

MINUTES OF THE ONE HUNDRED FORTY-NINTH MEETING OF
THE AUDIT AND FINANCE COMMITTEE
HELD ON APRIL 26, 2022

Pursuant to a notice and agenda dated April 20, 2022, a copy of which is annexed hereto, the one hundred forty-ninth (149th) meeting of the Audit and Finance Committee (the “Committee”) of the NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY (the “Authority”) was convened at 10:00 a.m. on Tuesday, April 26, 2022 at the Authority’s Albany Office at 17 Columbia Circle, Albany, New York and the NY Green Bank Office located at 1333 Broadway, Suite 300, New York, New York and The Gateway Center located at SUNY ESF, 1 Forestry Drive, Syracuse, New York. The three locations were connected by videoconference.

The following members of the Committee were present:

Jay Koh, *Committee Chair* attend from NYGB

Richard Kauffman, *Chair of the Authority* attend from Albany

Shere Abbott attended from SUNY ESF

Sadie McKeown attended via video conference.

Member Frances Resheske was unable to attend.

Also present were Doreen Harris, President and CEO; Janet Joseph, Senior Vice President for Strategy and Market Development; John Williams, Vice President for Policy and Regulatory Affairs; Peter J. Costello, General Counsel and Secretary to the Authority; Pam Poisson, Chief Financial Officer; Sara L. LeCain, Senior Counsel and Secretary to the Committee and various other staff of the Authority.

Jay Koh called the meeting to order and noted the presence of a quorum. The meeting notice and agenda were forwarded to the Committee on April 13, 2022 and to the Press on April 14, 2022 and a revised agenda was issued on April 21, 2022.

Mr. Koh indicated the first item on the agenda concerned the approval of the minutes of the one hundred forty-eighth (148th) meeting held on January 25, 2022.

Whereafter, upon a motion duly made and seconded, and by unanimous voice vote of the Committee the minutes of the one hundred forty-eighth (148th) meeting of the Committee held on January 25, 2022, were approved.

Mr. Koh indicated the next item on the agenda concerned a report from the Authority's auditors on the independent audit of the Authority's and NY Green Bank's financial statements and the Authority's OPEB Trust for fiscal year 2022-2023. KPMG, LLP's ("KPMG") Lead Audit Partner, Marty Dunbar reported this item. Mr. Dunbar provided an overview of the planned audit and stated that this year's audit would follow current best practices and be conducted in accordance with the Governmental Accounting Standards Board ("GASB").

In response to an inquiry from Chair Kauffman, Mr. Dunbar clarified that KPMG will review whether there was a risk to the Authority of management override. However, KPMG has seen nothing in the past in terms of the Authority or management that was particularly vulnerable.

In response to an inquiry from Chair Kauffman, Mr. Dunbar confirmed that management has noted how they intend to account for repeat transactions.

In response to an inquiry from Chair Kauffman, Mr. Dunbar advised that he would seek the input of a colleague and provide a follow-up at the completion of the audit on whether the Members need to consider any adjustments with respect to the significant increase in interest rates.

In response to an inquiry from Mr. Koh, Mr. Dunbar explained that the risk of management override is not unique to the Authority and has been reviewed in past audits conducted by KPMG.

In response to an inquiry from Mr. Koh, Mr. Dunbar indicated that there is no heightened interest or concern with regard to cybersecurity for Government entities. However, the audit will review whether any matters have occurred in the past year, management's response to those matters, and what policies and procedures are in place.

Mr. Koh indicated the next item on the agenda was the Annual Internal Audit Report and resolution approving the Internal Audit Plan for 2022-2023. The item was presented by Director of Internal Audit, Mary Peck.

Ms. Peck reported that internal audit completed the payroll processing audit and are preparing a report for review. In regard to the NY Green Bank Compliance program, Ms. Peck advised that field work was delayed due to the ongoing quality assurance review but has restarted and will be completed by June 2022. With respect to the Office of the State Controller Internal Control Certification, Ms. Peck reported that the Authority completed its annual review and advised that the final report was provided for the internal control officers review prior to the President's required certification. Ms. Peck reported that the external quality assurance review has also been completed and noted that we received the highest rating. Next, Ms. Peck outlined the Internal Audit Plan for Fiscal Year 2022-23 and reported that it includes working with management in completing both consulting activities and audit. Lastly, Ms. Peck made an annual statement of independence.

In response to an inquiry from Chair Kauffman, Ms. Peck clarified how "need" is "need" is determined.

Whereafter, upon motion duly made and seconded, and by voice vote of the Committee, the following resolution was adopted.

Resolution No.

RESOLVED, that the Audit and Finance Committee approves the Internal Audit Plan for Fiscal Year 2022-2023, as presented at this April 26, 2022 meeting, in the form submitted to the Committee.

Mr. Koh indicated the next item on the agenda was a resolution approving the financing of the Green Jobs-Green New York Program ("GJGNY") and asked Chief Financial Officer, Pam Poisson, to discuss this item. Ms. Poisson asked the Committee to approve the issuance of bonds within the next year in an amount not to exceed \$40 million to support the financing and re-financing of residential energy efficiency and clean energy loans issued through the GJGNY program. In addition, Ms. Poisson reported that the Bonds will require the approval of the Public Authorities Control Board, and certain aspects of the transaction will require approval by the Office of the State Comptroller and the New York State Department of Taxation and Finance, and advised that the issuance may occur as late as April 26, 2023.

In response to an inquiry from Mr. Koh, Ms. Poisson confirmed that this transaction is similar to ones that the Authority has done with green bonds in the past . Ms. Poisson indicated that she would follow-up with Mr. Koh regarding a secondary market, whether it has been active in creating GJGNY Bonds and how that has performed in a changing interest rate environment.

Chair Kauffman asked a question regarding the \$40 million maximum. Ms. Poisson responded clarifying the \$40 million maximum. Chair Kauffman also asked a question regarding the advance rate to which Ms. Poisson responded and the Committee was satisfied with the answer.

Whereafter, upon motion duly made and seconded, and by voice vote of the Committee, the following resolution was adopted.

Resolution No. _____

RESOLVED, that the Audit and Finance Committee recommends that the Board approve a resolution in substantially the same form as attached hereto as Exhibit A.

Resolution No. _____

WHEREAS, pursuant to special act of the Legislature of the State of New York (Title 9 of Article 8 of the Public Authorities Law of New York, as from time to time amended and supplemented, herein called the “Act”), the New York State Energy Research and Development Authority (the “Authority”) has been established as a body corporate and politic, constituting a public benefit corporation; and

WHEREAS, pursuant to the Act, the Authority is authorized to issue bonds and notes to provide sufficient moneys for achieving the Authority’s corporate purposes, including the establishment of reserves to secure the bonds and notes and the payment of interest on bonds and notes; and

WHEREAS, pursuant to the Act, the Authority is also empowered to extend credit and make loans from bond proceeds to any person for the construction, acquisition, installation of, or for the reimbursement to any person for costs in connection with, any special energy project, including, but not limited to, any land, works, system, building, or other improvement, and all real and personal properties of any nature or any interest in any of them which are suitable for or related to the furnishing, generation, production, transmission, or distribution of energy or energy resources; and

WHEREAS, pursuant to special act of the Legislature of the State of New York (Title 9-A of Article 8 of the Public Authorities Law of New York, as from time to time amended and supplemented, herein called the “Green Jobs – Green New York Program”), the Authority has been authorized to use innovative financing mechanisms to finance energy efficiency improvements and technologies eligible for net metering through energy cost savings; and

WHEREAS, the Authority will issue bonds in one or more series not later than April 26, 2023, in an aggregate principal amount not to exceed \$40,000,000 to be designated “Residential Renewable Technology and Energy Efficiency Financing Green Revenue Bonds, Series 2022A” (the “Bonds”) and with such additional or different designations as may be set forth in the Indenture (hereinafter defined) for the purpose of financing loans through the Green Jobs – Green New York Program for the installation of residential energy efficiency measures, photovoltaic (“PV”) systems, air source heat pumps (“ASHP”) or ground source heat pumps (“GSHP”), (collectively “Loans”); and

WHEREAS, the Bonds are to be issued pursuant to an Indenture of Trust (the “Indenture”), between the Authority and The Bank of New York Mellon, as trustee (the “Trustee”), pursuant to which the Authority will pledge principal and interest payments on, and prepayments of, Loans as security for the Bonds and

WHEREAS, the Authority has entered into an agreement with Slipstream Group Incorporated d/b/a Energy Finance Solutions, a not-for-profit corporation, to serve as a loan originator under the Green Jobs – Green New York Program; and

WHEREAS, the Authority has entered into an agreement with Concord Servicing Corporation who will act as the loan servicer and will be the custodian of the original promissory notes for the Loans issued under the Green Jobs – Green New York Program; and

WHEREAS, the proceeds of the Bonds will be used to reimburse the Green Jobs-Green New York Program revolving loan fund for Loans heretofore originated and outstanding and to provide funding for new Loans originated and to be originated thereafter; and

WHEREAS, Ramirez & Co., Inc., acting as underwriter (the "Underwriter"), pursuant to the terms of a Bond Purchase Agreement among the Authority and the Underwriter (the "Purchase Contract"), propose to purchase the Bonds from the Authority and offer the Bonds to the public pursuant to the terms of such Purchase Contract; and

WHEREAS, it is expected that the Bonds will be offered by the Underwriter pursuant to a Preliminary Official Statement, as may be approved by an Authorized

Representative (hereinafter referred to) of the Authority and an Official Statement to be approved by an Authorized Representative; and

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY AS FOLLOWS:

Section 1. The offering, issuance, sale, and delivery of the Bonds upon the terms and conditions and for the purposes described in this resolution are hereby authorized. The Bonds shall be issued in one or more series in an aggregate principal amount not to exceed \$40,000,000 and shall bear interest at rates determined by the Chair, the Vice Chair, the President and CEO, the Chief Financial Officer, the Vice Presidents, or the Secretary of the Authority (collectively, the “Authorized Representatives”). The Bonds shall bear interest at a weighted average fixed rate of interest not to exceed 7%. The Bonds shall mature no later than twenty years after the date of issuance. The Bonds shall be dated, have the final maturity, have the designation or designations, be subject to redemption, be payable as to principal, premium, if any, and interest, and have such other provisions all as set forth in the Indenture. The form of the Bonds and all other provisions with respect thereto shall be as set forth in the Indenture or determined in the manner set forth therein. No Bonds shall be issued pursuant to this resolution after April 26, 2023. Any bonds issued under this Resolution must have upon issuance a rating of A or higher, as assigned by a nationally recognized statistical rating organization.

Section 2. Subject to the limitations set forth in Section 1 hereof, the Authorized Representatives are each hereby authorized to determine on behalf of the Authority with respect to the Bonds: the aggregate principal amount, the interest rates the Bonds shall bear and the particular redemption and purchase provisions of the Bonds. Any such determination shall be conclusively evidenced by the execution and delivery by an Authorized Representative of an indenture or other document setting forth such determination.

Section 3. The Authorized Representatives are each hereby authorized to execute, acknowledge, and deliver the Indenture as such Authorized Representative shall approve. Execution of such documents by an Authorized Representative shall be conclusive evidence of any approval required by this Section. The Authorized Representatives are also authorized to secure a second party opinion that the Bonds meet the Green Bond Principles as set by International Capital Market Association and to execute any agreement required in order to secure such opinion. The Authorized Representatives are each further authorized to obtain bond insurance or other credit enhancement for the Bonds to the extent that such Authorized Representative determines that such credit enhancement would facilitate the sale of the bonds on a cost effective basis or lower the debt service on the Bonds and to enter into agreements with the providers of such credit enhancement.

Section 4. The Authority authorizes each Authorized Representative to enter into the Purchase Contract. The Authorized Representatives of the Authority are each hereby authorized to determine the purchase price of the Bonds and are further authorized to execute, acknowledge, and deliver the Purchase Contract as may be approved by any such Authorized Representative. The execution of a Purchase Contract by any Authorized Representative shall be conclusive evidence of any determination or approval required or authorized by this Section. The purchase price to the Underwriters of the Bonds shall not be less than 97% of the principal thereof. In no event shall the compensation paid to the Underwriter in connection with the initial offering of the Bonds exceed 1% of the principal amount thereof whether such compensation is paid directly by the Authority or in the form of discount to the Underwriters. As an alternative to the execution of the Purchase Contract, the Authorized Representatives are authorized to execute a private placement agreement with a third party purchaser, with Ramirez & Co., Inc. acting as placement agent, should such a method of sale for the Bonds be determined by the Authorized Representatives to be a superior method of selling the Bonds.

Section 5. The Authority authorizes the Authorized Representatives to approve the Preliminary Official Statement and the Authority approves the use in accordance with the applicable legal requirements of one or more Preliminary Official Statements and Official Statements in connection with the offering and sale of the Bonds by the Underwriter, as may be approved by an Authorized Representative. Any Authorized Representative of the Authority is hereby authorized and directed to execute the final Official Statements in the name and on behalf of the Authority, and thereupon cause such final Official Statements to be delivered to the Underwriters. Any such approval shall be conclusively evidenced by such Authorized Representative's execution and delivery thereof. The Authorized Representatives are hereby authorized to provide any appropriate disclosure as part of the Preliminary Official Statements and Official Statements, including but not limited to the use of the Authority's financial statements. The foregoing approvals shall not be deemed to constitute an acknowledgment by the Authority of any responsibility for information contained therein which has been furnished by the Underwriters, The Depository Trust Company, or any other party. In the event that the Authorized Representatives determine that a sale of the Bonds through a private placement is a superior method of sale, the Authorized Representatives are hereby authorized to use a placement memorandum to facilitate such a sale, in accordance with the disclosure requirements outlined in this section for preliminary official statements and official statements.

Section 6. Slipstream Group Incorporated d/b/a Energy Finance Solutions has been authorized to serve as loan originator for the pledged loans. Concord Servicing Corporation has been authorized to serve as loan servicer for the pledged loans and First Associates Loan Servicing, LLC is hereby authorized to serve as backup servicer. The Authorized Representative are hereby authorized to enter into any other agreements, documents, or amendments to existing agreements relating to the origination and servicing of the loans as necessary. The Authorized

Representatives are hereby authorized to approve the appointment of a successor loan originator, loan servicer and backup loan servicer for the pledged loans as necessary.

Section 7. The Authorized Representatives are each hereby authorized to execute, acknowledge, and deliver any other agreements, documents, or certificates, including certificates confirming on behalf of the Authority the accuracy and completeness of information relating to the Bonds, the Authority, the Loans and the Green Jobs – Green New York Program, and to do and cause to be done any such other acts and things and to make such other changes, omissions, insertions, revisions, or amendments to the documents referred to in Sections 1 through 6 of this resolution as they may determine necessary or proper for carrying out, giving effect to, and consummating the transactions contemplated by this resolution. Execution of such documents by an Authorized Representative shall be conclusive evidence of any approval required by this Section. Any Authorized Representative, the Assistant Treasurer, and the Acting Secretary of the Authority are each hereby authorized to affix the seal of the Authority on such documents and attest the same.

Section 8. The Bonds shall not be general obligations of the Authority, and shall not constitute an indebtedness of or a charge against the general credit of the Authority. The Bonds will not constitute a debt of the State of New York and the State of New York will not be liable thereon. No owner of the Bonds will have any right to demand payment of the principal and interest on the Bonds out of any funds to be raised by taxation. As shall be more particularly set forth in the Indenture and the Bonds, the liability of the Authority under the Bonds shall be enforceable only to the extent provided in the Indenture, and the Bonds shall be payable solely from the revenues and other funds pledged and available for the payment of the Bonds under the terms of the Indenture.

Mr. Koh indicated the next item on the agenda was a resolution to meet in executive session to discuss the Authority's Information Technology and Cyber Security internal controls.

Whereafter, upon motion duly made and seconded, and by voice vote of the Committee the following resolution was adopted.

Resolution No.

RESOLVED, that pursuant to Section 105 of the Public Officers Law, the Members of the Audit and Finance Committee of the New York State Energy Research and Development Authority shall convene in executive session on April 26, 2022 to discuss the Authority's Information Technology and Cyber Security internal controls.

The Committee entered into executive session.

The meeting was reconvened in open session. Mr. Koh confirmed that no formal action was taken during the executive session.

Lastly, Mr. Koh indicated the next item on the agenda was other business. There being no other business, the meeting was adjourned.

Respectfully Submitted,

Sara L. LeCain
Secretary to the Committee