

Resolution inducing the financing of an industrial facility for Equinor Wind US LLC as a Straight-Lease Transaction, and authorizing and approving the execution and delivery of agreements in connection therewith

WHEREAS, New York City Industrial Development Agency (the “Agency”) is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Chapter 1082 of the 1974 Laws of New York, as amended (collectively, the “Act”), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, SBMT Asset LLC, a Delaware limited liability company (“SBMT Asset”), a wholly-owned indirect subsidiary of Equinor ASA, a company organized in Norway (“Equinor”) and operating as a multination energy company developing oil, gas, wind and solar energy, and Empire Offshore Wind LLC, a Delaware limited liability company (“EOW”; and, together with SBMT Asset, collectively, the “Applicants”), have entered into negotiations with officials of the Agency for the construction, furnishing, equipping and installation of two inter-related industrial facilities for the purpose of connecting offshore wind (“OSW”) power from EOW’s future development of Empire Wind I OSW (the “Future OSW Development”) to The City of New York’s (the “City”) power grid; and

WHEREAS, such industrial facilities will require that improvements be made at the South Brooklyn Marine Terminal (the “SBM Terminal”), a site owned by the City located on an approximately 66.2 acre parcel of land, being between 29<sup>th</sup> and 39<sup>th</sup> Streets and west of 2<sup>nd</sup> Avenue in Sunset Park, Brooklyn (the Terminal being all or a portion of Tax Block 662, Lots 1, 130, 136, 137 and 155), and to consist of, in connection with implementing the Future OSW Development:

- (i) on the part of SBMT Asset, the construction, furnishing and equipping of upgrades at the SBM Terminal, including an operations and maintenance facility for OSW operations, and the upgrading of the port infrastructure at the SBM Terminal (but not including the substation to be constructed by EOW as provided below) to support the industrial machinery necessary for the Future OSW Development to consist of dredging, bulkhead upgrades, electrical, water and plumbing infrastructure improvements, electric cable installations and grid connections, crane foundations, pier reinforcement, utility systems and other construction and demolition (the “SBMT Asset Project”, and the property comprising the SBMT Asset Project being the “SBMT Asset Facility”), and
- (ii) on the part of EOW, the construction of a staging site at the SBM Terminal for assembly of the wind turbines and other equipment, the acquisition of substation equipment for use at the SBM Terminal as part of an onshore substation to be constructed by EOW, and the acquisition, construction and

installation of electric cables that will connect the OSW power from the Future OSW Development to the City's power grid, such cables (the "Cables") being limited to those within the jurisdictional limits of the City (the "EOW Project", and the property comprising the EOW Project being the "EOW Facility"; the EOW Project and the SBMT Asset Project, being, collectively, the "Projects"); and

- (iii) the SBMT Asset Project and the EOW Project will have an aggregate estimated cost of approximately \$1,803,072,111; and,

WHEREAS, (i) the City is the owner of the SBM Terminal, including the improvements thereon and the adjacent lands underwater pursuant to riparian rights (collectively, the "SBM Terminal Property"), and has leased the SBM Terminal Property to the New York City Economic Development Corporation ("NYCEDC") pursuant to a certain Lease, dated as of June 29, 2015, between the City as landlord and NYCEDC as tenant (as the same has been and may hereafter be amended or supplemented, the "Master Lease"), (ii) NYCEDC has subleased the SBM Terminal Property to SSBMT, L.P., a Delaware limited partnership ("SSBMT"), pursuant to an Amended and Restated Agreement of Lease, dated as of February 28, 2022, between NYCEDC, as landlord, and SSBMT, as tenant (as the same has been and may hereafter be amended or supplemented, the "NYCEDC Lease"), (iii) SSBMT has sub-subleased the SBMT Terminal Property to SBMT Asset pursuant to an Agreement of Sublease, dated as of February 28, 2022, between SSBMT, as landlord, and SBMT Asset, as tenant (as the same has been and may hereafter be amended or supplemented, the "SBMT Asset Lease"), pursuant to which SBMT Asset Lease, the leased premises are to be comprised of the Staging Premises, the Area 2 Premises, the Area 3 Premises and the Substation Premises (as each such term is defined within the SBMT Asset Lease), and (iv) SBMT Asset will sub-sub-sublease a portion of the SBM Terminal Property to EOW for the construction of the onshore substation as part of the EOW Project; and

WHEREAS, the Applicants have submitted a Project Application (the "Application") to the Agency to initiate the accomplishment of the above; and

WHEREAS, the Application sets forth certain information with respect to SBMT Asset, EOW, Equinor, the SBMT Asset Project and the EOW Project, including the following: that each of SBMT Asset and EOW is an indirect subsidiary of Equinor; that Equinor operates worldwide in over 30 countries with over 21,000 employees; that, among other of its businesses, Equinor is a global leader in developing oil, gas, wind and solar energy projects, including the development of offshore wind with over 1 gigawatt in operations, and an extensive pipeline of projects including the Future OSW Development; that Equinor is considering the Projects and their location in part at the SBMT Terminal for the development of several key support functions including a wind turbine generator staging and assembly site (to comprise approximately 64 acres of space) and the development of an operations and maintenance facility (to comprise approximately 5 acres of space), as well as the construction of an onshore substation (to comprise approximately 5 acres of space) and the installation of submarine export cables; that the Projects would involve a capital investment of approximately \$1.8 Billion over seven years and result in an estimated 70 direct full-time jobs; that upon completion, the Projects would serve to create Equinor's north-eastern footprint, potentially establishing a future renewable energy hub where Equinor could invest and develop future offshore wind projects along the eastern seaboard; that the construction of the Projects is anticipated by Equinor to be completed in 2026; that Equinor is carefully evaluating the costs and benefits of its location decision, aligning with current and future

business needs, and is balancing these considerations with the availability of financial assistance; that cost reduction strategies are a strong focus of Equinor, and will be a significant driver in the site selection analysis; that the incentives offered by the Agency financial assistance would allow Equinor to partially offset some of the higher expenses of maintaining its operational position in the City, and allow Equinor to divert capital for future wind projects within the region; that the Applicants must obtain Agency financial assistance in the form of two inter-related straight-lease transactions to encourage Equinor and the Applicants to proceed with the Projects in the City; and that, based upon the financial assistance provided through the Agency, the Applicants desire to proceed with the respective Projects in the City; and

WHEREAS, based upon the Application, the Agency hereby determines that Agency financial assistance and related benefits in the form of a straight-lease transaction between the Agency and the Applicants are necessary to induce the Applicants to proceed with the respective Projects in the City; and

WHEREAS, the costs of the Projects are intended to be financed from equity or other funds provided by Equinor and its affiliates, and through public funds; and

WHEREAS, in order to provide financial assistance to the Applicants for the respective Projects, the Agency intends to grant the Applicants financial assistance through a straight-lease transaction in the form of real property tax abatements and sales tax exemptions, all pursuant to the Act;

NOW, THEREFORE, NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:

Section 1. The Agency hereby determines that the Projects and the provision by the Agency of financial assistance to the Applicants pursuant to the Act in the form of a two inter-related straight-lease transactions will promote and is authorized by and will be in furtherance of the policy of the State of New York as set forth in the Act, and hereby authorizes SBMT Asset to proceed with the SBMT Asset Project and EOW to proceed with the EOW Project. The Agency further determines that

(a) the Projects shall not result in the removal of any facility or plant of SBMT Asset, EOW or any other occupant or user of either the SBMT Asset Facility or the EOW Facility from outside of the City (but within the State of New York) to within the City, or in the abandonment of one or more facilities or plants of SBMT Asset, EOW or any other occupant or user of either the SBMT Asset Facility or the EOW Facility located within the State of New York (but outside of the City);

(b) no funds of the Agency shall be used in connection with either Project for the purpose of preventing the establishment of an industrial or manufacturing plant or for the purpose of advertising or promotional materials which depict elected or appointed government officials in either print or electronic media, nor shall any funds of the Agency be given in connection with either Project to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State of New York;

(c) not more than one-third of the total cost of the Projects is in respect of facilities or property primarily used in making retail sales of goods or services to customers who personally visit such facilities within the meaning of Section 862 of the New York General Municipal Law; and

(d) no portion of either Project will be located outside of the jurisdictional limits of the City, nor will any financial assistance be provided by the Agency with respect to any property outside of the jurisdictional limits of the City.

Section 2. To accomplish the purposes of the Act and to provide financial assistance to the Applicants for the respective Project, two inter-related straight-lease transactions are hereby authorized subject to the provisions of this Resolution.

Section 3. The Agency hereby authorizes SBMT Asset to proceed with the SBMT Asset Project as herein authorized. SBMT Asset is authorized to proceed with the SBMT Asset Project on behalf of the Agency as set forth in this Resolution; provided, however, that it is acknowledged and agreed by SBMT Asset that (i) nominal leasehold title to or other interest of the Agency in the SBMT Asset Facility shall be in the Agency for purposes of granting financial assistance, and (ii) SBMT Asset is hereby constituted the agent for the Agency solely for the purpose of effecting the SBMT Asset Project, and the Agency shall have no personal liability for any such action taken by SBMT Asset for such purpose. The Agency hereby authorizes EOW to proceed with the EOW Project as herein authorized. EOW is authorized to proceed with the EOW Project on behalf of the Agency as set forth in this Resolution; provided, however, that it is acknowledged and agreed by EOW that (i) nominal leasehold title or other interest of the Agency in the EOW Facility shall be in the Agency for purposes of granting financial assistance, and (ii) EOW is hereby constituted the agent for the Agency solely for the purpose of effecting the EOW Project, and the Agency shall have no personal liability for any such action taken by EOW for such purpose.

Section 4. The execution and delivery of

(i) a Company Lease Agreement (SBMT Asset Facility) from SBMT Asset (or an affiliate of SBMT Asset) subleasing the SBMT Asset Facility real property to the Agency (the “Company Lease (SBMT Asset Facility)”), an Agency Lease Agreement (SBMT Asset Facility) from the Agency leasing and/or subleasing the SBMT Asset Facility to SBMT Asset (the “Agency Lease Agreement (SBMT Asset Facility)”), a Uniform Project Agreement (SBMT Asset Facility) between the Agency and SBMT Asset (the “Uniform Project Agreement (SBMT Asset Facility)”), a Sales Tax Agent Authorization Letter from the Agency for SBMT Asset (the “Sales Tax Letter (SBMT Asset Facility)”), and the acceptance of a Guaranty Agreement (SBMT Asset Facility) from the SBMT Asset and each of Equinor US Holdings Inc. and Equinor (and/or such other or additional affiliates of SBMT Asset as an authorized officer of the Agency shall so determine by certificate of determination) in favor of the Agency (the “Guaranty Agreement (SBMT Asset Facility)”) (each document referenced in this Section 4(i) being, collectively, the “Agency Documents (SBMT Asset Facility)”), each being substantively the same as approved by the Agency for prior transactions, is hereby authorized; and

(ii) a Company Lease Agreement (EOW Facility) from EOW (or an affiliate of EOW) subleasing the EOW Facility real property to the Agency (the “Company

Lease (EOW Facility)”), an Agency Lease Agreement (EOW Facility) from the Agency leasing and/or subleasing the EOW Facility to EOW (the “Agency Lease Agreement (EOW Facility)”), a Uniform Project Agreement (EOW Facility) between the Agency and EOW (the “Uniform Project Agreement (EOW Facility)”), a Sales Tax Agent Authorization Letter from the Agency for EOW (the “Sales Tax Letter (EOW Facility)”), and the acceptance of a Guaranty Agreement (EOW Facility) from EOW and each of Equinor US Holdings Inc. and Equinor (and/or such other or additional affiliates of EOW as an authorized officer of the Agency shall so determine by certificate of determination) in favor of the Agency (the “Guaranty Agreement (EOW Facility)”) (each document referenced in this Section 4(ii) being, collectively, the “Agency Documents (EOW Facility)”), each being substantively the same as approved by the Agency for prior transactions, is hereby authorized.

The Agency Documents (SBMT Asset Facility) and the Agency Documents (EOW Facility) are collectively referred to as the “Agency Documents”. The Chairman, Vice Chairman, Executive Director, Deputy Executive Director and General Counsel are each hereby authorized to execute, acknowledge and deliver each such Agency Document. The execution and delivery of each such agreement by one of said officers shall be conclusive evidence of due authorization and approval.

Section 5. The officers of the Agency and other appropriate officials of the Agency and its agents and employees are hereby authorized and directed to take whatever steps may be necessary to cooperate with SBMT Asset to assist in the SBMT Asset Project, and to cooperate with EOW to assist in the EOW Project.

Section 6. All covenants, stipulations, obligations and agreements of the Agency contained in this Resolution and contained in the Agency Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Agency to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Agency and its successors from time to time and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Agency or the members thereof by the provisions of this Resolution or the Agency Documents shall be exercised or performed by the Agency or by such members, officers, board or body as may be required by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in the Agency Documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member, director, officer, agent or employee of the Agency in his or her individual capacity and neither the members nor the directors of the Agency nor any officer executing any Agency Document shall be liable personally for any amounts payable thereunder or arising from claims thereon or be subject to any personal liability or accountability by reason of the execution and delivery or acceptance thereof.

Section 7. The officers of the Agency are hereby designated the authorized representatives of the Agency, and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution. The Agency recognizes that due to the unusual complexities of the transaction it may



become necessary that certain of the terms approved hereby may require modifications which will not affect the intent and substance of the authorizations and approvals by the Agency herein. The Agency hereby authorizes the Chairman, Vice Chairman, Executive Director, Deputy Executive Director or General Counsel to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution. The approval of such modifications shall be evidenced by a certificate of determination of an Agency officer.

Section 8. Any expenses incurred by the Agency with respect to the Projects or either Project shall be paid by SBMT Asset, EOW and Equinor. By acceptance hereof, SBMT Asset, EOW and Equinor jointly and severally agree to pay such expenses and further jointly and severally agree to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Project.

Section 9. This Resolution is subject to approval based on an investigative report with respect to SBMT Asset, EOW and Equinor. The provisions of this Resolution shall continue to be effective for one year from the date hereof, whereupon the Agency may, at its option, terminate the effectiveness of this Resolution (except with respect to the matters contained in Section 8 hereof).

Section 10. The Agency, as lead agency, is issuing this determination pursuant to the State Environmental Quality Review Act ("SEQRA") (Article 8 of the Environmental Conservation Law) and implementing regulations contained in 6 N.Y.C.R.R. Part 617. This determination is based upon the Agency's review of information provided by the Applicants and Equinor and such other information as the Agency has deemed necessary and appropriate to make this determination.

The New York City office of the Deputy Mayor for Housing, Economic Development and Workforce (DMHEDW) assumed Lead Agency status for the environmental assessment of the SBMT Port Infrastructure Improvement Project (as referred to in the DMHEDW findings referred to below and which is inclusive of the SBMT Project) and determined these improvements to be a Type I action, pursuant to 6 N.Y.C.R.R., Part 617.4(b)(6)(i). The Bureau of Ocean Energy Management (BOEM) served as the federal lead agency for the EW 1 (which is inclusive of the EOW Project) and the Empire Wind 2 (EW2) projects (as referred to the FEIS and the BOEM's Record of Decision referred to below) for purposes of review under the National Environmental Policy Act (NEPA), and determined that the SBMT Port Infrastructure Improvement Project was a connected action. Pursuant to the 2021 CEQR Technical Manual methodology, an environmental assessment of the SBMT Port Infrastructure Improvement Project (CEQR No. 22BEM001Y) was prepared and included in the Draft and Final Environmental Impact Statements for the EW 1 and EW 2 projects, prepared by BOEM. After considering the benefits and impacts of the EW 1 and EW 2 projects, and the SBMT Port Infrastructure Improvement Project in both the Final Environmental Impact Statement (FEIS) and BOEM's Record of Decision, the DMHEDW issued findings on December 12, 2023 certifying that the SBMT Port Infrastructure Improvement Project will not generate any additional significant adverse environmental impacts beyond those identified and analyzed in the FEIS.

The transmission system for EW 1 (which includes the Cables both within and outside of the New York City jurisdiction, as well as the substation) was required under Article

VII of the New York Public Service Law to obtain a Certificate of Compatibility and Public Need for a major electric transmission facility from the New York State Public Service Commission (PSC). Pursuant to 6 N.Y.C.R.R. Part 617.5(c)(44), actions requiring a certificate of environmental compatibility and public need under articles VII, VIII, X or 10 of the New York Public Service Law, and the consideration of, granting or denial of any such certificate, are classified as Type II actions. Therefore, the transmission system for EW 1 is a Type II action pursuant to 6 N.Y.C.R.R. Part 617.5 which, if implemented, would not potentially result in significant environmental impacts.

The Agency hereby finds that, with respect to the findings and resolution of the Lead Agency (DMHEDW) for the SBMT Project, analyzed in the environmental assessment of the SBMT Port Infrastructure Improvement Project (CEQR No. 22BEM001Y) included in Appendix Q of the FEIS issued by BOEM on September 15, 2023, the Lead Agency (DMHEDW) has made a thorough and comprehensive analysis of the relevant areas of concern under SEQRA and its implementing regulations, considered a reasonable range of alternatives, appropriately assessed the potential environmental and land use impacts disclosed in the FEIS, identified measures to avoid or mitigate adverse impacts to the extent practicable, and set forth appropriate conditions to be imposed as conditions of approval. The Agency has carefully considered the Lead Agency's Statement of Findings and finds that this document is an accurate reflection of the FEIS findings that the SBMT Port Infrastructure Improvement Project will not generate any additional significant adverse environmental impacts beyond those identified and analyzed in the FEIS. The Agency hereby adopts and incorporates by reference the Lead Agency's Findings Statement dated December 13, 2023 and attached to this Resolution as Exhibit A (including the conditions therein), and determines the SBMT Port Infrastructure Improvement Project to be a Type I action.

Having considered the FEIS and the Lead Agency's Statement of Findings, the Agency certifies that: (i) the requirements of SEQRA, including 6 N.Y.C.R.R. Section 617.4, have been met and fully satisfied, and (ii) the Agency has considered the relevant environmental assessment, facts and conclusions disclosed in the FEIS and the Lead Agency's Statement of Findings and weighed and balanced relevant environmental assessment with social, economic and other considerations. The Agency determines that the transmission system for EW 1 is a Type II action, pursuant to 6 N.Y.C.R.R. Part 617.5(c)(44) as actions requiring a certificate of environmental compatibility and public need under articles VII, VIII, X or 10 of the New York Public Service Law and the consideration of, granting or denial of any such certificate; which would not result in adverse environmental impacts requiring the preparation of an Environmental Impact Statement.

Section 11. In connection with the SBMT Asset Project, SBMT Asset covenants and agrees to comply, and to cause each of its contractors, subcontractors, agents, persons or entities to comply, with the requirements of General Municipal Law Sections 875(1) and (3), as such provisions may be amended from time to time.

(1) SBMT Asset acknowledges and agrees that pursuant to General Municipal Law Section 875(3) the Agency shall have the right to recover, recapture, receive, or otherwise obtain from SBMT Asset New York State sales or use tax savings taken or purported to be taken by SBMT Asset, and any agent or any other person or entity acting on behalf of SBMT Asset, to which SBMT Asset is not entitled or which are in excess of the maximum sales or use tax exemption amount authorized for SBMT Asset in Section 13 of this Resolution or which are for property or services not authorized or taken in cases where SBMT Asset, or any agent or any other

person or entity acting on behalf of SBMT Asset, failed to comply with a material term or condition to use property or services in the manner required by this Resolution or any agreements entered into among the Agency, SBMT Asset and/or any agent or any other person or entity acting on behalf of SBMT Asset. SBMT Asset shall, and shall require each agent and any other person or entity acting on behalf of SBMT Asset, to cooperate with the Agency in its efforts to recover, recapture, receive, or otherwise obtain such New York State sales or use tax savings and shall promptly pay over any such amounts to the Agency that it requests. The failure to pay over such amounts to the Agency shall be grounds for the Commissioner of the New York State Department of Taxation and Finance (the “Commissioner”) to assess and determine New York State sales or use taxes due from SBMT Asset under Article Twenty-Eight of the New York State Tax Law, together with any relevant penalties and interest due on such amounts.

(2) SBMT Asset is hereby notified (provided that such notification is not a covenant or obligation and does not create a duty on the part of the Agency to SBMT Asset or any other party) that the Agency is subject to certain requirements under the General Municipal Law, including the following:

(i) In accordance with General Municipal Law Section 875(3)(c), if the Agency recovers, recaptures, receives, or otherwise obtains, any amount of New York State sales or use tax savings from SBMT Asset, any agent or other person or entity, the Agency shall, within thirty days of coming into possession of such amount, remit it to the Commissioner, together with such information and report that the Commissioner deems necessary to administer payment over of such amount. The Agency shall join the Commissioner as a party in any action or proceeding that the Agency commences to recover, recapture, obtain, or otherwise seek the return of, New York State sales or use tax savings from SBMT Asset or any other agent, person or entity.

(ii) In accordance with General Municipal Law Section 875(3)(d), the Agency shall prepare an annual compliance report detailing its terms and conditions described in General Municipal Law Section 875(3)(a) and its activities and efforts to recover, recapture, receive, or otherwise obtain State sales or user tax savings described in General Municipal Law Section 875(3)(b), together with such other information as the Commissioner and the New York State Commissioner of Economic Development may require. Such report shall be filed with the Commissioner, the Director of the Division of the Budget of The State of New York, the New York State Commissioner of Economic Development, the New York State Comptroller, the Council of the City of New York, and may be included with the annual financial statement required by General Municipal Law Section 859(1)(b). Such report shall be filed regardless of whether the Agency is required to file such financial statement described by General Municipal Law Section 859(1)(b). The failure to file or substantially complete such report shall be deemed to be the failure to file or substantially complete the statement required by such General Municipal Law Section 859(1)(b), and the consequences shall be the same as provided in General Municipal Law Section 859(1)(e).

(3) The foregoing requirements of this Section 11 shall apply to any amounts of New York State sales or use tax savings that the Agency recovers, recaptures, receives, or otherwise obtains, regardless of whether the Agency, SBMT Asset or any agent or other person or entity acting on behalf of SBMT Asset characterizes such benefits recovered, recaptured, received, or otherwise obtained, as a penalty or liquidated or contract damages or otherwise. The foregoing



requirements shall also apply to any interest or penalty that the Agency imposes on any such amounts or that are imposed on such amounts by operation of law or by judicial order or otherwise. Any such amounts or payments that the Agency recovers, recaptures, receives, or otherwise obtains, together with any interest or penalties thereon, shall be deemed to be New York State sales or use taxes and the Agency shall receive any such amounts or payments, whether as a result of court action or otherwise, as trustee for and on account of New York State.

Section 12. In connection with the EOW Project, EOW covenants and agrees to comply, and to cause each of its contractors, subcontractors, agents, persons or entities to comply, with the requirements of General Municipal Law Sections 875(1) and (3), as such provisions may be amended from time to time.

(1) EOW acknowledges and agrees that pursuant to General Municipal Law Section 875(3) the Agency shall have the right to recover, recapture, receive, or otherwise obtain from EOW New York State sales or use tax savings taken or purported to be taken by EOW, and any agent or any other person or entity acting on behalf of EOW, to which EOW is not entitled or which are in excess of the maximum sales or use tax exemption amount authorized for EOW in Section 13 of this Resolution or which are for property or services not authorized or taken in cases where EOW, or any agent or any other person or entity acting on behalf of EOW, failed to comply with a material term or condition to use property or services in the manner required by this Resolution or any agreements entered into among the Agency, EOW and/or any agent or any other person or entity acting on behalf of EOW. EOW shall, and shall require each agent and any other person or entity acting on behalf of EOW, to cooperate with the Agency in its efforts to recover, recapture, receive, or otherwise obtain such New York State sales or use tax savings and shall promptly pay over any such amounts to the Agency that it requests. The failure to pay over such amounts to the Agency shall be grounds for the Commissioner of the New York State Department of Taxation and Finance (the "Commissioner") to assess and determine New York State sales or use taxes due from EOW under Article Twenty-Eight of the New York State Tax Law, together with any relevant penalties and interest due on such amounts.

(2) EOW is hereby notified (provided that such notification is not a covenant or obligation and does not create a duty on the part of the Agency to EOW or any other party) that the Agency is subject to certain requirements under the General Municipal Law, including the following:

(i) In accordance with General Municipal Law Section 875(3)(c), if the Agency recovers, recaptures, receives, or otherwise obtains, any amount of New York State sales or use tax savings from EOW, any agent or other person or entity, the Agency shall, within thirty days of coming into possession of such amount, remit it to the Commissioner, together with such information and report that the Commissioner deems necessary to administer payment over of such amount. The Agency shall join the Commissioner as a party in any action or proceeding that the Agency commences to recover, recapture, obtain, or otherwise seek the return of, New York State sales or use tax savings from EOW or any other agent, person or entity.

(ii) In accordance with General Municipal Law Section 875(3)(d), the Agency shall prepare an annual compliance report detailing its terms and conditions described in General Municipal Law Section 875(3)(a) and its activities and efforts to recover, recapture, receive, or otherwise obtain State sales or user tax savings described in

General Municipal Law Section 875(3)(b), together with such other information as the Commissioner and the New York State Commissioner of Economic Development may require. Such report shall be filed with the Commissioner, the Director of the Division of the Budget of The State of New York, the New York State Commissioner of Economic Development, the New York State Comptroller, the Council of the City of New York, and may be included with the annual financial statement required by General Municipal Law Section 859(1)(b). Such report shall be filed regardless of whether the Agency is required to file such financial statement described by General Municipal Law Section 859(1)(b). The failure to file or substantially complete such report shall be deemed to be the failure to file or substantially complete the statement required by such General Municipal Law Section 859(1)(b), and the consequences shall be the same as provided in General Municipal Law Section 859(1)(e).

(3) The foregoing requirements of this Section 12 shall apply to any amounts of New York State sales or use tax savings that the Agency recovers, recaptures, receives, or otherwise obtains, regardless of whether the Agency, EOW or any agent or other person or entity acting on behalf of EOW characterizes such benefits recovered, recaptured, received, or otherwise obtained, as a penalty or liquidated or contract damages or otherwise. The foregoing requirements shall also apply to any interest or penalty that the Agency imposes on any such amounts or that are imposed on such amounts by operation of law or by judicial order or otherwise. Any such amounts or payments that the Agency recovers, recaptures, receives, or otherwise obtains, together with any interest or penalties thereon, shall be deemed to be New York State sales or use taxes and the Agency shall receive any such amounts or payments, whether as a result of court action or otherwise, as trustee for and on account of New York State.

Section 13. In connection with the SBMT Asset Project and the EOW Project, the Agency intends to grant sales and use tax exemptions in an aggregate amount not to exceed \$15,000,000.