

**\$31,495,000**

**DORMITORY AUTHORITY OF THE STATE OF NEW YORK  
NYSARC, INC. REVENUE BONDS,  
SERIES 2020 (FEDERALLY TAXABLE)**

**Dated: Date of Delivery****Due: July 1, as shown on the inside cover**

**Payment and Security:** The NYSARC, Inc. Revenue Bonds, Series 2020 (Federally Taxable) (the "Series 2020 Bonds") are special obligations of the Dormitory Authority of the State of New York ("DASNY") secured by a pledge of (i) certain payments to be made under the Loan Agreement dated as of March 4, 2020 (the "Loan Agreement") between NYSARC, Inc. ("NYSARC") and DASNY and (ii) certain funds and accounts authorized under DASNY's NYSARC, Inc. Revenue Bond Resolution adopted on March 25, 2009 (the "Resolution") and established under DASNY's Series Resolution Authorizing NYSARC, Inc. Revenue Bonds, Series 2020B (Taxable) (the "Series 2020 Resolution") adopted March 4, 2020.

The Loan Agreement is a general obligation of NYSARC and requires NYSARC to pay amounts sufficient to pay the principal, Sinking Fund Installments, if any, and Redemption Price of and interest on the Series 2020 Bonds, as such payments become due. The obligation of NYSARC under the Loan Agreement to make such payments will be secured by NYSARC's pledge of certain revenues. At the time of delivery of the Series 2020 Bonds, a portion of the proceeds of the Series 2020 Bonds will be deposited in the Debt Service Reserve Fund in an amount equal to the Debt Service Reserve Fund Requirement.

**The Series 2020 Bonds will not be a debt of the State of New York (the "State") nor will the State be liable thereon. DASNY has no taxing power.**

**Description:** The Series 2020 Bonds will bear interest (payable January 1, 2021 and each January 1 and July 1 thereafter) at the rates and will mature on the dates shown on the inside front cover. The Series 2020 Bonds will be issued as fully registered bonds in denominations of \$5,000 or any integral multiple thereof under a Book Entry Only System and will be registered in the name of Cede & Co., as nominee for The Depository Trust Company ("DTC"). Individual purchases of beneficial interests in the Series 2020 Bonds will be made in book-entry form (without certificates). So long as DTC or its nominee is the registered owner of the Series 2020 Bonds, payments of the principal and Redemption Price of and interest on the Series 2020 Bonds will be made directly to DTC or its nominee. Disbursement of such payments to DTC participants is the responsibility of DTC and disbursement to beneficial owners is the responsibility of DTC participants. See "PART 3 – THE SERIES 2020 BONDS – Book-Entry Only System" herein. The Bank of New York Mellon, New York, New York will be the Trustee for the Series 2020 Bonds.

**Redemption and Purchase:** The Series 2020 Bonds are subject to redemption and purchase in lieu of redemption prior to maturity as more fully described herein.

**Tax Exemption:** In the opinion of Barclay Damon LLP, Co-Bond Counsel to DASNY, interest on the Series 2020 Bonds is not excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). Barclay Damon LLP is further of the opinion that, under existing statutes, interest on the Series 2020 Bonds is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof (including The City of New York and the City of Yonkers). See "PART 11 – TAX MATTERS" herein regarding certain other tax considerations.

*The Series 2020 Bonds are offered when, as and if issued. The offer of the Series 2020 Bonds may be subject to prior sale, withdrawal or modification at any time without notice. The offer is subject to the approval of legality by Barclay Damon LLP Albany, New York and Marous Law Group, P.C., New York, New York, Co-Bond Counsel, and to certain other conditions. Certain legal matters will be passed upon for NYSARC by its counsel, Cullen & Dykman, LLP, Albany, New York, and for the Underwriter by its counsel, Ballard Spahr LLP, New York, New York. NYSARC has been advised of certain matters by its financial advisor, Municipal Capital Markets Group, Inc., Dallas, Texas. DASNY expects to deliver the Series 2020 Bonds in definitive form in Albany, New York on or about June 30, 2020.*

**Raymond James**

**\$31,495,000**  
**NYSARC, Inc. Revenue Bonds, Series 2020 (Federally Taxable)**

<u>Due July 1</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>CUSIP Number<sup>1</sup></u>
2021	\$3,670,000	1.075%	1.075%	64990GR87
2022	3,555,000	1.125	1.125	64990GR95
2023	3,185,000	1.206	1.206	64990GS29
2024	2,780,000	1.401	1.401	64990GS37
2025	2,455,000	1.501	1.501	64990GS45
2026	1,880,000	1.823	1.823	64990GS52
2027	1,585,000	1.943	1.943	64990GS60
2028	1,595,000	2.104	2.104	64990GS78
2029	1,430,000	2.154	2.154	64990GS86
2030	1,190,000	2.254	2.254	64990GS94
2031	1,200,000	2.354	2.354	64990GT28

\$3,385,000 2.654% Term Bond Due July 1, 2035, Yield 2.654% CUSIP Number 64990GT36<sup>1</sup>

\$3,585,000 3.247% Term Bond Due July 1, 2045, Yield 3.247% CUSIP Number 64990GT44<sup>1</sup>

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<sup>1</sup>CUSIP numbers have been assigned by an independent company not affiliated with DASNY and are included solely for the convenience of the holders of the Series 2020 Bonds. Neither DASNY nor the Underwriter is responsible for the selection or uses of the CUSIP numbers, and no representation is made as to their correctness on the Series 2020 Bonds or as indicated above. CUSIP numbers are subject to being changed after the issuance of the Series 2020 Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part of the Series 2020 Bonds or as a result of the procurement of secondary market portfolio insurance or other similar enhancement by investors that is applicable to all or a portion of the Series 2020 Bonds.

No dealer, broker, salesperson or other person has been authorized by DASNY, NYSARC or the Underwriter to give any information or to make any representations with respect to the Series 2020 Bonds, other than the information and representations contained in this Official Statement. If given or made, any such information or representations must not be relied upon as having been authorized by DASNY, NYSARC or the Underwriter.

This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy nor shall there be a sale of the Series 2020 Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale.

Certain information in this Official Statement has been supplied by NYSARC and other sources that DASNY believes are reliable. DASNY does not guarantee the accuracy or completeness of such information and such information is not to be construed as a representation of DASNY.

The information set forth herein relating to DASNY under the headings "DASNY" has been obtained from DASNY. All other information herein has been obtained by the Underwriter from NYSARC and other sources deemed to be reliable by the Underwriter; and is not to be construed as a representation by DASNY or the Underwriter. In addition, DASNY does not warrant the accuracy of the statements contained herein relating to NYSARC and the Participating Chapters nor does it directly or indirectly guarantee, endorse or warrant (1) the creditworthiness or credit standing of NYSARC, (2) the sufficiency of the security for the Bonds or (3) the value or investment quality of the Bonds.

NYSARC has reviewed the portions of this Official Statement describing NYSARC, the Participating Chapters, the Project, the Refunding Plan, the Estimated Sources and Uses of Funds, and Appendices B and B-1. It is a condition to the sale and delivery of the Series 2020 Bonds that NYSARC certify that, as of each such date, such parts do not contain any untrue statement of a material fact and do not omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which the statements were made, not misleading. NYSARC makes no representations as to the accuracy or completeness of any other information included in this Official Statement.

The Underwriter has reviewed the information in this Official Statement pursuant to its responsibilities to investors under the federal securities law, but the Underwriter does not guarantee the accuracy or completeness of such information.

References in this Official Statement to the Act, the Resolution, the Series 2020 Resolution and the Loan Agreement do not purport to be complete. Refer to the Act, the Resolution, the Series 2020 Resolution and the Loan Agreement for full and complete details of their provisions. Copies of the Resolution, the Series 2020 Resolution and the Loan Agreement are on file with DASNY and the Trustee.

The order and placement of material in this Official Statement, including its Appendices, are not to be deemed a determination of relevance, materiality or importance, and all material in this Official Statement, including its Appendices, must be considered in its entirety.

Under no circumstances shall the delivery of this Official Statement or any sale made after its delivery create any implication that the affairs of DASNY or NYSARC have remained unchanged after the date of this Official Statement.

IN CONNECTION WITH THE OFFERING OF THE SERIES 2020 BONDS, THE UNDERWRITER MAY OVERALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SERIES 2020 BONDS AT LEVELS ABOVE THOSE THAT MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

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**DORMITORY AUTHORITY – STATE OF NEW YORK**  
**REUBEN R. MCDANIEL, III – PRESIDENT**

**515 BROADWAY, ALBANY, N.Y. 12207**  
**ALFONSO L. CARNEY, JR. – CHAIR**

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**OFFICIAL STATEMENT  
RELATING TO THE**

**\$31,495,000**

**DORMITORY AUTHORITY OF THE STATE OF NEW YORK  
NYSARC, INC. REVENUE BONDS,  
SERIES 2020 (FEDERALLY TAXABLE)**

**PART 1– INTRODUCTION**

**Introductory Statement**

The descriptions and summaries in this Official Statement of various documents do not purport to be comprehensive or definitive, and reference is made to each document for the complete details of all terms and conditions. All statements herein regarding any such documents are qualified in their entirety by reference to such documents. This part of the Official Statement is intended only to provide a brief description of certain provisions of the Official Statement and is expressly qualified by reference to the Official Statement as a whole, as well as the documents described or summarized herein. All references to this Official Statement include the cover page, the inside front cover page and appendices, and each capitalized word or term used in this Official Statement as a defined term but not otherwise defined herein has the meaning set forth in “Appendix A – Certain Definitions.” For more detailed descriptions of the matters summarized below, see the information set forth in the specific sections of the Official Statement noted below.

**Purpose of the Official Statement**

The purpose of this Official Statement, including the cover page, the inside front cover page and appendices, is to provide information about DASNY and NYSARC in connection with the issuance by DASNY of \$31,495,000 principal amount of its NYSARC, Inc. Revenue Bonds, Series 2020 (Federally Taxable) (the “Series 2020 Bonds”).

The following is a brief description of certain information concerning the Series 2020 Bonds, DASNY and NYSARC. A more complete description of such information and additional information that may affect decisions to invest in the Series 2020 Bonds is contained throughout this Official Statement, which should be read in its entirety. Certain terms used in this Official Statement are defined in Appendix A hereto.

**Purpose of the Issue**

The Series 2020 Bonds are being issued (i) to pay a portion of the costs of the Project, (ii) to refund a portion of DASNY’s outstanding NYSARC, Inc. Revenue Bonds, Series 2010A (the “Refunded Bonds”), (iii) to pay certain costs of issuance of the Series 2020 Bonds, and (iv) to fund a Series 2020 Debt Service Reserve Fund (the “Series 2020 Debt Service Reserve Fund”) in an amount equal to the Debt Service Reserve Fund Requirement for the Series 2020 Bonds (the “Series 2020 Debt Service

Reserve Fund Requirement”). *See* “PART 5 – PARTICIPATING CHAPTER AND PROJECT INFORMATION,” “PART 6 – ESTIMATED SOURCES AND USES OF FUNDS” and “PART 7 – THE REFUNDING PLAN.”

### **Authorization of Issuance**

The Resolution authorizes the issuance of multiple Series of Bonds pursuant to separate Series Resolutions for the benefit of NYSARC. The Series 2020 Bonds will be issued pursuant to the Act, the Resolution and the Series 2020 Resolution. The Resolution also authorizes the issuance of additional Series of Bonds for the benefit of NYSARC. *See* “PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2020 BONDS” and “PART 3 – THE SERIES 2020 BONDS.”

### **DASNY**

DASNY is a public benefit corporation of the State, created for the purpose of financing and constructing a variety of public-purpose facilities for certain educational, governmental and not-for-profit corporations. *See* “PART 8 – DASNY.”

### **NYSARC**

NYSARC is a not-for-profit corporation organized under the laws of the State and provides a variety of services for the developmentally disabled. The headquarters of NYSARC is in Latham, New York. *See* “PART 4 – NYSARC,” and “Appendix B – NYSARC, Inc. Chapters and Their Affiliates Combined Financial Statements as of and for the year ended December 31, 2018 Together with Accountants’ Compilation Report,” and “Appendix B-1 NYSARC, Inc. Chapters and their Affiliates Combining Statement of Financial Position for the year ended December 31, 2019 (Preliminary and Unaudited).”

### **The Series 2020 Bonds**

The Series 2020 Bonds are dated their date of delivery and bear interest from such date (payable January 1, 2021, and on each January 1 and July 1 thereafter) at the rates and will mature at the times set forth on the inside front cover page of this Official Statement. *See* “PART 3 – THE SERIES 2020 Bonds – Description of the Series 2020 Bonds.”

### **Payment of the Series 2020 Bonds**

The Series 2020 Bonds will be special obligations of DASNY payable solely from the Revenues, which consist of payments NYSARC is obligated to make under the Loan Agreement to provide for the payment of the Debt Service Charges (as defined herein) on the Series 2020 Bonds and to maintain the Series 2020 Debt Service Reserve Fund in the amount of the Series 2020 Debt Service Reserve Fund Requirement. The Loan Agreement is a general obligation of NYSARC. Pursuant to the Resolution and the Series 2020 Resolution, the Revenues and DASNY’s right to receive the Revenues have been pledged and assigned by DASNY to the Trustee. *See* “PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2020 BONDS.”

Any Public Funds and other Pledged Revenues collected by NYSARC that are not required to be paid to the Trustee for Debt Service Charges on the Series 2020 Bonds or to make up any deficiencies in funds or accounts established pursuant to the Resolution or the Series 2020 Resolution are free and clear of the security interest granted under the Loan Agreement, and NYSARC may dispose of that money for any of its corporate purposes unless and until (a) an Event of Default, or any event that with the passage of time or the giving of notice, or both, would be an Event of Default, has occurred and is continuing; or

(b) there has occurred a drawing of funds from the Series 2020 Debt Service Reserve Fund that has not been repaid by NYSARC as required by the Loan Agreement and the Resolution. Upon the occurrence and during the continuation of either event described in clause (a) or (b), and unless DASNY has agreed otherwise, DASNY will, in addition to all other remedies available pursuant to the Loan Agreement, cause the Public Funds to be deducted, withheld or paid directly to DASNY or the Trustee, as appropriate, in an amount sufficient to make all payments required to be made by NYSARC under the Loan Agreement. *See* “PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2020 BONDS – Payment of the Series 2020 BONDS - *Standby Intercept.*” *See also*, “Appendix C – Summary of Certain Provisions of the Loan Agreement.”

### **Security for the Series 2020 Bonds**

The Series 2020 Bonds will be secured by the pledge and assignment to the Trustee of the Revenues under the Resolution and the Series 2020 Resolution and NYSARC’s grant to DASNY under the Loan Agreement, subject to Prior Pledges, of a security interest in the Pledged Revenues. The Series 2020 Bonds will also be secured by the proceeds from the sale of the Series 2020 Bonds until disbursed as provided by the Resolution and the Series 2020 Resolution, and certain funds and accounts authorized by the Resolution and established by the Series 2020 Resolution, including the Series 2020 Debt Service Reserve Fund.

The Series 2020 Bonds are secured by the Loan Agreement and the security interest in Pledged Revenues granted by NYSARC to DASNY thereunder. The Series 2020 Bonds are separately secured from all other Series of Bonds. The holders of bonds issued by DASNY for the benefit of NYSARC, other than the Series 2020 Bonds, are not entitled to the rights, benefits and security conferred upon the Holders of the Series 2020 Bonds; provided that, under certain circumstances, the Loan Agreement authorizes the incurrence of other indebtedness by NYSARC secured on a parity with the Series 2020 Bonds as to the security interest in Pledged Revenues granted thereunder by NYSARC to DASNY. *See* “PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2020 BONDS – Security for the Series 2020 Bonds” and “Appendix C – Summary of Certain Provisions of the Loan Agreement – *Security Interest in Pledged Revenues.*”

**The Series 2020 Bonds will not be a debt of the State nor will the State be liable thereon. DASNY has no taxing power.**

### **The Mortgages**

NYSARC’s obligations to DASNY under the Loan Agreement in connection with the Series 2020 Bonds will also be secured by certain mortgages on certain properties (the “Mortgages”) and security interests in certain fixtures, furnishings and equipment now or hereafter located therein or used in connection therewith. At present, the Trustee does not have any interest in the Mortgages, and the Mortgages do not provide any security for the Series 2020 Bonds. If a withdrawal is made from the Series 2020 Debt Service Reserve Fund and is not reimbursed within 30 days from the date of the withdrawal, DASNY is obligated to assign the Mortgages and those security interests to the Trustee. If the balance in the Series 2020 Debt Service Reserve Fund is restored to the Series 2020 Debt Service Reserve Fund Requirement, any Mortgage that has not been foreclosed is required to be reassigned to DASNY upon its request. Unless the Mortgages and security interests are assigned by DASNY to the Trustee, none of the Mortgages, the security interests in fixtures, furnishings and equipment, or any proceeds therefrom will be pledged to the Holders of the Series 2020 Bonds. Further, property subject to any Mortgage may be released and any Mortgage may be amended without the consent of the Trustee or the Holders of any Series 2020 Bonds.

**No representation is made as to the nature or value of the property subject to the Mortgages or as to the validity or priority of the lien of the Mortgages upon the property to which they relate, and potential purchasers of the Series 2020 Bonds should not rely upon the Mortgages or that property as providing security for payment of Debt Service Charges on the Series 2020 Bonds. No appraisals of that property have been obtained and no mortgagee's policies of title insurance have been obtained with respect to any of the Mortgages. In addition, there can be no assurances that proceeds of any sale or foreclosure of property subject to the Mortgages will be sufficient to pay in full the principal of, or interest on, the Series 2020 Bonds.**

## **PART 2 – SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2020 BONDS**

*Set forth below is a narrative description of certain contractual provisions relating to the source of payment of and security for the Series 2020 Bonds and certain related covenants. These provisions have been summarized, and this description does not purport to be complete. Reference should be made to the Act, the Resolution, the Series 2020 Resolution, and the Loan Agreement, copies of which are on file with DASNY and the Trustee. See also “Appendix C – Summary of Certain Provisions of the Loan Agreement” and “Appendix D – Summary of Certain Provisions of the Resolution” for a more complete statement of the rights, duties and obligations of the parties thereto. All references to the Series 2020 Debt Service Fund and the Series 2020 Debt Service Reserve Fund refer to such funds established pursuant to the Series 2020 Resolution.*

### **Payment of the Series 2020 Bonds**

The Series 2020 Bonds will be special obligations of DASNY. The principal of and interest on (collectively, “Debt Service Charges”) the Series 2020 Bonds will be payable solely from the Revenues. The Revenues consist of the payments required to be made by NYSARC under the Loan Agreement to provide for the payment of the Debt Service Charges on the Series 2020 Bonds and to maintain the Debt Service Reserve Fund in the amount of the Debt Service Reserve Fund Requirement. The Revenues and the right to receive them have been pledged and assigned by DASNY to the Trustee for the benefit of the Series 2020 Bondholders.

The Loan Agreement will be a general obligation of NYSARC and obligates NYSARC to make payments monthly by the 10th day of each month sufficient to provide for the timely payment of Debt Service Charges on Outstanding Series 2020 Bonds. Each monthly payment in respect of the interest component of the Debt Service Charges on the Series 2020 Bonds is to be equal to a proportionate share of the interest component of the Debt Service Charges payable on the next succeeding interest payment date. Each monthly payment in respect of any principal component of the Debt Service Charges payable on the next succeeding July 1 on the Series 2020 Bonds is to be equal to a proportionate share of such principal component. All payments to the Trustee in respect of Debt Service Charges are thus due by NYSARC in full at least 20 days prior to the date that Debt Service Charges are payable on the Series 2020 Bonds. The Loan Agreement also obligates NYSARC to pay, at least 45 days prior to the redemption date for Series 2020 Bonds called for redemption, the amount required to pay the Redemption Price of such Bonds. See “PART 3 – THE SERIES 2020 BONDS – Redemption and Purchase in Lieu of Redemption Provisions.”

### *Standby Intercept*

The Act authorizes NYSARC to pledge and assign all Public Funds to DASNY. NYSARC has assigned the Public Funds to DASNY to satisfy NYSARC's obligations under the Loan Agreement to provide for payment of Debt Service Charges on the Series 2020 Bonds. DASNY has waived its right to

collect those amounts payable to DASNY, including the OPWDD Revenues, unless and until an event described in clause (a) or (b) of the next paragraph occurs.

Any Public Funds and other Pledged Revenues collected by NYSARC that are not required to be paid to the Trustee for Debt Service Charges on the Series 2020 Bonds or to make up any deficiencies in funds or accounts established pursuant to the Resolution or the Series 2020 Resolution are free and clear of the security interest granted under the Loan Agreement, and NYSARC may dispose of that money for any of its corporate purposes unless and until (a) an Event of Default, or any event that with the passage of time or the giving of notice, or both, would be an Event of Default, has occurred and is continuing or (b) there has occurred a drawing of funds from the Series 2020 Debt Service Reserve Fund that has not been repaid by NYSARC as required by the Loan Agreement and the Resolution. Pursuant to the Act and the Loan Agreement, NYSARC has pledged and assigned to DASNY the Public Funds in an amount sufficient to make all payments required to be made by NYSARC under the Loan Agreement. Pursuant to the Act, all State and local officers responsible for any Public Funds are authorized and required to pay the Public Funds so assigned and pledged to DASNY in accordance with the Loan Agreement. Upon the occurrence and during the continuation of an event described in clause (a) or (b) above and unless DASNY has agreed otherwise, DASNY will, in addition to all other remedies available pursuant to the Loan Agreement, cause the Public Funds to be deducted, withheld or paid directly to DASNY or the Trustee, as appropriate, in an amount sufficient to make all payments required to be made by NYSARC under the Loan Agreement (the “Standby Intercept”).

“Public Funds” consist of all moneys apportioned or otherwise payable to NYSARC, for the sole benefit of the State Office or on behalf of a Participating Chapter by the State, including by OPWDD (as defined herein), a political subdivision as defined in Section 100 of the General Municipal Law, or any social services district in the State.

### **Security for the Series 2020 Bonds**

The Series 2020 Bonds are secured equally and ratably by DASNY’s pledge and assignment to the Trustee of the Revenues, and NYSARC’s grant to DASNY under the Loan Agreement, subject and subordinate to the Prior Pledges, of a security interest in the Pledged Revenues, and the pledge and assignment of that security interest by DASNY to the Trustee under the Resolution and the Series 2020 Resolution. The Series 2020 Bonds are also secured by any undisbursed proceeds from the sale of the Series 2020 Bonds until disbursed as provided in the Resolution and the Series 2020 Resolution and certain funds and accounts authorized by the Resolution and established by the Series 2020 Resolution including the Series 2020 Debt Service Reserve Fund. Pursuant to the terms of the Resolution and the Series 2020 Resolution, the Series 2020 Bonds are secured by the Loan Agreement and the security interest in Pledged Revenues granted by NYSARC to DASNY thereunder, which has been further pledged and assigned by DASNY to the Trustee. The holders of bonds issued by DASNY for the benefit of NYSARC, other than the Series 2020 Bonds, are not entitled to the rights, benefits and security conferred upon the Holders of the Series 2020 Bonds; provided that, under certain circumstances, the Loan Agreement authorizes the incurrence of other indebtedness by NYSARC secured on a parity with the Series 2020 Bonds as to the security interest in Pledged Revenues granted thereunder by NYSARC to DASNY. *See “Appendix C – Summary of Certain Provisions of the Loan Agreement – Security Interest in Pledged Revenues.”*

#### *Pledged Revenues*

The Series 2020 Bonds are secured, subject to the Prior Pledges, by the security interest in the Pledged Revenues granted by NYSARC to DASNY under the Loan Agreement. This security interest has been pledged and assigned by DASNY to the Trustee under the Resolution and the Series 2020

Resolution. The Pledged Revenues consist of all Public Funds, all money apportioned or otherwise payable to NYSARC, for the sole benefit of the State Office or on behalf of any Participating Chapter, by the federal government, and all receipts, revenues, income, gifts, grants, assistance, bequests and other money received by NYSARC, for the sole benefit of the State Office or on behalf of any Participating Chapter, including all rights to receive the same, whether in the form of accounts receivable, lease payments, contract rights or other rights, and the proceeds of such rights, whether now owned or held or hereafter coming into existence; excluding, however, gifts, grants and bequests received by NYSARC for the sole benefit of the State Office or on behalf of any of the Participating Chapters that are subject to restrictions upon use that are inconsistent with the use thereof for the purposes contemplated by the Resolution and the Series 2020 Resolution, and the income thereon to the extent that income is so restricted as to use. See “Appendix B – NYSARC, Inc. Chapters and Their Affiliates Combined Financial Statements as of and for the Year Ended December 31, 2018 Together with Accountants’ Compilation Report”, and “Appendix B-1 – NYSARC, Inc. Chapters and Their Affiliates Combining Statement of Financial Position for the year ended December 31, 2019 (Preliminary and Unaudited).”

Under certain circumstances described therein, the Loan Agreement authorizes the incurring of long-term indebtedness by NYSARC secured on a parity with the Series 2020 Bonds with respect to the security interest in Pledged Revenues. See “Appendix C – Summary of Certain Provisions of the Loan Agreement – *Security Interest in Pledged Revenues.*”

#### *Series 2020 Debt Service Reserve Fund*

The Resolution and the Series 2020 Resolution authorize and establish a Debt Service Reserve Fund with respect to the Series 2020 Bonds. The Series 2020 Debt Service Reserve Fund is to be held by the Trustee, to be applied solely for the purposes specified in the Resolution and the Series 2020 Resolution, and is pledged to secure the payment of the principal, Sinking Fund Installments and Redemption Price of and interest on the Series 2020 Bonds.

The Series 2020 Debt Service Reserve Fund Requirement is the amount required to be on deposit in the Series 2020 Debt Service Reserve Fund, and will at all times be equal to the lesser of (i) 50% of Maximum Annual Debt Service (as defined below) on the Outstanding Series 2020 Bonds and (ii) 125% of Average Annual Debt Service (as defined below) on the Outstanding Series 2020 Bonds; provided, however, that in no event will the Series 2020 Debt Service Reserve Fund Requirement increase. Upon initial issuance of the Series 2020 Bonds, the Series 2020 Debt Service Reserve Fund Requirement will be \$1,854,530.21. The Series 2020 Debt Service Reserve Fund Requirement will be recalculated not less often than annually and, if necessary, reduced. The Series 2020 Debt Service Reserve Fund Requirement will decline over the term of the Series 2020 Bonds as the Annual Debt Service (as defined below) declines.

For purposes of the Series 2020 Debt Service Reserve Fund Requirement,

“Maximum Annual Debt Service” means the greatest Annual Debt Service amount for the then current and any future Bond Year.

“Average Annual Debt Service” means the sum of the Annual Debt Service amounts for the then current and all future Bond Years, divided by the sum of one and the number of future Bond Years prior to the maturity of the Series 2020 Bonds.

“Annual Debt Service” means, for any Bond Year, (i) the interest on the Outstanding Series 2020 Bonds payable (x) on January 1 of the Bond Year and (y) on the immediately

following July 1 plus (ii) the principal and Sinking Fund Installments of the Series 2020 Bonds payable on the immediately following July 1.

Money in the Series 2020 Debt Service Reserve Fund is to be withdrawn and deposited to the Series 2020 Debt Service Fund whenever the amount on deposit in the Series 2020 Debt Service Fund on the fourth Business Day prior to an interest payment date (prior to any said withdrawal and deposit) is less than the amount needed to pay Debt Service Charges on Outstanding Series 2020 Bonds payable on such interest payment date. The Resolution and the Loan Agreement require NYSARC to restore the Series 2020 Debt Service Reserve Fund to the amount of the Series 2020 Debt Service Reserve Fund Requirement by paying the amount of any deficiency to the Trustee within five days after receiving notice of a deficiency. Money in the Series 2020 Debt Service Reserve Fund in excess of the Series 2020 Debt Service Reserve Fund Requirement will be permitted to be withdrawn and applied in accordance with the Resolution and the Series 2020 Resolution. *See* “Appendix D – Summary of Certain Provisions of the Resolution.”

### **Certain Financial Covenants Made by NYSARC**

The Loan Agreement contains certain financial covenants regarding the coverage of Debt Service Charges on NYSARC’s outstanding indebtedness as summarized below.

#### *Rate Covenant*

NYSARC agrees to conduct its operations in such manner as to produce a Debt Service Coverage Ratio equal to or greater than 1:1 for each Fiscal Year. NYSARC is required to prepare and deliver annually to the Trustee and DASNY, following the conclusion of each Fiscal Year, certificates as to its Debt Service Coverage Ratio for that Fiscal Year. These certificates are required to be delivered (i) not later than 150 days after the last day of each Fiscal Year, on the basis of NYSARC’s Preliminary Financial Statements for that Fiscal Year, and (ii) not later than 365 days after the last day of each Fiscal Year, on the basis of NYSARC’s Final Annual Financial Statements for that Fiscal Year. *See* “PART 4 – NYSARC – Financial Matters – *Financial Reporting*” for the definition and background concerning the preparation of “Preliminary Financial Statements” and “Final Annual Financial Statements.”

#### *Additional Long-Term Parity Debt*

NYSARC may incur additional Long-Term Debt secured on a parity with the Series 2020 Bonds with respect to the Pledged Revenues (excluding OPWDD Revenues), without obtaining the prior consent of DASNY; provided that, (i) NYSARC has outstanding Long-Term Debt (including the Series 2020 Bonds) rated, without regard to any Credit Facility or other credit enhancement, “A” or higher (without regard to numeric or “+” or “-” modifiers) by at least one of the Rating Services and (ii) the Debt Service Coverage Ratio for the most recently completed Fiscal Year preceding the proposed incurrence of the additional Long-Term Debt, taking into account all of NYSARC’s existing Long-Term Debt and the proposed additional Long-Term Debt, would be not less than (a) 1:1 if the purpose of the additional Long-Term Debt is to finance projects for which NYSARC has received a PPA (as defined in “PART 4 – NYSARC – Revenues – *Prior Property Approval Process*”) or (b) 1.1:1 if the additional Long-Term Debt is proposed to be issued for any purpose that is not covered by a PPA. The calculation of the Debt Service Coverage Ratio is required to be set forth in a written certificate of either an independent certified public accountant or an officer of NYSARC and may be based upon the Preliminary Financial Statements for a particular Fiscal Year if the Final Annual Financial Statements for that Fiscal Year are not yet available.

### *Short-Term Indebtedness*

NYSARC may incur Short-Term Indebtedness without limitation; provided that, during any 12-month period, there is not permitted to be outstanding any Short-Term Indebtedness for a period of not less than 30 days or such shorter period as is acceptable to DASNY; provided further, that NYSARC is permitted to incur, and there is permitted to remain outstanding from time to time, Short-Term Indebtedness in an amount that does not exceed 16% of NYSARC's unrestricted revenues for the Fiscal Year prior to NYSARC's most recently concluded Fiscal Year.

### **Events of Default and Acceleration**

The Resolution provides that events of default thereunder and under the Series 2020 Resolution constitute events of default only with respect to the Series 2020 Bonds. The following are events of default under the Resolution and the Series 2020 Resolution: (i) a default in the payment of the principal or Redemption Price of or interest payable on the Series 2020 Bonds when they become due and payable; (ii) a default by DASNY in the due and punctual performance of any other covenant, condition, agreement or provision contained in the Resolution, the Series 2020 Bonds or the Series 2020 Resolution that continues for 30 days after written notice thereof is given to DASNY by the Trustee (such notice to be given at the Trustee's discretion or at the written request of Holders of not less than 25% in principal amount of the Outstanding Series 2020 Bonds) or, if such default is not capable of being cured within 30 days, if DASNY fails to commence the cure of such default within 30 days of the written notice or to diligently prosecute the cure thereof; or (iii) an "Event of Default," as defined in the Loan Agreement, has occurred and is continuing and all amounts payable by NYSARC under the Loan Agreement have been declared to be immediately due and payable (unless such declaration has been annulled). Unless all amounts payable by NYSARC under the Loan Agreement are declared immediately due and payable, an event of default under the Loan Agreement is not an event of default under the Resolution.

The Resolution provides that if an event of default (other than an event of default described in clause (ii) of the preceding paragraph) occurs and is continuing, the Trustee may, and upon the written request of the Holders of not less than 25% in aggregate principal amount of the Outstanding Series 2020 Bonds shall, by written notice to DASNY, declare the principal of and interest on all the Outstanding Series 2020 Bonds to be due and payable immediately.

The Resolution provides that the Trustee is to give notice of each event of default known to the Trustee to holders of the Series 2020 Bonds within 30 days after obtaining knowledge of the occurrence of the event of default, unless the default has been remedied or cured before the notice is given; provided, however, that except in the case of default in the payment of Debt Service Charges on any of the Series 2020 Bonds, the Trustee will be protected in withholding notice thereof to the Holders if and as long as the Trustee determines, in good faith, that withholding the notice is in the best interests of the Holders of the Series 2020 Bonds.

### **General**

The Series 2020 Bonds are not a debt of the State nor is the State liable thereon. DASNY has no taxing power. DASNY has never defaulted in the timely payment of Debt Service Charges on its bonds or notes. *See* "PART 8 – DASNY."

## **PART 3 – THE SERIES 2020 BONDS**

*Set forth below is a narrative description of certain provisions relating to the Series 2020 Bonds. These provisions have been summarized, and this description does not purport to be complete. Reference should be made to the Resolution, the Series 2020 Resolution and the Loan Agreement, copies of which are on file with DASNY and the Trustee. See also “Appendix C – Summary of Certain Provisions of the Loan Agreement” and “Appendix D – Summary of Certain Provisions of the Resolution”, for a more complete description of certain provisions of the Series 2020 Bonds.*

### **General**

The Series 2020 Bonds will be issued pursuant to the Resolution and the Series 2020 Resolution. The Series 2020 Bonds will be registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York (“DTC”), pursuant to DTC’s Book-Entry Only System. Purchases of beneficial interests in the Series 2020 Bonds will be made in book-entry form, without certificates. So long as DTC or its nominee, Cede & Co., is the registered owner of the Series 2020 Bonds, payments of Debt Service Charges on the Series 2020 Bonds will be made by the Trustee directly to Cede & Co. Disbursement of such payments to the DTC Participants (as hereinafter defined) is the responsibility of DTC and disbursement of those payments to the Beneficial Owners of the Series 2020 Bonds is the responsibility of the DTC Participants and the Indirect Participants (as hereinafter defined). If at any time the Book-Entry Only System is discontinued for the Series 2020 Bonds, the Series 2020 Bonds will be exchangeable for fully registered Series 2020 Bonds in any authorized denominations of the same maturity, without charge, except the payment of any tax, fee or other governmental charge required to be paid with respect to such exchange, subject to the conditions and restrictions set forth in the Resolution. See “– Book-Entry Only System” herein and “Appendix D – Summary of Certain Provisions of the Resolution.”

### **Description of the Series 2020 Bonds**

The Series 2020 Bonds will be dated the date of their initial delivery and bear interest from such date (payable January 1, 2021 and on each January 1 and July 1 thereafter) at the rates set forth on the inside front cover page of this Official Statement. The Series 2020 Bonds will be issued as fully registered bonds in denominations of \$5,000 or any integral multiple thereof. The Series 2020 Bonds may be exchanged for other Series 2020 Bonds of any other authorized denominations upon payment of a charge sufficient to reimburse DASNY or the Trustee for any tax, fee or other governmental charge required to be paid with respect to such exchange and for the cost of preparing the new bond, and otherwise as provided in the Resolution.

### **Redemption and Purchase in Lieu of Redemption Provisions**

The Series 2020 Bonds are subject to optional, special and mandatory redemption, and purchase in lieu of optional redemption as described below.

#### *Optional Redemption of Series 2020 Bonds*

The Series 2020 Bonds maturing on or before July 1, 2030 are not subject to optional redemption prior to maturity. The Series 2020 Bonds maturing after July 1, 2030 are subject to redemption prior to maturity at the option of DASNY on or after July 1, 2030, in any order, in whole or in part at any time, at a Redemption Price equal to 100% of the principal amount of the Series 2020 Bonds to be redeemed, plus accrued interest to the redemption date.

### *Special Redemption*

The Series 2020 Bonds are also subject to redemption, in whole or in part, at 100% of the principal amount thereof, at the option of DASNY on any Interest Payment Date: (i) from proceeds of a condemnation or insurance award with respect to the Project financed or refinanced with proceeds of the Series 2020 Bonds, which proceeds are not used to repair, restore or replace such Project; and (ii) from unexpended proceeds of the Series 2020 Bonds upon the abandonment of all or a portion of the Project financed or refinanced with proceeds of the Series 2020 Bonds due to a legal or regulatory impediment.

### *Selection of Bonds to be Redeemed*

In the case of redemptions of Series 2020 Bonds, other than mandatory redemption, DASNY will select the maturities of the Series 2020 Bonds to be redeemed.

If less than all of a maturity of the Series 2020 Bonds are to be redeemed, the Bonds of such maturity to be redeemed will be selected by the Trustee, by lot, using a method of selection that the Trustee considers proper in its discretion.

### *Notice of Redemption*

The Trustee is to give notice of redemption of Series 2020 Bonds in the name of DASNY, by first-class mail, postage prepaid, to the registered owners of any Series 2020 Bonds that are to be redeemed, at their last known addresses appearing on the registration books of DASNY, not fewer than 30 days nor more than 45 days prior to the redemption date. The failure of any owner of a Series 2020 Bond to be redeemed to receive notice of redemption will not affect the validity of the proceedings for the redemption of such Series 2020 Bond. If directed in writing by an Authorized Officer of DASNY, the Trustee will publish or cause to be published such notice in an Authorized Newspaper not fewer than 30 days nor more than 45 days prior to the redemption date, but publication is not a condition precedent to such redemption and failure to publish such notice or any defect in such notice or publication will not affect the validity of the proceedings for the redemption of such Series 2020 Bonds.

If, on the redemption date, money for the redemption of the Series 2020 Bonds to be redeemed, together with interest thereon to the redemption date, is held by the Trustee so as to be available for payment of the Redemption Price, and if notice of redemption has been mailed, then interest on the Series 2020 Bonds called for redemption will cease to accrue from and after the redemption date and those Series 2020 Bonds will no longer be considered to be Outstanding.

### *Mandatory Redemption*

In addition, the Series 2020 Bonds maturing on July 1, 2035 and July 1, 2045 are also subject to mandatory sinking fund redemption, in part, on July 1 of each of the years and in the respective principal amounts set forth below, at a Redemption Price of 100% of the principal amount to be redeemed, plus accrued interest to the date of redemption, from mandatory Sinking Fund Installments which are required to be made in amounts sufficient to redeem the principal amount of Series 2020 Bonds specified for each of the years shown below:

**Term Bond Maturing on July 1, 2035**

<b><u>Year</u></b>	<b><u>Sinking Fund Installments</u></b>
2032	\$895,000
2033	920,000
2034	830,000
2035 <sup>†</sup>	740,000

<sup>†</sup>Final maturity.

**Term Bond Maturing on July 1, 2045**

<b><u>Year</u></b>	<b><u>Sinking Fund Installments</u></b>
2036	\$475,000
2037	490,000
2038	490,000
2039	505,000
2040	520,000
2041	250,000
2042	235,000
2043	245,000
2044	200,000
2045 <sup>†</sup>	175,000

<sup>†</sup>Final maturity.

DASNY may from time to time direct the Trustee to purchase Series 2020 Bonds with moneys set aside for redemption in the Series 2020 Debt Service Fund, at or below par plus accrued interest to the date of such purchase, and apply any Series 2020 Bonds so purchased as a credit, at 100% of the principal amount thereof, against and in fulfillment of a required Sinking Fund Installment on the Series 2020 Bonds of the same maturity. NYSARC also may purchase Series 2020 Bonds at or below par and apply any Series 2020 Bonds so purchased as a credit, at 100% of the principal amount thereof, against and in fulfillment of a required Sinking Fund Installment on the Series 2020 Bonds of the same maturity. Series 2020 Bonds purchased with money in the Series 2020 Debt Service Fund will be applied against and in fulfillment of the Sinking Fund Installment of the Series 2020 Bonds so purchased payable on the next succeeding July 1. Series 2020 Bonds redeemed at the option of DASNY, purchased by DASNY or NYSARC (other than from amounts on deposit in the Debt Service Fund) and delivered to the Trustee for cancellation or deemed to have been paid in accordance with the Resolution will be applied in satisfaction, in whole or in part, of one or more Sinking Fund Installments as DASNY may direct in its discretion. To the extent DASNY's obligation to make Sinking Fund Installments in a particular year is so satisfied, the likelihood of redemption through mandatory Sinking Fund Installments of a Bondholder's Series 2020 Bonds of the maturity entitled to such Sinking Fund Installment will be reduced for such year.

*Purchase in Lieu of Optional Redemption of Series 2020 Bonds*

The Series 2020 Bonds maturing after July 1, 2030 are subject to purchase in lieu of optional redemption prior to maturity at the election of NYSARC on or after July 1, 2030, in any order, in whole

or in part at any time, at a purchase price of 100% of the principal amount of the Series 2020 Bonds to be purchased, plus accrued interest to the date set for purchase.

Notice of purchase of the Series 2020 Bonds will be given in the name of NYSARC to the registered owners of the Series 2020 Bonds to be purchased by first-class mail, postage prepaid, not less than 30 days nor more than 60 days prior to the purchase date.

The Series 2020 Bonds to be purchased are required to be tendered on the Purchase Date to the Trustee. Series 2020 Bonds to be purchased that are not so tendered will be deemed to have been properly tendered for purchase. If the Series 2020 Bonds are called for purchase in lieu of an Optional Redemption, such purchase will not operate to extinguish the indebtedness of DASNY evidenced thereby or modify the terms of the Series 2020 Bonds and such Series 2020 Bonds need not be cancelled, but will remain Outstanding under the Resolution and in such case will continue to bear interest.

NYSARC's obligation to purchase a Series 2020 Bond to be purchased or cause it to be purchased is conditioned upon the availability of sufficient money to pay the Purchase Price for all of the Series 2020 Bonds to be purchased on the Purchase Date. If sufficient money is available on the Purchase Date to pay the Purchase Price of the Series 2020 Bonds to be purchased, the former registered owners of such Series 2020 Bonds will have no claim thereunder or under the Resolution or otherwise for payment of any amount other than the Purchase Price. If sufficient money is not available on the Purchase Date for payment of the Purchase Price, the Series 2020 Bonds tendered or deemed tendered for purchase will continue to be registered in the name of the registered owners on the Purchase Date, who will be entitled to the payment of the principal of and interest on such Series 2020 Bonds in accordance with their respective terms.

If not all of the Outstanding Series 2020 Bonds of a maturity are to be purchased, the Series 2020 Bonds of such maturity to be purchased will be selected by lot in the same manner as Series 2020 Bonds of a maturity to be redeemed in part are to be selected.

For a more complete description of the redemption and other provisions relating to the Series 2020 Bonds, *see* "Appendix D – Summary of Certain Provisions of the Resolution."

### **Book-Entry Only System**

The Depository Trust Company, New York, New York ("DTC"), will act as securities depository for the Series 2020 Bonds. The Series 2020 Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Series 2020 Bond certificate will be issued for each maturity of the Series 2020 Bonds, totaling in the aggregate the principal amount of the Series 2020 Bonds, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues and money market instruments from over 100 countries that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of

securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has a Standard & Poor’s rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

Purchases of the Series 2020 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2020 Bonds on DTC’s records. The ownership interest of each actual purchaser of a Series 2020 Bond (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2020 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Series 2020 Bonds, except in the event that use of the book-entry system for such Series 2020 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2020 Bonds deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Series 2020 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2020 Bonds; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to DTC. If less than all of the Series 2020 Bonds are being redeemed, DTC’s practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Series 2020 Bonds unless authorized by a Direct Participant in accordance with DTC’s MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to DASNY as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.’s consenting or voting rights to those Direct Participants to whose accounts the Series 2020 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal and interest payments on the Series 2020 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC’s practice is to credit Direct Participants’ accounts, upon DTC’s receipt of funds and corresponding detail information from

DASNY or the Trustee, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee, or DASNY, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of DASNY or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

A Beneficial Owner shall give notice to elect to have its Series 2020 Bonds purchased or tendered, through its Participant, to the Tender Agent, and shall effect delivery of such Series 2020 Bonds by causing the Direct Participant to transfer the Participant's interest in such Series 2020 Bonds, on DTC's records, to the Tender Agent. The requirement for physical delivery of the Series 2020 Bonds in connection with an optional tender or a mandatory purchase will be deemed satisfied when the ownership rights in the Series 2020 Bonds are transferred by Direct Participants on DTC's records and followed by a book-entry credit of tendered Series 2020 Bonds to the Tender Agent's DTC account.

DTC may discontinue providing its services as depository with respect to the Series 2020 Bonds at any time by giving reasonable notice to DASNY or the Trustee. Under such circumstances, in the event that a successor depository is not obtained, Series 2020 Bond certificates are required to be printed and delivered.

DASNY may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Series 2020 Bond certificates will also be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that DASNY believes to be reliable, but DASNY, the Trustee, NYSARC and the Underwriter take no responsibility for the accuracy thereof.

Each person for whom a Direct or Indirect Participant acquires an interest in the Series 2020 Bonds, as nominee, may desire to make arrangements with such Direct or Indirect Participant to receive a credit balance in the records of such Direct or Indirect Participant, and may desire to make arrangements with such Direct or Indirect Participant to have all notices of redemption or other communications to DTC, which may affect such persons, to be forwarded in writing by such Direct or Indirect Participant and to have notification made of all interest payments. NEITHER DASNY NOR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO DIRECT PARTICIPANTS, INDIRECT PARTICIPANTS, OR THE PERSONS FOR WHOM THEY ACT AS NOMINEES WITH RESPECT TO THE PAYMENTS TO OR THE PROVIDING OF NOTICE FOR SUCH DIRECT PARTICIPANTS, INDIRECT PARTICIPANTS, OR BENEFICIAL OWNERS. PAYMENTS MADE TO DTC OR ITS NOMINEE SHALL SATISFY DASNY'S OBLIGATION UNDER THE ACT AND THE RESOLUTION TO THE EXTENT OF SUCH PAYMENTS.

So long as Cede & Co. is the registered owner of the Series 2020 Bonds, as nominee for DTC, references herein to the Bondholders or registered owners of the Series 2020 Bonds (other than under the captions "PART 11 – TAX MATTERS" herein) shall mean Cede & Co., as aforesaid, and shall not mean the Beneficial Owners of the Series 2020 Bonds.

## Principal and Interest Requirements

The following table sets forth the amounts required to be paid by NYSARC during each 12-month period ending June 30 of the Bond Years shown for the principal of and interest on the Series 2020 Bonds, the debt service on the currently outstanding indebtedness of NYSARC and the total debt service on all indebtedness of NYSARC, including the Series 2020 Bonds.\*

<u>Series 2020 Bonds</u>					
12-Month Period Ending June 30	Principal Payments	Interest Payments	Total Debt Service on the Series 2020 Bonds <sup>(1)</sup>	Debt Service on Other Indebtedness <sup>(2)</sup>	Total Debt Service <sup>(1)</sup>
2021	\$3,670,000	\$586,021	\$4,256,021	\$13,887,659	\$18,143,680
2022	3,555,000	544,946	4,099,946	11,826,770	15,926,715
2023	3,185,000	504,952	3,689,952	10,087,892	13,777,844
2024	2,780,000	466,541	3,246,541	8,844,833	12,091,374
2025	2,455,000	427,593	2,882,593	8,387,320	11,269,913
2026	1,880,000	390,743	2,270,743	7,798,389	10,069,132
2027	1,585,000	356,471	1,941,471	7,492,404	9,433,875
2028	1,595,000	325,674	1,920,674	7,186,891	9,107,566
2029	1,430,000	292,116	1,722,116	6,988,468	8,710,584
2030	1,190,000	261,313	1,451,313	6,685,987	8,137,300
2031	1,200,000	234,491	1,434,491	6,214,903	7,649,394
2032	895,000	206,243	1,101,243	5,779,536	6,880,779
2033	920,000	182,490	1,102,490	5,149,436	6,251,925
2034	830,000	158,073	988,073	5,067,703	6,055,776
2035	740,000	136,045	876,045	3,406,423	4,282,468
2036	475,000	116,405	591,405	984,075	1,575,480
2037	490,000	100,982	590,982	529,388	1,120,369
2038	490,000	85,071	575,071	496,388	1,071,459
2039	505,000	69,161	574,161	128,369	702,530
2040	520,000	52,764	572,764	123,913	696,676
2041	250,000	35,879	285,879	119,456	405,336
2042	235,000	27,762	262,762	0	262,762
2043	245,000	20,131	265,131	0	265,131
2044	200,000	12,176	212,176	0	212,176
2045	175,000	5,682	180,682	0	180,682

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\* Pursuant to the Loan Agreement, July 1 principal and interest payments are made by NYSARC in its prior fiscal year ending June 30.

<sup>(1)</sup> Totals may not add due to rounding.

<sup>(2)</sup> Excludes debt service on the Refunded Bonds.

## **PART 4 – NYSARC**

### **Purpose and Operations**

NYSARC, Inc. is a leading advocate for the rights of and service provider to State residents who have intellectual and developmental disabilities. NYSARC seeks to better the lives of these individuals by influencing public policy and opinion and offering a full range of habilitative and residential programs through its local, community-based Chapters. NYSARC has 41 local operating Chapters primarily organized around county jurisdictions that provide a continuum of services from early intervention services to programs for senior citizens. In addition, NYSARC has six Chapters the activities of which are dedicated to advocacy for the rights and care of these individuals. These six Chapters provide a very limited amount of services. The goal of NYSARC, working through its Chapters, is to provide the individuals it serves with the same opportunities for education, training, habilitation, employment and housing afforded to all citizens.

According to the New York State Office for People with Developmental Disabilities (“OPWDD”), approximately three percent of State residents have intellectual or developmental disabilities that require some form of care. The volume and variety of programs and services available and required to meet the individual needs of the persons served by NYSARC have expanded greatly since the 1980s. This is due to a variety of factors, but two are of utmost importance: (1) the general population’s increasing recognition of the superiority of, and its support for, community-based programs over State-operated institutions to address the needs of these individuals, and (2) the successful litigation against the State in 1975 (Willowbrook) that led to the State’s commitment to move individuals who have intellectual or developmental disabilities out of State-operated institutions and into community residential and day programs and to provide greatly increased funding for such programs. Since 1993, persons served in the community have increased from 86,400 to nearly 130,000, while the population of State-operated institutions has decreased from 4,730 to approximately 150 and is expected to remain level.

The effectiveness of NYSARC’s community-based service model in serving State residents who have intellectual or developmental disabilities, and NYSARC’s essential function within the State, and to the State, in meeting the needs of this population, is reflected in the growth of NYSARC’s funding, the share of State funding for such purposes that NYSARC receives, the number of persons NYSARC serves and the number of persons it employs to provide those services. NYSARC’s total revenues have grown from approximately \$164,000,000 in 1983 to over \$1,848,000,000 in 2019 (unaudited). NYSARC revenues are over one-third of the total amount appropriated by the State in its fiscal year 2019-2020 to meet the needs of this population. The 41 local operating Chapters currently serve approximately 60,000 persons in all of their programs and employ approximately 30,000 staff members.

### **Organization**

NYSARC’s direct services to its clients are delivered through its 41 operating Chapters and six advocacy Chapters, each of which is chartered by NYSARC for a specific geographic jurisdiction. The Chapters are not separately incorporated and function as divisions of NYSARC. Many such Chapters are, however, supported by a separate nonprofit corporation under common control with the related Chapter that holds title to real property used by the Chapter. Control is established through the organizational instruments of the supporting nonprofit corporation, which generally mandate that all of the members of the board of directors of the corporation, or a sufficient number to establish control, be directors of the related Chapter. Most of these supporting corporations exist solely to hold title to real property and do not have any operations, and the properties they own are made available to the local Chapter through lease arrangements with NYSARC. Regulatory requirements relating to reimbursement for costs of services

funded with State and federal money, and requirements of lenders that provide financing for certain facilities, have led to the use of these separate property holding corporations.

Members in many Chapters have also organized supporting foundations to conduct fundraising on behalf of the Chapter. Four Chapters also use separate entities to provide Article 28 clinic services and home health care services. One Chapter has been allowed to provide services outside of the State through separate controlled corporate entities.

## **Governance**

NYSARC is a New York not-for-profit corporation comprised of its Chapters and a state office. NYSARC has 47 Chapters, each of which is authorized by NYSARC's board of governors, and of which 41 operate to serve directly the needs of State residents who have intellectual or developmental disabilities and six operate as advocacy Chapters. All Chapters have local boards whose authority is granted through the board of governors. Each Chapter's officers are granted responsibility for that Chapter's day-to-day operations. The State Office provides administration and management for the corporation as determined by the board of governors.

NYSARC is governed by a board of governors, at least a simple-majority of the members of which must be parents or blood relatives of a developmentally disabled person. The board of governors is comprised, at present, of approximately 94 members; it may not consist of fewer than 10 nor more than 150 members. The members of the board of governors are nominated by and represent the local Chapters, with the allocation of members between local Chapters based on the size of each local Chapter's active membership. The governors are elected by the delegate assembly, which represents all of NYSARC's members.

The board of governors is responsible for the overall management of NYSARC's affairs, including its property and business operations at the Chapter level. It adopts rules, regulations, policies and procedures for the governance and operations of the local Chapters, the board of governors' own meetings, and the carrying out of its corporate purposes and objectives.

Upon request to the Secretary of the board of governors by any local Chapter, any action of the board of governors may be reviewed at NYSARC's next succeeding annual delegate assembly meeting. Such action may only be rescinded by an affirmative vote of the delegates present at such meeting, representing at least two-thirds of the local Chapters; provided that, no irrevocable rights of third parties are permitted to be affected by any such action.

The board of governors meets at least four times a year. Recognizing that such a large board cannot meet regularly, the by-laws of NYSARC establish an executive committee. The executive committee of the board of governors consists of all of its elected officers and one other member of the board of governors from each of NYSARC's seven geographic regions (central north, central south, capital-Adirondack, Finger Lakes, Hudson Valley, Metro NYC and western). The executive committee, which currently has 13 members, possesses the power and authority of the board of governors during intervals between meetings of the board.

There are 13 committees that act in advisory roles to the board of governors. These committees assist the governors in fulfilling their fiduciary responsibilities in such areas as audit, finance, insurance, legal and guardianship and recommend annual goals in areas such as legislation, guardianship, education, community programs and services, developmental centers, prevention and public information.

The current members of the executive committee are:

DR. JOHN KOWALCZYK  
President  
Utica, New York

SUSAN LUCAS  
Vice-President  
Hudson Valley Region  
North Salem, New York

DANIEL MARTINDALE  
Senior Vice-President  
Capital Region  
Hudson Falls, New York

RICHARD RIMA  
Vice-President  
Central North Region  
Parish, New York

CHERYL ENGLERT  
Vice-President  
Western Region  
Wayland, New York

ROSE RODRIGUEZ  
Secretary  
Hawthorne, New York

ELLEN FELDMAN  
Vice-President  
Central South Region  
Endwell, New York

JOSEPH ZIFCHOCK  
Treasurer  
Oneida, New York

ANNE GORDON  
Vice-President  
Metro Region  
Staten Island, New York

STEVEN DROBYSH  
Assistant Treasurer  
Monticello, New York

DAVID IRISH  
Vice-President  
Finger Lakes Region  
Fairport, New York

ROSE MARY CELLA  
Member-at-Large  
Chester, New York

SAUNDRA GUMEROVE, ESQ.  
Immediate Past President  
Jericho, New York

NYSARC's state office (the "State Office") is located in Latham, New York. The board of governors annually approves a budget for the State Office that includes such items as are deemed necessary for the administration of NYSARC's corporate purposes. The staff of NYSARC's State Office consists of the executive director and such staff as the executive director requires to implement the goals, purposes and mission of NYSARC.

NYSARC's State Office staff includes professionals who are experienced in the delivery of direct care to consumers and local Chapter administration. They provide technical assistance, in areas such as the interpretation of laws and regulations, training programs, one-to-one advocacy and, on occasion, direct management of local Chapters as deemed necessary by the executive committee or at the request of a local Chapter's board of directors. The State Office employs a Corporate Compliance Officer, who reports directly to the Corporate Compliance Committee of the board of governors on matters of compliance involving NYSARC's local Chapters.

The State Office seeks to ensure that local Chapters are operating within the policies and procedures established by the board of governors. It is also responsible for NYSARC's guardianship program. The State Office provides supplemental needs trust administration services for trusts of which NYSARC acts in the capacity of co-trustee pursuant to federal and State statute. The executive committee appoints the trustees and management board to oversee the operation of the trusts.

*Mark van Voorst* has been the Executive Director for NYSARC since 2017 and is responsible to the board of governors for the management of NYSARC. Prior to joining NYSARC, Mr. van Voorst served as Chief Executive Officer at Lifespire for 16 years, a New York City nonprofit organization dedicated to supporting New Yorkers with developmental disabilities so they can be independent, become integrated into their neighborhoods, and contribute to society. Mr. van Voorst devoted the first 23 years of his career advancing through various operational management levels and NYSARC's Jefferson County Chapter and Fulton County Chapter. He holds membership and leadership roles with numerous trade

associations such as the Interagency Council, NYSRA, NYSID, New York Integrated Network, and is currently serving as Chair of the Human Resources Committee for Care Design NY, LLC.

*Cynthia Borozny* has been the Deputy Executive Director and Chief Financial Officer for NYSARC since 2018. Prior to joining NYSARC, Ms. Borozny served as Chief Financial Officer for Community, Work and Independence, Inc. Ms. Borozny started her career with the Center for Discovery (UCP Sullivan) where she held the positions of Controller and Director of Budget & Finance. Ms. Borozny has devoted over 20 years of service to the non-profit and human services sector and is a former Board Member of Capital North Cares, LLC.

## **Program Descriptions**

Below are brief descriptions of several key programs and services provided by NYSARC's local Chapters to children and adults who have intellectual or other developmental disabilities. NYSARC also provides a variety of support services to the families of these individuals.

*Early Childhood Programs.* Early intervention programs approved by the State Department of Health and Preschool Programs approved by the State Department of Education provide necessary developmental and education services to children with disabilities from birth to age five. Certified professionals provide speech, physical and occupational therapy, psychological services, special education and instruction in the child's home, at a regular day care or nursery program or in facilities or schools operated directly by NYSARC Chapters and at day cares approved by the State Office of Children and Family Services. State policy for the provision of these services to eligible children has shifted from providing services only in segregated special education settings (*i.e.*, where only children with disabilities attend) to providing the educational services in a full range of more integrated settings (*i.e.*, children with disabilities and typically developing children attend).

*School-Age Education Programs.* Special education programs for students with disabilities between the ages of five and 21 are currently operated by six local Chapters and are approved by the State Department of Education. These programs serve students with severe disabilities who are unable to be served by their school district.

*Day Services.* Day habilitation services are programs certified by OPWDD that provide full, half-day and hourly services for individuals who choose non-employment outcomes or require a more closely supervised type of program. Services and supports are designed to meet the valued outcomes of participants and enable each individual, as appropriate, to be engaged in meaningful community experiences, including volunteering or other activities that give back to the community. Services include self-care, pre-vocational training, remedial education, occupational, physical and speech therapy, psychological, nutritional and other clinical supports.

Day treatment are programs certified by OPWDD that provide full and half-day services for individuals who require a more closely supervised, non-vocational type of program. Services include self-care, pre-vocational training, remedial education, occupational, physical and speech therapy, psychological, nutritional and other health care services.

Employment training at local Chapters enables individuals to develop appropriate vocational skills and work habits within a supportive environment. Employment specialists at local Chapters guide individuals with developmental disabilities through the process of vocational exploration, job identification, interviewing, and on-the-job coaching, to support successful employment. Staff at local Chapters help individuals decide if they are interested in finding a job in the community, and if so, employment specialists will support the individual in developing the necessary skills, finding a suitable job and succeeding in the workplace. Pre-vocational services focus on identifying vocational interests and

sharpening job-specific skills, as well as global job skills, such as employer expectations and workplace behavior. Competitive, community-based employment is the ultimate goal. Pre-vocational services can be provided at a local Chapter facility or in the community individually or in small groups. Over the past three years, these programs have been undergoing a transformation in order to support participation in the broader community and opportunities to pursue competitive, integrated employment. These changes are on-going and expected to continue. These services are provided under contract with OPWDD, ACCES/VR\*, or the State Office of Mental Health.

*Clinic Services.* Clinic treatment programs certified by the State Department of Health, Office of Mental Health, Office of Addiction Services and Supports, or OPWDD are operated by many local Chapters and provide physical, occupational and speech therapies, rehabilitation counseling, nursing, psychological and, in a small number of Chapter clinics, medical and dental services. These services are professionally designed and prescribed to enhance cognitive development, language development, daily living skills and other areas in accordance with the needs of recipients with intellectual or other developmental disabilities. Article 28 clinics certified by the State Department of Health may also serve the general public as well as program participants.

*Home and Community Based Waiver Services.* Chapters provide a variety of individualized programs and services under OPWDD's Home and Community Based Services ("HCBS") Medicaid waiver. These services include day habilitation that can be provided in congregate programs in facilities owned or leased by NYSARC or in individual or small group community settings. Chapters also offer service coordination, to ensure the individual is receiving necessary services, environmental modifications such as the installation of wheelchair ramps or special bathroom accommodations, assistive technology services such as special language/communication devices or wheelchair modifications to meet the needs of the individual, and residential habilitation supports from trained staff who provide services in the home of the individual with the disability, whether living independently or with family.

Home care services approved by the State Department of Health provide in-home nursing and assistance in daily living activities to persons with special needs.

During 2009, several new service modalities were added to allow more choice to persons receiving services and support who are capable of participating and benefiting from a less restrictive environment and to support families who are able to keep their son or daughter at home. Emphasis is placed on providing the following: (i) service in non-certified settings; (ii) individualized day habilitation and day habilitation without walls; (iii) employment; and (iv) self-direction.

*Residential Services.* NYSARC provides a wide variety of residential services throughout the State for children and adults. Among these services are Intermediate Care Facilities, Individualized Residential Alternatives, Family Care, and Supportive Apartments. Each residential program type is provided in accordance with OPWDD regulations.

These residential programs are designed to enable all individuals who are intellectually or developmentally disabled to live as independently as possible in the community while receiving the necessary support services and level of supervision that most closely reflect their needs and abilities. Appropriate contact and coordination with family members is encouraged through each residential option.

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\* Adult Career and Continuing Education Services/Vocational Rehabilitation Office of the State Department of Education.

The following is a brief description of each program:

- Intermediate Care Facilities for Developmentally Disabled (“ICF/DD”) provide community-based residences in a homelike atmosphere for children and adults with severe disabilities due to intellectual and/or other developmental disabilities. Persons placed in this type of residence are provided with intensive assistance in their daily living activities such as bathing, toileting, eating and dressing. Due to the behavioral, medical and personal assistance needs of the persons living in an ICF/DD, the staffing ratio is lower than that of other residential programs. Each ICF/DD provides required clinical services such as speech and physical therapy and nursing services under the direction of a physician. Twenty-four hour supervision is necessary and close coordination with family members is encouraged. ICFs/DD have been and will continue to be converted to Individualized Residential Alternatives (“IRAs”) over the next five years pursuant to an agreement with the federal government to reduce the reliance on settings, which, by regulations are considered institutional.

- IRAs are residences in which individuals reside and receive supervision and guidance from trained staff. Such residences provide a homelike atmosphere staffed by trained individuals who offer assistance in daily living skills and personal adjustment. These options are less restrictive than the ICF/DD and there is generally a greater reliance on medical, recreational and other support services from the general community. The IRA also provide greater involvement in daily living activities such as food shopping, meal preparation, neighborhood and community functions and use of public transportation in accordance with the capabilities of each individual. Clinical services, if necessary, are generally provided through the day program attended by the resident with close coordination with the residential staff. IRAs are funded through the aforementioned HCBS Medicaid waiver and have almost completely replaced Community Residences that are now reimbursed as IRAs.

- Family Care is a certified living arrangement in which a voluntary provider agency, such as a NYSARC Chapter, places an individual with an intellectual or other developmental disability into the home of a host family. The residence which is owned or leased by the family is inspected and certified by OPWDD. The family is paid a monthly stipend that is established by OPWDD for care delivered. The Chapter receives an administrative fee for the oversight and support which it provides to the family care provider.

- “Supportive Apartments” are available to persons who are intellectually and/or developmentally disabled who require minimal staff assistance. These apartments require the greatest level of independence on the part of the resident. Compared to other residential programs described above, there is more time spent independent of staff supervision. Each apartment, which generally accommodates one to three persons, provides independent living arrangements with no overnight supervision. However, personal contacts between agency personnel and each resident are generally made on a daily basis to ensure coordination of service and the overall well-being of each person.

*Self-Direction.* Individuals and families that are interested in more direct responsibility and control of their services can obtain assistance from a local Chapter. The local Chapter will support individuals or families in managing an approved personal resource allocations budget, or hiring and managing support staff directly. NYSARC will serve as a financial intermediary, provide necessary staff training, collect Medicaid documentation to support billing and serve as the co-employer of staff hired by the individual and/or family.

*Family Support and Outreach.* Family support and outreach services are provided in a variety of ways through NYSARC’s local Chapters. Family support services provide support and training to families of individuals who are intellectually and/or developmentally disabled. These services help to strengthen the family’s ability to continue to provide care in their home while enhancing the overall

functional development of the individual and coping capacity of the family. Parent and sibling support groups, in-home respite, counseling, crisis stabilization, information and referral, recreation, guardianship and service coordination/case management are only a few of the services provided.

Chapters also administer voucher programs under family support through which the family may receive reimbursement for essentials such as diapers, personal aides, transportation, etc. to assist the family in maintaining their child at home.

Respite is provided under family support services and also home and community based waiver services. Respite is offered in the family's home or in free standing residences operated by Chapters. Respite is provided in order to give parents or other caregivers the opportunity to participate in community activities, to vacation, or to respond to a hospitalization or other crisis.

*Guardianship.* Guardianship, which is a legal proceeding in the surrogate's court, designates a parent, relative, friend or an organization to act on behalf of an individual who is intellectually and/or developmentally disabled and unable to manage his or her personal affairs without assistance. NYSARC's guardianship program was established in 1970 in order to provide a permanent commitment to parents to ensure the continuity of care and protection for the entire life of their family member.

*Advocacy Services.* Advocacy services are provided by many Chapters to assist individuals and/or their families in obtaining public benefits for which they are eligible or to receive needed services, such as special education, to which they are entitled by law.

*Trust Services.* NYSARC is the co-trustee of supplemental needs trusts (NYSARC, Inc. Community Trust I, II, and III) established by disabled persons pursuant to federal and State statutes. The purpose of the Community Trusts is to allow disabled persons to qualify for community Medicaid services to remain in their regular homes for as long as possible.

NYSARC is co-trustee of the NYSARC, Inc. Third Party Agency Trust funded by the State Office of Mental Health ("OMH") and OPWDD. This Trust allows beneficiaries to be eligible for community Medicaid while being integrated into the community.

The trust services department administers the NYSARC Trust Fund, which consists of third-party supplemental need trusts benefiting persons with intellectual disabilities, on behalf of the board of trustees of the trust fund as appointed by NYSARC's executive committee. NYSARC provides individual supplemental need trust trusteeship and administration for persons with any disability.

## **Revenues**

Approximately 95% of NYSARC's 2019 revenues (unaudited) were attributable to programs in which the services described above were provided. They were received under contract and reimbursement arrangements from the following State agencies, which accounted for the percentage of those revenues indicated parenthetically: (1) OPWDD (83.0%), (2) State Department of Education (5.4%), and (3) OMH and State Office of Addiction Services and Supports (0.4%). The remaining approximately 11.0% of all revenues are attributable to non-program revenues, including contributions, fundraising and interest earnings. All but one of the Projects to be funded through this financing are supported by funding from OPWDD, the largest funding source for NYSARC.

Medicaid is the largest payor source for NYSARC, accounting for 80% of OPWDD-derived revenues. OPWDD continues to utilize Medicaid program funding as a means to supplement State funding. This initiative has resulted in improved cash flows and a reduction in days outstanding in

accounts receivable, as most programs have moved from a quarterly or annual State contract billing, which were sometimes delayed by State budget deliberations, to weekly, bi-weekly and monthly billing cycles depending on the program. In contrast to traditional Medicaid funding to health care providers, Medicaid rates for NYSARC facility-based programs, such as IRAs, Day Habilitation and pre-vocational programs are specific to the service provider, program and the individuals served. Other programs such as service coordination, supported employment and community habilitation are paid at regional rates for all providers in the same region. Adjustments are generally made on an annual basis after submission of regulatory reports.

Changes in healthcare reform could, among other things, reduce or unfavorably restructure Medicaid funding. There can be no assurances that any proposed changes to Medicaid will become law. If enacted into law, future Medicaid reform may materially adversely affect the funds received by, and revenues available to, NYSARC and as a result, NYSARC's ability to pay debt service on the Series 2020 Bonds. See also “ – Recent Financial Developments – Potential Impact of Coronavirus” below for additional potential impacts on revenues.

An average of approximately 86% of the operating budgets of the local Chapters is funded through individual program rates and contracts set by the State Department of Health (“DOH”) with approval of the State Division of Budget. Certain revenues are also derived from sheltered workshops/integrated businesses and from contract sales of products and services produced through the efforts of disabled workers. Those sales account for approximately 8% of total OPWDD related revenues.

The current methodologies used by OPWDD in determining the amounts to be paid to the Participating Chapters for provision of services are set forth in “ – OPWDD” below.

## **OPWDD**

OPWDD is one of three autonomous offices within the State Department of Mental Hygiene (“DMH”), the other autonomous offices being the Office of Mental Health (“OMH”) and the Office of Addiction Services and Supports (“OASAS”). These three offices function independently within DMH, each with complete responsibilities for planning and administration of their respective programs. Each office is headed by a commissioner appointed by the State Governor with the advice and consent of the State Senate. Also within DMH are the Developmental Disabilities Planning Council and the Justice Center for the Protection of People with Special Needs. OPWDD, OMH and OASAS all provide services directly to their clients through State-operated facilities and indirectly through community service providers.

OPWDD is charged with developing a comprehensive, cost-effective, and integrated system to serve the full range of needs of individuals with developmental disabilities. OPWDD operates five regional offices, which oversee the provision of not-for-profit services, and six State operations offices, which are responsible for State-delivered programs and services. The 13 service districts within the State operations offices administer community-based and, where applicable, institutionally-based service programs for persons with developmental disabilities within regional catchment areas. Institutional programs offer residential care and habilitative services in campus settings, informally known as developmental centers, and at special population units located throughout the State. The community-based service programs, funded and regulated by OPWDD, reflect the cooperative efforts of local governments, not-for-profit service providers, including the Participating Chapters, and OPWDD as a provider of services. Community programs include State- and not-for-profit-operated residential and day services, as well as a variety of support services to families and individuals living in their own homes, including respite and crisis intervention, which help prevent unnecessary and costly out-of-home placement. OPWDD is responsible for the regulation and licensing of residential facilities. Such

regulation and licensing includes determining the need for the facility, review of plans and specifications for construction, inspections and audits and the establishment of a reimbursement rate for services.

OPWDD coordinates both residential and non-residential services for nearly 140,000 New Yorkers with developmental disabilities, including intellectual disabilities, cerebral palsy, down syndrome, autism spectrum disorders, and other disabilities. It provides services directly (referred to above as “State-operated services”) and through a network of approximately 650 not-for-profit service providing agencies, with about 80% of services provided by the not-for-profit service provider agencies and 20% provided directly by the State.

OPWDD’s community services system using private not-for-profit agencies continues to grow, which reflects the needs of the State’s residents, subject to the funds available in the OPWDD budget. The 2020-2021 budget for OPWDD includes investments to leverage up to \$120 million in additional OPWDD funding which will allow for the development of new certified housing supports in the community, support more independent living, provide more day program and employment options, and increase respite availability. Spending also reflects a 4% total increase for direct care workers, and a 2% pay raise for clinical workers serving the mental hygiene community. Both are aimed at assisting not-for-profits in the recruitment and retention of employees. These investments, when fully annualized, will increase State share support for workers by \$107 million (\$188 million on an all funds basis).

#### *OPWDD’s Role in Facility Development and Reimbursement*

OPWDD is responsible for the regulation and certification of certain of the Participating Chapters’ facilities expected to be financed or refinanced with the proceeds of the Series 2020 Bonds. Such regulation and certification includes, among other things, participation in the determination as to the need for the facility, review of plans and specifications for acquisition/construction/rehabilitation of the facility, the right to conduct inspections and program audits, and the establishment by DOH of a reimbursement rate/price for an individual’s care.

Rate setting authority for OPWDD is controlled by the State’s single Medicaid agency, DOH. OPWDD has a policy advisory role in the rate setting process and works closely with DOH in the development of the funding methodologies. DOH has a Mental Hygiene Rate Setting Unit which includes many staff transferred from OPWDD’s former rate setting unit and therefore continues to have knowledge of the needs of individuals with intellectual and developmental disabilities and the challenges facing not-for-profit agencies providing services to such individuals. DOH staff regularly engage with provider representatives when new funding methodologies are developed and updated. Since 2014, the most significant change under DOH’s rate setting approach has been a shift from budget-based to cost-based funding of HCBS waiver services which thus far has had a positive overall impact on NYSARC. While the appeals process has been eliminated, DOH has performed annual updates including changes in capacity and property updates.

#### *Prior Property Approval Process*

Prior to initiating the development of a capital project to develop facilities to be used to serve intellectually and/or developmentally disabled individuals, a not-for-profit provider is required under State Codes, Rules and Regulations Part 620 to complete a Certificate of Need (“CON”) process. The CON application is reviewed by the OPWDD Developmental Disabilities Services Office in the provider’s region for compliance with local government and general State plans for needed services.

Once CON approval is received and an appropriate program site is identified, a Prior Property Approval (“PPA”) proposal that details the capital costs associated with the development of the site is prepared by the provider and regional Developmental Disabilities Services Office. The PPA process,

inaugurated in the early 1980s, was developed to satisfy the regulatory requirement for OPWDD and the State Division of the Budget approval process for capital costs. This regulatory requirement is incorporated in State Codes, Rules and Regulations Parts 635, 641, 681, 686 and 690. The PPA identifies funding and financing sources for capital costs and the level and method of reimbursement for such costs.

Securing PPA approval establishes the commitments of the voluntary provider as well as the State. The provider commits to develop the program to serve a specific number of individuals in a specific type of facility and program. The State commits to pay operating support for the project if it is completed within the approved budget in conformance with the PPA. For ICFs, IRAs, Day Habilitation, Prevocational and Community Residences, OPWDD will reimburse a provider for all capital costs approved in the PPA at the daily rate/price. As long as the operator continues to meet the requirements of the operating certificate, the operator is eligible for such reimbursement. Because of this commitment, loans made to NYSARC through this financing will mirror the commitment period and capital expense authorized by each PPA.

Certain capital costs are not subject to the PPA process. In 2010, the costs associated with equipment depreciation and interest were transferred by OPWDD to a separate operating cost category and are trended with operational program costs. Additionally, each Participating Chapter is allocated its pro rata share of Chapter administrative costs through an administrative component of its rate. The depreciation and interest attributable to administrative facilities and equipment are included in this component of the rate. OPWDD funds renovation costs associated with existing certified residential programs with a Residential Replacement Reserve (“RRR”) rate component. The RRR is a prospective per person amount added to each program’s rate. In the event that repair and renovation costs exceed the RRR capacity of a provider, OPWDD does have a process that allows the provider to receive additional funding on a project specific basis. For ICFs/DD the RRR funding is no longer included as an operating component of the rate and since 2014 is a property component which is funded via the PPA process.

#### *PPA Regulatory Compliance Process*

OPWDD imposes additional restrictions on certain projects that have not yet received a PPA, but would otherwise require such a document under applicable regulations. These projects (the “Applicable Projects”) are sites for which OPWDD funding is sought for (a) new acquisition, renovation and development, or (b) “substantial renovation” of an existing OPWDD-regulated site, with “substantial renovation” defined as renovation expenses that exceed 75% of the fair market value of the site as determined from the applicable municipal assessment rolls.

For these Applicable Projects, OPWDD requires that the provider applicant execute a Regulatory Compliance Contract and a Capital Component Security and Lien Agreement (“Security and Lien Agreement”). The Regulatory Compliance Contract requires that the provider operate an OPWDD-regulated program at the site for 40 years, and that the provider will otherwise comply with applicable OPWDD regulations.

The Security and Lien Agreement requires the provider to comply with the Regulatory Compliance Contract. In order to secure performance of the Regulatory Compliance Contract, the Security and Lien Agreement grants to OPWDD a first lien on the Facility (as defined therein) and the furniture, fixtures and equipment thereon, securing also any amounts paid by OPWDD in the future to satisfy any mortgage, capital expenditures, operating and maintenance expenses, professional services and other expenses, incurred by OPWDD with respect to the Facility.

The Security and Lien Agreement requires the provider to covenant to comply with all laws, maintain insurance, construct, renovate and maintain the Facility, and comply with other covenants and conditions. The Security and Lien Agreement restricts transfer and mortgaging of the Facility, and

contains a Purchase Option, exercisable by OPWDD to purchase the Facility for the principal balance of any Approved Mortgage (as defined therein).

Finally, for such “Applicable Projects”, NYSARC has been provided by OPWDD with a form of “Subordination Agreement” to be entered into in which the rights of OPWDD under the Regulatory Compliance Contract and the Security and Lien Agreement would be subordinate to the lien of any Mortgage approved by OPWDD.

Eight of the current project facilities are “Applicable Projects”. In addition, projects with existing PPAs could potentially become “Applicable Projects”, subject to the above procedures, if a future renovation is so significant as to qualify it as a “substantial renovation” as defined above.

**Funding for OPWDD is subject to appropriation by the State legislature, and there is no assurance that there will be continued appropriations by the State in amounts sufficient for OPWDD to make payments to the Participating Chapters pursuant to their respective PPAs.**

The information concerning OPWDD (including the PPA process and Residential Replacement Reserve) has been provided by NYSARC from publicly available information and is subject to change.

### **Employee Matters**

Pursuant to final changes in U.S. Department of Treasury regulations issued in July 2007 related to plan discrimination and controlled group requirements, NYSARC determined that aggregate discrimination testing of all local Chapter and State Office retirement plans is annually required. NYSARC plans taken in the aggregate have satisfied the thresholds established by the regulations. Each Chapter provides its own employee benefit array and NYSARC conducts periodic corporate discrimination testing. NYSARC policy prohibits the use of defined benefit pension plans without the express approval of the board of governors and requires Chapters to notify the State Office before making changes to local plans. There are two defined benefit plans that are 69% funded on a combined basis as of the end of fiscal year 2018; one of the plans is inactive.

Employees of seven NYSARC Chapters are represented by collective bargaining units. Unions are recognized by, and negotiate with, individual Chapters rather than the statewide organization. Two of the Participating Chapters have collective bargaining units. NYSARC has generally good relations with the unions representing its employees.

### **Pending Litigation and Regulatory Matters**

NYSARC and its Chapters are named defendants in a number of lawsuits of varying nature. NYSARC and its Chapters maintain insurance to cover this liability. NYSARC is unable to assess the amount of awards and judgments at this time. However, NYSARC believes all such litigation is adequately covered by its insurance.

Most of the services that NYSARC provides through its Chapters are billed to the New York State Medicaid program. Therefore, NYSARC is, as is any other Medicaid provider, subject to an array of federal and State statutes and regulations designed to protect the fiscal integrity of government health care benefit programs generally, and the Medicaid program in particular. A Medicaid provider that fails substantially to comply with the numerous requirements for participation in the program and receipt of Medicaid reimbursement, or that engages in certain prohibited acts, including without limitation, making false claims to Medicaid for services not rendered or not adequately documented, misrepresenting actual services rendered in order to obtain higher reimbursement, or paying or receiving remuneration for Medicaid referrals, may be subject to potential recoupment of Medicaid payments, substantial civil and

criminal penalties and/or exclusion from participation in the Medicaid program. Indeed, in recent years, providers of services for the developmentally disabled have been receiving increased attention from Medicaid enforcement agencies, and there has been an increase in the general level of enforcement activity with respect to the Medicaid program at the federal and state government level, as well as in the number of private “whistleblower” lawsuits.

Like other providers of Medicaid-reimbursed services, issues pertaining to Medicaid reimbursement or compliance are identified from time to time during the course of internal auditor review, and NYSARC and its Chapters are subject, from time to time, to investigations or enforcement proceedings brought by applicable regulatory agencies. NYSARC believes that such findings, investigations and proceedings are an inherent byproduct of providing Medicaid-reimbursed services. However, NYSARC believes that the activities of NYSARC and its local Chapters are conducted substantially in compliance with applicable laws and regulations affecting the Medicaid program, and that the experience of NYSARC and its local Chapters is equal to or better than that of comparable providers in terms of the incidence and scope of such internal findings, investigations and enforcement proceedings.

Further, to help control Medicaid-related risk, NYSARC’s board of governors has created a board-level Corporate Compliance Committee, mandated that all Chapters maintain a corporate compliance program, and established a Corporate Compliance Officer staff position at the NYSARC State Office, reporting directly to the Committee, to assist and advise local Chapters in the implementation and effectiveness of corporate compliance at the local level. All Chapters are required to report statutory self-disclosures, referrals and all audits by regulatory and oversight agencies to the NYSARC State Office. Besides reviewing these reports, NYSARC’s corporate compliance staff are required to visit at least five Chapters per year to ensure that the Chapters indeed have a compliance program that has all the required elements.

Chapters, like all providers receiving more than \$500,000 in Medicaid reimbursement, must certify compliance with the State’s regulatory requirements for compliance programs pursuant to 18 NYCRR Part 521. Chapters must also certify compliance with federal Deficit Reduction Act requirements concerning False Claims Act training for employees and contractors. Both of these certifications are submitted annually directly to the State Office of Medicaid Inspector General.

## **Financial Matters**

### *Financial Reporting*

The State Office’s accounting professionals prepare monthly, year-to-date and annual combined, unaudited financial statements for NYSARC (the “Preliminary Financial Statements”), and NYSARC retains annually an independent public accounting firm to compile combined, unaudited financial statements for NYSARC in accordance with accounting principles generally accepted in the United States (“U.S. GAAP”) for the year ended and as of the immediately preceding December 31 (the “Final Annual Financial Statements”).

The Preliminary Financial Statements include financial information for the State Office and its local Chapters, but generally do not include any property-holding, controlled affiliates of local Chapters. Although U.S. GAAP require the consolidation of these affiliates for financial accounting purposes, their aggregate net operating revenue (or deficit) is insubstantial (accounting for less than two percent of NYSARC’s revenues in 2018, the most recent year for which Final Annual Financial Statements are available), and they accounted, in the aggregate, for less than four percent of NYSARC’s assets and liabilities, determined on a combined basis, as of December 31, 2018. The Preliminary Financial Statements also do not contain footnotes of the type included in the Final Annual Financial Statements.

*See, e.g.*, “Appendix B – NYSARC, Inc. Chapter and Their Affiliates Combined Financial Statements as of and for the Year Ended December 31, 2018 Together with Accountants’ Compilation Report” and “Appendix B-1 – NYSARC, Inc. Chapters and Their Affiliates Combining Statement of Financial Position for the year ended December 31, 2019 (Preliminary and Unaudited).” Those footnotes may provide information of interest to an investor.

The Final Annual Financial Statements are compiled in accordance with U.S. GAAP and include financial information for the State Office, the local Chapters and affiliates required to be consolidated under U.S. GAAP. They are based upon audited financial statements prepared for the local Chapters and their affiliates by independent public accounting firms selected by the local Chapters, subject to approval by the State Office and NYSARC’s lenders. However, the Final Annual Financial Statements themselves are not audited, and NYSARC has not undertaken any commitment to obtain, and does not have any expectation of obtaining, an audit of its financial statements. The compilation is limited to the presentation, in the form of financial statements, of information that is represented to the independent public accounting firm by NYSARC’s management. It does not constitute an audit or review of NYSARC’s financial statements, and the accounting firm does not express any opinion or provide any assurance on them.

All Chapters, except the New York City Chapter and the State Office, maintain their books and records on a calendar year basis. The fiscal years of the State Office and the New York City Chapter end on May 31 and June 30, respectively.

In the experience of NYSARC’s management, the summary financial information for a particular year of the type set forth below under “Summary Financial Information” does not differ in any material respect as between the information derived from the Preliminary Financial Statements for that year and the Final Annual Financial Statement for that year.

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*Summary Financial Information*

The following table is abstracted from NYSARC's Final Annual Financial Statements as of and for the years ended December 31, 2015 through December 31, 2018 and NYSARC's Preliminary Financial Statements as of and for the year ended December 31, 2019 (unaudited), and the three months ended March 31, 2019 and March 31, 2020 (unaudited):

**Statement of Financial Position (unaudited)**

	As of December 31, (in thousands)					As of March 31, (in thousands)	
	2015	2016	2017	2018	2019	2019	2020
<b>Assets:</b>							
Current Assets	\$649,809	\$657,972	\$667,744	\$668,084	\$692,938	\$674,365	\$698,756
Net Property & Equipment	442,740	432,580	422,317	418,325	391,548	386,114	400,110
Other Assets	73,692	79,910	83,347	86,313	119,362	98,910	120,719
<b>Total</b>	<b>\$1,166,241</b>	<b>\$1,170,462</b>	<b>\$1,173,408</b>	<b>\$1,172,722</b>	<b>\$1,203,848</b>	<b>\$1,159,389</b>	<b>\$1,219,585</b>
<b>Liabilities and Net Assets:</b>							
Current Liabilities	\$299,633	\$260,398	\$258,488	\$257,111	\$262,168	\$250,077	\$260,682
Long-Term Debt	196,771	180,935	163,562	151,457	141,116	148,484	163,212
Other Liabilities	58,532	60,659	55,328	60,411	73,242	55,596	76,764
Net Assets (unrestricted)	592,378	644,682	670,498	680,242	706,467	684,857	701,330
Net Assets (restricted)	18,927	23,788	25,532	23,500	20,855	20,375	17,597
<b>Total</b>	<b>\$1,166,241</b>	<b>\$1,170,462</b>	<b>\$1,173,408</b>	<b>\$1,172,721</b>	<b>\$1,203,848</b>	<b>\$1,159,389</b>	<b>\$1,219,585</b>

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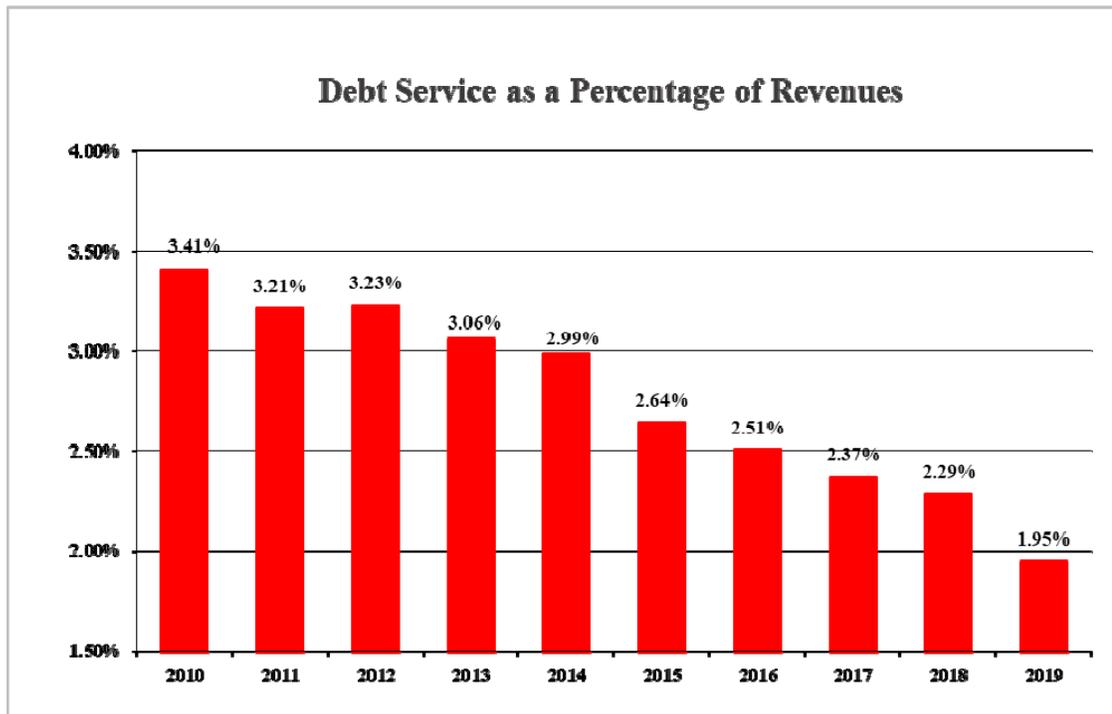
	Combined Statement of Activities (unaudited) For the Years Ended December 31, (in thousands)					For the Three Months Ended March 31 (unaudited), (in thousands)	
	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2019</u>	<u>2020</u>
<b>Support and Revenue:</b>							
Program Revenues	\$1,703,836	\$1,743,024	\$1,724,187	\$1,774,166	\$1,752,724	\$593,548	\$597,188
Non-Program Revenues	52,515	76,587	68,427	43,026	90,140	26,830	(25,358)
Other	6,056	24,745	37,449	1,141	5,838	1,319	828
Net Assets Released from Restrictions	2,160	1,910	1,645	973	95	16	22
Total Support and Revenues	\$1,764,567	\$1,846,266	\$1,831,708	\$1,819,306	\$1,848,797	\$621,713	\$572,680
<b>Expenses:</b>							
Program Services	\$1,585,493	\$1,619,383	\$1,652,714	\$1,633,841	\$1,541,151	\$548,184	\$525,612
Management and General	155,927	165,111	143,097	167,658	251,735	53,671	75,798
Other	6,106	4,718	9,894	4,648	10,614	2,001	2,676
Total Expenses	\$1,747,526	\$1,789,212	\$1,805,705	\$1,806,147	\$1,803,500	\$603,856	\$604,086
Change in Unrestricted Net Assets	\$17,041	\$57,054	\$26,001	\$13,158	\$45,297	\$17,857	\$(31,406)
Change in Temporarily Restricted Assets	(186)	(422)	1,636	(251)	1,945	1,097	(1,435)
Change in Permanently Restricted Assets	33	41	(77)	-	180	-	-
Other Changes in Net Assets	537	0	0	423	3,248	(297)	(359)
Total Change in Net Assets	\$17,425	\$56,673	\$27,560	\$13,330	\$50,670	\$18,657	\$(33,200)
Cash and Cash Equivalents	\$190,839	\$186,405	\$150,078	\$160,408	\$129,228	\$140,452	\$143,607

## Certain Financial Data

For the purpose of the charts below that set forth pro forma information based on the assumption that the Series 2020 Bonds have been issued, it is assumed the Series 2020 Bonds are issued in the aggregate principal amounts and bear interest at rates set forth on the inside cover of this Official Statement and principal is payable in installments such that the debt allocable to a particular Project and to the refunding of the Refunded Bonds is amortized on a level debt service basis:

### *Long Term Debt Service as a Percentage of Total Revenues*

The following chart sets forth for each of Fiscal Years 2010 through 2019\* the ratio of NYSARC's actual Debt Service Charges paid on Long Term Debt during the respective Fiscal Year to NYSARC's Total Revenue for that Fiscal Year:



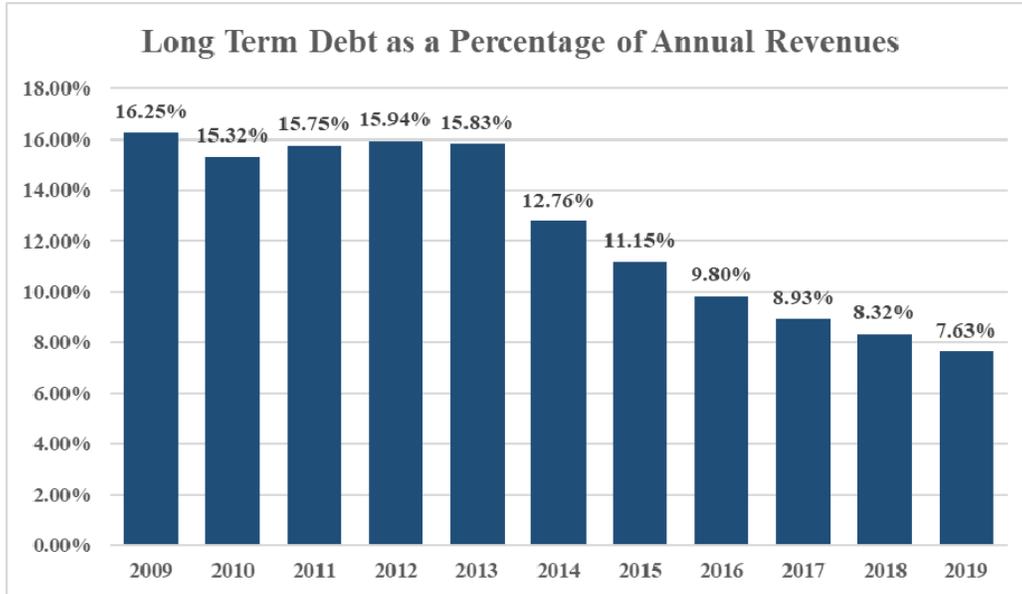
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\* 2019 numbers are unaudited.

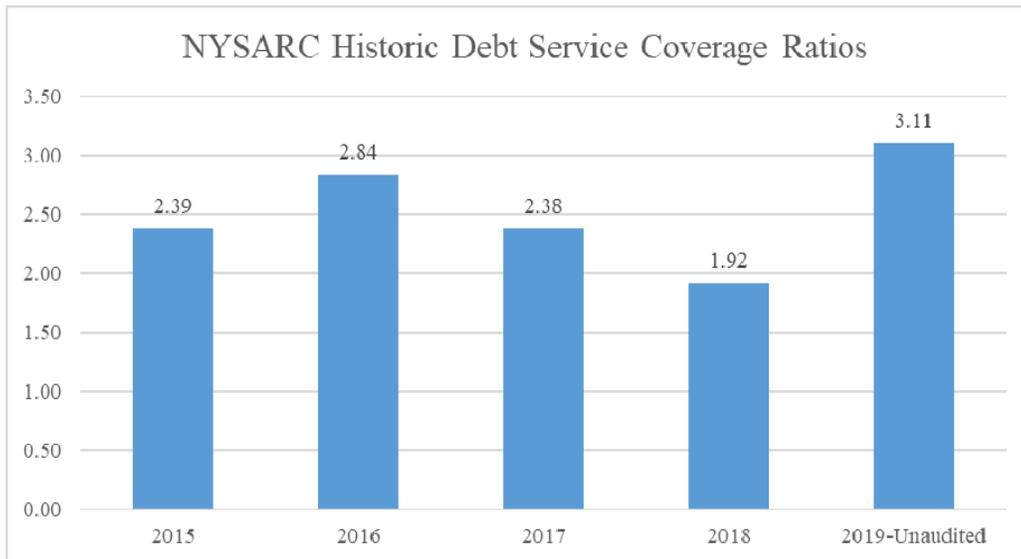
*Long Term Debt as a Percentage of Annual Revenues*

The following chart sets forth for each of Fiscal Years 2009 through 2019\* the ratio of NYSARC's Long Term Debt as a percentage of Annual Revenues during that Fiscal Year:



*Debt Service Coverage Ratios*

The following chart sets forth for each of Fiscal Years 2015 through 2019 the ratio of NYSARC's Net Revenues available for Debt for the respective Fiscal Year to NYSARC's actual Debt Service Charges paid on Long Term Debt during that Fiscal Year:

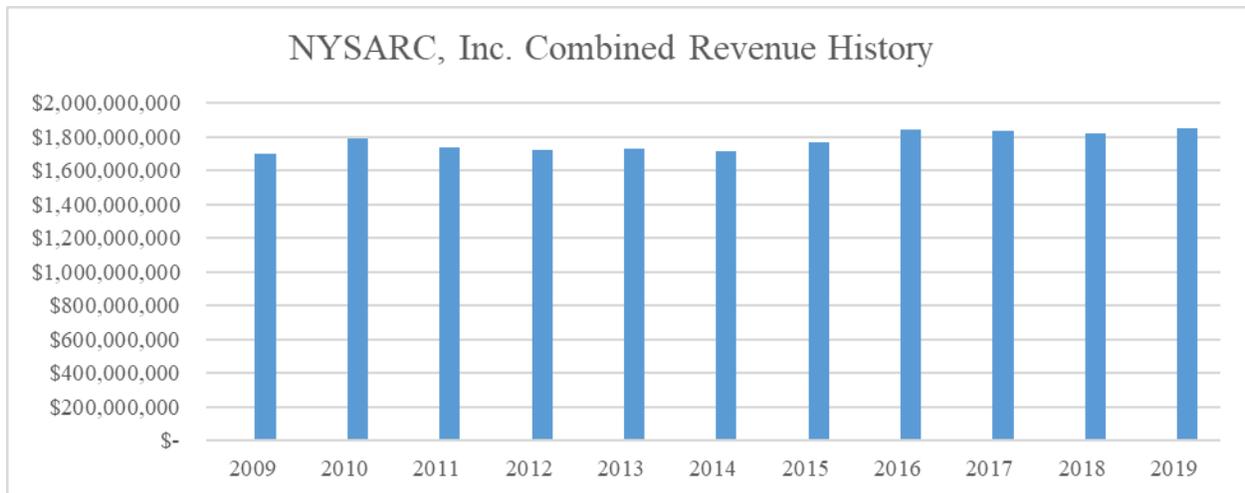


The Debt Service Coverage Ratio is the ratio of the sum of cash flow (the sum of net income and current depreciation) plus interest expense, divided by the same Fiscal Year's debt service.

\* 2019 numbers are unaudited.

### Combined Revenues

The following chart sets forth for each of Fiscal Years 2009 through 2019\* the ratio of NYSARC, Inc.'s Combined Revenues as of December 31 of the indicated Fiscal Year:



### Management's Discussion

OPWDD made its last cost of living adjustments and retroactive cost of living increases during 2010. Rate appeals were eliminated as of July 1, 2011 and new community development has been reduced as OPWDD proceeds with its agenda to transform the services and fiscal environment through the development of a new waiver called the "People First Waiver" using a managed care delivery system. Implementation of the new system has been very slow and no managed care plans exclusively funding Home and Community Based Services for persons with intellectual and developmental disabilities have been approved. A transition of the revenue process to costs and acuity based rates imposed by OPWDD during 2014-2019 resulted in a reduction and flattening of total revenues and net surpluses for the foreseeable future. As this methodology was partially based on providers' reported costs, on a cyclical basis, net surpluses may be reduced during rate-setting base year periods (2019 scheduled). There were two successive 3.25% increases to direct support professional wages, implemented on January 1, 2018 and on April 1, 2018, which provided some relief from years of no increase budgets. In addition, a 2% increase for workforce investment is confirmed, and expected to be retroactive to January 1, 2020 and April 1, 2020.

With respect to the transformation to managed care, NYSARC, using five Chapters in and surrounding New York City, created Partners Health Plan, Inc., a Fully Integrated Dual Advantage ("FIDA") managed care entity, in anticipation of serving the health and habilitation needs of persons with Intellectual Development Disabilities ("I/DD"). Like the rest of the I/DD managed care implementation in the State, this has been fraught with delays but implementation has begun in the New York Metropolitan area. The managed care expansion time frame into upstate counties is unknown at this point.

NYSARC's overall financial position remains strong. Long term debt as a percent of revenue continues to decrease and because the rate of new development has decreased, debt will continue to drop in the future. Short term borrowing has also decreased and is expected to drop even further after issuance of the Series 2020 Bonds.

\* 2019 numbers are unaudited.

Representing approximately 37% of the I/DD space in the State allows NYSARC to create economies internally, through collaboration and consolidation of Chapter operations, and externally by absorbing smaller independent agencies. Chapters have coalesced on regional lines to implement cost savings. For example, North Country MSO, Inc. provides services to four Chapters in the northern most area of the State. The Collaborative of the Finger Lakes, Inc. expanded its services from twelve Finger Lakes area Chapters to sixteen Chapters by including four from western New York. NYSARC will remain a strong financial institution in the I/DD provider field for many years. In addition, NYSARC expects to be able to meet its debt service obligations due to its financial strength and because the PPA process, as explained above, is still in effect for new projects. The PPA results in an add-on to the operating rates of NYSARC programs and is not affected by other reductions. Relief from the RRR methodology for significant maintenance and repair capital expenditures is also available on an as-needed basis. The result of the revenue increase from PPAs and RRR is that the ratio of debt service to total revenues is expected to remain low throughout the life of the projects included thereunder. See “OPWDD - *Prior Property Approval Process*” above. Annual revenue increases will continue to decline as the service system adjusts to the constraints posed by the State. For many years, NYSARC’s current ratio has been adequate to meet current obligations. If there is a strain on cash flow either (a) to implement the aforementioned pilot programs or (b) because of State mandated payment lags or revenue reductions, NYSARC has sufficient liquid reserves and adequate short term debt facilities to meet its working capital needs for regular operations and support any combination or expansion opportunities that arise.

NYSARC is uniquely positioned to adapt to a reduced revenue environment in the State and thrive with the evolution of services provided. Since NYSARC’s organization is based on self-sufficient Chapters operating throughout the entire State, NYSARC may benefit from at least two opportunities: (1) the possibility to absorb small financially stressed service providers and (2) the ability to combine business and support operations to achieve greater efficiencies without a reduction in services. Expense control will be critical to NYSARC’s future success. NYSARC’s financial performance from 2011 to 2019 demonstrates NYSARC’s ability to rapidly adjust its operations to a variety of economic conditions.

### **Recent Financial Developments - Potential Impact of Coronavirus**

An outbreak of the infectious disease COVID-19 (Coronavirus), a respiratory disease caused by a new strain of coronavirus that was first detected in China and has since spread to other countries, including the United States and the State of New York, has been declared a Public Health Emergency of International Concern by the World Health Organization and a global pandemic. The outbreak of COVID-19 has affected travel, commerce, and financial markets globally and is widely expected to affect the economic growth locally and worldwide.

The potential impact that COVID-19 may have on the finances and operations of NYSARC and/or the State are extremely difficult to predict at this time due to the dynamic nature of the COVID-19 outbreak, including uncertainties relating to its (i) duration, (ii) severity, and (iii) ultimate geographic spread, as well as with regard to what actions may be taken by governmental authorities to contain or mitigate its impact. The steps taken to address COVID-19 are expected to negatively impact the State’s economy and financial condition. The full impact of COVID-19 upon the State is not expected to be known for some time; however, it is anticipated that the State will experience budgetary restrictions which will result in periodic review and/or action by the Director of the Budget of New York State. Such actions may include but are not limited to delays or reductions in payments to local governments or other recipients of State aid including OPWDD and DOH. If this were to occur, the financial condition of NYSARC could be adversely affected.

Pursuant to New York Executive Order No. 202 issued March 7, 2020, certain services provided by NYSARC, including day habilitation, community habilitation and respite were discontinued to meet social distancing mandates. School programs also have been closed and clinics have experienced limited utilization. Residential programs are still operating in accordance with OPWDD and social distancing guidelines.

New York State applied for and was approved by the Center for Medicaid Services (CMS) for an Emergency Preparedness and Response for Home and Community Based (HCBS) 1915(c) Waiver (the “1915(c) Waiver”). During emergency situations, states are permitted to request amendments to approved 1915(c) Waivers through a standalone appendix to Section 1915(c) (“Appendix K”). The 1915(c) Waiver permits billing and certain supplemental payments to be made to agencies, including NYSARC, for approved alternate services and additional staffing costs and is effective from March 7, 2020 through September 7, 2020. Effectively this is authorization for I/DD service providers like NYSARC to bill and receive payments that otherwise would not occur due to the fact, for example, that the services were provided at an alternate location.

The full financial effect of Appendix K 1915(c) Waivers is not yet known. NYSARC has maintained positive surpluses in each of the last 10 years, despite revenue decreases in 2011-2012, 2014 and 2017-2018. However, it is too early to determine whether NYSARC will experience revenue decreases in 2020 or beyond, and NYSARC cannot predict the full impact to its financial health as it continues to provide essential services to individuals with I/DD. NYSARC expects to continue to provide services set forth in the guidance provided by OPWDD.

### **Forward-Looking Statements**

This Official Statement contains statements which, to the extent they are not recitations of historical fact, constitute “forward-looking statements”. In this respect, the words “estimate,” “project,” “anticipate,” “expect,” “intend,” “believe” and similar expressions are intended to identify forward-looking statements. A number of important factors affecting NYSARC’s financial results could cause actual results to differ materially from those stated in the forward-looking statements. SUCH RISKS AND UNCERTAINTIES INCLUDE, AMONG OTHERS, GENERAL ECONOMIC AND BUSINESS CONDITIONS, CHANGES IN POLITICAL, SOCIAL AND ECONOMIC CONDITIONS, REGULATORY INITIATIVES AND COMPLIANCE WITH GOVERNMENTAL REGULATIONS, LITIGATION AND VARIOUS OTHER EVENTS, CONDITIONS AND CIRCUMSTANCES, MANY OF WHICH ARE BEYOND THE CONTROL OF NYSARC AND ITS PARTICIPATING CHAPTERS. PURCHASERS SHOULD NOT EXPECT TO RECEIVE ANY UPDATES OR REVISIONS TO ANY FORWARD-LOOKING STATEMENTS IF OR WHEN CONDITIONS OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS ARE BASED OCCUR.

### **PART 5 – PARTICIPATING CHAPTER AND PROJECT INFORMATION**

The proceeds of the Series 2020 Bonds that will be loaned to NYSARC pursuant to the Loan Agreement are expected to be used to finance costs of the Project and to refund the Refunded Bonds. The “Project” consists of individual capital projects for the Chapters identified below and includes the acquisition, construction, renovation, rehabilitation, repair, purchase, equipping, and otherwise providing of community residence facilities to house persons who have intellectual and developmental disabilities and facilities for the training and support of such individuals throughout the State. The Refunded Bonds were originally issued to provide for the financing and/or refinancing of various individual capital projects for several NYSARC Chapters (the “Refunded Bonds Project Facilities”). See “– The Project” and “– Refunded Bonds Project Facilities” herein and “PART 6 – ESTIMATED SOURCES AND USES OF FUNDS.”

The local Chapters that are expected to receive a portion of the proceeds of the Series 2020 Bonds are as follows (each, a “Participating Chapter”):

**PARTICIPATING NYSARC, INC. CHAPTERS**  
**REVENUE FOR THE YEAR ENDED DECEMBER 31, 2019**  
**AND BUDGETED REVENUE FOR THE YEAR ENDING DECEMBER 31, 2020**  
**STAFF AND PERSONS SERVED FOR THE YEAR ENDED DECEMBER 31, 2019**

Chapter	2019 Revenue*	2020 Budgeted Revenue†	2019 Total Staff	2019 Total Served
Erie	\$ 49,106,153	\$ 50,659,672	740	1,789
Genesee Orleans	22,068,702	23,045,000	480	671
Herkimer	27,642,072	27,396,838	333	912
Livingston Wyoming	28,348,845	29,331,498	831	942
Monroe	46,988,995	49,434,259	703	1,535
New York City (FYE 6/30)	293,287,877	317,482,543	5,395	14,943
Onondaga	26,851,602	27,001,387	464	882
Ontario	22,447,412	22,177,416	481	700
Orange Sullivan	65,233,590	64,085,942	1,280	1,450
Otsego	20,521,132	20,273,596	304	500
Saratoga	26,058,277	26,521,400	476	852
Schenectady	28,898,153	31,497,949	453	862
Seneca-Cayuga (and Yates, merged 1/1/20)	32,125,608	32,697,251	631	1,685
Ulster-Greene-Putnam	83,673,707	86,084,320	1,200	1,300
Warren-Washington-Albany	34,295,351	33,489,230	724	600
Wayne	28,956,532	29,222,563	576	863
<b>TOTALS</b>	<b>\$ 836,504,008</b>	<b>\$ 870,400,864</b>	<b>15,071</b>	<b>30,486</b>

The “2019 Revenue” is based on the Financial Statements for Fiscal Year 2019 (Preliminary and Unaudited), except for NYC AHRC that has a 6/30 FYE so Fiscal Year 2019 Revenues and FY 2020 Budget figures are shown. The “2020 Budgeted Revenue” is based on Chapter self-reports and may not include all effects of the State Fiscal year 2020-21 budget which were approved after these budgets were developed. As noted in the prior discussion, OPWDD programs are responsible for almost all revenues. Because they are developed well before the State budget is passed, Chapter budgets are based on the known rate and fee-setting methodologies and on conservative estimates of trend factors and other changes in funding that may occur.

The “2019 Total Staff” is based on Chapter reports of the 2019 unduplicated count of full-time employees, part-time employees, including relief staff, and contracted employees at the time of the report during 2019. The “2019 Total Served” is the unduplicated count of persons served with a developmental disability or with a disability other than developmental and persons without disability. The ratio of staff to consumers served varies significantly depending on the types of services provided and the needs of the

\* 2019 revenue figures are unaudited, except for New York City which has a fiscal year end of June 30, 2019.

† 2020 budgeted revenue figures are reported as of May 1, 2020.

consumers served. Chapters with a low number of staff to consumers in the above chart provide services that typically do not require intense staffing or may provide services to an integrated client base, such as Article 28 clinic, sheltered workshops, or integrated schools and day care. Chapters with a high ratio of staff to consumers may operate proportionately more programs such as ICFs or IRAs where consumer needs require more staff per client.

**The Project**

The Project includes the financing or refinancing of the acquisition, construction, renovation, furnishing or equipping of various capital projects for the participating Chapters listed below, including the acquisition of land, as applicable, and related site improvements:

<b>Chapter</b>	<b>Number of Capital Projects</b>	<b>Dollar Amount of Capital Projects*</b>
Erie	5	\$4,476,868
Genesee Orleans	1	116,616
Herkimer	2	504,538
Livingston Wyoming	1	2,383,056
New York City (AHRC)	11	6,854,722
Onondaga	2	747,743
Otsego	5	697,786
Saratoga	2	325,000
Ulster-Greene-Putnam (dba The Arc Mid-Hudson)	2	<u>1,105,763</u>
Total	31	<u>\$17,212,092</u>

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\* The actual principal amount of the Series 2020 Bonds allocable to each capital project and location thereof may differ from the amounts set forth above.

**Refunded Bonds Project Facilities**

A portion of the proceeds of the Series 2020 Bonds, together with other available moneys, will be used to refund the Refunded Bonds which originally were issued to finance and/or refinance the Refunded Bonds Project Facilities. The Refunded Bonds are listed below by Participating Chapters:

<b>Chapters</b>	<b>Current Principal Amount Outstanding</b>	<b>Principal Amount to Be Redeemed</b>
Genesee Orleans	\$1,351,997	\$1,351,997
Herkimer	529,542	529,542
Monroe	289,868	289,868
New York City (AHRC)	5,545,794	5,545,794
Onondaga	75,214	75,214
Ontario	204,474	204,474
Orange Sullivan	893,822	893,822
Otsego	92,900	92,900
Schenectady	189,630	189,630
Seneca-Cayuga	1,584,223	1,584,223
Ulster-Greene-Putnam (dba The Arc Mid-Hudson)	2,191,603	2,191,603
Warren-Washington-Albany	2,428,207	2,428,207
Wayne	547,725	547,725
<b>Total Refunded Bonds</b>	<b><u>\$15,925,000</u></b>	<b><u>\$15,925,000</u></b>

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**PART 6 – ESTIMATED SOURCES AND USES OF FUNDS**

Estimated sources and uses of funds for the Series 2020 Bonds are as follows:

<b>Source of Funds</b>	<b>Series 2020 Bonds</b>
Principal Amount of Series 2020 Bonds.....	\$31,495,000.00
Funds from Other Sources.....	<u>4,739,915.79</u>
<b>Total Sources</b> .....	<b><u>\$36,234,915.79</u></b>
<b>Uses of Funds</b>	
Costs of the Project.....	\$17,218,718.17
Deposit to Refunding Escrow.....	16,339,410.56
Deposit to Debt Service Reserve Fund.....	1,854,530.21
Cost of Issuance * .....	<u>822,256.85</u>
<b>Total Uses</b> .....	<b><u>\$36,234,915.79</u></b>

\* Includes DASNY fee, Underwriter’s discount, printing costs, Trustee fees, rating agency fees, legal fees, verification agent fees, and other miscellaneous costs of issuance.

**PART 7 – THE REFUNDING PLAN**

A portion of the proceeds (the “Refunding Proceeds”) of the Series 2020 Bonds, together with other monies, will be used to refund and defease the Refunded Bonds. Upon issuance of the Series 2020 Bonds, the Refunding Proceeds will be divided and deposited with the trustee for the Refunded Bonds (the “Prior Trustee”), and DASNY will direct the Prior Trustee use such funds, together with other monies held by the Prior Trustee with respect to the Refunded Bonds, to pay the redemption price of the Refunded Bonds and the interest on the Refunded Bonds to the date fixed for redemption.

The cash deposit will be held by the Prior Trustee in trust solely for the payment of the redemption price of and interest on the Refunded Bonds. At the time of such deposit of the Refunding Proceeds, DASNY will give the Prior Trustee irrevocable instructions to give notice of the defeasance (if applicable) and redemption of the Refunded Bonds and to apply the proceeds from the cash deposit to the payment of the redemption price of and interest on the Refunded Bonds.

## **PART 8 – DASNY**

### **Background, Purposes and Powers**

DASNY is a body corporate and politic constituting a public benefit corporation. DASNY was created in 1944 to finance and build dormitories at State teachers' colleges to provide housing for the large influx of students returning to college on the G.I. Bill following World War II. Over the years, the State Legislature has expanded DASNY's scope of responsibilities. Today, pursuant to the Dormitory Authority Act, DASNY is authorized to finance, design, construct or rehabilitate facilities for use by a variety of public and private not-for-profit entities.

DASNY provides financing services to its clients in three major areas: public facilities; not-for-profit healthcare; and independent higher education and other not-for-profit institutions. DASNY issues State-supported debt, including State Personal Income Tax Revenue Bonds and State Sales Tax Revenue Bonds, on behalf of public clients such as The State University of New York, The City University of New York, the Departments of Health and Education of the State, the Office of Mental Health, the Office of People with Developmental Disabilities, the Office of Addiction Services and Supports, the Office of General Services, and the Office of General Services of the State on behalf of the Department of Audit and Control. Other public clients for whom DASNY issues debt include Boards of Cooperative Educational Services ("BOCES"), State University of New York, the Workers' Compensation Board, school districts across the State and certain cities and counties that have accessed DASNY for the purpose of providing court facilities. DASNY's private clients include independent colleges and universities, private hospitals, certain private secondary schools, special education schools, facilities for the aged, primary care facilities, libraries, museums, research centers and government-supported voluntary agencies, among others.

To carry out its programs, DASNY is authorized to issue and sell negotiable bonds and notes to finance the construction of facilities for such institutions, to issue bonds or notes to refund outstanding bonds or notes and to lend funds to such institutions. At March 31, 2020, DASNY had approximately \$58.2 billion aggregate principal amount of bonds and notes outstanding. DASNY also is authorized to make tax-exempt leases, with its Tax-Exempt Leasing Program (TELP). As part of its operating activities, DASNY also administers a wide variety of grants authorized by the State for economic development, education and community improvement and payable to both public and private grantees from proceeds of State Personal Income Tax Revenue Bonds issued by DASNY.

DASNY is a conduit debt issuer. Under existing law, and assuming continuing compliance with tax law, interest on most bonds and notes issued by DASNY has been determined to be excludable from gross income for federal tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended. All of DASNY's outstanding bonds and notes, both fixed and variable rate, are special obligations of DASNY payable solely from payments required to be made by or for the account of the client institution for which the particular special obligations were issued. DASNY has no obligation to pay its special obligations other than from such payments. DASNY has always paid the principal of and interest on all of its obligations on time and in full; however, as a conduit debt issuer, payments on DASNY's special obligations are solely dependent upon payments made by DASNY's client for which the particular special obligations were issued and the security provisions relating thereto.

DASNY also offers a variety of construction services to certain educational, governmental and not-for-profit institutions in the areas of project planning, design and construction, monitoring project

construction, purchasing of furnishings and equipment for projects, interior design of projects and designing and managing projects to rehabilitate older facilities.

In connection with the powers described above, DASNY has the general power to acquire real and personal property, give mortgages, make contracts, operate certain facilities and fix and collect rentals or other charges for their use, contract with the holders of its bonds and notes as to such rentals and charges, borrow money and adopt a program of self-insurance.

DASNY has a staff of approximately 536 employees located in three main offices (Albany, New York City and Buffalo) and at approximately 47 field sites across the State.

## **Governance**

DASNY is governed by an eleven-member board. Board members include the Commissioner of Education of the State, the Commissioner of Health of the State, the State Comptroller or one member appointed by him or her who serves until his or her successor is appointed, the Director of the Budget of the State, one member appointed by the Temporary President of the State Senate, one member appointed by the Speaker of the State Assembly and five members appointed by the Governor, with the advice and consent of the Senate, for terms of three years. The Commissioner of Education of the State, the Commissioner of Health of the State and the Director of the Budget of the State each may appoint a representative to attend and vote at DASNY meetings. The members of DASNY serve without compensation, but are entitled to reimbursement of expenses incurred in the performance of their duties. The appointment to the Board by the Speaker of the State Assembly is currently vacant.

The Governor of the State appoints a Chair from the members appointed by him or her and the members of DASNY annually choose the following officers, of which the first two must be members of DASNY: Vice-Chair, Secretary, Treasurer, Assistant Secretaries and Assistant Treasurers.

The current members of DASNY are as follows:

ALFONSO L. CARNEY, JR., *Chair*, New York.

Alfonso L. Carney, Jr. was reappointed as a Member of DASNY by the Governor on June 19, 2013. Mr. Carney is a principal of Rockwood Partners, LLC, which provides medical consulting services in New York City. He has served as Acting Chief Operating Officer and Corporate Secretary for the Goldman Sachs Foundation in New York where, working with the President of the Foundation, he managed the staff of the Foundation, provided strategic oversight of the administration, communications and legal affairs teams, and developed selected Foundation program initiatives. Mr. Carney has held senior level legal positions with Altria Group Inc., Philip Morris Companies Inc., Philip Morris Management Corporation, Kraft Foods, Inc. and General Foods Corporation. Mr. Carney holds a Bachelor's degree in philosophy from Trinity College and a Juris Doctor degree from the University of Virginia School of Law. His term expired on March 31, 2016 and by law he continues to serve until a successor shall be chosen and qualified.

JOHN B. JOHNSON, JR., *Vice-Chair*, Watertown.

John B. Johnson, Jr. was reappointed as a Member of DASNY by the Governor on June 19, 2013. Mr. Johnson is Chairman of the Board of the Johnson Newspaper Corporation, which publishes the Watertown Daily Times, Batavia Daily News, Malone Telegram, Catskill Daily Mail, Hudson Register Star, Ogdensburg Journal, Massena-Potsdam Courier Observer, seven weekly newspapers and three shopping newspapers. He holds a Bachelor's degree from Vanderbilt University, and Master's degrees in

Journalism and Business Administration from the Columbia University Graduate School of Journalism and Business. Mr. Johnson was awarded an Honorary Doctor of Science degree from Clarkson University. Mr. Johnson's term expired on March 31, 2016 and by law he continues to serve until a successor shall be chosen and qualified.

BERYL L. SNYDER, J.D., Secretary, New York.

Beryl L. Snyder was reappointed as a member of DASNY by the Governor on June 19, 2013. Ms. Snyder is a principal in HBJ Investments, LLC, an investment company where her duties include evaluation and analysis of a wide variety of investments in, among other areas: fixed income, equities, alternative investments and early stage companies. She holds a Bachelor of Arts degree in History from Vassar College and a Juris Doctor degree from Rutgers University. Her current term expired on August 31, 2016 and by law she continues to serve until a successor shall be chosen and qualified.

JONATHAN H. GARDNER, ESQ., Buffalo.

Jonathan H. Gardner was appointed as a Member of DASNY by the Governor on June 17, 2014. Mr. Gardner is a partner of the law firm Kavinoky Cook, LLP in Buffalo, New York. His practice areas include corporate and securities law, commercial transactions, private placements, venture capital financing and business combinations representing private and public companies. Mr. Gardner is also an adjunct professor at the University of Buffalo Law School. He holds a Bachelor of Arts degree from Brown University and a Juris Doctor degree from the University of Chicago Law School. Mr. Gardner's term expired on March 31, 2015 and by law he continues to serve until a successor shall be chosen and qualified.

WELLINGTON Z. CHEN, Queens.

Wellington Z. Chen was appointed as a Member of DASNY by the Governor on June 20, 2018. Mr. Chen is the Executive Director of the Chinatown Partnership Development Corporation. In this capacity, he leads the Chinatown Partnership in implementing initiatives in infrastructure, post 9/11 rebuilding and public space improvements in a comprehensive effort to improve the environmental and the business conditions. He is a graduate of the School of Architecture and Environmental Studies at The City College of New York. Mr. Chen's term expired on March 31, 2020 and by law he continues to serve until a successor shall be chosen and qualified.

JOAN M. SULLIVAN, Slingerlands.

Joan M. Sullivan was appointed as a Member of DASNY by the New York State Comptroller on March 26, 2019. Ms. Sullivan is President of On Wavelength Consulting LLC, a firm that assists governmental entities with development of public procurements and private companies with the preparation of effective responses to government solicitations. She possesses over 40 years of experience working in and for the government of New York State, including an expansive career at the NYS Office of State Comptroller where she last served as Executive Deputy Comptroller before accepting an appointment as Executive Director of The NYS Forum, Inc. Ms. Sullivan holds a Bachelor of Arts degree in Business Administration (Accounting) from Siena College.

GERARD ROMSKI, ESQ., Mount Kisco.

Gerard Romski was reappointed as a Member of DASNY by the Temporary President of the State Senate on May 9, 2016. He is Counsel and Project Executive for "Arverne by the Sea," where he is responsible for advancing and overseeing all facets of "Arverne by the Sea," one of New York City's

largest mixed-use developments located in Queens, New York. Mr. Ronski is also of counsel to the New York City law firm of Rich, Intelisano & Katz, LLP. Mr. Ronski holds a Bachelor of Arts degree from the New York Institute of Technology and a Juris Doctor degree from Brooklyn Law School.

SHANNON TAHOE, *Acting Commissioner of Education of the State of New York, Cohoes; ex-officio.*

Shannon Tahoe assumed the role of Acting Commissioner of Education and Acting President of the University of the State of New York effective November 16, 2019. Since September 2006, Ms. Tahoe has served in various capacities within the Department, including Deputy Counsel and Assistant Counsel for Legislation. In October 2019, she was appointed Acting Counsel and Deputy Commissioner for Legal Affairs. This appointment will continue to remain in effect along with her appointment as Acting Commissioner of Education and Acting President of the University of the State of New York. Ms. Tahoe has provided legal advice and counsel on critical policy matters and key initiatives. She is familiar with all aspects of the work of the Department, having managed the day-to-day operations of the Office of Counsel as Deputy Counsel and now Acting Counsel. During her tenure, Ms. Tahoe has also assisted with the successful management of a broad array of critical Departmental functions and responsibilities. She holds a Juris Doctorate degree from Syracuse University and Bachelor of Science degree from the University of Rochester.

ROBERT F. MUJICA, JR., *Budget Director of the State of New York, Albany; ex-officio.*

Robert F. Mujica Jr. was appointed Director of the Budget by the Governor and began serving on January 14, 2016. He is responsible for the overall development and management of the State's fiscal policy, including overseeing the preparation of budget recommendations for all State agencies and programs, economic and revenue forecasting, tax policy, fiscal planning, capital financing and management of the State's debt portfolio. Prior to his appointment, Mr. Mujica was Chief of Staff to the Temporary President and Majority Leader of the Senate and concurrently served as the Secretary to the Senate Finance Committee. For two decades, he advised various elected and other government officials in New York on State budget, fiscal and policy issues. Mr. Mujica received his Bachelor of Arts degree in Sociology from Brooklyn College at the City University of New York. He received his Master's degree in Government Administration from the University of Pennsylvania and holds a Juris Doctor degree from Albany Law School.

HOWARD A. ZUCKER, M.D., J.D., *Commissioner of Health of the State of New York, Albany; ex-officio.*

Howard A. Zucker, M.D., J.D., was appointed Commissioner of Health on May 5, 2015 after serving as Acting Commissioner of Health since May 5, 2014. Prior to that, he served as First Deputy Commissioner leading the State Department of Health's preparedness and response initiatives in natural disasters and emergencies. Before joining the State Department of Health, Dr. Zucker was professor of Clinical Anesthesiology at Albert Einstein College of Medicine of Yeshiva University and a pediatric cardiac anesthesiologist at Montefiore Medical Center. He was also an adjunct professor at Georgetown University Law School where he taught biosecurity law. Dr. Zucker earned his medical degree from George Washington University School of Medicine. He also holds a Juris Doctor degree from Fordham University School of Law and a Master of Laws degree from Columbia Law School.

The principal staff of DASNY are as follows:

REUBEN R. McDANIEL, III is the President and chief executive officer of DASNY, responsible for the overall management of DASNY's administration and operations. Mr. McDaniel possesses more

than 30 years of experience in financial services, including public finance, personal wealth management, corporate finance and private equity. During his career in public finance, he participated in more than \$75 billion in tax-exempt bond issuances throughout the country. He has also managed investment portfolios and business assets for a variety of professionals. He previously served as Chair of the Atlanta Board of Education for Public Schools. Mr. McDaniel holds an undergraduate degree in Economics and Mathematics from the University of North Carolina at Charlotte and a Master of Business Administration from the University of Texas at Austin.

PAUL G. KOOPMAN is the Vice President of DASNY and assists the President in the administration and operation of DASNY. Mr. Koopman joined DASNY in 1995 managing the Accounts Payable and Banking and Investment Units followed by management positions in the Construction Division including Managing Senior Director of Construction where he was the primary relationship manager for some of DASNY's largest clients and provided oversight of DASNY's construction administration functions. Most recently, Mr. Koopman served as Managing Director of Executive Initiatives of DASNY where he worked closely with executive staff on policy development, enterprise risk management, and strategic planning. His career in public service began in 1985 with the NYS Division of the Budget, and then continued as Chief Budget Analyst for the New York State Facilities Development Corporation. A graduate of the Rockefeller College of Public Affairs, he holds a Master of Arts degree in Public Administration with a Public Finance concentration, and a Bachelor of Arts degree in Political Science from the State University of New York, University at Albany.

KIMBERLY J. NADEAU is the Chief Financial Officer and Treasurer of DASNY. As Chief Financial Officer and Treasurer, Ms. Nadeau is responsible for supervising DASNY's investment program, general accounting, accounts payable, accounts receivable, financial reporting functions, budget, payroll, insurance and information services, as well as the development and implementation of financial policies, financial management systems and internal controls for financial reporting. She previously was Vice President-Accounting and Controller for US Light Energy. Prior to that she was Vice President-Accounting and Controller for CH Energy Group, Inc. and held various positions culminating in a director level position at Northeast Utilities. Ms. Nadeau also held various positions with increasing responsibility at Coopers & Lybrand LLP. She holds a Bachelor of Science degree in Accounting, a Master of Business Administration with a concentration in Management and a Juris Doctor degree from the University of Connecticut. She is licensed to practice law in New York and Connecticut.

MICHAEL E. CUSACK is General Counsel to DASNY. Mr. Cusack is responsible for all legal services including legislation, litigation, contract matters, and the legal aspects of all DASNY financings. In addition, he is responsible for the supervision of DASNY's environmental affairs unit. He is licensed to practice law in the State of New York and the Commonwealth of Massachusetts, as well as the United States District Court for the Northern District of New York. Mr. Cusack has over twenty years of combined legal experience, including management of an in-house legal department and external counsel teams (and budgets) across a five-state region. He most recently served as of counsel to the Albany, New York law firm of Young/Sommer, LLC, where his practice included representation of upstate New York municipalities, telecommunications service providers in the siting of public utility/personal wireless service facilities and other private sector clients. He holds a Bachelor of Science degree from Siena College and a Juris Doctor degree from Albany Law School of Union University.

PORTIA LEE is the Managing Director of Public Finance and Portfolio Monitoring. She is responsible for supervising and directing DASNY bond issuance in the capital markets, implementing and overseeing financing programs, overseeing DASNY's compliance with continuing disclosure requirements and monitoring the financial condition of existing DASNY clients. Ms. Lee previously served as Senior Investment Officer at the New York State Comptroller's Office where she was responsible for assisting in the administration of the long-term fixed income portfolio of the New York

State Common Retirement Fund, as well as the short-term portfolio, and the Securities Lending Program. From 1995 to 2005, Ms. Lee worked at Moody's Investors Service where she most recently served as Vice President and Senior Credit Officer in the Public Finance Housing Group. She holds a Bachelor of Arts degree from the State University of New York at Albany.

STEPHEN D. CURRO is the Managing Director of Construction. Mr. Curro is responsible for DASNY's construction groups, including design, project management, resource acquisition, contract administration, interior design, real property, sustainability and engineering, as well as other technical services. Mr. Curro joined DASNY in 2001 as Director of Technical Services, and most recently served as Director of Construction Support Services. He is a registered Professional Engineer in New York and has worked in the construction industry for more than 30 years. He holds a Bachelor of Science in Civil Engineering from the University of Rhode Island, a Master of Engineering in Structural Engineering from Rensselaer Polytechnic Institute and a Master of Business Administration from Rensselaer Polytechnic Institute's Lally School of Management.

CAROLINE V. GRIFFIN is the Chief of Staff of DASNY. She is responsible for overseeing intergovernmental relations and managing the Communications & Marketing Department, as well as coordinating policy and operations across DASNY's multiple business lines. Ms. Griffin most recently served as the Director of Intergovernmental Affairs for Governor Andrew M. Cuomo where she worked as the Governor's liaison with federal, state and local elected officials and managed staff serving in various capacities in the Governor's Office. Prior to that she served as the Assistant Executive Deputy Secretary for Governor Andrew M. Cuomo overseeing the operations staff and Assistant Secretary for Intergovernmental Affairs for both Governor David A. Paterson and Governor Eliot Spitzer. She holds a Bachelor of Arts degree in Communications from Boston College.

## **Claims and Litigation**

Although certain claims and litigation have been asserted or commenced against DASNY, DASNY believes that such claims and litigation either are covered by insurance or by bonds filed with DASNY, or that DASNY has sufficient funds available or the legal power and ability to seek sufficient funds to meet any such claims or judgments resulting from such matters.

There is not now pending any litigation against DASNY (i) restraining or enjoining the issuance or delivery of the Series 2020 Bonds or (ii) challenging the validity of the Series 2020 Bonds or the proceedings and authority under which DASNY will issue the Series 2020 Bonds.

## **Other Matters**

### *New York State Public Authorities Control Board*

The New York State Public Authorities Control Board (the "PACB") has authority to approve the financing and construction of any new or reactivated projects proposed by DASNY and certain other public authorities of the State. The PACB approves the proposed new projects only upon its determination that there are commitments of funds sufficient to finance the acquisition and construction of the projects. DASNY obtains the approval of the PACB for the issuance of all of its bonds and notes.

### *Legislation*

From time to time, bills are introduced into the State Legislature which, if enacted into law, would affect DASNY and its operations. DASNY is not able to represent whether such bills will be introduced or become law in the future. In addition, the State undertakes periodic studies of public

authorities in the State (including DASNY) and their financing programs. Any of such periodic studies could result in proposed legislation which, if adopted, would affect DASNY and its operations.

#### *Environmental Quality Review*

DASNY complies with the New York State Environmental Quality Review Act and with the New York State Historic Preservation Act of 1980, and the respective regulations promulgated thereunder to the extent such acts and regulations are applicable.

#### *Independent Auditors*

The accounting firm of KPMG LLP audited the financial statements of DASNY for the fiscal year ended March 31, 2019. Copies of the most recent audited financial statements are available upon request at the offices of DASNY.

### **PART 9– LEGALITY OF THE SERIES 2020 BONDS FOR INVESTMENT AND DEPOSIT**

Under State law, the Series 2020 Bonds are securities in which all public officers and bodies of the State and all municipalities and municipal subdivisions, all insurance companies and associations, all savings banks and savings institutions, including savings and loan associations, administrators, guardians, executors, trustees, committees, conservators and other fiduciaries in the State may properly and legally invest funds in their control.

The Series 2020 Bonds may be deposited with the State Comptroller to secure deposits of State moneys in banks, trust companies and industrial banks.

### **PART 10 – NEGOTIABLE INSTRUMENTS**

The Series 2020 Bonds are negotiable instruments as provided in the Act, subject to the provisions for registration and transfer contained in the Resolution, the Series 2020 Resolution and the Series 2020 Bonds.

### **PART 11 – TAX MATTERS**

#### **Series 2020 Bonds**

##### Opinion of Co-Bond Counsel

In the opinion of Barclay Damon LLP, Co-Bond Counsel to DASNY, interest on the Series 2020 Bonds is not excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), and is exempt, under existing statutes, from personal income taxes imposed by the State of New York or any political subdivision thereof (including The City of New York and the City of Yonkers).

Barclay Damon LLP expresses no opinion regarding any other federal, state or local tax consequences with respect to the Series 2020 Bonds. The opinion of Barclay Damon LLP speaks as of its issue date and does not contain or provide any opinion or assurance regarding the future activities of DASNY, NYSARC or about the effect of future changes in the Code, the applicable regulations, rulings, judicial decisions, the interpretation thereof or the enforcement thereof by the IRS. In addition, we express no opinion on the effect of any action taken or not taken in reliance upon an opinion of other

counsel on the inclusion or exclusion from gross income for federal income tax purposes of the interest on the Series 2020 Bonds, or the exemption from personal income taxes of interest on the Series 2020 Bonds under state and local tax law. See “Appendix F – Forms of Approving Opinions of Co-Bond Counsel.”

### General

The following discussion is a brief summary of certain United States federal income tax consequences of the acquisition, ownership and disposition of Series 2020 Bonds by original purchasers of the Series 2020 Bonds who are “U.S. Holders”, as defined herein. This summary (i) is based on the Code, Treasury regulations, revenue rulings and court decisions, all as currently in effect and all subject to change at any time, possibly with retroactive effect; (ii) assumes that the Series 2020 Bonds will be held as “capital assets;” and (iii) does not discuss all of the United States federal income tax consequences that may be relevant to a holder in light of its particular circumstances or to holders subject to special rules, such as insurance companies, financial institutions, tax-exempt organizations, dealers in securities or foreign currencies, persons holding the Series 2020 Bonds as a position in a “hedge” or “straddle,” holders whose functional currency (as defined in Section 985 of the Code) is not the United States dollar, holders who acquire Series 2020 Bonds in the secondary market, or individuals, estates and trusts subject to the tax on unearned income imposed by Section 1411 of the Code.

Holders of Series 2020 Bonds should consult with their own tax advisors concerning the United States federal income tax and other consequences with respect to the acquisition, ownership and disposition of the Series 2020 Bonds as well as any tax consequences that may arise under the laws of any state, local or foreign tax jurisdiction.

Certain taxpayers that are required to prepare certified financial statements with certain regulatory or governmental agencies may be required to recognize income, gain and loss with respect to the Series 2020 Bonds at the time that such income, gain or loss is taken into account on such financial statements instead of under the rules described below.

As used herein, the term “U.S. Holder” means a Beneficial Owner of a Series 2020 Bond that is: (i) a citizen or resident of the United States, (ii) a corporation, partnership or other entity created or organized in or under the laws of the United States or of any political subdivision thereof, (iii) an estate the income of which is subject to United States federal income taxation regardless of its source or (iv) a trust whose administration is subject to the primary jurisdiction of a United States court and which has one or more United States fiduciaries who have the authority to control all substantial decisions of the trust.

### Interest on the Series 2020 Bonds

Interest on the Series 2020 Bonds that is “qualified stated interest” generally will be taxable to a U.S. Holder as ordinary interest income at the time such payments are accrued or received (in accordance with the U.S. Holder's regular method of tax accounting). Generally, “qualified stated interest” means stated interest that is unconditionally payable in cash or property (other than debt instruments of the issuer) at least annually at a single fixed rate and includes the semi-annual interest payments on the Series 2020 Bonds.

Original issue discount with respect to a Series 2020 Bond is equal to the excess of the stated redemption price at maturity of a Series 2020 Bond over the initial offering price thereof to the public at which price a substantial amount of all Series 2020 Bonds with the same maturity were sold, provided that such excess equals or exceeds a de minimis amount (generally  $\frac{1}{4}\%$  of the product of the stated redemption price of a bond at maturity and the number of complete years from its issue date to its

maturity) (a “Discount Bond”). The stated redemption price at maturity of a Discount Bond is the sum of all scheduled amounts payable on the Discount Bond (other than qualified stated interest). A U.S. Holder of Discount Bonds must include the discount in income as ordinary interest for federal income tax purposes as it accrues in advance of receipt of cash payments attributable to such income, regardless of the U.S. Holder's regular method of tax accounting. Original issue discount accrues actuarially on a constant yield basis over the term of each Discount Bond and the basis of such Discount Bond acquired at such initial offering price by an initial purchaser of each Discount Bond will be increased by the amount of such accrued discount. U.S. Holders of any Discount Bonds should consult with their own tax advisors with respect to the tax consequences of ownership of such Discount Bond.

In general, if a U.S. Holder purchases a Series 2020 Bond at a price greater than the principal amount payable at maturity, such U.S. Holder will be considered to have purchased the Series 2020 Bond at a premium (the “Premium Bond”), and generally may elect to amortize the premium as an offset to interest income otherwise required to be included in respect of a Premium Bond during a taxable year, using a constant-yield method, over the remaining term of the Premium Bond. If a U.S. Holder makes the election to amortize the premium, it generally will apply to all taxable debt instruments held by such U.S. Holder at the beginning of the first taxable year to which the election applies, as well as any debt instruments that are subsequently acquired by such U.S. Holder. In addition, a U.S. Holder may not revoke the election without the consent of the IRS. If such U.S. Holder elects to amortize the premium, such U.S. Holder will be required to reduce its tax basis in the Premium Bond by the amount of the premium amortized during the holding period of the U.S. Holder. If a U.S. Holder does not elect to amortize the premium and holds the Premium Bond to maturity, the premium will decrease the amount of gain or increase the amount of loss otherwise recognized on the disposition of such Premium Bond. If a Premium Bond is optionally callable before maturity at a price in excess of its stated redemption price at maturity, special rules for determining the amount of amortizable bond premium may apply. U.S. Holders of any Premium Bonds should consult with their own tax advisors with respect to the tax consequences of ownership of Premium Bonds.

Certain non-corporate U.S. Holders will be subject to a 3.8% tax, in addition to regular tax on income and gains, on some or all of their net investment income, which generally will include interest on the Series 2020 Bonds and any net gain recognized upon a disposition of a Series 2020 Bond. U.S. Holders should consult with their tax advisors regarding the applicability of this tax.

#### Disposition and Defeasance

Upon the sale, exchange, redemption, or other disposition (which would include a legal defeasance) of a Series 2020 Bond, a U.S. Holder generally will recognize taxable gain or loss in an amount equal to the difference between the amount realized (other than amounts attributable to accrued interest not previously includable in income) and such U.S. Holder's adjusted tax basis in the Series 2020 Bond.

U.S. Holders should be aware that, for federal income tax purposes, DASNY may cause the deposit of moneys or securities in escrow in such amount and manner as to cause the Series 2020 Bonds to be deemed to be no longer outstanding under the General Resolution (a “defeasance”). (See “Appendix D - Summary of Certain Provisions of the Resolutions”). For federal income tax purposes, such defeasance could result in a deemed exchange under Section 1001 of the Code and a recognition by such owner of taxable income or loss, without any corresponding receipt of moneys. In addition, for federal income tax purposes, the character and timing of receipt of payments on the Series 2020 Bonds subsequent to any such defeasance could also be affected. U.S. Holders of the Series 2020 Bonds are advised to consult with their own tax advisors regarding the consequences of a defeasance for federal income tax purposes and for state and local purposes.

### Backup Withholding and Information Reporting

In general, interest paid on taxable obligations is subject to information reporting to the IRS. Interest on the Series 2020 Bonds may be subject to backup withholding if such interest is paid to a registered owner who or which (i) fails to provide certain identifying information (such as the registered owner's taxpayer identification number) in the manner required by the IRS, or (ii) has been identified by the IRS as being subject to backup withholding. Amounts withheld under the backup withholding rules will be paid to the IRS as federal income tax withheld on behalf of the registered owner of the Series 2020 Bonds and will be allowed as a refund or credit against such owner's federal income tax liability (or the federal income tax liability of the beneficial owner of the Series 2020 Bonds, if other than the registered owner).

Under the Foreign Account Tax Compliance Act ("FATCA"), foreign financial institutions must comply with information reporting rules with respect to their U.S. account holders and investors or be required to withhold tax on certain payments on, and proceeds from the sale or disposition of, obligations that produce U.S. source income to foreign financial institutions.

### Legislation

Legislation considered by the Federal government, or the New York State Legislature, or court decisions, whether at the federal or state level, may adversely affect the tax-exempt status of interest on the Series 2020 Bonds under state law and could affect the market value or marketability of the Series 2020 Bonds.

Prospective purchasers of the Series 2020 Bonds should consult their own tax advisors regarding the foregoing matters.

## **PART 12– STATE NOT LIABLE ON THE SERIES 2020 BONDS**

The Act provides that notes and bonds of DASNY are not a debt of the State, that the State is not liable on them and that such notes or bonds are not payable out of any funds other than those of DASNY. The Resolution specifically provides that the Series 2020 Bonds are not a debt of the State and that the State is not liable on them.

## **PART 13 – COVENANT BY THE STATE**

The Act states that the State pledges and agrees with the holders of DASNY's notes and bonds that the State will not limit or alter the rights vested in DASNY to provide projects, to establish and collect rentals therefrom and to fulfill agreements with the holders of DASNY's notes and bonds or in any way impair the rights and remedies of the holders of such notes or bonds until such notes or bonds and interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of such notes or bonds are fully met and discharged. Notwithstanding the State's pledges and agreements contained in the Act, the State may in the exercise of its sovereign power enact or amend its laws which, if determined to be both reasonable and necessary to serve an important public purpose, could have the effect of impairing these pledges and agreements with DASNY and with the holders of DASNY's notes or bonds.

## **PART 14 – LEGAL MATTERS**

Certain legal matters incidental to the authorization and issuance of the Series 2020 Bonds by DASNY are subject to the approval of Barclay Damon LLP, Albany, New York, and Marous Law Group, P.C., New York, New York, Co-Bond Counsel, whose approving opinions will be delivered with the Series 2020 Bonds; provided, however, that certain legal matters with respect to the tax status of interest on the Series 2020 Bonds is subject to the approval of only Barclay Damon LLP. The proposed forms of Co-Bond Counsel’s opinions are set forth in Appendix F hereto.

Certain legal matters will be passed upon for NYSARC by its counsel, Cullen and Dykman, LLP, Albany, New York, and for the Underwriter by its counsel, Ballard Spahr LLP, New York, New York.

## **PART 15– CONTINUING DISCLOSURE**

In order to assist the Underwriter in complying with Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (“Rule 15c2-12”), NYSARC will enter into a written agreement (the “Continuing Disclosure Agreement”) for the benefit of the Holders of the Series 2020 Bonds with Digital Assurance Certification L.L.C. (“DAC”), as disclosure dissemination agent, and the Trustee. The proposed form of the Continuing Disclosure Agreement is attached as Appendix E hereto.

In the past five years, NYSARC has generally complied with its continuing disclosure obligations, with the exception of (i) the inadvertent omission of certain operating and financial data for fiscal year 2014 that should have been included as part of the annual financial information required to be filed under applicable continuing disclosure agreements and the failure to file notice thereof, and (ii) the inadvertent omission to file operating and financial data for fiscal years 2014 and 2015 with respect to certain CUSIP numbers related to DASNY’s NYSARC, Inc. Revenue Bonds, Series 2009A (the “2009A Bonds”). NYSARC updated certain internal procedures and controls with respect to its continuing disclosure reporting policies in order to avoid any inadvertent omissions in the future and to ensure the full and proper disclosure of all NYSARC related information as required by the terms of its continuing disclosure obligations. NYSARC’s failure to timely file operating and financial data in fiscal years 2014 and 2015 for certain CUSIP numbers related to the 2009A Bonds resulted from NYSARC not being aware that new CUSIP numbers had been issued for maturities of the 2009A Bonds that had been partially refunded in July 2014. NYSARC made timely filings in fiscal 2014 and 2015 for those maturities of the 2009A Bonds that had not been partially refunded, but was not aware of the new CUSIP numbers for the maturities of the 2009A Bonds that were partially refunded in July 2014. Upon becoming aware of its failure to file the required information with respect to the new CUSIP numbers, NYSARC promptly made the required filings on EMMA on January 12, 2017.

## **PART 16 – UNDERWRITING**

Raymond James & Associates, Inc. (“Raymond James” or the “Underwriter”) has agreed, subject to certain conditions, to purchase the Series 2020 Bonds from DASNY and to make a public offering of the Series 2020 Bonds at prices that are not in excess of the public offering prices stated on the inside front cover of this Official Statement. The agreed purchase price of the Series 2020 Bonds is \$31,288,469.85 (which is equal to the aggregate principal amount of the Series 2020 Bonds, less an Underwriter’s discount in the amount of \$206,530.15). The Underwriter will be obligated to purchase all of the Series 2020 Bonds if any Series 2020 Bonds are purchased.

The Series 2020 Bonds may be offered and sold to certain dealers (including the Underwriter) at prices lower than such public offering prices, and such public offering prices may be changed, from time to time, by the Underwriter.

#### **PART 17– VERIFICATION OF MATHEMATICAL COMPUTATIONS**

Dunbar Breitweiser & Co., LLP, a firm of independent public accountants, will deliver to DASNY its report indicating that it has examined, in accordance with standards established by the American Institute of Certified Public Accountants, the information and assertions provided by DASNY and its representatives. Included in the scope of its examination will be a verification of the mathematical accuracy of the mathematical computations of the adequacy of the cash deposited with the Prior Trustee under the resolutions pursuant to which the Refunded Bonds were issued to pay the redemption price of and interest coming due on the Refunded Bonds on the redemption date as described in “PART 7 – THE REFUNDING PLAN.” Dunbar Breitweiser & Co., LLP will express no opinion on the reasonableness of the assumptions provided to them or the likelihood that the principal of and interest on the Series 2020 Bonds will be paid as described in the schedules provided to them.

#### **PART 18 – RATING**

The Series 2020 Bonds have been rated “Aa2” (negative outlook) by Moody’s Investors Service Inc. (“Moody’s”). The rating on the Series 2020 Bonds is based upon the obligation of NYSARC under the Loan Agreement to make certain payments from the Revenues, the security interest in the Pledged Revenues granted by NYSARC to DASNY under the Loan Agreement, and the Standby Intercept. An explanation of the significance of the rating should be obtained from Moody’s. There is no assurance that such rating will prevail for any given period of time or that it will not be changed or withdrawn by Moody’s if, in its judgment, circumstances so warrant. Any downward revision or withdrawal of the rating may have an adverse effect on the market price of the Series 2020 Bonds.

#### **PART 19 – MISCELLANEOUS**

Reference in this Official Statement to the Act, the Resolution, the Series 2020 Resolution and the Loan Agreement do not purport to be complete. Refer to the Act, the Resolution, the Series 2020 Resolution and the Loan Agreement for full and complete details of their provisions. Copies of the Resolution, the Series 2020 Resolution and the Loan Agreement are on file with DASNY and the Trustee.

The agreements of DASNY with Holders of the Series 2020 Bonds are fully set forth in the Resolution and the Series 2020 Resolution. Neither any advertisement of the Series 2020 Bonds nor this Official Statement is to be construed as a contract with purchasers of the Series 2020 Bonds.

Any statements in this Official Statement involving matters of opinion, whether or not expressly stated, are intended merely as expressions of opinion and not as representations of fact.

The information regarding NYSARC and the Project was supplied by NYSARC. The information set forth herein relating to DASNY under the heading “DASNY” has been obtained from DASNY. All other information herein has been obtained by the Underwriter from NYSARC and other sources deemed to be reliable by the Underwriter, and is not to be construed as a representation by DASNY or the Underwriter. In addition, DASNY does not warrant the accuracy of the statements contained herein relating to NYSARC and the Participating Chapters nor does it directly or indirectly guarantee, endorse or warrant (1) the creditworthiness or credit standing of NYSARC, (2) the sufficiency of the security for the

Bonds or (3) the value or investment quality of the Bonds. DASNY and the Underwriter make no representations or warranties whatsoever as to the accuracy or completeness of this information.

The information regarding DTC and DTC's book-entry only system has been furnished by DTC. DASNY believes that this information is reliable, but makes no representations or warranties whatsoever as to the accuracy or completeness of this information.

“Appendix A – Certain Definitions,” “Appendix C – Summary of Certain Provisions of the Loan Agreement,” “Appendix D – Summary of Certain Provisions of the Resolution,” and “Appendix F – Forms of Approving Opinions of Co-Bond Counsel” have been prepared by Barclay Damon LLP, Albany, New York, and Marous Law Group, P.C., New York, New York, Co-Bond Counsel.

“Appendix B – NYSARC, Inc. Chapters and Their Affiliates Combined Financial Statements as of and for the Year Ended December 31, 2018 Together with Accountants' Compilation Report” contains the certified financial statements of NYSARC and the report of NYSARC's independent accountants, Bonadio & Co., LLP, on such financial statements.

“Appendix B-1 – NYSARC, Inc. Chapters and Their Affiliates Combining Statement of Financial Position for year ending December 31, 2019 (Preliminary and Unaudited)” contains the combined financial statements of NYSARC.

NYSARC has reviewed the parts of this Official Statement describing NYSARC, the Participating Chapters, the Project, the Refunding Plan, the Estimated Sources and Uses of Funds and Appendices B and B-1. It is a condition to the sale and delivery of the Series 2020 Bonds that NYSARC certify as of the dates of sale and delivery of the Series 2020 Bonds that such parts do not contain any untrue statement of a material fact and do not omit any material fact necessary to make the statements made therein, in the light of the circumstances under which the statements are made, not misleading.

NYSARC has agreed to indemnify DASNY and the Underwriter and certain others against losses, claims, damages and liabilities arising out of any untrue statements or omissions of statements of any material fact as described in the preceding paragraph.

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The execution and delivery of this Official Statement by an Authorized Officer have been duly authorized by DASNY.

**DORMITORY AUTHORITY OF  
THE STATE OF NEW YORK**

By: /s/ Reuben R. McDaniel III  
Authorized Officer

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**CERTAIN DEFINITIONS**

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## CERTAIN DEFINITIONS

In addition to the other terms defined in this Official Statement, when used in the summaries of certain provisions of the Loan Agreement and the Resolutions, the following terms have the meanings ascribed to them below:

**Act** means the Dormitory Authority Act being Title 4 of Article 8 of the Public Authorities Law of the State, as amended, including without limitation by the Health Care Financing Consolidation Act, being Title 4–B of Article 8 of the Public Authorities Law of the State.

**Annual Administrative Fee** means the annual fee for the general administrative expenses of the Authority in the amount or percentage stated in the Loan Agreement relating to a Series of Bonds.

**Applicable** means (i) with respect to any Construction Fund, Arbitrage Rebate Fund, Debt Service Fund, Debt Service Reserve Fund, or any other fund or account therein, the fund or account so designated and established by an Applicable Series Resolution or Bond Series Certificate authorizing an Applicable Series of Bonds relating to a particular Project, (ii) with respect to any Debt Service Reserve Fund Requirement, the said requirement established in connection with a Series of Bonds by the Applicable Series Resolution or Bond Series Certificate, (iii) with respect to any Series Resolution, such Series Resolution relating to a particular Series of Bonds, (iv) with respect to any Series of Bonds, the Series of Bonds issued under a Series Resolution for a particular Project, (v) with respect to any Loan Agreement, such Loan Agreement by and between the Authority and NYSARC and the contractual obligations contained therein relating to a particular Series Resolution or a particular Project, (vi) with respect to a Bond Series Certificate, such certificate authorized pursuant to a particular Series Resolution, (vii) with respect to any Credit Facility, Liquidity Facility or Reserve Fund Facility and Provider thereof, if any, such Credit Facility, Liquidity Facility, Reserve Fund Facility or Provider relating to a particular Series of Bonds, and (viii) with respect to any other item or document, agreement or instrument, such other item or document, agreement or instrument relating to a particular Series of Bonds or a particular Loan Agreement.

**Arbitrage Rebate Fund** means with respect to each Series of Bonds the fund so designated and established pursuant to the Resolution.

**Authority** means the Dormitory Authority of the State of New York, a body corporate and politic constituting a public benefit corporation of the State created by the Act, or any body, agency or instrumentality of the State which succeeds to the rights, powers, duties and functions of the Authority.

**Authority Fee** means a fee payable to the Authority consisting of (a) all of the Authority's internal costs and overhead expenses attributable to the issuance of a Series of Bonds and the financing and construction of a Project, plus (b) a payment to be made upon the issuance of a Series of Bonds in an amount set forth in the Series Resolution, unless otherwise provided in the Series Resolution or a Bond Series Certificate relating to a Series of Bonds.

**Authorized Newspaper** means *The Bond Buyer* or any other newspaper of general circulation printed in the English language and customarily published at least once a day for at least five (5) days (other than legal holidays) in each calendar week in the Borough of Manhattan, City and State of New York, designated by the Authority.

**Authorized Officer** means (i) in the case of the Authority, the Chair, the Vice–Chair, the Treasurer, an Assistant Treasurer, the Secretary, an Assistant Secretary, the Executive Director, the Deputy Executive Director, the Chief Financial Officer, a Managing Director and the General Counsel,

and when used with reference to any act or document also means any other person authorized by a resolution or the by-laws of the Authority to perform such act or execute such document; (ii) in the case of NYSARC, when used with reference to any act or document, means the person or persons authorized by a resolution or the by-laws of NYSARC to perform such act or execute such document; and (iii) in the case of the Trustee, the President, a Vice President, an Assistant Vice President, a Corporate Trust Officer, an Authorized Signatory, an Assistant Corporate Trust Officer, a Trust Officer or an Assistant Trust Officer of the Trustee, and when used with reference to any act or document also means any other person authorized to perform any act or sign any document by or pursuant to a resolution of the Board of Directors of the Trustee or the by-laws of the Trustee.

**Bond or Bonds** means any of the bonds of the Authority authorized and issued pursuant to the Resolution and to a Series Resolution.

**Bond Counsel** means a law firm appointed by the Authority with respect to a Series of Bonds, having a national reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds.

**Bond Series Certificate** means a certificate of an Authorized Officer of the Authority fixing terms, conditions and other details of Bonds of a Series in accordance with the delegation of power to do so under the Resolution or under a Series Resolution, as it may be amended from time to time.

**Bond Year** means, unless otherwise stated in a Series Resolution, a period of twelve (12) consecutive months beginning July 1 in any calendar year and ending on June 30 of the succeeding calendar year.

**Bondholder, Holder of Bonds or Holder** or any similar term, when used with reference to a Bond or Bonds of a Series, means the registered owner of any Bonds of such Series.

**Book Entry Bond** means a Bond of a Series authorized to be issued to, and issued to and registered in the name of, a Depository for the participants in such Depository or the beneficial owner of such Bond.

**Business Day** shall mean any day other than a Saturday, Sunday or a day on which the Trustee is authorized by law to remain closed. With respect to Option Bonds or Variable Interest Rate Bonds of a Series, "Business Day" means any day that is not a Saturday, Sunday or a day on which the New York Stock Exchange, banking institutions chartered by the State or the United States of America, the Trustee or the Facility Provider of a Liquidity Facility for such Bonds is legally authorized to close in The City of New York.

**Capitalized Interest Account** means the Capitalized Interest Account, if any, within the Construction Fund authorized to be established pursuant to the Resolution and the Applicable Series Resolution or Bond Series Certificate with respect to a Series of Bonds.

**Code** means the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder.

**Construction Fund** means the fund so designated and established by a Series Resolution pursuant to the Resolution.

**Contribution Amounts** means amounts, if any, received by NYSARC and deposited in a Construction Fund or Debt Service Fund pursuant to the Applicable Loan Agreement. Such amounts shall constitute Revenues.

**Cost or Costs of Issuance** means the items of expense incurred in connection with the authorization, sale and issuance of Bonds of a Series, which items of expense shall include, but not be limited to, document printing and reproduction costs, filing and recording fees, costs of credit ratings, initial fees and charges of the Trustee, a Provider or a Depository, legal fees and charges, professional consultants' fees, fees and charges for execution, transportation and safekeeping of such Bonds, premiums, fees and charges for insurance on such Bonds, commitment fees or similar charges relating to a Credit Facility, a Liquidity Facility, a Reserve Fund Facility, an Interest Rate Exchange Agreement or a Remarketing Agreement, costs and expenses in connection with the refunding of Bonds or other bonds or notes of the Authority, costs and expenses incurred pursuant to a remarketing agreement and other costs, charges and fees, including those of the Authority, in connection with the foregoing.

**Cost or Costs of the Project** means when used in relation to a Project the costs and expenses or the refinancing of costs and expenses determined by the Authority to be necessarily or appropriately incurred in connection with the Project, including, but not limited to, (i) costs and expenses of the acquisition of the title to or other interest in real property, including easements, rights-of-way and licenses, (ii) costs and expenses incurred for labor and materials and payments to contractors, builders and materialmen, for the acquisition, construction, reconstruction, rehabilitation, repair and improvement of the Project, (iii) the cost of surety bonds and insurance of all kinds, including premiums and other charges in connection with obtaining title insurance, that may be required or necessary prior to completion of the Project, which is not paid by a contractor or otherwise provided for, (iv) the costs and expenses for design, environmental inspections and assessments, test borings, surveys, estimates, plans and specifications and preliminary investigations therefor, and for supervising construction of the Project, (v) costs and expenses required for the acquisition and installation of equipment or machinery, (vi) all other costs which NYSARC shall be required to pay or cause to be paid for the acquisition, construction, reconstruction, rehabilitation, repair, improvement and equipping of the Project, (vii) any sums required to reimburse NYSARC or the Authority for advances made by them for any of the above items or for other costs incurred and for work done by them in connection with the Project (including interest on money borrowed from parties other than NYSARC), (viii) interest on the Bonds of a Series, bonds, notes or other obligations of the Authority issued to finance Costs of the Project that accrued prior to, during and for a reasonable period after completion of the acquisition, construction, reconstruction, rehabilitation, repair, improvement or equipping of the Project, and (ix) fees, expenses and liabilities of the Authority incurred in connection with the Project or pursuant hereto or to the Applicable Loan Agreement or Mortgage, or to a Credit Facility, a Liquidity Facility or a Remarketing Agreement in connection with Option Bonds or Variable Interest Rate Bonds.

**Credit Facility** means, with respect to a Series of Bonds, an irrevocable letter of credit (and any confirming letter of credit), surety bond, loan agreement, or other agreement, facility or insurance or guaranty arrangement pursuant to which the Authority is entitled to obtain money to pay the principal and Sinking Fund Installments of and interest on particular Bonds whether or not the Authority is in default under the Resolution, which is issued or provided by:

(i) a bank, a trust company, a national banking association, an organization subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provisions of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provisions of law, a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, a savings bank or a saving and loan association;

(ii) an insurance company or association chartered or organized under the laws of any state of the United States of America;

- (ii) the Government National Mortgage Association or any successor thereto;
- (iv) the Federal National Mortgage Association or any successor thereto;
- (v) a Federal Home Loan Bank; or
- (vi) any other federal agency or instrumentality approved by the Authority.

Any such Credit Facility may also constitute a Liquidity Facility if it also meets the requirements of the definition of a Liquidity Facility contained in the Resolution.

**Debt Service Fund** means with respect to each Series of Bonds the fund so designated and established pursuant to the Resolution.

**Debt Service Reserve Fund** means the fund, if any, with respect to each Series of Bonds so designated and established by a Series Resolution pursuant to the Resolution.

**Debt Service Reserve Fund Requirement** means with respect to the Series 2020 Bonds, the amount determined by a Bond Series Certificate or by a formula set forth in a Bond Series Certificate.

**Defeasance Security** means:

- (i) a Government Obligation of the type described in clauses (i), (ii), (iii) or (iv) of the definition of Government Obligation;
- (ii) a Federal Agency Obligation described in clauses (i) or (ii) of the definition of Federal Agency Obligation; and
- (iii) an Exempt Obligation, provided such Exempt Obligation (a) is not subject to redemption prior to maturity other than at the option of the holder thereof or as to which irrevocable instructions have been given to the trustee of such Exempt Obligation by the obligor thereof to give due notice of redemption and to call such Exempt Obligation for redemption on the date or dates specified in such instructions and such Exempt Obligation is not otherwise subject to redemption prior to such specified date other than at the option of the holder thereof, (b) is secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or Government Obligations, which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such Exempt Obligation on the interest payment dates and the maturity date thereof or the redemption date specified in the irrevocable instructions referred to in clause (i) above, (iii) as to which the principal of and interest on the Government Obligations which have been deposited in such fund, along with any cash on deposit in such fund, are sufficient to pay the principal of and interest and redemption premium, if any, on such Exempt Obligation on the interest payment dates and maturity date thereof or on the redemption date specified in the irrevocable instructions referred to in clause (i) above, and (iv) is rated by at least two Rating Services in the highest rating category for such Exempt Obligation (without regard to qualification of such rating by symbols such as “+” or “-” and numerical notation);

*provided, however*, that (1) such term shall not include any interest in a unit investment trust or mutual fund or (2) any obligation that is subject to redemption prior to maturity other than at the option of the holder thereof.

**Depository** means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State, or its nominee, or any other person, firm, association or corporation designated in the Applicable Series Resolution authorizing a Series of Bonds or a Bond Series Certificate relating to a Series of Bonds to serve as securities depository for the Bonds of such Series.

**Excess Earnings** means, with respect to a Series of Bonds, the amount equal to the rebatable arbitrage and any income attributable to the rebatable arbitrage as required by the Code.

**Exempt Obligation** means:

(i) an obligation of any state or territory of the United States of America, any political subdivision of any state or territory of the United States of America, or any agency, authority, public benefit corporation or instrumentality of such state, territory or political subdivision, the interest on which is excludable from gross income under Section 103 of the Code, which is not a “specified private activity bond” within the meaning of Section 57(a)(5) of the Code and which, at the time an investment therein is made or such obligation is deposited in any fund or account hereunder, is rated, without regard to qualification of such rating by symbols such as “+” or “-” and numerical notation, no lower than the second highest rating category for such obligation by at least two Rating Services,

(ii) a certificate or other instrument which evidences the beneficial ownership of, or the right to receive all or a portion of the payment of the principal of or interest on any of the foregoing; and

(iii) a share or interest in a mutual fund, partnership or other fund wholly comprised of any of the foregoing obligations.

**Federal Agency Obligation** means:

(i) an obligation issued by any federal agency or instrumentality approved by the Authority;

(ii) an obligation the principal of and interest on which are fully insured or guaranteed as to payment by a federal agency approved by the Authority;

(iii) a certificate or other instrument which evidences the beneficial ownership of, or the right to receive all or a portion of the payment of the principal of or interest on, any of the foregoing; and

(iv) a share or interest in a mutual fund, partnership or other fund registered under the Securities Act of 1933, as amended, and operated in accordance with Rule 2a – 7 of the Investment Company Act of 1940, as amended, wholly comprised of any of the foregoing obligations.

**Fixed Rate Bond** means any Bond that is not a Variable Interest Rate Bond.

**Government Obligation** means:

- (i) a direct obligation of the United States of America;
- (ii) an obligation the principal of and interest on which are fully insured or guaranteed as to payment by the United States of America;
- (iii) an obligation to which the full faith and credit of the United States of America is pledged;
- (iv) a certificate or other instrument which evidences the beneficial ownership of, or the right to receive all or a portion of the payment of the principal of or interest on, any of the foregoing; and
- (v) a share or interest in a mutual fund, partnership or other fund registered under the Securities Act of 1933, as amended, and operated in accordance with Rule 2a – 7 of the Investment Company Act of 1940, as amended, wholly comprised of any of the foregoing obligations.

**Gross Proceeds** means, with respect to any Series of Bonds, the interest on which is tax-exempt, unless inconsistent with the provisions of the Code, (i) amounts received by the Authority from the sale of such Series of Bonds (other than amounts used to pay underwriters' fees and other expenses of issuing such Series of Bonds), (ii) amounts treated as transferred proceeds of such Series of Bonds in accordance with the Code, (iii) amounts treated as proceeds under the provisions of the Code relating to invested sinking funds, including any necessary allocation between two or more Series of Bonds in the manner required by the Code, (iv) amounts in the Debt Service Reserve Fund, if any, (v) securities or obligations pledged by the Authority or NYSARC as security for payment of debt service on such Bonds, (vi) amounts received with respect to obligations acquired with Gross Proceeds, (vii) amounts used to pay debt service on such Series of Bonds, and (viii) amounts received as a result of the investment of Gross Proceeds at a yield equal to or less than the yield on such Series of Bonds as such yield is determined in accordance with the Code.

**Intercreditor Agreement** means any intercreditor agreement, if any, among one or more Providers of a Credit Facility with respect to any Series of Bonds issued under the Resolution, the Trustee, the Authority and any creditors sharing in a parity lien or a subordinate lien on the Pledged Revenues, together with their successors and assigns, in connection with the rights and remedies of such parties in respect to the Applicable Loan Agreement, the Applicable Mortgage, the Applicable Mortgaged Property, the Applicable Pledged Revenues and certain other moneys held under the Resolution, as from time to time amended or supplemented.

**Interest Rate Exchange Agreement** means (i) an agreement entered into by the Authority or NYSARC in connection with the issuance of or which relates to Bonds of a Series which provides that during the term of such agreement the Authority or NYSARC is to pay to the counterparty thereto interest accruing at a fixed or variable rate per annum on an amount equal to a principal amount of such Bonds and that such counterparty is to pay to the Authority or NYSARC an amount based on the interest accruing on a principal amount equal to the same principal amount of such Bonds at a fixed or variable rate per annum, in each case computed according to a formula set forth in such agreement, or that one shall pay to the other any net amount due under such agreement or (ii) an interest rate cap agreement, an interest rate floor agreement, an interest rate collar agreement and any other interest rate related hedge agreement or arrangement relating to Bonds of a Series.

**Investment Agreement** means a repurchase agreement or other agreement for the investment of money with a Qualified Financial Institution.

**Liquidity Facility** means, with respect to a Series of Bonds, an irrevocable letter of credit (and any confirming letter of credit), a surety bond, a loan agreement, a standby purchase agreement, a line of credit or other agreement or arrangement pursuant to which money may be obtained upon the terms and conditions contained therein for the purchase of such Bonds tendered for purchase in accordance with the terms of a Series Resolution authorizing such Bonds or a Bond Series Certificate relating to such Bonds, which is issued or provided by:

- (i) a bank, a trust company, a national banking association, an organization subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provisions of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provisions of law, a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, a savings bank or a savings and loan association;
- (ii) an insurance company or association chartered or organized under the laws of any state of the United States of America;
- (iii) the Government National Mortgage Association or any successor thereto;
- (iv) the Federal National Mortgage Association or any successor thereto;
- (v) a Federal Home Loan Bank; or
- (vi) any other federal agency or instrumentality approved by the Authority.

**Loan Agreement** means, with respect to any Series of Bonds, the Applicable Loan Agreement, between the Authority and NYSARC in connection with the issuance of a Series of Bonds, as the same from time to time shall have been amended, supplemented or otherwise modified as permitted by the Resolution and by such Loan Agreement.

**Maximum Interest Rate** means, with respect to any particular Variable Interest Rate Bond, the numerical rate of interest, if any, set forth in the Applicable Series Resolution authorizing such Bond or the Applicable Bond Series Certificate relating to such Bond as the maximum rate at which such Bond may bear interest at any time.

**Minimum Interest Rate** means, with respect to any particular Variable Interest Rate Bond, a numerical rate of interest, if any, set forth in the Applicable Series Resolution authorizing such Bond or the Applicable Bond Series Certificate relating to such Bonds as the minimum rate at which such Bond may bear interest at any time.

**Moody's** means Moody's Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, and its successors and assigns.

**Mortgage** means all mortgages, if any, or modifications or amendments thereto granted by NYSARC (or a party related to NYSARC) to the Authority in connection with a particular Project pursuant to the Applicable Loan Agreement, in forms and substance satisfactory to the Authority and the Applicable Provider of a Credit Facility, if any, on the Mortgaged Property mortgaged in connection therewith, as security for the performance of NYSARC's obligations under the Applicable Loan

Agreement, as such Mortgage may be amended or modified from time to time as provided for therein or in the Applicable Loan Agreement.

**Mortgaged Property** means the land described in a Mortgage and the buildings and improvements thereon or hereinafter erected thereon and the fixtures, furnishings and equipment owned or leased by NYSARC and now or hereafter located therein or thereon, as from time to time amended, supplemented or otherwise modified.

**OPWDD** means the New York State Office for People With Developmental Disabilities (formerly known as the Office of Mental Retardation and Developmental Disabilities), any successor or assign.

**OPWDD Revenues** means all Public Funds payable by OPWDD to the Authority pursuant to the Applicable Loan Agreement executed in connection with the Bonds of a Series.

**Option Bond** means any Bond of a Series which by its terms may be or is required to be tendered by and at the option of the Holder thereof for redemption by the Authority prior to the stated maturity thereof or for purchase by the Authority prior to the stated maturity thereof or the maturity of which may be extended by and at the option of the Holder thereof in accordance with the Applicable Series Resolution authorizing such Bonds or the Applicable Bond Series Certificate related to such Bonds.

**Outstanding**, when used in reference to Bonds of a Series, means, as of a particular date, all Bonds of such Series authenticated and delivered under the Resolution and under a Series Resolution except:

- (i) any Bond canceled by the Trustee at or before such date;
- (i) any Bond deemed to have been paid in accordance with the terms of the Resolution;
- (iii) any Bond in lieu of or in substitution for which another Bond shall have been authenticated and delivered pursuant to the Resolution; and
- (iv) any Option Bond tendered or deemed tendered in accordance with the provisions of the Applicable Series Resolution authorizing such Bond or the Applicable Bond Series Certificate relating to such Bond on the applicable adjustment or conversion date, if interest thereon shall have been paid through such applicable date and the purchase price thereof shall have been paid or amounts are available for such payment as provided in the Resolution and in the Applicable Series Resolution authorizing such Bond or the Applicable Bond Series Certificate relating to such Bond.

**Parity Indebtedness** means any indebtedness issued by NYSARC or any other issuer on behalf of NYSARC to the extent permitted pursuant to a Series Resolution and secured equally and ratably by the Applicable Mortgaged Property and/or the Applicable Pledged Revenues.

**Participating Chapter** means a chapter of NYSARC listed in the Loan Agreement, as such list may be amended or supplemented from time to time.

**Paying Agent** means, with respect to a Series of Bonds, the Trustee and any other bank or trust company and its successor or successors, appointed pursuant to the provisions of the Resolution or of a Series Resolution, a Bond Series Certificate or any other resolution of the Authority adopted prior to

authentication and delivery of such Series of Bonds for which such Paying Agent or Paying Agents shall be so appointed.

**Permitted Collateral** means:

- (i) Government Obligations described in clauses (i), (ii) or (iii) of the definition of Government Obligation;
- (ii) Federal Agency Obligations described in clauses (i) or (ii) of the definition of Federal Agency Obligation;
- (iii) commercial paper that (a) matures within two hundred seventy (270) days after its date of issuance, (b) is rated in the highest short term rating category by at least one Rating Service and (c) is issued by a domestic corporation whose unsecured senior debt is rated by at least one Rating Service no lower than in the second highest rating category;
- (iv) financial guaranty agreements, surety or other similar bonds or other instruments of an insurance company that has an equity capital of at least \$125,000,000 and is rated by Bests Insurance Guide or a Rating Service in the highest rating category; and
- (v) bankers' acceptances issued by a bank rated in the highest short term rating category by at least one nationally recognized rating organization and having maturities of not longer than three hundred sixty five (365) days from the date they are pledged.

**Permitted Encumbrances** means, when used with respect to a Project or any component thereof, any of the following:

- (i) The lien of taxes and assessments which are not delinquent;
- (ii) The lien of taxes and assessments which are delinquent but the validity of which is being contested in good faith unless thereby the property or the interest of the Authority therein may be in danger of being lost or forfeited;
- (iii) Minor defects and irregularities in the title to such property which do not in the aggregate materially impair the use of such property for the purposes for which it is or may be reasonably be expected to be held;
- (iv) Easements, exceptions or reservations for the purpose of pipelines, telephone lines, telegraph lines, power lines and substations, roads, streets, alleys, highways, railroad purposes, drainage and sewerage purposes, dikes, canals, laterals, ditches, the removal of oil, gas, coal or other minerals, and other like purposes, or for the joint or common use of real property, facilities and equipment, which do not materially impair the use of such property for the purposes for which it is or may be reasonably be expected to be held;
- (v) The Loan Agreement, the Resolution and any instrument recorded pursuant thereto;
- (vi) Any other encumbrances or matters set forth in the Loan Agreement with respect to such Project; and
- (vii) Such other liens, encumbrances, defects, and irregularities which exist on the date of the delivery of the Loan Agreement and are not expressly prohibited thereby or by the

terms of any agreement securing a Credit Facility, and such other liens as may thereafter exist that are expressly permitted by any such agreement or to which the Provider or, if there is no Credit Facility with respect to the Bonds at that time, the Authority has given its prior written consent.

**Permitted Investments** means any of the following:

- (i) Government Obligations;
- (ii) Federal Agency Obligations;
- (iii) Exempt Obligations;
- (iv) uncollateralized certificates of deposit that are fully insured by the Federal Deposit Insurance Corporation and issued by a banking organization authorized to do business in the State;
- (v) collateralized certificates of deposit that are (a) issued by a banking organization authorized to do business in the State that has an equity capital of not less than \$125,000,000, whose unsecured senior debt, or debt obligations fully secured by a letter or credit, contract, agreement or surety bond issued by it, are rated by at least one Rating Services in at least the second highest rating category, and (b) fully collateralized by Permitted Collateral;
- (vi) commercial paper issued by a domestic corporation rated in the highest short term rating category by at least one Rating Service and having maturities of not longer than two hundred seventy (270) days from the date of purchase;
- (vii) bankers' acceptances issued by a bank rated in the highest short term rating category by at least one Rating Service and having maturities of not longer than three hundred sixty five (365) days from the date they are purchased;
- (viii) any Investment Agreement that is fully collateralized by Permitted Collateral;  
and
- (ix) a share or interest in a mutual fund, partnership or other fund registered under the Securities Act of 1933, as amended, and operated in accordance with Rule 2a – 7 of the Investment Company Act of 1940, as amended, whose objective is to maintain a constant share value of \$1.00 per share and that is rated in the highest short term rating category by at least one Rating Service.

**Pledged Revenues** means all Public Funds, all moneys apportioned or otherwise payable to NYSARC, for the sole benefit of the State Office or on behalf of any of the Participating Chapters, by the federal government, receipts, revenues, income, gifts, grants, assistance, bequests and other moneys received by NYSARC, for the sole benefit of the State Office or on behalf of a Participating Chapter, including all rights to receive the same whether in the form of accounts receivable, lease payments or other contract rights or other rights, and the proceeds of such rights whether now owned or held or hereafter coming into existence; excluding, however, gifts, grants and bequests received by NYSARC for the sole benefit of the State Office or on behalf of any of the Participating Chapters that are subject to restrictions upon the use thereof that are inconsistent with the use thereof for the purposes contemplated by the Loan Agreement and by the Resolution and the Series 2020 Resolution, and the income thereon to the extent that said income is so restricted as to use.

**Prior Pledges** means, with respect to a Series of Bonds, the liens, pledges, charges, encumbrances and security interests made and given by NYSARC to secure prior obligations incurred by NYSARC, the maintenance of which shall have been approved by the Authority.

**Project** means a “dormitory” as defined in the Act, which may include more than one part, financed in whole or in part from the proceeds of the sale of a Series of Bonds, as more particularly described in the Resolution, in or pursuant to a Series Resolution or in or pursuant to a Bond Series Certificate.

**Provider** means the issuer or provider of a Credit Facility, a Liquidity Facility or Reserve Fund Facility and as otherwise defined in a Series Resolution with respect to a Series of Bonds. With respect to drawings under a Credit Facility, a Liquidity Facility or a Reserve Fund Facility that is a letter of credit confirmed by a standby confirming letter of credit, “Provider” includes the issuer or provider of the standby confirming letter of credit.

**Provider Payments** means the amount, certified by a Provider to the Trustee, payable to such Provider by NYSARC on account of amounts advanced by it under a Credit Facility, a Liquidity Facility or Reserve Fund Facility, including interest on amounts advanced and fees and charges with respect thereto.

**Qualified Financial Institution** means any of the following entities that has an equity capital of at least \$125,000,000 or whose obligations are unconditionally guaranteed by an affiliate or parent having an equity capital of at least \$125,000,000:

(i) a securities dealer, the liquidation of which is subject to the Securities Investors Protection Corporation or other similar corporation, and (a) that is on the Federal Reserve Bank of New York list of primary government securities dealers and (b) whose senior unsecured long term debt is at the time an investment with it is made is rated by at least one Rating Service no lower than in the second highest rating category, or, in the absence of a rating on long term debt, whose short term debt is rated by at least one Rating Service no lower than in the highest rating category for such short term debt; *provided, however*, that no short term rating may be utilized to determine whether an entity qualifies under this paragraph as a Qualified Financial Institution if the same would be inconsistent with the rating criteria of any Rating Service or credit criteria of an entity that provides a Credit Facility or financial guaranty agreement in connection with Outstanding Bonds of a Series;

(ii) a bank, a trust company, a national banking association, a corporation subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provisions of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provisions of law, a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, a savings bank, a savings and loan association, an insurance company or association chartered or organized under the laws of the United States of America, any state of the United States of America or any foreign nation, whose senior unsecured long term debt is at the time an investment with it is made is rated by at least one Rating Service no lower than in the second highest rating category, or, in the absence of a rating on long term debt, whose short term debt is rated by at least one Rating Service no lower than in the highest rating category for such short term debt; *provided, however*, that no short term rating may be utilized to determine whether an entity qualifies under this paragraph as a Qualified Financial Institution if the same would be inconsistent with the rating criteria of any Rating Service or credit criteria of an entity that provides a Credit Facility or financial guaranty agreement in connection with Outstanding Bonds of a Series;

(iii) a corporation affiliated with or which is a subsidiary of any entity described in (i) or (ii) above or which is affiliated with or a subsidiary of a corporation which controls or wholly owns any such entity, whose senior unsecured long term debt is at the time an investment with it is made is rated by at least one Rating Service no lower than in the second highest rating category, or, in the absence of a rating on long term debt, whose short term debt is rated by at least one Rating Service no lower than in the highest rating category for such short term debt; **provided, however**, that no short term rating may be utilized to determine whether an entity qualifies under this paragraph as a Qualified Financial Institution if the same would be inconsistent with the rating criteria of any Rating Service or credit criteria of an entity that provides a Credit Facility or financial guaranty agreement in connection with Outstanding Bonds of a Series;

(iv) the Government National Mortgage Association or any successor thereto, the Federal National Mortgage Association or any successor thereto, or any other federal agency or instrumentality approved by the Authority; or

(v) a corporation whose obligations, including any investments of any money held under the Resolution purchased from such corporation, are insured by an insurer that meets the applicable rating requirements set forth above.

**Rating Service(s)** means each of Moody's Investors Service, Inc., Standard & Poor's Ratings Services, and Fitch Ratings, or their respective successors and assigns, in each case, which has, at the time of reference, assigned a rating to Outstanding Bonds at the request of the Authority.

**Record Date** means, with respect to the Series 2020 Bonds, the fifteenth (15th) day (whether or not a Business Day) of the calendar month next preceding an interest payment date.

**Redemption Price**, when used with respect to a Bond of a Series, means the principal amount of such Bond plus the applicable premium, if any, payable upon redemption prior to maturity thereof pursuant to the Resolution or to the Applicable Series Resolution or Bond Series Certificate.

**Refunding Bonds** means all Bonds, whether issued in one or more Series of Bonds, authenticated and delivered on original issuance pursuant to the Resolution, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to the Resolution.

**Remarketing Agent** means the person appointed by or pursuant to a Series Resolution authorizing the issuance of Option Bonds to remarket such Option Bonds tendered or deemed to have been tendered for purchase in accordance with such Series Resolution or Bond Series Certificate relating to such Option Bonds.

**Remarketing Agreement** means, with respect to Option Bonds of a Series, an agreement either between the Authority and the Remarketing Agent, or among the Authority, NYSARC and the Remarketing Agent, relating to the remarketing of such Bonds.

**Reserve Fund Facility** means a surety bond, insurance policy, letter of credit (and any confirming letter of credit) or other financial guaranty or instrument, authorized by or pursuant to a Series Resolution establishing a Debt Service Reserve Fund, to be delivered in lieu of or substitution for all or a portion of the moneys otherwise required to be held in such Debt Service Reserve Fund.

**Resolution** means the NYSARC, Inc. Revenue Bond Resolution, adopted by the Authority March 25, 2009, as from time to time amended or supplemented by Supplemental Resolutions or Series Resolutions in accordance with the terms and provisions thereof.

**Revenues** means, with respect to a Series of Bonds, all payments received or receivable by the Authority that pursuant to the Applicable Loan Agreement, except as provided in the Applicable Intercreditor Agreement, if any, are required to be paid to the Trustee for such Series of Bonds (except payments to the Trustee for the administrative costs and expenses or fees of the Trustee and payments to the Trustee for deposit to the Arbitrage Rebate Fund or any fund or account established solely for purposes of making payments to reimburse a Provider of a Credit Facility or Liquidity Facility).

**S&P** means Standard & Poor's Corporation, a corporation organized and existing under the laws of the State of New York, and its successors and assigns.

**Serial Bonds** means the Bonds so designated in a Series Resolution or a Bond Series Certificate.

**Series** means all of the Bonds authenticated and delivered on original issuance and pursuant to the Resolution and to the Applicable Series Resolution authorizing such Bonds as a separate Series of Bonds or a Bond Series Certificate, and any Bonds of such Series thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to the Resolution, regardless of variations in maturity, interest rate, Sinking Fund Installments or other provisions.

**Series Resolution** means a resolution of the Authority authorizing the issuance of a Series of Bonds adopted by the Authority pursuant to the Resolution.

**Sinking Fund Installment** means, with respect to a Series of Bonds, as of any date of calculation:

(i) when used with respect to any Bonds of such Series, other than Option Bonds or Variable Interest Rate Bonds, so long as any such Bonds are Outstanding, the amount of money required by the Applicable Series Resolution pursuant to which such Bonds were issued or by the Applicable Bond Series Certificate relating thereto to be paid on a single future July 1 for the retirement of any Outstanding Bonds of said Series which mature after said future July 1, but does not include any amount payable by the Authority by reason only of the maturity of a Bond, and said future July 1 is deemed to be the date when a Sinking Fund Installment is payable and the date of such Sinking Fund Installment and said Outstanding Bonds are deemed to be Bonds entitled to such Sinking Fund Installment; and

(ii) when used with respect to Option Bonds or Variable Interest Rate Bonds of a Series, so long as such Bonds are Outstanding, the amount of money required by the Applicable Series Resolution pursuant to which such Bonds were issued or by the Applicable Bond Series Certificate relating thereto to be paid on a single future date for the retirement of any Outstanding Bonds of said Series which mature after said future date, but does not include any amount payable by the Authority by reason only of the maturity of a Bond, and said future date is deemed to be the date when a Sinking Fund Installment is payable and the date of such Sinking Fund Installment and said Outstanding Option Bonds or Variable Interest Rate Bonds of such Series are deemed to be Bonds entitled to such Sinking Fund Installment.

**State** means the State of New York.

**State Office** means the corporate administrative body of NYSARC that provides oversight of the Participating Chapters and other chapters as such term is referred to in the "NYSARC, Inc. State Office, Chapters and their Affiliates Combined Financial Statements as of December 31, 2018 Together with Accountants' Compilation Report" prepared by NYSARC's certified public accountants and consultants.

**Supplemental Resolution** means any resolution of the Authority amending or supplementing the Resolution, any Series Resolution or any Supplemental Resolution adopted and becoming effective in accordance with the terms and provisions of the Resolution.

**Tax Certificate** means, with respect to any Series, the certificate of the Authority and NYSARC or agreement entered into by the Authority and NYSARC, including the appendices, schedules and exhibits thereto, executed in connection with the issuance of the Bonds of such Series in which the Authority makes representations and agreements as to arbitrage and compliance with the provisions of Sections 141 through 150, inclusive, of the Code, or any similar certificate, agreement or other instrument made, executed and delivered in lieu of said certificate, in each case as the same may be amended or supplemented.

**Term Bonds** means, with respect to a Series of Bonds, the Bonds so designated in a Series Resolution or a Bond Series Certificate and payable from Sinking Fund Installments.

**Trustee** means the bank or trust company appointed as Trustee for a Series of Bonds pursuant to a Series Resolution or Bond Series Certificate delivered under the Resolution and having the duties, responsibilities and rights provided for therein with respect to such Series, and its successor or successors and any other bank or trust company which may at any time be substituted in its place pursuant thereto.

**Variable Interest Rate** means the rate or rates of interest to be borne by a Series of Bonds or any one or more maturities within a Series of Bonds which is or may be varied from time to time in accordance with the method of computing or determining such interest rate or rates specified in the Applicable Series Resolution authorizing such Bonds or the Applicable Bond Series Certificate relating to such Bonds and which shall be based on:

- (i) a percentage or percentages or other function of an objectively determinable interest rate or rates (e.g., a prime lending rate) which may be in effect from time to time or at a particular time or times;
- (ii) a determination of the lowest interest rate as would enable the Remarketing Agent, under prevailing financial market conditions for obligations of the same general nature of the Bonds in question and that are comparable to the Bonds in question in terms of credit and maturity or tender dates, to remarket such Bonds at a price of par, plus accrued interest, if any; or
- (iii) a stated interest rate that may be changed from time to time as provided in such Series Resolution or Bond Series Certificate;

*provided, however*, that in each case such variable interest rate may be subject to a Maximum Interest Rate and/or a Minimum Interest Rate as provided in the Applicable Series Resolution authorizing such Bonds or the Applicable Bond Series Certificate relating thereto, and that Series Resolution or Bond Series Certificate shall also specify either (x) the particular period or periods of time or manner of determining such period or periods of time for which each variable interest rate shall remain in effect or (y) the time or times at which any change in such variable interest rate shall become effective or the manner of determining such time or times.

**Variable Interest Rate Bond** means any Bond of a Series which bears a Variable Interest Rate; *provided, however*, that a Bond the interest rate on which shall have been fixed for the remainder of the term thereof shall no longer be a Variable Interest Rate Bond.

**NYSARC, INC. CHAPTERS AND THEIR AFFILIATES  
COMBINED FINANCIAL STATEMENTS AS OF  
AND FOR THE YEAR ENDED DECEMBER 31, 2018  
TOGETHER WITH ACCOUNTANTS' COMPILATION REPORT**

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**NYSARC, INC. STATE OFFICE, CHAPTERS  
AND THEIR AFFILIATES**

**Combined Financial Statements as of  
December 31, 2018  
Together with  
Accountant's Compilation Report**

**Bonadio & Co., LLP**  
Certified Public Accountants

**ACCOUNTANT'S COMPILATION REPORT**

November 11, 2019

To the Board of Governors of  
NYSARC, Inc.:

Management is responsible for the accompanying combined financial statements of NYSARC, Inc. State Office, Chapters and their Affiliates, which comprise the combined statement of financial position as of December 31, 2018, and the related combined statements of activities and changes in net assets, combined statement of functional expenses and cash flows for the year then ended, and the related notes to the combined financial statements in accordance with accounting principles generally accepted in the United States of America.

We have performed a compilation engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not audit or review the combined financial statements nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. We do not express an opinion, a conclusion, nor provide any form of assurance on these financial statements.

The accompanying supplementary information contained in Exhibits I, II, and III is presented for purposes of additional analysis and is not a required part of the basic combined financial statements. This information is the responsibility of management. The supplementary information was subject to our compilation engagement; however, we have not audited or reviewed the supplementary information and, accordingly, do not express an opinion, a conclusion, nor provide any form of assurance on such information.

*Bonadio & Co., LLP*

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**NYSARC, INC. STATE OFFICE, CHAPTERS AND THEIR AFFILIATES**

**COMBINED STATEMENT OF FINANCIAL POSITION**

**DECEMBER 31, 2018**

(See Accountant's Compilation Report)

**ASSETS**

CURRENT ASSETS:

Cash and equivalents	\$ 160,408,305
Investments	245,144,637
Current portion restricted deposits and funded reserves	426,318
Government receivables, net	214,795,378
Other receivables, net	12,820,935
Inventories	10,130,346
Prepaid expenses and other assets	22,070,891
Deposits	<u>2,287,494</u>
 Total current assets	 <u>668,084,304</u>

PROPERTY, PLANT AND EQUIPMENT:

Land	118,722,975
Buildings and leasehold improvements	818,237,881
Furniture, fixtures, and equipment	182,853,300
Vehicles	119,556,392
Construction-in-progress	<u>16,640,540</u>
	1,256,011,088
Less: Accumulated depreciation	<u>(837,686,588)</u>
 Total property, plant and equipment	 <u>418,324,500</u>

OTHER ASSETS:

Restricted deposits and funded reserves, net of current portion	21,950,747
Deferred charges	1,536,625
Participant funds and other noncurrent assets	31,139,242
Net investments in affiliates	<u>31,685,893</u>
 Total other assets	 <u>86,312,507</u>

\$ 1,172,721,311

**LIABILITIES AND NET ASSETS**

CURRENT LIABILITIES:

Current installments of long-term debt	\$ 33,911,334
Notes payable	24,901,339
Accounts payable	48,523,159
Accrued expenses and taxes	120,814,516
Current portion of amounts due to governmental agencies	10,325,765
Current portion of deferred revenue and refundable advances	4,232,358
Other current liabilities	<u>14,402,701</u>
 Total current liabilities	 <u>257,111,172</u>

LONG-TERM DEBT, net, net of current portion

151,457,135

OTHER NONCURRENT LIABILITIES:

Due to governmental agencies, net of current portion	2,621,420
Deferred revenue and refundable advances, net of current portion	21,244,537
Participant funds and other noncurrent liabilities	<u>36,545,063</u>
 Total other noncurrent liabilities	 <u>60,411,020</u>
 Total liabilities	 <u>468,979,327</u>

NET ASSETS:

With donor restrictions	23,499,903
Without donor restrictions	<u>680,242,081</u>
 Total net assets	 <u>703,741,984</u>

\$ 1,172,721,311

See accompanying notes and accountant's compilation report.

## NYSARC, INC. STATE OFFICE, CHAPTERS AND THEIR AFFILIATES

### COMBINED STATEMENT OF ACTIVITIES AND CHANGE IN NET ASSETS FOR THE YEAR ENDED DECEMBER 31, 2018

(See Accountant's Compilation Report)

#### NET ASSETS WITHOUT DONOR RESTRICTIONS:

Revenue and support -	
Program revenue	\$ 1,774,165,713
Non-program revenue	43,025,571
Fundraising	3,980,347
Other support	12,391,975
Capital additions revenue	142,172
Realized and unrealized gain on investments, net	(15,372,544)
Net assets released from restrictions	<u>972,617</u>

Total revenue and support 1,819,305,851

#### Expenses -

Program services	1,633,841,202
Management and general	167,658,236
Fundraising	4,367,883
Other operating expenses	<u>280,350</u>

Total expenses 1,806,147,671

Increase in net assets without donor restrictions 13,158,180

#### NET ASSETS WITH DONOR RESTRICTIONS:

Contributions, grants, etc.	1,411,241
Interest and dividend income, net	66,845
Other	(756,947)
Net assets released from restrictions	<u>(972,617)</u>

Decrease in net assets with donor restrictions (251,478)

OTHER CHANGE IN NET ASSETS 423,068

CHANGE IN NET ASSETS 13,329,770

NET ASSETS - beginning of year 690,412,214

NET ASSETS - end of year \$ 703,741,984

See accompanying notes and accountant's compilation report.

**NYSARC, INC. STATE OFFICE, CHAPTERS AND THEIR AFFILIATES**

**COMBINED STATEMENT OF FUNCTIONAL EXPENSES  
FOR THE YEAR ENDED DECEMBER 31, 2018**

(See Accountant's Compilation Report)

	<u>Program Services</u>	<u>Supporting Services *</u>	<u>Total</u>
Salaries and Wages	\$ 938,705,586	\$ 90,054,424	\$ 1,028,760,010
Payroll Taxes and fringe benefits	248,227,069	24,208,411	272,435,480
Occupancy	56,808,480	6,361,491	63,169,971
Depreciation	51,499,820	7,146,637	58,646,457
Transportation related - participant	54,414,368	581,850	54,996,218
Program Supplies	28,758,741	2,220,669	30,979,410
Raw materials	28,702,416	11,168	28,713,584
Repairs and maintenance	23,577,625	3,446,460	27,024,085
Professional, consultant, and temporary se	13,870,325	9,083,209	22,953,534
Food	21,050,161	97,971	21,148,132
Other	20,571,786	370,861	20,942,647
Contracted direct care and clinical	18,339,823	11,880	18,351,703
Office supplies, postage, printing	13,182,408	3,274,398	16,456,806
Utilities	15,325,966	1,128,487	16,454,453
Insurance	13,309,375	2,317,478	15,626,853
Production expense	15,491,032	87	15,491,119
Participant wages and benefits	13,454,469	62,456	13,516,925
Interest	6,067,836	2,355,691	8,423,527
Participant related expenses	7,499,636	75,645	7,575,281
Staff travel, conferences, meetings	6,235,214	1,000,036	7,235,250
Telephone, internet, cable	5,349,377	1,149,170	6,498,547
Contracted outside services	3,386,774	3,110,611	6,497,385
Staff Development	3,167,606	2,172,132	5,339,738
Furniture and equipment	3,906,140	1,397,290	5,303,430
Vehicle expenses	5,124,833	135,548	5,260,381
General program expenses	549,521	3,265,167	3,814,688
Contracted personnel (non-direct care)	2,255,108	1,008,358	3,263,466
Tax assessments (incl. Real Estate)	2,825,157	255,927	3,081,084
Lease expense - vehicles and equipment	2,635,269	99,186	2,734,455
Gas and oil	1,907,276	312,320	2,219,596
Dues, subscriptions, management fee	452,166	1,629,951	2,082,117
Bad debt	1,893,635	172,087	2,065,722
Advertising, marketing, public relations	963,869	726,217	1,690,086
Computer services	506,215	839,398	1,345,613
Recreational Activities	1,075,783	22,205	1,097,988
Audit and legal	199,878	830,398	1,030,276
Fundraising, Grants, Donations	199,707	664,323	864,030
Trainee stipends	743,905	-	743,905
Recruitment and temporary help	486,248	106,305	592,553
Quality management expense	421,258	-	421,258
Transportation contracted	347,260	(2,045)	345,215
Board functions	2,447	276,543	278,990
Bank and Bond Fees	60,570	141,087	201,657
Client activity	182,535	250	182,785
Special Events	-	180,882	180,882
Tuition	83,951	-	83,951
Scholarship expense	22,578	3,850	26,428
	<u>\$ 1,633,841,202</u>	<u>\$ 172,306,469</u>	<u>\$ 1,806,147,671</u>

\* This column contains Management and general, Fundraising and Other operating expensess as reported seperately on the combined statement of activites and change in net assets.

See accompanying notes and accountant's compilation report.

**NYSARC, INC. STATE OFFICE, CHAPTERS AND THEIR AFFILIATES**

**COMBINED STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED DECEMBER 31, 2018**  
(See Accountant's Compilation Report)

<b>CASH FLOW FROM OPERATING ACTIVITIES:</b>	
Change in net assets	\$ 13,329,770
Adjustments to reconcile change in net assets to net cash flow from operating activities:	
Depreciation and amortization	55,776,162
Realized and unrealized gain on investments, net	15,115,059
Gain on sales or dispositions of assets, net	(4,156,229)
Bad debt expense	2,442,116
Other	(3,393,444)
Changes in:	
Receivables	7,608,773
Inventories	(150,380)
Prepaid expenses and other assets	(796,458)
Deposits	(21,664)
Deferred charges	(108,019)
Accounts payable	(4,058,404)
Accrued expenses and taxes	2,069,498
Due to governmental agencies	(2,551,858)
Deferred revenue, refundable advances and other liabilities	<u>(878,010)</u>
Net cash flow from operating activities	<u>80,226,912</u>
<b>CASH FLOW FROM INVESTING ACTIVITIES:</b>	
Proceeds from the sale of property, plant and equipment	5,272,770
Purchases of property, plant and equipment	(51,022,996)
Purchase of investments	(38,618,735)
Proceeds from sales of investments	27,468,514
Change in limited use reserves and deposits refunded	(89,819)
Other investing activities	<u>(2,008,189)</u>
Net cash flow from investing activities	<u>(58,998,455)</u>
<b>CASH FLOW FROM FINANCING ACTIVITIES:</b>	
Proceeds from long-term debt	18,228,356
Repayment of long-term debt	(33,216,284)
Proceeds from notes payable	137,013,934
Repayment of notes payable	(133,543,355)
Other financing activities	<u>369,851</u>
Net cash flow from financing activities	<u>(11,147,498)</u>
<b>CHANGE IN CASH AND EQUIVALENTS</b>	10,080,959
<b>CASH AND EQUIVALENTS - beginning of year</b>	<u>150,327,346</u>
<b>CASH AND EQUIVALENTS - end of year</b>	<u>\$ 160,408,305</u>

See accompanying notes and accountant's compilation report.

# **NYSARC, INC. STATE OFFICE, CHAPTERS AND THEIR AFFILIATES**

## **NOTES TO COMBINED FINANCIAL STATEMENTS**

**DECEMBER 31, 2018**

(See Accountant's Compilation Report)

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### **1. THE ORGANIZATION**

NYSARC, Inc. (NYSARC) is a membership corporation composed of 45 Community Chapters and their affiliates and 6 Developmental Center Chapters (the Chapters) located throughout New York State. NYSARC is governed by a Board of Governors that consists of at least one Governor per Chapter to a maximum of six based on NYSARC membership in the Chapter. The Chapters are unincorporated divisions of NYSARC granted geographic jurisdiction and operating authority by the Board of Governors that provide assistance to persons with intellectual and other developmental disabilities through program services, education and guardianship. NYSARC also fosters research and helps individuals and organizations working with persons with intellectual and other developmental disabilities, while disseminating information to develop a better understanding of and opportunities for persons with intellectual and other developmental disabilities.

NYSARC, Inc. State Office (State Office) is NYSARC's central office that provides oversight responsibilities, on behalf of NYSARC's Board of Governors. The State Office provides the Chapters with technical and financing assistance and advocates on their behalf with New York State funding sources and legislative bodies. The State Office receives the majority of its support from administrative charges assessed on the Chapters.

The Chapters operate programs providing services that include, but are not limited to, sheltered workshop, residential, day treatment, family support, transportation, and respite programs. Developmental Centers advocate for persons that reside or formerly resided in State institutions.

The Chapters receive their revenues primarily by providing the services outlined above through licensed programs certified by New York State Office for People With Developmental Disabilities (OPWDD), Office of Mental Health, State Education Department, and Department of Health.

### **2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

#### **Principles of Combination**

The combined financial statements include the separate financial statements of the State Office and the Community Chapters and their affiliates. On a combined basis, the entities included in these combined financial statements are referred to as "NYSARC." The 6 Developmental Center Chapters are not included because they do not provide program services. All significant intercompany accounts and transactions between the State Office and the Chapters and between the Chapters and their affiliates have been eliminated. Substantially all of the components of NYSARC maintain their books and records on a calendar year, except for the State Office whose year-end is May 31 and the New York City Chapter and its affiliates whose year-end is June 30. The State Office and the New York City Chapter and its affiliates have been included in the combined financial statements utilizing their financial statements for their respective fiscal years ended in 2018.

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

### **Basis of Accounting**

The combined financial statements of NYSARC have been prepared in conformity with accounting principles generally accepted in the United States of America (GAAP).

### **Change in Accounting Principles**

In August 2016, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) 2016-14, *Presentation of Financial Statements of Not-for-Profit Entities*, with the purpose of improving financial reporting by not-for-profit (NFP) entities. ASU 2016-14 includes many changes affecting the presentation and accounting for the Organization's consolidated financial statements including:

- Reducing the number of classes of net assets from three to two (net assets with donor restrictions and net assets without donor restrictions);
- Requiring the presentation of expenses in both natural and functional classifications;
- Requiring qualitative and quantitative disclosure regarding the Organization's liquidity and availability of resources (Note 3).
- Eliminating the requirement to disclose the components of investment return as well as reporting investment return net of external and direct internal investment expenses; and
- Accounting for underwater endowment funds.

ASU 2016-14 is effective for the Organization's year ended December 31, 2018, and was applied retrospectively with the exception of the disclosures regarding liquidity and availability of resources, which are presented for the current year only. The effects of this ASU have been included in these consolidated financial statements. There was no effect on total net assets or change in net assets.

On May 31, 2019, the State Office adopted ASU 2014-09, *amending guidance on "Revenue from Contracts with Customers (Topic 606)"*. The objective of the ASU is to align the recognition of revenue with the transfer of promised goods or services provided to customers in an amount that reflects the consideration which the State Office expects to be entitled in exchange for those goods or services. Policies related to recognition of revenue for the State Office are discussed in Note 2. This ASU replaces most existing revenue recognition guidance under U.S. GAAP. Adoption of this standard did not have a material impact on the revenue recognized by the State Office for the period ending May 31, 2019.

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

### Financial Reporting

NYSARC reports its activities and related net assets using the following net asset categories:

- **Net assets without donor restrictions**

Net assets without donor restrictions include resources available for the support of NYSARC's operating activities. In addition, they include NYSARC's net investment in fixed assets and other sources designated by the Board of Governors for specific purposes.

- **Net assets with donor restrictions**

Net assets with donor restrictions include resources that have been donated to NYSARC subject to restrictions as defined by the donor. These assets are restricted for use in various programs as of December 31, 2018. Net assets with donor restrictions also include resources have been contributed to NYSARC with the stipulation by the donor that the principal is to remain in perpetuity.

### Fair Value of Financial Instruments

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. GAAP provides a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (level 1 measurements) and the lowest priority to unobservable inputs (level 3 measurements). Level 2 inputs consist of other observable inputs other than active markets.

The asset or liability's fair value measurement level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement. Valuation techniques used need to maximize the use of observable inputs and minimize the use of unobservable inputs. Investments are stated at fair value, based on quoted market prices or based on quoted market prices of securities with similar characteristics, as discussed in footnote 5.

NYSARC has financial instruments in the accompanying combined statement of financial position which include investment and debt. The carrying amount of debt approximates fair value based on current rates at which the Chapters could borrow funds with similar remaining maturities and is determined to be a level 2 measurement. Investments are stated at fair value (see footnote 5).

### Endowment

Some of the Chapters have endowment funds that were established by the contributions from donors and consist entirely of donor-restricted investments, as well as endowment funds that were established by the Boards of those Chapters. As required by GAAP, net assets associated with endowment funds are classified and reported based on the existence or absence of donor-imposed restrictions. The governing board of NYSARC has interpreted the applicable provisions of New York Not-for-Profit Corporation Law to mean that the classification of appreciation on endowment gifts with donor-imposed restrictions, beyond the original gift amount, follows the donor's restrictions on the use of the related income (interest and dividends).

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

### Revenue Recognition

NYSARC receives substantially all of its revenue for services provided from third-party reimbursement agencies, primarily OPWDD and Medicaid. Revenue is based on predetermined rates based on cost reimbursement principles and is subject to audit and retroactive adjustment by the respective third-party fiscal intermediaries. Revenue is recognized when NYSARC satisfies their performance obligations under contracts by transferring services to individuals. NYSARC's performance obligations include: providing clinical services, community and day habilitation services, residential services, work programs and family support services and other services to individuals with intellectual and/or other developmental disabilities. The transaction price is based on established charges for services provided. These rates are determined by allowable expenditures in rate setting periods. Fees for service revenue is recognized based on approved rates when NYSARC satisfies their performance obligations under contracts by transferring services to individuals.

NYSARC expects to collect established charges. NYSARC performs an assessment of individuals' ability to pay for the services provided prior to performing services. Based on this, NYSARC determined that there are no implicit price concessions provided to individuals.

Revenue under Medicaid and third-party payor agreements are subject to audit and retroactive adjustment. Provisions for estimated third-party payor settlements are provided in the period the related services are rendered. Settlements with third-party payors for retroactive revenue adjustments due to audits, reviews or investigations are considered variable consideration and are included in the determination of the estimated transaction price for providing services using the most likely outcome method. These settlements are estimated based on the terms of the payment agreement with the payor, correspondence from the payor and historical settlement activity, including an assessment to ensure that it is probable that a significant reversal in the amount of cumulative revenue recognized will not occur when the uncertainty associated with the retroactive adjustment is subsequently resolved. Estimated settlements are adjusted in future periods as adjustments become known (that is, new information becomes available), or as years are settled or are no longer subject to such audits, reviews and investigations. Differences between the estimated amounts accrued and interim and final settlements are reported in operations in the year of settlement.

Laws and regulations governing the Medicaid programs are extremely complex and subject to interpretation. As a result, there is at least a reasonable possibility that recorded estimates will change by a material amount in the near term.

NYSARC recognizes revenue from government grants as revenue when eligible costs are incurred or services performed. A receivable is recognized to the extent revenue earned exceeds cash advances. Conversely, deferred revenue is recorded when cash advances exceed support and revenue earned.

### Cash and Equivalents

Cash and equivalents consist of bank demand deposit accounts and money market accounts which, at times, may exceed federally insured limits. NYSARC has not experienced any losses in such accounts and believes it is not exposed to any significant credit risk with respect to cash and equivalents.

## **2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

### **Government and Other Receivables**

NYSARC provides services that are paid for by third-party payers. Accounts for which no payments have been received for several months are considered delinquent and the account is written-off when customary collection efforts are exhausted. NYSARC records an allowance for doubtful accounts in anticipation of future write-offs. The allowance for doubtful accounts at December 31, 2018 is approximately \$10,058,000 and is based on NYSARC's past experience and a periodic review of outstanding accounts.

### **Investments**

Substantially all investments are stated at fair value. NYSARC invests in various types of investment securities, U.S. government obligations, and corporate bonds. Investments are exposed to various risks, such as interest rate, market, and credit risk. Due to the level of risk associated with certain investments, it is at least reasonably possible that changes in the values of investments will occur in the near term and those changes could materially affect the amounts reported in the accompanying combined financial statements. Interest and dividend income, realized and unrealized gains (losses), net with management fee is included in non-program revenue in the accompanying combined statement of activities and change in net assets.

### **Inventories**

Inventories are valued at the lower of cost, determined using the first-in, first-out method, or market.

### **Property, Plant and Equipment and Depreciation**

Property, plant and equipment are stated at cost if purchased or the fair market value at the date of donation. Depreciation is provided using the straight-line method over the estimated useful lives of the respective assets, which range from two (2) to fifty (50) years. Depreciation expense was approximately \$56,000,000 for the year ended December 31, 2018.

### **Debt Issuance Costs**

Debt issuance costs consist of debt issuance costs associated with various mortgage closings that are being expensed on a straight-line basis over the terms of the related debt agreements. The deferred debt issuance costs at December 31, 2018 were netted against long-term debt on the combined statement of financial position. Interest expense related to the recognition of debt issuance costs was approximately \$445,000 for the year ended December 31, 2018.

### **Net Investments in Affiliates**

NYSARC has recognized 100% of its equity interest in the net assets of its affiliates, which are separately incorporated entities, whose purpose is to promote and support the activities of the respective Chapters.

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

### **Functional Expenses**

The costs of providing various programs and supporting services have been summarized on a functional basis in the consolidated statement of functional expenses. Accordingly, certain costs have been allocated amongst the programs and supporting services benefited. The expenses with the most significant allocations include certain salaries, fringe benefits, maintenance and property related costs, transportation costs, and agency administrative costs. All expenses are allocated in line with acceptable allocation methodologies as described by government funding sources. In addition, all attempts are made to direct charge expenses before allocations are made.

Indirect salary allocations are recorded based on hours charged by program in the payroll system or time studies that are submitted quarterly by applicable personnel. Fringe benefit costs are allocated based on total salaries to each program or cost center. Maintenance and property related costs are allocated using square footage of each program or cost center. Transportation related costs are allocated based upon actual mileage used by program or cost center. Lastly, agency administrative costs are allocated using the ratio value method, which calculates a percentage for each program based on the total costs of the program compared to the Organization's total expenses.

### **Income Taxes**

NYSARC is a New York not-for-profit corporation and is exempt from income taxes under Section 501(c)(3) of the Internal Revenue Code. NYSARC has also been classified by the Internal Revenue Code as an entity that is not a private foundation. The Chapters' affiliates are exempt from income taxes under Section 501(c)(3) or 501(c)(2) of the Internal Revenue Code.

At June 30, 2018, an affiliate of the New York City Chapter had Federal and New York State net operating loss carryforwards from unrelated business activities of approximately \$3,653,000 that expire at various dates through 2036. A valuation allowance has been established to offset the entire potential tax benefit associated with the operating loss carryforwards and all other temporary differences, as it is uncertain if the future tax benefit will be realized.

### **Estimates**

The preparation of combined financial statements in conformity with GAAP requires management to make estimates and assumptions that affect amounts reported in the combined financial statements and accompanying notes. Actual results could differ from those estimates.

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

### Recent Accounting Pronouncements

In February 2016, the FASB issued ASU 2016-02, Leases (Topic 842). The core principles of ASU 2016-02 change the way organizations will account for their leases by recognizing lease assets and related liabilities on the statement of financial position and disclosing key information about leasing arrangements. ASU 2016-02 is effective for the Organization for fiscal years beginning after December 15, 2018. Management is currently evaluating the impact of ASU 2016-02 on the Organization's financial statements.

In June, 2018, the FASB issued ASU 2018-08, Not-for-Profit Entities (Topic 958): Clarifying the Scope and the Accounting Guidance for Contributions Received and Contributions Made. The new guidance is intended to clarify and improve accounting guidance for contributions received and contributions made. The amendments in this ASU should assist entities in (1) evaluating whether transactions should be accounted for as contributions (nonreciprocal transactions) or as exchange (reciprocal) transactions subject to other guidance and (2) determining whether a contribution is conditional. ASU 2018-08 is effective for the Chapter for fiscal years beginning after December 15, 2018. Management is currently evaluating the impact of ASU 2018-08 on the Organization's financial statements.

## 3. LIQUIDITY

The Organization is substantially supported by Medicaid revenue generated by its operations. In addition, some support is received from government grants, donors, and investment earnings. The following reflects the Organization's financial assets as of the statement of financial position date, reduced by amounts not available for general use because of contractual or donor-imposed restrictions within one year of the statement of financial position date.

### Financial assets at December 31, 2018

Cash and equivalents	\$ 160,408,305
Investments	245,144,637
Government and other receivables, net	227,698,407
Restricted deposits and funded reserves	22,377,065
Deposits	<u>2,287,494</u>
Total financial assets	657,915,908

Less: those unavailable for general expenditures within one year, due to:

Restricted deposits and funded reserves	(22,377,065)
Funds with donor restrictions	<u>(23,499,903)</u>

Financial assets available to meet cash need for general expenditure within one year	<u>\$ 612,038,940</u>
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### 3. LIQUIDITY (Continued)

The Organization's ability to meet its cash needs is highly dependent on timely collection of its accounts receivable. The Organization's accounts receivable are due primarily from government funders and third-party payors including Medicaid. Many of these arrangements require the Organization to incur costs in advance and then bill for reimbursements after the cash outlay has been made. The Organization has designed procedures to collect from these payors as quickly as possible. However, timeliness of these payments can sometimes be difficult to predict. Due to this factor, the Organization has lines-of-credit available (see notes 7), which it can draw upon throughout the year. In addition, the Organization could also manage vendor relationships to extend payment terms where possible. The Organization has also built up investment reserves over the years. Should any of the affiliated entities be struggling from a cash flow perspective, they also have the ability to borrow from these investment reserves.

### 4. FAIR VALUE MEASUREMENTS

The following are measured at fair value on a recurring basis at December 31, 2018:

	<u>Level 1 Inputs</u>	<u>Level 2 Inputs</u>	<u>Level 3 Inputs</u>	<u>Total</u>
Mutual funds	\$ 97,901,429	\$ 6,673,459	\$ -	\$ 104,574,888
U.S. government obligations	4,725,731	18,157,692	-	22,883,423
Bonds	20,301,144	12,459,751	52,424	32,813,319
Stock	66,963,294	-	-	66,963,294
Investment in community foundation	-	1,731,879	-	1,731,879
Limited liability company	-	-	3,595,878	3,595,878
	189,891,598	39,022,781	3,648,302	232,562,681
Money Markets & CD's	4,506,710	8,075,246	-	12,581,956
	<u>\$ 194,398,308</u>	<u>\$ 47,098,027</u>	<u>\$ 3,648,302</u>	<u>\$ 245,144,637</u>

The measurement of the fair value of the investments listed above using level 1 inputs considered observable data that is based on the quoted market prices of the shares held at year-end. If quoted market prices are not available, then fair values are estimated using pricing models, quoted prices of securities with similar characteristics, discounted cash flows or the percentage of the fair value of underlying investments and are classified as level 2. The value of the investments using level 3 inputs equals the equity balance in a limited liability company, which approximates the fair value.

The valuation methodologies described previously may produce a fair value calculation that may not be indicative of net realizable value or reflective of future fair values. While NYSARC believes its valuation methods are appropriate and consistent with other market participants, the use of different methodologies or assumptions to determine the fair value of certain financial instruments could result in a different fair value measurement at December 31, 2018.

There were no changes in the valuation techniques during 2018.

## 5. INVESTMENTS

Investments consist of the following at December 31, 2018:

Cash and equivalents	\$	12,581,956
Mutual funds		104,574,888
U.S. government obligations		22,883,423
Bonds		32,813,319
Stock		66,963,294
Investment in Community Foundation		1,731,879
Limited liability company		<u>3,595,878</u>
	\$	<u>245,144,637</u>

## 6. ENDOWMENT

Endowment net asset composition as of December 31, 2018:

	<u>Without donor restrictions</u>	<u>With donor restrictions</u>	<u>Total</u>
Endowment net assets, beginning of the year	\$ 4,272,205	\$ 2,653,699	\$ 6,925,904
Contributions	51,033	-	51,033
Investment income (loss), net	(350,727)	(7,438)	(358,165)
Appropriated for expenditure	<u>(77,801)</u>	<u>(151,428)</u>	<u>(229,229)</u>
Endowment net assets, end of year	<u>\$ 3,894,710</u>	<u>\$ 2,494,833</u>	<u>\$ 6,389,543</u>

### Interpretation of Relevant Law

Each individual Chapter has interpreted the applicable provisions of New York Not-for-Profit Corporation Law to mean that the classification of appreciation on permanently restricted endowment gifts, beyond the original gift amount, follows the donor's restrictions on the use of the related income (interest and dividends) and income is classified as with donor restrictions, if applicable, until appropriated by the Boards for expenditure.

### Funds with Deficiencies

From time to time, the fair value of assets associated with individual donor-restricted endowment funds may fall below the level required by New York Not-for-Profit Corporation Law. There were no such deficiencies as of December 31, 2018.

### Return Objectives, Risk Parameters, Spending Policy and Strategies Employed for Achieving Objectives

Each individual Chapter of NYSARC, which has an endowment fund, has established its own investment policy for endowment funds. These investment policies may include the establishment of a risk return objective, risk parameters, a spending policy or a strategy for achieving long-term rate objectives.

## 7. FINANCING ARRANGEMENTS

### Long-Term Debt

Mortgages and other financing arrangements with state and local government agencies including, but not limited to, the Medical Care Facilities Finance Agency, Local Industrial Development Agencies, New York State Urban Development Corporation, and the New York State Dormitory Authority, payable in monthly and semi-annual installments, including interest ranging from 1.35% to 7.08%, maturing at various dates through August 2041, collateralized by specific real property, accounts receivable and revenues related to the real property. \$ 108,404,953

Mortgages due to United States Department of Housing and Urban Development, payable in monthly installments, including interest ranging from 8.38% to 9.25%, maturing at various dates through 2031, collateralized by specific real property. 6,576,115

Mortgages due to various banks and other lending institutions, payable in monthly and semi-annual installments including interest ranging from 1.03% to 10.75%, maturing at various dates through 2043, collateralized by specific real property. 43,484,951

Other term loans due to various banks and other lending institutions, payable in monthly installments, including interest ranging from 0.00% to 8.72%, maturing at various dates through 2043, collateralized by equipment, vehicles and other specific assets. 25,865,433

184,331,452

Less unamortized debt issuance cost (1,625,227)  
Plus unamortized premiums 2,662,244

Long term debt, net \$ 185,368,469

Maturities of long-term debt are as follows:

2019	\$ 33,911,334
2020	26,839,845
2021	22,823,770
2022	15,614,991
2023	11,714,649
Thereafter	<u>73,426,863</u>
	<u>\$ 184,331,452</u>

**7. FINANCING ARRANGEMENTS (Continued)**

**Notes Payable**

NYSARC has agreements with various banks for lines-of-credit. Interest on the lines-of-credit range from less than prime rate to prime plus 1.5%. The lines are secured by receivables and other assets. The total potential borrowing under these lines-of-credit is approximately \$186,000,000 of which approximately \$27,000,000 is outstanding at December 31, 2018.

**Debt Covenants**

In connection with its financing arrangements, NYSARC and the Chapters are subject to various debt covenants. As of December 31, 2018, NYSARC and the Chapters were in compliance with these covenants.

**8. SUPPLEMENTAL CASH FLOW INFORMATION**

Interest paid during 2018 under the terms of all financing arrangements and interest expense for the year ended December 31, 2018 was approximately \$7,670,000.

**9. OPERATING LEASES**

NYSARC leases vehicles, equipment and facilities under various lease agreements. Rent expense related to non-cancellable leases was approximately \$41,800,000 during 2018. Future minimum rental payments under these lease agreements are as follows:

2019	\$ 32,207,918
2020	24,206,132
2021	19,005,808
2022	15,859,033
2023	11,582,827
Thereafter	<u>9,255,972</u>
	<u>\$ 112,117,690</u>

**10. RETIREMENT PLANS**

NYSARC has adopted numerous retirement plans covering its employees. These plans include defined contribution, defined benefit and tax-deferred annuity plans. Total pension expense incurred by the State Office and the Chapters was approximately \$27,300,000 for the year ended December 31, 2018.

## 10. RETIREMENT PLANS (Continued)

The following information sets forth the funded status of the Defined Benefit Plans and amounts recognized in the NYSARC financial statements at December 31, 2018:

Projected benefit obligation	\$(30,627,437)
Fair value of plan assets	<u>21,271,816</u>
Funded status	<u>\$(9,355,621)</u>
Employer contributions	\$ 725,163
Benefits paid	\$ 541,758

As of December 31, 2018, the following amounts were recognized in the combined statement of financial position and included with participant funds and other noncurrent liabilities:

As a current liability	\$ -
As a non-current liability	<u>9,355,621</u>
	<u>\$ 9,355,621</u>

Amounts recognized in the combined statement of activities and change in net assets, included in non-program revenue, consists of the following:

Net periodic benefit cost/expense	\$ 137,012
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Significant actuarial assumptions used in the pension valuations are as follows:

Discount rates ranged from	4.08% - 4.15%
Projected rate of increase in compensation levels	N/A
Expected long-term rate of return on plan assets ranged from	6.40% - 7.00%

Fair value of the plan assets are as follows as of December 31, 2018:

	<u>Level 1 Inputs</u>	<u>Level 2 Inputs</u>	<u>Level 3 Inputs</u>	<u>Total</u>
Money market funds	\$ 182,107	\$ -	\$ -	\$ 182,107
Mutual funds	4,273,660	-	-	4,273,660
Exchange traded funds	7,098,403	-	-	7,098,403
Corporate bonds	8,567,461	212,277	-	8,779,738
Government obligations	<u>937,908</u>	<u>-</u>	<u>-</u>	<u>937,908</u>
	<u>\$ 21,059,539</u>	<u>\$ 212,277</u>	<u>\$ -</u>	<u>\$ 21,271,816</u>

Estimated future benefit payments are expected as follows:

2019	\$ 1,356,845
2020	\$ 1,322,132
2021	\$ 1,432,182
2022	\$ 1,490,280
2023	\$ 1,564,926
Succeeding five years	\$ 8,503,887

## **11. POSTEMPLOYMENT BENEFIT PLANS**

NYSARC has several postemployment benefit plans. The total post-employment benefit expense incurred by the State Office and the Chapters was approximately \$186,000 for the year ended December 31, 2018.

## **12. COMMITMENTS AND CONTINGENCIES**

### **Compliance with Funding Sources**

Service providers that are funded by Medicaid and OPWDD have become the subject of increased scrutiny with respect to reimbursements they have received for service provision. Specific areas often reviewed by Medicaid and OPWDD auditors include appropriate billing practices, technical regulatory compliance, etc. The stated purpose for these reviews is to recover inappropriate reimbursements. The Chapters are subject to these reviews and rate adjustments that may have an effect on the revenues and net asset balances of the Chapters. Management of the Chapters does not expect these adjustments, if any, to have a material effect on these or their individual financial statements.

### **Litigation**

Some of the Chapters are involved in lawsuits related to employment issues and injuries sustained on Chapter program properties. All such lawsuits appear to be adequately covered by insurance; however, the amount of awards and judgments cannot be determined at this time.

NYSARC by virtue of its corporate structure and relationship to the Chapters, holds title as nominee to various Chapter assets and is directly obligated under certain of the related Chapter mortgage agreements and, accordingly, NYSARC, including the State Office, could be contingently liable in the event of default. Additionally, many of the Chapters have established holding companies, which hold title to property. Some of these affiliates, but not all, have related mortgage and lease obligations to which NYSARC could also be contingently liable in the event of default on those mortgages.

### **Workers' Compensation Reserve**

Several Chapters are or have been participants in self-insurance trusts (Trusts) with other unrelated not-for-profit organizations that provide workers' compensation benefits. Under the terms of the Trusts, the Chapters make annual contributions to the Trusts based on reported wages paid to the employees, using a rate-based formula. Based on actual claim experience, the Chapters could receive refunds or be assessed additional amounts related to workers' compensation premiums. Under the Trust agreements, each participating organization has joint and several liability for Trust obligations.

In December 2017, the trustees of the Trust approved the purchase of an Assumption of Liability Policy (ALP), which was approved by the New York State Worker's Compensation Board (NYSWCB) in March 2018, and will transfer all of the Trust's remaining open claims to a third party insurance carrier, without recourse to the NYWCB or the Trust members.

In connection with the terms of the ALP, the Administrator of the Trust determined the estimated unfunded liability associated with the open claims at the time the ALP will be finalized. The Administrator also allocated the unfunded liability to each member based on a formula approved by the Trustees.

### **Commitments**

Several Chapters have entered into contracts and committed resources to the acquisition of property for program services. This is part of the on-going program development in which the Chapters are engaged.

## **12. COMMITMENTS AND CONTINGENCIES (Continued)**

### **NYSARC, Inc. Contingencies**

Several Chapters are participants in the Dormitory Authority of the State of New York (DASNY) bond program. Prior to the 2009A series bonds, security for the tax-exempt bonds was the pledged revenue of the participating Chapters and, for individual loans in excess of a \$3 million, a mortgage on the financed property. For the 2009A and subsequent bond series, in addition to pledging revenues, participating Chapters were required to mortgage all real property associated with the financed projects. Pledged revenues consist of all public funds, payable to NYSARC and its participating Chapters, by the federal government, receipts, revenues, income, gifts, grants, assistance, bequests, and other monies; whether now owned or to be received in the future while these bonds are outstanding; excluding any gifts, grants, or bequests received subject to restrictions upon the use that is inconsistent with the pledging of said amounts as collateral.

Furthermore, on behalf of the participating Chapters, NYSARC has entered into an agreement with DASNY to permit DASNY to execute a certificate of Medicaid receipts intercept with OPWDD in the event of default on the bonds. As of December 31, 2018, DASNY has not issued such a certificate to OPWDD.

## **13. SUBSEQUENT EVENTS**

Subsequent events have been evaluated through November 11, 2019, which is the date the combined financial statements were issued.

NYSARC, INC. STATE OFFICE, CHAPTERS AND THEIR AFFILIATES

Exhibit I

COMBINING STATEMENT OF FINANCIAL POSITION  
DECEMBER 31, 2018

	Total	Eliminations	Office	Allegany	Broome- Chenango- Tioga	Cattaraugus- Niagara	Chautauqua	Chemung	Clinton	Columbia	Delaware
<b>ASSETS</b>											
<b>CURRENT ASSETS:</b>											
Cash and equivalents	\$ 160,408,305	\$ -	\$ 2,606,889	\$ 251,989	\$ 1,143,671	\$ 2,492,318	\$ 9,550	\$ 2,968,793	\$ 3,963,292	\$ 1,290,776	\$ 1,975,900
Investments	245,144,637	-	4,281,125	1,686,727	3,776,101	1,755,168	2,326,562	1,395,940	2,870,770	1,222,063	10,193,637
Current portion restricted deposits and funded reserves	426,318	-	-	-	-	-	-	-	-	-	-
Government receivables, net	214,795,378	-	-	1,459,068	4,178,133	6,384,566	13,688,516	2,261,189	3,720,912	2,638,075	1,336,353
Other receivables, net	12,820,935	(82,094)	450,907	1,734,439	10,000	351,055	-	-	-	-	-
Inventories	10,130,346	-	-	1,430,841	177,912	35,599	3,215,484	13,024	130,180	453,159	19,092
Prepaid expenses and other assets	22,070,891	-	105,144	132,212	129,660	145,218	894,194	25,315	98,286	262,970	82,063
Deposits	2,287,494	-	-	-	-	-	-	1,687,332	-	-	-
Total current assets	668,084,304	(82,094)	7,444,065	6,695,276	9,415,477	11,163,924	20,134,306	8,351,593	10,783,440	5,867,043	13,607,045
<b>PROPERTY, PLANT AND EQUIPMENT:</b>											
Land	118,722,975	-	-	295,379	1,211,214	14,669,610	462,240	237,370	2,507,819	506,708	167,600
Buildings and leasehold improvements	818,237,881	-	62,989	6,041,941	19,434,253	1,633,956	33,784,666	8,313,012	17,448,087	14,908,489	5,924,160
Furniture, fixtures and equipment	182,853,300	-	1,741,720	2,070,656	1,362,821	3,043,821	10,441,509	767,356	2,955,719	8,288,710	3,696,691
Vehicles	119,556,392	-	102,577	2,689,304	2,819,052	2,825,555	1,305,152	1,121,491	4,761,606	-	-
Construction-in-progress	16,640,540	-	-	125,242	370,495	-	134,817	-	22,574	-	-
	1,256,011,088	-	1,907,286	11,222,522	25,197,745	22,848,435	46,128,384	10,439,229	27,695,805	23,703,907	9,788,451
Less: Accumulated depreciation	(837,686,588)	-	(1,679,037)	(8,980,096)	(13,388,411)	(19,239,615)	(34,980,565)	(8,604,930)	(18,598,624)	(18,159,918)	(6,967,343)
Total property, plant and equipment	418,324,500	-	228,249	2,242,426	11,809,334	3,608,820	11,147,819	1,834,299	9,097,181	5,543,989	2,821,108
<b>OTHER ASSETS:</b>											
Restricted deposits and funded reserves, net of current portion	21,950,747	-	2,783,827	6,750	96,917	204,627	604,528	231,474	613,860	105,849	-
Deferred charges	1,536,625	-	-	-	-	-	-	-	-	-	-
Furniture, fixtures and other noncurrent assets	31,139,242	-	7,299,465	197,862	1,311,833	668,886	-	108,095	80,510	-	-
Net investments in affiliates	31,685,893	-	-	-	-	257,948	-	-	165,353	-	-
Total other assets	86,312,507	-	10,083,292	204,612	1,408,750	1,131,461	604,528	339,569	859,723	105,849	-
	\$ 1,172,721,311	\$ (82,094)	\$ 17,755,606	\$ 9,142,314	\$ 22,633,561	\$ 15,904,205	\$ 31,886,653	\$ 10,525,461	\$ 20,740,344	\$ 11,516,881	\$ 16,428,153
<b>LIABILITIES AND NET ASSETS</b>											
<b>CURRENT LIABILITIES:</b>											
Current installments of long-term debt	\$ 33,911,334	\$ -	\$ 31,172	\$ 281,851	\$ 1,320,987	\$ 474,097	\$ 840,480	\$ 131,682	\$ 521,904	\$ 590,300	\$ 145,504
Notes payable	24,901,339	-	-	-	-	2,070,000	-	-	1,083,229	-	379,603
Accounts payable	48,523,159	-	943,554	312,261	602,405	1,230,847	2,264,772	305,634	1,930,806	463,569	277,862
Accrued expenses and taxes	120,814,516	-	543,708	761,236	1,155,764	-	-	1,348,310	2,583,354	924,638	372,993
Current portion of amounts due to governmental agencies	10,325,765	-	-	-	122,505	-	-	156,551	544,420	111,552	-
Current portion of deferred revenue and refundable advances	4,232,358	-	13,370	146,424	-	-	-	-	17,000	-	-
Other current liabilities	14,402,701	(82,094)	-	23,712	6,977	1,599,597	9,525,910	-	-	-	-
Total current liabilities	257,111,172	(82,094)	1,531,804	1,525,484	3,208,638	5,374,541	13,714,391	1,942,177	5,977,087	2,090,059	796,359
LONG-TERM DEBT, net, net of current portion	151,457,135	-	-	647,357	2,148,778	457,772	2,712,000	218,742	1,327,624	3,440,560	537,818
<b>OTHER NONCURRENT LIABILITIES:</b>											
Due to governmental agencies, net of current portion	2,621,420	-	-	-	-	73,646	-	-	-	-	-
Deferred revenue and refundable advances, net of current portion	21,244,537	-	-	-	-	-	-	-	-	-	-
Participant funds and other noncurrent liabilities	36,545,063	-	9,750,873	250,440	1,286,159	684,156	483,327	-	467,907	62,942	-
Total other noncurrent liabilities	60,411,020	-	9,750,873	250,440	1,286,159	757,802	483,327	-	467,907	62,942	-
Total liabilities	468,979,327	(82,094)	11,282,677	2,423,281	6,643,575	6,590,115	16,909,718	2,160,919	7,772,618	5,593,561	1,334,177
<b>NET ASSETS:</b>											
With donor restrictions	23,499,903	-	9,897	-	114,801	260,134	16,849	-	31,066	-	-
Without donor restrictions	680,242,081	-	6,463,032	6,719,033	15,875,185	9,053,596	14,960,086	8,364,542	12,936,660	5,923,320	15,093,976
Total net assets	703,741,984	-	6,472,929	6,719,033	15,989,986	9,314,090	14,976,935	8,364,542	12,967,726	5,923,320	15,093,976
	\$ 1,172,721,311	\$ (82,094)	\$ 17,755,606	\$ 9,142,314	\$ 22,633,561	\$ 15,904,205	\$ 31,886,653	\$ 10,525,461	\$ 20,740,344	\$ 11,516,881	\$ 16,428,153

See accountant's compilation report.

## NYSARC, INC. STATE OFFICE, CHAPTERS AND THEIR AFFILIATES

COMBINING STATEMENT OF FINANCIAL POSITION  
DECEMBER 31, 2018

(Continued)

	Dutchess	Erie	Essex	Franklin-Hamilton	Fulton	Herkimer	Jefferson	Livingston-Wyoming	Madison-Cortland	Monroe	Montgomery	Nassau
<b>ASSETS</b>												
<b>CURRENT ASSETS:</b>												
Cash and equivalents	\$ 211,747	\$ 3,733,880	\$ 3,562,004	\$ 2,904,027	\$ 7,584,275	\$ 1,294,682	\$ 9,403,157	\$ 1,994,371	\$ 2,766,970	\$ 7,513,359	\$ 2,495,016	\$ 23,310,415
Investments	355,212	1,000,026	14,629,832	-	3,548,182	748,929	26,339,021	434,126	1,298,264	4,529,969	42,119,012	60,029,992
Current portion restricted deposits and funded reserves	-	-	-	-	-	-	-	-	-	-	-	-
Government receivables, net	1,919,151	5,891,516	4,448,820	2,319,519	8,120,000	2,314,926	6,369,823	4,856,004	2,434,624	5,136,130	6,321,908	11,969,802
Other receivables, net	2,000	68,330	-	-	761,889	29,628	59,500	3,000	-	82,648	1,323,920	2,994,234
Inventories	-	12,434	622,008	-	227,420	408,707	524,720	99,976	48,467	-	889,674	-
Prepaid expenses and other assets	226,681	283,532	804,331	7,037	441,598	210,653	33,474	168,771	92,157	88,558	1,005,051	2,034,067
Deposits	-	-	-	57,305	-	-	-	145,573	28,846	-	-	-
Total current assets	2,714,791	10,989,718	24,066,995	5,287,888	20,683,364	5,007,525	42,729,695	7,701,821	6,669,328	17,350,664	54,154,581	100,338,510
<b>PROPERTY, PLANT AND EQUIPMENT:</b>												
Land	1,222,819	1,628,873	-	294,054	2,314,831	675,276	449,943	785,851	469,414	1,081,476	32,464,729	1,837,872
Buildings and leasehold improvements	13,097,296	19,667,119	30,284,570	7,036,810	34,790,129	18,691,887	12,730,841	11,904,688	11,774,010	17,812,678	740,250	32,948,945
Furniture, fixtures and equipment	2,814,115	3,661,286	-	976,602	7,277,422	5,311,760	3,933,473	2,896,711	2,351,079	1,580,965	15,552,437	11,965,833
Vehicles	3,394,180	2,156,414	3,622,949	2,953,279	9,934,854	4,009,614	1,848,755	6,199,347	2,097,834	5,489,534	-	-
Construction-in-progress	316,484	615,949	-	-	-	90,846	-	-	8,576	-	182,911	-
	20,844,894	27,729,641	33,907,519	11,260,745	54,317,236	28,779,383	19,079,793	21,786,597	16,700,913	25,964,653	48,940,327	46,752,650
Less: Accumulated depreciation	(14,316,509)	(11,907,735)	(25,029,857)	(7,430,365)	(38,563,720)	(17,726,995)	(15,580,819)	(13,317,123)	(11,212,579)	(17,128,286)	(35,004,698)	(25,717,676)
Total property, plant and equipment	6,528,385	15,821,906	8,877,662	3,830,380	15,753,516	11,052,388	3,499,174	8,469,474	5,488,334	8,836,367	13,935,629	21,034,974
<b>OTHER ASSETS:</b>												
Restricted deposits and funded reserves, net of current portion	170,988	245,499	564,194	-	2,414,471	386,647	11,205	101,531	38,726	237,493	271,254	2,793,047
Deferred charges	-	-	-	-	-	-	40,000	-	-	-	-	-
Participant funds and other noncurrent assets	184,106	154,473	104,549	219,475	531,372	192,695	279,406	75,862	838,038	300,065	1,266,589	-
Net investments in affiliates	-	-	-	34,875	9,569,594	-	-	-	-	192,078	18,176	8,429,224
Total other assets	355,094	399,972	668,743	254,350	12,515,437	579,342	330,811	177,393	876,764	729,636	1,556,019	11,222,271
	\$ 9,598,270	\$ 27,211,596	\$ 33,613,400	\$ 9,372,618	\$ 48,952,317	\$ 16,639,255	\$ 46,559,480	\$ 16,348,688	\$ 13,034,426	\$ 26,916,667	\$ 69,646,229	\$ 132,595,755
<b>LIABILITIES AND NET ASSETS</b>												
<b>CURRENT LIABILITIES:</b>												
Current installments of long-term debt	\$ 660,095	\$ 459,258	\$ 568,016	\$ 382,929	\$ 3,035,700	\$ 685,634	\$ 28,234	\$ 1,177,064	\$ 550,323	\$ 1,172,904	\$ 2,288,714	\$ -
Notes payable	790,000	-	-	-	-	-	-	-	-	601,525	1,800,000	-
Accounts payable	412,034	965,617	1,040,075	310,369	1,184,598	620,283	521,202	680,518	277,636	1,219,939	1,422,630	5,863,391
Accrued expenses and taxes	764,912	3,120,801	2,403,923	1,849,262	6,043,631	2,071,856	4,158,789	1,084,091	1,390,189	3,370,817	4,949,798	8,725,518
Current portion of amounts due to governmental agencies	-	-	10,155	26,104	428,096	418,568	571,185	148,239	27,728	459,089	8,049	1,008,689
Current portion of deferred revenue and refundable advances	23,020	248,881	119,692	119,408	184,509	305,694	-	-	-	-	-	-
Other current liabilities	-	-	341,470	-	-	-	-	-	-	6,500	-	-
Total current liabilities	2,650,061	4,794,557	4,483,331	2,688,072	10,876,534	4,102,035	5,279,410	3,089,912	2,245,876	6,830,774	10,469,191	15,597,598
LONG-TERM DEBT, net, net of current portion	2,473,992	4,450,199	2,742,725	2,152,336	4,033,024	1,869,041	230,270	4,544,424	1,811,777	2,341,408	3,845,049	-
<b>OTHER NONCURRENT LIABILITIES:</b>												
Due to governmental agencies, net of current portion	-	-	-	-	-	329,169	-	-	83,822	-	-	-
Deferred revenue and refundable advances, net of current portion	1,146	-	-	-	-	269,173	-	-	-	-	719,262	13,806,070
Participant funds and other noncurrent liabilities	271,674	42,758	-	-	531,372	112,584	6,952,428	-	550,867	3,204,709	488,074	2,367,462
Total other noncurrent liabilities	272,820	42,758	-	-	531,372	710,926	6,952,428	-	634,689	3,204,709	1,207,336	16,173,532
Total liabilities	5,396,873	9,287,514	7,226,056	4,840,408	15,440,930	6,682,002	12,462,108	7,634,336	4,692,342	12,376,891	15,521,576	31,771,130
<b>NET ASSETS:</b>												
With donor restrictions	-	271,921	-	-	9,587,625	189,803	256,889	12,810	-	1,035,965	-	5,964,359
Without donor restrictions	4,201,397	17,652,161	26,387,344	4,532,210	23,923,762	9,767,450	33,840,483	8,701,542	8,342,084	13,503,811	54,124,653	94,860,266
Total net assets	4,201,397	17,924,082	26,387,344	4,532,210	33,511,387	9,957,253	34,097,372	8,714,352	8,342,084	14,539,776	54,124,653	100,824,625
	\$ 9,598,270	\$ 27,211,596	\$ 33,613,400	\$ 9,372,618	\$ 48,952,317	\$ 16,639,255	\$ 46,559,480	\$ 16,348,688	\$ 13,034,426	\$ 26,916,667	\$ 69,646,229	\$ 132,595,755

See accountant's compilation report.

## NYSARC, INC. STATE OFFICE, CHAPTERS AND THEIR AFFILIATES

COMBINING STATEMENT OF FINANCIAL POSITION  
DECEMBER 31, 2018

(Continued)

	New York City	Niagara	North County MSO	Oneida- Lewis	Onondaga	Ontario	Orange	Genesee- Orleans	Oswego	Otsego	Putnam	Rensselaer
<b>ASSETS</b>												
<b>CURRENT ASSETS:</b>												
Cash and equivalents	\$ 5,711,302	\$ 1,435,918	\$ 968,409	\$ 6,479,645	\$ 4,230,670	\$ 2,756,026	\$ 3,828,000	\$ 1,578,573	\$ 1,196,053	\$ 1,785,366	\$ 390,199	\$ 4,602,920
Investments	8,923,975	310,666	-	6,339,550	2,322,350	3,195,888	-	2,394,170	-	-	-	413,559
Current portion restricted deposits and funded reserves	120,015	-	-	-	-	-	-	-	-	-	-	-
Government receivables, net	29,544,540	2,472,966	-	3,730,090	3,850,368	1,700,349	4,436,903	3,398,373	197,489	1,915,258	2,269,010	4,354,068
Other receivables, net	1,008,844	-	487,480	821,902	-	554,476	-	-	-	-	-	-
Inventories	-	16,624	-	246,971	-	87,212	-	-	-	54,368	-	165,406
Prepaid expenses and other assets	5,122,404	306,502	70,176	387,296	344,734	400,406	292,432	65,900	11,285	157,708	240,746	2,448
Deposits	-	-	-	-	-	-	-	-	-	-	-	-
Total current assets	<u>50,431,080</u>	<u>4,542,676</u>	<u>1,526,065</u>	<u>18,005,454</u>	<u>10,748,122</u>	<u>8,694,357</u>	<u>8,557,335</u>	<u>7,437,016</u>	<u>1,404,827</u>	<u>3,912,700</u>	<u>2,899,955</u>	<u>9,538,401</u>
<b>PROPERTY, PLANT AND EQUIPMENT:</b>												
Land	13,384,643	579,941	-	797,851	361,549	15,484,551	1,081,298	457,028	-	531,853	1,976,047	290,987
Buildings and leasehold improvements	123,770,094	14,075,272	-	11,121,086	9,180,756	-	20,608,267	10,890,899	21,185	8,489,519	15,036,427	10,581,806
Furniture, fixtures and equipment	20,234,686	2,275,104	169,055	2,112,568	1,996,941	1,144,391	3,969,087	3,507,078	66,340	978,728	1,196,569	2,181,740
Vehicles	90,599	2,828,599	-	1,747,128	98,864	4,655,915	4,620,022	-	38,499	2,468,626	2,112,577	1,067,278
Construction-in-progress	<u>7,299,130</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>212,996</u>	<u>52,389</u>	<u>12,550</u>	<u>-</u>	<u>-</u>	<u>70,942</u>	<u>140,720</u>	<u>-</u>
Less: Accumulated depreciation	(86,627,565)	(16,831,036)	(169,055)	(15,778,633)	(11,851,106)	(21,337,246)	(30,291,224)	(14,855,005)	(126,024)	(12,539,668)	(20,462,340)	(14,121,811)
Total property, plant and equipment	<u>78,151,587</u>	<u>2,927,880</u>	<u>50,717</u>	<u>6,230,092</u>	<u>3,029,190</u>	<u>5,497,698</u>	<u>7,336,703</u>	<u>4,031,537</u>	<u>6,817</u>	<u>2,444,849</u>	<u>7,471,660</u>	<u>3,916,774</u>
<b>OTHER ASSETS:</b>												
Restricted deposits and funded reserves, net of current portion	3,365,815	60,718	-	-	182,827	43,747	404,969	452,448	-	51,342	572,727	404,477
Deferred charges	-	-	-	27,985	-	116,040	-	-	-	-	-	-
Participant funds and other noncurrent assets	3,323,954	412,830	570,452	72,920	514,984	255,847	158,961	75,862	20,000	70,500	379,316	319,228
Net investments in affiliates	7,445,834	-	-	51,111	344,761	-	-	-	-	-	-	-
Total other assets	<u>14,135,603</u>	<u>473,548</u>	<u>570,452</u>	<u>152,016</u>	<u>1,042,572</u>	<u>415,634</u>	<u>563,930</u>	<u>528,310</u>	<u>20,000</u>	<u>121,842</u>	<u>952,043</u>	<u>723,705</u>
	<u>\$ 142,718,270</u>	<u>\$ 7,944,104</u>	<u>\$ 2,147,234</u>	<u>\$ 24,387,562</u>	<u>\$ 14,819,884</u>	<u>\$ 14,607,689</u>	<u>\$ 16,457,968</u>	<u>\$ 11,996,863</u>	<u>\$ 1,431,644</u>	<u>\$ 6,479,391</u>	<u>\$ 11,323,658</u>	<u>\$ 14,178,880</u>
<b>LIABILITIES AND NET ASSETS</b>												
<b>CURRENT LIABILITIES:</b>												
Current installments of long-term debt	\$ 4,226,095	\$ 520,078	\$ 66,104	\$ 513,132	\$ 212,993	\$ 580,718	\$ 1,064,759	\$ 433,050	\$ -	\$ 258,221	\$ 830,390	\$ 155,813
Notes payable	7,500,000	2,070,000	-	-	-	-	1,250,000	-	-	-	1,562,689	-
Accounts payable	10,657,009	310,673	89,641	857,520	678,679	597,136	661,716	432,020	29,864	574,664	556,300	299,617
Accrued expenses and taxes	29,545,754	1,763,463	747,266	3,232,160	1,821,165	1,827,874	2,284,315	1,067,938	16,022	965,188	1,748,049	2,036,484
Current portion of amounts due to governmental agencies	1,750,000	164,440	-	-	319,624	-	-	-	-	-	-	161,932
Current portion of deferred revenue and refundable advances	931,119	-	-	610,380	333	126,075	23,968	180,265	37,652	93,709	-	78,916
Other current liabilities	-	-	-	302,920	-	39,103	-	13,736	42,974	-	-	575,517
Total current liabilities	<u>54,609,977</u>	<u>4,828,654</u>	<u>903,011</u>	<u>5,516,112</u>	<u>3,032,794</u>	<u>3,170,906</u>	<u>5,284,758</u>	<u>2,127,009</u>	<u>126,512</u>	<u>1,891,782</u>	<u>4,697,428</u>	<u>3,308,279</u>
LONG-TERM DEBT, net, net of current portion	<u>45,594,229</u>	<u>795,057</u>	<u>95,337</u>	<u>1,748,387</u>	<u>970,276</u>	<u>1,043,180</u>	<u>2,024,435</u>	<u>2,309,470</u>	<u>-</u>	<u>404,899</u>	<u>5,076,257</u>	<u>426,156</u>
<b>OTHER NONCURRENT LIABILITIES:</b>												
Due to governmental agencies, net of current portion	-	-	-	-	-	476,316	757,383	-	-	-	171,978	-
Deferred revenue and refundable advances, net of current portion	-	-	-	-	-	-	-	54,000	-	-	-	-
Participant funds and other noncurrent liabilities	<u>2,535,621</u>	<u>367,277</u>	<u>1,060,220</u>	<u>516,422</u>	<u>649,178</u>	<u>155,138</u>	<u>147,861</u>	<u>34,812</u>	<u>-</u>	<u>70,500</u>	<u>349,851</u>	<u>399,349</u>
Total other noncurrent liabilities	<u>2,535,621</u>	<u>367,277</u>	<u>1,060,220</u>	<u>516,422</u>	<u>649,178</u>	<u>631,454</u>	<u>905,244</u>	<u>88,812</u>	<u>-</u>	<u>70,500</u>	<u>521,829</u>	<u>399,349</u>
Total liabilities	<u>102,739,827</u>	<u>5,990,988</u>	<u>2,058,568</u>	<u>7,780,921</u>	<u>4,652,248</u>	<u>4,845,540</u>	<u>8,214,437</u>	<u>4,525,291</u>	<u>126,512</u>	<u>2,367,181</u>	<u>10,295,514</u>	<u>4,133,784</u>
<b>NET ASSETS:</b>												
With donor restrictions	1,450,000	62,904	-	-	446,295	114,504	-	645,263	-	-	65,596	50,000
Without donor restrictions	38,528,443	1,890,212	88,666	16,606,641	9,721,341	9,647,645	8,243,531	6,826,309	1,305,132	4,112,210	962,548	9,995,096
Total net assets	<u>39,978,443</u>	<u>1,953,116</u>	<u>88,666</u>	<u>16,606,641</u>	<u>10,167,636</u>	<u>9,762,149</u>	<u>8,243,531</u>	<u>7,471,572</u>	<u>1,305,132</u>	<u>4,112,210</u>	<u>1,028,144</u>	<u>10,045,096</u>
	<u>\$ 142,718,270</u>	<u>\$ 7,944,104</u>	<u>\$ 2,147,234</u>	<u>\$ 24,387,562</u>	<u>\$ 14,819,884</u>	<u>\$ 14,607,689</u>	<u>\$ 16,457,968</u>	<u>\$ 11,996,863</u>	<u>\$ 1,431,644</u>	<u>\$ 6,479,391</u>	<u>\$ 11,323,658</u>	<u>\$ 14,178,880</u>

See accountant's compilation report.

## NYSARC, INC. STATE OFFICE, CHAPTERS AND THEIR AFFILIATES

COMBINING STATEMENT OF FINANCIAL POSITION  
DECEMBER 31, 2018

(Continued)

	Rockland	St. Lawrence	Saratoga	Schenectady	Schoharie	Schuyler	Seneca-Cayuga	Steuben	Suffolk	Sullivan	Ulster-Greene	Warren-Washington-Albany
<b>ASSETS</b>												
<b>CURRENT ASSETS:</b>												
Cash and equivalents	\$ 829,820	\$ 4,069,613	\$ 2,009,891	\$ 115,388	\$ 659,778	\$ 1,441,976	\$ 981,692	\$ 1,912,512	\$ 4,894,901	\$ 3,909,412	\$ 5,791,609	\$ 4,054,486
Investments	4,198,586	2,408,446	1,112,798	2,145,042	488,854	3,337,213	1,115,080	3,321,048	68,980	972,524	8,173,264	1,364,516
Current portion restricted deposits and funded reserves	-	-	-	306,303	-	-	-	-	-	-	-	-
Government receivables, net	4,169,883	3,099,106	2,456,092	2,746,607	1,821,844	1,554,456	2,274,165	2,521,566	8,615,795	3,848,603	7,873,325	3,822,580
Other receivables, net	-	11,153	-	-	502,892	31,801	-	-	-	1,612,931	-	-
Inventories	-	174,419	-	-	146,394	5,168	760,341	85,273	-	-	72,883	-
Prepaid expenses and other assets	220,310	292,833	650,432	474,515	140,628	170,095	184,281	60,011	1,870,664	353,050	563,187	223,038
Deposits	-	112,122	-	-	221,663	-	-	-	-	-	-	-
Total current assets	9,418,599	10,167,692	6,229,213	5,787,855	3,982,053	6,540,709	5,315,559	7,900,410	15,450,340	10,769,403	22,401,385	9,464,620
<b>PROPERTY, PLANT AND EQUIPMENT:</b>												
Land	4,649,069	1,099,694	1,227,406	1,506,221	825,526	311,816	831,202	141,000	2,230,717	609,362	1,298,120	900,465
Buildings and leasehold improvements	22,983,915	11,487,816	21,771,208	16,406,123	6,285,799	6,701,431	14,485,457	11,008,117	29,411,170	27,875,131	33,900,388	23,367,787
Furniture, fixtures and equipment	5,651,623	1,380,475	2,937,663	4,511,233	1,214,120	1,768,731	4,511,581	2,128,347	6,376,116	2,599,090	5,425,774	2,629,280
Vehicles	470,495	3,685,642	6,221,690	4,704,552	2,143,279	1,229,827	-	2,245,034	3,575,455	4,959,413	6,326,654	5,164,692
Construction-in-progress	110,542	-	-	-	4,975	83,379	229,359	-	-	103,116	1,375,769	89,367
	33,865,644	17,653,627	32,157,967	27,128,129	10,473,699	10,095,184	20,057,599	15,522,498	41,593,458	36,146,112	48,326,705	32,151,591
Less: Accumulated depreciation	(21,365,875)	(14,327,112)	(21,342,971)	(22,098,233)	(6,212,451)	(8,147,696)	(12,871,793)	(10,448,946)	(31,064,126)	(26,245,973)	(28,966,788)	(22,874,128)
Total property, plant and equipment	12,499,769	3,326,515	10,814,996	5,029,896	2,261,248	1,947,488	7,185,806	5,073,552	10,529,332	9,900,139	19,359,917	9,277,463
<b>OTHER ASSETS:</b>												
Restricted deposits and funded reserves, net of current portion	212,894	75,945	700,418	218,050	219,042	50	411,125	371,268	183,850	-	1,389,593	611,762
Deferred charges	466,947	-	-	133,073	-	-	187,195	-	-	565,385	-	-
Participant funds and other noncurrent assets	4,405,550	26,905	-	174,914	54,930	126,694	146,543	156,856	76,100	164,465	382,377	419,730
Net investments in affiliates	-	-	4,294	-	-	-	-	-	4,145,560	-	1,027,065	-
Total other assets	5,085,391	102,850	704,712	526,037	273,972	126,744	744,863	528,124	4,405,510	729,850	2,799,055	1,031,492
	\$ 27,003,759	\$ 13,597,057	\$ 17,748,921	\$ 11,343,788	\$ 6,517,273	\$ 8,614,941	\$ 13,246,228	\$ 13,502,086	\$ 30,385,182	\$ 21,399,392	\$ 44,560,357	\$ 19,773,575
<b>LIABILITIES AND NET ASSETS</b>												
<b>CURRENT LIABILITIES:</b>												
Current installments of long-term debt	\$ 268,973	\$ 363,529	\$ 929,469	\$ 623,912	\$ 262,914	\$ 130,613	\$ 881,078	\$ 445,810	\$ 841,205	\$ 806,206	\$ 1,611,395	\$ 1,398,738
Notes payable	3,174,412	242,517	-	-	-	-	401,000	-	1,133,381	-	454,983	-
Accounts payable	837,965	454,866	588,352	351,935	210,830	169,927	576,508	204,419	992,138	1,090,681	1,188,541	366,477
Accrued expenses and taxes	3,697,133	1,704,819	1,063,466	1,733,027	652,766	606,278	861,331	1,417,157	4,100,813	1,553,597	2,654,756	1,703,986
Current portion of amounts due to governmental agencies	447,455	480,436	20,806	155,154	52,762	34,461	197,637	10,422	490	649,340	217,933	2,036
Current portion of deferred revenue and refundable advances	-	6,488	-	-	440,157	-	3,627	331,146	107,345	-	83,180	-
Other current liabilities	-	-	180,950	157,738	-	-	-	-	-	-	334,224	-
Total current liabilities	8,425,938	3,252,655	2,783,043	3,021,766	1,619,429	941,279	2,921,181	2,408,954	7,175,372	4,183,004	6,461,832	3,471,237
LONG-TERM DEBT, net of current portion	807,306	724,493	6,650,318	2,665,414	872,411	858,660	3,597,927	3,526,969	2,372,514	5,490,165	8,503,640	4,625,815
<b>OTHER NONCURRENT LIABILITIES:</b>												
Due to governmental agencies, net of current portion	-	-	67,540	24,408	-	-	-	-	-	637,158	-	-
Deferred revenue and refundable advances, net of current portion	5,958,300	-	-	133,073	-	-	187,195	-	-	-	-	-
Participant funds and other noncurrent liabilities	352,751	150	180,357	-	-	51,873	-	84,406	-	751,940	382,377	419,730
Total other noncurrent liabilities	6,311,051	150	247,897	157,481	-	51,873	257,876	84,406	-	1,389,098	382,377	419,730
Total liabilities	15,544,295	3,977,298	9,681,258	5,844,661	2,491,840	1,851,812	6,776,984	6,020,329	9,547,886	11,062,267	15,347,849	8,516,782
<b>NET ASSETS:</b>												
With donor restrictions	380,661	324,260	242,726	-	-	234,252	171,500	11,706	84,749	225,330	1,027,085	131,317
Without donor restrictions	11,078,803	9,295,499	7,824,937	5,499,127	4,025,433	6,528,877	6,297,744	7,470,051	20,752,547	10,111,795	28,185,423	11,125,476
Total net assets	11,459,464	9,619,759	8,067,663	5,499,127	4,025,433	6,763,129	6,469,244	7,481,757	20,837,296	10,337,125	29,212,508	11,256,793
	\$ 27,003,759	\$ 13,597,057	\$ 17,748,921	\$ 11,343,788	\$ 6,517,273	\$ 8,614,941	\$ 13,246,228	\$ 13,502,086	\$ 30,385,182	\$ 21,399,392	\$ 44,560,357	\$ 19,773,575

See accountant's compilation report.

**NYSARC, INC. STATE OFFICE, CHAPTERS AND THEIR AFFILIATES**

**COMBINING STATEMENT OF FINANCIAL POSITION  
DECEMBER 31, 2018**

(Continued)

	Community League			
	<u>Wassic</u>	<u>Wayne</u>	<u>Westchester</u>	<u>Yates</u>
<b>ASSETS</b>				
<b>CURRENT ASSETS:</b>				
Cash and equivalents	\$ 447,097	\$ 4,925,282	\$ 5,555,911	\$ 368,775
Investments	73,511	4,419,659	3,102,108	402,192
Current portion restricted deposits and funded reserves	-	-	-	-
Government receivables, net	33,839	3,890,397	8,421,222	2,007,449
Other receivables, net	-	-	-	-
Inventories	-	-	-	6,590
Prepaid expenses and other assets	2,593	340,357	1,793,268	58,620
Deposits	-	-	34,653	-
Total current assets	<u>557,040</u>	<u>13,575,695</u>	<u>18,907,162</u>	<u>2,843,626</u>
<b>PROPERTY, PLANT AND EQUIPMENT:</b>				
Land	-	513,120	4,026,672	323,759
Buildings and leasehold improvements	-	11,059,817	33,665,167	5,022,468
Furniture, fixtures and equipment	-	4,672,784	2,764,704	1,758,806
Vehicles	-	-	-	1,770,055
Construction-in-progress	-	2,611,977	1,528,093	55,158
	-	18,857,698	41,984,636	8,930,246
Less: Accumulated depreciation	-	(13,573,701)	(21,515,003)	(6,122,415)
Total property, plant and equipment	<u>-</u>	<u>5,283,997</u>	<u>20,469,633</u>	<u>2,807,831</u>
<b>OTHER ASSETS:</b>				
Restricted deposits and funded reserves, net of current portion	-	81,563	-	53,230
Deferred charges	-	-	-	-
Participant funds and other noncurrent assets	-	209,756	4,701,478	104,809
Net investments in affiliates	-	-	-	-
Total other assets	<u>-</u>	<u>291,319</u>	<u>4,701,478</u>	<u>158,039</u>
	<u>\$ 557,040</u>	<u>\$ 19,151,011</u>	<u>\$ 44,078,273</u>	<u>\$ 5,809,496</u>
<b>LIABILITIES AND NET ASSETS</b>				
<b>CURRENT LIABILITIES:</b>				
Current installments of long-term debt	\$ -	\$ 154,920	\$ 650,062	\$ 334,309
Notes payable	-	-	-	388,000
Accounts payable	7,088	436,818	2,321,587	130,186
Accrued expenses and taxes	2,430	1,115,256	2,677,455	590,978
Current portion of amounts due to governmental agencies	-	57,221	1,551,886	10,800
Current portion of deferred revenue and refundable advances	-	-	-	-
Other current liabilities	-	-	1,321,015	12,452
Total current liabilities	<u>9,518</u>	<u>1,764,215</u>	<u>8,522,005</u>	<u>1,466,725</u>
LONG-TERM DEBT, net, net of current portion	<u>-</u>	<u>862,001</u>	<u>6,011,004</u>	<u>1,415,919</u>
<b>OTHER NONCURRENT LIABILITIES:</b>				
Due to governmental agencies, net of current portion	-	-	-	-
Deferred revenue and refundable advances, net of current portion	-	116,318	-	-
Participant funds and other noncurrent liabilities	-	48,129	379,761	28,947
Total other noncurrent liabilities	<u>-</u>	<u>164,447</u>	<u>379,761</u>	<u>28,947</u>
Total liabilities	<u>9,518</u>	<u>2,790,663</u>	<u>14,912,770</u>	<u>2,911,591</u>
<b>NET ASSETS:</b>				
With donor restrictions	-	54,743	-	24,893
Without donor restrictions	<u>547,522</u>	<u>16,305,605</u>	<u>29,165,503</u>	<u>2,873,012</u>
Total net assets	<u>547,522</u>	<u>16,360,348</u>	<u>29,165,503</u>	<u>2,897,905</u>
	<u>\$ 557,040</u>	<u>\$ 19,151,011</u>	<u>\$ 44,078,273</u>	<u>\$ 5,809,496</u>

See accountant's compilation report.

## NYSARC, INC. STATE OFFICE, CHAPTERS AND THEIR AFFILIATES

COMBINING STATEMENT OF ACTIVITIES AND CHANGES IN NET ASSETS  
FOR THE YEAR ENDED DECEMBER 31, 2018

	Total	Eliminations	Office	Allegany	Broome- Chenango- Tioga	Cattaraugus- Niagara	Chautauqua	Chemung	Clinton	Columbia	Delaware
CHANGE IN NET ASSETS WITHOUT DONOR RESTRICTIONS											
Revenue and support -											
Program revenue	\$ 1,774,165,713	\$ (3,656,546)	\$ 9,485,452	\$ 19,801,467	\$ 29,417,343	\$ 36,656,351	\$ 77,053,524	\$ 23,483,784	\$ 32,563,583	\$ 21,733,821	\$ 11,712,443
Non-program revenue	43,025,571	-	43,189	112,799	648,953	1,970,027	780,212	198,126	361,759	126,984	324,481
Fundraising	3,980,347	-	170,046	48,702	368,849	-	-	-	-	-	39,547
Other support	12,391,975	-	69,341	-	3,872	11,470	1,205,853	-	-	-	-
Capital additions revenue	142,172	-	-	-	-	-	-	-	-	-	-
Realized and unrealized gain (loss) on investments, net	(15,372,544)	-	209,772	(35,861)	(823,238)	(159,787)	(214,098)	(70,875)	(196,988)	(89,338)	(151,824)
Net assets released from restrictions	972,617	-	-	-	-	-	6,640	-	-	-	-
Total revenue and support	1,819,305,851	(3,656,546)	9,977,800	19,927,107	29,615,779	38,478,061	78,832,131	23,611,035	32,728,354	21,771,467	11,924,647
Expenses -											
Program services	1,633,841,202	-	5,994,847	18,058,820	26,353,131	32,916,691	70,580,677	21,117,850	29,600,454	19,722,345	10,578,025
Management and general	167,658,236	(3,656,546)	2,947,586	1,361,556	2,675,972	3,731,318	5,966,051	2,160,537	2,978,525	2,148,204	1,309,016
Fundraising	4,367,883	-	-	14,280	401,442	-	-	-	-	35,585	-
Other operating expenses	280,350	-	-	-	-	-	-	-	-	-	-
Total expenses	1,806,147,671	(3,656,546)	8,942,433	19,434,656	29,430,545	36,648,009	76,546,728	23,278,387	32,578,979	21,906,134	11,887,041
Increase (decrease) in net assets without donor restrictions	13,158,180	-	1,035,367	492,451	185,234	1,830,052	2,285,403	332,648	149,375	(134,667)	37,606
CHANGE IN NET ASSETS WITH DONOR RESTRICTIONS											
Contributions, grants, etc.	1,411,241	-	6,360	-	-	-	11,324	-	-	-	-
Interest and dividend income, net	66,845	-	-	-	-	-	-	-	-	-	-
Other	(756,947)	-	-	-	-	-	-	-	-	-	-
Net assets released from restrictions	(972,617)	-	-	-	-	-	(6,640)	-	-	-	-
Increase (decrease) in net assets with donor restrictions	(251,478)	-	6,360	-	-	-	4,684	-	-	-	-
CHANGE IN NET ASSETS BEFORE OTHER CHANGES	12,906,702	-	1,041,727	492,451	185,234	1,830,052	2,290,087	332,648	149,375	(134,667)	37,606
OTHER CHANGES IN NET ASSETS	423,068	-	-	-	-	-	-	-	-	-	-
CHANGE IN NET ASSETS	13,329,770	-	1,041,727	492,451	185,234	1,830,052	2,290,087	332,648	149,375	(134,667)	37,606
NET ASSETS - beginning of year	690,412,214	-	5,431,202	6,226,582	15,804,752	7,484,038	12,686,848	8,031,894	12,818,351	6,057,987	15,056,370
NET ASSETS - end of year	\$ 703,741,984	\$ -	\$ 6,472,929	\$ 6,719,033	\$ 15,989,986	\$ 9,314,090	\$ 14,976,935	\$ 8,364,542	\$ 12,967,726	\$ 5,923,320	\$ 15,093,976

See accountant's compilation report.

NYSARC, INC. STATE OFFICE, CHAPTERS AND THEIR AFFILIATES

Exhibit II

COMBINING STATEMENT OF ACTIVITIES AND CHANGES IN NET ASSETS  
FOR THE YEAR ENDED DECEMBER 31, 2018

(Continued)

	Dutchess	Erie	Essex	Franklin-Hamilton	Fulton	Herkimer	Jefferson	Livingston-Wyoming	Madison-Cortland	Monroe	Montgomery	Nassau
CHANGE IN NET ASSETS WITHOUT DONOR RESTRICTIONS												
Revenue and support -												
Program revenue	\$ 20,506,565	\$ 46,811,065	\$ 41,589,538	\$ 19,891,266	\$ 89,170,739	\$ 23,966,641	\$ 39,976,627	\$ 26,874,799	\$ 23,332,517	\$ 43,785,959	\$ 56,497,007	\$ 112,051,872
Non-program revenue	207,603	2,736,994	1,842,372	764	561,020	1,224,012	4,167,581	438,451	179,007	1,152,794	1,321,748	5,794,340
Fundraising	219,088	245,398	-	55,929	-	532,231	223,819	-	31,014	-	-	753,043
Other support	-	682,517	-	149,289	495,133	989,813	-	-	-	425,763	909,139	437,313
Capital additions revenue	-	-	-	-	400	-	-	51,578	-	-	-	-
Realized and unrealized gain (loss) on investments, net	(20,275)	(40,407)	(1,362,971)	-	(155,808)	-	(1,988,833)	(19,993)	(18,858)	(382,945)	(2,617,301)	(4,077,011)
Net assets released from restrictions	-	-	-	-	3,741	73,701	11,295	-	-	188,223	-	-
Total revenue and support	<u>20,912,981</u>	<u>50,435,567</u>	<u>42,068,939</u>	<u>20,097,248</u>	<u>90,075,225</u>	<u>26,786,398</u>	<u>42,390,489</u>	<u>27,344,835</u>	<u>23,523,680</u>	<u>45,169,794</u>	<u>56,110,593</u>	<u>114,959,557</u>
Expenses -												
Program services	19,350,389	40,436,262	38,407,581	17,482,731	78,480,203	23,464,664	37,065,429	26,109,951	20,240,689	40,554,243	51,918,159	106,321,980
Management and general	2,349,419	7,152,524	3,277,679	1,363,961	6,873,285	2,316,272	3,149,316	2,228,350	2,655,902	4,681,822	4,812,397	12,078,304
Fundraising	136,706	195,973	-	42,365	-	615,722	159,500	43,380	-	-	33,628	492,549
Other operating expenses	-	-	-	-	-	-	-	-	-	-	-	-
Total expenses	<u>21,836,514</u>	<u>47,784,759</u>	<u>41,685,260</u>	<u>18,889,057</u>	<u>85,353,488</u>	<u>26,396,658</u>	<u>40,374,245</u>	<u>28,381,681</u>	<u>22,896,591</u>	<u>45,236,065</u>	<u>56,764,184</u>	<u>118,892,833</u>
Increase (decrease) in net assets without donor restrictions	<u>(923,533)</u>	<u>2,650,808</u>	<u>383,679</u>	<u>1,208,191</u>	<u>4,721,737</u>	<u>389,740</u>	<u>2,016,244</u>	<u>(1,036,846)</u>	<u>627,089</u>	<u>(66,271)</u>	<u>(653,591)</u>	<u>(3,933,276)</u>
CHANGE IN NET ASSETS WITH DONOR RESTRICTIONS												
Contributions, grants, etc.	-	-	-	-	-	142,590	249,184	-	-	-	-	-
Interest and dividend income, net	-	-	-	-	-	-	-	-	-	66,845	-	-
Other	-	-	-	-	(814,250)	-	-	-	-	(10,849)	-	-
Net assets released from restrictions	-	-	-	-	(3,741)	(73,701)	(11,295)	-	-	(188,223)	-	-
Increase (decrease) in net assets with donor restrictions	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>(817,991)</u>	<u>68,889</u>	<u>237,889</u>	<u>-</u>	<u>-</u>	<u>(132,227)</u>	<u>-</u>	<u>-</u>
CHANGE IN NET ASSETS BEFORE OTHER CHANGES	<u>(923,533)</u>	<u>2,650,808</u>	<u>383,679</u>	<u>1,208,191</u>	<u>3,903,746</u>	<u>458,629</u>	<u>2,254,133</u>	<u>(1,036,846)</u>	<u>627,089</u>	<u>(198,498)</u>	<u>(653,591)</u>	<u>(3,933,276)</u>
OTHER CHANGES IN NET ASSETS	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>502,006</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
CHANGE IN NET ASSETS	<u>(923,533)</u>	<u>2,650,808</u>	<u>383,679</u>	<u>1,208,191</u>	<u>3,903,746</u>	<u>458,629</u>	<u>2,756,139</u>	<u>(1,036,846)</u>	<u>627,089</u>	<u>(198,498)</u>	<u>(653,591)</u>	<u>(3,933,276)</u>
NET ASSETS - beginning of year	<u>5,124,930</u>	<u>15,273,274</u>	<u>26,003,665</u>	<u>3,324,019</u>	<u>29,607,641</u>	<u>9,498,624</u>	<u>31,341,233</u>	<u>9,751,198</u>	<u>7,714,995</u>	<u>14,738,274</u>	<u>54,778,244</u>	<u>104,757,901</u>
NET ASSETS - end of year	<u>\$ 4,201,397</u>	<u>\$ 17,924,082</u>	<u>\$ 26,387,344</u>	<u>\$ 4,532,210</u>	<u>\$ 33,511,387</u>	<u>\$ 9,957,253</u>	<u>\$ 34,097,372</u>	<u>\$ 8,714,352</u>	<u>\$ 8,342,084</u>	<u>\$ 14,539,776</u>	<u>\$ 54,124,653</u>	<u>\$ 100,824,625</u>

See accountant's compilation report.

## NYSARC, INC. STATE OFFICE, CHAPTERS AND THEIR AFFILIATES

COMBINING STATEMENT OF ACTIVITIES AND CHANGES IN NET ASSETS  
FOR THE YEAR ENDED DECEMBER 31, 2018

(Continued)

	New York City	Niagara	North County MSO	Oneida- Lewis	Onondaga	Ontario	Orange	Genesee- Orleans	Oswego	Otsego	Putnam	Rensselaer
CHANGE IN NET ASSETS WITHOUT DONOR RESTRICTIONS												
Revenue and support -												
Program revenue	\$ 283,172,870	\$ 6,109,818	\$ -	\$ 36,661,782	\$ 26,611,067	\$ 21,701,481	\$ 29,469,006	\$ 20,388,308	\$ 1,198,755	\$ 19,947,321	\$ 22,918,092	\$ 27,463,437
Non-program revenue	(5,139)	78,679	6,426,853	491,775	122,406	1,156,603	245,540	2,258,747	50,669	220,311	-	692,092
Fundraising	11,025	-	-	120,137	30,952	-	-	254,749	-	-	43,453	-
Other support	7,857,161	7,453	-	-	(160,773)	-	-	190,315	-	-	-	399,964
Capital additions revenue	-	-	-	-	-	-	-	-	-	-	-	-
Realized and unrealized gain (loss) on investments, net	-	(1,453)	-	(195,446)	(109,440)	(220,999)	-	(93,807)	-	-	-	(40,117)
Net assets released from restrictions	-	-	-	-	170,027	528	-	17,923	-	-	13,711	-
Total revenue and support	291,035,917	6,194,497	6,426,853	37,078,248	26,664,239	22,637,613	29,714,546	23,016,235	1,249,424	20,167,632	22,975,256	28,515,376
Expenses -												
Program services	264,121,138	5,592,507	6,327,455	30,876,999	23,709,783	19,675,977	27,160,241	19,976,361	941,203	18,009,774	20,543,719	26,783,818
Management and general	26,260,253	673,885	130,116	3,037,601	2,695,950	2,334,439	3,071,769	2,504,011	181,496	1,598,211	3,661,223	1,868,968
Fundraising	287,381	14,756	-	-	1,096	305,296	59,777	255,187	25,068	113,741	20,294	80,857
Other operating expenses	-	-	-	231,400	-	-	-	-	-	-	-	-
Total expenses	290,668,772	6,281,148	6,457,571	34,146,000	26,406,829	22,315,712	30,291,787	22,735,559	1,147,767	19,721,726	24,225,236	28,733,643
Increase (decrease) in net assets without donor restrictions	367,145	(86,651)	(30,718)	2,932,248	257,410	321,901	(577,241)	280,676	101,657	445,906	(1,249,980)	(218,267)
CHANGE IN NET ASSETS WITH DONOR RESTRICTIONS												
Contributions, grants, etc.	-	-	-	-	245,128	51,795	-	33,035	-	-	15,000	-
Interest and dividend income, net	-	-	-	-	-	-	-	-	-	-	-	-
Other	-	4,776	-	-	-	-	-	(28,880)	-	-	-	-
Net assets released from restrictions	-	-	-	-	(170,027)	(528)	-	(17,923)	-	-	(13,711)	-
Increase (decrease) in net assets with donor restrictions	-	4,776	-	-	75,101	51,267	-	(13,768)	-	-	1,289	-
CHANGE IN NET ASSETS BEFORE OTHER CHANGES	367,145	(81,875)	(30,718)	2,932,248	332,511	373,168	(577,241)	266,908	101,657	445,906	(1,248,691)	(218,267)
OTHER CHANGES IN NET ASSETS	115,938	-	-	-	-	548,494	-	-	-	-	-	-
CHANGE IN NET ASSETS	483,083	(81,875)	(30,718)	2,932,248	332,511	921,662	(577,241)	266,908	101,657	445,906	(1,248,691)	(218,267)
NET ASSETS - beginning of year	39,495,360	2,034,991	119,384	13,674,393	9,835,125	8,840,487	8,820,772	7,204,664	1,203,475	3,666,304	2,276,835	10,263,363
NET ASSETS - end of year	\$ 39,978,443	\$ 1,953,116	\$ 88,666	\$ 16,606,641	\$ 10,167,636	\$ 9,762,149	\$ 8,243,531	\$ 7,471,572	\$ 1,305,132	\$ 4,112,210	\$ 1,028,144	\$ 10,045,096

See accountant's compilation report.

## NYSARC, INC. STATE OFFICE, CHAPTERS AND THEIR AFFILIATES

COMBINING STATEMENT OF ACTIVITIES AND CHANGES IN NET ASSETS  
FOR THE YEAR ENDED DECEMBER 31, 2018

(Continued)

	Rockland	St. Lawrence	Saratoga	Schenectady	Schoharie	Schuyler	Seneca-Cayuga	Steuben	Suffolk	Sullivan	Ulster-Greene	Warren-Washington-Albany
CHANGE IN NET ASSETS WITHOUT DONOR RESTRICTIONS												
Revenue and support -												
Program revenue	\$ 41,376,687	\$ 28,914,401	\$ 26,225,123	\$ 28,909,726	\$ 14,552,213	\$ 8,304,342	\$ 26,600,608	\$ 15,990,864	\$ 70,003,442	\$ 31,150,537	\$ 58,613,972	\$ 35,066,378
Non-program revenue	103,881	247,719	595,569	518,923	134,576	234,468	331,107	247,932	189,137	578,560	538,853	213,473
Fundraising	358,913	-	-	-	-	-	-	-	48,847	418,799	-	-
Other support	(1,228,459)	-	34,072	-	-	(58,373)	-	-	(98,037)	102,967	(1,138)	-
Capital additions revenue	-	-	-	-	-	-	-	-	-	-	-	-
Realized and unrealized gain (loss) on investments, net	(327,375)	(115,246)	(13,527)	(136,624)	(31,824)	(152,061)	(78,770)	(240,667)	4,659	(119,389)	(646,167)	(92,374)
Net assets released from restrictions	345,329	-	32,307	-	-	-	-	551	22,550	7,491	-	52,242
Total revenue and support	40,628,976	29,046,874	26,873,544	29,292,025	14,654,965	8,328,376	26,852,945	15,998,680	70,170,598	32,138,965	58,505,520	35,239,719
Expenses -												
Program services	39,534,368	24,276,091	23,136,402	25,523,047	14,404,230	7,572,518	23,642,002	14,550,967	65,584,110	28,029,685	53,277,896	30,984,157
Management and general	5,401,934	2,371,621	3,588,951	3,167,662	1,523,207	839,815	2,213,962	1,641,033	3,841,754	3,307,530	6,041,200	3,590,885
Fundraising	-	-	242,705	-	136,179	72,098	248,547	69,247	-	151,257	-	39,412
Other operating expenses	-	-	-	-	-	48,950	-	-	-	-	-	-
Total expenses	44,936,302	26,647,712	26,968,058	28,690,709	16,063,616	8,533,381	26,104,511	16,261,247	69,425,864	31,488,472	59,319,096	34,614,454
Increase (decrease) in net assets without donor restrictions	(4,307,326)	2,399,162	(94,514)	601,316	(1,408,651)	(205,005)	748,434	(262,567)	744,734	650,493	(813,576)	625,265
CHANGE IN NET ASSETS WITH DONOR RESTRICTIONS												
Contributions, grants, etc.	169,008	-	49,695	-	-	234,252	101,500	1,582	39,788	61,000	-	-
Interest and dividend income, net	-	-	-	-	-	-	-	-	-	-	-	-
Other	-	-	-	-	-	-	-	-	-	-	52,033	(3,371)
Net assets released from restrictions	(345,329)	-	(32,307)	-	-	-	-	(551)	(22,550)	(7,491)	-	(52,242)
Increase (decrease) in net assets with donor restrictions	(176,321)	-	17,388	-	-	234,252	101,500	1,031	17,238	53,509	52,033	(55,613)
CHANGE IN NET ASSETS BEFORE OTHER CHANGES	(4,483,647)	2,399,162	(77,126)	601,316	(1,408,651)	29,247	849,934	(261,536)	761,972	704,002	(761,543)	569,652
OTHER CHANGES IN NET ASSETS	-	-	-	-	-	133,700	-	119,709	-	-	-	(753,367)
CHANGE IN NET ASSETS	(4,483,647)	2,399,162	(77,126)	601,316	(1,408,651)	162,947	849,934	(141,827)	761,972	704,002	(761,543)	(183,715)
NET ASSETS - beginning of year	15,943,111	7,220,597	8,144,789	4,897,811	5,434,084	6,600,182	5,619,310	7,623,584	20,075,324	9,633,123	29,974,051	11,440,508
NET ASSETS - end of year	\$ 11,459,464	\$ 9,619,759	\$ 8,067,663	\$ 5,499,127	\$ 4,025,433	\$ 6,763,129	\$ 6,469,244	\$ 7,481,757	\$ 20,837,296	\$ 10,337,125	\$ 29,212,508	\$ 11,256,793

See accountant's compilation report.

**NYSARC, INC, STATE OFFICE, CHAPTERS AND THEIR AFFILIATES**

**COMBINING STATEMENT OF ACTIVITIES AND CHANGES IN NET ASSETS  
FOR THE YEAR ENDED DECEMBER 31, 2018**

(Continued)

	Community League <u>Wassic</u>	<u>Wayne</u>	<u>Westchester</u>	<u>Yates</u>
<b>CHANGE IN NET ASSETS WITHOUT DONOR RESTRICTIONS</b>				
Revenue and support -				
Program revenue	\$ 404,828	\$ 27,239,542	\$ 53,174,067	\$ 9,291,229
Non-program revenue	32,344	650,213	2,098,113	378,951
Fundraising	5,806	-	-	-
Other support	3,651	-	(36,331)	-
Capital additions revenue	-	-	-	90,194
Realized and unrealized gain (loss) on investments, ne	(7,342)	(349,838)	(169,389)	(18,709)
Net assets released from restrictions	-	1,009	-	25,349
Total revenue and support	<u>439,287</u>	<u>27,540,926</u>	<u>55,066,460</u>	<u>9,767,014</u>
Expenses -				
Program services	242,755	24,678,602	51,478,300	8,451,976
Management and general	26,026	2,545,834	3,596,831	1,380,619
Fundraising	2,444	16,710	-	54,701
Other operating expenses	-	-	-	-
Total expenses	<u>271,225</u>	<u>27,241,146</u>	<u>55,075,131</u>	<u>9,887,296</u>
Increase (decrease) in net assets without donor re	<u>168,062</u>	<u>299,780</u>	<u>(8,671)</u>	<u>(120,282)</u>
<b>CHANGE IN NET ASSETS WITH DONOR RESTRICTIONS</b>				
Contributions, grants, etc.	-	-	-	-
Interest and dividend income, net	-	-	-	-
Other	-	852	-	42,742
Net assets released from restrictions	-	(1,009)	-	(25,349)
Increase (decrease) in net assets with donor restr	<u>-</u>	<u>(157)</u>	<u>-</u>	<u>17,393</u>
CHANGE IN NET ASSETS BEFORE OTHER CHANGES	168,062	299,623	(8,671)	(102,889)
OTHER CHANGES IN NET ASSETS	-	-	-	(243,412)
CHANGE IN NET ASSETS	168,062	299,623	(8,671)	(346,301)
NET ASSETS - beginning of year	<u>379,460</u>	<u>16,060,725</u>	<u>29,174,174</u>	<u>3,244,206</u>
NET ASSETS - end of year	<u>\$ 547,522</u>	<u>\$ 16,360,348</u>	<u>\$ 29,165,503</u>	<u>\$ 2,897,905</u>

See accountant's compilation report.

**NYSARC, INC. STATE OFFICE, CHAPTERS AND THEIR AFFILIATES**

Exhibit III

**COMBINING STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED DECEMBER 31, 2018**

	Total	Eliminations	Office	Allegany	Broome- Chenango- Tioga	Cattaraugus- Niagara	Chautauqua	Chemung	Clinton	Columbia	Delaware
<b>CASH FLOW FROM OPERATING ACTIVITIES:</b>											
Change in net assets	\$ 13,329,770	\$ -	\$ 1,041,727	\$ 492,451	\$ 185,234	\$ 1,830,052	\$ 2,290,087	\$ 332,648	\$ 149,375	\$ (134,667)	\$ 37,606
Adjustments to reconcile change in net assets to net cash flow from operating activities:											
Depreciation and amortization	55,776,162	-	118,391	376,240	1,055,400	526,185	1,904,081	467,404	1,128,199	817,380	408,288
Realized and unrealized (gain) loss on investments, net	15,115,059	-	(120,893)	102,769	823,238	159,787	214,098	70,875	196,988	89,338	151,824
Gain on sales or dispositions of assets, net	(4,156,229)	-	-	(2,500)	12,478	-	(16,940)	(42,336)	(13,764)	20,543	(5,310)
Bad debt expense	2,442,116	-	-	-	12,250	-	(28,820)	-	-	-	-
Other	(3,393,444)	-	510	(916)	5,138	(1,535,372)	(2,542,109)	(17,488)	471	-	-
Changes in:											
Receivables	7,608,773	-	(77,670)	564,029	(562,636)	(614,615)	(532,915)	317,952	(548,713)	67,397	(181,930)
Inventories	(150,380)	-	-	375,771	(1,749)	17,724	(200,567)	1,672	65,930	(5,932)	166,448
Prepaid expenses and other assets	(796,458)	-	(23,050)	42,143	147,305	190,496	(74,084)	26,729	(19,038)	(9,442)	35,705
Deposits	(21,664)	-	1,650	-	-	(173,372)	2,314	-	(253)	-	-
Deferred charges	(108,019)	-	-	-	-	-	-	-	-	-	-
Accounts payable	(4,058,404)	-	271,710	(381,140)	(74,006)	(985,762)	57,198	(10,039)	(15,517)	(80,667)	8,770
Accrued expenses and taxes	2,069,498	-	16,178	(458,021)	277,881	72,293	-	(107,472)	538,890	(30,628)	5,266
Due to governmental agencies	(2,551,858)	-	-	-	(1,053)	(237,709)	-	(40,750)	(5,050)	(5,979)	-
Deferred revenue, refundable advances and other liabilities	(878,010)	-	-	38,740	38,882	500,487	-	-	(11,858)	-	-
Net cash flow from operating activities	80,226,912	-	1,228,553	1,149,566	1,918,362	(249,806)	1,072,343	999,195	1,465,660	727,343	626,667
<b>CASH FLOW FROM INVESTING ACTIVITIES:</b>											
Proceeds from the sale of property, plant and equipment	5,272,770	-	-	2,500	48,437	-	21,355	-	13,764	28,602	5,310
Purchases of property, plant and equipment	(51,022,996)	-	(62,201)	(691,234)	(1,787,651)	(971,403)	(1,334,873)	(213,793)	(675,866)	(195,697)	(910,542)
Purchase of investments	(38,618,735)	-	(138,345)	(1,997,869)	(2,558,502)	(378,970)	(867,507)	-	(1,361,971)	(576,875)	(47,305)
Proceeds from sales of investments	27,468,514	-	76,412	1,930,959	2,225,248	356,233	558,493	-	1,280,519	556,884	-
Change in limited use reserves and deposits refunded	(89,819)	-	-	-	-	-	(14,628)	85,577	-	-	106,373
Other investing activities	(2,008,189)	-	(1,120,578)	(75,862)	(51,111)	1,341,796	-	(75,863)	(12,882)	-	-
Net cash flow from investing activities	(58,998,455)	-	(1,244,712)	(831,506)	(2,123,579)	347,656	(1,637,160)	(204,079)	(756,436)	(187,086)	(846,164)
<b>CASH FLOW FROM FINANCING ACTIVITIES:</b>											
Proceeds from long-term debt	18,228,356	-	1,113,439	324,310	1,638,237	-	563,395	-	496,655	-	-
Repayment of long-term debt	(33,216,284)	-	-	(240,495)	(1,357,806)	(414,592)	(1,027,584)	(206,225)	(585,295)	(609,722)	(142,090)
Proceeds from notes payable	137,013,934	-	-	-	-	-	17,383,626	-	160,000	-	-
Repayment of notes payable	(133,543,355)	-	-	(375,425)	(593,684)	-	(16,354,870)	-	(104,402)	-	-
Other financing activities	369,851	-	(52,721)	-	-	-	-	-	-	-	-
Net cash flow from financing activities	(11,147,498)	-	1,060,718	(291,610)	(313,253)	(414,592)	564,567	(206,225)	(33,042)	(609,722)	(142,090)
<b>CHANGE IN CASH AND EQUIVALENTS</b>	10,080,959	-	1,044,559	26,450	(518,470)	(316,742)	(250)	588,891	676,182	(69,465)	(361,587)
CASH AND EQUIVALENTS - beginning of year	150,327,346	-	1,562,330	225,539	1,662,141	2,809,060	9,800	2,379,902	3,287,110	1,360,241	2,337,487
CASH AND EQUIVALENTS - end of year	\$ 160,408,305	\$ -	\$ 2,606,889	\$ 251,989	\$ 1,143,671	\$ 2,492,318	\$ 9,550	\$ 2,968,793	\$ 3,963,292	\$ 1,290,776	\$ 1,975,900

See accountant's compilation report.

## NYSARC, INC. STATE OFFICE, CHAPTERS AND THEIR AFFILIATES

COMBINING STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED DECEMBER 31, 2018

(Continued)

	Dutchess	Erie	Essex	Franklin-Hamilton	Fulton	Herkimer	Jefferson	Livingston-Wyoming	Madison-Cortland	Monroe	Montgomery	Nassau
CASH FLOW FROM OPERATING ACTIVITIES:												
Change in net assets	\$ (923,533)	\$ 2,650,808	\$ 383,679	\$ 1,208,191	\$ 3,903,746	\$ 458,629	\$ 2,756,139	\$ (1,036,846)	\$ 627,089	\$ (198,498)	\$ (653,591)	\$ (3,933,276)
Adjustments to reconcile change in net assets to net cash flow from operating activities:												
Depreciation and amortization	745,961	1,448,118	1,549,060	529,111	2,860,756	1,350,766	756,844	1,385,365	911,481	1,848,991	2,543,714	2,413,192
Realized and unrealized (gain) loss on investments, net	20,275	40,407	1,362,971	-	155,808	-	1,988,833	19,993	18,858	382,945	2,617,301	4,077,011
Gain on sales or dispositions of assets, net	-	(2,744,142)	(50,552)	(130,273)	(17,670)	(5,887)	(56,708)	(65,968)	(29,020)	(300,393)	(87,310)	-
Bad debt expense	57,146	(2,815)	-	-	20,496	10,432	-	-	16,693	177,072	258,670	110,000
Other	(27,453)	(34,687)	-	(8,346)	814,250	43,504	(461,472)	(20,223)	-	(103,363)	-	(259,425)
Changes in:												
Receivables	655,773	1,014,125	556,933	221,255	3,217,129	186,625	(1,101,922)	(376,642)	(178,119)	142,304	(522,987)	(2,437,671)
Inventories	-	(12,434)	(119,507)	-	23,366	(30,061)	(123,386)	(19,914)	62,394	-	(116,611)	-
Prepaid expenses and other assets	73,835	(10,203)	262,987	6,699	11,547	(144,953)	19,039	(31,739)	(7,876)	(27,788)	24,610	(454,833)
Deposits	-	-	4,130	5,000	(6,828)	-	-	-	4,256	-	-	-
Deferred charges	-	-	-	-	-	-	-	-	-	(15,556)	-	(34,628)
Accounts payable	1,112	25,801	(323,600)	(27,001)	(723,183)	(312,143)	(203,249)	357,005	(62,192)	(185,586)	(462,504)	2,111,311
Accrued expenses and taxes	(122,010)	128,248	-	323,679	(355,236)	(17,589)	(29,624)	61,410	(45,832)	(1,000,728)	261,169	433,400
Due to governmental agencies	-	-	(86,065)	(111,162)	63,859	(66,196)	2,154	63,658	(148,368)	(3,005)	(66,334)	578,238
Deferred revenue, refundable advances and other liabilities	(3,647)	13,898	(6,669)	43,517	(327)	145,200	-	-	-	(556,236)	-	-
Net cash flow from operating activities	<u>477,459</u>	<u>2,517,124</u>	<u>3,533,367</u>	<u>2,060,670</u>	<u>9,967,713</u>	<u>1,618,327</u>	<u>3,546,648</u>	<u>336,099</u>	<u>1,169,364</u>	<u>160,159</u>	<u>3,796,127</u>	<u>2,603,319</u>
CASH FLOW FROM INVESTING ACTIVITIES:												
Proceeds from the sale of property, plant and equipment	-	2,994,325	75,835	216,774	91,702	5,887	58,000	65,968	29,150	324,719	130,465	-
Purchases of property, plant and equipment	(217,122)	(3,863,147)	(539,876)	(391,177)	(2,995,712)	(1,510,277)	(556,701)	(1,016,488)	(323,241)	(676,117)	(3,424,417)	(886,721)
Purchase of investments	(17,063)	(93,195)	11,162,986	-	(2,621,129)	-	(733,913)	(10,139)	(1,651,954)	(113,240)	(2,616,264)	(9,546,822)
Proceeds from sales of investments	-	111,625	(12,051,059)	-	16,448	-	-	-	640,582	76,074	1,731,311	9,234,671
Change in limited use reserves and deposits refunded	-	47,031	(15,700)	-	6,579	124,457	43,838	-	(851)	(75,862)	(1,299)	(1,031,711)
Other investing activities	(11,100)	(75,862)	65,134	-	-	(100,044)	(26,756)	(75,862)	(51,111)	-	-	-
Net cash flow from investing activities	<u>(245,285)</u>	<u>(879,223)</u>	<u>(1,302,680)</u>	<u>(174,403)</u>	<u>(5,502,112)</u>	<u>(1,479,977)</u>	<u>(1,215,532)</u>	<u>(1,036,521)</u>	<u>(1,357,425)</u>	<u>(464,426)</u>	<u>(4,180,204)</u>	<u>(2,230,583)</u>
CASH FLOW FROM FINANCING ACTIVITIES:												
Proceeds from long-term debt	-	1,970,000	-	216,503	1,488,830	395,764	-	250,542	197,817	841,702	1,018,965	-
Repayment of long-term debt	(667,381)	(842,995)	(589,471)	(480,643)	(1,238,148)	(476,284)	(122,911)	(1,234,444)	(598,063)	(1,107,340)	(1,250,130)	-
Proceeds from notes payable	-	-	-	-	-	-	-	-	-	-	540,424	-
Repayment of notes payable	-	-	-	-	-	-	-	-	-	(49,728)	-	-
Other financing activities	-	88,334	-	-	-	-	(193,000)	-	-	-	-	-
Net cash flow from financing activities	<u>(667,381)</u>	<u>1,215,339</u>	<u>(589,471)</u>	<u>(264,140)</u>	<u>250,682</u>	<u>(80,520)</u>	<u>(315,911)</u>	<u>(983,902)</u>	<u>(400,246)</u>	<u>(315,366)</u>	<u>309,259</u>	<u>-</u>
CHANGE IN CASH AND EQUIVALENTS	(435,207)	2,853,240	1,641,216	1,622,127	4,716,283	57,830	2,015,205	(1,684,324)	(588,307)	(619,633)	(74,818)	372,736
CASH AND EQUIVALENTS - beginning of year	<u>646,954</u>	<u>880,640</u>	<u>1,920,788</u>	<u>1,281,900</u>	<u>2,867,992</u>	<u>1,236,852</u>	<u>7,387,952</u>	<u>3,678,695</u>	<u>3,355,277</u>	<u>8,132,992</u>	<u>2,569,834</u>	<u>22,937,679</u>
CASH AND EQUIVALENTS - end of year	<u>\$ 211,747</u>	<u>\$ 3,733,880</u>	<u>\$ 3,562,004</u>	<u>\$ 2,904,027</u>	<u>\$ 7,584,275</u>	<u>\$ 1,294,682</u>	<u>\$ 9,403,157</u>	<u>\$ 1,994,371</u>	<u>\$ 2,766,970</u>	<u>\$ 7,513,359</u>	<u>\$ 2,495,016</u>	<u>\$ 23,310,415</u>

See accountant's compilation report.

NYSARC, INC. STATE OFFICE, CHAPTERS AND THEIR AFFILIATES

Exhibit III

COMBINING STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED DECEMBER 31, 2018

(Continued)

	New York City	Niagara	North County MSQ	Oneida- Lewis	Onondaga	Ontario	Orange	Genesee- Orleans	Oswego	Otsego	Putnam	Rensselaer
<b>CASH FLOW FROM OPERATING ACTIVITIES:</b>												
Change in net assets	\$ 483,083	\$ (81,875)	\$ (30,718)	\$ 2,932,248	\$ 332,511	\$ 921,662	\$ (577,241)	\$ 266,908	\$ 101,657	\$ 445,906	\$ (1,248,691)	\$ (218,267)
Adjustments to reconcile change in net assets to net cash flow from operating activities:												
Depreciation and amortization	7,472,343	176,331	33,811	1,484,618	439,227	1,094,355	1,425,923	799,942	8,085	491,275	955,578	527,103
Realized and unrealized (gain) loss on investments, net	(413,272)	1,453	-	195,446	109,440	220,999	-	93,807	-	-	-	40,117
Gain on sales or dispositions of assets, net	-	-	-	(50,113)	-	(98)	(87,128)	-	-	(11,693)	-	(404,508)
Bad debt expense	25,137	-	-	-	-	-	103,663	6,841	-	-	705,620	-
Other	80,760	(5,292)	-	-	343	6,329	(14,407)	4,456	-	(4,574)	(20,047)	(1,299)
Changes in:												
Receivables	5,548,562	1,165,118	173,158	(65,441)	1,385,022	752,426	151,579	510,676	(6,173)	97,425	(98,135)	184,457
Inventories	-	677	-	31,073	-	(33,731)	-	-	-	22,455	-	54,152
Prepaid expenses and other assets	(584,689)	(70,756)	(7,259)	39,488	(34,637)	235,465	(68,831)	(27,112)	2,267	(32,697)	(2,294)	14,761
Deposits	-	-	-	-	-	-	-	-	-	-	-	-
Deferred charges	-	-	-	-	-	(559)	-	18,001	-	-	-	-
Accounts payable	(1,453,621)	(397,938)	21,605	(546,470)	251,270	(399,764)	138,559	58,206	(8,296)	156,323	344,367	(24,004)
Accrued expenses and taxes	355,212	383,376	32,715	83,184	106,216	-	255,862	-	(10,452)	190,522	(56,012)	(381,025)
Due to governmental agencies	-	(34,708)	-	-	(372,425)	(436,622)	702,675	-	-	-	(189,928)	(348,906)
Deferred revenue, refundable advances and other liabilities	-	-	-	(36,577)	(58,427)	(66,414)	(52,241)	(181,658)	-	57,573	-	(31,221)
Net cash flow from operating activities	11,513,515	1,136,386	223,312	4,067,456	2,158,540	2,294,048	1,978,413	1,550,067	87,088	1,412,515	390,458	(588,640)
<b>CASH FLOW FROM INVESTING ACTIVITIES:</b>												
Proceeds from the sale of property, plant and equipment	-	-	-	63,409	-	29,860	147,908	-	-	15,693	-	417,716
Purchases of property, plant and equipment	(7,566,592)	-	-	(2,060,797)	(263,145)	(898,416)	(987,737)	(244,332)	-	(597,371)	(310,795)	(324,628)
Purchase of investments	(2,845,956)	(99,675)	-	(5,727,780)	(842,041)	(924,358)	-	(3,371,423)	-	-	-	(238,101)
Proceeds from sales of investments	2,837,514	-	-	2,714,379	826,139	850,271	-	3,399,376	-	-	-	232,517
Change in limited use reserves and deposits refunded	25,765	-	-	-	21,651	20,927	(2,514)	(9,282)	-	-	32,341	(4,504)
Other investing activities	(528,607)	-	65,135	(44,837)	(51,111)	(75,862)	-	(75,862)	(20,000)	-	-	-
Net cash flow from investing activities	(8,077,876)	(99,675)	65,135	(5,055,626)	(308,507)	(997,578)	(842,343)	(301,523)	(20,000)	(581,678)	(278,454)	83,000
<b>CASH FLOW FROM FINANCING ACTIVITIES:</b>												
Proceeds from long-term debt	1,374,491	-	-	376,580	-	522,659	454,695	207,051	-	17,614	558,747	142,428
Repayment of long-term debt	(4,555,564)	(131,057)	(65,135)	(850,902)	(230,397)	(490,510)	(1,025,253)	(556,841)	-	(316,092)	(905,862)	(223,105)
Proceeds from notes payable	114,150,000	-	-	-	-	-	-	-	-	-	223,000	-
Repayment of notes payable	(114,650,000)	-	-	-	-	-	-	-	-	-	-	-
Other financing activities	594,101	(4,776)	-	-	-	-	-	(55,187)	-	-	-	-
Net cash flow from financing activities	(3,086,972)	(135,833)	(65,135)	(474,322)	(230,397)	32,149	(570,558)	(404,977)	-	(298,478)	(124,115)	(80,677)
CHANGE IN CASH AND EQUIVALENTS	348,667	900,878	223,312	(1,462,492)	1,619,636	1,328,619	565,512	843,567	67,088	532,359	(12,111)	(586,317)
CASH AND EQUIVALENTS - beginning of year	5,362,635	535,040	745,097	7,942,137	2,611,034	1,427,407	3,262,488	735,006	1,128,965	1,253,007	402,310	5,189,237
CASH AND EQUIVALENTS - end of year	\$ 5,711,302	\$ 1,435,918	\$ 968,409	\$ 6,479,645	\$ 4,230,670	\$ 2,756,026	\$ 3,828,000	\$ 1,578,573	\$ 1,196,053	\$ 1,785,366	\$ 390,199	\$ 4,602,920

See accountant's compilation report.

## NYSARC, INC. STATE OFFICE, CHAPTERS AND THEIR AFFILIATES

COMBINING STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED DECEMBER 31, 2018

(Continued)

	Rockland	St. Lawrence	Saratoga	Schenectady	Schoharie	Schuyler	Seneca-Cayuga	Steuben	Suffolk	Sullivan	Ulster-Greene	Warren-Washington-Albany
<b>CASH FLOW FROM OPERATING ACTIVITIES:</b>												
Change in net assets	\$ (4,483,647)	\$ 2,399,162	\$ (77,126)	\$ 601,316	\$ (1,408,651)	\$ 162,947	\$ 849,934	\$ (141,827)	\$ 761,972	\$ 704,002	\$ (761,543)	\$ (183,715)
Adjustments to reconcile change in net assets to net cash flow from operating activities:												
Depreciation and amortization	1,191,887	627,558	1,434,561	1,009,387	390,625	414,053	873,476	792,838	1,366,875	1,452,214	1,945,589	1,587,457
Realized and unrealized (gain) loss on investments, net	327,375	115,246	13,527	136,624	31,824	152,061	78,770	240,667	(4,659)	119,389	646,167	92,374
Gain on sales or dispositions of assets, net	-	15,396	(60,497)	(5,635)	-	(2,102)	(12,606)	(35,220)	(10,273)	(8,240)	1,138	13,874
Bad debt expense	334,620	24,227	-	31,000	7,586	7,122	6,981	-	295,000	114,978	-	(28,922)
Other	(6,508)	(4,683)	11,724	(3,609)	4,169	15,566	(19,527)	(8,674)	17,341	(102,967)	288,672	592,266
Changes in:												
Receivables	753,027	(117,536)	(306,463)	32,806	38,160	(393,696)	64,456	3,317	(1,793,817)	(719,881)	92,588	1,114,013
Inventories	-	70,170	-	-	(37,837)	(656)	(330,657)	16,210	-	(39,202)	-	-
Prepaid expenses and other assets	(23,363)	(55,106)	(49,845)	52,746	(9,478)	37,304	(14,234)	(33,700)	(8,830)	(207,508)	42,983	(51,577)
Deposits	-	-	-	(3,416)	(3,679)	-	-	100,221	-	-	-	-
Deferred charges	(22,935)	-	-	-	-	-	-	-	-	(19,641)	-	-
Accounts payable	(38,067)	(330,702)	174,494	18,787	13,925	(85,191)	219,045	(109,410)	(48,064)	465,665	(624,739)	(622,456)
Accrued expenses and taxes	1,230,466	(120,649)	(55,183)	255,203	68,386	(41,401)	(422,463)	(345,599)	-	148,923	50,811	253,775
Due to governmental agencies	(215,194)	480,436	(125,152)	(253,690)	(151,939)	(234,652)	(130,530)	(1,455)	(363)	30,754	(795,503)	(61,716)
Deferred revenue, refundable advances and other liabilities	(1,000)	-	-	-	(153,136)	120,177	(6,102)	(337,907)	42,459	(7,191)	-	-
Net cash flow from operating activities	(953,339)	3,103,519	960,040	1,871,519	(1,210,045)	151,532	1,156,543	139,461	617,641	1,931,295	886,163	2,705,373
<b>CASH FLOW FROM INVESTING ACTIVITIES:</b>												
Proceeds from the sale of property, plant and equipment	-	-	66,126	5,635	-	1,785	12,840	40,970	38,192	8,240	-	305,000
Purchases of property, plant and equipment	(1,599,667)	(490,903)	(1,270,533)	(621,003)	(50,651)	(73,178)	(628,746)	(400,926)	(425,381)	(933,016)	(2,715,658)	(670,124)
Purchase of investments	(2,138,149)	(384,649)	(2,578,675)	(618,336)	(7,211)	(100,959)	(586,400)	(490,460)	-	(47,500)	(608,558)	(698,257)
Proceeds from sales of investments	2,559,030	369,125	2,369,249	546,341	-	20,686	568,246	442,533	-	-	200,000	805,879
Change in limited use reserves and deposits refunded	(336,644)	(402)	106,173	53,060	(443)	-	-	-	-	-	(145,658)	(3,041)
Other investing activities	336,091	(26,755)	-	(17,176)	-	(37,931)	(75,862)	(72,450)	(381,651)	-	(197,835)	-
Net cash flow from investing activities	(1,179,339)	(533,584)	(1,307,660)	(651,479)	(58,305)	(189,597)	(709,922)	(480,333)	(768,840)	(972,276)	(3,467,709)	(260,543)
<b>CASH FLOW FROM FINANCING ACTIVITIES:</b>												
Proceeds from long-term debt	153,158	191,719	448,161	157,460	27,849	324,542	486,788	-	-	-	932,582	251,218
Repayment of long-term debt	(650,285)	(323,170)	(801,303)	(833,484)	(269,124)	(283,280)	(822,379)	(502,643)	(980,475)	(1,220,409)	(1,537,990)	(1,312,559)
Proceeds from notes payable	2,299,412	-	-	-	-	-	400,000	-	1,469,472	-	-	-
Repayment of notes payable	-	(180,000)	-	(800,000)	-	-	-	-	(336,091)	-	-	(99,155)
Other financing activities	-	-	-	-	-	-	-	-	(26,251)	-	-	-
Net cash flow from financing activities	1,802,285	(311,451)	(353,142)	(1,476,024)	(241,275)	41,262	64,409	(502,643)	126,655	(1,220,409)	(605,408)	(1,160,496)
<b>CHANGE IN CASH AND EQUIVALENTS</b>	(330,393)	2,258,484	(700,762)	(255,984)	(1,509,625)	3,197	511,030	(843,515)	(24,544)	(261,390)	(3,186,954)	1,284,334
<b>CASH AND EQUIVALENTS - beginning of year</b>	<u>1,160,213</u>	<u>1,811,129</u>	<u>2,710,653</u>	<u>371,372</u>	<u>2,169,403</u>	<u>1,438,779</u>	<u>470,662</u>	<u>2,756,027</u>	<u>4,919,445</u>	<u>4,170,802</u>	<u>8,978,563</u>	<u>2,770,152</u>
<b>CASH AND EQUIVALENTS - end of year</b>	<u>\$ 829,820</u>	<u>\$ 4,069,613</u>	<u>\$ 2,009,891</u>	<u>\$ 115,388</u>	<u>\$ 659,778</u>	<u>\$ 1,441,976</u>	<u>\$ 981,692</u>	<u>\$ 1,912,512</u>	<u>\$ 4,894,901</u>	<u>\$ 3,909,412</u>	<u>\$ 5,791,609</u>	<u>\$ 4,054,486</u>

See accountant's compilation report.

**NYSARC, INC. STATE OFFICE, CHAPTERS AND THEIR AFFILIATES**

**COMBINING STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED DECEMBER 31, 2018**

(Continued)

	Community League			
	<u>Wassic</u>	<u>Wayne</u>	<u>Westchester</u>	<u>Yates</u>
<b>CASH FLOW FROM OPERATING ACTIVITIES:</b>				
Change in net assets	\$ 168,062	\$ 299,623	\$ (8,671)	\$ (346,301)
Adjustments to reconcile change in net assets to net cash flow from operating activities:				
Depreciation and amortization	-	682,118	1,425,531	528,475
Realized and unrealized (gain) loss on investment	7,342	349,838	169,389	18,709
Gain on sales or dispositions of assets, net	-	897	36,331	-
Bad debt expense	-	98,404	66,635	12,100
Other	-	15,784	(82,219)	(10,067)
Changes in:				
Receivables	20,105	(636,111)	44,124	(192,695)
Inventories	-	-	-	13,822
Prepaid expenses and other assets	200	-	(44,090)	66,245
Deposits	-	-	48,313	-
Deferred charges	-	-	(32,701)	-
Accounts payable	(350)	(31,646)	(112,509)	(73,741)
Accrued expenses and taxes	(274)	(200,127)	181,131	155,627
Due to governmental agencies	-	-	(281,888)	(67,290)
Deferred revenue, refundable advances and ot	-	(127,410)	-	(240,922)
Net cash flow from operating activities	<u>195,085</u>	<u>451,370</u>	<u>1,409,376</u>	<u>(136,038)</u>
<b>CASH FLOW FROM INVESTING ACTIVITIES:</b>				
Proceeds from the sale of property, plant and equip	-	6,603	-	-
Purchases of property, plant and equipment	-	(2,653,424)	(1,529,916)	(461,801)
Purchase of investments	(72,593)	(1,087,900)	(551,570)	(430,107)
Proceeds from sales of investments	70,021	958,497	530,644	423,667
Change in limited use reserves and deposits refunde	-	-	878,948	-
Other investing activities	-	(75,862)	(381,651)	(75,862)
Net cash flow from investing activities	<u>(2,572)</u>	<u>(2,852,086)</u>	<u>(1,053,545)</u>	<u>(544,103)</u>
<b>CASH FLOW FROM FINANCING ACTIVITIES:</b>				
Proceeds from long-term debt	-	-	653,688	430,767
Repayment of long-term debt	-	(98,283)	(763,489)	(275,074)
Proceeds from notes payable	-	-	-	388,000
Repayment of notes payable	-	-	-	-
Other financing activities	-	28	-	19,323
Net cash flow from financing activities	<u>-</u>	<u>(98,255)</u>	<u>(109,801)</u>	<u>563,016</u>
CHANGE IN CASH AND EQUIVALENTS	192,513	(2,498,971)	246,030	(117,125)
CASH AND EQUIVALENTS - beginning of year	<u>254,584</u>	<u>7,424,253</u>	<u>5,309,881</u>	<u>485,900</u>
CASH AND EQUIVALENTS - end of year	<u>\$ 447,097</u>	<u>\$ 4,925,282</u>	<u>\$ 5,555,911</u>	<u>\$ 368,775</u>

See accountant's compilation report.

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**NYSARC, INC. CHAPTERS AND THEIR AFFILIATES  
COMBINING STATEMENT OF FINANCIAL POSITION FOR THE  
YEAR ENDED DECEMBER 31, 2019 (PRELIMINARY AND UNAUDITED)**

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NYSARC, Inc. Combined Financial Statements

UNAUDITED

The Arc New York  
 Chapters and Their Affiliates  
 Combining Statement of Financial Position  
 As of December 31, 2019 and December 31, 2018

	<u>12/31/2019</u>	<u>12/31/2018</u>
<b>ASSETS</b>		
CURRENT ASSETS		
Cash and cash equivalents	\$ 129,227,797	\$ 147,834,462
Investments	287,070,405	\$ 242,894,810
Restricted deposits and funded reserves	7,886,642	\$ 9,862,008
Government receivables	212,193,437	\$ 187,964,566
Other receivables	26,847,818	\$ 29,923,370
Inventories	11,405,229	\$ 10,299,647
Prepaid expenses and other assets	18,307,628	\$ 19,932,184
Total Current Assets	<u>\$ 692,938,956</u>	<u>\$ 648,711,047</u>
NET PROPERTY, PLANT AND EQUIPMENT	391,548,037	383,530,077
OTHER ASSETS	<u>119,361,899</u>	<u>98,204,782</u>
TOTAL ASSETS	<u>\$ 1,203,848,892</u>	<u>\$ 1,130,445,906</u>
<b>LIABILITIES AND NET ASSETS</b>		
CURRENT LIABILITIES		
Current installments of long-term debt	\$ 27,553,264	\$ 31,180,432
Accounts payable, accrued expenses and taxes	176,419,423	\$ 170,484,682
Due to governmental agencies	12,327,839	\$ 8,262,361
Notes payable	29,362,751	\$ 19,207,555
Other current liabilities	16,504,617	\$ 11,897,551
Total Current Liabilities	<u>\$ 262,167,894</u>	<u>\$ 241,032,581</u>
LONG-TERM DEBT, NET OF CURRENT INSTALLMENTS	141,116,117	147,699,322
OTHER LIABILITIES	73,242,215	58,046,746
NET ASSETS		
Unrestricted	706,467,025	664,394,383
Temporarily restricted	17,662,543	16,734,109
Permanently restricted	3,193,098	2,538,765
Total Net Assets	<u>\$ 727,322,666</u>	<u>\$ 683,667,257</u>
TOTAL LIABILITIES AND NET ASSETS	<u>\$ 1,203,848,892</u>	<u>\$ 1,130,445,906</u>



**NYSARC, Inc. Combined Financial Statements**

**UNAUDITED**

**The Arc New York  
Chapters and Their Affiliates  
Combining Statement of Activities  
As of December 31, 2019 and December 31, 2018**

	<u>12/31/2019</u>	<u>12/31/2018</u>
<b>UNRESTRICTED NET ASSETS</b>		
Support and Revenue		
Program revenue	\$ 1,752,723,713	\$ 1,772,625,677
Nonprogram revenue	49,670,045	\$ 28,292,022
Fundraising	7,514,291	\$ 4,975,550
Gain (loss) on sale of investments	32,955,711	\$ (4,880,951)
Net assets released from restrictions	95,342	\$ 63,877
Other revenue	5,838,431	\$ 4,916,887
	<u>\$ 1,848,797,533</u>	<u>\$ 1,805,993,062</u>
 Expenses		
Program services	1,541,151,041	1,615,879,595
Management and general	248,392,236	165,660,277
Fundraising	3,342,989	3,225,107
Other	10,614,113	6,846,623
Total Expenses	<u>\$ 1,803,500,379</u>	<u>\$ 1,791,611,602</u>
Change in Net Assets without Donor Restrictions	<u>\$ 45,297,154</u>	<u>\$ 14,381,460</u>
 <b>DONOR RESTRICTED NET ASSETS</b>		
Contributions, grants, etc.	442,775	409,484
Interest income	2,816,827	376,413
Other changes and additions	(1,272,058)	(1,389,221)
Net assets released from restrictions	(42,228)	(34,636)
Change in Donor Restricted Net Assets	<u>\$ 1,945,316</u>	<u>\$ (637,960)</u>
 Total Change in Net Assets Prior to Unusual or Infrequently Occurring Items	47,242,470	13,743,500
Unusual or Infrequently Occurring Items	3,427,504	34,061
Total Change in Net Assets Including Unusual or Infrequently Occurring Items	50,669,974	13,777,561
 Net Assets, Beginning of Year	<u>676,652,692</u>	<u>669,889,696</u>
 Net Assets, December 31, 2019 and December 31, 2018	<u><u>\$ 727,322,666</u></u>	<u><u>\$ 683,667,257</u></u>

**SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT**

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## **SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT**

The following is a summary of certain provisions of the Loan Agreement pertaining to the Series 2020 Bonds and the Project. This summary does not purport to be complete and reference is made to the Loan Agreement for full and complete statements of its provisions. Defined terms used in this Appendix have the meanings ascribed to them in Appendix A.

### **Construction of Project**

NYSARC agrees that, whether or not there are sufficient moneys available to it under the provisions of the Resolution and the Series 2020 Resolution and under the Loan Agreement, NYSARC shall complete the acquisition, design, construction, reconstruction, rehabilitation, renovation and improving or otherwise providing and furnishing and equipping of the Project, substantially in accordance with the Contract Documents related to the Project. Subject to the conditions of the Loan Agreement, the Authority will, to the extent of moneys available in the Construction Fund, cause NYSARC to be reimbursed for, or pay, any costs and expenses incurred by NYSARC which constitute Costs of the Project, provided such costs and expenses are approved by the Authority, which approval shall not be unreasonably withheld.

*(Section 5)*

### **Amendment of the Project**

NYSARC, with the prior written consent of the Authority, which consent will not be unreasonably withheld, may amend the Project to decrease, increase or otherwise modify the scope thereof. Any such increase may provide for the addition of any further acquisition, design, construction, reconstruction, rehabilitation, renovation, improving, or otherwise providing, furnishing and equipping of the Project which the Authority is authorized to undertake. After the date of the Loan Agreement, NYSARC shall not enter into, amend or modify, by change order or otherwise, any Contract Document that materially affects the scope or nature of the Project, without the prior written approval of the Authority and the Credit Facility Provider, if any, which approval shall not be unreasonably withheld. NYSARC shall deliver to the Authority copies of such change orders as the Authority may from time to time request. NYSARC shall provide such moneys as in the reasonable judgment of the Authority may be required for the cost of completing the Project in excess of the moneys in the Construction Fund established for such Project, whether such moneys are required as a result of an increase in the scope of the Project or otherwise. Such moneys shall be paid to the Trustee for deposit in the Construction Fund within fifteen (15) days after receipt by NYSARC of written notice from the Authority that such moneys are required.

*(Section 6)*

### **Financial Obligations**

(a) Except to the extent that moneys are available therefor under the Resolution or the Series 2020 Resolution or under the Loan Agreement, including, without limitation, moneys in the Debt Service Fund (but excluding any moneys from the Debt Service Reserve Fund, any moneys from a draw under a Credit Facility, if any, and interest accrued but unpaid on investments held in the Debt Service Fund), NYSARC unconditionally agrees to pay or cause to be paid with respect to the Bonds, so long as Bonds are Outstanding, to or upon the order of the Authority, from its general funds or any other moneys legally available to it:

(i) On or before the date of delivery of the Bonds, the Authority Fee agreed to by the Authority and NYSARC in connection with issuance of the Bonds;

(ii) On or before the date of delivery of the Bonds, such amount, if any, as is required, in addition to the proceeds of such Bonds available therefor, to pay the Costs of Issuance of such Bonds, and other costs in connection with the issuance of such Bonds;

(iii) [Reserved]

(iv) On or before the tenth (10<sup>th</sup>) day of each month commencing on the tenth (10<sup>th</sup>) day of the sixth (6<sup>th</sup>) month immediately preceding the date on which interest on Outstanding Bonds that are not Variable Interest Rate Bonds becomes due, one-sixth (1/6) of the interest coming due on such Bonds on the immediately succeeding interest payment date on such Bonds; **provided, however**, that, if with respect to such Outstanding Bonds there are more or less than six (6) such payment dates prior to the first interest payment on such Bonds, on each payment date prior to such interest payment date NYSARC shall pay with respect to such Bonds an amount equal to the interest coming due on such Bonds on such interest payment date multiplied by a fraction, the numerator of which is one (1) and the denominator of which is the number of payment dates prior to the first interest payment date on such Bonds;

(v) On or before the tenth (10<sup>th</sup>) day of each month commencing on the tenth (10<sup>th</sup>) day of the July immediately preceding the July 1 (or in the case of Sinking Fund Installments with respect to Outstanding Variable Interest Rate Bonds with respect to which July 1 is not an interest payment date, on the interest payment date immediately succeeding July 1) on which the principal or a Sinking Fund Installment of Outstanding Bonds becomes due, one-twelfth (1/12) of the principal and Sinking Fund Installment on such Bonds coming due on such date; **provided, however**, that, if with respect to the Outstanding Bonds there are less than twelve (12) such payment dates prior to the date (or immediately succeeding interest payment date) on which principal or Sinking Fund Installments come due on such Bonds, on each payment date prior to such date (or interest payment date) NYSARC shall pay with respect to such Bonds an amount equal to the principal and Sinking Fund Installments of such Bonds coming due on such date (or interest payment date) multiplied by a fraction, the numerator of which is one (1) and the denominator of which is the number of payment dates prior to such date; **provided, however**, with respect to Sinking Fund Installments of Option Bonds or Variable Interest Rate Bonds that come due in months other than July, the terms of this subsection shall apply except that references to July shall be replaced with the applicable month(s) in which the related Sinking Fund Installment comes due;

(vi) [Reserved]

(vii) At least forty-five (45) days prior to any date on which the Redemption Price or purchase price of Bonds previously called for redemption or contracted to be purchased, other than an Option Bond to be purchased or redeemed pursuant to an optional or mandatory tender thereof or Bonds being redeemed pursuant to Sinking Fund Installments in accordance with clause (d) above, is to be paid, the amount required to pay the Redemption Price or purchase price of such Bonds;

(viii) The Annual Administrative Fee, at the times and in the amounts set forth in the Loan Agreement;

(ix) Promptly after notice from the Authority, but in any event not later than fifteen (15) days after such notice is given, the amount set forth in such notice as payable to the

Authority (1) for the Authority Fee then unpaid, (2) to reimburse the Authority for payments made by it pursuant to the Loan Agreement and any expenses or liabilities incurred by the Authority pursuant to the Loan Agreement, (3) to reimburse the Authority for any external costs or expenses incurred by it attributable to the issuance of the Bonds or the financing or construction of the Project, including but not limited to any fees or other amounts payable by the Authority under a Remarketing Agreement, a Liquidity Facility or a Credit Facility, (4) for the costs and expenses incurred by the Authority to compel full and punctual performance by NYSARC of all the provisions of the Loan Agreement or of the Resolution or of the Series 2020 Resolution in accordance with the terms thereof, (5) for the fees and expenses of the Trustee and any Paying Agent in connection with performance of their duties under the Resolution and (6) to pay any Provider Payments then due and unpaid;

(x) Promptly upon demand by the Authority (a copy of which shall be furnished to the Trustee), all amounts required to be paid by NYSARC as a result of an acceleration pursuant to the Loan Agreement;

(xi) [Reserved]

(xii) [Reserved]

(xiii) [Reserved]

(xiv) To the extent not otherwise set forth in the Loan Agreement, including without limitation, in the event of any insufficiency, any amounts necessary to pay the principal, Sinking Fund Installments or Redemption Price associated with other redemptions, if any, of, and interest on, the Bonds, on the dates, in the amounts, at the times and in the manner provided in or pursuant to the Resolution and the Series 2020 Resolution, whether at maturity, upon acceleration, redemption or otherwise.

Subject to the provisions of the Loan Agreement and of the Resolution or the Series 2020 Resolution, NYSARC shall receive a credit against the amount required to be paid by NYSARC during a Bond Year pursuant to the Loan Agreement on account of any Sinking Fund Installments if, prior to the date notice of redemption is given pursuant to the Resolution with respect to Bonds to be redeemed through any Sinking Fund Installments during the next succeeding Bond Year, either (A) NYSARC delivers to the Trustee for cancellation one or more Bonds of the maturity to be so redeemed or (B) the Trustee, at the direction of the Authority, has purchased one or more Bonds of the maturity to be so redeemed from amounts on deposit in the Debt Service Fund in accordance with the Resolution during such Bond Year. The amount of the credit shall be equal to the principal amount of the Bonds so delivered.

The Authority directs NYSARC, and NYSARC agrees, to make the payments required by the Loan Agreement as follows: (1) the payments required by Section 9(a)(iv), (v), (vii), (x) and (xiv) of the Loan Agreement directly to the Trustee for deposit and application in accordance with Section 5.05 of the Resolution; (2) the payments required by Section 9(a)(ii) of the Loan Agreement directly to the Trustee for deposit in the Construction Fund or other fund established under the Resolution, as directed by the Authority; (3) the payments required by Section 9(a)(i), (viii) and (ix) of the Loan Agreement directly to the Authority; and (4) except as otherwise provided by this paragraph, the payments required by Section 9(a)(xi) of the Loan Agreement to or upon the written order of the Authority.

(b) (i) Notwithstanding the foregoing, to the extent the Authority shall have received Public Funds on account of the payments required by the Loan Agreement, such amounts received shall be credited against any payments due from NYSARC with respect to its obligations thereunder, and are

Revenues which shall be paid by the Authority to the Trustee. To the extent the Authority shall have received Public Funds on account of the payments required by the Loan Agreement, such amounts received shall be credited against any payments due from NYSARC with respect to its obligations thereunder, and shall be retained by the Authority.

(ii) Notwithstanding any provisions in the Loan Agreement or in the Resolution to the contrary (except as otherwise specifically provided for in this subdivision), all moneys paid by NYSARC to the Trustee pursuant thereto or otherwise held by the Trustee shall be applied in reduction of NYSARC's indebtedness to the Authority thereunder, first, with respect to interest and, then, with respect to the principal amount of such indebtedness, but only to the extent that, with respect to interest on such indebtedness, such moneys are applied by the Trustee for the payment of interest on Outstanding Bonds, and, with respect to the principal of such indebtedness, such moneys have been applied to, or are held for, payments in reduction of the principal amount of Outstanding Bonds and as a result thereof Bonds have been paid or deemed to have been paid in accordance with the Resolution. Except as otherwise provided in the Resolution, the Trustee shall hold such moneys in trust in accordance with the applicable provisions of the Resolution for the sole and exclusive benefit of the Holders of Bonds and any Provider of a Credit Facility, regardless of the actual due date or payment date of any payment to the Holders of Bonds.

(c) The obligations of NYSARC to make payments or cause the same to be made under the Loan Agreement shall be absolute and unconditional and the amount, manner and time of making such payments shall not be decreased, abated, postponed or delayed for any cause or by reason of the happening or non-happening of any event, irrespective of any defense or any right of set-off, recoupment or counterclaim which NYSARC may otherwise have against the Authority, the Trustee or any Holder of Bonds for any cause whatsoever including, without limiting the generality of the foregoing, failure of NYSARC to complete a Project or the completion thereof with defects, failure of NYSARC to occupy or use a Project, any declaration or finding that the Bonds are or the Resolution or the Series 2020 Resolution is invalid or unenforceable or any other failure or default by the Authority or the Trustee; ***provided, however***, that nothing in the Loan Agreement shall be construed to release the Authority from the performance of any agreements on its part therein contained or any of its other duties or obligations, and in the event the Authority shall fail to perform any such agreement, duty or obligation, NYSARC may institute such action as it may deem necessary to compel performance or recover damages for non-performance. Notwithstanding the foregoing, the Authority shall have no obligation to perform its obligations under the Loan Agreement to cause advances to be made to reimburse NYSARC for, or to pay, the Costs of the Project beyond the extent of moneys in the Construction Fund established for such Project available therefor.

The Loan Agreement and the obligations of NYSARC to make payments thereunder are general obligations of NYSARC.

(d) The Authority, for the convenience of NYSARC, shall furnish to NYSARC statements of the due date, purpose and amount of payments to be made pursuant to the Loan Agreement. The failure to furnish such statements shall not excuse non-payment of the amounts payable under the Loan Agreement at the time and in the manner provided thereby. NYSARC shall notify the Authority as to the amount and date of each payment made to the Trustee by NYSARC.

(e) The Authority shall have the right in its sole discretion to make on behalf of NYSARC any payment required pursuant to the Loan Agreement which has not been made by NYSARC when due. The Authority shall promptly provide notice of any such payment to NYSARC. No such payment by the Authority shall limit, impair or otherwise affect the rights of the Authority under the Loan Agreement arising out of NYSARC's failure to make such payment and no payment by the Authority shall be construed to be a waiver of any such right or of the obligation of NYSARC to make such payment.

(f) NYSARC, if it is not then in default under the Loan Agreement, shall have the right to make voluntary payments in any amount to the Trustee. In the event of a voluntary payment, the amount so paid shall be deposited in the Debt Service Fund and applied in accordance with the Resolution or held by the Trustee for the payment of Bonds in accordance with the Resolution. Upon any voluntary payment by NYSARC or any payment made pursuant to the Loan Agreement, the Authority agrees to direct the Trustee to purchase or redeem Bonds in accordance with the Resolution or to give the Trustee irrevocable instructions in accordance with the Resolution with respect to such Bonds; *provided, however*, that in the event such voluntary payment is in the sole judgment of the Authority sufficient to pay all amounts then due under the Loan Agreement and under the Resolutions; including the purchase or redemption of all Bonds Outstanding, or to pay or provide for the payment of all Bonds Outstanding in accordance with the Resolution, the Authority agrees, in accordance with the instructions of NYSARC, to direct the Trustee to purchase or redeem all Bonds Outstanding, or to cause all Bonds Outstanding to be paid or to be deemed paid in accordance with the Resolution.

(g) If NYSARC elects to purchase Bonds, with the written consent of the Authority, NYSARC shall give written notice to the Authority and the Trustee whenever Bonds are to be purchased at the election of NYSARC, which written notice shall include the maturity and principal amount of the Bonds to be so purchased. All such purchases shall be subject to the condition that money for the payment of the purchase price therefor is available on the date set for each such purchase.

(h) Promptly upon demand by the Tender Agent or the Authority, NYSARC shall pay to the Tender Agent such compensation due the Tender Agent in accordance with the provisions of the Applicable Bond Series Certificate relating to the Bonds.

*(Section 9)*

### **Reserve Funds**

NYSARC will at all times maintain on deposit in the Debt Service Reserve Fund an amount at least equal to the Debt Service Reserve Fund Requirement, if any, provided that NYSARC shall be required to deliver moneys, Government Obligations or Exempt Obligations to the Trustee for deposit in the Debt Service Reserve Fund as a result of a deficiency in such fund only after the notice required by the Resolution is given.

NYSARC may deliver to the Trustee a Reserve Fund Facility for all or any part of the Debt Service Reserve Fund Requirement in accordance with and to the extent permitted by the Resolution. Whenever a Reserve Fund Facility has been delivered to the Trustee and NYSARC is required to restore the Debt Service Reserve Fund to the level of the Debt Service Reserve Fund Requirement, NYSARC shall reimburse directly, or pay to the Authority an amount sufficient to reimburse, the Applicable Provider in order to cause such Reserve Fund Facility to be restored to its full amount and shall then deliver any additional moneys or Government Obligations or Exempt Obligations necessary to restore the Debt Service Reserve Fund to the Debt Service Reserve Fund Requirement.

The delivery to the Trustee of Government Obligations, Exempt Obligations, other securities and any Reserve Fund Facility from time to time made by NYSARC pursuant to the Loan Agreement shall constitute a pledge thereof, and shall create a security interest therein, for the benefit of the Authority to secure performance of NYSARC's obligations thereunder and for the benefit of the Trustee to secure the performance of the obligations of the Authority under the Resolution. NYSARC authorizes the Authority pursuant to the Resolution to pledge such Government Obligations, Exempt Obligations, other securities and Reserve Fund Facility to secure payment of the principal, Sinking Fund Installments, if any, and Redemption Price of, and interest on, the Bonds, whether at maturity, upon acceleration or otherwise, and the fees and expenses of the Trustee, and to make provision for and give directions with respect to the

custody, reinvestment and disposition thereof in any manner not inconsistent with the terms of the Loan Agreement and of the Resolution or the Series 2020 Resolution.

All Government Obligations, Exempt Obligations and other securities deposited with the Trustee pursuant to the Loan Agreement, other than United States Treasury Certificates of Indebtedness State and Local Government Series (“SLGS”) (subject to provisions for registration thereof), and the principal thereof and the interest, dividends or other income payable with respect thereto shall be payable to bearer or to the registered owner. All such Government Obligations, Exempt Obligations and other securities in registered form shall be registered in the name of the Trustee (in its fiduciary capacity) or its nominee. Record ownership of all such Government Obligations, Exempt Obligations and other securities shall be transferred promptly following their delivery to the Trustee into the name of the Trustee (in its fiduciary capacity) or its nominee. NYSARC appoints the Trustee its lawful attorney-in-fact for the purpose of effecting such registrations and transfers.

NYSARC agrees that upon each delivery to the Trustee of Government Obligations or Exempt Obligations, whether initially or upon later delivery or substitution, NYSARC shall deliver to the Authority and the Trustee a certificate of an Authorized Officer of NYSARC to the effect that NYSARC warrants and represents that the Government Obligations, Exempt Obligations or other securities delivered by NYSARC:

- (i) are on the date of delivery thereof free and clear of any lien, pledge, charge, security interest or other encumbrance or any statutory, contractual or other restriction that would be inconsistent with or interfere with or prohibit the pledge, application or disposition thereof as contemplated by the Loan Agreement, by the Series Resolutions or by the Resolution; and
- (ii) are pledged under the Loan Agreement pursuant to appropriate corporate action of NYSARC duly had and taken.

Prior to the initial delivery of Government Obligations, Exempt Obligations or other securities to the Trustee pursuant to the Loan Agreement, and upon any later delivery or substitution, NYSARC will, at its cost and expense, provide to the Authority and the Trustee a written opinion of counsel satisfactory to the Authority to the effect that NYSARC has full corporate power and authority to pledge such Government Obligations, Exempt Obligations and other securities as security in accordance with the Loan Agreement, such Government Obligations, Exempt Obligations and other securities have been duly delivered by NYSARC to the Trustee, such delivery creates a valid and binding pledge and security interest therein in accordance with the terms of the Loan Agreement and of the Resolution, and nothing has come to the attention of such counsel that would lead it to believe that the Government Obligations, Exempt Obligations and other securities delivered by NYSARC are not free and clear of all liens, pledges, encumbrances and security interests or are subject to any statutory, contractual or other restriction which would invalidate or render unenforceable the pledge and security interest therein, or the application or disposition thereof, contemplated by the Loan Agreement or by the Resolution.

*(Section 10)*

### **Security Interest in Pledged Revenues**

As security for the payment of all liabilities and the performance of all obligations of NYSARC pursuant to the Loan Agreement, NYSARC continuously pledges, grants a security interest in, and assigns to the Authority the Pledged Revenues, together with NYSARC’s right to receive and collect such Pledged Revenues and the proceeds of such Pledged Revenues. This pledge, grant of security interest in and assignment of the Pledged Revenues shall be subordinate only to the Prior Pledges.

NYSARC represents and warrants that no part of the Pledged Revenues or any right to receive or collect the same or the proceeds thereof is subject to any lien, pledge, security interest or assignment, other than the Prior Pledges and any parity interest granted, with the consent of the Authority, to the holder of any other indebtedness incurred to provide additional financing for the Project, and that the Pledged Revenues assigned pursuant to the Loan Agreement are legally available to provide security for NYSARC's performance thereunder. NYSARC agrees that it shall not hereafter (nor permit any related party to) create or permit the creation of any pledge, assignment, encumbrance, restriction, security interest in or other commitment of or with respect to the OPWDD Revenues which is prior or equal to the pledge made by this Section. NYSARC also agrees that it shall not hereafter (nor permit any related party to) create or permit the creation of any pledge, assignment, encumbrance, restriction, security interest in or other commitment of or with respect to the Pledged Revenues which is prior or equal to the pledge made by this Section, except that NYSARC shall be permitted to create or permit the creation of any pledge, assignment, encumbrance, restriction, security interest in or other commitment of or with respect to the Pledged Revenues (excluding OPWDD Revenues) that is on a parity with the interest granted by this Section as provided in the Loan Agreement or with the prior written consent of the Authority.

*(Section 11)*

### **Collection of Pledged Revenues**

(a) Any Pledged Revenues collected by NYSARC that are not required to be paid to the Trustee pursuant to the Loan Agreement, including any amounts to make up any deficiencies in any funds or accounts established pursuant to the Resolution or the Series 2020 Resolution, shall be free and clear of the security interest granted hereby and may be disposed of by NYSARC for any of its corporate purposes unless and until:

- (i) an Event of Default (as defined in the Loan Agreement), or any event which with the passage of time or the giving of notice, or both, would be an Event of Default, has occurred and is continuing; or
- (ii) there has occurred a drawing of funds from the Debt Service Reserve Fund that has not been repaid by NYSARC as required by the Loan Agreement or the Resolution.

(b) (i) NYSARC agrees to direct the payment of Public Funds, otherwise payable to NYSARC, to the Authority for deposit in the Applicable Debt Service Fund or to discharge other obligations of NYSARC under the Loan Agreement as they become due. Pursuant to the Act, the Loan Agreement and the Assignment, NYSARC has assigned and pledged to the Authority, and agreed to assign and pledge to the Authority, the Public Funds in an amount sufficient to make all payments required to be made by NYSARC under the Loan Agreement. In addition to the Assignment, NYSARC agrees to execute and deliver, from time to time, such additional documents as may be required by the Authority, the Trustee, OPWDD, the Comptroller, DOH, the State, a political subdivision (as defined in Section 100 of the General Municipal Law), or any social services district in the State to authorize or implement such payment of Public Funds to the Authority or the Trustee, as appropriate, in an amount sufficient to pay all amounts required to be paid under the Loan Agreement. NYSARC further acknowledges that all state and local officers are authorized and required to pay any Public Funds so assigned and pledged to the Authority in accordance with the Loan Agreement. The Authority may periodically file a certificate with OPWDD, the Comptroller, DOH, the State, a political subdivision (as defined in Section 100 of the General Municipal Law), or any social services district in the State setting forth the amount of Public Funds required to be paid to satisfy the obligations of NYSARC under the Loan Agreement, which certificate may be amended by the Authority from time to time. Copies of said certificate and any amendments thereto filed pursuant to the Loan Agreement shall be delivered to the Trustee and NYSARC.

(ii) Unless and until an event described in the Loan Agreement shall have occurred, the Authority waives its right to collect those amounts payable to the Authority pursuant to the Loan Agreement, including the OPWDD Revenues payable to the Authority. Upon the occurrence of an event described in the Loan Agreement and unless the Authority shall have agreed otherwise, the Authority shall, in addition to all other remedies available thereto pursuant to the Loan Agreement, cause the Public Funds described in the Loan Agreement to be deducted, withheld or paid directly to the Authority or the Trustee, as appropriate, in an amount sufficient to make all payments required to be made by NYSARC under the Loan Agreement.

*(Section 12)*

### **Rate Covenant**

NYSARC will maintain in each Fiscal Year Unrestricted Revenue sufficient to produce in each Fiscal Year a Debt Service Coverage Ratio equal to or greater than 1.00 with respect to all outstanding Long Term Debt of NYSARC. NYSARC shall prepare and deliver to the Trustee and the Authority a certificate as to its Debt Service Coverage Ratio demonstrating compliance and detailing the calculation thereof (1) not later than 150 days after the end of each Fiscal Year, based on preliminary financial statements of NYSARC for such Fiscal Year, and (2) not later than 365 days after the end of each Fiscal Year, based on the final financial statements of NYSARC for such Fiscal Year.

*(Section 13)*

### **Limitation on Indebtedness**

NYSARC may incur additional Long Term Debt secured on a parity (but not senior) basis with respect to the Pledged Revenues (excluding OPWDD Revenues) without obtaining the prior consent of the Authority, provided that, at the time NYSARC proposes to incur such additional Long Term Debt:

(a) NYSARC has outstanding Long Term Debt (including the Bonds) rated, without regard to any Credit Facility or other credit enhancement, “A” or higher (without regard to numeric or “+” or “-” modifiers) by at least one of the Rating Services; and

(b) NYSARC demonstrates that the Debt Service Coverage Ratio with respect to all existing Long Term Debt of NYSARC and the proposed additional Long Term Debt shall be equal to not less than (1) 1.00 if the purpose of the Long Term Debt proposed to be incurred is to finance projects for which NYSARC has received from OPWDD a “Prior Property Approval” or (2) 1.10 if the Long Term Debt is proposed to be incurred for any purpose not covered by a Prior Property Approval, in each case for the most recently completed Fiscal Year preceding the incurring of the proposed additional Long Term Debt. For purposes of calculating the Debt Service Coverage Ratio under this subdivision, NYSARC will divide Net Revenues Available for Debt Service for the most recently completed Fiscal Year by the sum of the Maximum Annual Debt Service required to be paid on all Long Term Debt outstanding at the time the calculation is made and the Maximum Annual Debt Service on the proposed additional Long Term Debt. All calculations shall be evidenced by a written certificate of an independent certified public accountant or by an officer of NYSARC.

NYSARC may incur Short Term Indebtedness without limitation provided that, with respect to such indebtedness, during any 12-month period, there will be no outstanding balance for a period of not less than 30 days or such shorter period as acceptable to the Authority. Notwithstanding the foregoing, NYSARC may incur or allow to remain outstanding Short Term Indebtedness in any Fiscal Year in an

amount that is not greater than 16 percent of the Unrestricted Revenues reported for the Fiscal Year prior to the most recently concluded Fiscal Year.

*(Section 14)*

#### **Warranty of Title; Utilities and Access**

NYSARC warrants, represents and covenants to the Authority with respect to each component of the Project financed by the Bonds that (a) NYSARC or a related party has good and marketable title to each component of the Project owned by NYSARC or a related party, and a good and valid leasehold interest in any Project component leased to NYSARC or a related party, free and clear of liens and encumbrances, except Permitted Encumbrances, so as to permit it to have quiet enjoyment and use thereof for purposes of the Loan Agreement and NYSARC's programs and (b) NYSARC or a related party has such rights of way, easements or other rights in land as may be reasonably necessary for ingress and egress to and from all components of the Project for proper operation and utilization of the Project and for utilities required to serve the Project, together with such rights of way, easements or other rights in, to and over land as may be necessary for construction, use and operation by NYSARC of the Project.

NYSARC warrants, represents and covenants that each Project (i) is and will be serviced by all necessary utilities (including, to the extent applicable, without limitation, electricity, gas, water, sewer, steam, heating, air-conditioning and ventilation) and (ii) to the extent applicable, has and will have its own separate and independent means of access, apart from any other property owned by NYSARC or others; ***provided, however***, that such access may be through common roads or walks owned by NYSARC used also for other parcels owned by NYSARC.

NYSARC covenants that title to its interest in each component of the Project shall be kept free from any encumbrances, liens or commitments of any kind, other than Permitted Encumbrances, and such other encumbrances approved in writing by the Authority and any Applicable Provider.

*(Section 15)*

#### **Consent to Pledge and Assignment**

NYSARC consents to and authorizes the assignment, transfer or pledge by the Authority to the Trustee of the Authority's rights to receive the payments required to be made pursuant to the Loan Agreement, any or all security interests granted by NYSARC thereunder, including without limitation the security interest in the Pledged Revenues, the Government Obligations, the Exempt Obligations and other securities delivered pursuant to the Loan Agreement, any Mortgage, any security interest in the fixtures, furnishings and equipment located on any Mortgaged Property and all funds and accounts established by the Resolution and pledged under the Resolution, in each case to secure any payment or the performance of any obligation of NYSARC under the Loan Agreement or arising out of the transactions contemplated thereby, whether or not the right to enforce such payment or performance shall be specifically assigned by the Authority to the Trustee. NYSARC further agrees that the Authority may pledge and assign to the Trustee any and all of the Authority's rights and remedies under the Loan Agreement. Upon any pledge and assignment by the Authority to the Trustee authorized by this Section, the Trustee shall be fully vested with all of the rights of the Authority so assigned and pledged and may thereafter exercise or enforce, by any remedy provided therefor by the Loan Agreement or by law, any of such rights directly in its own name. Any such pledge and assignment shall be limited to securing NYSARC's obligation to make all payments required by the Loan Agreement and to performing all other obligations required to be performed by NYSARC thereunder.

NYSARC covenants, warrants and represents that it is duly authorized by all applicable laws, its charter and by-laws to enter into the Loan Agreement and any Mortgage, to incur the indebtedness contemplated thereby, and to pledge, grant a security interest in and assign to the Authority and the Trustee, for the benefit of the Bondholders, the Pledged Revenues and the Government Obligations, the Exempt Obligations and other securities delivered pursuant to the Loan Agreement in the manner and to the extent provided therein and in the Resolution. NYSARC further covenants, warrants and represents that any and all pledges, security interests in and assignments to the Authority and the Trustee for the benefit of the Bondholders granted or made pursuant to the Loan Agreement or pursuant to any Mortgage are and shall be free and clear of any pledge, lien, charge, security interest or encumbrance prior thereto, or of equal rank therewith, other than the Permitted Encumbrances, and that all corporate action on the part of NYSARC and any parties related thereto, to that end has been duly and validly taken. NYSARC further covenants that the provisions of the Loan Agreement are and shall be valid and legally enforceable obligations of NYSARC in accordance with their terms. NYSARC further covenants that it shall at all times, to the extent permitted by law, defend, preserve and protect the pledge, security interest in and assignment of the Pledged Revenues and the Government Obligations, Exempt Obligations, any Mortgage and other securities delivered pursuant to the Loan Agreement and all of the rights of the Authority and Trustee for the benefit of the Bondholders thereunder, under the Series Resolution and under the Resolution against all claims and demands of all persons whomsoever, except claims or demands related to Permitted Encumbrances. NYSARC further covenants, warrants and represents that the execution and delivery of the Loan Agreement and of the Assignment, and the consummation of the transactions contemplated by the Loan Agreement and the Assignment and compliance with the provisions thereof, including, but not limited to, the assignment as security or the granting of a security interest in the Government Obligations, Exempt Obligations, any Reserve Fund Facility and other securities delivered to the Trustee pursuant to the Loan Agreement, do not violate, conflict with or result in a breach of any of the terms or provisions of, or constitute a default under, the charter or by-laws of NYSARC (or any party related thereto) or any indenture or mortgage, or any trusts, endowments or other commitments or agreements to which NYSARC (or any party related thereto) is party or by which it or any of its or their properties are bound, or any existing law, rule, regulation, judgment, order, writ, injunction or decree of any governmental authority, body, agency or other instrumentality or court having jurisdiction over NYSARC, any party related thereto or any of its or their properties.

*(Section 16)*

### **Tax-Exempt Status**

- (a) NYSARC represents that:
  - (i) it and each of its related parties are organizations described in Section 501(c)(3) of the Code, Section 501(c)(2) of the Code, or corresponding provisions of prior law;
  - (ii) it and they have received a letter or other notification from the Internal Revenue Service to that effect;
  - (iii) such letters or other notification has not been modified, limited or revoked;
  - (iv) it and each of its related parties is in compliance with all terms, conditions and limitations, if any, contained in such letter or other notification;
  - (v) the facts and circumstances which form the basis of such letter or other notification as represented to the Internal Revenue Service continue to exist; and

(vi) it and each of its related parties is exempt from federal income taxes under Section 501(a) of the Code.

(b) NYSARC agrees that it and each of its related parties will not perform any act or enter into any agreement that could adversely affect the status of NYSARC as an organization described in Section 501(c)(3) of the Code exempt from federal income taxes under Section 501(a) of the Code and not a private foundation as described in Section 509(a) of the Code and will conduct their operations in a manner conforming to the standards necessary to maintain the qualifications of NYSARC as such an organization.

As used in this Section, the term “related party” means an entity that is a member of a “controlled group” of which NYSARC is also a member. The term “controlled group” means a “controlled group” as described in 26 CFR 1.150-1(e).

*(Section 17)*

### **Securities Act Status**

NYSARC represents that: (a) it is an organization organized and operated (i) exclusively for educational, benevolent or charitable purposes and (ii) not for pecuniary profit; and (b) no part of the net earnings of which inures to the benefit of any person, private stockholder or individual, all within the meaning, respectively, of the Securities Act of 1933, as amended, and the Securities Exchange Act of 1934, as amended. NYSARC agrees that it shall not perform any act or enter into any agreement which shall adversely affect such status as set forth in this Section.

*(Section 18)*

### **Maintenance of Corporate Existence**

NYSARC covenants that it will (a) maintain its corporate existence, (b) continue to operate as a non-profit organization for educational or charitable purposes as set forth in its charter, (c) obtain, maintain and keep in full force and effect such governmental approvals, consents, licenses, permits and accreditation as may be necessary for the continued operation of NYSARC and its related entities as institutions for educational or charitable purposes as set forth in their respective charters providing such services as they may from time to time determine, and (d) except as expressly permitted by the Loan Agreement, not dissolve or otherwise dispose of all or substantially all of its assets or consolidate with or merge into another person or permit one or more persons to consolidate with or merge into it. NYSARC, with the prior written consent of the Authority, which consent shall not be unreasonably withheld, may (i) sell or otherwise transfer all or substantially all of its assets to, or consolidate with or merge into, another organization or corporation which qualifies as an organization described in Section 501(c)(3) of the Code, or any successor provision of federal income tax law, (ii) permit one or more corporations or any other organization to consolidate with or merge into it, or (iii) acquire all or substantially all of the assets of one or more corporations or other organizations. Notwithstanding the foregoing provisions of this Section, no disposition, transfer, consolidation or merger otherwise permitted by the Loan Agreement shall be permitted unless (A) NYSARC will not as a result thereof be in default under the Loan Agreement or under any Related Agreement, (B) the surviving, resulting or transferee corporation, as the case may be, is incorporated or qualified to do business or operate under the laws of the State and is qualified as an organization described in Section 501(c)(3) of the Code or any successor provision of federal income tax law, and (C) the surviving, resulting or transferee corporation of NYSARC assumes in writing all of the obligations of NYSARC under the Loan Agreement, and under the Related Agreements, and furnishes to the Authority (1) a certificate to the effect that upon such sale, transfer, consolidation, merger or acquisition such corporation will be in compliance with each of the provisions of the Loan

Agreement and of the Related Agreements, and will meet the requirements of the Act, and (2) such other certificates and documents as the Authority may reasonably require to establish compliance with this Section.

*(Section 19)*

### **Environmental Quality Review and Historic Preservation**

For the purpose of assisting the Authority in making any findings or determinations which might be required by (i) Article 8 of the New York Environmental Conservation Law and the regulations promulgated thereunder (collectively, “SEQR”) or (ii) the New York State Historic Preservation Act of 1980 and the regulations promulgated thereunder (collectively, the “Preservation Act”), NYSARC will:

(a) prepare such documents, if any, as the Authority or other governmental body having primary responsibility under SEQR or the Preservation Act determines are required by SEQR or the Preservation Act, in such form and containing such information in such detail as the Authority or such other governmental body determines is required by SEQR or the Preservation Act; and

(b) file such documents with, or send such documents to, the persons or places required by SEQR or the Preservation Act or the Authority, and present documentation of such filing or sending in such form as is satisfactory to the Authority.

*(Section 20)*

### **Use and Possession of the Project; Sale of Project Components; Release of Project Components**

Subject to the rights, duties and remedies of the Authority under the Loan Agreement, NYSARC and the appropriate related party shall have sole and exclusive control of, possession of and responsibility for (i) each Project, (ii) the operation of each Project and supervision of the activities conducted therein or in connection with any part thereof, and (iii) the maintenance, repair and replacement of each Project.

NYSARC covenants that it will not transfer, sell or convey any Project or any part thereof or interest therein, including development rights, without the prior approval of the Authority and the Credit Facility Provider, if any, unless NYSARC pays to the Trustee either for deposit into the Debt Service Fund, or, pursuant to the Resolution, to be set aside or to purchase Defeasance Securities in accordance with the direction of the Authority, an amount equal to the lesser of (A) the net proceeds of such transfer, sale or conveyance or (B) a percentage of the Outstanding Bonds determined by dividing (1) the principal amount of Bonds issued to finance the portion of such Project being transferred, sold or conveyed (which principal amount shall be reasonably determined by the Authority) by (2) the aggregate principal amount of Bonds issued.

The Authority agrees that it will execute and deliver to NYSARC any and all instruments necessary or appropriate to release the lien of the Mortgage upon any portion of the Project as to which:

(i) no portion of the principal amount of the Bonds Outstanding are allocable under any allocation of the principal amount of Bonds to portions of the Project which may have been established in the records of the Authority upon, or at any time after, the issuance of the Bonds, and

(ii) the period established in the records of the Authority upon, or at any time after, the issuance of the Bonds during which a portion of the principal amount of the Bonds Outstanding was expected to be Outstanding has expired,

provided, however, that (x) no Event of Default exists under the Loan Agreement and (y) the Authority is in receipt of a written request of NYSARC for such release, accompanied by NYSARC's certification as to facts establishing that, based on records of NYSARC, items (i) and (ii) have been satisfied. The release of the lien of the Mortgage contemplated by this provision does not remove the affected property as part of the Project for purposes of the Loan Agreement absent an amendment of the Loan Agreement to such effect as though such portion of the Project was being transferred, sold or conveyed.

*(Section 21)*

### **Restrictions on Religious Use**

NYSARC agrees that with respect to any Project or portion thereof, so long as such Project or portion thereof exists and unless and until such Project or portion thereof is sold for the fair market value thereof, such Project or portion thereof shall not be used for sectarian religious instruction or as a place of religious worship or in connection with any part of a program of a school or department of divinity for any religious denomination; *provided, however*, that the foregoing restriction shall not prohibit the free exercise of any religion; *provided, further*, that if at any time hereafter, in the opinion of Bond Counsel, the then applicable law would permit such Project or portion thereof to be used without regard to the above stated restriction, said restriction shall not apply to such Project and each portion thereof. The Authority and its agents may conduct such inspections as the Authority deems necessary to determine whether a Project or any portion or real property thereof financed by Bonds is being used for any purpose proscribed by the Loan Agreement. NYSARC further agrees that prior to any disposition of any portion of a Project for less than fair market value, it shall execute and record in the appropriate real property records an instrument subjecting, to the satisfaction of the Authority, the use of such portion of such Project to the restriction that (a) so long as such portion of such Project (and, if included in a Project, the real property on or in which such portion of such Project is situated) shall exist and (b) until such portion of such Project is sold or otherwise transferred to a person who purchases the same for the fair market value thereof at the time of such sale or transfer, such portion of such Project shall not be used for sectarian religious instruction or as a place of religious worship or used in connection with any part of the program of a school or department of divinity of any religious denomination. The instrument containing such restriction shall further provide that such restriction may be enforced at the instance of the Authority or the Attorney General of the State, by a proceeding in any court of competent jurisdiction, by injunction, mandamus or by other appropriate remedy. The instrument containing such restriction shall also provide that if at any time thereafter, in the opinion of Bond Counsel, the then applicable law would permit such portion of the Project, or, if included in the Project, the real property on or in which such portion is situated, to be used without regard to the above stated restriction, then said restriction shall be without any force or effect. For the purposes of this Section an involuntary transfer or disposition of a Project or a portion thereof, upon foreclosure or otherwise, shall be considered a sale for the fair market value thereof.

*(Section 22)*

### **Maintenance, Repair and Replacement**

NYSARC agrees that, throughout the term of the Loan Agreement, it shall, at its own expense, hold, operate and maintain each Project facility, including equipment, in a careful, prudent and economical manner, and keep the same, with the appurtenances and every part and parcel thereof, in good repair, working order and safe condition, reasonable wear and tear excepted, and shall from time to time

make all necessary and proper repairs, replacements and renewals so that at all times the operation thereof may be properly and advantageously conducted. NYSARC shall give the Authority not less than fifteen (15) days prior written notice of its intention to make a change or alteration that materially alters the scope or nature of any Project facility, including equipment, or a portion thereof. NYSARC shall have the right to remove or replace any type of fixtures, furnishings and equipment in any Project facility which may have been financed by the proceeds of the sale of Bonds if obsolete and no longer needed for such Project facility or if NYSARC substitutes for any such removed or replaced fixtures, furnishings and equipment, additional fixtures, furnishings and equipment having equal or greater value and utility than the fixtures, furnishings and equipment so removed or replaced.

NYSARC further agrees that it shall pay at its own expense all extraordinary costs of maintaining, repairing and replacing each Project facility, including equipment, except insofar as funds are made available therefor from proceeds of insurance, condemnation or eminent domain awards.

*(Section 23)*

### **Covenant as to Insurance**

NYSARC agrees to maintain or cause to be maintained insurance with insurance companies or by means or self-insurance of such types, against such risks and in such amounts, subject to reasonable deductible provisions, as is customarily carried by entities located in the State of a nature similar to that of NYSARC. Without limiting the generality of the foregoing, such insurance shall include property damage, fire and extended coverage, property damage liability and commercial general liability insurance and shall be in amounts estimated to indemnify the reasonably anticipated damages, loss or liability. NYSARC shall at all times also maintain worker's compensation coverage and disability benefits insurance coverage as required by the laws of the State.

NYSARC shall furnish to the Authority annually (1) a certificate or report of an Insurance Consultant that the insurance coverage maintained by NYSARC is adequate and in accordance with the standards above, and (2) any certificates of workers' compensation insurance and disability benefits insurance coverage required by the New York State Workers' Compensation Board.

If the Authority shall so request in writing, NYSARC shall provide to the Authority summaries or other evidence of its insurance coverage and shall obtain endorsements reasonably requested by the Authority.

*(Section 24)*

### **Damage or Condemnation**

In the event of a taking of any Project facility or any portion thereof by eminent domain or condemnation, or of damage or destruction affecting all or part thereof, all property casualty insurance, condemnation or eminent domain proceeds not applied to reimburse NYSARC for costs incurred to repair or restore the same, and subject to the provisions of the Intercreditor Agreement and the Related Agreements, if any, shall be paid to the Trustee for deposit in the Construction Fund. Subject to the provisions of any Intercreditor Agreement and Related Agreements, all proceeds derived from an award for such taking or from property casualty insurance shall be applied as provided below.

If within one hundred twenty (120) days (or such longer period as the Authority and NYSARC may agree) after the Authority receives actual notice or knowledge of the taking or damage, NYSARC, the Applicable Provider, if any, and the Authority agree in writing that the property or the affected portion thereof shall be repaired, replaced or restored, NYSARC shall proceed to repair, replace or restore the

same, or the affected portion thereof, including all fixtures, furniture, equipment and effects, to its original condition insofar as possible with such changes and additions as shall be appropriate to the needs of NYSARC and approved in writing by the Authority and the Applicable Provider, if any. The funds required for such repair, replacement or restoration shall be paid, subject to such conditions and limitations as the Authority and the Applicable Provider, if any, may reasonably impose, from the proceeds of insurance, condemnation or eminent domain awards received by reason of such occurrence and to the extent such proceeds are not sufficient, from funds to be provided by NYSARC.

If no agreement for the repair, restoration or replacement of the property or affected portion shall have been reached by the Authority, the Applicable Provider, if any, and NYSARC within such period, the proceeds then held by NYSARC shall be paid to the Trustee for deposit in the Debt Service Fund and the proceeds then held in the Construction Fund shall be transferred to the Debt Service Fund, whereupon such proceeds shall be applied to the purchase or redemption of Outstanding Bonds allocable to the affected portions of the Project (as determined by the Authority).

*(Section 25)*

### **Taxes and Assessments**

NYSARC shall pay, or cause to be paid, when due, at its own expense, and hold the Authority harmless from (i) all taxes, assessments, water and sewer charges and other impositions, if any, which may be levied or assessed upon the Project or any part thereof and (ii) all costs of operating, maintaining, renovating, repairing and replacing the Project and its equipment; provided, however, that the foregoing shall not be deemed to constitute an obligation on NYSARC to assume liabilities or obligations of the landlord with respect to any property leased by NYSARC in which some portion of the Project is located. NYSARC shall file or cause to be filed exemption certificates as required by Governmental Requirements. NYSARC agrees to provide to the Authority within 10 days after written demand by the Authority, certificates or receipts issued by the appropriate authority showing full payment of all taxes, assessments, water and sewer charges and other impositions; provided, however, that the good faith contest of such impositions shall be deemed to be complete compliance with the requirements of the Loan Agreement if NYSARC deposits with the Authority the full amount of such contested impositions.

Notwithstanding the foregoing, the Authority, in its sole discretion, after notice in writing to NYSARC, may pay (such payment shall be made under protest if so requested by NYSARC) any such charges, taxes and assessments if, in the reasonable judgment of the Authority, the Project or any part thereof, would be in substantial danger by reason of NYSARC's failure to pay such charges, taxes and assessments of being sold, attached, forfeited, foreclosed, transferred, conveyed, assigned or otherwise subjected to any proceeding, equitable remedy, lien, charge, fee or penalty that would impair:

- (i) the interests or security of the Authority under the Loan Agreement, under the Series 2020 Resolution or under the Resolution;
- (ii) the ability of the Authority to enforce its rights under the Resolution, the Series 2020 Resolution or the Loan Agreement;
- (iii) the ability of the Authority to fulfill the terms of any covenants or perform any of its obligations under the Loan Agreement or under the Series 2020 Resolution or under the Resolution; or
- (iv) the ability of NYSARC to fulfill the terms of the covenants or perform any of its obligations under the Loan Agreement or under the Series 2020 Resolution or under the Resolution.

NYSARC agrees to reimburse the Authority for any such payment, with interest thereon from the date payment was made by the Authority at a rate equal to the highest rate of interest payable on any investment held for the Debt Service Fund on the date such payment was made by the Authority.

*(Section 26)*

### **Defaults and Remedies**

As used in the Loan Agreement, the term “**Event of Default**” shall mean:

(i) NYSARC shall default in the timely payment of any amount payable pursuant to the Loan Agreement or the payment of any other amounts required to be delivered or paid by or on behalf of NYSARC in accordance therewith or with the Resolution or the Series 2020 Resolution, and such default continues for a period in excess of seven (7) days; or

(ii) NYSARC defaults in the due and punctual performance of any other covenant contained in the Loan Agreement and such default continues for thirty (30) days after written notice requiring the same to be remedied shall have been given to NYSARC by the Authority or the Trustee or, if such default is not capable of being cured within thirty (30) days, NYSARC fails to commence within said thirty (30) days to cure the same and to diligently prosecute the cure thereof; or

(iii) as a result of any default in payment or performance required of NYSARC under the Loan Agreement or any other Event of Default thereunder, whether or not declared, continuing or cured, the Authority shall be in default in the payment or performance of any of its obligations under the Resolution or an “event of default” (as defined in the Resolution) shall have been declared under the Resolution so long as such default or event of default shall remain uncured or the Trustee or Holders of the Bonds shall be seeking the enforcement of any remedy under the Resolution as a result thereof; or

(iv) NYSARC shall (A) be generally not paying its debts as they become due, (B) file, or consent by answer or otherwise to the filing against it of, a petition under the United States Bankruptcy Code or under any other bankruptcy or insolvency law of any jurisdiction, (C) make a general assignment for the benefit of its general creditors, (D) consent to the appointment of a custodian, receiver, trustee or other officer with similar powers of itself or of any substantial part of its property, (E) be adjudicated insolvent or be liquidated or (F) take corporate action for the purpose of any of the foregoing; or

(v) a court or governmental authority of competent jurisdiction shall enter an order appointing, without consent by NYSARC, a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, or an order for relief shall be entered in any case or proceeding for liquidation or reorganization or otherwise to take advantage of any bankruptcy or insolvency law of any jurisdiction, or ordering the dissolution, winding-up or liquidation of NYSARC, or any petition for any such relief shall be filed against NYSARC and such petition shall not be dismissed or stayed within ninety (90) days; or

(vi) NYSARC’s status as a corporation under State law shall be suspended or revoked or its charter or certificate of incorporation shall be suspended or revoked; or

(vii) a petition to dissolve NYSARC shall be filed by NYSARC in any court of the State or with the legislature of the State or other governmental authority having jurisdiction over NYSARC; or

(viii) an order of dissolution of NYSARC shall be made by a court or the legislature of the State or other governmental authority having jurisdiction over NYSARC, which order shall remain undismissed or unstayed for an aggregate of thirty (30) days; or

(ix) a petition shall be filed with a court having jurisdiction for an order directing or providing for the sale, disposition or distribution of all or substantially all of the property belonging to NYSARC which petition shall remain undismissed or unstayed for an aggregate of ninety (90) days; or

(x) an order of a court having jurisdiction shall be entered directing or providing for the sale, disposition or distribution of all or substantially all of the property belonging to NYSARC, which order shall remain undismissed or unstayed for the earlier of (A) three (3) business days prior to the date provided for in such order for such sale, disposition or distribution or (B) an aggregate of thirty (30) days from the date such order shall have been entered; or

(xi) a final non-appealable judgment for the payment of money which is not covered by insurance or reserves set aside by NYSARC, which in the judgment of the Authority will adversely affect the rights of the Holders of the Bonds shall be rendered against NYSARC and at any time after forty-five (45) days from the entry thereof, (A) such judgment shall not have been discharged or paid, or (B) NYSARC shall not have taken and be diligently prosecuting an appeal therefrom or from the order, decree or process upon which or pursuant to which such judgment shall have been granted or entered, and shall not have caused, within forty-five (45) days, the execution of or levy under such judgment, order, decree or process or the enforcement thereof to have been stayed pending determination of such appeal; or

(xii) the giving of notice by the Provider of the Applicable Credit Facility, if any, to the Authority and the Trustee (A) of an Event of Default under and as defined in the Credit Facility or a Related Agreement, which pursuant to the terms of the Credit Facility or Related Agreement, gives the Provider a right to request the Trustee to direct a mandatory tender of the Applicable Bonds, and (B) requesting the Trustee to direct a mandatory tender of the Bonds in accordance with the Bond Series Certificate with respect to the Bonds.

Subject to the Intercreditor Agreement, if any, and the Prior Pledges, upon the occurrence of an Event of Default, the Authority shall provide the Provider of any Applicable Credit Facility with written notice thereof upon obtaining actual knowledge thereof and may take any one or more of the following actions:

(i) declare all sums payable by NYSARC under the Loan Agreement immediately due and payable;

(ii) direct the Trustee to withhold any and all payments, advances and reimbursements from the proceeds of Bonds or the Construction Fund or otherwise to which NYSARC may otherwise be entitled under the Loan Agreement and in the Authority's sole discretion apply any such proceeds or moneys for such purposes as are authorized by the Resolution;

(iii) withhold any or all further performance under the Loan Agreement;

(iv) maintain an action against NYSARC under the Loan Agreement to recover any sums payable by NYSARC or to require its compliance with the terms thereof or of any Mortgage;

(v) permit, direct or request the Trustee to liquidate all or any portion of the assets of the Debt Service Reserve Fund by selling the same at public or private sale in any commercially reasonable manner and apply the proceeds thereof and any dividends or interest received on investments thereof to the payment of the principal, Sinking Fund Installments, if any, or Redemption Price of and interest on the Bonds, or any other obligation or liability of NYSARC or the Authority arising from the Loan Agreement, from the Series 2020 Resolution or from the Resolution;

(vi) to the extent permitted by law, (A) enter upon the Project and complete the construction thereof in accordance with the plans and specifications with such changes therein as the Authority may deem appropriate and employ watchmen to protect the Project, all at the risk, cost and expense of NYSARC, consent to such entry being given by NYSARC, (B) at any time discontinue any work commenced in respect of the construction of the Project or change any course of action undertaken by NYSARC and not be bound by any limitations or requirements of time whether set forth in the Loan Agreement or otherwise, (C) assume any construction contract made by NYSARC in any way relating to the construction of the Project and take over and use all or any part of the labor, materials, supplies and equipment contracted for by NYSARC, whether or not previously incorporated into the construction of such Project, and (D) in connection with the construction of the Project undertaken by the Authority pursuant to the provisions of the Loan Agreement, (1) engage builders, contractors, architects, engineers and others for the purpose of furnishing labor, materials and equipment in connection with the construction of such Project, (2) pay, settle or compromise all bills or claims which may become liens against the Project or against any moneys of the Authority applicable to the construction of such Project, or which have been or may be incurred in any manner in connection with completing the construction of the Project or for the discharge of liens, encumbrances or defects in the title to the Project or against any moneys of the Authority applicable to the construction of such Project, and (3) take or refrain from taking such action under the Loan Agreement as the Authority may from time to time determine in good faith to be necessary or proper. NYSARC shall be liable to the Authority for all sums paid or incurred for construction of the Project whether the same shall be paid or incurred pursuant to the provisions of the Loan Agreement or otherwise, and all payments made or liabilities incurred by the Authority under the Loan Agreement of any kind whatsoever shall be paid by NYSARC to the Authority upon demand. NYSARC hereby irrevocably constitutes and appoints the Authority its true and lawful attorney-in-fact to execute, acknowledge and deliver any instruments and to do and perform any acts in the name and on behalf of NYSARC for the purpose of exercising the rights granted to the Authority by the Loan Agreement during the term thereof;

(vii) realize upon any security interest which the Authority may then have in the pledge and assignment of the Pledged Revenues and the rights to receive the same, all to the extent provided in the Loan Agreement, by any one or more of the following actions: (A) enter the primary business office of NYSARC and examine and make copies of the financial books and records of NYSARC relating to the Pledged Revenues and, to the extent of the assigned Pledged Revenues, take possession of all checks or other orders for payment of money and moneys in the possession of NYSARC representing Pledged Revenues or proceeds thereof; (B) notify any account debtors obligated on any Pledged Revenues to make payment directly to the Authority or to the Trustee, as the Authority may direct, and of the amount to be so paid; provided, however, that the Authority may, in its discretion, immediately collect the entire amount of interest, principal, and Sinking Fund Installments, if any, coming due with respect to the Bonds on or

before the next July 1 and January 1 (or, if the Bonds are Variable Interest Rate Bonds, on the interest payment dates occurring on or immediately after the next July 1 and January 1), to the extent of Pledged Revenues, and may continue to do so commencing on each July 1 and January 1 (or, in the case of Variable Interest Rate Bonds, on each interest payment date on or immediately succeeding each July 1 and January 1) to the extent of amounts due to the Authority under the Loan Agreement on the next July 1 and January 1 (or immediately succeeding interest payment date), with respect to Pledged Revenues, until such amounts are fully collected; provided, however, that written notice of such notification shall be mailed to NYSARC five (5) business days prior to mailing or otherwise making such notification to account debtors; and provided further that until NYSARC shall receive such notice it shall have full authority and responsibility to enforce and collect Pledged Revenues owing from its account debtors; (C) following the above-mentioned notification to account debtors, collect, compromise, settle, compound or extend amounts payable as Pledged Revenues which are in the form of accounts receivable or contract rights from NYSARC's account debtors by suit or other means and give a full acquittance therefor and receipt therefor in the name of NYSARC whether or not the full amount of any such account receivable or contract right owing shall be paid to the Authority; (D) require NYSARC to deposit all moneys, checks or other orders for the payment of money which represent Pledged Revenues in an amount equal to the Pledged Revenues assigned under the Loan Agreement within five (5) business days after receipt of written notice of such requirement, and thereafter as received, into a fund or account to be established for such purpose by the Authority, provided that the moneys in such fund or account shall be applied by the Authority to the payment of any of the obligations of NYSARC under the Loan Agreement including the fees and expenses of the Authority, and provided further that the Authority in its sole discretion may authorize NYSARC to make withdrawals from such fund or account for its corporate purposes, and provided further that the requirement to make such deposits shall cease and the balance of such fund or account shall be paid to NYSARC when all Events of Default under the Loan Agreement by NYSARC have been cured; (E) forbid NYSARC to extend, compromise, compound or settle any accounts receivable or contract rights which represent any unpaid assigned Pledged Revenues, or release, wholly or partly, any person liable for the payment thereof (except upon receipt of the full amount due) or allow any credit or discount thereon; (F) endorse in the name of NYSARC any checks or other orders for the payment of money representing any unpaid assigned Pledged Revenues or the proceeds thereof; and (G) follow the procedures for the collection of Public Funds as provided in the Act and the Loan Agreement; and

(viii) take any action necessary to enable the Authority to realize on its liens under the Loan Agreement or under any Mortgage or by law, including any action or proceeding permitted by the terms of the Loan Agreement, by the terms of any Mortgage or by law.

All rights and remedies given or granted to the Authority in the Loan Agreement are cumulative, non-exclusive and in addition to any and all rights and remedies that the Authority may have or may be given by reason of any law, statute, ordinance or otherwise, and no failure to exercise or delay in exercising any remedy shall effect a waiver of the Authority's right to exercise such remedy thereafter.

At any time before the entry of a final judgment or decree in any suit, action or proceeding instituted on account of any Event of Default or before the completion of the enforcement of any other remedies under the Loan Agreement, the Authority may annul any declaration made pursuant thereto and its consequences if such Event of Default shall be cured. No such annulment shall extend to or affect any subsequent default or impair any right consequent thereto.

*(Section 30)*

## **Investment of Moneys**

NYSARC acknowledges that the Authority may in its sole discretion direct the investment of certain moneys held under the Resolution and the Series 2020 Resolution as provided therein and that no representation or warranty has been made by the Authority with respect to interest rates on, or the amount to be earned as a result of, any such investment. Neither the Authority nor the Trustee shall have any liability arising out of or in connection with the making of any investment authorized by the provisions of the Resolution in the manner provided therein, or for any loss, direct or indirect, resulting from any such investment. The Authority hereby agrees that it shall direct the making of investments as permitted by the Resolution as soon as practicable when moneys are legally available therefor.

*(Section 36)*

## **Limitation on Agreements**

NYSARC shall not enter into any contract or agreement which impairs NYSARC's ability to comply with the provisions of the Loan Agreement in any material respect.

*(Section 38)*

## **Certificate as to Representations and Warranties**

The obligations of the Authority under the Loan Agreement and the delivery of the Bonds are conditioned upon the receipt by the Authority at or prior to delivery of the Bonds of a certificate of an Authorized Officer of NYSARC acceptable to the Authority to the effect that the representations and warranties contained therein are true and correct in all material respects and in full force and effect on and as of the date of delivery of the Bonds as if made on the date of delivery of the Bonds.

*(Section 44)*

## **Further Assurances**

NYSARC, at any and all times, shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as are necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights, moneys, securities, funds and security interests by the Loan Agreement or by the Resolution pledged, assigned or granted, or intended so to be, or which NYSARC may hereafter become bound to pledge, assign or grant to the Authority pursuant to the Loan Agreement.

*(Section 47)*

## **Amendments to Loan Agreement**

The Loan Agreement may be amended only in accordance with the Resolution and each amendment shall be made by an instrument in writing signed by NYSARC and the Authority, an executed counterpart of which shall be filed with the Trustee.

*(Section 48)*

## **Termination**

The Loan Agreement shall remain in full force and effect until no Bonds are Outstanding and until all other payments, expenses and fees payable thereunder by NYSARC shall have been made or provision made for the payment thereof; *provided, however*, that the liabilities and the obligations of NYSARC under the Loan Agreement and to provide reimbursement for or indemnification against expenses, costs or liabilities made or incurred pursuant thereto shall nevertheless survive any such termination. Upon such termination, the Authority shall promptly deliver such documents as may be reasonably requested by NYSARC to evidence such termination and the discharge of NYSARC's duties under the Loan Agreement and the release or surrender of any security interests granted by NYSARC to the Authority pursuant thereto.

*(Section 49)*

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**SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION**

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## SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION

The following is a summary of certain provisions of the Resolution pertaining to the Series 2020 Bonds and the Project. Such summary does not purport to be complete and reference is made to the Resolution for full and complete statements of each of its provisions. Defined terms used in this Appendix shall have the meanings ascribed to them in Appendix A. Unless otherwise indicated, references to section numbers herein refer to sections in the Resolution.

### **Resolution and Bonds Constitute a Contract**

It is the intent of the Resolution to authorize the issuance by the Authority, from time to time, of its NYSARC, Inc. Revenue Bonds in one or more Series, each such Series to be authorized by a separate Series Resolution and, *inter alia*, to be separately secured from each other Series of Bonds, provided, however, that any two or more Series of Bonds may be equally and ratably secured by the Applicable Pledged Revenues and the Applicable Mortgaged Property (but, in the case of the Applicable Mortgaged Property, only to the extent that the Applicable Mortgage has been assigned to the Trustee in accordance with the Resolution) as provided in the Applicable Series Resolutions. Each such Series of Bonds may be separate and apart from any other Series of Bonds authorized by a different Series Resolution and the Holders of Bonds of such Series shall not be entitled to the rights and benefits conferred upon the Holders of Bonds of any other Series of Bonds by the respective Series Resolution authorizing such Series of Bonds. With respect to each Series of Bonds, in consideration of the purchase and acceptance of any and all of the Bonds of a Series authorized to be issued under the Resolution and under a Series Resolution by those who shall hold or own the same from time to time, the Resolution and such Series Resolution shall be deemed to be and shall constitute a contract among the Authority, the Trustee and the Holders from time to time of such Bonds of a Series, and the pledge and assignment to the Trustee made therein and the covenants and agreements set forth to be performed by or on behalf of the Authority shall be for the equal and ratable benefit, protection and security of the Holders of any and all of the Bonds of such Series, all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of any Bonds of such Series over any other Bonds of such Series except as expressly provided in the Resolution or permitted by the Resolution or by a Series Resolution.

*(Section 1.03)*

### **Option of the Authority to Assign Certain Rights and Remedies**

With respect to each Series of Bonds, as security and collateral for (x) the payment of the principal, Sinking Fund Installments, if any, purchase price, and Redemption Price of, and interest on, the Outstanding Bonds of such Series and for the performance of any other obligation of the Authority under the Resolution and under the Applicable Series Resolution, and (y) the payment of all amounts owed to a Provider of a Credit Facility and for the performance of any other obligations of NYSARC thereunder, the Authority may assign to the Trustee and to the Applicable Provider of a Credit Facility all of the Authority's estate, right, title, interest and claim in, to and under the Applicable Loan Agreement and the Applicable Mortgage, subject only to the terms of the Applicable Intercreditor Agreement, and together with all rights, powers, security interests, privileges, options and other benefits of the Authority thereunder, including, without limitation, the immediate and continuing right to receive, enforce and collect (and to apply the same in accordance with the Resolution) all insurance proceeds, sale proceeds and other payments and other security now or hereafter payable to or receivable by the Authority under the Applicable Mortgage or the Applicable Loan Agreement and the right to make all waivers and agreements in the name and on behalf of the Authority, and to perform all other necessary and appropriate acts under such Loan Agreement and Mortgage, subject to the following conditions: (i) that the Holders of the Bonds shall not be responsible or liable in any manner or to any extent for the performance of any of the covenants or provisions thereof to be performed by the Authority; and (ii) that the Applicable

Mortgage and the security interest in Pledged Revenues granted to the Authority pursuant to the Applicable Loan Agreement may not be assigned by any party thereto without the written consent of the other parties thereto except to the Trustee and the Applicable Provider of a Credit Facility as permitted by the Resolution and except as provided in the Applicable Intercreditor Agreement; provided, however, that any grant, pledge and assignment of moneys, revenues, accounts, rights or other property of NYSARC made with respect to the Applicable Mortgage and the security interest in Pledged Revenues granted to the Authority pursuant to the Applicable Loan Agreement pursuant to this paragraph shall secure only the payment of amounts payable under such Mortgage and Loan Agreement; provided, further, that the Authority shall retain a parity interest in the proceeds of any remedial action with respect to the security interest in Pledged Revenues granted to the Authority pursuant to the Applicable Loan Agreement in an amount equal to NYSARC's obligations to the Authority and to the right to the payment of fees, costs and expenses of the Authority payable pursuant to the Applicable Loan Agreement, the rights to the indemnities provided thereby, and the rights to the payments, if any, required to be made pursuant to such indemnities. In addition, to the extent necessary to reflect the issuance of a Credit Facility with respect to the Applicable Series of Bonds, an Authorized Officer of the Trustee shall, upon request of an Authorized Officer of the Authority, execute and deliver such amendments to or supplements of such assignment as shall be necessary to add the Provider of such Credit Facility as beneficiary of such assignment or to accept a re-assignment from such Credit Facility Provider pursuant to the terms of the Applicable Intercreditor Agreement.

At or prior to the initial issuance and delivery of a Series of Bonds to be issued under the Resolution, upon delivery to the Trustee of evidence in writing from Authorized Officers of both the Authority and the Applicable Provider of a Credit Facility with respect to such Series of Bonds to the effect that the Applicable Intercreditor Agreement among the Authority, such Provider of a Credit Facility and the Trustee is in form and substance satisfactory to them (which may be evidenced by the execution thereof by the Authority and such Provider of a Credit Facility), an Authorized Officer of the Trustee shall, upon determination by the Trustee that such Intercreditor Agreement is in form and substance satisfactory to it (which determination by the Trustee shall not be unreasonably withheld or delayed), execute and deliver to the Authority and such Provider of a Credit Facility such Intercreditor Agreement. In addition, an Authorized Officer of the Trustee shall execute and deliver to the Authority and such Provider of a Credit Facility such amendments to or supplements of such Intercreditor Agreement as may be requested by an Authorized Officer of the Authority.

In the event that (i) there is a withdrawal from the Applicable Debt Service Reserve Fund securing a Series of Bonds that has not been restored to the Debt Service Reserve Fund Requirement therefor within 30 days after notice given in accordance with Section 5.07(d) of the Resolution has been received by the Authority, and (ii) if such Series is secured by one or more Credit Facilities, a Provider of any thereof has so requested, and (iii) if there is an Intercreditor Agreement with respect to such Series, such action is consistent with the terms thereof, the Authority shall assign to the Trustee, for the benefit of the Bondholders of the Series of Bonds secured by such Debt Service Reserve Fund all of its right, title and interest in and to the Applicable Mortgage and in and to the rights of the Authority under the Applicable Loan Agreement to exercise any of the remedies provided thereby for the enforcement of the obligations of NYSARC to make the payments thereunder, including the right to declare the indebtedness thereunder immediately due and payable and to foreclose the lien of such Mortgage; provided, however, that the Authority may retain the right to the payment of the fees, costs and expenses of the Authority payable pursuant to such Loan Agreement, the right to the indemnities provided thereby, the right to the payments, if any, required to be made pursuant to such indemnities and the right to exercise any of the remedies available thereunder for the enforcement of the obligations of NYSARC, the rights to which have been retained by the Authority. Such assignment shall be made by the execution and delivery to the Trustee of documents of assignment in form and substance reasonably acceptable to the Trustee and any Applicable Credit Facility Provider making the request to the Authority to assign said Mortgage to the Trustee. The Trustee shall notify each Applicable Credit Facility Provider, if any, of such assignment and

provide each such Provider with a copy of the documents of assignment. If prior to the foreclosure of any such Mortgage, the Applicable Debt Service Reserve Fund has been restored to its Debt Service Reserve Fund Requirement, the Trustee shall, upon the request of the Authority (and unless otherwise provided in the Applicable Intercreditor Agreement, if any), reassign to the Authority all right, title and interest in and to such Loan Agreement and Mortgage assigned to it pursuant to this paragraph. Any such reassignment shall be made by the execution and delivery to the Authority of documents of reassignment in form and substance reasonably acceptable to the Authority. The Trustee shall notify each Applicable Credit Facility Provider of any such reassignment and provide each Applicable Credit Facility Provider with a copy of the documents of reassignment.

*(Section 1.04)*

## **Refunding Bonds**

All or any portion of one or more Series of Refunding Bonds may be authenticated and delivered upon original issuance to refund all Outstanding Bonds, one or more Series of Outstanding Bonds, a portion of a Series of Outstanding Bonds or a portion of a maturity of a Series of Outstanding Bonds. The Authority may issue Refunding Bonds of a Series in an aggregate principal amount sufficient, together with other money available therefor, to accomplish such refunding and to make such deposits required by the provisions of the Resolution and of the Series Resolution authorizing such Series of Refunding Bonds.

The Refunding Bonds of such Series shall be authenticated and delivered by the Trustee only upon receipt by the Trustee (in addition to the documents required by the Resolution) of:

- (a) If the Bonds to be refunded are to be redeemed, irrevocable instructions to the Trustee, satisfactory to it, to give due notice of redemption of all the Bonds to be refunded on a redemption date specified in such instructions;
- (b) Irrevocable instructions to the Trustee, satisfactory to it, to duly give the notice provided for in the Resolution to the Holders of the Bonds being refunded;
- (c) Either (i) money in an amount sufficient to effect payment of the principal at maturity or the applicable Redemption Price of the Bonds to be refunded, together with accrued interest on such Bonds to the maturity or redemption date, which money shall be held by the Trustee or any one or more of the Paying Agents in a separate fund or account irrevocably in trust for and assigned to the respective Holders of the Bonds to be refunded or (ii) Defeasance Securities in such principal amounts, of such maturities, bearing such interest and otherwise having such terms and qualifications, as shall be necessary to comply with the provisions of the Resolution, which Defeasance Securities and money shall be held in trust and used only as provided in said Section; and
- (d) A certificate of an Authorized Officer of the Authority containing such additional statements as may be reasonably necessary to show compliance with the requirements of the Resolution.

The proceeds, including accrued interest, of Refunding Bonds shall be applied simultaneously with the delivery of such Refunding Bonds in the manner provided in or as determined in accordance with the Series Resolution authorizing such Refunding Bonds or the Bond Series Certificate relating to such Series of Refunding Bonds.

*(Section 2.04)*

### **Additional Obligations; Incurrence of Parity Indebtedness**

The Authority reserves the right to issue bonds, notes or any other obligations or otherwise incur indebtedness pursuant to other and separate resolutions or agreements of the Authority, so long as such bonds, notes or other obligations are not, or such other indebtedness is not, except as provided in the Resolution with respect to Parity Indebtedness, entitled to a charge, lien or right prior or equal to the charge or lien created thereby, or prior or equal to the rights of the Authority and Holders of Bonds as provided thereby or with respect to the moneys pledged thereunder.

*(Section 2.05)*

### **Authorization of Redemption or Purchase**

Bonds of a Series subject to redemption or purchase prior to maturity pursuant to the Resolution or to a Series Resolution or a Bond Series Certificate shall be redeemable or purchasable, in accordance with the Resolution, at such times, at such Redemption Prices or purchase prices or purchase prices and upon such terms as may otherwise be specified in the Resolution or in the Series Resolution authorizing such Series or the Applicable Bond Series Certificate.

*(Section 4.01)*

### **Redemption at the Election or Direction of the Authority**

In the case of any redemption of Bonds other than as provided in the Resolution, the Authority shall give written notice to the Trustee and each Applicable Provider of its election or direction to redeem, of the Series and of the principal amounts of the Bonds of each maturity of such Series to be redeemed. The Series, maturities and principal amounts thereof to be redeemed at the election or direction of the Authority shall be determined by the Authority in its sole discretion, subject to any limitations with respect thereto contained in the Resolution or in the Series Resolution authorizing such Series or the Applicable Bond Series Certificate. Such notice shall be given to the Trustee and each Applicable Provider at least forty-five (45) days prior to the date on which such Bonds are to be redeemed, or such lesser number of days as shall be acceptable to the Trustee. Unless the notice of redemption required by the Resolution provides that the redemption is subject to the condition that money for payment of the Redemption Price is available on the redemption date, such notice shall not be given unless prior to the date such notice is given, the Authority shall have paid or caused to be paid to the Trustee an amount which, in addition to other amounts available therefor held by the Trustee, is sufficient to redeem, on the redemption dates at the Redemption Price thereof, together with interest accrued and unpaid thereon to the redemption date, all of the Bonds of such Series to be so redeemed.

*(Section 4.02)*

### **Redemption Other Than at Authority's Election or Direction**

Whenever by the terms of the Resolution the Trustee is required to redeem Bonds of a Series through the application of mandatory Sinking Fund Installments, the Trustee shall select the Bonds of such Series and maturities to be redeemed in the manner provided in the Resolution, give the notice of redemption and pay out of money available therefor the Redemption Price thereof, together with interest accrued and unpaid thereon to the redemption date, to the appropriate Paying Agents in accordance with the terms of the Resolution.

*(Section 4.03)*

## **Selection of Bonds to Be Redeemed**

Unless otherwise provided in the Series Resolution authorizing the issuance of Bonds of a Series or the Bond Series Certificate relating to such Bonds, in the event of redemption of less than all of the Outstanding Bonds of like Series, maturity and tenor, the Trustee shall assign to each Outstanding Bond of the Series, maturity and tenor to be redeemed a distinctive number for each unit of the principal amount of such Bond equal to the lowest denomination in which the Bonds of such Series are authorized to be issued and shall select by lot, using such method of selection as it shall deem proper in its discretion, from the numbers assigned to such Bonds as many numbers as, at such unit amount equal to the lowest denomination in which the Bonds of such Series are authorized to be issued, shall equal the principal amount of such Bonds to be redeemed. In making such selections the Trustee may draw such Bonds by lot (i) individually or (ii) by one or more groups, the grouping for the purpose of such drawing to be by serial numbers (or, in the case of Bonds of a denomination of more than the lowest denomination in which the Bonds of such Series are authorized to be issued, by the numbers assigned thereto as in the Resolution provided) which end in the same digit or in the same two digits. If in such a case, upon any drawing by groups, the total principal amount of Bonds drawn shall exceed the amount to be redeemed, the excess may be deducted from any group or groups so drawn in such manner as the Trustee may determine. The Trustee may in its discretion assign numbers to aliquot portions of Bonds and select part of any Bond for redemption. The Bonds to be redeemed shall be the Bonds to which were assigned numbers so selected; *provided, however*, that only so much of the principal amount of each such Bond of a denomination of more than the lowest denomination in which the Bonds of such Series are authorized to be issued shall be redeemed as shall equal the product of the lowest denomination in which the Bonds of such Series are authorized to be issued times the number of numbers assigned to it and so selected.

*(Section 4.04)*

## **Notice of Redemption**

Whenever Bonds of a Series are to be redeemed, the Trustee shall give notice of the redemption of such Bonds in the name of the Authority which notice shall specify: (i) the Bonds to be redeemed which shall be identified pursuant to the Resolution, the maturity dates and interest rates of the Bonds to be redeemed and the date such Bonds were issued; (ii) the numbers and other distinguishing marks of the Bonds to be redeemed, including CUSIP numbers; (iii) the redemption date; (iv) the Redemption Price; (v) the principal amount of each Bond to be redeemed; (vi) the date of publication, if any, of the notice of redemption; (vii) that, except in the case of Book-Entry Bonds, such Bonds will be redeemed at the principal corporate trust office of the Trustee giving the address thereof and the name and telephone number of a representative of the Trustee to whom inquiries may be directed; (viii) that no representation is made as to the correctness of the CUSIP number either as printed on the Bonds or as contained in such notice and that an error in a CUSIP number as printed on such Bond or as contained in such notice shall not affect the validity of the proceedings for redemption and (ix) if the Authority's obligation to redeem the Bonds is subject to conditions, a statement that describes the condition to such redemption. Any notice of redemption, other than a notice for special or extraordinary redemption provided for in a Series Resolution or Bond Series Certificate, may state that the redemption is conditioned upon receipt by the Trustee, on or prior to the redemption date, of moneys sufficient to pay the Redemption Price of the Bonds to be redeemed, and that if such moneys are not received such notice shall be of no force or effect and such Bonds shall not be required to be redeemed.

Such notice shall further state that on such date there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof, together with interest accrued and unpaid thereon to the redemption date, and that, from and after such date, payment having been made or provided for, interest thereon shall cease to accrue. Such notice shall be given by mailing a copy of such notice not less than thirty (30) days nor more than forty-five (45) days prior to the redemption date or, in the case of

Variable Interest Rate Bonds or Option Bonds, such shorter period as shall be established by the Series Resolution authorizing such Bonds or the Bond Series Certificate relating thereto, but in no event less than fifteen (15) days prior to the redemption date. Such notice shall be sent by first class mail, postage prepaid, to the registered owners of the Bonds which are to be redeemed, at their last known addresses, if any, appearing on the registration books not more than ten (10) Business Days prior to the date such notice is given. Upon giving such notice, the Trustee shall promptly certify to the Authority that it has mailed or caused to be mailed such notice to the Holders of the Bonds to be redeemed in the manner provided in the Resolution. Such certificate shall be conclusive evidence that such notice was given in the manner required by the Resolution. The failure of any Holder of a Bond of a Series to be redeemed to receive such notice shall not affect the validity of the proceedings for the redemption of the Bonds. If directed in writing by an Authorized Officer of the Authority, the Trustee shall also give such notice by publication thereof once in an Authorized Newspaper, such publication to be not less than thirty (30) days nor more than forty-five (45) days prior to the redemption date or, in the case of Variable Interest Rate Bonds or Option Bonds, such shorter period as shall be established by the Series Resolution authorizing such Bonds or the Bond Series Certificate relating thereto, but in no event less than fifteen (15) days prior to the redemption date; *provided, however*, that such publication shall not be a condition precedent to such redemption, and failure to so publish any such notice or a defect in such notice or in the publication thereof shall not affect the validity of the proceedings for the redemption of the Bonds.

In addition, unless otherwise provided for in a Series Resolution or Bond Series Certificate with respect to a Series of Bonds, the Trustee shall (i) if any of the Bonds to be redeemed are Book Entry Bonds, mail a copy of the notice of redemption to the Depository for such Book Entry Bonds not less than thirty-five (35) days prior to the redemption date, but, if notice of redemption is to be published as aforesaid, in no event later than five (5) Business Days prior to the date of publication, and (ii) mail a copy of the notice of redemption to Kenny Information Systems Notification Service and to Standard & Poor's Called Bond Record, or to any successor thereof in each case at the most recent address therefor. Such copies shall be sent by certified mail, return receipt requested, but mailing such copies shall not be a condition precedent to such redemption and failure to so mail or of a person to which such copies were mailed to receive such copy shall not affect the validity of the proceedings for the redemption of the Bonds.

*(Section 4.05)*

### **Payment of Redeemed Bonds**

Notice having been given by mail in the manner provided in the Resolution, the Bonds of a Series or portions thereof so called for redemption shall become due and payable on the redemption date so designated at the Redemption Price, plus interest accrued and unpaid to the redemption date, and, upon presentation and surrender of such Bonds, other than Book Entry Bonds, at the office or offices specified in such notice, and, in the case of Bonds presented by other than the registered owner, together with a written instrument of transfer duly executed by the registered owner or his duly authorized attorney, such Bonds, or portions thereof, shall be paid at the Redemption Price plus interest accrued and unpaid to the redemption date. For so long as the Bonds shall not be issued in book-entry only form, payment of the Redemption Price shall be made, upon the request of the registered owner of one million dollars (\$1,000,000) or more in principal amount of Bonds to be redeemed, by wire transfer to such registered owner at the wire transfer address in the continental United States to which such registered owner has, at the time such Bonds are surrendered to the Trustee, directed in writing the Trustee to wire such Redemption Price. If there shall be drawn for redemption less than all of the principal amount of a registered Bond of a Series, the Authority shall execute and the Trustee shall authenticate and deliver, upon the surrender of such Bond, without charge to the owner thereof, for the unredeemed balance of the principal amount of the registered Bond so surrendered, Bonds of like Series, maturity and tenor in any of the authorized denominations. If, on the redemption date, money for the redemption of all Bonds of a

Series or portions thereof to be redeemed, together with interest accrued and unpaid thereon to the redemption date, shall be held by the Trustee and Paying Agents so as to be available therefor on such date and if notice of redemption shall have been mailed as aforesaid, then, from and after the redemption date, interest on such Bonds or portions thereof so called for redemption shall cease to accrue and such Bonds shall no longer be considered to be Outstanding under the Resolution. If such money shall not be so available on the redemption date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

*(Section 4.06)*

### **Purchase of Bonds at Election of NYSARC**

Whenever Bonds are to be purchased at the election of NYSARC, written notice thereof and of the Bonds of the Series and maturity to be so purchased having been given by NYSARC to the Authority, the Trustee, and each Applicable Provider, the Trustee shall select the particular Bonds of such Series and maturity to be so purchased in the same manner as provided in the Resolution for the selection of Bonds to be redeemed in part. Promptly thereafter the Trustee shall give notice of the purchase of the Bonds at the times and in the manner provided in the Series Resolution authorizing such Bonds or the Bond Series Certificate related thereto. The Trustee shall not give such notice unless prior to the date such notice is given, NYSARC has caused to be delivered to the Trustee the written consent to such purchase of the Authority and each Applicable Provider. All such purchases may be subject to conditions of the Authority, the Trustee and any Provider to NYSARC's obligation to purchase such Bonds and shall be subject to the condition that money for the payment of the purchase price therefor is available on the date set for such purchase. Notice of purchase having been given in the manner required by the Series Resolution authorizing the Bonds to be so purchased or the Bond Series Certificate relating thereto, then, if sufficient money to pay the purchase price of such Bonds is held by the Trustee, the purchase price of the Bonds or portions thereof so called for purchase shall become due and payable on the date set for purchase, upon presentation and surrender of such Bonds (other than Book Entry Bonds) to be purchased at the office or offices specified in such notice, and, in the case of Bonds presented by other than the registered owner, together with a written instrument of transfer duly executed by the registered owner or his duly authorized attorney. Payment of the purchase price of other than Book Entry Bonds shall be made, upon the request of the registered owner of one million dollars (\$1,000,000) or more in principal amount of Bonds to be so purchased, by wire transfer to such registered owner at the wire transfer address in the continental United States to which such registered owner has prior to the purchase date directed in writing the Trustee to wire such purchase price. Bonds so purchased shall be considered to be Outstanding and each such Bond so purchased that is not a Book Entry Bond shall be registered in the name or at the direction of NYSARC.

*(Section 4.07)*

### **Pledge of Revenues**

The proceeds from the sale of a Series of Bonds, the Applicable Revenues, the Authority's security interest in the Applicable Pledged Revenues and, except as otherwise provided in the Resolution, all Applicable funds and accounts established by the Resolution, other than the Arbitrage Rebate Fund, Purchase and Remarketing Fund and Credit Facility Repayment Fund, are subject to the adoption of a Series Resolution, pledged and assigned to the Trustee and the Applicable Credit Facility Provider, if any, subject to the terms of the Applicable Intercreditor Agreement, as security for the payment of the principal and Redemption Price of and interest on such Series of Bonds, all in accordance with the provisions of the Resolution and thereof. The pledge made by the Resolution shall relate only to the Bonds of a Series authorized by such Series Resolution and no other Series of Bonds and such pledge shall not secure any such other Series of Bonds provided, however, that Bonds of more than one Series

may be equally and ratably secured with respect to the Applicable Pledged Revenues, to the extent required by, and consented to by, the Applicable Providers. The pledge made by the Resolution is valid, binding and perfected from the time when the pledge attaches and the proceeds from the sale of a Series of Bonds, the Applicable Revenues, the Authority's security interest in the Applicable Pledged Revenues and all Applicable funds and accounts established by the Resolution and by the Applicable Series Resolution which are pledged by the Resolution shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid, binding and perfected as against all parties having claims of any kind in tort, contract or otherwise against the Authority irrespective of whether such parties have notice thereof. No instrument by which such pledge is created nor any financing statement need be recorded or filed. The Bonds of each Series shall be special obligations of the Authority payable solely from and secured by a pledge of the proceeds from the sale of such Series of Bonds, the Applicable Revenues, the Authority's security interest in the Applicable Pledged Revenues and the Applicable funds and accounts established by the Resolution and pursuant to the Applicable Series Resolution and which are pledged by the Resolution as provided in the Resolution, which pledge shall constitute a first parity lien thereon, subject to only, with respect to the Applicable Pledged Revenues, the Applicable Prior Pledges and any existing or future parity liens in such Pledged Revenues as permitted under the Applicable Loan Agreement.

*(Section 5.01)*

#### **Establishment of Funds and Accounts**

In addition to such funds as may be provided by a Series Resolution or a Bond Series Certificate, the following funds are authorized to be established and shall be held and maintained for each Series of Bonds by the Trustee separate and apart from any other funds established and maintained pursuant to the Resolution, any Series Resolution or any Bond Series Certificate:

- Construction Fund;
- Debt Service Fund;
- Arbitrage Rebate Fund;
- Purchase and Remarketing Fund, if any;
- Credit Facility Repayment Fund, if any; and
- Debt Service Reserve Fund, if any.

In addition to the funds required to be established by the Resolution, the Authority may for purposes of internal accounting establish such other accounts and subaccounts as the Authority or the Trustee deems proper, necessary or desirable in a Series Resolution or a Bond Series Certificate. In addition to the accounts and subaccounts, if any, required to be established by the Resolution or by any Series Resolution, or any Bond Series Certificate, the Authority may for purposes of internal accounting establish such other accounts and subaccounts as the Authority or the Trustee deems proper, necessary or desirable. All money at any time deposited in any fund, account or subaccount created and pledged by the Resolution or by a Series Resolution or Bond Series Certificate or required thereby to be created shall be held in trust for the benefit of the Holders of Bonds of such Series, but shall nevertheless be disbursed, allocated and applied solely for the uses and purposes provided in the Resolution, unless otherwise provided in the Applicable Series Resolution or Bond Series Certificate relating to such Bonds; ***provided, however,*** that the proceeds derived from the remarketing of Option Bonds tendered or deemed to have been tendered for purchase in accordance with the Series Resolution authorizing the issuance of such Bonds or the Bond Series Certificate relating to such Bonds or derived from a Liquidity Facility relating to such Bonds, and any fund or account established by or pursuant to such Series Resolution or Bond Series Certificate for the payment of the purchase price of Option Bonds so tendered or deemed to have

been tendered, shall not be held in trust for the benefit of the Holders of Bonds other than such Option Bonds and are pledged by the Resolution for the payment of the purchase price of such Option Bonds.

*(Section 5.02)*

### **Application of Bond Proceeds and Allocation Thereof**

Upon the receipt of proceeds from the sale of a Series of Bonds, the Authority shall apply such proceeds as specified in the Resolution and in the Series Resolution authorizing such Series or in the Bond Series Certificate relating to such Series.

Accrued interest, if any, received upon the delivery of a Series of Bonds shall be deposited in the Applicable Debt Service Fund account unless all or any portion of such amount is to be otherwise applied as specified in the Series Resolution authorizing such Series or the Bond Series Certificate relating to such Series.

*(Section 5.03)*

### **Application of Money in the Construction Fund**

As soon as practicable after the delivery of a Series of Bonds, the Trustee shall deposit in the Applicable Construction Fund account the amount required to be deposited therein pursuant to the Series Resolution authorizing such Series or the Bond Series Certificate relating to such Series. In addition, the Authority shall pay over to the Trustee and the Trustee shall deposit in the Applicable Construction Fund account any money paid to the Authority pursuant to the Resolution and all amounts paid by NYSARC which by the terms of the Applicable Loan Agreement are required to be deposited therein.

Except as otherwise provided in the Resolution and in any Applicable Series Resolution or Bond Series Certificate, money deposited in the Construction Fund shall be used only to pay the Costs of Issuance and the Costs of the Project with respect to such Series of Bonds. The Applicable Series Resolution or Bond Series Certificate may provide for the establishment of a Capitalized Interest Account in the Construction Fund to pay or provide for the payment of interest on such Series of Bonds and fees related to the Applicable Provider of a Credit Facility and the Applicable remarketing fees of such Series of Bonds during the construction of a Project and for a reasonable time after the completion of such Project. The Applicable Series Resolution or Bond Series Certificate may provide for the establishment of an Equity Account in the Construction Fund to pay or provide for a portion of the Costs of Issuance and the Costs of the Project.

Payments for Costs of Issuance with respect to a Series of Bonds shall be made by the Trustee upon receipt of, and in accordance with, a certificate or certificates signed by an Authorized Officer of the Authority stating the names of the payees, the purpose of each payment in terms sufficient for identification, and the respective amounts of each such payment and approved in writing by the Provider of the Applicable Credit Facility, if any, subject to the provisions of any Applicable disbursement agreement. Payments for Costs of each Project shall be made by the Trustee upon receipt of, and in accordance with, a certificate or certificates signed by an Authorized Officer of the Authority, substantiated by a certificate filed with the Authority in accordance with the Applicable Loan Agreement naming the Project in connection with which payment is to be made and describing in reasonable detail the purpose for which money was used and the amount thereof, and further stating that such purpose constitutes a necessary part of the Costs of such Project and approved in writing by the Provider of the Applicable Credit Facility, if any, subject to the provisions of any Applicable disbursement agreement, except that payments to pay interest on Bonds of a Series and fees of the Provider of the Applicable Credit Facility, if any, and any Applicable Remarketing Agent shall be made by the Trustee upon receipt

of, and in accordance with, the direction of an Authorized Officer of the Authority directing the Trustee to transfer such amount from the Capitalized Interest Account of the Construction Fund to the Debt Service Fund or to pay such fees to the Provider of the Applicable Credit Facility, if any, the Remarketing Agent or the Authority.

Unless a Mortgage or an Intercreditor Agreement with respect to the Applicable Series of Bonds requires otherwise, any proceeds of insurance, condemnation or eminent domain awards received by the Trustee, the Authority or NYSARC with respect to a Project shall be deposited in the Applicable Construction Fund account and, if necessary, such fund may be re-established for such purpose and, if not used to repair, restore or replace the Project, transferred to the Debt Service Fund for the redemption of Bonds in accordance with the Applicable Series Resolution or Bond Series Certificate.

A Project shall be deemed to be complete upon delivery to the Authority, the Provider of the Applicable Credit Facility, if any, and the Trustee of a final, unconditional certificate of occupancy and a certificate signed by an Authorized Officer of NYSARC, which certificate shall be delivered as soon as practicable after the date of completion of such Project, or upon delivery to NYSARC, the Provider of the Applicable Credit Facility, if any, and the Trustee of a certificate signed by an Authorized Officer of the Authority which certificate may be delivered at any time after completion of such Project. Each such certificate shall state that the Project has been completed substantially in accordance with the plans and specifications, if any, applicable to such Project and that such Project is ready for occupancy or use, and, in the case of a certificate of an Authorized Officer of NYSARC, shall specify the date of completion.

Upon receipt by the Trustee of a certificate relating to the completion of a Project, the money, if any, then remaining in the Construction Fund account relating to such Project, after making provision in accordance with the direction of an Authorized Officer of the Authority for the payment of any Costs of Issuance and Costs of such Project then unpaid, shall be paid or applied by the Trustee as follows and in the following order of priority:

First: Upon the direction of an Authorized Officer of the Authority, to the Arbitrage Rebate Fund, the amount set forth in such direction; and

Second: To the Debt Service Reserve Fund, if any, such amount as shall be necessary to make the amount on deposit in such fund equal to the Applicable Debt Service Fund Requirement; and

Third: To the Debt Service Fund, to be applied in accordance with the Resolution, any balance remaining.

*(Section 5.04)*

### **Deposit and Allocation of Revenues**

With respect to any Series of Bonds, the Applicable Revenues and any other money, which, by any of the provisions of the Applicable Loan Agreement, are required to be paid to the Trustee, shall upon receipt thereof be deposited or paid by the Trustee as follows and in the following order of priority:

First: To the Applicable Debt Service Fund account:

(i) in the case of Revenues received during the period from the beginning of each Bond Year until December 31 thereof, the amount, if any, necessary to make the amount in the Debt Service Fund equal to:

(a) (1) the interest on Outstanding Bonds (other than Variable Interest Rate Bonds) of the Series payable on or prior to the next succeeding January 1, or

(2) (A) in the case of Outstanding Variable Interest Rate Bonds of the Series on which interest is payable semi-annually, the interest thereon estimated by the Authority to be payable with respect thereto (under the terms of the Applicable Series Resolution or the Bond Series Certificate relating thereto) on or prior to the next succeeding January 1, or, if January 1 is not an interest payment date, on or prior to the interest payment date immediately succeeding the next succeeding January 1, assuming that such Variable Interest Rate Bond will bear interest, from and after the next date on which the interest rate on such Variable Interest Rate Bond is to be adjusted, at a rate per annum equal to the rate per annum at which such Bonds then bear interest, plus one percent (1%) per annum, and

(B) in the case of Outstanding Variable Interest Rate Bonds of the Series on which interest is payable monthly, the interest thereon payable on the next interest payment date, and, to the extent that the interest rate is not established for any period for which payment is being made, estimated interest assuming that such Variable Interest Rate Bond will bear interest, from and after the next date on which the interest rate on such Variable Interest Rate Bond is to be adjusted, at a rate per annum equal to the rate per annum at which such Bonds then bear interest, plus one percent (1%) per annum,

(b) (1) the Sinking Fund Installments, if any, of Outstanding Bonds (other than the Variable Interest Rate Bonds) of the Series payable on or prior to the next succeeding January 1, or

(2) in the case of Outstanding Variable Interest Rate Bonds of the Series, the Sinking Fund Installments thereon payable (under the terms of the Applicable Series Resolution or Bond Series Certificate relating thereto) on or prior to the next succeeding January 1, or, if January 1 is not an interest payment date, on or prior to the interest payment date immediately succeeding the next succeeding January 1, and

(c) the purchase price or Redemption Price of Outstanding Bonds of the Series theretofore contracted to be purchased or called for redemption pursuant to the Resolution on or prior to the next succeeding January 1 (or in the case of Outstanding Variable Interest Rate Bonds, for which January 1 is not an interest payment date, on or prior to the interest payment date immediately succeeding the next succeeding January 1), plus accrued interest thereon to the date of purchase or redemption; and

(ii) in the case of Revenues received thereafter and until the end of such Bond Year, the amount, if any, necessary to make the amount in the Debt Service Fund equal to:

(a) (1) the interest on and the principal and Sinking Fund Installments of Outstanding Bonds (other than Variable Interest Rate Bonds) of the Series, if any, payable on and prior to the next succeeding July 1, or

(2) in the case of Outstanding Variable Interest Rate Bonds of the Series:

(A) on which interest is payable semi-annually, the interest thereon estimated by the Authority to be payable with respect thereto (under the terms of the Applicable Series Resolution or the Bond Series Certificate relating thereto) on or prior to the next succeeding July 1, or, if July 1 is not an interest payment date, on or prior to the interest payment date immediately succeeding the next succeeding July 1, assuming that such Variable Interest Rate Bond will bear interest, from and after the next date on which the interest rate on such Variable Interest Rate Bond is to be adjusted, at a rate per annum equal to the rate per annum at which such Bonds then bear interest, plus one percent (1%) per annum,

(B) on which interest is payable monthly, the interest thereon payable on the next interest payment date, and, to the extent that the interest rate is not established for any period for which payment is being made, estimated interest assuming that such Variable Interest Rate Bond will bear interest, from and after the next date on which the interest rate on such Variable Interest Rate Bond is to be adjusted, at a rate per annum equal to the rate per annum at which such Bonds then bear interest, plus one percent (1%) per annum,

(C) with Sinking Fund Installments, the Sinking Fund Installments payable (under the terms of the Applicable Series Resolution or the Bond Series Certificate relating thereto) on or prior to the next succeeding July 1, or, if July 1 is not an interest payment date, on or prior to the interest payment date immediately succeeding the next succeeding July 1, and

(D) the principal payable on and prior to the next succeeding July 1, and

(b) the purchase price or Redemption Price of Outstanding Bonds of the Series theretofore contracted to be purchased or called for redemption pursuant to the Resolution on or prior to the next succeeding July 1 (or in the case of Outstanding Variable Interest Rate Bonds, for which July 1 is not an interest payment date, on or prior to the interest payment date immediately succeeding the next succeeding July 1), plus accrued interest thereon to the date of purchase or redemption; and

Second: To reimburse, pro rata, each Applicable Provider for Provider Payments which are then due and unpaid, in proportion to the respective Provider Payments then due and unpaid to each Applicable Provider; and

Third: To the Applicable Debt Service Reserve Fund, if any, an amount necessary to make the fund on deposit therein equal the Applicable Debt Service Reserve Fund Requirement; and

Fourth: Upon the direction of an Authorized Officer of the Authority, to the Applicable Arbitrage Rebate Fund the amount set forth in such direction; and

Fifth: To the Authority, unless otherwise paid, such amounts as are payable to the Authority relating to such Series for: (i) any expenditures of the Authority for fees and expenses of auditing, and fees and expenses of the Trustee and Paying Agents, all as required by the Resolution, (ii) all other expenditures reasonably and necessarily incurred by the Authority in connection with the financing of the Project, including expenses incurred by the Authority to compel full and punctual performance of all the provisions of the Applicable Loan Agreement or Applicable Mortgage in accordance with the terms thereof, and (iii) any fees of the Authority; but only upon receipt by the Trustee of a certificate signed by an Authorized Officer of the Authority, stating in reasonable detail the amounts payable to the Authority pursuant to this paragraph Fifth.

The Trustee shall, promptly after making the above required payments, notify the Authority and NYSARC of any balance of the Applicable Revenues remaining on the immediately succeeding July 1. After making the above required payments, the balance, if any, of such Revenues then remaining shall, upon the direction of an Authorized Officer of the Authority, be paid by the Trustee to the Applicable Construction Fund or the Applicable Debt Service Fund, or paid to NYSARC, in the respective amounts set forth in such direction. Any amounts paid to NYSARC shall be free and clear of any pledge, lien, encumbrance or security interest created by the Resolution or by the Applicable Loan Agreement.

*(Section 5.05)*

#### **Debt Service Fund**

The Trustee shall on or before the Business Day preceding each interest payment date pay to itself and any other Paying Agent out of the Debt Service Fund:

- (i) the interest due and payable on all Outstanding Bonds of a Series on such interest payment date;
- (ii) the principal amount due and payable on all Outstanding Bonds of a Series on such interest payment date; and
- (iii) the Sinking Fund Installments or other amounts related to a mandatory redemption, if any, due and payable on such interest payment date on Outstanding Bonds of a Series.

The amounts paid out pursuant to this Section shall be irrevocably pledged to and applied to such payments.

Notwithstanding the provisions of paragraph (a) of this Section, the Authority may, at any time subsequent to the first day of July of any Bond Year but in no event less than forty-five (45) days prior to the succeeding date on which a Sinking Fund Installment with respect to a Series of Bonds is scheduled to be due, direct the Trustee to purchase, with money on deposit in the Applicable Debt Service Fund, at a price not in excess of par plus interest accrued and unpaid to the date of such purchase, Term Bonds of the Series to be redeemed from such Sinking Fund Installment. In addition, NYSARC pursuant to the Applicable Loan Agreement may deliver, at any time subsequent to July 1 of any Bond Year, but in no event less than forty-five (45) days prior to the succeeding date on which a Sinking Fund Installment is scheduled to be due, to the Trustee for cancellation one or more Term Bonds of the Series and maturity to be so redeemed on such date from such Sinking Fund Installment.

Any Term Bond so purchased and delivered to the Trustee shall be canceled upon receipt thereof by the Trustee and evidence of such cancellation shall be given to the Authority. The principal amount of each Term Bond so canceled shall be credited against the Sinking Fund Installment due on such date,

*provided, however,* that such Term Bond is canceled by the Trustee prior to the date on which notice of redemption is given.

Money in the Debt Service Fund with respect to a Series of Bonds in excess of the amount required to pay (i) the principal and Sinking Fund Installments of Outstanding Bonds of such Series payable on and prior to the next succeeding July 1, (ii) the interest on Outstanding Bonds of such Series payable on and prior to the earlier of the next succeeding July 1 or January 1, assuming that a Variable Interest Rate Bond will bear interest, from and after the next date on which the rate at which such Variable Interest Rate Bond bears interest is to be adjusted, at a rate per annum equal to the rate per annum at which such Bonds then bear interest, plus one percent (1%) per annum, and (iii) the purchase price or Redemption Price of Outstanding Bonds of such Series theretofore contracted to be purchased or called for redemption, plus accrued interest thereon to the date of purchase or redemption, shall be applied by the Trustee in accordance with the direction of an Authorized Officer of the Authority to the purchase of Outstanding Bonds of such Series at purchase prices not exceeding the Redemption Price applicable on the next interest payment date on which such Bonds are redeemable, plus accrued and unpaid interest to such date, at such times, at such purchase prices and in such manner as an Authorized Officer of the Authority shall direct. If sixty (60) days prior to the end of a Bond Year an excess, calculated as aforesaid, exists in the Debt Service Fund of a Series of Bonds, such money shall be applied by the Trustee if directed by an Authorized Officer of the Authority given pursuant to the Resolution to the redemption of Bonds of such Series as provided in the Resolution, at the Redemption Prices specified in the Applicable Series Resolution authorizing the issuance of the Bonds to be redeemed or the Bond Series Certificate relating to such Bonds.

*(Section 5.06)*

### **Debt Service Reserve Fund**

The Trustee shall deposit to the credit of the appropriate account in the Debt Service Reserve Fund such proceeds of the sale of a Series of Bonds, if any, as shall be prescribed in the Series Resolution or the Bond Series Certificate, and any moneys, Government Obligations and Exempt Obligations as are delivered to the Trustee by NYSARC for the purposes of the Debt Service Reserve Fund with respect to such Series.

In lieu of or in substitution for moneys, Government Obligations or Exempt Obligations otherwise required to be deposited in the Debt Service Reserve Fund established for a Series of Bonds, the Authority may deposit or cause to be deposited with the Trustee a Reserve Fund Facility for the benefit of the Holders of the Bonds of such Series for all or any part of the Debt Service Reserve Fund Requirement;

provided that any such Reserve Fund Facility in the form of a surety bond or insurance policy shall be issued by an insurance company or association duly authorized to do business in the State and either (A) the claims paying ability of the insurance company or association is rated in the highest rating level accorded by a nationally recognized insurance rating agency or (B) the obligations insured by a surety bond or an insurance policy issued by such company or association are rated at the time such surety bond or insurance policy is delivered, without regard to qualification of such rating by symbols such as “+” or “-” or numerical notation, in the highest rating category by Moody’s and S&P, or, if Outstanding Bonds of such Series are not rated by Moody’s and S&P by whichever of said rating services then rates Outstanding Bonds of such Series;

provided, further, that any such Reserve Fund Facility in the form of a letter of credit shall be issued by a bank, a trust company, a national banking association, an organization subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any

successor provision of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provision of law, a domestic branch or agency of a foreign bank, which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, a savings bank or a savings and loan association, the unsecured or uncollateralized long term debt obligations of which, or long term obligations secured or supported by a letter of credit issued by such person, are rated at the time such letter of credit is delivered, without regard to qualification of such rating by symbols such as “+” or “-” or numerical notation, in at least the second highest rating category by Moody’s and S&P, or, if Outstanding Bonds of such Series are not rated by Moody’s and S&P by whichever of said rating services then rates Outstanding Bonds of such Series; and provided further that the written consent from any Applicable Credit Facility Provider to the delivery of such Reserve Fund Facility shall have been obtained.

In addition to the conditions and requirements set forth above, no Reserve Fund Facility shall be deposited in full or partial satisfaction of the Applicable Debt Service Revenue Fund Requirement with respect to a Series of Bonds unless the Trustee shall have received prior to such deposit (1) an opinion of counsel acceptable to the Applicable Reserve Fund Facility Provider to the effect that such Reserve Fund Facility has been duly authorized, executed and delivered by the Provider thereof and is valid, binding and enforceable in accordance with its terms and (2) in the event such Provider is not a domestic entity, an opinion of foreign counsel in form and substance satisfactory to the Credit Facility Provider, if any.

Each Reserve Fund Facility shall be payable (upon the giving of such notice as may be required thereby) on any date on which moneys are required to be withdrawn from the Debt Service Reserve Fund and such withdrawal cannot be made without drawing upon such letter of credit or obtaining payment under such surety bond or insurance policy.

For the purposes of this Section, in computing the amount on deposit in the Debt Service Reserve Fund with respect to any Series of Bonds, the Reserve Fund Facility shall be valued at the amount available to be drawn or payable thereunder on the date of computation.

Moneys held for the credit of the Debt Service Reserve Fund shall be withdrawn by the Trustee and applied to the payment of interest, principal and Sinking Fund Installments on the Series of Bonds secured thereby at the times and in the amounts required to comply with the provisions of the Resolution; provided, that no payment under a Reserve Fund Facility for such Series of Bonds shall be sought unless and until moneys are not available in the Debt Service Reserve Fund and the amount required to be withdrawn from the Debt Service Reserve Fund pursuant to this subdivision cannot be withdrawn therefrom without obtaining payment under such Reserve Fund Facility; provided further, that, if more than one Reserve Fund Facility is held for the credit of the Debt Service Reserve Fund for a Series of Bonds at the time moneys are to be withdrawn therefrom, the Trustee shall obtain payment under each such Reserve Fund Facility, pro rata, based upon the respective amounts then available to be paid thereunder.

With respect to any demand for payment under any Reserve Fund Facility deposited in the Debt Service Reserve Fund, the Trustee shall make such demand for payment in accordance with the terms of such Reserve Fund Facility at the earliest time provided therein to assure the availability of moneys on the interest payment date for which such moneys are required.

Moneys and investments held for the credit of the Debt Service Reserve Fund in excess of the Debt Service Reserve Fund Requirement for a Series of Bonds shall be withdrawn by the Trustee and deposited, upon direction of the Authority, in the Arbitrage Rebate Fund, the Debt Service Fund and the Construction Fund for that Series of Bonds or applied to the redemption of Bonds of that Series in accordance with such direction.

If, upon a valuation, the value of all moneys, Government Obligations, Exempt Obligations and Reserve Fund Facilities held for the credit of the Debt Service Reserve Fund with respect to a Series of Bonds is less than the Debt Service Reserve Fund Requirement for such Series of Bonds, the Trustee shall immediately notify the Authority, each Applicable Credit Facility Provider and Liquidity Facility Provider and NYSARC of such deficiency. NYSARC shall, as soon as practicable, but in no event later than 5 days after receipt of such notice, deliver to the Trustee moneys, Government Obligations or Exempt Obligations the value of which is sufficient to increase the amount in the Debt Service Reserve Fund to such Debt Service Reserve Fund Requirement for that Series of Bonds.

*(Section 5.07)*

### **Arbitrage Rebate Fund**

The Trustee shall deposit to the Arbitrage Rebate Fund with respect to a Series of Bonds any money delivered to it by NYSARC for deposit therein and, notwithstanding any other provisions of the Resolution, shall transfer to the Arbitrage Rebate Fund, in accordance with the directions of an Authorized Officer of the Authority, money on deposit in any other funds with respect to such Series of Bonds held by the Trustee thereunder at such times and in such amounts as shall be set forth in such directions.

Money on deposit in the Arbitrage Rebate Fund with respect to a Series of Bonds shall be applied by the Trustee in accordance with the direction of an Authorized Officer of the Authority to make payments to the Department of the Treasury of the United States of America with respect to such Series of Bonds at such times and in such amounts as the Authority shall determine to be required by the Code to be rebated to the Department of the Treasury of the United States of America. Money which an Authorized Officer of the Authority determines to be in excess of the amount required to be so rebated shall, first, be applied to reimburse, pro rata, each Provider for money advanced under an Applicable Credit Facility or Liquidity Facility, including interest thereon, which is then unpaid, in proportion to the respective amounts advanced by each such Provider, and, then, be deposited to any fund or account established under the Resolution with respect to the Applicable Series of Bonds in accordance with the written direction of such Authorized Officer.

The Authority shall periodically determine the amount which may be required by the Code to be rebated to the Department of the Treasury of the United States of America with respect to a Series of Bonds and direct the Trustee to (i) transfer from any other of the funds and accounts held by the Trustee under the Resolution with respect to such Series and deposit to the Arbitrage Rebate Fund such amount as the Authority shall have determined to be necessary in order to enable it to comply with its obligation to rebate money to the Department of the Treasury of the United States of America with respect to such Series of Bonds and (ii) if and to the extent required by the Code, pay out of the Arbitrage Rebate Fund with respect to such Series to the Department of the Treasury of the United States of America the amount, if any, required by the Code to be rebated thereto.

*(Section 5.08)*

### **Application of Money in Certain Funds for Retirement of Bonds**

Notwithstanding any other provisions of the Resolution, if at any time the amounts held in the Debt Service Fund and the Debt Service Reserve Fund, if any, with respect to a Series of Bonds are sufficient to pay the principal or Redemption Price of all Outstanding Bonds of such Series and the interest accrued and unpaid and to accrue on such Bonds to the next date of redemption when all such Bonds are redeemable, or to make provision pursuant to the Resolution for the payment of such Outstanding Bonds at the maturity or redemption dates thereof, the Trustee shall so notify the Authority

and NYSARC. Upon receipt of such notice, the Authority may, and at the direction of NYSARC the Authority shall (i) direct the Trustee to redeem all such Outstanding Bonds of the Series, whereupon the Trustee shall proceed to redeem or provide for the redemption of such Outstanding Bonds in the manner provided for redemption of such Bonds as provided in the Resolution, or (ii) give the Trustee irrevocable instructions in accordance with the Resolution and make provision for the payment of such Outstanding Bonds at the maturity or redemption dates thereof in accordance therewith.

*(Section 5.09)*

### **Transfer of Investments**

Whenever money in any fund or account established under the Resolution or under a Series Resolution or a Bond Series Certificate is to be paid in accordance therewith to another such fund or account, such payment may be made, in whole or in part, by transferring to such other fund or account investments held as part of the fund or account from which such payment is to be made, whose value, together with the money, if any, to be transferred, is at least equal to the amount of the payment then to be made; *provided, however*, that no such transfer of investments would result in a violation of any investment standard or guideline applicable to such fund.

*(Section 5.10)*

### **Security for Deposits**

All money held under the Resolution by the Trustee with respect to a Series of Bonds shall be continuously and fully secured, for the benefit of the Authority and the Holders of such Series of Bonds, by direct obligations of the United States of America or obligations the principal of and interest on which are guaranteed by the United States of America of a market value equal at all times to the amount of the deposit so held by the Trustee; *provided, however*, (a) that if the securing of such money is not permitted by applicable law, then in such other manner as may then be required or permitted by applicable State or federal laws and regulations regarding the security for, or granting a preference in the case of, the deposit of trust funds, and (b) that it shall not be necessary for the Trustee or any Paying Agent to give security for the deposit of any money with them pursuant to the Resolution and held in trust for the payment of the principal, Sinking Fund Installments, if any, or Redemption Price of or interest on a Series of Bonds, or for the Trustee to give security for any money which shall be represented by obligations purchased or other investments made under the provisions of the Resolution as an investment of such money.

*(Section 6.01)*

### **Investment of Funds and Accounts**

Money held under the Resolution by the Trustee, if permitted by law, shall, as nearly as may be practicable, be invested by the Trustee, upon direction of the Authority given or confirmed in writing, signed by an Authorized Officer of the Authority (which direction shall specify the amount thereof to be so invested), in Government Obligations, Federal Agency Obligations or Exempt Obligations; *provided, however*, that each such investment shall permit the money so deposited or invested to be available for use at the times at which the Authority reasonably believes such money will be required for the purposes of the Resolution.

In lieu of the investments of money in obligations authorized in paragraph (a) of this Section, the Trustee shall, to the extent permitted by law, upon direction of the Authority given or confirmed in writing, signed by an Authorized Officer of the Authority, invest money in the Construction Fund with respect to a Series of Bonds in any Permitted Investment; *provided, however*, that each such investment

shall permit the money so deposited or invested to be available for use at the times at which the Authority reasonably believes such money will be required for the purposes of the Resolution, *provided, further*, that (x) any Permitted Collateral required to secure any Permitted Investment shall have a market value, determined by the Trustee or its agent periodically, but no less frequently than weekly, at least equal to the amount deposited or invested including interest accrued thereon, (y) the Permitted Collateral shall be deposited with and held by the Trustee or an agent of the Trustee approved by an Authorized Officer of the Authority, and (z) the Permitted Collateral shall be free and clear of claims of any other person.

Permitted Investments purchased as an investment of money in any fund or account held by the Trustee under the provisions of the Resolution shall be deemed at all times to be a part of such fund or account and the income or interest earned, profits realized or losses suffered by a fund or account due to the investment thereof shall be retained in, credited or charged, as the case may be, to such fund or account.

In computing the amount in any fund or account held by the Trustee under the provisions of the Resolution, each Permitted Investment shall be valued at par or the market value thereof, plus accrued interest, whichever is lower.

Notwithstanding anything to the contrary in the Resolution, the Authority, in its discretion, may direct the Trustee to, and the Trustee shall, sell, present for redemption or exchange any investment held by the Trustee pursuant to the Resolution and the proceeds thereof may be reinvested as provided in this Section. Except as otherwise provided in the Resolution, the Trustee shall sell at the best price obtainable, or present for redemption or exchange, any investment held by it pursuant to the Resolution whenever it shall be necessary in order to provide money to meet any payment or transfer from the fund or account in which such investment is held. The Trustee shall advise the Authority and NYSARC in writing, on or before the fifteenth (15th) day of each calendar month, of the amounts required to be on deposit in each fund and account under the Resolution and of the details of all investments held for the credit of each fund and account in its custody under the provisions of the Resolution as of the end of the preceding month and as to whether such investments comply with the provisions of paragraphs (a), (b) and (c) of this Section. The details of such investments shall include the par value, if any, the cost and the current market value of such investments as of the end of the preceding month. The Trustee shall also describe all withdrawals, substitutions and other transactions occurring in each such fund and account in the previous month.

No part of the proceeds of a Series of Bonds or any other funds of the Authority shall be used directly or indirectly to acquire any securities or investments the acquisition of which would cause any Bond of a Series to be an “arbitrage bond” within the meaning of Section 148(a) of the Code.

*(Section 6.02)*

### **Payment of Principal and Interest**

The Authority shall pay or cause to be paid the principal, Sinking Fund Installments, if any, or Redemption Price of and interest on every Bond of each Series on the date and at the places and in the manner provided in such Bonds according to the true intent and meaning thereof.

*(Section 7.01)*

### **Further Assurance**

The Authority, at any and all times, shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying,

granting, assigning and confirming all and singular the rights, pledges and assignments by the Resolution and by the Applicable Series Resolution or Bond Series Certificate created or made or intended to be created or made, or which the Authority may hereafter become bound to pledge or assign.

*(Section 7.04)*

### **Accounts and Audits**

The Authority shall keep proper books of records and accounts (separate from all other records and accounts), which may be kept on behalf of the Authority by the Trustee, in which complete and correct entries shall be made of its transactions relating to a Series of Bonds, including but not limited to the objects and purposes for which proceeds of such Bonds were expended and the respective amounts expended for such objects and purposes. Such books and accounts with respect to a Series of Bonds, at reasonable hours and subject to the reasonable rules and regulations of the Authority, shall be subject to the inspection of NYSARC, the Trustee or of any Holder of a Bond of such Series or his representative duly authorized in writing. The Trustee shall annually prepare a report with respect to each Series of Bonds which shall be furnished to the Authority, to each Applicable Provider and to NYSARC. Each such report shall include at least: a statement of all funds (including investments thereof) held by such Trustee and the Authority pursuant to the provisions of the Resolution and the Applicable Series Resolution and Bond Series Certificate; a statement of the Revenues collected in connection with the Resolution and with each Series Resolution; and complete and correct entries of the Authority's transactions relating to each Series of Bonds. A copy of the Applicable report shall, upon receipt of a written request therefor, and payment of any reasonable fee or charge made in connection therewith, be furnished to the registered owner of a Bond of a Series or any beneficial owner of a Book Entry Bond requesting the same.

*(Section 7.05)*

### **Creation of Liens**

Except as permitted by the Resolution or by a Series Resolution, the Authority shall not create, cause to be created or suffer or permit the creation of any lien or charge prior or equal to that of the Bonds of a Series on the proceeds from the sale of such Bonds, the Applicable Revenues, the Applicable Pledged Revenues of NYSARC, the rights of the Authority to receive payments to be made under the Applicable Loan Agreement that are to be deposited with the Trustee or the funds and accounts established by the Resolution and by any Series Resolution and Bond Series Certificate which are pledged by the Resolution other than, with respect to the Pledged Revenues, the Prior Pledges and any existing or future parity lien on the Pledged Revenues to secure Parity Indebtedness; ***provided, however,*** that each Series of Bonds may be equally and ratably secured by the Applicable Pledged Revenues and the Applicable Mortgaged Property, to the extent required by and consented to by the Applicable Providers; and; ***provided, further however,*** that nothing contained in the Resolution shall prevent the Authority from (i) issuing bonds, notes or other obligations or otherwise incurred indebtedness under another and separate resolution so long as the charge or lien created by such resolution is not prior to the charge or lien created by the Resolution and by any Series Resolution thereunder and (ii) incurring obligations with respect to a Credit Facility or a Liquidity Facility which are secured by a lien upon and pledge of the Applicable Revenues of equal priority with the lien created and the pledge made by the Resolution and by any Applicable Series Resolution.

*(Section 7.06)*

## **Enforcement of Duties and Obligations of NYSARC**

The Authority shall take all legally available action to cause NYSARC to perform fully all duties and acts and comply fully with the covenants of NYSARC required by each Loan Agreement in the manner and at the times provided in the Loan Agreement; ***provided, however***, that the Authority may with respect to the Bonds of any Series, (i) delay or defer enforcement of one or more provisions of the Applicable Loan Agreement (other than provisions requiring the payment of money or the delivery of securities to the Trustee for deposit to any fund or account established under the Resolution) if the Authority determines such delay or deferment will not materially adversely affect the interests of the Holders of the Bonds of such Series and (ii) at any time prior to the occurrence of an event of default under the Resolution, annul any declaration that the indebtedness under the Applicable Loan Agreement is immediately due and payable and, if prior to the entry of a final judgment or decree in any action or proceeding instituted on account of an event of default under such Loan Agreement, discontinue such action or proceeding if NYSARC shall have cured each event of default under such Loan Agreement.

*(Section 7.07)*

## **Deposit of Certain Money in the Construction Fund**

In addition to the proceeds of Bonds of a Series to be deposited in the Construction Fund, any money paid to the Authority for the acquisition, construction, reconstruction, renovation or equipment of a Project, including, if not inconsistent with the Applicable Mortgage and Applicable Intercreditor Agreement, the proceeds of any insurance or condemnation award to be so applied, shall be deposited in the Applicable Construction Fund account.

*(Section 7.08)*

## **Offices for Payment and Registration of Bonds**

The Authority shall at all times maintain an office or agency in the State where Bonds of a Series may be presented for payment. The Authority may, pursuant to a Supplemental Resolution or a Series Resolution or pursuant to a resolution adopted in accordance with the Resolution, designate an additional Paying Agent or Paying Agents where Bonds of the Series authorized thereby or referred to therein may be presented for payment. The Authority shall at all times maintain an office or agency in the State where Bonds of a Series may be presented for registration, transfer or exchange and the Trustee is appointed as its agent to maintain such office or agency for the registration, transfer or exchange of such Bonds. The provisions of this Section shall be subject to the provisions of the Resolution.

*(Section 7.09)*

## **Amendment of Loan Agreement**

No Loan Agreement may be amended, changed, modified, altered or terminated nor may any provision thereof be waived if any such amendment, change, modification, alteration, termination or waiver would adversely affect the interest of the Holders of Outstanding Bonds of the Applicable Series to which such Loan Agreement relates in any material respect unless consented to in writing by the Holders of at least a majority in aggregate principal amount of the Bonds of such Series then Outstanding; ***provided, however***, that no such amendment, change, modification, alteration, or termination will reduce the percentage of the aggregate principal amount of Outstanding Bonds of a Series the consent of the Holders of which is a requirement for any such amendment, change, modification, alteration or termination, or decrease the amount of any payment required to be made by NYSARC under such Loan Agreement that is to be deposited with the Trustee or extend the time of payment thereof. Any consent

given pursuant to this paragraph by the Holders of Bonds of a Series shall, except as otherwise provided in this Section, be given in the same manner required by the Resolution.

A Loan Agreement may be amended, changed, modified or altered (i) to make changes necessary or appropriate in connection with the acquisition, construction, reconstruction, rehabilitation and improvement, or otherwise providing, furnishing and equipping of any facilities constituting a part of the Applicable Project or to otherwise amend the Applicable Project or (ii) with the consent of the Trustee, to cure any ambiguity, or to correct or supplement any provisions contained in such Loan Agreement which may be defective or inconsistent with any other provisions contained in the Resolution or in the Applicable Loan Agreement or (iii) with the consent of the Applicable Provider of a Credit Facility, if any, to cure any ambiguity, or to correct or supplement any provision contained in such Loan Agreement which may be defective. Except as otherwise provided in this Section, with respect to a Series of Bonds, the Applicable Loan Agreement may be amended, changed, modified or altered without the consent of the Holders of Outstanding Bonds of such Series or the Trustee. Prior to execution by the Authority of any amendment, a copy thereof certified by an Authorized Officer of the Authority shall be filed with the Trustee.

For the purposes of this Section, the purchasers of Bonds of a Series, whether purchasing as underwriters or Remarketing Agent, for resale or otherwise, may upon such purchase consent to an amendment, change, modification, alteration, termination or waiver permitted by this Section in the manner provided in the Resolution, except that no proof of ownership shall be required, and with the same effect as a consent given by the Holder of such Bonds; *provided, however*, that, if such consent is given by a purchaser who is purchasing as an underwriter or Remarketing Agent or otherwise for resale, the nature of the amendment, change, modification, alteration, termination or waiver and the provisions for the purchaser consenting thereto shall be described in the official statement, prospectus, offering memorandum or other offering document prepared in connection with the initial offering, reoffering or resale of the Bonds of such Series.

For the purposes of this Section, a Series shall be deemed to be adversely affected by an amendment, change, modification, alteration or termination of the Applicable Loan Agreement or the waiver of any provision thereof if the same adversely affects or diminishes the rights of the Holders of any Bonds of such Series in any material respect. The Trustee may in its discretion determine whether or not, in accordance with the foregoing provisions, Bonds of any particular Series would be adversely affected in any material respect by any amendment, change, modification, alteration, termination or waiver and any such determination shall be binding and conclusive on NYSARC, the Authority and all Holders of Bonds of such Series.

For all purposes of this Section, the Trustee shall be entitled to rely upon an opinion of counsel, which counsel shall be satisfactory to the Trustee, with respect to whether any amendment, change, modification, alteration, termination or waiver adversely affects the interests of any Holders of Bonds of a Series then Outstanding in any material respect.

*(Section 7.11)*

#### **Notice as to Event of Default under a Loan Agreement**

The Authority shall notify the Trustee in writing that an “Event of Default” under a Loan Agreement, as such term is defined in such Loan Agreement, has occurred and is continuing, which notice shall be given as soon as practicable after the Authority has obtained actual knowledge thereof.

*(Section 7.12)*

## **Tax Exemption: Rebate**

Except as otherwise provided in a Series Resolution, in order to maintain the exclusion from gross income for purposes of federal income taxation of interest on the Bonds of each Series, the Authority shall comply with the provisions of the Code applicable to the Bonds of each Series, including without limitation the provisions of the Code relating to the computation of the yield on investments of the Gross Proceeds of each Series of Bonds, reporting of earnings on the Gross Proceeds of each Series of Bonds and rebates of Excess Earnings to the Department of the Treasury of the United States of America. With respect to each Series of Bonds, except as otherwise provided in the Resolution, the Authority shall comply with the provisions of the Applicable Tax Certificate as to compliance with the Code with respect to such Series of Bonds as such Tax Certificate may be amended from time to time, as a source of guidance for achieving compliance with the Code.

The Authority shall not take any action or fail to take any action, which would cause the Bonds of a Series to be “arbitrage bonds” within the meaning of Section 148(a) of the Code.

Notwithstanding any other provision of the Resolution to the contrary, the Authority’s failure to comply with the provisions of the Code applicable to the Bonds of a Series shall not entitle the Holder of Bonds of any other Series, or the Trustee acting on their behalf, to exercise any right or remedy provided to Bondholders under the Resolution based upon the Authority’s failure to comply with the provisions of this Section or of the Code.

*(Section 7.13)*

## **Adoption and Filing of Series Resolution**

The Authority may adopt at any time or from time to time a Series Resolution to authorize the issue of a Series of Bonds as provided in the Resolution. A copy of each such Series Resolution, together with a copy of the Resolution, each certified by the Authority, shall be filed with the Trustee.

*(Section 9.01)*

## **Modification and Amendment Without Consent**

Notwithstanding any other provisions of the Resolution, the Authority may adopt at any time or from time to time a Supplemental Resolution for any one or more of the following purposes, and any such Supplemental Resolution shall become effective in accordance with its terms upon the filing with the Trustee of a copy thereof certified by the Authority:

(a) To add additional covenants and agreements of the Authority for the purpose of further securing the payment of the Bonds of a Series, provided such additional covenants and agreements are not contrary to or inconsistent with the covenants and agreements of the Authority contained in the Resolution;

(b) To prescribe further limitations and restrictions upon the issuance of Bonds and the incurring of indebtedness by the Authority which are not contrary to or inconsistent with the limitations and restrictions thereon theretofore in effect;

(c) To surrender any right, power or privilege reserved to or conferred upon the Authority by the terms of the Resolution, provided that the surrender of such right, power or privilege is not contrary to or inconsistent with the covenants and agreements of the Authority contained in the Resolution;

(d) To confirm, as further assurance, any pledge under, and the subjection to any lien, claim or pledge created or to be created by the provisions of the Resolution, or any Series Resolution, the Revenues, or any pledge of any other moneys, Securities or funds;

(e) To modify any of the provisions of the Resolution or of any previously adopted Series Resolution in any other respects, provided that such modifications shall not be effective until after all Bonds of a Series of Bonds issued under such Series Resolution Outstanding as of the date of adoption of such Supplemental Resolution shall cease to be Outstanding, and all Bonds of a Series issued under such Series Resolution shall contain a specific reference to the modifications contained in such subsequent resolutions; or

(f) With the consent of the Trustee, to cure any ambiguity or defect or inconsistent provision in the Resolution or to insert such provisions clarifying matters or questions arising under the Resolution as are necessary or desirable, provided that any such modifications are not contrary to or inconsistent with the Resolution as theretofore in effect, or to modify any of the provisions of the Resolution or of any previously adopted Series Resolution or Supplemental Resolution in any other respect, provided that such modification shall not adversely affect the interests of the Holders of Bonds or the Credit Facility Provider or Liquidity Facility Provider with respect to any Series in any material respect.

The Authority shall give each affected Provider notice of each such Supplemental Resolution adopted pursuant to the Resolution amending the Resolution and each Applicable Provider notice of each such Supplemental Resolution amending any Series Resolution.

*(Section 9.02)*

### **Supplemental Resolutions Effective With Consent of Bondholders**

The provisions of the Resolution and a Series Resolution may also be modified or amended at any time or from time to time by a Supplemental Resolution, subject to the consent of the affected Providers and Bondholders in accordance with and subject to the provisions of the Resolution, such Supplemental Resolution to become effective upon the filing with the Trustee of a copy thereof certified by the Authority.

*(Section 9.03)*

### **General Provisions Relating to Series Resolutions and Supplemental Resolutions**

The Resolution shall not be modified or amended in any respect except in accordance with and subject to the provisions of the Resolution. Nothing contained in the Resolution shall affect or limit the rights or obligations of the Authority to adopt, make, do, execute or deliver any resolution, act or other instrument pursuant to the provisions of the Resolution or the right or obligation of the Authority to execute and deliver to the Trustee or any Paying Agent any instrument elsewhere in the Resolution provided or permitted to be delivered to the Trustee or any Paying Agent.

A copy of every Series Resolution and Supplemental Resolution adopted by the members of the Authority, when filed with the Trustee thereunder, shall be accompanied by an opinion of Bond Counsel stating that such Series Resolution or Supplemental Resolution has been duly and lawfully adopted in accordance with the provisions of the Resolution, is authorized or permitted by the Resolution and is valid and binding upon the Authority and enforceable in accordance with its terms.

The Trustee is authorized to accept delivery of a certified copy of any Series Resolution or Supplemental Resolution permitted or authorized pursuant to the provisions of the Resolution and to make all further agreements and stipulations which may be contained therein, and, in taking such action, the Trustee shall be fully protected in relying on the opinion of Bond Counsel that such Series Resolution or Supplemental Resolution is authorized or permitted by the provisions of the Resolution.

No Series Resolution or Supplemental Resolution changing, amending or modifying any of the rights or obligations of the Trustee or of any Paying Agent, shall become effective without the written consent of the Trustee or Paying Agent affected thereby.

*(Section 9.04)*

### **Powers of Amendment**

Any modification or amendment of the Resolution and of the rights and obligations of the Authority and of the Holders of the Bonds under the Resolution or of any Series Resolution, in any particular, may be made by a Supplemental Resolution with the written consent, given as hereinafter provided in the Resolution, (i) of the Holders of at least a majority in principal amount of the Bonds Outstanding of a Series at the time such consent is given of each Series affected by such modification or amendment, or (ii) in case the modification or amendment changes the amount or date of any Sinking Fund Installment, of the Holders of at least a majority in principal amount of the Bonds Outstanding at the time such consent is given of the particular Series, maturity and interest rate entitled to such Sinking Fund Installment. No such modification or amendment shall permit a change in the terms of redemption or maturity of the principal of any Outstanding Bond of a Series or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment. For the purposes of this Section, a Series shall be deemed to be affected by a modification or amendment of the Resolution if the same adversely affects or diminishes the rights of the Holders of Bonds of such Series in any material respect. The Trustee may in its discretion determine whether or not, in accordance with the foregoing provisions, the Bonds of a particular Series or maturity would be affected by any modification or amendment of the Resolution and any such determination shall be binding and conclusive on the Authority and all Holders of Bonds of such Series. The Trustee may receive an opinion of counsel, including an opinion of Bond Counsel, as conclusive evidence as to whether the Bonds of any particular Series or maturity would be so affected by any such modification or amendment of the Resolution. The Trustee shall transmit a copy of such Supplemental Resolution to NYSARC upon its becoming effective.

*(Section 10.01)*

### **Consent of Bondholders**

The Authority may at any time adopt a Supplemental Resolution making a modification or amendment permitted by the provisions of the Resolution to take effect when and as provided in this Section. A copy of such Supplemental Resolution (or brief summary thereof or reference thereto in form approved by the Trustee) together with a request to the Bondholders of a Series of Bonds affected thereby for their consent thereto in form satisfactory to the Trustee, shall promptly after adoption be mailed by the Authority to such Bondholders (but failure to mail such copy and request to any particular Bondholder shall not affect the validity of the Supplemental Resolution when consented to as in this Section provided). Such Supplemental Resolution shall not be effective unless and until (i) there shall have been filed with the Trustee (a) the written consent of the Holders of the percentages of Outstanding Bonds of a Series specified in the Resolution and (b) an opinion of Bond Counsel stating that such Supplemental

Resolution has been duly and lawfully adopted and filed by the Authority in accordance with the provisions of the Resolution, is authorized or permitted by the Resolution, and is valid and binding upon the Authority and enforceable in accordance with its terms, and (ii) a notice shall have been mailed as hereinafter in this Section provided. Each such consent shall be effective only if accompanied by proof of the holding or owning at the date of such consent, of the Bonds of a Series with respect to which such consent is given, which proof shall be such as is permitted by the Resolution. A certificate or certificates by the Trustee filed with the Trustee that it has examined such proof and that such proof is sufficient in accordance with the Resolution shall be conclusive proof that the consents have been given by the Holders of the Bonds of a Series described in the certificate or certificates of the Trustee.

Any consent given by a Bondholder shall be binding upon the Bondholder giving such consent and, anything in the Resolution to the contrary notwithstanding, upon any subsequent Bondholder and of any Bonds of a Series issued in exchange therefor (whether or not such subsequent Holder thereof has notice thereof), unless such consent is revoked in writing by the Bondholder giving such consent or a subsequent Holder thereof by filing with the Trustee, prior to the time when the written statement of the Trustee hereinafter in this Section provided for is filed, such revocation. The fact that a consent has not been revoked may likewise be proved by a certificate of the Trustee filed with the Trustee to the effect that no revocation thereof is on file with the Trustee. At any time after the Holders of the required percentages of Bonds of a Series shall have filed their consents to the Supplemental Resolution, the Trustee shall make and file with the Authority and the Trustee a written statement that such Holders of such required percentages of Bonds have filed such consents. Such written statement shall be conclusive that such consents have been so filed.

At any time thereafter notice, stating in substance that the Supplemental Resolution (which may be referred to as a Supplemental Resolution adopted by the Authority on a stated date, a copy of which is on file with the Trustee) has been consented to by the Holders of the required percentages of Bonds of a Series and will be effective as provided in this Section, shall be given to such Bondholders by the Authority by mailing such notice to such Bondholders and, at the discretion of the Authority, by publishing the same at least once not more than ninety (90) days after the Holders of the required percentages of Bonds of such Series shall have filed their consents to the Supplemental Resolution and the written statement of the Trustee hereinabove provided for is filed (but failure to publish such notice shall not prevent such Supplemental Resolution from becoming effective and binding as in this Section provided). The Authority shall file with the Trustee proof of the mailing of such notice, and, if the same shall have been published, of the publication thereof. A transcript, consisting of the papers required or permitted by this Section to be filed with the Trustee, shall be proof of the matters therein stated. Such Supplemental Resolution making such amendment or modification shall be deemed conclusively binding upon the Authority, the Trustee, each Paying Agent, and the Holders of all Bonds of such Series upon the filing with the Trustee of proof of the mailing of such notice or at the expiration of thirty (30) days after the filing with the Trustee of the proof of the first publication of such last mentioned notice, if such notice is published, except in the event of a final decree of a court of competent jurisdiction setting aside such Supplemental Resolution in a legal action or equitable proceeding for such purpose commenced within such thirty (30) day period; ***provided, however,*** that the Authority, the Trustee and any Paying Agent during such thirty (30) day period and any such further period during which any such action or proceeding may be pending shall be entitled in their reasonable discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Resolution as they may deem expedient.

For the purposes of the Resolution, the purchasers of the Bonds of a Series, whether purchasing as underwriters or Remarketing Agents, for resale or otherwise, upon such purchase, may consent to a modification or amendment permitted by the Resolution in the manner provided in the Resolution, except that no proof of ownership shall be required, and with the same effect as a consent given by the Holder of such Bonds; ***provided, however,*** that, if such consent is given by a purchaser who is purchasing as an underwriter or Remarketing Agent or otherwise for resale, the provisions for the purchaser consenting

thereto shall be described in the official statement, prospectus, offering memorandum or other offering document prepared in connection with the primary offering of the Bonds of such Series by the Authority.

*(Section 10.02)*

### **Modifications by Unanimous Consent**

The terms and provisions of the Resolution and the rights and obligations of the Authority and of the Holders of the Bonds of a Series may be modified or amended in any respect upon the adoption and filing with the Trustee by the Authority of a copy of a Supplemental Resolution certified by an Authorized Officer of the Authority and the consent of the Holders of all of the Bonds of a Series then Outstanding, such consent to be given as provided in the Resolution, except that no notice to the Bondholders either by mailing or publication shall be required.

*(Section 10.03)*

### **Consent of Provider**

Whenever by the terms of the Resolution the consent of any of the Holders of the Bonds of a Series to a modification or amendment of the Resolution made by a Series Resolution or Supplemental Resolution is required, such modification or amendment shall not become effective until the written consent of each Applicable Provider has been obtained. No modification or amendment of the Resolution which adversely affects a Provider shall be made without the written consent thereto of the Applicable Provider affected thereby. Notice of the adoption of any such Series Resolution or Supplemental Resolution and of the effectiveness of the modification or amendment made thereby shall be given to each Applicable Provider by mail at the times and in the manner provided in the Resolution with respect to notices thereof required to be given to the Holders of the Bonds of a Series. Notice thereof shall also be given to each Rating Service as soon as practical after adoption of such Series Resolution or Supplemental Resolution and of the effectiveness thereof. In the event that the Provider is has provided a letter of credit (the “primary letter of credit”) and, as security for the performance of its obligations under the primary letter of credit, a confirming standby letter of credit from another institution, consent shall only be required from the Provider of the primary letter of credit and shall not be required from the provider of the confirming standby letter of credit.

*(Section 10.04)*

### **Events of Default**

An event of default shall exist under the Resolution and under a Series Resolution (herein called “event of default”) if:

With respect to the Applicable Series of Bonds, payment of the principal, Sinking Fund Installments or Redemption Price of any Bond shall not be made by the Authority when the same shall become due and payable, either at maturity or by proceedings for redemption or otherwise; or

With respect to the Applicable Series of Bonds, payment of an installment of interest on any Bond shall not be made by the Authority when the same shall become due and payable; or

With respect to the Applicable Series of Bonds, the Authority shall default in the due and punctual performance of any covenants contained in the Applicable Series Resolution authorizing the issuance thereof to the effect that the Authority shall comply with the provisions of the Code

applicable to such Bonds necessary to maintain the exclusion of interest therein from gross income under Section 103 of the Code and shall not take any action which would adversely affect the exclusion of interest on such Bonds from gross income under Section 103 of the Code and, as a result thereof, the interest on the Bonds of such Series shall no longer be excludable from gross income under Section 103 of the Code; or

With respect to the Applicable Series of Bonds, the Authority shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Resolution or in such Bonds or in the Applicable Series Resolution on the part of the Authority to be performed and such default shall continue for thirty (30) days after written notice specifying such default and requiring same to be remedied shall have been given to the Authority by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of such Series, or if such default is not capable of being cured within thirty (30) days, if the Authority fails to commence within said thirty (30) days and diligently prosecute the cure thereof; or

With respect to the Applicable Series of Bonds, the Authority shall have notified the Trustee that an "Event of Default" as defined in the Applicable Loan Agreement shall have occurred and be continuing and all sums payable by NYSARC under the Applicable Loan Agreement shall have been declared to be immediately due and payable, which declaration shall not have been annulled.

*(Section 11.02)*

### **Acceleration of Maturity**

Upon the happening and continuance of any event of default specified in the Resolution, other than an event of default specified in paragraph (c) of Section 11.02 thereof, then and in every such case the Trustee may, and, upon the written request of the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of the Applicable Series, shall, by a notice in writing to the Authority, declare the principal of and interest on all of the Outstanding Bonds of such Series to be immediately due and payable. At the expiration of thirty (30) days after notice of such declaration has been given, such principal and interest shall become and be immediately due and payable, anything in the Resolution or in a Series Resolution or in the Bonds of such Series to the contrary notwithstanding. At any time after the principal of such Bonds shall have been so declared to be due and payable, and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under the Resolution, the Trustee shall, with the written consent of the Holders of not less than twenty-five per centum (25%) in principal amount of the Bonds of such Series not then due by their terms and then Outstanding, by written notice to the Authority, annul such declaration and its consequences if: (i) money shall have accumulated in the Debt Service Fund sufficient to pay all arrears of interest, if any, upon all of the Outstanding Bonds of such Series (except the interest accrued on such Bonds since the last interest payment date); (ii) money shall have accumulated and be available sufficient to pay the charges, compensation, expenses, disbursements, advances and liabilities of the Trustee and any Paying Agent; (iii) all other amounts then payable by the Authority under the Resolution and under the Applicable Series Resolution (other than principal amounts payable only because of a declaration and acceleration under the Resolution) shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee; and (iv) every other default known to the Trustee in the observance or performance of any covenant, condition or agreement contained in the Resolution or in the Applicable Series Resolution or in such Bonds (other than a default in the payment of the principal of such Bonds then due only because of a declaration under the

Resolution) shall have been remedied to the reasonable satisfaction of the Trustee. No such annulment shall extend to or affect any subsequent default or impair any right consequent thereon.

*(Section 11.03)*

### **Enforcement of Remedies**

Upon the happening and continuance of any event of default specified in the Resolution, then and in every such case, the Trustee may proceed, and, upon the written request of the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of the Series affected thereby, shall proceed (subject to the provisions of the Resolution) to protect and enforce its rights and the rights of the Bondholders under the Resolution or under the Applicable Series Resolution or under the laws of the State by such suits, actions or special proceedings in equity or at law, either for the specific performance of any covenant contained under the Resolution or under the Applicable Series Resolution or in aid or execution of any power in the Resolution or therein granted, or for an accounting against the Authority as if the Authority were the trustee of an express trust, or for the enforcement of any proper legal or equitable remedy as the Trustee shall deem most effectual to protect and enforce such rights, including the foreclosure of any defaulted Mortgage assigned to the Trustee.

In the enforcement of any remedy under the Resolution and under a Series Resolution the Trustee shall be entitled to sue for, enforce payment of, and receive any and all amounts then, or during any default becoming, and at any time remaining, due from the Authority for principal or interest or otherwise under any of the provisions of the Resolution or of such Series Resolution or of the Bonds of the Applicable Series, with interest on overdue payments of the principal of or interest on the Bonds at the rate or rates of interest specified in such Bonds, together with any and all costs and expenses of collection and of all proceedings under the Resolution and under such Series Resolution and under such Bonds, without prejudice to any other right or remedy of the Trustee or of the Holders of such Bonds, and to recover and enforce judgment or decree against the Authority but solely as provided in the Resolution, in the Applicable Series Resolution and in such Bonds, for any portion of such amounts remaining unpaid, with interest, costs and expenses, and to collect in any manner provided by law, the money adjudged or decreed to be payable.

*(Section 11.04)*

### **Limitation of Rights of Individual Bondholders**

No Holder of any of the Bonds of a Series shall have any right to institute any suit, action or proceeding in equity or at law for the execution of any trust under the Resolution, or for any other remedy under the Resolution unless such Holder previously shall have given to the Trustee written notice of the event of default on account of which such suit, action or proceeding is to be instituted, and unless also the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of such Series affected thereby, shall have made written request to the Trustee after the right to exercise such powers or right of action, as the case may be, shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers granted by the Resolution or to institute such action, suit or proceeding in its or their name, and unless, also, there shall have been offered to the Trustee reasonable security and indemnity against the costs, expenses, and liabilities to be incurred therein or thereby, and the Trustee shall have refused or neglected to comply with such request within a reasonable time. Such notification, request and offer of indemnity are declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of the Resolution or for any other remedy under the Resolution and in equity or at law. It is understood and intended that no one or more Holders of the Bonds of a Series secured by the Resolution and by the Applicable Series Resolution shall have any right in any manner whatever by his or their action to affect,

disturb or prejudice the security of the Resolution or thereof or to enforce any right under the Resolution or thereunder except in the manner in the Resolution provided and therein, and that all proceedings at law or in equity shall be instituted and maintained for the benefit of all Holders of the Outstanding Bonds of such Series. Notwithstanding any other provision of the Resolution, the Holder of any Bond of a Series shall have the right which is absolute and unconditional to receive payment of the principal of (and premium, if any) and interest on such Bond on the stated maturity expressed in such Bond (or, in the case of redemption, on the redemption date) and to institute suit for the enforcement of any such payment, and such right shall not be impaired without the consent of such Holder.

*(Section 11.08)*

### **Defeasance**

If the Authority shall pay or cause to be paid to the Holders of Bonds of a Series the principal, Sinking Fund Installments, if any, or Redemption Price of and interest thereon, at the times and in the manner stipulated therein, in the Resolution, and in the Applicable Series Resolution and Bond Series Certificate, then the pledge of the Revenues or other money and securities pledged to such Bonds and all other rights granted by the Resolution to such Bonds shall be discharged and satisfied. In such event, the Trustee shall, upon the request of the Authority, execute and deliver such documents to evidence such discharge and satisfaction as may be reasonably required by the Authority, and all money or securities held by it pursuant to the Resolution and to the Applicable Series Resolution which are not required for the payment or redemption of Bonds of such Series shall be paid or delivered by the Trustee as follows: first, to the Applicable Arbitrage Rebate Fund, the amount required to be deposited therein in accordance with the direction of an Authorized Officer of the Authority; second, to each Applicable Provider, the Provider Payments which have not been repaid, pro rata, based upon the respective Provider Payments then unpaid to each such Provider; third, to the Authority the amount certified by an Authorized Officer of the Authority to be then due or past due pursuant to the Applicable Loan Agreement for fees and expenses of the Authority or pursuant to any indemnity; and, then, the balance thereof to NYSARC. Such securities so paid or delivered shall be released from any trust, pledge, lien, encumbrance or security interest created by the Resolution or by the Applicable Loan Agreement.

Bonds for the payment or redemption of which money shall have been set aside and shall be held in trust by the Trustee (through deposit of money for such payment or redemption or otherwise) at the maturity or redemption date thereof shall be deemed to have been paid within the meaning and with the effect expressed in paragraph (a) of this Section. All Outstanding Bonds of a Series or any maturity within such Series or a portion of a maturity within a Series shall prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in paragraph (a) of this Section if (i) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Authority shall have given to the Trustee, in form satisfactory to it, irrevocable instructions to give as provided in the Resolution notice of redemption on said date of such Bonds, (ii) there shall have been deposited with the Trustee either money in an amount which shall be sufficient, or Defeasance Securities the principal of and interest on which when due will provide money which, together with the money, if any, deposited with the Trustee at the same time, shall be sufficient to pay when due the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, and interest due and to become due on said Bonds on and prior to the redemption date or maturity date thereof, as the case may be, (iii) the Trustee shall have received the written consent to such defeasance of each Applicable Provider which has given written notice to the Trustee and the Authority that amounts advanced under the Applicable Credit Facility or Liquidity Facility issued by it or the interest thereon have not been repaid to such Provider, and (iv) in the event said Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, the Authority shall have given the Trustee, in form satisfactory to it, irrevocable instructions to give, as soon as practicable, by first class mail, postage prepaid, to the Holders of said Bonds at their last known addresses appearing on the registration books, and, if directed by the Authorized Officer of the

Authority, by publication, at least twice, at an interval of not less than seven (7) days between publications, in an Authorized Newspaper, a notice to the Holders of such Bonds that the deposit required by clause (ii) above has been made with the Trustee and that said Bonds are deemed to have been paid in accordance with this Section and stating such maturity or redemption date upon which money is to be available for the payment of the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest on said Bonds. The Authority shall give written notice to the Trustee of its selection of the Series and maturity the payment of which is to be made in accordance with this Section. The Trustee shall select the Bonds of like Series and maturity payment of which shall be made in accordance with this Section in the manner provided in the Resolution. Neither Defeasance Securities nor money deposited with the Trustee pursuant to this Section nor principal or interest payments on any such Defeasance Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest on said Bonds; **provided, however**, that any money received from such principal or interest payments on such Defeasance Securities deposited with the Trustee, if not then needed for such purpose, shall, to the extent practicable, be reinvested in Defeasance Securities maturing at times and in amounts sufficient to pay when due the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest to become due on said Bonds on and prior to such redemption date or maturity date thereof, as the case may be; **provided, further**, that money and Defeasance Securities may be withdrawn and used by the Authority for any purpose upon (i) the simultaneous substitution therefor of either money in an amount which shall be sufficient, or Defeasance Securities the principal of and interest on which when due will provide money which without regard to reinvestment, together with the money, if any, held by or deposited with the Trustee at the same time, shall be sufficient to pay when due the principal, Sinking Fund Installments, if any, or Redemption price, if applicable, and interest due and to become due on such Bonds on and prior to the redemption date or maturity date thereof, as the case may be, and (ii) receipt by the Trustee of a letter or other written report of a firm of independent certified public accountants verifying the accuracy of the arithmetical computations which establish the adequacy of such money and Defeasance Securities for such purpose. Any income or interest earned by, or increment to, the investment of any such money so deposited, shall, to the extent certified by the Trustee to be in excess of the amounts required hereinabove to pay the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest on such Bonds, as realized, be paid by the Trustee as follows: first, to the Applicable Arbitrage Rebate Fund, the amount required to be deposited therein in accordance with the direction of an Authorized Officer of the Authority; second, to each Applicable Provider, the Provider Payments which have not been repaid, pro rata, based upon the respective Provider Payments then unpaid to each such Provider; third, to the Authority the amount certified by an Authorized Officer of the Authority to be then due or past due pursuant to the Applicable Loan Agreement for fees and expenses of the Authority or pursuant to any indemnity; and, then, the balance thereof to NYSARC, and any such money so paid by the Trustee shall be released of any trust, pledge, lien, encumbrance or security interest created by the Resolution or by the Applicable Loan Agreement.

For purposes of determining whether Variable Interest Rate Bonds of a Series shall be deemed to have been paid prior to the maturity or redemption date thereof, as the case may be, by the deposit of money, or Defeasance Securities and money, if any, in accordance with clause (ii) of the second sentence of paragraph (b) of Section 12.01, the interest to come due on such Variable Interest Rate Bonds on or prior to the maturity date or redemption date thereof, as the case may be, shall be calculated at the Maximum Interest Rate permitted by the terms thereof; **provided, however**, that if on any date, as a result of such Variable Interest Rate Bonds having borne interest at less than such Maximum Interest Rate for any period, the total amount of money and Defeasance Securities on deposit with the Trustee for the payment of interest on such Variable Interest Rate Bonds is in excess of the total amount which would have been required to be deposited with the Trustee on such date in respect of such Variable Interest Rate Bonds in order to satisfy clause (ii) of the second sentence of paragraph (b) of this Section, the Trustee shall, if requested by the Authority, pay the amount of such excess as follows: first, to the Applicable Arbitrage Rebate Fund, the amount required to be deposited therein in accordance with the direction of an

Authorized Officer of the Authority; second, to each Applicable Provider, the Provider Payments which have not been repaid, pro rata, based upon the respective Provider Payments then unpaid to each such Provider; third, to the Authority the amount certified by an Authorized Officer of the Authority to be then due or past due pursuant to the Applicable Loan Agreement for fees and expenses of the Authority or pursuant to any indemnity; and, then, the balance thereof to NYSARC, and any such money so paid by the Trustee shall be released of any trust, pledge, lien, encumbrance or security interest created by the Resolution.

Option Bonds of a Series shall be deemed to have been paid in accordance with clause (ii) of the second sentence of paragraph (b) of this Section only if, in addition to satisfying the requirements of clauses (i) and (iii) of such sentence, there shall have been deposited with the Trustee money in an amount which shall be sufficient to pay when due the maximum amount of principal of and premium, if any, and interest on such Bonds which could become payable to the Holders of such Bonds upon the exercise of any options provided to the Holders of such Bonds; **provided, however**, that if, at the time a deposit is made with the Trustee pursuant to paragraph (b) of this Section, the options originally exercisable by the Holder of an Option Bond are no longer exercisable, such Bond shall not be considered an Option Bond for purposes of this paragraph. If any portion of the money deposited with the Trustee for the payment of the principal of and premium, if any, and interest on Option Bonds is not required for such purpose, the Trustee shall, if requested by the Authority, pay the amount of such excess as follows: first, to the Applicable Arbitrage Rebate Fund, the amount required to be deposited therein in accordance with the direction of an Authorized Officer of the Authority; second, to each Applicable Provider, the Provider Payments which have not been repaid, pro rata, based upon the respective Provider Payments then unpaid to each such Provider; third, to the Authority the amount certified by an Authorized Officer of the Authority to be then due or past due pursuant to the Applicable Loan Agreement for fees and expenses of the Authority or pursuant to any indemnity; and, then, the balance thereof to NYSARC, and any such money so paid by the Trustee shall be released of any trust, pledge, lien, encumbrance or security interest created by the Resolution.

Anything in the Resolution to the contrary notwithstanding, any money held by the Trustee or a Paying Agent in trust for the payment and discharge of any of the Bonds of a Series or the interest thereon which remain unclaimed for one (1) year after the date when all of the Bonds of such Series have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such money was held by the Trustee or Paying Agent at such date, or for one (1) year after the date of deposit of such money if deposited with the Trustee or Paying Agent after said date when all of the Bonds of such Series become due and payable, shall, at the written request of the Authority, be repaid by the Trustee or Paying Agent to the Authority as its absolute property and free from trust, and the Trustee or Paying Agent shall thereupon be released and discharged with respect thereto and the Holders of Bonds shall look only to the Authority for the payment of such Bonds; **provided, however**, that, before being required to make any such payment to the Authority, the Trustee or Paying Agent may, at the expense of the Authority, cause to be published in an Authorized Newspaper a notice that such money remains unclaimed and that, after a date named in such notice, which date shall be not less than thirty (30) nor more than sixty (60) days after the date of publication of such notice, the balance of such money then unclaimed shall be returned to the Authority.

*(Section 12.01)*

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**FORM OF CONTINUING DISCLOSURE AGREEMENT**

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**AGREEMENT TO PROVIDE CONTINUING DISCLOSURE**

**DORMITORY AUTHORITY OF THE STATE OF NEW YORK  
NYSARC, INC. REVENUE BONDS, SERIES 2020 (FEDERALLY TAXABLE)**

This **AGREEMENT TO PROVIDE CONTINUING DISCLOSURE** (the “Disclosure Agreement”), dated as of June 30, 2020, is executed and delivered by NYSARC, Inc. (the “Obligated Person”), The Bank of New York Mellon, as Trustee (the “Trustee”) and Digital Assurance Certification, L.L.C. (“DAC”), as exclusive Disclosure Dissemination Agent (the “Disclosure Dissemination Agent”) for the benefit of the Holders (hereinafter defined) of the Bonds (hereinafter defined) issued by the Dormitory Authority of the State of New York (the “Issuer” or “DASNY”) and in order to provide certain continuing disclosure with respect to the Bonds in accordance with Rule 15c2-12 of the United States Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time (the “Rule”).

The services provided under this Disclosure Agreement solely relate to the execution of instructions received from the parties hereto through use of the DAC system and are not intended to constitute “advice” within the meaning of the United States Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Act”). DAC is not obligated hereunder to provide any advice or recommendation to the Obligated Person or anyone on the Obligated Person’s behalf regarding the “issuance of municipal securities” or any “municipal financial product” as defined in the Act and nothing in this Disclosure Agreement shall be interpreted to the contrary.

SECTION 1. Definitions. Capitalized terms not otherwise defined in this Disclosure Agreement shall have the meaning assigned in the Rule or, to the extent not in conflict with the Rule, in the Resolution (hereinafter defined). The capitalized terms shall have the following meanings:

“Annual Filing Date” means the date, set in Sections 2(a) and 2(f) of this Disclosure Agreement, by which the Annual Report is to be filed with the MSRB.

“Annual Financial Information” means annual financial information as such term is used in paragraph (b)(5)(i) of the Rule and specified in Section 3(a) of this Disclosure Agreement.

“Annual Report” means an Annual Report described in and consistent with Section 3 of this Disclosure Agreement.

“Audited Financial Statements” means the financial statements (if any) of the Obligated Person for the prior fiscal year, certified by an independent auditor as prepared in accordance with generally accepted accounting principles or otherwise, as such term is used in paragraph (b)(5)(i) of the Rule and specified in Section 3(b) of this Disclosure Agreement.

“Bonds” means the bonds as listed on the attached Exhibit A, with the 9-digit CUSIP numbers relating thereto.

“Certification” means a written certification of compliance signed by the Disclosure Representative stating that the Annual Report, Audited Financial Statements, Voluntary Financial Disclosure, Notice Event notice, Failure to File Event notice or Voluntary Event Disclosure delivered to the Disclosure Dissemination Agent is the Annual Report, Audited Financial Statements, Voluntary Financial Disclosure, Notice Event notice, Failure to File Event notice or Voluntary Event Disclosure required to be or voluntarily submitted to the MSRB under this Disclosure Agreement. A Certification shall accompany each such document submitted to the

Disclosure Dissemination Agent by the Obligated Person and include the full name of the Bonds and the 9-digit CUSIP numbers for all Bonds to which the document applies.

“Disclosure Dissemination Agent” means Digital Assurance Certification, L.L.C., acting in its capacity as Disclosure Dissemination Agent hereunder, or any successor Disclosure Dissemination Agent designated in writing by the Obligated Person pursuant to Section 9 hereof.

“Disclosure Representative” means the chief financial officer of the Obligated Person or his or her designee, or such other person as the Obligated Person shall designate in writing to the Disclosure Dissemination Agent from time to time as the person responsible for providing Information to the Disclosure Dissemination Agent.

“Failure to File Event” means the Obligated Person’s failure to file an Annual Report on or before the Annual Filing Date.

“Financial Obligation” means a: (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of (a) or (b). The term “financial obligation” shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

“Force Majeure Event” means: (i) acts of God, war or terrorist action; (ii) failure or shut-down of the Electronic Municipal Market Access System maintained by the MSRB; or (iii) to the extent beyond the Disclosure Dissemination Agent’s reasonable control, interruptions in telecommunications or utilities services, failure, malfunction or error of any telecommunications, computer or other electrical, mechanical or technological application, service or system, computer virus, interruptions in Internet service or telephone service (including due to a virus, electrical delivery problem or similar occurrence) that affect Internet users generally, or in the local area in which the Disclosure Dissemination Agent or the MSRB is located, or acts of any government, regulatory or any other competent authority the effect of which is to prohibit the Disclosure Dissemination Agent from performance of its obligations under this Disclosure Agreement.

“Holder” means any person (a) having the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries) or (b) treated as the owner of any Bonds for federal income tax purposes.

“Information” means collectively, the Annual Reports, the Audited Financial Statements (if any), the Notice Event notices, the Failure to File Event notices, the Voluntary Event Disclosures and the Voluntary Financial Disclosures.

“Issuer” means the Dormitory Authority of the State of New York, as conduit issuer of the Bonds.

“MSRB” means the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the United States Securities Exchange Act of 1934, as amended.

“Notice Event” means any of the events enumerated in paragraph (b)(5)(i)(C) of the Rule and listed in Section 4(a) of this Disclosure Agreement.

“Obligated Person” means any person who is either generally or through an enterprise, fund, or account of such person committed by contract or other arrangement to support payment of all, or

part of the obligations on the Bonds (other than providers of municipal bond insurance, letters of credit, or other liquidity facilities), as shown on Exhibit A.

“Official Statement” means that Official Statement prepared by the Issuer and the Obligated Person in connection with the Bonds, as listed on Exhibit A.

“Resolution” means DASNY’s bond resolution(s) pursuant to which the Bonds were issued.

“Trustee” means The Bank of New York Mellon and its successors and assigns.

“Voluntary Event Disclosure” means information of the category specified in any of subsections (e)(vi)(1) through (e)(vi)(11) of Section 2 of this Disclosure Agreement that is accompanied by a Certification of the Disclosure Representative containing the information prescribed by Section 7(a) of this Disclosure Agreement.

“Voluntary Financial Disclosure” means information of the category specified in any of subsections (e)(vii)(1) through (e)(vii)(9) of Section 2 of this Disclosure Agreement that is accompanied by a Certification of the Disclosure Representative containing the information prescribed by Section 7(b) of this Disclosure Agreement.

## SECTION 2. Provision of Annual Reports.

(a) The Obligated Person shall provide, annually, an electronic copy of the Annual Report and Certification to the Disclosure Dissemination Agent, together with a copy for the Trustee, not later than 150 days after the end of each fiscal year of the Obligated Person (or any time thereafter following a Failure to File Event as described in this Section), commencing with the fiscal year ending December 31, 2019, such date and each anniversary thereof, the “Annual Filing Date.” Promptly upon receipt of an electronic copy of the Annual Report and the Certification, the Disclosure Dissemination Agent shall provide the Annual Report to the MSRB through its Electronic Municipal Market Access (“EMMA”) System for municipal securities disclosures. The Annual Financial Information and Audited Financial Statements may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 3 of this Disclosure Agreement.

(b) If on the fifteenth (15th) day prior to the Annual Filing Date, the Disclosure Dissemination Agent has not received a copy of the Annual Report and Certification, the Disclosure Dissemination Agent shall contact the Disclosure Representative by telephone and in writing (which may be by e-mail) to remind the Obligated Person of its undertaking to provide the Annual Report pursuant to Section 2(a). Upon such reminder, the Obligated Person shall, not later than two (2) business days prior to the Annual Filing Date, either: (i) provide the Disclosure Dissemination Agent with an electronic copy of the Annual Financial Information, Audited Financial Statements, if available, and unaudited financial statements, if Audited Financial Statements are not available in accordance with subsection (d) below and the Certification, or (ii) instruct the Disclosure Dissemination Agent in writing, with a copy to the Trustee, that a Failure to File Event may occur, state the date by which the Annual Financial Information and Audited Financial Statements for such year are expected to be provided, and, at the election of the Obligated Person, instruct the Disclosure Dissemination Agent to send a notice to the MSRB in substantially the form attached as Exhibit B on the Annual Filing Date, accompanied by a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-1.

(c) If the Disclosure Dissemination Agent has not received an Annual Report and Certification by 6:00 p.m. Eastern time on the Annual Filing Date (or, if such Annual Filing Date falls on a Saturday, Sunday or holiday, then the first business day thereafter) for the Annual Report, a Failure to

File Event shall have occurred and the Obligated Person hereby irrevocably directs the Disclosure Dissemination Agent to immediately send a notice to the MSRB in substantially the form attached as Exhibit B without reference to the anticipated filing date for the Annual Report, accompanied by a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-1.

(d) If Audited Financial Statements of the Obligated Person are prepared but not available prior to the Annual Filing Date, the Obligated Person shall provide unaudited financial statements for filing prior to the Annual Filing Date in accordance with Section 3(b) hereof and, when the Audited Financial Statements are available, provide in a timely manner an electronic copy to the Disclosure Dissemination Agent, accompanied by a Certification, together with a copy for the Trustee, for filing with the MSRB.

(e) The Disclosure Dissemination Agent shall:

(i) verify the filing specifications of the MSRB each year prior to the Annual Filing Date;

(ii) upon receipt, promptly file each Annual Report received under Section 2(a) and 2(b) with the MSRB;

(iii) upon receipt, promptly file each Audited Financial Statement received under Section 2(d) with the MSRB;

(iv) upon receipt, promptly file the text of each Notice Event received under Sections 4(a) and 4(b)(ii) with the MSRB, identifying the Notice Event as instructed pursuant to Section 4(a) or 4(b)(ii) (being any of the categories set forth below) when filing pursuant to Section 4(c) of this Disclosure Agreement:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, IRS notices or events affecting the tax-exempt status of the securities;
7. Modifications to rights of securities holders, if material;
8. Bond calls, if material;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the securities, if material;
11. Ratings changes;
12. Tender offers;

13. Bankruptcy, insolvency, receivership or similar event of the Obligated Person;
  14. Merger, consolidation, or acquisition of the Obligated Person, if material;
  15. Appointment of a successor or additional trustee, or the change of name of a trustee, if material;
  16. Incurrence of a Financial Obligation of the Obligated Person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Obligated Person, any of which affect security holders, if material; and
  17. Default, event of acceleration, termination event, modification of terms or other similar events under the terms of a Financial Obligation of the Obligated Person, any of which reflect financial difficulties.
- (v) upon receipt (or irrevocable direction pursuant to Section 2(c) of this Disclosure Agreement, as applicable), promptly file a completed copy of Exhibit B to this Disclosure Agreement with the MSRB, identifying the filing as “Failure to provide annual financial information as required” when filing pursuant to Section 2(b)(ii) or Section 2(c) of this Disclosure Agreement;
- (vi) upon receipt, promptly file the text of each Voluntary Event Disclosure received under Section 7(a) with the MSRB, identifying the Voluntary Event Disclosure as instructed by the Obligated Person pursuant to Section 7(a) (being any of the categories set forth below) when filing pursuant to Section 7(a) of this Disclosure Agreement:
1. “amendment to continuing disclosure undertaking;”
  2. “change in obligated person;”
  3. “notice to investors pursuant to bond documents;”
  4. “certain communications from the Internal Revenue Service;”
  5. “secondary market purchases;”
  6. “bid for auction rate or other securities;”
  7. “capital or other financing plan;”
  8. “litigation/enforcement action;”
  9. “change of tender agent, remarketing agent, or other on-going party;”
  10. “derivative or other similar transaction;” and
  11. “other event-based disclosures;”

- (vii) upon receipt, promptly file the text of each Voluntary Financial Disclosure received under Section 7(b) with the MSRB, identifying the Voluntary Financial Disclosure as instructed by the Obligated Person pursuant to Section 7(b) (being any of the categories set forth below) when filing pursuant to Section 7(b) of this Disclosure Agreement:
1. “quarterly/monthly financial information;”
  2. “change in fiscal year/timing of annual disclosure;”
  3. “change in accounting standard;”
  4. “interim/additional financial information/operating data;”
  5. “budget;”
  6. “investment/debt/financial policy;”
  7. “information provided to rating agency, credit/liquidity provider or other third party;”
  8. “consultant reports;” and
  9. “other financial/operating data;”
- (viii) provide the Obligated Person evidence of the filings of each of the above when made, which shall be by means of the DAC system, for so long as DAC is the Disclosure Dissemination Agent under this Disclosure Agreement.

(f) The Obligated Person may adjust the Annual Filing Date upon change of its fiscal year by providing written notice of such change and the new Annual Filing Date to the Disclosure Dissemination Agent, the Trustee and the MSRB, provided that the period between the existing Annual Filing Date and new Annual Filing Date shall not exceed one year.

(g) Any Information received by the Disclosure Dissemination Agent before 6:00 p.m. Eastern time on any business day that it is required to file with the MSRB pursuant to the terms of this Disclosure Agreement and that is accompanied by a Certification and all other information required by the terms of this Disclosure Agreement will be filed by the Disclosure Dissemination Agent with the MSRB no later than 11:59 p.m. Eastern time on the same business day; provided, however, the Disclosure Dissemination Agent shall have no liability for any delay in filing with the MSRB if such delay is caused by a Force Majeure Event provided that the Disclosure Dissemination Agent uses reasonable efforts to make any such filing as soon as possible.

### SECTION 3. Content of Annual Reports.

Each Annual Report shall contain:

(a) Annual Financial Information with respect to the Obligated Person which shall include operating data and financial information of the type included in the Official Statement for the Bonds as described in “PART 4 - NYSARC” under the headings, unless such information is included in the audited financial statements of the Obligated Person prepared and filed by the Obligated Person at or before the

time that any other Annual Financial Information is required to be provided: (i) “Financial Matters”, (ii) “Management’s Discussion” (unless such information is included in the audited financial statements of the Obligated Person), and (iii) the table set forth under “PART 5 - PARTICIPATING CHAPTER AND PROJECT INFORMATION”; together with a narrative explanation as may be necessary to avoid misunderstanding regarding the presentation of such Annual Financial Information concerning the Obligated Person; and

(b) Audited Financial Statements prepared in accordance with generally accepted accounting principles (“GAAP”) or alternate accounting principles as described in the Official Statement will be included in the Annual Report. If Audited Financial Statements are not available, the Obligated Person shall be in compliance under this Disclosure Agreement if unaudited financial statements, prepared in accordance with GAAP or alternate accounting principles as described in the Official Statement, are included in the Annual Report. Audited Financial Statements (if any) will be provided pursuant to Section 2(d).

Any or all of the items listed above may be included by specific reference from other documents, including official statements of debt issues with respect to which the Obligated Person is an “obligated person” (as defined by the Rule), which have been previously filed with the Securities and Exchange Commission or are available from the MSRB Internet Website. If the document incorporated by reference is a Final Official Statement, it must be available from the MSRB. The Obligated Person will clearly identify each such document so incorporated by reference.

Any Annual Financial Information containing modified operating data or financial information shall include an explanation, in narrative form, of such modifications.

#### SECTION 4. Reporting of Notice Events.

(a) The occurrence of any of the following events with respect to the Bonds constitutes a Notice Event:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices and determinations with respect to the tax status of the securities or other material events affecting the tax status of the securities;
7. Modifications to rights of the security holders, if material;
8. Bond calls, if material;
9. Defeasances;

10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Tender offers;
13. Bankruptcy, insolvency, receivership or similar event of the Obligated Person;

**Note to subsection (a)(13) of this Section 4:** For the purposes of the event described in subsection (a)(13) of this Section 4, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an Obligated Person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Obligated Person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Obligated Person.

14. The consummation of a merger, consolidation or acquisition involving the Obligated Person, or the sale of all or substantially all of the assets of the Obligated Person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
15. Appointment of a successor or additional trustee or the change of name of a trustee, if material;
16. Incurrence of a Financial Obligation of the Obligated Person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Obligated Person, any of which affect security holders, if material; and
17. Default, event of acceleration, termination event, modification of terms or other similar events under the terms of a Financial Obligation of the Obligated Person, any of which reflect financial difficulties.

The Obligated Person shall, in a timely manner not in excess of ten business days after its occurrence, notify the Trustee and the Disclosure Dissemination Agent in writing upon the occurrence of a Notice Event. Upon actual knowledge of the occurrence of a Notice Event, the Trustee shall promptly notify the Obligated Person and also shall notify the Disclosure Dissemination Agent in writing of the occurrence of such Notice Event. Each such notice shall instruct the Disclosure Dissemination Agent to report the occurrence pursuant to subsection (c) and shall be accompanied by a Certification. Such notice or Certification shall identify the Notice Event that has occurred (which shall be any of the categories set forth in Section 2(e)(iv) of this Disclosure Agreement), include the desired text of the disclosure, the written authorization for the Disclosure Dissemination Agent to disseminate such information, and identify the desired date for the Disclosure Dissemination Agent to disseminate the information (provided that such date is not later than the tenth business day after the occurrence of the Notice Event).

(b) The Disclosure Dissemination Agent is under no obligation to notify the Obligated Person or the Disclosure Representative of an event that may constitute a Notice Event. In the event the Disclosure Dissemination Agent so notifies the Obligated Person or the Disclosure Representative, such notified party will within two business days of receipt of such notice (but in any event not later than the tenth business day after the occurrence of the Notice Event, if the Obligated Person determines that a Notice Event has occurred), instruct the Disclosure Dissemination Agent that (i) a Notice Event has not occurred and no filing is to be made or (ii) a Notice Event has occurred and the Disclosure Dissemination Agent is to report the occurrence pursuant to subsection (c) of this Section 4, together with a Certification. Such Certification shall identify the Notice Event that has occurred (which shall be any of the categories set forth in Section 2(e)(iv) of this Disclosure Agreement), include the text of the disclosure that the Obligated Person desires to make, contain the written authorization of the Obligated Person for the Disclosure Dissemination Agent to disseminate such information, and identify the date the Obligated Person desires for the Disclosure Dissemination Agent to disseminate the information (provided that such date is not later than the tenth business day after the occurrence of the Notice Event).

(c) If the Disclosure Dissemination Agent has been instructed as prescribed in subsection (a) or as prescribed in subsection (b) of this Section 4 to report the occurrence of a Notice Event, the Disclosure Dissemination Agent shall promptly file a notice of such occurrence with MSRB, in accordance with Section 2(e)(iv) hereof. This notice will be filed with a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-1.

#### SECTION 5. CUSIP Numbers.

Whenever providing information to the Disclosure Dissemination Agent, including but not limited to Annual Reports, documents incorporated by reference in the Annual Reports, Audited Financial Statements, Notice Event notices and Voluntary Event Disclosure, the Obligated Person shall indicate the full name of the Bonds and the 9-digit CUSIP numbers for the Bonds as to which the provided information relates.

#### SECTION 6. Additional Disclosure Obligations.

The Obligated Person acknowledges and understands that other state and federal laws, including but not limited to the United States Securities Act of 1933, as amended, and Rule 10b-5 promulgated under the United States Securities Exchange Act of 1934, as amended, may apply to the Obligated Person, and that the duties and responsibilities of the Disclosure Dissemination Agent under this Disclosure Agreement do not extend to providing legal advice regarding such laws. The Obligated Person acknowledges and understands that the duties of the Disclosure Dissemination Agent relate exclusively to execution of the mechanical tasks of disseminating information as described in this Disclosure Agreement.

#### SECTION 7. Voluntary Filing.

(a) The Obligated Person may instruct the Disclosure Dissemination Agent to file Voluntary Event Disclosure with the MSRB from time to time pursuant to a Certification of the Disclosure Representative. Such Certification shall identify the Voluntary Event Disclosure (which shall be any of the categories set forth in Section 2(e)(vi) of this Disclosure Agreement), include the text of the disclosure that the Obligated Person desires to make, and identify the date the Obligated Person desires for the Disclosure Dissemination Agent to disseminate the information. If the Disclosure Dissemination Agent has been instructed by the Obligated Person as prescribed in this Section 7(a) to file a Voluntary Event Disclosure, the Disclosure Dissemination Agent shall promptly file such Voluntary Event Disclosure with

the MSRB in accordance with Section 2(e)(vi) hereof. This notice will be filed with a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-2.

(b) The Obligated Person may instruct the Disclosure Dissemination Agent to file Voluntary Financial Disclosure with the MSRB from time to time pursuant to a Certification of the Disclosure Representative. Such Certification shall identify the Voluntary Financial Disclosure (which shall be any of the categories set forth in Section 2(e)(vii) of this Disclosure Agreement), include the desired text of the disclosure, contain the written authorization for the Disclosure Dissemination Agent to disseminate such information, if applicable, and identify the desired date for the Disclosure Dissemination Agent to disseminate the information. If the Disclosure Dissemination Agent has been instructed by the Obligated Person as prescribed in this Section 7(b) to file a Voluntary Financial Disclosure, the Disclosure Dissemination Agent shall promptly file such Voluntary Financial Disclosure with the MSRB in accordance with Section 2(e)(vii) hereof. This notice will be filed with a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-3.

(c) The parties hereto acknowledge that the Obligated Person is not obligated pursuant to the terms of this Disclosure Agreement to file any Voluntary Event Disclosure pursuant to Section 7(a) hereof or to file any Voluntary Financial Disclosure pursuant to Section 7(b) hereof.

(d) Nothing in this Disclosure Agreement shall be deemed to prevent the Obligated Person from disseminating any other information through the Disclosure Dissemination Agent using the means of dissemination set forth in this Section 7, or including any other information in any Annual Report, Failure to File Event notice or Notice Event notice in addition to that which is specifically required by this Disclosure Agreement. If the Obligated Person chooses to include any information in any Annual Report, Failure to File Event notice or Notice Event notice in addition to that which is specifically required by this Disclosure Agreement or to file Voluntary Event Disclosure or Voluntary Financial Disclosure, the Obligated Person shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report, Voluntary Financial Disclosure, Voluntary Event Disclosure, Failure to File Event Notice or Notice Event notice.

#### SECTION 8. Termination of Reporting Obligation.

The obligations of the Obligated Person and the Disclosure Dissemination Agent under this Disclosure Agreement shall terminate with respect to the Bonds upon the legal defeasance, prior redemption or payment in full of all of the Bonds, when the Obligated Person is no longer an Obligated Person with respect to the Bonds, or upon delivery by the Disclosure Representative to the Disclosure Dissemination Agent of an opinion of nationally recognized bond counsel to the effect that continuing disclosure is no longer required.

#### SECTION 9. Disclosure Dissemination Agent.

The Obligated Person hereby appoints DAC as exclusive Disclosure Dissemination Agent under this Disclosure Agreement. The Obligated Person may, upon thirty days written notice to the Disclosure Dissemination Agent and the Trustee, replace or appoint a successor Disclosure Dissemination Agent. Upon termination of DAC's services as Disclosure Dissemination Agent, whether by notice of the Obligated Person or DAC, the Obligated Person agrees to appoint a successor Disclosure Dissemination Agent or, alternatively, agrees to assume all responsibilities of the Disclosure Dissemination Agent under this Disclosure Agreement for the benefit of the Holders of the Bonds. Notwithstanding any replacement or appointment of a successor, the Obligated Person shall remain liable until payment in full for any and all sums owed and payable to the Disclosure Dissemination Agent. The Disclosure Dissemination Agent may resign at any time by providing thirty days' prior written notice to the Obligated Person.

SECTION 10. Remedies in Event of Default.

In the event of a failure of the Obligated Person or the Disclosure Dissemination Agent to comply with any provision of this Disclosure Agreement, the Holders' rights to enforce the provisions of this Disclosure Agreement shall be limited solely to a right, by action in mandamus or for specific performance, to compel performance of the parties' obligation under this Disclosure Agreement. Any failure by a party to perform in accordance with this Disclosure Agreement shall not constitute a default on the Bonds or under any other document relating to the Bonds, and all rights and remedies shall be limited to those expressly stated herein.

SECTION 11. Duties, Immunities and Liabilities of Disclosure Dissemination Agent.

(a) The Disclosure Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement. The Disclosure Dissemination Agent's obligation to deliver the information at the times and with the contents described herein shall be limited to the extent the Obligated Person has provided such information to the Disclosure Dissemination Agent as provided in this Disclosure Agreement. The Disclosure Dissemination Agent shall have no duty with respect to the content of any disclosures or notice made pursuant to the terms hereof. The Disclosure Dissemination Agent shall have no duty or obligation to review or verify any Information, or any other information, disclosures or notices provided to it by the Obligated Person and shall not be deemed to be acting in any fiduciary capacity for the Obligated Person, the Holders of the Bonds or any other party. The Disclosure Dissemination Agent shall have no responsibility for the Obligated Person's failure to report to the Disclosure Dissemination Agent a Notice Event or a duty to determine the materiality thereof. The Disclosure Dissemination Agent shall have no duty to determine or liability for failing to determine whether the Obligated Person has complied with this Disclosure Agreement. The Disclosure Dissemination Agent may conclusively rely upon certifications of the Obligated Person at all times.

THE OBLIGATED PERSON AGREES TO INDEMNIFY AND SAVE THE DISCLOSURE DISSEMINATION AGENT AND THE TRUSTEE AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, HARMLESS AGAINST ANY LOSS, EXPENSE AND LIABILITY WHICH THEY MAY INCUR ARISING OUT OF OR IN THE EXERCISE OR PERFORMANCE OF THEIR POWERS AND DUTIES HEREUNDER, INCLUDING THE COSTS AND EXPENSES (INCLUDING ATTORNEYS FEES) OF DEFENDING AGAINST ANY CLAIM OF LIABILITY, BUT EXCLUDING LOSSES, EXPENSES AND LIABILITIES DUE TO THE DISCLOSURE DISSEMINATION AGENT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AND THE TRUSTEE'S (AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS') NEGLIGENCE OR WILLFUL MISCONDUCT.

The obligations of the Obligated Person under this Section shall survive resignation or removal of the Disclosure Dissemination Agent and defeasance, redemption or payment of the Bonds.

(b) The Disclosure Dissemination Agent may, from time to time, consult with legal counsel (either in-house or external) of its own choosing in the event of any disagreement or controversy, or question or doubt as to the construction of any of the provisions hereof or its respective duties hereunder, and it shall not incur any liability and shall be fully protected in acting in good faith upon the advice of such legal counsel. The fees and expenses of such counsel shall be payable by the Obligated Person.

(c) All documents, reports, notices, statements, information and other materials provided to the MSRB under this Disclosure Agreement shall be provided in an electronic format through the EMMA System and accompanied by identifying information as prescribed by the MSRB.

SECTION 12. No Issuer or Trustee Responsibility.

The Obligated Person and the Disclosure Dissemination Agent acknowledge that neither the Issuer nor the Trustee have undertaken any responsibility, and shall not be required to undertake any responsibility, with respect to any reports, notices or disclosures required by or provided pursuant to this Disclosure Agreement (other than, with respect to the Trustee only, those notices required under Section 4 hereof), and shall have no liability to any person, including any Holder of the Bonds, with respect to any such reports, notices or disclosures (other than, with respect to the Trustee only, those notices required under Section 4 hereof). DASNY (as conduit issuer) is not, for purposes of and within the meaning of the Rule, (i) committed by contract or other arrangement to support payment of all, or part of, the obligations on the Bonds, or (ii) a person for whom annual financial information and notices of material events will be provided. The Trustee shall be indemnified and held harmless in connection with this Disclosure Agreement to the same extent provided in the Resolution for matters arising thereunder.

SECTION 13. Amendment; Waiver.

Notwithstanding any other provision of this Disclosure Agreement, the Obligated Person, the Trustee and the Disclosure Dissemination Agent may amend this Disclosure Agreement and any provision of this Disclosure Agreement may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to each of the Obligated Person, the Trustee and the Disclosure Dissemination Agent to the effect that such amendment or waiver does not materially impair the interests of Holders of the Bonds and would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule; provided none of the Obligated Person, the Trustee or the Disclosure Dissemination Agent shall be obligated to agree to any amendment modifying their respective duties or obligations without their consent thereto.

Notwithstanding the preceding paragraph, the Obligated Person, the Trustee and the Disclosure Dissemination Agent shall have the right to amend this Disclosure Agreement for any of the following purposes:

(i) to comply with modifications to and interpretations of the provisions of the Rule as announced by the Securities and Exchange Commission from time to time;

(ii) to add or change a dissemination agent for the information required to be provided hereby and to make any necessary or desirable provisions with respect thereto;

(iii) to evidence the succession of another person to the Obligated Person or the Trustee and the assumption by any such successor of the covenants of the Obligated Person or the Trustee hereunder;

(iv) to add to the covenants of the Obligated Person or the Disclosure Dissemination Agent for the benefit of the Holders, or to surrender any right or power herein conferred upon the Obligated Person or the Disclosure Dissemination Agent; and

(v) for any purpose for which, and subject to the conditions pursuant to which, amendments may be made under the Rule, as amended or modified from time to time, or any formal authoritative interpretations thereof by the Securities and Exchange Commission.

SECTION 14. Beneficiaries.

This Disclosure Agreement shall inure solely to the benefit of the Obligated Person, the Trustee, the Disclosure Dissemination Agent, the underwriter, and the Holders from time to time of the Bonds, and shall create no rights in any other person or entity.

SECTION 15. Governing Law.

This Disclosure Agreement shall be governed by the laws of the State of New York (without regard to its conflicts of laws provisions).

SECTION 16. Counterparts.

This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[remainder of page left intentionally blank]

The Disclosure Dissemination Agent, the Trustee and the Obligated Person have caused this Disclosure Agreement to be executed, on the date first written above, by their respective officers duly authorized.

**DIGITAL ASSURANCE CERTIFICATION, L.L.C.,**  
as Disclosure Dissemination Agent

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

**NYSARC, INC.,**  
Obligated Person

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

**THE BANK OF NEW YORK MELLON,**  
as Trustee

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

**EXHIBIT A**

**NAME AND CUSIP NUMBERS OF BONDS**

Name of Issuer: Dormitory Authority of the State of New York  
Obligated Person(s): NYSARC, Inc.  
Name of Bond Issue: NYSARC, Inc. Revenue Bonds, Series 2020 (Federally Taxable)  
Date of Issuance: June 30, 2020  
Date of Official Statement: June 11, 2020

<u>Maturity</u> <u>(July 1)</u>	<u>CUSIP No.</u>
2021	64990GR87
2022	64990GR95
2023	64990GS29
2024	64990GS37
2025	64990GS45
2026	64990GS52
2027	64990GS60
2028	64990GS78
2029	64990GS86
2030	64990GS94
2031	64990GT28
2035	64990GT36
2045	64990GT44

**EXHIBIT B**

**NOTICE TO MSRB OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: Dormitory Authority of the State of New York  
Obligated Person(s): NYSARC, Inc.  
Name of Bond Issue: NYSARC, Inc. Revenue Bonds, Series 2020 (Federally Taxable)  
Date of Issuance: June 30, 2020

CUSIP Numbers:

NOTICE IS HEREBY GIVEN that the Obligated Person has not provided an Annual Report with respect to the above-named Bonds as required by the Agreement to Provide Continuing Disclosure, dated as of June 30, 2020, by and among the Obligated Person, The Bank of New York Mellon, as Trustee and Digital Assurance Certification, L.L.C., as Disclosure Dissemination Agent. The Obligated Person has notified the Disclosure Dissemination Agent that it anticipates that the Annual Report will be filed by \_\_\_\_\_.

Dated: \_\_\_\_\_

Digital Assurance Certification, L.L.C., as Disclosure  
Dissemination Agent, on behalf of the Obligated Person

\_\_\_\_\_

cc: Obligated Person

**EXHIBIT C-1  
EVENT NOTICE COVER SHEET**

This cover sheet and accompanying "event notice" will be sent to the MSRB, pursuant to Securities and Exchange Commission Rule 15c2-12(b)(5)(i)(C) and (D).

Issuer's and Obligated Person's Names:

\_\_\_\_\_

Six-Digit CUSIP Number:

\_\_\_\_\_

\_\_\_\_\_

or Nine-Digit CUSIP Number(s) of the bonds to which this event notice relates:

\_\_\_\_\_

Number of pages attached: \_\_\_\_\_

Description of Notice Events (Check One):

1. \_\_\_\_\_ "Principal and interest payment delinquencies;"
2. \_\_\_\_\_ "Non-Payment related defaults, if material;"
3. \_\_\_\_\_ "Unscheduled draws on debt service reserves reflecting financial difficulties;"
4. \_\_\_\_\_ "Unscheduled draws on credit enhancements reflecting financial difficulties;"
5. \_\_\_\_\_ "Substitution of credit or liquidity providers, or their failure to perform;"
6. \_\_\_\_\_ "Adverse tax opinions, IRS notices or events affecting the tax status of the security;"
7. \_\_\_\_\_ "Modifications to rights of securities holders, if material;"
8. \_\_\_\_\_ "Bond calls, if material;"
9. \_\_\_\_\_ "Defeasances;"
10. \_\_\_\_\_ "Release, substitution, or sale of property securing repayment of the securities, if material;"
11. \_\_\_\_\_ "Rating changes;"
12. \_\_\_\_\_ "Tender offers;"
13. \_\_\_\_\_ "Bankruptcy, insolvency, receivership or similar event of the obligated person;"
14. \_\_\_\_\_ "Merger, consolidation, or acquisition of the obligated person, if material;"
15. \_\_\_\_\_ "Appointment of a successor or additional trustee, or the change of name of a trustee, if material;"
16. \_\_\_\_\_ "Incurrence of a Financial Obligation of the Obligated Person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Obligated Person, any of which affect security holders, if material;" and
17. \_\_\_\_\_ "Default, event of acceleration, termination event, modification of terms or other similar events under the terms of a Financial Obligation of the Obligated Person, any of which reflect financial difficulties."

\_\_\_\_\_ Failure to provide annual financial information as required.

I hereby represent that I am authorized by the obligated person or its agent to distribute this information publicly:

Signature:

\_\_\_\_\_

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

Digital Assurance Certification, L.L.C.  
390 N. Orange Avenue  
Suite 1750  
Orlando, FL 32801  
407-515-1100

Date:

**EXHIBIT C-2**

**VOLUNTARY EVENT DISCLOSURE COVER SHEET**

This cover sheet and accompanying “voluntary event disclosure” will be sent to the MSRB, pursuant to the Continuing Disclosure Agreement dated as of June 30, 2020 by and among the Obligated Person, the Trustee and DAC.

Issuer’s and Obligated Person’s Names:

\_\_\_\_\_

Six-Digit CUSIP Number:

\_\_\_\_\_

\_\_\_\_\_

or Nine-Digit CUSIP Number(s) of the bonds to which this notice relates:

\_\_\_\_\_

Number of pages attached: \_\_\_\_\_

Description of Voluntary Event Disclosure (Check One):

1. \_\_\_\_\_ “amendment to continuing disclosure undertaking;”
2. \_\_\_\_\_ “change in obligated person;”
3. \_\_\_\_\_ “notice to investors pursuant to bond documents;”
4. \_\_\_\_\_ “certain communications from the Internal Revenue Service;”
5. \_\_\_\_\_ “secondary market purchases;”
6. \_\_\_\_\_ “bid for auction rate or other securities;”
7. \_\_\_\_\_ “capital or other financing plan;”
8. \_\_\_\_\_ “litigation/enforcement action;”
9. \_\_\_\_\_ “change of tender agent, remarketing agent, or other on-going party;”
10. \_\_\_\_\_ “derivative or other similar transaction;” and
11. \_\_\_\_\_ “other event-based disclosures.”

I hereby represent that I am authorized by the obligated person or its agent to distribute this information publicly:

Signature:

\_\_\_\_\_

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

Digital Assurance Certification, L.L.C.  
390 N. Orange Avenue  
Suite 1750  
Orlando, FL 32801  
407-515-1100

Date:

**EXHIBIT C-3  
VOLUNTARY FINANCIAL DISCLOSURE COVER SHEET**

This cover sheet and accompanying "voluntary financial disclosure" will be sent to the MSRB, pursuant to the Continuing Disclosure Agreement dated as of \_\_\_\_\_ by and among the Obligated Person, the Trustee and DAC.

Issuer's and Obligated Person's Names:

\_\_\_\_\_

Six-Digit CUSIP Number:

\_\_\_\_\_

\_\_\_\_\_

or Nine-Digit CUSIP Number(s) of the bonds to which this notice relates:

\_\_\_\_\_

Number of pages attached: \_\_\_\_\_

Description of Voluntary Financial Disclosure (Check One):

1. \_\_\_\_\_ "quarterly/monthly financial information;"
2. \_\_\_\_\_ "change in fiscal year/timing of annual disclosure;"
3. \_\_\_\_\_ "change in accounting standard;"
4. \_\_\_\_\_ "interim/additional financial information/operating data;"
5. \_\_\_\_\_ "budget;"
6. \_\_\_\_\_ "investment/debt/financial policy;"
7. \_\_\_\_\_ "information provided to rating agency, credit/liquidity provider or other third party;"
8. \_\_\_\_\_ "consultant reports;" and
9. \_\_\_\_\_ "other financial/operating data."

I hereby represent that I am authorized by the obligated person or its agent to distribute this information publicly:

Signature:

\_\_\_\_\_

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

Digital Assurance Certification, L.L.C.  
390 N. Orange Avenue  
Suite 1750  
Orlando, FL 32801  
407-515-1100

Date:

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**FORMS OF APPROVING OPINIONS OF CO-BOND COUNSEL**

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**FORMS OF APPROVING OPINIONS OF CO-BOND COUNSEL**

**Upon delivery of the Series 2020 Bonds, Barclay Damon LLP, Albany, New York, Co-Bond Counsel to DASNY, proposes to issue its legal opinion in substantially the following form:**

\_\_\_\_\_, 2020

Dormitory Authority of the  
State of New York  
515 Broadway  
Albany, New York 12207

Ladies and Gentlemen:

We have examined the record of proceedings relating to the \$31,495,000 aggregate principal amount NYSARC, Inc. Revenue Bonds, Series 2020 (Federally Taxable) (the “Series 2020 Bonds”) issued by the Dormitory Authority of the State of New York (“DASNY”), a body corporate and politic constituting a public benefit corporation of the State of New York, created and existing under and pursuant to the Constitution and statutes of the State of New York, including the Dormitory Authority Act, being Chapter 524 of the Laws of 1944 of the State of New York, as amended to the date hereof (the “Act”). We have also examined such certificates, documents, records and matters of law as we have deemed necessary for the purpose of rendering the opinions hereinafter set forth. Capitalized terms used herein without other definition have the meanings set forth in the Resolution (hereinafter defined).

The Series 2020 Bonds are issued under and pursuant to the Act and the NYSARC, Inc. Revenue Bond Resolution of DASNY, adopted March 25, 2009 (the “Resolution”), and DASNY’s Series 2020B Resolution Authorizing NYSARC, Inc. Revenue Bonds, Series 2020B (Taxable), adopted March 4, 2020 (the “Series 2020 Resolution”). The Resolution and the Series 2020 Resolution are herein collectively referred to as the “Resolutions.” The Series 2020 Bonds are being issued for the purposes set forth in the Resolutions.

DASNY has entered into a Loan Agreement with NYSARC, Inc. (“NYSARC”), dated as of March 4, 2020 (the “Loan Agreement”), providing for, among other things, a loan to NYSARC for the purposes permitted thereby and by the Resolutions. Pursuant to the Loan Agreement, NYSARC is required to make payments sufficient to pay the principal, sinking fund installments and redemption price, if applicable, of and interest on the Series 2020 Bonds as the same become due, which payments have been pledged by DASNY to the Trustee for the benefit of the holders of the Series 2020 Bonds.

Based upon the foregoing, we are of the opinion that:

(1) DASNY is a body corporate and politic constituting a public benefit corporation of the State of New York with the right and lawful authority and power to adopt the Resolutions and to issue the Series 2020 Bonds thereunder.

(2) The Resolution has been duly and lawfully adopted by DASNY. The Series 2020 Resolution has been duly and lawfully adopted by DASNY in accordance with the provisions of the Resolution and is authorized and permitted by the Resolution. The Resolutions are in full force and effect, and are legal, valid and binding obligations of DASNY enforceable in accordance with their respective terms. The Resolutions create the valid pledge and the valid lien upon the Revenues that they purport to create, subject only to the provisions of the Resolutions permitting the withdrawal, payment, setting apart or appropriation thereof for the purposes and on the terms and conditions set forth in the Resolutions.

(3) The Series 2020 Bonds have been duly and validly authorized and issued in accordance with the Constitution and statutes of the State of New York, including the Act, and in accordance with the

Resolutions. The Series 2020 Bonds are legal, valid and binding special obligations of DASNY payable as provided in the Resolutions, are enforceable in accordance with their terms pursuant to the Resolutions and are entitled to the equal benefits of the Resolutions and the Act.

(4) DASNY has the right and lawful authority and power to enter into the Loan Agreement. The Loan Agreement has been duly authorized, executed and delivered by DASNY and, assuming due authorization, execution and delivery of the Loan Agreement by NYSARC, constitutes a legal, valid and binding obligation of DASNY enforceable in accordance with its terms.

(5) Interest on the Series 2020 Bonds is not excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code").

(6) Under existing statutes, interest on the Series 2020 Bonds is exempt from personal income taxes imposed by the State of New York or any political subdivisions thereof (including The City of New York and the City of Yonkers).

We express no opinion regarding any other federal, state or local tax consequences with respect to the Series 2020 Bonds except as stated in paragraphs (5) and (6) above. Our opinion speaks as of the date hereof and does not contain or provide any opinion or assurance regarding the future activities of DASNY or NYSARC or about the effect of future changes in the Code, the applicable regulations, rulings, judicial decisions, the interpretation thereof or the enforcement thereof by the Internal Revenue Service. In addition, we express no opinion on the effect of any action taken or not taken in reliance upon an opinion of other counsel on the inclusion or exclusion from gross income for federal income tax purposes of the interest on the Series 2020 Bonds, or the exemption from personal income taxes of interest on the Series 2020 Bonds under state and local tax law.

We have examined a fully executed Series 2020 Bond and, in our opinion, the form of said Series 2020 Bonds and their execution are regular and proper.

The opinions contained in paragraphs (2), (3) and (4) above are qualified to the extent that the enforceability of the Resolutions, the Loan Agreement and the Series 2020 Bonds may be limited by bankruptcy, insolvency, moratorium, reorganization or other laws affecting creditors' rights generally and as to the availability of any particular remedy.

Very truly yours,

**Upon delivery of the Series 2020 Bonds, Marous Law Group, P.C., New York, New York, Co-Bond Counsel to DASNY, proposes to issue its legal opinion in substantially the following form:**

\_\_\_\_\_, 2020

Dormitory Authority of the  
State of New York  
515 Broadway  
Albany, New York 12207

Ladies and Gentlemen:

We have examined the record of proceedings relating to the \$31,495,000 aggregate principal amount NYSARC, Inc. Revenue Bonds, Series 2020 (Federally Taxable) (the “Series 2020 Bonds”) issued by the Dormitory Authority of the State of New York (“DASNY”), a body corporate and politic constituting a public benefit corporation of the State of New York, created and existing under and pursuant to the Constitution and statutes of the State of New York, including the Dormitory Authority Act, being Chapter 524 of the Laws of 1944 of the State of New York, as amended to the date hereof (the “Act”). We have also examined such certificates, documents, records and matters of law as we have deemed necessary for the purpose of rendering the opinions hereinafter set forth. Capitalized terms used herein without other definition have the meanings set forth in the Resolution (hereinafter defined).

The Series 2020 Bonds are issued under and pursuant to the Act and the NYSARC, Inc. Revenue Bond Resolution of DASNY, adopted March 25, 2009 (the “Resolution”), and DASNY’s Series 2020B Resolution Authorizing NYSARC, Inc. Revenue Bonds, Series 2020B (Taxable), adopted March 4, 2020 (the “Series 2020 Resolution”). The Resolution and the Series 2020 Resolution are herein collectively referred to as the “Resolutions.” The Series 2020 Bonds are being issued for the purposes set forth in the Resolutions.

DASNY has entered into a Loan Agreement with NYSARC, Inc. (“NYSARC”), dated as of March 4, 2020 (the “Loan Agreement”), providing for, among other things, a loan to NYSARC for the purposes permitted thereby and by the Resolutions. Pursuant to the Loan Agreement, NYSARC is required to make payments sufficient to pay the principal, sinking fund installments and redemption price, if applicable, of and interest on the Series 2020 Bonds as the same become due, which payments have been pledged by DASNY to the Trustee for the benefit of the holders of the Series 2020 Bonds.

Based upon the foregoing, we are of the opinion that:

(1) DASNY is a body corporate and politic constituting a public benefit corporation of the State of New York with the right and lawful authority and power to adopt the Resolutions and to issue the Series 2020 Bonds thereunder.

(2) The Resolution has been duly and lawfully adopted by DASNY. The Series 2020 Resolution have been duly and lawfully adopted by DASNY in accordance with the provisions of the Resolution and are authorized and permitted by the Resolution. The Resolutions are in full force and effect, and are legal, valid and binding obligations of DASNY enforceable in accordance with their respective terms. The Resolutions create the valid pledge and the valid lien upon the Revenues that they purport to create, subject only to the provisions of the Resolutions permitting the withdrawal, payment, setting apart or appropriation thereof for the purposes and on the terms and conditions set forth in the Resolutions.

(3) The Series 2020 Bonds have been duly and validly authorized and issued in accordance with the Constitution and statutes of the State of New York, including the Act, and in accordance with the Resolutions. The Series 2020 Bonds are legal, valid and binding special obligations of DASNY payable

as provided in the Resolutions, are enforceable in accordance with their terms pursuant to the Resolutions and are entitled to the equal benefits of the Resolutions and the Act.

(4) DASNY has the right and lawful authority and power to enter into the Loan Agreement. The Loan Agreement has been duly authorized, executed and delivered by DASNY and, assuming due authorization, execution and delivery of the Loan Agreement by NYSARC, constitutes a legal, valid and binding obligation of DASNY enforceable in accordance with its terms.

We have examined a fully executed Series 2020 Bond and, in our opinion, the form of said Series 2020 Bonds and their execution are regular and proper.

The opinions contained in paragraphs (2), (3) and (4) above are qualified to the extent that the enforceability of the Resolutions, the Loan Agreement and the Series 2020 Bonds may be limited by bankruptcy, insolvency, moratorium, reorganization or other laws affecting creditors' rights generally and as to the availability of any particular remedy.

Very truly yours,



