

NEW YORK STATE DEPARTMENT OF TAXATION & FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICESAPPLICATION FOR REAL PROPERTY TAX  
EXEMPTION FOR COMMERCIAL, BUSINESS OR INDUSTRIAL PROPERTY  
(Real Property Tax Law, Section 485-b)

(Instructions for completing this form are contained in Form RP-485-b-Ins)

1. Name and telephone no. of owner(s) Edgewood Energy, LLC  
C/O Jason White  
Day No. (                      )  
Evening No. (                      )  
E-mail address (optional) \_\_\_\_\_
2. Mailing address of owner(s) 21 Sagtikos Parkway  
Brentwood, NY 11717

3. Location of property (see instructions)
- |  |  |
|--|--|
| <u>21 Sagtikos Parkway</u><br>Street address | <u>N/A</u><br>Village (if any)                                 |
| <u>Brentwood</u><br>City/Town                | <u>Brentwood Union Free School District</u><br>School district |

Property identification (see tax bill or assessment roll)

Tax map number or section/block/lot Section:1; Block: 1; Lot: 10.011

4. Description of property for which exemption is sought:
- a.  New construction     Alteration     Installation     Improvement
- b. General description of property (if necessary, attach plans or specifications): N/A
- c. Type of construction: N/A
- d. Square footage: +/- 4.8
- e. Total cost: \$26,000,000
- f. Date construction, alteration, installation or improvement was started: N/A
- g. Date completed (attach copy of certificate of occupancy or other documentation of completion):  
N/A
- h. Describe any real property replaced or removed in connection with the new construction, alteration, installation or improvement: N/A

5. Use of Property.

- a. Describe the primary use of the property and the type of business to be conducted. Natural gas powered generation facility.
- b. Describe any other use or uses of the property. N/A
- c. Is any part of the real property used for a purpose other than buying, selling, storing or developing goods or services; the manufacture or assembly of goods or the processing of raw materials; or hotel or motel purposes?  Yes  No
- d. If yes, describe in detail the other use or uses of the property and state the extent to which the property is so used (e.g., 30% of floor space, 25% of income, etc.).

6. Other exemptions.

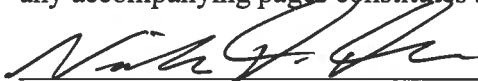
- a. Is the property receiving or has it ever received any other exemption from real property taxation?  Yes  No
- b. If yes, what exemption was received? Utility PILOT When? 11/16/2010

Were payments in lieu of taxes made during the term of that exemption?  Yes  No

If yes, attach a schedule showing the amounts and dates of such payments, and the purposes for which such payments were made (i.e., school district, general municipal, etc.). Also attach any related documentation, such as a copy of the agreement under which such payments were made.

**CERTIFICATION**

I, Nicholas Terzulli, hereby certify that the information on this application and any accompanying pages constitutes a true statement of facts.

  
Signature

9/12/18  
Date

**FOR ASSESSOR'S USE**

- 1. Date application filed: \_\_\_\_\_ 2. Applicable taxable status date: \_\_\_\_\_
- 3. Action on application:  Approved  Disapproved
- 4. Assessed valuation of parcel in first year of exemption: \$ \_\_\_\_\_
- 5. Increase in total assessed valuation in first year of exemption: \$ \_\_\_\_\_
- 6. Amount of exemption in first year:

	Percent	Amount
County	_____	\$ _____
City/Town	_____	\$ _____
Village	_____	\$ _____
School District	_____	\$ _____

\_\_\_\_\_  
Assessor's signature

\_\_\_\_\_  
Date

PAYMENT-IN-LIEU-OF-TAXES AGREEMENT

THIS PAYMENT-IN-LIEU-OF-TAXES AGREEMENT (this "Agreement") made as of the <sup>16<sup>th</sup></sup>~~20<sup>th</sup>~~ day of <sup>November</sup>~~July~~, 2010, by and between the Town of Islip, a municipal corporation organized under the laws of the State of New York with offices located at 655 Main Street, Islip, New York (the "Town") on behalf of itself and all taxing jurisdictions and/or special districts within it, except the Brentwood Union Free School District ("BUFSD"), and the BUFSD (hereinafter referred to collectively as the "Municipalities") with offices located at 52 Third Avenue, Brentwood, New York, a separate signatory to this agreement and the Assessor of the Town of Islip (the "Assessor") and the Long Island Lighting Company d/b/a LIPA, a wholly owned subsidiary of the Long Island Power Authority, ("LIPA") a corporate municipal instrumentality of the State of New York, organized and existing pursuant to the Public Authorities Law of New York with offices located at 333 Earle Ovington Blvd., Uniondale, New York.

WITNESSETH:

WHEREAS, PAL Section 1020-f(d) empowers LIPA to acquire and own real property and PAL Section 1020-f(f) empowers LIPA to lease all or any of its properties; and

WHEREAS, PAL Section 1020-f(r) confers broad powers upon LIPA to enter into agreements to purchase power from any private entity or any other available source, and PAL Section 1020-f(h) gives LIPA the authority to make and execute agreements necessary or convenient in the exercise of its statutory powers and functions, and PAL Section 1020-g(j) gives LIPA the power to cooperate with and to enter into contractual arrangements with private utility companies or public entities; and

WHEREAS, pursuant to PAL Section 1020-p, LIPA is exempt from the payment of real estate taxes and assessments, and under PAL Sections 1020-q and 1020-f(w) LIPA has the power to enter into agreements to make payments-in-lieu-of-taxes ("PILOT") to any municipality with respect to real property owned by LIPA located in such municipality; and

WHEREAS, LIPA has acquired title to real property located in Brentwood, Town of Islip, New York, which parcel of property is designated on the Suffolk County Tax Map as District 500, Section 71, Block 1 and Lot 10.011 (hereinafter referred to as the "Project Property"); and

WHEREAS, LIPA has entered into an agreement with PPL Edgewood Energy, LLC ("Corporation") under which LIPA has leased the Project Property to Corporation for the purpose

of Corporation's construction and operation of two gas-fired electric generation units ("Lease"), with a total capacity of 79.9 megawatts ("Plants") (the Plants together with the Project Property shall be referred to as the "Project"), and LIPA has also entered into an agreement with PPL Energy Plus, LLC (the Corporation together with PPL Energy Plus, LLC, shall be referred to as "PPL") under which PPL will make available to LIPA all of the power from the Plants and LIPA will purchase said power for public utilization ("Power Purchase Agreement"); and

WHEREAS, the terms, conditions and covenants of the Lease and Power Purchase Agreement, and the Project; during the term of the Power Purchase Agreement, facilitate and foster the recognized public purpose and governmental function of LIPA; and

WHEREAS, in consideration of the foregoing, LIPA and the Town, on behalf of itself, and all taxing jurisdictions and/or special districts within it, (hereinafter referred to collectively as the "Municipalities"), and the Assessor of the Town of Islip (the "Assessor") have agreed to enter into this PAYMENT-IN-LIEU-OF-TAXES AGREEMENT (this "Agreement"), pursuant to which payments-in-lieu-of-taxes and assessments shall be made to the Town on behalf of the Municipalities, in which any part of the Project, or part

thereof, is or may be wholly or partially located, it is hereby agreed as follows:

1. Term. LIPA hereby agrees to pay, and the Municipalities shall accept, a PILOT in full satisfaction of all real estate taxes and assessments that may otherwise have been levied and/or assessed on the Project by the Municipalities, and all in accordance with the terms and conditions hereof, for a term of ten (10) years (the "Term") based upon the term of the Power Purchase Agreement between LIPA and PPL, dated August 29, 2008 as renewed and extended.

2. PILOT Payment.

(a) LIPA will make ten (10) PILOT payments in amounts and due dates as follows:

<u>Tax Year</u>	<u>PILOT Payment</u>	<u>Due Date</u>
2009/10	\$2,200,000	Upon approval of the PILOT by the NYS Comptroller's Office
2010/11	\$2,266,000	Upon approval of the PILOT by the NYS Comptroller's Office
2011/12	\$2,333,980	December 31, 2010
2012/13	\$2,403,999	December 31, 2011
2013/14	\$2,476,119	December 31, 2012
2014/15	\$2,550,402	December 31, 2013

2015/16	\$2,626,915	December 31, 2014
2016/17	\$2,705,722	December 31, 2015
2017/18	\$2,786,894	December 31, 2016
2018/19	\$2,870,501	December 31, 2017

LIPA shall make 10 annual installment payments, as hereinabove provided, the first and second of which shall be paid upon approval of this PILOT Agreement by the New York State Comptroller's Office. Thereafter, each successive annual PILOT payment shall be made on December 31<sup>st</sup> of each succeeding year until the 10<sup>th</sup> and final payment has been made.

(b) LIPA shall pay, or cause to be paid, the initial PILOT payment upon LIPA's receipt of approval of this Agreement by the New York State Comptroller. Thereafter, LIPA shall pay, or cause to be paid the amounts set forth above after receipt of payment in lieu of tax bills from the Town of Islip. The Town, acting as collecting agent for the Town of Islip, BUFSO, Suffolk County, and any then existing incorporated village or appropriate special districts, as the case may be (hereinafter referred to collectively as the "Taxing Entities"), shall bill LIPA, on or about, December 1<sup>st</sup>, each year for the payment due herein. However, failure by the Town to provide LIPA with such a bill on a timely basis in

any particular year shall not relieve LIPA of its obligation to remit said payment. If, for any reason, LIPA does not receive an appropriate payment in lieu of tax bill, LIPA shall have the responsibility and obligation to make all inquiries to the Town and to have such a bill issued, and thereafter to make payment of same no later than the due dates provided herein. Payments shall be made directly to the Town Comptroller.

(c) Payments made after the due date(s) as set forth herein shall accrue interest and penalties from the tenth (10<sup>th</sup>) day of January, at the rates applicable to late payments of taxes for the respective taxing authorities and as further provided in the Suffolk County Tax Act (the "Act"), Section 13(c), 13-a and 13-c, which currently provides for an initial penalty of one percent (1%) of the amount due per month on payments more than one month delinquent and an additional penalty of five percent (5%) per month on payments after the return of unpaid taxes by the Islip Receiver of Taxes to the Suffolk County Treasurer ("Treasurer"). However, there shall be no authorization for two payments as provided in the Act. Any such payments of interest and penalties shall belong to the Taxing Entities using the same pro rata calculations used for the disbursement of the PILOT.



(d) Within thirty (30) days of receipt of each PILOT payment, the Town, will apportion and pay the same to each Taxing Entity on either a pro rata basis using the tax rates applicable to the tax year for which the PILOT payment is for, or in the event that no tax rates are then in effect for the tax year for which the PILOT payment is for, on a pro rata basis using the tax rates applicable to the December bill of the fiscal year then in effect. In connection therewith, the Town will provide each Taxing Entity with a Pro-Rata Allocation worksheet arraying the distribution of the entire PILOT payment.

(e) While the PILOT Agreement remains in effect no tax review proceedings will be commenced to review the assessment on the Project, except as herein after provided in paragraph "11".

(f) In the event that PILOT payment(s) are not made or made after the PILOT payment due date(s): (i) Any one or more of the Taxing Entities may sue to enforce such payment(s) together with any interest and penalties; and (ii) LIPA agrees to pay the same to the extent above specified without requiring any notice of non-payment or of default to LIPA, and without requiring proof of demand. The provisions of this paragraph shall survive the termination or expiration of this Agreement.

3. Waiver.

Failure by the parties, in any instance, to insist upon the strict performance of any one or more of the obligations of the parties under this Agreement, or to exercise any election herein contained, shall in no manner be, or be deemed to be, a waiver of any of the parties' defaults or breaches hereunder, or any of the rights and remedies of the parties by reason of such defaults or breaches, or a waiver or relinquishment of any and all of the parties' obligations hereunder.

4. If the Power Purchase Agreement is further extended during the term of this Agreement, then LIPA shall notify the Town of any such extension or any intention to extend within thirty (30) days of such extension or intent.

5. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

6. This agreement may be modified only by written instrument duly executed by the parties hereto.

7. The parties represent and warrant (i) this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, heirs, distributees and assigns, and that (ii) the respective signatories executing this Agreement have been duly authorized to do so.

8. If any provision of this Agreement shall for any reason be held or adjudicated to be invalid, illegal or unenforceable by any court of competent jurisdiction, such provision so held or adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent, and the remainder of this Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

9. Commencement Date. This Agreement shall become enforceable, and the initial PILOT will be made upon LIPA's receipt of approval of this Agreement by the New York State Comptroller.

10. Termination Date. This Agreement will terminate on October 31, 2018, the termination date of the now existing Power Purchase Agreement as renewed and extended unless sooner terminated as provided herein at paragraph "11", or unless the Power Purchase Agreement is further extended and this Agreement is extended by written instrument duly executed by the parties hereto. In the event that the parties hereto fail to enter into an extension of this Agreement after the expiration of this Agreement, the Town of Islip may exercise any rights regarding the assessments of the Project for the 2018/19

tax year and subsequent tax years according to the then prevailing local and or State law. LIPA will notify the Town and the BUFSD of any intent to terminate the PPA, of any intent not to renew the PPA, of any termination of the PPA, and of any failure to renew the PPA, within thirty (30) days of any such event. The provisions of this paragraph shall survive the termination or expiration of this Agreement.

11. Transfer, Early Termination of the Power Purchasing Agreement, or Change in Taxable Status.

(a) In the event that title to the Project Property or any part thereof is transferred from LIPA to another entity, in the event that the Power Purchase Agreement is terminated prior to October 31, 2018, in the event that the Project, or part thereof, is to be subject to taxation for taxes or assessments by an amendment to the Public Authorities Law or other legislative change, or in the event that LIPA's taxable status is changed by reason of law or otherwise, the Project shall be subject to taxation and shall be taxed pro rata for the unexpired portion of any fiscal year during which such event occurred. With regard to a transfer of title of the Project Property, the provisions of Real Property Tax Law

Section 520, in affect at the time of such transfer, will apply. Nonetheless, at the time of any such listed event, including but not limited to a transfer of title of the Project Property, in reference to any taxable status date as to make it impossible to place the Project, or part thereof, on the tax rolls of the Town of Islip, BUFSO, Suffolk County, and any then existing incorporated village or appropriate special districts, as the case may be, by such taxable status date, LIPA hereby agrees to pay at the first time taxes or assessments are due following the taxable status date at which time such Project, or part thereof, is placed on the tax rolls, an amount equal to the taxes or assessments which would have been levied on such Project, or part thereof, had it been on the tax rolls from the time of any of the above events (i.e. transfer of title) until the date of the tax rolls following the taxable status date as of which the Project, or part thereof, is placed on the tax rolls, subject to LIPA's right to contest the assessed valuation placed on the property by the Assessor for the tax year in which said property is restored to the Town's assessment roll pursuant to 11(c) below.

(b) There shall be deducted from the amount of any such real estate taxes any PILOT payment amounts

previously made pursuant to this Agreement by LIPA relating to any period of time after the date of any of the above events (i.e. transfer of title).

(c) Only upon the occurrence of an event specified in paragraph 11(a), except a transfer of title of the Project Property whereby the Assessor is permitted and has the opportunity to deem the Project Property as omitted and enter the assessed value thereof on the assessment roll to be used for the next tax levy in accordance with Real Property Tax Law Section 520, LIPA shall have the right to institute judicial review of an assessment of the Project pursuant to the provisions of Article 7 of the Real Property Tax Law or any other applicable law, as the same may be amended from time to time. Notwithstanding the foregoing, in the event that the assessment of the Project is reduced as a result of any such judicial review so that LIPA would be entitled to receive a refund or refunds of taxes paid to the respective Taxing authorities, LIPA shall not be entitled to receive a refund or refunds of the payment in lieu of taxes paid pursuant to this agreement.

(d) The provisions of this paragraph 11 shall survive the termination or expiration of this Agreement.

12. Comptroller's Approval. In accordance with Section 112 of the New York State Finance Law, this

Agreement shall not be valid, effective or binding upon LIPA until it has been approved by the New York State Comptroller and filed in said Comptroller's office.

13. The parties hereto agree to be bound by the Certifications contained in Appendix A of the PILOT Agreement, the Non Collusive Bidding Certification, MacBride Fair Employment Principles, Contractor Disclosure of Prior Non Responsibility Determinations, and Contingent Fee Certifications.

Approved By:  
Office of the State Comptroller

By: \_\_\_\_\_  
Name: DEC 30 2010  
Title: Patricia McDonald  
Date: \_\_\_\_\_  
**APPROVED**  
**DEPT. OF AUDIT & CONTROL**  
**FOR THE STATE COMPTROLLER**

Dated: East Meadow, New York  
October 30, 2010

Approved as to Form:  
Office of the New York  
State Attorney General

By: \_\_\_\_\_  
Name: DEC 06 2010  
Title: Lorraine V. Remo  
Date: \_\_\_\_\_  
**APPROVED AS TO FORM**  
**NYS ATTORNEY GENERAL**  
**LORRAINE V. REMO**  
**ASSOCIATE ATTORNEY**

LONG ISLAND LIGHTING  
COMPANY d/b/a LIPA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

OFFICE OF THE ISLIP TOWN  
ASSESSOR

By: Ronald F. Devine, Jr.  
Ronald F. Devine, Jr.  
Assessor,

TOWN OF ISLIP

By: Phil Nolan  
PHIL NOLAN  
SUPERVISOR

BRENTWOOD UNION FREE SCHOOL DISTRICT

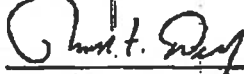
By: Joseph C. Bond

Name: Joseph C. Bond

Title: Superintendent



OFFICE OF THE ISLIP TOWN  
ASSESSOR

By:   
Ronald F. Devine, Jr.  
Town of Islip Assessor

STATE OF NEW YORK)

: SS:

COUNTY OF SUFFOLK)


On the ~~8~~<sup>3</sup> day of ~~November~~<sup>November</sup> in the year 2010,  
before me, the undersigned, personally appeared  
RONALD F. DEVINE, JR.

personally known to me or proved to me on the basis of  
satisfactory evidence to be the individual whose name  
is subscribed to the within instrument and  
acknowledged to me that he executed the same in his  
capacity, and that by his signature on the instrument,  
the individual, or the person upon whose behalf of  
which the individual, acted, executed the instrument.

VALERIE VICINANZA  
Notary Public, State of New York  
No. 01-4995892 Suffolk County  
Term Expires May 4, 2014

  
NOTARY PUBLIC

TOWN OF ISLIP

By:   
Phil Nolan  
Town of Islip  
Supervisor

STATE OF NEW YORK)

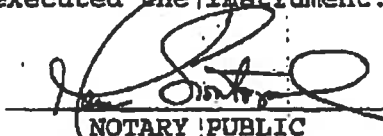
: SS:

COUNTY OF SUFFOLK)

On the 16<sup>th</sup> day of ~~November~~<sup>November</sup> in the year 2010,  
before me, the undersigned, personally appeared  
PHIL NOLAN

personally known to me or proved to me on the basis of  
satisfactory evidence to be the individual whose name  
is subscribed to the within instrument and  
acknowledged to me that he executed the same in his  
capacity, and that by his signature on the instrument,  
the individual, or the person upon whose behalf of  
which the individual, acted, executed the instrument.

MARIA SIOUTOPOULOS  
NOTARY PUBLIC, State of New York  
No. 01S182185  
Qualified in Suffolk County  
Commission Expires February 19, 20 12

  
NOTARY PUBLIC

STATE OF NEW YORK  
COUNTY OF

On the 16 day of Nov in the year 2010 before me, the undersigned, a Notary Public in and for said State, personally appeared Joseph C. Bond, personally know to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument the individual; or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public

DIANE P. LYONS  
Notary Public, State of New York  
No. 01LY6148443  
Qualified in Nassau County  
Commission Expires May 16, 2014

## APPENDIX A

### STANDARD CLAUSES FOR LIPA CONTRACTS

For the purposes of this Appendix A, the Long Island Power Authority and its operating subsidiary the Long Island Lighting Company d/b/a LIPA are hereinafter referred to as "LIPA."

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than LIPA, whether a contractor, consultant, licensor, licensee, lessor, lessee or other party):

**NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of LIPA, and any attempts to assign the contract without LIPA's written consent are null and void. Contractor may, however, assign its right to receive payment without LIPA's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

**COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the New York State Finance Law (the "State Finance Law"), this Agreement shall not be valid, effective or binding upon LIPA until it has been approved by the State Comptroller and filed in his office.

**WORKER'S COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this Agreement shall be void and of no force and effect unless Contractor provides and maintains coverage during the life of this Agreement for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

**NON-DISCRIMINATION REQUIREMENTS.** In accordance with Article 15 of the Executive Law (also known as the Human Rights Law) and all other New York State and Federal statutory and constitutional non-discrimination provisions, Contractor shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, disability, marital status, sexual orientation, genetic predisposition or carrier status. Furthermore, in accordance with Article 220-e of the New York Labor Law, and to the extent that this Agreement shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, national origin, sexual orientation, genetic predisposition or carrier status; (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee for the performance of work under this Agreement.

**WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the

prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

**NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 2878 of the Public Authorities Law, if this contract was awarded based upon the submission of bids, Contractor warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further warrants that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to LIPA a non-collusive bidding certification on Contractor's behalf.

**INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, Contractor agrees, as a material condition of the contract, that neither Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC app. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

**SET-OFF RIGHTS.** LIPA shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, LIPA's option to withhold for the purposes of set-off any moneys due to Contractor under this contract up to any amounts due and owing to LIPA with regard to this contract, any other contract with LIPA, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to LIPA for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. LIPA shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by LIPA, its representatives, or the State Comptroller.

**RECORDS.** Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. LIPA shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) Contractor shall timely inform LIPA in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

**EQUAL EMPLOYMENT FOR MINORITIES AND WOMEN.** In accordance with Section 312 of the New York Executive Law: (i) Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, marital status, sexual orientation, genetic predisposition or carrier status and shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation; (ii) at the request of LIPA, Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, marital status, sexual orientation, genetic predisposition or carrier status and that such union or representative will affirmatively cooperate in the implementation of Contractor's obligations herein; and (iii) Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of this Agreement, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, marital status, sexual orientation, genetic predisposition or carrier status. Contractor shall include the provisions of (i), (ii) and (iii) above, in every subcontract over twenty-five thousand dollars (\$25,000.00) for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of Contractor.

**CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

**GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

**LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Section 2880 of the Public Authorities Law and the guidelines adopted by LIPA thereto.

**PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165 (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of Contractor to establish to meet with the approval of the State. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of Contractor to meet with the approval of the State.