# MINUTES OF THE ONE HUNDRED THIRTY-THIRD MEETING OF THE AUDIT AND FINANCE COMMITTEE HELD ON SEPTEMBER 19, 2017

Pursuant to a notice dated September 8, 2017, a copy of which is annexed hereto, the one hundred thirty-third (133rd) meeting of the Audit and Finance Committee ("Committee") of the NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY ("Authority") was convened at 11:00 a.m. on Tuesday, September 19, 2017, in the Authority's Albany Office at 17 Columbia Circle, Albany, New York, and by videoconference in the Authority's New York City Office located at 1359 Broadway, New York, New York.

The following members of the Committee were present:

Jay Koh, *Chair of the Committee* (by videoconference in NYC)
Sherburne Abbott
Richard Kauffman, *Chair of the Authority* (by videoconference in NYC)

Member Paciorek was unable to attend.

Also present were Janet Joseph, Vice President for Technology and Strategic Planning; Jeffrey J. Pitkin, Treasurer; Noah C. Shaw, Esq., General Counsel; Sara L. LeCain, Esq., Senior Counsel and Secretary to the Audit and Finance Committee; Alfredo Quintero, Brad Freidman, and Dashmir Keca, Ramirez & Co.; Arthur Kimball-Stanley, Esq. and Bruce Van Dusen, Esq., Hawkins Delafield & Wood; and various other staff from the Authority.

Mr. Koh called the meeting to order, and stated that the meeting notice and agenda were mailed to the members and press on September 8, 2017.

The first item on the agenda concerned the approval of the minutes of the one hundred thirty-second (132nd) meeting of the Committee held on June 26, 2017.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote of the Committee members, the minutes of the one hundred thirty-second (132nd) meeting of the Committee, held on June 26, 2017, were approved.

Mr. Koh indicated that the next item on the agenda concerned a resolution authorizing the issuance of bonds by the Authority to finance the Green Jobs-Green New York ("GJGNY") Program. Jeffrey J. Pitkin, the Authority's Treasurer explained that the Members are requested to adopt a resolution authorizing the issuance of Residential Solar Financing Revenue Bonds Series 2017A (the "Bonds"), in an aggregate principal amount not to exceed \$25,000,000. The Bonds will be issued to re-finance loans issued through the GJGNY Program to finance the installation of residential photovoltaic ("PV") systems. Proceeds from the Bonds will be used to partially replenish the GJGNY revolving loan fund used to initially fund loans.

Mr. Pitkin indicated that the Bonds will be issued as fixed-rate, taxable bonds at a weighted average interest rate not to exceed 7%. The final maturity bonds will be no greater than twenty years following the date of issuance of the Bonds and will likely be shortened prior to closing once the ratings methodology determines the final amount of bond principal relative to pledged loan collateral.

Mr. Pitkin stated that a pledge of Solar Loan repayments will secure the Bonds. Pledged Solar Loan repayments will be structured to provide excess revenues relative to scheduled principal and interest payments on the Bonds, and will use a "turbo" redemption provision whereby all Pledged Solar Loan repayments will be used to reduce outstanding principal of the bonds through bond redemptions.

Next, Mr. Pitkin indicated that the Bonds will be structured to meet "A" ratings category criteria by Kroll Bond Rating Agency, but in no event, shall be rated less than minimum investment grade ("BBB"). The Bonds will not be rated by another rating agency.

Mr. Pitkin explained that the Members and the Public Authorities Control Board, both of which must approve the issuance, generally prefer public authority bonds to have an "A" rating. In this case, staff and the underwriters believe the benefit to the Authority of proceeding even with a rating of "BBB" outweighs any increased cost. If this financing were not to proceed, the Authority would need to allocate more Regional Greenhouse Gas Initiative ("RGGI") funds to cover unfunded solar loan originations.

Mr. Pitkin stated that the Bonds will be underwritten by Ramirez & Co., Inc. ("Ramirez") and are anticipated to be certified as Green Bonds through the Climate Bond Initiative.

Mr. Pitkin indicated that in addition to the approval of the Public Authorities Control Board, 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.

Mr. Pitkin stated that representatives from the Authority's bond underwriter, Ramirez; bond counsel, Hawkins Delafield & Wood, LLP; and financial advisors, Omnicap were present.

In response to an inquiry from Mr. Kauffman, Mr. Pitkin stated that the Authority issued residential energy efficiency bonds in 2013 with a guarantee from the New York State Environmental Facilities Corporation ("EFC") State Revolving Fund ("SRF"). This allowed the bonds to achieve a "AAA" rating. The Authority has subsequently re-financed residential energy efficiency loans through a collaboration with EFC by participating in EFC's annual SRF bond issuance.

Mr. Pitkin explained that residential solar projects have not been able to meet the same eligibility criteria through EFC as residential energy efficiency projects. Therefore, in 2015, the Members approved a $50 million credit facility from Manufacturers and Traders Trust Company ("M&T"). Under that approval, the Authority effectively issued $50 million in private placement bonds to M&T to finance residential solar loans.

Mr. Pitkin indicated that this issuance is the next phase for continuing to refinance the solar loans. Rather than rely on a private placement market, the Authority will pursue a publicly issued publicly rated path.

In response to an inquiry from Mr. Kauffman, Mr. Pitkin confirmed that pursuing publicly issued, publicly rated bonds to refinance the solar loans will be less expensive than going directly to a bank.

In response to an inquiry from Mr. Koh, Mr. Pitkin explained that the Authority has not previously issued bonds at minimum investment grade.

In response to an inquiry from Mr. Koh, Mr. Pitkin stated that the result of a lower rating will be reduced bond proceeds and a higher interest rate cost. However, if the Authority does not complete the bond issuance, there could be a gap in the GJGNY loan fund.

In response to an inquiry from Mr. Kauffman, Mr. Pitkin indicated that M&T has reached their credit limit and is unable to offer the Authority additional financing.

In response to an inquiry from Mr. Koh, Mr. Pitkin stated that if the Members approve the issuance only if it were able to achieve an "A" rating, and an "A" rating were not possible, then further approvals would be sought at a future meeting. This would cause a delay in the ability to execute the transaction.

In response to an inquiry from Mr. Kauffman, Mr. Pitkin confirmed that obtaining additional approvals is a matter of Board governance.

In response to an inquiry from Mr. Kauffman, Mr. Friedman stated that this would be the first issuance of this type of bonds in the municipal bond market.

In response to an inquiry from Mr. Koh, Mr. Pitkin indicated that the interest rate would be capped at 7%.

In response to an inquiry from Mr. Kauffman, Mr. Pitkin explained that the bonds would have a 20-year maturity with maximum tenor prepayments, but with the turbo feature, the actual expected term of the bonds is likely to be less than 10 years. The investors would be buying a

"BBB" rated bond that has an expected weighted life; therefore, they would look to get a yield that would be commensurate.

In response to an inquiry from Mr. Kauffman, Mr. Pitkin explained that there are aspects of this issuance that look very much like a traditional asset-backed security ("ABS"), but the Authority is a municipal issuer. Traditional municipal bond buyers are often precluded from buying bonds that would only have an "A" rating or only have an investment grade rating. However, consumer ABS investors do not have the same restrictions. Since this issuance has aspects of both, if the bonds were only rated at an investment grade rating, Ramirez believes there would be sufficient investors for this size of a bond issuance with a single rating at an investment grade.

In response to an inquiry from Mr. Koh, Mr. Quintero indicated that the taxable bonds, if issued at today's rates, would be issued at a rate of 100 to 150 basis points over tax-exempt rates, which are currently in about the 4% range.

Mr. Koh reiterated that the Committee needed to consider the governance question of whether there has there been a reasonable analysis of what management is recommending.

In response to an inquiry from Mr. Koh, Mr. Pitkin explained that the alternative GJGNY Program has traditionally been funded from RGGI funds. Therefore, if the Authority did not proceed with this financing, the shortfall would require additional RGGI funds. However, this could further widen the gap between the Authority's RGGI commitments and projected revenues.

In response to an inquiry from Mr. Koh, Mr. Pitkin offered two options. First, the Committee could approve the issuance of the Bonds only if an "A" category rating is achieved. The second option is to approve the transaction, but with the condition that should the transaction not achieve an "A" rating, management will consult with the Chair of the Audit and Finance Committee as to next steps.

Mr. Koh agreed with the suggestions.

Mr. Kauffman concurred and added that this is not a question of the Committee's confidence in management's judgement, but a matter of good governance.

Mr. Pitkin stated that the key point for management and the Committee to consider is the Authority's ability to ultimately make principal and interest payments on the Bonds.

Mr. Shaw suggested adding language to the resolution to provide for the consultation only in the event that the Authoirty is unable to achieve an "A" rating.

In response to an inquiry from Mr. Pitkin, Mr. Koh indicated that the resolution should state "A" category to include "A-".

Mr. Shaw proposed to revise the resolution by adding the following sentence Section 1: *"In the event that the Bonds are rated less than "A-" the Authorized Representatives shall consult with the Chair of the Audit and Finance Committee in connection with the sale and pricing of the Bonds"*.

In response to an inquiry from Mr. Koh, Ms. Abbott concurred with the amended language. She indicated that the reasonable analysis criteria have been met, a level of risk has been identified, and a mitigation strategy has been adopted.

In response to an inquiry from Ms. Abbott, Mr. Pitkin stated that this would not establish a precedent with respect to the Authority's utility conduit issuances.

In response to an inquiry from Mr. Koh, Mr. Pitkin stated that the goal is to establish a framework that would allow an ongoing ability to refinance future loans in the same manner. Ms. Barton added that the hope is that the Authority would improve its rating over time based as the market gets more familiar with these types of offerings.

In response to an inquiry from Mr. Kauffman, Mr. Pitkin confirmed that there is no guarantee offered by the Authority or the State of New York.

In response to an inquiry from Mr. Kauffman, Mr. Pitkin explained that the key difference between this transaction and a traditional ABS transaction is that the Authority cannot offer further guarantees. However, the intention is to market the Bonds primarily to qualified institutional buyers, who are aware of the risks.

Mr. Kauffman stated that the documents should make clear that the Authority and the State of New York are not obligated. He cautioned that there is always an operational risk if the portfolio does not perform adequately.

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

Resolution No. 432

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.

There being no further business, upon motion duly made and seconded, and by unanimous voice vote, the meeting was adjourned.

Respectfully submitted,

Sara L. LeCain

Sara L. LeCain
Secretary to the Committee