Title: _____

[acceptance of NYPA and Underwriter on following page]

The foregoing is hereby accepted as of the date of the Bond Purchase Agreement.

**POWER AUTHORITY OF
THE STATE OF NEW YORK**

By: _____

Title: Authorized Officer

[UNDERWRITER]

By: _____

Title: _____

**CUSTOMER, JOB AND PROJECT INFORMATION
INITIAL AMORITIZATION AND SIGNATURES**

Date: ____ - ____ -2__

“Job Number(s)”: [Insert Project Job Number]

“Project(s)”: [Insert Project Description]

“Customer”:

Agency _____

Contact _____

Contact Telephone No. _____

“Facility(ies)”:

Name _____

Address _____

Contact _____

Contact Telephone No. _____

Authority Account No.

DEFINED TERMS

[**“Additional Customer Closing Documents”** shall mean _____.]

“Bond Trustee” shall mean _____.

“Continuing Disclosure Agreement” shall mean _____.

“Customer Basic Documents”: This Long Term Financing Supplement, the Energy Service Projects Public/Private Use Questionnaire, [Insert name and date of Initial CIC and Final CIC relating to the Project, the applicable Master Cost Recovery Agreement and/or Energy Services Program Agreement, and any corporate resolution of the Customer authorizing the execution of the Long Term Financing Supplement].

“Energy Efficiency Bonds” shall mean the Energy Efficiency Project Revenue Bonds, Series 20__.

“Energy Service Projects Public/Private Use Questionnaire” shall mean the Energy Services Project Public/Private Use Questionnaire delivered by the Customer simultaneously with the execution of this Long Term Financing Supplement.

“Maximum Rate” shall mean ten percent (10%).

“Repayment Obligation” shall have the same meaning as set forth in [insert name and date of the applicable Master Cost Recovery Agreement and/or Energy Services Program Agreement].

“Termination Date” shall mean _____ 2021.

[remainder of page left intentionally blank]

Initial Prepayment Terms:

(1) *Optional Prepayment in Whole or in Part.* [Insert standard make-whole prepayment provision for initial 10 year term of loan and standard prepayment at par after 10 years.]

(2) *Casualty or Condemnation Prepayment.* In the event of damage, destruction or condemnation of the Project that is not fully repaired or replaced pursuant to Section E (vi) of the Long Term Financing Supplement, Customer shall prepay its obligations under the Long Term Financing Supplement (and provide NYPA with written notice of the prepayment date, which prepayment date shall be the earlier of the next Payment Date or sixty (60) days after the casualty or condemnation event), and on such prepayment date, Customer shall pay in full to NYPA or its assigns: (A) in the event such prepayment occurs on a Payment Date, the sum of (i) all the Long Term Payment Obligations then due *plus* (ii) all other amounts then owing under the Long Term Financing Supplement OR, (B) in the event such prepayment occurs on a date other than a Payment Date, the sum of (i) the Outstanding Balance as of the Payment Date immediately preceding the applicable date of such prepayment *plus* (ii) accrued interest at the Contract Rate (or the Taxable Rate if then in effect) on the Outstanding Balance as of the Payment Date immediately preceding the applicable date of such prepayment from such Payment Date (or if the date of such prepayment occurs prior to the first Payment Date, the Commencement Date) to the date of such prepayment *plus* (iii) all other amounts then owing under the Long Term Financing Supplement.

[authorizations of NYPA and Customer on following page]

Authorizations

Signatures in the spaces below signify that the parties have reviewed and agree to this Long Term Financing Supplement including the Appendices hereto as presented to them by NYPA.

Authorized CUSTOMER Representative:

[Customer Name]

Signature _____

[DATE]

Name _____

Title _____

Date _____

Authorized NYPA Representative:

POWER AUTHORITY OF THE STATE OF
NEW YORK

Signature _____

[DATE]

Name Christina Reynolds

Title Treasurer

Date _____

This Long Term Financing Supplement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument; provided, that only Counterpart No. 1 of this Long Term Financing Supplement shall constitute chattel paper for purposes of the applicable Uniform Commercial Code.

This Long Term Financing Supplement dated _____ to the Final Customer Installation Commitment is being entered into by NYPA and the above Customer pursuant to the terms of the [Master Cost Recovery Agreement and/or Energy Services Program Agreement and/or Construction and Construction-Related Energy Efficiency Services Program Agreement, effective _____, as amended and supplemented] (the “Agreement”) in order to provide the Customer with Long Term Financing of the Customer’s Repayment Obligation under the Final Customer Installation Commitment dated _____. The terms of the Agreement are incorporated into this Long Term Financing Supplement by reference. In the event of a conflict or inconsistency between this Long Term Financing Supplement and the Agreement or the Final Customer Installation Commitment, this Long Term Financing Supplement shall govern.

NOTICE OF FINAL AMORTIZATION

delivered by the Power Authority of the State of New York (“NYPA”)

relating to

Long Term Financing Supplement

dated _____, 2021 between

NYPA

and

_____ (“Customer”)

Job Number(s) _____

1. This Notice of Final Amortization is being delivered pursuant to the Long Term Financing Supplement referred to above (the “**Long Term Financing Supplement**”). All capitalized terms used but not defined herein shall have the respective meanings set forth in the Long Term Financing Supplement.

2. The terms of the Long Term Financing, in addition to those set forth in the Long Term Financing Supplement are as set forth below (including Schedule A attached hereto). The Financed Amount, Annual Interest Rate, Number of Payments, Repayment Start Date, Repayment End Date, Monthly Payment, Payment No., Payment Date, Outstanding Principal Balance, Payment, Principal, Interest, Remaining Balance and payment instructions with respect to the Long Term Financing are as set forth in the Schedule A Final Amortization.

3. The Long Term Financing shall be subject to prepayment, as follows:

(1) Optional Prepayment in Whole or in Part. [make-whole prepayment provision for initial 10 year term of loan and standard prepayment at par after 10 years.]

(2) Casualty or Condemnation Prepayment. In the event of damage, destruction or condemnation of the Project that is not fully repaired or replaced pursuant to Section E (vi) of the Long Term Financing Supplement, Customer shall prepay its obligations under the Long Term Financing Supplement (and provide NYPA with written notice of the prepayment date, which prepayment date shall be the earlier of the next Payment Date or sixty (60) days after the casualty or condemnation event), and on such prepayment date, Customer shall pay in full to NYPA or its assigns: (A) in the event such prepayment occurs on a Payment Date, the sum of (i) all the Long Term Payment Obligations then due plus (ii) all other amounts then owing under the Long Term Financing Supplement OR, (B) in the event such prepayment occurs on a date other than a Payment Date, the sum of (i) the Outstanding Balance as of the Payment Date immediately preceding the applicable date of such prepayment plus (ii) accrued interest at the Contract Rate (or the Taxable Rate if then in effect) on the Outstanding Balance as of the Payment Date immediately preceding the applicable date of such prepayment from such Payment Date (or if the date of such prepayment occurs prior to the first Payment Date, the Commencement Date) to the date of such prepayment plus (iii) all other amounts then owing under the Long Term Financing Supplement.

Pursuant to Section C (v) of the Long Term Financing Supplement the Customer shall pay all costs and expenses of NYPA in effecting the redemption of any Energy Efficiency Bonds that are redeemed due to the prepayment of the Long Term Financing by the Customer (including interest accruing on the Energy Efficiency Bonds to the date of redemption of the Energy Efficiency Bonds).

4. The Customer's share of costs and expenses specified in Section C (iv) of the Long Term Financing Supplement shall be \$ _____ and shall be utilized for the payment of the following costs of issuance: underwriters' discount, bond insurance premium (if any), State bond issuance charge, NYPA fees, financial advisor fee, NYPA bond counsel fee, including preparation of transcripts, Customer counsel fee, printing of Preliminary Official Statement and Final Official Statement, verification charges (if any), rating agency fees and trustee and bank fees.

5. The Contract Rate is _____ percentum (____%) per annum.

6. The Taxable Rate is _____ percentum (____%) per annum.

7. The Default Rate _____ percentum (____%) per annum.

8. The Financed Amount is \$ _____.

**POWER AUTHORITY OF
THE STATE OF NEW YORK
SUPPLEMENTAL RESOLUTION 2021-1**

Authorizing Up To

\$250,000,000

ENERGY EFFICIENCY REVENUE BONDS

Adopted [____], 2021

SUPPLEMENTAL RESOLUTION 2021-1

AUTHORIZING UP TO

\$250,000,000

ENERGY EFFICIENCY PROGRAM BONDS

WHEREAS, the Power Authority of the State of New York (the “Authority”) duly adopted on [____], 2021 its Master Energy Efficiency Program Revenue Bond Resolution; and

WHEREAS, the Master Resolution authorizes the issuance by the Authority, from time to time, of its revenue bonds, in one or more series, for the authorized purposes of the Authority; and

WHEREAS, the Master Resolution provides that bonds of the Authority shall be authorized and issued pursuant to a Supplemental Resolution or Supplemental Resolutions (as therein defined); and

WHEREAS, each such Series of Bonds is to be separately secured from each other Series of Bonds; and

WHEREAS, the Authority deems it necessary and in keeping with its purposes to issue under the Master Resolution and this Supplemental Resolution 2021-1, the Series of Bonds herein authorized for the purpose of (i) providing proceeds of the Series 2021-1 Bonds to the Public Entities to finance or refinance Costs of the Projects, (ii) paying the Costs of Issuance of the Series 2021-1 Bonds, (iii) reimbursing Public Entities for funds expended on Projects, (iv) establishing certain reserves with respect to the Series 2021-1 Bonds, (v) paying capitalized interest, if any with respect to the Series 2021-1 Bonds and (vi) doing any combination thereof.

BE IT RESOLVED by the Power Authority of the State of New York, as follows:

ARTICLE I – Definitions and Statutory Authority

SECTION 1.01. Definitions.

(1) All terms which are defined in Section 1.01 of the Master Resolution shall have the same meanings, respectively, in this Supplemental Resolution 2021-1 as such terms are given in said Section 1.01 of the Master Resolution.

(2) In addition, as used in this Supplemental Resolution 2021-1, unless the context shall otherwise require, the following terms shall have the following respective meanings:

“Authority Fee” means a fee payable to the Authority in an amount set forth in each Final CIC.

“Bond Year” means, except as otherwise provided in the applicable Bond Series Certificate, a period of twelve (12) successive months beginning January 1 in any calendar year and ending on December 31 of the succeeding calendar year.

“Fiscal Year” means the fiscal year of each Public Entity commencing _____ 1 of each calendar year.

“Project” or “Projects” means any Energy-related project programs and services as described in Section 1005 17.(b)(2) of the Act as the same may be amended;

“Public Entity” or “Public Entities” means, individually and collectively, a public entity, as defined in the Act, duly organized and existing under the laws of the State of New York that has entered into a CIC with the Authority.

“Refunded Bonds” means all or any portion of a Series of Bonds issued pursuant to the Master Resolution, as determined by an Authorized Officer of the Authority pursuant to Section 2.03 hereof.

“Series 2021-1 Bonds” means the Bonds of one or more Series or subseries authorized to be issued pursuant to the Master Resolution and this Supplemental Resolution 2021-1 in the aggregate principal amount not to exceed \$250,000,000.

“Supplemental Resolution 2021-1” means this Supplemental Resolution 2021-1.

“Series 2021-1 Arbitrage Rebate Fund” means the fund so designated and established pursuant to Section 4.01 hereof.

“Series 2021-1 Cost of Issuance Account” means the account so designated and established pursuant to Section 4.01 hereof.

“Series 2021-1 Debt Service Fund” means the fund so designated and established pursuant to Section 4.01 hereof.

“Series 2021-1 Debt Service Reserve Fund” means the fund so designated and established pursuant to Section 4.01 hereof.

“Series 2021-1 Debt Service Reserve Fund Requirement” means at the time of calculation thereof during any period that the Series 2021-1 Bonds remain Outstanding, the lesser of (i) the maximum annual debt service on the Series 2021-1 Bonds, (ii) one-hundred twenty five percent (125%) of the Authority’s average annual debt service on the Series 2021-1 Bonds, or (iii) ten percent (10%) of the proceeds of the Series 2021-1 Bonds

“Series 2021-1 Liquidity Reserve Fund” means the fund so designated and established pursuant to Section 4.01 hereof.

“Series 2021-1 Liquidity Reserve Fund Requirement” means [TBD]

“Series 2021-1 Project Account” means the account so designated and established pursuant to Section 4.01 hereof.

“Series 2021-1 Project Fund” means the fund so designated and established pursuant to Section 4.01 hereof.

SECTION 1.02. Supplemental Resolution 2021-1. This Supplemental Resolution 2021-1 Authorizing Up To \$250,000,000 Energy Efficiency Revenue Bonds constitutes a Supplemental Resolution within the meaning of, and is adopted in accordance with Article IX of, the resolution adopted by the Authority on [____], 2021, entitled “Master Energy Efficiency Program Revenue Bond Resolution”, Adopted [____], 2021, A RESOLUTION AUTHORIZING THE ISSUANCE BY THE POWER AUTHORITY OF SERIES OF ENERGY EFFICIENCY REVENUE BONDS; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SUCH BONDS; AND PROVIDING FOR THE RIGHTS OF THE HOLDERS THEREOF, and referred to herein as the “Master Resolution”.

SECTION 1.03. Authority for Supplemental Resolution 2021-1. This Supplemental Resolution 2021-1 is adopted pursuant to the provisions of the Act and the Master Resolution.

ARTICLE II – Authorization, Terms and Issuance of Series 2021-1 Bonds

SECTION 2.01. Authorization of Series 2021-1 Bonds, Principal Amount, Designation and Series. One or more Series or subseries of Bonds entitled to the benefit, protection and security of the Master Resolution are hereby authorized to be issued on one or more dates in an aggregate principal amount which shall not exceed \$250,000,000. Such Series of Bonds shall be designated as and shall be distinguished from the Bonds of all other Series by a designation assigned by an Authorized Officer, which designation shall include the year in which such Series of Bonds is issued and a letter reflecting the order in which such Series of Bonds is issued during such year pursuant to and subject to the terms, conditions and limitations established in the Master Resolution and this Supplemental Resolution 2021-1.

SECTION 2.02. Purposes. The Series 2021-1 Bonds are being issued for the purpose of (i) providing proceeds of the Series 2021-1 Bonds to the Public Entities to finance or refinance

Costs of the Projects, (ii) paying the Costs of Issuance of the Series 2021-1 Bonds, (iii) reimbursing Public Entities for funds expended on Projects, (iv) establishing certain reserves with respect to the Series 2021-1 Bonds, (iv) paying capitalized interest, if any with respect to the Series 2021-1 Bonds and (v) doing any combination thereof.

SECTION 2.03. Delegation of Authority. There is hereby delegated to any Authorized Officer of the Authority, subject to the limitations contained herein and in the Master Resolution, the power with respect to each Series or subseries of the Series 2021-1 Bonds to determine and carry out the following:

(a) The sale of the Series 2021-1 Bonds at a public or private sale or direct placement, including the purchase price to be paid by the purchasers thereof; the approval of the terms of and publication of one or more official statements describing the Series 2021-1 Bonds; and the publication of a notice of sale or execution of a contract or contracts of purchase at public or private sale or pursuant to a direct placement on behalf of the Authority;

(b) The principal amount of Series 2021-1 Bonds to be issued, and whether the Series 2021-1 Bonds will be issued in one or more Series at one or more times and the principal amount and designations of each such Series, and whether such Series shall be sold separately or together with other Series of Bonds and whether any such Series 2021-1 Bonds shall be consolidated into a single Series with any other Series of Bonds authorized to be issued under the Master Resolution and any Supplemental Resolution authorized pursuant thereto, and whether the Series 2021-1 Bonds of any Series shall be issued in subseries, the number of subseries and the principal amount and designations of each subseries;; provided, however, that the aggregate principal amount of Series 2021-1 Bonds to be issued shall not exceed \$250,000,000;

(c) In connection with each issue of Series 2021-1 Bonds, the date or dates, maturity date or dates and principal amount of each maturity of the Series 2021-1 Bonds, the amount and date of each Sinking Fund Installment, if any, and which Series 2021-1 Bonds are Serial Bonds or Term Bonds, if any; provided that no Series 2021-1 Bond shall mature later than thirty years from its date of issuance;

(d) The interest rate or rates of the Series 2021-1 Bonds, the Interest Payment Dates for the Series 2021-1 Bonds, the date from which interest on the Series 2021-1 Bonds shall accrue and the first interest payment date therefore; provided that the true interest cost (as determined by an Authorized Officer of the Authority, which determination shall be conclusive) on the Series 2021-1 Bonds shall not exceed five percent (5%) per annum;

(f) The denomination or denominations of and the manner of numbering and lettering of the Series 2021-1 Bonds;

(g) The Trustee for the Series 2021-1 Bonds, in accordance with Section 8.01 of the Master Resolution;

(h) The Paying Agent or Paying Agents for the Series 2021-1 Bonds and, subject to the provisions of Section 8.02 of the Master Resolution, the place or places of payment of the principal, Sinking Fund Installments, if any, Redemption Price of and interest on the

Series 2021-1 Bonds, provided, however, that such Paying Agent or Paying Agents may be appointed by resolution adopted prior to authentication and delivery of the Series 2021-1 Bonds in accordance with the provisions of Section 8.02 of the Master Resolution;

(i) The Redemption Price or Redemption Prices, if any, and, subject to Article IV of the Master Resolution, the redemption terms, if any, for the Series 2021-1 Bonds; provided, however, that the Redemption Price of any Series 2021-1 Bond subject to redemption at the election of the Authority or in accordance with the Master Resolution shall not be greater than one hundred three percent (103%) of the principal amount of the Series 2021-1 Bonds or portion thereof to be redeemed, plus accrued interest thereon to the date of redemption;

(j) Provisions for the sale or exchange of the Series 2021-1 Bonds and for the delivery thereof, to the extent not provided in the Master Resolution;

(k) The form of the Series 2021-1 Bonds, which are hereby authorized to be issued in the form of fully registered Bonds, and the form of the Trustee's certificate of authentication thereon;

(l) Establishment of and provisions with respect to funds and accounts and subaccounts therein, if applicable, and the Revenues and application thereof, as provided in Article V of the Master Resolution;

(m) The Public Entities with which the Authority shall enter into Long Term Financing Supplement with respect to the Series 2021-1 Bonds;

(n) The Allocable Portion of the principal amount of the Series 2021-1 Bonds, each maturity thereof, accrued interest thereon, the Costs of Issuance and the proceeds of the Series 2021-1 Bonds allocable to each Public Entity;

(o) Directions for the application of the proceeds of the Series 2021-1 Bonds;

(p) Whether to obtain a Credit Facility with respect to the Series 2021-1 Bonds and, if obtained, the rights, powers and privileges of the Facility Provider providing a Credit Facility for the Series 2021-1 Bonds;

(q) The amount of the Series 2021-1 Debt Service Reserve Fund Requirement and the amount of the Series 2021-1 Liquidity Reserve Fund Requirement;

(r) The series, maturity dates and specific principal amounts of the Refunded Bonds and the date or dates of redemption of the Refunded Bonds;

(s) Whether the tax covenants in Section 7.14 of the Master Resolution are applicable to the Series 2021-1 Bonds, and additional tax covenants applicable to the Series 2021-1 Bonds, if any; and

(t) Any other provisions deemed advisable by an Authorized Officer of the Authority, not in conflict with the provisions hereof or of the Master Resolution.

Such Authorized Officer shall execute one or more Bond Series Certificates evidencing determinations or other actions taken pursuant to the authority granted herein or in the Master Resolution, and any such Bond Series Certificate shall be conclusive evidence of the action or determination of such Authorized Officer as to the matters stated therein.

ARTICLE III – Execution and Authentication of the Series 2021-1 Bonds

SECTION 3.01. Execution and Authentication of Series 2021-1 Bonds. Pursuant to the provisions of Section 3.04 of the Master Resolution, the Chairman, Vice Chairman or other Authorized Officer of the Authority is hereby authorized and directed to execute by manual or facsimile signature the Series 2021-1 Bonds in the name of the Authority and the corporate seal (or a facsimile thereof) shall be thereunto affixed, imprinted, engraved or otherwise reproduced thereon. The Secretary, an Assistant Secretary or other Authorized Officer of the Authority is hereby authorized and directed to attest by manual or facsimile signature the execution of the Series 2021-1 Bonds.

The Trustee is hereby authorized to authenticate by manual or facsimile signature the Series 2021-1 Bonds, and deliver the same to or upon the order of the Authority, in such amounts and at such times as the Trustee shall be directed in writing by an Authorized Officer of the Authority.

SECTION 3.02. No Recourse on Series 2021-1 Bonds. No recourse shall be had for the payment of the principal, Sinking Fund Installments or Redemption Price of or interest on the Series 2021-1 Bonds or for any claim based thereon, on the Master Resolution or on this Supplemental Resolution 2021-1 against any member, officer or employee of the Authority or any person executing the Series 2021-1 Bonds and neither the members of the Authority nor any other person executing the Series 2021-1 Bonds of the Authority shall be subject to any personal liability or accountability by reason of the issuance thereof, all such liability being expressly waived and released by every Holder of Series 2021-1 Bonds by the acceptance thereof.

ARTICLE IV – Establishment of Funds; Application of Proceeds

SECTION 4.01. Establishment of Funds. The following funds and accounts shall be established, held, maintained and applied by the Trustee in accordance with Article V of the Master Resolution, except as provided in this Supplemental Resolution 2021-1. Each such fund and account shall be designated with the same designation as the Series 2021-1 Bonds.

- (a) Series 2021-1 Project Fund within which there is created the following accounts;
 - (i) Series 2021-1 Cost of Issuance Account; and
 - (ii) Series 2021-1 Project Account;
- (b) Series 2021-1 Debt Service Fund;
- (c) Series 2021-1 Arbitrage Rebate Fund;

- (d) Series 2021-1 Debt Service Reserve Fund; and
- (e) Series 2021-1 Liquidity Reserve Fund.

SECTION 4.02. Application of Proceeds and Deposit of Moneys. The Trustee shall apply the proceeds of the sale of the Series 2021-1 Bonds as follows: (a) the amount representing accrued interest, if any, on the Series 2021-1 Bonds from the date thereof to the date of delivery thereof, shall be deposited in the Series 2021-1 Debt Service Fund, (b) the amount representing the Costs of Issuance shall be deposited in the Series 2021-1 Costs of Issuance Account, (c) the amount representing the Series 2021-1 Debt Service Reserve Requirement shall be deposited into the Series 2021-1 Debt Service Reserve Fund and (d) the balance thereof shall be deposited in the Series 2021-1 Project Account for transfer upon the direction of an Authorized Officer of the Authority. The Authority shall deposit with the Trustee Authority Surplus Revenues in an amount equal to the Series 2021-1 Liquidity Reserve Fund Requirement and the Trustees shall deposit such amount into the Series 2021-1 Liquidity Reserve Fund.

SECTION 4.03. Application of Moneys in the Series 2021-1 Project Account. Proceeds of the Series 2021-1 Bonds deposited in the Series 2021-1 Costs of Issuance Account shall be applied to the payment of legal, administrative, financing and incidental expenses of the Authority and the Public Entities relating to the Series 2021-1 Bonds, including the payment to the Authority of the Authority Fee. The remainder of the proceeds of the Series 2021-1 Bonds shall be deposited in the Series 2021-1 Project Account and shall be transferred in accordance with the Applicable Long Term Financing Supplements to separate accounts of the respective Public Entities for application to the financing or refinancing of the Applicable Projects in accordance with the written instructions of an Authorized Officer of the Authority and approved by an Authorized Officer of the respective Public Entities.

SECTION 4.04. Application of Moneys in the Series 2021-1 Debt Service Reserve Fund. (a) Moneys and securities held for credit in the Series 2021-1 Debt Service Reserve Fund shall be transferred by the Trustee to the Series 2021-1 Debt Service Fund if a deficiency exists in the Series 2021-1 Debt Service Fund on the Business Day prior to any Interest Payment Date with respect to interest, principal or Sinking Fund Installments becoming due on Series 2021-1 Bonds in an amount which, together with the amount then on deposit in the Series 2021-1 Debt Service Fund, will result in the Series 2021-1 Debt Service Fund having the balance required to be on deposit therein in order to pay interest, principal or Sinking Fund Installment to become due and payable on such Interest Payment Date. Amounts on the Series 2021 Debt Service Reserve Fund shall be applied prior to the application of any amounts held in the Series 2021 Liquidity Reserve Fund.

(b) Whenever the Trustee shall determine that the moneys and securities in the Series 2021-1 Debt Service Reserve Fund will be equal to or in excess of the Redemption Price of all of the Outstanding Series 2021-1 Bonds plus accrued interest to the Redemption Date, the Trustee shall use and apply the amounts on deposit in the Series 2021-1 Debt Service Reserve Fund to the redemption of all Outstanding Series 2021-1 Bonds on the first date thereafter that such Series 2021-1 Bonds are subject to optional redemption.

(c) Any income or interest earned by, or increment to, the Series 2021-1 Debt Service Reserve Fund shall be transferred, by the Trustee and deposited to the Series 2021-1 Debt Service Fund, and the Public Entity's payment obligations under the Applicable Long Term Financing Supplements shall be adjusted accordingly.

SECTION 4.05. Application of Moneys in the Series 2021-1 Liquidity Reserve Fund. (a) Moneys and securities held for credit in the Series 2021-1 Liquidity Reserve Fund shall after application of all amounts held under the Series 2021-1 Debt Service Reserve Fund pursuant to Section 4.04 above, be transferred by the Trustee to the Series 2021-1 Debt Service Fund if a deficiency exists in the Series 2021-1 Debt Service Fund on the Business Day prior to any Interest Payment Date with respect interest, principal or Sinking Fund Installments becoming due on Series 2021-1 Bonds in an amount which, together with the amount then on deposit in the Series 2021-1 Debt Service Fund, will result in the Series 2021-1 Debt Service Fund having the balance required to be on deposit therein in order to pay interest, principal or Sinking Fund Installment to become due and payable on such Interest Payment Date.

(b) Any income or interest earned by, or increment to, the Series 2021-1 Liquidity Reserve Fund shall be transferred on a monthly basis by the Trustee to the Authority.

(c) Any amounts remaining in the Series 2021-1 Liquidity Reserve Fund after the payment in full of the Series 2021-1 Bonds shall be paid to the Authority.

SECTION 4.06. Allocation of Revenues. Except as otherwise provided in the Applicable Bond Series Certificate, all moneys paid to the Trustee under each Financing Agreement shall be applied in accordance with the Master Resolution.

[SECTION 4.07. SEQRA Covenant. The Authority hereby covenants not to expend any proceeds of the Series 2021-1 Bonds on the payment of the Cost of the Projects hereby authorized unless and until the requirements of the State Environmental Quality Review Act have been complied with.]

ARTICLE V – Approval of Form and Authorization to Execute and Deliver the Documents

SECTION 5.01. Approval and Execution of Purchase Contract. The form of purchase contract (including any purchase contract with respect to a direct placement) by and between the Authority and such underwriters as an Authorized Officer of the Authority shall approve, as submitted to this meeting is approved. An Authorized Officer of the Authority is hereby authorized and directed to determine the terms and purchase price of the Series 2021-1 Bonds within the limitations set forth in the Resolution authorizing the issuance of the Series 2021-1 Bonds and to execute and deliver one or more purchase contracts with such changes, insertions and omissions as may be approved by said Authorized Officer, said execution being conclusive evidence of such approval.

SECTION 5.02. Approval and Distribution of Preliminary Official Statement, Sale of Bonds. The draft Preliminary Official Statement in the form presented to this meeting is approved. The distribution in connection with the sale of any Series of Series 2021-1 Bonds of

the proof of one or more Preliminary Official Statements by an Authorized Officer of the Authority, with such changes, insertions and omissions in such proof or proofs of the draft Preliminary Official Statements as the Authorized Officer distributing the same shall approve, said distribution being conclusive evidence of such approval, is hereby authorized. Any Authorized Officer of the Authority is also authorized to sell the Series 2021-1 Bonds at a negotiated sale and is further authorized and directed to make any publication of one or more notices and to make such distribution to prospective purchasers of all documents as he shall deem necessary or desirable to effect a sale of the Series 2021-1 Bonds.

SECTION 5.03. Execution and Delivery of Official Statement. Any Authorized Officer of the Authority is also authorized to execute and deliver, on behalf of the Authority, one or more final Official Statements relating to the Series 2021-1 Bonds to be dated as of the date of the sale of the Series 2021-1 Bonds with such changes, insertions and omissions to the Preliminary Official Statement as may be approved by said Authorized Officer, said execution being conclusive evidence of such approval, and any amendments or supplements thereto which may be necessary or desirable. After execution, any Authorized Officer of the Authority is hereby authorized to deliver to the purchasers of the Series 2021-1 Bonds an executed copy or copies of such Official Statements and any amendments or supplements thereto.

SECTION 5.04. Execution of Continuing Disclosure Agreements. Any Authorized Officer of the Authority is hereby authorized and directed to execute and deliver a Continuing Disclosure Agreement with each Public Entity, in such form as may be approved by said Authorized Officer, said execution being conclusive evidence of such approval.

SECTION 5.05. Execution and Delivery of Documents Necessary for Sale. Any Authorized Officer of the Authority is hereby authorized and directed to execute and deliver any and all documents and instruments, necessary for the sale of the Series 2021-1 Bonds and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Supplemental Resolution 2021-1.

ARTICLE VI – Miscellaneous

SECTION 6.01. Notices. All notices, consents and approvals required to be given or authorized to be given pursuant to a CIC shall be in writing and shall be sent by registered or certified mail to the addresses shown below:

(a) As to each of the Public Entities at the address set forth in the Long Term Financing Supplement to which it is a party.

(b) As to the Trustee at the address set forth in the Bond Series Certificate.

(c) As to the Authority:

Power Authority of the State of New York
123 Main Street, 5th Floor
White Plains, New York 10601
Attention: _____

(d) As to the Credit Facility Provider, if any, at the address set forth in the Bond Series Certificate.

SECTION 6.02. When Effective. This Supplemental Resolution 2021-1 shall become effective immediately upon its adoption; provided, however, that if, prior to the issuance of the Series 2021-1 Bonds, the Trustee shall receive from or at the direction of the Authority a security deposit in connection with the sale of the Series 2021-1 Bonds or any other funds related to the Series 2021-1 Bonds, then the Trustee's appointment in connection with the Series 2021-1 Bonds shall be deemed to have occurred concurrently with such receipt and all provisions of the Resolution and this Supplemental Resolution 2021-1 relating to the Trustee's duties, obligations and standard of care shall apply as of such date.

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PRELIMINARY OFFICIAL STATEMENT DATED [____], 2021

NEW ISSUE-BOOK-ENTRY ONLY

(See “Ratings” herein)

In the opinions of Katten Muchin Rosenman LLP and _____, Co-Bond Counsel to the Authority, under existing law, and assuming compliance with certain covenants described herein, and the accuracy and completeness of certain representations, certifications of fact and statements of reasonable expectations made by the Authority, the Public Entities and others, interest on the Series 2021 Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”). Co-Bond Counsel are further of the opinion that interest on the Series 2021 Bonds is not an item of tax preference for purposes of the alternative minimum tax imposed under the Code. Co-Bond Counsel are also of the opinion that, under existing statutes, interest on the Series 2021 Bonds is exempt from personal income taxes imposed by the State or any political subdivision thereof (including The City of New York). See “Part 10 – TAX MATTERS” herein.

\$[_____]”

POWER AUTHORITY OF THE STATE OF NEW YORK ENERGY EFFICIENCY REVENUE BONDS SERIES 2021

Dated: Date of Delivery

Due: As shown on the inside cover

The Power Authority of the State of New York (the “Authority”), a corporate municipal instrumentality and political subdivision of the State of New York (the “State”) is issuing its Energy Efficiency Revenue Bonds, Series 2021 (the “Series 2021 Bonds”), to finance certain projects (“Projects”) consisting of energy efficiency projects and services, clean energy technology projects and services and high performance and sustainable building programs and services including the construction, installation and operation of facilities or equipment in connection with the foregoing. The Projects have been undertaken by the Authority for the benefit of certain public entities described in Appendix B hereto, which, with respect to the Series 2021 Bonds, include certain operating agencies of the Metropolitan Transportation Authority (“MTA”), including MTA New York City Transit, Long Island Rail Road and Metro-North Railroad; New York City Health and Hospitals Corporation; State University of New York at Stony Brook; and City University of New York (collectively, the “Public Entities”) pursuant to certain Customer Installation Commitments (“CICs”) between the Authority and the Public Entities. Under each of the CICs, the Authority has provided interim financing to the Public Entities to finance the Projects, and the Public Entities are required to reimburse the Authority for such interim financing. In conjunction with the issuance of the Series 2021 Bonds, and in order to provide long term financing for the Projects, each of the Authority and the Public Entities have supplemented each of the respective CICs pursuant to a Long Term Financing Supplement (the “Long Term Financing Supplement”) between the Authority and the Public Entities. The proceeds of the Series 2021 Bonds will be applied in part to provide the Public Entities with long term financing for the Projects and to reimburse interim financing provided by the Authority.

Payments made by each Public Entity under its respective Long Term Financing Supplement (“Payments”) are scheduled to be sufficient to repay, when due, the principal and redemption price of and interest on the Series 2021 Bonds. Each Public Entity is also required under its respective Long Term Financing Supplement to pay such amounts as are required to be paid under such Long Term Financing Supplement, including the fees and expenses of the Authority and the Trustee.

The Series 2021 Bonds are payable solely from and secured by the Payments to be made by the Public Entities under the applicable Long Term Financing Supplements and all funds and accounts in respect of the Series 2021 Bonds (except the Arbitrage Rebate Fund) authorized under the Authority’s Master Energy Efficiency Program Revenue Bond Resolution adopted _____, 2021 (the “Master Resolution”), and established by the Authority’s Supplemental Resolution 2021-1, adopted _____ authorizing such Series (the “Supplemental Resolution 2021-1”). The Master Resolution and the Supplemental Resolution 2021-1 are herein collectively referred to as the “Resolutions.” None of the funds and accounts established to secure a Series of Bonds shall secure, or be otherwise available to make payments in respect of, any other Series of Bonds. The Series 2021 Bonds shall be secured by a debt service reserve fund, and no real or personal property of any Public Entity secures the Series 2021 Bonds.

The financing of the Projects under the Resolutions will be undertaken by the Authority as a Separately Financed Project, as described herein, as permitted under the Authority’s General Resolution Authorizing Revenue Obligations, dated February 24, 1998, as amended and supplemented (the “General Resolution”) and the Series 2021 Bonds are not payable from nor secured by revenues pledged directly or indirectly under the Authority’s General Resolution.

The obligation of each Public Entity to make payments under its respective Long Term Financing Supplement shall be deemed executory only to the extent of the monies appropriated and available for such purpose, and no liability on account therefor shall be incurred beyond the amount of such monies. The obligation of a Public Entity to pay amounts under the Long Term Financing Supplement does not constitute a debt or general obligation of the Public Entity. It is understood that neither the Long Term Financing Supplement nor any representation by any public employee or officer of a Public Entity creates any legal or moral obligation to appropriate or make available monies for the purpose of the Long Term Financing Supplement.

The Series 2021 Bonds will not be a debt of the State nor will the State be liable thereon. The Authority has no taxing power.

The Authority has designated the Series 2021 Bonds as “Green Bonds” due to the environmental benefits of the projects financed with the Series 2021 Bonds. The Authority has engaged Sustainalytics to provide a Green Bond certification for the Series 2021 Bonds, as the Authority anticipates the Series 2021 Bonds proceeds will meet certain defined uses that it expects to be eligible for a Green Bond certification. See “PART 5 – POTENTIAL DESIGNATION OF THE SERIES 2021 BONDS AS GREEN BONDS” and “Appendix G – Framework Overview and Second Opinion by Sustainalytics.”

No Public Entity is obligated to make payments on behalf of any other Public Entity. A default by any Public Entity under its respective Long Term Financing Supplement could cause a default on the Series 2021 Bonds secured by such Long Term Financing Supplement. See “PART 2 – SOURCES OF PAYMENT AND SECURITY FOR THE SERIES 2021 BONDS.”

The Series 2021 Bonds will be issued as fully registered bonds in denominations of \$5,000 or any integral multiple thereof. Interest on the Series 2021 Bonds, due each _____ 1 and _____ 1, commencing _____ 1, 2022, will be payable by check or draft mailed to the registered owners of the Series 2021 Bonds at their addresses as shown on the registration books held by the Trustee or, at the option of a registered owner of at least \$1,000,000 in principal amount of the Series 2021 Bonds, by wire transfer to the wire transfer address within the continental United States to which the registered owner has instructed the Trustee to make such payment at least five (5) days prior to the fifteenth (15th) day of the month next preceding an interest payment date. The principal and Redemption

* Preliminary, subject to change.

Price of the Series 2021 Bonds will be payable at the principal corporate trust office of [_____], the Trustee and Paying Agent or, with respect to Redemption Price, at the option of a registered owner of at least \$1,000,000 in principal amount of the Series 2021 Bonds, by wire transfer to the owner of such Series 2021 Bonds, as more fully described herein.

The Series 2021 Bonds will be issued initially under a Book-Entry Only System, registered in the name of Cede & Co., as nominee for The Depository Trust Company (“DTC”). Individual purchases of beneficial interests in the Series 2021 Bonds will be made in Book-Entry form without certificates. So long as DTC or its nominee is the registered owner of the Series 2021 Bonds, payments of the principal of and interest on such Series 2021 Bonds will be made directly to DTC or its nominee. Disbursement of such payments to DTC participants is the responsibility of DTC and disbursement of such payments to the beneficial owners is the responsibility of DTC participants. See “PART 3 – THE SERIES 2021 BONDS – Book-Entry Only System” herein.

The Series 2021 Bonds are subject to redemption prior to maturity as more fully described herein.

The Series 2021 Bonds are offered when, as and if issued and received by the Underwriters. The offer of the Series 2021 Bonds may be subject to prior sale or may be withdrawn or modified at any time without notice. The offer is subject to the approval of legality by Katten Muchin Rosenman LLP, New York, New York, and _____, each Co-Bond Counsel to the Authority, and to certain other conditions. Certain legal matters will be passed upon for the Authority by its General Counsel. Certain legal matters will be passed upon for the Underwriters by their counsel, Orrick Herrington & Sutcliffe LLP, New York, New York. The Authority expects to deliver the Series 2021 Bonds in New York, New York, on or about _____, 2021.

Goldman Sachs & Co. LLC

_____, 2021

\$[_____]*

**POWER AUTHORITY OF THE STATE OF NEW YORK
ENERGY EFFICIENCY REVENUE BONDS
SERIES 2021**

Due <u>1,</u>	<u>Amount</u>	Interest <u>Rate</u>	<u>Yield</u>	<u>CUSIP⁽¹⁾</u>	Due <u>1,</u>	<u>Amount</u>	Interest <u>Rate</u>	<u>Yield</u>	<u>CUSIP⁽¹⁾</u>

\$ _____ % Term Bonds due _____ 1, 20____, Yield: ____% CUSIP⁽¹⁾ _____

* Preliminary, subject to change.
⁽¹⁾ Copyright, American Bankers Association (“ABA”). CUSIP is a registered trademark of the ABA. CUSIP data herein are provided by CUSIP Global Services, which is managed on behalf of the ABA by S&P Global Market Intelligence, a division of S&P Global Inc. CUSIP numbers have been assigned by an independent company not affiliated with the Authority and are included solely for the convenience of the holders of the Series 2021 Bonds. The Authority is not responsible for the selection or uses of these CUSIP numbers, and no representation is made as to their correctness on the Series 2021 Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part of the Series 2021 Bonds.

No dealer, broker, salesperson or other person has been authorized by the Authority to give any information or to make any representations, other than as contained in this Official Statement, and, if given or made, such other information or representations must not be relied upon as having been authorized by the Authority. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Series 2021 Bonds by any person, in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale.

The information set forth herein has been furnished by the Authority and includes information obtained from other sources, all of which are believed to be reliable. The information and expressions of opinion contained herein are subject to change without notice and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the Authority since the date hereof. Such information and expressions of opinion are made for the purpose of providing information to prospective investors and are not to be used for any other purpose or relied on by any other party.

The statements contained in this Official Statement that are not purely historical are forward-looking statements. Such forward-looking statements can be identified, in some cases, by terminology such as “may,” “will,” “should,” “expects,” “intends,” “plans,” “anticipates,” “believes,” “estimates,” “predicts,” “potential,” “illustrate,” “example,” and “continue,” or other comparable terms. Readers should not place undue reliance on forward-looking statements. All forward-looking statements included in this Official Statement are based on information available to the Authority on the date hereof, and the Authority assumes no obligation to update any such forward-looking statements. The forward-looking statements included herein are necessarily based on various assumptions and estimates and are inherently subject to various risks and uncertainties, including, but not limited to, risks and uncertainties relating to the possible invalidity of the underlying assumptions and estimates and possible changes or developments in various important factors. Accordingly, actual business and financial results may vary from the projections, forecasts and estimates contained in this Official Statement and such variations may be material.

The Authority maintains a website and certain social media accounts. The Authority’s websites and social media accounts are not part of this Official Statement and should not be relied upon in making an investment decision with respect to the Series 2021 Bonds, and are not part of this Official Statement for purposes of, and as that term is defined in, Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended and in effect on the date hereof (“Rule 15c2-12”). References to website addresses presented herein are for informational purposes only and may be in the form of a hyperlink solely for the reader's convenience. Unless specified otherwise, such websites and the information or links contained therein are not incorporated into, and are not part of, this Official Statement for purposes of, and as that term is defined in, Rule 15c2-12.

In connection with the offering of the Series 2021 Bonds, the Underwriters may over allot or effect transactions which stabilize or maintain the market price of such bonds at levels above those which might otherwise prevail in the open market. Such stabilization or maintenance, if commenced, may be discontinued at any time.

THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

THIS OFFICIAL STATEMENT CONSISTS OF THE COVER PAGE, THE INSIDE COVER PAGE, THE TABLE OF CONTENTS, THE SUMMARY, THE APPENDICES AND ALL OF THE INFORMATION SPECIFICALLY INCORPORATED BY REFERENCE IN THE FOREGOING. THIS OFFICIAL STATEMENT IS DATED [____], 2021 AND RELATES TO THE SERIES 2021 BONDS (AND ONLY SUCH BONDS). THE OFFICIAL STATEMENT MUST BE READ IN ITS ENTIRETY.

The Underwriters have provided the following sentence for inclusion in this Official Statement: The Underwriters have reviewed the information in this Official Statement in accordance with, and as part of, their respective responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriters do not guarantee the accuracy or completeness of such information.

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SUMMARY

The following summary does not purport to be complete and is qualified in its entirety by, and should be read in conjunction with, the more detailed information appearing elsewhere in this Official Statement and any supplement or amendment hereto. Capitalized terms used in this Summary and not defined herein have the meanings given to such terms elsewhere in this Official Statement.

Issuer Power Authority of the State of New York (the “Authority”) is a corporate municipal instrumentality and political subdivision of the State of New York (the “State”). The Authority generates, transmits, purchases and sells electric power and energy as authorized by law. The Authority’s customers include municipal and rural electric cooperatives located throughout the State, local governments, investor-owned utilities, high load factor industrial customers, commercial/industrial and not-for-profit businesses, and various public corporations located within the metropolitan area of The City of New York (the “City”) and certain neighboring states.

The Series 2021 Bonds The Energy Efficiency Revenue Bonds, Series 2021 (the “Series 2021 Bonds”) are being offered in the principal amount per maturity and bearing the interest rates set forth on the inside cover page of this Official Statement.

The Series 2021 Bonds will be issued pursuant to the Authority’s Master Energy Efficiency Program Revenue Bond Resolution adopted [____], 2021 (the “Master Resolution”), and established by the Authority’s Supplemental Resolution 2021-1, adopted [____] authorizing such Series (the “Supplemental Resolution 2021-1”). The Master Resolution and the Supplemental Resolution 2021-1 are herein collectively referred to as the “Resolutions.”

Denominations The Series 2021 Bonds are issuable in the denominations of \$5,000 or any integral multiple thereof.

Interest Payment Dates Interest on the Series 2021 Bonds is due each [____] 1 and [____] 1, commencing [____] 1, 2022.

Redemption The Series 2021 Bonds are subject to optional and mandatory redemption or tender prior to maturity on the dates and at the redemption prices described herein under the caption “PART 3 – THE SERIES 2021 BONDS – Redemption Provisions.”

Security for the Series 2021

Bonds The Series 2021 Bonds are payable solely from and secured by the payments (“Payments”) made by certain public entities in the State, which, with respect to the Series 2021 Bonds, include certain operating agencies of the Metropolitan Transportation Authority (“MTA”), including MTA New York City Transit, Long Island Rail Road and Metro-North Railroad; New York City Health and Hospitals Corporation; State University of New York at Stony Brook; and City University of New York (collectively, the “Public Entities”), as described in Appendix B hereto, pursuant to certain Customer Installation Commitments (“CICs”) between the Authority and the Public Entities, which CICs have been supplemented by Long Term Financing Supplements (each a “Long Term Financing Supplement”) between the Authority and the Public Entities and all funds and accounts in respect of the Series 2021 Bonds (except the Arbitrage Rebate Fund) authorized under the Resolutions. None of the funds and accounts established to secure a Series of Bonds shall secure, or be otherwise available to make payments in respect of, any other Series of Bonds. No real or personal property of any Public Entity secures the Series 2021 Bonds.

The projects to be financed with the proceeds of the Series 2021 Bonds constitute Separately Financed Projects (herein defined) and Series 2021 Bonds are not payable from nor secured by revenues pledged directly or

indirectly under the Authority’s General Resolution (herein defined). Holders of the Series 2021 Bonds will not have any rights to nor be secured by any Authority revenue pledged to the payment of obligations issued under the Authority’s General Resolution.

See “PART 2 – SOURCES OF PAYMENT AND SECURITY FOR THE SERIES 2021 BONDS.”

Plan of Finance The proceeds of the Series 2021 Bonds will be used to provide to the Public Entities long-term financing for certain projects (“Projects”), consisting of energy efficiency projects and services, clean energy technology projects and services and high performance and sustainable building programs and services including the construction, installation and operation of facilities or equipment in connection with the foregoing, and to refinance outstanding interim financing provided by the Authority to the Public Entities to finance such Projects. See “PART 6 – PLAN OF FINANCE.”

Additional Indebtedness The Master Resolution authorizes the issuance of other Series of Bonds to provide long-term financing to public entities in the State (including the Public Entities) for energy efficiency projects and services, clean energy technology projects and services and high performance and sustainable building programs and services, including the construction, installation and operation of facilities or equipment in connection with the foregoing. In addition, the Master Resolution authorizes the issuance of other Series of Bonds to refund Outstanding Bonds issued under the Master Resolution. Each Series of Bonds issued under the Master Resolution will be separately secured by the payment of the Applicable Revenues, the proceeds from the sale of such Series of Bonds and all funds and accounts (with the exception of the Arbitrage Rebate Fund) authorized by the Applicable Supplemental Resolution for such Series of Bonds.

Registration of the Series 2021 Bonds The Series 2021 Bonds will be issuable as fully registered bonds in the name of Cede & Co., as nominee of The Depository Trust Company (“DTC”). No person acquiring an interest in the Series 2021 Bonds (a “Beneficial Owner”) will be entitled to receive a Series 2021 Bond in certificated form (a “Definitive Obligation”), except under the limited circumstances described in this Official Statement in “PART 3 – THE SERIES 2021 BONDS – Book-Entry Only System.” All references to actions by Bondholders will refer to actions taken by DTC, upon instructions from DTC Participants, and all references herein to distributions, notices, reports and statements to Bondholders shall refer to distributions, notices, reports and statements, respectively, to DTC or Cede & Co., as the registered owner of the Series 2021 Bonds, or to DTC Participants for distribution to Beneficial Owners in accordance with DTC procedures.

Tax Considerations..... In the opinions of Co-Bond Counsel to the Authority, under existing statutes and court decisions and assuming continuing compliance with certain tax covenants described herein, (i) interest on the Series 2021 Bonds is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), and (ii) interest on the Series 2021 Bonds is not treated as a preference item in calculating the alternative minimum tax under the Code. See “PART 10 – TAX MATTERS.”

In addition, in the opinions of Co-Bond Counsel, under existing statutes, interest on the Series 2021 Bonds is exempt from personal income taxes imposed by the State or any political subdivision thereof (including the City). See “PART 10 – TAX MATTERS.”

Trustee..... [_____].

Authority’s Financial Advisor.. [PFM Financial Advisors LLC]. See “PART 16 – FINANCIAL ADVISOR.”

Ratings..... [Moody’s Investors Service, Inc., S&P Global Ratings, a division of Standard & Poor’s Financial Services, LLC, and Fitch Ratings] have assigned ratings of “[]”, “[]”, and “[]”, respectively, to the Series 2021 Bonds. See “PART 14 – RATINGS.”

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OFFICIAL STATEMENT
of the
POWER AUTHORITY OF THE STATE OF NEW YORK

\$[_____] ^{*}

ENERGY EFFICIENCY REVENUE BONDS
SERIES 2021

This Official Statement provides certain information concerning the Power Authority of the State of New York (the “Authority”) in connection with the issuance of the Authority’s Energy Efficiency Revenue Bonds, Series 2021 (the “Series 2021 Bonds”). The Series 2021 Bonds are authorized to be issued pursuant to the Power Authority Act of the State of New York, Title 1 of Article 5 of the Public Authorities Law, Chapter 43-A of the Consolidated Laws of the State of New York, as amended from time to time (the “Act”), and the Authority’s Master Energy Efficiency Program Revenue Bond Resolution adopted on [____], 2021 (the “Master Resolution”), and established by the Authority’s Supplemental Resolution 2021-1, adopted on [____], 2021, authorizing such Series (the “Supplemental Resolution 2021-1”). The Master Resolution and the Supplemental Resolution 2021-1 are herein collectively referred to as the “Resolutions.” All words and terms which are defined in the Master Resolution are used herein as so defined.

PART 1 – INTRODUCTION

The Authority is a corporate municipal instrumentality and political subdivision of the State of New York (the “State”) created in 1931 by the Act, and has its principal office located at 30 South Pearl Street, Albany, New York 12207-3425. The mission of the Authority is to power the economic growth and competitiveness of the State by providing customers with low-cost, clean, reliable power and the innovative energy infrastructure and services they value. The Authority generates, transmits, purchases and sells electric power and energy as authorized by law. The Authority’s customers include municipal and rural electric cooperatives located throughout the State, local governments, investor-owned utilities, high load factor industrial customers, commercial/industrial and not-for-profit businesses, and various public corporations located within the metropolitan area of The City of New York (the “City”), including the City, and certain neighboring states.

Pursuant to the Act and the Authority’s General Resolution Authorizing Revenue Obligations, dated February 24, 1998, as amended and supplemented (the “General Resolution”), the Authority may issue bonds, notes, or other obligations or evidences of indebtedness, payable and secured by revenues, rates, fees, charges, rents, proceeds from the sale of Authority assets, insurance proceeds, and other income and receipts, as derived in cash by or for the account of the Authority directly or indirectly from any of the Authority’s operations, including but not limited to the ownership or operation of any project, facility, system, equipment, or material related to or necessary or desirable in connection with the generation, production, transportation, distribution, transmission, delivery, storage, conservation, purchase or use of energy or fuel, whether owned jointly or singly by the Authority, including any output in which the Authority has an interest, heretofore or hereafter authorized by the Act or by other applicable State statutory provisions (collectively, “General Resolution Revenue”). Such General Resolution Revenue excludes any such income or receipts attributable directly or indirectly to the ownership or operation of any project financed from other available funds (a “Separately Financed Project”), which Separately Financed Projects may be financed under a bond resolution separate from the General Resolution. The Authority is financing the Projects (as defined below), which comprise Clean Energy Solutions (“CES”) projects, as “Separately Financed Projects” and is authorizing the issuance of the Series 2021 Bonds under a separate bond resolution, the Master Resolution. Accordingly, the Series 2021 Bonds are not payable from nor secured by General Resolution Revenue. **Holders of the Series 2021 Bonds will not have any rights to nor be secured by any Authority revenue pledged to the payment of obligations issued under the Authority’s General Resolution.**

^{*} Preliminary, subject to change.

The Authority, through its CES programs, provides customers, including the Public Entities (defined below) with wide-ranging on-site energy solutions including energy data analytics, planning, operations and the development and implementation of capital projects such as energy efficiency, distributed generation, advanced technologies and renewables. See “PART 4 – AUTHORITY CLEAN ENERGY SOLUTIONS”.

The Series 2021 Bonds are being issued and the proceeds thereof will be used to finance certain projects (“Projects”) consisting of energy efficiency projects and services, clean energy technology projects and services and high performance and sustainable building programs and services including the construction, installation and operation of facilities or equipment in connection with the foregoing. The Projects have been undertaken by the Authority for the benefit of certain public entities in the State, which, with respect to the Series 2021 Bonds, include certain operating agencies of the Metropolitan Transportation Authority (“MTA”), including MTA New York City Transit, Long Island Rail Road and Metro-North Railroad; New York City Health and Hospitals Corporation; State University of New York at Stony Brook; and City University of New York (collectively, the “Public Entities”), as described in Appendix B hereto, pursuant to certain Customer Installation Commitments (“CICs”) between the Authority and the Public Entities. Under each of the CICs, the Authority has provided interim financing to the Public Entities to finance the Projects, and the Public Entities are required to reimburse the Authority for such interim financing. In conjunction with the issuance of the Series 2021 Bonds, and in order to provide long term financing for the Projects, each of the Authority and the Public Entities have supplemented each of the respective CICs pursuant to an applicable Long Term Financing Supplement (collectively, the “Long Term Financing Supplements”) between the Authority and the Public Entities. The proceeds of the Series 2021 Bonds will be applied in part to provide the Public Entities with long term financing for the Projects and to reimburse interim financing provided by the Authority. See “PART 7 – ESTIMATED SOURCES AND USES OF FUNDS.”

The Public Entities are located in different areas of the State, present different energy needs and associated energy solutions, and have different economic, financial and indebtedness characteristics. See “PART 4 – CLEAN ENERGY SOLUTIONS,” “Appendix B – List of Public Entities, Projects and Allocable Portion of Bonds” and “Appendix C – Certain Financial and Economic Information and Continuing Disclosure Obligations Relating to the Public Entities.” Financial statements of each of the Public Entities and additional information regarding the Public Entities have been filed by the Public Entities with the Electronic Municipal Market Access (“EMMA”) system maintained by the Municipal Securities Rulemaking Board (“MSRB”). Such financial statements are incorporated herein by reference. See “Appendix C – Certain Financial and Economic Information and Continuing Disclosure Obligations Relating to the Public Entities.”

The Authority has designated the Series 2021 Bonds as “Green Bonds” due to the environmental benefits of the projects financed with the Series 2021 Bonds. The Authority has engaged Sustainalytics to provide a Green Bond certification for the Series 2021 Bonds, as the Authority anticipates the Series 2021 Bonds proceeds will meet certain defined uses that it expects to be eligible for a Green Bond certification. See “PART 5 – POTENTIAL DESIGNATION OF THE SERIES 2021 BONDS AS GREEN BONDS” and “Appendix G – Framework Overview and Second Opinion by Sustainalytics.”

The Series 2021 Bonds will be issued pursuant to the Master Resolution, the Supplemental Resolution 2021-1 and the Act. Each of the Public Entities has entered into a separate Long Term Financing Supplement with the Authority for the purpose of financing and/or refinancing its respective Projects from a portion of the proceeds of the Series 2021 Bonds. See “Appendix B – List of Public Entities, Projects and Allocable Portion of Bonds.”

PART 2 – SOURCES OF PAYMENT AND SECURITY FOR THE SERIES 2021 BONDS

Set forth below is a narrative description of certain contractual and statutory provisions relating to the sources of payment and security for the Bonds, including the Series 2021 Bonds, issued under the Master Resolution. These provisions have been summarized and this description does not purport to be complete. Reference should be made to the Act, the Master Resolution, the Supplemental Resolution 2021-1 and the Long Term Financing Supplements for a more complete description of such provisions. Copies of the Act, the Master Resolution, the Supplemental Resolution 2021-1 and each Long Term Financing Supplement are on file with the Authority and/or the Trustee. See also “Appendix D – Summary of Certain Provisions of the Long Term Financing Supplements” and “Appendix E – Summary of Certain Provisions of the Master Resolution” for a more complete statement of the rights, duties and obligations of the parties thereto.

Payment of the Series 2021 Bonds

The Series 2021 Bonds will be special obligations of the Authority. The principal and Redemption Price of and interest on the Series 2021 Bonds are payable solely from the payments paid by the Public Entities under the Long Term Financing Supplements (“Payments”). The Payments and the right to receive them in respect of the Series 2021 Bonds have been pledged to the Trustee for the payment of such Series 2021 Bonds. Each Long Term Financing Supplement also requires the Public Entities to pay certain fees and expenses of the Authority.

Payments in respect of the Series 2021 Bonds are to be paid by each Public Entity on the dates and in the amounts specified in each Long Term Financing Supplement, which payment dates are [not less than fifteen (15) days prior to the dates on which principal and interest are next due on such Series 2021 Bonds] [to be confirmed] and which amounts in the aggregate are scheduled to be sufficient to pay principal of and interest on such Series 2021 Bonds.

No Public Entity will be responsible for the payment obligations of any other Public Entity nor will the Payments paid by a particular Public Entity be available to satisfy the obligation of any other Public Entity. A failure to pay an amount when due by a single Public Entity under its Long Term Financing Supplement in respect of the Series 2021 Bonds may result in a default on the Series 2021 Bonds secured by such Long Term Financing Supplement. If a Public Entity fails to pay amounts due under its Long Term Financing Supplement, the Authority’s sole recourse will be against the defaulting Public Entity and no other, non-defaulting Public Entity. Further, upon the occurrence of an event of default, neither the Authority, the Trustee nor the Holders of the Series 2021 Bonds of such Series will have the right to accelerate the obligation of the defaulting Public Entity under its Long Term Financing Supplement.

The Master Resolution also provides that the Authority may issue more than one Series of Bonds to finance or refinance the interim financing provided by the Authority to a particular Public Entity to finance the applicable Project of such Public Entity.

Security for the Series 2021 Bonds

The Series 2021 Bonds will be secured by the pledge and assignment to the Trustee of all Payments payable by all Public Entities under their Long Term Finance Supplements in respect of such Series 2021 Bonds and all funds and accounts authorized by the Master Resolution and established by the Supplemental Resolution 2021-1 in respect of such Series 2021 Bonds (with the exception of the Arbitrage Rebate Fund)[; provided however, that certain earnings on amounts held in the Debt Service Fund will be released to the applicable Public Entity.][To be confirmed] The Series 2021 Bonds are not secured by any interest in any real property (including the public entity capital facilities and public entity capital equipment financed or refinanced by a Series of Bonds) of any Public Entity. Pursuant to the terms of the Master Resolution, the funds and accounts established by a Supplemental Resolution in respect of a Series of Bonds secure only the Bonds of such Series and do not secure any other Series of Bonds issued under the Master Resolution. See “– Additional Bonds and Other Indebtedness” below.

Payments under the Long Term Financing Supplement. Each Public Entity will, pursuant to its Long Term Financing Supplement, be obligated to pay amounts to the Authority equal to the Payments. Payments are not conditioned upon the performance, availability or operating status of the Projects. Each of the Projects is fully complete and have been accepted by each of the Public Entities. The obligation of each Public Entity to make Payments under its respective Long Term Financing Supplement shall be deemed executory only to the extent of the monies appropriated and available for such purpose, and no liability on account therefor shall be incurred beyond the amount of such monies. The obligation of each Public Entity to make Payments under its respective Long Term Financing Supplement is not conditioned upon the performance of the Project, availability or operating status.

The Authority has covenanted for the benefit of the Holders of the Series 2021 Bonds that it will not create or cause to be created any lien or charge upon the Payments, the proceeds of such Series 2021 Bonds or the funds or accounts established under the Supplemental Resolution 2021-1 for such Series 2021 Bonds which is prior or equal to the pledge made by the Master Resolution for such Series 2021 Bonds, except for the Payments payable by any Public Entity for which the Authority may in the future issue more than one Series of Bonds to finance or refinance the interim financing provided by the Authority to such Public Entity, which will secure all such Series of Bonds on a parity basis. See “– Additional Bonds and Other Indebtedness” below.

Debt Service Reserve Funds. [To be determined]

Liquidity Reserve Fund. [To be determined]

Additional Bonds and Other Indebtedness

The Master Resolution authorizes the issuance of multiple Series of Bonds to provide long-term financing to public entities in the State (including the Public Entities) for energy efficiency projects and services, clean energy technology projects and services and high performance and sustainable building programs and services, including the construction, installation and operation of facilities or equipment in connection with the foregoing. In addition, the Master Resolution authorizes the issuance of other Series of Bonds to refund Outstanding Bonds issued under the Master Resolution.

Each Series of Bonds is to be separately secured by (i) the funds and accounts (with the exception of the Applicable Arbitrage Rebate Fund) established for such Series pursuant to a supplemental resolution relating to such Series (the “Applicable Supplemental Resolution”) and (ii) certain amounts payable to the Authority on account of a public entity pursuant to the Applicable Long Term Financing Supplement (the “Applicable Revenues”). No public entity will be responsible for the payment obligations of any other public entity nor will the payments made by a public entity be available to satisfy the obligations of any other public entity. None of the funds and accounts established under the Applicable Supplemental Resolution or the payment of the Applicable Revenues to secure a Series of Bonds shall secure any other Series of Bonds. However, if more than one Series of Bonds has been or will be issued to finance or refinance projects for a particular public entity, the Payments assigned by such public entity will be pledged to secure all such Series of Bonds on a parity basis.

General

The financing of the Projects under the Master Resolution will be undertaken by the Authority as Separately Financed Projects, as permitted under the General Resolution. The Series 2021 Bonds are not payable from nor secured by General Resolution Revenue.

The Authority has no taxing power, and its obligations are not debts of the State or of any political subdivision of the State, including the Authority. The Series 2021 Bonds will not constitute a pledge of the faith and credit of the State or of any political subdivision thereof, including the Authority. The issuance of the Series 2021 Bonds will not obligate the State or any of its political subdivisions to levy or pledge the receipts from any form of taxation for the payment of the Series 2021 Bonds.

For a description of other provisions of the General Resolution related to the security for Bonds, including the Series 2021 Bonds, see “Appendix E – Summary of Certain Provisions of the Master Resolution.”

PART 3 – THE SERIES 2021 BONDS

Description of the Series 2021 Bonds

The Series 2021 Bonds will be dated their date of delivery and will bear interest at the rates and mature at the times set forth on the inside cover page of this Official Statement. Interest on the Series 2021 Bonds is due each [] 1 and [] 1, commencing [] 1, 2022.

The Series 2021 Bonds will be issued as fully registered bonds. The Series 2021 Bonds will be issued in denominations of \$5,000 or any integral multiple thereof. The Series 2021 Bonds will be registered in the name of Cede & Co., as nominee of DTC, pursuant to DTC’s Book-Entry Only System. Purchases of beneficial interests in the Series 2021 Bonds will be made in book-entry form, without certificates. If at any time the Book-Entry Only System is discontinued for the Series 2021 Bonds, the Series 2021 Bonds will be exchangeable for other fully registered Series 2021 Bonds in any other authorized denominations of the same maturity without charge except the payment of any tax, fee or other governmental charge to be paid with respect to such exchange, subject to the conditions and restrictions set forth in the Master Resolution. See “– Book-Entry Only System” and “Appendix E – Summary of Certain Provisions of the Master Resolution.”

Interest on the Series 2021 Bonds will be payable by check or draft mailed to the registered owners thereof at the address thereof as it appears on the registration books held by the Trustee, or, at the option of a registered owner of at least \$1,000,000 in principal amount of the Series 2021 Bonds by wire transfer to the wire transfer address within the continental United States to which the registered owner has instructed the Trustee to make such payment at least five (5) days prior to the fifteenth (15th) day of the month next preceding an interest payment date. The principal or Redemption Price of the Series 2021 Bonds will be payable in lawful money of the United States of America at the principal corporate trust office of [____], the Trustee and Paying Agent. As long as the Series 2021 Bonds are registered in the name of Cede & Co., as nominee of DTC, such payments will be made directly to DTC. See “– Book-Entry Only System” herein.

For a more complete description of the Series 2021 Bonds, see “Appendix E – Summary of Certain Provisions of the Master Resolution.”

Redemption Provisions

The Series 2021 Bonds are subject to optional and mandatory redemption as described below.

Optional Redemption

The Series 2021 Bonds maturing on or before [____], 20[____] are not subject to optional redemption prior to maturity. The Series 2021 Bonds maturing after [____], 20[____] are subject to redemption prior to maturity on or after [____], 20[____] in any order of maturity, at the option of the Authority, as a whole or in part at any time, at a Redemption Price of 100% of the principal amount of such Series 2021 Bonds or portions thereof to be redeemed, plus accrued interest to the redemption date.

Mandatory Redemption

The Series 2021 Bonds maturing on [____], 20[____] are subject to mandatory sinking fund redemption, in part, on each of the dates and in the respective principal amounts set forth below, at a Redemption Price of 100% of the principal amount thereof, plus accrued interest to the date of redemption, from mandatory Sinking Fund Installments which are required to be made in amounts sufficient to redeem the principal amounts of Series 2021 Bonds specified for each of the dates shown on the following page:

Series 2021 Term Bonds Maturing [____], 20[____]

<u>[____],</u>	<u>Sinking Fund Installment</u>
	\$

†

† Stated maturity.

Notice of Redemption

Whenever the Series 2021 Bonds are to be redeemed, the Trustee will give notice of the redemption of the Series 2021 Bonds in the name of the Authority. Such notice will be given by mailing a copy of such notice not less than thirty (30) days nor more than forty-five (45) days prior to the redemption date. Such notice will be sent by first class mail, postage prepaid, to the registered owners of the Series 2021 Bonds which are to be redeemed, at their last known addresses, if any, appearing on the registration books not more than ten (10) Business Days prior to the date such notice is given. Upon giving such notice, the Trustee will promptly certify to the Authority that it has mailed or caused to be mailed such notice to the registered owners of the Series 2021 Bonds to be redeemed in the manner provided in the Master Resolution. Such certificate will be conclusive evidence that such notice was given

in the manner required by the Master Resolution. The failure of any Holder of a Series 2021 Bond to be redeemed to receive such notice will not affect the validity of the proceedings for the redemption of the Series 2021 Bonds.

Any notice of redemption, unless moneys are received by the Trustee prior to giving such notice sufficient to pay the principal of and premium, if any, and interest on the Series 2021 Bonds to be redeemed, may state that such redemption is conditional upon the receipt of such moneys by the Trustee by 1:00 P.M. (New York time) on the date fixed for redemption. If such moneys are not so received said notice will be of no force and effect, the Authority will not redeem such Series 2021 Bonds and the Trustee will give notice, in the manner in which the notice of redemption was given, that such moneys were not so received.

Book-Entry Only System

The Depository Trust Company (“DTC”), New York, New York, will act as securities depository for the Series 2021 Bonds. The Series 2021 Bonds will be issued as fully-registered securities in the name of Cede & Co. (DTC’s partnership nominee), or such other name as may be requested by an authorized representative of DTC. One fully-registered Series 2021 Bond certificate will be issued for each maturity of the Series 2021 Bonds, each in the aggregate principal amount of such maturity of such Series, and will be deposited with DTC.

DTC, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has a Standard & Poor’s rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com.

Purchases of the Series 2021 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2021 Bonds on DTC’s records. The ownership interest of each actual purchaser of each Series 2021 Bond (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2021 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Series 2021 Bonds, except in the event that use of the book-entry system for the Series 2021 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2021 Bonds deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Series 2021 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2021 Bonds; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Series 2021 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to DTC. If less than all of the Series 2021 Bonds within a maturity are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Series 2021 Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Authority as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Series 2021 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, redemption premium, if any, and interest payments on the Series 2021 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Authority or the Trustee on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee or the Authority, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal, redemption premium, if any, and interest to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Authority or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

The Authority and the Trustee may treat DTC (or its nominee) as the sole and exclusive registered owner of the Series 2021 Bonds registered in its name for the purposes of payment of the principal and redemption premium, if any, of, or interest on, the Series 2021 Bonds, giving any notice permitted or required to be given to a registered owners under the Resolution, registering the transfer of the Series 2021 Bonds, or other action to be taken by registered owners and for all other purposes whatsoever. The Authority and the Trustee shall not have any responsibility or obligation to any Direct or Indirect Participant, any person claiming a beneficial ownership interest in the Series 2021 Bonds under or through DTC or any Direct or Indirect Participant, or any other person which is not shown on the registration books of the Authority (kept by the Trustee) as being a registered owner, with respect to the accuracy of any records maintained by DTC or any Direct or Indirect Participant; the payment by DTC or any Direct or Indirect Participant of any amount in respect of the principal, redemption premium, if any, or interest on the Series 2021 Bonds; any notice which is permitted or required to be given to registered owners thereunder or under the conditions to transfers or exchanges adopted by the Authority; or other action taken by DTC as registered owner. Interest, redemption premium, if any, and principal will be paid by the Trustee to DTC, or its nominee. Disbursement of such payments to the Direct or Indirect Participants is the responsibility of DTC and disbursement of such payments to the Beneficial Owners is the responsibility of the Direct or Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Series 2021 Bonds at any time by giving reasonable notice to the Authority and the Trustee. Under such circumstances, in the event that a successor depository is not obtained, the Series 2021 Bond certificates are required to be printed and delivered.

The Authority may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, the Series 2021 Bond certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Authority believes to be reliable, but the Authority takes no responsibility for the accuracy thereof.

Each person for whom a Participant acquires an interest in the Series 2021 Bonds, as nominee, may desire to make arrangements with such Participant to receive a credit balance in the records of such Participant, and may desire to make arrangements with such Participant to have all notices of redemption or other communications of

DTC, which may affect such persons, to be forwarded in writing by such Participant and to have notification made of all interest payments. NEITHER THE AUTHORITY NOR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO SUCH PARTICIPANTS OR THE PERSONS FOR WHOM THEY ACT AS NOMINEES WITH RESPECT TO THE SERIES 2021 BONDS.

So long as Cede & Co. is the registered owner of the Series 2021 Bonds, as nominee for DTC, references herein to the Bondholders or registered owners of the Series 2021 Bonds (other than under the caption “PART 10 – TAX MATTERS” herein) shall mean Cede & Co., as aforesaid, and shall not mean the Beneficial Owners of the Series 2021 Bonds.

When reference is made to any action which is required or permitted to be taken by the Beneficial Owners, such reference only relates to those permitted to act (by statute, regulation or otherwise) on behalf of such Beneficial Owners for such purposes. When notices are given, they will be sent by the Trustee to DTC only.

For every transfer and exchange of Series 2021 Bonds, the Beneficial Owner may be charged a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto.

NONE OF THE AUTHORITY, THE TRUSTEE OR THE UNDERWRITERS WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO DIRECT PARTICIPANTS, INDIRECT PARTICIPANTS OR ANY BENEFICIAL OWNER WITH RESPECT TO: (I) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC, ANY DIRECT PARTICIPANT OR ANY INDIRECT PARTICIPANT; (II) ANY NOTICE THAT IS PERMITTED OR REQUIRED TO BE GIVEN TO THE OWNERS OF THE SERIES 2021 BONDS UNDER THE RESOLUTIONS; (III) THE SELECTION BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY PERSON TO RECEIVE PAYMENT IN THE EVENT OF A PARTIAL REDEMPTION OF THE SERIES 2021 BONDS; (IV) THE PAYMENT BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY AMOUNT WITH RESPECT TO THE PRINCIPAL OR REDEMPTION PREMIUM, IF ANY, OR INTEREST DUE WITH RESPECT TO THE SERIES 2021 BONDS; (V) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS THE OWNER OF THE SERIES 2021 BONDS; OR (VI) ANY OTHER MATTER.

Principal and Interest Requirements

The following table sets forth the principal, the interest and the total debt service to be paid on the Series 2021 Bonds during each twelve-month period ending [] of the years shown.

12-Month Period

Ending [],	<u>Principal of the Series 2021 Bonds</u>	<u>Interest on the Series 2021 Bonds</u>	<u>Total Debt Service on the Series 2021 Bonds</u>
2022	\$	\$	\$
2023			
2024			
2025			
2026			
2027			
2028			
2029			
2030			
2031			
2032			
2033			
2034			
2035			
2036			
2037			
2038			
2039			
2040			

2041
2042
2043
2044
2045
2046
2047
2048
2049
2050

PART 4 – AUTHORITY CLEAN ENERGY SOLUTIONS

Statutory Provisions

Under the Act, the Authority is authorized to finance and design, develop, construct, implement, provide and administer energy-related projects, programs and services for any public entity, any independent not-for-profit institution of higher education within the state, and any recipient of the economic development power, expansion power, replacement power, preservation power, high load factor power, municipal distribution agency power, power for jobs, and recharge New York power programs administered by the authority. In establishing and providing high performance and sustainable building programs and services authorized by the Act, the Authority is authorized to consult standards, guidelines, rating systems, and/or criteria established or adopted by other organizations, including but not limited to the United States green building council under its leadership in energy and environmental design (LEED) programs, the green building initiative's green globes rating system, and the American National Standards Institute. The source of any financing and/or loans provided by the Authority may be the proceeds of notes or bonds of the Authority, or any other available Authority funds.

Under the Act, any public entity is authorized to enter into an energy services contract with the Authority for energy-related projects, programs and services that are authorized by the Act, provided that (i) the Authority issues and advertises written requests for proposals from third party providers of goods and services in accordance with the Authority's procurement policies, procedures and/or guidelines, and (ii) the Authority shall not contract with a third party provider of goods and services if such person is listed on a debarment list maintained and published in accordance with State law, as being ineligible to submit a bid on or be awarded any public contract or subcontract with the State, any municipal corporation or public body.

Any energy services contract entered into by the Authority with any public entity: (1) may have a term of up to thirty-five (35) years duration, provided, however, that the duration of any such contract shall not exceed the reasonably expected useful life of any facilities or equipment constructed, installed or operated as part of such energy-related projects, programs and services subject to such contract; and (2) shall contain the following clause: "This contract shall be deemed executory only to the extent of the monies appropriated and available for the purpose of the contract, and no liability on account therefor shall be incurred beyond the amount of such monies. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available monies for the purpose of the contract."

Clean Energy Solutions Programs

Pursuant to the Act, the Authority, through its Clean Energy Solutions ("CES") programs, provides customers with wide-ranging on-site energy solutions including energy data analytics, planning, operations and the development and implementation of capital projects such as energy efficiency, distributed generation, advanced technologies and renewables. The Authority was also responsible for implementation of the Governor's Executive Order No. 88, which was issued by Governor Cuomo on December 28, 2012 and successfully directed State agencies collectively to reduce energy consumption in state-owned and managed buildings by 20% by April, 2020. The Authority is also responsible for the Five Cities Energy Efficiency Implementation Plans (for the cities of Albany, Buffalo, Rochester, Syracuse and Yonkers to reduce overall energy costs and consumption, strengthen the reliability of energy infrastructure, create jobs in local clean energy industries and contribute to a cleaner environment), and the K-Solar program (to reduce energy costs of certain schools through the use of solar power). During the period from January 1, 2013 through December 31, 2019, the Authority has in aggregate provided

approximately \$651 million in financing for energy efficiency projects at State agencies and authorities covered by Executive Order No. 88.

The Authority currently implements energy services programs primarily aimed at two groups of entities, its Southeastern New York Governmental Customers and various other public entities throughout the State. The Authority is also authorized to: provide and finance energy services to eligible business customers and to issue bonds and notes for such purpose; provide energy services to public and non-public elementary and secondary schools and specified military establishments in the State; and supply certain market power and energy and renewable energy products to any Authority customer, public entity, or community choice aggregation (“CCA”) community in the State.

With respect to expenditures on CES in the next four years, the Authority has designated approximately \$[315] million in 2021, \$[325] million in 2022, \$333.1 million in 2023 and \$[] million in 2024. Except for certain limited costs, the Authority expects to recover its expenditures on these programs, including its financing costs, over periods not exceeding twenty-five years. Except as described below, such expenditures are generally recovered from the benefitted customer or entity, with customer repayments to [April 16, 2020 of approximately \$2.6 billion]. In addition, the Authority implements other energy services programs financed by other sources, such as the State and the City. The Authority’s energy services programs generally provide funding for, among other things, high efficiency lighting technology conversions, high efficiency heating, ventilating and air conditioning systems and controls, boiler conversions, replacement of inefficient refrigerators with energy efficient units in public housing projects, electric vehicles and charging stations, distributed generation technologies and clean energy technologies, and installation of non-electric energy saving measures. Participants in these programs include departments, agencies or other instrumentalities of the State, the Authority’s SENY Governmental Customers, certain public authorities, public school districts or boards and community colleges located throughout the State, county and municipal entities with facilities located throughout the State, certain notfor-profit entities, and the Authority’s municipal and rural electric cooperative customers.

The Authority is authorized to provide and finance energy services, including through the issuance of bonds for that purpose, and also may provide energy services to virtually all of its commercial and industrial customers and to independent not-for-profit institutions of higher education in the state. The Authority is also authorized to provide energy services to public and non-public elementary and secondary schools and specified military establishments in the State and to finance and administer programs to replace inefficient refrigerators with energy efficient units in certain public and private multiple dwelling buildings.

[As of December 31, 2019, the Authority had outstanding aggregate expenditures of \$842.8 million for these programs, comprised of approximately \$557.8 million in accounts receivable (including the principal balance of loans for projects in billing) and approximately \$284.9 million of construction work in progress, pending for billing. The Authority expects to spend an additional \$1.210 billion for these programs and projects over the period from 2020 to 2023.] [Figures to be confirmed/updated] As the range of energy solutions offered by the Authority to the Authority’s customers grows, the specific programs may change and the expenditures authorized for the programs may increase.

Series 2021 Projects

The Projects to be finance through the issuance of the Series 2021 Bonds are described in Appendix B attached hereto. Each of the Projects is fully complete and have been accepted by each of the Public Entities. Payments are not conditioned upon the performance, availability or operating status of the Projects. See “Appendix B – List of Public Entities, Projects and Allocable Portion of Bonds.”

[Consider adding an additional subheading describing contractual framework of the CES program, including general description of MCRAs, Initial CICs and Final CICs]

PART 5 – POTENTIAL DESIGNATION OF THE SERIES 2021 BONDS AS GREEN BONDS

The Authority has designated the Series 2021 Bonds as “Green Bonds” due to the environmental benefits of the projects financed with the Series 2021 Bonds.

The Authority believes that the proceeds of the Series 2021 Bonds will be used to finance capital projects that will directly assist in meeting the objectives of the New York State Climate Leadership and Community Protection Act, Chapter 106 of the Laws of 2019 (“Chapter 106”). Chapter 106 calls for the reduction of statewide greenhouse gas emissions (“GHG”) to 60% of 1990 levels by 2030 and 15% of 1990 levels by 2050. The Authority expects these projects will accelerate progress towards the State’s clean energy and climate goals, including the mandate to obtain 70% of the State’s electricity from renewable sources, as identified under Chapter 106. For more information on this legislation, see “PART – THE AUTHORITY – Legislation Affecting the Authority – *New York State Climate Leadership and Community Protection Act*.”

Use of Green Proceeds. The Authority has applied to Sustainalytics for a Green Bond certification for the Series 2021 Bonds, as the Authority anticipates the Series 2021 Bonds proceeds will meet certain defined uses that it expects to be eligible for a Green Bond certification. See “Appendix G – Framework Overview and Second Opinion by Sustainalytics” attached hereto. The Authority can provide no assurance that the certification will be approved. These defined uses may include expenditures for additions and improvements to certain of the Projects, including those described below:

- [Insert applicable projects]

Environmental Benefits. Based on the expected contribution of these projects towards the realization of the objectives of Chapter 106, and their critical importance to ensuring the overall resiliency and flexibility of the NYISO electric grid, the Authority has submitted an application for certification of the Series 2021 Bonds.

Green Bonds Designation. The term “Green Bonds” is not defined in nor related to the Master Resolution. The use of the term in this Official Statement is solely for identification purposes and is not intended to provide or imply that any owner of any Series 2021 Bond is entitled to any security other than as provided in the Master Resolution. The repayment obligation of the Authority with respect to the Series 2021 Bonds is not conditioned on the satisfaction of any certification related to the status of the Series 2021 Bonds as Green Bonds. The Authority does not make any representation as to the sustainability of the Series 2021 Bonds to fulfill such environmental and ability criteria. The Series 2021 Bonds may not be a suitable investment for investors seeking exposure to green or sustainable assets. There is currently no market consensus on what precise attributes are required for a particular project to be defined as “green” or “sustainable” and therefore no assurance can be provided to investors that the projects financed with proceeds of the Series 2021 Bonds will continue to meet investor expectations regarding sustainability performance.

PART 6 – THE PLAN OF FINANCE

A portion of the proceeds of the Series 2021 Bonds will be used to provide for (i) the refinancing of all or a portion of the costs of the Projects; and (ii) to pay for the costs of issuance of the Series 2021 Bonds. Additional information regarding the indebtedness of each Public Entity is included in “Appendix C – Certain Financial and Economic Information and Continuing Disclosure Obligations Relating to the Public Entities.”

PART 7 – ESTIMATED SOURCES AND USES OF FUNDS

Estimated sources and uses of funds are as follows:

Estimated Sources of Funds	<u>Series 2021 Bonds</u>
Principal Amount	\$
Premium	
Total Estimated Sources	\$
Estimated Uses of Funds	
Deposit to Project Account.....	\$
Deposit to Debt Service Reserve Account.....	
Costs of Issuance	
Underwriter's Discount	
Total Estimated Uses.....	\$

PART 8 – THE AUTHORITY

Introduction

The Authority is a corporate municipal instrumentality and political subdivision of the State created in 1931 by the Act, and has its principal office located at 30 South Pearl Street, Albany, New York 12207-3425. The mission of the Authority is to power the economic growth and competitiveness of the State by providing customers with low-cost, clean, reliable power and the innovative energy infrastructure and services they value. The Authority generates, transmits, purchases and sells electric power and energy as authorized by law. The Authority's customers include municipal and rural electric cooperatives located throughout the State, local governments, investor-owned utilities, high load factor industrial customers, commercial/industrial and not-for-profit businesses, and various public corporations located within the metropolitan area of the City, including the City, and certain neighboring states.

The financing of the Projects under the Master Resolution will be undertaken by the Authority as Separately Financed Projects, as permitted under the General Resolution. The Series 2021 Bonds are not payable from nor secured by General Resolution Revenue.

Management

Trustees

The governing board of the Authority consists of seven Trustees (the "Board of Trustees") appointed by the Governor of the State, with the advice and consent of the State Senate. The current Trustees are:

<u>Trustees</u>	<u>Term Expires</u>
John R. Koelmel, Chairman	May 6, 2021
Hon. Eugene L. Nicandri.....	May 6, 2018*
Tracy B. McKibben.....	January 11, 2017*
Anthony Picente, Jr	May 6, 2020
Michael A.L. Balboni.....	February 27, 2018*
Dennis G. Trainor.....	May 6, 2022
Bethaida Gonzalez.....	

* Continuing to serve on a holdover basis until confirmed for an additional term or a new Trustee is appointed.

Senior Management

The senior management staff of the Authority includes the following:

Gil C. Quiniones, President and Chief Executive Officer;
Joseph Kessler, Executive Vice President and Chief Operating Officer;
Kristine Pizzo, Executive Vice President and Chief Human Resources and Administration Officer;
Justin E. Driscoll, Executive Vice President and General Counsel;
Adam Barsky, Executive Vice President and Chief Financial Officer;
Sarah Orban Salati, Executive Vice President and Chief Commercial Officer;
Robert Piascik, Senior Vice President and Chief Information and Technology Officer;
Yves E. Noel, Senior Vice President and Chief Strategy Officer;
Adrienne Lotto, Vice President and Chief Risk and Resilience Officer;
Sundeep Thakur, Vice President and Controller;
Christina Reynolds, Treasurer; and

Executive Management Committee

The Authority's Executive Management Committee periodically reviews corporate strategies, policies and programs, and reports, with the Chairman's concurrence, to the Board of Trustees. Currently, the Executive Management Committee includes the President and Chief Executive Officer, the Executive Vice President and Chief Operating Officer, the Executive Vice President and Chief Financial Officer, the Executive Vice President and Chief Commercial Officer, the Executive Vice President and General Counsel, and certain other members of the senior management staff of the Authority designated by the President and Chief Executive Officer.

Legislation Affecting the Authority

Section 1011 of the Act constitutes a pledge of the State to holders of Authority obligations not to limit or alter the rights vested in the Authority by the Act until such obligations together with the interest thereon are fully met and discharged or unless adequate provision is made by law for the protection of the holders thereof. Bills are periodically introduced into the State Legislature which propose to limit or restrict the powers, rights and exemption from regulation which the Authority currently possesses under the Act and other applicable law or otherwise would affect the Authority's financial condition or its ability to conduct its business, activities, or operations, in the manner presently conducted or contemplated hereby. It is not possible to predict whether any such bills or other bills of a similar type which may be introduced in the future will be enacted.

In addition, from time to time, legislation is enacted into New York law which purports to impose financial and other obligations on the Authority, either individually or along with other public authorities or governmental entities. The applicability of such provisions to the Authority would depend upon, among other things, the nature of the obligations imposed and the applicability of the pledge of the State set forth in Section 1011 of the Act to such provisions. There can be no assurance that in the case of each such provision, the Authority will be immune from the financial obligations imposed by such provision.

New York State Climate Leadership and Community Protection Act

On July 18, 2019, the State enacted Chapter 106, which directs the New York State Department of Environmental Conservation (the “NYDEC”) to develop regulations to reduce statewide GHG to 60% of 1990 levels by 2030 and 15% of 1990 levels by 2050. Chapter 106 also requires that the state offset the remaining 15% of 1990 GHG emissions in 2050. NYDEC is currently drafting regulations that would implement these goals.

Several provisions of Chapter 106 could potentially impact the Authority’s business and operations, such as the following: (1) a requirement that specified State entities, including the Authority, adopt regulations to contribute to achieving statewide GHG emissions; (2) a requirement that State entities, including the Authority, assess and implement strategies to reduce GHG emissions; (3) consideration of whether actions that the Authority would undertake in the course of its operations are consistent with State GHG emission limits that will be established pursuant to the enactment; and (4) potential allocation or realignment of resources to support State clean energy and energy efficiency goals for disadvantaged communities.

As part of its Evolve NY program adopted in connection with its capital plan, the Authority has pledged \$250 million through 2025 to accelerate the adoption of electric vehicles (“EV”), addressing key economic and psychological barriers to EV adoption, of which \$160 million of projects have been identified. The Authority will own and operate a charging network of 800 DC fast chargers across the State, the first of which is expected to be operational sometime in 2020.

As part of the 2020-2021 Enacted State Budget, legislation was enacted that is expected to significantly speed up the siting and construction of clean energy projects to combat climate change in an effort to improve the State’s economic recovery from the COVID-19 health crisis. The Accelerated Renewable Energy Growth and Community Benefit Act (the “CBA Act”) will create an Office of Renewable Energy Siting to improve and streamline the process for environmentally responsible and cost-effective siting of large-scale renewable energy projects across the State while delivering significant benefits to local communities. The CBA Act, which will be implemented by the Authority and New York State Department of State, New York State Energy Research Development Authority, the Department of Public Service, NYDEC and the Empire State Development Corporation, will accelerate progress towards the State’s clean energy and climate goals, including the goal to obtain 70% of the State’s electricity from renewable sources by 2030.

Regulation

The operations of the Authority are subject to regulation or review by various State and federal agencies, discussions of which appear in various segments throughout this Official Statement. The principal agencies having a regulatory impact on, or a monitoring function over, the Authority and the conduct of its activities, are as follows:

New York State Comptroller

The Office of the State Comptroller (“OSC”) is required to undertake a “program, financial and operations” audit of the Authority at least once every five years, and the OSC periodically conducts other audits as well. Recent audit reports are available on the OSC’s website. No statement on the OSC’s website is included herein. OSC has issued regulations that are applicable in whole or in part to many public authorities in the State, including the Authority. Among other things, the regulations require public authorities, including the Authority, to adhere to prescribed budgeting and financial plan procedures, certain financial reporting and certification requirements, and detailed investment guidelines and procedures, including obtaining the approval of the OSC before adoption of certain changes in accounting principles. In addition, OSC has the discretionary authority to review and approve certain contracts to be entered into by public authorities, including the Authority.

State Inspector General

The Office of the Inspector General (the “OIG”) has jurisdiction over the Authority pursuant to New York State Executive Law Article 4-A. From time to time, the Authority may be involved in investigations initiated by

and engaged in by the OIG and related proceedings. The Authority fully cooperates with the OIG and other federal and state agencies in any applicable proceedings.

Authorities Budget Office

Chapter 506 of the Laws of 2009 created the Authorities Budget Office (the “ABO”). The ABO’s responsibilities include conducting reviews of public authorities, assisting public authorities in improving management practices and procedures, developing oaths of office for public authority board members, and making recommendations to the Governor and Legislature concerning public authorities. In addition, the ABO is authorized to, among other things, receive and act upon complaints regarding public authorities, initiate investigations of public authorities, warn and censure public authorities for non-compliance with the Public Authorities Law, recommend discipline against public authority officials, and compel public authorities to produce records necessary to enable the ABO to perform its duties.

PART 9 – LEGALITY OF THE SERIES 2021 BONDS FOR INVESTMENT AND DEPOSIT

The Act provides that the Series 2021 Bonds will be legal investments under present provisions of State law for public officers and bodies of the State and municipalities and municipal subdivisions, insurance companies and associations and other persons carrying on an insurance business, banks, bankers and trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds of the State; but the Series 2021 Bonds will not be eligible for the investment of funds, including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries, except when such individual fiduciary is acting with a corporate co-fiduciary. Under the Act, the Series 2021 Bonds will be eligible for deposit with all public officers and bodies of the State for any purpose for which the deposit of the State’s obligations is or may be authorized.

PART 10 – TAX MATTERS

Opinions of Co-Bond Counsel

In the opinions of Katten Muchin Rosenman LLP and _____, Co-Bond Counsel to the Authority, under existing law, and assuming compliance with certain covenants described herein, and the accuracy and completeness of certain representations, certifications of fact and statements of reasonable expectations made by the Authority, the Public Entities and others, interest on the Series 2021 Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”). Co-Bond Counsel are further of the opinion that interest on the Series 2021 Bonds is not an item of tax preference for purposes of the alternative minimum tax imposed under the Code. Co-Bond Counsel are also of the opinion that, under existing statutes, interest on the Series 2021 Bonds is exempt from personal income taxes imposed by the State or any political subdivision thereof (including the City).

Co-Bond Counsel express no opinion regarding any other federal, state or local tax consequences with respect to the Series 2021 Bonds. The opinions of Co-Bond Counsel speak as of their issue date and do not contain or provide any opinion or assurance regarding the future activities of the Authority, each of the Public Entities or about the effect of future changes in the Code, the applicable regulations, rulings, judicial decisions, the interpretation thereof or the enforcement thereof by the Internal Revenue Service (the “IRS”). In addition, Co-Bond Counsel express no opinion on the effect of any action taken or not taken in reliance upon an opinion of other counsel (other than Co-Bond Counsel, to the extent that both Co-Bond Counsel render such opinion) regarding federal, state or local tax matters, including, without limitation, the exclusion of interest on the Series 2021 Bonds from gross income for federal income tax purposes. See “Appendix F – Forms of Approving Opinions of Co-Bond Counsel.”

General

The Code imposes various requirements that must be met at and subsequent to the issuance and delivery of the Series 2021 Bonds in order that interest on the Series 2021 Bonds be and remain excluded from gross income for

federal income tax purposes. Included among these requirements are restrictions on the use of proceeds of the Series 2021 Bonds and the facilities financed or refinanced by such proceeds, restrictions on the investment of such proceeds and other amounts, the rebate of certain earnings in respect of such investments to the United States, and required ownership by a governmental unit of the facilities financed or refinanced by the Series 2021 Bonds. Failure to comply with such requirements may cause interest on the Series 2021 Bonds to be includable in gross income for federal income tax purposes retroactive to the date of their issuance irrespective of the date on which such noncompliance occurs. The Authority, each of the Public Entities, and others have made certain representations, certifications of fact, and statements of reasonable expectations and the Authority and each of the Public Entities have given certain ongoing covenants to comply with applicable requirements of the Code to assure the exclusion of interest on the Series 2021 Bonds from gross income under Section 103 of the Code. The opinions of Co-Bond Counsel assume continuing compliance with such covenants as well as the accuracy and completeness of such representations, certifications of fact, and statements of reasonable expectations. In the event of the inaccuracy or incompleteness of any such representation, certifications of fact or statements of reasonable expectation, or of the failure by the Authority or the Public Entities to comply with any such covenants, the interest on the Series 2021 Bonds could become includable in gross income for federal income tax purposes retroactive to the date of issuance and delivery of the Series 2021 Bonds, regardless of the date on which the event causing such inclusion occurs. Further, although the interest on the Series 2021 Bonds is excludable from gross income for federal income tax purposes, receipt or accrual of the interest may otherwise affect the tax liability of a Beneficial Owner of a Series 2021 Bond. The tax effect of receipt or accrual of the interest will depend upon the tax status of a Beneficial Owner of a Series 2021 Bond and such Beneficial Owner's other items of income, deduction or credit. Co-Bond Counsel express no opinion regarding any other federal tax consequences arising with respect to the ownership or disposition of, or the accrual or receipt of interest on, the Series 2021 Bonds.

Certain Collateral Federal Income Tax Consequences

Prospective purchasers of the Series 2021 Bonds should be aware that ownership of, accrual or receipt of interest on, or disposition of the Series 2021 Bonds may have collateral federal income tax consequences for certain taxpayers, including financial corporations, insurance companies, Subchapter S corporations, certain foreign corporations, individual recipients of social security or railroad retirement benefits, individuals benefiting from the earned income credit and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry such obligations. Prospective purchasers should consult their own tax advisors as to any possible collateral consequences of their ownership of, accrual or receipt of interest on, or disposition of the Series 2021 Bonds. Co-Bond Counsel express no opinion regarding any such collateral federal income tax consequences.

Original Issue Discount

The excess of the principal amount of a maturity of a Series 2021 Bond over the issue price of such maturity of a Series 2021 Bond (a "Discount Bond") constitutes "original issue discount," the accrual of which, to the extent properly allocable to the Beneficial Owner thereof, constitutes "original issue discount" which is excluded from gross income for federal income tax purposes to the same extent as interest on such Discount Bond. For this purpose, the issue price of a maturity of Series 2021 Bonds is the first price at which a substantial amount of such maturity of Series 2021 Bonds is sold to the public. Further, such original issue discount accrues actuarially on a constant yield basis over the term of each Discount Bond and the basis of such Discount Bond acquired at such initial offering price by an initial purchaser of each Discount Bond will be increased by the amount of such accrued discount. Beneficial Owners of Discount Bonds should consult their own tax advisors with respect to the tax consequences of ownership of Discount Bonds.

Bond Premium

The Series 2021 Bonds purchased, whether at original issuance or otherwise, at prices greater than the stated principal amount thereof are "Premium Bonds." Premium Bonds will be subject to requirements under the Code relating to tax cost reduction associated with the amortization of bond premium and, under certain circumstances, the Beneficial Owner of Premium Bonds may realize taxable gain upon disposition of such Premium Bonds even though sold or redeemed for an amount less than or equal to such owner's original cost of acquiring Premium Bonds. The amortization requirements may also result in the reduction of the amount of stated interest that a Beneficial Owner of Premium Bonds is treated as having received for federal tax purposes (and an adjustment to

basis). Beneficial Owners of Premium Bonds are advised to consult with their own tax advisors with respect to the tax consequences of ownership of Premium Bonds.

Backup Withholding and Information Reporting

Interest paid on tax-exempt obligations is subject to information reporting to the IRS in a manner similar to interest paid on taxable obligations. Interest on the Series 2021 Bonds may be subject to backup withholding if such interest is paid to a registered owner who or which (i) fails to provide certain identifying information (such as the registered owner's taxpayer identification number) in the manner required by the IRS, or (ii) has been identified by the IRS as being subject to backup withholding. Amounts withheld under the backup withholding rules will be paid to the IRS as federal income tax withheld on behalf of the registered owner of the Series 2021 Bonds and would be allowed as a refund or credit against such owner's federal income tax liability (or the federal income tax liability of the beneficial owner of the Series 2021 Bonds, if other than the registered owner).

Legislation

Current and future legislative proposals, if enacted into law, administrative actions or court decisions, at either the federal or state level, may cause interest on the Series 2021 Bonds to be subject, directly or indirectly, to federal income taxation or to be subjected to state income taxation, or otherwise have an adverse impact on the potential benefits of the exclusion from gross income of the interest on the Series 2021 Bonds for federal or state income tax purposes. The introduction or enactment of any such legislative proposals, administrative actions or court decisions may also affect, perhaps significantly, the value or marketability of the Series 2021 Bonds. It is not possible to predict whether any legislative or administrative actions or court decisions having an adverse impact on the federal or state income tax treatment of Beneficial Owners of the Series 2021 Bonds may occur. Prospective purchasers of the Series 2021 Bonds should consult their own advisors regarding any pending or proposed federal or state tax legislation, regulations or litigation, and regarding the impact of future legislation, regulations or litigation, as to which Co-Bond Counsel express no opinion. The opinions of Co-Bond Counsel are based on current legal authority, cover certain matters not directly addressed by such authority and represent the judgment of Co-Bond Counsel as to the proper treatment of the Series 2021 Bonds for federal income tax purposes. They are not binding on the IRS or the courts.

Post Issuance Events

Co-Bond Counsel's engagement with respect to the Series 2021 Bonds ends with the issuance of the Series 2021 Bonds and, unless separately engaged, Co-Bond Counsel are not obligated to defend the Authority, the Public Entities or the Beneficial Owners regarding the tax-exempt status of interest on the Series 2021 Bonds in the event of an audit examination by the IRS. Under current procedures, parties other than the Authority and its appointed counsel, including the Public Entities and the Beneficial Owners, would have little, if any, right to participate in the audit examination process. Moreover, because achieving judicial review in connection with an audit examination of tax-exempt bonds is difficult, obtaining an independent review of IRS positions with which the Authority legitimately disagrees may not be practicable. Any action of the IRS, including but not limited to selection of the Series 2021 Bonds for audit, or the course or result of such audit, or an audit of bonds presenting similar tax issues may affect the market price for, or the marketability of, the Series 2021 Bonds, and may cause the Authority, the Public Entities, as applicable, or the Beneficial Owners to incur significant expense.

Prospective purchasers of the Series 2021 Bonds should consult their own tax advisors regarding the foregoing matters.

PART 11 – LEGAL MATTERS

All legal matters incident to the authorization and issuance of the Series 2021 Bonds are subject to the approval of Katten Muchin Rosenman LLP, New York, New York, and _____, each Co-Bond Counsel to the Authority. The approving opinions of Co-Bond Counsel to be delivered with such Series 2021 Bonds will be in substantially the form attached as Appendix F. Certain legal matters will be passed upon for the Underwriters by their counsel, Orrick, Herrington & Sutcliffe LLP. Certain legal matters will be passed upon for the Authority by its General Counsel.

Each of Co-Bond Counsel and Underwriters' Counsel will receive compensation contingent upon the sale and delivery of the Series 2021 Bonds. From time to time, each Co-Bond Counsel may represent one or more of the Underwriters in matters unrelated to the Authority or the Series 2021 Bonds.

PART 12 – UNDERWRITING

The underwriters listed on the cover page of this Official Statement (collectively, the “Underwriters”) have jointly and severally agreed, subject to certain conditions, to purchase the Series 2021 Bonds from the Authority at an aggregate purchase price of \$_____ (which represents the par amount of the Series 2021 Bonds, less the underwriters' discount of \$_____ [plus]/[less] net original issue [premium]/[discount] of \$_____) and to make a public offering of the Series 2021 Bonds at prices that are not in excess of the public offering prices corresponding to the yields stated on the inside cover page of this Official Statement.

Goldman Sachs & Co. LLC is acting as the representative of the Underwriters with respect to the Series 2021 Bonds.

The Series 2021 Bonds may be offered and sold to certain dealers (including the Underwriters) at prices lower than such public offering prices, and such public offering prices may be changed, from time to time, by the Underwriters.

The following paragraphs have been provided by the Underwriters:

In the ordinary course of their various business activities, the Underwriters and their respective affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities, which may include credit default swaps) and financial instruments (including bank loans) for their own account and for the accounts of their customers and may at any time hold long and short positions in such securities and instruments. Such investment and securities activities may involve securities and instruments of the Authority or the Public Entities.

The Underwriters and their respective affiliates may also communicate independent investment recommendations, market color or trading ideas and/or publish or express independent research views in respect of such assets, securities or instruments and may at any time hold, or recommend to clients that they should acquire, long and/or short positions in such assets, securities and instruments. In addition, certain of the Underwriters may have entered into distribution agreements with other broker-dealers (that have not been designated by the Authority as Underwriters) for the distribution of the Series 2021 Bonds at the original issue prices. Such agreements generally provide that the relevant Underwriter will share a portion of its underwriting compensation or selling concession with such broker-dealers.

PART 13 – CONTINUING DISCLOSURE

In order to assist the Underwriters in complying with Rule 15c2-12 promulgated by the Securities and Exchange Commission (“Rule 15c2-12”), each Public Entity has undertaken in a written agreement (a “Continuing Disclosure Agreement”) for the benefit of the Bondholders of the Series 2021 Bonds to provide operating data and financial information of the type and in the manner specified by the Continuing Disclosure Agreement.

[Each of the Public Entities has certified to the Authority that it has in the previous five years complied, in all material respects, with any previous undertakings pursuant to Rule 15c2-12, except for the following: _____].

PART 14 – RATINGS

[Moody's Investors Service, Inc. (“Moody's”), S&P Global Ratings, a division of Standard & Poor's Financial Services, LLC (“S&P”), and Fitch Ratings (“Fitch”)] have assigned their ratings of “[]”, “[]” and “[]”, respectively, to the Series 2021 Bonds.

Such ratings reflect only the views of such organizations and any desired explanation of the significance of such ratings should be obtained from the rating agencies at the following addresses: [Moody's Investors Service,

Inc., 7 World Trade Center at 250 Greenwich Street, New York, New York 10007; S&P Global Ratings, 55 Water Street, New York, New York 10041; and Fitch Ratings, Hearst Tower, 300 W. 57th Street, New York, New York 10019]. There is no assurance that such ratings will prevail for any given period of time or that they will not be revised downward or withdrawn entirely by any or all of such rating agencies if, in the judgment of any or all of them, circumstances so warrant. Any such downward revision or withdrawal of such rating or ratings may have an adverse effect on the market price of the Series 2021 Bonds.

PART 15 – LITIGATION

There is no litigation pending or, to the knowledge of the Authority, threatened in any court (either State or federal) to restrain or enjoin the sale, issuance or delivery of the Series 2021 Bonds or questioning the creation, organization or existence of the Authority, the title to office of the Trustees or officers of the Authority, the validity of the Master Resolution and the Long Term Financing Supplements, the proceedings for the authorization, execution, authentication and delivery of the Series 2021 Bonds or the validity of the Series 2021 Bonds.

PART 16 – FINANCIAL ADVISORS

[PFM Financial Advisors LLC (“PFM”)] serves as independent financial advisor to the Authority in connection with the structuring, marketing and sale of the Series 2021 Bonds, including the timing and conditions of issuance, and other such financial guidance as requested by the Authority. Although [PFM] participated in the review of this Official Statement and other related transaction documents, [PFM] has not independently verified any of the information set forth herein.

PART 17 – MISCELLANEOUS

The references in this Official Statement to the Resolutions, the State Constitution, the Act, the Code, certain other legislation and certain contracts and leases of the Authority are brief summaries and outlines of certain portions or provisions thereof. Such summaries and outlines do not purport to be complete, and reference is made to such documents, legislation, decisions, orders, actions, licenses, certifications, permits, contracts and leases for full and complete statements of such portions or provisions. Copies of such documents are on file at the offices of the Authority. All estimates and opinions presented herein are intended only as such and not as representations of fact.

The agreements with the Holders of the Series 2021 Bonds are fully set forth in the Resolutions. This Official Statement does not constitute and is not intended to constitute a contract between the Authority and any Holder of any Series 2021 Bond.

All inquiries to the Authority relating to this Official Statement should be addressed to Treasurer, Power Authority of the State of New York, 123 Main Street, White Plains, New York 10601 (telephone number: (914) 681-6200)).

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The delivery of this Official Statement has been duly authorized by the Authority.

POWER AUTHORITY OF THE STATE OF NEW YORK

By:

President and Chief Executive Officer

[____], 20[]

DEFINITIONS

**LIST OF PUBLIC ENTITIES, PROJECTS AND ALLOCABLE PORTION
OF BONDS**

**CERTAIN FINANCIAL AND ECONOMIC INFORMATION
AND CONTINUING DISCLOSURE OBLIGATIONS
RELATING TO THE PUBLIC ENTITIES**

**SUMMARY OF CERTAIN PROVISIONS
OF THE LONG TERM FINANCING SUPPLEMENTS**

**SUMMARY OF CERTAIN PROVISIONS
OF THE MASTER RESOLUTION**

**FORMS OF APPROVING OPINIONS
OF CO-BOND COUNSEL**

FRAMEWORK OVERVIEW AND SECOND OPINION BY SUSTAINALYTICS

\$[Par Amount]
POWER AUTHORITY OF THE STATE OF NEW YORK
Energy Efficiency Project Revenue Bonds
\$[APar Amount] Series 2021A [(Green Bonds)]
\$[BPar Amount] Series 2021B [(Green Bonds)]

CONTRACT OF PURCHASE

[Sale Date]

POWER AUTHORITY OF THE
STATE OF NEW YORK
123 Main Street
White Plains, New York 10601

Dear Ladies and Gentlemen:

The undersigned, Goldman Sachs & Co. LLC, on behalf of itself and the underwriters named in Schedule I hereto, as said schedule may from time to time be changed by the Representative as defined below prior to the Closing, as defined below (herein collectively called the “Underwriters”), offer to enter into the following agreement with the Power Authority of the State of New York (the “Authority”) relating to the \$[APar Amount] aggregate principal amount of the Authority’s Energy Efficiency Project Revenue Bonds Series 2021A [(Green Bonds)] (the “2021A Bonds”) and the \$[BPar Amount] aggregate principal amount of the Authority’s Energy Efficiency Project Revenue Bonds Series 2021B [(Green Bonds)] (the “2021B Bonds” and, together with the 2021A Bonds, the “Bonds”). Under the circumstances described herein, Goldman Sachs & Co. LLC will serve as the representative (the “Representative”) for the other Underwriters. The offer made hereby is subject to acceptance by the Authority by execution of this Contract of Purchase and delivery thereof to the undersigned at or prior to 10:00 P.M., New York time, on the date first above written. Upon acceptance of such offer by the Authority, this Contract of Purchase will be binding upon the Authority and the Underwriters.

1. Purchase, Sale and Closing

(a) *Bonds.* In reliance on the representations and warranties of (i) the Authority contained herein and (ii) each Public Entity listed on Schedule II hereto contained in the Letter of Representation (each a “Letter of Representation” and, collectively, the “Letters of Representation”) dated the date hereof and in the form included as Appendix 6 to the Long Term Financing Supplement (as defined herein), and subject to the satisfaction of the terms and conditions which can be performed at or prior to the Closing (as defined herein) set forth herein to which the obligations of the Underwriters are subject, the Underwriters will, jointly and severally, purchase from the Authority, and the Authority will sell to the Underwriters, all (but not less than all) of the Bonds. The Bonds shall be as described in the Official Statement and the Resolution (as hereinafter described) and shall be issued pursuant to the Resolution and the Act, all as hereinafter defined. The aggregate price to be paid by the Underwriters for the Bonds is \$_____ (which price reflects the principal amount of the Bonds of \$[Par Amount], less an aggregate underwriting discount of \$_____, plus an aggregate premium (net of discount) of \$_____).

The Bonds shall be as described in, and shall be issued pursuant to, the Master Energy Program Revenue Bond Resolution (the “Master Resolution”), adopted on _____, as amended and supplemented to the date hereof by Supplemental Resolution 2021-1 (the “Supplemental Resolution”), adopted on _____, authorizing the issuance and sale of the Bonds, and in the Bond Series Certificate with respect to each Series of the Bonds (collectively, the “Bond Series Certificates” and,

collectively with the Master Resolution and the Supplemental Resolution, the “Resolution”) in the forms heretofore delivered to the Representative, all as described in the Official Statement (as defined herein) and on Exhibit A attached hereto. Pursuant to the Resolution, [Trustee], [New York, New York], has been appointed trustee with respect to the Bonds (the “Trustee”). Capitalized terms used herein and not otherwise defined herein shall have the meaning set forth in the Resolution.

The proceeds of the Bonds are expected to be used to finance and refinance certain projects (“Projects”) consisting of energy efficiency projects and services, clean energy technology projects and services and high performance and sustainable building programs and services including the construction, installation and operation of facilities or equipment in connection with the foregoing, and to pay the costs of issuance of the Bonds. The Projects have been undertaken by the Authority for the benefit of the Public Entities, which are public entities in the State of New York (the “State”), pursuant to certain Long Term Financing Supplement by and between the Authority and each Public Entity (each a “Long Term Financing Supplement” and, collectively, the “Long Term Financing Supplements”).

(b) *Closing and Delivery.* The Closing will be held at such time and place on [Closing Date], or such other date as shall have been mutually agreed upon by the Representative and the Authority (the “Closing”). No extension of the Closing date beyond [Closing Date] will be permitted without the written approval of both the Representative and the Authority. At the Closing, the Authority will deliver, or cause to be delivered, to the Representative for the account of the Underwriters, the Bonds, in fully registered form, bearing proper CUSIP numbers, duly executed by the Authority and authenticated by the Trustee, together with the other documents hereinafter mentioned, and the Representative, on behalf of the Underwriters, will accept such delivery and pay the purchase price of the Bonds as set forth in Section 1(a) hereof by delivering to the Authority a check or wire payable in federal funds or other immediately available funds to the order of the Authority, in the amount of such purchase price.

The Bonds will be delivered in registered form in denominations of \$5,000 or any integral multiple thereof and registered in the name of Cede & Co., as nominee of The Depository Trust Company, and will be made available to the Representative for inspection not less than 24 hours prior to the Closing.

It shall be a condition to the Underwriters’ obligation to purchase and accept delivery of the Bonds that all the Bonds be sold and delivered by the Authority at the Closing. It shall be a condition to the Authority’s obligation to sell and deliver the Bonds to the Underwriters that all of the Bonds be accepted and paid for by the Underwriters at the Closing.

2. Commitment

(a) Upon execution of this Contract of Purchase by the Authority and the Representative, on behalf of itself and the other Underwriters, this Contract of Purchase shall be in full force and effect in accordance with its terms and shall be binding upon the Authority and the Underwriters.

(b) If the Underwriters shall fail to pay for and accept delivery of the Bonds other than for a reason permitted hereunder, they jointly and severally shall owe the Authority liquidated damages in the aggregate amount of 1% of the aggregate principal amount of the Bonds (the “Liquidated Damages”). The parties acknowledge and agree that the payment to the Authority of the Liquidated Damages is agreed upon compensation for the Authority’s lost bargain upon such failure, and that the Liquidated Damages (i) are not unconstitutional or otherwise prohibited by law, (ii) do not and will not constitute a conversion or unjust enrichment of the Authority, (iii) are unequivocal, fair and reasonable under the circumstances, (iv) shall constitute the Authority’s sole and exclusive compensation for such failure, and

(v) were bargained for and derived through mutual negotiations among the parties and constitute a material and integral part of this Contract of Purchase.

3. Documents

As soon as practicable after its preparation, the Authority shall deliver to the Representative two counterparts of the Official Statement of the Authority relating to the Bonds, together with such changes as shall have been approved by the Representative (which, together with all exhibits, appendices, diagrams, reports and statements included or incorporated by specific cross reference therein or attached thereto, is herein called the “Official Statement”), dated [Sale Date], and executed by conformed signature on behalf of the Authority by its Chairman or President and Chief Executive Officer. The Official Statement shall be substantially in the form of the Preliminary Official Statement, dated [POS Date] (the “Preliminary Official Statement”), with such changes therein to reflect the final pricing of the Bonds and such other changes therein as shall be approved by the Underwriters, which approval shall not be unreasonably withheld.

Within seven (7) business days hereof (but not later than three (3) business days prior to the delivery of the Bonds), the Authority shall deliver to the Representative copies of the Official Statement in sufficient quantity as may reasonably be requested by the Representative in order to comply with the rules of the Securities and Exchange Commission (the “SEC”), including, without limitation, Rule 15c2-12 (“Rule 15c2-12”) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and the Municipal Securities Rulemaking Board (“MSRB”), and conformed copies of a final Official Statement in “designated electronic format” (as defined in MSRB Rule G-32), with only such changes as shall have been approved by the Representative, which approval shall not be unreasonably withheld. The Authority authorizes the use of any and all such material (including specifically copies of the Preliminary Official Statement, the Official Statement, the Resolution and the information therein contained) in connection with the public offering and sale of the Bonds.

The Authority hereby authorizes the Underwriters to file the Official Statement with the MSRB’s Electronic Municipal Market Access (EMMA) system.

The Authority agrees that it will cooperate in qualifying the Bonds for offering and sale under the “Blue Sky” or other securities laws of those jurisdictions designated by the Underwriters; provided, however, that the Authority shall not be required to qualify to do business in any jurisdiction nor shall the Authority be required to take any action which would subject it to general service of process in any jurisdiction where it is not now so subject.

4. Representations of the Authority

The Authority acknowledges that the Bonds will be sold to the Underwriters and that the Underwriters will purchase the Bonds in reliance upon the representations and warranties set forth herein and in the Letters of Representation and upon the information contained in the Official Statement. Accordingly, the Authority represents and warrants to each of the Underwriters that:

(a) *Organization; Power.* The Authority is and will be at the Closing a duly organized and existing body corporate and politic constituting a corporate municipal instrumentality and political subdivision of the State under the laws of the State with the powers and authority set forth in the Power Authority Act of the State of New York, Title I of Article 5 of the Public Authorities Law, Chapter 43-A of the Consolidated Laws of the State of New York, as amended (the “Act”), and as such has and will have at the Closing the legal right to adopt and engage in the transactions contemplated by the Resolution, the Long Term Financing

Supplements, the Continuing Disclosure Agreement (as defined herein), the Official Statement and this Contract of Purchase.

(b) *Action by the Authority.* The Authority has authorized by appropriate action (i) the issuance and sale of the Bonds upon the terms herein and as set forth in the Official Statement and the Resolution, (ii) the use of the proceeds from the sale of the Bonds as described in the Official Statement, (iii) the execution, delivery, performance, acceptance, approval and receipt, as the case may be, of this Contract of Purchase, the Bonds, the Resolution, the Long Term Financing Supplements, the Letters of Representation, the Continuing Disclosure Agreement and the Official Statement, and (iv) the taking of any and all such action as may be required to carry out, give effect to and consummate the transactions contemplated therein and herein.

(c) *Valid Obligations.* When delivered to and paid for by the Representative on behalf of the Underwriters at the Closing in accordance with the provisions of this Contract of Purchase, the Bonds will have been duly authorized, executed, issued and delivered and will constitute valid, binding and enforceable obligations of the Authority in conformity with the Act and the Resolution and will be entitled to the benefit and security thereof.

(d) *No Defaults.* The Authority is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any bond, debenture, note or other evidence of indebtedness of the Authority or any mortgage, deed of trust, indenture or other agreement or instrument pursuant to which indebtedness of the Authority was incurred. Neither the adoption of the Resolution, the execution and delivery of this Contract of Purchase, the Bonds, the Long Term Financing Supplements, the Letters of Representation, the Continuing Disclosure Agreement and the Official Statement, the consummation by the Authority of the transactions contemplated thereby and hereby, nor the compliance by the Authority with the provisions thereof and hereof, will result in any breach of the terms, conditions or provisions of, conflict with, or constitute a breach of or a default (or any event which with the passage of time or the giving of notice, or both, would become a default) under (i) the Act, any currently effective resolution of the Authority, or any contract, agreement or instrument to which the Authority is a party, (ii) the constitution of the United States or of the State, or (iii) any existing law, administrative regulation, court order or consent decree to which the Authority is subject.

(e) *Security.* Upon their due issuance and sale as contemplated herein, the Bonds will be payable solely from and secured by a pledge of the Applicable Revenues to be made by the Public Entities under the Long Term Financing Supplements and all funds and accounts available therefor as provided in the Resolution. In addition, other than the other liens and encumbrances described in the Preliminary Official Statement and the Official Statement, there are no liens or encumbrances on the Applicable Revenues or other assets, properties, funds or interest pledged pursuant to the Resolution, and, other than as described in the Preliminary Official Statement and the Official Statement, the Authority has not entered into any contract or arrangement of any kind, and, to the knowledge of the Authority, there is no existing, pending, threatened or anticipated event or circumstance, which might give rise to any such lien or encumbrance.

(f) *Offering Documents.* The Authority has authorized and hereby ratifies the use of the Preliminary Official Statement and authorizes the use of the Official Statement and the information contained therein furnished by or on behalf of the Authority and the use of copies of the Resolution, in connection with the public offering and sale of the Bonds by the Underwriters. Prior to the date hereof, the Authority delivered to the Representative the Preliminary Official Statement together with certificates of the Authority and each Public Entity which stated,

collectively, that the Preliminary Official Statement is deemed final as of its date for purposes of Rule 15c2-12, except for the information not required to be included therein under Rule 15c2-12, and in form and substance as attached hereto as Schedule III, in the case of the certificate of the Authority, and in form and substance acceptable to the Representative, [in the case of the certificate of each Public Entity.]¹

(g) *Preliminary Official Statement.* [As of its date and at the time of the Authority's acceptance hereof, the statements and information contained in the Preliminary Official Statement, excluding any information about book-entry, DTC, the Public Entities, or the information contained in Appendix B to the Preliminary Official Statement, were and are true, correct and, except for the information not required to be included in the Preliminary Official Statement under Rule 15c2-12, complete, and such Preliminary Official Statement did not and does not contain any untrue statement of a material fact or, except for the information not required to be included in the Preliminary Official Statement under Rule 15c2-12, omit to state any material fact necessary in order to make the statements and information therein, in the light of the circumstances under which they were made, not misleading.]²

(h) *Official Statement.* Both at the time of the Authority's acceptance hereof and at the Closing, the statements and information contained in the Official Statement (as the same may be supplemented or amended with the approval of the Representative, which approval shall not be unreasonably withheld), excluding any information about book-entry, DTC, the Public Entities, or the information contained in Appendix B to the Official Statement, are and will be true, correct and complete and such Official Statement does not and will not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements and information therein, in the light of the circumstances under which they were made, not misleading. If the Official Statement is supplemented or amended, at the time of each supplement or amendment thereto and (unless subsequently supplemented or amended pursuant to Section 10 hereof), at all times during the period from the date of such supplement or amendment to the end of the period described in Section 10 hereof, the Official Statement (except for any information about book-entry, DTC, the Public Entities, or the information contained in Appendix B to the Official Statement, as to which no representation or warranty is made) as so supplemented or amended, will not contain any untrue statement of a material fact or omit to state a material fact necessary, in order to make the statements contained therein, in the light of the circumstances under which they were made, not misleading in any material respect.

(i) *Litigation.* Except for the matters disclosed in the Preliminary Official Statement and the Official Statement, there is no pending, or to the knowledge of the Authority threatened, legal, administrative or judicial proceeding to which the Authority is or would be a party: (i) contesting the official existence or powers of the Authority; (ii) contesting or affecting the authority for the issuance of the Bonds, or seeking to restrain or enjoin the issuance or the delivery of the Bonds; (iii) contesting or affecting the validity of the Bonds, the Resolution, the Long Term Financing Supplements, the Letters of Representation, the Continuing Disclosure Agreement or this Contract of Purchase; (iv) contesting the use of the proceeds of the Bonds as contemplated in the Official Statement; (v) seeking to restrain or enjoin the collection of the

¹ To discuss: The current draft of the LTFS does not include a form of 15c2-12 certificate for the Customer.

² To discuss: In the current draft of the LTFS, the form of Letter of Representation to be delivered at pricing and the form of Customer Closing Certificate both include 10b-5 statements regarding the information provided by the Public Entity, and the Public Entity agrees in the Letter of Representation to indemnify NYPA and the UWs with respect to that information. Currently there is no requirement for a legal opinion providing 10b5 coverage of the information provided by the Public Entity.

Applicable Revenues available for or pledged to the Bonds under the Resolution; or (vi) involving the possibility of any judgment or uninsured liability which may result in any material adverse change in the business, properties, assets or financial condition of the Authority.

(j) *Filings or Approvals.* All approvals, consents or orders of any governmental authority or agency having jurisdiction in the matter which would constitute a condition precedent to, or the absence of which would materially adversely affect, the lawful performance by the Authority of its obligations hereunder and under the Resolution and the Bonds have been obtained and are in full force and effect, except for the approval of the Comptroller of the State provided for in Section 1010-a of the Public Authorities Law of the State of New York.

(k) *Additional Certificates.* Any certificates signed by any authorized officer of the Authority and delivered to the Underwriters pursuant to this Contract of Purchase shall be deemed a representation and warranty by the Authority to the Underwriters as to the statements made therein with the same effect as if such representation and warranty were set forth by the Authority herein.

(l) *Continuing Disclosure Agreement.* At or prior to the Closing, the Authority shall have duly authorized, executed and delivered a continuing disclosure agreement (the “Continuing Disclosure Agreement”) substantially in the form of Appendix G to the Official Statement. Except as described in the Preliminary Official Statement and the Official Statement, the Authority has been in compliance with all of its continuing disclosure obligations under Rule 15c2-12.

5. Underwriters’ Representations Regarding “Issue Price”; Agreements of the Authority and the Underwriters With Respect to Delivery of Official Statement

(a) The underwriters agree to assist the Authority in establishing the issue price of the Bonds and the Representative shall execute and deliver to the Authority at Closing an “issue price” or similar certificate, substantially in the form attached hereto as Exhibit B (the “Issue Price Certificate”), together with the supporting pricing wires or equivalent communications, with such modifications as may be deemed appropriate or necessary, in the reasonable judgment of the Representative and the Authority, to accurately reflect, as applicable, the sales price or prices or the initial offering price or prices to the Public (as defined below) of the Bonds.

(b) The Authority represents that it will treat the first price at which 10% of each maturity of the Bonds (the “10% Test”) is sold to the Public as the issue price of that maturity. At or promptly after execution of this Contract of Purchase, the Representative shall report to the Authority the price or prices at which the Underwriters have sold to the Public each maturity of the Bonds that have satisfied the 10% Test. If at that time, the 10% Test has not been satisfied as to any maturity of the Bonds, the Representative agrees to promptly report to the Authority the prices at which Bonds of that maturity have been sold by the underwriters to the Public. That reporting obligation shall continue whether or not the Closing has occurred until either (i) all Bonds of that maturity have been sold or (ii) the 10% Test has been satisfied as to the Bonds of that maturity, provided that, the underwriters’ reporting obligation after the Closing may be at reasonable periodic intervals or otherwise upon the request of the Representative or the Authority. For purposes of this Section 5, if Bonds mature on the same date but have different interest rates, each separate CUSIP number within that maturity will be treated as a separate maturity of Bonds.

(c) For purposes of paragraphs (a), (b) and (c) of this Section 5, (i) the term “Public” shall mean any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an underwriter or a related party to an underwriter and the term “related party” for purposes of

such paragraphs of this Section 5 means any two or more persons who have greater than 50 percent common ownership, directly or indirectly and (ii) the term “underwriter” means (A) any person that agrees pursuant to a written contract with the Authority (or with the Representative to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the Bonds to the public).

(d) As soon as possible, but in any event no more than seven business days after the date hereof and in sufficient time to accompany any order requesting payment from a customer, the Authority shall deliver to the Underwriters as many copies of the Official Statement (in the form of the Preliminary Official Statement, with such changes thereto as have been approved by the Representative) as required to permit the Underwriters to comply with the requirements of MSRB Rule G-32 and Rule 15c2-12, including but not limited to the requirement that copies of the Official Statement be filed by the Underwriters with the MSRB.

6. Conditions to the Underwriters’ Obligations

The obligations of the Underwriters to purchase the Bonds are subject to the fulfillment by the Authority of the following conditions, and the fulfillment by the Public Entities of their respective obligations to be performed under the Long Term Financing Supplements and the Letters of Representation, at or before the Closing. Should any of the following conditions not be fulfilled, the obligations of all the Underwriters under this Contract of Purchase shall terminate and neither the Authority nor the Underwriters shall have any further obligations hereunder except as provided in Sections 2(b) and 9 hereof.

(a) (i) The Authority’s representations contained in Section 4 hereof shall be true, correct and complete as of the Closing and shall be confirmed at the Closing by certificates, signed by authorized officers of the Authority, in form and substance satisfactory to the Underwriters and their counsel; and (ii) the Public Entities’ respective representations contained in Section D of the Long Term Financing Supplements shall be true, correct and complete as of the Closing and shall be confirmed at the Closing by certificates, signed by authorized officers of the Public Entities, in the form included as Appendix 2 to the Long Term Financing Supplement.

(b) On or prior to the Closing: (i) this Contract of Purchase, the Long Term Financing Supplements, the Letters of Representation, the Master Resolution, the Supplemental Resolution and the Bond Series Certificates shall each be valid, binding and in full force and effect; (ii) the Bonds shall have been duly authorized, issued, executed, attested and authenticated in accordance with the provisions of the Resolution and the Act, and delivered; and (iii) the Authority shall have duly adopted and there shall be in force and effect such resolutions as, in the respective opinions of Co-Bond Counsel, shall be necessary in connection with the transactions contemplated hereby.

(c) At or prior to the Closing, unless otherwise agreed to by the Representative in writing, the Representative shall receive the following:

(i) The opinions of Katten Muchin Rosenman LLP and Law Offices of Joseph C. Reid, P.A., as Co-Bond Counsel, dated the date of the Closing and addressed to the Authority, substantially in the forms of Appendix F to the Official Statement, together with reliance letters addressed to the Underwriters and the Trustee.

(ii) The supplemental opinions of Katten Muchin Rosenman LLP and Law Offices of Joseph C. Reid, P.A., as Co-Bond Counsel, dated the date of the Closing and addressed to the Authority and the Underwriters, each in form and substance as attached hereto as Schedule IV.

(iii) [The opinion of Katten Muchin Rosenman LLP, Disclosure Counsel to the Authority, dated the date of the Closing and addressed to the Authority and the Underwriters, and in form and substance as attached hereto as Schedule V.]

(iv) An opinion of the General Counsel of the Authority, dated the date of Closing and addressed to the Underwriters, in form and substance as attached hereto as Schedule VI.

(v) The opinion of Orrick, Herrington & Sutcliffe LLP, as counsel to the Underwriters, dated the date of Closing and addressed to the Underwriters, and in form and substance as attached hereto as Schedule VII.

(vi) One copy of the opinion of counsel to each Public Entity, in the form included as Appendix 4 to the Long Term Financing Supplement.

(vii) A certificate executed by a duly authorized officer of the Authority, dated the date of the Closing, to the effect that there has been no material adverse change in the affairs or financial condition of the Authority from that described in the Official Statement.

(viii) One copy of the incumbency certificate of each Public Entity, in the form included as Appendix 3 to the Long Term Financing Supplement.

(ix) (A) A certificate, dated the date of the Closing, executed by a duly authorized officer of the Authority, to the effect that it is not expected that the proceeds of the Bonds will be used in a manner that would cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and (B) a copy of the tax compliance certificate of each Public Entity, in the form included as Appendix 1 to the Long Term Financing Supplement.

(x) One copy of the Master Resolution and the Supplemental Resolution, each duly certified by the General Counsel or Secretary of the Authority, and the Bond Series Certificates.

(xi) One copy of [the Applicable Agreements including]³ the Long Term Financing Supplement executed by the Authority and the applicable Public Entity, certified by the Authority and approved by an authorized officer of the Public Entity, and one copy of the Letter of Representation executed by such Public Entity.

(xii) Evidence of the approval of the Comptroller of the State provided for in Section 1010-a of the Public Authorities Law of the State of New York.

(xiii) A copy of the Authority’s Blanket Letter of Representations.

(xiv) The Bonds shall have received ratings from Moody’s Investors Service, Inc. (“Moody’s”) of “[]”.

(xv) At or prior to the Closing, the Authority shall have duly authorized, executed and delivered the Continuing Disclosure Agreement.

³ NTD: Per Master Resolution, the meaning of this term still TBD.

(xvi) One copy of the continuing disclosure undertaking of each Public Entity, in the form included as Appendix 5 to the Long Term Financing Supplement.

(xvii) One copy of the evidence of insurance of each Public Entity, required pursuant to Section C(vii)(b)(6) of the Long Term Financing Supplements.

(xviii) One copy of each Notice of Final Amortization, delivered pursuant to Section C(i) of the Long Term Financing Supplements.

(xix) [A copy of the verification report issued by _____], Certified Public Accountants.]⁴

(xx) A copy of the report issued by Sustainalytics.

(d) At the Closing, the Representative shall receive such additional certificates, instruments or opinions as Co-Bond Counsel or counsel to the Underwriters may reasonably request to evidence the due authorization, execution, authentication and delivery of the Bonds, the Long Term Financing Supplements, the Letters of Representation and the Resolution, the exclusion from gross income for federal income tax purposes of interest on the Bonds, the truth, accuracy and completeness as of the closing of the Authority's representations and warranties contained herein, in the Official Statement and in any of certificates or documents of the Authority or officers of the Authority delivered pursuant thereto, and the truth, accuracy and completeness as of the closing of each Public Entity's representations and warranties contained in the applicable Long Term Financing Supplement and Letter of Representation, in the Official Statement and in any of certificates or documents of such Public Entity or officers of such Public Entity delivered pursuant thereto.

(e) The Official Statement, including the Appendices thereto, shall not have been amended or supplemented without the approval of the Representative, which shall not be unreasonably withheld.

7. Events Permitting the Underwriters to Terminate

The Underwriters may terminate their obligation to purchase the Bonds at any time before the Closing if any of the following should occur:

(a) (i) Legislation shall have been enacted by the House of Representatives or the Senate of the Congress of the United States, or recommended to the Congress for passage by the President of the United States or favorably reported for passage to either House of Congress by any committee of such House or by any conference committee of the two Houses of Congress or legislation shall have been proposed, or an authorized release or other written public announcement describing proposed legislation or proposing legislation shall have been issued, by the President of the United States, the Secretary of the Treasury or the Chairman or ranking minority member of the House Ways and Means Committee or the Senate Finance Committee, all subsequent to the date hereof, or (ii) a decision shall have been rendered by the United States Tax Court or by a court established under Article III of the Constitution of the United States or (iii) an order, ruling or regulation shall have been issued or proposed by or on behalf of the Treasury Department of the United States or the Internal Revenue Service or any other agency of the United States, or (iv) an authorized release or official statement shall have been issued by the Treasury Department of the United States or by the Internal Revenue Service, the effect of which in any such case described in clause (i), (ii), (iii) or (iv) would be to impose, directly or indirectly, Federal income taxation

⁴ NTD: Draft rating agency presentation indicates possibility that a "verification agent will confirm that the individual loan payments will be sufficient to pay debt service".

upon interest received on obligations of the general character of the Bonds or upon income received by entities of the general character of the Authority in such a manner as in the sole reasonable judgment of the Representative would materially impair the marketability or materially reduce the market price of the Bonds.

(b) Any action shall have been taken by the SEC or by a court including, without limitation, the issuance or making of a stop order, release, regulation, or no-action letter by or on behalf of the SEC, or by any other governmental agency having jurisdiction of the subject matter, or legislation shall have been enacted by the House of Representatives or the Senate of the Congress of the United States, or recommended to the Congress for passage by the President of the United States or favorably reported, subsequent to the date hereof, for passage to either House of the Congress by any Committee of such House, which would require registration of any security under the Securities Act of 1933, as amended, or the Exchange Act, or qualification of any indenture under the Trust Indenture Act of 1939, as amended, in connection with the public offering of the Bonds, or would cause the issuance, offering, or sale of the Bonds, including all the underlying obligations as contemplated hereby or by the Official Statement, or any document relating to the issuance, offering or sale of the Bonds, to be in violation of any provision of the federal securities laws at the Closing date, including any of the above-mentioned Acts, or any action shall have been taken by any court or by any governmental authority suspending the use of the Official Statement, or any amendment or supplement thereto, or any proceeding for that purpose shall have been initiated or threatened in any such court or by any such authority.

(c) (i) There shall exist any event described in Section 10 hereof which in the opinion of the Representative requires a supplement or amendment to the Official Statement; provided, however, that the Underwriters shall, if requested by the Authority, circulate to purchasers a supplement or amendment to the Official Statement reflecting such event, and if such supplement or amendment is so circulated the Underwriters shall only be entitled to terminate this Contract of Purchase pursuant to this clause, if, as a result of such circulation, the marketability of the Bonds or the market price thereof, in the opinion of the Representative, has been materially adversely affected; or (ii) the ratings for the Bonds shall have been lowered below the ratings specified in Section 6(c)(xi) hereof, or withdrawn, by Moody's, and in the opinion of the Representative, the marketability of the Bonds or the market price thereof has been materially adversely affected thereby.

(d) The marketability of the Bonds, the market price thereof, or the ability of the Underwriters to enforce contracts for the sale of the Bonds shall have been materially and adversely affected, in the judgment of the Representative, by (i) an amendment to the Constitution of the United States or of the State or by Federal or State legislation, (ii) a declaration of a general banking moratorium by authorities of the United States or the State, or (iii) the establishment of any new restriction on transactions in securities materially affecting the free market for securities (including the imposition of any limitation on interest rates) or the extension of credit by, or a change to the net capital requirements of, underwriters established by the New York Stock Exchange, the SEC, any other federal or state agency or the Congress of the United States, or by Executive Order.

(e) (i) A general suspension of trading in securities shall have occurred on the New York Stock Exchange, or (ii) there shall have occurred any outbreak or escalation of hostilities or any calamity or crisis (or material escalation in any calamity or crisis), or (iii) a material disruption in securities settlement, payment or clearance services in the United States shall have occurred that, in the judgment of the Representative, is material and adverse and, in the case of any of the events specified in clauses (i)-(iii), due to such event singly or together with any other such events, the market for the Bonds or the ability of the Underwriters to enforce contracts for the sale of the Bonds shall have been materially and adversely affected, in the judgment of the Representative.

(f) The market for the Bonds shall have been materially and adversely affected, in the judgment of the Representative, by an action, suit, or proceeding described in Section [4(j)] hereof.

(g) There shall have occurred, after the execution and delivery hereof, either a financial crisis or a default with respect to the debt obligations of the Authority or proceedings under the bankruptcy laws of the United States or of the State shall have been instituted by the Authority, in either case the effect of which, in the reasonable judgment of the Underwriters, is such as to materially and adversely affect the market price or the marketability of the Bonds or the ability of the Underwriters to enforce contracts of the sale of the Bonds.

8. Notices and Other Actions

All notices, demands and formal actions hereunder will be in writing, mailed, telegraphed or delivered to:

The Authority:	Power Authority of the State of New York 123 Main Street White Plains, New York 10601 Attention: Adam Barsky, Executive Vice President, Chief Financial Officer

The Representative:	Goldman Sachs & Co. LLC 200 West Street New York, New York 10282 Attention: Joseph Natoli, Managing Director

9. Expenses

All costs and expenses of the Authority in connection with the authorization, issuance, sale and delivery of the Bonds and other items herein specified to be delivered to the Underwriters shall be paid for, or provision for payment made by, the Authority. Such provision for payment may include payment from the proceeds of the Bonds. Said costs and expenses shall include: the costs of printing the Bonds, the Resolution, the Preliminary Official Statement, the Official Statement and this Contract of Purchase, and all other underwriting documents required in connection with the distribution of the Preliminary Official Statement, in all cases in reasonable quantities; the fees and charges of any consultants, financial advisors, fiscal advisors, verification agents, accountants, auditors and the rating agencies employed by the Authority in connection with the issuance and sale of the Bonds; any expenses incurred in connection with qualification of the Bonds for sale and determination of their eligibility for investment under the laws of such jurisdictions as the Underwriters may designate (including reasonable fees and disbursements of counsel to the Underwriters relating thereto) and the preparation and printing of surveys in connection therewith; and the fees and expenses of Co-Bond Counsel and Disclosure Counsel in connection with the transactions herein contemplated. The Underwriters shall have no responsibility to pay for expenses incurred on behalf of the Authority's employees which are incidental to implementing this Contract of Purchase, including, but not limited to, meals, transportation and lodging of those employees. Except as indicated above, all expenses of the Underwriters, including specifically the fees and expenses of counsel to the Underwriters not described in the second preceding sentence, shall be paid by the Underwriters.

10. Official Statement Amendments

If, during the period from the date hereof to and including the date which is twenty-five (25) days from the end of the underwriting period, there shall exist any event which, in the opinion of the Representative and counsel to the Underwriters and in the opinion of the Authority, requires a supplement or amendment to the Official Statement so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, when it is delivered to a potential investor, or if the Authority is notified of any such event by any of the Public Entities pursuant to Section 2(b) of their Letters of Representation, the Authority will supplement or amend the Official Statement in a form and in a manner approved by the Representative and the Authority.

Unless otherwise notified in writing by the Representative on or prior to the date of Closing, the Authority may assume that the “end of the underwriting period” for the Bonds for all purposes of Rule 15c2-12 is the date of the Closing. In the event such notice is given in writing by the Representative, the Representative shall notify the Authority in writing following the occurrence of the “end of the underwriting period” for the Bonds as defined in Rule 15c2-12. Except as otherwise specifically provided herein, the “end of the underwriting period” for the Bonds as used in this Contract of Purchase shall mean the date of the Closing or such later date as to which notice is given by the Representative in accordance with the preceding sentence.

11. No Advisory or Fiduciary Role

The Authority acknowledges and agrees that (i) the purchase of the Bonds pursuant to this Contract of Purchase is an arm’s-length commercial transaction between the Authority and the Underwriters; (ii) in connection therewith and with the discussions, undertakings and procedures leading up to the consummation of such transaction, each Underwriter is and has been acting solely as a principal and is not acting as the agent, advisor, fiduciary, financial advisor or Municipal Advisor (as defined in Section 15B of the Exchange Act) of the Authority; (iii) none of the Underwriters has assumed an advisory or fiduciary responsibility in favor of the Authority with respect to the offering contemplated hereby or the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriter has provided other services or is currently providing other services to the Authority on other matters) and none of the Underwriters has any obligation to the Authority with respect to the offering contemplated hereby except the obligations expressly set forth in this Contract of Purchase; (iv) the Underwriters have financial and other interests that differ from those of the Authority; and (v) the Authority has consulted its own legal, financial and other advisors to the extent it has deemed appropriate in connection with the offering of the Bonds.

12. Miscellaneous

No recourse shall be had for the payment of the principal of or interest on the Bonds or for any claim based thereon, on the Resolution, or on this Contract of Purchase against any member, officer or employee of the Authority or any person executing the Bonds or this Contract of Purchase.

This Contract of Purchase when accepted by the Authority in writing as heretofore specified shall constitute the entire agreement between the Authority and the Underwriters.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

This Contract of Purchase may be executed by any one or more of the parties hereto in any number of counterparts, each of which shall be deemed to be an original, but all of such counterparts shall together constitute one and the same instrument. This Contract of Purchase will inure to the benefit of and be binding upon the parties and their successors, and will not confer any rights upon any other person. This Contract of Purchase shall not be binding until executed by the parties hereto. All representations, warranties and agreements by the Authority and the Underwriters in this Contract of Purchase shall remain operative and in full force and effect regardless of any investigation made by or on behalf of any of the Underwriters and shall survive the delivery of and payment for the Bonds. This Contract of Purchase shall be governed by, and construed in accordance with, the laws of the State. Section headings have been inserted in this Contract of Purchase as a matter of convenience of reference only, and it is agreed that such section headings are not part of this Contract of Purchase and will not be used in the interpretation of any provisions of this Contract of Purchase.

GOLDMAN SACHS & CO. LLC,
as Representative

By: _____
Joseph Natoli
Managing Director

Accepted as of the date first set forth above

POWER AUTHORITY OF THE STATE OF NEW YORK

By: _____
Adam Barsky
Executive Vice President, Chief Financial Officer

[Signature Page to Contract of Purchase]

BOND PRICING

POWER AUTHORITY OF THE STATE OF NEW YORK
Energy Efficiency Project Revenue Bonds

\$[APar Amount] Series 2021A

\$[BPar Amount] Series 2021B

ISSUE PRICE CERTIFICATE

The undersigned, on behalf of Goldman Sachs & Co. LLC (the “**Representative**”), acting on behalf of itself and [____], hereby certifies as set forth below with respect to the sale and issuance of the above-captioned obligations (the “**Bonds**”) pursuant to the Contract of Purchase, dated [Sale Date] (the “**Purchase Contract**”) between the Underwriters and the Power Authority of the State of New York (the “**Authority**”).

1. As of the date of this certificate, for each Maturity of the Bonds, the first price at which at least 10% of such Maturity of the Bonds was sold to the Public is the respective price listed on Schedule 1 attached to this Certificate.

2. ***Defined Terms.***

(a) *Authority* means the Power Authority of the State of New York.

(b) *Maturity* means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate maturities.

(c) *Public* means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term “related party” for purposes of this certificate means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(d) *Underwriter* means (i) any person that agrees pursuant to a written contract with the Authority (or with the Representative to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

(e) *Sale Date* means the first day on which there is a binding contract in writing for the sale of a Maturity of the Bonds. The Sale Date of the Bonds is [Sale Date].

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Underwriters’ interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended (the “**Code**”), and the Treasury Regulations thereunder. The Underwriters understand that the foregoing information will be relied upon by the Authority with respect to certain of the representations set forth in the [name of Tax Certificate] and with respect to compliance with the federal income tax rules affecting the Bonds, and by Katten Muchin Rosenman LLP and Law Offices of Joseph C. Reid, P.A., Co-Bond Counsel, in connection with rendering their opinions that the interest on the Bonds is excluded from gross income for federal income tax

purposes, the preparation of Internal Revenue Service Form 8038-G, and other federal income tax advice they may give to the Authority from time to time relating to the Bonds. The representations set forth herein are not necessarily based on personal knowledge.

[signature page follows]

GOLDMAN SACHS & CO. LLC

[_____]

BY: GOLDMAN SACHS & CO. LLC

as Representative on behalf of the Underwriters,
including itself

By:

Name:

Title:

Dated: [Closing Date]

SALE PRICES OF THE BONDS
(Attached)

Schedule I

**\$[Par Amount]
Power Authority of the State of New York
Energy Efficiency Project Revenue Bonds
\$[APar Amount] Series 2021A
\$[BPar Amount] Series 2021B**

LIST OF UNDERWRITERS

GOLDMAN SACHS & CO. LLC

[_____]

**\$[Par Amount]
Power Authority of the State of New York
Energy Efficiency Project Revenue Bonds
\$[APar Amount] Series 2021A
\$[BPar Amount] Series 2021B**

LIST OF PUBLIC ENTITIES

THE CITY UNIVERSITY OF NEW YORK

METROPOLITAN TRANSPORTATION AUTHORITY

NEW YORK CITY HEALTH AND HOSPITALS CORPORATION

THE STATE UNIVERSITY OF NEW YORK AT STONY BROOK

[\$Par Amount]
Power Authority of the State of New York
Energy Efficiency Project Revenue Bonds
[\$APar Amount] Series 2021A
[\$BPar Amount] Series 2021B

FORM OF RULE 15c2-12 CERTIFICATE OF THE AUTHORITY

I, Adam Barsky, Executive Vice President, Chief Financial Officer of the Power Authority of the State of New York (the “Authority”), hereby certify that the Authority’s Preliminary Official Statement, dated [POS Date] (the “Preliminary Official Statement”), with respect to the Authority’s Energy Efficiency Project Revenue Bonds Series 2021A and Energy Efficiency Project Revenue Bonds Series 2021B (collectively, the “Bonds”), is deemed final as of its date for purposes of paragraph (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the “Rule”), except for (i) the information not required under such paragraph of the Rule to be included therein, (ii) the information contained in Appendix C to the Preliminary Official Statement under the heading “Certain Financial and Economic Information Relating to the Public Entities—The City University of New York”, (iii) the information contained in Appendix C to the Preliminary Official Statement under the heading “Certain Financial and Economic Information Relating to the Public Entities—Metropolitan Transportation Authority”, (iv) the information contained in Appendix C to the Preliminary Official Statement under the heading “Certain Financial and Economic Information Relating to the Public Entities—New York City Health and Hospitals Corporation” and (v) the information contained in Appendix C to the Preliminary Official Statement under the heading “Certain Financial and Economic Information Relating to the Public Entities—The State University of New York at Stony Brook”.

The Authority understands that the Underwriters described on the inside cover pages of the Preliminary Official Statement have received (i) a certification from The City University of New York which “deems final” as of the date of the Preliminary Official Statement for purposes of paragraph (b)(1) of the Rule the information contained in Appendix C to the Preliminary Official Statement under the heading “Certain Financial and Economic Information Relating to the Public Entities—The City University of New York”, (ii) a certification from Metropolitan Transportation Authority which “deems final” as of the date of the Preliminary Official Statement for purposes of paragraph (b)(1) of the Rule the information contained in Appendix C to the Preliminary Official Statement under the heading “Certain Financial and Economic Information Relating to the Public Entities—Metropolitan Transportation Authority”, (iii) a certification from New York City Health and Hospitals Corporation which “deems final” as of the date of the Preliminary Official Statement for purposes of paragraph (b)(1) of the Rule the information contained in Appendix C to the Preliminary Official Statement under the heading “Certain Financial and Economic Information Relating to the Public Entities—New York City Health and Hospitals Corporation” and (iv) a certification from The State University of New York at Stony Brook which “deems final” as of the date of the Preliminary Official Statement for purposes of paragraph (b)(1) of the Rule the information contained in Appendix C to the Preliminary Official Statement under the heading “Certain Financial and Economic Information Relating to the Public Entities— The State University of New York at Stony Brook”.

As you are aware, the Preliminary Official Statement is “deemed final” (to the extent described above) for purposes of the Rule, but is subject to revisions, amendment and completion in a final Official Statement of the Authority to be issued in conjunction with the sale of the Bonds.

Dated: [POS Date]

POWER AUTHORITY OF THE STATE
OF NEW YORK

By: _____
Adam Barsky
Executive Vice President,
Chief Financial Officer

FORM OF SUPPLEMENTAL OPINION OF CO-BOND COUNSEL

[To be provided by Co-Bond Counsel**]**

[FORM OF OPINION OF DISCLOSURE COUNSEL]

[To be provided by Disclosure Counsel**]**

FORM OF OPINION OF GENERAL COUNSEL OF THE AUTHORITY

[To be provided by General Counsel**]**

FORM OF OPINION OF UNDERWRITERS COUNSEL

[**To be provided by Underwriters Counsel**]

FINANCE AND RISK COMMITTEE
CHARTER

A. PURPOSE

The purpose of the Finance and Risk Committee (“Committee”) is to provide guidance to the Board of Trustees and management concerning financial and risk related matters of the Authority; review proposals for the issuance of debt by the Authority and make recommendations; and perform such other responsibilities as the Trustees shall assign to it.

B. MEMBERSHIP AND ORGANIZATION

(1) Committee Composition

The Committee shall be comprised of not less than three independent members of the Board of Trustees. All members shall possess the necessary skills to understand the duties and functions of the Committee. Committee members and the Committee Chair shall be selected by a vote of the Board of Trustees.

(2) Term

Committee members shall serve for a period of five years subject to their term of office under the Public Authorities Law § 1003. Committee members may be reelected to serve for additional periods of five years subject to their term of office. A Committee member may resign his or her position on the Committee while continuing to serve as a Trustee. In the event of a vacancy on the Committee due to death, resignation or otherwise, a successor will be selected to serve in the manner and for the term described above.

(3) Removal

A Committee member may be removed if he or she is removed as a Trustee for cause, subject to Public Authorities Law § 2827, or is no longer eligible to serve as a Committee member.

(4) Meetings and Quorum

The Committee shall hold a regular meeting at least once annually and may meet more often as needed to fulfill its responsibilities. A Committee member may call a special meeting of the Committee individually, or upon the request of the Authority’s President and Chief Executive Officer, Executive Vice President and General Counsel, or Executive Vice-President and Chief Financial Officer.

An agenda shall be prepared and distributed to each Committee member prior to each such meeting and minutes shall be prepared in accordance with the New York Open Meetings Law. A majority of the total Committee composition established pursuant to section B(1) of this Charter shall constitute a quorum for the purposes of conducting the business of the Committee and receiving reports.

Any meeting of the Committee may be conducted by video conferencing.

To the extent permitted by law, the Committee may hold meetings or portions of meetings in executive session.

C. FUNCTIONS AND POWERS

The Committee shall provide guidance to the Board of Trustees and management concerning the Authority's practices relating to capital structure, debt issuances, interest rate risk management, and such other financial and risk related matters as the Board of Trustees shall assign to it.

The Committee shall review proposals for the issuance of Authority debt and the use of any related financial derivative instruments and make appropriate recommendations to the Board of Trustees.

The Committee may call upon the resources of the Authority to assist the Committee in the discharge of its responsibilities.

The Committee shall provide guidance to the Authority's Chief Risk and Resilience Officer ("CRRO") on the enterprise risk management program. This includes but is not limited to levels of risk the Authority is willing to accept, avoid, mitigate or transfer in alignment with its risk appetite and in relation to its critical business objectives, risk profile and strategic initiatives.

The Committee may request the CRRO's attendance at meetings and direct the CRRO to provide information it deems necessary to fulfill its purpose.

The CRRO will ensure the occurrence of annual and ongoing risk assessments across the Authority's risk profile. The assessment will include the identification, assessment, mitigation, and reporting of enterprise, operational, and project level risks that form the Authority's risk profile. The CRRO will provide a Board Level Risk Report at each Finance and Risk Committee Meeting highlighting those risk items requiring Board level escalation and make such recommendations as the Committee deems appropriate.

FINANCE ~~AND RISK~~ COMMITTEE
CHARTER

A. PURPOSE

The purpose of the Finance ~~and Risk~~ Committee (“Committee”) is to provide guidance to the Board of Trustees and management concerning financial ~~and risk related~~ matters of the Authority; review proposals for the issuance of debt by the Authority ~~and make recommendations~~; and perform such other responsibilities as the Trustees shall assign to it.

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(3) Removal

A Committee member may be removed if he or she is removed as a Trustee for cause, subject to Public Authorities Law § 2827, or is no longer eligible to serve as a Committee member.

(4) Meetings and Quorum

The Committee shall hold a regular meeting at least once annually and may meet more often as needed to fulfill its responsibilities. A Committee member may call a special meeting of the Committee individually, or upon the request of the Authority’s President and Chief Executive Officer, Executive Vice President and ~~Chief Operating Officer, Executive Vice President and~~ General Counsel, ~~or~~ Executive Vice-President and Chief Financial Officer, ~~Senior Vice President~~ ~~—Corporate Planning and Finance, or Treasurer.~~

An agenda shall be prepared and distributed to each Committee member prior to each such meeting and minutes shall be prepared in accordance with the New York Open Meetings Law. A majority of the total Committee composition established pursuant to section B(1) of this Charter shall constitute a quorum for the purposes of conducting the business of the Committee and receiving reports.

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July 15, 2021

AUDIT COMMITTEE CHARTER

A. PURPOSE

The Audit Committee ("Committee") oversees the work of the Internal Audit Department and monitors all internal audits and external audits performed by the Independent Auditor and other external agencies as well as management's corrective action and implementation plans to all audit findings.

The responsibilities of the Committee are to: recommend to the Board of Trustees the hiring of a certified independent accounting firm for the New York Power Authority ("Authority"), establish the compensation to be paid to the accounting firm and provide direct oversight of the performance of the independent audit conducted by the accounting firm hired for such purposes, provide direct oversight of the Internal Audit Department, and perform such other responsibilities as the Trustees may assign it.

B. MEMBERSHIP AND ORGANIZATION

(1) Committee Composition

The Committee will be comprised of at least three independent members of the Board of Trustees, who possess the necessary skills to understand the duties and functions of the Committee and be familiar with corporate finance and accounting. Committee members and the Committee Chair will be selected by a vote of the Board of Trustees.

Committee members are prohibited from being an employee of the Authority or an immediate family member of an employee of the Authority. In addition, Committee members shall not engage in any private business transactions with the Authority or receive compensation from any private entity that has material business relationships with the Authority or be an immediate family member of an individual that engages in private business transactions with the Authority or receives compensation from an entity that has material business relationships with the Authority.

(2) Term

Committee members will serve for a period of five years subject to their term of office under Public Authorities Law § 1003. Committee members may be re-elected to serve for additional periods of five years subject to their term of office. A Committee member may resign his or her position on the Committee while continuing to serve as a Trustee. In the event of a vacancy on the Committee due to death, resignation or otherwise, a successor will be selected to serve in the manner and for the term described above.

(3) Removal

A Committee member may be removed if he or she is removed as Trustee for cause, subject to Public Authorities Law § 2827, or is no longer eligible to serve as a Committee member.

(4) Meetings and Quorum

The quorum of the Committee is a majority of the number of regular Committee members selected by the Board of Trustees.

A majority vote of all Committee members present is required to take action on a matter. The Committee shall hold regularly scheduled meetings at least three times per year. A Committee member may call a special meeting of the Committee individually, or upon the request of the Authority's President and Chief Executive Officer ("CEO"), Executive Vice President and General Counsel ("GC"), or Chief Audit Executive of the Internal Audit Department ("CAE"). The notice of meeting need not state the purpose for which the meeting has been called. In order to transact business, a quorum must be present.

In addition, the Committee: (1) will meet at least three times a year with the CAE for the purpose of reviewing audit activities, audit findings, management's response, remediation action plans, and providing the CAE with an opportunity to discuss items and topics of relevance with the Committee; (2) will meet at least twice a year with the Authority's independent auditors to discuss the audit work plans, objectives, results and recommendations; and (3) may meet independently with the Authority's CEO, GC or CAE on matters or issues and items within the Committee's purview as it deems necessary. These meetings may be held as part of a regular or special meeting at the Committee's discretion.

An agenda will be prepared and distributed to each Committee member prior to each meeting and minutes of each meeting will be prepared in accordance with the New York Open Meetings Law. Minutes of the meeting should include, at a minimum:

- a. Date; location; time meeting was called to order and adjourned; and if other Board committee (e.g., Finance Committee) is meeting simultaneously.
- b. Title and name of attendees; public comments period; title and name of public speakers.
- c. Approval of the official proceedings of the previous month's Committee meeting.
- d. Pre-Approval of audit and non-auditing services as appropriate, all auditing services and non-audit services to be performed by independent auditors will be presented to and pre-approved by the Committee:
 1. External Audit Approach Plans: Independent auditor presents approach/service plan, which is to be submitted to the Committee electronically.
 2. Internal Audit Activity Report: CAE provides overview of Internal Audit activities.
- e. Follow-up items including communications to the Committee of the current status of selected open issues, concerns, or matters previously brought to the Committee's attention or requested by the Committee.
- f. Status of audit activities, as appropriate; representatives of the certified independent accounting firm or agency management will discuss with the Committee significant audit findings/issues, the status of on-going audits, and the actions taken by agency management to implement audit recommendations.

- g. Copies of handouts or materials presented to the Committee.

Any meeting of the Committee may be conducted by video conferencing. To the extent permitted by law, the Committee may hold meetings or portions of meetings in executive session.

C. FUNCTIONS AND POWERS

The Committee has the following responsibilities:

(1) General Powers

The Committee may call upon the resources of the Authority to assist the Committee in the discharge of its oversight functions. Such assistance may include the assignment of Authority staff and the retention of external advisors subject to the requirements of the Public Authorities Law and the Authority's Expenditure Authorization Procedures. The Committee may communicate directly with the CEO.

The Committee may direct any Authority employee to make oral or written reports to the Committee on issues and items within the Committee's purview.

The Committee may direct the Authority's internal auditors to conduct special audits of items and issues of concern to the Committee.

(2) Oversight of Independent Accountants

The Committee will oversee the relationship with the Authority's independent accountants. To accomplish these objectives, the Committee will:

- a. Provide advice to the Trustees on the selection, engagement, compensation, evaluation, and discharge of the independent accountants.
- b. Review and discuss as necessary the Authority's financial statements including any material changes in accounting principles and practices with the independent accountants or members of Authority management.
- c. Review and approve the Authority's annual audited financial statements (including the independent accountants' associated management letter).
- d. Oversee the establishment of procedures for the effective receipt and treatment of (i) matters regarding auditing, internal auditing, and accounting matters, and (ii) the confidential submission of concerns raised by whistleblowers and other persons regarding accounting or auditing practices.
- e. Review at least annually the scope, objectives, and results of the independent auditors' examination of the annual financial statements and notes, and report to the Trustees on the Committee's findings.
- f. Assure the independence of the independent accountants by approving any non-audit work by them for the Authority and examining the independent auditor's relationship with the Authority.

- g. Report to the Trustees on any matters relevant to the audit process or independent accountant communications and make such recommendations as the Committee deems appropriate.

(3) Oversight of the Internal Audit Department

The Internal Audit Department and CAE will report directly to the Committee. Accordingly, the Committee will:

- a. Have authority over appointment, dismissal, compensation, and performance reviews of the CAE.
- b. Review the charter, activities, staffing and organizational structure of the Internal Audit Department with the CEO and the CAE.
- c. Ensure that the Internal Audit Department is organizationally independent from Authority operations.
- d. Provide oversight of the Internal Audit Department and its resources and activities to facilitate the Internal Audit Department's improvement of internal controls.
- e. Provide oversight for the EH&S Compliance Audit Program as part of Internal Audit's audit activities to ensure an independent assessment is conducted for EH&S compliance at the Authority's facilities.
- f. Review Internal Audit reports and recommendations of the CAE. This review will include a discussion of significant risks reported in the Internal Audit reports, and an assessment of the responsiveness and timeliness of management's follow-up activities pertaining to the same.
- g. Require the CAE to attend any meeting of the Committee and to prepare and deliver such reports as the Committee requests.
- h. Present periodic reporting to the Board on how the Committee has discharged its duties and met its responsibilities, and regularly report activities, issues, and recommendations.
- i. Review the Committee's charter annually, reassess its adequacy, and recommend any proposed changes to the Board.
- j. Conduct an annual self-evaluation of performance, including its effectiveness and compliance with the charter.

Standards Conformance

- k. Inquire of the CAE about steps taken to ensure that the internal audit activity conforms with the IIA's *International Standards for the Professional Practice of Internal Auditing (Standards)*.
- l. Ensure the internal audit activity has a quality assurance and improvement program and that the results of these periodic assessments are presented to the Audit Committee.

- m. Ensure that the internal audit activity has an external quality assurance review every five years.
- n. Review the results of the independent external quality assurance review and monitor the implementation of the internal audit activity's action plans to address any recommendations.
- o. Advise the Board about any recommendations for the continuous improvement of the internal audit activity.



July 15, 2021

NEW YORK STATE CANAL CORPORATION **AUDIT COMMITTEE CHARTER**

A. PURPOSE

The Audit Committee ("Committee") oversees the work of the Internal Audit Department and monitors all internal audits and external audits performed by the Independent Auditor and other external agencies as well as management's corrective action and implementation plans to all audit findings.

The responsibilities of the Committee are to: recommend to the Board the hiring of a certified independent accounting firm for the New York State Canal Corporation ("Corporation"), establish the compensation to be paid to the accounting firm and provide direct oversight of the performance of the independent audit conducted by the accounting firm hired for such purposes, provide direct oversight of the Internal Audit Department, and perform such other responsibilities as the Board may assign it.

B. MEMBERSHIP AND ORGANIZATION

(1) Committee Composition

The Committee will be comprised of at least three independent members of the Board, who possess the necessary skills to understand the duties and functions of the Committee and be familiar with corporate finance and accounting. Committee members and the Committee Chair will be selected by a vote of the Board.

Committee members are prohibited from being an employee of the Corporation or an immediate family member of an employee of the Corporation. In addition, Committee members shall not engage in any private business transactions with the Corporation or receive compensation from any private entity that has material business relationships with the Corporation; or be an immediate family member of an individual that engages in private business transactions with the Corporation or receives compensation from an entity that has material business relationships with the Corporation.

(2) Term

Committee members will serve for a period of five years subject to their term of office under Public Authorities Law § 1003. Committee members may be re-elected to serve for additional periods of five years subject to their term of office. A Committee member may resign his or her position on the Committee while continuing to serve as a member of the Board. In the event of a vacancy on the Committee due to death, resignation or otherwise, a successor will be selected to serve in the manner and for the term described above.

July 15, 2021

(3) Removal

A Committee member may be removed if he or she is removed as a member of the Board for cause, subject to Public Authorities Law § 2827, or is no longer eligible to serve as a Committee member.

(4) Meetings and Quorum

The quorum of the Committee is a majority of the number of Committee members selected by the Board.

A majority vote of all Committee members present is required to take action on a matter. The Committee shall hold regularly scheduled meetings at least three times a year. A Committee member may call a special meeting of the Committee individually, or upon the request of the Corporation's President and Chief Executive Officer ("CEO"), Executive Vice President and General Counsel ("GC"), or Chief Audit Executive of the Internal Audit Department ("CAE"). The notice of meeting need not state the purpose for which the meeting has been called. In order to transact business, a quorum must be present.

In addition, the Committee: (1) will meet at least three times a year with the CAE for the purpose of reviewing audit activities, audit findings, management's response, remediation action plans, and providing the CAE with an opportunity to discuss items and topics of relevance with the Committee; (2) will meet at least twice a year with the Corporation's independent auditors to discuss the audit work plans, objectives, results and recommendations; and (3) may meet independently with the Corporation's CEO, GC, or CAE on matters or issues and items within the Committee's purview as it deems necessary. These meetings may be held as part of a regular or special meeting at the Committee's discretion.

An agenda will be prepared and distributed to each Committee member prior to each meeting and minutes of each meeting will be prepared in accordance with the New York Open Meetings Law. Minutes of the meeting should include, at a minimum:

- a. Date; location; time meeting was called to order and adjourned; and if other Board committee (e.g., Finance Committee) is meeting simultaneously.
- b. Title and name of attendees; public comments period; title and name of public speakers.
- c. Approval of the official proceedings of the previous month's Committee meeting.
- d. Pre-Approval of audit and non-auditing services as appropriate, all auditing services and non-audit services to be performed by independent auditors will be presented to and pre-approved by the Committee:
 1. External Audit Approach Plans: Independent auditor presents approach/service plan, which is to be submitted to the Committee electronically.

July 15, 2021

2. Internal Audit Activity Report: CAE provides overview of Internal Audit activities.
- e. Follow-up items including communications to the Committee of the current status of selected open issues, concerns, or matters previously brought to the Committee's attention or requested by the Committee.
- f. Status of audit activities, as appropriate; representatives of the certified independent accounting firm or Corporation management will discuss with the Committee significant audit findings/issues, the status of on-going audits, and the actions taken by Corporation management to implement audit recommendations.
- g. Copies of handouts or materials presented to the Committee.

Any meeting of the Committee may be conducted by video conferencing. To the extent permitted by law, the Committee may hold meetings or portions of meetings in executive session.

C. FUNCTIONS AND POWERS

The Committee has the following responsibilities:

(1) General Powers

The Committee may call upon the resources of the Corporation to assist the Committee in the discharge of its oversight functions. Such assistance may include the assignment of Corporation staff and the retention of external advisors subject to the requirements of the Public Authorities Law and the Corporation's Expenditure Authorization Procedures. The Committee may communicate directly with the CEO.

The Committee may direct any Corporation employee to make oral or written reports to the Committee on issues and items within the Committee's purview.

The Committee may direct the Corporation's internal auditors to conduct special audits of items and issues of concern to the Committee.

(2) Oversight of Independent Accountants

The Committee will oversee the relationship with the Corporation's independent accountants. To accomplish these objectives, the Committee will:

- a. Provide advice to the Board on the selection, engagement, compensation, evaluation, and discharge of the independent accountants.
- b. Review and discuss as necessary the Corporation's financial statements including any material changes in accounting principles and practices with the independent accountants, or members of Corporation management.
- c. Review and approve the Corporation's annual audited financial statements (including the independent accountants' associated management letter).

July 15, 2021

- d. Oversee the establishment of procedures for the effective receipt and treatment of (i) matters regarding auditing, internal auditing, and accounting matters, and (ii) the confidential submission of concerns raised by whistleblowers and other persons regarding accounting or auditing practices.
- e. Review at least annually the scope, objectives, and results of the independent auditors' examination of the annual financial statements and accompanying notes, and report to the Board on the Committee's findings.
- f. Assure the independence of the independent accountants by approving any non-audit work by them for the Corporation and examining the independent auditor's relationship with the Corporation.
- g. Report to the Board on any matters relevant to the audit process or independent accountant communications and make such recommendations as the Committee deems appropriate.

(3) Oversight of the Internal Audit Department

The Internal Audit Department and CAE will report directly to the Committee. Accordingly, the Committee will:

- a. Have authority over appointment, dismissal, compensation, and performance reviews of the CAE.
- b. Review the charter, activities, staffing and organizational structure of the Internal Audit Department with the CEO and the CAE.
- c. Ensure that the Internal Audit Department is organizationally independent from Corporation operations.
- d. Provide oversight of the Internal Audit Department and its resources and activities to facilitate the Internal Audit Department's improvement of internal controls.
- e. Provide oversight for the EH&S Compliance Audit Program as part of Internal Audit's audit activities to ensure an independent assessment is conducted for EH&S compliance at the Corporation's facilities.
- f. Review Internal Audit reports and recommendations of the CAE. This review will include a discussion of significant risks reported in the Internal Audit reports, and an assessment of the responsiveness and timeliness of management's follow-up activities pertaining to the same.
- g. Require the CAE to attend any meeting of the Committee and to prepare and deliver such reports as the Committee requests.

July 15, 2021

- h. Present periodic reporting to the Board on how the Committee has discharged its duties and met its responsibilities, and regularly report activities, issues, and recommendations.
- i. Review the Committee's charter annually, reassess its adequacy, and recommend any proposed changes to the Board.
- j. Conduct an annual self-evaluation of performance, including its effectiveness and compliance with the charter.

Standards Conformance

- k. Inquire of the CAE about steps taken to ensure that the internal audit activity conforms with the IIA's *International Standards for the Professional Practice of Internal Auditing (Standards)*.
- l. Ensure that the internal audit activity has a quality assurance and improvement program and that the results of these periodic assessments are presented to the Audit Committee.
- m. Ensure that the internal audit activity has an external quality assurance review every five years.
- n. Review the results of the independent external quality assurance review and monitor the implementation of the internal audit activity's action plans to address any recommendations.
- o. Advise the Board about any recommendations for the continuous improvement of the internal audit activity.



Charter Title:
Internal Audit Charter

Charter Number:
CP 5-1

Page:
1 of 8

Internal Audit Charter

Note: Revision # should be listed in descending order starting with most recent version at the top.

Revision Date (For BCG Use Only)	Revision #	Description/Modification	Revision Section (s)	Author
6/3/2021	3	Update to Charter to include Internal Audit responsibility for the Environmental Health and Safety (EH&S) Compliance Audit Program and added references to the Office of Ethics and Compliance	Various Sections	Angela Gonzalez SVP Internal Audit
7/16/2020	2	Update to Charter to align with the Institute of Internal Auditors International Professional Practices Framework (IPPF) e-Scribe	Various Sections	Angela Gonzalez SVP Internal Audit
10/5/2018	1	Update to Charter	Various Sections	Angela Gonzalez SVP Internal Audit
12/17/2015	0	Creation of Charter This Charter replaces the Internal Audit Program Company Policy 5-1. There were 5 prior versions of the previous policy	N/A	Jennifer Faulkner SVP of Internal Audit

PURPOSE

Purpose

The mission of the Internal Audit (IA) function is to provide independent, objective audit and advisory services designed to add value, manage risks, and improve NYPA and Canal Corporation (NYPA and Canals) operations. IA helps the organization accomplish its objectives by bringing a systemic and disciplined approach to evaluating and improving the effectiveness of NYPA and Canals governance, risk management, and internal controls. This includes processes designed to evaluate the effectiveness and efficiency of operations, ability to execute on strategic initiatives, reliability of financial reporting, and compliance with applicable laws and regulations.

Standards for the Professional Practice of Internal Auditing

IA will govern itself by adherence to the mandatory elements of The Institute of Internal Auditors International Professional Practices Framework, including the Core Principles for the Professional Practice of Internal Auditing, the Code of Ethics, the International Standards for the Professional Practice of Internal Auditing, and the Definition of Internal Auditing. The Chief Audit Executive (CAE) will report periodically to senior management and the Audit Committee of the Board of Trustees (Audit Committee) regarding the IA department's conformance to the Code of Ethics and the Standards.

Authority

The CAE will report functionally to the Audit Committee and administratively (i.e., day-to-day operations) to the Executive Vice President & General Counsel. To establish, maintain, and assure that NYPA and Canals' IA department has sufficient authority to fulfill its duties, the Audit Committee will:

- Approve the IA department's charter.
- Approve the risk-based Internal Audit plan and EH&S Compliance Audit plan.
- Approve the IA department's budget and resource plan.
- Receive communications from the CAE on the IA department's performance relative to its plan and other matters.
- Approve decisions regarding the appointment and removal of the CAE.
- Approve the remuneration of the CAE.
- Make appropriate inquiries of management and the CAE to determine whether there is inappropriate scope or resource limitations.

The CAE will have unrestricted access to, and communicate and interact directly with, the Audit Committee, including private meetings without management present. The CAE will also have access to the Executive Management Committee (EMC).

The Audit Committee authorizes the IA department to:

- Have full, free, and unrestricted access to all functions, records, property, and personnel pertinent to carrying out any engagement, subject to accountability for confidentiality and safeguarding of records and information.
- Allocate resources, set frequencies, select subjects, determine scopes of work, apply techniques required to accomplish audit objectives, and issue reports.
- Obtain assistance from the necessary NYPA and Canals personnel, as well as other specialized services from within or outside NYPA and Canals, to complete the engagement.

Responsibilities

The CAE has the responsibility to:

- Submit, at least annually, to executive management and the Audit Committee a risk based Internal Audit plan and EH&S Compliance Audit plan for review and approval.
- Communicate to executive management and the Audit Committee the impact of resource limitations on the Internal Audit plan and EH&S Compliance Audit plan.
- Review and adjust the Internal Audit plan and EH&S Compliance Audit plan, as necessary, in response to changes in NYPA and Canals' business, risks, operations, programs, systems, and controls.
- Communicate to executive management and the Audit Committee any significant interim changes to the Internal Audit plan and EH&S Compliance Audit plan.
- Ensure each engagement of the Internal Audit plan and EH&S Compliance Audit plan is fully executed, including the establishment of objectives and scope, the assignment of appropriate and adequately supervised resources, the documentation of work programs and testing results, and the communication of engagement results with applicable conclusions and recommendations to appropriate parties.
- Follow up on engagement observations and corrective actions, and report periodically to executive management and the Audit Committee any corrective actions not effectively implemented.
- Ensure the principles of integrity, objectivity, confidentiality, and competency are applied and upheld.
- Ensure the IA department collectively possesses or obtains the knowledge, skills, and other competencies needed to meet the requirements of the IA charter.
- Ensure trends and emerging issues that could impact NYPA and Canals are considered and communicated to executive management and the Audit Committee as appropriate.
- Ensure emerging trends and successful practices in internal auditing are considered.
- Establish and ensure adherence to policies and procedures designed to guide the IA department.
- Ensure adherence to NYPA and Canals' Code of Conduct and relevant policies and procedures, unless such policies and procedures conflict with the IA charter. Any such conflicts will be resolved or otherwise communicated to executive management, the Office of Ethics and Compliance and the Audit Committee.
- Ensure conformance of the IA department with the IIA Standards (Standards), with the following qualifications:
 - If the IA department is prohibited by law or regulation from conformance with certain parts of the Standards, the CAE will ensure appropriate disclosures and will ensure conformance with all other parts of the Standards.

- If the Standards are used in conjunction with requirements issued by other authoritative bodies, the CAE will ensure that the IA department conforms with the Standards, even if the IA department also conforms with the more restrictive requirements of other authoritative bodies.

INDEPENDENCE AND OBJECTIVITY

Independence and Objectivity

The CAE will ensure that the IA department remains free from all conditions that threaten the ability of internal auditors to carry out their responsibilities in an unbiased manner, including matters of audit selection, scope, procedures, frequency, timing, and report content. If the CAE determines that independence or objectivity may be impaired in fact or appearance, the details of impairment will be disclosed to appropriate parties, including the Chief Ethics and Compliance Officer.

Internal auditors will maintain an unbiased approach that allows them to perform engagements objectively and in such a manner that they believe in their work product, that no quality compromises are made, and that they do not subordinate their judgment on audit matters to others.

Internal auditors will have no direct operational responsibility or authority over any of the activities audited. Accordingly, internal auditors will not implement internal controls, develop procedures, install systems, prepare records, or engage in any other activity that may impair their judgment, including:

- Assessing specific operations for which they had responsibility within the previous year.
- Performing any financial or operational duties for NYPA and Canals or their affiliates.
- Initiating or approving transactions external to the IA department.
- Directing the activities of any NYPA and Canals employee not employed by the IA department, except to the extent that such employees have been appropriately assigned to audit teams or to otherwise assist internal auditors.

Where the CAE has or is expected to have roles and/or responsibilities that fall outside of internal auditing, safeguards will be established to limit impairments to independence or objectivity.

Internal auditors will:

- Disclose any impairment of independence or objectivity, in fact or appearance, to the CAE and other appropriate parties.
- Exhibit professional objectivity in gathering, evaluating, and communicating information about the activity or process under examination.
- Make balanced assessments of all available and relevant facts and circumstances.
- Take necessary precautions to avoid conflicts of interest or undue influence with their own interests or by others in forming judgments.

The CAE will confirm to the Audit Committee, at least annually, the organizational independence of the IA department.

The CAE will disclose to the Audit Committee any interference or undue influence and their related implications in determining the scope of internal auditing, performing work, and/or communicating results.

Scope of Internal Audit Activities

The scope of internal audit activities encompasses, but is not limited to, objective examinations of evidence for the purpose of providing independent assessments to the Audit Committee, management, and outside parties on the adequacy and effectiveness of governance, risk management, and control processes for NYPA and Canals. Internal Audit is also responsible for conducting annual Environmental, Health and Safety (EH&S) Compliance audits. Internal audit assessments include evaluating whether:

- Risks related to the achievement of NYPA and Canals' strategic objectives are appropriately identified and managed.
- The actions of NYPA and Canals' officers, directors, employees, contingent workers, and consultants are compliant with NYPA and Canals' policies, procedures, and applicable laws, regulations, and governance standards.
- The results of operations or programs are consistent with established goals and objectives.
- Operations or programs are carried out effectively and efficiently.
- Established processes and systems enable compliance with the policies, procedures, laws, and regulations that could significantly impact NYPA and Canals operations.
- Information and the means used to identify, measure, analyze, classify, and report such information are reliable and have integrity.
- Resources and assets are acquired economically, used efficiently, and protected adequately.
- Collaboration occurs among IA, Enterprise Risk Management and the Ethics and Compliance Office to report significant risk exposures and control issues, including fraud risks and governance issues.

The CAE also coordinates activities, where possible, and considers relying upon the work of other internal and approved external assurance and consulting service providers as needed. The IA department may perform advisory and related client service activities, the nature and scope of which will be agreed upon with the client, provided the IA department does not assume management responsibility.

QUALITY ASSURANCE AND IMPROVEMENT PROGRAM

IA will maintain a Quality Assurance and Improvement Program that covers all aspects of the IA function. The program will include an evaluation of the IA department's conformance with the Standards and an evaluation of whether internal auditors apply The IIA's Code of Ethics. The program will also assess the efficiency and effectiveness of the IA department and identify opportunities for improvement.

The CAE will communicate to executive management and the Audit Committee on the IA department's Quality Assurance and Improvement Program, including results of internal assessments (both ongoing and periodic) and external assessments conducted at least once every five years by a qualified, independent assessor or assessment team from outside NYPA and Canals.

MANAGING THE INTERNAL AUDIT FUNCTION

The CAE is delegated the authority and discretion to perform audit and advisory services and to oversee the IA function. The CAE will promote a strong control environment and emulate appropriate “tone at the top.” The CAE will also be responsible for maintaining a professional IA department which possess sufficient knowledge, skills, experience, and professional qualifications to meet the requirements of the IA charter.

In addition, the CAE will be responsible for overseeing the following aspects of the IA function:

- Developing and overseeing the execution of IA and EH&S Compliance audit work programs which should address the appropriate scope and techniques required to achieve the audit objectives.
- Overseeing the development of work papers that meet the quality standards required by management and are consistent with audit professional standards.
- Coordinating alignment with other risk management and compliance functions.
- Serving as a business partner to proactively identify risks and support execution of NYPA and Canals strategies.
- Maintaining updated job descriptions, roles, and competencies for each staff level and updating the organizational chart, as necessary.
- Periodically reviewing critical hiring and recruiting needs and any competency gaps.
- Developing staff with skills that can be transferred to other areas of the business.
- Aligning to professional standards and serving as a training and talent development organization within NYPA and Canals.
- Effectively onboarding IA new hires and providing core training materials and ongoing training and development that correlates to competency and career planning.
- Developing and deploying effective methodologies to execute the function’s mandate.
- Assessing and identifying appropriate technologies required to support the function and add value to NYPA and Canals.

NATURE OF WORK

IA will develop an annual audit plan based on the prioritization of the audit universe, an appropriate risk-based methodology, and input from management and the Audit Committee. The established audit universe defines the auditable entities and risks that IA will monitor and mitigate. These elements will include operational, financial, compliance, strategic and information technology risk. IA will generally perform three categories of IA activities:

- **Audits** – IA will provide independent assurance activities of the performance of NYPA and Canals governance, risk management, compliance and control processes and EH&S compliance.
- **Assessments** – IA will provide independent assessment activities focused on process improvement opportunities, risk identification and mitigation within new processes and initiatives.
- **Advisory** – IA will provide various consulting activities in either documented form or real-time feedback applied to new processes, initiatives, or other identified management requests. IA is considered a partner and trusted advisor in these efforts.

ENGAGEMENT PLANNING AND AUDIT PERFORMANCE

IA will perform an annual risk assessment to create an Internal Audit plan and the EH&S Compliance Audit plan. As part of the risk assessment, IA will consider feedback from management at various levels, existing risk profile, emerging risks, strategic objectives, prior years' internal audit results, and significant upcoming industry, regulatory and organizational changes, among others, to understand risks faced by NYPA and Canals. In addition to the development and execution of the Internal Audit plan and EH&S Compliance Audit plan, IA will be responsible for budget and resource allocation, managing personnel assigned to projects, scope determination, and communication protocols with management for each of its projects.

IA will execute the annual Audit plan and the EH&S Compliance Audit plan, including as appropriate, any special projects requested by the Audit Committee, the CEO and/or applicable members of management. As part of audit execution, IA will be responsible for:

- Establishing end-to-end audit timelines including ongoing risk monitoring activities, planning, and fieldwork, required status meetings and reporting.
- Establishing an understanding with the business regarding audit objectives, scope, timelines, and reporting of observations and recommendations.
- Using all records, personnel, and physical properties within NYPA and Canals in an ethical manner, and in accordance with NYPA and Canals policies and procedures, to avoid undue interruption of normal operations.
- Taking responsibility for employee privacy and confidentiality of information obtained during audit projects.

COMMUNICATING RESULTS

The CAE will report periodically to executive management and the Audit Committee regarding:

- The IA department's purpose, authority, and responsibility.
- The IA department's plan and performance relative to its plan.
- The IA department's conformance with the IIA's Code of Ethics and Standards, and action plans to address any significant conformance issues.
- Significant risk exposures and control issues, including fraud risks, governance issues, and other matters requiring the attention of, or requested by, the Audit Committee.
- Results of audit engagements or other activities.
- Resource requirements.
- Any response to risk by management that may be unacceptable to NYPA and Canals.

Opportunities for improving the efficiency of governance, risk management, and control processes may be identified during engagements. These opportunities will be communicated to the appropriate level of management.

IA will review IA reports and communicate all observations with appropriate management in a manner that will allow management to assess the adequacy of internal controls and understand remediation factors that should take place. All observations will be agreed upon with management prior to report issuance. In addition, IA will execute a report rating process whereby observations and reports will be rated against a scale of pre-defined criteria.

Observations will be rated on a scale of High, Medium, and Low, and reports will be evaluated as Satisfactory, Some Improvement Needed, Considerable Improvement Needed and Unsatisfactory. Ratings will be relative to the individual observation, risk categories, or risks to NYPA and Canals and may consider materiality or potential impact.

IA will provide reasonable and appropriate recommendations for corrective action plans (i.e., management action plans and/or management recommendations) which management will agree to and provide IA with an action owner and timeline by which remediation is expected.

MONITORING PROCESS

Management action plans will be monitored on a monthly basis. Any recommended action that, in the judgment of IA, does not receive adequate attention will be escalated to an appropriate level of management for resolution. The escalation process may involve successive levels of management and may include the EMC, the CEO, and the Audit Committee in the event a high rated observation is not timely or satisfactorily resolved. Management of the audited organization shall be notified of the intent to escalate a particular issue and will be encouraged to participate in its resolution.

Approval/Signatures

Angela Gonzalez

6/3/2021

Chief Audit Executive

Date

Board/Audit Committee Chair

Date

Chief Executive Officer

Date

APPLICATION SUMMARY
Expansion Power (“EP”)

Company:	Polymer Conversions, Inc. (“Polymer”)
Location:	Orchard Park, NY
County:	Erie County
IOU:	New York State Electric & Gas
Business Activity:	The company is a manufacturer of medical devices and disposable products.
Project Description:	Polymer is proposing to significantly expand the manufacturing space at its Orchard Park facility to accommodate corporate growth plans.
Existing Allocation(s):	356 kW of Recharge New York Power
Power Request:	400 kW of EP
Power Recommended:	300 kW of EP
Job Commitment:	
Base:	120
New:	At least 45 jobs
New Jobs/Power Ratio:	150 jobs/MW
New Jobs - Avg. Wage and Benefits:	\$62,000
Capital Investment:	At least \$10.5 million
Capital Investment/MW:	\$35 million/MW
Other ED Incentives:	Incentives offered from Empire State Development and the Erie County Industrial Development Agency
Summary:	Polymer is a full-service medical device contract manufacturer that specializes in complex thermoplastic injection molding and value-add assembly. Polymer was acquired by MedBio, LLC (“MedBio”) in September 2020. Headquartered in Grand Rapids, Michigan, MedBio is a manufacturer of medical devices and disposable products. Polymer is proposing to significantly increase the manufacturing space at its Orchard Park site. The project includes new space required for advanced manufacturing processes, cleanroom operations, and engineering and warehousing functions. MedBio is also considering Michigan to pursue expanded manufacturing capabilities. An allocation of low-cost hydropower, along with other support offered, could incentivize MedBio to select the Orchard Park site, and incentivize these companies to consider the Orchard Park facilities for future expansion projects.

POWER AUTHORITY

OF THE

STATE OF NEW YORK

30 South Pearl Street
10th Floor
Albany, New York 12207-3425

AGREEMENT FOR THE SALE
OF EXPANSION POWER AND/OR REPLACEMENT POWER

Polymer Conversions, Inc.

The POWER AUTHORITY OF THE STATE OF NEW YORK (“Authority”), created pursuant to Chapter 772 of the New York Laws of 1931 and existing under Title I of Article V of the New York Public Authorities Law (“PAL”), having its office and principal place of business at 30 South Pearl Street, 10th Floor, Albany, New York 12207-3425, hereby enters into this Agreement for the Sale of Expansion Power and/or Replacement Power (“Agreement”) with Polymer Conversions, Inc. (“Customer”) with offices and principal place of business at 5732 Big Tree Road, Orchard Park, NY 14127. The Authority and the Customer are from time to time referred to in this Agreement as “Party” or collectively as “Parties” and agree as follows:

RECITALS

WHEREAS, the Authority is authorized to sell hydroelectric power produced by the Niagara Power Project, Federal Energy Regulatory Commission (“FERC”) Project No. 2216, including hydropower known as Expansion Power (“EP”) and Replacement Power (“RP”) to qualified businesses in accordance with PAL § 1005(5) and (13);

WHEREAS, the Customer has applied for an allocation of EP and/or RP, or for an extension of an existing allocation of EP or RP, for use at facilities defined in this Agreement as the “Facility”;

WHEREAS, the Customer has offered to make specific commitments relating to, among other things, the creation and/or retention of jobs, capital investments, power usage and energy efficiency measures at the Facility;

WHEREAS, the Authority’s Board of Trustees approved an allocation of EP and/or RP to the Customer;

WHEREAS, the Parties have reached an agreement on the terms and conditions applicable for the sale of the EP and/or RP for a term provided in this Agreement;

WHEREAS, the Authority’s provision of Electric Service under this Agreement is an unbundled service separate from (i) the transmission of the allocation, and (ii) the delivery of the Allocation;

WHEREAS, electric service to be provided hereunder shall be subject to the rates and other terms and conditions contained in the Service Tariff No. WNY-2 as provided in this Agreement;

WHEREAS, the Authority has complied with requirements of PAL § 1009, and has been authorized to execute the Agreement; and

WHEREAS, the Authority has complied with requirements of PAL § 1009, and has been authorized to execute the Agreement.

NOW, THEREFORE, in consideration of mutual covenants, terms, and conditions herein, and for other good and valuable consideration, the receipt and adequacy of which the Parties hereby acknowledge, the Parties do hereby mutually covenant and agree as follows:

ARTICLE I

DEFINITIONS

When used with initial capitalization, whether singular or plural, the following terms, as used in this Agreement, shall have the meanings as set forth below. When used with initial capitalization, whether singular or plural, terms defined in schedules or appendices to this Agreement shall have the meanings set forth in such schedules or appendices.

“Adverse Water Condition” means any event or condition, including without limitation a hydrologic or hydraulic condition, that relates to the flow, level, or usage of water at or in the vicinity of the Project and/or its related facilities and structures, and which prevents, threatens to prevent, or causes the Authority to take responsive action that has the effect of preventing, the Project from producing a sufficient amount of energy to supply the full power and energy requirements of firm power and firm energy customers who are served by the Project.

“Agreement” means this Agreement, and unless otherwise indicated herein, includes all schedules, appendices and addenda thereto, as the same may be amended from time to time.

“Allocation” refers to the allocation(s) of EP and/or RP awarded to the Customer as specified in Schedule A.

“Alternative REC Compliance Program” has the meaning provided in Schedule E.

“Annual Capital Investment Commitment” has the meaning set forth in Schedule B.

“Annual CI Expenditures” has the meaning set forth in Schedule B.

“Base Employment Level” has the meaning set forth in Schedule B.

“Contract Demand” is as defined in Service Tariff No. WNY-2.

“Customer-Arranged Energy” means energy that the Customer procures from sources other than the Authority for the purpose of replacing Firm Energy that is not supplied to the Customer due to a Planned Hydropower Curtailment.

“Effective Date” means the date that this Agreement is fully executed by the Parties.

“Electric Service” is the Firm Power and Firm Energy associated with the Allocation and sold by the Authority to the Customer in accordance with this Agreement, Service Tariff No. WNY-2 and the Rules.

“Energy Services” has the meaning set forth in Article V of this Agreement.

“Expansion Power” (or “EP”) is 250 MW of Firm Power and associated Firm Energy from the Project eligible to be allocated by the Authority for sale to businesses pursuant to PAL § 1005(13).

“Expansion Project” has the meaning set forth in Section IV.3.a of this Agreement.

“Expansion Project Capital Investment Commitment” has the meaning set forth in Schedule B.

“Facility” means the Customer’s facilities as described in Schedule A to this Agreement.

“Firm Power” is as defined in Service Tariff No. WNY-2.

“Firm Energy” is as defined in Service Tariff No. WNY-2.

“FERC” means the Federal Energy Regulatory Commission (or any successor organization).

“FERC License” means the first new license issued by FERC to the Authority for the continued operation and maintenance of the Project, pursuant to Section 15 of the Federal Power Act, which became effective September 1, 2007 after expiration of the Project’s original license which became effective in 1957.

“Hydro Projects” is a collective reference to the Project and the Authority’s St. Lawrence-FDR Project, FERC Project No. 2000.

“International Joint Commission” or “IJC” refers to the entity with responsibility to prevent and resolve disputes between the United States of America and Canada under the *1909 Boundary Waters Treaty* and pursues the common good of both countries as an independent and objective advisor to the two governments. The IJC rules upon applications for approval of projects affecting boundary or transboundary waters and may regulate the operation of these projects.

“Load Reduction” has the meaning set forth in Section IX.6 of this Agreement.

“Load Serving Entity” (or “LSE”) means an entity designated by a retail electricity customer (including the Customer) to provide capacity, energy and ancillary services to serve such customer, in compliance with NYISO Tariffs, rules, manuals and procedures.

“Metering Arrangement” has the meaning set forth in Section II.8 of this Agreement.

“NYEM” means the New York Energy Manager, an energy management center owned and operated by the Authority.

“NYEM Agreement” means a written agreement between the Authority and the Customer providing for the Facility’s enrollment and Customer’s participation in NYEM.

“NYEM Participation” has the meaning specified in Schedule B of this Agreement.

“NYISO” means the New York Independent System Operator or any successor organization.

“NYISO Charges” has the meaning set forth in Section VII.3 of this Agreement.

“NYISO Tariffs” means the NYISO’s Open Access Transmission Tariff or the NYISO’s Market Administration and Control Area Services Tariff, as applicable, as such tariffs are modified from time to time, or any successor to such tariffs.

“Planned Hydropower Curtailment” means a temporary reduction in Firm Energy to which the Customer is entitled to receive under this Agreement made by the Authority in response to an anticipated or forecasted Adverse Water Condition.

“Physical Energy Audit” or “Audit” means a physical evaluation of the Facility in a manner approved by the Authority that includes at a minimum the following elements: (a) an assessment of the Facility’s energy use, cost and efficiency which produces an energy utilization index for the Facility (such as an Energy Use Intensity or Energy Performance Indicator); (b) a comparison of the Facility’s index to indices for similar buildings/facilities; (c) an analysis of low-cost/no-cost measures for improving energy efficiency; (d) a listing of potential capital improvements for improving energy consumption; and (e) an initial assessment of potential costs and savings from such measures and improvements.

“Project” means the Niagara Power Project, FERC Project No. 2216.

“Replacement Power” (or “RP”) is 445 MW of Firm Power and associated Firm Energy from the Project eligible to be allocated by the Authority for sale to businesses pursuant to PAL § 1005(13).

“Reporting Year” means the yearly interval that the Authority uses for reporting, compliance and other purposes as specified in this Agreement. The Reporting Year for this Agreement is from January 1 through December 31, subject to change by the Authority without notice.

“Rolling Average” has the meaning set forth in Schedule B.

“Rules” are the applicable provisions of Authority’s rules and regulations (Chapter X of Title 21 of the Official Compilation of Codes, Rules and Regulations of the State of New York), as may be modified from time to time by the Authority.

“Service Information” has the meaning set forth in Section II.12 of this Agreement.

“Service Tariff No. WNY-2” means the Authority’s Service Tariff No. WNY-2, as may be modified from time to time by the Authority, which contains, among other things, the rate schedule establishing rates and other commercial terms for sale of Electric Service to Customer under this Agreement.

“Schedule A” refers to the Schedule A entitled “Expansion Power and/or Replacement Power Allocations” which is attached to and made part of this Agreement.

“Schedule B” refers to the Schedule B entitled “Supplemental Expansion Power and/or Replacement Power Commitments” which is attached to and made part of this Agreement, including any appendices attached thereto.

“Schedule C” refers to the Schedule C entitled “Takedown Schedule” which is attached to and made part of this Agreement.

“Schedule D” refers to the Schedule D entitled “Zero Emission Credit Charge” which is attached to and made part of this Agreement.

“Schedule E” refers to the Schedule E entitled “Monthly Renewable Energy Credit Charge” which is attached to and made part of this Agreement.

“Substitute Energy” means energy that is provided to the Customer by or through the Authority for the purpose of replacing Firm Energy that is not supplied to the Customer due to a Planned Hydropower Curtailment or an Unplanned Hydropower Curtailment.

“Takedown” means the portion of the Allocation that Customer requests to be scheduled for a specific period as provided for in Schedule C, if applicable.

“Taxes” is as defined in Service Tariff No. WNY-2.

“Unforced Capacity” (or “UCAP”) means the electric capacity required to be provided by LSEs to serve electric load as defined by the NYISO Tariffs, rules, manuals and procedures.

“Unplanned Hydropower Curtailment” means a temporary reduction in the amount of Firm Energy to which the Customer is entitled to receive under this Agreement due to Adverse Water Condition that the Authority did not anticipate or forecast.

“Utility Tariff” means the retail tariff(s) of the Customer’s local electric utility filed and approved by the PSC applicable to the delivery of EP and/or RP.

ARTICLE II

ELECTRIC SERVICE

1. The Authority shall make available Electric Service to enable the Customer to receive the Allocation in accordance with this Agreement, Service Tariff No. WNY-2 and the Rules.
2. The Customer shall not be entitled to receive Electric Service under this Agreement for any EP and/or RP allocation unless such EP and/or RP allocation is identified in Schedule A.
3. The Authority will provide, and the Customer shall accept and pay for, Electric Service with respect to the Allocation specified in Schedule A. If Schedule C specifies a Takedown Schedule for the Allocation, the Authority will provide, and the Customer shall accept and pay for, Electric Service with respect to the Allocation in accordance with such Takedown Schedule.
4. The Authority shall provide UCAP in amounts necessary to meet the Customer’s NYISO UCAP requirements associated with the Allocation in accordance with the NYISO Tariffs. The Customer shall be responsible to pay the Authority for such UCAP in accordance with Service Tariff No. WNY-2.

5. The provision of Electric Service associated with the Allocation is an unbundled service separate from the transmission and delivery of power and energy to the Customer. The Customer acknowledges and agrees that Customer's local electric utility, not the Authority, shall be responsible for delivering the Allocation to the Facility specified in Schedule A in accordance with the applicable Utility Tariff(s).
6. The Contract Demand for the Customer's Allocation may be modified by the Authority if the amount of Firm Power and Firm Energy available for sale as EP or RP from the Project is modified as required to comply with any ruling, order, or decision of any regulatory or judicial body having jurisdiction, including but not limited to FERC. Any such modification will be made on a pro rata basis to all EP and RP customers, as applicable, based on the terms of such ruling, order, or decision.
7. The Contract Demand may not exceed the Allocation.
8. The Customer's Facility must be metered by the Customer's local electric utility in a manner satisfactory to the Authority, or another metering arrangement satisfactory to the Authority must be provided (collectively, "Metering Arrangement"). A Metering Arrangement that is not satisfactory to the Authority shall be grounds, after notice to the Customer, for the Authority to modify, withhold, suspend, or terminate Electric Service to the Customer. If a Metering Arrangement is not made to conform to the Authority's requirements within thirty (30) days of a determination that it is unsatisfactory, the Authority may modify, withhold, suspend, or terminate Electric Service on at least ten (10) days' prior written notice to the Customer. After commencement of Electric Service, the Customer shall notify the Authority in writing within thirty (30) days of any alteration to the Facility's Metering Arrangement, and provide any information requested by the Authority (including Facility access) to enable the Authority to determine whether the Metering Arrangement remains satisfactory. If an altered Metering Arrangement is not made to conform to the Authority's requirements within thirty (30) days of a determination it is unsatisfactory, the Authority may modify, withhold, suspend, or terminate Electric Service on at least ten (10) days' prior written notice to the Customer. The Authority may, in its discretion, waive any of the requirements provided for in this Section in whole or in part where in the Authority's judgment, another mechanism satisfactory to the Authority can be implemented to enable the Authority to receive pertinent, timely and accurate information relating to the Customer's energy consumption and demand and render bills to the Customer for all fees, assessments and charges that become due in accordance with this Agreement, Service Tariff No. WNY-2, and the Rules.
9. The Customer consents to the exchange of information between the Authority and the Customer's local electric utility pertaining to the Customer that such parties determine is necessary to provide for the allocation, sale and delivery of the Allocation to the Customer, the proper and efficient implementation of the EP and/or RP program, billing related to Electric Service, and/or the performance of such parties' obligations under any contracts or other arrangements between them relating to such matters. In addition, the Customer agrees to complete such forms and consents that the Authority determines are necessary to effectuate such exchanges of information.

10. The provision of Electric Service by the Authority shall be dependent upon the existence of a written agreement between the Authority and the Customer's local electric utility providing for the delivery of the Allocation on terms and conditions that are acceptable to the Authority.
11. The Customer understands and acknowledges that the Authority may from time to time require the Customer to complete forms, execute consents, and provide information (collectively, "Service Information") that the Authority determines is necessary for the provision of Electric Service, the delivery of the Allocation, billing related to Electric Service, the effective administration of the EP and/or RP programs, and/or the performance of contracts or other arrangements between the Authority and the Customer's local electric utility. The Customer's failure to provide Service Information on a timely basis shall be grounds for the Authority in its discretion to modify, withhold, suspend, or terminate Electric Service to the Customer.

ARTICLE III

RATES, TERMS AND CONDITIONS

1. Electric Service shall be sold to the Customer in accordance with the rates, terms and conditions provided for in this Agreement, Service Tariff No. WNY-2 and the Rules. The Authority agrees to waive the Minimum Monthly Charge set forth in Service Tariff No. WNY-2 for a period up to one (1) year upon written request from the Customer that is accompanied by information that demonstrates to the Authority's satisfaction a short-term reduction or interruption of Facility operations due to events beyond the Customer's control. The Customer shall provide such information that the Authority requests during the period of any such waiver to enable the Authority to periodically evaluate the ongoing need for such waiver.
2. If the Authority at any time during the term of this Agreement enters into an agreement with another customer for the sale of EP or RP at power and energy rates that are more advantageous to such customer than the power and energy rates provided in this Agreement and Service Tariff No. WNY-2, then the Customer, upon written request to the Authority, will be entitled to such more advantageous power and energy rates in the place of the power and energy rates provided in this Agreement and Service Tariff No. WNY-2 effective from the date of such written request, provided, however, that the foregoing provision shall not apply to:
 - a. any agreement for the sale of EP and/or RP with an Authority customer whose purchase of EP and/or RP is associated with an Authority service tariff other than Service Tariff No. WNY-2, including Authority Service Tariff No. WNY-1; or
 - b. any agreement for the sale of EP and/or RP with an Authority customer which is associated with such customer's participation in an Alternative REC Compliance Program provided for in Schedule E of this Agreement.
3. Notwithstanding any provision of this Agreement to the contrary, the power and energy rates for Electric Service shall be subject to increase by Authority at any time upon 30 days prior written notice to Customer if, after consideration by Authority of its legal obligations, the marketability of the output or use of the Project and Authority's competitive position with

respect to other suppliers, Authority determines in its discretion that increases in rates obtainable from any other Authority customers will not provide revenues, together with other available Authority funds not needed for operation and maintenance expenses, capital expenses, and reserves, sufficient to meet all requirements specified in Authority's bond and note resolutions and covenants with the holders of its financial obligations. Authority shall use its best efforts to inform Customer at the earliest practicable date of its intent to increase the power and energy rates pursuant to this provision. With respect to any such increase, Authority shall forward to Customer with the notice of increase, an explanation of all reasons for the increase, and shall also identify the sources from which Authority will obtain the total of increased revenues and the bases upon which Authority will allocate the increased revenue requirements among its customers. Any such increase in rates shall remain in effect only so long as Authority determines such increase is necessary to provide revenues for the purposes stated in the preceding sentences.

4. In addition to all other fees, assessments and charges provided for in the Agreement, Service Tariff WNY-2 and the Rules, the Customer shall be responsible for payment of the Zero Emission Credit Charge and Monthly Renewable Energy Credit Charge provided for in Schedule D and Schedule E, respectively, of this Agreement.

ARTICLE IV **SUPPLEMENTAL COMMITMENTS**

1. Supplemental Commitments. Schedule B sets forth the Customer's "Supplemental Expansion Power and/or Replacement Power Commitments" ("Supplemental Commitments"). The Authority's obligation to provide Electric Service under this Agreement is expressly conditioned upon the Customer's timely compliance with the Supplemental Commitments described in Schedule B as further provided in this Agreement. The Customer's Supplemental Commitments are in addition to all other commitments and obligations provided in this Agreement.
2. *[Intentionally Left Blank]*
3. Special Provisions Relating to a New or Expanded Facility.

- a. Proposed New or Expanded Facility; Failure to Complete.

If Schedule B provides for the construction of a new facility or an expansion of an existing facility (collectively, "Expansion Project"), and the Customer fails to complete the Expansion Project by the date specified in Schedule B, the Authority may, in its discretion, (a) cancel the Allocation, or (b) if it believes that the Expansion Project will be completed in a reasonable time, agree with the Customer to extend the time for completion of the Expansion Project.

- b. Proposed New or Expanded Facility; Partial Performance.

If the Expansion Project results in a completed Facility that is only partially operational, or is material different than the Expansion Project agreed to in Schedule B (as measured

by such factors as size, capital investment expenditures, capital improvements, employment levels, estimated energy demand and/or other criteria determined by the Authority to be relevant), the Authority may, in its discretion, on its own initiative or at the Customer's request, make a permanent reduction to the Allocation and Contract Demand to an amount that the Authority determines to fairly correspond to the completed Facility.

c. Notice of Completion; Commencement of Electric Service.

- (i) The Customer shall give the Authority not less than ninety (90) days' advance written notice of the anticipated date of completion of an Expansion Project. The Authority will inspect the Expansion Project for the purpose of verifying the status of the Expansion Project and notify Customer of the results of the inspection. The Authority will thereafter commence Electric Service within a reasonable time subject to the other provisions of this Agreement based on applicable operating procedures of the Authority, Customer's local electric utility and NYISO.
- (ii) In the event of an Expansion Project being completed in multiple phases, at the Customer's request the Authority may, in its discretion, allow commencement of part of the Allocation upon completion of any such phase, provided the Authority will similarly inspect the Expansion Project for the purpose of verifying the status of the completed phase of the Expansion Project. Upon such verification by the Authority of any such completed phase, the Authority, in its discretion, will determine an amount of kW that fairly corresponds to the completed phase of the Expansion Project, taking into account relevant criteria such as any capital expenditures, increased employment levels, and/or increased electrical demand associated with the completed phase of the Expansion Project.

d. Other Rights and Remedies Unaffected.

Nothing in this Article is intended to limit the Authority's rights and remedies provided for in the other provisions of this Agreement, including without limitation the provisions in Schedule B of this Agreement.

ARTICLE V
ENERGY-RELATED PROJECTS, PROGRAMS AND SERVICES

The Authority shall periodically communicate with the Customer for the purpose of informing the Customer about energy-related projects, programs and services ("Energy Services") offered by the Authority that in the Authority's view could provide value to the Customer and/or support the State's Clean Energy Standard. The Customer shall review and respond to all such offers in good faith, provided, however, that, except as otherwise provided for in this Agreement, participation in any such Energy Services shall be at the Customer's option, and subject to such terms and conditions agreed to by the Parties in one or more definitive agreements.

ARTICLE VI
SERVICE TARIFF; CONFLICTS

1. A copy of Service Tariff No. WNY-2 in effect upon the execution of this Agreement is attached to this Agreement as Exhibit 1, and will apply under this Agreement with the same force and effect as if fully set forth herein. The Customer consents to the application of Service Tariff WNY-2. Service Tariff No. WNY-2 is subject to revision by the Authority from time to time, and if revised, the revised provisions thereof will apply under this Agreement with the same force and effect as if set forth herein. The Authority shall provide the Customer with prior written notice of any revisions to Service Tariff No. WNY-2.
2. In the event of any inconsistencies, conflicts, or differences between the provisions of Service Tariff No. WNY-2 and the Rules, the provisions of Service Tariff No. WNY-2 shall govern. In the event of any inconsistencies, conflicts or differences between the provisions of this Agreement and Service Tariff No. WNY-2 or the Rules, the provisions of this Agreement shall govern.

ARTICLE VII
TRANSMISSION AND DELIVERY

1. The Customer shall be responsible for:
 - a. complying with all requirements of its local electric utility (including any other interconnecting utilities) that are necessary to enable the Customer to receive delivery service for the Allocation. Delivery of the Allocation shall be subject to the Utility Tariff;
 - b. paying its local electric utility for delivery service associated with the Allocation in accordance with the Utility Tariff, and if the Authority incurs any charges associated with such delivery service, reimbursing the Authority for all such charges; and
 - c. obtaining any consents and agreements from any other person that are necessary for the delivery of the Allocation to the Facility, and complying with the requirements of any such person, provided that any such consents, agreements and requirements shall be subject to the Authority's approval.
2. The Authority will use good faith efforts to provide the Customer with at least one year's advance notice of the scheduled expiration of Historic Fixed Price Transmission Congestion Contracts. After issuance of any such notice, the Authority will make itself available at reasonable times to collaborate with the Customer and other EP and RP customers to discuss potential risk-hedging options that might be available following expiration of such contracts.
3. The Customer understands and acknowledges that delivery of the Allocation will be made over transmission facilities under the control of the NYISO. The Authority will act as the LSE with respect to the NYISO, or arrange for another entity to do so on the Authority's behalf. The Customer agrees and understands that it shall be responsible to the Authority for all costs incurred by the Authority with respect to the Allocation for the services established in the NYISO Tariff, or other applicable tariff ("NYISO Charges"), as set forth in Service

Tariff No. WNY-2 or any successor service tariff, regardless of whether such NYISO Charges are transmission-related.

4. The Authority will consider opportunities to assist the Customer concerning actions, practices, or procedures of the Customer's local electric utility identified by the Customer that could adversely impact the implementation and effectiveness of the EP and RP programs, provided that whether or not to take any action or adopt any position on any issue, including any adverse position, is within the Authority's discretion and further subject to applicable laws, regulations and existing legal obligations.

ARTICLE VIII

BILLING AND BILLING METHODOLOGY

1. The billing methodology for the Allocation shall be determined on a "load factor sharing" basis in a manner consistent with the Utility Tariff and any agreement between the Authority and the Customer's local electric utility. An alternative basis for billing may be used provided the Parties agree in writing and the local electric utility provides its consent if such consent is deemed necessary.
2. All other provisions with respect to billing are set forth in Service Tariff No. WNY-2 and the Rules.
3. The rights and remedies provided to the Authority in this Article are in addition to any and all other rights and remedies available to Authority at law or in equity.

ARTICLE IX

HYDROPOWER CURTAILMENTS AND SUBSTITUTE ENERGY

1. The Customer shall, on a form provided by the Authority, elect to either (a) purchase Substitute Energy from the Authority, or (b) rely on Customer-Arranged Energy, for the purpose of replacing Firm Energy that is not supplied to the Customer due to a Planned Hydropower Curtailment. The Customer shall make its election in accordance with the time period and other requirements prescribed in such form. The election shall apply for the entire calendar year identified in the form.
2. The Customer may change its election on a form provided by the Authority by giving the Authority notice of such change no later than the first day of November preceding the calendar year to which the Customer intends such change to become effective. Such change shall be effective on the first day of January following the Authority's receipt the Customer's notice and shall remain in effect unless it is changed in accordance with the provisions of Section IX.1.
3. In the event of an anticipated or planned Adverse Water Condition, the Authority will have the right in its discretion to implement Planned Hydropower Curtailments. The Authority will implement Planned Hydropower Curtailments on a non-discriminatory basis as to all Authority customers that are served by the Project. The Authority will provide the Customer with advance notice of Planned Hydropower Curtailments that in the Authority's judgment will impact Electric Service to the Customer no later than the tenth business day of the month

prior to the month in which the Planned Hydropower Curtailment is expected to occur unless the Authority is unable to provide such notice due to the circumstances that impede such notice, in which case the Authority will provide such advance notice that is practicable under the circumstances.

4. If the Customer elected to purchase Substitute Energy from the Authority, the Authority shall provide Substitute Energy to the Customer during all Planned Hydropower Curtailments. Unless otherwise agreed upon by the Parties in writing, Substitute Energy shall be sourced from markets administered by the NYISO. The Authority may require the Customer to enter into one or more separate agreements to facilitate the provision of Substitute Energy to the Customer.
5. If the Customer elected to rely on Customer-Arranged Energy, the Authority shall have no responsibility to provide the Customer with Substitute Energy during any Planned Hydropower Curtailment, and the Customer shall be responsible for the procurement, scheduling, delivery and payment of all costs associated with Customer-Arranged Energy.
6. The Customer shall have the right to reduce its load in response to a Planned Hydropower Curtailment (a "Load Reduction"), provided, however, that the Customer shall, on an Authority form, provide the Authority with no less than seven (7) days' advance notice of the time period(s) during when the Load Reduction will occur, the estimated amount of the Load Reduction (demand and energy), and all other information required by such form. The Authority will confirm whether the notice provides the required information and proposed Load Reduction has been accepted. The Customer shall reimburse the Authority for all costs that the Authority incurs as a result of the Customer's failure to provide such notice.
7. In the event of an Adverse Water Condition that the Authority did not anticipate or forecast, the Authority shall have the right in its discretion to implement Unplanned Hydropower Curtailments. The Unplanned Hydropower Curtailments will be implemented on a non-discriminatory basis as to all Authority customers that are served by the Project.
8. The Authority will provide the Customer with notice of Unplanned Hydropower Curtailments that in the Authority's judgment will impact Electric Service to the Customer within five (5) business days after the first occurrence of an Unplanned Hydropower Curtailment that occurs within a month, and thereafter will provide the Customer with reasonable notice under the circumstances of the potential for any other Unplanned Hydropower Curtailments that are expected to occur within such month or beyond. The Authority will give the Customer notice of any Unplanned Hydropower Curtailments that the Authority believes are likely to exceed forty-eight (48) continuous hours in duration.
9. Notwithstanding the Customer's election pursuant to Section IX.1, the Authority shall provide the Customer with Substitute Energy during Unplanned Hydropower Curtailments.
10. For each kilowatt-hour of Substitute Energy provided by the Authority during a Planned Hydropower Curtailment, the Customer shall pay the Authority directly during the billing month: (1) the difference between the market cost of the Substitute Energy and the charge for firm energy as provided for in this Agreement; and (2) any NYISO charges and taxes the Authority incurs in connection with the provision of such Substitute Energy. Unless

otherwise agreed upon by the Parties in writing, billing and payment for Substitute Energy provided for Planned Hydropower Curtailments shall be governed by the provisions of Service Tariff WNY-2 relating to the rendition and payment of bills for Electric Service.

11. The Customer shall be responsible for all costs associated with the Authority's provision of Substitute Energy during Unplanned Hydropower Curtailments. Unless otherwise agreed upon by the Parties in writing, billing and payment for Substitute Energy provided for Unplanned Hydropower Curtailments shall be governed by the provisions of Service Tariff WNY-2 relating to the rendition and payment of bills for Electric Service.
12. The Authority shall be under no obligation to deliver and will not deliver any such curtailed energy to the Customer in later billing periods.

ARTICLE X

EFFECTIVENESS, TERM AND TERMINATION

1. This Agreement shall become effective and legally binding on the Parties on the Effective Date.
2. Once commenced, Electric Service under the Agreement shall continue until the earliest of: (a) termination by the Customer with respect to its Allocation upon ninety (90) days prior written notice to the Authority; (b) termination by the Authority pursuant to this Agreement, Service Tariff No. WNY-2, or the Rules; or (c) expiration of the Allocation by its own term as specified in Schedule A.
3. The Customer may exercise a partial termination of the Allocation upon at least sixty (60) days' prior written notice to the Authority. The Authority will effectuate the partial termination as soon as practicable after receipt of such notice taking account of the Authority's internal procedures and requirements of the Customer's local electric utility.
4. The Authority may cancel service under this Agreement or modify the quantities of Firm Power and Firm Energy associated with the Allocation: (1) if such cancellation or modification is required to comply with any final ruling, order or decision of any regulatory or judicial body of competent jurisdiction (including any licensing or re-licensing order or orders of the FERC or its successor agency); or (2) as otherwise provided in this Agreement, Service Tariff No. WNY-2, or the Rules.

ARTICLE XI

EXTENSIONS OF ALLOCATION; AWARD OF ADDITIONAL ALLOCATIONS

1. The Customer may apply to the Authority for an extension of the term of the Allocation identified in Schedule A:
 - a. during the thirty-six (36) month period immediately preceding the scheduled expiration of the Allocation;

- b. pursuant to any other process that the Authority establishes; or
 - c. with the Authority's written consent.
- 2. Upon proper application by the Customer, the Authority may in accordance with applicable law and Authority procedures award additional allocations of EP and/or RP to the Customer at such rates and on such terms and conditions as the Authority establishes. If the Customer agrees to purchase Electric Service associated with any such additional allocation, the Authority will (a) incorporate any such additional allocations into Schedule A, or in its discretion will produce a supplemental schedule, to reflect any such additional allocations, and (b) produce a modified Appendix to Schedule B, as the Authority determines to be appropriate. The Authority will furnish the Customer with any such modified Schedule A, supplemental schedule, and/or a modified Appendix to Schedule B, within a reasonable time after commencement of Electric Service for any such additional allocation.
- 3. In addition to any requirements imposed by law, the Customer hereby agrees to furnish such documentation and other information as the Authority requests to enable the Authority to evaluate any requests for extension of the Allocation or additional allocations and consider the terms and conditions that should be applicable of any extension or additional allocations.

ARTICLE XII

NOTICES

- 1. Notices, consents, authorizations, approvals, instructions, waivers or other communications provided in this Agreement shall be in writing and transmitted to the Parties as follows:

To: The Authority

New York Power Authority
123 Main Street
White Plains, New York 10601

Email:

Facsimile: _____

Attention: Manager – Business Power Allocations and Compliance

To: The Customer

Polymer Conversions, Inc.
5732 Big Tree Road
Orchard Park, NY 14127

Email:

Facsimile:

Attention:

- 2. The foregoing notice/notification information pertaining to either Party may be changed by such Party upon notification to the other Party pursuant to Section XII.1.
- 3. Except where otherwise herein specifically provided, any notice, communication or request required or authorized by this Agreement by either Party to the other shall be deemed

properly given: (a) if sent by U.S. First Class mail addressed to the Party at the address set forth above; (b) if sent by a nationally recognized overnight delivery service, two (2) calendar days after being deposited for delivery to the appropriate address set forth above; (c) if delivered by hand, with written confirmation of receipt; (d) if sent by facsimile to the appropriate fax number as set forth above, with written confirmation of receipt; or (e) on the date of transmission if sent by electronic communication to the appropriate address as set forth above, with confirmation of receipt. Either Party may change the addressee and/or address for correspondence sent to it by giving written notice in accordance with the foregoing.

ARTICLE XIII

SUCCESSORS AND ASSIGNS; RESALE OF HYDROPOWER

1. This Agreement shall be binding upon, shall inure to the benefit of, and may be performed by, the legal successors and assigns of either Party hereto, provided that no assignment by either Party or any successor or assignee of such Party of its rights and obligations hereunder shall be made or become effective without the prior written consent of the other Party, which consent shall not be unreasonably withheld or conditioned. Notwithstanding the foregoing sentence, the Authority may require such approvals, and such consents and other agreements from the Customer and other parties, that the Authority determines are necessary in order to effectuate any such assignment.
2. The Customer may not transfer any portion of the Allocation to any other person, or a location different than the Facility, unless: (a) the Authority in its discretion authorizes the transfer Authority; (b) all other requirements applicable to a transfer, including board approvals, are satisfied; and (c) the transfer is effectuated in a form and subject to such terms and conditions approved by the Authority. Any purported transfer that does not comply with the foregoing requirements shall be invalid and constitute grounds for the Authority in its discretion to suspend Electric Service or terminate the Allocation and/or this Agreement.
3. The Customer may not sell any portion of the Allocation to any other person. Any purported sale shall be invalid and constitute grounds for the Authority in its discretion to suspend Electric Service, or terminate the Allocation and/or this Agreement.

ARTICLE XIV

MISCELLANEOUS

1. Choice of Law

This Agreement shall be governed by and construed in accordance with the laws of the State of New York to the extent that such laws are not inconsistent with the FERC License and the Niagara Redevelopment Act (16 USC §§836, 836a) and rulings by the IJC and without regard to conflicts of law provisions.

2. Venue

The Parties: (a) consent to the exclusive jurisdiction and venue of any state court within or

for Albany County, New York, with subject matter jurisdiction for adjudication of any claim, suit, action or any other proceeding in law or equity arising under, or in any way relating to this Agreement; (b) agree to accept service of process; and (c) will not raise any argument of inconvenient forum.

3. Previous Agreements; Modifications; and Interpretation

- a. This Agreement shall constitute the sole and complete agreement of the Parties hereto with respect to the sale of the Allocation and the subject matter of the Agreement, and supersedes all previous communications and agreements between the Parties, oral or written, with reference to the sale of the Allocation.
- b. No modifications of this Agreement shall be binding upon the Parties hereto or either of them unless such modification is in writing and is signed by a duly authorized officer of each of them.
- c. No provision shall be construed against a Party on the basis that such Party drafted such provision.

4. Waiver

Any waiver at any time by either the Authority or the Customer of their rights with respect to a default or of any other matter arising out of this Agreement shall not be deemed to be a waiver with respect to any other default or matter. No waiver by either Party of any rights with respect to any matter arising in connection with this Agreement shall be effective unless made in writing and signed by the Party making the waiver.

5. Severability and Voidability

If any term or provision of this Agreement shall be invalidated, declared unlawful or ineffective in whole or in part by an order of the FERC or a court of competent jurisdiction, such order shall not be deemed to invalidate the remaining terms or provisions hereof. Notwithstanding the preceding sentence, if any provision of this Agreement is rendered void or unenforceable or otherwise modified by a court or agency of competent jurisdiction, the entire Agreement shall, at the option of either Party and only in such circumstances in which such Party's interests are materially and adversely impacted by any such action, be rendered void and unenforceable by such affected Party.

ARTICLE XV
EXECUTION

To facilitate execution, this Agreement may be executed in as many counterparts as may be required, and it shall not be necessary that the signatures of, or on behalf of, each Party, or that the signatures of all persons required to bind any Party, appear on each counterpart; but it shall be sufficient that the signature of, or on behalf of, each Party, or that the signatures of the persons required to bind any Party, appear on one or more of the counterparts. All counterparts shall collectively constitute a single agreement. It shall not be necessary in making proof of this

Agreement to produce or account for more than a number of counterparts containing the respective signatures of, or on behalf of, all of the Parties hereto. The delivery of an executed counterpart of this Agreement as a PDF or similar file type transmitted via electronic mail, cloud based server, e-signature technology or similar electronic means shall be legal and binding and shall have the same full force and effect as if an original executed counterpart of this Agreement had been delivered.

[SIGNATURES FOLLOW ON NEXT PAGE]

AGREED:

POLYMER CONVERSIONS, INC.

By: _____

Title: _____

Date: _____

AGREED:

POWER AUTHORITY OF THE STATE OF NEW YORK

By: _____
John R. Koelmel, Chairman

Date: _____

SCHEDULE A
EXPANSION POWER AND/OR REPLACEMENT POWER ALLOCATIONS

Customer: Polymer Conversions, Inc.				
Type of Allocation	Allocation Amount (kW)	Facility and Address	Trustee Approval Date	Allocation Expiration Date
EP	300 kW	5732 Big Tree Road Orchard Park, New York 14127	July 27, 2021	Ten (10) years from the date of commencement of Electric Service

SCHEDULE B
**SUPPLEMENTAL EXPANSION POWER AND/OR REPLACEMENT POWER
COMMITMENTS**

ARTICLE I
SPECIFIC SUPPLEMENTAL COMMITMENTS

1. Employment Commitments

- a. The Customer shall create and maintain the employment level set forth in the Appendix to this Schedule B (the “Base Employment Level”). Such Base Employment Level shall be the total number of full-time positions held by: (a) individuals who are employed by the Customer at Customer’s Facility identified in the Appendix to this Schedule, and (b) individuals who are contractors or who are employed by contractors of the Customer and assigned to the Facility identified in such Appendix (collectively, “Base Level Employees”). The number of Base Level Employees shall not include individuals employed on a part-time basis (less than 35 hours per week); provided, however, that two individuals each working 20 hours per week or more at such Facility shall be counted as one Base Level Employee.
- b. The Base Employment Level shall not be created or maintained by transfers of employees from previously held positions with the Customer or its affiliates within the State of New York, except that the Base Employment Level may be filled by employees of the Customer laid off from other Customer facilities for *bona fide* economic or management reasons.
- c. The Authority may consider a request to change the Base Employment Level based on a claim of increased productivity, increased efficiency or adoption of new technologies or for other appropriate reasons as determined by the Authority. Any such change shall be within Authority’s discretion.

2. Capital Investment Commitments

The Customer shall make the capital investments specified in the Appendix to this Schedule B.

3. Power Utilization

For each month the Authority provides Electric Service to the Customer, the Customer shall utilize the entire Allocation, as represented by the Billing Demand (as such term is described in Service Tariff No. WNY-2), provided, however, that if only part of the Allocation is being utilized in accordance with Schedule C, the Customer shall utilize such partial amount of the Allocation.

4. Energy Efficiency and Conservation Program

- a. The Customer shall implement an energy efficiency and conservation program at the Facility through either (a) enrollment of the Facility and participation in NYEM in accordance with a NYEM Agreement, or (b) one or more Physical Energy Audits of the Facility, or (c) a combination of such measures, in accordance with the provisions of this Article.
- b. The Authority shall transmit to the Customer a NYEM Agreement and an election form. The Customer shall elect to either (a) enroll the Facility and participate in NYEM for a three-year term (“NYEM Participation”) in accordance with the NYEM Agreement, or (b) perform a Physical Energy Audit of the Facility. The Customer shall make the election within sixty (60) days of its receipt of the Authority’s communication. If the Customer elects NYEM Participation, it shall execute and return the NYEM Agreement to the Authority with the election form, abide by the NYEM Agreement, and participate in NYEM at its own expense at the rate provided in the NYEM Agreement. If the Customer elects to perform a Physical Energy Audit, it shall perform the Physical Energy Audit within three (3) years of the Effective Date of this Agreement, at its own expense.
- c. The Authority shall, on or before the expiration of the three-year term of the NYEM Agreement, transmit to the Customer a NYEM Agreement specifying the terms and conditions that would apply to NYEM participation for a second term, and an election form. The Customer shall elect either (a) NYEM Participation for a second term, or (b) to perform a Physical Energy Audit of the Facility. The Customer shall make the election within sixty (60) days of its receipt of the Authority’s communication. If the Customer elects NYEM Participation, it shall execute and return the NYEM Agreement to the Authority with the election form, abide by the NYEM Agreement, and participate in NYEM at its own expense at the rate provided in the NYEM Agreement. If the Customer elects to perform a Physical Energy Audit, it shall perform the Physical Energy Audit during the calendar year that begins six years after of the Effective Date of this Agreement, at its own expense.
- d. The Authority may in its discretion waive the requirement for a Physical Energy Audit, or may agree to a limited energy audit of the Facility, where it determines that the Physical Energy Audit is unnecessary based on the age of the Facility, energy efficiency and conservation improvements made at the Facility, the length of the Allocation, or other considerations the Authority determines to be relevant.

ARTICLE II
RECORDKEEPING, REPORTING AND FACILITY ACCESS

1. Employment

A record shall be kept monthly by the Customer, and provided on a calendar year basis to the Authority, of the total number of Base Level Employees who are employed at or assigned to the Customer's Facility identified in the Appendix to this Schedule, as reported to the United States Department of Labor (or as reported in such other record as agreed upon by the Authority and the Customer). Such report shall separately identify the individuals who are employed by the Customer, and the individuals who are contractors or who are employed by contractors of the Customer, and shall be certified to be correct by an officer of the Customer, plant manager or such other person authorized by the Customer to prepare and file such report and shall be provided to the Authority on or before the last day of February following the end of the most recent calendar year. The Authority shall have the right to examine and audit on reasonable advance written notice all non-confidential written and electronic records and data concerning employment levels including, but not limited to, personnel records and summaries held by the Customer and its affiliates relating to employment in New York State.

2. Capital Investments

The Customer shall comply with the recordkeeping, recording and reporting requirements specified in the Appendix to this Schedule B.

3. Power Usage

A record shall be kept monthly by the Customer, and provided on a calendar year basis to the Authority on or before the last day of February following the end of the most recent calendar year, of the maximum demand utilized each month in the Facility receiving the power covered by the Agreement.

4. Energy Efficiency and Conservation Program

Upon the Authority's request, the Customer shall provide the Authority with (a) a copy of the results of any Physical Energy Audit performed at the Facility (or, at the Authority's option, a report describing the results), performed pursuant to this Article; and (b) a description of any energy efficiency or conservation measures that the Customer has implemented at the Facility in response to any Physical Energy Audit or as a result of NYEM Participation.

5. Facility Access

Notwithstanding any other provision of the Agreement, the Customer shall provide the Authority with such access to the Facility, and such documentation, as the Authority deems necessary to determine the Customer's compliance with the Customer's Supplemental Commitments specified in this Schedule B.

ARTICLE III

COMPLIANCE ACTION BY THE AUTHORITY

1. Employment

If the year-end monthly average number of employees is less than 90% of the Base Employment Level set forth in the Appendix to this Schedule B for the subject calendar year, the Authority may reduce the Contract Demand in accordance with the procedures provided in Section III.5 of this Schedule. The maximum amount of reduction will be determined by multiplying the Contract Demand by the quantity one minus the quotient of the average monthly employment during the subject calendar year divided by the Base Employment Level. Any such reduction shall be rounded to the nearest fifty (50) kW. In the event of a reduction of the Contract Demand to zero, the Agreement shall automatically terminate.

2. Capital Investment Commitment

The Authority may reduce the Contract Demand as provided in the Appendix to this Schedule B if the Customer does not comply with the Capital Investment Commitment.

3. Power Utilization Level

If the average of the Customer's six (6) highest Billing Demands (as such term is described in Service Tariff No. WNY-2) for Expansion Power and/or Replacement Power is less than 90% of the Customer's Contract Demand in such calendar year the Authority may reduce the Contract Demand subject to in accordance with the procedures provide in Section III.5 of this Schedule. The maximum amount by which the Authority may reduce the Contract Demand shall be determined by multiplying the Contract Demand by the quantity one minus the quotient of the average of the six (6) highest Billing Demands for in such calendar year divided by the Contract Demand. Any such reduction shall be rounded to the nearest fifty (50) kW. In the event of a reduction of the Contract Demand to zero, this Agreement shall automatically terminate.

4. Additional Compliance Action

In addition to the Authority's other rights and remedies provided in this Agreement, Service Tariff WNY-2 and the Rules, the Authority may suspend Electric Service to the Customer if the Customer does not comply with any of the requirements in Section I.4 or Article II of this Schedule B.

5. Notice of Intent to Reduce Contract Demand

In the event that the Authority determines that the Contract Demand will be wholly or partially reduced pursuant to Sections III.1, III.2, or III.3 of this Schedule B, the Authority shall provide the Customer with at least thirty (30) days prior written notice of the proposed reduction, specifying the amount and reason for the reduction.

Before implementing any reduction, the Authority may consider the Customer's scheduled or unscheduled maintenance, Facility upgrade periods, and the business cycle. If, at the end of the thirty (30) day notice period, the Authority determines that a reduction is warranted, it shall provide the Customer with notice of such determination and provide the Customer with sixty (60) days to present a proposed plan with actionable milestones to cure the deficiency. The Authority shall respond to the Customer concerning the acceptability of any proposed plan that is provided in accordance with this Section III.5 within thirty (30) days of the Authority's receipt of such proposed plan. It shall be within the Authority's discretion whether or not to accept the Customer's proposed plan, require a different plan, or implement the reduction of the Contract Demand.

APPENDIX TO SCHEDULE B

BASE EMPLOYMENT LEVEL

The Customer shall employ at least 165 full-time, permanent employees (“Base Employment Level”) at the Customer’s Facility. The Base Employment Level shall be maintained for the term of the Allocation in accordance with Article I of Schedule B.

CAPITAL INVESTMENT COMMITMENTS

1. **Annual Capital Investment Commitment** (if applicable, as specified below)
 - a. Each Reporting Year, the rolling average of the annual capital investments made by the Customer at the Facility (“Rolling Average”) shall total not less than N/A (the “Annual Capital Investment Commitment”). For purposes of this provision, “Rolling Average” means the three-year average comprised of (1) the total amount of capital investments (“Annual CI Expenditures”) made by the Customer at the Facility during the current Reporting Year, and (2) the Annual CI Expenditures made by the Customer at the Facility during the two prior Reporting Years.
 - b. Each year, the Customer shall record its Annual CI Expenditures for purposes of enabling the Authority to determine and verify the Rolling Average, which shall be provided to the Authority in a form specified by the Authority on or before the last day of February following the end of the most recent calendar year.
 - c. If the Customer’s Rolling Average as determined by the Authority is less than 90% of its Annual Capital Investment Commitment for the Reporting Year, the Contract Demand may be reduced by the Authority in accordance with the procedures provided in Section III.5 of this Schedule. The maximum amount by which the Authority may reduce the Contract Demand shall be determined by multiplying the Contract Demand by the quantity one minus the quotient of the Rolling Average divided by the Annual Capital Investment Commitment. Any such reduction shall be rounded to the nearest ten (10) kW. In the event of a reduction of the Contract Demand to zero, this Agreement shall automatically terminate.
2. **Expansion Project–Capital Investment Commitment** (if applicable, as specified below)
 - a. The Customer shall make a minimum capital investment of \$10,500,000 to construct, furnish and/or expand the Facility (“Expansion Project Capital Investment Commitment”). The Expansion Project Capital Investment Commitment is expected to consist of the following approximate expenditures on the items indicated:

DESCRIPTION	EXPENDITURE
Office space, cleanroom, & manufacturing costs	\$ 6,500,000
Injection molding machinery & equipment	\$ 4,000,000
Total Minimum Expansion Project Capital Investment Commitment:	<u>\$10,500,000</u>

Total Expansion Project Capital Investment Commitment:

- b. The Expansion Project Capital Investment Commitment shall be made, and the Facility shall be completed and fully operational, no later than July 27, 2024 (*i.e.*, within three (3) years of the date of the Authority's award of the Allocation). Upon request of the Customer, such date may be extended in the discretion of the Authority.

SCHEDULE C
TAKEDOWN SCHEDULE

SCHEDULE D
ZERO EMISSION CREDIT CHARGE

I. DEFINITIONS

When used with initial capitalization, whether singular or plural, the following terms, as used in this Schedule, shall have the meanings as set forth below. Capitalized terms not defined in this Schedule shall have the meaning ascribed to them elsewhere in the Agreement, in Service Tariff No. WNY-2, or in the Rules.

“Affected LSEs” has the meaning provided in Section II.2 of this Schedule D.

“CES Order” means the Order issued by the PSC entitled “Order Adopting a Clean Energy Standard, issued on August 1, 2016, in Case Nos. 15-E-0302 and 16-E-0270, and includes all subsequent orders amending, clarifying and/or implementing such Order or the RES.

“EP and RP Programs ZEC Costs” has the meaning provided in Section II.4.b of this Schedule D.

“Government Action” has the meaning provided in Section II.8 of this Schedule D.

“Load Serving Entity” or “LSE” has the meaning provided in the CES Order.

“NYSERDA” means the New York State Energy Research and Development Authority.

“Public Service Commission” means the New York State Public Service Commission.

“Renewable Energy Standard” or “RES” means the Renewable Energy Standard adopted by the State in the CES Order.

“RES Compliance Program” means a program or initiative that the Authority has adopted for the purpose of meeting the RES for the load that the Authority serves under the EP and RP power programs as authorized in the Power Authority Act.

“State Energy Plan” means the 2015 New York State Energy Plan as amended from time to time.

“Zero Emission Credit” or “ZEC” has the meaning provided in the CES Order.

“Zero Emission Credit Charge” or “ZEC Charge” means the charge to the Customer established in this Schedule D.

“ZEC Purchase Obligation” has the meaning provided in Section II.2 of this Schedule D.

“ZEC Program Year” has the meaning provided in Section II.2 of this Schedule D.

II. ZEC CHARGE

1. Notwithstanding any other provision of the Agreement, or any provision of Service Tariff No. WNY-2 or the Rules, as of January 1, 2019, the Customer shall be subject to a ZEC Charge as provided in this Schedule D. The ZEC Charge shall be in addition to all other charges, fees and assessments provided for in the Agreement, Service Tariff No. WNY-2 and the Rules. By accepting Electric Service under the Agreement, the Customer agrees to pay the ZEC Charge.
2. As provided in the CES Order, the Public Service Commission, as part of the CES and Tier 3 of the Renewable Energy Standard, imposed an obligation on Load Serving Entities that are subject to the CES Order (“Affected LSEs”) to purchase Zero Emission Credits from NYSERDA in an amount representing the Affected LSE’s proportional share of ZECs calculated on the basis of the amount of electric load the LSE serves in relation to the total electric load served by all Load Serving Entities in the New York Control area, to support the preservation of existing at risk nuclear zero emissions attributes in the State (the “ZEC Purchase Obligation”). The ZEC Purchase Obligation is implemented on the basis of program years running from April 1 through March 31 of each year (“ZEC Program Year”).
3. The ZEC Charge is part of a RES Compliance Program that the Authority has adopted for the purpose of supporting the CES and Tier 3 of the RES and implementing the EP and RP power programs in a manner that is consistent with the New York State Energy Plan. The Authority will comply with the CES and Tier 3 of the RES by applying a form of ZEC Purchase Obligation to the end-user load for which the Authority serves as a load serving entity, including the load that the Authority serves under the EP and RP power programs.
4. The ZEC Charge, which is intended to recover from the Customer costs that the Authority incurs for purchasing ZECs in quantities that are attributable to the Customer’s EP and/or RP load served under this Agreement, will be determined and assessed to the Customer as follows:
 - a. The cost of the total ZEC Purchase Obligation for all LSEs in the New York Control Area, including the Authority as a participating load serving entity, will be assessed pursuant to the methodology provided in the CES Order. The Authority will purchase its proportionate share of ZECs from NYSERDA based on the proportion of the forecasted total kilowatt-hours load served by

the Authority (i.e., total Authority LSE load) in relation to the forecasted total kilowatt-hours load served by all LSEs in the New York Control Area as provided in the CES Order. The ZEC Purchase Obligations may be based on initial load forecasts with reconciliations made at the end of each ZEC Program Year by NYSERDA.

- b. The Authority will allocate costs from its ZEC Purchase Obligation between its power programs/load for which it serves as load serving entity, including the EP and RP load that it serves (the “EP and RP Programs ZEC Costs”). Such allocation will be based on the forecasted kilowatt-hours load of the EP and RP programs to be served by the Authority in relation to the forecasted total kilowatt-hours load served by the Authority (total Authority LSE load) for each ZEC Program Year. In addition, any balance resulting from the ZEC Program Year-end reconciliation of ZEC Purchase Obligations will be allocated to the EP and RP power programs based on the proportion of the actual annual kilowatt-hours load served under such programs to total actual annual kilowatt-hours load served by the Authority (total Authority LSE load).
 - c. The Authority will allocate a portion of the EP and RP Programs ZEC Costs to the Customer as the ZEC Charge based on the proportion of the Customer’s actual kilowatt-hours load for the EP and/or RP purchased by the Customer to total kilowatt-hours load served by the Authority under the EP and RP power programs (i.e., EP and RP Programs level load). In addition, any balance resulting from the ZEC Program Year-end reconciliation of the ZEC Purchase Obligation referenced above will be passed through to the Customer based on the proportion of the Customer’s annual kilowatt-hours load purchased under this Agreement to total annual kilowatt-hours load served under the EP and RP power program by the Authority (EP and RP Programs level load). The ZEC Charge assessed to the Customer shall not include any costs resulting from the Authority’s inability to collect a ZEC Charge from any other Authority customer.
5. The Authority may, in its discretion, include the ZEC Charge as part of the monthly bills for Electric Service as provided for in the Agreement, or bill the Customer for the ZEC Charge pursuant to another Authority-established procedure.
6. The Authority may, in its discretion, modify the methodology used for determining the ZEC Charge and the procedures used to implement such ZEC Charge on a nondiscriminatory basis among affected EP and RP customers, upon consideration of such matters as Public Service Commission orders modifying or implementing the CES Order, guidance issued by the New York Department of Public Service, and other information that the Authority reasonably determines to be appropriate to the determination of such methodology. The Authority shall

provide Customer with reasonable notice of any modifications to the methodology or procedures used to determine and implement the ZEC Charge.

7. Nothing in this Schedule shall limit or otherwise affect the Authority's right to charge or collect from the Customer any rate, charge, fee, assessment, or tax provided for under any other provision of the Agreement, or any provision of Service Tariff No. WNY-2 or the Rules.
8. If the ZEC Purchase Obligation is modified or terminated by the Public Service Commission or other controlling governmental authority (collectively, "Government Action"), the Authority shall modify or terminate the ZEC Charge, and assess any additional charges or provide any credits to the Customer, to the extent that the Authority determines such actions to be appropriate based on such Government Action.

SCHEDULE E
MONTHLY RENEWABLE ENERGY CREDIT CHARGE

I. DEFINITIONS

When used with initial capitalization, whether singular or plural, the following terms, as used in this Schedule, shall have the meanings as set forth below. Capitalized terms not defined in this Schedule shall have the meaning ascribed to them elsewhere in the Agreement, in Service Tariff No. WNY-2, or in the Rules.

“Alternative REC Compliance Program” has the meaning provided in Section III.1 of this Schedule E.

“Annual REC Percentage Target” has the meaning provided in Section II.2 of this Schedule E.

“CES Order” means the Order issued by the Public Service Commission entitled “Order Adopting a Clean Energy Standard, issued on August 1, 2016, in Case Nos. 15-E-0302 and 16-E-0270, and includes all subsequent orders amending, clarifying and/or implementing such Order or the RES.

“Clean Energy Standard” or “CES” means the Clean Energy Standard adopted by the State in the CES Order.

“Load Serving Entity” has the meaning provided in the CES Order.

“Mandatory Minimum Percentage Proportion” has the meaning provided in the CES Order.

“Monthly Renewable Energy Credit Charge” or “Monthly REC Charge” means the monthly charge to the Customer established in this Schedule E.

“NYSERDA” means the New York State Energy Research and Development Authority.

“Public Service Commission” means the New York State Public Service Commission.

“Renewable Energy Credit” or “REC” refers to a qualifying renewable energy credit as described in the CES Order.

“State Energy Plan” means the 2015 New York State Energy Plan as amended from time to time.

“RES Compliance Program” means a program or initiative that the Authority has adopted for the purpose of meeting the RES for the load that the Authority serves under the EP and RP power programs as authorized in the Power Authority Act.

“Renewable Energy Standard” or “RES” means the Renewable Energy Standard adopted by the State in the CES Order.

“REC Compliance Measures” mean: (1) the Authority’s procurement of RECs from NYSERDA in accordance with NYSERDA procedures and/or the CES Order; (2) the Authority’s procurement of RECs from available REC markets; (3) the Authority’s procurement of RECs from sources other than those identified in items (1) and (2) of this definition, including through a procurement process adopted by the Authority; and/or (4) any other measure that the PCS authorizes a Load Serving Entity to implement for the purpose of meeting the applicable Mandatory Minimum Percentage Proportion.

“Total Monthly EP-RP Load” has the meaning provided in Section II.3.b of this Schedule E

“Total Monthly REC Costs” has the meaning provided in Section II.3.b of this Schedule E.

II. MONTHLY REC CHARGE

1. Notwithstanding any other provision of the Agreement, or any provision of Service Tariff No. WNY-2 or the Rules, as of January 1, 2019, the Customer shall be subject to a Monthly REC Charge as provided in this Schedule E. The Monthly REC Charge is in addition to all other charges, fees and assessments provided in the Agreement, Service Tariff No. WNY-2 and the Rules. By accepting Electric Service under the Agreement, the Customer agrees to pay the Monthly REC Charge.
2. The Monthly REC Charge is part of a RES Compliance Program that the Authority has adopted for the purpose of complying with the CES and Tier 1 of the RES and implementing the EP and RP power programs in a manner that is consistent with the New York State Energy Plan, pursuant to which the Authority will invest in new renewable generation resources to serve its EP and RP customers. Such investments will be made through the procurement of RECs through REC Compliance Measures in quantities that are intended to address the annual Mandatory Minimum Percentage Proportions as applied by the Authority to the total EP and RP load that the Authority will serve each calendar year (the “Annual REC Percentage Target”) for the purpose of ultimately meeting the RES.
3. The Monthly REC Charge, which is intended to recover from the Customer costs that the Authority incurs for implementing REC Compliance Measures that are attributable to the Customer’s EP and/or RP load served under this Agreement, will be determined and assessed to the Customer as follows:

- a. The Authority shall have the right, for each calendar year to implement such REC Compliance Measures as it determines in its discretion to be appropriate for the purpose of meeting the Annual REC Percentage Target for the total EP and RP load that it will serve during such calendar year.
 - b. The Authority will, for each month of each calendar year, calculate the total costs (“Total Monthly REC Costs”) that the Authority has incurred or estimates that it will incur from implementing RES Compliance Measures for the purpose of meeting the Annual REC Percentage Target for the total EP and RP kilowatt-hour load for the month (“Total Monthly EP-RP Load”). The Total Monthly REC Costs may be calculated based on forecasts of the Total Monthly EP-RP Load that the Authority expects to serve for the month, or on a lagged basis based on the actual Total Monthly EP-RP Load that the Authority served for the month.
 - c. Each month, the Authority will assess to the Customer, as a Monthly REC Charge, which will represent the Customer’s share of the Total Monthly REC Costs assessed to the Total Monthly EP-RP Load. The Monthly REC Charge will be assessed as the proportion of the Customer’s total kilowatt-hours load served by the Authority for such month to the Total Monthly EP-RP Load served by the Authority for such month, provided, however, that:
 - i. the Monthly REC Charge to the Customer shall not include any costs associated with the Authority’s inability to collect the Monthly REC Charge from other Authority customers; and
 - ii. the effective per-MWh rate of the Monthly REC Charge to the Customer averaged over the REC Program Year to which the Annual REC Percentage Target applies shall not exceed the per-MWh rate of a Monthly REC Charge based on NYSERDA’s published REC price for the REC Program Year.
4. The Authority may, in its discretion, include the Monthly REC Charge as part of the monthly bills for Electric Service as provided for in the Agreement, or bill the Customer for the Monthly REC Charge pursuant to another Authority-established procedure.
5. The Authority will, at the conclusion of each calendar year in which it assesses a Monthly REC Charge, conduct a reconciliation process based on the actual costs that it incurred for REC Compliance Measures and actual load served for the year, compared with cost or load estimates or forecasts, if any, that the Authority used to calculate the Customer’s Monthly REC Charges during the year. The Authority will issue a credit, or an adjusted final charge for the year, as appropriate, based on the results of such reconciliation process. Any such final charge shall be payable within the time frame applicable to the Authority’s bills

for Electric Service under this Agreement or pursuant to any other procedure established by the Authority pursuant to Section II.4 of this Schedule E.

6. Notwithstanding the provisions of Section II.3 of this Schedule E, if Electric Service for the Allocation is commenced after the Authority has implemented REC Compliance Measures for the year in which such Electric Service is commenced, and as a result the Customer's load cannot be accounted for in such REC Compliance Measures, the Authority may in its discretion implement separate REC Compliance Measures in order to meet the Annual REC Percentage Target for Customer's load for the year, and bill the Customer for the costs associated with such separate REC Compliance Measures.
7. Nothing in this Schedule shall limit or otherwise affect the Authority's right to charge or collect from the Customer, any rate, charge, fee, assessment, or tax provided for under any other provision of the Agreement, or any provision of Service Tariff No. WNY-2 or the Rules.

III. ALTERNATIVE REC COMPLIANCE PROGRAM

1. Nothing in this Schedule E shall be construed as preventing the Parties from entering into other agreements for an alternative arrangement for the Authority to meet the Annual REC Percentage Target with respect to the Customer's Allocation, including but not limited to Customer self-supply of RECs, alternative REC compliance programs and cost allocation mechanisms, in lieu of the Monthly REC Charge provided in this Schedule E (collectively, "Alternative REC Compliance Program").
2. The Authority shall communicate at least biennially with the Customer concerning implementation of the RES Compliance Program and potential Alternative REC Compliance Programs, if any, that the Authority is offering or expects to offer.



POWER AUTHORITY OF THE STATE OF NEW YORK

30 SOUTH PEARL STREET

ALBANY, NY 12207

Schedule of Rates for Sale of Firm Power Service to
Expansion Power and Replacement Power Customers
Located in Western New York

Service Tariff No. WNY-2

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Schedule of Rates for Firm Power Service

I. Applicability

To sales of Expansion Power and/or Replacement Power directly to a qualified business Customer for firm power service.

II. Abbreviations and Terms

- kW kilowatt(s)
- kW-mo. kilowatt-month
- kWh kilowatt-hour(s)
- MWh megawatt-hour(s)
- NYISO New York Independent System Operator, Inc. or any successor organization
- PAL New York Public Authorities Law
- OATT Open Access Transmission Tariff issued by the NYISO

Agreement: An executed written agreement between the Authority and the Customer for the sale of Expansion Power and/or Replacement Power to the Customer.

Annual Adjustment Factor or **AAF**: This term shall have the meaning set forth in Section V herein.

Authority: The Power Authority of the State of New York, a corporate municipal instrumentality and a political subdivision of the State of New York created pursuant to Chapter 772 of the New York Laws of 1931 and existing and operating under Title 1 of Article 5 of the PAL, also known as the “New York Power Authority.”

Customer: A business entity that has received an allocation of Expansion Power and/or Replacement Power, and that purchases Expansion Power and/or Replacement Power, directly from the Authority.

Electric Service: The power and energy provided to the Customer in accordance with the Agreement, this Service Tariff and the Rules.

Expansion Power or **EP** and/or **Replacement Power** or **RP**: Firm Power and Firm Energy made available under this Service Tariff by the Authority from the Project for sale to the Customer for business purposes pursuant to PAL § 1005(5) and (13).

Firm Power: Capacity (kW) that is intended to be always available from the Project subject to the curtailment provisions set forth in the Agreement between the Authority and the Customer and this Service Tariff. Firm Power shall not include peaking power.

Firm Energy: Energy (kWh) associated with Firm Power.

Load Serving Entity or **LSE**: This term shall have the meaning set forth in the Agreement.

Load Split Methodology or **LSM**: A type of billing methodology applicable to a Customer's Allocation which determines how a Customer's total metered usage is apportioned between the power and energy supplied by the Allocation and the Customer's other source of electricity supply, if any. LSM is usually provided for in an agreement between the Authority and the Customer's local electric utility, an agreement between the Authority and the Customer, or an agreement between the Authority, the Customer and the Customer's local electric utility. The load split methodology is often designated as "Load Factor Sharing" or "LFS", "First through the Meter" or "FTM", "First through the Meter Modified" or "FTM Modified", or "Replacement Power 2" or "RP 2".

Project: The Authority's Niagara Power Project, FERC Project No. 2216.

Rate Year or **RY**: The period from July 1 through June 30. For example, RY 2018 refers to July 1, 2018 through June 30, 2019.

Rules: The Authority's rules and regulations set forth in 21 NYCRR § 450 *et seq.*, as they may be amended from time to time.

Service Tariff: This Service Tariff No. WNY-2.

All other capitalized terms and abbreviations used in this Service Tariff but not defined in this Section or other provisions of this Service Tariff shall have the same meaning as set forth in the Agreement.

III. Monthly Rates and Charges

A. Expansion Power (EP) and Replacement Power (RP) Base Rates

The rates to be charged to the Customer by the Authority shall be as follows:

Billing Period	Demand (\$/kW)	Energy (\$/MWh)
January – June 2019	7.60	13.00

1. For RY 2019 (July 2019 through June 2020 Billing Periods), 50% of the Annual Adjustment Factor ("AAF"), as described in Section V, will be applied to the demand and energy rates stated in the table above.
2. For RY 2020 (July 2020 through June 2021 Billing Periods) and each Rate Year thereafter, the AAF will be applied to the then-effective base rates for demand and energy in accordance with Section V.

B. EP and RP Rates no Lower than Rural/Domestic Rate

At all times the applicable base rates for demand and energy determined in accordance with Sections III.A and V of this Service Tariff shall be no lower than the rates charged by the Authority for the sale of hydroelectricity for the benefit of rural and domestic customers receiving service in accordance with the Niagara Redevelopment Act, 16 U.S.C. § 836(b)(1) (the "Rural/Domestic Rate"). This provision shall be implemented as follows: if the base rates, as determined in accordance with Sections III.A and V of this Service Tariff, are lower than the Rural/Domestic Rate on an average \$/MWh basis, each set of rates measured at 80% load factor which is generally regarded as representative for EP and RP Customers, then the base rates determined under Sections III.A and V of this Service Tariff will be revised to make them equal to the Rural/Domestic Rate on an average \$/MWh basis. However, the base rates as so revised will have no effect until such time as these base rates are lower than the Rural/Domestic Rate.

C. Monthly Base Rates Exclude Delivery Service Charges

The monthly base rates set forth in this Section III exclude any applicable costs for delivery services provided by the local electric utility.

D. Minimum Monthly Charge

The Minimum Monthly Charge shall equal the product of the demand charge and the Contract Demand (as defined herein). Such Minimum Monthly Charge shall be in addition to any NYISO Charges or Taxes (each as defined herein) incurred by the Authority with respect to the Customer's Allocation.

E. Estimated Billing

If the Authority, in its discretion, determines that it lacks reliable data on the Customer's actual demand and/or energy usage for a Billing Period during which the Customer receives Electric Service from the Authority, the Authority shall have the right to render a bill to the Customer for such Billing Period based on estimated demand and estimated usage ("Estimated Bill").

For the purpose of calculating a Billing Demand charge for an Estimated Bill, the demand charge will be calculated based on the Load Split Methodology that is applicable to the Customer as follows:

- For Customers whose Allocation is subject to a Load Factor Sharing/LFS LSM, the estimated demand (kW) will be calculated based on an average of the Customer's Billing Demand (kW) values for the previous three (3) consecutive Billing Periods. If such historical data is not available, then the estimated demand (kW) value for the Estimated Bill will equal the Customer's takedown (kW) amount.
- For Customers whose Allocation is subject to a First through the Meter/ FTM, FTM Modified, or RP 2 LSM, the estimated demand (kW) value will equal the Customer's takedown (kW) amount.

For the purpose of calculating a Billing Energy charge for an Estimated Bill, the energy charge will be calculated based on the Customer's Load Split Methodology as follows:

- For Customers whose Allocation is subject to a Load Factor Sharing/LFS LSM, the estimated energy (kWh) will be based on the average of the Customer's Billing Energy (kWh) values for the previous three (3) consecutive Billing Periods. If such historical data is not available, then the estimated energy value (kWh) will be equal to the takedown (kW) amount at 70 percent load factor for that Billing Period.
- For Customers whose Allocation is subject to a First through the Meter/FTM, FTM Modified, or RP 2 LSM, the estimated energy (kWh) will be equal to the takedown (kW) amount at 100 percent load factor for that Billing Period.

If data indicating the Customer's actual demand and usage for any Billing Period in which an Estimated Bill was rendered is subsequently provided to the Authority, the Authority will make necessary adjustments to the corresponding Estimated Bill and, as appropriate, render a revised bill (or provide a credit) to the Customer.

The Minimum Monthly Charge provisions of Section III.D shall apply to Estimated Bills.

The Authority's discretion to render Estimated Bills is not intended and shall not be construed to limit the Authority's rights under the Agreement.

F. Adjustments to Charges

In addition to any other adjustments provided for in this Service Tariff, in any Billing Period, the Authority may make appropriate adjustments to billings and charges to address such matters as billing and payment errors, and the receipt of actual, additional, or corrected data concerning Customer energy or demand usage.

G. Billing Period

The Billing Period is any period of approximately thirty (30) days, generally ending with the last day of each calendar month but subject to the billing cycle requirements of the local electric utility in whose service territory the Customer's facilities are located.

H. Billing Demand

Billing Demand shall be determined by applying the applicable billing methodology to total meter readings during the Billing Period. See Section IV.E, below.

I. Billing Energy

Billing Energy shall be determined by applying the applicable billing methodology to total meter readings during the Billing Period. See Section IV.E, below.

J. Contract Demand

The Contract Demand will be the amount of Expansion Power and/or Replacement Power, not to exceed the Allocation, provided by the Authority to the Customer in accordance with the Agreement

IV. General Provisions

A. Character of Service

Alternating current; sixty cycles, three-phase.

B. Availability of Energy

1. Subject to Section IV.B.2, the Authority shall provide to the Customer in any Billing Period Firm Energy associated with Firm Power. The offer of Firm Energy for delivery shall fulfill the Authority's obligations for purposes of this provision whether or not the Firm Energy is taken by the Customer.
2. In the event of an Adverse Water Condition, the rights and obligations of the Customer and Authority, including but not limited to such matters as Substitute Energy, Customer-Arranged Energy and responsibility for payment of costs associated therewith, will be governed by Article IX of the Agreement.

C. Delivery

For the purpose of this Service Tariff, Firm Power and Firm Energy shall be deemed to be offered when the Authority is able to supply Firm Power and Firm Energy to the Authority's designated NYISO load bus. If, despite such offer, there is a failure of delivery caused by the Customer, NYISO or local electric utility, such failure shall not be subject to a billing adjustment pursuant to Section 454.6(d) of the Rules.

D. Adjustment of Rates

To the extent not inconsistent with the Agreement, the base rates contained in this Service Tariff may be revised from time to time on not less than thirty (30) days written notice to the Customer.

E. Billing Methodology

Unless otherwise specified in the Agreement, the following provisions shall apply:

1. The billing methodology used to determine the amount of Firm Power and Firm Energy to be billed to the Customer related to its Allocation shall be Load Factor Sharing (“LFS”) in a manner consistent with the Agreement and any applicable delivery agreement between the Authority and the Customer’s local electric utility or both as determined by the Authority. An alternative billing methodology may be used provided the Customer and the Authority agree in writing and the Customer’s local electric utility provides its consent if the Authority determines that such consent is necessary.
2. **Billing Demand** –The Billing Demand charged by the Authority to each Customer will be the highest 15 or 30-minute integrated demand, as determined by the Customer’s local electric utility, during each Billing Period recorded on the Customer’s meter multiplied by a percentage based on the LFS methodology, unless the Customer and the Authority agree in writing to an alternative billing methodology and the Customer’s local electric utility provides its consent if the Authority determines that such consent is necessary. Billing Demand may not exceed the amount of the Contract Demand.
3. **Billing Energy** –The kilowatt-hours charged by the Authority to each Customer will be the total number of kilowatt-hours recorded on the Customer’s meter for the Billing Period multiplied by a percentage based on the LFS methodology, unless the Customer and the Authority agree in writing to an alternative billing methodology and the Customer’s local electric utility provides its consent if the Authority determines that such consent is necessary.
4. With regard to LFS methodology calculations:
 - a. For every hour of the Billing Period, the Customer receives hydropower energy (Firm Energy) equal to the hourly metered load multiplied by the ratio of Customer’s Contract Demand divided by the maximum hourly metered load value recorded in a given Billing Period, such ratio not to exceed the value of 1.
 - b. When the maximum hourly metered demand for the Billing Period is less than or equal to the Contract Demand, all of the Customer’s metered load will be supplied by Firm Energy.
 - c. When the maximum hourly metered demand for the Billing Period is greater than the Contract Demand, the portion of the Customer’s metered load to be supplied by Firm Energy is as follows:
 - i. For Customer with hourly billing: the sum of the values, for each hour of the Billing Period, of the Contract Demand divided by the maximum hourly metered demand in the Billing Period multiplied by the hourly metered energy consumption.
 - ii. For Customer with monthly billing: the Contract Demand divided by the maximum hourly metered demand in the Billing Period multiplied by the total metered energy consumption during the Billing Period.
 - d. All demand values will be adjusted for losses.

F. Payment by Customer to Authority

1. Demand and Energy Charges, Taxes

The Customer shall pay the Authority for Firm Power and Firm Energy during any Billing Period the higher of either (i) the sum of (a), (b) and (c) below, or (ii) the Minimum Monthly Charge (as defined herein):

- a. The demand charge per kilowatt for Firm Power specified in this Service Tariff or any modification thereof applied to the Customer's Billing Demand (as defined in Section IV.E, above) for the Billing Period; and
- b. The energy charge per MWh for Firm Energy specified in this Service Tariff or any modification thereof applied to the Customer's Billing Energy (as defined in Section IV.E, above) for the Billing Period; and
- c. A charge representing reimbursement to the Authority for all applicable Taxes incurred by the Authority as a result of providing Expansion Power and/or Replacement Power allocated to the Customer.

2. Transmission Charge

The Customer shall compensate the Authority for all transmission costs incurred by the Authority with respect to the Allocation, including such costs that are charged pursuant to the OATT.

3. NYISO Transmission and Related Charges

The Customer shall compensate the Authority for the following NYISO transmission and related charges (collectively, "NYISO Charges") assessed on the Authority for services provided by the NYISO pursuant to its OATT or other tariffs (as the provisions of those tariffs may be amended and in effect from time to time) associated with providing Electric Service to the Customer:

- A. Ancillary Services 1 through 6 and any new ancillary services as may be defined and included in the OATT from time to time;
- B. Marginal losses;
- C. The New York Power Authority Transmission Adjustment Charge ("NTAC");
- D. Congestion costs inclusive of any rents collected or owed due to any associated grandfathered transmission congestion contracts as provided in Attachment K of the OATT;
- E. Any and all other charges, assessments, or other amounts associated with deliveries to Customers or otherwise associated with the Authority's responsibilities as a Load Serving Entity for the Customers that are assessed on the Authority by the NYISO under the provisions of its OATT or under other applicable tariffs; and

- F. Any charges assessed on the Authority with respect to the provision of Electric Service to Customers for facilities needed to maintain reliability and incurred in connection with the NYISO's Comprehensive System Planning Process (or similar reliability-related obligations incurred by the Authority with respect to Electric Service to the Customer), applicable tariffs, or required to be paid by the Authority in accordance with law, regardless of whether such charges are assessed by the NYISO or another party.

The NYISO Charges, if any, incurred by the Authority on behalf of the Customer, are in addition to the Authority production charges that are charged to the Customer in accordance with other provisions of this Service Tariff.

The method of billing NYISO charges to the Customer will be based on Authority's discretion.

4. Taxes Defined

Taxes shall be any adjustment as the Authority deems necessary to recover from the Customer any taxes, assessments or any other charges mandated by federal, state or local agencies or authorities that are levied on the Authority or that the Authority is required to collect from the Customer if and to the extent such taxes, assessments or charges are not recovered by the Authority pursuant to another provision of this Service Tariff.

5. Substitute Energy

The Customer shall pay for Substitute Energy, if applicable, as specified in the Agreement.

6. Payment Information

Bills computed under this Service Tariff are due and payable by electronic wire transfer in accordance with the Rules. Such wire transfer shall be made to J P Morgan Chase NY, NY / ABA021000021 / NYPA A/C # 008-030383, unless otherwise indicated in writing by the Authority. The Authority may in its discretion change the foregoing account and routing information upon notice to the Customer.

7. Billing Disputes

In the event that there is a dispute on any items of a bill rendered by the Authority, the Customer shall pay such bill in full. If necessary, any adjustments will be made thereafter.

G. Rendition and Payment of Bills

1. The Authority will render bills to the Customer for Electric Service on or before the tenth (10th) business day of the month for charges due for the previous Billing Period. Such bills shall include charges for Electric Service, NYISO Charges associated with the Allocation (subject to adjustment consistent with any later NYISO re-billings to the Authority), and all other applicable charges, and are subject to adjustment as provided for in the Agreement, the Service Tariff and the Rules.
2. The Authority will charge and collect from the Customer all Taxes (including local, state and federal taxes) the Authority determines are applicable, unless the Customer furnishes the Authority with proof satisfactory to the Authority that (i) the Customer is exempt from the payment of any such Taxes, and/or (ii) the Authority is not obligated to collect such Taxes from the Customer. If the Authority is not collecting Taxes from the Customer based on the circumstances described in (i) or (ii) above, the Customer shall immediately inform the Authority of any change in circumstances relating to its tax status that would require the Authority to charge and collect such Taxes from the Customer.
3. Unless otherwise agreed to by the Authority and the Customer in writing, the Authority will render bills to the Customer electronically.
4. Payment of bills by the Customer shall be due and payable by the Customer within twenty (20) days of the date the Authority renders the bill.
5. Except as otherwise agreed by the Authority in writing, if the Customer fails to pay any bill when due an interest charge of two percent of the amount unpaid will be added thereto as liquidated damages, and thereafter, as further liquidated damages, an additional interest charge of one and one-half percent of the sum unpaid shall be added on the first day of each succeeding Billing Period until the amount due, including interest, is paid in full.
6. If at any time after commencement of Electric Service the Customer fails to make complete payment of any two (2) bills for Electric Service when such bills become due pursuant to Agreement, the Authority shall have the right to require that the Customer deposit with the Authority a sum of money in an amount equal to all charges that would be due under this Agreement for Electric Service for two (2) consecutive calendar months as estimated by the Authority. Such deposit will be deemed security for the payment of unpaid bills and/or other claims of the Authority against the Customer upon termination of Electric Service. The failure or refusal of the Customer to provide the deposit within thirty (30) days of a request for such deposit will be grounds for the Authority in its discretion to suspend Electric Service to the Customer or terminate the Agreement.

Unless otherwise agreed to by the Authority and the Customer in writing, in the event the Customer disputes any item of any bill rendered by Authority, the Customer shall pay such bill in full within the time provided for by this Agreement, and adjustments, if appropriate, will be made thereafter.

H. Adjustment of Charges – Distribution Losses

The Authority will make appropriate adjustments to compensate for distribution losses of the local electric utility.

I. Conflicts

In the event of any inconsistencies, conflicts, or differences between the provisions of this Service Tariff and the Rules, the provisions of this Service Tariff shall govern. In the event of any inconsistencies, conflicts or differences between the provisions of the Agreement and this Service Tariff or the Rules, the provisions of the Agreement shall govern.

V. Annual Adjustment Factor

A. Adjustment of Rates

1. The AAF will be based upon a weighted average of three indices described below. For each new Rate Year, the index value for the latest available calendar year ("Index Value for the Measuring Year") will be compared to the index value for the calendar year immediately preceding the latest available calendar year (the Index Value for the Measuring Year -1"). The change for each index will then be multiplied by the indicated weights. As described in detail below, these products are then summed, producing the AAF. The AAF will be multiplied by the base rate for the current Rate Year to produce the base rates for the new Rate Year, subject to a maximum adjustment of $\pm 5.0\%$ (" $\pm 5\%$ Collar"). Amounts outside the $\pm 5\%$ Collar shall be referred to as the "Excess."

Index 1, "BLS Industrial Power Price" (35% weight): The average of the monthly Producer Price Index for Industrial Electric Power, commodity code number 0543, not seasonally adjusted, as reported by the U.S. Department of Labor, Bureau of Labor Statistics ("BLS") electronically on its internet site and consistent with its printed publication, "Producer Price Index Detailed Report". For Index 1, the Index Value for the Measuring Year will be the index for the calendar year immediately preceding July 1 of the new Rate Year.

Index 2, "EIA Average Industrial Power Price" (40% weight): The average weighted annual price (as measured in cents/kWh) for electric sales to the industrial sector in the ten states of CT, MA, ME, NH, NJ, NY, OH, PA, RI and VT ("Selected States") as reported by Coal and Electric Data and Renewables Division; Office of Coal, Nuclear, Electric and Alternate Fuels; Energy Information Administration ("EIA"); U.S. Department of Energy Form EIA-861 Final Data File. For Index 2, the Index Value for the Measuring Year will be the index for the calendar year two years preceding July 1 of the new Rate Year.

Index 3, "BLS Industrial Commodities Price Less Fuel" (25% weight): The monthly average of the Producer Price Index for Industrial Commodities less fuel, commodity code number 03T15M05, not seasonally adjusted, as reported by the U.S. Department of Labor, BLS electronically on its internet site and consistent with its printed publication, "Producer Price Index Detailed Report". For Index 3, the Index Value for the Measuring Year will be the index for the calendar year immediately preceding July 1 of the new Rate Year.

2. Annual Adjustment Factor Computation Guide

- Step 1: For each of the three Indices, divide the Index Value for Measuring Year by the Index Value for the Measuring Year-1.
- Step 2: Multiply the ratios determined in Step 1 by percentage weights for each Index. Sum the results to determine the weighted average. This is the AAF.
- Step 3: Commencing RY 2014, modifications to the AAF will be subject to $\pm 5\%$ Collar, as described below.
- a) When the AAF falls outside the $\pm 5\%$ Collar, the Excess will be carried over to the subsequent RY. If the AAF in the subsequent RY is within the $\pm 5\%$ Collar, the current RY Excess will be added to/subtracted from the subsequent Rate Year's AAF, up to the $\pm 5\%$ Collar.

- b) Excesses will continue to accrue without limit and carry over such that they will be added to/subtracted from the AAF in any year where the AAF is within the $\pm 5\%$ Collar.

Step 4: Multiply the current Rate Year base rate by the AAF calculated in Step 2 to determine the new Rate Year base rate.

The foregoing calculation shall be performed by the Authority consistent with the sample presented in Section V.B below.

3. Subject to the provisions of Section III.A of this Service Tariff, the Authority shall provide the Customer with notice of any adjustment to the current base rate per the above and with all data and calculations necessary to compute such adjustment by June 15th of each year to be effective on July 1 of such year, commencing in 2014. The values of the latest officially published (electronically or otherwise) versions of the indices and data provided by the BLS and EIA as of June 1 shall be used notwithstanding any subsequent revisions to the indices.
4. If during the term of the Agreement any of the three above indices ceases to be available or ceases to be reflective of the relevant factors or of changes which the indices were intended to reflect, the Customer and the Authority may mutually select a substitute Index. The Customer and the Authority agree to mutually select substitute indices within 90 days, once one of them is notified by the other that the indices are no longer available or no longer reflect the relevant factors or changes which the indices were intended to reflect. Should the 90-day period cover a planned July 1 rate change, the current base rates will remain in effect until substitute indices are selected and the adjusted rates based on the substitute indices will be retroactive to the previous July 1. If the Customer and Authority are unable to reach agreement on substitute indices within the 90-day period, the Customer and the Authority agree to substitute the mathematic average of the PPI—Intermediate Materials, Supplies and Components (BLS Series ID WPUSOP2000) and the PPI-- Finished Goods (BLS Series ID WPUSOP3000) indices for one or more indices that have ceased to be available or reflective of their intended purpose and shall assume the percentage weighting(s) of the one or more discontinued indices as indicated in Section V.A.1.

B. Sample Computation of the AAF (hypothetical values for July 1, 2014 implementation):

STEP 1

Determine the Index Value for the Measuring Year (MY) and Measuring Year - 1 (MY-1) for Each Index

- Index 1 - Producer Price Index, Industrial Power

	Measuring Year <u>(2013)</u>	Measuring Year - 1 <u>(2012)</u>
January	171.2	167.8
February	172.8	167.6
March	171.6	168.2
April	173.8	168.6
May	175.1	171.6
June	185.7	180.1
July	186.4	182.7
August	184.7	179.2
September	185.5	181.8
October	175.5	170.2
November	172.2	168.8
December	171.8	166.6
Average	177.2	172.8
Ratio of MY/MY-1		1.03

- Index 2 – EIA Industrial Rate

<u>State</u>	<u>Revenues</u> ((\$000s))	<u>Sales</u> (MWh)	<u>Avg. Rate</u> (cents/kWh)
<u>Measuring Year (2012)</u>			
CT	590,972	6,814,757	
MA	1,109,723	13,053,806	
ME	328,594	4,896,176	
NH	304,363	2,874,495	
NJ	1,412,665	15,687,873	
NY	2,001,588	26,379,314	
OH	3,695,978	78,496,166	
PA	3,682,192	63,413,968	
RI	152,533	1,652,593	
VT	<u>155,903</u>	<u>2,173,679</u>	
TOTAL	13,434,511	215,442,827	6.24

Measuring Year -1 (2011)

CT	579,153	6,678,462	
MA	1,076,431	12,662,192	
ME	310,521	4,626,886	
NH	298,276	2,817,005	
NJ	1,370,285	15,217,237	
NY	1,891,501	24,928,452	
OH	3,622,058	76,926,243	
PA	3,571,726	61,511,549	
RI	144,144	1,561,700	
VT	<u>152,785</u>	<u>2,130,205</u>	
TOTAL	13,016,880	209,059,931	6.23

Ratio of MY/MY-1 **1.00**

- Index 3 – Producer Price Index, Industrial Commodities Less Fuel

	Measuring Year (2013)	Measuring Year -1 (2012)
January	190.1	187.2
February	190.9	188.0
March	191.6	188.7
April	192.8	189.9
May	194.7	191.8
June	195.2	192.3
July	195.5	192.3
August	196.0	193.1
September	196.1	193.2
October	196.2	193.8
November	196.6	193.7
December	196.7	194.0
Average	194.4	191.5
Ratio of MY/MY-1		1.02

STEP 2

Determine AAF by Summing the Weighted Indices

<u>Index</u>	<u>Ratio of MY to MY-1</u>	<u>Weight</u>	<u>Weighted Factors</u>
PPI Industrial Power	1.03	0.35	0.361
EIA Industrial Rate	1.00	0.40	0.400
PPI Industrial Commodities less fuel	1.02	0.25	<u>0.255</u>
AAF			1.016

STEP 3

Apply Collar of $\pm 5.0\%$ to Determine the Maximum/Minimum AAF.

$-5.0\% < 1.6\% < 5.0\%$; collar does not apply, assuming no cumulative excess.

STEP 4

Apply AAF to Calculate the New Rate Year Base Rate

	<u>Demand</u> \$/kW-mo.	<u>Energy</u> \$/MWh
Current Rate Year Base Rate	7.56	12.91
New Rate Year Base Rate	7.68	13.12

APPLICATION SUMMARY
Expansion Power ("EP")

Company:	Surmet Ceramics Corporation ("Surmet")
Location:	Buffalo, NY
County:	Erie County
IOU:	National Grid
Business Activity:	The company is a manufacturer of transparent armor products used in the defense and security industries.
Project Description:	Surmet is proposing to construct a new building at its Buffalo facility to accommodate the purchase and utilization of a new cold isostatic press ("CIP") unit.
Existing Allocation(s):	400 kW of Recharge New York Power
Power Request:	946 kW of EP
Power Recommended:	640 kW of EP
Job Commitment:	
Base:	14
New:	At least 18 jobs
New Jobs/Power Ratio:	28 jobs/MW
New Jobs - Avg. Wage and Benefits:	\$85,000
Capital Investment:	At least \$13 million
Capital Investment/MW:	\$20.3 million/MW
Other ED Incentives:	Incentives offered from Empire State Development and the Erie County Industrial Development Agency
Summary:	Surmet is proposing to construct a new 3,400 square-foot building at its Buffalo facility to accommodate its use of a new CIP unit. The new building would consist of a press room with a recessed pit, a high-pressure room, and a pump room. The addition to the existing site would facilitate Surmet's production of large aluminum oxynitride ("ALON") windows which serve as transparent armor for various aircraft and ground vehicles. An allocation of low-cost hydropower, along with other support offered for this project, could incentivize Surmet to consider additional expansion opportunities in Buffalo in the future.

POWER AUTHORITY

OF THE

STATE OF NEW YORK

30 South Pearl Street
10th Floor
Albany, New York 12207-3425

AGREEMENT FOR THE SALE
OF EXPANSION POWER AND/OR REPLACEMENT POWER

Surmet Ceramics Corporation

The POWER AUTHORITY OF THE STATE OF NEW YORK (“Authority”), created pursuant to Chapter 772 of the New York Laws of 1931 and existing under Title I of Article V of the New York Public Authorities Law (“PAL”), having its office and principal place of business at 30 South Pearl Street, 10th Floor, Albany, New York 12207-3425, hereby enters into this Agreement for the Sale of Expansion Power and/or Replacement Power (“Agreement”) with Surmet Ceramics Corporation (“Surmet”) with offices and principal place of business at 699 Hertel Avenue, Buffalo, NY 14207. The Authority and the Customer are from time to time referred to in this Agreement as “Party” or collectively as “Parties” and agree as follows:

RECITALS

WHEREAS, the Authority is authorized to sell hydroelectric power produced by the Niagara Power Project, Federal Energy Regulatory Commission (“FERC”) Project No. 2216, including hydropower known as Expansion Power (“EP”) and Replacement Power (“RP”) to qualified businesses in accordance with PAL § 1005(5) and (13);

WHEREAS, the Customer has applied for an allocation of EP and/or RP, or for an extension of an existing allocation of EP or RP, for use at facilities defined in this Agreement as the “Facility”;

WHEREAS, the Customer has offered to make specific commitments relating to, among other things, the creation and/or retention of jobs, capital investments, power usage and energy efficiency measures at the Facility;

WHEREAS, the Authority’s Board of Trustees approved an allocation of EP and/or RP to the Customer;

WHEREAS, the Parties have reached an agreement on the terms and conditions applicable for the sale of the EP and/or RP for a term provided in this Agreement;

WHEREAS, the Authority’s provision of Electric Service under this Agreement is an unbundled service separate from (i) the transmission of the allocation, and (ii) the delivery of the Allocation;

WHEREAS, electric service to be provided hereunder shall be subject to the rates and other terms and conditions contained in the Service Tariff No. WNY-2 as provided in this Agreement;

WHEREAS, the Authority has complied with requirements of PAL § 1009, and has been authorized to execute the Agreement; and

WHEREAS, the Authority has complied with requirements of PAL § 1009, and has been authorized to execute the Agreement.

NOW, THEREFORE, in consideration of mutual covenants, terms, and conditions herein, and for other good and valuable consideration, the receipt and adequacy of which the Parties hereby acknowledge, the Parties do hereby mutually covenant and agree as follows:

ARTICLE I

DEFINITIONS

When used with initial capitalization, whether singular or plural, the following terms, as used in this Agreement, shall have the meanings as set forth below. When used with initial capitalization, whether singular or plural, terms defined in schedules or appendices to this Agreement shall have the meanings set forth in such schedules or appendices.

“Adverse Water Condition” means any event or condition, including without limitation a hydrologic or hydraulic condition, that relates to the flow, level, or usage of water at or in the vicinity of the Project and/or its related facilities and structures, and which prevents, threatens to prevent, or causes the Authority to take responsive action that has the effect of preventing, the Project from producing a sufficient amount of energy to supply the full power and energy requirements of firm power and firm energy customers who are served by the Project.

“Agreement” means this Agreement, and unless otherwise indicated herein, includes all schedules, appendices and addenda thereto, as the same may be amended from time to time.

“Allocation” refers to the allocation(s) of EP and/or RP awarded to the Customer as specified in Schedule A.

“Alternative REC Compliance Program” has the meaning provided in Schedule E.

“Annual Capital Investment Commitment” has the meaning set forth in Schedule B.

“Annual CI Expenditures” has the meaning set forth in Schedule B.

“Base Employment Level” has the meaning set forth in Schedule B.

“Contract Demand” is as defined in Service Tariff No. WNY-2.

“Customer-Arranged Energy” means energy that the Customer procures from sources other than the Authority for the purpose of replacing Firm Energy that is not supplied to the Customer due to a Planned Hydropower Curtailment.

“Effective Date” means the date that this Agreement is fully executed by the Parties.

“Electric Service” is the Firm Power and Firm Energy associated with the Allocation and sold by the Authority to the Customer in accordance with this Agreement, Service Tariff No. WNY-2 and the Rules.

“Energy Services” has the meaning set forth in Article V of this Agreement.

“Expansion Power” (or “EP”) is 250 MW of Firm Power and associated Firm Energy from the Project eligible to be allocated by the Authority for sale to businesses pursuant to PAL § 1005(13).

“Expansion Project” has the meaning set forth in Section IV.3.a of this Agreement.

“Expansion Project Capital Investment Commitment” has the meaning set forth in Schedule B.

“Facility” means the Customer’s facilities as described in Schedule A to this Agreement.

“Firm Power” is as defined in Service Tariff No. WNY-2.

“Firm Energy” is as defined in Service Tariff No. WNY-2.

“FERC” means the Federal Energy Regulatory Commission (or any successor organization).

“FERC License” means the first new license issued by FERC to the Authority for the continued operation and maintenance of the Project, pursuant to Section 15 of the Federal Power Act, which became effective September 1, 2007 after expiration of the Project’s original license which became effective in 1957.

“Hydro Projects” is a collective reference to the Project and the Authority’s St. Lawrence-FDR Project, FERC Project No. 2000.

“International Joint Commission” or “IJC” refers to the entity with responsibility to prevent and resolve disputes between the United States of America and Canada under the *1909 Boundary Waters Treaty* and pursues the common good of both countries as an independent and objective advisor to the two governments. The IJC rules upon applications for approval of projects affecting boundary or transboundary waters and may regulate the operation of these projects.

“Load Reduction” has the meaning set forth in Section IX.6 of this Agreement.

“Load Serving Entity” (or “LSE”) means an entity designated by a retail electricity customer (including the Customer) to provide capacity, energy and ancillary services to serve such customer, in compliance with NYISO Tariffs, rules, manuals and procedures.

“Metering Arrangement” has the meaning set forth in Section II.8 of this Agreement.

“NYEM” means the New York Energy Manager, an energy management center owned and operated by the Authority.

“NYEM Agreement” means a written agreement between the Authority and the Customer providing for the Facility’s enrollment and Customer’s participation in NYEM.

“NYEM Participation” has the meaning specified in Schedule B of this Agreement.

“NYISO” means the New York Independent System Operator or any successor organization.

“NYISO Charges” has the meaning set forth in Section VII.3 of this Agreement.

“NYISO Tariffs” means the NYISO’s Open Access Transmission Tariff or the NYISO’s Market Administration and Control Area Services Tariff, as applicable, as such tariffs are modified from time to time, or any successor to such tariffs.

“Planned Hydropower Curtailment” means a temporary reduction in Firm Energy to which the Customer is entitled to receive under this Agreement made by the Authority in response to an anticipated or forecasted Adverse Water Condition.

“Physical Energy Audit” or “Audit” means a physical evaluation of the Facility in a manner approved by the Authority that includes at a minimum the following elements: (a) an assessment of the Facility’s energy use, cost and efficiency which produces an energy utilization index for the Facility (such as an Energy Use Intensity or Energy Performance Indicator); (b) a comparison of the Facility’s index to indices for similar buildings/facilities; (c) an analysis of low-cost/no-cost measures for improving energy efficiency; (d) a listing of potential capital improvements for improving energy consumption; and (e) an initial assessment of potential costs and savings from such measures and improvements.

“Project” means the Niagara Power Project, FERC Project No. 2216.

“Replacement Power” (or “RP”) is 445 MW of Firm Power and associated Firm Energy from the Project eligible to be allocated by the Authority for sale to businesses pursuant to PAL § 1005(13).

“Reporting Year” means the yearly interval that the Authority uses for reporting, compliance and other purposes as specified in this Agreement. The Reporting Year for this Agreement is from January 1 through December 31, subject to change by the Authority without notice.

“Rolling Average” has the meaning set forth in Schedule B.

“Rules” are the applicable provisions of Authority’s rules and regulations (Chapter X of Title 21 of the Official Compilation of Codes, Rules and Regulations of the State of New York), as may be modified from time to time by the Authority.

“Service Information” has the meaning set forth in Section II.12 of this Agreement.

“Service Tariff No. WNY-2” means the Authority’s Service Tariff No. WNY-2, as may be modified from time to time by the Authority, which contains, among other things, the rate schedule establishing rates and other commercial terms for sale of Electric Service to Customer under this Agreement.

“Schedule A” refers to the Schedule A entitled “Expansion Power and/or Replacement Power Allocations” which is attached to and made part of this Agreement.

“Schedule B” refers to the Schedule B entitled “Supplemental Expansion Power and/or Replacement Power Commitments” which is attached to and made part of this Agreement, including any appendices attached thereto.

“Schedule C” refers to the Schedule C entitled “Takedown Schedule” which is attached to and made part of this Agreement.

“Schedule D” refers to the Schedule D entitled “Zero Emission Credit Charge” which is attached to and made part of this Agreement.

“Schedule E” refers to the Schedule E entitled “Monthly Renewable Energy Credit Charge” which is attached to and made part of this Agreement.

“Substitute Energy” means energy that is provided to the Customer by or through the Authority for the purpose of replacing Firm Energy that is not supplied to the Customer due to a Planned Hydropower Curtailment or an Unplanned Hydropower Curtailment.

“Takedown” means the portion of the Allocation that Customer requests to be scheduled for a specific period as provided for in Schedule C, if applicable.

“Taxes” is as defined in Service Tariff No. WNY-2.

“Unforced Capacity” (or “UCAP”) means the electric capacity required to be provided by LSEs to serve electric load as defined by the NYISO Tariffs, rules, manuals and procedures.

“Unplanned Hydropower Curtailment” means a temporary reduction in the amount of Firm Energy to which the Customer is entitled to receive under this Agreement due to Adverse Water Condition that the Authority did not anticipate or forecast.

“Utility Tariff” means the retail tariff(s) of the Customer’s local electric utility filed and approved by the PSC applicable to the delivery of EP and/or RP.

ARTICLE II

ELECTRIC SERVICE

1. The Authority shall make available Electric Service to enable the Customer to receive the Allocation in accordance with this Agreement, Service Tariff No. WNY-2 and the Rules.
2. The Customer shall not be entitled to receive Electric Service under this Agreement for any EP and/or RP allocation unless such EP and/or RP allocation is identified in Schedule A.
3. The Authority will provide, and the Customer shall accept and pay for, Electric Service with respect to the Allocation specified in Schedule A. If Schedule C specifies a Takedown Schedule for the Allocation, the Authority will provide, and the Customer shall accept and pay for, Electric Service with respect to the Allocation in accordance with such Takedown Schedule.
4. The Authority shall provide UCAP in amounts necessary to meet the Customer’s NYISO UCAP requirements associated with the Allocation in accordance with the NYISO Tariffs. The Customer shall be responsible to pay the Authority for such UCAP in accordance with Service Tariff No. WNY-2.

5. The provision of Electric Service associated with the Allocation is an unbundled service separate from the transmission and delivery of power and energy to the Customer. The Customer acknowledges and agrees that Customer's local electric utility, not the Authority, shall be responsible for delivering the Allocation to the Facility specified in Schedule A in accordance with the applicable Utility Tariff(s).
6. The Contract Demand for the Customer's Allocation may be modified by the Authority if the amount of Firm Power and Firm Energy available for sale as EP or RP from the Project is modified as required to comply with any ruling, order, or decision of any regulatory or judicial body having jurisdiction, including but not limited to FERC. Any such modification will be made on a pro rata basis to all EP and RP customers, as applicable, based on the terms of such ruling, order, or decision.
7. The Contract Demand may not exceed the Allocation.
8. The Customer's Facility must be metered by the Customer's local electric utility in a manner satisfactory to the Authority, or another metering arrangement satisfactory to the Authority must be provided (collectively, "Metering Arrangement"). A Metering Arrangement that is not satisfactory to the Authority shall be grounds, after notice to the Customer, for the Authority to modify, withhold, suspend, or terminate Electric Service to the Customer. If a Metering Arrangement is not made to conform to the Authority's requirements within thirty (30) days of a determination that it is unsatisfactory, the Authority may modify, withhold, suspend, or terminate Electric Service on at least ten (10) days' prior written notice to the Customer. After commencement of Electric Service, the Customer shall notify the Authority in writing within thirty (30) days of any alteration to the Facility's Metering Arrangement, and provide any information requested by the Authority (including Facility access) to enable the Authority to determine whether the Metering Arrangement remains satisfactory. If an altered Metering Arrangement is not made to conform to the Authority's requirements within thirty (30) days of a determination it is unsatisfactory, the Authority may modify, withhold, suspend, or terminate Electric Service on at least ten (10) days' prior written notice to the Customer. The Authority may, in its discretion, waive any of the requirements provided for in this Section in whole or in part where in the Authority's judgment, another mechanism satisfactory to the Authority can be implemented to enable the Authority to receive pertinent, timely and accurate information relating to the Customer's energy consumption and demand and render bills to the Customer for all fees, assessments and charges that become due in accordance with this Agreement, Service Tariff No. WNY-2, and the Rules.
9. The Customer consents to the exchange of information between the Authority and the Customer's local electric utility pertaining to the Customer that such parties determine is necessary to provide for the allocation, sale and delivery of the Allocation to the Customer, the proper and efficient implementation of the EP and/or RP program, billing related to Electric Service, and/or the performance of such parties' obligations under any contracts or other arrangements between them relating to such matters. In addition, the Customer agrees to complete such forms and consents that the Authority determines are necessary to effectuate such exchanges of information.

10. The provision of Electric Service by the Authority shall be dependent upon the existence of a written agreement between the Authority and the Customer's local electric utility providing for the delivery of the Allocation on terms and conditions that are acceptable to the Authority.
11. The Customer understands and acknowledges that the Authority may from time to time require the Customer to complete forms, execute consents, and provide information (collectively, "Service Information") that the Authority determines is necessary for the provision of Electric Service, the delivery of the Allocation, billing related to Electric Service, the effective administration of the EP and/or RP programs, and/or the performance of contracts or other arrangements between the Authority and the Customer's local electric utility. The Customer's failure to provide Service Information on a timely basis shall be grounds for the Authority in its discretion to modify, withhold, suspend, or terminate Electric Service to the Customer.

ARTICLE III

RATES, TERMS AND CONDITIONS

1. Electric Service shall be sold to the Customer in accordance with the rates, terms and conditions provided for in this Agreement, Service Tariff No. WNY-2 and the Rules. The Authority agrees to waive the Minimum Monthly Charge set forth in Service Tariff No. WNY-2 for a period up to one (1) year upon written request from the Customer that is accompanied by information that demonstrates to the Authority's satisfaction a short-term reduction or interruption of Facility operations due to events beyond the Customer's control. The Customer shall provide such information that the Authority requests during the period of any such waiver to enable the Authority to periodically evaluate the ongoing need for such waiver.
2. If the Authority at any time during the term of this Agreement enters into an agreement with another customer for the sale of EP or RP at power and energy rates that are more advantageous to such customer than the power and energy rates provided in this Agreement and Service Tariff No. WNY-2, then the Customer, upon written request to the Authority, will be entitled to such more advantageous power and energy rates in the place of the power and energy rates provided in this Agreement and Service Tariff No. WNY-2 effective from the date of such written request, provided, however, that the foregoing provision shall not apply to:
 - a. any agreement for the sale of EP and/or RP with an Authority customer whose purchase of EP and/or RP is associated with an Authority service tariff other than Service Tariff No. WNY-2, including Authority Service Tariff No. WNY-1; or
 - b. any agreement for the sale of EP and/or RP with an Authority customer which is associated with such customer's participation in an Alternative REC Compliance Program provided for in Schedule E of this Agreement.
3. Notwithstanding any provision of this Agreement to the contrary, the power and energy rates for Electric Service shall be subject to increase by Authority at any time upon 30 days prior written notice to Customer if, after consideration by Authority of its legal obligations, the marketability of the output or use of the Project and Authority's competitive position with

respect to other suppliers, Authority determines in its discretion that increases in rates obtainable from any other Authority customers will not provide revenues, together with other available Authority funds not needed for operation and maintenance expenses, capital expenses, and reserves, sufficient to meet all requirements specified in Authority's bond and note resolutions and covenants with the holders of its financial obligations. Authority shall use its best efforts to inform Customer at the earliest practicable date of its intent to increase the power and energy rates pursuant to this provision. With respect to any such increase, Authority shall forward to Customer with the notice of increase, an explanation of all reasons for the increase, and shall also identify the sources from which Authority will obtain the total of increased revenues and the bases upon which Authority will allocate the increased revenue requirements among its customers. Any such increase in rates shall remain in effect only so long as Authority determines such increase is necessary to provide revenues for the purposes stated in the preceding sentences.

4. In addition to all other fees, assessments and charges provided for in the Agreement, Service Tariff WNY-2 and the Rules, the Customer shall be responsible for payment of the Zero Emission Credit Charge and Monthly Renewable Energy Credit Charge provided for in Schedule D and Schedule E, respectively, of this Agreement.

ARTICLE IV **SUPPLEMENTAL COMMITMENTS**

1. Supplemental Commitments. Schedule B sets forth the Customer's "Supplemental Expansion Power and/or Replacement Power Commitments" ("Supplemental Commitments"). The Authority's obligation to provide Electric Service under this Agreement is expressly conditioned upon the Customer's timely compliance with the Supplemental Commitments described in Schedule B as further provided in this Agreement. The Customer's Supplemental Commitments are in addition to all other commitments and obligations provided in this Agreement.
2. *[Intentionally Left Blank]*
3. Special Provisions Relating to a New or Expanded Facility.

- a. Proposed New or Expanded Facility; Failure to Complete.

If Schedule B provides for the construction of a new facility or an expansion of an existing facility (collectively, "Expansion Project"), and the Customer fails to complete the Expansion Project by the date specified in Schedule B, the Authority may, in its discretion, (a) cancel the Allocation, or (b) if it believes that the Expansion Project will be completed in a reasonable time, agree with the Customer to extend the time for completion of the Expansion Project.

- b. Proposed New or Expanded Facility; Partial Performance.

If the Expansion Project results in a completed Facility that is only partially operational, or is material different than the Expansion Project agreed to in Schedule B (as measured

by such factors as size, capital investment expenditures, capital improvements, employment levels, estimated energy demand and/or other criteria determined by the Authority to be relevant), the Authority may, in its discretion, on its own initiative or at the Customer's request, make a permanent reduction to the Allocation and Contract Demand to an amount that the Authority determines to fairly correspond to the completed Facility.

c. Notice of Completion; Commencement of Electric Service.

- (i) The Customer shall give the Authority not less than ninety (90) days' advance written notice of the anticipated date of completion of an Expansion Project. The Authority will inspect the Expansion Project for the purpose of verifying the status of the Expansion Project and notify Customer of the results of the inspection. The Authority will thereafter commence Electric Service within a reasonable time subject to the other provisions of this Agreement based on applicable operating procedures of the Authority, Customer's local electric utility and NYISO.
- (ii) In the event of an Expansion Project being completed in multiple phases, at the Customer's request the Authority may, in its discretion, allow commencement of part of the Allocation upon completion of any such phase, provided the Authority will similarly inspect the Expansion Project for the purpose of verifying the status of the completed phase of the Expansion Project. Upon such verification by the Authority of any such completed phase, the Authority, in its discretion, will determine an amount of kW that fairly corresponds to the completed phase of the Expansion Project, taking into account relevant criteria such as any capital expenditures, increased employment levels, and/or increased electrical demand associated with the completed phase of the Expansion Project.

d. Other Rights and Remedies Unaffected.

Nothing in this Article is intended to limit the Authority's rights and remedies provided for in the other provisions of this Agreement, including without limitation the provisions in Schedule B of this Agreement.

ARTICLE V
ENERGY-RELATED PROJECTS, PROGRAMS AND SERVICES

The Authority shall periodically communicate with the Customer for the purpose of informing the Customer about energy-related projects, programs and services ("Energy Services") offered by the Authority that in the Authority's view could provide value to the Customer and/or support the State's Clean Energy Standard. The Customer shall review and respond to all such offers in good faith, provided, however, that, except as otherwise provided for in this Agreement, participation in any such Energy Services shall be at the Customer's option, and subject to such terms and conditions agreed to by the Parties in one or more definitive agreements.

ARTICLE VI
SERVICE TARIFF; CONFLICTS

1. A copy of Service Tariff No. WNY-2 in effect upon the execution of this Agreement is attached to this Agreement as Exhibit 1, and will apply under this Agreement with the same force and effect as if fully set forth herein. The Customer consents to the application of Service Tariff WNY-2. Service Tariff No. WNY-2 is subject to revision by the Authority from time to time, and if revised, the revised provisions thereof will apply under this Agreement with the same force and effect as if set forth herein. The Authority shall provide the Customer with prior written notice of any revisions to Service Tariff No. WNY-2.
2. In the event of any inconsistencies, conflicts, or differences between the provisions of Service Tariff No. WNY-2 and the Rules, the provisions of Service Tariff No. WNY-2 shall govern. In the event of any inconsistencies, conflicts or differences between the provisions of this Agreement and Service Tariff No. WNY-2 or the Rules, the provisions of this Agreement shall govern.

ARTICLE VII
TRANSMISSION AND DELIVERY

1. The Customer shall be responsible for:
 - a. complying with all requirements of its local electric utility (including any other interconnecting utilities) that are necessary to enable the Customer to receive delivery service for the Allocation. Delivery of the Allocation shall be subject to the Utility Tariff;
 - b. paying its local electric utility for delivery service associated with the Allocation in accordance with the Utility Tariff, and if the Authority incurs any charges associated with such delivery service, reimbursing the Authority for all such charges; and
 - c. obtaining any consents and agreements from any other person that are necessary for the delivery of the Allocation to the Facility, and complying with the requirements of any such person, provided that any such consents, agreements and requirements shall be subject to the Authority's approval.
2. The Authority will use good faith efforts to provide the Customer with at least one year's advance notice of the scheduled expiration of Historic Fixed Price Transmission Congestion Contracts. After issuance of any such notice, the Authority will make itself available at reasonable times to collaborate with the Customer and other EP and RP customers to discuss potential risk-hedging options that might be available following expiration of such contracts.
3. The Customer understands and acknowledges that delivery of the Allocation will be made over transmission facilities under the control of the NYISO. The Authority will act as the LSE with respect to the NYISO, or arrange for another entity to do so on the Authority's behalf. The Customer agrees and understands that it shall be responsible to the Authority for all costs incurred by the Authority with respect to the Allocation for the services established in the NYISO Tariff, or other applicable tariff ("NYISO Charges"), as set forth in Service

Tariff No. WNY-2 or any successor service tariff, regardless of whether such NYISO Charges are transmission-related.

4. The Authority will consider opportunities to assist the Customer concerning actions, practices, or procedures of the Customer's local electric utility identified by the Customer that could adversely impact the implementation and effectiveness of the EP and RP programs, provided that whether or not to take any action or adopt any position on any issue, including any adverse position, is within the Authority's discretion and further subject to applicable laws, regulations and existing legal obligations.

ARTICLE VIII

BILLING AND BILLING METHODOLOGY

1. The billing methodology for the Allocation shall be determined on a "load factor sharing" basis in a manner consistent with the Utility Tariff and any agreement between the Authority and the Customer's local electric utility. An alternative basis for billing may be used provided the Parties agree in writing and the local electric utility provides its consent if such consent is deemed necessary.
2. All other provisions with respect to billing are set forth in Service Tariff No. WNY-2 and the Rules.
3. The rights and remedies provided to the Authority in this Article are in addition to any and all other rights and remedies available to Authority at law or in equity.

ARTICLE IX

HYDROPOWER CURTAILMENTS AND SUBSTITUTE ENERGY

1. The Customer shall, on a form provided by the Authority, elect to either (a) purchase Substitute Energy from the Authority, or (b) rely on Customer-Arranged Energy, for the purpose of replacing Firm Energy that is not supplied to the Customer due to a Planned Hydropower Curtailment. The Customer shall make its election in accordance with the time period and other requirements prescribed in such form. The election shall apply for the entire calendar year identified in the form.
2. The Customer may change its election on a form provided by the Authority by giving the Authority notice of such change no later than the first day of November preceding the calendar year to which the Customer intends such change to become effective. Such change shall be effective on the first day of January following the Authority's receipt the Customer's notice and shall remain in effect unless it is changed in accordance with the provisions of Section IX.1.
3. In the event of an anticipated or planned Adverse Water Condition, the Authority will have the right in its discretion to implement Planned Hydropower Curtailments. The Authority will implement Planned Hydropower Curtailments on a non-discriminatory basis as to all Authority customers that are served by the Project. The Authority will provide the Customer with advance notice of Planned Hydropower Curtailments that in the Authority's judgment will impact Electric Service to the Customer no later than the tenth business day of the month

prior to the month in which the Planned Hydropower Curtailment is expected to occur unless the Authority is unable to provide such notice due to the circumstances that impede such notice, in which case the Authority will provide such advance notice that is practicable under the circumstances.

4. If the Customer elected to purchase Substitute Energy from the Authority, the Authority shall provide Substitute Energy to the Customer during all Planned Hydropower Curtailments. Unless otherwise agreed upon by the Parties in writing, Substitute Energy shall be sourced from markets administered by the NYISO. The Authority may require the Customer to enter into one or more separate agreements to facilitate the provision of Substitute Energy to the Customer.
5. If the Customer elected to rely on Customer-Arranged Energy, the Authority shall have no responsibility to provide the Customer with Substitute Energy during any Planned Hydropower Curtailment, and the Customer shall be responsible for the procurement, scheduling, delivery and payment of all costs associated with Customer-Arranged Energy.
6. The Customer shall have the right to reduce its load in response to a Planned Hydropower Curtailment (a "Load Reduction"), provided, however, that the Customer shall, on an Authority form, provide the Authority with no less than seven (7) days' advance notice of the time period(s) during when the Load Reduction will occur, the estimated amount of the Load Reduction (demand and energy), and all other information required by such form. The Authority will confirm whether the notice provides the required information and proposed Load Reduction has been accepted. The Customer shall reimburse the Authority for all costs that the Authority incurs as a result of the Customer's failure to provide such notice.
7. In the event of an Adverse Water Condition that the Authority did not anticipate or forecast, the Authority shall have the right in its discretion to implement Unplanned Hydropower Curtailments. The Unplanned Hydropower Curtailments will be implemented on a non-discriminatory basis as to all Authority customers that are served by the Project.
8. The Authority will provide the Customer with notice of Unplanned Hydropower Curtailments that in the Authority's judgment will impact Electric Service to the Customer within five (5) business days after the first occurrence of an Unplanned Hydropower Curtailment that occurs within a month, and thereafter will provide the Customer with reasonable notice under the circumstances of the potential for any other Unplanned Hydropower Curtailments that are expected to occur within such month or beyond. The Authority will give the Customer notice of any Unplanned Hydropower Curtailments that the Authority believes are likely to exceed forty-eight (48) continuous hours in duration.
9. Notwithstanding the Customer's election pursuant to Section IX.1, the Authority shall provide the Customer with Substitute Energy during Unplanned Hydropower Curtailments.
10. For each kilowatt-hour of Substitute Energy provided by the Authority during a Planned Hydropower Curtailment, the Customer shall pay the Authority directly during the billing month: (1) the difference between the market cost of the Substitute Energy and the charge for firm energy as provided for in this Agreement; and (2) any NYISO charges and taxes the Authority incurs in connection with the provision of such Substitute Energy. Unless

otherwise agreed upon by the Parties in writing, billing and payment for Substitute Energy provided for Planned Hydropower Curtailments shall be governed by the provisions of Service Tariff WNY-2 relating to the rendition and payment of bills for Electric Service.

11. The Customer shall be responsible for all costs associated with the Authority's provision of Substitute Energy during Unplanned Hydropower Curtailments. Unless otherwise agreed upon by the Parties in writing, billing and payment for Substitute Energy provided for Unplanned Hydropower Curtailments shall be governed by the provisions of Service Tariff WNY-2 relating to the rendition and payment of bills for Electric Service.
12. The Authority shall be under no obligation to deliver and will not deliver any such curtailed energy to the Customer in later billing periods.

ARTICLE X

EFFECTIVENESS, TERM AND TERMINATION

1. This Agreement shall become effective and legally binding on the Parties on the Effective Date.
2. Once commenced, Electric Service under the Agreement shall continue until the earliest of: (a) termination by the Customer with respect to its Allocation upon ninety (90) days prior written notice to the Authority; (b) termination by the Authority pursuant to this Agreement, Service Tariff No. WNY-2, or the Rules; or (c) expiration of the Allocation by its own term as specified in Schedule A.
3. The Customer may exercise a partial termination of the Allocation upon at least sixty (60) days' prior written notice to the Authority. The Authority will effectuate the partial termination as soon as practicable after receipt of such notice taking account of the Authority's internal procedures and requirements of the Customer's local electric utility.
4. The Authority may cancel service under this Agreement or modify the quantities of Firm Power and Firm Energy associated with the Allocation: (1) if such cancellation or modification is required to comply with any final ruling, order or decision of any regulatory or judicial body of competent jurisdiction (including any licensing or re-licensing order or orders of the FERC or its successor agency); or (2) as otherwise provided in this Agreement, Service Tariff No. WNY-2, or the Rules.

ARTICLE XI

EXTENSIONS OF ALLOCATION; AWARD OF ADDITIONAL ALLOCATIONS

1. The Customer may apply to the Authority for an extension of the term of the Allocation identified in Schedule A:
 - a. during the thirty-six (36) month period immediately preceding the scheduled expiration of the Allocation;

- b. pursuant to any other process that the Authority establishes; or
 - c. with the Authority's written consent.
- 2. Upon proper application by the Customer, the Authority may in accordance with applicable law and Authority procedures award additional allocations of EP and/or RP to the Customer at such rates and on such terms and conditions as the Authority establishes. If the Customer agrees to purchase Electric Service associated with any such additional allocation, the Authority will (a) incorporate any such additional allocations into Schedule A, or in its discretion will produce a supplemental schedule, to reflect any such additional allocations, and (b) produce a modified Appendix to Schedule B, as the Authority determines to be appropriate. The Authority will furnish the Customer with any such modified Schedule A, supplemental schedule, and/or a modified Appendix to Schedule B, within a reasonable time after commencement of Electric Service for any such additional allocation.
- 3. In addition to any requirements imposed by law, the Customer hereby agrees to furnish such documentation and other information as the Authority requests to enable the Authority to evaluate any requests for extension of the Allocation or additional allocations and consider the terms and conditions that should be applicable of any extension or additional allocations.

ARTICLE XII

NOTICES

- 1. Notices, consents, authorizations, approvals, instructions, waivers or other communications provided in this Agreement shall be in writing and transmitted to the Parties as follows:

To: The Authority

New York Power Authority
123 Main Street
White Plains, New York 10601

Email:

Facsimile: _____

Attention: Manager – Business Power Allocations and Compliance

To: The Customer

Surmet Ceramics Corporation
699 Hertel Avenue
Buffalo, NY 14207

Email:

Facsimile:

Attention:

- 2. The foregoing notice/notification information pertaining to either Party may be changed by such Party upon notification to the other Party pursuant to Section XII.1.
- 3. Except where otherwise herein specifically provided, any notice, communication or request required or authorized by this Agreement by either Party to the other shall be deemed

properly given: (a) if sent by U.S. First Class mail addressed to the Party at the address set forth above; (b) if sent by a nationally recognized overnight delivery service, two (2) calendar days after being deposited for delivery to the appropriate address set forth above; (c) if delivered by hand, with written confirmation of receipt; (d) if sent by facsimile to the appropriate fax number as set forth above, with written confirmation of receipt; or (e) on the date of transmission if sent by electronic communication to the appropriate address as set forth above, with confirmation of receipt. Either Party may change the addressee and/or address for correspondence sent to it by giving written notice in accordance with the foregoing.

ARTICLE XIII **SUCCESSORS AND ASSIGNS; RESALE OF HYDROPOWER**

1. This Agreement shall be binding upon, shall inure to the benefit of, and may be performed by, the legal successors and assigns of either Party hereto, provided that no assignment by either Party or any successor or assignee of such Party of its rights and obligations hereunder shall be made or become effective without the prior written consent of the other Party, which consent shall not be unreasonably withheld or conditioned. Notwithstanding the foregoing sentence, the Authority may require such approvals, and such consents and other agreements from the Customer and other parties, that the Authority determines are necessary in order to effectuate any such assignment.
2. The Customer may not transfer any portion of the Allocation to any other person, or a location different than the Facility, unless: (a) the Authority in its discretion authorizes the transfer Authority; (b) all other requirements applicable to a transfer, including board approvals, are satisfied; and (c) the transfer is effectuated in a form and subject to such terms and conditions approved by the Authority. Any purported transfer that does not comply with the foregoing requirements shall be invalid and constitute grounds for the Authority in its discretion to suspend Electric Service or terminate the Allocation and/or this Agreement.
3. The Customer may not sell any portion of the Allocation to any other person. Any purported sale shall be invalid and constitute grounds for the Authority in its discretion to suspend Electric Service, or terminate the Allocation and/or this Agreement.

ARTICLE XIV **MISCELLANEOUS**

1. Choice of Law

This Agreement shall be governed by and construed in accordance with the laws of the State of New York to the extent that such laws are not inconsistent with the FERC License and the Niagara Redevelopment Act (16 USC §§836, 836a) and rulings by the IJC and without regard to conflicts of law provisions.

2. Venue

The Parties: (a) consent to the exclusive jurisdiction and venue of any state court within or

for Albany County, New York, with subject matter jurisdiction for adjudication of any claim, suit, action or any other proceeding in law or equity arising under, or in any way relating to this Agreement; (b) agree to accept service of process; and (c) will not raise any argument of inconvenient forum.

3. Previous Agreements; Modifications; and Interpretation

- a. This Agreement shall constitute the sole and complete agreement of the Parties hereto with respect to the sale of the Allocation and the subject matter of the Agreement, and supersedes all previous communications and agreements between the Parties, oral or written, with reference to the sale of the Allocation.
- b. No modifications of this Agreement shall be binding upon the Parties hereto or either of them unless such modification is in writing and is signed by a duly authorized officer of each of them.
- c. No provision shall be construed against a Party on the basis that such Party drafted such provision.

4. Waiver

Any waiver at any time by either the Authority or the Customer of their rights with respect to a default or of any other matter arising out of this Agreement shall not be deemed to be a waiver with respect to any other default or matter. No waiver by either Party of any rights with respect to any matter arising in connection with this Agreement shall be effective unless made in writing and signed by the Party making the waiver.

5. Severability and Voidability

If any term or provision of this Agreement shall be invalidated, declared unlawful or ineffective in whole or in part by an order of the FERC or a court of competent jurisdiction, such order shall not be deemed to invalidate the remaining terms or provisions hereof. Notwithstanding the preceding sentence, if any provision of this Agreement is rendered void or unenforceable or otherwise modified by a court or agency of competent jurisdiction, the entire Agreement shall, at the option of either Party and only in such circumstances in which such Party's interests are materially and adversely impacted by any such action, be rendered void and unenforceable by such affected Party.

ARTICLE XV
EXECUTION

To facilitate execution, this Agreement may be executed in as many counterparts as may be required, and it shall not be necessary that the signatures of, or on behalf of, each Party, or that the signatures of all persons required to bind any Party, appear on each counterpart; but it shall be sufficient that the signature of, or on behalf of, each Party, or that the signatures of the persons required to bind any Party, appear on one or more of the counterparts. All counterparts shall collectively constitute a single agreement. It shall not be necessary in making proof of this

Agreement to produce or account for more than a number of counterparts containing the respective signatures of, or on behalf of, all of the Parties hereto. The delivery of an executed counterpart of this Agreement as a PDF or similar file type transmitted via electronic mail, cloud based server, e-signature technology or similar electronic means shall be legal and binding and shall have the same full force and effect as if an original executed counterpart of this Agreement had been delivered.

[SIGNATURES FOLLOW ON NEXT PAGE]

AGREED:

SURMET CERAMICS CORPORATION

By: _____

Title: _____

Date: _____

AGREED:

POWER AUTHORITY OF THE STATE OF NEW YORK

By: _____
John R. Koelmel, Chairman

Date: _____

SCHEDULE A
EXPANSION POWER AND/OR REPLACEMENT POWER ALLOCATIONS

Customer: Surmet Ceramics Corporation				
Type of Allocation	Allocation Amount (kW)	Facility and Address	Trustee Approval Date	Allocation Expiration Date
EP	640 kW	699 Hertel Avenue Buffalo, New York 14207	July 27, 2021	Ten (10) years from the date of commencement of Electric Service

SCHEDULE B
**SUPPLEMENTAL EXPANSION POWER AND/OR REPLACEMENT POWER
COMMITMENTS**

ARTICLE I
SPECIFIC SUPPLEMENTAL COMMITMENTS

1. Employment Commitments

- a. The Customer shall create and maintain the employment level set forth in the Appendix to this Schedule B (the “Base Employment Level”). Such Base Employment Level shall be the total number of full-time positions held by: (a) individuals who are employed by the Customer at Customer’s Facility identified in the Appendix to this Schedule, and (b) individuals who are contractors or who are employed by contractors of the Customer and assigned to the Facility identified in such Appendix (collectively, “Base Level Employees”). The number of Base Level Employees shall not include individuals employed on a part-time basis (less than 35 hours per week); provided, however, that two individuals each working 20 hours per week or more at such Facility shall be counted as one Base Level Employee.
- b. The Base Employment Level shall not be created or maintained by transfers of employees from previously held positions with the Customer or its affiliates within the State of New York, except that the Base Employment Level may be filled by employees of the Customer laid off from other Customer facilities for *bona fide* economic or management reasons.
- c. The Authority may consider a request to change the Base Employment Level based on a claim of increased productivity, increased efficiency or adoption of new technologies or for other appropriate reasons as determined by the Authority. Any such change shall be within Authority’s discretion.

2. Capital Investment Commitments

The Customer shall make the capital investments specified in the Appendix to this Schedule B.

3. Power Utilization

For each month the Authority provides Electric Service to the Customer, the Customer shall utilize the entire Allocation, as represented by the Billing Demand (as such term is described in Service Tariff No. WNY-2), provided, however, that if only part of the Allocation is being utilized in accordance with Schedule C, the Customer shall utilize such partial amount of the Allocation.

4. Energy Efficiency and Conservation Program

- a. The Customer shall implement an energy efficiency and conservation program at the Facility through either (a) enrollment of the Facility and participation in NYEM in accordance with a NYEM Agreement, or (b) one or more Physical Energy Audits of the Facility, or (c) a combination of such measures, in accordance with the provisions of this Article.
- b. The Authority shall transmit to the Customer a NYEM Agreement and an election form. The Customer shall elect to either (a) enroll the Facility and participate in NYEM for a three-year term (“NYEM Participation”) in accordance with the NYEM Agreement, or (b) perform a Physical Energy Audit of the Facility. The Customer shall make the election within sixty (60) days of its receipt of the Authority’s communication. If the Customer elects NYEM Participation, it shall execute and return the NYEM Agreement to the Authority with the election form, abide by the NYEM Agreement, and participate in NYEM at its own expense at the rate provided in the NYEM Agreement. If the Customer elects to perform a Physical Energy Audit, it shall perform the Physical Energy Audit within three (3) years of the Effective Date of this Agreement, at its own expense.
- c. The Authority shall, on or before the expiration of the three-year term of the NYEM Agreement, transmit to the Customer a NYEM Agreement specifying the terms and conditions that would apply to NYEM participation for a second term, and an election form. The Customer shall elect either (a) NYEM Participation for a second term, or (b) to perform a Physical Energy Audit of the Facility. The Customer shall make the election within sixty (60) days of its receipt of the Authority’s communication. If the Customer elects NYEM Participation, it shall execute and return the NYEM Agreement to the Authority with the election form, abide by the NYEM Agreement, and participate in NYEM at its own expense at the rate provided in the NYEM Agreement. If the Customer elects to perform a Physical Energy Audit, it shall perform the Physical Energy Audit during the calendar year that begins six years after of the Effective Date of this Agreement, at its own expense.
- d. The Authority may in its discretion waive the requirement for a Physical Energy Audit, or may agree to a limited energy audit of the Facility, where it determines that the Physical Energy Audit is unnecessary based on the age of the Facility, energy efficiency and conservation improvements made at the Facility, the length of the Allocation, or other considerations the Authority determines to be relevant.

ARTICLE II
RECORDKEEPING, REPORTING AND FACILITY ACCESS

1. Employment

A record shall be kept monthly by the Customer, and provided on a calendar year basis to the Authority, of the total number of Base Level Employees who are employed at or assigned to the Customer's Facility identified in the Appendix to this Schedule, as reported to the United States Department of Labor (or as reported in such other record as agreed upon by the Authority and the Customer). Such report shall separately identify the individuals who are employed by the Customer, and the individuals who are contractors or who are employed by contractors of the Customer, and shall be certified to be correct by an officer of the Customer, plant manager or such other person authorized by the Customer to prepare and file such report and shall be provided to the Authority on or before the last day of February following the end of the most recent calendar year. The Authority shall have the right to examine and audit on reasonable advance written notice all non-confidential written and electronic records and data concerning employment levels including, but not limited to, personnel records and summaries held by the Customer and its affiliates relating to employment in New York State.

2. Capital Investments

The Customer shall comply with the recordkeeping, recording and reporting requirements specified in the Appendix to this Schedule B.

3. Power Usage

A record shall be kept monthly by the Customer, and provided on a calendar year basis to the Authority on or before the last day of February following the end of the most recent calendar year, of the maximum demand utilized each month in the Facility receiving the power covered by the Agreement.

4. Energy Efficiency and Conservation Program

Upon the Authority's request, the Customer shall provide the Authority with (a) a copy of the results of any Physical Energy Audit performed at the Facility (or, at the Authority's option, a report describing the results), performed pursuant to this Article; and (b) a description of any energy efficiency or conservation measures that the Customer has implemented at the Facility in response to any Physical Energy Audit or as a result of NYEM Participation.

5. Facility Access

Notwithstanding any other provision of the Agreement, the Customer shall provide the Authority with such access to the Facility, and such documentation, as the Authority deems necessary to determine the Customer's compliance with the Customer's Supplemental Commitments specified in this Schedule B.

ARTICLE III

COMPLIANCE ACTION BY THE AUTHORITY

1. Employment

If the year-end monthly average number of employees is less than 90% of the Base Employment Level set forth in the Appendix to this Schedule B for the subject calendar year, the Authority may reduce the Contract Demand in accordance with the procedures provided in Section III.5 of this Schedule. The maximum amount of reduction will be determined by multiplying the Contract Demand by the quantity one minus the quotient of the average monthly employment during the subject calendar year divided by the Base Employment Level. Any such reduction shall be rounded to the nearest fifty (50) kW. In the event of a reduction of the Contract Demand to zero, the Agreement shall automatically terminate.

2. Capital Investment Commitment

The Authority may reduce the Contract Demand as provided in the Appendix to this Schedule B if the Customer does not comply with the Capital Investment Commitment.

3. Power Utilization Level

If the average of the Customer's six (6) highest Billing Demands (as such term is described in Service Tariff No. WNY-2) for Expansion Power and/or Replacement Power is less than 90% of the Customer's Contract Demand in such calendar year the Authority may reduce the Contract Demand subject to in accordance with the procedures provide in Section III.5 of this Schedule. The maximum amount by which the Authority may reduce the Contract Demand shall be determined by multiplying the Contract Demand by the quantity one minus the quotient of the average of the six (6) highest Billing Demands for in such calendar year divided by the Contract Demand. Any such reduction shall be rounded to the nearest fifty (50) kW. In the event of a reduction of the Contract Demand to zero, this Agreement shall automatically terminate.

4. Additional Compliance Action

In addition to the Authority's other rights and remedies provided in this Agreement, Service Tariff WNY-2 and the Rules, the Authority may suspend Electric Service to the Customer if the Customer does not comply with any of the requirements in Section I.4 or Article II of this Schedule B.

5. Notice of Intent to Reduce Contract Demand

In the event that the Authority determines that the Contract Demand will be wholly or partially reduced pursuant to Sections III.1, III.2, or III.3 of this Schedule B, the Authority shall provide the Customer with at least thirty (30) days prior written notice of the proposed reduction, specifying the amount and reason for the reduction.

Before implementing any reduction, the Authority may consider the Customer's scheduled or unscheduled maintenance, Facility upgrade periods, and the business cycle. If, at the end of the thirty (30) day notice period, the Authority determines that a reduction is warranted, it shall provide the Customer with notice of such determination and provide the Customer with sixty (60) days to present a proposed plan with actionable milestones to cure the deficiency. The Authority shall respond to the Customer concerning the acceptability of any proposed plan that is provided in accordance with this Section III.5 within thirty (30) days of the Authority's receipt of such proposed plan. It shall be within the Authority's discretion whether or not to accept the Customer's proposed plan, require a different plan, or implement the reduction of the Contract Demand.

APPENDIX TO SCHEDULE B

BASE EMPLOYMENT LEVEL

The Customer shall employ at least 32 full-time, permanent employees (“Base Employment Level”) at the Customer’s Facility. The Base Employment Level shall be maintained for the term of the Allocation in accordance with Article I of Schedule B.

CAPITAL INVESTMENT COMMITMENTS

1. **Annual Capital Investment Commitment** (if applicable, as specified below)
 - a. Each Reporting Year, the rolling average of the annual capital investments made by the Customer at the Facility (“Rolling Average”) shall total not less than N/A (the “Annual Capital Investment Commitment”). For purposes of this provision, “Rolling Average” means the three-year average comprised of (1) the total amount of capital investments (“Annual CI Expenditures”) made by the Customer at the Facility during the current Reporting Year, and (2) the Annual CI Expenditures made by the Customer at the Facility during the two prior Reporting Years.
 - b. Each year, the Customer shall record its Annual CI Expenditures for purposes of enabling the Authority to determine and verify the Rolling Average, which shall be provided to the Authority in a form specified by the Authority on or before the last day of February following the end of the most recent calendar year.
 - c. If the Customer’s Rolling Average as determined by the Authority is less than 90% of its Annual Capital Investment Commitment for the Reporting Year, the Contract Demand may be reduced by the Authority in accordance with the procedures provided in Section III.5 of this Schedule. The maximum amount by which the Authority may reduce the Contract Demand shall be determined by multiplying the Contract Demand by the quantity one minus the quotient of the Rolling Average divided by the Annual Capital Investment Commitment. Any such reduction shall be rounded to the nearest ten (10) kW. In the event of a reduction of the Contract Demand to zero, this Agreement shall automatically terminate.
2. **Expansion Project–Capital Investment Commitment** (if applicable, as specified below)
 - a. The Customer shall make a minimum capital investment of \$13,000,000 to construct, furnish and/or expand the Facility (“Expansion Project Capital Investment Commitment”). The Expansion Project Capital Investment Commitment is expected to consist of the following approximate expenditures on the items indicated:

DESCRIPTION	EXPENDITURE
New building construction	\$ 2,500,000
Cold isostatic press (CIP) unit	\$ 6,500,000
Furnace machinery & equipment	\$ 2,800,000
Electric upgrades	\$ 1,200,000
Total Minimum Expansion Project Capital Investment Commitment:	<u>\$13,000,000</u>

Total Expansion Project Capital Investment Commitment:

- b. The Expansion Project Capital Investment Commitment shall be made, and the Facility shall be completed and fully operational, no later than July 27, 2024 (*i.e.*, within three (3) years of the date of the Authority's award of the Allocation). Upon request of the Customer, such date may be extended in the discretion of the Authority.

SCHEDULE C
TAKEDOWN SCHEDULE

SCHEDULE D
ZERO EMISSION CREDIT CHARGE

I. DEFINITIONS

When used with initial capitalization, whether singular or plural, the following terms, as used in this Schedule, shall have the meanings as set forth below. Capitalized terms not defined in this Schedule shall have the meaning ascribed to them elsewhere in the Agreement, in Service Tariff No. WNY-2, or in the Rules.

“Affected LSEs” has the meaning provided in Section II.2 of this Schedule D.

“CES Order” means the Order issued by the PSC entitled “Order Adopting a Clean Energy Standard, issued on August 1, 2016, in Case Nos. 15-E-0302 and 16-E-0270, and includes all subsequent orders amending, clarifying and/or implementing such Order or the RES.

“EP and RP Programs ZEC Costs” has the meaning provided in Section II.4.b of this Schedule D.

“Government Action” has the meaning provided in Section II.8 of this Schedule D.

“Load Serving Entity” or “LSE” has the meaning provided in the CES Order.

“NYSERDA” means the New York State Energy Research and Development Authority.

“Public Service Commission” means the New York State Public Service Commission.

“Renewable Energy Standard” or “RES” means the Renewable Energy Standard adopted by the State in the CES Order.

“RES Compliance Program” means a program or initiative that the Authority has adopted for the purpose of meeting the RES for the load that the Authority serves under the EP and RP power programs as authorized in the Power Authority Act.

“State Energy Plan” means the 2015 New York State Energy Plan as amended from time to time.

“Zero Emission Credit” or “ZEC” has the meaning provided in the CES Order.

“Zero Emission Credit Charge” or “ZEC Charge” means the charge to the Customer established in this Schedule D.

“ZEC Purchase Obligation” has the meaning provided in Section II.2 of this Schedule D.

“ZEC Program Year” has the meaning provided in Section II.2 of this Schedule D.

II. ZEC CHARGE

1. Notwithstanding any other provision of the Agreement, or any provision of Service Tariff No. WNY-2 or the Rules, as of January 1, 2019, the Customer shall be subject to a ZEC Charge as provided in this Schedule D. The ZEC Charge shall be in addition to all other charges, fees and assessments provided for in the Agreement, Service Tariff No. WNY-2 and the Rules. By accepting Electric Service under the Agreement, the Customer agrees to pay the ZEC Charge.
2. As provided in the CES Order, the Public Service Commission, as part of the CES and Tier 3 of the Renewable Energy Standard, imposed an obligation on Load Serving Entities that are subject to the CES Order (“Affected LSEs”) to purchase Zero Emission Credits from NYSERDA in an amount representing the Affected LSE’s proportional share of ZECs calculated on the basis of the amount of electric load the LSE serves in relation to the total electric load served by all Load Serving Entities in the New York Control area, to support the preservation of existing at risk nuclear zero emissions attributes in the State (the “ZEC Purchase Obligation”). The ZEC Purchase Obligation is implemented on the basis of program years running from April 1 through March 31 of each year (“ZEC Program Year”).
3. The ZEC Charge is part of a RES Compliance Program that the Authority has adopted for the purpose of supporting the CES and Tier 3 of the RES and implementing the EP and RP power programs in a manner that is consistent with the New York State Energy Plan. The Authority will comply with the CES and Tier 3 of the RES by applying a form of ZEC Purchase Obligation to the end-user load for which the Authority serves as a load serving entity, including the load that the Authority serves under the EP and RP power programs.
4. The ZEC Charge, which is intended to recover from the Customer costs that the Authority incurs for purchasing ZECs in quantities that are attributable to the Customer’s EP and/or RP load served under this Agreement, will be determined and assessed to the Customer as follows:
 - a. The cost of the total ZEC Purchase Obligation for all LSEs in the New York Control Area, including the Authority as a participating load serving entity, will be assessed pursuant to the methodology provided in the CES Order. The Authority will purchase its proportionate share of ZECs from NYSERDA based on the proportion of the forecasted total kilowatt-hours load served by

the Authority (i.e., total Authority LSE load) in relation to the forecasted total kilowatt-hours load served by all LSEs in the New York Control Area as provided in the CES Order. The ZEC Purchase Obligations may be based on initial load forecasts with reconciliations made at the end of each ZEC Program Year by NYSERDA.

- b. The Authority will allocate costs from its ZEC Purchase Obligation between its power programs/load for which it serves as load serving entity, including the EP and RP load that it serves (the “EP and RP Programs ZEC Costs”). Such allocation will be based on the forecasted kilowatt-hours load of the EP and RP programs to be served by the Authority in relation to the forecasted total kilowatt-hours load served by the Authority (total Authority LSE load) for each ZEC Program Year. In addition, any balance resulting from the ZEC Program Year-end reconciliation of ZEC Purchase Obligations will be allocated to the EP and RP power programs based on the proportion of the actual annual kilowatt-hours load served under such programs to total actual annual kilowatt-hours load served by the Authority (total Authority LSE load).
 - c. The Authority will allocate a portion of the EP and RP Programs ZEC Costs to the Customer as the ZEC Charge based on the proportion of the Customer’s actual kilowatt-hours load for the EP and/or RP purchased by the Customer to total kilowatt-hours load served by the Authority under the EP and RP power programs (i.e., EP and RP Programs level load). In addition, any balance resulting from the ZEC Program Year-end reconciliation of the ZEC Purchase Obligation referenced above will be passed through to the Customer based on the proportion of the Customer’s annual kilowatt-hours load purchased under this Agreement to total annual kilowatt-hours load served under the EP and RP power program by the Authority (EP and RP Programs level load). The ZEC Charge assessed to the Customer shall not include any costs resulting from the Authority’s inability to collect a ZEC Charge from any other Authority customer.
5. The Authority may, in its discretion, include the ZEC Charge as part of the monthly bills for Electric Service as provided for in the Agreement, or bill the Customer for the ZEC Charge pursuant to another Authority-established procedure.
6. The Authority may, in its discretion, modify the methodology used for determining the ZEC Charge and the procedures used to implement such ZEC Charge on a nondiscriminatory basis among affected EP and RP customers, upon consideration of such matters as Public Service Commission orders modifying or implementing the CES Order, guidance issued by the New York Department of Public Service, and other information that the Authority reasonably determines to be appropriate to the determination of such methodology. The Authority shall

provide Customer with reasonable notice of any modifications to the methodology or procedures used to determine and implement the ZEC Charge.

7. Nothing in this Schedule shall limit or otherwise affect the Authority's right to charge or collect from the Customer any rate, charge, fee, assessment, or tax provided for under any other provision of the Agreement, or any provision of Service Tariff No. WNY-2 or the Rules.
8. If the ZEC Purchase Obligation is modified or terminated by the Public Service Commission or other controlling governmental authority (collectively, "Government Action"), the Authority shall modify or terminate the ZEC Charge, and assess any additional charges or provide any credits to the Customer, to the extent that the Authority determines such actions to be appropriate based on such Government Action.

SCHEDULE E
MONTHLY RENEWABLE ENERGY CREDIT CHARGE

I. DEFINITIONS

When used with initial capitalization, whether singular or plural, the following terms, as used in this Schedule, shall have the meanings as set forth below. Capitalized terms not defined in this Schedule shall have the meaning ascribed to them elsewhere in the Agreement, in Service Tariff No. WNY-2, or in the Rules.

“Alternative REC Compliance Program” has the meaning provided in Section III.1 of this Schedule E.

“Annual REC Percentage Target” has the meaning provided in Section II.2 of this Schedule E.

“CES Order” means the Order issued by the Public Service Commission entitled “Order Adopting a Clean Energy Standard, issued on August 1, 2016, in Case Nos. 15-E-0302 and 16-E-0270, and includes all subsequent orders amending, clarifying and/or implementing such Order or the RES.

“Clean Energy Standard” or “CES” means the Clean Energy Standard adopted by the State in the CES Order.

“Load Serving Entity” has the meaning provided in the CES Order.

“Mandatory Minimum Percentage Proportion” has the meaning provided in the CES Order.

“Monthly Renewable Energy Credit Charge” or “Monthly REC Charge” means the monthly charge to the Customer established in this Schedule E.

“NYSERDA” means the New York State Energy Research and Development Authority.

“Public Service Commission” means the New York State Public Service Commission.

“Renewable Energy Credit” or “REC” refers to a qualifying renewable energy credit as described in the CES Order.

“State Energy Plan” means the 2015 New York State Energy Plan as amended from time to time.

“RES Compliance Program” means a program or initiative that the Authority has adopted for the purpose of meeting the RES for the load that the Authority serves under the EP and RP power programs as authorized in the Power Authority Act.

“Renewable Energy Standard” or “RES” means the Renewable Energy Standard adopted by the State in the CES Order.

“REC Compliance Measures” mean: (1) the Authority’s procurement of RECs from NYSERDA in accordance with NYSERDA procedures and/or the CES Order; (2) the Authority’s procurement of RECs from available REC markets; (3) the Authority’s procurement of RECs from sources other than those identified in items (1) and (2) of this definition, including through a procurement process adopted by the Authority; and/or (4) any other measure that the PCS authorizes a Load Serving Entity to implement for the purpose of meeting the applicable Mandatory Minimum Percentage Proportion.

“Total Monthly EP-RP Load” has the meaning provided in Section II.3.b of this Schedule E

“Total Monthly REC Costs” has the meaning provided in Section II.3.b of this Schedule E.

II. MONTHLY REC CHARGE

1. Notwithstanding any other provision of the Agreement, or any provision of Service Tariff No. WNY-2 or the Rules, as of January 1, 2019, the Customer shall be subject to a Monthly REC Charge as provided in this Schedule E. The Monthly REC Charge is in addition to all other charges, fees and assessments provided in the Agreement, Service Tariff No. WNY-2 and the Rules. By accepting Electric Service under the Agreement, the Customer agrees to pay the Monthly REC Charge.
2. The Monthly REC Charge is part of a RES Compliance Program that the Authority has adopted for the purpose of complying with the CES and Tier 1 of the RES and implementing the EP and RP power programs in a manner that is consistent with the New York State Energy Plan, pursuant to which the Authority will invest in new renewable generation resources to serve its EP and RP customers. Such investments will be made through the procurement of RECs through REC Compliance Measures in quantities that are intended to address the annual Mandatory Minimum Percentage Proportions as applied by the Authority to the total EP and RP load that the Authority will serve each calendar year (the “Annual REC Percentage Target”) for the purpose of ultimately meeting the RES.
3. The Monthly REC Charge, which is intended to recover from the Customer costs that the Authority incurs for implementing REC Compliance Measures that are attributable to the Customer’s EP and/or RP load served under this Agreement, will be determined and assessed to the Customer as follows:

- a. The Authority shall have the right, for each calendar year to implement such REC Compliance Measures as it determines in its discretion to be appropriate for the purpose of meeting the Annual REC Percentage Target for the total EP and RP load that it will serve during such calendar year.
 - b. The Authority will, for each month of each calendar year, calculate the total costs (“Total Monthly REC Costs”) that the Authority has incurred or estimates that it will incur from implementing RES Compliance Measures for the purpose of meeting the Annual REC Percentage Target for the total EP and RP kilowatt-hour load for the month (“Total Monthly EP-RP Load”). The Total Monthly REC Costs may be calculated based on forecasts of the Total Monthly EP-RP Load that the Authority expects to serve for the month, or on a lagged basis based on the actual Total Monthly EP-RP Load that the Authority served for the month.
 - c. Each month, the Authority will assess to the Customer, as a Monthly REC Charge, which will represent the Customer’s share of the Total Monthly REC Costs assessed to the Total Monthly EP-RP Load. The Monthly REC Charge will be assessed as the proportion of the Customer’s total kilowatt-hours load served by the Authority for such month to the Total Monthly EP-RP Load served by the Authority for such month, provided, however, that:
 - i. the Monthly REC Charge to the Customer shall not include any costs associated with the Authority’s inability to collect the Monthly REC Charge from other Authority customers; and
 - ii. the effective per-MWh rate of the Monthly REC Charge to the Customer averaged over the REC Program Year to which the Annual REC Percentage Target applies shall not exceed the per-MWh rate of a Monthly REC Charge based on NYSERDA’s published REC price for the REC Program Year.
4. The Authority may, in its discretion, include the Monthly REC Charge as part of the monthly bills for Electric Service as provided for in the Agreement, or bill the Customer for the Monthly REC Charge pursuant to another Authority-established procedure.
5. The Authority will, at the conclusion of each calendar year in which it assesses a Monthly REC Charge, conduct a reconciliation process based on the actual costs that it incurred for REC Compliance Measures and actual load served for the year, compared with cost or load estimates or forecasts, if any, that the Authority used to calculate the Customer’s Monthly REC Charges during the year. The Authority will issue a credit, or an adjusted final charge for the year, as appropriate, based on the results of such reconciliation process. Any such final charge shall be payable within the time frame applicable to the Authority’s bills

for Electric Service under this Agreement or pursuant to any other procedure established by the Authority pursuant to Section II.4 of this Schedule E.

6. Notwithstanding the provisions of Section II.3 of this Schedule E, if Electric Service for the Allocation is commenced after the Authority has implemented REC Compliance Measures for the year in which such Electric Service is commenced, and as a result the Customer's load cannot be accounted for in such REC Compliance Measures, the Authority may in its discretion implement separate REC Compliance Measures in order to meet the Annual REC Percentage Target for Customer's load for the year, and bill the Customer for the costs associated with such separate REC Compliance Measures.
7. Nothing in this Schedule shall limit or otherwise affect the Authority's right to charge or collect from the Customer, any rate, charge, fee, assessment, or tax provided for under any other provision of the Agreement, or any provision of Service Tariff No. WNY-2 or the Rules.

III. ALTERNATIVE REC COMPLIANCE PROGRAM

1. Nothing in this Schedule E shall be construed as preventing the Parties from entering into other agreements for an alternative arrangement for the Authority to meet the Annual REC Percentage Target with respect to the Customer's Allocation, including but not limited to Customer self-supply of RECs, alternative REC compliance programs and cost allocation mechanisms, in lieu of the Monthly REC Charge provided in this Schedule E (collectively, "Alternative REC Compliance Program").
2. The Authority shall communicate at least biennially with the Customer concerning implementation of the RES Compliance Program and potential Alternative REC Compliance Programs, if any, that the Authority is offering or expects to offer.



POWER AUTHORITY OF THE STATE OF NEW YORK

30 SOUTH PEARL STREET

ALBANY, NY 12207

Schedule of Rates for Sale of Firm Power Service to
Expansion Power and Replacement Power Customers
Located in Western New York

Service Tariff No. WNY-2

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Schedule of Rates for Firm Power Service

I. Applicability

To sales of Expansion Power and/or Replacement Power directly to a qualified business Customer for firm power service.

II. Abbreviations and Terms

- kW kilowatt(s)
- kW-mo. kilowatt-month
- kWh kilowatt-hour(s)
- MWh megawatt-hour(s)
- NYISO New York Independent System Operator, Inc. or any successor organization
- PAL New York Public Authorities Law
- OATT Open Access Transmission Tariff issued by the NYISO

Agreement: An executed written agreement between the Authority and the Customer for the sale of Expansion Power and/or Replacement Power to the Customer.

Annual Adjustment Factor or **AAF**: This term shall have the meaning set forth in Section V herein.

Authority: The Power Authority of the State of New York, a corporate municipal instrumentality and a political subdivision of the State of New York created pursuant to Chapter 772 of the New York Laws of 1931 and existing and operating under Title 1 of Article 5 of the PAL, also known as the “New York Power Authority.”

Customer: A business entity that has received an allocation of Expansion Power and/or Replacement Power, and that purchases Expansion Power and/or Replacement Power, directly from the Authority.

Electric Service: The power and energy provided to the Customer in accordance with the Agreement, this Service Tariff and the Rules.

Expansion Power or **EP** and/or **Replacement Power** or **RP**: Firm Power and Firm Energy made available under this Service Tariff by the Authority from the Project for sale to the Customer for business purposes pursuant to PAL § 1005(5) and (13).

Firm Power: Capacity (kW) that is intended to be always available from the Project subject to the curtailment provisions set forth in the Agreement between the Authority and the Customer and this Service Tariff. Firm Power shall not include peaking power.

Firm Energy: Energy (kWh) associated with Firm Power.

Load Serving Entity or **LSE**: This term shall have the meaning set forth in the Agreement.

Load Split Methodology or **LSM**: A type of billing methodology applicable to a Customer's Allocation which determines how a Customer's total metered usage is apportioned between the power and energy supplied by the Allocation and the Customer's other source of electricity supply, if any. LSM is usually provided for in an agreement between the Authority and the Customer's local electric utility, an agreement between the Authority and the Customer, or an agreement between the Authority, the Customer and the Customer's local electric utility. The load split methodology is often designated as "Load Factor Sharing" or "LFS", "First through the Meter" or "FTM", "First through the Meter Modified" or "FTM Modified", or "Replacement Power 2" or "RP 2".

Project: The Authority's Niagara Power Project, FERC Project No. 2216.

Rate Year or **RY**: The period from July 1 through June 30. For example, RY 2018 refers to July 1, 2018 through June 30, 2019.

Rules: The Authority's rules and regulations set forth in 21 NYCRR § 450 *et seq.*, as they may be amended from time to time.

Service Tariff: This Service Tariff No. WNY-2.

All other capitalized terms and abbreviations used in this Service Tariff but not defined in this Section or other provisions of this Service Tariff shall have the same meaning as set forth in the Agreement.

III. Monthly Rates and Charges

A. Expansion Power (EP) and Replacement Power (RP) Base Rates

The rates to be charged to the Customer by the Authority shall be as follows:

Billing Period	Demand (\$/kW)	Energy (\$/MWh)
January – June 2019	7.60	13.00

1. For RY 2019 (July 2019 through June 2020 Billing Periods), 50% of the Annual Adjustment Factor ("AAF"), as described in Section V, will be applied to the demand and energy rates stated in the table above.
2. For RY 2020 (July 2020 through June 2021 Billing Periods) and each Rate Year thereafter, the AAF will be applied to the then-effective base rates for demand and energy in accordance with Section V.

B. EP and RP Rates no Lower than Rural/Domestic Rate

At all times the applicable base rates for demand and energy determined in accordance with Sections III.A and V of this Service Tariff shall be no lower than the rates charged by the Authority for the sale of hydroelectricity for the benefit of rural and domestic customers receiving service in accordance with the Niagara Redevelopment Act, 16 U.S.C. § 836(b)(1) (the "Rural/Domestic Rate"). This provision shall be implemented as follows: if the base rates, as determined in accordance with Sections III.A and V of this Service Tariff, are lower than the Rural/Domestic Rate on an average \$/MWh basis, each set of rates measured at 80% load factor which is generally regarded as representative for EP and RP Customers, then the base rates determined under Sections III.A and V of this Service Tariff will be revised to make them equal to the Rural/Domestic Rate on an average \$/MWh basis. However, the base rates as so revised will have no effect until such time as these base rates are lower than the Rural/Domestic Rate.

C. Monthly Base Rates Exclude Delivery Service Charges

The monthly base rates set forth in this Section III exclude any applicable costs for delivery services provided by the local electric utility.

D. Minimum Monthly Charge

The Minimum Monthly Charge shall equal the product of the demand charge and the Contract Demand (as defined herein). Such Minimum Monthly Charge shall be in addition to any NYISO Charges or Taxes (each as defined herein) incurred by the Authority with respect to the Customer's Allocation.

E. Estimated Billing

If the Authority, in its discretion, determines that it lacks reliable data on the Customer's actual demand and/or energy usage for a Billing Period during which the Customer receives Electric Service from the Authority, the Authority shall have the right to render a bill to the Customer for such Billing Period based on estimated demand and estimated usage ("Estimated Bill").

For the purpose of calculating a Billing Demand charge for an Estimated Bill, the demand charge will be calculated based on the Load Split Methodology that is applicable to the Customer as follows:

- For Customers whose Allocation is subject to a Load Factor Sharing/LFS LSM, the estimated demand (kW) will be calculated based on an average of the Customer's Billing Demand (kW) values for the previous three (3) consecutive Billing Periods. If such historical data is not available, then the estimated demand (kW) value for the Estimated Bill will equal the Customer's takedown (kW) amount.
- For Customers whose Allocation is subject to a First through the Meter/ FTM, FTM Modified, or RP 2 LSM, the estimated demand (kW) value will equal the Customer's takedown (kW) amount.

For the purpose of calculating a Billing Energy charge for an Estimated Bill, the energy charge will be calculated based on the Customer's Load Split Methodology as follows:

- For Customers whose Allocation is subject to a Load Factor Sharing/LFS LSM, the estimated energy (kWh) will be based on the average of the Customer's Billing Energy (kWh) values for the previous three (3) consecutive Billing Periods. If such historical data is not available, then the estimated energy value (kWh) will be equal to the takedown (kW) amount at 70 percent load factor for that Billing Period.
- For Customers whose Allocation is subject to a First through the Meter/FTM, FTM Modified, or RP 2 LSM, the estimated energy (kWh) will be equal to the takedown (kW) amount at 100 percent load factor for that Billing Period.

If data indicating the Customer's actual demand and usage for any Billing Period in which an Estimated Bill was rendered is subsequently provided to the Authority, the Authority will make necessary adjustments to the corresponding Estimated Bill and, as appropriate, render a revised bill (or provide a credit) to the Customer.

The Minimum Monthly Charge provisions of Section III.D shall apply to Estimated Bills.

The Authority's discretion to render Estimated Bills is not intended and shall not be construed to limit the Authority's rights under the Agreement.

F. Adjustments to Charges

In addition to any other adjustments provided for in this Service Tariff, in any Billing Period, the Authority may make appropriate adjustments to billings and charges to address such matters as billing and payment errors, and the receipt of actual, additional, or corrected data concerning Customer energy or demand usage.

G. Billing Period

The Billing Period is any period of approximately thirty (30) days, generally ending with the last day of each calendar month but subject to the billing cycle requirements of the local electric utility in whose service territory the Customer's facilities are located.

H. Billing Demand

Billing Demand shall be determined by applying the applicable billing methodology to total meter readings during the Billing Period. See Section IV.E, below.

I. Billing Energy

Billing Energy shall be determined by applying the applicable billing methodology to total meter readings during the Billing Period. See Section IV.E, below.

J. Contract Demand

The Contract Demand will be the amount of Expansion Power and/or Replacement Power, not to exceed the Allocation, provided by the Authority to the Customer in accordance with the Agreement

IV. General Provisions

A. Character of Service

Alternating current; sixty cycles, three-phase.

B. Availability of Energy

1. Subject to Section IV.B.2, the Authority shall provide to the Customer in any Billing Period Firm Energy associated with Firm Power. The offer of Firm Energy for delivery shall fulfill the Authority's obligations for purposes of this provision whether or not the Firm Energy is taken by the Customer.
2. In the event of an Adverse Water Condition, the rights and obligations of the Customer and Authority, including but not limited to such matters as Substitute Energy, Customer-Arranged Energy and responsibility for payment of costs associated therewith, will be governed by Article IX of the Agreement.

C. Delivery

For the purpose of this Service Tariff, Firm Power and Firm Energy shall be deemed to be offered when the Authority is able to supply Firm Power and Firm Energy to the Authority's designated NYISO load bus. If, despite such offer, there is a failure of delivery caused by the Customer, NYISO or local electric utility, such failure shall not be subject to a billing adjustment pursuant to Section 454.6(d) of the Rules.

D. Adjustment of Rates

To the extent not inconsistent with the Agreement, the base rates contained in this Service Tariff may be revised from time to time on not less than thirty (30) days written notice to the Customer.

E. Billing Methodology

Unless otherwise specified in the Agreement, the following provisions shall apply:

1. The billing methodology used to determine the amount of Firm Power and Firm Energy to be billed to the Customer related to its Allocation shall be Load Factor Sharing (“LFS”) in a manner consistent with the Agreement and any applicable delivery agreement between the Authority and the Customer’s local electric utility or both as determined by the Authority. An alternative billing methodology may be used provided the Customer and the Authority agree in writing and the Customer’s local electric utility provides its consent if the Authority determines that such consent is necessary.
2. **Billing Demand** –The Billing Demand charged by the Authority to each Customer will be the highest 15 or 30-minute integrated demand, as determined by the Customer’s local electric utility, during each Billing Period recorded on the Customer’s meter multiplied by a percentage based on the LFS methodology, unless the Customer and the Authority agree in writing to an alternative billing methodology and the Customer’s local electric utility provides its consent if the Authority determines that such consent is necessary. Billing Demand may not exceed the amount of the Contract Demand.
3. **Billing Energy** –The kilowatt-hours charged by the Authority to each Customer will be the total number of kilowatt-hours recorded on the Customer’s meter for the Billing Period multiplied by a percentage based on the LFS methodology, unless the Customer and the Authority agree in writing to an alternative billing methodology and the Customer’s local electric utility provides its consent if the Authority determines that such consent is necessary.
4. With regard to LFS methodology calculations:
 - a. For every hour of the Billing Period, the Customer receives hydropower energy (Firm Energy) equal to the hourly metered load multiplied by the ratio of Customer’s Contract Demand divided by the maximum hourly metered load value recorded in a given Billing Period, such ratio not to exceed the value of 1.
 - b. When the maximum hourly metered demand for the Billing Period is less than or equal to the Contract Demand, all of the Customer’s metered load will be supplied by Firm Energy.
 - c. When the maximum hourly metered demand for the Billing Period is greater than the Contract Demand, the portion of the Customer’s metered load to be supplied by Firm Energy is as follows:
 - i. For Customer with hourly billing: the sum of the values, for each hour of the Billing Period, of the Contract Demand divided by the maximum hourly metered demand in the Billing Period multiplied by the hourly metered energy consumption.
 - ii. For Customer with monthly billing: the Contract Demand divided by the maximum hourly metered demand in the Billing Period multiplied by the total metered energy consumption during the Billing Period.
 - d. All demand values will be adjusted for losses.

F. Payment by Customer to Authority

1. Demand and Energy Charges, Taxes

The Customer shall pay the Authority for Firm Power and Firm Energy during any Billing Period the higher of either (i) the sum of (a), (b) and (c) below, or (ii) the Minimum Monthly Charge (as defined herein):

- a. The demand charge per kilowatt for Firm Power specified in this Service Tariff or any modification thereof applied to the Customer's Billing Demand (as defined in Section IV.E, above) for the Billing Period; and
- b. The energy charge per MWh for Firm Energy specified in this Service Tariff or any modification thereof applied to the Customer's Billing Energy (as defined in Section IV.E, above) for the Billing Period; and
- c. A charge representing reimbursement to the Authority for all applicable Taxes incurred by the Authority as a result of providing Expansion Power and/or Replacement Power allocated to the Customer.

2. Transmission Charge

The Customer shall compensate the Authority for all transmission costs incurred by the Authority with respect to the Allocation, including such costs that are charged pursuant to the OATT.

3. NYISO Transmission and Related Charges

The Customer shall compensate the Authority for the following NYISO transmission and related charges (collectively, "NYISO Charges") assessed on the Authority for services provided by the NYISO pursuant to its OATT or other tariffs (as the provisions of those tariffs may be amended and in effect from time to time) associated with providing Electric Service to the Customer:

- A. Ancillary Services 1 through 6 and any new ancillary services as may be defined and included in the OATT from time to time;
- B. Marginal losses;
- C. The New York Power Authority Transmission Adjustment Charge ("NTAC");
- D. Congestion costs inclusive of any rents collected or owed due to any associated grandfathered transmission congestion contracts as provided in Attachment K of the OATT;
- E. Any and all other charges, assessments, or other amounts associated with deliveries to Customers or otherwise associated with the Authority's responsibilities as a Load Serving Entity for the Customers that are assessed on the Authority by the NYISO under the provisions of its OATT or under other applicable tariffs; and

- F. Any charges assessed on the Authority with respect to the provision of Electric Service to Customers for facilities needed to maintain reliability and incurred in connection with the NYISO's Comprehensive System Planning Process (or similar reliability-related obligations incurred by the Authority with respect to Electric Service to the Customer), applicable tariffs, or required to be paid by the Authority in accordance with law, regardless of whether such charges are assessed by the NYISO or another party.

The NYISO Charges, if any, incurred by the Authority on behalf of the Customer, are in addition to the Authority production charges that are charged to the Customer in accordance with other provisions of this Service Tariff.

The method of billing NYISO charges to the Customer will be based on Authority's discretion.

4. Taxes Defined

Taxes shall be any adjustment as the Authority deems necessary to recover from the Customer any taxes, assessments or any other charges mandated by federal, state or local agencies or authorities that are levied on the Authority or that the Authority is required to collect from the Customer if and to the extent such taxes, assessments or charges are not recovered by the Authority pursuant to another provision of this Service Tariff.

5. Substitute Energy

The Customer shall pay for Substitute Energy, if applicable, as specified in the Agreement.

6. Payment Information

Bills computed under this Service Tariff are due and payable by electronic wire transfer in accordance with the Rules. Such wire transfer shall be made to J P Morgan Chase NY, NY / ABA021000021 / NYPA A/C # 008-030383, unless otherwise indicated in writing by the Authority. The Authority may in its discretion change the foregoing account and routing information upon notice to the Customer.

7. Billing Disputes

In the event that there is a dispute on any items of a bill rendered by the Authority, the Customer shall pay such bill in full. If necessary, any adjustments will be made thereafter.

G. Rendition and Payment of Bills

1. The Authority will render bills to the Customer for Electric Service on or before the tenth (10th) business day of the month for charges due for the previous Billing Period. Such bills shall include charges for Electric Service, NYISO Charges associated with the Allocation (subject to adjustment consistent with any later NYISO re-billings to the Authority), and all other applicable charges, and are subject to adjustment as provided for in the Agreement, the Service Tariff and the Rules.
2. The Authority will charge and collect from the Customer all Taxes (including local, state and federal taxes) the Authority determines are applicable, unless the Customer furnishes the Authority with proof satisfactory to the Authority that (i) the Customer is exempt from the payment of any such Taxes, and/or (ii) the Authority is not obligated to collect such Taxes from the Customer. If the Authority is not collecting Taxes from the Customer based on the circumstances described in (i) or (ii) above, the Customer shall immediately inform the Authority of any change in circumstances relating to its tax status that would require the Authority to charge and collect such Taxes from the Customer.
3. Unless otherwise agreed to by the Authority and the Customer in writing, the Authority will render bills to the Customer electronically.
4. Payment of bills by the Customer shall be due and payable by the Customer within twenty (20) days of the date the Authority renders the bill.
5. Except as otherwise agreed by the Authority in writing, if the Customer fails to pay any bill when due an interest charge of two percent of the amount unpaid will be added thereto as liquidated damages, and thereafter, as further liquidated damages, an additional interest charge of one and one-half percent of the sum unpaid shall be added on the first day of each succeeding Billing Period until the amount due, including interest, is paid in full.
6. If at any time after commencement of Electric Service the Customer fails to make complete payment of any two (2) bills for Electric Service when such bills become due pursuant to Agreement, the Authority shall have the right to require that the Customer deposit with the Authority a sum of money in an amount equal to all charges that would be due under this Agreement for Electric Service for two (2) consecutive calendar months as estimated by the Authority. Such deposit will be deemed security for the payment of unpaid bills and/or other claims of the Authority against the Customer upon termination of Electric Service. The failure or refusal of the Customer to provide the deposit within thirty (30) days of a request for such deposit will be grounds for the Authority in its discretion to suspend Electric Service to the Customer or terminate the Agreement.

Unless otherwise agreed to by the Authority and the Customer in writing, in the event the Customer disputes any item of any bill rendered by Authority, the Customer shall pay such bill in full within the time provided for by this Agreement, and adjustments, if appropriate, will be made thereafter.

H. Adjustment of Charges – Distribution Losses

The Authority will make appropriate adjustments to compensate for distribution losses of the local electric utility.

I. Conflicts

In the event of any inconsistencies, conflicts, or differences between the provisions of this Service Tariff and the Rules, the provisions of this Service Tariff shall govern. In the event of any inconsistencies, conflicts or differences between the provisions of the Agreement and this Service Tariff or the Rules, the provisions of the Agreement shall govern.

V. Annual Adjustment Factor

A. Adjustment of Rates

1. The AAF will be based upon a weighted average of three indices described below. For each new Rate Year, the index value for the latest available calendar year ("Index Value for the Measuring Year") will be compared to the index value for the calendar year immediately preceding the latest available calendar year (the Index Value for the Measuring Year -1"). The change for each index will then be multiplied by the indicated weights. As described in detail below, these products are then summed, producing the AAF. The AAF will be multiplied by the base rate for the current Rate Year to produce the base rates for the new Rate Year, subject to a maximum adjustment of $\pm 5.0\%$ (" $\pm 5\%$ Collar"). Amounts outside the $\pm 5\%$ Collar shall be referred to as the "Excess."

Index 1, "BLS Industrial Power Price" (35% weight): The average of the monthly Producer Price Index for Industrial Electric Power, commodity code number 0543, not seasonally adjusted, as reported by the U.S. Department of Labor, Bureau of Labor Statistics ("BLS") electronically on its internet site and consistent with its printed publication, "Producer Price Index Detailed Report". For Index 1, the Index Value for the Measuring Year will be the index for the calendar year immediately preceding July 1 of the new Rate Year.

Index 2, "EIA Average Industrial Power Price" (40% weight): The average weighted annual price (as measured in cents/kWh) for electric sales to the industrial sector in the ten states of CT, MA, ME, NH, NJ, NY, OH, PA, RI and VT ("Selected States") as reported by Coal and Electric Data and Renewables Division; Office of Coal, Nuclear, Electric and Alternate Fuels; Energy Information Administration ("EIA"); U.S. Department of Energy Form EIA-861 Final Data File. For Index 2, the Index Value for the Measuring Year will be the index for the calendar year two years preceding July 1 of the new Rate Year.

Index 3, "BLS Industrial Commodities Price Less Fuel" (25% weight): The monthly average of the Producer Price Index for Industrial Commodities less fuel, commodity code number 03T15M05, not seasonally adjusted, as reported by the U.S. Department of Labor, BLS electronically on its internet site and consistent with its printed publication, "Producer Price Index Detailed Report". For Index 3, the Index Value for the Measuring Year will be the index for the calendar year immediately preceding July 1 of the new Rate Year.

2. Annual Adjustment Factor Computation Guide

- Step 1: For each of the three Indices, divide the Index Value for Measuring Year by the Index Value for the Measuring Year-1.
- Step 2: Multiply the ratios determined in Step 1 by percentage weights for each Index. Sum the results to determine the weighted average. This is the AAF.
- Step 3: Commencing RY 2014, modifications to the AAF will be subject to $\pm 5\%$ Collar, as described below.
- a) When the AAF falls outside the $\pm 5\%$ Collar, the Excess will be carried over to the subsequent RY. If the AAF in the subsequent RY is within the $\pm 5\%$ Collar, the current RY Excess will be added to/subtracted from the subsequent Rate Year's AAF, up to the $\pm 5\%$ Collar.

- b) Excesses will continue to accrue without limit and carry over such that they will be added to/subtracted from the AAF in any year where the AAF is within the $\pm 5\%$ Collar.

Step 4: Multiply the current Rate Year base rate by the AAF calculated in Step 2 to determine the new Rate Year base rate.

The foregoing calculation shall be performed by the Authority consistent with the sample presented in Section V.B below.

3. Subject to the provisions of Section III.A of this Service Tariff, the Authority shall provide the Customer with notice of any adjustment to the current base rate per the above and with all data and calculations necessary to compute such adjustment by June 15th of each year to be effective on July 1 of such year, commencing in 2014. The values of the latest officially published (electronically or otherwise) versions of the indices and data provided by the BLS and EIA as of June 1 shall be used notwithstanding any subsequent revisions to the indices.
4. If during the term of the Agreement any of the three above indices ceases to be available or ceases to be reflective of the relevant factors or of changes which the indices were intended to reflect, the Customer and the Authority may mutually select a substitute Index. The Customer and the Authority agree to mutually select substitute indices within 90 days, once one of them is notified by the other that the indices are no longer available or no longer reflect the relevant factors or changes which the indices were intended to reflect. Should the 90-day period cover a planned July 1 rate change, the current base rates will remain in effect until substitute indices are selected and the adjusted rates based on the substitute indices will be retroactive to the previous July 1. If the Customer and Authority are unable to reach agreement on substitute indices within the 90-day period, the Customer and the Authority agree to substitute the mathematic average of the PPI—Intermediate Materials, Supplies and Components (BLS Series ID WPUSOP2000) and the PPI-- Finished Goods (BLS Series ID WPUSOP3000) indices for one or more indices that have ceased to be available or reflective of their intended purpose and shall assume the percentage weighting(s) of the one or more discontinued indices as indicated in Section V.A.1.

B. Sample Computation of the AAF (hypothetical values for July 1, 2014 implementation):

STEP 1

Determine the Index Value for the Measuring Year (MY) and Measuring Year - 1 (MY-1) for Each Index

- Index 1 - Producer Price Index, Industrial Power

	Measuring Year (2013)	Measuring Year - 1 (2012)
January	171.2	167.8
February	172.8	167.6
March	171.6	168.2
April	173.8	168.6
May	175.1	171.6
June	185.7	180.1
July	186.4	182.7
August	184.7	179.2
September	185.5	181.8
October	175.5	170.2
November	172.2	168.8
December	171.8	166.6
Average	177.2	172.8
Ratio of MY/MY-1		1.03

- Index 2 – EIA Industrial Rate

<u>State</u>	<u>Revenues</u> ((\$000s))	<u>Sales</u> (MWh)	<u>Avg. Rate</u> (cents/kWh)
<u>Measuring Year (2012)</u>			
CT	590,972	6,814,757	
MA	1,109,723	13,053,806	
ME	328,594	4,896,176	
NH	304,363	2,874,495	
NJ	1,412,665	15,687,873	
NY	2,001,588	26,379,314	
OH	3,695,978	78,496,166	
PA	3,682,192	63,413,968	
RI	152,533	1,652,593	
VT	<u>155,903</u>	<u>2,173,679</u>	
TOTAL	13,434,511	215,442,827	6.24

Measuring Year -1 (2011)

CT	579,153	6,678,462	
MA	1,076,431	12,662,192	
ME	310,521	4,626,886	
NH	298,276	2,817,005	
NJ	1,370,285	15,217,237	
NY	1,891,501	24,928,452	
OH	3,622,058	76,926,243	
PA	3,571,726	61,511,549	
RI	144,144	1,561,700	
VT	<u>152,785</u>	<u>2,130,205</u>	
TOTAL	13,016,880	209,059,931	6.23

Ratio of MY/MY-1 **1.00**

- Index 3 – Producer Price Index, Industrial Commodities Less Fuel

	Measuring Year (2013)	Measuring Year -1 (2012)
January	190.1	187.2
February	190.9	188.0
March	191.6	188.7
April	192.8	189.9
May	194.7	191.8
June	195.2	192.3
July	195.5	192.3
August	196.0	193.1
September	196.1	193.2
October	196.2	193.8
November	196.6	193.7
December	196.7	194.0
Average	194.4	191.5
Ratio of MY/MY-1		1.02

STEP 2

Determine AAF by Summing the Weighted Indices

<u>Index</u>	<u>Ratio of MY to MY-1</u>	<u>Weight</u>	<u>Weighted Factors</u>
PPI Industrial Power	1.03	0.35	0.361
EIA Industrial Rate	1.00	0.40	0.400
PPI Industrial Commodities less fuel	1.02	0.25	<u>0.255</u>
AAF			1.016

STEP 3

Apply Collar of $\pm 5.0\%$ to Determine the Maximum/Minimum AAF.

$-5.0\% < 1.6\% < 5.0\%$; collar does not apply, assuming no cumulative excess.

STEP 4

Apply AAF to Calculate the New Rate Year Base Rate

	<u>Demand</u> \$/kW-mo.	<u>Energy</u> \$/MWh
Current Rate Year Base Rate	7.56	12.91
New Rate Year Base Rate	7.68	13.12

Retention-Based Allocations

Line	Company	City	County	Economic Development Region	IOU	Description	Current kW Amount	Recommended kW Amount	Job Commitments	Capital Investment Commitment (\$)		Contract Term (Years)
1	Filtration L.A.B. USA Inc.	Oswego	Oswego	Central New York	NGRID	Manufacturer of air filtration products	40	40	27	\$100,000		7
2	K&N's Foods USA, LLC	Fulton	Oswego	Central New York	NGRID	Manufacturer of frozen chicken products	626	626	56	\$250,000		7
	Central New York Region Sub-totals:						666	666	83	\$350,000		
3	JK Acquisitions LLC	Rochester	Monroe	Finger Lakes	RGE	Manufacturer of precious metal components	76	76	65	\$150,000		7
4	PPI Corp.	Rochester	Monroe	Finger Lakes	RGE	Manufacturer of machined components	76	76	48	\$500,000		7
	Finger Lakes Region Sub-totals:						152	152	113	\$650,000		
5	CPI Aerostructures, Inc.	Edgewood	Suffolk	Long Island	LIPA	Manufacturer of aircraft components	130	130	228	\$100,000		7
6	RSM Electron Power, Inc.	Hauppauge	Suffolk	Long Island	LIPA	Manufacturer of semiconductor products	156	206	120	\$250,000	(1)	7
7	Sysco Long Island, LLC	Central Islip	Suffolk	Long Island	LIPA	Food service distributor	520	520	228	\$1,300,000		7
8	Webair Internet Development Company LLC	Garden City	Nassau	Long Island	LIPA	Cloud computing & data center	266	266	40	\$5,000,000		7
	Long Island Region Sub-totals:						1,072	1,122	616	\$6,650,000		
9	Jos. H. Lowenstein & Sons, Inc.	Brooklyn	Kings	New York City	CONED	Manufacturer of dye products	150	150	72	\$75,000	(2)	7
10	Queens Economic Development Corporation	Long Island City	Queens	New York City	CONED	Commercial kitchen for food manufacturers	30	30	12	\$25,000		7
	New York City Region Sub-totals:						180	180	84	\$100,000		
11	Kerry Biofunctional Ingredients Inc.	Norwich	Chenango	Southern Tier	NYSEG	Manufacturer of pharmaceutical & food ingredients	530	530	92	\$3,000,000		7
12	Norwich Pharmaceuticals, Inc.	Norwich	Chenango	Southern Tier	NYSEG	Manufacturer of pharmaceutical products	450	450	270	\$10,000,000	(2)	7
	Southern Tier Region Sub-totals:						980	980	362	\$13,000,000		

New York Power Authority
Extension Recommendations - RNY Power Allocations for Retention Purposes (Large Businesses, Small Business, and/or NFP Corporations)

Retention-Based Allocations

Line	Company	City	County	Economic Development Region	IOU	Description	Current kW Amount	Recommended kW Amount	Job Commitments	Capital Investment Commitment (\$)		Contract Term (Years)
13	Ford Motor Company	Buffalo	Erie	Western New York	NGRID	Automotive metal stamping plant	436	436	576	\$5,000,000		7
14	PCB Piezotronics, Inc.	Depew	Erie	Western New York	NYSEG	Manufacturer of integrated sensors	46	46	160	\$400,000		7
15	Snyder Industries, Inc.	Tonawanda	Erie	Western New York	NGRID	Manufacturer of machined components	190	190	60	\$2,000,000		7
Western New York Region Sub-totals:							672	672	796	\$7,400,000		

Totals

3,722	3,772	2,054	\$28,150,000

- (1) The company is being recommended for an increased extension-related kW amount to accommodate load growth and additional job commitments.
- (2) The company's extension-related job commitment is below the evaluation threshold as compared to their original employment commitment. However, at this time, a reduction to the extension kW amount is not being recommended.

Line	Company	City	County	Economic Development Region	IOU	Description	kW Request	kW Recommendation	Jobs Retained	Jobs Created	Capital Investment (\$)		Contract Term (Years)
1	Intergrow Holding Company, Inc.	Ontario	Wayne	Finger Lakes	RGE	Hydroponic greenhouse for tomatoes	10,000	3,510	60	0	\$1,000,000	(1)	7
	Finger Lakes Region Sub-totals:							3,510	60	0	\$1,000,000		
2	Triple Cities Metal Finishing Corp.	Binghamton	Broome	Southern Tier	NYSEG	Metal finishing & surface treatment services	787	390	96	0	\$1,000,000		7
	Southern Tier Region Sub-totals:							390	96	0	\$1,000,000		
3	Staub Precision Machine, Inc.	Hamburg	Erie	Western New York	NYSEG	Manufacturer of precision machined components	506	250	28	0	\$5,000,000		
	Western New York Region Sub-totals:							250	28	0	\$5,000,000		
Totals								4,150	184	0	\$7,000,000		

(1) This company is also recommended for an expansion-related allocation of RNY for separate and distinct job creation and capital investment commitments associated with the proposed business expansion.

Line	Company	City	County	Economic Development Region	IOU	Description	kW Request	kW Recommendation ⁽¹⁾	Base Employment ⁽²⁾	Job Creation Commitment	Project Capital Investment (\$)		Contract Term (Years)
1	Intergrow Holding Company, Inc.	Ontario	Wayne	Finger Lakes	RGE	Hydroponic greenhouse for tomatoes	5,000	2,316	60	25	\$7,500,000	(3)	7
	Finger Lakes Region Sub-totals:							2,316	0	25	\$7,500,000		
2	Nassau Candy Distributors, Inc.	Hicksville	Nassau	Long Island	LIPA	Manufacturer of confectionery products	225	156	621	5	\$3,000,000	(4)	7
3	RSM Electron Power, Inc.	Hauppauge	Suffolk	Long Island	LIPA	Manufacturer of semiconductor products	420	290	120	15	\$750,000	(4)	
4	Seviroli Foods, Inc.	Hauppauge	Suffolk	Long Island	LIPA	Manufacturer of pasta specialties	1,478	1,030	0	15	\$1,000,000		
	Long Island Region Sub-totals:							1,476	272	35	\$4,750,000		
5	Cree, Inc.	Marcy	Oneida	Mohawk Valley	NGRID	Manufacturer of LED lighting & semiconductor products	14,000	11,900	0	320	\$500,000,000		7
	Mohawk Valley Region Sub-totals:							11,900	0	320	\$500,000,000		

Totals	15,692	272	380	\$512,250,000

(1) All expansion-based RNY Power allocations are recommended to be “up to” the amount indicated pending the applicant’s compliance with contractual commitments, including commitments relating to job creation, capital investment spending and power utilization.

(2) The number of new jobs committed will be above a base employment level specified in the power sale contract with the applicant.

(3) This company is also being recommended for a retention-based RNY Power allocation associated with separate and distinct contractual commitments relating to such matters as job retention, capital investment spending, and power utilization associated with an existing business.

(4) This applicant was previously approved for an RNY Power allocation. The base employment level refers to the applicant's current retained jobs, some of which are already associated with an existing power allocation.

Retention-Based Allocations

Line	Company	City	County	Economic Development Region	IOU	Description	kW Request	kW Recommendation	Jobs Retained	Jobs Created	Capital Investment (\$)		Contract Term (Years)
1	Spectrum Designs Foundation, Ltd.	Port Washington	Nassau	Long Island	LIPA	Customized apparel & promotional items	47	16	28	3	\$65,000		7
	Long Island Region Sub-totals:							16	28	3	\$65,000		
2	Bon Secours Community Hospital	Port Jervis	Orange	Mid-Hudson	ONR	Hospital & healthcare services	664	220	327	0	\$1,500,000		7
3	Good Samaritan Hospital of Suffern, N.Y.	Suffern	Rockland	Mid-Hudson	ONR	Hospital & healthcare services	2,171	720	1,199	0	\$1,500,000		7
4	St. Anthony Community Hospital, Warwick, New York	Warwick	Orange	Mid-Hudson	ONR	Hospital & healthcare services	586	196	169	0	\$1,500,000		7
5	St. Francis Center at the Knolls, Inc.	Warwick	Orange	Mid-Hudson	ONR	Adult residential & assisted-living services	130	40	33	0	\$250,000		7
6	Villa Frances at the Knolls, Inc.	Warwick	Orange	Mid-Hudson	ONR	Long-term nursing care facility	130	40	73	0	\$250,000		7
	Mid-Hudson Region Sub-totals:							1,216	1,801	0	\$5,000,000		
7	SoPark Corp.	Lackawanna	Erie	Western New York	NGRID	Manufacturer of electronic components	222	110	70	0	\$155,000		7
	Western New York Region Sub-totals:							110	70	0	\$155,000		

Retention-Based Totals

1,342	1,899	3	\$5,220,000

Expansion-Based Allocations

Line	Company	City	County	Economic Development Region	IOU	Description	kW Request	kW Recommendation (1)	Base Employment (2)	Job Creation Commitment	Project Capital Investment (\$)		Contract Term (years)
8	F.E. Hale Mfg. Co.	Utica	Oneida	Mohawk Valley	NGRID	Manufacturer of furniture products	240	120	26	4	\$1,350,000	(3)	7

Expansion-Based Totals

120	26	4	\$1,350,000

Retention & Expansion-Based Totals

1,462	1,925	7	\$6,570,000

(1) All expansion-based RNY Power allocations are recommended to be “up to” the amount indicated pending the applicant’s compliance with contractual commitments, including commitments relating to job creation, capital investment spending, and power utilization.

(2) The number of new jobs committed will be above a base employment level specified in the power sale contract with the applicant.

(3) The applicant's expansion-based allocation recommendation will contain a base employment level to accommodate existing employees relocating to the expansion project site.

Retention-Based Allocations

Line	Company	City	County	Economic Development Region	IOU	Description	Recommended kW Amount	Final Job Commitments	Final Capital Investment Commitment (\$)	Contract Term (years)
1	Norwich Pharmaceuticals, Inc.	Norwich	Chenango	Southern Tier	NYSEG	Manufacturer of pharmaceutical products	500 ⁽¹⁾	300	\$25,000,000	7
2	NYU Langone Hospitals	Brooklyn & New York ⁽²⁾	Kings & New York ⁽²⁾	New York City	CONED	Hospitals & healthcare centers	1,940	4,000	\$250,000,000	7
3	RSM Electron Power, Inc.	Hauppauge	Suffolk	Long Island	LIPA	Manufacturer of semiconductor products	206 ⁽³⁾	120 ⁽³⁾	\$750,000	7

- (1) Represents modified/corrected recommended kW amount. Due to a processing error, the customer was previously extended for a retention-based RNY Power allocation in the amount of 450 kW. The revised recommended kW amount of 500 kW will be implemented in the customer's power contract.
- (2) Represents modified city and county. The customer was previously approved for an RNY Power allocation applying to multiple facilities/addresses in Brooklyn. The revised recommendation includes additional multiple facilities/addresses in Manhattan. The revised configuration will be implemented accordingly in the customer's power contract.
- (3) Represents modified recommended kW and job commitment amounts. The customer was previously approved for a retention-based RNY Power allocation in the amount of 156 kW with an employment commitment of 76 jobs. Due to load growth and additional jobs committed, the customer is being recommended for modifications to 206 kW and 120 jobs committed. The revisions will be implemented accordingly in the customer's power contract.

Line	Company	City	County	Economic Development Region	IOU	Description	Reason
1	LXV LLC	Rosedale	Queens	New York City	CONED	Restaurant & sandwich bar	The applicant's business falls within EDPAB's definition of a retail business. Specifically, the applicant operates a business that is primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain goods or services.
2	The Sprinkle Family Restaurant and Grocery Store LTD	Brooklyn	Kings	New York City	CONED	Family-owned grocery store	The applicant's business falls within EDPAB's definition of a retail business. Specifically, the applicant operates a business that is primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain goods or services.

Line	Company	City	County	Economic Development Region	IOU	Description	Reason
1	First Choice Property Contracting & Landscaping of WNY LLC	Buffalo	Erie	Western New York	NGRID	Landscaping & property cleaning services	Applicant submitted an incomplete application.
2	Kownack Construction & Consulting	Schenectady	Schenectady	Capital District	NGRID	Construction-related technology services	Applicant has been unresponsive to requests by staff for additional information, preventing a complete analysis of the application.
3	Kownack Construction & Consulting	Schenectady	Schenectady	Capital District	NGRID	Construction-related technology services	Applicant has been unresponsive to requests by staff for additional information, preventing a complete analysis of the application.
4	Self Linguistics Inc.	Brooklyn	Kings	New York City	CONED	Mental health services	Applicant has been unresponsive to requests by staff for additional information, preventing a complete analysis of the application.
5	Sultan Dawood Al-Karbi Mineral Water Factory	N/A	N/A	N/A	N/A	Mineral water factory	Applicant submitted an incomplete application.
6	Whoshatk9	Long Island City	Queens	New York City	CONED	Dog grooming services	Applicant has been unresponsive to requests by staff for additional information, preventing a complete analysis of the application.

New York Power Authority
Statutory Criteria - RNY Power Program

Exhibit "5a ii-H"
July 27, 2021

Line	Criteria Description
1	The significance of the cost of electricity to the applicant's overall cost of doing business, and the impact that a Recharge New York power allocation will have on the applicant's operating costs;
2	The extent to which a Recharge New York power allocation will result in new capital investment in the state by the applicant;
3	The extent to which a Recharge New York power allocation is consistent with any regional economic development council strategies and priorities;
4	The type and cost of buildings, equipment and facilities to be constructed, enlarged or installed if the applicant were to receive an allocation;
5	The applicant's payroll, salaries, benefits and number of jobs at the facility for which a Recharge New York power allocation is requested;
6	The number of jobs that will be created or retained within the state in relation to the requested Recharge New York power allocation, and the extent to which the applicant will agree to commit to creating or retaining such jobs as a condition to receiving a Recharge New York power allocation;
7	Whether the applicant, due to the cost of electricity, is at risk of closing or curtailing facilities or operations in the state, relocating facilities or operations out of the state, or losing a significant number of jobs in the state, in the absence of a Recharge New York power allocation;
8	The significance of the applicant's facility that would receive the Recharge New York power allocation to the economy of the area in which such facility is located;
9	The extent to which the applicant has invested in energy efficiency measures, will agree to participate in or perform energy audits of its facilities, will agree to participate in energy efficiency programs of the authority, or will commit to implement or otherwise make tangible investments in energy efficiency measures as a condition to receiving a Recharge New York power allocation;
10	Whether the applicant receives a hydroelectric power allocation or benefits supported by the sale of hydroelectric power under another program administered in whole or in part by the New York Power Authority;
11	The extent to which a Recharge New York power allocation will result in an advantage for an applicant in relation to the applicant's competitors within the state; and
12	In addition to the foregoing criteria, in the case of a not-for-profit corporation, whether the applicant provides critical services or substantial benefits to the local community in which the facility for which the Recharge New York power allocation is requested is located.

<u>Plant Site</u>	<u>Company Contract #</u>	<u>Start of Contract</u>	<u>Description of Contract</u>	<u>Closing Date</u>	<u>Award Basis¹ Contract Type²</u>	<u>Compensation Limit</u>	<u>Amount Expended To Date</u>	<u>Expected Expenditures For Life Of Contract</u>
INFORMATION TECHNOLOGY & CYBER SECURITY - DIGITAL INNOVATION & TRANSFORMATION	RED RIVER TECHNOLOGY LLC Claremont, NH (Q20-7100CC)	07/27/21 (on or about)	Provide Wi-Fi Expansion Survey and WLAN Design	07/26/263	B/P			\$442,048*
							*Note: represents total for up to 2-year term with an option to extend for 1-year	
OPERATIONS - CLEAN ENERGY SOLUTIONS	Q21-7132CC – 4 Vendors 1. AECOM USA, INC. Chicago, IL 2. ARCADIS OF NEW YORK, INC. Highlands Ranch, CO 3. HILL INTERNATIONAL, INC. Philadelphia, PA 4. NAUTILUS CONSULTING LLC Syosset, NY	07/27/21 (on or about)	Provide Risk Management services	07/26/26	B/P			\$5 million*
							*Note: represents total aggregate for up to 5-year term	
OPERATIONS – ENVIRONMENTAL HEALTH & SAFETY	VEOLIA NORTH AMERICA, INC. dba VEOLIA ES TECHNICAL SOLUTIONS LLC West Bridgewater, MA (Q21-7115DK-M1)	07/27/21 (on or about)	Provide Recycling of Electronic Equipment	07/26/26	B/S			\$400,000*
							*Note: represents total for up to 5-year term	
OPERATIONS – ENVIRONMENTAL HEALTH & SAFETY	VEOLIA NORTH AMERICA, INC. dba VEOLIA ES TECHNICAL SOLUTIONS LLC West Bridgewater, MA (Q21-7115DK-M4)	07/27/21 (on or about)	Provide Light Waste, Meter and Recycling services	07/26/26	B/S			\$3 million*
							*Note: represents total for up to 5-year term	

♦ **M / WBE:** New York State-certified Minority / Women-owned Business Enterprise (indicated by the ♦ symbol after the Company Name)
1 Award Basis: B= Competitive Bid; S= Sole Source; Si= Single Source; C= Competitive Search
2 Contract Type: P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement; A= Architectural & Engineering Service; L= Legal Service

Procurement (Services) and Other Contracts – Awards
(For Description of Contracts See "Discussion")

EXHIBIT "5b i-A"
July 27, 2021

<u>Plant Site</u>	<u>Company Contract #</u>	<u>Start of Contract</u>	<u>Description of Contract</u>	<u>Closing Date</u>	<u>Award Basis¹</u> <u>Contract Type²</u>	<u>Compensation Limit</u>	<u>Amount Expended To Date</u>	<u>Expected Expenditures For Life Of Contract</u>
OPERATIONS - GENERAL MAINTENANCE	MORRISONVILLE SEPTIC LLC Cadyville, NY (6000190604)	07/27/21 (on or about)	Provide septic service agreement for the Plattsburgh Substation	07/26/24	B/S			\$30,000**
						*Note: represents total for up to 3-year term		
OPERATIONS – PROJECT MANAGEMENT	DV BROWN & ASSOCIATES, INC. Tonawanda, NY (4500332650)	06/14/21	Provide BSNY Chiller Replacement at Niagara	06/13/23	B/C	\$750,000		\$5,149,035*
						*Note: represents total for up to 2-year term		
OPERATIONS – PROJECT MANAGEMENT	NARCHITECTS, PLLC ♦ Brooklyn, NY (Q21-7153NF)	07/27/21 (on or about)	Provide planning, architecture, landscape architecture and engineering services for the Little Falls Connector project	07/26/26	B/P			\$1,612,155.15*
						*Note: represents total for up to 5-year term		
OPERATIONS – QUALITY ASSURANCE & CODE COMPLIANCE	Q21-7111CC – 2 Vendors 1. C.T. MALE ASSOCIATES ENGINEERING, SURVEYING, ARCHITECTURE, LANDSCAPE ARCHITECTURE & GEOLOGY, D.P.C. Latham, NY 2. DELTA ENGINEERS, ARCHITECTS, LAND SURVEYORS & LANDSCAPE ARCHITECTS, D.P.C. Endwell, NY	07/27/21 (on or about)	Provide Electrical Plan Reviews for Authority facilities	07/26/24	B/P			\$150,000*
						*Note: represents total aggregate for up to 3-year term with an option to extend for 2-years		

♦ **M / WBE:** New York State-certified Minority / Women-owned Business Enterprise (indicated by the ♦ symbol after the Company Name)
1 **Award Basis:** B= Competitive Bid; S= Sole Source; Si= Single Source; C= Competitive Search
2 **Contract Type:** P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement; A= Architectural & Engineering Service; L= Legal Service

Procurement (Services) Contracts – NYPA Extensions and/or Additional Funding
 (For Description of Contracts See "Discussion")

EXHIBIT "5b i-B"
July 27, 2021

<u>Plant Site/ Bus. Unit</u>	<u>Company Contract #</u>	<u>Start of Contract</u>	<u>Description of Contract</u>	<u>Closing Date</u>	<u>Award Basis¹ Contract Type²</u>	<u>Compensation Limit</u>	<u>Amount Expended To Date</u>	<u>Authorized Expenditures For Life Of Contract</u>
LEGAL AFFAIRS - CONTRACTS, LICENSING & ENVIRONMEN -TAL	COVINGTON & BURLING LLP Washington, DC (4500304105)	08/01/18	Provide legal representation	07/31/23	Si/L		\$26,250.00	\$81,250.00*
						*Note: represents total for up to 5-year; including a 2-year extension thru July 31, 2023; additional funding of \$50,000		
OPERATIONS – PROJECT DELIVERY	HATCH ASSOCIATES CONSULTANTS, INC. Amherst, NY (4500313097)	09/01/19	Provide Niagara AGC Improvements and the completion for the Optimization of the new flow control program	08/31/21	B/P		\$229,000.00	\$479,000.00*
						*Note: represents a 2-year; including a 1-year extension thru August 31, 2021; No additional funding		

♦ **M / WBE:** New York State-certified Minority / Women-owned Business Enterprise (indicated by the ♦ symbol after the Company Name)
 1 **Award Basis:** B= Competitive Bid; C= Competitive Search; S= Sole Source; Si = Single Source
 2 **Contract Type:** P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement; L= Legal Service

**Executive Risk and Resilience
Management Committee Charter**

**Executive Risk and Resilience
Management Committee Charter**

Revision Date(For BCG Use Only)	Revision #	Description/Modification	Revision Section (s)	Author
2/26/2020	4	Renamed ERM to ERRMC.	1-9	Joseph Saltiel (Director, Risk)
		Added additional authorities of the ERRMC;	1	
		“Resilience” definition added	2	
		“Risk Management” definition updated		
		Added risks and oversight responsibility; oversight of sub-committees; new procedure for topic submission by Committee members; and Committee delegates	3.1	
		Escalation of events, reporting of risk exposures, escalation to Board of Trustees; integration with other risk related functions and committees	3.3	
		Updated CRO responsibilities in line with Risk and Resilience Company Policy; Inform ERRMC of risk exposures outside Risk Appetite	3.4	
		Committee composition; voting rights, and Chairperson rotation	4	
		Quorum for Committee; resolution of a tie vote added; voting allowed by email	5	
		CRRO escalation to Board of Trustees	7	
		Several items were repositioned under the appropriate headings	7 – 9	
		Added list of sub-committees	10.4	

**Executive Risk and Resilience
Management Committee Charter**

2/19/2020	4	CRO acronym replaced by CRRO Chairperson term of service added Committee composition standing invitee list expanded ERRMC delegate voting rights	2 3.2.3 4.3 5.3	Jane Errico (Senior. Project Coordinator)
3/4/2019	3	Summarize responsibility of the ERRMC Updated Section 2 Initialisms (Acronyms) and Definitions Updated Committee Voting Members list to refer to external document (hyperlinked)	1 2 4	Earl Faunlagui (Director Commodity Risk & Analytics)
6/6/2016	2	Corrected formatting	all	Thomas Araneo (Senior Credit Analyst)
4/1/2016	1	Annual Review process and conversion to new format; annual review as well as realigning and combine sections to be consistent with new format. Risk Appetite has been added to sections 4 and 5 Risk Management Framework has been added CFO general responsibilities have been added	4.2, 4.6 and 5.2 5.3 5.2 & 5.3	Thomas Araneo (Senior Credit Analyst)

1 PURPOSE

The Executive Risk and Resilience Management Committee (ERRMC or “the Committee”) is hereby established by the Board of Trustees to provide Risk Management and Resilience oversight in accordance with the requirements of the New York Power Authority (the Authority) Company Policy 2-15 – Risk and Resilience Policy.

The Board of Trustees herein delegates to the ERRMC the authority to:

- a. Establish and assess the Authority’s Risk Profile and Risk Appetite;
- b. Assign risk and resilience sponsors the authority to pursue risk and resilience response plans;
- c. Sponsor and promote a risk and resilience awareness culture at NYPA; and
- d. Ensure the Authority has the proper allocation of resources for the effective implementation of risk management and resilience.

As such, the ERRMC provides oversight of the risk management and resilience programs throughout the organization, with the objective of fostering an organization-wide approach to the identification, assessment, mitigation and reporting of risks and resilience matters.

2 INITIALISMS (ACRONYMS) AND DEFINITIONS

CEO – Chief Executive Officer

Counterparty - An entity that has an executed, active master agreement with the Authority and is approved to participate in commodity-related hedging activities.

CRRO – Chief Risk & Resilience Officer

EMC – Executive Management Committee

ERRMC – Executive Risk and Resilience Management Committee

Hedge Transaction – A transaction between the Authority and a Counterparty or a transaction cleared using the Chicago Mercantile Exchange (CME) or the Intercontinental Exchange (ICE) which will define the price of commodities for future delivery of a specified quantity against the expected output of the Authority’s generating units.

Resilience – The ability to prepare for and adapt to changing conditions and withstand and recover rapidly from disruptions, including the ability to withstand and recover from deliberate attacks, accidents, and naturally occurring threats and incidents.

Risk and/or Resilience Event – Any triggering event, action or inaction that could materially impair or enhance the achievement of the Authority’s mission and objectives.

Risk Appetite – The amount of risk the Authority is willing to accept in pursuit of our mission. Strategic risk-taking can help achieve business objectives while maintaining adherence to organizational values and purpose.

Risk Management – An integrated approach to identifying, assessing, responding, monitoring, and reporting on areas of uncertainty that could materially impair or enhance the achievement of the Authority’s mission and objectives.

Risk Management and Resilience Framework – A structured process that provides the foundation and organizational resources for designing, implementing, monitoring,

reviewing and continually improving risk management and resilience throughout the organization.

Risk Profile – The portfolio of risks across the organization.

Risk and Resilience Response – Action or measure taken that aligns with the Authority's mission and objectives to mitigate, share, transfer, avoid or accept the risk and enhance resilience.

3 RESPONSIBILITIES

3.1 The following are the duties and responsibilities of the ERRMC:

- 3.1.1 Provide oversight and guidance on the Authority's Risk Management and Resilience practices in accordance with the requirements of Company Policy 2-15 – Risk and Resilience Policy.
- 3.1.2 Establish the Authority's Risk Appetite.
- 3.1.3 Identify and assess emerging risks and ensure effective and timely implementation of risk mitigation or response plans.
- 3.1.4 Review and monitor the Authority's top enterprise risks.
- 3.1.5 Review and monitor financial and other risk exposures, including credit, energy commodity market, fiduciary, liquidity, reputational, operational, fraud, technological, strategic, sustainability and resiliency risks.
- 3.1.6 Oversee the Authority's efforts to manage its Risk Profile and enact plans to mitigate risk exposures.
- 3.1.7 Authorize a strategy for energy commodity risk management, which may include the use of commodity hedge transactions utilizing both physical and financial instruments.
- 3.1.8 Approve new products not specifically listed in the Authority's [Policy for Energy Commodity & Risk Management](#).
- 3.1.9 Oversee Sub-Committees of the ERRMC and obtain reporting on important matters when needed. See list in 10.4. Reference / Sub-Committees at the end of this Charter.
- 3.1.10 On a rotating basis, at the end of each meeting, one ERRMC member will provide the Committee a potential topic for discussion and/or approval at upcoming Committee meetings.
- 3.1.11 The ERRMC has the authority to investigate any matters under its purview, and to invite personnel it deems necessary to obtain relevant information.

3.2 The Chairperson's responsibilities include:

- 3.2.1 Direct and lead discussions on risk and resilience topics at each meeting. In the Chairperson's absence the CRRO shall direct and lead the meeting.
- 3.2.2 Chairperson will rotate every three (3) months.

3.3 The member's responsibilities include:

**Executive Risk and Resilience
Management Committee Charter**

- 3.3.1** Identify and/or escalate existing and/or new internal and external risks that may have an impact to the Authority and its resilience.
- 3.3.2** Provide input on the risk and resilience topics discussed.
- 3.3.3** Escalate to the Committee significant enterprise, operational or project-related risk and resilience events, incidents, near misses or material losses, and provide information to support a lesson learned discussion.
- 3.3.4** Report on key financial, project, or strategic risk and resilience exposures in their respective business units.
- 3.3.5** Request the CRRO to elevate unresolved risk and resilience issues to the CEO and Board of Trustees.

3.4 The CRRO's responsibilities to the ERRMC are as follows:

- 3.4.1** Provide leadership, vision, and direction for the ERRMC and all necessary administrative support for the conduct of the ERRMC meetings.
- 3.4.2** Inform the ERRMC of potential risks outside of the Authority's Risk Appetite.
- 3.4.3** Develop and communicate the Authority's Risk Management and Resilience Frameworks for ERRMC's consideration.
- 3.4.4** Work with business units and ERRMC to monitor and manage risks and resilience.
- 3.4.5** Provide updates to the ERRMC, EMC and NYPA's Board of Trustees.
- 3.4.6** Ensure ERRMC is informed of other risk and resilience relating functions and committees (e.g., Internal Audit, Internal Business Controls).
- 3.4.7** Solicit and approve Resilience topics for discussion, as a standing agenda item, at each ERRMC Meeting.

4 COMMITTEE COMPOSITION

- 4.1** An ERRMC meeting quorum shall consist of any six (6) voting members out of all nine (9) EMC members including the Chairperson; participation may be in-person, by video link or by telephone when reasonable assurance is provided of the identity and ability of such members to participate in the meeting discussion.
- 4.2** The CRRRO shall appoint a Chairperson for a period of three (3) months, rotating amongst the CFO, General Counsel, COO, and Chief HR and Administrative Officer.
- 4.3** All EMC members shall be Voting Members of the Committee. The Voting Members are appointed at the sole discretion by the President and CEO of the Authority with the latest Voting Members list posted on PowerNet's Policies and Procedures Content Server, under the document ERRMC Voting Members.
- 4.4** The CRRO is a non-voting member of the ERRMC.
- 4.5** The business unit leads of Internal Audit, the Controller's Office, and Treasury, have a standing invitation to attend ERRMC meetings, but such attendance does not constitute

ERRMC membership or voting rights. At the request of the Voting Members and/or CRRO, other officers, employees or consultants to the Authority may attend the meeting.

- 4.6** Committee members may request the CRRO invite representatives from legal, operations, finance, strategy, commercial operations, business development, public relations, technology, and other groups on an as needed basis.

5 APPROVAL PROCESS

- 5.1** ERRMC business shall only be conducted during an ERRMC meeting.
- 5.2** Voting on ERRMC matters shall be on a one member-one vote basis. When a quorum is present, the vote of a majority of the ERRMC members shall constitute the action and decision of the ERRMC. A tie vote will go to CEO for a decision, and then the Board where the CEO can escalate, if appropriate.
- 5.3** If Committee members are unable to meet either physically or virtually, voting can take place via E-mail consensus.

6 RECORDS

The minutes for all ERRMC meetings shall be recorded and motioned for approval at the next regularly scheduled meeting. All approved ERRMC minutes are retained in the Records Management System.

7 COMMUNICATIONS

- 7.1** At the direction of the Chairperson or CRRO, members of the Risk Management Department shall coordinate the meeting of the ERRMC, including maintaining the schedule, agenda, and minutes.
- 7.2** The CRRO may escalate any pertinent matters to the CEO or the Board of Trustees.

8 MEETING SCHEDULE

- 8.1** The ERRMC shall meet at least monthly and may convene additional meetings at the request of the Chairperson or CRRO.
- 8.2** Except in the case of an emergency, the notice period for a meeting shall be at least ten business days prior to the initially scheduled date of such meeting.

9 CHARTER REVIEW

- 9.1** This Charter must be reviewed and approved at least annually by the ERRMC.
- 9.2** The ERRMC shall recommend any proposed Charter changes to the Audit Committee for its review and recommendation to the Board of Trustees for approval.

**Executive Risk and Resilience
Management Committee Charter**

- 9.3** Records will be retained in accordance with the Authority's approved records retention schedules and/or in compliance with all applicable legal requirements pertaining to the Authority.

10 REFERENCES

10.1 [Company Policy 2-15 – Risk and Resiliency Management](#)

PowerNet → Quick Links Policies & Procedures → Risk Management Policies and Procedures → Risk and Resiliency Management Policy

10.2 [Policy for Energy Commodity & Risk Management](#)

PowerNet → Quick Links → Policies & Procedures → Risk Management Policies and Procedure → Energy Commodity Risk Management Policy

10.3 [ERRMC Voting Members](#)

PowerNet → Quick Links → Policies & Procedures → Risk Management Policies and Procedures → ERRMC Voting Members

10.4 [Sub-Committees](#)

10.4.1 Asset Management Board

10.4.2 Energy Efficiency Risk Committee

10.4.3 Secure and Resilience Committee

10.4.4 Investment Committee

10.4.5 Sustainability Advisory Council



Charter Title:

~~Executive Risk Management Committee~~
~~Charter~~

Executive Risk and Resilience
Management Committee Charter

~~Executive Risk Management Committee~~
~~Charter~~

Executive Risk and Resilience
Management Committee Charter

Charter Number:
Risk Mgmt-Char-01
Risk Mgmt-Char-04

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Revision Date(For BCG Use Only)	Revision #	Description/Modification	Revision Section (s)	Author
<u>2/26/2020</u>	<u>4</u>	<u>Renamed ERM to ERRMC.</u> <u>Added additional authorities of the ERRMC;</u> <u>"Resilience" definition added</u> <u>"Risk Management" definition updated</u> <u>Added risks and oversight responsibility; oversight of sub-committees; new procedure for topic submission by Committee members; and Committee delegates</u> <u>Escalation of events, reporting of risk exposures, escalation to Board of Trustees; integration with other risk related functions and committees</u> <u>Updated CRO responsibilities in line with Risk and Resilience Company Policy; Inform ERRMC of risk exposures outside Risk Appetite</u> <u>Committee composition; voting rights, and Chairperson rotation</u> <u>Quorum for Committee; resolution of a tie vote added; voting allowed by email</u> <u>CRRO escalation to Board of Trustees</u>	<u>1-9</u> <u>1</u> <u>2</u> <u>3.1</u> <u>3.3</u> <u>3.4</u> <u>4</u> <u>5</u> <u>7</u> <u>7 – 9</u>	<u>Joseph Saltiel</u> <u>(Director, Risk)</u>



**Executive Risk Management Committee
Charter**

**Executive Risk and Resilience
Management Committee Charter**

		<u>Several items were repositioned under the appropriate headings</u> <u>Added list of sub-committees</u>	<u>10.4</u>	
<u>2/19/2020</u>	<u>4</u>	<u>CRO acronym replaced by CRRO</u> <u>Chairperson term of service added</u> <u>Committee composition standing invitee list expanded</u> <u>ERRMC delegate voting rights</u>	<u>2</u> <u>3.2.3</u> <u>4.3</u> <u>5.3</u>	<u>Jane Errico</u> <u>(Senior. Project</u> <u>Coordinator)</u>
3/4/2019	3	Summarize responsibility of the <u>ERMGERMC</u> Updated Section 2 Initialisms (Acronyms) and Definitions Updated Committee Voting Members list to refer to external document (hyperlinked)	1 2 4	Earl Faunlagui (Director Commodity Risk & Analytics)
6/6/2016	2	Corrected formatting	all	Thomas Araneo (Senior Credit Analyst)
4/1/2016	1	Annual Review process and conversion to new format; annual review as well as realigning and combine sections to be consistent with new format. Risk Appetite has been added to sections 4 and 5 Risk Management Framework has been added CFO general responsibilities have been added	4.2, 4.6 and 5.2 5.3 5.2 & 5.3	Thomas Araneo (Senior Credit Analyst)



~~Executive Risk Management Committee~~
Charter

Executive Risk and Resilience
Management Committee Charter

1 PURPOSE

The Executive Risk and Resilience Management Committee (~~ERM~~ERRMC or “the Committee”) is hereby established by the Board of Trustees to provide Risk Management and Resilience oversight in accordance with the requirements of the New York Power Authority (the Authority) Company Policy 2-15 – Risk Management and Resilience Policy.

The Board of Trustees herein delegates to the ~~ERM~~ERRMC the authority to:

- Establish and assess the Authority’s Risk Profile and Risk Appetite;
- Assign risk and resilience sponsors the authority to pursue risk and resilience response strategiesplans;
- ~~As such, the ERM is responsible for overseeing~~Sponsor and promote a risk and resilience awareness culture at NYPA; and
- Ensure the Authority has the establishment~~proper allocation~~ of resources for the effective implementation of risk management ~~process~~and resilience.

As such, the ERRMC provides oversight of the risk management and resilience programs throughout the organization, with the objective of developing and implementing fostering an organization-wide approach to the identification, assessment, communication mitigation and management reporting of risk risks and resilience matters.

2 INITIALISMS (ACRONYMS) AND DEFINITIONS

CEO – Chief Executive Officer

~~CME~~—Chicago Mercantile Exchange

Counterparty - An entity that has an executed, active master agreement with the Authority and is approved to participate in commodity-related hedging activities.

~~CRO~~CRRO – Chief Risk & Resilience Officer

EMC – Executive Management Committee

~~ERM~~ERRMC – Executive Risk and Resilience Management Committee

Hedge Transaction – A transaction between the Authority and a Counterparty or a transaction cleared using ~~CME or ICE~~the Chicago Mercantile Exchange (CME) or the Intercontinental Exchange (ICE) which will define the price of commodities for future delivery of a specified quantity against the expected output of the Authority’s generating units.

~~ICE~~—Intercontinental Exchange

Resilience – The ability to prepare for and adapt to changing conditions and withstand and recover rapidly from disruptions, including the ability to withstand and recover from deliberate attacks, accidents, and naturally occurring threats and incidents.

Risk (~~Risk~~and/or Resilience Event) – Any triggering event, action or inaction that could materially impair or enhance the achievement of the Authority’s mission and objectives.

Risk Appetite – The amount of risk the Authority is willing to accept in pursuit of our mission. Strategic risk-taking can help achieve business objectives while maintaining adherence to organizational values and purpose.

Risk Management – An integrated approach to identifying, assessing ~~and addressing,~~ responding, monitoring, and reporting on areas of uncertainty that could materially impair or enhance the achievement of the Authority's mission and objectives.

Risk Management and Resilience Framework – A structured process that provides the foundation and organizational resources for designing, implementing, monitoring, reviewing and continually improving risk management and resilience throughout the organization.

Risk Profile – The portfolio of risks across the organization.

Risk and Resilience Response – Action or measure taken that aligns with the Authority's mission and objectives to mitigate, share, transfer, avoid or accept the risk and enhance resilience.

General

3 RESPONSIBILITIES

3.1 ~~3.1~~ The following are the duties and responsibilities of the ~~ERM~~CERRMC:

3.1.1 Provide oversight and guidance on the Authority's Risk Management and Resilience practices in accordance with the requirements of Company Policy 2-15 – Risk ~~Management~~and Resilience Policy.

3.1.2 Establish the Authority's Risk ~~Profile and Risk~~ Appetite.

3.1.3 Identify and assess emerging risks and ensure effective and timely implementation of risk ~~responses~~mitigation or response plans.

3.1.4 Review and monitor the Authority's top ~~Enterprise~~enterprise risks.

3.1.5 Review and monitor financial and other risk exposures, including credit, energy commodity market, fiduciary, liquidity, reputational, operational, fraud, technological ~~and,~~ strategic, sustainability and resiliency risks.

3.1.6 Oversee the Authority's efforts to manage its Risk Profile and enact plans to mitigate risk exposures.

3.1.63.1.7 Authorize a ~~program~~strategy for energy commodity risk management, which may include the use of commodity hedge transactions utilizing both physical and financial instruments.

3.1.73.1.8 Approve new products not specifically listed in the Authority's Policy for Energy Commodity & Risk Management.

~~a. Ensure assigned risk owners have ERM approval, which provides the necessary permission to commit the Authority to terms necessary for the conduct of its business within its established Risk Appetite~~



3.1.9 ~~3.2~~ — Oversee Sub-Committees of the ERRMC and obtain reporting on important matters when needed. See list in 10.4. Reference / Sub-Committees at the end of this Charter.

3.1.10 On a rotating basis, at the end of each meeting, one ERRMC member will provide the Committee a potential topic for discussion and/or approval at upcoming Committee meetings.

3.1.11 The ERRMC has the authority to investigate any matters under its purview, and to invite personnel it deems necessary to obtain relevant information.

3.2 The Chairperson's ~~general~~ responsibilities include:

3.2.1 Direct and lead discussions on ~~relevant~~ risk and resilience topics at each meeting. In the Chairperson's absence the CRRO shall direct and lead the meeting.

a. ~~Provide guidance and leadership to any Risk Response activities~~

3.2.2 ~~3.3~~ — Chairperson will rotate every three (3) months.

3.3 The member's ~~general~~ responsibilities include:

3.3.1 Identify and/or escalate ~~existing and/or~~ new internal ~~or~~ and external risks that may have an impact to the Authority and its resilience.

3.3.2 Provide ~~support and~~ input on the risk and resilience topics discussed.

3.3.3 ~~3.4~~ — Escalate to the Committee significant enterprise, operational or project-related risk and resilience events, incidents, near misses or material losses, and provide information to support a lesson learned discussion.

3.3.4 Report on key financial, project, or strategic risk and resilience exposures in their respective business units.

3.3.5 Request the CRRO to elevate unresolved risk and resilience issues to the CEO and Board of Trustees.

3.4 The ~~CRO's general~~ CRRO's responsibilities, as they pertain to the ~~ERM, ERRMC~~ are as follows:

3.4.1 ~~Provide~~ Provide leadership, vision, and direction for the ERRMC and all necessary administrative support for the conduct of the ~~ERM~~ ERRMC meetings.

3.4.2 ~~Advise~~ Inform the CEO, Board and other members of the committee as well as business units within the Authority on ~~ERRMC of~~ potential risks outside of the Authority's Risk Appetite.

3.4.3 Develop and communicate the Authority's Risk Management ~~Framework~~ and Resilience Frameworks for ERRMC's consideration.

Executive Risk and Resilience
Management Committee Charter

- a. ~~Consult on strategic management process~~
- b. ~~Develop Risk Management procedures~~

3.4.4 Work with business units and ~~ERM~~CERRMC to monitor and manage risks and resilience.

3.4.5 Provide updates to the ~~ERM~~CERRMC, EMC and NYPA's Board of Trustees.

3.4.6 Ensure ERRMC is informed of other risk and resilience relating functions and committees (e.g., Internal Audit, Internal Business Controls).

3.4.7 Solicit and approve Resilience topics for discussion, as a standing agenda item, at each ERRMC Meeting.

4 COMMITTEE COMPOSITION

~~4.1 The ERM shall consist of a minimum of five (5) Voting Members, with a rotating Chairperson amongst the membership. The Voting Members are appointed at the sole discretion by the President and CEO of the Authority with the latest Voting Members list posted on LiveLink under the document ERM Voting Members.~~

~~4.2 The CRO is a de facto, non-voting, member of the ERM.~~

~~4.3 The business unit leads of Internal Audit, the Controller's Office and Treasury have a standing invitation to attend ERM meetings but such attendance does not constitute ERM membership or voting rights. At the request of the Voting Members and/or CRO, other officers, employees or consultants to the Authority may attend the meeting.~~

~~5~~ APPROVAL PROCESS

~~5.1 ERM business shall only be conducted during an ERM meeting.~~

~~5.14.1~~ ~~5.2~~ An ~~ERM~~CERRMC meeting quorum shall consist of any ~~three (3)~~six (6) voting members out of all ~~nine (9)~~ EMC members including the Chairperson; participation may be in-person, by video link or by telephone when reasonable assurance is provided of the identity and ability of such members to participate in the meeting discussion.

~~4.2~~ ~~5.~~The CRRRO shall appoint a Chairperson for a period of three (~~3~~) months, rotating amongst the CFO, General Counsel, COO, and Chief HR and Administrative Officer.

~~4.3~~ All EMC members shall be Voting Members of the Committee. The Voting Members are appointed at the sole discretion by the President and CEO of the Authority with the latest Voting Members list posted on PowerNet's Policies and Procedures Content Server, under the document ERRMC Voting Members.

~~4.4~~ The CRRO is a non-voting member of the ERRMC.

~~4.5~~ The business unit leads of Internal Audit, the Controller's Office, and Treasury, have a standing invitation to attend ERRMC meetings, but such attendance does not constitute



ERRMC membership or voting rights. At the request of the Voting Members and/or CRRO, other officers, employees or consultants to the Authority may attend the meeting.

- 4.6 Committee members may request the CRRO invite representatives from legal, operations, finance, strategy, commercial operations, business development, public relations, technology, and other groups on an as needed basis.

5 APPROVAL PROCESS

- 5.1 ~~ERM~~ERRMC business shall only be conducted during an ERRMC meeting.
- 5.2 Voting on ERRMC matters shall be on a one member-one vote basis. When a quorum is present, the vote of a majority of the ~~ERM~~ERRMC members shall constitute the action ~~or~~and decision of the ~~ERM~~ERRMC. A tie vote will go to CEO for a decision, and then the Board where the CEO can escalate, if appropriate.
- 5.3 If Committee members are unable to meet either physically or virtually, voting can take place via E-mail consensus.

6 RECORDS

The minutes for all ~~ERM~~ERRMC meetings shall be recorded and motioned for approval at the next regularly scheduled meeting. All approved ~~ERM~~ERRMC minutes are retained in the Records Management System, ~~available to all NYPA employees and available to the public pursuant to a formal request process.~~

7 COMMUNICATIONS

- 7.1 ~~7.1~~ At the direction of the Chairperson ~~and~~ or ~~CRO~~CRRO, members of the Risk Management Department shall coordinate the meeting of the ~~ERM~~ERRMC, including maintaining the schedule, agenda, and minutes.
- ~~7.2~~ The ~~ERM~~ERM shall meet monthly and CRRO may escalate any pertinent matters to the CEO or as determined necessary by the Chairperson and/or CRO.
- 7.2 ~~7.3~~ Except in the ~~case~~Board of ~~an emergency, the notice period for a meeting in person shall be at least ten business days prior to the date of such meeting~~ Trustees.

8 MEETING SCHEDULE

- 8.1 The ERRMC shall meet at least monthly and may convene additional meetings at the request of the Chairperson or CRRO.



8.2 Except in the case of an emergency, the notice period for a meeting shall be at least ten business days prior to the initially scheduled date of such meeting.

9 CHARTER REVIEW

8.19.1 8.1 This ~~document~~ Charter must be reviewed and approved at least annually or as business needs require by the ERRMC.

8.29.2 8.2 ~~The ERM shall review and reassess the adequacy of this Charter annually~~ and The ERRMC shall recommend any proposed Charter changes to the Audit Committee for their approval as well as approval by the its review and recommendation to the Board of Trustees for approval.

8.39.3 8.3 Records will be retained in accordance with the Authority's approved records retention schedules and/or in compliance with all applicable legal requirements pertaining to the Authority.

91 CHARTER REVIEW

10 REFERENCES

9.110.1 Company Policy 2-15 – Risk and Resiliency Management

PowerNet → ~~e-Scribe~~ → Document Manager → Risk → Risk Quick Links Policies & Procedures → Risk Management Policies and Procedures → Risk and Resiliency Management Policy

9.210.2 9.2 Policy for Energy Commodity & Risk Management

PowerNet → ~~e-Scribe~~ Quick → Document Manager Links → Policies & Procedures → Risk → Management Policies and Procedure → Energy Commodity Risk Management Policy

9.310.3 9.3 ERM CERRMC Voting Members

PowerNet → Quick Links → Policies & Procedures → Risk Management → Policy Policies and Procedure → ERM C Procedures → ERRMC Voting Members

10.4 Sub-Committees

10.4.1 Asset Management Board

10.4.2 Energy Efficiency Risk Committee

10.4.3 Secure and Resilience Committee

10.4.4 Investment Committee

10.4.5 Sustainability Advisory Council