

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK**

-----X
In the matter of the Application of
LONG ISLAND POWER AUTHORITY,
as Assignee of
NATIONAL GRID GENERATION, LLC,

Petitioner,

-against-

THE ASSESSOR OF THE TOWN OF
HUNTINGTON, THE BOARD OF ASSESSMENT
REVIEW OF THE TOWN OF HUNTINGTON
AND THE TOWN OF HUNTINGTON,

Respondents.

**SO ORDERED STIPULATION OF
SETTLEMENT**

Index Nos. 35300/2010, 30975/2011,
031116/2012, 063223/2013,
068404/2014, 610965/2015,
615750/2016, 619253/2017,
618623/2018, 619586/2019,
614583/2020

Assigned Justice:
Hon. Elizabeth Hazlitt Emerson

-----X
In the Matter of the Application of
LONG ISLAND POWER AUTHORITY,

Petitioner,

-against-

THE ASSESSOR OF THE TOWN OF HUNTINGTON,
THE BOARD OF ASSESSMENT REVIEW OF THE
TOWN OF HUNTINGTON AND THE TOWN OF
HUNTINGTON,

Respondents.

Index Nos. 35298/2010, 30313/2011,
029845/2012, 26294/2013,
19309/2014, 610557/2015,
615299/2016, 619054/2017,
618557/2018, 619090/2019,
061354/2020

Assigned Justice:
Hon. Elizabeth Hazlitt Emerson

-----X
BOARD OF EDUCATION OF THE NORTHPORT-
EAST NORTHPORT UNION FREE SCHOOL DISTRICT and
BOARD OF EDUCATION OF THE PORT JEFFERSON UNION
FREE SCHOOL DISTRICT,

Plaintiffs,

-against-

Index No. 15194/2011

LONG ISLAND POWER AUTHORITY, LONG ISLAND
LIGHTING COMPANY d/b/a LIPA, NATIONAL GRID US8,
INC. a/k/a NATIONAL GRID USA, INC., NATIONAL GRID
GENERATION, L.L.C., NATIONAL GRID, P.L.C.,
KEYSPAN CORPORATION, KEYSPAN GENERATION, L.L.C.,
KEYSPAN ELECTRIC SERVICES, L.L.C.,
KEYSPAN ENERGY TRADING SERVICES, L.L.C. and
BROOKLYN UNION GAS,

Assigned Judge:
Hon. Elizabeth Hazlitt
Emerson

Defendants.

-----X
THE TOWN OF HUNTINGTON,

Plaintiff,

-against-

Index No. 15186/2011

LONG ISLAND POWER AUTHORITY, LONG ISLAND
LIGHTING COMPANY, as predecessor of interest of Long
Island Power Authority d/b/a LIPA, NATIONAL GRID
U.S.8., a/k/a NATIONAL GRID U.S.A. INC., NATIONAL
GRID GENERATION, L.L.C., KEYSPAN GENERATION,
L.L.C., BROOKLYN UNION GAS, KEYSPAN
CORPORATION, NATIONAL GRID, P.L.C., KEYSPAN
ELECTRIC SERVICE, L.L.C., and KEYSPAN ENERGY
TRADING LLC,

Assigned Judge:
Hon. Elizabeth Hazlitt
Emerson

Defendants.

SO ORDERED STIPULATION OF SETTLEMENT

WHEREAS, National Grid Generation, LLC ("National Grid") is the current owner of property on Waterside Avenue in Northport, New York with Suffolk County Tax Map Numbers 0400-010.00-01.00-003.002 ("Main Parcel"), 0400-010.00-01.00-002.000, 0400-007.00-02.00-004.000, 0400-007.00-03.00-001.000, 0400-010.00-01.00-005.000, 0401-008.00-01.00-030.004 (the six (6) parcels shall be collectively referred to hereinafter as the "subject property"); and

WHEREAS, the subject property is the site of an electric generating facility with four primary generating units of 400 megawatt (MW) each and a single black start unit of 15 MW (together, "four generating units"), switchyard, transmission lines, oil tanks and waste water management facility and other ancillary and periphery equipment, together, known as the Northport Power Plant; and

WHEREAS, the assessment of the Main Parcel for the current tax year is \$30,233,050.00, the current total taxes for the Main Parcel is \$86,007,742.50, and the current total taxes for the subject property is \$86,067,009; and

WHEREAS, the subject property is located within the boundaries of the Northport-East Northport Union Free School District; and

WHEREAS, pursuant to the Power Supply Agreement ("PSA") entered into as of June 26, 1997, between the Long Island Lighting Company and the Long Island Power Authority ("LIPA") for a fifteen (15) year term, and the Amended and Restated Power Supply Agreement ("A&R PSA") entered into as of October 10, 2012 (with a term of May 28, 2013 through April 30, 2028), between LIPA and National Grid, LIPA is responsible for paying the annual property taxes on the subject property; and

WHEREAS, beginning in 2010, and continuing through 2020, National Grid and LIPA filed tax certiorari petitions in the Supreme Court of the State of New York, County of Suffolk, pursuant to Article 7 of the New York Real Property Tax Law ("RPTL") against the Assessor of the Town of

Huntington, the Board of Assessment Review of the Town of Huntington, and the Town of Huntington ("Town"), asserting that the assessment of the subject property on each of the final assessment rolls for 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, and 2020 (Tax Years 2010/11, 2011/12, 2012/13, 2013/14, 2014/15, 2015/16, 2016/17, 2017/18, 2018/19, 2019/20 and 2020/21) were excessive, unlawful and erroneous, and sought correction of the challenged assessments and reduction to the claimed fair market value of the subject property for each said Tax Year; and

WHEREAS, National Grid's RPTL Article 7 petitions bear Suffolk County Index Numbers 35300/2010, 30975/2011, 31116/2012, 63223/2013, 68404/2014, 610965/2015, 615750/2016, 619253/2017, 618623/2018, 619586/2019, and 614583/2020 ("National Grid's Northport Power Plant Tax Certiorari Litigation"), and LIPA's RPTL Article 7 petitions bear Suffolk County Index Numbers 35298/2010, 30313/2011, 29845/2012, 26294/2013, 19309/2014, 610557/2015, 615299/2016, 619054/2017, 618557/2018, 619090/2019, and 061354/2020 ("LIPA's Northport Power Plant Tax Certiorari Litigation") (National Grid's Northport Power Plant Tax Certiorari Litigation and LIPA's Northport Power Plant Tax Certiorari Litigation shall be referred to collectively as the "Northport Power Plant Tax Certiorari Litigation"); and

Third Party Beneficiary Cases

WHEREAS, on or about May 10, 2011, the Town of Huntington commenced litigation against LIPA and National Grid, among other defendants, in the Supreme Court of the State of New York, County of Suffolk, by Summons and Verified Complaint bearing Index Number 15186/2011, asserting that the Town is a third party beneficiary to the PSA, and that National Grid, LIPA, and the other defendants violated the PSA by filing petitions challenging the assessment of the Northport Power Plant (hereinafter the "Town Third Party Beneficiary Lawsuit"); and

WHEREAS, on or about May 10, 2011, the Board of Education of the Northport-East Northport Union Free School District ("School District") commenced a similar legal action, seeking similar relief, against LIPA and National Grid, among other defendants, in the Supreme Court of the State of New York, County of Suffolk, by Summons and Verified Complaint bearing Index Number

15194/2011, asserting that the School District is a third party beneficiary to the PSA, and that National Grid, LIPA, and the other defendants violated the PSA by filing petitions challenging the assessment of the Northport Power Plant (hereinafter the "School District Third Party Beneficiary Lawsuit"); and

WHEREAS, the Town and School District subsequently amended their respective complaints to include allegations pertaining to the A&R PSA; and

WHEREAS, in the Town Third Party Beneficiary Lawsuit and the School District Third Party Beneficiary Lawsuit, LIPA and National Grid moved for summary judgment dismissing the complaints filed in these actions; and

WHEREAS, both the Town and School District separately cross-moved for summary judgment on their respective complaints; and

WHEREAS, on August 15, 2018, Justice Elizabeth Hazlitt Emerson issued a Short Form Order granting LIPA and National Grid's motions for summary judgment in the School District Third Party Beneficiary Lawsuit, denying the School District's cross-motion for summary judgment, and dismissing all of the School District's pending causes of action; and

WHEREAS, on August 16, 2018, Justice Emerson issued a Short Form Order granting LIPA and National Grid's motions for summary judgment in the Town Third Party Beneficiary Lawsuit, denying the Town's cross-motion for summary judgment, and dismissing all of the Town's pending causes of action; and

WHEREAS, the School District and Town subsequently appealed Justice Emerson's Orders dated August 15, 2018 and August 16, 2018, to the Appellate Division, Second Department, which appeals have been perfected, and are pending calendaring of oral argument; and

Northport Power Plant Tax Certiorari Litigation

WHEREAS, on or about March 27, 2015, the Town moved to dismiss the tax certiorari petitions filed by LIPA in the Northport Power Plant Tax Certiorari Litigation for the tax years 2010/11, 2011/12, 2012/13, 2013/14 and 2014/15 on the ground that LIPA lacked standing; and

WHEREAS, by Short Form Order dated September 16, 2015, Justice John C. Bivona granted the Town's motion to dismiss LIPA's petitions; and

WHEREAS, by Decision and Order dated August 8, 2018, the Appellate Division, Second Department reversed Justice Bivona's Order, and thereafter by Decision and Order on Motion dated November 21, 2018, the Appellate Division, Second Department denied the Town's motion for leave to appeal the August 8, 2018 Decision and Order to the Court of Appeals; and

WHEREAS, National Grid has assigned to LIPA all of the rights, title and interest and obligations in National Grid's Northport Power Plant Tax Certiorari Litigation; and

WHEREAS, by motion dated on or about December 4, 2017, the Town moved to invalidate such assignments; and

WHEREAS, by Short Form Order dated December 12, 2017, Justice Emerson denied the Town's motion to invalidate the assignments and granted LIPA's cross-motion to amend the caption of the proceedings; and

WHEREAS, the Town subsequently appealed Justice Emerson's Short Form Order dated December 12, 2017, to the Appellate Division, Second Department, which appeal has been perfected, and is pending calendaring of oral argument; and

Trial Regarding the 2014 Tax Assessment Year

WHEREAS, by Consent Scheduling Order dated May 17, 2017, the parties agreed that the exchange of appraisals and expert reports, and trial, would be limited to the 2014 final assessment rolls (Tax Year 2014/15)(prior to any other tax year in the Northport Power Plant Tax Certiorari Litigation); and

WHEREAS, on various dates in the months of February, March, April, and July of 2019, a bench trial was conducted in the New York State Supreme Court, County of Suffolk, regarding the real property assessments for the subject property, solely as of the taxable status date for 2014; and

WHEREAS, following the conclusion of the bench trial, the parties made several post-trial submissions, including motions to strike expert reports; and

WHEREAS, on July 24, 2020, Justice Emerson held oral argument on the post-trial motions filed by the parties, and reserved decision; and

Settlement Negotiations, Approval of Settlement Terms, and Authorization to Execute a Formal Stipulation of Settlement

WHEREAS, during numerous dates in 2019 and 2020, attorneys for LIPA, National Grid, the Town of Huntington, and the School District engaged in negotiations to resolve the Northport Power Plant Tax Certiorari Litigation (including the Town's appeal of Justice Emerson's Short Form Order dated December 12, 2017), Town Third Party Beneficiary Lawsuit, and School District Third Party Beneficiary Lawsuit; and

WHEREAS, subsequent to the aforesaid negotiations, the School District and LIPA separately negotiated direct cash payments to the School District in the total amount of \$14,500,000 consisting of a previously negotiated initial payment of \$2,500,000 during the first year of a seven year glide path period with the addition of six (6) separate payments of \$2,000,000 in each of the

next following six (6) years as part of the settlement of the School District Third Party Beneficiary Lawsuit for a total of \$14,500,000 in direct payments to the School District; and

WHEREAS, such collective meetings and negotiations led to the preparation of a settlement term sheet (with two attachments thereto identified as Schedule A and Schedule B), acceptable to LIPA, for the purpose of presentation to the Town Board of the Town of Huntington and the Board of Education of the School District ("July 2, 2020 Settlement Term Sheet" or "Term Sheet"); and

WHEREAS, on August 12, 2020, a majority of the Board of Education of the School District voted to, subject to approval by the Town Board of the Town of Huntington on or before September 3, 2020: (1) authorize and approve of the terms of settlement as set forth in July 2, 2020 Settlement Term Sheet, subject to both the Town Board's approval of the settlement terms as set forth in the July 2, 2020 Settlement Term Sheet, and, the subsequent execution by all parties of a formal settlement agreement incorporating the settlement terms in accordance with the terms and intent of the provisions set forth in the July 2, 2020 Settlement Term Sheet; and (2) authorize the President of the Board of Education to execute a formal settlement agreement and any other documents necessary to effectuate the terms of said settlement agreement on behalf of the Board of Education, provided the aforementioned conditions referred to in subparagraph (1) above are fully satisfied; and

WHEREAS, subsequent to the preparation of the Term Sheet, in light of the COVID-19 pandemic and its economic impact, and in addition to its tax obligations set forth in the July 2, 2020 Settlement Term Sheet and Schedule A to the Term Sheet, LIPA agreed to make payments as additional consideration of \$1,000,000 in each of 2021, 2022, and 2023 directly to the Town for a total of \$3,000,000; and

WHEREAS, on September 3, 2020, a majority of the Town Board of the Town of Huntington voted to: (1) authorize and approve the terms of settlement as set forth in the July 2, 2020 Settlement Term Sheet and Schedules A and B to the Term Sheet; (2) authorize the Town Attorney to withdraw any and all pending appeals filed by the Town in the Northport Power Plant Tax Certiorari Litigation (including its challenge of National Grid's assignments to LIPA) and Town

Third Party Beneficiary Lawsuit; (3) authorize the Town Attorney to execute a formal settlement agreement with LIPA and the School District and any other documents necessary in accordance with the terms and provisions stated in the July 2, 2020 Settlement Term Sheet and the attached Schedules A and B to the July 2, 2020 Settlement Term Sheet; and (4) authorize the Town Attorney to execute an agreement with counsel for LIPA committing LIPA to make payments of \$1,000,000 in each of 2021, 2022, and 2023 to the Town for a total of \$3,000,000, with the understanding that LIPA's agreement to make payments of \$1,000,000 in each of 2021, 2022, and 2023 to the Town for a total of \$3,000,000 shall also be set forth in the formal settlement agreement between the Town, School District, and LIPA; and

NOW, THEREFORE, in consideration of the promises, agreements, covenants and representations contained in this So Ordered Stipulation of Settlement ("Settlement"), the TOWN, LIPA, and the SCHOOL DISTRICT HEREBY AGREE and it is STIPULATED AND ORDERED AS FOLLOWS:

1. The above-referenced recitals are incorporated herein by reference as if fully set forth herein.
2. Simultaneous with the execution of this Settlement, LIPA shall execute individual stipulations of discontinuance with prejudice for each of the tax certiorari proceedings commenced by LIPA and by National Grid (all of the latter of which have been assigned to LIPA, and which LIPA shall not re-assign to National Grid while the Settlement is in effect and not breached by the Town) that comprise the Northport Power Plant Tax Certiorari Litigation. LIPA (or its counsel) shall hold each such stipulation in escrow. These stipulations shall be released from escrow pursuant to paragraphs "6" and "7(B)" of this Settlement.
3. Within thirty ("30") calendar days of the date that this Settlement is So Ordered, the School District shall withdraw any active appeals in the School District Third Party Beneficiary Lawsuit and the Town shall withdraw any active appeals in the Northport Power Plant Tax Certiorari Litigation and Town Third Party Beneficiary Lawsuit.

Obligations During Settlement Period

4. Beginning with the 2020 final assessment roll (Tax Year 2020/2021), and for each ensuing final assessment roll thereafter through and including the 2026 final assessment roll (Tax year 2026/2027) (collectively, the "Settlement Period") and any extension to the Settlement Period, the Town of Huntington Assessor ("Assessor") shall review and set the assessed valuation of the Main Parcel in accordance with his/her statutory responsibilities as set forth in the New York Real Property Tax Law. The parties recognize that under the New York Real Property Tax Law, the Town of Huntington Assessor is not empowered to agree in advance to fix future full values, assessments or tax payments. This Settlement does not require the Town, Assessor or the Board of Assessment Review of the Town of Huntington ("BAR") to fix the amount of future values, assessments or tax payments; nor does this Settlement exempt the subject property from annual tax increases. Rather, it is an expression of the parties' intention to resolve without further litigation the proceedings that comprise the Northport Power Plant Tax Certiorari Litigation, and any annual tax certiorari proceedings filed during the Settlement Period or Extension Period (as defined in paragraph "15", below), if any, by either LIPA or National Grid.

5. Consistent with the terms and procedures set forth in this Settlement, LIPA shall discontinue with prejudice the proceedings that comprise the Northport Power Plant Tax Certiorari Litigation in accordance with the schedule set forth in Exhibit "A", attached hereto, and discontinue any new proceedings filed during the Settlement Period by either LIPA or National Grid, provided that the assessed valuation of the Main Parcel results in total annual taxes to be paid for the subject property, for each applicable tax year as set forth in Exhibit "B" ("target annual tax payment"), plus or minus \$500,000 (as provided for in Paragraph "7", below), and therewith, pursuant to said Exhibits A and B, LIPA waives any and all further rights and claims against the Town, Assessor, and the BAR with respect to the property taxes at the subject property, including, but not limited to, any claim for refunds. Exhibit "B" contains the "target annual tax payment" for each of the seven (7) years of the Settlement Period, and shall, along with all other exhibits to this Settlement, be incorporated herein by reference into this Settlement. LIPA shall annually pay or shall cause National Grid, or its successors or assigns to annually pay the taxes as reflected by the actual tax bills for the subject property which shall be due each year by December 1st, and payable

without penalty by January 10th of the ensuing calendar year for the first half taxes, and payable without penalty by May 31st of the ensuing calendar year for the second half taxes.

6. For each of the years during the Settlement Period that the actual tax bills for the subject property meet the target annual tax payment, plus or minus \$500,000, LIPA shall file the stipulation(s) of discontinuance with prejudice that corresponds with the respective tax year listed on Exhibit "A," attached hereto, with the Suffolk County Supreme Court Clerk's Office and waive any and all further rights and claims against the Town, Assessor, and BAR, with respect to the property taxes at the subject property, including, but not limited to, any claim for refunds related to the tax years set forth in the said filed discontinuance. LIPA shall file such stipulations of discontinuance no later than February 10th of each year, with copies provided to all parties in accordance with paragraph "43" of this Settlement. Once LIPA files a stipulation of discontinuance, the Town shall not issue a revised or supplemental tax bill for the then-current tax year. The stipulations of discontinuance with prejudice shall be in the form of the stipulation annexed hereto as Exhibit "C". All other stipulations of discontinuance with prejudice referenced in this Settlement shall likewise be in the form of the stipulation annexed hereto as Exhibit "C".

7. If the total tax bill for any tax year equals the target annual tax payment, plus or minus \$500,000, then no adjustment shall be made in the target annual tax payment in the succeeding tax year. If the total tax bill for any tax year does not equal the target annual tax payment, plus or minus \$500,000, then the target annual tax payment for the succeeding tax year shall be adjusted to reflect the difference between the prior tax year's total taxes actually paid and the prior tax year's target annual tax payment, plus or minus \$500,000. Written notice shall be provided by LIPA to the Town of the need to make any adjustment in the target annual tax payment consistent with this paragraph for the following tax year as soon as practicable. The failure by LIPA to provide the required notice shall not be considered a material breach of this Settlement and does not impact any of the Town's obligations under this Settlement.

For example purposes only: If for the 2020/2021 tax year, the target annual tax payment is \$82,014,742, but total taxes paid are \$82,714,742, then for the 2021/2022 tax year, the target annual tax payment shall be reduced by \$200,000. Thus, if the 2021/2022 target annual tax

payment is \$77,628,887, the adjusted 2021/2022 target annual tax payment would be \$77,428,887, plus or minus \$500,000.

As a further example: If for the 2020/2021 tax year, the target annual tax payment is \$82,014,742, but total taxes paid are \$81,314,742, then for the 2021/2022 tax year, the target annual tax payment shall be increased by \$200,000. Thus, if the 2021/2022 target annual tax payment is \$77,628,887, the adjusted 2021/2022 target annual tax payment would be \$77,828,887, plus or minus \$500,000.

- A. If the Town does not issue tax bills that meet the target annual tax payment plus or minus \$500,000, and does not cure such deficiency in the following tax year (as provided above), then LIPA may prosecute all of its remaining tax certiorari proceedings that have not been previously discontinued and seek refunds for all tax years for which a stipulation of discontinuance has not previously been filed. However, prior to LIPA prosecuting any of its tax certiorari proceedings pursuant to this paragraph, LIPA shall provide the Town with written notice of the Town's breach which notice shall allow the Town to cure the breach within thirty (30) days of the date of the written notice.
- B. If the Town cures any deficiency in the following tax year, then LIPA shall file the stipulation(s) of discontinuance that corresponds with the prior tax year listed on Exhibit "A," along with the stipulation that corresponds with the then-current tax year listed on Exhibit "A," with the Suffolk County Supreme Court Clerk's Office and waive any and all further rights and claims against the Town, Assessor, and BAR with respect to the property taxes on the subject property for said year(s), including, but not limited to, any claim for refunds. LIPA shall file any such stipulations of discontinuance no later than February 10th of each year.
- 8. LIPA shall have the right to file and to cause National Grid to file annual tax challenges for each final assessment and tax year comprising the Settlement Period. Consistent with the terms of this Settlement, LIPA shall discontinue with prejudice each such annual challenge on or before February 10th of each tax year in the Settlement Period and waive any and all further rights and claims against the Town, Assessor, and BAR with respect to the property

taxes on the subject property for said tax year, including, but not limited to, any claim for refunds, provided that the actual tax bills for the subject property meet the target annual tax payment, plus or minus \$500,000. LIPA shall require that any RPTL Article 7 proceeding filed by National Grid on LIPA's behalf during the Settlement Period be immediately assigned to and accepted by LIPA, as set forth in the attached side agreement between LIPA and National Grid, which is annexed hereto as Exhibit "D", and incorporated herein by reference. The parties agree for purposes of this Settlement only that any such assignment is valid and uncontestable, and that LIPA has legal standing to litigate the assigned cases.

- A. If the total taxes paid for any tax year during the Settlement Period do not equal the target annual tax payment, plus or minus \$500,000, and the Town cures such deficiency in the following tax year, then LIPA shall discontinue with prejudice the challenge filed in the prior tax year along with the challenge filed in the then-current tax year and waive any and all further rights and claims against the Town, Assessor, and BAR with respect to the property taxes on the subject property for each said year, including, but not limited to, any claim for refunds.
 - B. LIPA shall direct National Grid to promptly discontinue with prejudice any tax challenges filed by National Grid related to the subject property during the Settlement Period that were not assigned to LIPA upon the Town's compliance with this Settlement as set forth in the attached side agreement between LIPA and National Grid at Exhibit "D".
9. Subject to the provisions of paragraphs "6" through "8", LIPA agrees to waive with prejudice any claim for the refund of property taxes previously paid by it or by National Grid for the subject property and that comprise the Northport Power Plant Tax Certiorari Litigation.
10. LIPA shall provide notice to the Town no later than January 31, 2027, whether it intends to renew the A&R PSA as it relates to the Northport Power Plant, or otherwise purchase any power from National Grid from the Northport Power Plant after the term of the A&R PSA.

11. If LIPA notifies the Town pursuant to paragraph "10" of this Settlement that it does not intend to renew the A&R PSA as it relates to the Northport Power Plant, or otherwise purchase any power from National Grid from the Northport Power Plant after the expiration of the A&R PSA (April 30, 2028), pursuant to a power supply agreement or other similar agreement, then this Settlement and any obligations hereunder, shall terminate on November 30, 2027, subject to paragraph "12." In the event that this Settlement terminates on November 30, 2027, nothing contained herein shall be deemed to relieve National Grid, or its successors or assigns, any other owner of the subject property, or any party contractually responsible for the payment of taxes on the subject property, from the obligation to pay any property taxes on the subject property based on the assessment as determined by the Town of Huntington Assessor for the subject property for the 2027/2028 tax year or any tax year thereafter, without limiting any right to file administrative and legal challenges to the assessments made upon such termination.

12. If the Settlement terminates on November 30, 2027, as set forth in paragraph "11" above, and if the total taxes paid for the subject property in the 2026/2027 tax year, as reflected by the actual tax bills, exceed the target annual tax payment by more than \$500,000, any difference shall be the subject of a consent order and judgment between the Town and LIPA, to be entered into within sixty (60) days after the due date for the payment of the first-half of the tax bill, reducing the assessed valuation on the Main Parcel so as to result in a refund payable to National Grid for the difference between the total tax bill and the target annual tax payment, plus \$500,000. If the total tax bill for the 2026/2027 tax year is less than the target annual tax payment by more than \$500,000, then following the due date for the payment of the second half tax bill, the Town shall provide notice to the parties in accordance with paragraph "43" and to National Grid's General Counsel and property tax manager at the following e-mail addresses: Olga.Pettigrew@nationalgrid.com and Paula.Leaverton@nationalgrid.com, with e-mail copies to James.Flannery@nationalgrid.com and klevin@cullenllp.com, stating the difference between the target annual tax payment and the total tax bill, less \$500,000, and LIPA shall pay or cause National Grid to pay this amount within sixty (60) days of receipt of the notice. If, however, the A&R PSA is renewed for the same net generation capacity or less than the same net generation capacity and the agreement to purchase power is thus extended, as set forth below in paragraphs "17" and "18", then, such excess or shortfall in the 2026/2027 target annual tax payment of

\$46,000,000, plus or minus \$500,000, shall be adjusted in the target annual tax payment for the 2027/2028 tax year as set forth in paragraph "7" herein.

13. On or before November 1st of each year, the Town Assessor shall provide LIPA sufficient information to allow LIPA to review the proposed assessed valuation of the Main Parcel so as to achieve the target annual tax payment in Exhibit "B." Should the Town not provide the information described above by November 1st of each year, the parties agree that such failure shall not be a material breach of this Settlement. Following the finalization of the equalization rate and School Tax Rates, the Assessor shall issue a notice revising the assessed value of the Main Parcel to facilitate achieving the target annual tax payment.

14. Regardless of whether LIPA exercises its rights to purchase power for less than all of the four generating units at the subject property under the existing A&R PSA or any similar agreement between LIPA and National Grid or a successor entity, LIPA shall honor its commitments under this Settlement for the tax years from 2020/2021 through 2026/2027, including but not limited to its obligation to make the target annual tax payments set forth in Exhibit "B," provided that the assessed valuation of the Main Parcel results in total annual taxes to be paid for the subject property as set forth in paragraph "5" and all other material conditions have been met.

Obligations During Extension Period

15. Subject to paragraphs 17 through 21 herein, if LIPA continues to purchase power from National Grid or a successor entity in any amount beyond the current A&R PSA pursuant to a power supply agreement(s) or other similar agreement(s), then this Settlement shall be extended for the length of the power supply agreement(s) or other similar agreement extension(s), not to exceed five (5) years (hereinafter referred to as the "Extension Period").

16. Subject to paragraphs 17 through 21 herein, during the Extension Period, LIPA shall annually pay or shall cause National Grid or its successors or assigns to annually pay the taxes as reflected by the actual tax bills for the subject property which shall be due each year by December 1st, and payable without penalty by January 10th of the ensuing calendar year for the

first half taxes, and payable without penalty by May 31st of the ensuing calendar year for the second half taxes.

17. If LIPA continues to purchase power from National Grid or a successor entity beyond the current A&R PSA expiration date (April 30, 2028) pursuant to a power supply agreement(s) or other similar agreement(s) for all of the four (4) generating units at the Northport Power Plant that are presently under contract, then, as reflected in "Exhibit B", the target annual tax payment during the Extension Period shall be \$46,000,000, plus or minus \$500,000.

- A. If the total tax bill paid for any tax year during the Extension Period does not equal \$46,000,000, plus or minus \$500,000, then the target annual tax payment for the succeeding tax year shall be adjusted to reflect the difference between the total actual tax payments and \$46,000,000, plus or minus \$500,000, as set forth in paragraph "7", above.

18. If LIPA continues to purchase power from National Grid or a successor entity beyond the current A&R PSA expiration date (April 30, 2028) pursuant to a power supply agreement or other similar agreement, for less than all of the four (4) generating units at the Northport Power Plant that are presently under contract, either prior to or during the Extension Period, then the following procedure shall apply:

- A. LIPA shall provide written notice to the Town contemporaneous with its notice to National Grid, as required under the A&R PSA or subsequent power supply agreement or other similar agreement, each time LIPA intends to contract for less than all of the generating units at the Northport Power Plant that are presently under contract.
- B. Within ninety (90) days of receipt of notice from LIPA, or by April 1, 2026, whichever is later, the Town shall notify LIPA whether:
- 1) It will negotiate with LIPA an assessment of the Main Parcel (based on the removal of one or more generating units during the Extension Period) or;
 - 2) It will implement the procedure set forth in paragraph 18(D) below.

C. Pursuant to paragraph 18(B)(1) above:

- 1) If the Town and LIPA agree on the revised assessment, that valuation shall be applied to the final tax assessment rolls for the Main Parcel and shall remain the agreed upon assessment for the balance of the Extension Period, unless LIPA provides additional written notice as provided in paragraph "18(A)". Under this scenario, there shall be no target annual tax payment and the taxes due by LIPA each year shall be determined according to the agreed upon assessment and reflected on tax bills for the subject property.
- 2) If the Town and LIPA do not agree on the revised assessment, then the Town of Huntington Assessor may issue such assessment as he/she deems appropriate under the Real Property Tax Law, subject to administrative and legal challenge by LIPA and National Grid, both of which are admitted to have legal standing, which admission applies only to the tax challenges subject to this Settlement. Under this scenario, there shall be no target annual tax payment, the taxes due by LIPA each year shall be based upon the assessment determined by the Town of Huntington Assessor, and, in the event that LIPA and/or National Grid file administrative and/or legal challenges, LIPA shall pay the amount of taxes set forth on the tax bills for the subject property.

D. Pursuant to "18(B)(2)", and consistent with paragraph "4" hereinabove:

- 1) If LIPA is no longer purchasing power from all four (4) generating units at the Northport Power Plant, then LIPA and the Town shall negotiate as to the amount of the downward adjustment of the target annual tax payment based on the ranges set forth in paragraph "18(D)(1)(a-c)". At all times, the base number for the purpose of calculating or recalculating the annual target tax payment under this paragraph shall be \$46,000,000.
 - a. If at any time during the Extension Period one (1) generating unit is no longer under contract, the target annual tax payment shall be reduced from \$46,000,000 by an amount equal to no less than

- 15.25% and no more than 23.5%, producing a new target annual tax payment range between \$35,190,000, plus or minus \$500,000, and \$38,985,000, plus or minus \$500,000;
- b. If at any time during the Extension Period two (2) generating units are no longer under contract, the target annual tax payment shall be reduced from the initial target annual tax payment of \$46,000,000 by an amount equal to no less than 32.5% and no more than 47%, producing a new target annual tax payment range between \$24,380,000, plus or minus \$500,000, and \$31,050,000, plus or minus \$500,000;
 - c. If at any time during the Extension Period three (3) generating units are no longer under contract, the target annual tax payment shall be reduced from the initial target annual tax payment of \$46,000,000 by an amount equal to no less than 50.75% and no more than 71%, producing a new target annual tax payment range between \$13,340,000, plus or minus \$500,000, and \$22,655,000, plus or minus \$500,000;
 - d. If the total tax bill paid for any tax year during the Extension Period does not equal the target annual tax payment, plus or minus \$500,000, then the target annual tax payment for the succeeding tax year shall be adjusted to reflect the difference between the total actual tax payments and the prior year's target annual tax payment, plus or minus \$500,000, as set forth in paragraph "7", above.
 - e. If at any time during the Extension Period all four (4) generating units are no longer under contract, then LIPA shall have no obligations under this Settlement. The Town shall negotiate with National Grid in regard to any remaining tax obligations on the subject property. However, National Grid has the right to file administrative and legal challenges to any assessment on the subject property.

2) If the negotiations in the preceding paragraph do not result in an agreement as to the appropriate downward adjustment of the target annual tax payment by August 31st of the year in question, then LIPA and the Town agree to binding arbitration, as set forth in paragraph "23" below.

- a. Except as set forth in paragraph "18(D)(2)(b)", in the event that there is no agreement by August 31st of the tax year in question, or no final ruling by an arbitrator by August 31st of the tax year in question, then the reduction in the target annual tax payment for the tax year in question shall be calculated by using the midpoint of the relevant range set forth in paragraph "18(D)(1)(a-c)". If the arbitration decision finds that the target annual tax payment should have been reduced by more or less than the midpoint of the relevant range, then the target annual tax payment for the succeeding tax year shall be adjusted to reflect the difference between the midpoint of the relevant range and the arbitrator's decision.
- b. In the event that there is no agreement by August 31st of the last year in the Extension Period, or no final ruling by an arbitrator by August 31st of the last year in the Extension Period, then the reduction in the target annual tax payment for the last tax year in the Extension Period shall be determined by the Town of Huntington Assessor in accordance with the ranges set forth in paragraph "18(D)(1)(a-c)".
- c. The arbitration can only result in a downward adjustment in the assessment of the Main Parcel at the beginning of the Extension Period such that the target annual tax payment shall fall within the ranges set forth above and the arbitrator shall not have any authority to reach any other result.

19. Subject to subsection (c) of this paragraph, LIPA shall have the right to file annual tax challenges during the Extension Period (if it is responsible for paying taxes during the Extension Period pursuant to paragraphs "17" and "18"). Consistent with the terms of this Settlement, LIPA shall discontinue with prejudice each such annual challenge on or before

February 10th of each year in the Extension Period and waive any and all further rights and claims against the Town, Assessor, and BAR with respect to the property taxes on the subject property for said year, including, but not limited to, any claim for refunds, provided that the actual tax bills for the subject property meet the applicable target annual tax payment, plus or minus \$500,000. LIPA shall require that any RPTL Article 7 proceeding filed by National Grid during the Extension Period be immediately assigned to and accepted by LIPA, as set forth in the attached side agreement between LIPA and National Grid.

- A. If the total taxes paid for any tax year do not equal the target annual tax payment, plus or minus \$500,000, and the Town cures such deficiency in the following tax year, then LIPA shall discontinue with prejudice the challenge filed in the prior tax year along with the challenge filed in the then-current tax year and waive any and all further rights and claims against the Town, Assessor, and BAR with respect to the property taxes on the subject property for said tax year(s), including, but not limited to, any claim for refunds.
- B. LIPA shall direct National Grid to immediately discontinue with prejudice any tax challenges filed by National Grid during the Extension Period that were not assigned to LIPA upon the Town's compliance with the Settlement as set forth in the attached side agreement between LIPA and National Grid at Exhibit "D".
- C. Paragraph "19" shall not be applicable if LIPA purchases power from National Grid or a successor entity beyond the current A&R PSA expiration date pursuant to a power supply agreement or other similar agreement, for less than all of the four generating units at the Northport Power Plant that are presently under contract, either prior to or during the Extension Period, and the Town elects to proceed under paragraph "18(B)(1)". Further, under paragraph "18(C)(1)", LIPA shall not have a right to file a tax challenge if the Town and LIPA agree on a revised assessment.

20. If the total tax bill for the final year of the Extension Period exceeds the target annual tax payment by more than \$500,000, any difference shall be the subject of a consent order and judgment between LIPA and the Town, to be entered into within sixty (60) days after the due date for the payment of the first-half of the tax bill, reducing the assessed valuation on the Main

Parcel so as to result in a refund payable to National Grid for the difference between the total tax bill and the target annual tax payment, plus \$500,000. If the total tax bill for the final year of the Extension Period is less than the target annual tax payment by more than \$500,000, then following the due date for the payment of the second half tax bill, the Town shall provide notice to the parties in accordance with paragraph "43" and to National Grid's General Counsel and property tax manager at the following e-mail addresses: Olga.Pettigrew@nationalgrid.com and Paula.Leaverton@nationalgrid.com, with e-mail copies to James.Flannery@nationalgrid.com and klevin@cullenllp.com, stating the difference between the target annual tax payment and the total tax bill, less \$500,000, and LIPA shall pay or cause National Grid to pay this amount within sixty (60) days of receipt of the notice. This paragraph shall not be applicable if LIPA purchases power from National Grid or a successor entity beyond the current A&R PSA expiration date pursuant to a power supply agreement(s) or other similar agreement(s), for less than all of the four generating units at the Northport Power Plant that are presently under contract, either prior to or during the Extension Period, and the Town elects to proceed under paragraph "18(B)(1)".

21. If LIPA subsequently purchases power from one or more of the generating units that were previously under contract but from which LIPA stopped purchasing power and provided notice under paragraph "18", then the target annual tax payment shall be adjusted to reflect the applicable target annual tax payment pursuant to paragraph "18(D)(1)(a-c)".

Improvements to the Subject Property

22. The parties recognize that the Northport Power Plant may require changes, including maintenance, upkeep, rehabilitation or replacement of equipment, during the Settlement Period or the Extension Period (if applicable).

- A. In the event that LIPA or National Grid, or their successors and assigns, proposes improvements that increase the capacity at the site by seventy-five (75) megawatts (MW) or more, or decrease the heat rate by five percent (5%) or more during the Settlement Period or during the Extension Period, LIPA shall give the Town Assessor and Town Attorney at least one year's written notice thereof. LIPA, or its successors or assigns, shall also provide the Town Assessor and Town Attorney

with copies of public filings or applications made to any agency having jurisdiction with respect to such improvements within sixty (60) days of the filing or application. The improvements referenced herein shall include but not be limited to the erection of battery storage structures and dense heat packs but shall not include maintenance, upkeep, rehabilitation or replacement equipment to meet regulatory requirements.

- B. In the event that LIPA or National Grid, or their successors or assigns, proposes to erect a new material structure unrelated to electric production at the Northport Power Plant, LIPA, or its successors or assigns, shall provide the Town of Huntington Assessor and the Town Attorney with ninety (90) days' written notice.
- C. Within sixty (60) days upon completion of the improvements described in subparagraphs (A) and (B) of paragraph "22" of this Settlement, LIPA, or its successors or assigns, shall notify the Town of Huntington Assessor and Town Attorney in writing that said improvements have been completed.
- D. The annual target tax payments set forth in Exhibit "B" may be increased for any improvements that increase the capacity at the Northport Power Plant by at least seventy-five (75) MW or decrease the heat rate by five percent (5%) or more, or for the erection of a new material structure unrelated to electric production, by the appropriate increase in the assessment on the Main Parcel. Upon receipt of the notice referenced in subparagraph (C) of paragraph "22" above, LIPA and the Town shall meet to negotiate in good faith an amendment to Exhibit "B" to account for improvements resulting in such increased capacity or improved efficiency as described in subparagraph (A) of paragraph "22", or any new structures as described in subparagraph (B) of paragraph "22" above. If the Town and LIPA cannot agree within sixty (60) days of the date of the notice required by subparagraph (C) of paragraph "22", either party shall have the right upon sixty (60) days' written notice, to elect final and binding arbitration in accordance with paragraph "23," except with respect to disputes under subparagraph (B) of

paragraph "22," which shall be submitted to final and binding arbitration pursuant to the commercial arbitration rules of the American Arbitration Association.

Arbitration

23. The following arbitration provision shall govern any disputes related to paragraphs "18(D)(2)" and "22", and their respective subparagraphs, except for paragraph "22(B)."

- A. The Town and LIPA agree to submit disputes arising out of paragraphs "18(D)(2)" and "22" to binding arbitration, except paragraph "22(B)".
- B. In order to serve as an arbitrator/appraiser ("qualified person") pursuant to this paragraph "23", the selected person must:
 - 1) Have more than ten (10) years of experience in the valuation of generation plants or as an appraiser of electric generation assets; and
 - 2) Have been qualified in a court of law in the United States as an expert in the valuation of electric generation facilities; and
 - 3) Have a demonstrated understanding of generation plant operations and knowledge of electricity pricing; and
 - 4) Not have a conflict of interest with any party including but not limited to prior employment by LIPA, National Grid, or the Town.
- C. The Town and LIPA shall attempt to jointly select a qualified person.
- D. If the Town and LIPA are unable to jointly agree upon the selection of a qualified arbitrator, then each shall identify two qualified persons. Each party shall eliminate one of the two qualified persons proposed by the other party, leaving two qualified persons. The final selection of an arbitrator/appraiser from among the two qualified persons shall be done by random draw conducted in the presence of representatives of the Town and LIPA.

Direct Payments to Town

24. LIPA shall provide direct payments to the Town in the total amount of \$3,000,000 made payable to the Town of Huntington over three (3) years as follows: one payment of \$1,000,000 in each of 2021, 2022, and 2023, so as to be received by June 1st in each of the three years, so long as the Town remains in compliance with all of its material obligations under this Settlement.

25. For purposes of clarity, it is understood that these payments from LIPA to the Town shall in no way be deemed or construed as payments in lieu of taxes and/or a reduction to LIPA's tax payment obligations as set forth herein and in Exhibit "B."

Direct Payments to School District

26. LIPA shall provide direct payments to the School District in the total amount of \$14,500,000 made payable to the Northport-East Northport Union Free School District over seven (7) years as follows: (a) one payment of \$2,500,000 in year 1 of the Settlement within sixty (60) days of execution and Court approval of this Settlement; and (b) six (6) payments of \$2,000,000 each year in years 2, 3, 4, 5, 6 and 7 of the Settlement so as to be received by July 1st in each of the six (6) years. LIPA shall be obligated to make these direct payments to the School District as set forth in this paragraph notwithstanding any failure on the part of the Town to meet its obligations under this Settlement.

27. For purposes of clarity, it is understood that these payments from LIPA to the School District shall in no way be deemed or construed as payments in lieu of taxes and/or a reduction to LIPA's tax payment obligations as set forth herein and in Exhibit "B."

"Most-Favored-Nation" Provision

28. If, during the Settlement Period, LIPA enters into a stipulation of settlement, settlement agreement, or other such agreement with the County of Nassau, the Town of Brookhaven, or the Village of Port Jefferson ("municipality"), related to the assessment and/or property taxes of the E.F. Barrett power plant, Glenwood Landing power station or Port Jefferson

power plant that contains terms more favorable to such municipality than the terms set forth in this Settlement, with respect to the (1) length of the settlement period; (2) number of extension years beyond the settlement period; or (3) percent reduction of taxes during the settlement period or any extension period, then the Town shall provide notice to LIPA and be entitled to claim the benefit of those more favorable terms. If LIPA, within sixty (60) days of receipt of notice from the Town, disagrees that the terms of such other agreements relating to 1, 2 or 3 above are more favorable terms than provided in this Settlement, then the parties shall engage in good faith negotiations to resolve the disagreement. If the parties are unable to resolve their disagreement, the dispute shall be submitted to final and binding arbitration pursuant to the commercial arbitration rules of the American Arbitration Association.

Miscellaneous Provisions

29. National Grid is a third-party beneficiary of this Settlement. Nothing in this Settlement, expressed or implied, is intended to confer upon any party other than National Grid any rights, remedies, obligations or liabilities under or by reason of this Settlement or the settlement effectuated hereby.

30. LIPA and National Grid have entered into a side agreement in furtherance of the terms of this Settlement, which is annexed hereto as Exhibit "D." The Town of Huntington is a third-party beneficiary of the side agreement between LIPA and National Grid.

31. If, pursuant to paragraph "7" of this Settlement, LIPA prosecutes any remaining RPTL Article 7 proceedings that comprise the Northport Power Plant Tax Certiorari Litigation, then any defense under New York Real Property Tax Law § 718 (timely file note of issue) is waived for all remaining tax certiorari proceedings that comprise the Northport Power Plant Tax Certiorari Litigation, unless the right to file a note of issue had already expired by the date that this Settlement is So Ordered.

32. New York Real Property Tax Law § 727 is waived for purposes of this settlement.

33. The Town agrees to waive all notice of claim requirements with respect to the subject matter of this Settlement.

34. The terms and conditions of this So Ordered Stipulation of Settlement shall apply to each of the parties to this Settlement and their successors and assigns.
35. The Supreme Court of the State of New York, County of Suffolk, shall retain jurisdiction over this case for the purpose of enforcing this Settlement.
36. This Settlement shall not be used by any party, and shall not be admissible in any other proceeding, litigation or settlement negotiation, except in an action or proceeding to enforce the terms of this Settlement, or in an arbitration proceeding pursuant to paragraphs "22(D)," "23," or "28."
37. The modification, amendment and/or waiver of the Settlement, or of any of the provisions of the Settlement, shall not become effective unless executed in writing and signed by an authorized representative of all parties and So Ordered by the Court.
38. By entering into this Settlement, no party makes any admission as to any fact, conclusion of value or valuation theory, or the validity of any right, defense or objection in point of law that is or may be asserted in this or any other action or proceeding.
39. Unless otherwise set forth in this Settlement, each party shall be responsible for the payment of its or their own attorneys' fees, costs, and expenses incurred in connection with this litigation and Settlement.
40. Except as expressly provided to the contrary herein, each section, part, term or provision of this Settlement shall be considered severable, and if for any reason any section, part, term, or provision herein is determined to be invalid and contrary to or in conflict with any existing or future law or regulation by a court or governmental agency having valid jurisdiction, such determination shall not impair the operation of or have any other effect on other sections, parts, terms, or provisions of this Settlement as may remain otherwise intelligible, and the latter shall continue to be given full force and effect and bind the parties hereto, and said invalid sections, parts, terms, or provisions shall not be deemed to be a part of this Settlement.

41. The Settlement may be executed in counterparts, and scanned and/or facsimile signatures by the undersigned shall constitute original signatures for filing with the court.

42. Each of the undersigned acknowledges that he or she is authorized to execute this Settlement on behalf of the entities or officials so represented, and that all authorizations required to make this Settlement binding and effective have been obtained.

43. Any notices or other communications required or permitted hereunder shall be made to all parties to this Settlement, notwithstanding anything in this Settlement to the contrary, and shall be in writing and (i) delivered personally, or (ii) sent by certified mail, return receipt requested, postage prepaid, addressed as shown below, or to such other address as the party concerned may substitute by written notice to the other. All notices personally delivered shall be deemed received on the date of delivery. All notices forwarded by mail shall be deemed received on a date seven (7) days (excluding Sundays and legal holidays when the U.S. mail is not delivered) immediately following date of deposit in the U.S. mail. Provided, however, the return receipt indicating the date upon which all notices were received shall be *prima facie* evidence that such notices were received on the date on the return receipt.

A. Notices to the Town shall be sent to: Town Attorney, Town Hall, 100 Main Street, Huntington, New York 11743. Notices to the School District shall be sent to: District Clerk, 158 Laurel Avenue, Northport, New York 11768. A copy of any notice to the School District shall be sent to: Ingerman Smith, LLP, 150 Motor Parkway, Suite 400, Hauppauge, New York 11788. Notices to LIPA shall be sent to: General Counsel, 333 Earle Ovington Boulevard, Suite 403, Uniondale, New York 11553.

B. The addresses and addressees may be changed by giving notice of such change in the manner provided herein for giving notice. Unless and until such written notice is received, the last address and addressee given shall be deemed to continue in effect for all purposes. No notice to the Town, LIPA, or School District shall be deemed given or received unless, if applicable, the entity noted "With a copy to" is

simultaneously delivered notice in the same manner as any notice given to the Town, LIPA, or School District.

44. This Settlement shall be effective upon the date that it is So Ordered by the Court.

IN WITNESS WHEREOF, the parties have executed this So Ordered Stipulation of Settlement on the dates below.

TOWN OF HUNTINGTON

By: _____

Name: Nicholas R. Ciappetta, Esq.
Title: Town Attorney

Dated: _____

By: _____

Name: Lisa Leonick, Esq.
Title: Town Assessor

Dated: _____

LONG ISLAND POWER AUTHORITY

By: _____


Name: Anna Chacko
Title: General Counsel

Dated November 4, 2020

**BOARD OF EDUCATION OF THE NORTHPORT-EAST
NORTHPORT UNION FREE SCHOOL DISTRICT**

By: _____

Name: David Badanes
Title: President, Board of Education

Dated: _____

simultaneously delivered notice in the same manner as any notice given to the Town, LIPA, or School District.

44. This Settlement shall be effective upon the date that it is So Ordered by the Court.

IN WITNESS WHEREOF, the parties have executed this So Ordered Stipulation of Settlement on the dates below.

TOWN OF HUNTINGTON

LONG ISLAND POWER AUTHORITY

By:



Name: Nicholas R. Ciappetta, Esq.
Title: Town Attorney

Dated: 11/5/20

By:

Name:
Title:

Dated:

By:



Name: Lisa Leonick, Esq.
Title: Town Assessor

Dated: 11/5/2020

**BOARD OF EDUCATION OF THE NORTHPORT-EAST
NORTHPORT UNION FREE SCHOOL DISTRICT**

By:

Name: David Badanes
Title: President, Board of Education

Dated:

simultaneously delivered notice in the same manner as any notice given to the Town, LIPA, or School District.

44. This Settlement shall be effective upon the date that it is So Ordered by the Court.

IN WITNESS WHEREOF, the parties have executed this So Ordered Stipulation of Settlement on the dates below.

TOWN OF HUNTINGTON

LONG ISLAND POWER AUTHORITY

By: _____
Name: Nicholas R. Ciappetta, Esq.
Title: Town Attorney

Dated: _____


By: _____
Name: _____
Title: _____

Dated: _____

By: _____
Name: Lisa Leonick, Esq.
Title: Town Assessor

Dated: _____

**BOARD OF EDUCATION OF THE NORTHPORT-EAST
NORTHPORT UNION FREE SCHOOL DISTRICT**

By: 
Name: David Badanes
Title: President, Board of Education

Dated: 11/5/20

SO ORDERED:

Elizabeth H. Emerson
J.S.C.

November 6, 2020

Dated

SO ORDERED STIPULATION OF SETTLEMENT

Index Nos. 35300/2010, 30975/2011,
031116/2012, 063223/2013,
068404/2014, 610965/2015,
615750/2016, 619253/2017,
618623/2018, 619586/2019,
614583/2020

Assigned Justice:
Hon. Elizabeth Hazlitt Emerson

Index Nos. 35298/2010, 30313/2011,
029845/2012, 26294/2013,
19309/2014, 610557/2015,
615299/2016, 619054/2017,
618557/2018, 619090/2019,
061354/2020

Assigned Justice:
Hon. Elizabeth Hazlitt Emerson

FILED: SUFFOLK COUNTY CLERK 11/13/2020 02:37 PM

NYSCEF DOC. NO. 231

INDEX NO. 068404/2014

RECEIVED NYSCEF: 11/13/2020

Exhibit List

- Exhibit A Tax Certiorari Schedule
- Exhibit B Target Annual Tax Payment Schedule
- Exhibit C Form Stipulation of Discontinuance
- Exhibit D Side Agreement between LIPA and National Grid

Exhibit A**Tax Certiorari Schedule**

Pursuant to paragraphs "6" and "7(B)", LIPA will release from escrow the stipulations of discontinuance with prejudice executed pursuant to paragraph "2" of this Settlement, and file them with the Suffolk County Supreme Court Clerk in accordance with the following schedule for each year that the actual tax bills for the subject property meet the target annual tax payment, plus or minus \$500,000:

<u>Proceedings to be Discontinued:</u>	<u>Tax Year to be filed after Town Compliance:</u>
614593/2020; 061354/2020; 35300/2010; 35298/2010	2020/2021
30975/2011; 30313/2011	2021/2022
31116/2012; 29845/2012; 26294/2013; 63223/2013	2022/2023
19309/2014; 68404/2014; 610557/2015; 610965/2015	2023/2024
615299/2016; 615750/2016; 619054/2017; 619253/2017	2024/2025
618557/2018; 618623/2018	2025/2026
619586/2019; 619090/2019	2026/2027

Exhibit B

Target Annual Tax Payment Schedule

Town of Huntington

Base Year	7 Year Settlement Glidpath							Potential Extension Period If Power Supply Agreement Continues				
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12
Year Ending November 30th	2020/2021	2021/2022	2022/2023	2023/2024	2024/2025	2025/2026	2026/2027	2027/2028	2028/2029	2029/2030	2030/2031	2031/2032
Target Annual Tax Payment	86,067,009	82,014,742	77,628,887	72,802,712	67,155,043	60,870,330	53,865,452	46,039,104	46,000,000	46,000,000	46,000,000	46,000,000

EXHIBIT C

Form Stipulation of Discontinuance

STATE OF NEW YORK
SUPREME COURT COUNTY OF SUFFOLK

In the Matter of the Application of
LONG ISLAND POWER AUTHORITY,
as Assignee of NATIONAL GRID GENERATION, LLC,

Petitioner,

-against-

STIPULATION OF DISMISSAL

Index No. 614583/2020

THE ASSESSOR OF THE TOWN OF
HUNTINGTON, THE BOARD OF ASSESSMENT
REVIEW OF THE TOWN OF HUNTINGTON
AND THE TOWN OF HUNTINGTON,

Respondents.

IT IS HEREBY STIPULATED, that the above-entitled proceeding be, and the same
hereby is dismissed, with prejudice, and without costs to either party as against the other.

SIGNING AND ENTRY OF THE WITHIN
IS HEREBY CONSENTED TO:

DATE: November 5, 2020

DATE:

E. STEWART JONES HACKER MURPHY LLP

LEWIS & GREER, P.C.

Patrick L. Seely, Jr., Esq.
Attorneys for Respondents
28 Second Street
Troy, New York 12180
(518) 274-5820

Lou Lewis, Esq.
Attorneys for Respondents
510 Haight Avenue, Suite 202
Poughkeepsie, New York 12603
(845) 454-1200

DATE:

TULIS & GEIGER, LLP

Mark S. Tulis, Esq.
Attorneys for Petitioner
Talleyrand Office Park
220 White Plains Road
Tarrytown, New York 10591
(914) 747-4400

STATE OF NEW YORK
SUPREME COURT COUNTY OF SUFFOLK

In the Matter of the Application of
LONG ISLAND POWER AUTHORITY,

Petitioner,

-against-

STIPULATION OF DISMISSAL

Index No. 613541/2020

THE ASSESSOR OF THE TOWN OF HUNTINGTON,
THE BOARD OF ASSESSMENT REVIEW OF THE
TOWN OF HUNTINGTON AND THE TOWN OF
HUNTINGTON,

Respondents.

IT IS HEREBY STIPULATED, that the above-entitled proceeding be, and the same
hereby is dismissed, with prejudice, and without costs to either party as against the other.

SIGNING AND ENTRY OF THE WITHIN
IS HEREBY CONSENTED TO:

DATE: November 5, 2020

DATE:

E. STEWART JONES HACKER MURPHY LLP

LEWIS & GREER, P.C.

Patrick L. Seely, Jr., Esq.
Attorneys for Respondents
28 Second Street
Troy, New York 12180
(518) 274-5820

Lou Lewis, Esq.
Attorneys for Respondents
510 Haight Avenue, Suite 202
Poughkeepsie, New York 12603
(845) 454-1200

DATE:

TULIS & GEIGER, LLP

Mark S. Tulis, Esq.
Attorneys for Petitioner
Talleyrand Office Park
220 White Plains Road
Tarrytown, New York 10591
(914) 747-4400

FILED: SUFFOLK COUNTY CLERK 11/13/2020 02:37 PM

NYSCEF DOC. NO. 231

INDEX NO. 068404/2014

RECEIVED NYSCEF: 11/13/2020

EXHIBIT D

SIDE AGREEMENT BETWEEN LIPA AND NATIONAL GRID

AGREEMENT

This Agreement by and between the Long Island Power Authority ("LIPA") and National Grid Generation LLC ("National Grid") (collectively referred to herein as the "Parties") sets forth the responsibilities and obligations of the Parties during the Settlement Period and Extension Period with respect to the So Ordered Stipulation of Settlement ("Settlement") entered into between LIPA, the Town of Huntington ("Town") and the Board of Education of the Northport-East Northport Union Free School District ("NENSD"), to settle, *inter alia*, property tax litigation challenging the assessed valuation of the Northport Power Plant for tax assessment years 2010-2020 (tax years 2010/2011 through 2020/2021). The terms "Settlement Period" and "Extension Period" shall be defined the same for the purposes of this Agreement as they are in the Settlement.

WHEREAS, National Grid is the current owner of property on Waterside Avenue in Northport New York with Suffolk County Tax Map Numbers 0400-010.00-01.00-003.002 ("Main Parcel"), 0400-010.00-01.00-002.000, 0400-007.00-02.00-004.000, 0400-007.00-03.00-001.000, 0400-010.00-01.00-005.000, 0401-008.00.00-01.00-030.004 (the six (6) parcels shall be collectively referred to hereinafter as the "subject property").

WHEREAS the subject property is the site of an electric generating facility with four primary generating units of 400 megawatt (MW) each and a single black start unit of 15 MW (together, "four generating units"), switchyard, transmission lines, oil tanks and waste water management facility and other ancillary and periphery equipment, together, known as the Northport Power Plant.

WHEREAS, beginning in 2010 and continuing through 2020, National Grid and LIPA filed tax certiorari petitions in the Supreme Court of the State of New York, County of Suffolk, pursuant to Article 7 of the New York Real Property Tax Law against the Assessor of the Town of

Huntington, the Board of Assessment Review of the Town of Huntington, and the Town of Huntington, asserting that the assessment of the subject property on each of the final assessment rolls for 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 and 2020 (Tax Years 2010/11, 2011/12, 2012/13, 2013/14, 2014/15, 2015/16, 2016/17, 2017/18, 2018/19, 2019/20 and 2020/21) were excessive, unlawful and erroneous, and sought correction of the challenged assessments and reduction to the claimed fair market value of the subject property for each said Tax Year (the "Northport Power Plant Tax Certiorari Litigation").

WHEREAS, the tax bills for the subject property are received by National Grid, which are due each year by December 1st, and payable without penalty by January 10th of the following calendar year for the first half taxes, and payable without penalty by May 31st of the following calendar year for the second half taxes.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. If during the Settlement Period and Extension Period, National Grid files tax certiorari petition(s) challenging the assessment on the subject property ("newly commenced tax certiorari proceeding"), National Grid shall immediately assign to LIPA all such newly commenced tax certiorari proceedings. In the event that National Grid has not assigned any newly commenced tax certiorari proceeding to LIPA, then LIPA shall immediately direct National Grid to discontinue with prejudice such newly commenced tax certiorari proceeding related to the subject property in light of the Town's compliance with the Settlement.

2. National Grid waives with prejudice any claim for refund of property taxes previously paid by it or LIPA on the subject property that is the subject of the Northport Power Plant Tax Certiorari Litigation, and which are discontinued pursuant to LIPA's direction.

3. LIPA shall not re-assign to National Grid, and National Grid shall not accept re-assignment from LIPA, of any proceeding that is part of the Northport Power Plant Tax Certiorari Litigation or newly commenced tax certiorari proceeding previously assigned by National Grid to LIPA. This provision does not apply if the Town materially breaches the Settlement.

4. If the Town and LIPA agree to a revised assessment of the Main Parcel in accordance with paragraphs 18(B)(1) and 18(C)(1) of the Settlement, LIPA shall promptly provide written notice of such revised assessment to National Grid. Upon receipt of such notice, National Grid shall not file any new tax certiorari petitions challenging the assessments on the subject property for the remainder of the Extension Period.

5. If none of the Northport Power Plant's four (4) generating units are subject to a power supply agreement(s), power purchase agreement(s), or other similar agreement(s) between LIPA and National Grid after the Settlement Period, National Grid agrees to negotiate with the Town on a revised assessment of the subject property. However, in the event that the Town and National Grid do not agree on a revised assessment, National Grid reserves the right to file administrative and legal challenges to any assessment on the subject property.

6. National Grid shall cooperate with LIPA in LIPA's efforts to provide the notices, applications, and public filings required by paragraph "22" of the Settlement in the event that any of the following improvements to the Northport Power Plant are proposed or made: (a) improvements that increase the capacity at the Northport Power Plant by 75 megawatts or more; (b) improvements that decrease the heat rate by 5% or more; and/or (c) the erection of a new material structure unrelated to electric production. National Grid shall cooperate with LIPA in LIPA's efforts to provide any notice required to be provided under paragraph "22" of the Settlement to all parties to the Settlement in accordance with paragraph "43" of the Settlement.

7. In the event that the Settlement terminates on November 30, 2027, as set forth in paragraph "11" of the Settlement, nothing contained herein shall be deemed to relieve National Grid, its successors or assigns, from the obligation to pay property taxes on the subject property based on the assessment as determined by the Town of Huntington Assessor for the subject property for the 2027/2028 tax year or any tax year thereafter, without limiting National Grid's right to file administrative and legal challenges to the assessment, which is expressly reserved.

8. This Agreement, and the Parties' obligations hereunder, are conditioned on the existence of a valid and binding Settlement.


9. This Agreement shall be binding upon and inure to the benefit of the Parties. The Town of Huntington is a third-party beneficiary of this Agreement. Except as specifically set forth herein, neither LIPA nor National Grid shall have any obligation to any third party other than the Town of Huntington as a result of this Agreement.

10. National Grid hereby approves the Settlement and this Agreement shall be binding on National Grid's successors and assigns.

11. This Agreement shall be annexed to the Settlement as Exhibit "D".


IN WITNESS WHEREOF, the Parties by their duly authorized representatives have executed this Agreement on the date(s) indicated below.

NATIONAL GRID GENERATION LLC


By: JAMES P. FLANNERY

Date: Nov 5, 2020

LONG ISLAND POWER AUTHORITY


By: Anna Chacko
General Counsel

Date: November 4, 2020