

**MINUTES OF THE SPECIAL MEETING
OF THE
POWER AUTHORITY OF THE STATE OF NEW YORK**

November 9, 2012

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November 9, 2012

Minutes of the Special Meeting of the Power Authority of the State of New York held via videoconference at the Clarence D. Rappleyea Building, 123 Main Street, White Plains, New York at approximately 11:00 a.m.

Members of the Board present were:

John R. Koelmel, Chairman
Eugene L. Nicandri, Trustee
Jonathan F. Foster, Trustee
R. Wayne LeChase, Trustee
Terrance P. Flynn, Trustee
Joanne M. Mahoney, Trustee (via telephone conference)

Judith C. McCarthy	Executive Vice President and General Counsel
Donald Russak	Chief Financial Officer
Jill Anderson	Chief of Staff and Director – Energy Policy
Joan Tursi	Senior Vice President – Corporate Support Services
Bradford Van Auken	Acting Senior Vice President and Chief Engineer – Operations Support Services
Paul Belnick	Vice President – Energy Efficiency
John Canale	Vice President – Project Management
Dennis Eccleston	Vice President – Information Technology/Chief Information Officer
Michael Huvane	Vice President – Marketing – Marketing & Economic Development
Patricia Leto	Vice President – Procurement
Brian McElroy	Treasurer
Karen Delince	Corporate Secretary
Mike Lupo	Director – Marketing Analysis and Administration
Gary Schmid	Manager – Network Services Infrastructure
Michael Mitchell	Project Manager – Hydro/Transmission
Joseph Schmidberger	Energy Portfolio Manager
Andrea Luongo	Senior Project Engineer II
Lorna M. Johnson	Assistant Corporate Secretary
Ruth Colon	Senior Business Integration Project Manager
Sheri L. Mooney	Senior Vice President, Senior Programs Manager - First Niagara Financial Group
John V. Connorton, Jr.	Hawkins Delafield & Wood LLP

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

Introduction

Chairman Koelmel welcomed the Trustees and staff members who were present at the special meeting being held to address some items from the agenda of the October meeting which was cancelled because of Hurricane Sandy. He said President Quiniones was excused since he was in the field dealing with the ramifications of the devastation of the hurricane. 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 4.

1. **Adoption of the November 9, 2012 Proposed Meeting Agenda**

On motion made and seconded the meeting Agenda was adopted, as amended. Chairman Koelmel said that the Finance Committee had recommended that the Authority's Trustees approve Item 2f (Adjustment of Payment Schedule for the Niagara Relicensing Settlement Agreement State Parks Greenway Fund and Authorization of the Issuance of the 2012 Subordinated Note) at their meeting held earlier.

2. **Consent Agenda:**

On motion made and seconded, the Consent Agenda was approved, as amended.

Trustee Flynn recused himself from the vote on item # 2d (Authorization for Third-Party Broker and Futures Commission Merchant Agreements for Hedging Purposes and Contracts – Awards) with respect to Deutsch Bank Securities, Inc.

**a. Astoria Infrastructure Program – Phase II –
Capital Expenditure Authorization Request**

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to increase the expenditure authorization limit for the Astoria Infrastructure Program (the ‘Program’) from the previous authorized capital expenditure amount of \$5.3 million to \$8.9 million. The increase of \$3.6 million in the authorized capital expenditures is to complete Phase II of the planned Program and is based on actual bids received. On March 17, 2011, preliminary funding in the amount of \$395,000 was authorized by the President and Chief Executive Officer to proceed with engineering and design services for Phase I of the work. At their meeting of June 28, 2011, the Trustees authorized \$4.9 million for the Phase I work, bringing the total authorization to \$5.3 million. This Project results from the closure of the Charles Poletti Power Plant in January 2010 and will provide critical infrastructure to support the Authority’s 500 MW Combined Cycle Power Plant and Administration Building.

BACKGROUND

“In accordance with the Authority’s Expenditure Authorization Procedures (“EAPs”), capital expenditure authorizations in excess of \$3 million require the Trustees’ approval.

“As a result of the Charles Poletti Power Plant ceasing operations on January 31, 2010 and prior to its planned deconstruction (2013/2014), new infrastructure is required to support services for the 500 MW Power Plant Site. These services are currently routed through the Poletti Power Plant. These projects were designed by Authority engineering staff as augmented with engineering consultants. The major work already constructed under Phase I in 2011 includes a new gas main, new electric fire pump-house and new electrical feeders and equipment at the Existing Building Substation. Phase II is the final work and includes new telephone and communication circuits and Phase II equipment and enclosure installations at the Existing Building Substation. Phase II engineering was completed mid-2012 and construction is scheduled for late 2012 and into 2013. This work is required to be completed prior to the deconstruction of the Poletti Power Plant powerhouse, currently scheduled for 2013/2014.

DISCUSSION

“The costs for all these services are presented in the Capital Expenditure Authorization Request (“CEAR”) and are summarized as follows:

	Phase I	Phase II	Total
Preliminary Engineering	\$ 95,000	\$ 0	\$ 95,000
Engineering	\$ 501,000	\$ 352,000	\$ 853,000
Procurement	\$ 96,000	\$ 64,000	\$ 160,000
Construction/Installation	\$ 4,140,000	\$ 2,862,000	\$ 7,002,000
Authority Direct/ Indirect	\$ 463,000	\$ 322,000	\$ 786,000
TOTAL:	\$ 5,295,000	\$ 3,600,000	\$ 8,896,000

“The Phase II work will be awarded in accordance with the Authority’s EAPs.

FISCAL INFORMATION

“Payments associated with this project will be made from the Authority’s Capital Fund. Funding for Phase II of the Program has been included in the 2012 approved Capital Budget.

RECOMMENDATION

“The Acting Senior Vice President and Chief Engineer – Operations Support Services, the Vice President – Project Management, the Acting Vice President – Engineering, the Vice President – Procurement and the Regional Manager – SENY recommend that the Trustees approve an increase in the capital program to \$8.9 million and authorize capital expenditures in the amount of \$3.6 million to complete the Astoria Infrastructure Program at the Astoria Site.

“For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution.”

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That in accordance with the Authority’s Expenditure Authorization Procedures, approval is hereby granted for an increase in the capital program to \$8.9 million and capital expenditures in the amount of \$3.6 million to complete the Astoria Infrastructure Program at the Astoria Site, 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 and 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.

**b. Coopers Corners Shunt Reactor Project –
Capital Expenditure Authorization Request**

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to authorize capital expenditures in the amount of \$4.9 million for Engineering, Procurement, and Project Management associated with the Coopers Corners Shunt Reactor Project (‘Project’). This Project (estimated installed cost of \$9.8 million) entails the installation of a 200 MVAR Shunt Reactor at the 345 kV Coopers Corners Substation, owned and operated by the New York State Electric & Gas Corporation (‘NYSEG’). The Project will eliminate the need for the Authority to perform undesirable switching operations to mitigate high voltages observed at Coopers Corners during light load operating conditions. The President and Chief Executive Officer have already approved \$250,000 for Preliminary Engineering.

BACKGROUND

“In accordance with the Authority’s Expenditure Authorization Procedures (‘EAPs’), capital expenditure authorizations in excess of \$3 million require the Trustees’ approval.

“During months when there is less electric demand on the system, the New York Independent System Operator (‘NYISO’) load can reach very low levels (below 11,000 MW). While this results in lightly loaded transmission lines, the resulting voltages are above acceptable operating limits. Historically, high voltages have been observed at the Coopers Corners 345 kV Substation and surrounding area. These voltage problems may be worsened if other transmission equipment is also out-of-service (e.g. Fraser Static VAR Compensator and/or UE1-7 345 kV transmission line).

“The current NYISO mode of operation to reduce the high voltage problem is to request the Authority to perform undesirable/non-best practice switching operations such as:

- Setting the Bleheim-Gilboa units in speed-no-load or spin-pump mode.
- Operating the Marcy STATCOM fully inductive.
- Tripping the Marcy-Coopers Corners and/or the Coopers Corners-Rock Tavern 345 kV Transmission Lines.

“The above switching operations are unacceptable methods of operating the Authority’s assets. The Authority and the NYISO met in November of 2011 to discuss implementation of an improved operating protocol and agreed that installation of a shunt reactor would avoid the need for line switching and provide a ‘best practice’ long-term solution.

“The NYISO performed a System Impact Study (‘SIS’) to evaluate the impact of the Project on the reliability of the New York State Transmission System. The SIS results show that installation of a 200 MVAR shunt reactor is the ideal solution for high voltage issues during light load conditions.

“The Authority and NYSEG executed an Engineering and Procurement Agreement in July of 2012 for the installation of a 200 MVAR shunt reactor at the Coopers Corners 345 kV Substation, located in the Town of Liberty, NY. The Authority will own the shunt reactor and associated equipment; NYSEG will operate and maintain the equipment subject to an Operations and Maintenance Agreement that will be developed.

DISCUSSION

“The Project is structured to be performed in two phases:

Phase 1: Engineering, Procurement, Project Management (2012 – 2014)

Phase 2: Construction (2013 – 2014)

“Preliminary engineering was completed in August of 2012 as part of the SIS performed by NYISO. The SIS included a preliminary description of the Project’s scope-of-work (design of shunt reactor integration; system protection; civil and mechanical construction).

“The Authority issued a contract to CG Power Solutions USA Inc. (‘CGPS’) for the detailed engineering. This work is ongoing and CGPS has completed the conceptual design and major equipment specifications (200 MVAR Shunt Reactor; Circuit Breakers; Disconnect Switches).

“The Authority issued a Request for Proposals (‘RFP’) for the 200 MVAR Shunt Reactor and has completed the bid evaluation to award a contract in the amount of \$2.2 million to TBEA USA Corporation (‘TBEA’), the lowest-cost and technically acceptable bidder, for design, fabrication, assembly, factory testing, delivery, field assembly, testing, and commissioning of the shunt reactor.

“This initial capital expenditure authorization for Phase 1 is comprised of the following:

Preliminary Engineering	\$ 100,000
Engineering/Design	\$ 765,000
Procurement	\$ 2,940,000
NYPA Direct Expense	\$ 605,000
NYPA Indirect Expenses	\$ 470,000
TOTAL	<u>\$ 4,880,000</u>

“The Trustees will be requested, at a later time, to authorize funding for Phase 2 – Construction/Installation once the proposals for construction services have been received and evaluated.

FISCAL INFORMATION

“Payments associated with this project will be made from the Authority’s Capital Fund.

RECOMMENDATION

“The Acting Senior Vice President and Chief Engineer – Operations Support Services, the Vice President – Project Management, the Acting Vice President – Engineering, the Vice President – Transmission, the Vice President – Procurement, the Project Manager and the Regional Manager – Central New York recommend that the Trustees approve capital expenditures in the amount of \$4.9 million for the Coopers Corners 200 MVAR Shunt Reactor Project.

“For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution.

“The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.”

RESOLVED, That in accordance with the Authority’s Expenditure Authorization Procedures, approval is hereby granted to authorize capital expenditures in the amount of \$4.9 million for the Coopers Corners Shunt Reactor Project, 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 and take any and all actions and execute and

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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.

c. Niagara Power Project – Lewiston Pump Generating Plant Life Extension and Modernization Program – Increase in Expenditure Authorization

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to increase the expenditure authorization limit for the Niagara Power Project’s Lewiston Pump Generating Plant (‘LPGP’) Life Extension and Modernization Program (‘LEM Program’) from the previous authorized capital expenditure amount of \$131.0 million to \$252.544 million. The increase of \$121.544 million in the authorized capital expenditures is for additional releases of long lead time equipment and to fund the rehabilitation work up through the sixth unit. The major equipment releases required include new: turbines, head covers, wicket gates, generator rotor poles and stator coils, unit control systems, static excitation systems and associated unit auxiliary equipment in order to maintain the schedule.

“The total estimated cost of the LPGP LEM Program will remain unchanged at \$460 million.

BACKGROUND

“In accordance with the Authority’s Expenditure Authorization Procedures, capital expenditure authorizations in excess of \$3 million require the Trustees’ approval.

“At their June 29, 2010 meeting, the Trustees approved the Capital Expenditure Authorization Request (‘CEAR’) for the LPGP LEM Program estimated at \$460 million, to renew the generation assets of LPGP, and were informed that the LEM Program would commence and require about ten years to complete. The Trustees also authorized capital expenditures in the amount of \$131 million and the award of a 10-year contract to Hitachi Power Systems America, Ltd., Basking Ridge, NJ, in the amount of \$174 million, to replace 12 pump turbine runners including equipment overhauls. To date, Hitachi was only released to perform work on the first three pump turbine units.

DISCUSSION

“The objective of the LPGP LEM Program is to replace and/or rehabilitate aging generation equipment, most of which dates to 1961. A secondary objective is to increase pump and turbine efficiency, increase pump flows, increase turbine output and increase the smooth operating range of the pump turbines. Together, these improvements to the pump turbine design would allow for improved operating efficiency, increases in the amount of production re-timed to peak demand periods, and an increase in the peaking capacity of the overall Niagara Power Project. The modest increase in the plant’s pumping capacity as a result of the new pump turbines required the Authority to file an application with the Federal Energy Regulatory Commission (‘FERC’) for a non-capacity license amendment which was granted in April 2012.

“The current status of the work related to the LEM Program is as follows;

- Two new GSU’s and associated high voltage terminations and relay protection equipment have been installed.
- The remaining two GSU’s will be installed starting October 1, 2012 and February 11, 2013 and the spare GSU will be delivered in July 2013.
- The first new turbine that is scheduled to be installed in the first unit is currently being assembled in Hitachi’s facility located in Japan and is expected to be delivered in April 2013.
- The outage for the first unit overhaul will begin on December 10, 2012 and is expected to be completed in approximately eight to nine months.
- The fabrication and final designs of the units’ auxiliary systems are well underway and some systems have been delivered to the off-site warehouse.

- Units 2 through 12 will be completed in approximately seven to eight months each, with the last unit to be completed in the winter of 2020.

“The total value of the contracts awarded, to date, amount to approximately \$300 million and the total amount released is approximately \$80 million. Costs associated with the LPGP LEM Program also include Engineering, Project Management, Plant support, site modifications, performance testing and unit auxiliary equipment. Therefore, in order to allow for the orderly execution of the LEM Program as planned, it is necessary, at this time, to commit the additional requested funding to execute the activities through the sixth unit which is scheduled to be completed in December 2016. The remaining fund balance will be requested accordingly, in order to complete the LEM Program as currently scheduled.

Engineering, Procurement, Construction, Direct and Indirect Costs

“The Trustees are also requested to approve expenditures for engineering, procurement, construction and Authority direct and indirect costs to continue the orderly planning, design and implementation of the work as follows:

	Current Total Estimate (\$000)	Current Request (\$000)	Balance to be Authorized (\$000)
Preliminary Engineering/Licensing	1,195	945	0
Engineering and Design	12,783	4,686	3,097
Procurement/Materials	153,813	39,643	71,170
Construction	253,799	64,685	120,114
Authority Direct/Indirect	38,410	11,585	13,074
Total Authorization Requested	460,000	121,544	207,456

“Future year funding will be included in the Capital Budget requests for those years.

FISCAL INFORMATION

“Payment associated with this project will be made from the Authority’s Capital Fund.

RECOMMENDATION

“The Acting Senior Vice President and Chief Engineer – Operation Support Services, the Vice President – Procurement, the Acting Vice President – Engineering, the Vice President – Project Management and the Regional Manager – Western New York recommend that the Trustees authorize additional capital expenditures in the amount of \$121.544 million for the Niagara Power Project’s Lewiston Pump Generating Plant Life Extension and Modernization Program.

“For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution.”

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That in accordance with the Authority’s Expenditure Authorization Procedures, additional capital expenditures of \$121.544 million are hereby approved for the Niagara Power Project’s Lewiston Pump Generating Plant Life Extension and Modernization Program, as recommended in the attached memorandum 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 and 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.

d. Authorization for Third-Party Broker and Futures Commission Merchant Agreements for Hedging Purposes and Contract Awards

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to authorize the award and funding of the contracts for Third-Party Commodity Brokers to allow for the efficient execution of commodity price hedging strategies in conformance with the Authority’s Energy Risk Management Policy. The aggregate total for Third-Party Brokerage Services is not expected to exceed \$500,000 for the duration of the five-year contract.

“The Trustees are also requested to authorize the award and funding of the contracts for Futures Commission Merchants (‘FCM’) to allow for the efficient execution of commodity price hedging strategies in conformance with the Authority’s Energy Risk Management Policy. The aggregate total for FCM Services is not expected to exceed \$500,000 for the duration of the five-year contract.

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.

“At their meeting of January 31, 2012, the Trustees reaffirmed the revised Governing Policy for Energy Risk Management (the ‘Policy’). In accordance with leading industry practice, the Trustees’ approval of the revised Policy served as a reaffirmation of the philosophy, framework and delegation of authority for the Authority’s Energy Risk Management Program (the ‘Program’). The Program administers a well-structured and controlled set of activities for mitigating unwanted effects of volatility in the energy commodity markets to which the Authority and its customers are routinely exposed. To conform with the Program, staff only executes hedging strategies that have been approved by the Executive Risk Management Committee (the ‘ERMC’). Such strategies have been executed for the past several years on behalf of the Authority’s New York City Governmental Customers, as well as the Authority’s own account.

“Authorized individuals enter into transactions for electricity and natural gas products only when prescribed by the approved hedging strategies. Transactions for electricity products are constrained to the eighteen counterparties with which the Authority has a direct transaction agreement and pre-established credit terms. These transactions are referred to as ‘over-the-counter’ transactions. The services of Third-Party Brokers, if approved by the Trustees, will serve to increase the number of potential counterparties with which the Authority can enter into hedging transactions. The larger number of potential counterparties will serve to increase market liquidity which will then facilitate more efficient price discovery.

“At their meeting of April 27, 2004, the Trustees authorized the Authority to enter into commodity broker (also known as futures commission merchant) agreements for hedging purposes. The Authority currently has only one approved FCM. Additional FCM agreements, if approved by the Trustees, would facilitate efficient execution of approved hedging strategies and provide staff with more efficient price discovery.

DISCUSSION

“On August 24, 2012, the Authority solicited bids for Third-Party Brokerage Services under Request for Proposal (‘RFP’) inquiry Q12-5321FS. The RFP outlined requirements for the specific markets and products associated with the services requested by the Authority. Bidders were required to respond by September 11, 2012.

“The RFP was downloaded from the Authority’s Web site by forty-two interested respondents of which three submitted a bid. The bids were distributed to an evaluation team consisting of representatives from the Authority’s Energy Resource Management, Legal and Procurement departments most closely involved with the Program work

processes. Based on the review of the evaluation team, staff recommends the award of contracts to the following three firms: **Amerex, LLC, Newedge USA, LLC, and Poten Energy Services, LLC**. All of these firms meet the bid requirements and are qualified to provide Third-Party Brokerage Services on an 'as needed' basis. Staff estimates that the aggregate total cost of Third-Party Brokerage services would not exceed \$500,000 for a term of up to five years.

"On August 24, 2012, the Authority also solicited bids for FCM Services under RFP inquiry Q12-5322FS. The RFP outlined requirements for the specific markets and products associated with the services requested by the Authority. Bidders were required to respond by September 11, 2012.

"The RFP was downloaded from the Authority's Web site by twenty-nine interested respondents of which four submitted a bid. The bids were distributed to an evaluation team consisting of representatives from the Authority's Energy Resource Management, Legal and Procurement departments most closely involved with the Program work processes. Based on the review of the evaluation team, staff recommends the award of contracts to the following four firms: **Deutsche Bank Securities, Inc., Enerjay, LLC as introducing broker to Rosenthal Collins Group, Macquarie Futures USA, LLC, and Newedge USA, LLC**. All of these firms meet the bid requirements and are qualified to provide FCM Services on an 'as needed' basis. Staff estimates that the aggregate total cost of FCM Services would not exceed \$500,000 for a term of up to five years.

"The terms of these contracts will be more than one year; therefore, the Trustees' approval is required. 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. These contract awards do not obligate the Authority to a specific level of expenditures. The issuance of multiyear contracts is recommended from both cost and efficiency standpoints. 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.

FISCAL INFORMATION

"Any payments to be made under these agreements will be paid from the Operating Fund. Any costs associated with transactions executed in support of specific customer agreements will be assigned to those customers.

RECOMMENDATION

"The Energy Portfolio Manager, the Director – Market Analysis and Hedging and the Senior Vice President – Energy Resource Management recommend that the Trustees:

- (1) authorize the award and funding of Third-Party Commodity Brokerage Services contracts to **Amerex, LLC, Newedge USA, LLC, and Poten Energy Services, LLC** to be executed by the Senior Vice President – Energy Resource Management, subject to the approval of the Executive Vice President and General Counsel, or her designee, and the Senior Vice President and Chief Risk Officer, or his designee;
- (2) authorize the award and funding of Futures Commissions Merchant Services contracts to **Deutsche Bank Securities, Inc., Enerjay, LLC as introducing broker to Rosenthal Collins Group, Macquarie Futures USA, LLC, and Newedge USA, LLC** to be executed by the Senior Vice President – Energy Resource Management, subject to the approval of the Executive Vice President and General Counsel, or her designee, and the Senior Vice President and Chief Risk Officer, or his designee;

"For the reasons stated, I recommend approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution."

The following resolution, as submitted by the President and Chief Executive Officer, was adopted with Trustee Flynn being recused from the vote with respect to Deutsch Bank Securities, Inc.

RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, approval is hereby granted to award five-year contracts to Amerex, LLC, Newedge USA, LLC, and Poten Energy Services, LLC, with an aggregate total expenditure of \$500,000, for Third-Party Brokerage Services under the Request For Proposal (“RFP”), inquiry No. Q12-5321FS, 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, approval is hereby granted to award five-year contracts to Deutsche Bank Securities, Inc., Enerjay, LLC as introducing broker to Rosenthal Collins Group, Macquarie Futures USA, LLC, and Newedge USA, LLC, with an aggregate total expenditure of \$500,000, for Futures Commissions Merchant Services under the Request For Proposal, inquiry No. Q12-5322FS, 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 and 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.

e. Adjustment of Payment Schedule for the Niagara Relicensing Settlement Agreement State Parks Greenway Fund and Authorization of the Issuance of the 2012 Subordinated Notes

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to approve an adjustment to the payment schedule for the Niagara Relicensing Settlement Agreement State Parks Greenway Fund pursuant to the terms of the Relicensing Settlement Agreement entered into by the Authority and the New York State Office of Parks, Recreation and Historic Preservation (‘OPRHP’) at the request of OPRHP, and to approve the issuance of the Authority’s 2012 Subordinated Notes (‘Notes’) to support the State Parks Greenway Fund as described below.

BACKGROUND

“On July 18, 2005, the Authority executed the Relicensing Settlement Agreement Addressing New License Terms and Conditions (‘Settlement Agreement’) entered into by several parties to the relicensing of the Niagara Project, including OPRHP. Section 3.1 of Appendix E of the Settlement Agreement provides for the establishment of a Relicensing Settlement Agreement State Parks Greenway Fund, which is to be funded by the Authority in the amount of \$3 million per year for the term of the 50-year License. The State Parks Greenway Fund was established to support the construction and/or rehabilitation of parks, recreation and related facilities in and around the Niagara River Greenway. A State Parks Standing Committee was created to administer and oversee projects financed by the State Parks Greenway Fund.

“The Settlement Agreement further provides that the Authority may elect to adjust the schedule of payments after consultation with OPRHP. OPRHP, in order to accelerate the funding of certain projects it wants to complete in the region, has requested of the Authority that it elect to make an adjustment to the schedule of payments as allowed under the terms of the Settlement Agreement. Specifically, OPRHP has identified approximately \$25 million of qualifying improvements it wishes to make in the next few years.

DISCUSSION

“OPRHP initially requested that the Authority consider accelerating approximately half of the \$3 million annual payments over a period of up to twenty-five years to provide a lump-sum amount payable now such that the present value of the revised payment stream would be the same as in the original agreement, as required by the terms of the Settlement Agreement. However, the discount rate required by the Settlement Agreement is somewhat higher than today’s borrowing rates. As a more cost-effective alternative, OPRHP requested that the Authority consider issuing Notes to a third-party investor for which the proceeds may be deposited into the State Parks Greenway Fund and a portion of the Authority’s annual payments which would otherwise be deposited to the State Parks Greenway Fund would be used to repay the Notes. The New York State Environmental Facilities Corporation (‘EFC’) was identified as a potential third-party participant in this process. Pursuant to a Note Purchase Agreement between EFC and the Authority (a draft of which is attached as Exhibit ‘2e-A’), EFC has advised that it would purchase the Notes and expects to hold it in its portfolio as an authorized investment. The Authority would issue the Notes pursuant to a Resolution Authorizing Subordinated Notes (Federally Taxable), attached hereto as Exhibit ‘2e-B.’ Approval of certain provisions of such resolution by the State Comptroller under Section 1010-a of the Power Authority Act will be sought.

“The Authority’s financial advisor, Public Financial Management, will advise Authority staff and verify the reasonableness of the interest rates employed in the transaction. Upon the execution and closing of such Notes, the net proceeds received by the Authority shall immediately be deposited into the State Parks Greenway Fund and made available for qualifying projects as set forth in the Section 3 of Appendix E of the Settlement Agreement. The Authority will continue to make \$3 million per year available for the State Parks Greenway Fund for the term of the License with the payment schedule adjusted to reflect the use of a portion of the \$3 million provided each year for up to twenty-five years to pay the debt service associated with the Notes. After the payment of the debt service, all

the remainder of the annual \$3 million amount will be deposited into the State Parks Greenway Fund and made available for qualifying projects.

FISCAL INFORMATION

“The fiscal impact on the Authority is negligible. The transaction is revenue neutral to the Authority and would result in only a nominal increase to the amount of the Authority’s subordinated debt outstanding. The Authority is currently obligated to make the \$3 million per year payment under the Relicensing Settlement Agreement. A portion of these payments will be used to pay debt service on the Notes.

RECOMMENDATION

“It is recommended that the Trustees approve an adjustment to the payment schedule for the Niagara Relicensing Settlement Agreement State Parks Greenway Fund pursuant to the terms of the Relicensing Settlement Agreement entered into by the Authority and the New York State Office of Parks, Recreation and Historic Preservation, and to approve the issuance of the 2012 Subordinated Notes to be funded by such adjusted payment schedule as described above. The Finance Committee considered this item at their meeting earlier today and is also recommending its approval.

“For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution.”

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That the Trustees hereby authorize a modification of the Authority’s payment schedule under the Niagara Relicensing Settlement Agreement to utilize a portion of the \$3 million provided each year for up to twenty-five years to pay the debt service associated with the 2012 Subordinated Notes on the terms and conditions and for the purposes set forth in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Trustees hereby adopt the Resolution Authorizing Subordinated Notes, Series 2012 (Federally Taxable), attached hereto as Exhibit “2e-B,” together with such subsequent changes, insertions, deletions, amendments and supplements thereto as the Chairman or President and Chief Executive Officer of the Authority may approve which shall be deemed to be part of such resolution, as adopted; and be it further

RESOLVED, That the Chairman, President and Chief Executive Officer, Executive Vice President and General Counsel, Executive Vice President and Chief Financial Officer, Treasurer and Deputy Treasurer be, and each of them hereby is, authorized on behalf of the Authority to execute a Note Purchase Agreement with the New York State Environmental Facilities Corporation (in substantially the form attached hereto as Exhibit “2e-A”), with such changes, insertions, deletions, amendments and supplements

thereto as such authorizing executing officer deems in such officer's discretion to be necessary or advisable, such execution to be conclusive evidence of such approval; subject to the approval of the form hereof by the Executive Vice President and General Counsel, and be it further

RESOLVED, That in connection with the issuance of the Subordinated Notes, the Chairman, President and Chief Executive Officer, Executive Vice President and General Counsel, Executive Vice President and Chief Financial Officer, Treasurer and Deputy Treasurer be, and each of them hereby is, authorized on behalf of the Authority to deliver the audited financial statements of the Authority to the purchaser of the Subordinated Notes; and be it further

RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Executive Vice President and Chief Financial Officer, the Treasurer and Deputy 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 and other documents, which they, or any of them, may deem necessary or advisable in order to carry out, give effect to and consummate the transactions contemplated by the foregoing resolutions and the documents referenced herein subject to the approval of the form thereof by the Executive Vice President and General Counsel.

f. Proposed Schedule of Trustees' Meetings in 2013

The Corporate Secretary submitted the following report:

“The following schedule of meetings for the year 2013 is recommended:

<u>Date</u>	<u>Location</u>	<u>Time</u>
January 23, 2013 (Wednesday)	WPO	11:00 a.m.
February 26, 2013 (Tuesday)	WPO	11:00 a.m.
March 21, 2013 (Annual) (Thursday)	WPO	11:00 a.m.
APRIL	<i>NO MEETING SCHEDULED</i>	
May 21, 2013 (Tuesday)	Albany	11:00 a.m.
June 25, 2013 (Tuesday)	Niagara	11:00 a.m.
July 30, 2013 (Tuesday)	WPO	11:00 a.m.
AUGUST	<i>NO MEETING SCHEDULED</i>	
September 24, 2013 (Tuesday)	WPO	11:00 a.m.
October 22, 2013 (Tuesday)	WPO	11:00 a.m.
NOVEMBER	<i>NO MEETING SCHEDULED</i>	
December 17, 2013 (Tuesday)	WPO	11:00 a.m.

RECOMMENDATION

“The Chairman and the President and Chief Executive Officer support the proposed schedule for the Authority’s Trustees’ Meetings for the year 2013, as set forth in the foregoing report.

“I recommend the approval of the proposed schedule by adoption of a resolution in the form of the attached draft resolution.”

The following resolution, as submitted by the Corporate Secretary, was unanimously adopted.

RESOLVED, That the schedule of Trustees’ Meetings for the year 2013, as set forth in the attached memorandum of the Corporate Secretary, be, and hereby is, approved.

3. Proposed Agreement and Tariff Relating to the Sale of Recharge New York Power and Energy to the Griffiss Business and Technology Park

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to approve: (1) the attached draft form of contract (the ‘Agreement’) for the sale of Recharge New York (‘RNY’) power and energy between the Power Authority of the State of New York (‘Authority’), GUSC Energy Inc. (the ‘Customer’), and Griffiss Utility Services Corporation (‘GUSC’) (collectively, ‘Griffiss Entities’); and (2) the attached draft form of tariff (currently denominated as ‘Service Tariff No. RNY-2A’). Drafts of the Agreement and Service Tariff No. RNY-2A are attached as Exhibit ‘3-A’ and Exhibit ‘3-B,’ respectively.

BACKGROUND

1. The RNY Power Program

“Chapter 60 (Part CC) of the Laws of 2011 (‘Chapter 60’) created the RNY Power Program. The RNY Power Program makes 910 megawatts (‘MW’) of RNY Power available to ‘eligible applicants’ for the purpose of attracting new businesses and retaining and expanding existing businesses throughout the State of New York.

“RNY Power is comprised of: (1) fifty percent (50%) of firm hydroelectric power from the Authority’s Niagara and St. Lawrence/FDR hydroelectric projects (‘RNY Hydropower’) that was withdrawn, effective August 1, 2011, from the utility corporations that had purchased such power for the benefit of domestic and rural consumers; and (2) fifty percent (50%) of market power procured by the Authority from market or other appropriate sources (‘RNY Market Power’).

“Pursuant to Chapter 60, the Authority is authorized, beginning July 1, 2012, to ‘make available, contract with and sell’ to eligible applicants such RNY Power allocations as are recommended by the Economic Development Power Allocation Board (‘EDPAB’). RNY Power awards will consist of equal parts of RNY Hydropower and RNY Market Power. The award is referred to in the Agreement and Service Tariff No. RNY-2A as an ‘Awarded Allocation.’

“Persons who receive Awarded Allocations have the option to elect to purchase from the Authority either: (1) the entire amount of the Awarded Allocation (*i.e.*, the RNY Hydropower component and the RNY Market Power component); or (2) solely RNY Hydropower component (which is 50% of the amount of the total amount of the Awarded Allocation). The portion of the Awarded Allocation the awardee elects to purchase from the Authority is referred to as the ‘Accepted Allocation.’

“Eligible applicants may not transfer Awarded Allocations or Accepted Allocations to a different recipient, different owner or operator of a facility, or different facility, unless approved by EDPAB as being consistent with the criteria and requirements of the program.

2. RNY Power Allocation to Griffiss

“The Griffiss Business and Technology Park located in Rome, New York (‘Griffiss Park’ or ‘Park’) hosts many tenants consisting of a number of business enterprises that employ thousands of people focusing on technology, manufacturing, aviation and other fields. The Park and its tenants make a significant contribution to the Rome and Mohawk Valley area economies.

“The Customer applied for an allocation of RNY Power for the purpose of providing RNY Power to the business enterprises located within the Park.

“On April 24, 2012, EDPAB recommended, and the Trustees approved, an allocation of RNY Power to the Customer in the amount of 6,730 kilowatts for distribution by GUSC to eligible businesses within the Griffiss Park.

“As discussed in more detail below, the Agreement and Service Tariff No. RNY-2A would set forth the terms and conditions that would apply to (i) the allocation and sale of the Accepted Allocation to the Customer, (ii) the sale of Awarded Allocation by the Customer to GUSC which can distribute RNY Power, and (iii) the sale and distribution of the Accepted Allocation to eligible businesses in the Park (referred to as ‘Eligible End Users’ in the Agreement.

“The sale of RNY Power in this case is being styled as a wholesale transaction given that, among other things, the Authority is not selling RNY Power directly to Eligible End Users, the Authority will not be serving as the New York Independent System Operator, Inc. (‘NYISO’) Load Serving Entity (‘LSE’) for Accepted Allocation, and the local electric utility will be delivering the Accepted Allocation in accordance with a wholesale, not a retail, tariff.

DISCUSSION

“Like previous RNY Power sale arrangements, the Agreement and Service Tariff No. RNY-2A reflect the following RNY Power Program-specific features as well as other appropriate terms and conditions: (1) the Awarded Allocation is comprised of 50% RNY Hydropower and 50% RNY Market Power; (2) the Authority will be offering two separate ‘energy products’ under the Agreement, a ‘blended’ product consisting of 50% RNY Hydropower and 50% RNY Market Power, and a ‘RNY Hydropower only’ product; (3) the Customer must elect to purchase either the ‘RNY Hydropower only’ or the RNY ‘Blended’ product from the Authority.

“The following is a summary of some key features of the proposed Agreement:

- The Authority will sell RNY Power associated with the Accepted Allocation to the Customer. The Customer will resell the Accepted Allocation to GUSC. GUSC, in turn, will distribute and resell the Accepted Allocation to Eligible End Users.
- RNY Power associated with the Accepted Allocation will be sold to Eligible End Users at a price equal to the amount the Customer pays to the Authority for such RNY Power.
- The Agreement will memorialize, as part of the terms and conditions applicable to the sale of the Accepted Allocation, the collective employment and capital investment commitments that will apply as consideration for the Accepted Allocation. The commitments will represent an aggregate amount of employment and capital investments that will be undertaken by the GUSC Entities and Eligible End Users.
- Eligible End Users will be identified in the Agreement as supplemented by an annual report filed by the Customer.
- One or more of the Griffiss Entities will function as the New York Independent System Operator, Inc. (‘NYISO’) Load Serving Entity (‘LSE’).
- The Griffiss Entities will be required to conduct an energy audit in the manner provided for in the Agreement at least once during the term of its RNY Power allocation.
- The term of the Awarded Allocation is seven (7) years.
- In the event of a curtailment of hydropower produced by the Authority’s hydroelectric projects, the Authority will supply and the Customer will purchase ‘Substitute Energy’ procured by the Authority.
- The Customer may only sell the RNY Power comprising the Accepted Allocation to GUSC, and GUSC may only sell such RNY Power to Eligible End Users.

“The following is a summary of some key provisions of Service Tariff No. RNY-2A, which will be part of the Agreement:

- The monthly base rate if the Customer elects the RNY Hydropower only option is the Authority’s Preservation Power Rate. The monthly base rate if the Customer elects the RNY Blended option is comprised of the Authority’s Preservation Power Rate, a Capacity Component, and a Market Energy Component.
- The Authority will bill the Customer for electric service on a regular basis and expects to render bills on or about the fifteenth (15th) business day of the month for charges due for the previous Billing Period and any other amounts due and owing.
- If the actual costs vary from those estimated in the base rate components, the difference will be reconciled through a monthly billing mechanism designed to recover actual costs incurred (referred to in the tariff as the ‘Energy Charge Adjustment’).
- The Tariff provides for a pass-through to the Customer of all taxes, assessments and other charges or costs imposed by third-parties in connection with the sale of RNY Power.
- The Authority, in contrast to the local electric utility, will calculate all ‘loads splits’ for the purpose of apportioning an appropriate amount of energy, demand and NYISO installed capacity to the Accepted Allocation.
- Service Tariff No. RNY-2A provides for a ‘periodic rate adjustment process’ or ‘PRAP’ on annual basis or at other times as deemed necessary by the Authority. The PRAP will also address an Annual Adjustment Factor process for Preservation Power rate components as well as adjustments to all other rate components and other appropriate factors.

“The Agreement and Service Tariff No. 2A include other terms which are largely standard terms and conditions for Authority power contracts and tariffs relating to such matters as prohibitions on the transfer of RNY Power allocations, metering arrangements, and modification and termination of allocations and the Agreement.

“The proposed Agreement and Service Tariff No. RNY-2A may be subject to modifications before execution as the parties to the transaction attempt to address the Park’s unique circumstances as well as delivery-related arrangements with the local electric utility that serves the Park.

FISCAL INFORMATION

“The proposed RNY rates will result in increased hydropower revenues for the Authority when compared to the previously accrued hydropower revenues from the domestic and rural customers. The Agreement and Service Tariff No. RNY-2A would provide for full cost recovery.

RECOMMENDATION

“The Senior Vice President – Economic Development and Energy Efficiency and the Director – Marketing Analysis and Administration recommends that the Trustees approve the form of the proposed Agreement and Service Tariff No. RNY-2A.

“For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution.”

Mr. Mike Lupo presented highlights of staff’s recommendation to the Trustees. In response to a question from Trustee Nicandri, Mr. Lupo said that the list of customers that have applied for the Recharge New

York (“RNY”) low-cost power have been vetted by staff; some have already been eliminated since the initial application process because staff determined that they were not qualified end users under the contract. The program will start with customers who have all been considered eligible as provided for in the contract. Mr. Huvane added that the contract with Griffiss Entities (“Griffiss”) is unique because they own the Industrial Park and also the utility which is a separate legal entity. Responding to a question from Trustee Mahoney, Mr. Huvane said that the utility aspect makes it unique. In response to a question from Trustee LeChase, Mr. Huvane said Griffiss can only sell the RNY power to “eligible end users” as defined in the contract. Also, Griffiss is under a contractual commitment to ensure that only such “eligible end users” receive the benefits of the allocation made to Griffiss. In response to further question from Trustee Nicandri, Mr. Huvane said they do have some metering; the utility can allocate the electricity to the appropriate tenants as it is used. Also, Griffiss is responsible to report to the Authority the employment and capital investments committed to in Griffiss’ application. Mr. Lupo added that the entire aspect of the delivery to the Industrial Park and ultimate delivery to the end user has been thoroughly evaluated by staff and staff has been assured by Griffiss that the benefit of the low-cost RNY power will flow directly to “eligible end users” as provided for in the contract.

Ms. Judith McCarthy added, and Mr. Lupo concurred, that the agreement between the Authority and Griffiss defines “eligible end user” consistent with the RNY statute and references the relevant section of the statute in the Agreement. This would, therefore, not permit any business that is excluded from the definition of “eligible applicant” (e.g. retail business) under the statute to receive the low-cost power. She continued that the agreement between the Authority and Griffiss addresses the concern that a company which would be disqualified under the RNY statute would not receive the benefit.

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That the Trustees hereby approve the proposed form of: (1) the “Agreement Relating to the Sale of Recharge New York Power and Energy at Wholesale Between Power Authority of the State of New York, GUSC Energy Inc., and Griffiss Utility Services Corporation” (“Agreement”); and (2) the “Wholesale Schedule of Rates Relating to Sale of Recharge New York Power Service Tariff No. RNY-2A (Griffiss Business and Technology Park)” (“Service Tariff No. RNY-2A”); and be it further

RESOLVED, That the President and Chief Executive Officer or his designee be, and hereby is, authorized, subject to approval of the form thereof by the Chief Operating Officer

and the Executive Vice President and General Counsel, to do such other things as may be necessary or desirable to finalize the form of the Agreement and Service Tariff No. RNY-2A as set forth in the foregoing report of the President and Chief Executive Officer, and to execute the Agreement; 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 as may be necessary or desirable to finalize the form of the Agreement and Service Tariff No. RNY-2A, 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.

4. Adjustment of Payment Schedule for the Niagara Project Host Community Relicensing Settlement Agreement

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to authorize Authority staff to take all actions necessary to modify the timing of a portion of the Authority’s current payment stream under the Niagara Host Community Relicensing Settlement Agreement Addressing Non-License Terms and Conditions dated June 27, 2005 (‘Settlement Agreement’) to provide near term funding support for the City of Niagara Falls, at the request of the City, such that the present value of the payment stream remains unchanged.

BACKGROUND

“The Authority executed the Settlement Agreement with several parties to the relicensing of the Niagara Project, referred to as the Host Communities*, including the City of Niagara Falls. Section 4.1 of the Settlement Agreement provides for the establishment of a Host Communities Fund, which is to be funded by the Authority in the amount of \$5 million per year for the term of the 50-year Niagara Project License, which results in a present value of approximately \$89.93 million. As part of the Settlement Agreement, the Host Communities allocate the annual payments from the Authority amongst its members in accordance with agreed-upon percentages. The City of Niagara Falls’ share is 17% or \$850,000 per year. The Host Communities agreed that the funds shall be expended on capital projects and infrastructure that benefit the general public and promote economic development, public health and safety. To date, six such disbursements have been made under the Settlement Agreement, leaving another 44 payments remaining.

DISCUSSION

“The City of Niagara Falls has requested that the Authority consider accelerating its share of the relicensing settlement payments to accommodate a current financial need of the City resulting from an on-going dispute concerning the disposition of certain Seneca Tribal Council casino revenues, a share of which had been provided to the City of Niagara Falls. While a number of the Authority’s relicensing settlement agreements with various other parties specifically provides for such a modification, the Host Communities’ Settlement Agreement is silent with respect to this provision. Therefore, any such modification to the payment stream will require an amendment to the Settlement Agreement or some other form of agreement to effectuate the change.

“The Host Communities’ Settlement Agreement sets forth a discount rate to be employed in carrying out certain provisions of the Agreement. This rate is the same as that contained in all of the other various Niagara relicensing settlement agreements. By employing a consistent rate, the Host Communities, specifically Niagara Falls, would be treated no differently than other relicensing entities that have accelerated their payment stream. The Authority would convert the annual \$850,000 payment stream for the remaining 44 years to an equivalent (in present value terms) lump-sum payment of approximately \$13.45 million. To ensure that the funds are being utilized for their intended purpose, i.e., capital projects and infrastructure that benefit the general public and promote economic development, public health and safety, the agreement to modify the payment stream should provide for a report to the Authority on the use of these funds.

“Representatives of the City of Niagara Falls have also indicated that if there is a near-term resolution to the on-going dispute that is causing the current financial need, the City would like to reimburse the Authority for the advance of the funds, taking into account the time value of money at the contractually stated discount rate, and revert back to the annual payment stream as originally contemplated by the Settlement Agreement. Authority staff

* The Host Communities include the Niagara Power Coalition, City of Niagara Falls, Town of Lewiston, Town of Niagara, Niagara County, Lewiston Porter School District, Niagara Wheatfield School District and the City of Niagara Falls School District.

is amenable to this and will incorporate it into the agreement between the City and the Authority to effectuate this arrangement.

FISCAL INFORMATION

“The Authority has sufficient reserves to accommodate this transaction and since the conversion of the Settlement Agreement’s payment stream to a lump-sum amount rather than the 44 remaining annual payments will not change the value of the Settlement Agreement in present value terms, the modification will not have a significant impact on the Authority’s finances.

RECOMMENDATION

“It is recommended that the Trustees authorize a conversion of the Authority’s payment schedule under the Settlement Agreement to an equivalent (in present value terms) lump-sum payment of approximately \$13.45 million for the City of Niagara Falls, as described above.

“For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution.”

Mr. Donald Russak presented highlights of staff’s recommendation to the Trustees. In response to a question from Chairman Koelmel, Mr. Russak said the Settlement Agreement, states that the Host Communities have agreed that the monies would be spent only on capital projects and infrastructure that would benefit the general public and promote economic development, public health and safety. The agreement with the City of Niagara Falls to accelerate its share of the payments would continue to include that provision. In response to further question from Chairman Koelmel, Mr. Russak said the City of Niagara Falls made this request in order to get through a near-term fiscal crisis. Its long-term goal is to revert back to the annual cash flow stream after having addressed its budget crisis and ultimately employ the funds in the manner previously stated. Responding to a question from Trustee Foster, Ms. McCarthy said the City of Niagara Falls does not have any current litigation against the Authority. Responding to a question from Trustee Nicandri, Mr. Russak said the state Comptroller does not have to approve this financing for the city of Niagara Falls.

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That the Trustees hereby authorize a modification of the Authority’s payment schedule for the City of Niagara Falls under the Niagara Host Community Relicensing Settlement Agreement Addressing Non-License Terms and Conditions dated June 27, 2005 to an equivalent (in present value terms) lump-sum payment of approximately \$13.45 million as set forth 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

November 9, 2012

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 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.

5. Hurricane Sandy Disaster Recovery Rebates for Recharge New York Customers

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to authorize up to \$10 million to provide rebates for the Authority’s Recharge New York Customers affected by Hurricane Sandy on Long Island, in New York City and the Lower Hudson Valley region. The rebates will help cover the cost of replacing critical energy-related equipment damaged by the storm and will be provided through the Authority’s existing Energy Services Programs (‘ESP’). The Authority will coordinate this program with similar initiatives that are being undertaken by the New York State Energy and Research Development Authority (‘NYSERDA’), the Long Island Power Authority (‘LIPA’) and the area investor-owned utilities.

BACKGROUND

“New York State was devastated by the effects of Hurricane Sandy. Strong winds and sustained storm surge upwards of 13 feet of water paralyzed the entire Eastern Seaboard, most significantly, Long Island and New York City and the majority of counties in the Lower Hudson Valley region and surrounding area. Millions of people were without power for a week or more and significant numbers are still without power. Water damage from the storm surge is still being assessed and businesses may take years to recover their losses.

“Governor Cuomo declared a State of Emergency and asked the State’s Authorities to assist those impacted by the storm. In response to the Governor’s request, the Authority developed a program to provide rebates to eligible Recharge New York power allocation customers on Long Island, in New York City, and Westchester and Rockland counties and other areas in New York State that may subsequently be subject to a major federal disaster declaration relating to Hurricane Sandy under the Authority’s existing energy efficiency programs. It is anticipated that up to \$10 million will be required to fund the rebate program.

DISCUSSION

“Since the 1980s, the Authority, through its Energy Services Programs (‘ESP’), has offered various types of energy services and clean energy technology programs to participants throughout the State to help them lower their energy usage and achieve cleaner and more efficient use of energy and natural resources.

“In 2009, and then amended in 2011, Chapter 477 of the Laws of 2009 (Public Authorities Law Section 1005(17), clarified and expanded the Authority’s ability to carry out energy efficiency projects for all eligible public entities in New York State as well as facilities of the Authority’s power allocation customers including, most recently, the Recharge New York program.

“In light of the significant damage incurred by New York State as a result of Hurricane Sandy, and in coordination with NYSERDA, LIPA and the area investor-owned utilities, Authority staff developed an energy efficiency rebate program to provide aid to those most severely impacted by the storm to supplement the current ESP program. The Authority’s offering will be made available to eligible Recharge New York businesses and not-for-profit organizations on Long Island, in New York City and Westchester and Rockland counties and other areas in New York State that may subsequently be subject to a major federal disaster declaration relating to Hurricane Sandy, included in PAL 1005(17), and will enable these customers to purchase critical energy-related equipment to help restore their facilities.

“Initial assessments indicate that 120 Recharge New York businesses and not-for-profit organizations will be eligible to apply for the rebates based on the following criteria:

- a) The business or not-for-profit organization shall be a recipient of power on or before October 29, 2012;

- b) The equipment being replaced shall have been installed and in service as of October 29, 2012;
- c) The equipment lost or damaged was impaired as a direct impact of Hurricane Sandy;
- d) Additionally, the purchase of equipment replacing the lost or damaged equipment must be deemed energy efficient by the Authority.

“Currently, Authority staff is developing a menu of items for which rebates will be offered including energy efficient furnaces, boilers, water heaters, compressors and air handlers. The level of rebate available, as well as a maximum total rebate amount per customer, will be incorporated into the offering to ensure the availability of funds to the maximum number of eligible program recipients.

“The rebates will be made available through an application process with an open enrollment through June 30, 2013 or until program funding is exhausted.

FISCAL INFORMATION

“Funding will be provided from the Operating Fund in the amount of up to \$10 million. The amount of the rebate cannot exceed the cost of the equipment, less any additional financial reimbursement from other rebate programs, insurance and/or Federal Emergency Management Agency (‘FEMA’) relief.

RECOMMENDATION

“The Senior Vice President – Economic Development and Energy Efficiency, the Vice President – Energy Efficiency and the Vice President – Marketing recommend that the Trustees approve the implementation of the project, as discussed above.

“For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution.”

Ms. Helen Eisenfeld presented highlights of staff’s recommendation to the Trustees. In response to a question from Chairman Koelmel, Ms. Eisenfeld said that Mr. Russak, along with staff from Marketing and Legal departments reviewed the NYSERDA, LIPA and other utilities rebate programs and established the threshold of up to \$10 million for the Authority’s program. This analysis took into consideration the possibility that other counties may be designated a disaster area and the Authority may have to include other recipients for rebates.

In response to a question from Trustee Foster, Ms. Eisenfeld said staff’s recommendation of up to \$10 million will ensure that staff does not have to request additional funds from the Trustees if other areas were deemed eligible for disaster recovery. Mr. Huvane added that staff contacted its customers regarding damages they have incurred as a result of the storm. He said there are a variety of customers with damages but the Authority is limited to rebates for critical energy-related equipment. Mr. Russak added that the compilation of \$10 million was as a result of staff’s analysis of other comparable rebate programs (NYSERDA and the other utilities). The Authority wanted to be consistent with its program; taking into consideration the number of

potential customers, staff computed a maximum of \$10 million in rebates. He continued that, at this point, staff does not foresee any issues that would require the threshold to be above \$10 million.

Chairman Koelmel said the Authority has to ensure that the focus of its commitment is to be part of a solution and that the messaging and the positioning is appropriate in terms of the Authority's customers and the market at large.

In response to a question from Trustee LeChase, Ms. Eisenfeld said staff had discussions with NYSERD, LIPA and the other utilities as part of the coordination of its storm-related rebate program; therefore, there will not be any duplication in administering the program. Customers cannot receive more than 100% of the cost of the equipment damaged and the rebate will be less amounts from insurance, FEMA reimbursement or other utility rebates.

Responding to a question from Trustee Nicandri, Ms. McCarthy said the intent of the Authority is to work on a parallel track with FEMA and to ensure that rebates the Authority provides under its program is reduced by the amount of reimbursements the Customer receives from other sources. Ms. Eisenfeld added that NYSERDA has requested that staff provide a list of the Authority's customers who are eligible to receive rebates. She said staff has started that process and vetting of the applications will avoid any duplication; also, staff will track rebates the Authority will be paying out as opposed to other entities.

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That the Trustees authorize funding in an amount not to exceed \$10 million to provide rebates to eligible Recharge New York power allocation customers for the purchase of energy efficient equipment to replace equipment damaged or lost in Hurricane Sandy. The Authority's offering will be made available to businesses and not-for-profit organizations on Long Island, in New York City and Westchester and Rockland counties and other areas in New York State that may subsequently be subject to a major federal disaster declaration relating to Hurricane Sandy. Criteria for eligible customers has been established as outlined the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That Operating Fund monies be used to fund energy efficiency rebates for eligible Recharge New York customers in the amount and for the purpose listed below:

<u>Operating Funds</u>	<u>Expenditure Authorization</u> <u>(not to exceed)</u>
Hurricane Sandy Disaster Recovery Rebate Program	<u>\$10 million</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.

6. Next Meeting

The next Regular Meeting of the Trustees will be held on Tuesday, December 18, 2012, at 11:00 a.m., at the Clarence D. Rappleyea Building in White Plains, New York, unless otherwise designated by the Chairman with the concurrence of the Trustees.

Closing

On motion made and seconded, the meeting was adjourned by the Chairman at approximately 12:00 noon.

A handwritten signature in cursive script, appearing to read "Karen Delince".

Karen Delince
Corporate Secretary

November 9, 2012

EXHIBITS

For

November 9, 2012

Special

Trustees' Meeting

\$ _____
POWER AUTHORITY OF THE STATE OF NEW YORK
2012 Subordinated Notes

NOTE PURCHASE AGREEMENT

(Date of Closing or
Sale)

POWER AUTHORITY OF THE
STATE OF NEW YORK
123 Main Street
White Plains, New York 10601

Dear Ladies and Gentlemen:

The undersigned, New York State Environmental Facilities Corporation (the "Purchaser"), offers to enter into the following agreement with the Power Authority of the State of New York (the "Authority") relating to the \$_____ aggregate principal amount of the Authority's 2012 Subordinated Notes (the "Notes"). The offer made hereby is subject to acceptance by the Authority by execution of this Note Purchase Agreement and delivery thereof to the undersigned at or prior to 5:00 P.M., New York time, on the date first above written. Upon acceptance of such offer by the Authority, this Note Purchase Agreement will be binding upon the Authority and the Purchaser.

1. Purchase and Sale

In reliance on the representations and warranties of the Authority contained 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 Purchaser are subject, the Purchaser will, purchase from the Authority, and the Authority will sell to the Purchaser, the Notes. The aggregate price to be paid by the Purchaser for the Notes is \$_____.

The Notes shall be as described in, and shall be issued pursuant to, the Resolution Authorizing Subordinated Notes, Series 2012 (Federally Taxable) (the "2012 Subordinated Note Resolution"), adopted on October 29, 2012, authorizing the issuance and sale of the Notes. The Bank of New York Mellon, New York, New York, has been appointed the Paying Agent (the "Paying Agent") pursuant to the 2012 Subordinated Note Resolution.

2. Closing and Delivery

The Closing will be held at such time and place on _____, 2012, or such other date as shall have been mutually agreed upon by the Purchaser and the Authority (the "Closing"). At the Closing the Authority will deliver, or cause to be delivered, to the Purchaser, the Notes, in fully registered form, bearing a CUSIP number, duly executed by the Authority, together with the other documents hereinafter mentioned, and the Purchaser, will accept such delivery and pay the purchase price of the Notes as set forth in Section I(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 Notes will mature on the dates and in the principal amounts and bear interest at the interest rates shown below:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
----------------------	-------------------------	----------------------

Interest on the Notes will be payable semiannually on _____ and _____ of each year, commencing _____1, 2013. The Notes will be delivered in registered form and shall be registered in the name of Tice & Co., nominee of Manufacturers and Traders Trust Company, as custodian and trustee of the Purchaser and shall not be subject to redemption prior to maturity. The Notes shall be fully transferable in whole or in part by the Purchaser on the registry books of the Paying Agent as provided in the 2012 Subordinated Bond Resolution. [Address delivery of Notes through DTC, if applicable.]

3. Representations of the Authority

The Authority acknowledges that the Notes will be sold to the Purchaser and that the Purchaser will purchase the Notes in reliance upon the representations and warranties set forth herein. Accordingly, the Authority represents and warrants to the Purchaser 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 of New York under the laws of the State of New York 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 General Resolution Authorizing Revenue Obligations adopted by the Authority on February 24, 1998, as amended and supplemented (the “General Resolution”) and the 2012 Subordinated Note Resolution and this Note Purchase Agreement.

(b) *Action by the Authority.* The Authority has authorized by appropriate action (i) the issuance and sale of the Notes upon the terms herein and as set forth in the 2012 Subordinated Note Resolution, (ii) the execution, delivery, performance, acceptance, approval and receipt, as the case may be, of this Note Purchase Agreement and the 2012 Subordinated Note Resolution, and (iii) 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 Purchaser at the Closing in accordance with the provisions of this Note Purchase Agreement, the Notes will have been duly authorized, executed, issued and delivered and will constitute a valid, binding and enforceable obligation of the Authority in conformity with the Act and the 2012 Subordinated Note Resolution and will be entitled to the benefit and security thereof. Each of the General Resolution and the 2012 Subordinated Note Resolution have been duly and lawfully adopted by the Authority and each is in full force and effect and each is valid and binding upon the Authority and enforceable in accordance with their respective terms.

(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,

resolution or other agreement or instrument pursuant to which indebtedness of the Authority was incurred. Neither the adoption of the 2012 Subordinated Note Resolution, the execution and delivery of this Note Purchase Agreement, 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 of New York, 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 Notes will be secured by and payable from certain monies of the Authority as provided in the 2012 Subordinated Note Resolution.

(f) *Financial Statements.* The audited financial statements dated March 27, 2012 present fairly the financial position of the Authority at December 31, 2010 and December 31, 2011 and the results of its operations and the changes in its financial position for the years then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding periods.

(g) *Litigation.* Except as set forth in the audited financial statements described in 3(f) hereof, 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 Notes, or seeking to restrain or enjoin the issuance or the delivery of the Notes; (iii) contesting or affecting, the validity of the Notes, the General Resolution, the 2012 Subordinated Note Resolution or this Note Purchase Agreement; (iv) seeking to restrain or enjoin the collection of the income or revenues available for or pledged to the Notes under the 2012 Subordinated Note Resolution; or (v) 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.

(h) *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 2012 Subordinated Note Resolution and the Notes have been obtained and are in full force and effect, [except for the approval of the Comptroller of the State of New York provided for in Section 1010-a of the Public Authorities Law of the State of New York. This is only needed if sale and closing are not on the same day.]

(i) *Additional Certificates.* Any certificates signed by any authorized officer of the Authority and delivered to the Purchaser pursuant to this Note Purchase Agreement shall be deemed a representation and warranty by the Authority to the Purchaser as to the statements made therein with the same effect as if such representation and warranty were set forth by the Authority herein.

4. Conditions of the Purchaser's Obligations

The obligation of the Purchaser to purchase the Notes is subject to the fulfillment of the following conditions at or before the Closing. Should any of the following conditions not be fulfilled, the

obligations of the Purchaser under this Note Purchase Agreement shall terminate and neither the Authority nor the Purchaser shall have any further obligations hereunder.

(a) The Authority's representations contained in Section 3 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 Purchaser and its counsel.

(b) On or prior to the Closing: (i) this Note Purchase Agreement, the General Resolution and the 2012 Subordinated Note Resolution shall each be valid, binding and in full force and effect; (ii) the Notes shall have been duly authorized, issued, executed and attested in accordance with the provisions of the 2012 Subordinated Note 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 opinion of Bond Counsel, shall be necessary in connection with the transactions contemplated hereby.

(c) At or prior to the closing, the Purchaser and the Authority shall have received (i) an executed copy of the Acknowledgement of and Consent to Adjustment of the Payment Schedule For the Relicensing Settlement Agreement State Parks Greenway Fund, in form and substance satisfactory to the Authority, and delivered to the Authority by the New York State Office of Parks, Recreation and Historic Preservation and (ii) the approval of the Comptroller of the State of New York provided for in Section 1010-a of the Public Authorities Law of the State of New York shall have been received.

(d) At or prior to the Closing, unless otherwise agreed to by the Purchaser in writing, the Purchaser shall receive the following:

(i) The opinion of Hawkins Delafield & Wood LLP, as Bond Counsel, dated the date of the Closing and addressed to the Authority and the Purchaser, substantially in the form of Schedule I attached hereto.

(ii) An opinion of the Executive Vice President and General Counsel of the Authority, dated the date of Closing and addressed to the Purchaser, in form and substance as attached hereto as Schedule II.

(iii) 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 since the date of the Authority's audited financial statements for the year ended December 31, 2011.

(iv) One copy of each of the General Resolution and the 2012 Subordinated Note Resolution duly certified by the Executive Vice President and General Counsel or Secretary of the Authority with the 2012 Subordinated Resolution being in substantially the form heretofore reviewed by the Purchaser.

(v) The Notes shall have received a rating in at least the second highest long term rating category without reference to gradations from at least one of Moody's Investors Service, Standard & Poor's Ratings Group or Fitch Ratings.

(e) At the Closing, the Purchaser shall receive such additional certificates, instruments or opinions as Bond Counsel or counsel to the Purchaser may reasonably request to evidence the due authorization, execution, and delivery of the Notes and the adoption of the 2012 Subordinated Note Resolution, and the truth, accuracy and completeness as of the closing of the Authority's representations and warranties contained herein and in any of certificates or documents of Authority or officers of the

Authority delivered pursuant thereto.

5. Events Permitting the Purchaser to Terminate

[This will only be needed if the Closing date is different from the execution date]

The Purchaser may terminate its obligation to purchase the Notes at any time before the Closing if any of the following should occur:

(a) All of the ratings for the Notes shall have been lowered below the minimum ratings specified in Sections 4(d)(v) hereof, or withdrawn, by the applicable rating agency.

(b) If (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 (iii) a material disruption in securities settlement, payment or clearance services in the United States shall have occurred that, in the judgment of the Purchaser, is material and adverse and, in the case of any of the events specified in clauses (i)-(iii), such event singly or together with any other such events makes it, in the judgment of the Purchaser, so material and adverse as to make it impracticable to proceed with the delivery of the Notes on the terms and in the manner contemplated in this Note Purchase Agreement.

(c) A general banking moratorium shall have been declared by authorities of the United States or the State of New York.

(d) A stop order, release, regulation, or no-action letter by or on behalf of the United States Securities and Exchange Commission or any other governmental agency having jurisdiction of the subject matter shall have been issued or made to the effect that the issuance or sale of the Notes hereby or any document relating to the issuance or sale of the Notes is or would be in violation of any provision of the federal securities laws at the Closing, including the Securities Act of 1933, as amended, the Securities Exchange Act of 1934, as amended, and the Trust Indenture Act of 1939, as amended.

6. Notices

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: Brian McElroy, Treasurer

The Purchaser: New York State Environmental Facilities Corporation
625 Broadway
New York, New York 12207
Attention: Matthew Driscoll, President

7. Expenses

All costs and expenses of the Authority in connection with the authorization, issuance, sale and delivery of the Notes and other items herein specified to be delivered to the Purchaser shall be paid from the proceeds of the Notes. All expenses of the Purchaser, including specifically the fees and expenses of counsel to the Purchaser, shall be paid from the proceeds of the Notes.

8. No Advisory or Fiduciary Role

The Authority acknowledges and agrees that (i) the purchase of the Notes pursuant to this Note Purchase Agreement is an arm's-length commercial transaction between the Authority and the Purchaser; (ii) in connection therewith and with the discussions, undertakings and procedures leading up to the consummation of such transaction, the Purchaser is and has been acting solely as a principal and is not acting as the agent, advisor, fiduciary or Municipal Advisor (as defined in Section 15B of the Securities and Exchange Act of 1934, as amended) of the Authority; (iii) the Purchaser has not assumed an advisory or fiduciary responsibility in favor of the Authority with respect to the sale of the Notes or the discussions, undertakings and procedures leading thereto (irrespective of whether the Purchaser provided other services or is currently providing other services to the Authority on other matters) and the Purchaser has no obligation to the Authority with respect to the sale of the Notes hereby except the obligations expressly set forth in this Note Purchase Agreement; and (iv) the Authority has consulted its own legal, financial and other advisors to the extent it has deemed appropriate.

9. Miscellaneous

(a) No recourse shall be had for the payment of the principal of or interest on the Notes or for any claim based thereon, on the 2012 Subordinated Note Resolution, or on this Note Purchase Agreement against any member, officer or employee of the Authority or any person executing the Notes or this Note Purchase Agreement.

(b) The Purchaser is acquiring the Notes for its own account and not with a view to or for resale in connection with any distribution of all or any part of the Notes. The Authority agrees that if the Purchaser determines in the future to sell all or a portion of the Notes and so advises the Authority, the Authority shall, within 30 days of receipt of written notice of such determination, provide the Purchaser with its then most recent audited annual financial statements and unaudited six months' financial statements to the extent the same are not on file with the Electronic Municipal Market Access ("EMMA") system maintained by the Municipal Securities Rulemaking Board, or any successor system, together with either (i) a certificate of the Authority to the effect that there has not been any material adverse change in the financial condition of the Authority since the date of its most recent audited or unaudited financial statements or (ii) a description of the reasons the Authority is not able to furnish such certificate.

(c) This Note Purchase Agreement may be executed by anyone 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 Note Purchase Agreement 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 Note Purchase Agreement shall not be binding until executed by the parties hereto. All representations and agreements by the Authority and the Purchaser in this Note Purchase Agreement shall remain operative and in full force and effect regardless of any investigation made by or on behalf of any of the Purchaser and shall survive the delivery of any payment for the Notes. This Note Purchase Agreement shall be governed by, and construed in accordance with, the laws of the State of New York. Section headings have been inserted in this Note Purchase Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not part of this Note

Purchase Agreement and will not be used in the interpretation of any provisions of this Note Purchase Agreement.

NEW YORK STATE ENVIRONMENTAL
FACILITIES CORPORATION,
as Purchaser

By: _____
Name: Matthew J. Driscoll
Title: President

Accepted as of the date first set forth above

POWER AUTHORITY OF THE STATE OF NEW YORK

By: _____
Name: Brian McElroy
Title: Treasurer

FORM OF OPINION OF BOND COUNSEL

[LETTERHEAD OF EXECUTIVE VICE PRESIDENT AND GENERAL COUNSEL]

[Date of Closing]

New York State Environmental
Facilities Corporation

Ladies and Gentlemen:

Reference is made to Section 4(d)(ii) of the Note Purchase Agreement, dated _____, 2012 (the “Note Purchase Agreement”), for the 2012 Subordinated Notes (the “Notes”), by and between the Power Authority of the State of New York (the “Authority”) and the New York State Environmental Facilities Corporation, and the Resolution Authorizing Subordinated Notes, Series 2012 (Federally Taxable) , (the “2012 Subordinated Note Resolution”).

As Executive Vice President and General Counsel of the Authority, I have examined and relied on originals or copies certified or otherwise identified to my satisfaction of such documents, instruments or corporate records, and have made such investigations of law, as I have considered necessary or appropriate for the purposes of this opinion.

Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the 2012 Subordinated Note Resolution and, if not defined therein, in the General Resolution Authorizing Revenue Obligations adopted by the Authority on February 24, 1998, as amended and supplemented (the “General Resolution”).

I am of the opinion that:

1. The Authority is a body corporate and politic constituting a corporate municipal instrumentality of the State of New York (the “State”) duly created by and validly existing under the Act, with the right, power and authority to execute, deliver and perform its obligations under the Note Purchase Agreement, to adopt the 2012 Subordinated Note Resolution and to issue the Notes thereunder (collectively, the “Authorized Documents”).

2. The execution and delivery of, and the performance by the Authority of its obligations under, the Purchase Agreement and the performance by the Authority of its obligations under the Notes have been duly authorized by proper corporate proceedings of the Authority. Each of the General Resolution and the 2012 Subordinated Note Resolution have been duly and lawfully adopted by the Authority and each is in full force and effect and each is valid and binding upon the Authority and enforceable in accordance with their respective terms.

3. The Notes are Subordinated Indebtedness within the meaning of the General Resolution and is payable from the Trust Estate, provided that such payments are subject and subordinate to the payments to be made with respect to the Obligations and Parity Debt, as provided for in the General Resolution. The Notes do not constitute obligations, debts or liabilities of the State of New York, and the Authority has no power of taxation or power to pledge the credit of the State of New York.

4. The Authority is not in any material respect in violation of, breach of or default under the Act,

or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Authority or any of its activities, or any indenture, mortgage, deed of trust, resolution, note agreement or other agreement or instrument to which the Authority is a party or by which the Authority or any of its property or assets is bound, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a default or event of default under any such instruments; and the execution and delivery of the Notes or the Note Purchase Agreement, and compliance with the provisions on the Authority's part contained therein, do not and will not conflict with, or constitute on the part of the Authority a violation of, breach of or default under any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Authority or any of its activities, properties or assets, or any indenture, mortgage, deed of trust, resolution, note agreement or other agreement or instrument to which the Authority is a party or by which the Authority or any of its property or assets is bound, nor will any such execution, delivery or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the Authority or under the terms of any such law, regulation or instrument, except as provided by the Notes or the Authorized Documents.

5. There is no litigation or other proceeding pending or, to the best of my knowledge, threatened in any court, agency or other administrative body (either State or Federal) restraining or enjoining the issuance, sale or delivery of the Notes, or in any way questioning or affecting (i) the issuance, sale and delivery of the Notes, (ii) the proceedings under which the Notes are to be issued, (iii) the validity of any provision of the Notes, the 2012 Subordinated Note Resolution or the Note Purchase Agreement, (iv) the pledge by the Authority effected under the 2012 Subordinated Note Resolution, or (v) the legal existence of the Authority. There is no litigation or other proceeding pending to which the Authority is a party or, to the best of my knowledge, threatened against it, and, to the best of my knowledge, there is no other litigation or proceeding pending or threatened in any court, agency or other administrative body (either State or Federal) which could have a material adverse effect on the transactions contemplated by the 2012 Subordinated Note Resolution and the items pledged under the 2012 Subordinated Note Resolution.

6. The Authority is not in default in any material respect under the terms of the General Resolution or the 2012 Subordinated Note Resolution.

7. All authorizations, consents, approvals and reviews of governmental bodies or regulatory authorities required for, or the absence of which would materially adversely affect, (i) the execution, issuance and performance by the Authority of the Notes, and (ii) the execution, delivery and performance by the Authority of the Note Purchase Agreement and the performance by the Authority of the 2012 Subordinated Note Resolution, have been obtained or effected.

The obligations of the Authority under the Notes, the Note Purchase Agreement and the 2012 Subordinated Note Resolution and the enforceability thereof are limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights. The enforceability of such obligations is subject to applicable general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

I have rendered the opinions expressed herein based on facts and circumstances existing, and applicable laws, rules, regulations, court decisions, and governmental and regulatory authority determinations in effect, on the date hereof. I assume no obligation to update or supplement this letter to reflect any change to, or the occurrence, issuance or adoption of, any fact, circumstances, laws, rules, or regulations, or any decision of any court or other body or governmental or regulatory authority. This opinion is limited to the matters stated herein and no opinion is implied or may be inferred beyond the matters expressly stated herein.

This opinion is solely for your information and assistance and is not to be used, circulated, quoted or otherwise referred to, except that reference to this opinion may be made in any list of closing documents pertaining to the issuance of the Notes or in such closing documents.

Very truly yours,

Name:

Title:

POWER AUTHORITY OF THE
STATE OF NEW YORK

RESOLUTION
AUTHORIZING SUBORDINATED NOTES, SERIES 2012 (FEDERALLY TAXABLE)

Adopted November 9, 2012

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

**RESOLUTION
AUTHORIZING
SUBORDINATED NOTES, SERIES 2012
(FEDERALLY TAXABLE)**

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**RESOLUTION
AUTHORIZING SUBORDINATED NOTES, SERIES 2012 (FEDERALLY TAXABLE)**

BE IT RESOLVED by the Trustees of the Power Authority of the State of New York (the “Authority”) as follows:

ARTICLE I

DEFINITIONS

SECTION 101. Definitions. (a) Except as provided in paragraph (b) of this Section 101, all terms which are defined in Section 101 of the General Resolution Authorizing Revenue Obligations adopted by the Authority on February 24, 1998, as heretofore and hereafter amended and supplemented in accordance with the terms thereof (the “General Resolution”), shall have the same meanings, respectively, in this Series 2012 Subordinated Notes Resolution as such terms are given in said Section 101 of the General Resolution.

(b) In this Resolution (hereinafter referred to as the “Subordinated Notes Resolution”), unless a different meaning clearly appears from the context:

(1) The terms “herein”, “hereunder”, “hereby”, “hereto”, “hereof”, “hereinafter”, and any similar terms, refer to this Subordinated Notes Resolution, and the term “hereafter” means after the date of adoption of this Subordinated Notes Resolution;

(2) Words importing the singular number include the plural number and vice versa and words importing persons include firms, associations and corporations. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders;

(3) Any headings preceding the texts of the several Articles and Sections of this Subordinated Notes Resolution, and any table of contents shall be solely for convenience of reference and shall not constitute a part of this Subordinated Notes Resolution, nor shall they affect its meaning, construction or effect;

(4) “Authorized Officer” means the Chairman, Vice Chairman, President and Chief Executive Officer, Executive Vice President and General Counsel, Executive Vice President and Chief Financial Officer or Treasurer of the Authority, or such other person or persons so designated by resolution of the Authority;

(5) “Business Day” means any day other than (i) a Saturday, Sunday or other day on which commercial banks located in the State of New York are authorized or

required by law or executive order to close or (ii) a day on which the New York Stock Exchange is closed;

(6) “Certificate of Determination” means a certificate or certificates of an Authorized Officer delivered pursuant to Section 303 of this Subordinated Notes Resolution setting forth certain terms and provisions of the Subordinated Notes, as such certificate(s) may be amended and supplemented.

(7) “Holder” or any similar term, when used with reference to the Subordinated Notes, shall mean any registered owner of Subordinated Notes as shown on the books of the Paying Agent;

(8) “Maturity Date” means, with respect to any Subordinated Note, the final date specified therefor in the Certificate of Determination.

(9) “Paying Agent” means an agent appointed by the Authority pursuant to Section 307 hereof, or any successor entity which may be appointed by an Authorized Officer as a Paying Agent hereunder;

(10) “Securities Depository” means The Depository Trust Company, or any other Holder of the Subordinated Notes acting as a central securities depository for the Subordinated Notes or a portion of the Subordinated Notes, as authorized pursuant to Section 309 of this Subordinated Notes Resolution, and its successors and assigns, or if any Securities Depository resigns from its function as depository of the Subordinated Notes, any other securities depository which agrees to follow the procedures required to be followed by the Securities Depository in connection with such Subordinated Notes or such portion of the Subordinated Notes, and which is selected by the Authority;

(11) “Settlement Agreement” shall mean the Relicensing Settlement Agreement Addressing New License Terms and Conditions, dated July 18, 2005, between the Authority, the New York State Office of Parks, Recreation and Historic Preservation, *et al.*

(12) “State Parks Greenway Fund” shall mean the fund created pursuant to Section 3, “State Parks Greenway Fund,” of Appendix E of the Settlement Agreement and held in the Operating Fund.

(13) “Subordinated Notes” means the Subordinated Notes, Series 2012 (Federally Taxable) authorized to be issued pursuant to Section 301 hereof.

(14) “Subordinated Notes Resolution” means this Resolution Authorizing Subordinated Notes, Series 2012 (Federally Taxable) of the Authority adopted November 9, 2012, as the same may be amended and supplemented from time to time in accordance herewith;

(15) “State” means the State of New York.

(16) “Supplemental Subordinated Notes Resolution” means any resolution supplemental to or amendatory of the Subordinated Notes Resolution, adopted by, or adopted pursuant to authorization granted by the Authority in accordance with Article VI or VII hereof.

ARTICLE II

OBLIGATION OF RESOLUTION AND SUBORDINATED NOTES

SECTION 201. Authority for the Subordinated Notes. This Subordinated Notes Resolution is adopted in accordance with and pursuant to the Act.

SECTION 202. Subordinated Notes Resolution to Constitute Contract. In consideration of the purchase and acceptance of any and all of the Subordinated Notes authorized to be issued hereunder by those who shall be a Holder of the same from time to time, this Subordinated Notes Resolution shall be deemed to be and shall constitute a contract between the Authority and each of the Holders from time to time of the Subordinated Notes and such provisions are covenants and agreements with such Holders which the Authority hereby determines to be necessary and desirable for the security and payment thereof. The covenants and agreements herein set forth to be performed by or on behalf of the Authority shall be for the equal benefit, protection and security of the Holders of any and all of the Subordinated Notes, 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 of the Subordinated Notes over any other except as expressly provided in or permitted by this Subordinated Notes Resolution.

SECTION 203. Obligation of the Subordinated Notes. The Subordinated Notes shall be Subordinated Indebtedness within the meaning of the General Resolution and shall be payable from the Trust Estate; provided that such payments shall be subject and subordinated to the payments to be made with respect to the Obligations and Parity Debt, as provided in Sections 503 and 604 of the General Resolution. The Trust Estate is hereby pledged for the payment of the Subordinated Notes, provided that such pledge shall be junior and inferior to the pledge of the Trust Estate created in the General Resolution for the payment of the Obligations and Parity Debt. The Subordinated Notes shall be on a parity with other Subordinated Indebtedness. The Authority shall at all times, to the extent permitted by law, defend, preserve and protect the pledge created by this Subordinated Notes Resolution to secure the Subordinated Notes and all the interests of the Holders of the Subordinated Notes under this Subordinated Notes Resolution against all claims and demands of all Persons whomsoever.

SECTION 204. Certain Findings and Determinations. The Trustees hereby find and determine:

(a) The Trust Estate is not encumbered by any lien or charge thereon or pledge thereof, other than the senior lien and charge thereon and pledge thereof created by the General Resolution in favor of Obligations and Parity Debt, and the subordinate liens and charges thereon and subordinated pledge thereof created by the existing Subordinated Indebtedness and Subordinated Contract Obligations, which Subordinated Indebtedness and Subordinated Contract Obligations are on a parity with the Subordinated Notes.

(b) There does not exist an “Event of Default” within the meaning of such quoted term as defined in Section 1001 of the General Resolution, nor does there exist any condition which, after the giving of notice or the passage of time, or both, would constitute such an “Event of Default.”

ARTICLE III

AUTHORIZATION, TERMS AND ISSUANCE OF SUBORDINATED NOTES

SECTION 301. Authorization of Issue of Subordinated Notes. Subordinated Notes in a principal amount not to exceed \$30,000,000 are hereby authorized to be issued for the purposes set forth in Section 401 hereof. The Subordinated Notes shall bear the designation Subordinated Notes, Series 2012. The Subordinated Notes shall otherwise be subject to the terms, conditions and limitations provided or referred to herein, the Certificate of Determination and in the Act.

SECTION 302. General Terms of the Subordinated Notes. The Subordinated Notes herein authorized shall be issued in the denomination of \$500,000 or any larger integral multiple of \$5,000 as determined by an Authorized Officer, shall be numbered consecutively from 1 upwards in order of their issuance, and may bear such other or alternative identification as an Authorized Officer may deem appropriate. The Subordinated Notes shall be issued in registered form, and may be issued through the book-entry system of a Securities Depository upon the determination of an Authorized Officer. The Subordinated Notes shall be dated their date of issuance and mature on the Maturity Date. The Subordinated Notes shall be payable in any coin or currency of the United States of America which shall then be legal tender for the payment of public and private debts, by wire transfer of immediately available funds on the date such payments are due.

SECTION 303. Delegation of Authority. There is hereby delegated to an Authorized Officer, subject to the limitations contained herein, the power with respect to the Subordinated Notes to determine and effectuate the following:

- (a) the principal amount of Subordinated Notes to be issued, provided that the aggregate principal amount of Subordinated Notes shall not exceed \$30,000,000;
- (b) the Maturity Date of each Note which in no event shall be later than twenty-six years from the date of issuance of the Notes, the interest payment dates of the Subordinated Notes, and the date or dates from which the Subordinated Notes shall bear interest;
- (c) the interest rate or rates on the Subordinated Notes, provided, however, that such interest rate(s) shall not exceed five and one-half percent (5.50%) per annum;
- (d) the amounts of the proceeds of the Subordinated Notes to be deposited and applied in accordance with Section 401 and Section 402 hereof;
- (e) the redemption provisions, if any, of the Subordinated Notes;

(f) the definitive form or forms of the Subordinated Notes; and

(g) any other provisions deemed advisable by an Authorized Officer of the Authority, not in conflict with the provisions of this Subordinated Notes Resolution.

An Authorized Officer shall execute one or more certificates evidencing determinations or other actions taken pursuant to the authority granted herein. Each such certificate shall be deemed a Certificate of Determination and shall be conclusive evidence of the action or determination of such Authorized Officer as to the matters stated therein. The provisions of each Certificate of Determination shall be deemed to be incorporated in Article III hereof.

SECTION 304. Form of the Subordinated Notes. Subject to the provisions of Section 303 hereof, the form of the Subordinated Notes shall be substantially of the tenor set forth in Exhibit A hereto.

SECTION 305. No Recourse on the Subordinated Notes. No recourse shall be had for the payment of the Subordinated Notes or for any claim based thereon or on this Subordinated Notes Resolution against any Trustee, officer or employee of the Authority or any person executing the Subordinated Notes and neither the Trustees of the Authority nor any other person executing the Subordinated Notes shall be subject to any personal liability or accountability by reason of the issuance thereof. The Subordinated Notes are not and shall not be in any way a debt or liability of the State, and the State shall not be liable on the Subordinated Notes, and the Subordinated Notes are not and shall not be payable out of any funds other than those of the Authority.

SECTION 306. Execution and Validation of Subordinated Notes. An Authorized Officer of the Authority is each hereby authorized and directed to execute by his or her manual or facsimile signature the Subordinated Notes in the name of the Authority and the corporate seal (or a facsimile thereof) shall be affixed, imprinted, engraved or otherwise reproduced thereon, if necessary. In case any such Authorized Officer who shall have signed Subordinated Notes, shall cease to be such Authorized Officer before the Subordinated Notes shall have been authenticated by the Paying Agent, the Subordinated Notes may nevertheless be issued as though the person who signed such notes had not ceased to be such Authorized Officer.

SECTION 307. Appointment of Paying Agent. The Bank of New York Mellon is hereby appointed as Paying Agent, and any Authorized Officer is hereby authorized to enter into a paying agency agreement with The Bank of New York Mellon or with any other Paying Agent appointed upon the direction of an Authorized Officer, to the extent such Authorized Officer shall determine the same to be necessary or advisable. Any such paying agency agreement may be approved by such Authorized Officer, subject to the approval of the form thereof by the Executive Vice President and General Counsel, including, but not limited to, terms and conditions as may be required in connection with the establishment of a book-entry-only

registration system in accordance with Section 309 hereof, the execution of the paying agency agreement to be conclusive evidence of such approval.

SECTION 308. Transfer of Subordinated Notes Registered Notes. (a) The Paying Agent shall act as registrar for the Subordinated Notes, which shall be transferable only upon the books of the Paying Agent, which shall be kept for that purpose at the office of the Paying Agent by the registered owner thereof in person or by his or her attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the Paying Agent duly executed by the registered owner or his or her duly authorized attorney. Upon the transfer of any such Subordinated Note, the Paying Agent shall issue in the name of the transferee new Subordinated Notes of the same aggregate principal amount and maturity as the surrendered Subordinated Note.

(b) The Authority and the Paying Agent may deem and treat the person in whose name any Subordinated Notes shall be registered upon the books of the Paying Agent as the absolute owner of such Subordinated Notes, whether such Subordinated Notes shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on such Subordinated Notes and for all other purposes, and all such payments so made to any such registered owner or upon his or her order shall be valid and effectual to satisfy and discharge the liability upon such Subordinated Notes to the extent of the sum or sums so paid, and neither the Authority nor the Paying Agent shall be affected by any notice to the contrary.

SECTION 309. Book-Entry-Only System of Subordinated Notes Registration.

(a) Notwithstanding any other provision of this Subordinated Notes Resolution, the Authority may employ a book-entry-only system of note registration with respect to all or any of the registered Subordinated Notes, all as more fully set forth in subparagraphs (a) and (b) of this Section. Any provisions of this Subordinated Notes Resolution inconsistent with book-entry-only Subordinated Notes shall not be applicable to such book-entry-only Subordinated Notes.

(b) Except as an Authorized Officer may specify by delivery of a certificate, a book-entry-only system of Subordinated Notes registration shall be employed by the Authority. Each Authorized Officer (i) is hereby authorized to execute and deliver on behalf of the Authority a letter of representation or other agreements, documents or instruments in connection with the implementation or operation of such a book-entry-only system and (ii) may prescribe changes to the form of Subordinated Notes to the extent necessary or convenient to make such Subordinated Notes eligible for deposit under such a book-entry-only system. The provisions of any letter of representation or other agreement with a Securities Depository shall be deemed to be incorporated in this Subordinated Notes Resolution and, in accordance with subparagraph (a) of this Section 309, any provision of this Subordinated Notes Resolution inconsistent with such letter or agreement shall be deemed amended with respect to Subordinated Notes thereafter issued in book-entry-only form.

(c) With respect to all book-entry Subordinated Notes, neither the Authority nor the Paying Agent shall have any responsibility or obligation to any Securities Depository participant or indirect participant, or any nominee of any thereof, any person claiming a beneficial ownership interest in book-entry Subordinated Notes under or through the Securities Depository or any Securities Depository participant or indirect participant, or any other person which is not shown on the books of the Paying Agent as being the Holder of any master note, with respect to: (1) sending transaction statements; (2) maintaining, supervising or reviewing, or the accuracy of, any records maintained by the Securities Depository or any Securities Depository participant or other nominees of such beneficial owners; (3) payment or the timeliness of payment by the Securities Depository to any Securities Depository participant, or by any Securities Depository participant or other nominees of beneficial owners to any beneficial owners, of any amount in respect of the principal of or interest on book-entry Subordinated Notes; (4) delivery or timely delivery by the Securities Depository to any Securities Depository participant, or by any Securities Depository participant or other nominees of beneficial owners to any beneficial owners, of any notice which is permitted or required to be given to Holders under this Subordinated Notes Resolution; or (5) any action taken by the Securities Depository or its nominee as Holder of book-entry Subordinated Notes.

(d) The Authority and the Paying Agent may treat the Securities Depository or its nominee as, and deem the Securities Depository or its nominee to be, the absolute owner of each of the Subordinated Notes issued as a book-entry-only Subordinated Notes for the purpose of payment of the principal of and interest on such Subordinated Notes, for other matters with respect to such Subordinated Notes, for the purpose of registering transfers with respect to such Subordinated Notes, and for all other purposes whatsoever.

(e) The Securities Depository may determine not to continue to act as securities depository for the Subordinated Notes, and the Authority may determine to discontinue the book-entry-only issuance of the Subordinated Notes through the Securities Depository and in such case shall deliver a certificate to the Paying Agent to that effect. In either case, if the Authority determines to replace the Securities Depository with another qualified Securities Depository, the Authority shall prepare or direct the preparation of new, separate, fully registered notes, registered in the name of such successor or substitute qualified Securities Depository or its nominee, or make such other arrangements acceptable to the Authority, the Paying Agent and the replacement Securities Depository as are not inconsistent with the terms of this Subordinated Notes Resolution. If the Authority fails to identify another Securities Depository to replace the Securities Depository, the Authority may amend this Subordinated Note Resolution pursuant to Section 601(7) and shall deliver to the Paying Agent for safekeeping, completion, authentication and delivery in accordance with the provisions of this Subordinated Notes Resolution, as so amended, Subordinated Notes executed on behalf of the Authority, with the date of issuance, principal amount, maturity date, owner and rate of interest left blank. Each of such Subordinated Notes instruments shall be held in safekeeping by the Paying Agent until authenticated and issued in accordance with the provisions of this Subordinated Notes Resolution.

SECTION 310. Subordinated Notes Mutilated, Lost, Destroyed or Stolen. If any Subordinated Notes shall become mutilated, the Authority, at the expense of the Holder of said Subordinated Notes, shall execute and deliver a new Subordinated Notes of like tenor, series and number in exchange and substitution for the Subordinated Notes so mutilated, but only upon surrender to the Authority of the Subordinated Notes so mutilated. If any Subordinated Notes shall be lost, destroyed or stolen, evidence of such loss, destruction or theft shall be submitted to the Authority and, if such evidence be satisfactory to it and indemnity satisfactory to it shall be given, the Authority, at the expense of the owner, shall execute and the Paying Agent shall countersign and deliver a new Subordinated Notes of like tenor, series and number in lieu of and in substitution for the Subordinated Notes so lost, destroyed or stolen. Neither the Authority nor the Paying Agent shall be required to treat both the original Subordinated Notes and any duplicate Subordinated Notes as being outstanding for the purpose of determining the amount of Subordinated Notes which may be issued hereunder, but both the original and the duplicate Subordinated Notes shall be treated as one and the same.

ARTICLE IV

APPLICATION OF SUBORDINATED NOTES PROCEEDS

SECTION 401. Application of Proceeds. The Subordinated Notes are being issued, and the proceeds of sale of the Subordinated Notes shall be applied: (i) to make payments to the State Parks Greenway Fund to finance projects for the construction and/or rehabilitation of parks, recreation and related facilities as set forth in Section 3, "State Parks Greenway Fund," of Appendix E of the Settlement Agreement, and (ii) to pay the costs of issuance of the Subordinated Notes.

SECTION 402. Application of Note Proceeds; Note Proceeds Accounts. The proceeds of the sale of the Subordinated Notes shall be deposited in the State Parks Greenway Fund. At the direction of an Authorized Officer, moneys in the State Parks Greenway Fund may be applied to pay costs incurred in connection with the issuance of Subordinated Notes, and the balance shall remain in the State Parks Greenway Fund and be made available to finance projects referred to in Section 401 hereof. Such balance shall be held or invested in Authorized Investments in accordance with the provisions of the General Resolution pertaining to amounts held in the Operating Fund. At the direction of an Authorized Officer, the Paying Agent is hereby authorized to create such other funds, accounts and sub-accounts in accordance with this Subordinated Notes Resolution as may be necessary for the administration of the Authority's Subordinated Notes program.

SECTION 403. Non-Presented Subordinated Notes. Anything in this Subordinated Notes Resolution to the contrary notwithstanding, any moneys held by a Fiduciary in trust for the payment and discharge of the principal or redemption price of or interest on any of the Subordinated Notes which remain unclaimed for 2 years after the date when such principal, redemption price, or interest, respectively, have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the Paying Agent at such date, or for 2 years after the date of deposit of such moneys if deposited with the Paying Agent after the date when such principal, redemption price, or interest, respectively, became due and payable, shall, at the written request of the Authority, be repaid by the Fiduciary to the Authority, as its absolute property and free from trust, and the Fiduciary shall thereupon be released and discharged with respect thereto and the Holders of Subordinated Notes shall look only to the Authority for the payment of such principal, redemption price, or interest, respectively. Notwithstanding the foregoing or anything in this Subordinated Notes Resolution to the contrary, any moneys held by the Paying Agent in trust for the payment and discharge of any Subordinated Notes which remain unclaimed after such moneys were to be applied to the payment of such Subordinated Notes in accordance with this Subordinated Notes Resolution may be applied in accordance with the provisions of the Abandoned Property Law of the State, being Chapter 1 of the Consolidated Laws of the State or any successor provision thereto, and upon such application, the Paying Agent shall thereupon be released and discharged with respect thereto and the Holders of Subordinated Notes shall look only to the Authority or

the Comptroller of the State for the payment of such Obligations. Before being required to make any such payment to the Authority or to apply such moneys in accordance with the Abandoned Property Law of the State, the Paying Agent shall, at the expense of the Authority, cause to be mailed to the Holders entitled to receive such moneys a notice that said moneys remain unclaimed and that, after a date named in said notice, which date shall be not less than 30 days after the date of the mailing, the balance of such moneys then unclaimed will be returned to the Authority or applied in accordance with the Abandoned Property Law of the State, as the case may be.

ARTICLE V

COVENANTS

SECTION 501. Covenants. The Authority hereby particularly covenants and agrees with the Holders of the Subordinated Notes, and makes provisions which shall be a part of the contract with such Holders, to the effect and with the purpose as follows:

(a) The Authority shall duly and punctually pay or cause to be paid the principal of and interest on Subordinated Notes at the place and in the manner mentioned in the Subordinated Notes, according to the true intent and meaning thereof.

(b) Upon each date of issuance of the Subordinated Notes, all conditions, acts and things required by the Constitution or statutes of the State or this Subordinated Notes Resolution to exist, to have happened and to have been performed precedent to or in the issuance of such Subordinated Notes shall exist, have happened and have been performed and such Subordinated Notes, together with all other indebtedness of the Authority, shall be within every debt and other limit prescribed by said Constitution or statutes.

(c) 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 of this Subordinated Notes Resolution in accordance with the terms of such provisions.

(d) The Authority shall comply with the rate covenant of Section 606 of the General Resolution so long as any Subordinated Notes are Outstanding, notwithstanding whether any Obligations are then Outstanding.

(e) The Authority shall give prior written notice to each rating agency then rating the Subordinated Notes of (i) any amendments to this Subordinated Notes Resolution, or (ii) any defeasance of the Subordinated Notes.

SECTION 502. Additional Subordinated Indebtedness and Lien. Nothing contained herein shall prohibit the Authority from issuing additional Subordinated Indebtedness or incurring Subordinated Contract Obligations, in each case subject and subordinate in all respects to the pledge thereof and lien and charge thereon, or assignment thereof, as the case may be, created by the General Resolution in favor of Obligations and Parity Debt, but either of equal rank or priority with, or subject and subordinate to, the pledge and assignment made in the Subordinated Notes Resolution in favor of the Subordinated Notes authorized hereby.

ARTICLE VI

SUPPLEMENTAL SUBORDINATED NOTES RESOLUTIONS

SECTION 601. Supplemental Subordinated Resolutions. For any one or more of the following purposes and at any time or from time to time, a Supplemental Subordinated Notes Resolution may be adopted without the consent of or notice to any Holder, which, upon its adoption, shall be duly effective in accordance with its terms:

(1) To close the Subordinated Note Resolution against, or provide limitations and restrictions in addition to the limitations and restrictions contained in the Subordinated Notes Resolution on, the delivery on original issuance of Subordinated Notes or the issuance of other evidences of indebtedness;

(2) To add to the covenants and agreements of the Authority in the Subordinated Notes Resolution other covenants and agreements to be observed by the Authority which are not contrary to or inconsistent with the Subordinated Notes Resolution as theretofore in effect;

(3) To add to the limitations and restrictions in the Subordinated Notes Resolution other limitations and restrictions to be observed by the Authority which are not contrary to or inconsistent with the Subordinated Notes Resolution as theretofore in effect;

(4) To surrender any right, power or privilege reserved to or conferred upon the Authority by the Subordinated Notes Resolution;

(5) To confirm, as further assurance, any pledge under, and the subjection to any lien or pledge created or to be created by, the Subordinated Notes Resolution, of any additional security other than that granted or pledged under the Subordinated Notes Resolution;

(6) To modify, amend or supplement the Subordinated Notes Resolution in such manner as to permit the qualification hereof under the Trust Indenture Act of 1939, as amended, or any similar Federal statute hereafter in effect or to permit the qualification of the Subordinated Notes for sale under the securities laws of any of the states of the United States of America, and, if the Authority so determines, to add hereto such other terms, conditions and provisions as may be permitted by said Trust Indenture Act of 1939 or similar Federal statute;

(7) To comply with such regulations and procedures as are from time to time in effect relating to establishing and maintaining a book-entry-only system;

(8) To modify any of the provisions of the Subordinated Notes Resolution in any other respect whatever, provided that (a) such modification is to be effective prior to the issuance of any Subordinated Notes;

(9) To cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent provision in the Subordinated Notes Resolution; or

(10) To insert such provisions, or to make such other amendments to the Subordinated Notes Resolution, as are necessary or desirable which are not materially adverse to the rights under the Subordinated Notes Resolution of the Holders of Subordinated Notes. The determination of the Authority as to whether any modification or amendment materially and adversely affects the interests of the Holders shall be binding and conclusive on the Holders.

SECTION 602. Supplemental Subordinate Resolutions Effective with Consent of Holders of Subordinated Notes. At any time or from time to time, a Supplemental Subordinated Notes Resolution also may be adopted subject to consent by Holders of Subordinated Notes in accordance with and subject to the provisions of Article VII, which Supplemental Subordinated Notes Resolution shall become fully effective in accordance with its terms as provided in said Article VII.

SECTION 603. General Provisions. 1. The Subordinated Notes Resolution shall not be modified or amended in any respect except as provided in and in accordance with and subject to the provisions of this Article VI and Article VII. Nothing in this Article VI or in Article VII contained shall affect or limit the right or obligation of the Authority to execute and deliver to any Paying Agent any instrument which elsewhere in the Subordinated Notes Resolution it is provided shall be delivered to said Paying Agent.

2. Any Supplemental Subordinated Notes Resolution referred to and permitted or authorized by Sections 601 and 602 shall become effective only on the conditions, to the extent and at the time provided in said Sections, respectively. The copy of every Supplemental Subordinated Notes Resolution when filed with the Paying Agent shall be accompanied by a Counsel's Opinion stating that such Supplemental Subordinated Notes Resolution has been duly and lawfully adopted in accordance with the provisions of the Subordinated Notes Resolution, is authorized or permitted by the Subordinated Notes Resolution, and is valid and binding upon the Authority and enforceable in accordance with its terms.

ARTICLE VII

AMENDMENTS

SECTION 701. Mailing. Any provision in this Article for the mailing of a notice or other paper to Holders of Subordinated Notes shall be fully complied with if it is mailed postage prepaid only to each Holder of Subordinated Notes then Outstanding at his address, if any, appearing upon the registry books of the Authority.

SECTION 702. Powers of Amendment. Any modification or amendment of the Subordinated Notes Resolution and of the rights and obligations of the Authority and of the Holders, in any particular, may be made by a Supplemental Subordinated Notes Resolution, with the written consent given as provided in Section 703 (i) of the Holders of a majority in principal amount of the Subordinated Notes Outstanding at the time such consent is given, and (ii) in case less than all of the Subordinated Notes then Outstanding are affected by the modification or amendment, of the Holders of a majority in principal amount of the Subordinated Notes so affected and 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 particular Subordinated Notes remain outstanding shall not be required and such Subordinated Notes shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Subordinated Notes under this Section. No such modification or amendment shall (a) permit a change in the terms of redemption or maturity of the principal of any Outstanding Subordinated Notes or of any installment of interest thereon or a reduction in the principal amount or in the rate of interest thereon without the consent of the Holders of all of such Subordinated Notes, (b) reduce the percentage of Subordinated Notes owned or otherwise affect the interests of those Holders of Subordinated Notes whose consent is required to effect any such modification or amendment, (c) create a preference or priority of any Subordinated Notes over any other Subordinated Notes without the consent of the Holders of all such Subordinated Notes, (d) create a lien prior to or on parity with the lien of the Subordinated Notes Resolution, without the consent of the Holders of all of the Subordinated Notes then Outstanding, or (e) change or modify any of the rights or obligations of Paying Agent without its written assent thereto. Notwithstanding the foregoing, nothing in this Subordinated Notes Resolution shall be deemed to preclude, or restrict issuance of additional Obligations or Subordinated Indebtedness or incurring Subordinated Contract Obligations in accordance with the terms of the General Resolution. For the purposes of this Section, Subordinated Notes shall be deemed to be affected by a modification or amendment of the Subordinated Notes Resolution if the same materially and adversely affects the rights of the Holders of such Subordinated Notes.

SECTION 703. Consent of Holders of Subordinated Notes. The Authority may at any time adopt a Supplemental Subordinated Notes Resolution making a modification or amendment permitted by the provisions of Section 702, to take effect when and as provided in this Section. A copy of such Supplemental Subordinated Notes Resolution (or brief summary

thereof or reference thereto) together with a request to the Holders for their consent thereto, shall be mailed by the Authority to the Holders (but failure to mail such copy and request shall not affect the validity of the Supplemental Subordinated Notes Resolution when consented to as in this Section provided). Such Supplemental Subordinated Notes Resolution shall not be effective unless and until (a) (i) the written consents of Holders of the percentages of Outstanding Subordinated Notes specified in Section 702 have been obtained and (ii) a Counsel's Opinion stating that such Supplemental Subordinated Notes Resolution has been duly and lawfully adopted and filed by the Authority in accordance with the provisions of the Subordinated Notes Resolution, is authorized or permitted by the Subordinated Notes Resolution, and is valid and binding upon the Authority and enforceable in accordance with its terms, and (b) a notice shall have been mailed to Holders as hereinafter in this Section 703 provided. Any such consent shall be binding upon the Holders of the Subordinated Notes giving such consent and, anything herein to the contrary notwithstanding, upon any subsequent Holder of such Subordinated Notes issued in exchange thereof (whether or not such subsequent Holder thereof has notice thereof). At any time after the Holders of the required percentages of Subordinated Notes shall have filed their consents to the Supplemental Subordinated Notes Resolution, notice, stating in substance that the Supplemental Subordinated Notes Resolution has been consented to by the Holders of the required percentages of Subordinated Notes and will be effective as provided in this Section 703, may be given to Holders of Subordinated Notes by the Authority by mailing such notice to Holders of Subordinated Notes (but failure to mail such notice shall not prevent such Supplemental Subordinated Notes Resolution from becoming effective and binding as in this Section 703 provided). The Authority shall maintain proof of the mailing of such notice. A record, consisting of the papers required or permitted by this Section 703, shall be proof of the matters therein stated. Such Supplemental Subordinated Notes Resolution making such amendment or modification shall be deemed conclusively binding upon the Authority, the Paying Agent and the Holders of all Subordinated Notes at the expiration of 40 days after the execution of an Authorized Officer's certification of the proof of the mailing of such last-mentioned notice, except in the event of a final decree of a court of competent jurisdiction setting aside such Supplemental Subordinated Notes Resolution in a legal action or equitable proceeding for such purpose commenced within such 40-day period; provided, however, that the Paying Agent and the Authority during such 40-day period and any such further period during which any such action or proceeding may be pending shall be entitled in their absolute discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Subordinated Notes Resolution as they may deem expedient.

SECTION 704. Modifications by Unanimous Consent. The terms and provisions of the Subordinated Notes Resolution and the rights and obligations of the Authority and of the Holders of Subordinated Notes may be modified or amended in any respect upon the adoption and filing by the Authority of a Supplemental Subordinated Notes Resolution and the consent of the Holders of all of the Subordinated Notes then Outstanding, such consent to be given as provided in Section 703 except that no notice to Holders of Subordinated Notes shall be required; provided, however, that no such modification or amendment shall change or modify

any of the rights or obligations of the Paying Agent without the written assent thereto of such Paying Agent in addition to the consent of the Holders of Subordinated Notes.

SECTION 705. Exclusion of Subordinated Notes Owned by the Authority. Subordinated Notes owned or held by or for the account of the Authority shall not be deemed Outstanding for the purpose of consent or other action or any calculation of Outstanding Subordinated Notes provided for in this Article, and the Authority shall not be entitled with respect to such Subordinated Notes to give any consent or take any other action provided for in this Article.

SECTION 706. Notation on Subordinated Notes. Subordinated Notes delivered after the effective date of any action taken as in Article VI or this Article VII may bear a notation by endorsement or otherwise in form approved by the Authority as to such action, and in that case upon demand of the Holder of any Subordinated Notes Outstanding at such effective date and presentation of his Subordinated Notes for the purpose at the principal office of the Authority suitable notation shall be made on such Subordinated Notes as to any such action. If the Authority shall so determine, new Subordinated Notes so modified as in the opinion of the Authority to conform to such action shall be prepared and delivered, and upon demand of the Holder of any Subordinated Notes then Outstanding shall be exchanged, without cost to such Holders of Subordinated Notes for Subordinated Notes of the same maturity and interest rate then Outstanding, upon surrender of such Subordinated Notes.

ARTICLE VIII

MISCELLANEOUS

SECTION 801. Defeasance. If the Authority shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of the Subordinated Notes, all amounts due on the Subordinated Notes at the times and in the manner stipulated herein, then the pledge created under this Subordinated Notes Resolution and all covenants, agreements and other obligations of the Authority hereunder, shall thereupon cease, terminate and become void and be discharged and satisfied, and thereupon all of the moneys and securities of the Authority then subject to such pledge shall be forever free and clear of such pledge and the Subordinated Notes shall no longer be deemed to be outstanding hereunder. If (i) moneys or (ii) direct obligations of the United States of America, the principal of and interest on which if paid, when due, will provide moneys sufficient to pay any Subordinated Note or Notes on their Maturity Date shall have been set aside and shall be held by a bank or trust company in the State of New York having a capital and surplus of not less than \$25,000,000, in a separate account irrevocably in trust for and assigned to the Holder or Holders thereof (through deposit by the Authority of funds or obligations for such payment or otherwise), such Subordinated Note or Notes shall be deemed to have been paid within the meaning and with the effect expressed in this paragraph. Moneys so set aside and held may be invested in direct obligations of the United States of America, provided, however, that said obligations shall mature not later than the Maturity Date of the Subordinated Note or Notes to be paid therefrom and shall be scheduled to pay the principal of or interest on such obligations at such times and in such amounts as shall permit the payment of such Subordinated Note or Notes on the Maturity Date. All earnings from the investment of such moneys other than such amounts as are required to pay such Subordinated Note or Notes shall be paid over to the Authority, as received by such bank or trust company, free and clear of any trust, lien or pledge.

SECTION 802. Agreement of the State. Pursuant to Section 1011 of the Act, the Authority, as agent for the State, does hereby pledge to and agree with the Holders of the Subordinated Notes that the State will not limit or alter the rights vested in the Authority by the Act until the Subordinated Notes, together with the interest thereon, have been fully met and discharged or adequate provision shall have been made by law for the protection of the Holders of the Subordinated Notes.

SECTION 803. Authorized Officers. The Authorized Officers, the Deputy Treasurer, the Secretary, and any Assistant Secretary of the Authority are each hereby authorized to deliver and execute in the name and on behalf of the Authority any certificate, opinion, record, approval, agreement, amendment to an agreement, including any documents required by or authorized pursuant to this Subordinated Notes Resolution or which they may deem necessary or advisable in order to consummate the issuance, sale, delivery or transfer of the Subordinated Notes and otherwise to effectuate the purposes of this Subordinated Notes Resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

SECTION 804. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions or portions thereof contained herein shall be held by a court of competent jurisdiction contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions hereof or of the Subordinated Notes issued hereunder.

SECTION 805. Payment and Performance on Business Days. Whenever under the terms of this Subordinated Notes Resolution or the Subordinated Notes, the performance date of any provision hereof or thereof, including the payment of principal of or interest on the Subordinated Notes shall occur on a day other than a Business Day, then the performance thereof, including the payment of principal of and interest on the Subordinated Notes, need not be made on such day but may be performed or paid, as the case may be, on the next succeeding Business Day with the same force and effect as if made on the originally scheduled date of performance or payment, and, with respect to any payment, without additional interest accruing after the originally scheduled date of payment.

SECTION 806. Effective Date. This Subordinated Notes Resolution shall be in full force and effect immediately upon its adoption.

EXHIBIT A TO SUBORDINATED NOTES RESOLUTION
(FORM OF SUBORDINATED NOTES)

POWER AUTHORITY OF THE STATE OF NEW YORK

SUBORDINATED NOTES, SERIES 2012

ISSUE DATE: _____ No. _____ PRINCIPAL AMOUNT: _____

FOR VALUE RECEIVED THE AUTHORITY PROMISES TO PAY

ON _____ (THE "MATURITY DATE")

TO THE ORDER OF

THE SUM OF _____ THE PRINCIPAL AMOUNT PLUS INTEREST DETERMINED
IN ACCORDANCE WITH THE SUBORDINATED NOTES
RESOLUTION (THE "INTEREST")

PAYABLE AT

Power Authority of the State of New York ("Authority") acknowledges itself indebted to and for the value received, hereby promises to pay on the MATURITY DATE to the order of _____ or registered assigns, the PRINCIPAL AMOUNT plus INTEREST by wire transfer of immediately available funds on the date payments are due.

This Subordinated Note is one of a duly authorized issue of Subordinated Notes of the Authority, issued under and pursuant to the Power Authority Act, 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 ("Act"), and under and pursuant to a resolution adopted by the Authority on November 9, 2012 entitled "Resolution Authorizing Subordinated Notes, Series 2012 (Federally Taxable)", as the same may be amended and supplemented from time to time (the "Subordinated Notes Resolution"), and is entitled to the benefits and subject to the terms and conditions of the Subordinated Notes Resolution. A copy of the Subordinated Notes Resolution is on file at the office of the Authority located at 123 Main Street, White Plains, New York. The principal amount of Subordinated Notes issued under the Subordinated Notes Resolution outstanding at any one time may not exceed \$[insert authorized amount].

Except as otherwise defined herein, all capitalized words and terms used herein have the same meanings as in the Subordinated Notes Resolution.

The Subordinated Notes are Subordinated Indebtedness within the meaning of the General Resolution Authorizing Revenue Obligations adopted by the Authority on February 24, 1998, as heretofore and hereafter amended and supplemented in accordance with the terms thereof (the "General Resolution") and shall be payable from the Trust Estate; provided that such payments shall be subject and subordinated to the payments to be made with respect to the Obligations and Parity Debt, as provided in Sections 503 and 604 of the General Resolution. The Trust Estate is pledged for the payment of the Subordinated Notes, provided that such pledge is junior and inferior to the pledge of the Trust Estate created in the General Resolution for the payment of the Obligations and Parity Debt.

This Subordinated Note is transferable, as provided in the Subordinated Notes Resolution, only upon the books of the Authority, kept for that purpose at the office of The Bank of New York Mellon, as Paying Agent, by the registered owner hereof in person, or by his or her duly authorized attorney, upon surrender of this Subordinated Note together with a written instrument of transfer satisfactory to such Paying Agent, duly executed by the registered owner or his or her duly authorized attorney, and thereupon a new registered Subordinated Note in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Subordinated Notes Resolution, upon payment of the charges therein prescribed. The Authority and such Paying Agent may deem and treat the person in whose name this Subordinated Note is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal and interest due hereon and for all other purposes.

Pursuant to Section 1011 of the Act, the Authority, as agent for the State of New York, does hereby pledge to and agree with the holder of this Subordinated Note that the State of New York will not limit or alter the rights vested in the Authority by the Act, until this Subordinated Note and each of the other Subordinated Notes of like tenor issued under the Subordinated Notes Resolution, together with the interest hereon and thereon, have been fully met and discharged or adequate provision shall have been made by law for the protection of the holders of all such Subordinated Notes.

Pursuant to the Act, the Authority has no power to pledge the credit of the State of New York, nor shall any of its obligations, including this Subordinated Note, be deemed to be obligations of the State of New York.

Neither the Trustees of the Authority nor any other officer or employee of the Authority shall be subject to any personal liability or accountability by reason of the issuance hereof.

This Subordinated Note shall not be entitled to any security, right or benefit pursuant to the Resolution or be valid or obligatory for any purposes unless the Certificate of

Authentication hereon has been duly executed by The Bank of New York Mellon, the Paying Agent.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required by the Constitution and statutes of the State and the Subordinated Notes Resolution to exist, to have happened and to have been performed precedent to and in the issuance of this Subordinated Note, exist, have happened and have been performed in due time, form and manner as required by law and that the issuance of the Subordinated Notes, together with all other indebtedness of the Authority, is within every debt and other limit prescribed by law.

IN WITNESS WHEREOF, the POWER AUTHORITY OF THE STATE OF NEW YORK has caused this Subordinated Note to be executed in its name by the manual or facsimile signature of its Chairman, Vice Chairman, President and Chief Executive Officer, Executive Vice President and General Counsel, or Executive Vice President and Chief Financial Officer, and its corporate seal (or a facsimile thereof) to be affixed, imprinted, engraved or otherwise reproduced hereon, all as of the ISSUE DATE.

POWER AUTHORITY OF THE
STATE OF NEW YORK

By _____
Authorized Officer

[FACSIMILE SEAL]

NOT VALID UNLESS AUTHENTICATED

Authenticated:

THE BANK OF NEW YORK MELLON

Paying Agent

By _____
Authorized Signature

POWER AUTHORITY

OF THE

STATE OF NEW YORK

30 South Pearl Street
10th Floor
Albany, New York 12207-3425

**AGREEMENT RELATING TO THE SALE OF
RECHARGE NEW YORK POWER AND ENERGY AT WHOLESALE**

Between

**POWER AUTHORITY OF THE STATE OF NEW YORK,
GUSC ENERGY INC.,**

and

GRIFFISS UTILITY SERVICES CORPORATION

POWER AUTHORITY OF THE STATE OF NEW YORK

**30 South Pearl Street, 10th Floor
Albany, New York 12207-3425**

**AGREEMENT FOR THE SALE OF
RECHARGE NEW YORK POWER AND ENERGY**

The Power Authority of the State of New York, created pursuant to Chapter 772 of the New York Laws of 1931 and existing under Title 1 of Article 5 of the New York Public Authorities Law (“PAL”), with offices and principal place of business at 30 South Pearl Street, 10th Floor, Albany, New York 12207-3425 (“Authority”), hereby enters into this Agreement Relating to the Sale of Recharge New York Power and Energy at Wholesale (“Agreement”) with GUSC Energy Inc., with offices located at 410 Phoenix Drive, Rome, NY 13441 (“Customer”), and Griffiss Utility Services Corporation, with offices located at 410 Phoenix Drive, Rome, NY 13441 (the “Utility”). The Authority, Customer and Utility are from time to time referred to in this Agreement individually as a “Party” or collectively as the “Parties,” and the Customer and the Utility are from time to time referred to collectively as the “GUSC Entities.”

RECITALS

WHEREAS, the Authority is authorized to make available to, contract with and sell to “eligible applicants” located in New York State “Recharge New York Power” (“RNY Power”) as provided for in PAL § 1005(13-a) and Economic Development Law (“EDL”) § 188-a;

WHEREAS, RNY Power is intended to play an important role in providing competitively priced power for sale to attract, retain and expand businesses and promote economic development in New York State;

WHEREAS, RNY Power consists of up to 910 megawatts (“MW”) of power and energy consisting of equal amounts of (i) hydropower generated by the Authority’s St. Lawrence Project and Niagara Project, and (ii) other power made available by the Authority from other sources;

WHEREAS, the Authority is authorized to make awards of RNY Power to “eligible applicants” as defined in EDL § 188-a(a)(4) based on, among other things, the criteria listed in the EDL § 188-a(c);

WHEREAS, the Griffiss Business & Technology Park located in Rome, New York (the “Facility” as more specifically defined in Article 1) hosts over 80 business enterprises focusing on technology, manufacturing, aviation, office, education and recreation and employing thousands of people;

WHEREAS, the Facility and the business enterprises located at the Facility make a significant contribution to the Rome and Mohawk Valley area economies;

WHEREAS, the Customer has various responsibilities in connection with management of the energy system at the Facility, including serving as the wholesale purchaser of a portion of the electric commodity service requirements for the Facility for resale to the Utility;

WHEREAS, the Customer has applied for an allocation of RNY Power for the purpose of providing such RNY Power to the business enterprises located at the Facility who are “Eligible End Users” within the meaning of this Agreement;

WHEREAS, the ongoing success of the Facility and the Rome and Mohawk Valley area economies can be supported by an allocation of RNY Power to the Customer for use by Eligible End Users;

WHEREAS, the Authority’s Board of Trustees (“Trustees”) has made an award of RNY Power to the Customer for use by the Customer and Eligible End Users (more specifically defined in Article 1 of this Agreement as the “Awarded Allocation”), and consisting of equal amounts of “RNY Hydropower” and “RNY Market Power” as specified in Schedule A of this Agreement;

WHEREAS, pursuant to PAL § 1005(13-a)(c), the Customer has elected to purchase the RNY Hydropower and the RNY Market Power (if any) specified in Schedule A of this Agreement (more specifically defined in Article 1 of this Agreement as the “Accepted Allocation”);

WHEREAS, the Trustees have authorized the Authority to, among other things, provide electric service to the Customer at the rates and on the terms and conditions provided for in this Agreement and Service Tariff No. RNY-2A to enable the Customer to receive the Accepted Allocation; and

WHEREAS, the Utility, a not-for-profit corporation, operates and maintains the utility system of the Facility, and has the ability to distribute the Accepted Allocation to Eligible End Users.

NOW THEREFORE, in consideration of the mutual covenants herein, the Authority and the Customer agree as follows:

ARTICLE 1
DEFINITIONS

“Agreement” means this Agreement as further described in the preamble, including all documents, schedules and other materials attached to and/or incorporated into this Agreement.

“Accepted Allocation” means that portion of the Awarded Allocation the Customer has elected to accept and purchase from the Authority as specified in Schedule A of this Agreement.

“Allocation Expiration Date” has the meaning set forth in Section 14.2.

“Authority” means the Power Authority of the State of New York, as further described in the preamble to this Agreement.

“Awarded Allocation” means the amount of RNY Power awarded to the Customer as specified in Schedule A of this Agreement which consists of equal amounts of RNY Hydropower and RNY Market Power.

“Billing Period” has the meaning set forth in Service Tariff No. RNY-2A.

“Contract Demand” has the meaning set forth in Service Tariff No. RNY-2A.

“Customer” means GUSC Energy Inc., as further described in the preamble to this Agreement.

“Effective Date” has the meaning set forth in Section 14.1.

“Electric Service” has the meaning set forth in Service Tariff No. RNY-2A.

“Electric Service and Billing Data” has the meaning set forth in Section 4.6.

“Eligible End Users” means an entity that is: (a) a tenant, landowner or other occupant at the Facility and receives retail electric utility service from the Utility; (b) not excluded from the definition of “eligible applicant” as provided for in EDL § 188-a(a)(4); and (c) listed on Schedule D of this Agreement or identified as a new Eligible End User in a Eligible End User Report as provided for in Section 3.6.

“Eligible End User Base Level Employees” has the meaning set forth in Schedule B, Section 1.A.1.

“Eligible End User Report” has the meaning set forth in Section 3.6.

“Energy Efficiency Audit” means a physical inspection of a building or buildings in a manner approved by the Authority that should include the following elements: (1) an assessment of a building’s energy use, cost and efficiency which produces an energy utilization index for the building or buildings (such as an Energy Use Intensity or Energy Performance Indicator); (2) a comparison of the building’s or buildings’ index to indices for similar buildings; (3) an analysis of low-cost/no-cost measures for improving energy efficiency; (4) a listing of potential capital improvements for improving energy consumption; and (5) an initial assessment of potential costs and savings from such measures and improvements.

“Estimated Load Factor” has the meaning set forth in Service Tariff No. RNY-2A.

“Facility” means the Griffiss Business & Technology Park located in Rome, New York as identified in Schedule A.

“Facility Meter” means has the meaning set forth in Service Tariff No. RNY-2A.

“FERC” means the Federal Energy Regulatory Commission (or any successor organization).

“FERC License” means the license issued by FERC to the Authority for the continued operation and maintenance of the Niagara Power Project, pursuant to Section 15 of the Federal Power Act, which license became effective September 1, 2007 after expiration of the Project’s original license issued in 1957, and/or the license issued by FERC to the Authority for the continued operation and maintenance of the St. Lawrence-FDR Power Project, pursuant to Section 15 of the Federal Power Act, which became effective November 1, 2003 after expiration of the Project’s original license issued in 1953.

“Firm Energy” has the meaning set forth in Service Tariff No. RNY-2A.

“Firm Power” has the meaning set forth in Service Tariff No. RNY-2A.

“Hydro Projects” is a collective reference to the Authority’s Niagara Power Project, FERC Project No. 2216, and St. Lawrence-FDR Power Project, FERC Project No. 2000.

“ICAP” means installed capacity, including reserves, as required by the NYISO Tariffs that qualifies for use in meeting the Facility’s capacity obligations.

“Information” has the meaning set forth in Section 4.10.

“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 Serving Entity” or “LSE” has the meaning established by the NYISO in NYISO Tariffs as may be modified from time to time.

“Local Electric Utility” means the local electric utility that provides electric service to the Facility. For purposes of this Agreement and Service Tariff No. RNY-2A, Local Electric Utility shall be understood to mean Niagara Mohawk Power Corporation d/b/a National Grid or any successor thereto authorized to provide electric transmission and delivery service to the Facility.

“Load Factor” has the meaning set forth in Service Tariff No. RNY-2A.

“Local Electric Utility Tariff” means the tariff(s) of the Local Electric Utility that is applicable to the delivery of the RNY Power and any other power and energy the Authority supplies under this Agreement.

“Metering Arrangement” has the meaning set forth in Section 4.7.

“Niagara Project” means the Authority’s Niagara Power Project, FERC Project No. 2216.

“NYISO” means the New York Independent System Operator, Inc. or any successor organization.

“NYISO Charges” has the meaning set forth in the Service Tariff No. RNY-2A.

“NYISO Tariffs” has the meaning set forth in Service Tariff No. RNY-2A.

“Other NYPA Power” means power and energy, if any, other than RNY Power, that NYPA allocates and sells to the Customer pursuant to statute and/or contract.

“Person” means any natural person, corporation, company, sole proprietorship, governmental entity, or other entity.

“Recharge New York Power” (or “RNY Power”) refers to Firm Power and Firm Energy the Authority is authorized to allocate and sell as provided for in PAL § 1005(13-a) and EDL § 188-a.

“Reporting Period” has the meaning set forth in Schedule B, Section 1.A.2.

“RNY Blended Power Customer” has the meaning set forth in Service Tariff No. RNY-2A.

“RNY Hydro Customer” has the meaning set forth in Service Tariff No. RNY-2A.

“RNY Hydropower” has the same meaning as “recharge New York hydropower” as defined in PAL § 1005(13-a)(b), and further refers to the hydropower and energy components of a RNY Power allocation made to a RNY Hydro Customer or a RNY Blended Power Customer.

“RNY Market Power” has the same meaning as “recharge New York market power” as defined in PAL § 1005(13-a)(b), and further refers to the market power and energy components of a RNY Power allocation made to a RNY Blended Power Customer.

“RNY Installed Capacity” (or “RNY ICAP”) means the UCAP equivalent of ICAP that NYPA will supply to the Customer as provided for in this Agreement and Service Tariff No. RNY-2A with respect to the Accepted Allocation.

“Rules” refers to the Authority’s Rules and Regulations set forth in 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.

“Schedule A” refers to the Schedule A entitled “Recharge New York Power Allocations” which is attached to and made part of this Agreement.

“Schedule B” refers to the Schedule B entitled “Recharge New York Power Commitments” which, along with its attachments, is attached to and made part of this Agreement.

“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 “Eligible End Users” (including any subsequent revisions or other modifications thereto in accordance with Section 3.6 of this Agreement) which is attached to and made part of this Agreement.

“Service Tariff No. RNY-2A” or “Service Tariff” means the Authority’s Service Tariff No. RNY-2A issued on or about November 1, 2012, as modified from time to time by the Authority, and which contains, among other things, the schedule establishing rates and other commercial terms for sale of Electric Service to Customer under this Agreement. Service Tariff No. RNY-2A shall be applicable to Electric Service provided to the Customer under this Agreement beginning November 1, 2012 and thereafter until such time as another Authority tariff applies.

“St. Lawrence Project” means the St. Lawrence-FDR Power Project, FERC Project No. 2000.

“Substitute Energy” means energy the Authority procures and sells to the Customer to replace RNY Hydropower that would otherwise have been sold to the Customer but for a curtailment made in accordance with Service Tariff No. RNY-2A.

“Supplemental Power” means default or supplemental power and associated energy, if any, that is required by the Customer and/or the Utility because the Accepted Allocation and any Other NYPA Power, if any, does not satisfy the full electric load of the Eligible End Users.

“Takedown” means the portion of the Accepted Allocation the Customer requests to be scheduled for a specific period as provided for in this Agreement.

“Takedown Schedule” means a schedule pursuant to which the Accepted Allocation will be made available to the Customer as set forth in Schedule C and as may be modified from time to time.

“Taxes” have the meaning set forth in Service Tariff No. RNY-2A.

“Total Eligible End User Base Employment Level” has the meaning set forth in Schedule B, Section 1.A.1 and is identified in Schedule B, Appendix 1.

“Total Eligible End User Capital Investment Commitment Level” has the meaning set forth in Schedule B, Section 1.B.1 and is identified in Schedule B, Appendix 2.

“UCAP” has the meaning set forth in Service Tariff No. RNY-2A.

“Utility” means Griffiss Utility Services Corporation, as further described in the preamble to this Agreement.

ARTICLE 2

GENERAL PROVISIONS

1. This Agreement shall govern: (a) the terms and conditions relating to allocation and sale of RNY Power comprising the Accepted Allocation by the Authority to the Customer; (b) the terms and conditions relating to the Customer’s sale of the RNY Power associated with the Accepted Allocation to the Utility; and (c) the terms and conditions relating to the Utility’s sale and distribution of RNY Power associated with such Accepted Allocation to Eligible End Users.

2. Unless agreed to by the Parties in writing: (a) the Customer shall not sell or otherwise transfer any portion of the Accepted Allocation to any Person other than the Utility in accordance with the provisions of this Agreement; (b) the Utility shall not sell or otherwise transfer any portion of the Accepted Allocation to any Person other than to Eligible End Users in accordance with the provisions of this Agreement; and (c) the GUSC Entities shall not “monetize” or sell any portion of the Accepted Allocation into any energy market.

3. Any sale, transfer, or use of RNY Power associated with the Accepted Allocation by the Customer or Utility that does not occur in accordance with the provisions of this Agreement is voidable by the Authority in its sole discretion, and shall be grounds for the Authority in its sole discretion to terminate the Accepted Allocation or any part thereof.

4. Sales of RNY Power comprising the Accepted Allocation by the Customer to the Utility, and sales of such RNY Power by the Utility to Eligible End Users, shall be subject to the provisions of this Agreement, Service Tariff No. RNY-2A, the Rules, the FERC License, PAL Article 5, Title 1 (to the extent such statute is not inconsistent with the FERC License), and all other applicable laws and regulations. Unless the Parties agree otherwise in writing, any contract between the Customer and the Utility providing for the sale, transfer, or use of such RNY Power, and any contract between the Utility and an Eligible End User providing for the sale, transfer, or use of such RNY Power, shall contain a provision providing that sales, transfer, and use of such RNY Power are subject to the provisions of this Agreement, the Service Tariff, the Rules, the FERC License, PAL Article 5, Title 1 (to the extent such statute is not inconsistent with the FERC License), and all other applicable laws and regulations.

5. This Agreement shall not govern or otherwise affect any power allocated and sold by the Authority to the Customer under any other agreement between the Parties except as otherwise provided for in this Agreement.

ARTICLE 3
RESALE OF THE ACCEPTED ALLOCATION

1. The Customer shall sell all of the RNY Power associated with the Accepted Allocation to the Utility for the purpose of enabling the Utility to sell all such RNY Power associated with the Accepted Allocation to Eligible End Users in accordance with this Agreement. The Customer shall sell all such RNY Power associated with the Accepted Allocation to the Utility at a price equal to the amount the Customer pays to the Authority for such RNY Power.

2. The Utility shall sell and distribute all the RNY Power associated with the Accepted Allocation it purchases from the Customer to Eligible End Users in accordance with this Agreement. The Utility shall sell all such RNY Power associated with the Accepted Allocation to the Eligible End Users at a price equal to the amount the Customer pays to the Authority for such RNY Power.

3. Within thirty (30) days of a request by the Authority, the Customer and/or the Utility shall provide the Authority with written notice of the price and/or rate it charges Eligible End Users for the RNY Power comprising the Accepted Allocation and the basis for the calculation of the price and/or rate.

4. The Customer represents and warrants that each of the entities listed on Schedule D is an Eligible End User as of the Effective Date.

5. No Person shall receive any RNY Power associated with the Accepted Allocation other than Eligible End Users (including the Customer and the Utility).

6. The Customer shall prepare and file with the Authority a written report for each Reporting Period that identifies: (a) new Eligible End Users not listed on the then-effective Schedule D that received RNY Power associated with the Accepted Allocation during the corresponding Reporting Period; and (b) former Eligible End Users listed on the then-effective Schedule D that ceased receiving RNY Power associated with the Accepted Allocation during the corresponding Reporting Period (the "Eligible End User Report"). The Eligible End User Report shall indicate the dates on which each entity identified as either new or no longer receiving RNY Power in the Eligible End User Report began or ceased receiving RNY Power associated with the Accepted Allocation. The Customer shall provide the Eligible End User Report or before the last day of August immediately following the preceding Reporting Period. For example, on or before August 31, 2013, the Customer shall provide the Authority an Eligible End User Report identifying changes to the list of Eligible End Users reflected in the Schedule D in effect during the July 1, 2012 through June 30, 2013 period. The Authority may from time to time in its discretion produce a revised Schedule D to reflect the information provided in Eligible End User Reports. Within thirty (30) business days of the Customer's receipt of a revised Schedule D, the Customer shall review such revised Schedule D and inform the Authority of any changes that should be made in order to make the revised Schedule D accurate. If the Authority's revised Schedule D is accurate, the Customer shall acknowledge receipt of and

accept the revised Schedule D which shall replace the then-effective Schedule D. Notwithstanding the foregoing, the Authority reserves the right to request that the Customer produce an Eligible End User Report for any portion of a Reporting Period and Customer shall produce any such requested Eligible End User Report within thirty (30) days notice of any request by the Authority.

7. Nothing in this Agreement shall be construed as an admission by the Authority that any Eligible End User would be eligible or otherwise be entitled to receive RNY Power if such Eligible End User applied to the Authority for RNY Power independently of the Customer.

ARTICLE 4 **ELECTRIC SERVICE**

1. The Authority will provide Electric Service to enable the Customer to receive the Accepted Allocation in accordance with this Agreement, Service Tariff No. RNY-2A and the Rules. The Customer shall not be entitled to receive Electric Service for any RNY Power unless such RNY Power is identified as an Accepted Allocation on Schedule A.

2. The Authority will provide, and the Customer shall pay for, Electric Service with respect to the Accepted Allocation specified on Schedule A. If Schedule C specifies a Takedown Schedule for an Accepted Allocation, the Authority will provide, and the Customer shall pay for, Electric Service with respect to the Accepted Allocation in accordance with such Takedown Schedule.

3. Except as otherwise provided for in this Agreement, Service Tariff No. RNY-2A, or the Rules, in each Billing Period the Authority will schedule and provide to the Customer Firm Energy associated with Firm Power on a load factor sharing basis as set forth in Service Tariff No. RNY-2A which will be an amount equal to the product of: (a) Contract Demand (or, if applicable and less than the Contract Demand, the Takedown) for the Billing Period; (b) the number of hours in the Billing Period; and (c) Estimated Load Factor for the Billing Period.

4. The Contract Demand may not exceed the amount of the Accepted Allocation.

5. As part of Electric Service to the Customer, the Authority will provide RNY ICAP in amounts necessary to meet the UCAP equivalent of the Facility's NYISO installed capacity requirements associated with the Accepted Allocation. The amount of RNY ICAP that will be provided will be determined by the Authority in accordance with the following methodology:

$$ICAP_{AA} = ICAP \times LSRICAP$$

Where:

$$ICAP_{AA} = \text{RNY ICAP (i.e., ICAP for the Customer's Accepted Allocation)}$$

ICAP = Facility's total ICAP requirement for the current capability year (May through April)

LSRICAP (or "Load Split Ratio for ICAP") = T divided by the greater of (i) NCP, or (ii) T

NCP (or "Non-Coincident Peak") = Customer's maximum metered demand value during the prior year's NYISO summer control area peak month

T = Customer's Contract Demand (or, if applicable and less than the Contract Demand, the Takedown) for the month

6. The provision of Electric Service by the Authority commencing November 1, 2012 and during the term of the Accepted Allocation shall be dependent upon the existence of a written agreement between the Authority and the Local Electric Utility pursuant to which the Local Electric Utility has agreed to provide the Authority with pertinent, timely and accurate information and data and other information that the Authority determines is necessary to provide Electric Service to the Customer and to render accurate bills to the Customer for such Electric Service. Such data and information includes but is not limited to demand and energy usage data recorded on the Facility Meter for each Billing Period that is necessary for the Authority to provide Electric Service and render accurate bills to the Customer, and ICAP information about the Facility that is necessary to enable the Authority to accurately provide RNY ICAP to the Customer (collectively, "Electric Service and Billing Data"). The Customer shall provide the Authority with Electric Service and Billing Data if the Authority in its sole discretion requests the Customer to do so.

7. The Facility must be metered in a manner satisfactory to the Authority, or another metering arrangement satisfactory to the Authority must be provided (collectively, “Metering Arrangement”). For purposes of this Agreement, an acceptable metering arrangement is one that, at a minimum, includes a Facility Meter that (i) is owned and maintained by the Local Electric Utility, (ii) is routinely read on-site or remotely by the Local Electric Utility each Billing Period, and (iii) produces revenue-quality demand (kW) interval data at the Facility’s receiving point without any adjustments. A Metering Arrangement that is not satisfactory to the Authority shall be grounds for the Authority in its sole discretion to withhold or suspend Electric Service to the Customer at any time. 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 conformed to the Authority’s requirements within thirty (30) days of a determination it is unsatisfactory, the Authority may suspend Electric Service on at least thirty (30) days’ prior written notice to the Customer. The Authority may, in its sole discretion, waive any of the requirements provided for in this Section 4.7 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 Electric Service and Billing Data.

8. If the Customer has elected to purchase RNY Market Power from the Authority, the Customer may request cancellation of such election. A request for cancellation must be made in writing in a form deemed satisfactory by the Authority and may only be made for the full amount of RNY Market Power purchased from the Authority. If the Authority in its sole discretion accepts the request, the Authority will effectuate such cancellation as soon as practicable, taking into consideration any commitments the Authority has made under contracts entered into with third parties for the purpose of supporting RNY Market Power supply and delivery to the Customer and other RNY Power program customers. The Authority shall have the right to reject a request for cancellation to the extent the Authority determines that such cancellation would unreasonably increase the costs chargeable to other RNY Power program customers or cause the Authority to incur unrecoverable costs. If the Customer’s election is cancelled pursuant to this provision, the Authority shall have no further obligation to sell RNY Market Power to the Customer for the remaining term of the corresponding Accepted Allocation.

9. By entering into this Agreement, the GUSC Entities consent to the exchange of information between the Authority and the Local Electric Utility pertaining to the GUSC Entities and Eligible End Users which the Authority and the Local Electric Utility determine is necessary to provide for the allocation, sale and delivery of RNY Power to the Customer, the proper and efficient implementation of the RNY Power program, billing related to RNY Power, and/or the performance of such parties’ obligations under any contracts or other arrangements between them relating to such matters. In addition, the GUSC Entities shall furnish the Authority with such forms and consents from or on behalf of Eligible End Users the Authority determines are necessary to effectuate such exchanges of information.

10. The GUSC Entities understand and acknowledge that the Authority may from time to time require the GUSC Entities to complete forms, provide documentation, execute

consents and provide other information (collectively, "Information") the Authority determines is necessary for the provision of Electric Service, the delivery of RNY Power, billing related to the RNY Power Program, the effective and proper administration of the RNY Power Program, and/or the performance of contracts or other arrangements between the Authority and the Local Electric Utility. The GUSC Entities' failure to provide such Information shall be grounds for the Authority in its sole discretion to withhold or suspend Electric Service to the Customer.

11. The Authority may modify or terminate Electric Service under this Agreement or modify the quantities of power and energy associated with any Accepted Allocation (i) if such modification or termination 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 (ii) as otherwise provided in this Agreement, Service Tariff No. RNY-2A, or in the Rules. Unless such notice is not practicable, the Authority will provide thirty (30) days prior written notice to the GUSC Entities before any such modification.

12. The Accepted Allocation may be modified by the Authority if the amount of power and energy available for sale as RNY Power from the Hydro Projects is modified as required to comply with any ruling, order or decision of any regulatory or judicial body having jurisdiction. Any such modification will be made on a *pro rata* basis to all of the Authority's RNY Power customers, as applicable, based on the terms of such ruling, order or decision. Unless such notice is not practicable, the Authority will provide thirty (30) days prior written notice to the GUSC Entities before any such modification.

ARTICLE 5

RATES AND CHARGES FOR ELECTRIC SERVICE

1. Unless otherwise specified in this Agreement or Service Tariff No. RNY-2A or agreed to by the Parties in writing, Electric Service shall be subject to the Billing Demand and Billing Energy rates and all other charges provided for in this Agreement, Service Tariff No. RNY-2A and the Rules. An alternative basis for billing may be used provided the Parties agree in writing.

2. No provision of this Agreement or Service Tariff No. RNY-2A shall be construed as a promise, representation or warranty of any nature whatsoever, express or implied, by the Authority that the provision of Electric Service will result in the Customer at any time (i) paying less for electricity than the amount it would have paid had the Customer not entered into this Agreement or procured electric service from another source, or (ii) receiving any other economic, reliability or other benefit except and to the extent expressly set forth in this Agreement or Service Tariff No. RNY-2A.

3. Notwithstanding any other provision of this Agreement, Service Tariff No. RNY-2A, or the Rules, the rates and other charges for Electric Service commencing on or after November 1, 2012 shall be subject to increase by the Authority at any time upon thirty (30) days prior written notice to the Customer if, after consideration by the Authority of its legal obligations, the marketability of the output or use of the Hydro Projects and the Authority's

competitive position with respect to other suppliers, the 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 the Authority's bond and note resolutions and covenants with the holders of its financial obligations. The Authority shall use its best efforts to inform the Customer at the earliest practicable date of its intent to increase the power and energy charges pursuant to this Section 5.3. Any rate increase to the Customer under this Section 5.3 shall be on a non-discriminatory basis as compared to other Authority customers after giving consideration to the factors set forth in the first sentence of this Section 5.3. With respect to any such increase, the Authority shall forward to the Customer with the notice of increase, an explanation of all reasons for the increase, and shall also identify the sources from which the Authority will obtain the total of increased revenues and the bases upon which the Authority will allocate the increased revenue requirements among its customers. Any such increase in rates shall remain in effect only so long as the Authority determines such increase is necessary to provide revenues for the purposes stated in this Section 5.3.

ARTICLE 6

BILLING; BILLING METHODOLOGY

1. The amount of energy and demand that will be used by the Authority for Customer billing purposes (*i.e.*, Billing Demand and Billing Energy) shall be determined in accordance with Service Tariff No. RNY-2A.

2. The Authority will bill the Customer for Electric Service on a regular basis and expects to render bills on or about the fifteenth (15th) business day of the month for charges due for the previous Billing Period and any other amounts due and owing. Bills will reflect the amounts due and owing in accordance with this Agreement, Service Tariff No. RNY-2A and the Rules, and are subject to adjustments and reconciliations as provided for in this Agreement, Service Tariff No. RNY-2A and the Rules.

3. Unless otherwise agreed to by the Authority and the Customer in writing, the Authority will render bills to the Customer electronically.

4. Bills are due and payable by the Customer within twenty (20) days of the date on which the Authority renders the bill. Unless otherwise agreed to by the Authority in writing, bills 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.

5. The Authority and the Customer may agree in writing to an alternative method for the rendering of bills and for the payment of bills, including but not limited to the use of an Authority-established customer self-service web portal.

6. 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.

7. Unless otherwise agreed to by the Authority and the Customer in writing, if the Customer fails to pay any bill when due, an interest charge of two percent (2%) of the amount unpaid shall be added thereto as liquidated damages, and thereafter, as further liquidated damages, an additional interest charge of one and one-half percent (1 1/2%) 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.

8. 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.

9. If at any time after commencement of Electric Service the Customer fails to make complete and timely payment of any two (2) bills for Electric Service, the Authority shall have the right to require the Customer to 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 shall be deemed security for the payment of unpaid bills and/or other claims of the Authority against the Customer upon termination of Electric Service. If the Customer fails or refuses to provide the deposit within thirty (30) days of a request for such deposit, the Authority may, in its sole discretion, suspend Electric Service to the Customer or terminate this Agreement.

10. The rights and remedies provided to the Authority in this Article 6 are in addition to any and all other rights and remedies available to Authority at law or in equity.

ARTICLE 7

TRANSMISSION AND DELIVERY

1. The GUSC Entities acknowledge and agree that: (a) the Local Electric Utility is responsible for delivering the Accepted Allocation to the Facility; and (b) the Authority has no responsibility for delivering the Accepted Allocation to the Customer.

2. The GUSC Entities shall be responsible for complying with all requirements of the Local Electric Utility that are necessary to enable the Customer and/or the Utility to receive delivery of the Accepted Allocation provided for under this Agreement, including requirements set forth in the Local Electric Utility Tariff and the Local Electric Utility's rules and procedures.

3. The Customer shall be solely responsible for paying the Local Electric Utility for all charges associated with delivery of the Accepted Allocation in accordance with the Local

Electric Utility Tariff and the Local Electric Utility's rules and procedures. Should the Authority incur any charges associated with such delivery, the Customer shall reimburse the Authority for all such charges.

4. The Customer shall be solely responsible for obtaining and paying for the procurement, transmission and delivery of any Supplemental Power required by the Facility and Eligible End Users, and all RNY Market Power the Customer has elected to purchase from a person other than the Authority. Should the Authority incur charges associated with the procurement, transmission, distribution, or delivery of such Supplemental Power or such RNY Market Power, the Customer shall reimburse the Authority for all such charges.

5. The Utility, or the GUSC Entities' designee with Authority's consent, shall serve as the LSE for the RNY Power and any other energy or power sold under this Agreement. The Authority shall not act as the LSE or perform any LSE functions with respect to any power and energy sold under this Agreement, including RNY Power. Should the Authority incur any costs relating to such matters or for any other services established in the NYISO Tariffs as provided for in Service Tariff No. RNY-2A, the Customer shall reimburse the Authority for all such charges.

ARTICLE 8

SUPPLEMENTAL CUSTOMER COMMITMENTS

1. The Customer acknowledges and agrees that the Accepted Allocation is being provided partly in consideration of the commitments set forth in Schedule B of this Agreement. As the recipient of the Awarded Allocation, the Customer shall be responsible for compliance with such commitments notwithstanding that the commitments may be based on the actions (*e.g.*, employment levels and capital investments) that will be undertaken by the Eligible End Users.

2. The Authority shall have the right to reduce the Accepted Allocation based on reductions to the Contract Demand made in accordance with Schedule B if the commitments set forth in Schedule B of this Agreement are not met.

3. Within a reasonable time after any reduction to the Accepted Allocation, the Authority will furnish the Customer with a revised Schedule A which reflects the reduced Accepted Allocation and, to the extent the Authority deems it appropriate, a revised Schedule B.

ARTICLE 9

HYDROPOWER CURTAILMENTS AND SUBSTITUTE ENERGY

1. If, as a result of reduced water flows caused by hydrologic conditions, there is insufficient energy from the Hydro Projects to supply the full power and energy requirements of the Authority's firm power customers served from the Hydro Projects, the Authority shall curtail the amount of firm power and energy to which the Customer is entitled as RNY Hydropower under this Agreement in accordance with Service Tariff No. RNY-2A. The provision of RNY Market Power, if any, sold to the Customer by the Authority is not subject to curtailment pursuant to this Article 9. The Authority shall provide Substitute Energy to the Customer and

the Customer shall pay for such Substitute Energy in accordance with Service Tariff No. RNY-2A.

2. The Authority may require the Customer and/or the Utility to enter into a separate agreement relating to the provision and sale of Substitute Energy. The provisions of this Agreement will remain in effect notwithstanding the existence of any such separate agreement.

ARTICLE 10 **CONFLICTS**

Service Tariff No. RNY-2A is hereby incorporated into this Agreement with the same force and effect as if set forth herein at length. In the event of any inconsistencies, conflicts, or differences between the provisions of Service Tariff No. RNY-2A and the Rules, the provisions of Service Tariff No. RNY-2A will govern. In the event of any inconsistencies, conflicts or differences between Service Tariff No. RNY-2A and any other provisions of this Agreement, the provisions of this Agreement will govern. The Authority will provide at least thirty (30) days prior written notice to the Customer of any proposed change in the Rules and Service Tariff No. RNY-2A, but in no event will the Authority provide less notice than that required to be provided to similarly affected Authority customers within New York State.

ARTICLE 11 **ADDITIONAL ALLOCATIONS**

1. Upon proper application by the Customer, the Authority may in its discretion award additional allocations of RNY Power 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 (i) incorporate any such additional allocations into Schedule A, or in its discretion will produce a supplemental schedule, to reflect any such additional allocations, and (ii) produce a modified Appendix A 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 A, within a reasonable time after commencement of Electric Service for any such additional allocation.

2. 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 additional allocations and consider the terms and conditions that should be applicable of any additional allocations.

ARTICLE 12 **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 Authority:

Manager, Business Power Allocations & Compliance
New York Power Authority
123 Main Street
White Plains, New York 10601
Telephone: (914) 681-6200
Facsimile: (914) 390-8156
Electronic mail: recharge.newyork@nypa.gov

To Customer:

Daniel Maneen
Authorized Representative
410 Phoenix Drive
Rome, New York 13441-4809
Telephone: (315) 838-4872 (ext 2253)
Facsimile: (315) 838-4877
Electronic mail: dan@gusc.net

To Utility:

Michael Davis
Vice President, Operations
410 Phoenix Drive
Rome, New York 13441-4809
Telephone: (315) 838-4872 (ext 2258)
Facsimile: Fax: (315) 838-4877
Electronic mail: mdavis@gusc.net

2. 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; (e) if sent by electronic mail to the appropriate address as set forth above, with written confirmation of receipt; or (f) if sent by electronic file or data transfer as set forth above, with written 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 13
SUCCESSORS AND ASSIGNS; TRANSFERS; RESALE

1. This Agreement shall be binding upon, shall inure to the benefit of, and may be performed by, the legal successors and assigns of the Parties hereto, provided that no assignment by any 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 Parties.

2. The sale or transfer of any portion of the Awarded Allocation or Accepted Allocation by the Customer or Utility to any other Person is prohibited unless (i) done in accordance with this Agreement or otherwise approved by the Authority, and (ii) all other legal requirements applicable to such a sale are complied with. Any sale or transfer that occurs that is not done in accordance with this Section 13.2 may in the Authority's sole discretion subject the Customer to revocation or modification of the Awarded Allocation, Accepted Allocation and/or this Agreement.

ARTICLE 14
EFFECTIVENESS; TERMINATION; EFFECT

1. This Agreement shall become effective and legally binding on the Parties: (i) upon receipt of approval of this Agreement by the Authority's Board of Trustees; and (ii) upon execution of this Agreement by the Authority, Customer and Utility (the "Effective Date").

2. Electric Service under this Agreement shall continue until the earliest of: (a) termination by the Customer with respect to all of the Accepted Allocation upon at least ninety (90) days prior written notice to the Authority; (b) termination by Authority in accordance with this Agreement, Service Tariff No. RNY-2A and/or the Rules; or (c) termination of the Accepted Allocation by its own terms as specified in Schedule A of this Agreement ("Allocation Expiration Date").

3. The Customer may exercise a partial termination of the Accepted Allocation upon at least ninety (90) days prior written notice to the Authority. Unless otherwise agreed to by the Parties in writing, the termination shall be effective commencing with the first Billing Period following the required notice. In the event of a partial termination, the Authority will furnish the Customer with a revised Schedule A which reflects the revised Accepted Allocation and a revised Schedule B to the extent the Authority deems it appropriate.

4. Unless otherwise provided in this Agreement or agreed to by the Authority in writing, a termination, reduction, or other modification in whole or in part of the Accepted Allocation shall apply equally to the RNY Hydropower component and RNY Market Power component (if any) of the Customer's Accepted Allocation.

5. Unless otherwise provided in this Agreement or agreed to by the Authority in writing, a termination, reduction, or other modification in whole or in part of an Accepted Allocation shall result in a corresponding termination, reduction, or modification of the

Customer's Awarded Allocation, and shall apply equally to the RNY Hydropower and RNY Market Power components of the Customer's Awarded Allocation.

ARTICLE 15 **MISCELLANEOUS**

1. Choice of Law

Any claim, suit, action or any other proceeding in law or equity arising under, or in any way relating to 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 rulings by the IJC and without regard to conflicts of law provisions.

2. Venue

Each Party consents 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.

3. Previous Agreements, Communications and Representations

This Agreement, including its schedules, appendices and attachments shall constitute the sole and complete agreement of the Parties hereto with respect to the sale of the Accepted Allocation and its other subject matter, and supersedes all previous communications between the Parties hereto, either oral or written, including price estimates, with reference to the sale of the Accepted Allocation. No modifications of this Agreement shall be binding upon the Parties hereto or any of them unless such modification is in writing and is signed by a duly authorized officer of each of them.

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 any 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 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 any 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.

6. Parties

No person other than the Parties, including any Eligible End User, shall have any rights, interest or claims hereunder or on account of this Agreement as a third-party beneficiary or otherwise.

ARTICLE 16
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 by email as a PDF file or other acceptable file format that appropriately captures the signature, 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:

CUSTOMER

BY: _____

Name and Title (**Print**): _____

Date: _____

AGREED:

UTILITY

BY: _____

Name and Title (**Print**): _____

Date: _____

AGREED:

POWER AUTHORITY OF THE STATE OF NEW YORK

BY: _____

Name and Title (**Print**): _____

Date: _____

SCHEDULE A

RECHARGE NEW YORK POWER ALLOCATIONS

APPLICANT: GUSC Energy Inc.

CONSOLIDATED FUNDING APP. No: 9668

CUSTOMER: Check the appropriate box below to make your election, and confirm your election by signing next to the election made. You may only check one box. The Authority will acknowledge your election and the applicable Accepted Allocation when executing the Agreement.

Option 1

Customer elects to purchase ALL of the RNY Market Power listed under Accepted Allocation from the Authority:

Customer Signature: _____

Option 1 Allocation Information (will apply if ALL of the RNY Market Power that is part of the Awarded Allocation is purchased from the Authority)

Awarded Allocation	Accepted Allocation	Contract Demand	Term of Accepted Allocation	Trustee Award Date	Facility
RNY Hydropower (kW): 3,365 RNY Market Power (kW):3,365 Total (kW): 6,730	RNY Hydropower (kW): 3,365 RNY Market Power (kW):3,365 Total (kW):6,730	6,730 (kW)*	7 years (from the date of commencement of Electric Service)	April 24, 2012	Griffiss Business & Technology Park, Rome, NY

*The value listed for the Contract Demand is subject to the Takedown Schedule, if any, attached to the Agreement as Schedule C.

OR

APPLICANT: GUSC Energy Inc.

CONSOLIDATED FUNDING APP. No: 9668

Option 2

Customer elects to purchase NONE of the RNY Market Power listed under Accepted Allocation from the Authority:

Customer Signature: _____

Option 2 Allocation Information (will apply if NONE of the RNY Market Power that is part of the Awarded Allocation is purchased from the Authority)

Awarded Allocation	Accepted Allocation	Contract Demand	Term of Accepted Allocation	Trustee Award Date	Facility
RNY Hydropower (kW): 3,365 RNY Market Power (kW):3,365 Total (kW): 6,730	RNY Hydropower (kW): 3,365 RNY Market Power (kW): 0 Total (kW):3,365	3,365 (kW)*	7 years (from the date of commencement of Electric Service)	April 24, 2012	Griffiss Business & Technology Park, Rome, NY

*The value listed for the Contract Demand is subject to the Takedown Schedule, if any, attached to the Agreement as Schedule C.

FOR AUTHORITY USE ONLY:

Authority Acknowledgement of Customer election: _____

Accepted Allocation: _____ kW

RNY Hydropower purchased from the Authority: _____ kW

RNY Market Power purchased from the Authority: _____ kW

SCHEDULE B

RECHARGE NEW YORK POWER COMMITMENTS

The provision of RNY Power to the Customer is in consideration of, among other things, the commitments set forth in this Schedule B.

ARTICLE 1 **CUSTOMER COMMITMENTS**

A. Employment

1. Employment Levels

The Awarded Allocation, Accepted Allocation and Contract Demand are contingent upon the Total Eligible End User Base Employment Level set forth in Appendix 1 to this Schedule B. Unless otherwise provided for in this Schedule B, such Total Eligible End User Base Employment Level shall be the total number of full-time positions held by: (1) the total number of individuals employed at the Facility by Eligible End Users listed on Schedule D (including any new Eligible End Users of which the Authority received notice in accordance with Section 3.6 of the Agreement, as well as the Customer and the Utility); and (2) individuals who are contractors or are employed by contractors of retained by such Eligible End Users and assigned to such Facility (collectively, “Eligible End User Base Level Employees”). The number of Eligible End User 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 at least 20 hours but not more than 35 hours per week shall be counted as one Eligible End User Base Level Employee.

The Total Eligible End User Base Employment Level may not be established or maintained by transfers of employees from previously held positions with Eligible End Users or their affiliates located within New York State, except that the Total Eligible End User Base Employment Level may be filled by employees of an Eligible End User laid off by such Eligible End User from other of its facilities for bona fide economic or management reasons.

The Authority may consider a request to change the Total Eligible End User 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. The Authority shall have the right to request and receive information supporting any such request and the sole discretion to make any such change.

2. Employment Records and Reports

A record shall be kept by the Customer for each period July 1 through June 30 (the “Reporting Period”), of the total number of Eligible End User Base Level Employees who are employed each month by each Eligible End User (including any new Eligible End Users of which the Authority received notice in accordance with Section 3.6 of the Agreement, as well as the Customer and the Utility) at or assigned to the Facility identified in Appendix 1 to this

SCHEDULE B

Schedule B, 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). The record shall be provided to the Authority in the form of a report which shall specify the number of individuals who are (i) employed by Eligible End Users (including any new Eligible End Users of which the Authority received notice in accordance with Section 3.6 of the Agreement, as well as the Customer and the Utility), (ii) contractors, and (iii) employed by contractors of such Eligible End Users. The report shall be certified to be correct by an officer of the Customer, 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 August immediately following the preceding Reporting Period.

B. Capital Investment

1. Capital Investment Levels

The Awarded Allocation, Accepted Allocation and Contract Demand are contingent upon completion of the scheduled capital investments as described in Appendix 2 to this Schedule B (hereinafter, the “Total Eligible End User Capital Investment Commitment Level”) made by Eligible End Users that are listed on Schedule D (including any new Eligible End Users of which the Authority received notice in accordance with Section 3.6 of the Agreement, as well as the Customer and the Utility), provided that the capital investments occur during the Capital Investment Period identified in Appendix 2 to this Schedule B.

2. Capital Investment Records

Unless otherwise specified in Appendix 2 to this Schedule B, the Customer shall obtain from Eligible End Users (including any new Eligible End Users of which the Authority received notice in accordance with Section 3.6 of the Agreement, as well as the Customer and the Utility) and maintain records of the capital investments made at the Facility by such Eligible End Users. The Customer shall provide copies and an explanation of such records and capital investments to the Authority on an annual basis for the Reporting Period on or before the last day of August immediately following the preceding Reporting Period.

C. Power Utilization Records

The Customer shall keep monthly records of the maximum demand utilized each month for the Facility and provide copies and an explanation of such records to the Authority on an annual basis for the Reporting Period on or before the last day of August immediately following the preceding Reporting Period.

D. Energy Efficiency Audits; Information Requests

The Customer shall undertake an Energy Efficiency Audit of such portions of the Facility occupied by Eligible End Users at the Customer’s expense at least once during the term of this Agreement but in any event not less than once every five years. The Customer shall provide the Authority with a copy of the results of the Energy Efficiency Audit or, at the Authority’s option,

SCHEDULE B

a report describing the results of the Energy Efficiency Audit, as well as documentation requested by the Authority to verify the implementation of any efficiency measures implemented at the Facility.

The Customer shall to cooperate to make such portions of the Facility occupied by Eligible End Users available at reasonable times and intervals for energy audits and related assessments that the Authority desires to perform, if any, at the Authority's own expense.

The Customer shall provide information requested by the Authority or its designee in surveys, questionnaires and other information requests relating to energy efficiency and energy-related projects, programs and services.

E. Compliance Verification

In addition to any reports or other information required by this Agreement, the Authority or its designee shall have the right to examine and audit on reasonable advance written notice to the Customer all non-confidential written and electronic records and data in order to determine the Customer's compliance with the Customer Commitments provided for under this Article 1.

ARTICLE 2 **REDUCTIONS IN CONTRACT DEMAND**

The Contract Demand shall be subject to reduction as provided for in this Schedule B if commitments are not met.

A. Employment Levels

If the annual monthly average number of employees employed by Eligible End Users listed on Schedule D (including any new Eligible End Users of which the Authority received notice in accordance with Section 3.6 of the Agreement, as well as the Customer and the Utility) is less than 90% of the Total Eligible End User Base Employment Level set forth in this Schedule B for the subject Reporting Period, the Authority may reduce the Contract Demand in accordance with Section 2.D of this Schedule B. 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 Reporting Period divided by the Total Eligible End User Base Employment Level. The Authority will round any such reduction to the nearest ten (10) kW. In the event of a reduction of the Contract Demand to zero, the Agreement shall automatically terminate.

B. Capital Investment Levels

The Authority may reduce the Contract Demand as provided in Appendix 2 to this Schedule B.

SCHEDULE B

C. Power Utilization Levels

If the average of the Customer's six (6) highest Billing Demands (as such term is defined in Service Tariff No. RNY-2A) is less than 90% of the Customer's Contract Demand in a Reporting Period, the Authority may reduce the Contract Demand in accordance with Section 2.D of this Schedule B. 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 during such Reporting Period divided by the Contract Demand. Any such reduction shall be rounded to the nearest ten (10) kW. In the event of a reduction of the Contract Demand to zero (0), this Agreement shall automatically terminate.

D. 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 this Schedule B, the Authority will provide the GUSC Entities with at least thirty (30) days prior written notice of such reduction, specifying the amount of the reduction of Contract Demand and the reason for the reduction, provided, however, that before making the reduction, the Authority may in its sole discretion consider the Customer's, the Utility's and the Eligible End Users' respective scheduled or unscheduled maintenance or Facility upgrading periods when such events temporarily reduce employment levels or electrical demand, as well as the business cycle.

SCHEDULE B

SCHEDULE B – APPENDIX 1

TOTAL ELIGIBLE END USER BASE EMPLOYMENT LEVEL

In accordance with Article 1 of Schedule B, the Customer agrees to a Total Eligible End User Base Employment Level at the Facility indicated below on or before the date(s) specified:

Total Eligible End User Base Employment Level	Facility	Date(s)	Miscellaneous/Notes
5,040	Griffiss Business & Technology Park, Rome, NY	Effective Date	

CONSOLIDATED FUNDING APP. No: 9668

SCHEDULE B

SCHEDULE B – APPENDIX 2

CAPITAL INVESTMENT COMMITMENTS

In accordance with Article 1 of this Schedule B, the Customer agrees to the following Total Eligible End User Capital Investment Commitment Level at the Facility between (i) the date of the Customer’s application for RNY Power, and (ii) the end of the Capital Investment Period indicated:

Total Eligible End User Capital Investment Commitment Level: \$20,000,000.00.

Capital Investment Period: 5 years from the commencement of Electric Service under the Agreement.

If the amount of the Eligible End Users’ (including any new Eligible End Users of which the Authority received notice in accordance with Section 3.6 of the Agreement, as well as the Customer and the Utility) actual capital investment in the Facility as of the end of the Capital Investment Period is less than 90% of the Total Eligible End User Capital Investment Commitment Level, the Contract Demand may be reduced by the Authority subject to Section 2.D of Schedule B. 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 actual capital investment made by the Eligible End Users (including any new Eligible End Users of which the Authority received notice in accordance with Section 3.6 of the Agreement, as well as the Customer and the Utility) divided by the Eligible End User Capital Investment Commitment Level. 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.

CONSOLIDATED FUNDING APP. No: 9668

SCHEDULE C

TAKEDOWN SCHEDULE

SCHEDULE D

LIST OF ELIGIBLE END USERS (As of the Effective Date)

Griffiss Business & Technology Park – Eligible End Users	Date RNY Power Receipt Commenced	Date RNY Power Receipt Terminated
AEMCO Technical Services	11/1/2012	N/A
AFRL/ISOC	11/1/2012	N/A
Alion Science and Technology Corporation	11/1/2012	N/A
AmeriCu Credit Union	11/1/2012	N/A
Assured Information Security, Inc.	11/1/2012	N/A
BAE Systems, Inc.	11/1/2012	N/A
Birnie Bus Services, Inc.	11/1/2012	N/A
Booz Allen Hamilton Inc.	11/1/2012	N/A
Cathedral Corporation, Inc.	11/1/2012	N/A
Defense Finance Accounting Service (DFAS - Rome)	11/1/2012	N/A
Department of Veterans Affairs	11/1/2012	N/A
Deployed Resources Inc.	11/1/2012	N/A
Eastern Air Defense Sector	11/1/2012	N/A
EGC Properties, LLC	11/1/2012	N/A
Exelis, Inc.	11/1/2012	N/A
Family Dollar Services, Inc.	11/1/2012	N/A
FPM Remediations	11/1/2012	N/A
Griffiss EC, LLC	11/1/2012	N/A
Griffiss Local Development Corp	11/1/2012	N/A
Griffiss Utility Services Corporation	11/1/2012	N/A
M.A. Polce Consulting, Inc.	11/1/2012	N/A
Mascoma Corporation	11/1/2012	N/A
MGS Manufacturing, Inc.	11/1/2012	N/A
Midair USA, Inc.	11/1/2012	N/A
Mohawk Glen Associates, LLC	11/1/2012	N/A
Mohawk Valley Community Action Agency	11/1/2012	N/A
New York State Technology Enterprises Corp.	11/1/2012	N/A
Nunn's Hospital Supplies, Inc.	11/1/2012	N/A
Oneida County Div of Aviation	11/1/2012	N/A
Premier Aviation Overhaul Center LTD	11/1/2012	N/A

SCHEDULE D

Research Associates of Syracuse	11/1/2012	N/A
Roberts Office Interiors, Inc.	11/1/2012	N/A
Sovena USA, Inc.	11/1/2012	N/A
SRC, Inc.	11/1/2012	N/A
Tektronix, Inc. (formerly GEIS)	11/1/2012	N/A
Upstate Cerebral Palsy	11/1/2012	N/A
UTC Aerospace Systems (formerly Goodrich Corporation)	11/1/2012	N/A

CONSOLIDATED FUNDING APP. No: 9668



POWER AUTHORITY OF THE STATE OF NEW YORK

30 SOUTH PEARL STREET

ALBANY, NY 12207

Wholesale Schedule of Rates Relating to Sale of Recharge New
York Power

Service Tariff No. RNY-2A

(Griffiss Business and Technology Park)

Date of Issue: November 1, 2012

Date Effective: November 1, 2012

Issued by James F. Pasquale, Senior Vice President
Power Authority of the State of New York
30 South Pearl Street, Albany, NY 12207

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Wholesale Schedule of Rates Relating to Sale of Recharge New York Power

I. Applicability

To the wholesale sale of Recharge New York Power to the Customer for firm Electric Service.

II. Definitions and Abbreviations

Accepted Allocation: This term has the meaning provided for in the Agreement.

Adjusted Energy Usage: This term has the meaning provided for in Section IV.D.3 of this Service Tariff.

Agreement: An executed agreement between the Authority, Customer and Utility setting forth the terms and conditions applicable to the (i) allocation and sale of RNY Power to the Customer, and (ii) resale of RNY Power to Eligible End Users, including specifically the agreement entitled "Agreement Relating to the Sale of Recharge New York Power and Energy at Wholesale Between Power Authority of the State Of New York, GUSC Energy Inc., and Griffiss Utility Services Corporation."

Authority: The Power Authority of the State of New York (also known as the "New York Power Authority" and "NYPA") as further described in the Agreement.

Awarded Allocation: This term has the meaning provided for in the Agreement.

Billing Demand: This term has the meaning provided for in Section IV.D.1 of this Service Tariff.

Billing Energy: This term has the meaning provided for in Section IV.D.2 of this Service Tariff.

Billing Period: Any period of approximately thirty (30) days, generally ending with the last day of each calendar month.

Contract Demand: The amount of RNY Power, not to exceed the Customer's Accepted Allocation, allocated to the Customer which the Customer agrees to take and pay for in accordance with the Agreement and this Service Tariff.

Customer: GUSC Energy Inc., as further described in the Agreement.

Energy Charge Adjustment or **ECA:** This term has the meaning provided for in Section III.H of this Service Tariff.

EDL: New York Economic Development Law.

Electric Service: Firm Power and Firm Energy associated with the Accepted Allocation and sold to the Customer in accordance with the provisions of the Agreement, this Service Tariff and the Rules.

Eligible End User: This term has the meaning provided for in the Agreement.

Estimated Demand: This term has the meaning provided for in Section III.G of this Service Tariff.

Estimated Load Factor or ELF: The highest Load Factor for the Facility of the Load Factors for the three Billing Periods immediately preceding the relevant Billing Period, provided that if the Authority does not know the Load Factors for each such Billing Period, the Estimated Load Factor shall be the highest Load Factor of the Load Factors for the three months immediately preceding the relevant Billing Period for which the Authority has such Load Factor information.

Facility: The location specified in the Agreement that will receive or is receiving the Accepted Allocation.

Facility Meter: The Facility electric meter that is used by the Local Electric Utility to measure demand and energy usage at the Facility.

Firm Energy: Firm Hydro Energy and Firm Market Energy (kWh) associated with Firm Power.

Firm Hydro Energy: Firm energy (kWh) associated with Firm Hydro Power.

Firm Hydro Power: Capacity (kW) that is intended to be always available from the Hydro Project subject to the curtailment provisions set forth in this Service Tariff and the Agreement. Firm Hydro Power does not include peaking power.

Firm Market Energy: Firm energy (kWh) associated with Firm Market Power supplied by Authority to the Customer.

Firm Market Power: Capacity (kW) that is intended to be always available from market sources and/or the Authority's non-Hydro Project-based resources as determined to be available for such use by the Authority.

Firm Power: Firm RNY Hydro Power and Firm RNY Market Power.

Hydro Project: The Authority's St. Lawrence-FDR Power Project, FERC Project No. 2000 and/or the Authority's Niagara Power Project, FERC Project No. 2216.

ICAP: This term has the meaning provided for in the Agreement.

kW: kilowatt(s)

kWh: kilowatt-hour(s)

Load Factor: A percentage, calculated by dividing the total metered energy usage for the Facility for a Billing Period (measured in kWh), by the product of (i) the Facility's maximum metered demand for such time period (measured in kW) and (ii) the number of hours in such time period.

Local Electric Utility: This term has the meaning provided for in the Agreement.

Load Serving Entity or **LSE**: This term has the meaning provided for in the Agreement.

Maximum Metered Demand: The highest interval metered demand during each Billing Period recorded on the Facility Meter.

Minimum Demand Charge: This term has the meaning provided for in Section III.C.1 of this Service Tariff.

Monthly Base Rate Components: This term has the meaning provided for in Section III.B of this Service Tariff.

New Charges: This term has the meaning provided for in Section III.E of this Service Tariff.

NYISO: New York Independent System Operator, Inc. or any successor organization.

NYISO Charges: This term has the meaning provided for in Section III.D of this Service Tariff.

NYISO Tariffs: The NYISO OATT, the NYISO Market Administration and Control Area Services Tariff, as such tariffs are amended and in effect from time to time.

OATT: NYISO Open Access Transmission Tariff.

Other Charges: This term has the meaning provided for in Section III.C of this Service Tariff.

PAL: New York Public Authorities Law.

PRAP: This term has the meaning provided for in Section III.J of this Service Tariff.

Preservation Power Rate: The rate the Authority charges for Preservation Power as provided for in PP Service Tariff No. 10.

PP Service Tariff No. 10: The Authority's service tariff denominated as "Schedule of Rates for Sale of Firm Power to Preservation Power Customers, Service Tariff No. 10," as amended from time to time by the Authority.

Rate Year or **RY**: The July Billing Period through the June Billing Period of the following year.

RNY: Recharge New York.

Recharge New York Power or **RNY Power**: Firm Power and Firm Energy the Authority is authorized to allocate and sell in accordance with PAL § 1005(13-a) and EDL § 188-a.

RNY Blended Customer: The Customer, if it has elected to accept and purchase RNY Hydropower and RNY Market Power from the Authority. In such case, the Customer's Accepted Allocation shall be comprised of 50 percent RNY Hydropower and 50 percent RNY Market Power.

RNY Hydro Customer: The Customer, if it has elected to accept and purchase only RNY Hydropower from the Authority. In such case, the Customer's Accepted Allocation shall be equal to 50 percent of the Awarded Allocation and consist solely of RNY Hydropower.

RNY Hydropower: This term has the meaning provided for in the Agreement.

RNY ICAP: This term has the meaning provided for in the Agreement.

RNY Market Power: This term has the meaning provided for in the Agreement.

Rules: This term has the meaning provided for in the Agreement.

Service Tariff: This service tariff, denominated as "Wholesale Schedule of Rates Relating to Sale of Recharge New York Power, Service Tariff No. RNY-2A (Griffiss Business and Technology Park)" as amended from time to time by the Authority.

Substitute Energy: Energy the Authority procures and sells to the Customer to replace RNY Hydropower that would otherwise have been sold to the Customer but for a curtailment made in accordance with the Agreement and this Service Tariff.

Takedown: The portion of the Accepted Allocation the Customer requests to be scheduled for a specific period as provided for in the Agreement.

Taxes: This term has the meaning provided for in Section III.C.2 of this Service Tariff.

UCAP: Unforced Capacity as defined in the NYISO Market Administration and Control Area Services Tariff.

Utility: Griffiss Utility Services Corporation, as further described in the Agreement.

Zone: The geographical region within New York State in which the Facility is located (sometimes referred to as "load zone" or "energy region"), as designated by the NYISO and identified by letter that is used to facilitate energy transactions and administration of the State's power grid.

Additional terms may be defined in the text of this Service Tariff.

Unless otherwise indicated, all other capitalized terms and abbreviations used but not defined in this Service Tariff shall have the meaning as set forth in the Agreement. If not defined herein or in the Agreement, any such capitalized terms and abbreviations shall have the meaning ascribed to them in the NYISO Tariffs, if any, unless the context requires otherwise.

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Power Authority of the State of New York
30 South Pearl Street, Albany, NY 12207

III. Monthly Base Rates and Related Matters

A. Monthly Base Rates

Subject to the Agreement and the other provisions of this Service Tariff, the monthly base rates that the Authority will charge to the Customer for Rate Year beginning July 1, 2012 are as follows:

RNY Hydro Customer		
Zone	Billing Demand (\$/kW)	Billing Energy (\$/kWh)
E	7.32	0.01252

RNY Blended Customer		
Zone	Billing Demand (\$/kW)	Billing Energy (\$/kWh)
E	3.66	0.02584

B. Monthly Base Rates and Base Rate Components

The monthly base rates for a RNY Hydro Customer as referenced in Section III.A above consist of the Preservation Power Rate (*i.e.*, Billing Demand and Billing Energy components). The Preservation Power Rate is established in accordance with Section III.A of the PP Service Tariff No.10. With respect to a RNY Hydro Customer, the Preservation Power Rate currently is inclusive of costs associated with RNY ICAP that the Authority will provide in accordance with this Service Tariff and the Agreement.

The monthly base rates for a RNY Blended Customer as referenced in Section III.A above consist of the following components which are further described below: (1) Preservation Power Price Component; (2) Capacity Component, and (3) Market Energy Component (collectively, the "Monthly Base Rate Components").

The following is a description of the Monthly Base Rate Components:

Preservation Power Price Component

This component consists of the rate the Authority charges for Preservation Power as established in accordance with Section III.A of the Authority's PP Service Tariff No. 10.

Capacity Component

This component consists of the Authority's estimated costs to meet the NYISO's capacity requirements with respect to the Accepted Allocation. This is currently expressed by the NYISO as the UCAP equivalent of the applicable Installed Capacity or "ICAP" obligation. The ICAP obligation is inclusive of any adjustments for reserves needed to meet the installed reserve margin as required by the NYISO.

For a RNY Hydro Customer load, capacity will be secured through the Hydro Project.

For a RNY Blended Customer load, capacity will be secured through a combination of sources consisting of the Hydro Project, bilateral contracts, NYISO auctions, or any other means as determined to be most appropriate by the Authority in its sole discretion.

Market Energy Component

This component, applicable to monthly base rates for an RNY Blended Customer, reflects the Authority's forecast of prices for market purchases to be made by Authority on behalf of the Customer based on current and anticipated market conditions. The Authority intends to procure RNY Market Power using short and long-term purchases, including purchases from the NYISO Day-Ahead Market and/or Real-Time Market (each term as provided for in the NYISO Tariffs), and through requests for proposals to the extent the Authority deems them appropriate. Financial hedging instruments may be used for the purposes of mitigating the risk in price movements. The Authority will include the costs of any financial products used to hedge these purchases. Purchases of RNY Market Power will be made in whichever portfolio combination the Authority deems to be appropriate in its sole discretion.

C. Other Charges

The monthly zonal base rates do not reflect any of the charges discussed in this Section III.C (collectively, "Other Charges"). The Customer shall be responsible for payment of such Other Charges as a separate charge from the monthly zonal base rates to the extent they apply to such Customer.

1. Minimum Demand Charge

The Customer shall be subject to a monthly minimum billing demand charge calculated as follows: If in any given Billing Period the Customer's Maximum Metered Demand (as calculated and apportioned to the Accepted Allocation in accordance with Section IV.D.1 of this Service Tariff) is less than 75 percent of its Contract Demand, a minimum demand charge equal to 75 percent of the Customer's Contract Demand (or if the Takedown is less than the Contract Demand, 75 percent of the Takedown), multiplied by the applicable Billing Demand rate, as set forth in Section III.A of this Service Tariff, shall apply for that Billing Period. Such minimum monthly charge shall be in addition to all other charges provided for in this Service Tariff, including but not limited to Billing Energy and other charges as provided for in this Service Tariff.

2. Taxes

The Authority will charge and collect from the Customer all local, state and federal taxes, assessments or other charges mandated by local, state or federal agencies or authorities that are levied on the Authority or that the Authority is required to collect from the Customer ("Taxes") in connection with the transactions provided for in the Agreement if and to the extent such Taxes are not recovered by the Authority pursuant to another provision of this Service Tariff, except to the extent that Customer is exempt from any such Taxes and has provided evidence, reasonably acceptable to the Authority, to demonstrate such exemption.

3. Curtailments and Substitute Energy

Firm Hydro Power and Firm Hydro Energy are subject to curtailment as provided for in the Agreement and Section IV.B of this Service Tariff. The Authority shall provide Substitute Energy to the Customer, and the Customer shall pay the Authority for Substitute Energy, in accordance with the Agreement and Section IV.B of this Service Tariff.

4. Local Electric Utility Charges

The Customer shall reimburse the Authority for all charges, assessments, fees and other amounts, if any, the Local Electric Utility imposes on the Authority in any way related to the provision of data and other information the Authority requires from the Local Electric Utility in connection with providing Electric Service to the Customer. In the event that the Local Electric Utility seeks to impose any such charges, assessments, fees and other amounts on the Authority for the provision of data and other information required by the Authority in order to provide Electric Service to the Customer, the Authority shall provide prior notice thereof to the Customer, and the Customer and the Authority will discuss (i) the nature and amount of such charges, assessments, fees and other amounts, and (ii) whether there are alternative means for obtaining and providing such required data and information which are acceptable to the Parties, provided that no Party shall be required to agree to any alternative means for obtaining and providing such required data and information.

D. NYISO Charges

The Customer shall be responsible for payment of any and all charges, assessments, fees and other amounts in any way related to the sale, delivery and transmission of power and energy sold to the Customer under this Service Tariff and the Agreement that are imposed by the NYISO for services provided by the NYISO pursuant to NYISO Tariffs, NYISO manuals and NYISO procedures in any way related to the Electric Service sold to the Customer under the Agreement ("NYISO Charges"). Although the Authority is not serving as the LSE for any of the power or energy that is sold to the Customer under this Service Tariff and the Agreement, should the Authority for any reason incur any such NYISO Charges, the Customer shall reimburse the Authority for all such NYISO Charges.

E. New Charges

The Customer shall be responsible for payment of any and all new costs or charges incurred by the Authority in connection with its provision of Electric Service to the Customer, including but not limited to, charges and costs incurred for supplying RNY Hydro Power and/or RNY Market Power, and any NYISO Charges as may be defined and applied in any NYISO Tariffs, NYISO-related agreements and NYISO procedures from time to time (collectively, "New Charges"). The Authority, in its sole discretion, may include any such New Charges in the applicable monthly base rate or the Energy Charge Adjustment, or bill the Customer separately for such New Charges.

F. Delivery Charges

Unless otherwise agreed to by the Authority in writing, the Customer shall be solely responsible for paying the Local Electric Utility for all charges levied by the Local Electric Utility relating to the delivery or transmission of power and energy to the Facility. Should the Authority incur any such charges from the Local Electric Utility, the Customer shall reimburse the Authority for all such charges.

G. Estimated Demand

If the Authority, in its sole discretion, determines that it lacks reliable data on the Customer's actual demand 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 which includes a charge for estimated demand ("Estimated Demand").

For the purpose of calculating a Billing Demand charge for Estimated Demand, such Billing Demand charge will be calculated based on the Customer's Contract Demand (or, if applicable and less than the Contract Demand, the Takedown [kW]) amount for the Billing Period.

If data indicating the Customer's actual demand for any Billing Period in which a bill was rendered that included Estimated Demand is subsequently provided to the Authority, the Authority will make necessary adjustments to the corresponding bill in accordance with Section III.I of this Service Tariff and, as appropriate, render a revised bill (or provide a credit) to the Customer.

The provisions of Section IV.E of this Service Tariff shall apply to bills containing an Estimated Demand charge.

The Authority's discretion to render a bill containing an Estimated Demand charge is not intended to limit the Authority's rights under the Agreement or otherwise regarding Metering Arrangements.

H. Energy Charge Adjustment

As described above in Section III.B of this Service Tariff, one or more of the Monthly Base Rate Components may be based on estimates or forecasts made by the Authority. Charges to the Customer shall be subject to an Energy Charge Adjustment process ("ECA") administered by the Authority. Pursuant to the ECA, charges for Electric Service shall be subject to adjustment (*i.e.*, increase or decrease) when the Authority determines that actual costs vary from the estimates used by the Authority to formulate the Monthly Base Rate Components.

I. 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.

J. Periodic Rate Adjustment Process

Monthly base rates for a RNY Hydro Customer and RNY Blended Customer as set forth in Section III.A of this Service Tariff, including the Monthly Base Rate Components listed in Section III.B of this Service Tariff, shall be subject to adjustment in accordance with a Periodic Rate Adjustment Process ("PRAP") that will establish new monthly base rates for the Customer. It is anticipated that PRAP will occur annually and establish new rates that will be effective beginning on the first day of the next succeeding Rate Year, provided however, the Authority may conduct the PRAP more or less frequently to establish new rates with a different effective date as determined to be advisable by the Authority considering market conditions and other appropriate factors.

As provided for in Section III.B of this Service Tariff, the Preservation Power Price Component of the RNY Hydro Customer and RNY Blended Customer rates is based on the Preservation Power Rate as established in accordance with Section III.A of the PP Service Tariff No.10. The Preservation Power Rate has been established for the period through June 2014. Commencing with the Rate Year beginning July 2014, and for each rate year thereafter, the Preservation Power Rate is subject to an Annual Adjustment Factor as provided for in Sections V.A.1, V.A.2, V.A.4 and V.B of the PP Service Tariff No.10.

Unless the Authority determines such notice to be impracticable, the Authority will provide the Customer with at least thirty (30) days written notice of any adjustment of the rates made in accordance with the PRAP.

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Power Authority of the State of New York
30 South Pearl Street, Albany, NY 12207

IV. General Provisions

A. Character of Service

Alternating current; sixty cycles, three-phase.

B. Scheduling; Availability of Energy and Power

1. Subject to Section IV.B.2 of this Service Tariff, in each Billing Period the Authority shall, in accordance with the NYISO Tariffs, NYISO manuals and NYISO procedures, schedule and provide to the Customer Firm Energy associated with Firm Power in an amount equal to the product of: (i) Contract Demand (or, if applicable and less than the Contract Demand, the Takedown) for the Billing Period; (ii) the number of hours in the Billing Period; and (iii) Estimated Load Factor. Such Firm Energy shall be scheduled to the load bus established by the NYISO for the Facility (*i.e.*, PTID 305782 [GUSC_NM_MOHAWKVY] or any successor load bus thereto established by the NYISO).

Subject to Section IV.B.2 of this Service Tariff, with respect to each month in which Electric Service is provided to the Customer by the Authority, the Authority shall, in accordance with the NYISO Tariffs, NYISO manuals and NYISO procedures, ensure that it does not schedule to the Customer in any hour more energy than the lesser of Customer's load in such hour, or Customer's Contract Demand (or, if applicable and less than the Contract Demand, the Takedown).

With respect to each month in which Electric Service is provided to the Customer by the Authority, the Authority shall, in accordance with the NYISO Tariffs, NYISO manuals and NYISO procedures, schedule and provide RNY ICAP in an amount equal to the applicable value calculated pursuant to Section 4.5 of the Agreement.

The Customer and Authority shall reasonably cooperate and coordinate, as necessary, to effectuate the required scheduling and provision of Firm Energy and Firm Power as required by this Service Tariff and the Agreement. The Authority acknowledges and agrees that the Customer may, from time to time, utilize the services of a third party agent, authorized by the NYISO, to assist the Customer with respect to such scheduling activities. In the event that Customer appoints such a third party agent, the Authority shall reasonably cooperate and coordinate with such agent, and the Customer shall ensure that its agent reasonably cooperates and coordinates with the Authority, in the same manner as the Parties are required to cooperate in connection with such scheduling activities.

2. If, as a result of reduced water flows caused by hydrologic conditions, there is insufficient energy from the Hydro Project to supply the full power and/or energy requirements of the Authority's firm power customers served from the Hydro Project, curtailments in the amount of Firm Power and Firm Energy to which the Customer is entitled as RNY Hydropower under this Service Tariff and the Agreement will be applied on a pro rata basis to all firm power and firm energy customers served by the Hydro Project. Reductions as a percentage of the otherwise required firm power and firm energy sales will be the same for all firm power and firm energy customers served by the Hydro Project. The provision of RNY Market Power, if any, sold to the Customer by the Authority is not subject to curtailment.

3. The Authority will provide Substitute Energy to the Customer to replace the RNY Hydropower that would otherwise have been supplied under the Agreement but for the curtailment. For each kilowatt-hour of Substitute Energy supplied by the Authority, the Customer shall pay the Authority directly for: (a) the market cost of the Substitute Energy; and (b) all costs the Authority incurs in connection with the provision of Substitute Energy.
4. The Authority will give the Customer advance notice of forecasted Firm Power and Firm Energy curtailments which will advise the Customer of the forecasted shortfall of Firm Power and Firm Energy, the period to which the forecast applies (usually a Billing Period), and the Customer's anticipated share of the forecasted shortfall. After the Billing Period to which the notice applies, the Authority will determine, after the fact, the actual shortfall and make any appropriate adjustments to charges and billings to the Customer in accordance with the rates provided for in this Service Tariff.
5. The Authority is under no obligation to supply and will not supply to the Customer in later Billing Periods any curtailed RNY Hydropower.

C. Delivery of RNY Power

The Customer's Local Electric Utility will deliver RNY Power to the Facility. The Authority has no responsibility for delivering any RNY Power to the Facility.

For the purpose of this Service Tariff, Firm Power and Firm Energy will be deemed to be offered when the Authority is able to supply Firm Power and Firm Energy to the Customer's NYISO-designated load bus (*i.e.*, PTID 305782 [GUSC_NM_MOHAWKVY] or any successor load bus thereto established by the NYISO). If despite such offer, there is a failure of delivery caused by the Customer, the Utility, the NYISO, or the Local Electric Utility, such failure will not be subject to a billing adjustment pursuant to Section 454.6(d) of the Rules.

D. Billing and Billing Methodology

Unless otherwise specified in the Agreement, the following provisions will apply:

1. Billing Demand. The Billing Demand to be charged to the Customer each Billing Period will equal an amount calculated by apportioning a share of the Maximum Metered Demand for the Billing Period to the Accepted Allocation. The Authority will calculate and apportion Maximum Metered Demand for the Customer's Accepted Allocation for each Billing Period as follows:
 - A. If the Customer's Maximum Metered Demand for the Billing Period equals or is greater than its Contract Demand (or, if applicable and less than the Contract Demand, the Takedown) for such Billing Period, the Maximum Metered Demand that will be apportioned to the Accepted Allocation will equal the amount of the Customer's Contract Demand (or, if applicable and less than the Contract Demand, the Takedown) for such Billing Period.

- B. If the Customer's Maximum Metered Demand for the Billing Period is less than its Contract Demand (or, if applicable and less than the Contract Demand, the Takedown) for such Billing Period, the Maximum Metered Demand that will be apportioned to the Accepted Allocation will equal the amount of the Maximum Metered Demand for the Billing Period.

The Customer's Billing Demand each Billing Period will be subject to Section III.C.1 of this Service Tariff.

The Billing Demand for any Billing Period will not exceed the Contract Demand (or, if applicable and less than the Contract Demand, the Takedown).

2. **Billing Energy.** The Billing Energy to be charged to the Customer each Billing Period will equal the amount of energy scheduled for that Billing Period in accordance with Section IV.B.1 of this Service Tariff.
3. **Reconciliation of Adjusted Energy Usage and Billing Energy; Additional Charges.**

In any Billing Period in which the Customer's Adjusted Energy Usage is less than the amount of Firm Energy scheduled in accordance with this Service Tariff and the Agreement (hereinafter referred to as an "Under Consumption"), the Authority will bill the Customer and the Customer will pay an additional charge (*i.e.*, in addition to any other amounts due under this Service Tariff and the Agreement) in an amount equal to the amount of the Under Consumption (measured in kWh) multiplied by the positive difference, if any, between (i) the average of the applicable NYISO Day-Ahead Market Locational Based Marginal Price for the Zone for the Billing Period and (ii) the monthly base rate for Billing Energy applicable to the Customer under Section III.A of this Service Tariff.

For purposes of this provision, "Adjusted Energy Usage" means the product of (i) the Contract Demand (or, if applicable and less than the Contract Demand, the Takedown), (ii) the Load Factor for the Billing Period, and (iii) the number of hours in the Billing Period (*i.e.*, Adjusted Energy Usage (kWh) = Contract Demand [or, if applicable and less than the Contract Demand, the Takedown] (kW) \times Load Factor for the Billing Period (a percentage) \times hours in the Billing Period).

The Authority will perform reconciliations for each Billing Period in accordance with this Section after the Authority obtains actual metered demand and energy data recorded on the Facility Meter from the Local Electric Utility or as otherwise provided for in the Agreement.

E. Rendition and Payment of Bills

1. The Authority will bill the Customer for Electric Service on a regular basis and expects to render bills on or about the fifteenth (15th) business day of the month for charges due for the previous Billing Period and any other amounts due and owing. The Authority's bills are subject to adjustment as provided for in the Agreement, this Service Tariff, and the Rules. Unless otherwise agreed to by the Authority and the Customer in writing, the Authority shall render bills to the Customer electronically.

2. 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.
3. 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.
4. Unless otherwise agreed to by the Authority and the Customer in writing, in the event the Customer disputes any item of a bill rendered by Authority, the Customer shall pay such bill in the time provided for by this Agreement, and adjustments, if necessary, will be made thereafter.
5. 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 sole discretion to suspend Electric Service to the Customer or terminate this Agreement.

F. Conflicts

In the event of any inconsistencies, conflicts, or differences between the provisions of this Service Tariff and the Rules, the provisions of the Service Tariff will govern. In the event of any inconsistencies, conflicts or differences between the Service Tariff and any provisions of the Agreement, the provisions of the Agreement will govern.