MINUTES OF THE ONE HUNDRED FORTY SIXTH MEETING OF THE
AUDIT AND FINANCE COMMITTEE
HELD ON JUNE 22, 2021

Pursuant to a notice and agenda dated June 14, 2021, a copy of which is annexed hereto, the one hundred forty-sixth (146th) 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, June 22, 2021 by videoconference.

The following members of the Committee were present:

Jay Koh, *Committee Chair*
Richard Kauffman, *Chair of the Authority*
Sherburne Abbott

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; Jeffrey J. Pitkin, Treasurer; Peter J. Costello, General Counsel and Secretary to the Authority; Sara L. LeCain, Senior Counsel and Secretary to the Committee; Martin Dunbar, Lead Audit Partner at KPMG; Jeff Mabb, Senior Partner at KPMG; and various other staff of the Authority.

Mr. Koh called the meeting to order and noted the presence of a quorum. The meeting notice and agenda were forwarded to the Committee members and the press on June 14, 2021.

Mr. Koh indicated that the first item on the agenda concerned the approval of the minutes of the one hundred forty-fifth (145th) meeting of the Committee, held on April 27, 2021.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote of the Committee members, the minutes of the hundred forty-fifth (145th) meeting of the Committee, held on April 27, 2021 were approved.

Mr. Koh indicated that the next item on the agenda is the Annual Investment Report and Investment Guidelines. Jeffrey Pitkin presented this item.

Mr. Pitkin stated that with respect to the Annual Investment Report, the amount of the Authority's total investments increased about $253 million to about $925 million. The NY Green Bank ("NYGB") increase was primarily due to additional capital contributions received to meet liquidity requirements. The Clean Energy Fund ("CEF") increase was primarily due to funding transfers from Regional Greenhouse Gas Initiative ("RGGI") and Bill-As-You-Go collections for projected working capital needs exceeding actual expenses. Other increases were the result of timing of receipts versus the expenditure of funds principally for Energy Storage. The Multi Funding Source Cash Management variance is due to the timing of pooled investment money market funds which is used to optimize both yield and cash flow needs. The decrease in the Clean Energy Standard balances is primarily due to a timing of investments and a change in the method of billing Load Serving Entity's under the ZEC program, resulting in a reduction of approximately one month's collections.

Mr. Pitkin indicated that the report summarizes the composition of the investment portfolio as compared to the prior year by investment type and percentage of the total portfolio.

Mr. Pitkin noted that investment income decreased from $19.7 million to $1 million primarily due to significantly lower average yields compared to the prior year. The average annual rate of return for all investments was 0.1% for fiscal year 2020-2021 and 2.9% for fiscal year 2019-2020.

Mr. Pitkin reported that the Authority's independent auditors have issued a report stating that nothing came to their attention to indicate that the Authority was not in compliance with the provisions of the Investment Guidelines, Operative Policy and Instructions.

Mr. Pitkin indicated that no changes to the Investment Guidelines were proposed, but under requirements of the Public Authorities Law is required to re-affirm approval of the Investment Guidelines.

The Committee asked questions and were satisfied with the responses.

Whereafter, upon motion duly made and seconded, and by voice vote of the Members present, the following resolution was approved.

<u>Resolution</u>

RESOLVED, that the "Investment Guidelines, Operative Policy and Instructions (June 2021)," as presented at this June 22, 2021 meeting are hereby recommended for approval by the Board; and

BE IT FURTHER RESOLVED, that the Authority's "2020-2021 Annual Investment Report," for the year ended March 31, 2021, as presented at this June 22, 2021 meeting, is hereby recommended for approval by the Board to be adopted as the annual investment report of the Authority required by Section 2800 and Section 2925(6) of the Public Authorities Law.

Mr. Koh indicated that the next item on the agenda was a resolution considering the annual investment report for the NYSERDA OPEB Trust and the investment policy statement for the NYSERDA OPEB Trust.

Mr. Pitkin stated that pursuant to the investment policy statement, the members are requested to adopt a resolution, approving the annual investment report for the trust for the year ended March 31, 2021; and to adopt a resolution, approving the investment policy statement with respect to the investment report. The OPEB Investment Report summarizes the contributions, investment income, benefit payment, and administrative expenses for the fiscal year ended March 31, 2021 and reports the balance of investments in total and by asset category in comparison to the target levels established in the Investment Policy Statement. The market value of the Trust's investments as of March 31, 2021 was about $70 million, an increase of about $19 million from the prior year primarily as a result of an increase in fund values resulting from the recovery of last year's market declines. As of the most recent actuarial valuation, the OPEB Trust was 125% funded compared to its OPEB liability.

Mr. Pitkin reported that the total return on the OPEB Trust's investments was 30% for the year, reflecting a recovery since last year's market decline. This past year's performance has increased the lifetime average annual return to 8.0%, which is presently above the actuarially estimated long-term expected return of the NYSERDA OPEB Trust. Milliman has recommended a revision to the long-term rate of return used for actuarial purposes from 6.25 to 6.0% based on their projections for long-term expected returns for the weighted average indices, which has been included in the financial statement footnote disclosures and has been reviewed and deemed reasonable by the independent auditors.

In response to an inquiry from Mr. Kauffman, staff indicated that they would provide the Committee with follow-up information on the Authority's investment in fossil fuels.

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

Resolution

> RESOLVED, that the "NYSERDA OPEB Trust Investment Report" for the year ended March 31, 2021, as presented at this June 22, 2021 meeting is hereby recommended for approval by the Board as the annual investment report of the NYSERDA OPEB Trust required by Section 2800 and Section 2925(6) of the Public Authorities Law; and
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> BE IT FURTHER RESOLVED, that the "Policy Statement for the NYSERDA OPEB Trust (Retiree Health Insurance Benefits Trust)" as presented at this June 22, 2021 meeting, is hereby recommended for approval by the Board.

Mr. Koh indicated that the next item on the agenda concerned the financial statements of the Authority and NYGB for fiscal year 2020-21. This item was presented by Peter Mahar, the Authority's Controller and Assistant Treasurer.

Mr. Mahar stated that the Members are requested to adopt a resolution approving the annual audited financial statements for the fiscal year ended March 31, 2021 for the Authority and separate stand-alone financial statements for NYGB. Both financial statements include an unmodified, clean opinion from the independent auditors, KPMG, LLP ("KPMG"). The meeting materials include a memo summarizing the financial statement amounts that include significant accounting estimates, which have been reviewed and found to be reasonable by the independent auditors.

Mr. Mahar highlighted a few significant fluctuations and changes.

Mr. Mahar indicated that total Assets increased by $367 million to $1.8 billion primarily due to an increase in changes in Cash and Investments primarily related to the capitalization of the NYGB and from an increase in NYGB's Loans and Financing Receivables. Total liabilities increased $31 million to $384 million primarily from an increase in Net pension liability due to the change (a decrease) in NYS's long term discount rate and from an increase in accrued expenses due to the timing of payments on certain year end liabilities.

Restricted Net Position, which is the cumulative difference between revenues and expenses, increased by $351 million to $1.4 billion primarily from the additional capitalization of NYGB and from other program revenues exceeding program expenses. Unrestricted net position decreased from $6 million to $5.4 million, principally due to a higher level of contributions made to several NYSERDA program activities.

Mr. Mahar continued stating that total revenues of $1.6 billion were about $259 million more than budgeted primarily due to Utility Surcharge assessment revenues being more than budgeted as a result of NYGB Capital Calls, for liquidity needs, being higher than anticipated and from higher assessment revenue for CEF and NY-Sun due to greater than anticipated expenditures compared to budget.

Total expenses of $1.2 billion were about $14 million more than budgeted primarily due higher than anticipated program expenditures. NY-Sun megawatt block incentives costs have exceeded budgeted expectations due to a robust number of project completions resulting from previous delays and from CEF programs expenditures exceeding budget due to certain programs experiencing work production increases coming out of the work pause caused by COVID-19.

Mr. Mahar noted that the meeting materials included separate stand-alone financial statements for NYGB. NYGB ended the fiscal year with $960 million in total assets, an increase of $353 million from the prior year. This was primarily due to an increase in its funded capitalization and from an increase in Loans and Financing Receivables as a result of new loans issued and additional capital deployed on existing transactions.

With regard to Loans and Financing Receivables, Management continues to use a specific identification method for asset impairment. There were no impairments recorded for the fiscal year ended March 31, 2021. As reported to the Committee last year, staff continue to have a transaction with a principal balance of about $20.5 million that remains on a non-accrual status and remains in a bankruptcy proceeding which is anticipated to be resolved later this year through the sale of the of the entity's solar projects. Based on NYGB's valuation, validated by the third-party financial advisor, staff anticipate recovery in full of outstanding balances owed NYGB. Therefore, staff believe at this time that no impairment adjustment is required and that the receivable is fairly stated at its carrying value. During the year project revenue distributions totaling approximately $1 million were received and applied against legal expenses related to the bankruptcy and accrued interest.

Mr. Mahar stated that one additional senior secured term loan for a community solar developer with a principal balance of $664,000 remains on 'non-accrual' status since last year. Due to a change in the entities subscriber base, the company has had difficulty making timely principal and interest payments. As a conservative measure and to protect our investment, NYGB has executed a block account control agreement whereby they have exclusive control of all payments received from project subscribers and uses this account to fund the quarterly payment and interest amounts due to the NYGB. Staff continue to monitor this transaction closely.

Mr. Mahar indicated that KPMG reviewed managements analysis and concurred that no impairment adjustments were required for these two transactions.

Mr. Mahar noted that all other portfolio loans and financing receivables are current on obligations or staff have assessed that the carrying value is supported by the discounted cash flows of project pledged revenues.

Mr. Mahar reported that operating revenues of $29.6 million were 8.8% higher than budget revenues, which is 5.8% of average deployed capital, as compared to the budgeted rate of 5.4% and 5.9% in the prior year. The variance to budget is primarily due to higher operating income than what was assumed in the budget, and the variance from the preceding year was primarily due to a combination of higher operating income and higher capital committed than in the prior year.

Gross Return on Investment, which is the total rate of return before expenses, decreased from 5.1% to 4.2%, Net Return on Investments, (net of expenses) decreased from 3.1% to 2.3% and cumulative Net Return on Investment since inception increased to from 10.8% to 13.5%. Net Income for NYGB for the year was $16.8 million, $2.4 million higher than budget. This is the fourth consecutive year of revenues in excess of expenses, and $56.8 million on a cumulative basis.

Lastly, Mr. Mahar explained that the meeting materials included some additional reports issued by the independent auditors under governmental auditing standards. The auditors disclosed no instances of noncompliance or material weaknesses, found reasonable management's estimates and financial disclosures, noted no uncorrected misstatements in the financial statements, noted no disagreements with management, and offered no management letter comments to address control weaknesses or suggestions for improvement.

Mr. Mahar and Mr. Pitkin responded to the Committees questions, confirming the amounts identified in the financial statements.

Mr. Koh then stated that a motion for approving the financial statements will be considered after the Members had met in Executive session.

Whereafter, upon motion duly made and seconded, and by voice vote of the Members present, the following resolution was approved.

Resolution

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 June 22, 2021 for the purpose of reviewing the financial condition of the Authority.

The Members then left the public meeting and entered into an Executive session with the independent auditors for purposes of discussing the Authority's financial condition.

Following the Executive session, the meeting was reconvened in open session. No formal action was taken during the Executive session.

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

Resolution

RESOLVED, that the Authority's Financial Statements and the Financial Statements of NY Green Bank as of March 31, 2021, as presented at this June 22, 2021 meeting is hereby recommended for approval by the Board as the financial reports required by Sections 1867(1) and 2800 of the Public Authorities Law.

Mr. Koh then indicated that the next item on the agenda considered the appointment of KPMG, LLP as the Authority's independent auditors for the fiscal year 2021-2022.

Mr. Pitkin stated that the Members are requested to approve a resolution appointing KPMG, LLP as the independent auditors of the Authority for the fiscal year ending March 31, 2022. KPMG would perform a financial statement audit and deliver an opinion about the Authority's consolidated financial statements, and separate stand-alone financial statements for NY Green Bank. The firm's fees and expenses for these services will not exceed $135,500. The Authority competitively selected KPMG through Request for Proposal in 2021. This will be for year one of five under that RFP.

Wherafter, upon motion duly made and seconded, and by voice vote of the Members present, the following resolution was approved.

Resolution

RESOLVED, the Audit and Finance Committee recommends approval of a resolution authorizing the President and CEO to retain the firm of KPMG, LLP as independent auditors for the Authority and for NY Green Bank for the fiscal year ending March 31, 2022.

Mr. Koh indicated that the next item on the agenda was the Annual Bond Sales Report. Mr. Pitkin stated that pursuant to requirements of the Public Authorities Law, we are requesting the Members to adopt a resolution approving submission of the Annual Bond Sale. The Annual Bond Sale Report indicates that during the year, the Authority completed no new issuances, refundings, or conversions. The schedule of Authority bonds outstanding provides a detailed listing of the Authority's bonds issued and outstanding as of March 31, 2021, totaling approximately $1.6 billion.

Wherafter, upon motion duly made and seconded, and by voice vote of the Members present, the following resolution was approved.

Resolution

RESOLVED, that the Authority's Annual Bond Sales Report for the fiscal year April 1, 2020 through March 31, 2021, and the information contained therein, as presented at this June 22, 2021 meeting is hereby recommended for approval by the Board for submission pursuant to Section 2800 of the Public Authorities Law.

Mr. Koh indicated that the next item on the agenda was the review and approval of the Audit and Finance Committee Charter. The Authority's General Counsel, Peter Costello stated that pursuant to the Public Authorities Accountability Act of 2005, each of the Authority's Committees adopted Charters setting forth each Committee's responsibilities. One of those responsibilities is to periodically review its Charter and determine what, if any, amendments need to be made. These recommendations would then be presented to the full Board for approval at its meeting. A copy of the current Audit and Finance Committee Charter was included in the Members' meeting package. Management did not recommend any changes to the Audit and Finance Committee Charter at this time.

Whereafter, upon motion duly made and seconded, and by voice vote of the Members present, the following resolution was approved.

Resolution

RESOLVED, amendments to the Authority's Audit and Finance Committee Charter as presented for consideration at this June 22, 2021 meeting, with such non-substantive, editorial changes and grammatical changes as the President and Chief Executive Officer, in her discretion, may deem necessary or appropriate, is recommended for adoption and approval by the Board.

Mr. Koh indicated that the next item on the agenda was the appointment of an Interim Internal Control Officer. The Authority's Internal Control Manual requires that the Members designate an Internal Control Officer to implement and review the internal control responsibilities established by the Authority. The Internal Control Officer is responsible for assisting with the implementation and review of the internal control system and for implementing education and training of staff.

The Authority's current Internal Control Officer, Jeffrey Pitkin, will be retiring. To fulfill this role pending the appointment of a permanent Internal Control Officer, the Members are asked to appoint Peter Mahar, the Authority's Controller and Assistant Treasurer, as the Acting Internal Control Officer.

Whereafter, upon motion duly made and seconded, and by voice vote of the Members present, the following resolution was approved.

Resolution

RESOLVED, that pursuant to the Authority's Internal Control Manual, the Authority hereby appoints Peter V. Mahar as Acting Internal Control Officer of the Authority, effective June 22, 2021, to serve at the pleasure of the Authority and to perform the duties of the Internal Control Officer as set forth in the Internal Control Manual until such time as a permanent Internal Control Officer is appointed by the Authority.

Mr. Koh stated that the next item on the agenda was a report on the Authority's Green Jobs – Green New York ("GJGNY") loan participation sale from Mr. Pitkin.

Mr. Pitkin reminded the Committee that the Members approved the Authority's sale of participation interests in its GJGNY program loans through an initial offering.

Mr. Pitkin indicated that the GJGNY loan portfolios were offered for sale in four separate pools under the terms approved in April. The pools were segregated based on the underwriting standards used to originate the loans and included loans that were issued during the one-time, temporary 0% loan offering to support the sector during the COVID period to spur projects and support employment.

Participation interests were received from seven institutions totaling $24.4 million, or approximately 34.5% of the total balance, with principal proceeds totaling $21.2 million, resulting in an accounting loss on the sale of $3.1 million – as discussed at the April meeting, this accounting loss principally results from the sale of 0% loans which were sold at a discount, and the pricing of the loan sale was expected to result in a larger amount of net present value proceeds than we would have through a bond securitization structure as has been used in the past. As part of the goal of expanding climate finance among local, community and regional banks as well as credit-unions, the sale generated interest broadly from many States. The capital diversification provided by these institutions provides NYSERDA with a good source of liquidity going forward.

Mr. Pitkin explained that participation interests are still being considered by a number of institutions who may purchase participation interests in additional amounts up to the total amount available. Staff are working with Loan Street to schedule an additional closing in the 1st week of July and expect other institutions to purchase additional loans. Participation sales will continue to allow the Authority an additional source of liquidity for the GJGNY program with a higher leverage than and a lower cost than available through the bond market currently.

Mr. Pitkin indicated that staff is pleased with these results, particularly given that this is a new type of institution for the LoanStreet platform users, offering a different asset class, with generally longer duration assets, and with differing interest rates and credit characteristics, and with institutions requiring to address their regulatory compliance issues, including a restriction under credit union regulations that precluded federally-chartered credit unions from participation, and limited the participation to only state-chartered institutions. Staff are continuing their efforts to expand the base of credit unions that can participate and have had direct interest expressed by various banks and credit unions to participate in the Authority's loan sales. Staff see participation loan sales as an important source of liquidity for the GJGNY program.

In response to an inquiry from Mr. Koh, Mr. Pitkin indicated that though there was less interest than expected, it is believed this is a result of challenges within institutions for this kind of transaction.

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

Respectfully Submitted,

Sara L. LeCain

Sara L. LeCain
Secretary to the Committee