

CERTIFICATE AS TO MINUTES

The undersigned, Secretary to the New York State Energy Research and Development Authority (“Authority”), hereby certifies that attached hereto is a complete and accurate copy of the minutes of the 261st Meeting of the Authority, duly held on April 26, 2023.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Authority this 4th day of May, 2023.



Peter J. Costello
Secretary



SEAL

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY
Minutes of the 261st Board Meeting
Held on April 26, 2023

Pursuant to a notice and agenda dated April 12, 2023, of the New York State Energy Research and Development Authority (“Authority”) a meeting was convened on Wednesday, April 26, 2023, at 2:30 p.m. at the Authority’s Albany Office located at 17 Columbia Circle, Albany, New York and the NY Green Bank (“NYGB”) Office located at 1333 Broadway, Suite 300, New York, New York. The two locations were connected by videoconference.

The following Members of the Authority were present:

Charles Bell, *Vice Chair of the Authority* attended from NYGB

Sherburne Abbott attended from NYGB

Rory Christian attended from Albany

Arturo Garcia-Costas attended from NYGB

Sadie McKeown attended from NYGB

Frances Resheske attended from NYGB

Jay Koh attended from NYGB

Basil Seggos attended from NYGB

Marie Therese Dominguez attended from NYGB

The Chair of the Authority, Richard Kauffman and Member Justin Driscoll were unable to attend.

Also present were Doreen Harris, President and CEO; John Williams, Executive Vice President for Policy and Regulatory Affairs; Pam Poisson, Chief Financial Officer; Anthony J. Fiore, Chief Program Officer; Peter J. Costello, General Counsel and Secretary to the Authority; Sara L. LeCain, Senior Counsel and Secretary to the Committees; and various other staff of the Authority.

Vice Chair Bell called the meeting to order and confirmed quorum. Notice of this meeting was provided to the Members on April 12, 2023 and to the press on April 19, 2023.

Vice Chair Bell indicated that the first item on the discussion agenda was a report from the Authority's President and CEO Doreen Harris.

President and CEO Harris began by welcoming the Authority's new Chief of Staff Lindsay Fuller. Next, President and CEO Harris provided the Members with an update on the Authority's most recent activities including the Buildings of Excellence Design Competition; aligning the Authority's work with the finalization of the Disadvantaged Communities Criteria; the Authority's Hydrogen Hub proposal; Earth Week activities, NY Green Bank's ("NYGB") launch of the Community Decarbonization Fund ("CDF"), the status of the Authority's federal funding proposals, and a brief recap on the Fiscal Year 2023-2024 New York State Executive Budget proposal.

In response to an inquiry from Member Garcia-Costas, President and CEO Harris explained that the Authority's Inflation Reduction Act ("IRA") Consumer Assistance website is a single place where a consumer can go to access the various resources to help them understand the State's programs and approaches and also pair them with the available federal options.

Vice Chair Bell noted that the next item on the discussion agenda was to meet in executive session and indicated that was no longer necessary.

Vice Chair Bell then indicated that the next item on the agenda was the reappointment of Sherburne Abbott, Jay Koh and himself to the Authority's various Committees.

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

Resolution No. 1687

RESOLVED, that pursuant to Section 1852(9) of the Public Authorities

Law and Section 2 of Article III of the By-laws of the Authority, the Authority hereby appoints Sherburne Abbott and Jay Koh to the Audit and Finance Committee and appoints Jay Koh as the Chair of the Audit and Finance Committee; appoints Sherburne Abbott, Jay Koh, and Charles Bell to the Governance Committee; appoints Sherburne Abbott, Charles Bell and Jay Koh to the Program Planning Committee and appoints Sherburne Abbott as the Chair of the Program Planning Committee; and appoints Sherburne Abbott and Charles Bell to the Waste and Facilities Management Committee and appoints Charles Bell as the Chair of the Waste and Facilities Management Committee.

Vice Chair Bell indicated that the next item on the discussion agenda was a report on the items considered by the Governance Committee ("GC") from the GC's Chair Arturo Garcia-Costas.

Member Garcia-Costas reported that the GC met earlier in the day and confirmed that a quorum was present. The GC received a report from the Authority's General Counsel Peter Costello on proposed amendments to the Authority's Conflict of Interest Policy for Board Members and the Conflict of Interest Policy for Employees. Specifically, the revisions update references to the Committee on Ethics and Lobbying in Government and otherwise consist of non-substantive ministerial or clarifying changes. The GC unanimously recommended that the Board approve the proposed revisions to the Conflict of Interest Policy for Board Members and the Conflict of Interest Policy for Employees.

Member Garcia-Costas then indicated that the GC met in executive session to discuss the employment history of a particular person and met in private session to discuss the results of the Annual Confidential Board Member Performance Evaluation. No formal action was taken during the executive session or the private session. Member Garcia-Costas advised that the Annual Confidential Board Member Performance Evaluation will be presented to the Board at the June 2023 Board meeting.

Next, Member Garcia-Costas reported that the GC received a report from the Authority's Diversity, Equity and Inclusion ("DEI") Officer Michelle Andry on the Authority's DEI work.

Member Garcia-Costas then explained that the GC received a report from the Authority's Chief Financial Officer Pam Poisson ("CFO") on the Officers' compensation. CFO Poisson advised that in order to calibrate and align the Officers' salaries with the Authority's staff, the Members adopted Resolution 1629 at the June 2021 Board meeting approving that the Officers' salaries are calculated based on the salary cap for the "M7" salary range for State Management/Confidential employees. In addition, the Authority conducted a review in early 2022 confirming that the approved formula still aligned with the practices of other NYS entities. Since that time, additional benchmarking has identified one refinement to the basis for Officer-level salaries, which would retain internal parity consistent with the Board's intent in the 2021 resolution. The basis for the salaries would change to the cash compensation cap for the M7 grade level, rather than the salary cap for that same level. This change would be effective as of April 1, 2022. Member Garcia-Costas indicated that the GC unanimously recommended that the Board approve the update for the basis for Officer salary calculations.

In response to an inquiry from Member Christian, Vice Chair Bell clarified that the Members will consider the resolution on the Conflict on Interest Policies as part of the consent agenda.

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

Resolution No. 1688

RESOLVED, that the proposed salary increases calculated from the total cash compensation cap for the M7 salary range for State Management/Confidential employees and effective as of April 1, 2022 for the President and CEO, the Executive Vice President for Policy and Regulatory Affairs, the Chief Financial Officer, and the Secretary and General Counsel, and effective as of February 6, 2023 for the Chief Program Officer, are hereby approved as follows:

- M7 total cash compensation cap + 3% for the Chief Financial Officer, Executive Vice President for Policy & Regulatory Affairs, and the General Counsel & Secretary;
- M7 total cash compensation cap + 6% for the Chief Program Officer
- M7 total cash compensation cap + 9% for the President &

CEO.

Vice Chair Bell indicated that the next item on the discussion agenda was to receive a report on the items considered by the Audit and Finance Committee (“A&FC”) from the A&FC Chair Jay Koh.

Member Koh reported that the A&FC met earlier in the day and confirmed that a quorum was present throughout the meeting. Member Koh indicated that the Authority’s independent auditors, KPMG, LLC (“KPMG”) presented their proposed process for conducting the Fiscal Year 2022-2023 independent audit of the Authority’s and NYGB’s financial statements. The A&FC agreed the approach was reasonable and the financial statements would meet the requirements of the New York State Public Authority Accountability Act and the New York State Comptroller’s regulations.

Next, Member Koh stated that the A&FC received a report from the Authority’s Director of Internal Audit Mary Peck on the proposed Internal Audit Plan for the Fiscal Year 2023-2024 and advised that the A&FC approved the 2023-2024 Audit Plan.

Lastly, Member Koh explained that the A&FC considered a proposed financing of the Green Jobs-Green New York (“GJGNY”) Loan Program to further finance loans offered through the GJGNY Loan Program. Member Koh advised that the Committee unanimously recommended approving the GJGNY financing.

Vice Chair Bell indicated that the next item on the discussion agenda was to receive a report on the items considered by the Program Planning Committee (“PPC”) from its Chair, Sherburne Abbott.

Member Abbott reported that the PPC met earlier in the day and confirmed that a quorum was present throughout the meeting. The PPC received a report from the Authority’s Chief Program Officer Anthony Fiore and Vice President for Clean and Resilient Buildings Susan DesRoches on the Authority’s Clean and Resilient Buildings initiatives. The presentation

summarized the Authority's current work and future goals. The Committee was able to ask questions and was satisfied with the answers.

Vice Chair Bell indicated that the next item on the discussion agenda was a report on the recent activities of NYGB from NYGB President Andrew Kessler.

NYGB President Kessler began by reporting to the Members that NYGB finished the fiscal year committing more than \$1.9 billion of capital since inception and closing 16 transactions for a total annual commitment of \$252 million. Of that annual commitment \$85.1 million was invested in underserved communities, progressing toward NYGB's goal of 35% investment in underserved communities by December 31, 2025. In addition, NYGB established a new business development function to support its investment team; readied the Community Decarbonization Fund for launch; and have evaluated and participated in activities pertaining to a new federal funding source focusing on the Greenhouse Gas Reduction Fund.

NYGB President Kessler indicated that NYGB surpassed its \$225 million capital commitment goal for the fiscal year in January 2023; closed out the year with \$400 million in active transactions in the pipeline; and closed a nitrogen pack project transaction, furthering NYGB's progress toward investing \$150 million in affordable housing projects by December 31, 2025. Since its inception, NYGB has committed \$1.96 billion; \$1.5 billion has been repaid to NYGB; and \$5.5 billion has been mobilized by NYGB's activity resulting in over 41 million metric tons of emission reductions.

Lastly, NYGB President Kessler explained that NYGB is successfully using targeted business development strategies to develop the pipeline in priority technology segments. This has resulted in increased activity in NYGB's pipeline from energy storage and clean transportation projects and the evaluation of over \$519 million of new investment proposals.

In response to an inquiry from Member Christian, NYGB President Kessler indicated that the public housing is located in New York City, and will follow up to provide additional information.

In response to an inquiry from Member Garcia-Costas, NYGB President Kessler explained that in order to reach NYGB's goal of 35% invested in underserved communities by 2025, it is providing capital to community development financial institutions and others that will help shift toward funding decarbonization projects in their local communities.

In response to an inquiry from Member Dominguez, NYGB President Kessler indicated that the meetings and outreach opportunities that NYGB has been conducting are sessions; panels; keynotes at events across the state; and conferences focusing on various technologies or use types.

In response to an inquiry from Member Garcia-Costas, NYGB President Kessler explained that there is a \$5 million awardee cap on the Greenhouse Gas Reduction Fund and indicated that NYGB is looking to identify ways of optimizing around that.

In response to an inquiry from Member McKeown, NYGB President Kessler stated that NYGB, as a predevelopment lender, has not imposed any terms more stringent than existing requirements, but is encouraged by entities who are proactively moving forward with clean energy improvements. NYGB continues to work with the Authority's buildings team to identify further opportunities.

Next, Vice Chair Bell turned to the consent agenda. There were three resolutions to be considered. The resolution regarding amendments to the Authority's Conflict of Interest Policy and the resolution regarding the financing of the Green Jobs-Green New York Program were considered by the GC and the A&FC respectively.

With respect to the resolution approving the Periodic Contracts Report, Vice Chair Bell indicated that Counsel's Office compared the lists provided by Members of entities with which each Member is associated which they believe may enter into contracts with the Authority to the lists of contracts in the Periodic Contract Report. Counsel's Office reported that there is one potential conflict: Cadmus, identified by Jay Koh.

Member Koh confirmed his recusal from voting on those specific agreements.

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

Resolution No. 1689

RESOLVED, that the Employee Conflict of Interest Policy and Board Member Conflict of Interest Policy as presented at this April 26, 2023 meeting, are hereby approved by the Board.

Resolution No. 1690

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, 2024, in an aggregate principal amount not to exceed \$45,000,000 to be designated "Residential Clean Energy and Energy Efficiency Financing Green Revenue Bonds, Series 2023A" (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 \$45,000,000 and shall bear interest at rates determined by the Chair, the Vice Chair, the President and CEO, the Chief Financial Officer, the Executive Vice President, the Chief Program Officer, 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, 2024. 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 the backup servicer will be a firm selected pursuant to the Request for Proposals issued on February 2, 2023. 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.

Resolution No. 1691

RESOLVED, that the Periodic Contracts Report, covering the period December 16, 2022 through March 15, 2023, as presented at this meeting, including but not limited to the contracts identified therein which have been, or are expected to be, executed and which do have, or are expected to have, a period of performance in excess of one year, is hereby approved in accordance with Public Authorities Law Section 2879.

Vice Chair Bell indicated that the last item on the agenda was other business. There being no other business, Vice Chair Bell called for a motion to adjourn.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote of the Members, the meeting was adjourned.

