

## **COOPERATIVE FUNDING AGREEMENT**

This Cooperative Funding Agreement (“Agreement”) is entered into as of the \_\_\_\_ day of August, 2011, by and among The Narragansett Electric Company d/b/a National Grid (“National Grid”), the Rhode Island Department of Transportation (“RIDOT”), the Rhode Island Department of Environmental Management (“RIDEM”), the City of East Providence (“East Providence”) and the City of Providence (“Providence”) (East Providence and Providence collectively referred to as the “Cities”), and the Rhode Island Attorney General, Peter F. Kilmartin (“Attorney General”), collectively referred to as the “Parties,” under the following circumstances:

i. In April, 2003, National Grid filed an application with the Energy Facility Siting Board (“EFSB”) seeking approval for the relocation of approximately 6,200 feet of National Grid’s existing E-183 115 kV transmission line (the “E-183 Line”) from the Franklin Square Substation in Providence, across the Providence River, Fox Point, India Point and the Seekonk River to the Bold Point area of East Providence;

ii. The relocation of the E-183 Line was, in part, necessary so that the RIDOT could complete its I-195 Relocation Project;

iii. National Grid proposed an overhead relocation alignment which included the reconstruction of the crossings of the Providence and Seekonk Rivers (the “Original Alignment”) in its application to the EFSB;

iv. The Cities and the Attorney General objected to the Original Alignment, on the grounds, among others, (1) that the Original Alignment would prevent the future development of certain parcels of waterfront property in East Providence, (2) that it would interfere with the use of India Point Park in Providence, and (3) that the lowering of the height of the crossing of the Seekonk River would interfere with navigation on the River;

v. National Grid, the Cities and the Attorney General entered into a Settlement Agreement dated May 25, 2004 (the “Settlement Agreement”), which provided for the construction of the Underground Alignment, as defined below, if, *inter alia*, the Attorney General and others were able to secure funding of the full incremental cost of this alternative;

vi. In 2004 and 2008, the Rhode Island General Assembly enacted and amended, respectively, the “Capital City Underground Utility Initiative”, R.I. Gen. Laws §42-98-1.1, which provided for funding of the Underground Alignment; and

vii. The Parties desire to formalize and confirm the funding sources and disbursement thereof to National Grid for the Underground Alignment.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## I. DEFINITIONS

As used in this Agreement, the following terms shall have the meanings indicated.

A. “Phillipsdale Tap Point” is the existing Structure No. 203 at the junction of the E-183 Line and the Phillipsdale Tap line, adjacent to Veterans Memorial Parkway in East Providence.

B. “New Phillipsdale Tap Point” is the point at which the Underground Alignment will intersect the Phillipsdale Tap line.

C. “Underground Alignment” shall mean (i) the underground portion of the E-183 Line between Franklin Square Substation in Providence and a new transition station in East Providence, (ii) an overhead connection from the new transition station to the Phillipsdale Tap Point or a New Phillipsdale Tap Point, and (iii) the rebuilt and reconducted Phillipsdale Tap Line from the New Phillipsdale Tap Point, if any, south to the Phillipsdale Tap Point.

## II. PROJECT FUNDING

A. The Parties have obtained commitments of funding in the aggregate amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for the Underground Alignment from the following sources in the amounts indicated.

1. RIDOT - \$5,200,000 as follows:

a. Contribution from State matching funds - \$2,100,000.

b. Contribution from Federal transportation enhancement funds - \$600,000.

c. “Safe, Accountable, Flexible and Efficient Transportation Equity Act of 2005” (“SAFETEA”) grant - \$2,500,000.

d. RIDOT’s funding commitment as set forth in §§ II-A-1-b and II-A-1-c hereof is subject to, and contingent upon, the continued availability of SAFETEA grant funding from the Federal Highway Administration (“FHWA”). In the event that the SAFETEA grant is not authorized by the FHWA or said funding is rescinded by act of the U.S. Congress prior to disbursement to National Grid, then RIDOT’s obligations under said §§II-A-1-b and II-A-1-c of this Agreement shall be null, void, and of no effect.

2. Providence and East Providence - Share of refunds from National Grid rate settlement in PUC Docket Nos. 2930/3617 - \$5,792,353 pursuant to §42-98-1.1(a) plus interest accrued at the Company’s Allowance for Funds Used during Construction rates through the in-service date of the project<sup>1</sup>.

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<sup>1</sup> See In re Narragansett Electric Company Comprehensive Distribution Rate Settlement, Docket No. 3617, Report and Order, pp. 7, n. 17 and 40 (Order #18037, November 9, 2004). Through July 2011, accrued interest amounts to approximately \$1.8 million.

3. Attorney General - Storm Fund Grant (§42-98-1.1(b))<sup>2</sup> - \$2,000,000.
4. [City of Providence/DEM - Greenway Grant to Providence - \$375,000.]
5. Regional customers - regional contribution - \$1,500,000 as provided in February 6, 2006 letter from ISO-New England.

B. The Attorney General shall, with the cooperation of National Grid and the other Parties, file a petition with the PUC seeking approval of the use of the Storm Fund as provided in R.I. Gen. Laws §42-98-1.1(b).

C. Pursuant to R.I. Gen. Laws §42-98-1.1 and resolutions adopted by the Providence and East Providence City Councils on November 17, 2008 and August 19, 2008, respectively, electric customers in the Cities will pay any incremental costs above the funding provided hereunder.

### III. REIMBURSEMENT OF NATIONAL GRID

A. National Grid shall be reimbursed for the cost of the Underground Alignment, subject to the terms of the Settlement Agreement, from the sources identified in §II-A hereof in the order specified below:

1. First, from RIDOT and RIDEM funds as set forth in §§II-A-1 and II-A-4;
2. Second, from the refunds from the rate settlement as provided in §II-A-2, plus associated interest;
3. Third, from the Storm Fund as provided in §II-A-3 and R.I. Gen. Laws §42-98-1.1;
4. Fourth, from regional customers as provided in §II-A-5; and
5. Fifth, from National Grid's customers located in the Cities as provided in R.I. Gen. Laws §42-98-1.1.

#### B. Reimbursement Process

1. Reimbursements from contribution sources described in §§II-A-1 and II-A-4 shall be made based on progress billings for costs incurred within thirty (30) days of submission of requests for reimbursement. The Underground Alignment project will be credited for the reimbursement amounts when received by National Grid.
2. The Underground Alignment project will be credited in the amount of the National Grid retained refunds described in §II-A-2, and provided under §III-A-2, along with associated interest accrued from the time National

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<sup>2</sup> The Storm Fund Grant is subject to PUC approval upon petition of the Attorney General as provided in R.I. Gen. Laws §42-98-1.1(b).

Grid originally retained the funds. These retained funds, plus interest, are recorded as a regulatory liability on National Grid's Balance Sheet. Once contribution sources described in §§II-A-1 and II-A-4 have been exhausted, National Grid will credit the Underground Alignment project on a monthly basis in amounts equal to the monthly project costs incurred until the regulatory liability (including interest) has been exhausted.

3. As provided under §III-A-3, National Grid will credit the Underground Alignment project at the time the project enters service by transferring \$2,000,000 from National Grid's Storm Fund Reserve, subject to PUC approval.
4. National Grid shall include the amount allowed by ISO-New England (\$1,500,000) in regional transmission rates as a component of its rate base in the normal course of business.
5. National Grid shall bill any incremental costs above the reimbursements received pursuant §III-B-1 through §III-B-4 to customers in the Cities pursuant to R.I. Gen. Laws §42-98-1.1 and resolutions adopted by the Providence and East Providence City Councils on November 17, 2008 and August 19, 2008, respectively.

#### C. Costs

As used herein, the term "costs" shall mean any and all reasonable costs, expenses, and fees, direct and/or indirect, incurred by National Grid in connection with the development and construction of the Underground Alignment, including without limitation, all construction costs, engineering costs and fees, contractor costs and fees, consultant fees, attorneys fees, costs and fees to obtain the necessary permits and/or other regulatory approvals for the Underground Alignment, environmental remediation costs, and costs and fees incurred by National Grid in connection with the acquisition of any necessary land rights for the Underground Alignment.

### IV. OTHER MATTERS

#### A. Final Accounting

National Grid shall provide a final accounting of the costs incurred by it on the Underground Alignment to the Parties and to the PUC and the EFSB within one hundred eighty (180) days of (i) completion of the construction of the Underground Alignment, (ii) termination of the planning and construction of the Underground Alignment pursuant to §IV-C-3 hereof, or (iii) termination of this Agreement as a result of a failure to satisfy any condition set forth in §IV-H hereof.

#### B. Audit and Inspection of Records

All costs described in this Agreement are to be determined by actual cost records maintained by National Grid. Subject to the provisions of this paragraph, any Party shall have

the right, at said Party's cost and expense, to examine all books, records, documents and other evidence pertaining to the costs incurred in the performance of the work under this Agreement.

1. Such books, records and other documentation shall be made available to the Party requesting the examination at the offices where National Grid keeps such records during normal business hours within a reasonable time after National Grid receives a written request from said Party to make such examination.

2. Any request for examination shall be made upon written notice to National Grid not more than one hundred and twenty (120) days following National Grid's submission of its final accounting for the cost of the Underground Alignment in accordance with §IV-A of this Agreement.

3. Such examination may be made only by employees of the Party requesting such examination and/or counsel therefor or a nationally recognized independent certified public accounting firm approved by National Grid, which approval will not be unreasonably withheld.

4. As a condition to performing any such examination, the Party requesting such examination and its examiners shall, if requested by National Grid, execute and deliver to National Grid a commercially reasonable agreement, in form mutually acceptable to National Grid and the requesting Party, agreeing to keep confidential any information disclosed in connection with such examination.

#### C. Construction and Termination

1. National Grid's agreement to construct the Underground Alignment is subject to the terms and conditions of the Settlement Agreement and nothing contained herein shall be deemed to amend or modify the terms thereof. Without limiting the generality of the foregoing, the Parties acknowledge that National Grid may, but shall have no obligation to, commence detailed design and engineering of the Underground Alignment prior to receipt of the commitment of all interests in property and other rights needed for it.

2. In the event that the planning or construction of the Underground Alignment is terminated for any reason, or this Agreement is otherwise terminated by reason of a failure to satisfy any of the conditions set forth in §IV-H hereof, National Grid (i) shall be reimbursed under §III hereof for all costs in connection with the Underground Alignment, and (ii) shall provide an accounting of funds spent and reimbursements received pursuant hereto under §IV-A hereof.

3. This Agreement shall terminate upon (a) the date of filing with the EFSB of a stipulation of the parties pursuant to §II-J(i) of the Settlement Agreement consenting to an alternate alignment to the Underground Alignment, or (b) thirty (30) days after the later of (x) the approval by the EFSB of National Grid's determination in the Report filed pursuant to §II-J(ii) of the Settlement Agreement that the Underground Alignment is not feasible and (y) the expiration of all appeal periods for such approval with no appeals having been taken, or if any such appeal has been taken, the appeal having been finally adjudicated or dismissed to National Grid's reasonable satisfaction.

4. In the event that, as a result of the termination of this Agreement or for any other reason, National Grid becomes obligated to refund or reimburse payments made by RIDOT hereunder, National Grid shall have the right to reimburse itself in the amount of such refund(s) from the other funds available under § II-A of this Agreement in the order specified in § III-A.

5. Upon the termination of this Agreement for any reason, the provisions of §§III and IV-A through -C and -E through -H shall survive such termination.

D. Project Permitting

Upon finalization of the route for the Underground Alignment, National Grid shall, with the support of the other parties hereto, seek all permits and approvals required for the Underground Alignment as provided in the Settlement Agreement.

E. Dispute Resolution

The parties hereto agree that any dispute, controversy or claim (hereinafter referred to as “Dispute”) arising out of or relating to this Agreement, or breach thereof, shall be resolved using the procedures provided in the Attachment to the Settlement Agreement.

F. Notices

Any and all notices, submittals or other communications required or permitted hereunder shall be delivered by hand or mailed by registered or certified or overnight mail or by other recognized delivery service to the parties at the addresses set forth below or at such other addresses as shall be furnished from time to time in writing hereafter by one party to the other party. Such notices shall be effective upon receipt by the following individuals or other properly designated representative:

NATIONAL GRID:

Peter V. Lacouture, Esq.  
Robinson & Cole LLP  
One Financial Plaza, Suite 1430  
Providence, RI 02903

and

Jennifer Brooks Hutchinson, Senior Counsel  
National Grid  
280 Melrose Street  
Providence, RI 02907

RIDOT:

State of Rhode Island and Providence Plantations  
Department of Transportation  
Two Capitol Hill  
Providence, RI 02903  
Attn: Chief Engineer

RIDEM: State of Rhode Island and Providence Plantations  
Department of Environmental Management  
235 Promenade Street  
Providence, RI 02908-5767  
Attn: Director

CITY OF EAST PROVIDENCE: Orlando A. Andreoni, Esq.  
City Solicitor  
City of East Providence  
City Hall  
145 Taunton Avenue  
East Providence, RI 02914

and

W. Mark Russo, Esq.  
Ferrucci Russo P.C.  
55 Pine Street, 4<sup>th</sup> Floor  
Providence, RI 02903-2841

CITY OF PROVIDENCE: Adrienne G. Southgate, Esq.  
Deputy City Solicitor  
City of Providence – Law Dept.  
440 Westminster Street  
Providence, RI 02903

RHODE ISLAND ATTORNEY  
GENERAL:

Jon G. Hagopian, Esq.  
Assistant Attorney General  
Department of Attorney General  
150 South Main Street  
Providence, RI 02903

#### G. Interpretation of Agreement

1. If any term or provision of this Agreement is held invalid or unenforceable, all remaining provisions of this Agreement shall continue in full force and effect to the extent not inconsistent with such holding.

2. The captions in this Agreement are for convenience of the Parties in identification of the provisions and shall not constitute a part of this Agreement nor be considered interpretive hereof.

3. Capitalized terms used and not defined herein shall have the same meaning as in the Settlement Agreement.

4. No party shall assign this Agreement or any portion hereof without the written consent of all of the Parties.

5. All the covenants and obligations of the Parties hereunder will bind their respective successors and approved assigns whether or not expressly assumed by such successors and approved assigns.

6. This Agreement may be executed in multiple counterparts, all of which shall be considered one and the same agreement.

7. This Agreement is the product of settlement negotiations. The substance of those negotiations is privileged and all offers of settlement shall be without prejudice to the position of any party.

8. This Agreement and the Settlement Agreement constitute the entire agreement between the Parties and may not be altered or amended except by written agreement signed by all Parties.

#### H. Effective Date.

1. This Agreement shall not become effective until the latest of (i) the dates the City Councils of Providence and East Providence adopt resolutions approving the Agreement, (ii) the date this Agreement is approved by the EFSB, and (iii) the date this Agreement, including without limitation the Attorney General's petition to access the Storm Fund Grant set forth in §II-B hereof, is approved by the PUC.

2. If the EFSB, the PUC, or either of the City Councils should withhold approval of this Agreement, or should condition its approval upon any condition or modification that is unacceptable to any of the Parties, the Agreement shall automatically terminate, and, except as provided in paragraph IV-C hereof, shall be null and void and of no effect, and no Party shall cite it or use it for any purpose whatever. Such failure to approve this Agreement shall be considered a determination under paragraph II-E-1 of the Settlement Agreement that construction of the Underground Alignment is not feasible.

3. If the City Councils of Providence and East Providence have not both approved the agreement by December 1, 2011, this Agreement shall automatically terminate, and shall be null and void and of no effect and no Party shall cite it or use it for any purpose whatever. Such failure to approve this Agreement shall be considered a determination under paragraph II-E-1 of the Settlement Agreement that construction of the Underground Alignment is not feasible.

4. Notwithstanding anything contained herein to the contrary, the failure of the EFSB, the PUC, or either of the City Councils of Providence and East Providence to approve this Agreement as provided in this §IV-H shall not affect the right of National Grid to reimburse itself from the rate settlement refunds provided in §II-A-2 hereof for all costs (as such term is defined in §III-C hereof) incurred by National Grid in connection with the Underground Alignment.

IN WITNESS WHEREOF, this Agreement is executed under seal as of the date first written above.

THE NARRAGANSETT ELECTRIC  
COMPANY D/B/A NATIONAL GRID

By: \_\_\_\_\_  
Timothy F. Horan  
President

RHODE ISLAND DEPARTMENT  
OF TRANSPORTATION

By: \_\_\_\_\_  
Michael P. Lewis  
Director

THE CITY OF PROVIDENCE

By: \_\_\_\_\_  
Angel Taveras  
Mayor

RHODE ISLAND DEPARTMENT  
OF ENVIRONMENTAL MANAGEMENT

By: \_\_\_\_\_  
Janet Coit  
Director

THE CITY OF EAST PROVIDENCE

By: \_\_\_\_\_  
Bruce Rogers  
Mayor

PETER F. KILMARTIN,  
RHODE ISLAND ATTORNEY GENERAL

By: \_\_\_\_\_  
Peter F. Kilmartin  
Dept. of Attorney General

IN WITNESS WHEREOF, this Agreement is executed under seal as of the date first written above.

THE NARRAGANSETT ELECTRIC  
COMPANY D/B/A NATIONAL GRID

By: \_\_\_\_\_  
Timothy F. Horan  
President

RHODE ISLAND DEPARTMENT  
OF TRANSPORTATION

By: \_\_\_\_\_  
Michael P. Lewis  
Director

THE CITY OF PROVIDENCE

By: \_\_\_\_\_  
Angel Taveras  
Mayor

RHODE ISLAND DEPARTMENT  
OF ENVIRONMENTAL MANAGEMENT

By: \_\_\_\_\_  
Janet Coit  
Director

THE CITY OF EAST PROVIDENCE

By: \_\_\_\_\_  
Bruce Rogers  
Mayor

PETER F. KILMARTIN,  
RHODE ISLAND ATTORNEY GENERAL

By: \_\_\_\_\_  
Peter F. Kilmartin  
Dept. of Attorney General