

**MINUTES OF THE REGULAR MEETING  
OF THE  
FINANCE COMMITTEE  
November 9, 2012**

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Minutes of the regular meeting of the New York Power Authority's Finance Committee held via video conference at the Authority's offices at 123 Main Street, White Plains, New York at approximately 11:00 a.m.

**Members of the Finance Committee present were:**

John R. Koelmel, Chairperson  
Trustee Jonathan Foster  
Trustee Joanne M. Mahoney (via telephone conference)

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**Also in attendance were:**

Terrance P. Flynn	Trustee
R. Wayne LeChase	Trustee
Judith McCarthy	Executive Vice President and General Counsel
Donald Russak	Executive Vice President and Chief Financial Officer
Jill Anderson	Chief of Staff and Director – Energy Policy
Joan Tursi	Senior Vice President – Corporate Support Services
Paul Belnick	Vice President – Energy Efficiency
Brian McElroy	Treasurer
Karen Delince	Corporate Secretary
Timothy Sheehan	Special Counsel
Dennis Eccleston	Chief Information Officer
Helen Eisenfeld	Director – Financial Controls
Connie Cullen	Deputy Director – Media Relations
Eric Alemany	Project Manager – Energy Efficiency
Christine Keta	Manager – Program Operations, Energy Efficiency
Gary Schmid	Manager – Network Services, Infrastructure
Lorna Johnson	Assistant Corporate Secretary
Ruth Colon	Senior Business Integration Project Manager
Brian Wilkie	Rotational Business Integration Project Manager
John V. Connorton, Jr.	Hawkins Delafield & Wood LLP
Sheri L. Mooney	Senior Vice President, Senior Programs Manager - First Niagara Financial Group

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

Introduction

*Chairman John Koelman welcomed committee members, and also Trustees Flynn and LeChase and Authority senior staff to the meeting. He said the meeting has been duly noticed as required by the Open Meetings Law and called the meeting to order pursuant to Section B(4) of the Finance Committee Charter.*

1. **Adoption of the Proposed Meeting Agenda**

By motion made and seconded the agenda for the meeting was adopted.

2. **Approval of the Minutes**

The Minutes of the Committee's Regular Meeting of July 26, 2011, were approved.

**3. Issuance of the 2012 Subordinated Notes**

Mr. Donald Russak submitted the following report:

**SUMMARY**

“The Trustees will be requested at their November 9, 2012 special meeting to approve the issuance of the 2012 Subordinated Notes (‘Notes’) to be funded, as described below, by 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. The Finance Committee is requested to recommend to the Trustees adoption of the related resolutions.

**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 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 into 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 ‘3-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, Series 2012 (Federally Taxable), attached hereto as Exhibit ‘3-B.’ Approval of certain provisions of such resolution by the State Comptroller under Section 1010-a of the NYPA 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 issuance of the 2012 Subordinated Notes would be limited to an amount no greater than \$30 million; to a term no greater than twenty-five years; and at an interest rate no greater than 5.5%. 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 retire the Notes.

REQUESTED ACTION

“It is requested that the Finance Committee recommend that the Authority’s Trustees adopt the necessary resolutions authorizing the issuance of the 2012 Subordinated Notes to be funded by such adjusted payment schedule.”

*In response to a question from Trustee Nicandri, Mr. Russak said that the bonds will be taxable.*

*Responding to a question from Chairman Koelmel, Mr. Russak said the Authority entered into a series of Settlement Agreements with parties to the relicensing of the Niagara Power Project; this includes the Office of Parks, Recreation and Historic Preservation (“OPRHP”). The Authority provides funding of \$3 million per year to the State Parks Greenway Fund and OPRHP has asked that the Authority adjust its schedule of payments to this Fund. To that end, staff has determined that the most cost-effective approach to accomplish this would be to issue the Note, as recommended, and use a portion of the payment stream to repay the debt in order to take advantage of today’s very low interest rates. This will better fit the needs of OPRHP; also, OPRHP will get more money for the same value. Responding to further question from Chairman Koelmel, Mr. Russak said that a function of the Finance Committee is to make recommendations to the Board of Trustees on the issuance of any notes or bonds of the Authority.*

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

**RESOLVED, That the Finance Committee recommends that the Authority’s Trustees adopt the necessary resolutions authorizing the issuance of Subordinated Notes, Series 2012 (Federally Taxable), substantially in the form as attached hereto as Exhibit “3-B,” as discussed in the foregoing report of the Executive Vice President and Chief Financial Officer.**

4. **Next Meeting**

*The next regular meeting of the Finance Committee is to be determined.*

**Closing**

On motion made and seconded, the meeting was adjourned by the Chairman at approximately 11:10 a.m.

A handwritten signature in black ink, appearing to read "Karen Delince". The signature is fluid and cursive, with a long horizontal stroke at the end.

Karen Delince  
Corporate Secretary

November 9, 2012

# **EXHIBITS**

**For**

**November 9, 2012**

**Regular**

**Finance Committee**

**Meeting**

Draft of  
October 17, 2012

\$ \_\_\_\_\_  
**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 1(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>
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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