

**MINUTES OF THE REGULAR MEETING
OF THE
POWER AUTHORITY OF THE STATE OF NEW YORK**

December 18, 2001

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Minutes of the regular meeting of the Power Authority of the State of New York held at the Albany Office at 11:00 a.m.

Present: Joseph J. Seymour, Chairman
Louis P. Ciminelli, Vice Chairman
Gerard D. DiMarco, Trustee
Frank S. McCullough, Jr., Trustee
Timothy S. Carey, Trustee

Eugene W. Zeltmann	President and Chief Operating Officer
David E. Blabey	Executive Vice President, Secretary and General Counsel
Robert A. Hiney	Executive Vice President – Power Generation
Vincent C. Vesce	Executive Vice President – Corporate Services and Human Resources
H. Kenneth Haase	Senior Vice President – Transmission
Louise Morman	Senior Vice President – Marketing, Economic Development and Supply Planning
Michael H. Urbach	Senior Vice President and Chief Financial Officer
Woodrow W. Crouch	Vice President – Project Management
Anne Wagner-Findeisen	Vice President – Ethics and Regulatory Affairs and Deputy Corporate Secretary
John M. Hoff	Vice President – Procurement & Real Estate
Charles I. Lipsky	Vice President & Chief Engineer
James H. Yates	Vice President – Major Account Marketing & Economic Development
George Johansen	Inspector General
Dennis T. Eccleston	Chief Information Officer
Mike Brady	Deputy Treasurer
Carmine J. Clemente	Deputy General Counsel
Arthur T. Cambouris	Assistant General Counsel – Litigation
Joseph J. Carline	Assistant General Counsel – Power & Transmission
William Ernsthaft	Assistant General Counsel – Finance
George W. Collins	Treasurer
Arthur M. Brennan	Director – Internal Audit
Angelo S. Esposito	Director – Energy Services
John B. Hamor	Director – International Government Relations
Douglas M. Kerr	Director – Marketing Planning
John L. Murphy	Director – Public Relations
Donald A. Russak	Director – Financial Planning
William V. Slade	Director – Environmental Programs
Joan Tursi	Director of Budgets
John Grzan	Senior Project Manager
Shalom Zelingher	Director – Research and Technology Development
Wayne Gowen	LAN Administrator
Aileen P. Kern	Special Assistant to Chairman
Bonnie Fahey	Executive Administrative Assistant
Betty C. Fennell	Assistant Secretary
Andrew J. McLaughlin	Assistant Secretary – Legal Affairs
Alice F. Simon	Assistant Secretary

Chairman Seymour presided over the meeting. Executive Vice President, Secretary and General Counsel Blabey kept the Minutes.

1. **Approval of the Minutes**

Minutes of the Regular Meeting of November 27, 2001 were approved.

2. **Financial Report for the Eleven Months Ended November 30, 2001**

Mr. Urbach provided the financial report. Responding to questions from Chairman Seymour, Mr. Urbach underscored that the numerous ISO re-billings (for adjustments to energy purchases, ISO operating costs and ancillary services) which continue to be submitted to NYPA, relate back to the preceding fiscal year and thus continue to impact the Authority's final accounting for 2000. Mr. Urbach stressed that such re-bills totaled \$3.4 million for November and indicated that under current ISO practices, there is no certainty as to the amount of re-billing which could occur for fiscal year 2001.

Mr. Hiney underscored that Authority staff is working diligently to resolve the older re-bills promptly and to finalize the accounting picture. Mr. Hiney also explained that, in a recent decision, the Federal Energy Regulatory Commission ("FERC") had reversed an ISO rate decision causing, among other things, a \$3 million re-bill to the Authority.

Responding questions from Chairman Seymour, Mr. Urbach explained that the actual net revenues for the current year to date are presently estimated at approximately \$17 million. The Chairman asked whether "tight margins" are similarly anticipated for 2002 as well and Mr. Urbach responded affirmatively.

3. Report from the President and Chief Operating Officer

President Zeltmann pointed to a lengthy feature article in that morning's issue of the New York Times concerning the Authority's TH!NK electric vehicle program. Lauding the scope and accuracy of the coverage, the President noted that it serves to publicly illustrate the Authority's commitment to energy conservation and our active assistance in the national goal of reducing dependence on foreign oil.

At President Zeltmann's request, Mr. Brady submitted a status report on the most recent cycle of Trustee-authorized Financial Market transactions related to the restructuring of Authority debt. Mr. Brady highlighted previous financial market transactions authorized by the Trustees, and provided details concerning the Authority's current variable rate exposure as well as the extent of outstanding debt. Mr. Brady also explained that currently the Authority's net exposure to variable rates is \$198 million (9%), which is within the rating agencies' comfort level. Mr. Brady outlined staff's proposed debt reduction strategy and how it would impact the Authority's future financing programs if approved and implemented.

Responding to questions from Vice Chairman Ciminelli, Mr. Brady stated that it is unlikely that it would be beneficial to switch from rates that are variable to fixed at this time because the transactions are subject to a "cap" beyond which rates cannot increase. Because of the caps and various interest rate hedges, Mr. Brady stated that the Authority's variable rate exposure was minimal.

Responding to inquiries from Trustee McCullough, Mr. Brady confirmed that staff would again seek the Trustees' approval of the specific proposed actions outlined in the presentation.

Mr. Brady and Mr. Urbach then responded to questions from Vice Chairman Ciminelli concerning the payment of call premiums, and explained that this cost is built into the financings themselves and is reflected in the figures to the Trustees.

4. 2002 Operation and Maintenance, Capital and Fuel Budgets

The President submitted the following report:

SUMMARY

“The Trustees are requested to approve the 2002 Budgets for Operation and Maintenance (‘O&M’), Capital and Fuel Purchases as follows:

	<u>2002 Budget</u> <u>(\$ Millions)</u>
O&M	216.0
Capital	482.5
Fuel	185.4

BACKGROUND

“The Authority is committed to provide reliable, affordable energy, retain and create jobs within New York State and promote the development of energy efficient technologies. Over the coming year, the Authority will continue to strategically position itself to meet the new challenges of a deregulated market. The 2002 budgets are intended to provide the Authority’s operating facilities and support organizations with the resources needed to meet our overall mission and strategic objectives.

DISCUSSION

O&M

“The O&M budget of \$216.0 million represents an increase of \$17.0 million or 8.5% from the 2001 budget of \$199.0 million. The increase is attributable to increases in Power Generation, \$13.9 million, Transmission, \$4.0 million and Research and Development, \$0.2 million, offset by a \$1.1 million reduction in Headquarter Support. Salaries, including overtime and fringe benefits, account for \$134.0 million or approximately 62% of the budget.

“The 2002 payroll budget increases by \$4.9 million, as the result of wage, salary and overtime increases, coupled with a net increase of 11 authorized positions. Benefits increased by \$8.4 million, due to general market conditions and claims experience for medical, prescription drug and dental insurance. Greater anticipated pension contribution, due to recent fund performance, also contributed to the increase. Offsetting these increases is an increased charge out of payroll and benefits to capital programs, \$ 4.6 million. Non-payroll expenses of \$82.0 million increased by \$8.3 million in 2002 primarily due to the inclusion of a budget for the In-City Generators, the planned Poletti outage and increases in non-recurring production and transmission facility initiatives.

“Power Generation’s 2002 budget is \$13.9 million (14.2%) over 2001, primarily due to the addition of funding for the In-City Generators (\$5.3 million), the Poletti turbine outage (\$2.7 million), the addition of 32 new security positions (\$1.5 million) and increased payroll and benefit costs. Major non-recurring work includes the LPGP Overhaul (\$1.9 million), Niagara Upgrade (\$0.8 million); Synchronous Condenser Repairs at St. Lawrence (\$0.6 million) and St. Lawrence Dike Restoration Work (\$0.5 million). The 2002 Transmission budget is \$4.0 million (12.6%) above the 2001 budget, due to a greater amount of labor being charged to support the transmission system, increased contractor supported right of way maintenance and increased maintenance support of the Energy Management System (‘EMS’).

“Headquarters support departments are \$1.1 million or 1.8% below 2001 levels, primarily due to the elimination of 35 vacant positions, the completion of some non-recurring initiatives and a greater charge out of payroll and related benefits to capital. Offsetting these reductions are increases in relocation expenses (\$0.3 million).

“The R&D budget of \$9.5 million is \$0.2 million (2.8%) over 2001 reflecting the addition of a new Electric Power Research Institute (‘EPRI’) program.

Fuel

“The fuel budget of \$185.4 million reflects a decrease of \$111.8 million (38%) from 2001. This is a cash budget reflecting planned fuel purchases in 2002. This budget includes fossil fuel purchases for Poletti, Flynn and the Combustion Turbines. The budget assumes lower commodity prices, decreased Poletti generation and a planned turbine outage.

Capital

“The 2002 Capital budget totals \$482.5 million, which is a decrease of \$125.5 million (20.6%) below 2001. Included in this request are both new and ongoing capital projects as well as general plant equipment purchases. The decrease in the capital budget is primarily due to the completion of the In-City Generation project, partially offset by increased spending on the 500 MW Combined Cycle Plant at Poletti, which accounts for 49% of the budget. Energy Efficiency projects budgeted for \$106.4 million are 22.0% of the 2002 request.

“Other significant projects include \$24.8 million for the continuation of the Niagara Upgrade, \$20.9 million for St. Lawrence Upgrade/Life Extension, Relicensing efforts at St. Lawrence (\$14.0 million) and Niagara (\$15.6 million) and \$10.3 million for the Flexible Alternating Current Transmission System (‘FACTS’).

FISCAL INFORMATION

“Payment will be made from the Operating Fund for Operation and Maintenance and Fuel Purchases. “Payment will be made from the Capital Fund or Energy Conservation Effectuation Fund for capital expenditures.

RECOMMENDATION

“The Senior Vice President and Chief Financial Officer and the Vice President and Controller recommend approval of the 2002 Operation & Maintenance, Fuel and Capital budgets as discussed herein.

“The Executive Vice President – Power Generation, the Executive Vice President, Secretary and General Counsel, the Executive Vice President – Corporate Services and Human Resources, the respective Vice Presidents, the respective Regional Managers, and I concur in the recommendation.”

Ms. Tursi presented the highlights of staff's budgetary recommendations for the Authority's four budgets for Fiscal Year 2002 to the Trustees.

Vice Chairman Ciminelli asked whether the Operations & Maintenance expenses shown for the In-City Generation Project were to be on an annual basis; Ms. Tursi responded affirmatively explaining that such expenditures include, among other things, utilities, water and insurance. Mr. Hiney added that although these are primarily fixed expenses, some portion of the O & M costs is likely to be variable on an annual basis. In response to questions from Mr. Ciminelli concerning the recoverability of these expenses, Mr. Hiney stated that recovery of such expenses depends on the market prices for energy.

Chairman Seymour commended President Zeltmann, Mr. Urbach, Mr. Bellis and Ms. Tursi and other members of staff for their hard work in formulating a rigorous budget, which will "hold the line" in these

challenging times. Trustee McCullough concurred and, on behalf of the Trustees, thanked Ms. Tursi for an excellent presentation.

The following resolution, as recommended by the President, was unanimously adopted.

RESOLVED, That the 2002 budgets for Operations & Maintenance, Research & Development, Fuels and capital expenditures, as discussed in the foregoing report of the President, are hereby approved; and be it further

RESOLVED, That it is hereby authorized that up to \$97.5 million of monies in the Operating Fund be withdrawn from such Fund and deposited in the Capital Fund, provided that at the time of withdrawal of such amount or portions of such amount, the monies withdrawn are not then needed for any of the purposes specified in Subsections (1) (a)-(c) of Section 503 of the General Resolution Authorizing Revenue Obligations adopted on February 24, 1998, with the satisfaction of such condition being evidenced by a certificate of the Treasurer or the Deputy Treasurer.

5. Declaration of Official Intent – Reimbursement of Certain Expenditures with Proceeds of Tax-Exempt Bonds

The President submitted the following report:

SUMMARY

“The Trustees are requested to issue a Declaration of Official Intent expressing the Authority’s intent to reimburse, with future tax-exempt bond proceeds, expenditures which have been and may be made in connection with the planned issuance of the Authority’s Series 2002 A Revenue Bonds.

DISCUSSION

“Pursuant to resolutions adopted by the Trustees at their meeting of September 25, 2001, the staff expects to issue the Series 2002 A Revenue Bonds in October, 2002, for purposes of refunding the remainder of the Authority’s outstanding Series 1998 B Revenue Bonds.

“To accomplish the reimbursement of expenditures which have been made, and those which may be made in connection with such planned issuance, it is advisable, given Internal Revenue Service regulations, for the Trustees to express their intent to reimburse, to the maximum extent permitted by law, such expenditures with the proceeds of future tax-exempt bond issuances.

RECOMMENDATION

“The Treasurer recommends that the Trustees express their intent to reimburse with the proceeds of future tax-exempt bond issuances, to the maximum extent permitted by law, expenditures made and to be made in connection with the planned issuance of the Series 2002 A Revenue Bonds.

“The Executive Vice President, Secretary and General Counsel, the Senior Vice President and Chief Financial Officer, and I concur in the recommendation.”

Mr. Brady presented the highlights of staff's recommendations to the Trustees.

Responding to questions from Trustee McCullough, Mr. Brady stated that, as set forth in the resolution, submitted by staff for adoption by the Trustees, Authority staff estimates that up to \$2 million will be used to reimburse expenditures made in connection with the Authority's issuance of its Series 2002 A Revenue Bonds.

The following resolution, as recommended by the President, was unanimously adopted.

RESOLVED, That the Authority, in accordance with Treasury Regulation Section 1.150-2 hereby declares its official intent to finance as follows:

The Authority intends to reimburse to the maximum extent permitted by law with the proceeds of tax-exempt bonds to be issued by the Authority, all expenditures which have been and may be made in connection with the Authority’s issuance of its Series 2002 A Revenue Bonds, with the maximum principal amount of obligations to be issued for such purpose expected to be \$2 million; and be it further

RESOLVED, That a copy of these resolutions shall be part of the records of the Authority that are available to the general public and shall be continuously available for public inspection in the office of the Secretary of the Authority during normal business hours on every business day of the Authority; and be it further

December 18, 2001

RESOLVED, That the Chairman, the President and Chief Operating Officer, the Senior Vice President and Chief Financial Officer, and the Treasurer be, and each of them hereby is, authorized on behalf of the Authority, to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements, and other documents, subject to approval of the form thereof by the Executive Vice President, Secretary and General Counsel, to effectuate the foregoing resolutions.

6. Membership in Electric Power Research Institute - Extension

The President submitted the following report:

SUMMARY

“The Trustees are requested to authorize the President to enter into a three year extension of the Authority’s existing membership agreement in the Electric Power Research Institute (‘EPRI’) effective January 1, 2002, at an annual fee of \$1.6 million per year.

BACKGROUND

“EPRI is an international electric utility research organization, having a 2001 budget of \$305 million supported by over 800 members. Members include regulated utilities such as rural cooperatives, municipal and public power systems, investor-owned utilities, and federal power agencies. Responding to changing utility environment, EPRI has expanded its customer base to also serve unregulated and non-utility entities, international utilities, energy enterprise organizations involved in public benefit programs and equipment manufacturers. EPRI's mission is to provide science and technology-based solutions of value to its national and international members. The organization is aligned with various segments of the electric market in developing technologies, information and methods related to generation, delivery and use of electricity, with special attention to cost reduction, cost-effectiveness, environmental concern and customer retention. EPRI's large membership enables members to support a broad array of large-scale research and demonstration projects of mutual interest, some of which are high cost and could not be supported by an individual entity alone.

DISCUSSION

“The Authority joined EPRI on July 1, 1987 and has been a member continuously.

“The EPRI membership fee is based on a formula that takes into account kWh generation and sales for the preceding three years. Since 1995, EPRI has provided its members with choices to select products and services from its technology portfolio.

“On an annual basis, the Research & Technology Development Division, working together with its key stakeholders in various departments, identifies key targets that the Authority and its customers would derive benefits from EPRI products and services. For 2002, staff selected approximately 40 targets in the areas of distributed resources, power generation, power quality, transmission, environment, and customer systems.

“EPRI's programs are planned, developed and implemented by market segments guided by an Industry Committee Structure, consisting of member representatives selected for their expertise in their particular fields. The Authority is currently represented at all levels of the EPRI advisory structure, including the Board, the Research Advisory Council, and Market Segment Councils and their working groups.

“Through this participation, the Authority has been able to influence the direction of EPRI and obtain numerous benefits from the use of EPRI products and services. Over the last few years, staff has been effective in obtaining significant EPRI co-funding for projects of direct benefits to the Authority and its customers. The latest example is the working partnership the Authority established with EPRI toward the development and implementation of the Convertible Static Compensation at the Marcy substation which resulted in over \$7 million in cofunding. In addition, use of EPRI products and services helps the Authority achieve its business objective to reduce the cost of operations of the core business and to deliver technological solutions to Authority customers to enhance their competitiveness. Examples include HydroTrac, a cost-effective partial discharge system for hydro generators, which was recognized by ‘R&D Magazine’ as one of the 100 most significant technologies for 2001; NOx Modeling Reduction, which resulted in major NOx emission credit savings; and the Active Cathodic Protection System for the Long Island Sound Cable, which will extend the life of the cable by at least 5 years; and many others.

“In view of the Authority’s long working relationship with EPRI, discussions were initiated for securing an extension to the Authority’s multi-year agreement, which would result in savings for the Authority. EPRI responded that it would be willing to enter into a three-year agreement extension with the Authority at the level of \$1.6 million per year. This will save the Authority an estimated \$783K over the three-year contract extension compared to purchasing the same services on a year-by-year basis.

FISCAL INFORMATION

“Funds required for the Authority’s payment to EPRI have been provided in the 2002 O & M Budget. Costs associated with the future years will be included in the budget submittals for those years. Payment will be made from the Operating Fund.

RECOMMENDATION

“The Senior Vice President - Energy Services and Technology and the Director - Research Technology Development recommend that the Trustees authorize the President to enter into a three-year extension of the Authority’s existing membership in the Electric Power Research Institute (‘EPRI’) effective January 1, 2002, at an annual fee of \$1.6 million per year.

“The Executive Vice President, Secretary and General Counsel, the Executive Vice President – Power Generation and the Vice President – Controller, and I concur in the recommendation.”

Mr. Zelingher presented the highlights of staff's recommendations to the Trustees.

Responding to a question from Chairman Seymour, Mr. Zelingher explained that the negotiated three-year extension of the Authority's membership is more economical than a one-year extension. Responding to a request from Trustee Carey, Mr. Zelingher stated that he would regularly provide all of the Trustees with copies of EPRI's Annual Report and of press releases and news clips relating to EPRI.

The following resolution, as recommended by the President, was unanimously adopted.

RESOLVED, That the President is hereby authorized to enter into a three-year extension of the Authority’s existing membership agreement in the Electric Power Research Institute (“EPRI”), effective January 1, 2002 and is authorized to execute such agreement, as recommended in the foregoing report of the President, subject to approval of the form thereof by the Executive Vice President, Secretary and General Counsel, in the amount and for the purpose listed below:

<u>Operating Fund</u>	<u>Expenditure Approval</u>
<u>Membership</u>	
Electric Power Research Institute	\$1.6 million - 2002
	\$1.6 million - 2003
	<u>\$1.6 million - 2004</u>
	<u>\$4.8 million - Total</u>

7. Acquisition of Three Generation Sites on Long Island

The Deputy Secretary and Deputy General Counsel submitted the following report:

SUMMARY

“The Trustees are requested to authorize the acquisition through appropriation of certain real property at three sites on Long Island which will be used by the Long Island Power Authority (‘LIPA’) for a Summer 2002 Combustion Turbine Project (the ‘Project’). The three sites are at Bethpage and Glenwood Landing in Nassau County and Port Jefferson in Suffolk County. Such appropriation may also include permanent or temporary easements necessary for the construction, operation and maintenance of generating facilities which will help meet the need for additional generating capacity and improved system reliability for the summer of 2002.

DISCUSSION

“There is a need for immediate action to add at least 400 MW of new generating capacity on Long Island to be in operation beginning in the summer of 2002. Immediate action is required to assure that there is an adequate supply of electricity for the summer of 2002 and to help protect and preserve human life, health, property, and natural resources against the potentially serious adverse consequences of a shortfall next summer in generating capacity on Long Island. The Chairman of the Department of Public Service (‘PSC’) and the New York Independent System Operator (‘NYISO’) have both urged the addition of at least 400 MW of new generating capacity on Long Island to meet reliability needs by the summer of 2002, and thereafter. The maintenance of a continuous and reliable supply of electric power and energy within Southeastern New York is an essential matter of urgent concern to NYPA and the general public and requires emergency action. The proposed acquisition of real property will support this action.

“LIPA is in the process of concluding negotiations with private developers for the construction of nine single cycle General Electric (‘GE’) LM 6000 Turbine units (the ‘Turbines’), which would generate in excess of 400 MW in total. The Turbines, which are identical to those installed by NYPA in its Power Now! Generation Project, are to be constructed at five separate sites on Long Island on an expedited schedule.

“ LIPA’s staff, in consultation with the project sponsors, outside engineers and environmental consultants, identified five sites in Nassau and Suffolk Counties that are appropriate for siting the five electric generating facilities for the Turbines; one in Bethpage (with the size of such site to be determined), and two each in Glenwood Landing (2.75+ acre site; permanent easement 0.58+ of an acre), Port Jefferson (1.38+ acre site with additional easements totaling 1.12+ acres), Brentwood and Shoreham. The Brentwood and Shoreham sites are, or have been purchased from the Office of Mental Health of the State of New York and Keyspan Energy, respectively. LIPA must acquire real estate interests respecting each of the other sites, including but not limited to any temporary easements necessary for development of the Project. The real estate interests in the sites must be acquired in sufficient time to help ensure that the Turbines are operational by the summer of 2002. The installation schedule requires immediate acquisition of the sites on an emergency basis in accordance with Article 2 of the Eminent Domain Procedure Law.

“On October 11, 2001, LIPA as lead agency, performed an assessment of the potential environmental impacts of the Project and its individual components as required by the State Environmental Quality Review Act (‘SEQRA’). That assessment culminated in the production of the comprehensive Environmental Assessment (the ‘EA’) that has been distributed to the LIPA Trustees. The EA concluded that the proposed Project, while a ‘Type I’ action under SEQRA, will not, either individually or cumulatively, have a significant adverse impact on the environment and thus will not require the preparation of an environmental impact statement under SEQRA. By their

action on November 13, 2001, the LIPA Trustees: (1) adopted the comprehensive EA; and (2) authorized the filing and publication of a Negative Declaration for the Project.

“On November 13, 2001, the LIPA Trustees further approved a separate Resolution authorizing LIPA to acquire the necessary real estate interests in order to install the Turbines. LIPA lacks the necessary Eminent Domain expertise and resources that would permit it to accomplish this goal on time. Accordingly, LIPA has requested NYPA’s assistance in appropriating property at Bethpage, Glenwood Landing and Port Jefferson upon which to install some of the Turbines. To protect its own interests, in Southeastern New York, as well as assist LIPA, NYPA should honor this request. NYPA’s real estate staff, with the support of the Commissioner of Transportation and his staff, have the requisite expertise since such staffs completed the appropriation of certain properties necessary for the Power Now! Generation Project last year on a similar short schedule.

“Under Public Authorities Law (‘PAL’) Section 1020–f (h), all state agencies, including NYPA, are authorized to do all things necessary to assist LIPA in its endeavors. Further, under the seventh undesignated paragraph of PAL, Section 1005, NYPA is authorized to assist with LIPA’s concurrence and upon such terms and conditions as LIPA deems reasonable, in constructing generating, transmission and related facilities within LIPA’s service territory. Section 1005 also grants NYPA broad power to assist in maintaining a continuous and adequate supply of dependable electric power and energy, particularly in Southeastern New York. Accordingly, NYPA is authorized to undertake the activities requested by LIPA, for such activities will assist LIPA in constructing generating facilities which in turn are necessary to maintain the reliability of the electric system on Long Island. In addition, any failure of such electric system would have grave consequences for the portion of this State’s electric system outside of Long Island and for NYPA’s Southeastern New York customers.

FISCAL INFORMATION

“The costs incurred in connection with the acquisition of such property and payment for the time spent by NYPA’s staff in support of LIPA will be recovered pursuant to the existing memorandum of understanding between NYPA and LIPA, funding of which was authorized by the Trustees at their meeting of November 27, 2001.

RECOMMENDATION

“For the foregoing reasons, the Vice President – Project Management, the Vice President – Contracts and Real Estate, and the Project Manager recommend that the Trustees approve and adopt the attached Resolution authorizing the Chairman and Chief Executive Officer and/or the President and Chief Operating Officer and their designees to take all steps necessary to appropriate any or all of the three proposed sites identified herein, to take any actions necessary to effect such acquisitions and to further delegate to the Chairman and Chief Executive Officer and/or the President and Chief Operating Officer, the authority to approve the payments to be made for the appropriation of the sites so selected.

“ The Executive Vice President, Secretary and General Counsel, and Executive Vice President – Power Generation, and I concur in the recommendation.”

Mr. Clemente presented the highlights of staff’s recommendations to the Trustees.

In response to questions from Trustee McCullough as to whether the funds for the proposed acquisitions are included in the NYPA/LIPA Memorandum Of Understanding (“MOU”), Mr. Clemente explained that these transactions will not be financed from the MOU’s revolving fund. Instead, LIPA will provide all necessary funds for the acquisitions up front. Mr. Clemente further explained that an environmental study comprising several

thousand pages had been submitted to the LIPA Board members who had, in turn, issued a Negative Declaration in early November 2001.

The following resolution, as recommended by the Deputy Secretary and Deputy General Counsel, was unanimously adopted.

RESOLVED, That pursuant to the provisions of Article 5, Title 1 of the Public Authorities Law, the Authority hereby finds it necessary or convenient to acquire in fee simple or leasehold, by purchase, or appropriation, the real property on which to develop generating sites and any permanent or temporary easements or other interests which are necessary or convenient for the development of Bethpage, Glenwood Landing, and Port Jefferson sites and hereby finds and determines that such real property is required for a public use; and hereby determines that such real property is reasonably necessary for the construction, maintenance, and operation of LIPA's Summer 2002 Combustion Turbine Project; so as to maintain the reliability of the electric system on Long Island and in Southeastern New York and hereby further finds that the absence of adequate electric capacity on Long Island creates an emergency situation in which the public interest will be endangered by any delay caused by the public hearing requirement of Article 2 of the Eminent Domain Procedure Law; and be it further

RESOLVED, That the Chairman and Chief Executive Officer and/or the President and Chief Operating Officer or their designee be, and hereby is, authorized to take all steps necessary to acquire certain real property interests in the Bethpage, Glenwood Landing and Port Jefferson sites as discussed in the foregoing report and as may be necessary or advisable to assist LIPA in effectuating its Summer 2002 Combustion Turbine Project, by appropriation and to approve the payments to be made for the acquisition of such sites; and be it further

RESOLVED, That the President and Chief Operating Officer, the Executive Vice President - Power Generation, the Vice President and Chief Engineer, and the Vice President - Project Management be, and hereby are, authorized and directed to execute on behalf of the New York Power Authority such certificates, agreements, documents, and directions, and to take all other actions as are necessary for the appropriation of such real property, subject to approval of the form thereof by the Executive Vice President, Secretary and General Counsel.

RESOLVED, That the President and Chief Operating Officer, the Executive Vice President, Secretary and General Counsel, or the Director of Real Estate of the Authority be, and hereby is, authorized on behalf of the Authority to execute any and all other agreements, leases, indentures, papers or instruments which may be deemed necessary or advisable to carry out the foregoing, with the approval of the Executive Vice President, Secretary and General Counsel as to the form thereof.

8. Procurement (Services) Contracts – Business Units and the Facilities – Awards

The President submitted the following report:

SUMMARY

“The Trustees are requested to approve the award and funding of the multi-year procurement contracts listed in Exhibit ‘8-A’ for the Authority’s Business Units/Departments, as well as for the facilities. A detailed explanation of the nature of such services, the basis for the new awards, and the intended duration of such contracts are set forth in the discussion below.

BACKGROUND

“Section 2879 of the Public Authorities Law and the Authority's Guidelines for Procurement Contracts require Trustees' approval for procurement contracts involving services to be rendered for a period in excess of one year.

“In accordance with the Authority's Expenditure Authorization Procedures, the award of non-personal services or equipment purchase contracts in excess of \$3,000,000, as well as personal services contracts in excess of \$1,000,000 if low bidder, or \$500,000 if sole source or non-low bidder, require Trustees' approval.

DISCUSSION

“While the Authority's policy is to use its own staff to perform necessary engineering, technical and craft labor work, there are cases where it is necessary to utilize external contractors or consultants to supplement Authority staff during peak working periods, or if special expertise is required that is not available within the Authority. With respect to Headquarters, it is often necessary to retain consultants to perform specialized work outside the expertise of Authority staff.

“The terms of these contracts will be more than one year, therefore the Trustees' approval is required. All of these contracts contain provisions allowing the Authority to terminate the services for the Authority’s convenience, without liability other than paying for acceptable services rendered to the effective date of termination. Approval is also requested for funding all contracts, ranging in estimated value from \$16,200 to \$7,783,713. These contract awards do not obligate the Authority to a specific level of personnel resources or expenditures.

“The issuance of multi-year contracts is recommended from both a cost and efficiency standpoint. In many cases, reduced prices can be negotiated for these longer term contracts. Since these services are typically required on a continuous basis, it is more efficient to award longer term contracts than to rebid these services annually.

Contracts in Support of Business Units/Departments and the Facilities:

“The two contracts with **AmSpec Services, LLC and SGS Control Services, Inc. (QFS-2001A&B; PO#s TBA)** would become effective on January 1, 2002, subject to the Trustees’ approval. The purpose of these contracts is to provide for independent petroleum inspection services in connection with the delivery (via barge, tanker, and/or pipeline), transfer and storage of No. 6 (residual) and No. 2 (distillate) fuel oil within the New York Harbor and Long Island Sound. Services include the inspection, measurement, temperature determination, sampling and laboratory analysis/testing of such fuel oil to be used as a power plant fuel at the Authority’s electric generating stations at the Charles A. Poletti and Richard M. Flynn Power Projects. Such inspections are summarized in written certificates, which provide the basis of payment for oil delivered; the basis for assessing penalties for non-conforming oil; and evidence of compliance with environmental quality regulations. AmSpec and SGS were the two lowest bidders of eight bids received (of 12 firms invited to bid, including notice in the Contract Reporter). The benefits of awarding contracts to more than one inspection firm include increased operational flexibility and enhanced competitiveness over the life of the contracts. The award of multiple contracts for such services is also consistent with standard industry practice. The intended term of these contracts is three years, subject to the

Trustees' approval, which is hereby requested. Rates will remain firm for the duration of the contracts. Approval is also requested for the combined total amount expected to be expended for the term of the contracts, \$28,000.

“The contract with **ASR Management & Technical Services (a New York State certified Minority Business Enterprise; Q-02-2851; PO# TBA)** would become effective on January 1, 2002, subject to the Trustees' approval. The purpose of this contract is to provide for field (vendor shop) expediting services on behalf of the Authority in order to obtain the timely delivery of engineering data, services, material and equipment at Authority plant sites. Services include regularly scheduled and ‘emergency’ physical visits to manufacturing facilities located in the United States as well as overseas, to ascertain the status of the contract (e.g., for custom-fabricated equipment) with appropriate vendor engineering, procurement, production, and shop personnel, and to assure that the highest priority is placed on the Authority's order. Services also include telephone contacts with vendors on a regular basis and timely written reports on both plant visits and telephone contacts. ASR Management & Technical Services was the low bidder of three bids received (of four solicited, including notice in the Contract Reporter). The intended term of this contract is three years (with an option to extend for an additional year), subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the initial three-year term of the contract, \$100,000.

“The contract with **Bonadio & Co., LLP (Q-02-2745; PO# TBA)** would become effective on January 1, 2002, subject to the Trustees' approval. The purpose of this contract is to provide independent certified public accountants to perform the annual audit of the assets of the Authority's Deferred Compensation Plan (Section 457 Plan), as mandated by the rules and regulations issued by the New York State Deferred Compensation Board. The Plan is eligible under Section 457 of the Internal Revenue Code of 1986, as amended. Participants in the Authority's 457 Plan may contribute from 1% to 25% of their compensation on a pre-tax basis. Such contributions are invested, in one percent increments, in any of fourteen investment options offered by T. Rowe Price, who serves as the investment fund manager, recordkeeper and trustee for the Plan. Bonadio was the low bidder of four bids received (of eleven firms invited to bid, including notice in the Contract Reporter). Evaluation criteria included each bidder's experience in performing 457 Plan audits and the experience and level of staff involved in the audit, as well as the hourly rates of these individuals and the number of hours projected to perform the audit. In addition, Bonadio is the Authority's current provider of such services and has provided excellent service and support in this capacity. The proposed pricing is reasonable in comparison to the current contract rates. Based on Bonadio's qualifications, experience, hourly rates and the estimated number of hours needed to perform the audit, staff recommends the award of a new contract to Bonadio. The intended term of this contract is three years (with an option to extend for two additional years), subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the initial three-year term of the contract, \$16,200.

“The contract with **Commercial Building Maintenance (4600000662)** would become effective on January 1, 2002, subject to the Trustees' approval. The purpose of this contract is to provide for janitorial services for the Authority's Richard M. Flynn Power Project. Services include daily cleaning and other related services on a weekly and monthly basis, as well as additional related work, as may be required. Commercial Building Maintenance was the low bidder of three bids received (of 26 solicited, including a notice in the Contract Reporter). The contractor is the incumbent and has been providing very good service to the Authority. The proposed pricing is reasonable in comparison to the current contract rates. The intended term of this contract is three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the initial three-year term of the contract, \$59,650.

“The contract with **Corporate Counseling Associates (Q-02-2822; PO# TBA)** would become effective on March 1, 2002, subject to the Trustees' approval. The purpose of this contract is to provide Employee Assistance Program (‘EAP’) services, including child care and eldercare assistance, to all Authority employees and retirees and their families, and to act as gatekeeper for mental health and substance abuse services provided by United Healthcare under the ‘NYPA Plan’. EAP services consist of an off-site referral program designed to assess an individual's problem(s) and refer that individual for appropriate treatment. The program is comprised of core services, including preventive, management, and crisis intervention services, and support services, including supervisory training workshops, educational/promotional services, referral follow-up, fitness for duty evaluations, and activity reports. In addition to enabling employees with problems to perform their jobs in a professional manner, the Authority must comply with the Department of Transportation and Coast Guard rules, which mandate the availability of an EAP

(e.g., applicable to employees who are icebreaker captains or engineers at the Niagara Project). CCA was the sole responding bidder of seven firms invited to bid (including a notice in the Contract Reporter). This firm has administered the Authority's EAP since 1990 and has provided excellent service, assistance and support to over 3,000 employees and family members during this period. Since the introduction of gatekeeper services, CCA has demonstrated the ability to help the Authority control mental health care costs, while assuring that employees receive the highest quality of care. The proposed pricing is reasonable in comparison to the current contract rates. Based on the firm's aforementioned qualifications, experience, and rates, staff recommends the award of a new contract to CCA. The intended term of this contract is three years (with an option to extend for two additional years), subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the initial three-year term of the contract, \$270,000.

"Pursuant to the Power Authority Act as well as internal procedures adopted by the Trustees, the Authority is required to publish notice of public hearings on proposed contracts for the sale of power, public forums, certain prospective allocations of power, allocations of economic development power recommended by the Economic Development Power Allocation Board, and various events which affect communities. The unique and specialized services which advertising firms provide ensure timely, cost-effective compliance with statutory mandates and internal procedures. The two contracts with **Creative Media Agency and Fanness Group, Inc. (Q-02-2859; PO #s TBA)** would become effective on January 1, 2002, subject to the Trustees' approval. The purpose of these contracts is to provide media advertising services, consisting of the placement of mandatory legal and public advertisements for the Authority in newspapers and periodicals throughout New York State. Services may include: advertising design, mechanical preparation, copywriting, typesetting, proofs, and color separation. These two agencies were the two low bidders of three bids received (of eight firms invited to bid, including notice in the Contract Reporter), based on the percentage of the agency's industry discount passed along to the Authority. In addition, both firms provide such services under current contracts, and have proven to be efficient and reliable. Staff therefore recommends the award of new contracts to both firms, which would continue to afford the Authority good upstate and downstate coverage. The intended term of the contracts is three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the combined total amount expected to be expended for the term of both contracts, \$300,000. Payment would be made only for services rendered.

"As a condition of renewing the State Pollutant Discharge Elimination System ('SPDES') permit for the Charles A. Poletti Power Project, the New York State Department of Environmental Conservation ('DEC') required the Authority to conduct a study to count the number of fish eggs and newly hatched fish entrained through the cooling water system of the Poletti Project and the number of fish impinged on the intake screens. For the period 1999 through 2001, the number of entrained fish eggs and newly hatched fish was estimated at hundreds of millions annually and the projected number impinged was in the tens of thousands annually. However, such estimates may be a small fraction of the fish eggs and fish in the East River, Long Island Sound and New York Harbor. The firm of Carter, Ledyard & Milburn, retained under a separate contract, urged the Authority to authorize and conduct a study, at the earliest possible time, as that proposed in the subject contract, to determine the fractional reduction in the fish eggs and fish due to the operation of the Poletti Project.

"Due to time constraints, the President authorized commencement of mobilization in preparation for providing the subject services, which are anticipated to commence on January 2, 2002, under the contract **with PBS&J/LMS Joint Venture (Q-02-2849; PO# TBA)**. It was necessary to notify the contractor of the award in order to allow sufficient time to complete mobilization prior to commencement of actual services. Mobilization involves providing the labor and materials to design, construct, assemble, and install sampling equipment, which must be in place prior to commencement of actual sampling. The initial award became effective on December 11, 2001, subject to subsequent Trustees' ratification and approval, which is hereby requested; it was for the initial not-to-exceed amount of \$50,000 to cover such mobilization costs. The purpose of this contract is to conduct studies and analyses to determine the effects of entrainment and impingement on fish populations inhabiting or otherwise using the East River, due to the operation of the Poletti Project. The subject services were competitively bid with proposals solicited from six firms, including notice in the Contract Reporter. Five of the six firms collaborated and submitted one proposal, because the services required by the Authority are both complex and extensive. The two primary firms that submitted the proposal (Post, Buckley, Schuh and Jernigan and Lawler, Matusky and Skelly), established a new joint venture company for this effort, PBS&J/LMS Joint Venture, with the other three collaborating firms as their subcontractors. Such an arrangement benefits the Authority, in that the specialized

strengths, expertise and resources of each firm complement each other and can be coordinated and utilized, as may be required, without the need for multiple contracts. The intended term of this contract is four years (three years to conduct field sampling with one additional year for analyses and resolution of any regulatory issues that may arise), subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the four-year term of the contract, \$7,775,145, subject to staff review and authorization to proceed on an annual basis.

"The contract with **Test Products, Inc. ('TPI'; Q-02-2847; PO# TBA)** would become effective on January 1, 2002, subject to the Trustees' approval. The purpose of this contract is to provide for the testing of station batteries in Authority-owned and/or operated power generating and switching station facilities. The battery systems to be tested are multi-cell systems of 25-250 volts for use as an emergency direct current power supply. Capacities range up to 3900 ampere-hours over the standard eight-hour period. Such testing is performed to determine the physical, chemical and electrical condition of the equipment, as well as the available capacity/load discharge of the battery. TPI was the low bidder of two bids received (of eleven firms invited to bid, including a notice in the Contract Reporter). In addition, TPI is the incumbent and has provided satisfactory services to the Authority. The proposed pricing is reasonable in comparison to the current contract rates. It should also be noted that the rates will remain firm for the duration of the contract. The intended term of this contract is three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the initial three-year term of the contract, \$168,000.

FISCAL INFORMATION

"Funds required to support contract services for various Business Units/Departments and the facilities have been included in the 2002 Approved O&M Budget. Funds for subsequent years, where applicable, will be included in the budget submittals for those years. Payment will be made from the Operating Fund.

"Funds required to support contract services for the entrainment and impingement studies and analyses will be paid from the Operating Fund.

RECOMMENDATION

"The Director – Environmental Programs, the Director – Employee Benefits, the Regional Manager – Western New York, the Regional Manager – Central New York, the Regional Manager – Northern New York, the Regional Manager – Southeast New York, the Deputy Secretary and Deputy General Counsel, the Vice President – Energy Resource Management, the Vice President and Chief Engineer, and the Vice President - Procurement and Real Estate recommend the Trustees' approval of the award of multi-year procurement contracts to the companies listed in Exhibit '8-A' as discussed above.

"The Senior Vice President and Chief Financial Officer, the Executive Vice President – Corporate Services and Human Resources, the Executive Vice President, Secretary and General Counsel, the Executive Vice President – Power Generation, and I concur in the recommendation."

The following resolution, as recommended by the President, was unanimously adopted.

RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, the award and funding of the multi-year procurement contracts set forth in Exhibit "8-A", attached hereto, are hereby approved for the period of time indicated, in the amounts and for the purposes listed therein, as recommended in the foregoing report of the President.

9. Procurement (Services) Contracts – Business Units and Facilities – Extensions, Approval of Additional Funding and Increases in Compensation Ceiling Procurement

The Executive Vice President, Corporate Services and Human Resources submitted the following report:

SUMMARY

“The Trustees are requested to approve the continuation and funding of the procurement contracts listed in Exhibit ‘9-A’ in support of projects and programs for the Authority’s Business Units/Departments, as well as for the facilities. In addition, the Trustees are requested to approve an increase in the compensation ceiling of the contracts with the following firms: Conectiv Operating Services Company; Kleinschmidt Associates; Maytag Corp.; and an increase in the combined compensation ceilings of five contracts with firms providing regional surveying and mapping services and two contracts with firms providing engineering and consulting services; as well as the allocation of additional funding from a previously-approved revolving fund of \$2,000,000 in the aggregate, to four contracts with law firms providing services in support of the Long Island Power Authority (‘LIPA’) Turbine Project. A detailed explanation of the nature of such services, the reasons for extension, the additional funding required, and the projected expiration dates are set forth below.

BACKGROUND

“Section 2879 of the Public Authorities Law and the Authority’s Guidelines for Procurement Contracts require Trustees’ approval for procurement contracts involving services to be rendered for a period in excess of one year.

“The Authority’s Expenditure Authorization Procedures require Trustees’ approval when a personal services contract exceeds a cumulative change order value of \$500,000, or when a non-personal services or equipment purchase contract exceeds a cumulative change order limit of \$3,000,000.

DISCUSSION

“While the Authority’s policy is to use its own staff to perform necessary engineering and craft labor work, there are cases where it is necessary to utilize external contractors or consultants to supplement Authority staff during peak working periods, or if special expertise is required which is not available within the Authority.

“Although the firms identified in Exhibit ‘9-A’ have provided effective services, the issues or projects requiring these services have not been resolved or completed, and the need exists for continuing these contracts. Trustees’ approval is required because the terms of these contracts exceed one year and/or because the cumulative change order limits will exceed the levels authorized by the Expenditure Authorization Procedures in forthcoming change orders. All of the subject contracts contain provisions allowing the Authority to terminate the services for the Authority’s convenience, without liability other than paying for acceptable services rendered to the effective date of termination. These contract extensions do not obligate the Authority to a specific level of personnel resources or expenditures.

“Extension of each of the contracts identified in Exhibit ‘9-A’ is requested for one or more of the following reasons: 1) additional time is required to complete the current contractual work scope or additional services related to the original work scope; 2) to accommodate an Authority or external regulatory agency schedule change, which has delayed, re-prioritized, or otherwise suspended required services; 3) the original consultant is uniquely qualified to perform services and/or continue its presence, and rebidding would not be practical; or 4) the contractor provides a proprietary technology or specialized equipment at reasonably negotiated rates, which the Authority needs to continue until a permanent system is put in place.

Contracts in Support of Business Units/Departments and Facilities:

“The contract with **A & A Maintenance Enterprises, Inc., a New York State certified Minority Business Enterprise firm (4500036590)** provides for janitorial/cleaning services for the Clarence D. Rappleyea Building. The original award, which was competitively bid, became effective on January 1, 2001 for an initial term of one year, in the base contract amount of \$525,000, with an option to extend for two additional years. Change orders in the additional cumulative amount of \$280,000 were subsequently issued to perform miscellaneous related tasks, as well as to respond to emergent work requests related to the building. A two-year extension is now requested in order to continue such services as may be required. The current contract amount is \$805,000; it is estimated that an additional \$1,500,000 will be required for the extended term. The Trustees’ approval is requested to extend the subject contract through December 31, 2003, to ratify and approve the additional \$280,000 for previous change orders, and to approve the additional funding now requested.

“The contract with **Banner Electrical Contracting Corp. (460000525)** provides for electrical installation services of sample materials at various Authority High Efficiency Lighting Program (‘HELP’) sites. The original award, which was competitively bid, became effective on January 1, 2001 for an initial term of one-year, with an option to extend for one additional year. A one-year extension is now requested to exercise the option and to continue such services through December 31, 2002. The current contract amount is \$200,000; it is anticipated that no additional funding will be required for the extended term. Rates will remain firm for the duration of the contract. The Trustees’ approval is requested to extend the subject contract through December 31, 2002 with no additional funding requested.

“The contract with **Black & Veatch (S9463804)** provides for management and implementation services in support of the Authority’s SENY Electrotechnologies Program (‘EP’). EP is a turnkey approach to identifying, procuring and implementing energy efficient electrical technologies that promote economic efficiency for SENY public customers and benefit the environment, often by displacing alternative fueled energy technologies. At their meeting of August 30, 1994, the Trustees approved an initial three-year award to this implementation contractor. The contract, which was competitively bid, became effective on September 1, 1994. At their meetings of December 17, 1996 and September 28, 1998, the Trustees approved extensions and additional funding for this contract, increasing the compensation ceiling to \$9,906,000. An additional twelve-month extension was authorized in accordance with the Authority’s Guidelines for Procurement Contracts with the expectation that all services would be completed by June 30, 2001. Subsequently, an additional 6-month extension was authorized, subject to the Trustees’ ratification, in order to complete outstanding punchlist items for the Metropolitan Hospital Chiller project. The project has been successfully operated all summer long and only minor punchlist items remain. The current contract amount is \$9,906,000; no additional funding is required for the contract. The Trustees are requested to ratify and approve the twelve-month and additional six-month contract extensions through December 31, 2001, respectively, with no additional funding requested.

“The contract with **The Center for Research & Public Policy (45000034583)** provides for the services of a survey research firm to conduct a statewide telephone poll of opinion leaders. The poll will help the Authority to better understand these stakeholders’ knowledge and opinion of the Authority, its communications with them and their views on the electric utility industry restructuring. The original award, which was competitively bid, became effective on November 7, 2000; it was anticipated that the poll would be completed within one year. This survey was delayed because of other resource commitments related to the Power Now! Project, as well as relicensing activities. An interim extension through December 31, 2001 was authorized, at no additional cost, subject to subsequent ratification by the Trustees. The current contract amount is \$18,375; no additional funding will be required for the contract term. The Trustees are requested to ratify and approve the two-month interim extension through December 31, 2001, with no additional funding requested.

“The contract with **Foster-Miller Technologies, Inc. (‘FMT’; 4500032113)** provides for field engineering support services for the Authority’s hydro facilities. The original award became effective on October 4, 2000 for a term of one year. The original scope of work involved support for the Automated Remote Monitoring System (‘ARMS’) and Hydroturbine Expert Analysis Diagnostic System (‘HEADS’), developed by Foster-Miller and the Authority, for the Blenheim-Gilboa Pumped Storage Project. Subsequently, the scope of work was expanded to

include support services related to Micro Data Acquisition Unit ('MDAU') prototypes for the Niagara (Robert Moses and Lewiston Pumped Generating Plants), St. Lawrence/F.D. Roosevelt, and Blenheim-Gilboa Projects. Such prototypes, currently in development by FMT under a separate contract, are at the point of field deployment for testing and evaluation during the demonstration phase. The ongoing MDAU development project is expected to continue through December 31, 2004, as adaptations to the MDAU prototypes for each individual site will be required. An interim three-month extension was previously authorized in accordance with the Authority's Guidelines for Procurement Contracts. A three-year extension is now requested in order to continue such support services as needed through the expected completion of development of all MDAU prototypes. The current contract amount is \$80,000; it is anticipated that an additional \$150,000 may be required for the extended term. The Trustees' approval is requested to extend the subject contract through December 31, 2004 and to approve the additional funding requested.

"The contract with **H.J. Murphy Associates, Inc. (S98-01709)** provides for consulting services to assist the Authority's senior officers in connection with work associated with the Niagara Power Project and St. Lawrence/F.D. Roosevelt Power Project relicensing issues; commercial claims arising out of defective parts or operation of the Authority's power plants; the sale, repowering or expansion of the Charles A. Poletti Power Project; and/or any transactions involving the sale, disposition, use or purchase of assets by the Authority. Such services include technical, engineering and strategic advice and analysis. More recently, the scope has also included assistance in evaluating construction claims for the Power Now! Project. The original contract became effective on March 1, 1998 for an initial term of one year, with an option to extend for two additional years. At their meetings of December 15, 1998 and December 19, 2000, respectively, the Trustees approved contract extensions (through December 31, 2001) and additional funding (increased the total contract amount to \$170,000). In view of the many ongoing issues, an additional twenty-six month extension is now requested in order to continue services in support of the aforementioned matters. The current contract amount is \$170,000; it is anticipated that an additional \$110,000 may be required for the extended term. The Trustees' approval is requested to extend the subject contract through February 28, 2004 and to approve the additional funding requested.

"The contract with **LMF Construction & Restoration Corp. (4500029006)** provides for on-call masonry work and waterproofing services for the Clarence D. Rappleyea Building, grounds and garage. The original award, which was competitively bid, became effective on September 28, 2000 for an initial term of one year, with an option to extend for two additional years, in the initial contract amount of \$100,000. Additional funding in the cumulative amount of \$215,919 was subsequently added to the contract to support planned and emergent work. The contractor retrofitted pavers and stairs, where in some areas a potential health and safety issue had arisen with tripping hazards to our employees, tenants and the general public. Simultaneously, the patio was fabricated, providing an extended seating area, which was considered a significant upgrade to the building. Shortly thereafter, a series of waterproofing issues developed in the garage, which required immediate and extensive corrective work (much of which was extremely labor-intensive and, of necessity, performed during off hours). Such work consisted of leak detection and mixing and applying various adhesive products to the seams and membranes of the various levels in the garage. Corrective action in this area is required, as water infiltration is a threat to the structural integrity of the garage. This effort is ongoing, on an 'as required' basis. A two-year extension is now requested in order to exercise the option and continue services, as needed. The current contract amount is \$315,919; it is anticipated that an additional \$600,000 will be required for the extended term. The Trustees' approval is requested to extend the subject contract through September 27, 2003, to ratify and approve the additional \$215,919 for previously performed work, and to approve the additional funding now requested.

"The contract with **Michael Kinsella (4500021809)** provides for consulting services in connection with the relicensing effort in support of the Niagara and St. Lawrence/F.D. Roosevelt Power Projects, regulatory and tax issues affecting public power, issues relating to the transition to competition in electric markets, and such other matters as may be required. Such services include strategic advice and analysis and federal legislative and administration activities when directed by the Senior Vice President of Public and Governmental Affairs. The original contract became effective on February 1, 2000 for an initial term of one year, with an option for up to three additional years. At their meeting of December 19, 2000, the Trustees approved a one-year extension to exercise the first option year and to continue services in connection with the aforementioned issues. A two-year extension is now requested in order to exercise the second and third option years and to continue to provide ongoing services, as may be required. The current contract amount is \$148,000. It is anticipated that an additional \$148,000 may be required

for the extended term. The Trustees' approval is requested to extend the subject contract through January 31, 2004 and to approve the additional funding requested.

“The contract with **Nims, Howes, Collison, Hansen & Atkins (formerly Nims, Howes, Collison, Hansen & Lackert; 4500001320)** provides for legal services relating to patent representation and has advised the Authority on other intellectual property matters. The original contract became effective on January 1, 1999 for an initial term of one year, with an option to extend for two additional years. At their meeting of March 28, 2000, the Trustees approved an extension through December 31, 2001 and a total contract amount of \$110,000. Because of the firm's successful ongoing relationship with the Authority and its involvement in pending matters (including two pending patent applications for software relating to plant maintenance planning and work order integration), as well as trademark issues (including Power Now!, Power for Jobs, and 'NYPA' name infringement issues), an additional two-year extension is now requested in order to continue services in support of the aforementioned matters. In addition, the services of this firm may be used in reference to the Authority's website, ensuring the Authority's domain name registration is protected and seeking other internet registration issues, if needed. The current contract amount is \$80,000 (of the \$110,000 previously approved by the Trustees). It is anticipated that an additional \$10,000 may be required for the extended term. The Trustees' approval is requested to extend the subject contract through December 31, 2003 and to approve the additional funding requested.

“The contract with **Nixon Peabody LLP (formerly Nixon Hargrave Devans & Doyle; S98-01232)** provides for legal services relating to labor and employment matters and a separate Disclosure Counsel. At their meeting of December 16, 1997, the Trustees approved the original award of the subject contract, which became effective on January 1, 1998 for an initial one-year term with an option to extend for one additional year. At their meeting of December 14, 1999, the Trustees approved a two-year extension through December 31, 2001 and additional funding of \$80,000 for a total contract amount of \$165,000. The Authority has had a lengthy relationship with two partners at Nixon Peabody, who have provided valuable labor and employment law advice to the Authority at competitive rates. The firm is particularly well-versed in the State's Public Employment Relations Board ('PERB') proceedings. Nixon's lawyers have been called on to assist in evaluating discrimination claims pending before an administrative agency; their strategic advice is particularly valuable when such claims reach federal court, where their depth of experience is required. With the explosion of federal employment-related discrimination legislation over the past decade, there is the potential for increased employment litigation in federal court. Such litigation may require the Authority to seek this firm's counsel more frequently. In addition, Nixon's principals are the most experienced in disclosure counsel work; the firm has both securities law experience and a public power/public utility related practice. The firm's services are also needed to provide legal advice concerning federal securities law disclosure requirements, to ensure that the Authority's Official Statement and all other documentation concerning the bond issuance complies with such requirements, and to provide necessary opinions to the underwriters of the bonds being sold. In view of the many issues now ongoing, an additional two-year extension is requested in order to continue services in support of the aforementioned matters. The current contract amount is \$165,000; it is anticipated that an additional \$15,000 may be required for the extended term. The Trustees' approval is requested to extend the subject contract through December 31, 2003 and to approve the additional funding requested.

“The contract with **PricewaterhouseCoopers (S97-05455)** provides for independent accounting services to perform the annual audit of the Authority's financial records and other special accounting services, as may be required. At their meeting of June 24, 1997, the Trustees approved the award of the subject contract for a term of five years, in the initial amount of \$584,000. The contract, which was competitively bid, became effective on July 1, 1997. At their meetings of December 15, 1998 and March 28, 2000, the Trustees approved additional funding and a revised compensation ceiling of \$2,056,286, to support additional tasks necessitated by the continuing deregulation of the electric power industry and Authority debt issuance. Subsequently, increased funding in the amount of \$340,000 was authorized in accordance with the Authority's Expenditure Authorization Procedures ('EAPs'), to complete additional unanticipated tasks. The current contract amount is \$2,396,286. It is anticipated that an additional \$450,000 will be required to support the following current and projected tasks: consulting services to evaluate Payroll and Time & Attendance systems; financial reviews relating to the issuance of official statements and refinancing of long-term debt; and other miscellaneous services, as may be required. The Trustees are requested to ratify the additional \$340,000 previously authorized per the EAPs, and to approve this request for \$450,000 to

support the aforementioned tasks and other special services that may be required during the remaining term of the contract, thereby increasing the compensation ceiling of the contract with PricewaterhouseCoopers to \$2,846,286.

“The contract with **Shaw Pittman (formerly Shaw, Pittman, Potts and Trowbridge; S96-80503)** provides for legal representation services in ongoing high level radioactive waste litigation against the United States Department of Energy (‘DOE’). The firm presently represents the Authority in a claim filed against the United States in the Court of Federal Claims, where the Authority is seeking damages caused by the government’s breach of contract to accept high level waste by January 31, 1998. The original agreement was approved on a contingency basis by the Trustees at their meeting of March 26, 1996 and became effective on April 1, 1996. At their meetings of September 24, 1996 and June 29, 1999, respectively, the Trustees approved extensions of the subject contract through March 31, 2002 and a total contract amount of \$300,000. Subsequently, an additional \$75,000 was authorized in accordance with the Authority’s Expenditure Authorization Procedures (‘EAPs’). The government is vigorously defending the claim and the current status involves heavy discovery and claim development. A high level of legal work and associated consulting work is anticipated to develop fully the Authority’s claim; this activity is expected to extend into 2003. In view of such ongoing activity, an additional two-year extension is now requested in order to continue services in support of the aforementioned matter. The current contract amount is \$375,000; it is anticipated that an additional \$25,000 may be required for the extended term. The Trustees’ approval is requested to extend the subject contract through March 31, 2004, to ratify the additional funding previously authorized per EAPs, and to approve the additional funding requested.

“The contract with **Turboprop East, Inc. (4500036622)** provides for aircraft maintenance services for the Authority’s 1988 Beechcraft B-200 King Air corporate plane. Services include scheduled inspections consisting of a four-phase, 200-hour interval inspection program; unscheduled maintenance per manufacturer, operational and Federal Aviation Regulations requirements; and avionics installation, troubleshooting, and repair, on an ‘as required’ basis. The original award, which was competitively bid, became effective on January 4, 2001 for an initial term of one year, with an option to extend for one additional year. A one-year extension is now requested to exercise this option in order to continue services. The current contract amount is \$300,000; it is anticipated that no additional funding will be required for the extended term. The Trustees’ approval is requested to extend the subject contract through January 3, 2003 with no additional funding requested.

“The three contracts with **Westchester Air Inc. (a New York State certified Women’s Business Enterprise, ‘WBE’; 4600000491), Richmor Aviation Inc. (4600000489), and TAG Aviation (4600000492)** provide for charter aircraft services, as backup to the company plane, on an ‘as needed’ basis. Most trips are of same day duration, from Westchester County Airport to destinations within New York State (primarily Albany, Niagara and Massena). Various pressured turboprop and light jet aircraft, with seating capacities from 6 to 19 passengers, and staffed by two qualified pilots (per company policy), are utilized. The original awards, which were competitively bid, became effective on December 1, 2000 for an initial term of one year, with an option to extend for an additional year. A one-year extension is now requested in order to exercise this option and continue services, as may be required. The combined current contract amount is \$100,000; it is anticipated that no additional funding will be required for the extended term. The Trustees’ approval is requested to extend the subject contracts through November 30, 2002, with no additional funding requested. It should be noted that the charges incurred under this contract are actually charged to individual departmental budgets.

“The contract with **Winston & Strawn (S96-80597)** provides for general regulatory advice and legal counsel to the Authority on nuclear energy related matters, including policy, regulatory, licensing, and corporate issues. The Authority is part of a group of present and former nuclear utilities suing the United States Department of Energy (‘DOE’) and challenging the legality of the Decontaminating and Decommissioning (‘D&D’) Fund established under the Energy Policy Act of 1992. To date, the Authority has paid \$32.7M into the fund. The Authority is evaluating a recent decision by the Federal Court of Claims that concluded the DOE overcharged utilities for various elements of its pricing of nuclear enrichment services. If the Authority purchased such services during the period in question, refunds would be due. At their meeting of March 26, 1996, the Trustees approved the award and funding of a three-year contract, which became effective on April 1, 1996. At their meeting of June 29, 1999, the Trustees approved a three-year extension of the subject contract through March 31, 2002 and a total contract amount of \$565,000. It is necessary and desirable to maintain a relationship with Winston & Strawn, a Washington, D.C. law firm experienced in practice before various federal agencies, particularly in connection with

the aforementioned D&D Fund litigation against the DOE. An additional two-year extension is now requested to support this ongoing effort. The current contract amount is \$565,000; it is anticipated that no additional funding will be required for the extended term. The Trustees' approval is requested to extend the subject contract through March 31, 2004 with no additional funding requested.

Increases in Compensation Ceiling:

“The contract with **Conectiv Operating Services Company (4500039794)** provides for operations and maintenance ('O&M') support for ten gas turbine units (LM6000s), installed as part of the Power Now! Project. (The Brentwood unit is operated and maintained by Authority personnel at the Authority's Flynn plant.) While the Authority and General Electric are finalizing the installation of an automated control system to provide centralized remote control of each of the LM6000 gas turbine units from the Authority's Poletti Project, the system is not expected to be fully operational until the end of December. Even after implementation of the system, such O&M support will continue to be required on a daily basis to provide routine maintenance, verify site integrity and cleanliness, troubleshoot problems, and related activities. The original award became effective on March 16, 2001, in the initial amount of \$300,000, subject to the Trustees' ratification and approval as soon as practicable. At their meeting of March 27, 2001, the Trustees ratified the award of the subject contract to Conectiv and approved a two-year award with an option for one additional year, in the amount of \$6,500,000, expected to be expended for the initial two years of the contract.

“The initial funding of \$6,500,000 was based on a much shorter period anticipated for start-up and commissioning the units than the resulting actual effort, which required four months and necessitated extensive overtime hours. To support this effort initially, prior to recruiting and training permanent local staff, Conectiv was required to support the start-up with temporary crews, through its cooperative agreement with Trans Canada Turbines ('TCT') of Calgary, Canada (licensed by General Electric to perform repairs and overhauls on LM6000s). Such level of support for this effort incurred expense billings, as well as substantive overtime hours. Conectiv now has a permanent local staff of twelve operators and three office staff, who are still working overtime to support the implementation of the automated control system and other construction closeout activities. While the initial funding is sufficient for the remainder of this year and the early part of next year, it is anticipated that additional funding in the amount of \$3,200,000 will be required for 2002, and \$3,000,000 for 2003, for total additional funding of \$6,200,000. It should be noted that an estimated \$200,000 of the total amount requested for 2002 is for the procurement and erection of a modular warehouse structure for the LM6000 spare parts, to be situated at the Poletti site. It should also be noted that such additional funding will be committed to the contract only as required and does not obligate the Authority to a specific level of resources or expenditures. It is expected that under a normal operating status for the units, a stable operating cost will ultimately be realized, and future funding requirements will become more easily defined/projected. The current amount committed is \$5,330,000 (of the \$6,500,000 previously approved by the Trustees); it is anticipated that an additional \$6,200,000 will be required for the extended term through 2003. The Trustees' approval is requested to extend the subject contract through March 15, 2004 and to approve the additional funding now requested, thereby increasing the compensation ceiling to \$12,700,000.

“The Authority's existing Federal Energy Regulatory Commission ('FERC') license for the St. Lawrence/F.D. Roosevelt Power Project ('Project') expires in October 2003. In 1996, the Authority initiated relicensing activities with FERC and the New York State Department of Environmental Conservation ('DEC') and began formal consultation with the public and regulatory agencies in a process known as the Cooperative Consultation Process ('CCP'). Working with other members of the CCP Team, the Authority identified a number of environmental, land management, recreational, socioeconomic and other studies required to address issues raised in the CCP and to prepare an Environmental Impact Statement ('EIS') in conjunction with the Authority's application for a new license. Given the relicensing schedule, number and magnitude of studies, range of issues, and demand for Authority staff to participate in settlement discussions, the Authority required the assistance of a relicensing services contractor to plan and manage these studies and to prepare associated reports in a timely fashion.

“At their meeting of May 20, 1997, the Trustees approved the award of a multi-year contract to **Kleinschmidt Associates ('KA'; C97-Z0048)** for planning, procuring, managing, and coordinating services for various studies to be performed in support of the Project relicensing effort. The Trustees also authorized \$8,400,000

for studies to be conducted by subcontractors (\$6,000,000) and for KA's management of such subcontractors (\$2,400,000). The contract, which was competitively bid, became effective on May 21, 1997 for an initial term of three and one-half years. At their meetings of March 28, 2000 and December 19, 2000, the Trustees approved contract extensions and increased the compensation ceiling to \$16,500,000. KA has performed very well during the past 4-1/2 years, providing the Authority with good technical support and studies of good quality. They have been very effective in managing studies, selecting subcontractors and controlling costs. KA staff have been very responsive to the Authority, at times under very aggressive schedules. KA's knowledge of the Authority, the Project and the study data make them uniquely qualified for continuing this work. Studies in support of relicensing and settlement negotiations are ongoing and are expected to continue through June 2003. It is anticipated that relicensing activities will need to continue until the issuance of the new license later that year. A two-year extension through December 31, 2003 is now requested in order to continue such services. The current contract amount is \$16,500,000. It is anticipated that an additional \$5,350,000 will be required for 2002 (to be allocated as follows: approximately \$1,188,500 million to KA and \$4,161,500 million to subcontractors, as needed). KA's work through the end of 2003 includes: 1) reviewing and finalizing reports for studies initiated since 1999; 2) planning, procuring, managing and coordinating six firms who will perform additional relicensing studies related to a) upstream and downstream passage of American eel, b) studies required by FERC, and c) studies agreed upon in the settlement agreement; 3) providing expert consultation services to the Authority, as well as mapping services and related design and engineering work; 4) supporting the Authority in settlement negotiations; 5) coordinating study results, data and material to be used by the Third Party Contractor to prepare the draft and final EIS; 6) preparing any necessary amendments to the license application filed on October 31, 2001; and 7) assisting the Authority in preparing technical aspects of responses to administrative matters relating to FERC. The Trustees' approval is requested to extend the subject contract through December 31, 2003 and to approve the additional funding requested, thereby increasing the compensation ceiling to \$21,850,000. Additional funding to support services beyond 2002 will be requested at a future time.

"At their meeting of October 31, 1995, the Trustees approved the award of the first contracts in support of the Authority's Public Housing Energy Efficiency Program, which provides for the procurement (furnish/delivery) of super energy efficient refrigerators for the New York City Housing Authority ('NYCHA'). The installation of the new refrigerators and the removal of the old units are provided under a separate agreement with another contractor. The initial contract with Maytag Corp. became effective in 1997 for an initial one-year term. Subsequently, Authority staff annually conducted a competitive search of refrigerator manufacturers to meet or exceed the original energy efficiency standard. This resulted in the Trustees' approval of annual extensions to the Maytag contract, because this was the only manufacturer able to provide units with the requisite energy efficiency level. Since the Authority's Public Housing Energy Efficiency Program is ongoing, staff contacted six refrigerator manufacturers once again to meet the standard for 2001, resulting in the award of a new contract to **Maytag Corp. (460000507)**. Based on a life cycle cost analysis per unit (i.e., cost of refrigerator and cost of energy usage per year in kilowatt hours ('kWh'), Maytag was the low bidder. At their meeting of December 19, 2000, the Trustees approved the award of the subject contract for a total amount for the first year of \$7,686,000, for a maximum of 26,000 15-cubic foot Magic Chef super energy efficient refrigerators. The cost of the Maytag refrigerators for the first year of the contract was \$300 per unit and the energy consumption in kilowatt hours for the 2001 refrigerator was 386 kWh, which represented a reduction in both cost and energy efficiency rating compared to the previous year. A one-year extension is now requested to exercise the first year of a two-year contract option. Staff have negotiated the price to \$302 per unit for 2002. The current amount committed is \$7,686,000; it is anticipated that an additional \$7,701,000 for a maximum of 25,500 refrigerators will be required for 2002. The Trustees' approval is requested to extend the subject contract through December 31, 2002 and to approve the additional funding now requested, thereby increasing the compensation ceiling to \$15,387,000. It should be noted that the Authority will recover all of the funding pursuant to its contract with NYCHA.

"At their meeting of November 27, 2001, the Trustees authorized expenditures to establish a revolving fund, not to exceed the amount of \$2,000,000 in the aggregate, for certain financial, legal, environmental, procurement, real estate, engineering and other consulting services and technical assistance to be rendered by the Authority in connection with the Long Island Power Authority's ('LIPAs') Turbine Project. The Trustees also authorized the President and Chief Operating Officer and/or the Executive Vice President, Secretary and General Counsel to allocate the requested funding in his discretion, as services are performed or technical assistance rendered, and to authorize increases in the compensation ceilings of any contracts necessary to cover such work.

Pursuant to the aforementioned authorizations, funding will be allocated to the contracts with the four legal firms listed below (as well as to contracts with any other firm(s) that may be engaged by the Authority for such services), as needed. Accordingly, the compensation ceilings of such contracts may also be increased, as may be required. It should be noted that LIPA will be billed directly for such services and assistance, with the Authority receiving reimbursement of such billings on a monthly basis, so that there will be no net impact on the Authority's costs. Upon reimbursement, the revolving fund will be available for additional expenditures and the contract authorizations will be increased as necessary to be consistent with such additional expenditures.

"The contract with **Bond, Schoeneck & King, LLP (4500035296)** provides for legal consultation and representation services to the Authority in connection with several potential eminent domain claims in relation to the Power Now! Project. The original award became effective on November 1, 2000, for an initial term of one year with an option to extend for one additional year. A two-month interim extension was authorized in accordance with the Authority's Guidelines for Procurement Contracts. Due to the assistance being rendered by the Authority in connection with the Long Island Power Authority's Turbine Projects, a one-year extension is now requested in order to exercise the option and continue to provide consultation and such possible legal representation services as may be required. The current contract amount is \$40,000; it is anticipated that an additional \$10,000 may be required for the extended term to support ongoing projects. Additional funding to support the LIPA Turbine Projects will also be allocated to the subject contract, as may be required. The Trustees' approval is requested to ratify the interim extension and to approve the additional extension through December 31, 2002, to approve the additional funding requested for ongoing projects, and to approve the allocation of any additional funding from the above-referenced previously-approved revolving aggregate \$2,000,000, as needed.

"The contract with **Carter, Ledyard & Milburn (4500034530)** initially provided for legal services in connection with permitting, environmental review and litigation matters concerning the Authority's Generation Projects and such other matters as the Authority may from time to time request. The agreement became effective on August 25, 2000 for an initial term of up to one year, with an option to extend for one additional year. At their meeting of December 19, 2000, the Trustees ratified and approved the award of such contract and an increase in the compensation ceiling to \$1,175,000. At their meeting of June 26, 2001, the Trustees approved a contract extension through August 24, 2002, as well as an expanded scope of work, and also increased the compensation ceiling to \$4,175,000. Such expanded work scope included aquatic studies of the East River to support the Authority's application to the Department of Environmental Conservation ('DEC') for renewal of the State Pollutant Discharge Elimination System ('SPDES') permit, which expires in 2003, as well as support for the administrative hearing process in the 500MW Combined Cycle Project. In addition to the aforementioned work, this firm is also providing services to the Authority in connection with the requirements of the State Environmental Quality Review Act ('SEQRA') and other relevant statutes, and will serve as outside counsel in any ensuing matters. More recently, the services of this firm have been retained to support the LIPA Turbine Project. The current contract amount is \$4,175,000. The Trustees' approval is requested to extend the subject contract through December 31, 2002 and to approve the allocation of any additional funding from the above-referenced previously-approved revolving aggregate \$2,000,000, as needed.

"The contract with **Hawkins Delafield & Wood (CZ-7116)** provides for advice and counsel to the Authority concerning changes in tax laws and regulations and for services relating to the Authority's ability to issue obligations under the Power Authority Act and various bond and note resolutions. The firm is at the center of numerous substantive matters, including the marketing of Authority power and transmission services under Internal Revenue Service ('IRS') regulations, and New York State electric industry restructuring. This contract became effective on April 1, 1986 and was reviewed and approved by the Trustees at their meetings of April 29, 1986, December 19, 1988, November 27, 1990, August 30, 1994, September 24, 1996, December 14, 1999, and December 19, 2000, respectively, and approved contract extensions through December 31, 2001 and a revised compensation ceiling of \$5,362,000. This amount includes allocation from additional funding authorized pursuant to the Special Resolution of March 28, 2000, which approved an aggregate \$2,000,000 for services in connection with the sale of the nuclear plants, and allocation from an additional aggregate \$850,000 approved by the Trustees at their meeting of November 28, 2000 to support such services, as well as funding authorized per the Authority's Expenditure Authorization Procedures for services provided in support of the Series 1 - 4 Subordinate Bond issuance. A two-year extension is now requested due to the continued need for legal advice regarding issues arising under forthcoming bond, note and other debt issuance; issues arising under bond and note resolutions; tax issues relating to

debt issuance; compliance with applicable IRS regulations; and miscellaneous issues arising under the Power Authority Act; as well as consultation services in relation to the LIPA Turbine Projects. The current contract amount is \$5,362,000; it is anticipated that an additional \$350,000 will be required for forthcoming bond-related services and additional funding will also be needed to support the LIPA Turbine Projects. The Trustees' approval is requested to extend the subject contract through December 31, 2003, to approve the additional funding requested for bond-related services, and to approve the allocation of any additional funding from the above-referenced previously-approved revolving aggregate \$2,000,000, as needed.

“The contract with **Holland & Knight LLP (4500014922)** provides for services in relation to the negotiation, financing, and implementation of a prepaid contract for the purchase of electricity from the nuclear plants, as part of an extension of the Purchase Power Agreement; advice and counsel in connection with the review and evaluation of possible contractor claims, which may be submitted to the Authority arising out of certain power plants that are being constructed by the Authority; and, more recently, additional services in relation to certain financial, legal, environmental, engineering and other services and assistance in connection with the LIPA Turbine Projects. The original contract became effective on November 10, 1999 to provide legal advice, counsel, and representation before judicial or regulatory bodies, in connection with the sale of the Authority's two nuclear plants and on such other activities, as requested by the Authority. At their meeting of December 14, 1999, the Trustees ratified and approved a three-year award for such services, and a contract amount of \$300,000. Additional funding was subsequently authorized pursuant to the Special Resolution of March 28, 2000, which approved an aggregate \$2,000,000 for services in connection with the sale of the nuclear, as well as an additional aggregate \$850,000 approved by the Trustees at their meeting of November 28, 2000. Most recently, the Authority consulted with the firm's experts on bankruptcy and commercial law matters, on an emergency basis, to explore the option of terminating the Authority's long-term firm gas supply agreement with Enron, in light of that firm's financial distress and impending bankruptcy. Services are ongoing in connection with the aforementioned matters. The current contract amount is \$2,550,000; it is anticipated that an additional \$250,000 may be required to assist Authority staff in monitoring the Enron bankruptcy and the termination of the Authority's long-term firm gas supply agreement, in the face of likely opposition from Enron. The Trustees' approval is requested to extend the subject contract through December 31, 2002, to approve the additional funding requested in relation to the Enron case, and to approve the allocation of any additional funding from the above-referenced previously-approved revolving aggregate \$2,000,000, as needed

“At their meeting of September 28, 1999, the Trustees approved the award of five contracts for regional surveying and mapping services to the following firms: **Dana L. Drake LS PLLC (4500014084)**, **TVGA Engineering, Land Surveying PC (4500014095 and 4500014096)**, **The Sear-Brown Group (4500014097)**, and **GEOD Corp. (4500014099)**. The contracts, which were competitively bid, became effective on October 1, 2000, for an approved three-year term, with an option to extend for one additional year and for the combined total contract amount of \$1,100,000. Subsequently, an additional \$89,670 was authorized in accordance with the Authority's Expenditure Authorization Procedures ('EAPs'). There have several unforeseen projects that are driving the accelerated rate of surveying activity and expenditures: 1) the Power Now! Project required significant surveying support from initial site selection and acquisition through design and construction; 2) work associated with the extensive changes to the St. Lawrence Project boundary, resulting from the recently completed relicensing negotiations with the affected towns and adjacent landowners; 3) the 500 MW Poletti expansion project has also required detailed surveys in support of design, with additional work anticipated over the next year; 4) the LIPA Turbine Project will also required survey support for acquisition and possibly for design; and 5) significant preliminary work on the Niagara Project is being performed under these contracts instead of under a separate contract, as was originally planned. A one-year extension is now requested in order to exercise the option to continue such services and provide ongoing support for the aforementioned initiatives. The current combined contract amount is \$1,189,670; it is anticipated that an additional \$1,400,000 will be required for the extended term. The Trustees' approval is requested to extend the term of the above-listed contracts through September 30, 2004, to ratify the additional funding authorized per EAPs, and to approve the additional funding requested, thereby increasing the combined compensation ceiling to \$2,589,670. Total commitments and expenditures for all five contracts will be tracked against the approved total.

“The two contracts with **Acres International Corp. (4600000497)** and **Proto-Power Corp. (4600000496)** provide for professional design engineering and consulting services in support of the operation and maintenance of

the Authority's hydroelectric, pumped storage and fossil fuel generation projects, transmission and other support facilities. Services include, but are not limited to: preparation of engineering and design, studies, estimating, scheduling, safety assessments, testing activities, equipment specifications, permits, licenses, and procedure preparation. At their meeting of June 27, 2000, the Trustees approved the three-year awards, in the initial combined amount of \$800,000, with an option to extend for one additional year. The original contracts, which were competitively bid, became effective on July 5, 2000. Several engineering tasks during 2001 required engineering support on a 'fast-track' basis, involving a sustained level of additional staff, which resulted in an accelerated rate of expenditures. Such tasks included the Massena substation transmission facility improvement project and the B-G South Access Road landslide remediation project. A review of the current and projected workload for the remaining term of the contracts suggests that the demand for engineering services will continue to grow at a rate that cannot be met solely by staff resources within the Authority's Engineering Division. Staff anticipates the need to utilize such external engineering services for specialized assignments when task backlog exceeds staff capability or when special expertise is not available to support operational needs. The firms have performed well and have successfully supplemented Authority staff resources in meeting the Authority's needs for professional engineering services. The current combined contract amount is \$800,000; it is anticipated that an additional \$500,000 will be required for the remaining term of the contracts. In accordance with the current terms of the contracts, hourly billing rates for various professional levels will be reviewed each year and may be adjusted based on prescribed economic indicators. Markup, overhead, and profit will remain fixed for the duration of the contracts. The Trustees' approval is requested to approve additional funding in the amount of \$500,000, thereby increasing the combined compensation ceiling to \$1,300,000.

FISCAL INFORMATION

"Funds required to support contract services for various Headquarters Office Business Units/Departments and the facilities have been included in the 2002 Approved O&M Budget. Funds for subsequent years, where applicable, will be included in the budget submittals for those years. Payment will be made from the Operating Fund.

"Funds required to support contract services for capital projects have been included as part of the approved capital expenditures for those projects. Funds required to support the contract for the St. Lawrence Project relicensing effort will be withdrawn from the Authority's Capital Fund and will be disbursed in accordance with the Project's relicensing Capital Expenditure Authorization Request. Payment for contracts in support of the HELP, Electrotechnologies, and refrigerator programs will be made from the Energy Conservation Effectuation and Construction Fund.

RECOMMENDATION

"The Director – Communications & Marketing Services, the Director – Corporate Support Services, the Director – Energy Services, the Director – Research and Technology Development, the Executive Director – Hydro Relicensing, the Regional Manager – Northern New York, the Regional Manager – Western New York, the Regional Manager – Central New York, the Regional Manager – Southeast New York, the Deputy Secretary and Deputy General Counsel, the Vice President – Controller, the Vice President and Chief Engineer, and the Vice President – Procurement and Real Estate, recommend the Trustees' approval of the extensions, additional funding and increases in compensation ceilings of the procurement contracts listed in Exhibit '9-A', as well as the allocation of additional funding from the previously-approved revolving fund of \$2,000,000 in the aggregate, to the four contracts with law firms providing services in support of the LIPA Turbine Project.

"The Senior Vice President and Chief Financial Officer, the Senior Vice President – Energy Services and Technology, the Senior Vice President – Public and Governmental Affairs, the Executive Vice President, Secretary and General Counsel^{1*}, the Executive Vice President – Power Generation, and I concur in the recommendation."

¹ The Executive Vice President, Secretary and General Counsel recuses himself with respect to any recommendation relating to the use of the services of Holland & Knight, LLP and will defer to the President and Chief Operating Officer with respect to any contract involving such law firm.

Mr. Hoff presented the highlights of staff's recommendations to the Trustees.

Chairman Seymour inquired about the cost effectiveness of the various studies related to fish life in connection with the Poletti power plant. Mr. Blabey explained that such studies were necessary from a legal perspective.

The following resolution, as recommended by the Executive Vice President, Corporate Services and Human Resources, was unanimously adopted.

RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, each of the contracts listed in Exhibit "9-A" is hereby approved and extended for the period of time indicated, in the amounts and for the purposes listed below, as recommended in the foregoing report of the Executive Vice President – Corporate Services and Human Resources; and be it further

RESOLVED, That pursuant to the Authority's Expenditure Authorization Procedures, an increase in the compensation ceiling of the contracts with Conectiv Operating Services Company, Kleinschmidt Associates, and Maytag Corp., as well as the combined compensation ceiling for five contracts with firms providing for regional surveying and mapping services, two contracts with firms providing engineering and consulting services, and the allocation of additional funding from a previously approved revolving fund of \$2,000,000 in the aggregate, to contracts with four law firms providing services in support of the LIPA Turbine Project, be, and hereby are, approved as recommended in the foregoing report of the Executive Vice President – Corporate Services and Human Resources in the amounts and for the purposes listed below:

<u>O & M</u>	<u>Contract Approval (Increase in Compensation Ceiling</u>	<u>Projected Closing Date</u>
Provide Operations & Maintenance support for ten gas turbine units (LM6000s), installed as part of the Power Now! Project:		
Conectiv Operating Services Company 4500039794		
Additional Funding Requested	\$ 6,200,000	03/15/04
Previously Approved Contract Amount	<u>\$ 6,500,000</u>	
REVISED COMPENSATION CEILIN	<u>\$12,700,000</u>	

O & M

Provide planning, procurement, management, consulting & coordination services for STL relicensing studies:

Kleinschmidt Associates
C97-Z0048

Additional Funding Requested	\$5,350,000 (for 2002)	12/31/03
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Previously Approved Contract Amount \$16,500,000

REVISED COMPENSATION CEILING \$21,850,000

O & M

Procurement of super energy efficient refrigerators for the Authority's Public Housing Energy Efficiency Program:

Maytag Corp.
4600000507

Additional Funding Requested	\$7,701,000	12/31/02
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Previously Approved Contract Amount \$7,686,000

REVISED COMPENSATION CEILIN \$15,387,000

O & M

Provide regional surveying and mapping services:

Dana L. Drake LS PLLC
4500014084

<u>O & M</u>	<u>Contract Approval (Increase in Compensation Ceiling</u>	<u>Projected Closing Date</u>
(Regional surveying and mapping services continued)		

TVGA Engineering, Land Surveying PC
450014095

TVGA Engineering, Land Surveying PC
45600014096

The Sear-Brown Group
4500014097

GEOD Corp.
4500014099

Additional Funding Requested	\$1,400,000	09/30/04
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Previously Approved Combined Total \$1,100,000

Additional Amount Authorized per EAPs \$89,670

REVISED COMBINED
COMPENSATION CEILING \$2,589,670

O & M

Provide for design engineering & consulting services for the operation & maintenance of the Authority's hydroelectric, pumped storage & fossil fuel generation projects, transmission and other support facilities

Acres International Corp.
4600000497

Proto-Power Corp.
4600000496

Additional Funding Requested	\$500,000	06/30/03 (+ option to extend for one add'l year)
Previously Approved Combined Total	\$800,000	

REVISED COMBINED
COMPENSATION CEILING \$1,300,000

<u>O & M</u>	<u>Contract Approval (Increase in Compensation Ceiling</u>	<u>Projected Closing Date</u>
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At their meeting of November 27, 2001, the Trustees authorized expenditures to establish a revolving fund, not to exceed the amount of \$2,000,000 in the aggregate, for certain financial, legal, environmental, procurement, real estate, engineering and other consulting services and technical assistance to be rendered by the Authority in connection with the Long Island Power Authority's ("LIPAs") Turbine Project. Funding will be allocated to the contracts with the four legal firms listed below (as well as to contracts with any other firm(s) that may be engaged by the Authority for such services), as needed. Accordingly, the compensation ceilings of such contracts may also be increased, as may be required.

Provide legal consultation and representation services in connection with eminent domain claims (e.g., Power Now! Project) + support LIPA Turbine Project, as needed:

Bond, Schoeneck & King, LLP
4500035296

Additional Funding Requested	\$10,000	12/31/02
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Previously Authorized Amount \$40,000

REVISED COMPENSATION CEILING \$50,000 + allocation from aggregate \$2M

O & M

Provide legal consulting services in support of the Power Now! Projects, Poletti expansion and renewal of SPDES permit & other matters, as needed + support LIPA Turbine Project, as needed:

Carter, Ledyard & Milburn
4500034530

Previously Approved Amount \$4,175,000 12/31/02

REVISED COMPENSATION CEILING \$4,175,000 + allocation from aggregate \$2M

<u>O & M</u>	<u>Contract Approval (Increase in Compensation Ceiling</u>	<u>Projected Closing Date</u>
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Provide legal services re finance, bond issuance, tax, legislative matters + support LIPA Turbine Project, as needed:

Hawkins Delafield & Wood
CZ-7116

Additional Funding Requested \$350,000 12/31/03

Previously Approved Contract Amount \$5,362,000*

REVISED COMPENSATION CEILING \$5,712,000 + allocation from aggregate \$2M

- Note: includes funding allocated from aggregate \$2,850,000, as approved by Special Resolution of 3/28/00 and Trustee Item of 11/28/00 to support nuclear-related/sale matters

O & M

Provide legal advice, counsel & representation re review & evaluation of contractor claims and services re negotiating, financing & implementing a prepaid contract for the purchase of electricity, and also re the Enron bankruptcy and termination of the Authority's long-term firm gas supply agreement + support LIPA Turbine Project:

Holland & Knight LLP
4500014922

Additional Funding Requested \$250,000 12/31/02

Previously Approved Contract Amount \$2,550,000*

REVISED COMPENSATION CEILING \$2,800,000 + allocation from aggregate \$2M

- Note: includes funding allocated from aggregate \$2,850,000, as approved by Special Resolution of 3/28/00 and Trustee Item of 11/28/00 to support nuclear-related/sale matters

10. Proposed 500 MW Combined Cycle Project at Poletti – Expenditure Commitment – Site Work – Contract Award – NorthStar Contracting Corporation

The President submitted the following report:

SUMMARY

“The Trustees are requested to authorize capital expenditures and approve the award of a Site Construction Contract for the 500 MW Combined Cycle Plant to NorthStar Contracting Corp. of New Rochelle, NY in the amount of \$6,063,000.

BACKGROUND

“Section 2879 of the Public Authorities Law and the Authority’s Guidelines for Procurement Contracts require Trustees’ approval for procurement contracts involving services to be rendered for a period in excess of one year.

“In accordance with the Authority’s Expenditure Authorization Procedures, the award of non-personal services or equipment purchase contracts in excess of \$3,000,000, as well as personal services contracts in excess of \$1,000,000 if low bidder, or \$500,000 if sole source or non-low bidder, require Trustees’ approval.

“At their meeting of October 26, 1999, the Trustees authorized awarding a contract to the General Electric Company (‘GE’) for the engineering, procurement, and delivery of the Power Island components of the 500 MW Combined Cycle Plant at the Charles Poletti Site.

“At their meeting of August 29, 2000, the Trustees authorized commencing the application process with the Siting Board on Electric Generation and the Environment under Article X of the Public Service Law. A draft permit was received on April 30, 2001 and a final Article X certificate is expected by March, 2002.

“Engineering and design activities on the project are progressing on schedule. All major components have been ordered. The gas turbines and steam turbine have been released for shop engineering and fabrication.

“A General Work Contract as well as Fuel Oil Supply and Bulk Storage System bid packages are being prepared and will be ready for bid by the end of the December 2001 and January 2002, respectively.

DISCUSSION

“The site preparation bid package designated as ‘Site Work Contract’ includes the demolition, clearing, grubbing, disposal of waste to clear the site of existing asphalt paving, shrubbery and miscellaneous items; sheet piling and earthwork required to raise the grade in the powerblock area by as much as 5 feet; preparation of construction laydown areas outside the powerblock area including grading and gravel, supply and installation of steel piles; excavation and dewatering; installation of construction roads and site roads; and relocation/replacement of a section of a buried firewater protection pipeline including all the necessary tie-ins. The site work contract also includes the furnishing and installation of field offices, fencing and gates, supply and installation of concrete slabs and drilled caissons for the protection of existing buried utilities, and the installation of a transformer to provide construction power.

“In October 9, 2001, a Request for Proposal (‘RFP’) for the Site Work Contract was issued to 34 potential bidders. Four firms responded with a bid, eight firms formally declined to bid and the others did not respond.

“The following companies submitted proposals:

<u>BIDDER</u>	<u>BID AMOUNT</u>
NAB Construction Corporation ('NAB')	\$10,356,000
Slattery Skanska, Inc. ('Slattery')	\$ 6,240,000
Schiavone Construction Co., Inc. ('Schiavone')	\$ 6,148,000
NorthStar Contracting Corp. ('NorthStar')	\$ 5,944,000

"An Evaluation Committee with representatives from Project Management; Engineering, Procurement (Contract Administration); DMJM + Harris (the Authority's Construction Manager); and Sargent & Lundy (the design engineer for the plant), analyzed the bids for such factors as cost, completeness, balanced prices, ability to meet the schedule, related experience, safety record, exceptions and qualifications to the bidding documents, and adherence to the Authority's Minority and Women-Owned Business Enterprise goals.

"A detailed evaluation was performed on the three lowest-cost bidders. NAB Construction, the highest cost bidder, was not considered for further evaluation. As part of the bid evaluation process, the remaining three bidders were required to provide written clarifications of their proposals including pricing, schedule and scope of work. In addition, post-bid meetings were individually held at the Authority's White Plains Office on November 19 and 20, 2001, so as to, respectively, provide the bidders the opportunity to discuss in detail their construction capabilities; increase understanding of the bidding documents, and bid clarifications. As a result of the evaluation process, these three bidders are deemed to be technically capable of meeting the Authority's site work construction requirements and to have the necessary experience in those areas that the staff considers most critical for successful completion of the project, as follows:

1. Experience in providing previous Construction Site work;
2. Previous experience in the New York City area
3. Home office engineering capabilities to support the project schedule.

"Based on the economic and technical evaluation, the Evaluating Committee recommends that the contract for the Site Work Contract be awarded to NorthStar as the lowest-cost, technically qualified bidder. The cost for the Site Work Construction Contract on a lump sum price basis is \$6,063,000, which includes an adjustment in the number of piles to accommodate a larger Heat Recovery Steam Generator.

"Finally while the contract can be awarded to NorthStar, site preparation work cannot commence in the absence of a certificate under Article 10 of the Public Service Law or in the absence of permission from the Siting Board. The Authority has applied for such a certificate and action by the siting board on this application is expected January 2002.

FISCAL INFORMATION

"Payment will be made from the Authority's Capital Fund.

RECOMMENDATION

"The Senior Vice President – Public & Governmental Affairs, the Vice President – Procurement and Real Estate, the Vice President and Chief Engineer, the Vice President – Project Management, the Regional Manager – Southeast New York, and the Senior Project Manager, recommend that pursuant to the Authority's Expenditure Authorization Procedures, and Guidelines for Procurement Contracts adopted by the Authority, the Trustees approve the award of a contract to NorthStar Contracting Corporation and authorize expenditure commitments of \$6,063,000 for a Site Work Construction Contract.

“The Executive Vice President – Power Generation, the Executive Vice President, Secretary and General Counsel, the Senior Vice President and Chief Financial Officer, and the Vice President – Controller, and I concur in the recommendation.”

Mr. Grzan presented the highlights of staff's recommendations to the Trustees.

Mr. Grzan explained that, in view of logistical and technical lead time requirements, Authority staff should advise the winning contractor as soon as practicable.

At this time, Chairman Seymour asked that the Trustees' vote on this recommended action be deferred until after the discussion of certain matters by the Trustees in executive session.

11. **Motion to Conduct Executive Session**

“Mr. Chairman, I move that the Authority conduct an executive session to discuss matters affecting the public safety and matters relating to effective law enforcement, and the retention of services of particular persons and corporations.”

On motion duly made and seconded, an Executive Session was held at approximately 12:15 p.m. in connection with matters concerning contract claim negotiations with particular corporations as well as matters concerning particular litigation, including the Bergen litigation regarding preference power rates and the Silvercup litigation regarding the In-City Generation Project.

12. **Motion to Resume Meeting in Open Session**

“Mr. Chairman, I move to resume the meeting in open session.”

On motion duly made and seconded, the meeting resumed in open session at approximately 1:30 p.m.

13. **Proposed 500 MW Combined Cycle Project at Poletti –
Expenditure Commitment –Site Work – Contract Award –
NorthStar Contracting Corporation - Resolution (Item #10 Continued)**

Following the executive session, Mr. Grzan completed his presentation of the principal components underlying staff's recommendations to the Trustees.

Responding to questions from Chairman Seymour, Mr. Grzan acknowledged that the dollar amounts of the three lowest bids received for this work were close, but that staff recommends NorthStar for all the reasons delineated in the Memorandum from the President.

Vice Chairman Ciminelli inquired about the extent of impact costs and other sources of potential financial exposure, if any, were construction of the project to be deferred. Mr. Grzan explained that no such costs would be entailed under the contract, so long as construction commenced by the end of March.

Vice Chairman Ciminelli asked whether the end date could change and, if so, whether such a deadline could ultimately result in a compressed schedule and additional costs ancillary thereto. Mr. Grzan replied that NorthStar would have ninety days to build. Vice Chairman Ciminelli then suggested that the contractual terms be spelled out unequivocally. Mr. Hoff gave assurances that staff would negotiate accordingly.

Mr. Grzan noted that the schedule could not readily be compressed to sixty days and, thus, no compression-related expenses are likely to be incurred. In response to questions from the Vice Chairman, Mr. Grzan confirmed that, in view of the need for a greater number of steel piles than originally anticipated in the RFP, there will be an additional cost of some \$119,000 above NorthStar's original bid price, and that this amount is reflected in the amount of funds currently being requested of the Trustees for approval.

The following resolution, as recommended by the President, was unanimously adopted.

RESOLVED, That pursuant to the Authority's Expenditure Authorization Procedures and the Guidelines for Procurement Contracts adopted by the Authority, award of the Site Work Contract to NorthStar Contracting Corp. and expenditure commitment in the same amount, as described in the report from the President, be and hereby are, approved for the 500 MW Combined Cycle Power Plant at the Charles A. Poletti Plant site, in the amount and for the purpose listed below; and be it further

December 18, 2001

RESOLVED, That the Chairman and Chief Executive Officer, or the President and Chief Operating Officer be, and hereby are, authorized and directed to execute on behalf of the Authority the necessary contract documents, subject to approval of the form thereof by the Executive Vice President, Secretary and General Counsel.

Capital

**Contract Award and
Expenditure authorization**

Site Work Contract
NorthStar Contracting Corp.

\$6,063,000

14. Authorization to Enter into Long - Term Supply Agreements

The President submitted the following report:

SUMMARY

“The Trustees are requested to authorize the Senior Vice President - Marketing, Economic Development and Supply Planning to execute a long-term agreement with Constellation Power Source, Inc. (‘Constellation’) to provide energy supplies to the Authority commencing in 2004 and continuing through 2007. These electricity supplies are intended to match the Authority’s otherwise uncovered obligations to customers in the Power For Jobs program and to long-term business customers with price commitments in the Economic Development Power, High Load Factor Power, Municipal Distribution Agency Industrial Power programs.

BACKGROUND

“The Authority has served and continues to serve its non-hydro business customers primarily with energy purchased by the Authority pursuant to Power Purchase Agreements (‘PPAs’) with Entergy Nuclear FitzPatrick, LLC. Although energy purchased under the PPAs diminishes to 255MW at the end of 2003 and terminates at the end of 2004, the Authority’s current price obligations to these customers continue through 2007.

“Following the decision to sell its nuclear generating facilities, the Authority assured its customers that it would honor all its contractual commitments. The authorization requested herein will enable the Authority to do so by bridging the supply gap which would otherwise exist at the end of the term of the PPAs until the end of the Authority’s price commitments to the business customers.

DISCUSSION

“In August 2001, the Authority issued a Request for Proposals (‘RFP’) for the long-term supply of energy and installed capacity (‘ICAP’) to cover the projected needs of all business and government customers net of the capability of The Authority’s existing and planned resources. Energy quantities were requested by year and by location zone, separately for winter and summer capability periods.

“The consulting firm of Xenergy, Inc. was retained to assist in the preparation of the RFP, to develop a modeling framework for analysis of the bids and to assist in recommending the optimal supply portfolio.

“The Authority received proposals from 22 prospective suppliers, 11 of which were invited to submit refined proposals in a second round of bidding. The Authority subsequently reduced the current scope of purchase to include only the quantities and term requested herein.

“The summer weekday peak hour purchase requirements for business customers were put at 235MW in 2004, jumping to 450MW in 2005 (following the end of the FitzPatrick PPA), and then declining to 225MW in 2006 and 150MW in 2007 with the expiration of long-term customer price guarantees and the Power For Jobs program.

“Two firms, Constellation and Morgan Stanley Dean Witter (‘Morgan Stanley’) were judged as best able to match these profiles at the lowest cost based on the second round of bids.

“The supplies offered by both bidders take the form of financial Contracts for Differences (‘CFDs’), which, through a financial hedge, effectively allows the Authority to purchase energy on the open market at a fixed price, ensuring protection against price volatility. The purchases will be applied to the upstate markets, where prices are generally lower and where the Authority can take advantage of its existing grandfathered transmission congestion contracts.

“Staff from the Marketing, Finance and Legal departments participated in discussions and negotiations with both Constellation and Morgan Stanley. As a result of the negotiations, staff determined that the Authority’s needs

could best be met by Constellation. The quantities, prices and other relevant details of the supply purchase portfolio that staff recommends are set forth in the 'Term Sheet' handout submitted to the Trustees at this meeting.

"Based on current market conditions, staff believes that an opportunity exists at present to obtain energy supplies needed to meet existing obligations at low, secure prices. Energy markets were extremely volatile earlier this year, but are now exhibiting a measure of stability, giving rise to the low prices revealed in the bidding process. There is a significant risk in waiting for the market to evolve; volatility and uncertainty could return and elevate prices well above those in the fixed-price bids. Therefore, staff feels that this is a prudent time to act.

FISCAL INFORMATION

"The proposed CFD with Constellation will cost approximately \$221 million over the period 2004 through 2007. This will result in a net annual average increase of approximately \$8 million over that period as compared to the Authority's most recent Long Range Financial Plan ('LRFP') projections. Of this, approximately \$1 million per year reflects the added cost of In-City ICAP beyond the amount included in the LRFP.

RECOMMENDATION

"The Director – Supply Planning, the Vice President – Major Accounts and the Senior Vice President – Marketing, Economic Development and Supply Planning recommend that the Senior Vice President – Marketing, Economic Development and Supply Planning be authorized to enter into and execute a long-term agreement with Constellation Power Source, Inc. in the form of a Contracts for Differences for the supply of electricity, subject to approval of the agreement as to form by the Executive Vice President, Secretary and General Counsel and approval of credit arrangements by the Treasurer.

"The Executive Vice President, Secretary and General Counsel, the Senior Vice President and Chief Financial Officer, the Executive Vice President – Power Generation and I concur with the recommendation."

The following resolution, as recommended by the President, was unanimously adopted.

WHEREAS, The Authority has long-term obligations to various business customers in the Economic Development Power Program, the High Load Factor Power Program, the Municipal Distribution Agency Industrial Power Program and the Power For Jobs Program, and

WHEREAS, The primary source of energy and power to serve the needs of these programs has been and continues to be the power purchase contracts between Entergy Nuclear FitzPatrick, LLC and the Authority, and

WHEREAS, Such Power Purchase Agreements terminate at the end of 2004.

NOW, THEREFORE, BE IT RESOLVED, That the Senior Vice-President - Marketing, Economic Development and Supply Planning hereby is authorized, on behalf of the Authority, (1) to execute a second Schedule to the Master Agreement between the Authority and Constellation Power Source, Incorporated, dated February 16, 2001, (2) to enter into an agreement with Constellation Power Source, Incorporated, which agreement shall constitute a Transaction pursuant to such Master Agreement and such Schedule, and (3) to execute a Confirmation in connection with such agreement pursuant to such Master Agreement and such Schedule, with such Schedule, agreement, and Confirmation having such terms and conditions as are deemed necessary or advisable by such

December 18, 2001

officer to effectuate the long term arrangements to provide energy supplies for the Authority discussed in the foregoing President's Memorandum, with the execution of such Schedule and Confirmation being conclusive evidence of such officer's determination, and as are consistent with the Term Sheet provided to the Trustees at their meeting on December 18, 2001, subject to approval of such Schedule, agreement, and Confirmation as to form by the Executive Vice President, Secretary and General Counsel and the approval of credit arrangements set forth therein by the Treasurer; and be it further

RESOLVED, That the President and all other officers of the Authority are, and each of them hereby is, authorized to do and perform or cause to be done and performed in the name and on behalf of the Authority, all other acts, to execute and deliver or cause to be executed and delivered all other notices, requests, demands, directions, consents, approvals, confirmations, orders, applications, agreements, certificates, supplements, and further assurances or other communications of any kind under the corporate seal of the Authority or otherwise as he, she or they may deem necessary, advisable or appropriate to effectuate the intent of these resolutions or to comply with the requirements of the Master Agreement, Schedule and Confirmation referenced above, subject to the approval as to form by the Executive Vice President, Secretary and General Counsel.

15. Power Now! Comprehensive Claims Settlement

The President submitted the following report:

SUMMARY

“The Trustees are requested to authorize the Chairman, the Vice Chairman, the President and/or the Executive Vice President, Secretary and General Counsel to execute a comprehensive settlement agreement with Slattery Skanska, Inc. (‘Slattery’) with respect to all of Slattery’s contract claims (including all subcontractor claims) relating to its work in constructing the Power Now! generating plants.

BACKGROUND

“Due to the urgent need to install electric generation capacity in New York City during the past summer and to assist in maintaining an adequate and dependable supply, the Authority embarked on an accelerated program to purchase and install General Electric LM6000 Gas Turbines and Balance of Plant Equipment at sites in New York City and Brentwood, Long Island. At their meeting of August 29, 2000, the Trustees recognized the need for this additional electric generating capacity and authorized the purchase of the turbines. Based upon a contractor qualification process, bid documents were issued to three firms, Slattery Skanska, NorthStar Contracting and NAB Construction.

“In its major construction projects, the Authority’s preferred approach is to have a high percentage (80-90%) of detailed design and engineering completed for a specific construction package prior to soliciting proposals. This approach clarifies the design and engineering and allows bidders to provide more precise pricing proposals on a lump sum basis with fewer contingencies. For the PowerNow! Generation Project, the schedule did not allow for such completion of detailed design and engineering prior to solicitation of proposals. The approach utilized for this Project, in order to meet the targeted in-service date of June 1, 2001, was design-build, where construction proceeds as the design is being completed. The bidders understood that the June 1, 2001 target date would require this process.

“Due to the limited detailed engineering and design availability at the time of bid document preparation and the need to solicit proposals immediately to support the Project’s schedule, it was determined that the only viable approach was to prepare a scope of work for a two-unit site (which was anticipated to be the prevalent installation approach at the majority of the seven sites under consideration). Since specific subsurface designs were not completed, bidders were advised to base their proposals upon specific assumptions regarding subsurface work (primarily installation of piles), foundation and electrical work. The objective was for the bidders to provide proposals based upon assumptions with unit prices available to adjust the overall price as detailed design and engineering was completed for each installation site.

“Based upon overall qualifications, low evaluated price, and familiarity with LM6000 installations, it was recommended that this contract be awarded to Slattery of Whitestone, New York. At their meeting of December 19, 2000, the Trustees approved this award at an estimated price of \$150,000,000 and authorized \$20,000,000 for additional work related to site installation, retaining walls, additional duct bank, additional transmission interconnections, and miscellaneous equipment changes from specified conditions.

“Construction of the eleven combustion turbines as part of the Power Now! Project has resulted in a number of contract related claims arising out of the work performed by Slattery and its electrical subcontractors in completing the units in time to meet electrical demands in the City this past summer.

“Currently, the agreed upon contract amount between the Authority and Slattery is approximately \$167 million. In addition, the Authority has indicated a willingness to pay approximately another \$18 million for undisputed change orders. Slattery has submitted further claims to the Authority and its construction Manager, DMJM Harris for electrical, mechanical, civil and other work which it alleges were not covered by the contract, as

well as for expenses claimed to be due to the Authority's alleged compression and acceleration of the work schedule. These additional claims total almost \$100 million.

“Staff has negotiated a settlement not exceeding \$____ subject to an audit of Slattery's and, as necessary, its subcontractors' records to verify actual expenditures for labor, material, rental equipment and other expenses. If the audit indicates that actual costs, plus the agreed upon mark-up for overhead and fees, are less than the maximum contract price, the actual final payment will be reduced to reflect this lower amount. If the audit discloses costs above the maximum amount, Slattery and its subcontractor will absorb such costs. Slattery, and its parent, Skanska, USA, will also provide complete indemnification, including defense costs, against any claims or legal actions initiated by Slattery's subcontractor(s) against the Authority. An interim payment will be made by December 31, 2001 to Slattery such that total payments pursuant to this contract through that date will total \$200,000,000, provided a final change Order with appropriate release and indemnification provisions is executed by Slattery and Skanska, USA.

“This proposed settlement with Slattery of all outstanding claims regarding this project is in the best interests of the Authority. It permits a final accounting of the project's costs, avoids millions of dollars in litigation expenses, eliminates the risk and uncertainty of a substantial adverse judgment, and resolves the current disputes on a basis which is fair and equitable to both the contractor and the Authority.

RECOMMENDATION

“The Vice President - Project Management and the Vice President - Procurement & Real Estate recommend that the Trustees authorize the Chairman, the Vice Chairman, the President and/or the Executive Vice President, Secretary and General Counsel to take such actions as may be necessary or desirable to effectuate a comprehensive settlement with Slattery Skanska Inc. arising from contractual claims related to the Power Now! Project on terms and conditions consistent with this memorandum and so long as such settlement does not exceed [\$____million]

“The Senior Vice President and Chief Financial Officer, the Executive Vice President – Corporate Services and Human Resources, the Executive Vice President, Secretary and General Counsel, the Executive Vice President – Power Generation, and I concur in the recommendation.”

Mr. Hoff presented the highlights of staff's recommendations to the Trustees.

Trustee McCullough moved to approve staff's recommendations subject to the language changes directed by the Trustees.

The following resolution, as recommended by the President, was unanimously adopted.

BE IT RESOLVED, That the Chairman, the Vice Chairman, the President and/or the Executive Vice President, Secretary and General Counsel be, and hereby are, authorized to take such actions as may be necessary or desirable to effectuate a comprehensive settlement with Slattery Skanska Inc. arising from all of such Company's contractual claims (including those of its subcontractors) related to the Power Now! Project; provided that such settlement is consistent with the terms and conditions discussed in the foregoing report of the President, the aggregate amount of such settlement is not in excess of [\$____million] , and the form thereof has the concurrence of the Executive Vice President, Secretary and General Counsel.

16. Hydroelectric Preference Rates

The President submitted the following report:

SUMMARY

" The prolonged preference power rate litigation that commenced over nine years ago has finally concluded. In that litigation, the courts found that the rates paid by the eight plaintiffs should be recalculated because the Authority should not have used a capacity ratio to allocate the indirect overhead costs when setting those rates. Accordingly, the Authority's Controller will change its allocation methodology to be incorporated into a new preference rate cost of service study. In this regard, it is recommended that the current preference rate be made an interim rate effective immediately and subject to refund or surcharge. An interim rate is recommended because other elements of hydroelectric costs have changed since the rate was last set in 1992 and staff needs time to complete and update a new hydroelectric cost of service study to reflect, among other things, those changed costs. Once such study is completed, staff will seek comments from affected customers and interested members of the public and develop a new preference rate for presentation and consideration by the Trustees.

BACKGROUND

"At their meeting of April 28, 1992, the Trustees adopted the hydroelectric rates in effect today. Those rates were predicated upon, among other things, the allocation of headquarters and other indirect overhead costs to the Niagara and St. Lawrence hydroelectric projects using a three-step process. First, an identifiable portion of the indirect overhead costs were directly assigned to specific projects. Second, the remaining undifferentiated, unassigned indirect overhead costs were 'functionalized' between the transmission and production functions using a labor cost ratio. Finally, the production-related portion of these indirect overhead costs were allocated to the hydroelectric projects using generating capacity of the Authority's power projects. This indirect overhead capacity cost allocation result, along with other project costs, supported implementation of the current rates.

"The indirect overhead allocation method used in 1992 remained unchanged in its form and use from previous years. Based in part on this allocation, current rates are \$1.00 per kilowatt-month for demand and 4.92 mills (0.492 cents) per kilowatt-hour for energy. These rates are in effect for all preference power sold to municipal, cooperative and investor-owned utilities, as well as out-of-state customers, served from the Niagara and St. Lawrence hydroelectric projects.

"Following Trustee adoption of the current rates, a group of 13 municipal electric utility customers ('plaintiffs') sought review of three aspects of the cost-of-service study supporting the rate. The plaintiffs filed two challenges to this rate: one in state court; and the other at the Federal Energy Regulatory Commission ('FERC'). They first pursued their claims at FERC which dismissed the plaintiffs' complaint for lack of jurisdiction over the Authority's preference power rate. In the course of that ruling, FERC also criticized what it termed plaintiffs' 'cherry picking' of the indirect overhead allocation component of the overall cost of service. FERC's ruling was affirmed by the United States Court of Appeals for the District of Columbia Circuit.

"Thereafter, eight of the 13 original plaintiffs reactivated their state court lawsuit. In October 1996, without any specific criticism of the rate and without endorsing plaintiffs' labor allocator, the Supreme Court, Niagara County found that the 1992 preference power rate was not the lowest possible rate as required by Public Authorities Law ('PAL') § 1005 (5) and ordered the Authority to recalculate it. In the course of its decision, the court acknowledged that the Trustees had 'acted reasonably in setting the challenged rates,' and that those rates were 'neither arbitrary nor capricious.' The Appellate Division, Fourth Department, basically agreed with the lower court,

concluding that 'a rate setting methodology may be reasonable', but still violate the 'lowest possible rate' mandate of PAL §1005(5). The court reversed the ruling below, however, and sent the case back to the trial court because, in its view, the 'record does not provide a basis for any other rate calculations'.

"On remand, in June 2000, the Supreme Court ordered the Authority to issue refunds to the eight plaintiffs based on a revised rate calculated by use of plaintiffs' labor ratio*. Under this judgment, which was affirmed by the Appellate Division, with leave denied to the Court of Appeals, the Authority is obligated to pay the plaintiffs approximately \$16.8 million in principal and interest, all of which is subject to an existing accounting reserve. Throughout the litigation, the rates set in 1992 have continued in effect, since the orders and judgments of the courts have been stayed pending final resolution of the appeals.

DISCUSSION

"In light of the foregoing, the Authority's Controller will employ an indirect overhead allocation methodology for hydroelectric preference power customers based on labor ratios, consistent with the method approved by the Court, to be incorporated into a new cost study. Accordingly, in the next cost-of-service study, all indirect overhead costs not directly assigned to particular projects will be allocated to those projects based upon those projects' labor expenses as a percentage of total project labor expenses.

"In addition to the modification of the indirect overhead cost allocator, there have been significant changes in the Authority's business and hydroelectric cost structure since 1992 when the Trustees originally adopted the current rates. These changes include the sale of the nuclear plants, low hydrological flow conditions, and hundreds of millions of dollars in new capital investments, which have been or will be made in the next several years with respect to hydroelectric project upgrades and re-licensing commitments. Thus, the cost of providing service is fundamentally different than in 1992. By way of example, the Authority has invested nearly \$220 million in plant modernization and upgrades at the Niagara and St. Lawrence projects and \$33 million in the relicensing of the projects. The Trustees have also approved additional expenditures of over \$330 million for modernization investments to be completed by 2013. The Trustees have also authorized the filing of the application to relicense the St. Lawrence project with over \$150 million of additional expenditures included. A similar application for the Niagara project is due to be filed in 2005.

"To reflect the use of a labor based overhead allocation methodology, cost changes since 1992 and an appropriate capital cost recovery methodology, staff should prepare a full hydroelectric cost-of-service study to determine the appropriate level of the preference power base rates. That report should be prepared based on a cost of service test year composed of the first nine months of 2002 and the last three months of 2001. This test year will provide accurate and up to date cost information. Staff should seek and review comments on its study from customers and interested members of the public, and make a recommendation concerning future preference power rates for consideration by the Trustees. Any new base rate set by the Trustees would be made effective retroactive to the date of the Trustees resolution. However, the rate will reflect incorporation of the new indirect overhead method, which is made effective immediately.

FISCAL INFORMATION

"The adoption of the labor-based indirect overhead cost allocation methodology and making the preference power rate an interim rate effective immediately may require the payment of refunds to customers with respect to the period between now and the effective date of the new preference power rate. The financial impact of such possible refunds cannot be determined until the new rate is approved, but it is not expected that any such refunds will have a material adverse impact on the Authority's finances.

RECOMMENDATION

* This rate would actually be below cost since the Court required the Authority to give the plaintiffs the benefit of certain discounts which the Trustees originally authorized in 1992 to ameliorate the effect of proposed rate increases.

"The Director - Marketing Planning & Pricing recommends that the Trustees make the current preference power rate an interim rate and subject to refund effective immediately and direct the staff to prepare a full hydroelectric cost-of-service study as discussed above, subject to review and comment from affected customers and interested members of the public. Further, based on such study and public comment process, Staff should make a recommendation concerning future preference power rates for consideration by the Trustees.

"The Senior Vice President - Marketing, Economic Development and Supply Planning, the Vice President - Controller, the Executive Vice President and Chief Financial Officer, the Executive Vice President, Secretary and General Counsel, the Executive Vice President – Power Generation, and I concur in this recommendation."

Mr. Kerr presented the highlights of staff's recommendations to the Trustees and explained that the proposed changes to the Authority's indirect cost allocation methodology are the result of the court's decision in the Bergen case litigation.

Responding to questions from Chairman Seymour concerning the elements of the proposed temporary rates process, Mr. Blabey explained that when rates are eventually made final, customers will either receive funds or be surcharged based on the difference between the final rate and the temporary rate retroactive to December 18, 2001.

The following resolution, as recommended by the President, was unanimously adopted.

RESOLVED, That the current preference power rate be made an interim rate and subject to refund or surcharge, effective immediately; that staff prepare a full hydroelectric cost-of-service study as discussed in the foregoing report to determine the appropriate level of the preference power base rates and submit that study for public review and comment; and that following such review and comment, staff submit its recommendation for a new preference rate to the Trustees for their approval, and that any such new rate be made effective retroactive to the date of this resolution; and

RESOLVED, That, effective immediately, the preference rate will reflect the new indirect overhead methodology discussed in the foregoing report of the President.

17. **Modification of Prior Resolution**

The Executive Vice President, Secretary and General Counsel submitted the following report:

SUMMARY

“The Trustees are requested to modify the Resolution adopted on May 22, 2001 to add the Vice Chairman as well as the Executive Vice President, Secretary and General Counsel to the persons authorized to execute the settlement agreement referred to therein.

BACKGROUND

“In light of current circumstances, it is prudent to modify the aforesaid Resolution in order to increase the number of Authority Trustees and officers authorized to sign the settlement. A marked up copy of the proposed amended Resolution is set forth in Exhibit '17-A'.

RECOMMENDATION

“The following resolution, as recommended by the Executive Vice President, Secretary and General Counsel was unanimously adopted.”

Mr. Blabey presented the highlights of staff's recommendations to the Trustees and noted that the Authority would be the last signatory to the proposed settlement.

BE IT RESOLVED, That the Resolution adopted at the meeting of May 22, 2001 be, and hereby is, amended to read as set forth below:

BE IT RESOLVED, That the Chairman, the Vice Chairman, the President and/or the Executive Vice President, Secretary and General Counsel be, and hereby are, authorized to take such actions as may be necessary or desirable to effectuate the proposed settlement of the Matter of Silvercup Studios, et. al. on terms and conditions substantially in accordance with the report submitted by Counsel, with the concurrence of the Executive Vice President, Secretary and General Counsel as to the form thereof.

18. **Next Meeting**

The regular meeting of the Trustees will be held on **Tuesday, January 22, 2002, at 11:00 a.m., at the White Plains Office, 123 Main Street – 16th floor**, unless otherwise designated by the Chairman with the concurrence of the Trustees.

19. Closing Remarks of Chairman Seymour

At this time, Chairman Seymour announced his intention to step down as Chairman and Chief Executive Officer on the third of January 2002, in view of his appointment by Governor Pataki to the position of Executive Director of the Port Authority of New York and New Jersey. Mr. Seymour articulated his intent to serve the remainder of his term as a Trustee of the Power Authority.

Chairman Seymour thanked the Trustees, President, senior management and employees of the Power Authority for their efforts and cooperation throughout his tenure as Chairman and praised them for their hard work and the Authority's resulting collective achievements during his tenure.

Vice Chairman Ciminelli and Trustees Carey, DiMarco and McCullough each individually expressed their appreciation of Chairman Seymour's leadership and accomplishments and expressed their desire that he continue to work with them in the future as a Trustee.

20. Closing

Upon motion made and seconded, the meeting was closed at 2:00 P.M.

David E. Blabey
Executive Vice President,
Secretary and General Counsel

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