

Anthony J. Picente Jr.
County Executive

Shawna M. Papale
Secretary/ Treasurer/
Executive Director

Timothy Fitzgerald
Assistant Secretary

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY



584 Phoenix Drive
Rome, New York 13441-4105
(315) 338-0393, fax (315) 338-5694

Stephen R. Zogby
David C. Grow
Franca Armstrong
James J. Genovese, II
Aricca R. Lewis
Kristen Martin
Tim Reed

To: Oneida County Industrial Development Agency Board of Directors
From: Shawna M. Papale
Date: February 4, 2024
RE: OCIDA Meeting Agenda

The Oneida County Industrial Development Agency shall meet at **8:00 AM Friday, February 9, 2023.**

Members of the public may listen to the Agency meeting by calling +1-408-418-9388, Access code: 2634 886 1814 or attend in person. The Minutes of the Agency meeting will transcribed and posted on the OCIDA website.

1. Executive Session (if needed)
2. Approve minutes – December 8, 2023
3. Financial Review
4. Consider a resolution appointing successor officers for the positions of Chairman and Vice Chairman.
5. Consider a resolution appointing members to the Audit Committee, the Finance Committee, the Governance Committee and the Nominating Committee.
6. Consider a resolution appointing signatories for the Agency's bank accounts
7. Consider an inducement resolution relating to the West Dacks LLC (Lodging Kit Company, Inc.) Facility, granting preliminary approval for financial assistance in the form of exemptions from sales tax (valued at \$76,431) and reduction of real property tax for a period of ten years on that portion of the Facility relating to the project (valued at \$176,585), which financial assistance is consistent with the Agency's Uniform Tax Exemption Policy, and authorizing the Agency to conduct a public hearing.
8. Consider a supplemental inducement resolution relating to the EDGE Flex Space Facility, accepting supplemental application materials, authorizing certain amendments to the December 8, 2023 inducement resolution, including amending the preliminary approval for financial assistance in the form of exemptions from sales tax (original value \$61,250, revised value unchanged), exemptions from mortgage recording taxes (original value \$66,060.00, revised value unchanged), and providing for payment of PILOT Payments in accordance with the Agreement

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Approving PILOT Terms and Allocating PILOT Payments dated October 2013 (Marcy Nanocenter) (payments over 49 years originally estimated at \$8,587,378, now estimated at \$7,389,180), which financial assistance is a deviation from the Agency's Uniform Tax Exemption Policy, and authorizing the Agency to conduct a second public hearing.

9. Consider a resolution authorizing the Agency to (a) submit an offer to purchase property located at 411 Columbia Street, Utica; (b) commence a proceeding under EDPL Article 4 to acquire the property; and (c) confirm the conditions to closing a lease-leaseback transaction with Central Utica Building, LLC have been satisfied.

10. Old Business

Next meeting date: **Wednesday, March 6, 2024 at 8:00 AM at 584 Phoenix Drive, Rome, NY**

DRAFT

**Minutes of the Meeting of the
Oneida County Industrial Development Agency
December 8, 2023
584 Phoenix Drive, Rome, NY /Webex Video/Teleconference**

Members Present: David Grow, Mike Fitzgerald, Kirk Hinman, Mary Faith Messenger, Eugene Quadraro, Steve Zogby.

Members Present Webex: Ferris Betrus.

EDGE Staff Present: Shawna Papale, Steven DiMeo, Maureen Carney, Mark Kaucher, Laura Cohen, Hannah Phillips.

Others Present: Rome Mayor Jackie Izzo; Milan Tyler, Phillips-Lytle; Mike Lennon, ICA Holdings III, LLC/Indium; Camille Kahler, Saunders-Kahler; Lloyd Ploof, SQ1 Holdings. Mark Levitt and Jenna Peppinelli, Levitt & Gordon.

Others Present Webex: Laura Ruberto and Linda Romano, Bond, Schoeneck & King.

Chair Grow called the meeting to order at 8:06 AM and interrupted the agenda to recognize Mayor Izzo and thank her, personally, and on behalf of the Board, for her presence at board meetings during the last eight years and her many contributions to the business of the agency during that time. He then presented her with a framed picture of the ribbon-cutting event held for the Air City lofts project as an expression of gratitude. Mayor Izzo expressed thanks for the unexpected recognition and stated that the amount of work that that goes on with the Agency is unprecedented and it should be proud, noting that many people do not understand the function of the Agency and the many important decisions it makes.

Minutes – October 15, 2023

S. Zogby moved to approve the October 15, 2023 minutes, K. Hinman seconded the motion and carried 7-0.

Financials

M. Carney presented the 10/30/2023 interim financial statement. Cash increased about 5% mainly due to accounts payable, many of which have since been paid. There are six open projects, and none closed in October. No new application fees were received. L. Ruberto advised that Above Grid Solar and Collins Solar were now scheduled to close in December. Total admin fees are around \$108,000 and the anticipated project fees from these two solar project closings should narrow that gap. The second-half Rome City, Sovena PILOT bill is anticipated imminently, and the fourth quarter Wolfsped PIF PILOT payment has been received for distribution. Interest income from CD accounts is around \$20,000 thanks to higher interest rates. **The Agency received and accepted the interim financials as presented, subject to audit.**

ICA Holdings III, LLC (Indium Woods Park Drive) Facility

Chair Grow introduced a resolution relating to the **ICA Holdings, III (Indium Woods Park Drive) Facility**, consenting to the sublease of a portion of the Facility, subject to inclusion of the Agency's standard language in the sublease. M. Fitzgerald asked how many employees would be going into the facility. Chair Grow stated there are around 500 local Excellus employees. **S. Zogby moved to consent to the sublease of a portion of the Facility, subject to inclusion of the Agency's standard language in the sublease. M. Fitzgerald seconded the motion and carried 7-0.**

SQ1 Holdings, LLC - Request to transfer Membership to Crescent Aerospace Technologies

Chair Grow introduced a resolution relating to the **SQ1 Holdings, LLC Facility**, consenting to a change of control transaction with Crescent Aerospace Technologies, LLC. It was clarified that this request is merely for the sale of the membership interest in SQ1 Holdings, LLC. Ms. Kahler clarified that she is representing SQ1 in this transaction and that Bond, Schoeneck & King (BS&K) is representing the buyer. Chair Grow explained that under standard procedure in these situations, where it is merely a transfer, and there aren't any issues with a change in IDA benefits, he recently signed a no-conflict letter for BS&K. L. Romano added that if there are any future requests from the company for any amendments or changes to what's already been approved, or if there is any conflicts going forward, BS&K will step back from representing the company. **S. Zogby moved to provide consent to the change of control transaction from SQ1 Holdings, LLC to Crescent Aerospace Technologies, LLC. M. F. Messenger seconded the motion and carried 7-0.**

DRAFT

ECR Properties, Inc. Facility – Lease/Leaseback/PILOT Termination/Benefit Recapture

Chair Grow introduced a resolution relating to the **ECR Inc. Facility**, authorizing the termination of the PILOT Agreement and All Agency Documents and recapture of financial assistance. Staff reported that the full amount of recapture is \$154,329.51. After a brief discussion, ***M. Fitzgerald moved to authorize the termination of the PILOT agreement and all Agency Documents and recapture of financial assistance in full as required in the recapture agreement. M. F. Messenger seconded the motion, which carried 7-0.***

EDGE/Marcy Nanocenter Flex Space Facility - Inducement Resolution

Chair Grow introduced a resolution relating to the **EDGE/Marcy Nanocenter Flex Space Facility**, granting preliminary approval for financial assistance in the form of exemptions from sales tax (valued at \$61,250.00), exemptions from mortgage recording taxes (valued at \$66,060.00) and providing for PILOT payments in accordance with the Agreement Approving PILOT Terms and Allocating PILOT Payments dated October 2013 (Marcy Nanocenter) (payments over 49 years estimated at \$8,587,378), which financial assistance is a deviation from the Agency's Uniform Tax Exemption Policy, and authorizing the Agency to conduct a public hearing.

S. DiMeo described the project, which is the construction of a 60,000 SF building (expandable to 120,000) on a 17-acre parcel on the Marcy Nanocenter site. EDGE is expecting to sign a lease with Semikron-DanFoss ("S-DF") for 73% of the space, with the remainder available to other tenant(s), one of which has already expressed interest. The total estimated cost of the project is around \$14.5 million. VIP Structures has been retained for site/build services. The site grading contract was awarded and is underway. Counsel is working on the sub-lease with S-DF. Additional details of the proposed project and the proposed lease were shared by Mr. DiMeo. A conversation followed among the board members and Mr. DiMeo relating to allocation of PILOT Payments under the PIF. ***S. Zogby moved to grant preliminary approval for financial assistance in the form of exemptions from sales tax (valued at \$61,250.00), exemptions from mortgage recording taxes (valued at \$66,060.00) and providing for PILOT payments in accordance with the Agreement Approving PILOT Terms and Allocating PILOT Payments dated October 2013 (Marcy Nanocenter) (payments over 49 years estimated at \$8,587,378), which financial assistance is a deviation from the Agency's Uniform Tax Exemption Policy, and authorizing the Agency to conduct a public hearing. M. F. Messenger seconded the motion, which carried 6-1, with M. Fitzgerald opposed.***

EDGE/Marcy Nanocenter Flex Space Facility - SEQR Resolution

Chair Grow introduced a SEQR resolution relating to **the EDGE/Marcy Nanocenter Flex Space Facility**. The Town of Marcy Planning Board acted as Lead Agency for the project and the Agency wishes to concur with the findings and determinations of the lead agency. ***A motion to approve a resolution relating to the EDGE/Marcy Nanocenter Flex Space Facility was moved by M. Fitzgerald, seconded by K. Hinman and carried 7-0.***

2024 OCIDA-EDGE Staff Services Contract

Chair Grow introduced the proposed 2024 Staff Services Agreement contract with EDGE. Compared to previous years, where there was a base contract plus a supplemental contract, the 2024 contract has combined the terms into one contract. M. Levitt has reviewed the proposed contract. One key change is that the 2024 contract automatically renews unless one of the parties elects to make changes. ***A motion to approve the 2024 Staff Services Agreement with Mohawk Valley EDGE was moved by M.F. Messenger, seconded by E. Quadraro and carried 7-0.*** Chair Grow took a moment to recognize the efforts of Shawna and the staff during 2023.

S. Zogby opened discussion on the status of the Court of Appeals decision in the Eminent Domain action related to the MVHS project in Utica took place. A decision is expected in January, possibly sooner. The Supreme Court decision is on hold until the Court of Appeals decision is made.

Executive Session

DRAFT

At 8:48 AM E. Quadraro moved, and M. F. Messenger seconded a motion to enter executive session to discuss potential litigation. Motion carried 7-0.

At 9:21 AM F. Betrus moved, and E. Quadraro seconded, a motion to exit executive session. Motion carried, 7-0.

Adjournment

At 9:22 AM Fitzgerald moved, and S. Zogby seconded, a motion to adjourn. Motion carried, 7-0.

Respectfully Submitted,

Mark Kaucher

Oneida County Industrial Development Agency
Notes to the Financial Statements
December 31, 2023

Balance Sheet:

1. Cash has decreased by 15% or \$166K over the last 12 months; this is primarily due to the decrease in net assets and the decrease in liabilities; the balance in cash and cash equivalents in 2023 includes the clawback payment from ECR and the balance in 2022 includes the PILOT payment from Sovena, the net cash available as of 12/31/23 is \$757,233; the net cash balance available as of 12/31/22 was \$918,961
2. The balance in restricted cash is made up of the PILOT holdings related to the Indium (Hartford) PILOT
3. The balance in accounts payable is primarily due to the jurisdictions for the ECR clawback
4. The \$1,000 commitment fees collected from the following for projects that have not closed as of December 2023:
 1. Central Utica Building (received November 2021)
 2. Solitude Solar, LLC (received February 2022)
 3. Collins Solar (received March 2023)- Closed January 2024- closing fee \$38,841
 4. Yoder Properties (received May 2023)
 5. Above Grid LLC (received September 2023)- Closed January 2024- closing fee \$57,068
 6. BW Solar-NY CDG Oneida 2 (received September 2023)
5. Fund balance decreased by 17% over the last 12 months

Budget Comparison Report (Income Statement):

1. Interest earned on the 3 CD's has been booked through 12/31- total interest earned for the year is \$24,861
2. Year to date revenue is under budget; closings and application fees received to date are as follows:

1/30/2023	Solar Power Capital (SSC Kirkland)	Admin & Commitment Fee	41,580.40
2/7/2023	Kris-Tech Wire	Application Fee	500.00
3/15/2023	Fiber Instrument Sales	Admin & Commitment Fee	1,918.00
3/21/2023	Mohawk Adirondack & Northern RR Corp	Application Fee	500.00
3/21/2023	Collins Solar	Application Fee	500.00
5/8/2023	Yoder Properties AKA Stark Truss	Application Fee	500.00
6/20/2023	McCraith Beverages/STD Realty	Application Fee	500.00
6/29/2023	Facilities Realty Management Vernon LLC	Admin Fee	1,500.00
7/31/2023	Mohawk Adirondack & Northern RR Corp	Admin & Commitment Fee	5,000.00
9/12/2023	BW Solar- NY CDG Oneida 2	Application Fee	500.00
9/21/2023	Above Grid LLC	Application Fee	500.00
9/28/2023	Kris Tech Wire	Admin & Commitment Fee	53,875.00
9/30/2023	EDF Renewables 1	Admin Fee	500.00
9/30/2023	EDF Renewables 2	Admin Fee	500.00

Total as of 12/31/23 108,373.40

3. Fees incurred under marketing are for website development paid to Quadsimia
4. In 2022 \$7,500 was authorized to support Madison Oneida Boces tuition reimbursement, the 2nd invoice from Madison Oneida Boces has been received and paid; total paid is \$7,312.50
5. The main reason for slightly going over budget for expenses related to the website development not planned for when the budget was put in place

Other Significant Items to Note:

1. All of the payments have now been received by Indium for the last year of the Hartford PILOT; the Agency will distribute the funds once the debt service bill is received from the Town of New Hartford

**Oneida County Industrial Development Agency
Balance Sheet
December 31, 2023 and 2022**

	Current Year	Prior Year
Assets		
Current Assets		
Cash and Cash Equivalents	911,563	1,077,851 ¹
Restricted Cash - PILOT Holdings	283,760	2,081 ²
PILOT Holdings- Payment Received	(283,760)	(2,081) ²
Accounts Receivable	750	268
Prepaid Expenses	6,431	2,604
Total Current Assets	918,744	1,080,723
Fixed Assets		
Furniture/Fixture/Eqpt	6,679	6,679
A/D-Furniture/Fixt/Eqpt	(6,679)	(6,679)
Total Fixed Assets	0	0
Total Assets	918,744	1,080,723
Liabilities & Net Assets		
Liabilities		
Current Liabilities		
Accounts Payable	156,278	168,080 ³
Accrued Expenses	7,500	7,000
Deferred Revenue	6,000	5,000 ⁴
Total Current Liabilities	169,778	180,080
Total Liabilities	169,778	180,080
Net Assets		
Fund Balance	348,966	500,643 ⁵
Fund Balance-Board Restricted	400,000	400,000
Total Net Assets	748,966	900,643
Total Liabilities & Net Assets	918,744	1,080,723

Oneida County Industrial Development Agency
 Budget Comparison Report
 Current Period: 12/1/2023 - 12/31/2023
 Budget Period: 1/1/2023 - 12/31/2023
 With Comparative Periods Ending 12/31/2022 and 12/31/2021

	Current Period Actual	Current Period Budget	Year-to-Date Actual	Year-to-Date Budget	12/31/2022	12/31/2021
Revenue						
Reimbursements	0	0	216	0	0	0
Interest Income & Miscellaneous	2,855	92	24,861 ¹	1,100	1,782	539
Lease Payments	750	4,563	57,750	54,750	55,250	53,250
PILOT Application / Admin Fees	0	23,333	108,373 ²	280,000	338,786	404,120
PILOT Clawback MSP	0	0	0	0	0	65,000
Total Revenue	3,605	27,988	191,200	335,850	395,818	522,909
Expenses						
Business Expense	(15)	83	1,115	520	234	75
Contracted Service-Accounting	625	625	7,500	7,500	7,000	7,000
Contracted Services - Legal	850	850	10,200	10,200	10,150	9,600
Legal Services & PILOT Clawback MSP	0	0	0	0	0	10,653
Contracted Services- Other	355	417	2,216	5,000	4,719	58,131
Marketing- Contracted Services	0	83	8,330 ³	1,000	915	349
Dues & Subscriptions	0	167	1,250	2,000	1,250	1,385
Insurance - General	371	333	4,011	4,000	3,810	3,788
Special ED Projects Contingency	10,417	10,417	125,000	125,000	100,000	100,000
Tuition Agreement	0	0	3,750 ⁴	0	0	0
Office Supplies & Expense	(80)	0	480	480	630	770
Seminars & Conferences	0	250	2,625	3,000	3,679	4,021
Service Fees	14,700	14,700	176,400	176,400	168,000	160,000
Total Expenses	27,223	27,925	342,877 ⁵	335,100	300,387	355,772
Excess or (Deficiency) of Revenue Over Expenses	(23,618)	63	(151,677)	750	95,431	167,137

**Oneida County Industrial Development Agency
Statement of Cash Flows
For the Period Ending December 31, 2023**

Cash Flows From (Used by) Operating Activities

Increase (Decrease) in Net Assets	\$ (151,677)
Adjustments for Noncash Transactions	
Depreciation and Amortization	0
(Increase) Decrease in Assets	
Accounts Receivable	(482)
Accounts Receivable-PILOTs billed	0
Prepaid Expenses	(3,827)
Increase (Decrease) in Liabilities	
Accounts Payable and Accrued Liabilities	(11,302)
Deferred Revenue	1,000
PILOT Funds Due	0
Net Cash Flows From Operating Activities	<u>(166,288)</u>

Cash Flows From (Used By) Investing Activities

Capital Expenditures	<u>0</u>
Net Cash From (Used by) Investing Activities	0

Cash Flows From (Used By) Financing Activities

Repayments of Long Term Debt	0
Proceeds from Long Term Debt	<u>0</u>
Net Cash Flows (Used by) Financing Activities	0

Net Increase (Decrease) in Cash and Cash Equivalents (166,288)

Cash and Cash Equivalents, Beginning of Period 1,077,851

Cash and Cash Equivalents, End of Period \$ 911,563

**RESOLUTION MAKING COMMITTEE APPOINTMENTS AND
ADMINISTRATIVE MATTERS OF THE AGENCY.**

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law (“GML”) of the State of New York (the “State”), as amended, and Chapter 358 of the Laws of 1971 of the State, (hereinafter collectively called the “Act”), the Oneida County Industrial Development Agency was created as a public benefit corporation of the State; and

WHEREAS, under Section 858 of the Act, the Agency has the power to make certain appointments and approve certain administrative matters; and

WHEREAS, County Executive, Anthony Picente, recently having appointed new board members as specified herein below in Section 1 (A) to the Agency.

WHEREAS, the current members of the Agency desire to make certain appointments and approve certain administrative matters;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. The Agency hereby takes the following actions:

- (A) Hereby temporarily appoints each of the following board members to every current committee of the Agency effective immediately:
1. Kristen Martin
 2. Tim Reed
 3. Aricca R. Lewis
 4. James Genovese
 5. Steve Zogby
 6. David Grow
 7. Franca Armstrong

Section 2. These appointments shall remain effective until the Agency’s board votes to reappoint individual members to each separate committee at a later date.

Section 3. The Agency hereby authorizes the Chairman and the Executive Director to take all steps necessary to implement the matters described herein.

Section 4. This Resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to vote by voice, which was unanimously accepted.

The resolution was thereupon declared duly adopted.

RESOLUTION BY
ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY
Adopted February 9, 2024

WHEREAS, Oneida County Industrial Development Agency (the “Agency”) maintains certain bank accounts and has authorized certain officers and directors of the Agency to act as signatories on behalf of the Agency; and

WHEREAS, the Agency wishes to amend its signatories on all bank accounts it maintains; and

NOW, THEREFORE, be it resolved by the Board of Directors of the Agency as follows:

SECTION 1. Approval of Signatories. The Agency hereby authorizes the following individuals to act as signatories on all of the Agency’s bank accounts:

Name	Title
Steven Zogby	
David Grow	
Shawna Papale	Executive Director
TBD	Director
TBD	Authorized Signer

SECTION 2. Authorized Representative. Shawna Papale is hereby designated and appointed to act singly by and on behalf of the Agency in all matters relating to executing any forms or documents required by the Agency’s banking institutions to effectuate the foregoing changes.

SECTION 3. Immediate Effect. This resolution shall take effect immediately.

STATE OF NEW YORK)
) SS.:

COUNTY OF ONEIDA)

I, the undersigned, being the Secretary of ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY, DO HEREBY CERTIFY:

That I have compared the annexed Resolution of the Board of Directors of Oneida County Development Agency (the “Agency”), adopted on February 9, 2024, with the original thereof on file in our office and the same is a true and complete copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original so far as the same relate to the subject matters therein referred to.

That the Resolution contained in this transcript is in substantially the same form as the Resolution presented to and approved by the directors of the Agency.

WE FURTHER CERTIFY that the attached resolution adopted by the Board of Directors of the Agency has not been amended or repealed and is in full force and effect on and as of the date of this Certificate.

IN WITNESS WHEREOF, I have hereunto set my hand on February 9, 2024.

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: Shawna Papale, Secretary

TERMS OF FINANCIAL ASSISTANCE
Board Summary – February 2, 2024

General Project Information

Company: West Dacks LLC (Lodging Kit Company, Inc-operating tenant)

Description of Project:

West Dacks is the property management company affiliated with Lodging Kit Company, which is a wholesale supplier of household and linen supplies (as open stock or as a kit) to the commercial lodging industry, as well as government agencies and non-profits throughout the U.S. and abroad. The project entails purchasing the former Ethan Allen property in the Village of Boonville (currently known as Delta Hardwood Flooring). It's approximately a 181,345 Sq Ft structure on 10± acres of land, with another 39± acres of vacant land. Lodging Kit Company will move all their current warehouse operations there and also house their NYS office operation there as well. Their current facility will be sold to another business who plans to use it for service operations. (The current IDA PILOT on the facility will terminate). The plan is to double the size of the building's current 2,300 sq. ft. of office space. A portion of the structure requires a new roof or roof repair (currently being quoted). Project also entails purchasing associated warehouse equipment - forklifts, pallet jacks and additional storage racking.

Type of Facility: Wholesale/Industrial

Will Project involve the abandonment of a facility? No

Request for Financial Assistance

Sales tax exemption valued at \$ 76,431 (estimated)

PILOT valued at \$ 174,586 (estimated)

Length of PILOT: 10 years-standard industrial PILOT, consistent with the Agency's UTEP. The standard industrial PILOT will only be applicable to the portion of the facility that West Dacks/Lodging Kit will be occupying and using for its own operations, which is estimated to be 56% of the building square footage. The remainder will be billed at 100% of what full taxes would normally be.

Affected Tax Jurisdictions: Oneida County, Village & Town of Boonville; Adirondack School District

Current real estate taxes or current PILOT on property: \$ 11,000 (estimated)

Company Obligations for Financial Assistance

Current FTEs to be retained by Lodging Kit: 26

FTEs to be created at Facility: 8

Date when created FTEs to be filled: Within three years.

TO: OCIDA Board Members

FROM: Linda E. Romano, Esq.

DATE: February 1, 2024

RE: Westdacks LLC/Lodging Kit Company, Inc.

We reviewed the Application for Financial Assistance relating to the above referenced project and would like to confirm eligibility under General Municipal Law and treatment under the IDA's Uniform Tax Exemption Policy (UTEP).

Qualification of Project

This project qualifies as an industrial/manufacturing project under the law. There are no specific findings that must be adopted to qualify the project.

PILOT Payments

The UTEP provides that if an applicant is acquiring real property as part of the Agency project, then the IDA's real property tax exemption will be available with respect to all real property acquired by the Company as part of the project and improvements thereto.

The UTEP provides the following formula for industrial/manufacturing projects:

- 33 1/3% of taxes from the first through the fifth year of the exemption;
- 66 2/3% of taxes from the sixth through the tenth year of the exemption;
- 100% of taxes after the tenth year of the exemption.

The applicant has indicated it will be occupying 56% of the Facility for its project, so the above formula will apply to 56% of the property assessment. The portion of the Facility that will be occupied by other tenant(s) will be billed at 100%.

Sales Tax Exemption

The UTEP provides that if the IDA determines a project is eligible for financial assistance, the financial assistance will include exemptions from sales and use tax for costs of constructing, renovating and equipping the project. The exemption will be authorized for the duration of the acquisition, construction and equipping of the project as described in the Application.

This applicant projects that the construction period will commence in April 2024 (weather permitting) and will conclude in August 2024. It has been the practice of this

IDA to issue sales tax exemption certificates for a period of one year from the date of inducement; if an applicant does not complete the project within the projected period, it may request the IDA extend the period of the exemption.

Mortgage Recording Tax Exemption

The UTEP provides that if the IDA determines a project is eligible for financial assistance, the IDA will provide an exemption from New York State mortgage recording tax for the financing of project costs.

This applicant has disclosed it intends to finance \$1 million of the project costs through a private loan, and the terms of the loan provide that a mortgage will not be recorded until five years into the payment term. It is not requesting mortgage recording tax exemption at this time, but will have the right to request this benefit when it prepares to enter into a mortgage as long as the applicant can support the fact that all of the loan proceeds are used for the project costs.

The above analysis is intended to offer an overview of what is consistent under the UTEP. The UTEP provides the IDA sole discretion to deviate from policy on a case by case basis, and further provides that deviations from UTEP shall be infrequent.



APPLICATION FOR FINANCIAL ASSISTANCE

Oneida County Industrial Development Agency
584 Phoenix Drive
Rome, New York 13441-1405
(315) 338-0393 telephone
(315) 338-5694 fax
Shawna M. Papale, Executive Director
spapale@mvedge.org

Please submit the signed and notarized completed application (Pages 1-25 ONLY), which must include any applicable addendum or supplemental information requested in the application, along with payment of a non-refundable \$500 Application Fee and a \$1,000 Commitment Fee (will be applied to final closing costs) to the Oneida County Industrial Development Agency, 584 Phoenix Drive, Rome NY 13441-1405, within 14 days prior to the OCIDA Board of Directors meeting at which you want the Application to be included on the Agenda. Wire transfer and ACH payments are acceptable but all related fees incurred by the Agency are payable by the Applicant. An electronic version of the application must accompany the original application via physical media or e-mail.

Project Name

Date of Submission

Important Notes to Applicant:

Upon the submission of this application to the OCIDA, the application becomes a public document. Be advised that any action brought before the Agency is public information. All agendas for the OCIDA are issued publicly prior to the full agency meeting. Upon the submission of this application to the OCIDA, the application becomes a public document and OCIDA is required by law to post on its website and make available to the public this Application and supporting materials. If when completing this Application, you deem any information to be specifically exempted from disclosure under Article Six of the Public Officers Law, please answer the question "This information is deemed to be exempt from disclosure under Article Six of the Public Officers Law and is submitted on the attached confidential addendum." It is acceptable to submit any confidential addendum electronically as a .pdf file separate from the application, but any confidential addendum must still be submitted with the hard copy of the full application (see Page 1). Please answer any such questions on a separate Addendum titled, "Confidential and Protected by Article Six of the Public Officers Law." If OCIDA is challenged to produce any information the Applicant identifies as protected, the Applicant will be required at its sole cost to defend such assertion on behalf of OCIDA.

The information requested by this application is necessary to determine the eligibility of your project for OCIDA benefits. Please answer all questions and respond "Not Applicable", "NA", or "none" where appropriate. If you're response is an estimate, please indicate so. Attach additional sheets if more space is needed for a response. **All applications must include a completed and signed NYS SEQR form and Cost Benefit Analysis form (please consult with OCIDA) before the application is considered complete.**

By signing and submitting this Application, the Applicant acknowledges that it received a copy of the Uniform Tax Exemption Policy and the Oneida County IDA Penalty for Failure to Meet Employment Levels as adopted by the Agency and Agency Memorandums pertaining to the benefits of projects financed through the Agency.

A project financed through the Agency involves the preparation and execution of significant legal documents. Please consult with an attorney before signing any documents in connection with the proposed project. You will receive an engagement letter from the OCIDA legal counsel. You will be asked to sign the engagement letter acknowledging you will be responsible for all legal fees of OCIDA legal counsel and that you understand the process. Should you not close and legal services have been rendered by the OCIDA legal counsel, Applicant will be responsible for those costs.

If your project requires a public hearing, a representative of the applicant is required to be present. A date will be coordinated by the OCIDA legal counsel.

If you have any questions how to calculate the OCIDA's application fee please refer to the enclosed Memorandum to Companies -Sale Leaseback Transactions or contact the OCIDA.

Part I: Applicant Information

Note: In responding to the following questions, please keep in mind that the Applicant will be party to all of the documents and is the individual or if entity will be formed which will receive the actual financial assistance from the Agency.

Applicant

1(a) Applicant's Legal Name: _____

1(b) Principal Address: _____

1(c) Telephone/Facsimile Numbers: _____

1(d) Email Address: _____

1(e) Federal Identification Number: _____

1(f) Contact Person: _____

1(g) Is the Applicant a Corporation:
If Yes, Public Private
If public, on which exchange is it listed?

- Subchapter S
- Sole Proprietorship
- General Partnership
- Limited Partnership
- Limited Liability Corporation/Partnership
- Single-Member LLC (name and EIN below):

Name: _____

EIN #: _____

- DISC _____
- Other(specify) _____

1(h) State of Organization (if applicable) _____

Applicant's Stockholders, Members, Directors and Officers, Partners.

2(a) Provide the following information with respect to any person with 15% or more in equity holdings in any entity in ownership chain of the project. Add additional sheets if necessary.

<u>Name</u>	<u>Address</u>	<u>Percentage of Ownership</u>
-------------	----------------	--------------------------------

2(b) Is the Applicant, or any of the individuals listed in 2(a) above, related directly or indirectly to any other entity by more than 50% common ownership? **If Yes**, indicate name of such entity and the relationship. Yes No

2(c) Is the Applicant affiliated with any other entity, directly or indirectly, other than as listed in the response to 2(a) above? **If Yes**, please indicate name and relationship of such other entity and the address thereof: Yes No

Applicant's Counsel and Accountant

3(a) Applicant's Attorney

Name/Title: _____

Firm: _____

Address: _____

Telephone/Fax: _____

Email: _____

3(b) Applicant's Accountant

Name/Title: _____

Firm: _____

Address: _____

Telephone/Fax: _____

Email: _____

Business Description

4(a) Describe the nature of your business and principal products and/or services. Attach additional sheets if necessary.

Part II: Project Information

5(a) Explain your project in detail. This description should include explanation of all activities which will occur due to this project. Attach additional sheets if necessary.

Reasons for Project

6(a) Please explain in detail why you want to undertake this project.

6(b) Why are you requesting the involvement of the Agency in your project?

6(c) Please confirm by checking the box below, if there is the likelihood that the Project would not be undertaken **BUT FOR** the Financial Assistance provided by the Agency.

Yes No

If the Project could be undertaken without Financial Assistance provided by the Agency, ("**No**" is checked above) then provide a statement in the space provided below indicating why the Agency should approve the requested assistance:

How will the Applicant's plans be affected or scaled back if Agency approval is not granted?

6(d) Is the proposed project reasonably necessary to discourage the Applicant from removing such other plant or facility to a location outside the State of New York?

Yes No **If Yes**, please explain briefly.

6(e) Will financing by the Agency result in the removal or abandonment of a plant or other facility of the applicant or any related entity presently located in another area of New York State?

Yes No

If Yes, is the proposed project reasonably necessary to preserve the competitive position of the Applicant in its respective industry? Yes No

If Yes, please provide a statement and evidence supporting the same. Include the name of all taxing jurisdictions in which the abandoned facility or plant lies, and whether Applicant has had any discussions with said taxing jurisdictions regarding the abandonment. Please provide as much detail as possible.

6(f) Has the Applicant or any related entity previously secured financial assistance in Oneida County (whether through the Agency, the Empire State Development Corporation, or any other entity) ? Yes No

If Yes, please explain (indicate date of benefit, location of facility and outstanding balance).

6(g) Has the Applicant or any related entity secured financial assistance anywhere within the United States within the last 90 days or does the Applicant or any related entity anticipate receiving financial assistance within the next 90 days? Yes No

If Yes, please explain.

6(h) Check all categories best describing the type of project for all end users at project site (you may check more than one; if checking more than one indicate percentage of square footage the use represents):

Please provide percentage of sq. footage for each use (if more than one category):

- Manufacturing %
- Industrial Assembly or Service %
- Back office operations %
- Research and Development %
- Technology/Cybersecurity %
- Warehousing %
- Commercial or Recreational %
- Retail %

- Add Housing Addendum Residential housing (specify) _____ %
- Pollution Control (specify) _____ %
- Environmental (e.g., Brownfield) (specify) _____ %
- Add Solar Addendum Other (specify ie; renewable energy) _____ %

6(i) Check all categories best describing the **scope of the project**:

- Acquisition of land
- Acquisition of existing building
- Renovations to existing building
- Construction of addition to existing building
- Demolition of existing building or part of building
- Construction of a new building
- Acquisition of machinery and/or equipment
- Installation of machinery and/or equipment
- Other (specify) _____

6(j) Please indicate the financial assistance you are requesting of the Agency, and provide the estimated value of said assistance. Attach a sheet labeled Annual PILOT that shows the annual utilization of the Real Property Tax Abatement by year and by taxing jurisdiction (PLEASE CONSULT WITH IDA STAFF ON PILOT CALCULATIONS).

<u>Assistance Requested</u>	<u>Estimated Values</u>
<input type="checkbox"/> Real Property Tax Abatement (value of PILOT savings)	\$ _____
<input type="checkbox"/> Mortgage Tax Exemption (.75%)	\$ _____
Amount of mortgage: \$ _____	
<input type="checkbox"/> Sales and Use Tax Exemption ** (8.75%)	\$ _____ (Not available for solar)
Value of goods/services to be exempted from sales tax: \$ _____	
<input type="checkbox"/> Issuance by the Agency of Tax Exempt Bonds(bond dollar value)	\$ _____

**** TOTAL EXEMPTION ASSISTANCE REQUESTED:**

Is the financial assistance requested by the Applicant consistent with the IDA's Uniform Tax Exemption Policy? Yes No

If No, please provide a written statement describing the financial assistance being requested and detailing the reasons the IDA should consider deviating from its Policy.

**** Note that the estimate provided above will be provided to the New York State Department of Taxation and Finance. The Applicant acknowledges that the transaction documents will include a covenant by the Applicant that the estimate, above, represents the maximum amount of sales and use tax benefit currently authorized by the Agency with respect to this Application. The Agency may utilize the estimate, above, as well as the (9)proposed total Project Costs as contained within this Application, to determine the Financial Assistance that will be offered. It is the responsibility of the applicant to inform the IDA within 10 days if the project amount changes.**

Part III: Facility Information

Attach copies of the most recent real property tax bills. Include copies for all taxing jurisdictions for the site/ facility that IDA assistance is being sought.

Facility (Physical Information) If multiple locations please provide information on all.

7(a) Street Address of Facility:

7(b) City, Town and/or Village (list ALL incorporated municipalities):

7(c) School District:

7(d) For what purpose was the facility site most recently used (i.e., light manufacturing, heavy manufacturing, assembly, etc.)?

7(e) Zoning Classification of location of the project:

7(f) Please describe in detail the facility to be acquired, constructed or renovated (including number of buildings, square footage, number of floors, type of construction,) and attach plot plans, photos or renderings, if available. If there are infrastructure improvements (water, sewer, gas, electrical, etc.) please provide details along with who will carry out those improvements and who will fund them. ***Please be as specific as possible.***

7(g) Has construction or renovation commenced? Yes No

If Yes, please describe the work in detail that has been undertaken to date, including the date of commencement.

If No, indicate the estimated dates of commencement and completion:

Construction Commencement: _____

Construction completion: _____

7(h) Will the construction or operation of the facility or any activity which will occur at the site require any local ordinance or variance to be obtained or require a permit or prior approval of any state or federal agency or body (other than normal occupancy and/or construction permits)?

Yes No

If Yes, please describe.

Has the Project received site plan approval from the Planning Department?

Yes No N/A

If Yes, please provide the Agency with a copy of the planning department approval along with the related State Environmental Quality Review (SEQR) determination. If no, please provide the status of approval:

7(i) Will the project have a significant effect on the environment? Yes No

Important: please attach and sign Part 1 of either the the long or short Environmental Assessment Form to this Application.

7(j) What is the useful life of the facility? _____ years

7(k) Is the site in a former Empire Zone? Yes No

If Yes, which Empire Zone: _____

Is project located in a Federal HUB Zone or distressed area: Yes No
Provide detail.

ALL APPLICANTS MUST ANSWER PART IV-8(a)

Part IV: Retail Project Questionnaire

To ensure compliance with Section 862 of the New York General Municipal Law, the Agency requires additional information if the proposed Project is one where customers personally visit the Project site to undertake either a retail sale transaction or to purchase services.

8(a). Will any portion of the project (including that portion of the cost to be financed from equity or other sources) consist of facilities or property that are or will be primarily used in making sales of goods or services to customers who personally visit the project site?

Required Yes or No **If the answer is YES, please continue below.**
If the answer is NO, proceed to Section Part V - Facility (Legal Info)

For purposes of Question A, the term “retail sales” means (i) sales by a registered vendor under Article 28 of the Tax Law of the State of New York (the “Tax Law”) primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law), or (ii) sales of a service to customers who personally visit the Project.

8(b). What percentage of the cost of the Project will be expended on such facilities or property primarily used in making sales of goods or services to customers who personally visit the project? _____%. **If the answer is less than 33% do not complete the remainder of this retail determination page and proceed to next section, Part V Facility (Pg 13)**

*** If the answer to A above is Yes AND the answer to B above is greater than 33.33%, indicate which of the following questions below apply to the project:**

1. Will the project be operated by a not-for-profit corporation Yes No

2. Is the Project location or facility likely to attract a significant number of visitors from outside Oneida County?

Yes No

If yes, please provide a third party market analysis or other documentation supporting your response.

3. Is the predominant purpose of the project to make available goods or services which would not, but for the project, be reasonably accessible to the residents of the municipality within which the proposed project would be located because of a lack of reasonably accessible retail trade facilities offering such goods or services?

Yes No

If yes, please provide a third party market analysis that demonstrates that a majority of the project’s customers are expected to come from outside of Oneida County and the project will not directly compete with existing businesses located in Oneida County.

Part V: Facility (Legal Information)

9(a) With respect to the **present owner** of the land or facility, please give the following information and provide a brief statement regarding the status of the acquisition.

(Note: the present owner is not necessarily the user of the facility, but that party which holds legal title to the facility.)

Legal Name: _____

Address: _____

Telephone: _____

Balance of Mortgage: _____

Holder of Mortgage: _____

If the Applicant is not the present owner of the facility, please attach any written agreements and contracts concerning the acquisition of the real property and/or equipment.

9(b) Is there a legal relationship, directly or indirectly, by virtue of common control or through related persons, between the Applicant and the present owner of the facility?

Yes No. **If Yes**, please explain.

9(c) Will a related real estate holding company, partnership or other entity, be involved in the ownership structure of the transaction?

Yes No. **If Yes**, please explain.

9(d) Will the title owner of the facility/property also be the user of the facility?

Yes No **If Yes**, please explain.

9(e) Is the Applicant currently a tenant in the facility? Yes No

9(f) Are you planning to use the entire proposed facility?
 Yes No

If No, please give the following information with respect to tenant(s) which will remain in the facility after the completion of the project, including the square footage the Applicant will occupy:

<u>Name of Tenant</u>	<u>Floors Occupied</u>	<u>Sq. Ft. Occupied</u>	<u>Nature of Business</u>
-----------------------	------------------------	-------------------------	---------------------------

9(g) Are any of the tenants related to the owner of the facility?
 Yes No **If Yes**, please explain.

9(h) Will there be any other users utilizing the facility?
 Yes No
If Yes, please explain. Provide detail of the contractual arrangement including any financial exchange for the use of the site or property.

Part VI: Equipment

10(a) List the principal items or categories of equipment to be acquired as part of the project. If you are requesting sales tax exemption it is important to be as detailed as possible. (If a complete list is not available at time of application, as soon as one is available but prior to final authorizing resolution, please submit a detailed inventory of said equipment to be covered.) Attach a sheet if needed.

10(b) Please provide a brief description of any equipment which has already been purchased or ordered, attach all invoices and purchase orders, list amounts paid and dates of expected delivery. Attach a sheet if needed.

10(c) What is the useful life of the equipment? _____ years

Part VII: Employment Information

"FTE" shall mean a full time employee that has a minimum of thirty-five (35) scheduled hours per week, or any combination of two or more part-time employees that work a minimum of fifteen (15) scheduled hours per week, when combined together, constitute the equivalent of a minimum of thirty-five (35) scheduled hours per week, and whose workplace location is the project facility. For this purpose an employee shall include a leased employee regularly retained by the company.

11(a) Estimate how many construction jobs will be created or retained as a result of this project.

11(b) Will the project preserve permanent, private sector jobs or increase the overall number of permanent, private sector jobs in the State of New York?

Yes No **If Yes**, explain below.

11(c) Have you experienced any employment changes (+ or -) in the last three (3) years?

Yes No **If Yes**, explain below.

11(d) Job Information related to project ***

Estimate below how many jobs will be created and retained as a result of this project, if OCIDA assistance is granted. **PLEASE MAKE SURE TOTAL PART-TIME EMPLOYEES ARE TURNED INTO FULL-TIME EQUIVALENTS (FTE) for Line B. - See Pg. 17.**

Number of Jobs BEFORE Project	Location 1	Location 2	Location 3	Location 4	Location 5	
Address in NYS						Total
Full-Time Company						
Full-Time Independent Contractors						
Full-Time Leased						
A. Total Full-Time BEFORE						
Part-Time Company						
Part-Time Independent Contractors						
Part-Time Leased						
B. Total FTE Part-Timers BEFORE						
C. Total FTE BEFORE*						

*For **Total FTE BEFORE** add full-time employees (line A) plus part-time employees that have been converted to FTE (line B).

	Number of Jobs AFTER Project (within 3 years of project completion)	Location 1	Location 2	Location 3	Location 4	Location 5	Total
	Full-time Company						
	Full-Time Independent Contractors						
	Full-Time Leased						
A.	Total Full-Time AFTER						
	Part-Time Company						
	Part-Time Independent Contractors						
	Part-Time Leased						
B.	Total FTE Part-Timers AFTER						
C.	Total FTE AFTER *						

**For Total FTE AFTER add full-time employees (line A) plus part-time employees that have been converted to FTE (line B).*

	Estimate the number of residents from the Labor Market Area** in which the Project is located that will fill the <u>JOBS CREATED</u> within three years of project completion	Location 1	Location 2	Location 3	Location 4	Location 5	Total
A.	Full-Time						
B.	FTE Part-Timers						
C.	Total AFTER						

** Labor Market Area includes Oneida, Lewis, Herkimer, and Madison Counties

Provide Any Notes To Job Information Below

SALARY AND BENEFITS	Retained Jobs		Created Jobs	
	Average Annual Salary <i>per employee</i>	Average Fringe Benefits (as a percentage of wages)	Average Annual Salary <i>per employee</i>	Average Fringe Benefits (as a percentage of wages)
Management	\$	%	\$	%
Administrative	\$	%	\$	%
Production	\$	%	\$	%
Independent Contractor	\$	%	\$	%
Other	\$	%	\$	%
Overall Weighted Average	\$	%	\$	%

*** By statute, Agency staff must project the number of Full-Time Jobs that would be retained and created if the request for Financial Assistance is granted. "FTE" shall mean a full time employee that has a minimum of thirty-five (35) scheduled hours per week, or any combination of two or more part-time employees that work a minimum of fifteen (15) scheduled hours per week, when combined together, constitute the equivalent of a minimum of thirty-five (35) scheduled hours per week, and whose workplace location is the project facility. For this purpose an employee shall include a leased employee regularly retained by the company.

11(e) Please list NAICS codes for the jobs affiliated with this project:

Part VIII: Estimated Project Cost and Financing

12(a) List the costs necessary for preparing the facility.

LAND Acquisition	\$	(If lease value use OTHER below)
Existing Building(s) ACQUISITION	\$	
Existing Building(s) RENOVATION	\$	
NEW Building(s) CONSTRUCTION	\$	
Site preparation/parking lot construction	\$	
Machinery & Equipment that is TAXABLE	\$	
Machinery & Equipment that is TAX-EXEMPT	\$	
Furniture & Fixtures	\$	
Installation costs	\$	
Architectural & Engineering	\$	
Legal Fees (applicant, IDA, bank, other counsel)	\$	
Financial (all costs related to project financing)*	\$	
Permits (describe below)	\$	
Other (describe below) ie: solar decommissioning expense	\$	
Other:	Cost:	Subtotal \$
1.		
2.		Agency Fee ¹ \$
3.		
4.		
5.		Total Project Cost \$

* **Bank fees, title insurance, appraisals, environmental reviews, etc.**

¹ **See Attached Fee Schedule (Page 22) for Agency Fee amount to be placed on this line.**

Permit/Other Information

12(b) Has the Applicant contacted any bank, financial institution or private investor with respect to financing the proposed project? Yes No **If Yes**, please provide details below.

12(c) Has the Applicant received a commitment letter for said financing? **If Yes**, please provide a copy along with this application. Yes No

12(d) Sources of Funds for Project Costs

Bank Financing: ----- \$ _____

Equity (excluding equity that is attributed to grants/tax credits) -- \$ _____

Tax Exempt Bond Issuance (if applicable) ----- \$ _____

Taxable Bond Issuance (if applicable) ----- \$ _____

Public Sources (Include sum total of all state and federal tax credits and grants) Break out individually below.----- \$ _____

Identify each Public state and federal grant/credit:

Comments:

Source \$

Source \$

Source \$

Source \$

Total Sources of Funds for Project Costs: \$

Part IX: Real Estate Taxes

13(a) For each tax parcel which comprises the facility, and for which assistance is being sought, please provide the following information using figures from the most recent tax year. If an increase in the assessment is anticipated due to the proposed project, please indicate the new estimated assessment amount in the **POST- PROJECT** column. Attach copies of the most recent tax bills for all jurisdictions.

Tax Map Parcel #	<u>Current Land Assessment</u>	<u>Current Building Assessment</u>	<u>Current Total Assessment</u>	<u>Current Total Taxes Amount (\$)</u>	<u>Estimated Post-Project Assessment</u>

13(b) Will the entirety of each tax parcel be subject to the PILOT? YES NO

13(c) If the entirety of each parcel will not be subject to the PILOT, will the municipality require a subdivision? YES NO

***If a subdivision is required, it is the responsibility of the Applicant to complete subdivision approval prior to commencement of the PILOT Agreement, and to provide the Agency with the tax parcel number(s) assigned.**

13(d) Address of Receiver of Town and/or Village Taxes (include all jurisdictions):

13(e) Address of Receiver of School Taxes:

13(f) Has the current property owner or user been granted an Ag-District exemption on the tax map parcel anytime during the past 4 years?

Yes No

If **Yes** explain below.

13(g) Please consult with Agency staff to complete a Cost/Benefit Analysis form to attach to this Application.

Use space below for additional information

NYS SEQRA Environmental Review

- The applicant must complete, sign and return to the IDA **either** the Short Form Environmental Assessment Form (SEAF) **or** the Full Environmental Assessment Form (FEAF). See the NYS DEC website for the most current versions of these documents.

<https://www.dec.ny.gov/permits/6191.html>

- To determine which EAF form is appropriate for the project, the applicant should consult with its engineer or legal counsel.
- It is the IDA's strong preference that the municipality that governs the jurisdiction where the project is located (e.g., a Planning Board, Zoning Board or other supervisory board) serve as lead agency for the SEQRA review.
- In limited cases, the IDA will act as lead agency, but it may lead to additional cost to the applicant if a review is required to make a determination of environmental impact.
- If another public body is serving as lead agency for the SEQRA review the applicant should provide the IDA with a signed Part 2 (and Part 3 if using the Long Form) and any minutes of meetings that detail the lead agency's determination.
- The IDA cannot grant any financial assistance until the SEQRA review process is complete.

Agency Fee Schedule

Commitment Fee: \$1,000 – due following the initial inducement but prior to scheduling of the public hearing; this amount is non-refundable if the applicant fails to close on the project before the IDA. Upon closing with the IDA this amount is applied to the closing fees.

Bond Fees: ½ of 1% of total bond amount

IDA Agency Fee: PILOT, Mortgage Recording Exemption, Sales Tax Exemption:

- Up to a \$1.0 Million project - \$5,000
- Above \$1.0 Million project up to \$10.0 Million project – ½ of 1% of total project cost.
- Above \$10.0 Million project – ½ of 1% of total project cost up to \$10.0 Million plus incremental increase of ¼ of 1% of total project above \$10.0 Million.
- Any previously induced solar or renewable energy projects that have not yet proceeded to a final authorizing resolution, and are asking for an increase in benefits, will be subject to an Agency fee of one and one-half times the Agency's normal fee.

Transaction Counsel/Agency Counsel fee:

Set by Bond/Transaction Counsel based upon the nature and complexity of the transaction. This applies to bond and non-bond transactions (leasebacks, sale-leasebacks, etc).

Transaction Counsel/Agency Counsel fees for bond transactions typically will not exceed 2% of the bond amount or project costs. Transaction Counsel/Agency Counsel fees for a sale-leaseback/lease-leaseback transaction are typically \$8,500 to \$10,000 if no commercial financing is involved or \$10,000 to \$12,000 if commercial financing is involved. You will receive an engagement letter with a quote based upon the scope of your project.

Annual Fee:

For the term in which the property remains in the IDA's name, an annual lease payment is due in the amount of \$750 (Solar Projects: \$2,000). The first payment is due at closing and subsequent payments are due each January 1. For annual fees not paid and delinquent, a late charge of \$50 per month will be levied until such time the fee plus late charges are paid.

Other fees:

If Applicant requests the IDA enter into subsequent transactions following closing (i.e., a facility refinance), the IDA will charge a closing fee equal to 1/8 of one percent of the total reissuance, redemption, new or revised mortgage, refinancing, spreading agreement or other transaction with a minimum payment due of \$500. Applicant will also be responsible to pay any legal fees and any bank or financial institution fees the IDA incurs in connection with said transaction, throughout the term of the Agency's involvement with the facility.

REPRESENTATIONS AND CERTIFICATION BY APPLICANT

The undersigned requests that this Application be submitted for review to the Oneida County Industrial Development Agency (the "Agency") and its Board of Directors.

Approval of the Application can be granted solely by this Agency's Board of Directors. The undersigned acknowledges that Applicant shall be responsible for all costs incurred by the Agency and its counsel in connection with the attendant negotiations whether or not the transaction is carried to a successful conclusion.

The Applicant further understands and agrees with the Agency as follows:

1. **Annual Sales Tax Filings.** In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any sales tax exemptions as part of the Financial Assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the Applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the Applicant and all consultants or subcontractors retained by the Applicant.
2. **Annual Employment, Tax Exemption & Bond Status Reports.** The Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, the Applicant agrees to file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the project site as well as tax exemption benefits received with the action of the Agency. For Applicants not responding to the Agency's request for reports by the stated due date, a \$500 late fee will be charged to the Applicant for each 30-day period the report is late beyond the due date, up until the time the report is submitted. Failure to provide such reports as provided in the transaction documents will be an Event of Default under the Lease (or Leaseback) Agreement between the Agency and Applicant. In addition, a Notice of Failure to provide the Agency with an Annual Employment, Tax Exemption & Bond Status Report may be reported to Agency board members, said report being an agenda item subject to the Open Meetings Law.
3. **Absence of Conflict of Interest.** The Applicant has consulted the Agency website of the list of the Agency members, officers and employees of the Agency. No member, officer, or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as herein after described (if none, state "none"):
4. **Hold Harmless.** Applicant hereby releases the Agency and its members, officers, servants, agents and employees from, agrees that the Agency shall not be liable for and agrees to indemnify, defend and hold the Agency harmless from and against any and all liability arising from or expense incurred by (A) the Agency's examination and processing of, and action pursuant to or upon, the attached Application, regardless of whether or not the Application or the Project described therein or the tax exemptions and other assistance requested therein are favorably acted upon by the Agency, (B) the Agency's acquisition, construction and/or installation of the Project described therein and (C) any further action taken by the Agency with respect to the Project; including without limiting the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. If, for any reason, the Applicant fails to conclude or consummate necessary negotiations, or fails, within a reasonable or specified period of time, to take reasonable, proper or requested action, or withdraws, abandons, cancels or neglects the Application, or if the Agency or the Applicant are unable to reach final

agreement with respect to the Project, then, and in the event, upon presentation of an invoice itemizing the same, the Applicant shall pay to the Agency, its agents or assigns, all costs incurred by the Agency in the processing of the Application, including attorneys' fees, if any.

5. The Applicant acknowledges that the Agency has disclosed that the actions and activities of the Agency are subject to the Public Authorities Accountability Act signed into law January 13, 2006 as Chapter 766 of the 2005 Laws of the State of New York.
6. The Applicant acknowledges that the Agency is subject to New York State's Freedom of Information Law (FOIL). **Applicant understands that all Project information and records related to this application are potentially subject to disclosure under FOIL subject to limited statutory exclusions.**
7. The Applicant acknowledges that it has been provided with a copy of the Agency's recapture policy (the "Recapture Policy"). The Applicant covenants and agrees that it fully understands that the Recapture Policy is applicable to the Project that is the subject of this Application, and that the Agency will implement the Recapture Policy if and when it is so required to do so. The Applicant further covenants and agrees that its Project is potentially subject to termination of Agency financial assistance and/or recapture of Agency financial assistance so provided and/or previously granted.
8. The Applicant understands and agrees that the provisions of Section 862(1) of the New York General Municipal Law, as provided below, will not be violated if Financial Assistance is provided for the proposed Project:

§ 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

9. The Applicant confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the proposed Project is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.
10. The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any Financial Assistance and the reimbursement of an amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement the Project.
11. The Applicant confirms and hereby acknowledges that as of the date of this Application, the Applicant is in substantial compliance with all provisions of Article 18-A of the New York General Municipal Law, including, but not limited to, the provision of Section 859-a and Section 862(1) of the New York General Municipal Law.
12. The Applicant and the individual executing this Application on behalf of the Applicant acknowledge that the Agency will rely on the representations made herein when acting on this Application and hereby represent that the statements made herein do not contain any untrue statement of a material

fact and do not omit to state a material fact necessary to make the statements contained herein not misleading.

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss.:

_____, being first duly sworn, deposes and says:

1. That I am the _____(Corporate Office) of _____ (Applicant) and that I am duly authorized on behalf of the Applicant to bind the Applicant.
2. That I have read the attached Application, I know the contents thereof, and that to the best of my knowledge and belief, this Application and the contents of this Application are true, accurate and complete.



(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury
this ___ day of _____, 20 .

(Notary Public)

If the application has been completed by or in part by other than the person signing this application for the applicant please indicate who and in what capacity:

By: _____

Name: _____

Title: _____

Date: _____

Please submit the signed and notarized completed application along with payment of a non-refundable **\$500 Application Fee** and a **\$1,000 Commitment Fee** (will be applied to final closing costs) to the **Oneida County Industrial Development Agency**, 584 Phoenix Drive, Rome NY 13441-1405, **within 14 days prior to the OCIDA Board of Directors meeting at which you want the Application to be included on the Agenda**. Wire transfer and ACH payments are acceptable but all related fees incurred by the Agency are payable by the Applicant. It is advised that an electronic version of the application accompany the original application via hard copy or e-mail. An electronic version of the application must accompany the original application via physical media or e-mail.

Anthony J. Picente Jr.
County Executive

Shawna M. Papale Executive
Director/Secretary

Jennifer Waters
Assistant Secretary

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

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David B. Grow
Chair

L. Michael Fitzgerald
Vice-Chair

Mary Faith Messenger
Treasurer

Ferris Betrus

Kirk Hinman

Eugene Quadraro

Steven Zogby

MEMORANDUM TO COMPANIES SALE-LEASEBACK TRANSACTIONS

1. When a Company decides that a sale-leaseback transaction may suit its particular needs, the first order of business is for the Company to complete an Application for Financial Assistance, together with an Environmental Impact Questionnaire, Cost/Benefit Analysis and Statement of the Project Applicant (referred to collectively as the "Application"). The Application is submitted to Agency Counsel for a formal decision as to whether or not the project qualifies as a "project," as defined by law.
2. No action can be taken until the Application is completed and submitted to the Agency and approved by Agency Counsel.
3. Upon completion of the Application and approval by Agency Counsel, the Agency will meet for the purpose of adopting an Inducement Resolution and reviewing the Environmental Impact Questionnaire, Cost/Benefit Analysis and Statement of the Project Applicant. At this time a Resolution may be adopted by the Agency concerning the environmental impact. **Please note that the Agency is subject to the Open Meetings Law, and all meetings will be open to the public, including news media.**
4. The Company is expected and encouraged to have its own counsel. The Company is also required to reimburse the Agency for all legal expenses incurred in furtherance of a proposed transaction, whether or not that transaction is completed. This includes all fees and disbursements of Agency Counsel.
5. The Company will be asked to sign an Inducement Agreement, which sets forth the terms of the proposed transaction and the obligations of the parties in furtherance of the same. The Company will also be asked to provide Agency Counsel with certain

information concerning the formation of the corporation or partnership, a survey of the property, title insurance, insurance certificates, etc. before the transaction can close. All matters in connection with the transfer of the real estate will be handled primarily by Company Counsel with the assistance of Agency Counsel.

6. A Public Hearing may be required in accordance with the New York State General Municipal Law, after which the Oneida County Executive must approve or disapprove the issue. Notice of the Public Hearing must be published at least thirty (30) days prior to the Hearing in the newspaper where the project is located. The highest elected official of each affected taxing jurisdiction must also receive thirty day written notice of the Hearing.

No financial benefits may be granted by the Agency to the Company until after the Public Hearing if required.

7. Agency Counsel has certain requirements as to those documents which must be included in the transaction and the content thereof, including but not limited to requiring environmental impact surveys, environmental indemnifications and general indemnifications.
8. The fee schedule is attached, covering the Agency fee, the Agency's work with respect to the project and the work of Agency Counsel.

The estimated fees for Agency Counsel may vary depending on the nature of the project. The initial fee quote assumes that the transaction closes within ninety (90) days from the date of the inducement, that there will be no unusual questions of law or prolonged negotiations regarding the documents, and that the involvement or assistance from other agencies will not require substantial modifications to the typical structure and documentation of similar transactions. The fee quote also assumes that Agency Counsel will not be called upon to coordinate with any lender, as the Agency is not issuing bonds. The fee quote assumes that closing will take place by mail and will not necessitate attending meetings with the Company or any lender.

9. Once the terms and conditions of the transaction are fairly well established, Agency Counsel prepares preliminary drafts of the financing documents and distributes them to all parties for review and comment. Comments accepted by all counsel will result in redrafting of documents. The parties establish a mutually agreeable closing date, and final documents for execution are prepared.

10. The Agency then conducts a meeting whereby it adopts an Authorizing Resolution, under which the Agency approves of the form of the documents and authorizes the Chairman to execute the same.
11. The closing takes place.
12. Some of the benefits available to a company under a sale-leaseback transaction are as follows:
 - ⇒ Exemption from New York State mortgage recording tax
 - ⇒ Exemption from New York State sales tax for materials used in construction
 - ⇒ Real property tax abatement on the value added to the project (for more information, please see the Uniform Tax Exemption Policy enclosed herewith)

c:1997/ocida/irbmemo3.doc/lsr_pc

**MEMORANDUM TO APPLICANTS FINANCING AN IDA PROJECT
THROUGH A COMMERCIAL LENDER**

We have found it helpful to outline at the onset of a transaction the basic structure of financing when an industrial development agency (“IDA”) has a fee or leasehold interest in a property and is party to a mortgage or other financing instrument. **Please give a copy of this memorandum to your lender as early in the financing process as possible.**

An IDA is party to a financing instrument purely as a conduit for financial assistance (in the case of granting exemptions from mortgage recording tax) and to grant its interest in the facility to the lender. To preserve the passive nature of its role, the IDA cannot assume any obligations or make any representations that a traditional Borrower would make to a lender. It has been our experience that the easiest way to accomplish this is to define the Borrower as the “Borrower,” define the IDA as the “Agency,” and only include the Agency in the granting clause and with respect to the assignment of rents, inasmuch as those are the only reasons that the Agency is party to this document.

Furthermore, because PILOT Payments are contractual obligations and are not given the same high priority as tax payments, we crafted some language that will restore the taxing jurisdictions to the same position they would have been but not for the IDA involvement in the project. While it is not disputed that is an equitable arrangement, certain lenders have expressed concern that, because the requirement to pay PILOT Payments is contained in a private contract, there is no prescribed process to avoid significant delinquencies as there is under a tax foreclosure. It has been our experience the easiest way to accomplish this is for a lender to escrow PILOT Payments so it has the assurance that payments are made in a timely manner. If a lender does not wish to escrow PILOT Payments, an alternative is for the IDA to record a PILOT Mortgage that would be given first priority over the lender’s mortgage, similar to the priority taxes have.

Below are certain provisions we require be incorporated into each financing document to which the IDA is a party (please modify capitalized terms accordingly):

1. AGENCY PROVISIONS.

a. Agency makes no covenants other than to mortgage all of its interest in the Premises excepting its Unassigned Rights (as said term is defined in the Leaseback Agreement).

b. **NO RECOURSE AGAINST AGENCY:** Lender agrees that Lender will not look to the Agency or any principal, member, director, officer or employee of the Agency with respect to the Indebtedness or any covenant, stipulation, promise, agreement or obligation contained in this Mortgage. In enforcing its rights and remedies under this Mortgage, Lender will look solely to the Premises for the payment of the Indebtedness and for the performance of the provisions hereof. Lender will not seek a deficiency or other money judgment against the Agency or any principal, member, director, officer or employee of the Agency and will not institute any separate action against the Agency by reason of any default which may occur in the performance of any of the terms and conditions of any documents evidencing the Indebtedness.

c. **HOLD HARMLESS:** Borrower and Lender agree that the Agency, its directors, members, officers, agents (except the Borrower) and employees shall not be liable for and Borrower agrees to defend, indemnify, release and hold the Agency, its directors, members, officers, agents (except the Borrower) and employees harmless from and against any and all (i) liability for loss or damage to Property or injury to or death of any and all Persons that may be occasioned by, directly or indirectly, any

cause whatsoever pertaining to the Facility or arising by reason of or in connection with the occupation or the use thereof or the presence of any Person or Property on, in or about the Facility or the Land or (ii) liability arising from or expense incurred by the Agency's financing, acquiring, constructing, renovating, equipping, owning and leasing of the Facility, including without limiting the generality of the foregoing, all claims arising from the breach by the Borrower of any of their respective covenants contained herein and all causes of action and attorneys' fees and any other expenses incurred in defending any claims, suits or actions which may arise as a result of any of the foregoing, provided that any such losses, damages, liabilities or expenses of the Agency are not incurred or do not result from the gross negligence or intentional or willful wrongdoing of the Agency, or any of its directors, members, agents (except the Borrower) or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the Agency or any of its members, directors, officers, agents or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability.

d. **SPECIAL OBLIGATION.** The obligations of the Agency under the Mortgage and Financing Documents constitute a special obligation of the Agency, and all charges payable pursuant to or expenses or liabilities incurred thereunder shall be payable solely out of the revenues and other moneys of the Agency derived and to be derived from the leasing of the Facility, any sale or other disposition of the Equipment and as otherwise provided in the Authorizing Resolution, the Leaseback Agreement and the PILOT Agreement. Neither the members, officers, agents (except the Borrower) or employees of the Agency, nor any person executing the Mortgage and Financing Documents on behalf of the Agency, shall be liable personally or be subject to any personal liability or accountability by reason of the leasing, construction, renovation, equipping or operation of the Facility. The obligations of the Agency under the Financing Documents are not and shall not be an obligation of the State or any municipality of the State and neither the State nor any such municipality (including, without limitation, the County of Oneida), shall be liable thereon.

e. **SUBORDINATION TO PILOT AGREEMENT:** This Mortgage shall be subject and subordinate to any PILOT Agreement between the Borrower and the Agency with respect to the payments in lieu of taxes assessed or imposed upon the Premises, and by accepting this Mortgage, Lender acknowledges and agrees that such PILOT payments shall have the same force, priority and effect as a real property tax lien under New York State law against the Premises.

If a lender chooses to escrow PILOT Payments, we will incorporate the following provisions into the Leaseback (or Lease) Agreement:

Section 9.13 Subordination to Mortgage. This Leaseback Agreement and the rights of the Company and the Agency hereunder (other than with respect to the Unassigned Rights) are subject and subordinate to the Lien of the Mortgage, and all extensions, renewals or amendments thereof. The subordination of this Leaseback Agreement to the Mortgage shall be automatic, without execution of any further subordination agreement by the Company or the Agency. Nonetheless, if the Bank requires a further written subordination agreement, the Company and the Agency hereby agree to execute, acknowledge and deliver the same.

Section 9.14 Rights of Bank.

(a) Bank is hereby given the right by the Agency, in addition to any other rights herein granted, without any requirement to obtain the Agency's consent, to mortgage the mortgagors' respective interests in the Facility and, in the case of the Company, to assign and grant a security interest in the Company's rights under the Company Documents as collateral security for its obligations to the Bank, upon the condition that all rights acquired by Bank shall be subject to all rights and interests of the

Agency herein and in the other Company Documents, none of which covenants, conditions or restrictions is or shall be waived by the Agency by reason of this right to mortgage or grant a security interest in the Facility and the Company Documents, including Unassigned Rights.

(b) There shall be no renewal, cancellation, surrender, acceptance of surrender, material amendment or material modification of this Leaseback Agreement or any other Company Document by joint action of the Agency and the Company alone, without, in each case, the prior consent in writing of Bank, nor shall any merger result from the acquisition by, or devolution upon, any one entity of any fee and/or leasehold estates or other lesser estates in the Facility. Failure of the Bank to consent to a modification of this Leaseback Agreement by the Agency shall constitute an Event of Default.

(c) If the Agency serves a notice of default upon the Company, it shall also serve a copy of such notice upon Bank at the address set forth in Section 9.1.

(d) In the event of any default by the Company under this Leaseback Agreement or any other Company Document, the Bank shall have fifteen (15) days for a monetary default and thirty (30) days in the case of any other default, after notice to the Company and the Bank of such default to cure or to cause to be cured the default complained of and the Agency shall accept such performance by or at the instigation of Bank as if same had been done by the Company. The Agency in its sole discretion will determine whether such action by the Bank amounts to a cure.

(e) Except where Bank or its designee or nominee has succeeded to the interest of the Company in the Facility, no liability for any payments to be made pursuant to this Agreement or the performance of any of the Company's covenants and agreements under this Agreement shall attach to or be imposed upon the Bank, and if the Bank or its nominee or designee succeeds to the interest of the Company in the Project, all of the obligations and liabilities of the Bank or its nominee or designee shall be limited to such entity's interest in the Facility and shall cease and terminate upon assignment of this Leaseback Agreement by the Bank; provided however, that the Bank or its nominee or designee shall pay all delinquent PILOT Payments, if any, prior to said assignment.

(g) Notwithstanding any provision of this Leaseback Agreement or any other Company Document to the contrary, foreclosure of a mortgage or any sale of the Company's interest in this Leaseback Agreement and/or the Facility in connection with a foreclosure, whether by judicial proceedings, or any conveyance of the Company's interest in this Agreement and/or the Facility to Bank by virtue of or in lieu of foreclosure or other appropriate proceedings, or any conveyance of the Company's interest in this Leaseback Agreement and/or the Facility by Bank shall not require the consent or approval of the Agency and failure to obtain the Agency's consent shall not be a default or Event of Default hereunder.

**Oneida County Industrial Development Agency Recapture Policy
(Effective April 25, 2017)**

DEFINITIONS:

“Company”	is the entity that applied for and received a benefit from the Agency.
“Agency”	is the Oneida County Industrial Development Agency.
“AER”	is the Company’s annual report of employment required to be provided to the Agency.
“Employment Obligation Term”	shall mean the period during which the Company is receiving a benefit in the form of lower payment in lieu of taxes than their real estate taxes would be.
“Employment Obligation”	shall mean the number of FTEs employed by the Company in Oneida County and selected by the Agency as the Company’s obligation.
“FTE”	shall mean a full time employee that has a minimum of thirty-five (35) scheduled hours per week, or any combination of two or more part-time employees that work a minimum of fifteen (15) scheduled hours per week, when combined together, constitute the equivalent of a minimum of thirty-five (35) scheduled hours per week, and whose workplace location is the project facility. For this purpose an employee shall include a leased employee regularly retained by the Company.
“Benefit”	shall mean the amount the Company saved by making payments in lieu of real property taxes in a particular year. For example, if a Company’s PILOT payment is equal to 75% of normal real property taxes, then the Company’s Benefit for that year would be an amount equal to 25% of normal real property taxes.
“Per Employee Amount”	shall mean an amount equal to the Benefit for the year after the year of the Shortfall divided by the “Employment Obligation”.
“Shortfall”	shall mean the difference between the Employment Obligation and the actual number of FTEs per the AER for the applicable year.
“Major Shortfall”	shall mean having FTEs that are less than 50% of the Employment Obligation.
“Minimum Standard”	shall mean a Company whose AER shows that they are short of meeting its Employment Obligation by 20%.
“Initial Benefit”	shall be the amount of savings the Company received through the Agency, in the form of Mortgage Recording Tax and New York State Sales Tax.
“Cure Period”	shall mean the period ending June 30 th of the year following the Major Shortfall.

1. **Job Creation and Retention Obligations.**

After the expiration of the Employment Obligation Term, the Company shall have no further obligation with respect to the Employment Obligation and shall not be liable for any of the payments described below.

The failure of the Company to satisfy the Employment Obligation can subject the Company to payments to the Agency. The Company shall be required to make payments if it fails to attain the Minimum Standard.

If the Company falls below the Minimum Standard, the Agency will notify the Company in writing of the Agency's intention to recapture Financial Assistance. The Company will have thirty (30) days to respond to the letter and may include a request to appear before the Agency. The Agency will determine, in its sole discretion, if a valid exemption exists and potentially reduce the remedies described below.

2. **Projects with less than Ten Years Employment Obligation Term.**

(a) Shortfall Payments.

- (1) If, during the first three (3) years of the Employment Obligation Term a Company fails to achieve the Minimum Standard, then the Company shall pay to the Agency an amount equal to (a) the Per Employee Amount multiplied by (b) the Shortfall and then multiplied by (c) 1.5.
- (2) If, after the first (3) years, of the Employment Obligation Term a Company fails to achieve the Minimum Standard, then the Company shall pay to the Agency an amount equal to (a) the Per Employee Amount multiplied by (b) the Shortfall.

(b) Major Shortfall Payment.

- (1) If a Company shall incur a Major Shortfall; then, the Company shall pay to the Agency as an additional one-time payment an amount as set forth in the schedule below (such payment shall be referred to as the "Major Shortfall Payment").

<u>Major Shortfall Occurs:</u>	<u>Percentage of Initial Benefit</u>
Year 1	100%
Year 2	80%
Year 3	60%
Year 4	40%
Any Subsequent Year	20%

- (2) Notwithstanding any of the foregoing, the Company shall not be liable for a Major Shortfall Payment unless the number of FTEs remains at less than 65% of the Employment Obligation at the expiration of a Cure Period. The Company shall have the opportunity at any time before the expiration of a Cure Period to provide additional information to the Agency regarding the Major Shortfall, and to request a waiver or amendment of this provision.

- (3) Notwithstanding any of the foregoing, a Major Shortfall shall not apply where the Shortfall is a result of a major casualty to or condemnation of the facility. In the event of such major casualty or condemnation, the Company shall have no obligation to pay the Major Shortfall Payment.
- (4) Qualification for a waiver of either (2) or (3) above shall be at the sole discretion of the Agency.

3. **Projects with Ten Years or Longer Employment Obligation Term.**

(a) Shortfall Payments.

- (1) If, during the first five (5) years of the Employment Obligation Term a Company fails to achieve the Minimum Standard, then the Company shall pay to the Agency an amount equal to (a) the Per Employee Amount multiplied by (b) the Shortfall and then multiplied by (c) 1.5.
- (2) If, after the first five (5) years of the Employment Obligation Term a Company fails to achieve the Minimum Standard, then the Company shall pay to the Agency an amount equal to (a) the Per Employee Amount multiplied by (b) the Shortfall.

(b) Major Shortfall Payment.

- (1) If a Company shall incur a Major Shortfall, then the Company shall pay to the Agency as an additional one-time payment an amount as set forth in the schedule below.

<u>Major Shortfall Occurs:</u>	<u>Percentage of Initial Benefit</u>
Year 1	100%
Year 2	90%
Year 3	80%
Year 4	70%
Year 5	60%
Year 6	50%
Year 7	45%
Year 8	40%
Year 9	35%
Year 10	30%

- (2) Notwithstanding any of the foregoing, the Company shall not be liable for a Major Shortfall Payment unless the number of FTEs remains at less than 65% of the Employment Obligation at the expiration of a Cure Period. The Company shall have the opportunity at any time before the expiration of a Cure Period to provide additional information to the Agency regarding the Major Shortfall, and to request a waiver or amendment of this provision.
- (3) Notwithstanding any of the foregoing, a Major Shortfall shall not apply where the Shortfall is as a result of a major casualty to or condemnation of the facility. In the event of such major casualty or condemnation, the Company shall have no obligation to pay the Major Shortfall Payment.

- (4) Qualification for a waiver of either (2) or (3) above shall be at the sole discretion of the Agency.

4. **Shift of Employment.** If the Shortfall or Major Shortfall is as a result of the Company shifting employment away from Oneida County, then the Agency will require the value of the Benefit and the Initial Benefit utilized to date to be repaid, with interest (determined as the New York State legal interest rate).

5. **Mandatory Recapture.** The Agency is mandated to recapture New York State sales tax benefits where:

- a. The Project is not entitled to receive those benefits.
- b. The exemptions exceed the amount authorized, or are claimed for unauthorized property or services.
- c. The Company fails to use property or services in the manner required by the Leaseback Agreement.

6. **Return of Recaptured Funds.** If the Agency recaptures Initial Benefits or Benefits from a Company, the Agency shall return the recaptured funds promptly to the affected taxing jurisdiction, unless otherwise agreed to by the taxing jurisdiction, in accordance with the General Municipal Law.

The Agency shall have the right to reduce any payment required under this Policy, in extraordinary circumstances, in its sole discretion.

Oneida County Industrial Development Agency

Insurance Requirements Under Leaseback Agreement

Section 3.4 Insurance Required.

At all times throughout the Lease Term, including, when indicated herein, during the Construction Period, the Company shall, at its sole cost and expense, maintain or cause to be maintained (and cause the Sublessees to maintain, where appropriate) insurance of the following types of coverage and limits of liability with an insurance carrier qualified and admitted to do business in New York State. The Insurance carrier must have at least an A- (excellent) rating by A. M. Best. Company shall pay, as the same become due and payable, all premiums with respect thereto, including, but not necessarily limited to:

(a) **Property Insurance:** Insurance against loss or damage by fire, lightning and other casualties customarily insured against in an all risk policy with special form perils, such insurance to be in an amount not less than the full replacement value of the completed Improvements, exclusive of footings and foundations, as determined by a recognized appraiser or insurer selected by the Company. During the Construction Period, such policy shall be written in the so-called "Builder's Risk Completed Value Non-Reporting Form" and shall contain a provision granting the insured permission to complete and/or occupy.

(b) **Workers' Compensation & Employers Liability Insurance** and **Disability Benefits Insurance** and each other form of insurance that the Company or any permitted sublessee is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company or any permitted sublessee who are located at or assigned to the Facility. Statutory New York limits shall apply to these policies. This coverage shall be in effect from and after the Completion Date or on such earlier date as any employees of the Company, any permitted sublessee, any contractor or subcontractor first occupy the Facility.

(c) **General Liability Insurance** protecting the Agency, the Company and the owner of the Facility (if the Company is not the owner) against loss or losses from liability imposed by law or assumed in any written contract (including the contractual liability assumed by the Company under Section 5.2 hereof) and arising from personal injury, including bodily injury or death, or damage to the property of others, caused by an accident or occurrence with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. **Comprehensive Automobile Liability Insurance** including all owned, non-owned and hired autos with a limit of liability of not less than \$1,000,000 (combined single limit or equivalent for personal injury, including bodily injury or death, and property damage) protecting the Agency and the Company against any loss or liability or damage for personal injury, including bodily injury or death, or property damage, and **Umbrella Liability Insurance** of not less than \$5,000,000 per occurrence. This coverage shall also be in effect during the Construction Period.

(d) During the Construction Period (and for at least two years thereafter in the case of Products and Completed Operations as set forth below), the Company shall cause the general contractor to carry liability insurance of the type and providing the minimum limits set forth below:

(i) Workers' compensation & employer's liability and disability benefits insurance both with statutory limits in accordance with applicable law.

- (ii) Comprehensive general liability providing coverage for:
- Premises and Operations
 - Products and Completed Operations
 - Contractual Liability
 - Personal Injury Liability
 - Broad Form Property Damage
(including completed operations)
 - Explosion Hazard
 - Collapse Hazard
 - Underground Property Damage Hazard

Such insurance shall have a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. The annual aggregate shall apply per project. The contractor's general liability policy shall include coverage for the contractor and any of the additional insureds for any operations performed on residential projects including single or multi-family housing, residential condominiums, residential apartments and assisted living facilities.

(iii) Comprehensive auto liability, including all owned, non-owned and hired autos, with a limit of liability of not less than \$1,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage).

(iv) Umbrella Liability with limits of \$5,000,000 per occurrence and \$5,000,000 annual aggregate.

(e) A policy or policies of flood insurance in the maximum amount of flood insurance available with respect to the Facility under the Flood Disaster Protection Act of 1973, as amended, whichever is less. This requirement will be waived upon presentation of evidence satisfactory to the Agency that no portion of the Land is located within an area identified by the U.S. Department of Housing and Urban Development as having special flood hazards.

Section 3.5 Additional Provisions Respecting Insurance.

(a) All insurance required by Section 3.4 hereof shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the entity required to procure the same and authorized to write such insurance in the State. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the procuring entity is engaged. All policies evidencing the insurance required by Section 3.4 hereof shall provide for at least thirty (30) day's prior written notice of the restriction, cancellation or modification thereof to the Agency. The policies evidencing the insurance required by Section 3.4(c) hereof shall name the Agency and the owner of the Facility (if the Company is not the owner) as additional insured on a primary & non-contributory basis. All policies evidencing the insurance required by Sections 3.4(d)(ii) (iii) and (iv) shall name as additional insured the Agency, Company and the owner of the Facility (if the Company is not the owner) on a primary and non-contributory basis for the ongoing construction phase and for two years following completion during the completed operations phase. The policies under Section 3.4 (a) shall contain appropriate waivers of subrogation. The policies

under Section 3.4 (b),(c),(d) shall contain waivers of subrogation in favor of the Agency, the Company and the owner of the Facility (if the Company is not the owner).

(b) All policies or certificates (or binders) of insurance required by Sections 3.4 hereof shall be submitted to the Agency on or before the Closing Date. Attached to the certificate of insurance shall be a copy of the additional insured endorsement from the Company's General Liability policy. The Company shall deliver to the Agency before the renewal date of each policy a certificate dated not earlier than the immediately preceding month reciting that there is in full force and effect, with a term covering at least the next succeeding calendar year, insurance of the types and in the amounts required by Section 3.4 hereof and complying with the additional requirements of Section 3.5(a) hereof. Prior to the expiration of each such policy, the Company shall furnish the Agency with evidence that such policy has been renewed or replaced or is no longer required by this Leaseback Agreement. The Company shall provide such further information with respect to the insurance coverage required by this Leaseback Agreement as the Agency may from time to time reasonably require.

Agency shall be named as additional insured as follows:

Oneida County Industrial Development Agency, ISAOA
584 Phoenix Drive
Rome, New York 13441

Anthony J. Picente Jr.
County Executive

Shawna M. Papale
Secretary/
Executive Director

Timothy Fitzgerald
Assistant Secretary

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

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David C. Grow
Chairman

L. Michael Fitzgerald
Vice Chair

Mary Faith Messenger
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Eugene Quadraro
Stephen Zogby

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY UNIFORM TAX EXEMPTION POLICY

**Adopted by the Oneida County Industrial Development Agency on
January 28, 1994, amended on December 21, 1998 and April 30, 2009**

The Oneida County Industrial Development Agency (the "Agency") has adopted the following uniform tax exemption policies. These policies will be used for all projects for which the Agency may provide financial assistance, including bond (taxable and/or tax exempt) issuances and straight lease transactions. Final determinations regarding the extent to which financial assistance, if any, will be granted are solely within the discretion of the Agency.

I. Project Eligibility Criteria

(a) General Requirements

The Agency considers the following general factors in determining whether a project is eligible for financial assistance:

- The nature of the proposed project (e.g., manufacturing, commercial, civic).
- The nature of the property before the project begins (e.g., vacant land, vacant buildings).
- The economic condition of the area at the time of the application.
- The extent to which a project will create or retain permanent, private sector jobs.
- The estimated value of tax exemptions to be provided.
- The impact of the project and the proposed tax exemptions on affected tax jurisdictions.
- The impact of the proposed project on existing and proposed businesses and economic development projects in the County.
- The amount of private sector investment generated or likely to be generated by the proposed project.
- The likelihood of accomplishing the proposed project in a timely fashion.
- The effect of the proposed project upon the environment.

- The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts in which the project is located.
- The extent to which the proposed project will provide a benefit (economic or otherwise) not otherwise available within the County of Oneida.

(b) Industrial and Manufacturing Projects

(1) Industrial and manufacturing projects generally qualify for financial assistance, subject to the eligibility criteria set forth in Part I (a) of this Policy.

(2) Due to the nature of the work, companies performing back-office operations that are regional or national in nature and a majority of which operations support activities outside of Oneida County will qualify as industrial and manufacturing. Research and development facilities and distribution centers that locate in Oneida County may also qualify as industrial and manufacturing.

(c) Retail Projects

The Agency will provide financial assistance to retail facilities only in accordance with the restrictions contained in New York State General Municipal Law Section 862(2), and subject to the eligibility criteria set forth in Part I (a) of this Policy. The Agency will also consider the competitive impact of the project.

Retail projects are generally not eligible for Agency assistance, with the following exceptions:

(i) Retail businesses that primarily serve customers located in Oneida County are generally not eligible for financial assistance unless located in a "highly distressed area" as defined in General Municipal Law §854(18), which includes projects located in an economic development zone or Empire Zone (as defined in New York State statute or regulation), or the project meets one of the other requirements of this paragraph (c);

(ii) Retail projects operated by not-for-profit corporations may be eligible for financial assistance;

(iii) Retail projects may be eligible for financial assistance provided an appropriate market analysis demonstrates that a majority of the project's customers are expected to come from outside of Oneida County and the project will not directly compete with existing businesses located in Oneida County; and

(iv) Retail businesses that primarily provide a product or a service that is otherwise not reasonably available in Oneida County may be eligible for financial assistance.

(d) Other Non-Industrial/Commercial Projects

Non-industrial/commercial projects may qualify for financial assistance at the discretion of the Agency, based upon its evaluation of the eligibility requirements set forth in Part I (a) of this Policy. The Agency confirms the following specific policies:

(i) Mixed or Multiple-Use Projects qualify for financial assistance, only with respect to that portion of the project that is used for purposes that qualify for financial assistance under this Policy.

(ii) Housing projects are generally not eligible for benefits, unless they

(a) service the elderly, low-income, assisted living or other groups with special needs; *or*

(b) promote employment opportunities and prevent economic deterioration, as confirmed by an appropriate market analysis, and such a determination is made by the Agency based upon all of the relevant facts.

II. **Real Property Tax Abatements**

If the Agency determines that a project will receive real property tax abatements, a Payment-In-Lieu-Of-Tax Agreement (the "PILOT") will be negotiated with each project owner (the "Company") and will substantially follow the following guidelines with final determinations to be made by the Agency.

(i) Real Property Acquired by Company as part of Project. If the Company is acquiring real property as part of the Agency project, then the Agency's real property tax exemption will be available with respect to all real property acquired by the Company as part of the project and improvements thereto.

(ii) Substantial Improvements to Existing Real Property Owned by Company. If the Company is making "Substantial Improvements" (as defined below) to existing real property owned by the Company, then the Agency's real property tax exemption will apply to both the existing real property and the improvements.

(iii) Non-Substantial Improvements to Existing Real Property. If the improvements to existing real property owned by the Company are not Substantial Improvements, then the Agency's tax exemption shall apply only to the increase in assessment resulting from improvements constructed or installed as part of the project and the Company shall pay PILOT payments equal to the full amount of taxes on the existing real property.

The term "Substantial Improvements" means the value of the improvements constructed or installed as part of the project equals at least 50% of the value of the real property prior to construction or installation of the improvements, as determined by an independent valuation acceptable to the Agency.

(a) **Industrial and Manufacturing Projects**

The Company shall pay a percentage of the taxes that would otherwise be payable if the project was not tax exempt, to each taxing jurisdiction in which the project is located, as follows:

1. 33 1/3% of such taxes through the fifth (5th) year of the exemption;

2. 66 2/3% of such taxes from the sixth (6th) through tenth (10th) year of the exemption;
3. 100% of such taxes after the tenth (10th) year of the exemption.

(b) Retail Projects

The Company shall pay a percentage of the taxes that would otherwise be payable if the project was not tax exempt, to each taxing jurisdiction in which the project is located, as follows:

1. 50% of such taxes through the second (2nd) year of the exemption;
2. 75% of such taxes from the third (3rd) through the fifth (5th) year of the exemption;
3. 100% of such taxes after the fifth (5th) year of the exemption.

(c) Other Non-Industrial/Commercial Projects

The Company shall pay a percentage of the taxes that would otherwise be payable if the project was not tax exempt, to each taxing jurisdiction in which the project is located, as follows:

1. 50% of such taxes through the second (2nd) year of the exemption.
2. 75% of such taxes from the third (3rd) through fifth (5th) year of the exemption.
3. 100% of such taxes after the fifth (5th) year of the exemption.

The Agency reserves the right to deviate from the real property tax abatement policy on a case by case basis at its sole discretion.

III. Sales Tax Exemptions

If, based on the eligibility criteria described in Part I of this Policy, the Agency determines a project is eligible for financial assistance, the Agency's financial assistance will include exemption from sales and use tax for costs of constructing, renovating and equipping the project.

Sales and use tax exemption, when available, will be authorized for the duration of the acquisition, construction and equipping of the project as described in the application for financial assistance. The Agency shall deliver a sales tax exemption letter which will expire one (1) year from the date of the project inducement. If construction, renovation or equipping is not complete at the expiration of the original sales tax exemption letter, upon request by the Company, the sales tax exemption letter may be extended at the discretion of the Agency.

All Companies receiving sales and use tax exemption benefits will be required to supply the Agency with a list of all contractors and sub-contractors that have been authorized to use the sales tax exemption letter. This list will be appended to the sales tax exemption letter by the Agency.

The Company must keep a record of the usage of the sales tax exemption letter, and must supply the Agency with the total amount of sales and use tax exemptions claimed by the project for each calendar year. The Company must submit this report to the Agency by February 1st of each year, until the exempt period comes to a conclusion. The company shall also file all reports as may be required by applicable law, including Form ST-340 which shall be filed with the New York State Department of Taxation and Finance.

The Agency reserves the right to deviate from the sales tax exemption policy on a case by case basis at its sole discretion.

IV. Mortgage Recording Tax Exemption

If, based on the project eligibility criteria described in Part I of this Policy, the Agency determines a project is eligible for financial assistance, the Agency will provide an exemption from New York State mortgage recording tax for the financing of project costs.

The Agency reserves the right to deviate from the mortgage recording tax exemption policy on a case by case basis at its sole discretion.

V. Recapture

Agency financial assistance is granted based upon the Company's representation that the project will create and/or maintain the employment levels described in its application for financial assistance (the "Employment Obligation"). If a Company fails to achieve and/or maintain its Employment Obligation, it could result in recapture of all or a portion of tax benefits granted by the Agency.

VI. Deviations

Deviations from this Policy shall be infrequent. The Agency reserves the right, at its sole discretion, to deviate from this Policy on a case by case basis. The Agency will provide written notice to the chief executive officer of each affected tax jurisdiction of any deviation from this Policy and will comply with the deviation requirements of the General Municipal Law.

PAYMENT IN LIEU OF TAX BENEFIT VALUE CALCULATOR

Estimates

Lodging Kit operations will occupy 56% of the facility
Estimated post-construction assessment: \$ 1,250,000
Portion of assessment applicable to IDA PILOT Benefit: 56%
Assessment subject to PILOT Benefit: \$700,000
Estimated Industrial PILOT value: \$174,585

PILOT VALUE CALCULATOR	Full Exempted Taxes	INDUSTRIAL PILOT Schedule Pyts.		
Payment Year	(Not to be paid)			
1	\$ 32,423	\$ 10,808	(1/3 of full taxes)	
2	\$ 33,072	\$ 11,024	(1/3 of full taxes)	
3	\$ 33,733	\$ 11,244	(1/3 of full taxes)	
4	\$ 34,408	\$ 11,469	(1/3 of full taxes)	
5	\$ 35,096	\$ 11,699	(1/3 of full taxes)	
6	\$ 35,798	\$ 23,865	(2/3 of full taxes)	
7	\$ 36,514	\$ 24,342	(2/3 of full taxes)	
8	\$ 37,244	\$ 24,829	(2/3 of full taxes)	
9	\$ 37,989	\$ 25,326	(2/3 of full taxes)	
10	\$ 38,749	\$ 25,832	(2/3 of full taxes)	
Total	\$ 355,024	\$ 180,439		
PILOT Benefit	\$ 174,585			

Total Combined Payments	
Year 1	\$ 36,283.26
Year 2	\$ 37,008.92
Year 3	\$ 37,749.10
Year 4	\$ 38,504.08
Year 5	\$ 39,274.17
Year 6	\$ 51,992.22
Year 7	\$ 53,032.07
Year 8	\$ 54,092.71
Year 9	\$ 55,174.56
Year 10	\$ 56,278.06

Assessment Value NOT Subject to PILOT Benefit: \$550,000

Payment Year	Full Amt Pyt
1	\$ 25,475.56
2	\$ 25,985.07
3	\$ 26,504.77
4	\$ 27,034.87
5	\$ 27,575.56
6	\$ 28,127.07
7	\$ 28,689.62
8	\$ 29,263.41
9	\$ 29,848.68
10	\$ 30,445.65
Total	\$ 278,950.26

Current Real Property Tax Analysis of Delta Hardwoods property

Parcel	Acres	2023 Roll Assessment in 1,000s	Full Value		Land Assess	County 23 Bill	Hway-TW 23	Vill 22-24	BSD 23-24			
33.006-4-58	7.4	100	169,492	Delta Boonville LLC	5,000	862.41	141.42	1185.08	2333.42	4,522.33	4522.3274	
33.006-4-59	1.1	2	3,390	Delta Boonville LLC	2,000	17.25	2.83	23.70	46.67	90.45	90.448148	
33.010-1-19	2.41	60	101,695	Delta Boonville LLC	5,000	517.45	84.85	711.05	1400.05	2,713.39	2713.39444	
33.010-1-20	1	70	118,644	Delta Boonville LLC	4,000	603.69	98.99	829.56	1633.40	3,165.64	3165.63518	
33.010-1-25.1	40.7	4	6,780	Delta Boonville LLC	4,000	34.50	5.66	47.40	93.34	180.90	186.56334	
52.61		236	6804 Stokes-Westernville Rd Ava, NY 13303			\$ 2,035.29	\$ 333.74	\$ 2,796.80	\$ 5,506.88	\$ 10,678.37		
						8.624089	1.41415	11.850835	23.33423			

Project Costs

Land Acquisition	\$ 200,000
Existing Building(s) ACQUISITION	\$ 1,900,000
Existing Building(S) RENOVATION	\$ 530,000
NEW Building(s) CONSTRUCTION	\$ 400,000
Installation Costs	\$ 80,000
Site Preparation/Parking Lot Construction	\$ 34,000
Machinery & Equipment (other than furniture)	\$ 239,500
Furniture & Fixtures	\$ 15,000
Architectural & Engineering	\$ -
Legal Fees (applicant, IDA, bank, other counsel)	\$ 45,000
Financial (all costs related to project financing)	\$ -
Permits	\$ -
Other	\$ -
Agency Fee	\$ 17,218
TOTAL COST OF PROJECT	\$ 3,460,718

Assistance Provided by the Following:

EDGE Loan:	
MVEDD Loan:	
Grants - Please indicate source & Amount:	\$ -
Other Loans - Please indicate source & Amount:	

Company Information

Existing Jobs	26
Created Jobs FTE (over three years)	8
Retained Jobs	26

Average Salary of these Positions

\$	52,336
\$	40,931
\$	52,336

Earnings Information for Oneida County

Average Salary of Direct Jobs for Applicant	\$ 52,336
Average of County Indirect Jobs	\$ 25,000
Average of Construction Jobs	\$ 32,000

Note: \$1,000,000 in construction expenditures generates 15 person - years of employment

Construction Person Years of Employment:

5

Calculation of Benefits (3 Year Period)

	Total Earnings	Revenues
Direct Jobs		
Created	\$ 982,344	\$ 41,750
Existing	\$ 4,082,208	\$ 173,494
Indirect Jobs		
Created	\$ 1,500,000	\$ 63,750
Existing	\$ 4,875,000	\$ 207,188
Construction - only one year		
Person Years	\$ 167,040	\$ 7,099
TOTALS Calculation of Benefits (3 Yr Period)	\$ 11,606,592	\$ 493,280

TAXABLE GOODS & SERVICES

		Spending Rate	Expenditures	State & Local Sales Tax Revenues
Direct Jobs	Created	36%	\$ 353,644	\$ 34,480
	Existing	0.36	\$ 1,469,595	\$ 143,286
Indirect Jobs	Created	0.36	\$ 540,000	\$ 52,650
	Existing	0.36	\$ 1,755,000	\$ 171,113
Construction - only one year	Person Years	0.36	\$ 60,134	\$ 5,863
<u>TOTAL TAXABLE GOODS & SERVICES</u>			\$ 4,178,373	\$ 407,391

Local (3 year) real property tax benefit (assuming 60% of jobs existing and created own a residence) with an average assessment of \$80,000 and the remainder of jobs existing created pay real property taxes through rent based on an average assessment per apartment of \$50,000.

		Municipality	
Tax Rate for School District where facility is located:	23.33423	Adirondack	22-23
Tax Rate for Municipality where facility is located:	13.265527	Boonville V & T	2023
Tax Rate for County:	8.811292	Oneida	2023
	Total Rate:		
	45.411049		
Real Property Taxes Paid:	\$ 104,990		

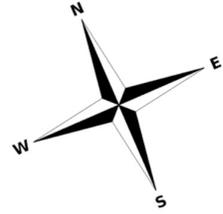
COSTS: IDA BENEFITS

Real Property Taxes Abatement	\$ 174,585
Mortgage Tax Abated (.75%)	\$ -
Estimated Sales Tax Abated During Construction Period (8.75%)	\$ 76,431
Total:	\$ 251,016

NOTE: If there is a tax-exempt financing of all or a portion of the project cost, there is a neutral cost/benefit because of lower interest rates by reason of exclusion of interest from gross income of bondholders for purposes of Federal and State income taxes. Taxable financing carries the same cost/benefit for State Income Tax purposes. Such cost/benefits cannot be quantified.

2,300 sf
Office
3,300 sf

- LKC use
- Unusable with extensive renovation
- Cold storage rental (boats, cars & RVs)
- Rented out to business tenant
- Potential future rental



The Ghetto
29,000 sf

That 70s Room
16,000 sf

Dock Warehouse
20,000 sf

The Gallows
6,860 sf

The shoot
Back Warehouse
25,000 sf

North Rental
22,770 sf

South Rental
21,600 sf

North Bay
9,600 sf

South Bay
9,600 sf

The Shop
7,303 sf

Back Building
9,800 sf

TO: OCIDA Board Members

FROM: Linda E. Romano, Esq.

DATE: February 1, 2024

RE: Westdacks LLC/Lodging Kit Company, Inc.

We reviewed the Application for Financial Assistance relating to the above referenced project and would like to confirm eligibility under General Municipal Law and treatment under the IDA's Uniform Tax Exemption Policy (UTEP).

Qualification of Project

This project qualifies as an industrial/manufacturing project under the law. There are no specific findings that must be adopted to qualify the project.

PILOT Payments

The UTEP provides that if an applicant is acquiring real property as part of the Agency project, then the IDA's real property tax exemption will be available with respect to all real property acquired by the Company as part of the project and improvements thereto.

The UTEP provides the following formula for industrial/manufacturing projects:

- 33 1/3% of taxes from the first through the fifth year of the exemption;
- 66 2/3% of taxes from the sixth through the tenth year of the exemption;
- 100% of taxes after the tenth year of the exemption.

The applicant has indicated it will be occupying 56% of the Facility for its project, so the above formula will apply to 56% of the property assessment. The portion of the Facility that will be occupied by other tenant(s) will be billed at 100%.

Sales Tax Exemption

The UTEP provides that if the IDA determines a project is eligible for financial assistance, the financial assistance will include exemptions from sales and use tax for costs of constructing, renovating and equipping the project. The exemption will be authorized for the duration of the acquisition, construction and equipping of the project as described in the Application.

This applicant projects that the construction period will commence in April 2024 (weather permitting) and will conclude in August 2024. It has been the practice of this

IDA to issue sales tax exemption certificates for a period of one year from the date of inducement; if an applicant does not complete the project within the projected period, it may request the IDA extend the period of the exemption.

Mortgage Recording Tax Exemption

The UTEP provides that if the IDA determines a project is eligible for financial assistance, the IDA will provide an exemption from New York State mortgage recording tax for the financing of project costs.

This applicant has disclosed it intends to finance \$1 million of the project costs through a private loan, and the terms of the loan provide that a mortgage will not be recorded until five years into the payment term. It is not requesting mortgage recording tax exemption at this time, but will have the right to request this benefit when it prepares to enter into a mortgage as long as the applicant can support the fact that all of the loan proceeds are used for the project costs.

The above analysis is intended to offer an overview of what is consistent under the UTEP. The UTEP provides the IDA sole discretion to deviate from policy on a case by case basis, and further provides that deviations from UTEP shall be infrequent.

**Inducement Resolution
West Dacks LLC/
Lodging Kit Company, Inc. Facility**

RESOLUTION OF THE ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY TAKING OFFICIAL ACTION TOWARD APPOINTING WEST DACKS LLC THE PRINCIPALS OF WEST DACKS LLC, AND/OR AN ENTITY FORMED OR TO BE FORMED ON BEHALF OF ANY OF THE FOREGOING AS AGENT OF THE AGENCY IN CONNECTION WITH A LEASE-LEASEBACK TRANSACTION, AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT AGREEMENT AND MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE PROJECT.

WHEREAS, West Dacks LLC, on behalf of itself and/or the principals of West Dacks LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “Company”) has requested the Oneida County Industrial Development Agency (the “Agency”) assist with a project consisting of (a) acquisition and renovation of a 181,345± square foot building (the “Existing Improvements”) situated on a 44± acre parcel of land located at 210 Grove Street, Village of Boonville, Town of Boonville, Oneida County, New York (the “Land”); (b) construction of a 2,300± square foot addition to the Existing Improvements (the “Addition” and together with the Existing Improvements, the “Improvements”); and (c) acquisition and installation of equipment in the Improvements (the “Equipment”), all to be used for the purpose of supplying household and linen supplies to the commercial lodging industry (the Land, the Improvements and the Equipment referred to collectively as the “Facility” and the acquisition, construction, renovation and equipping of the Facility is referred to collectively as the “Project”); and

WHEREAS, the Company will lease the Facility to the Agency pursuant to a Lease Agreement (the “Lease Agreement”); and

WHEREAS, the Agency will lease the Facility back to the Company pursuant to a Leaseback Agreement (the “Leaseback Agreement”); and

WHEREAS, the Company intends to further sublease a 103,000± square foot portion of the Facility (the “Lodging Kit Facility”) to Lodging Kit Company, Inc. (the “Lodging Kit Sublessee”) for its operation pursuant to a Sublease Agreement (the “Lodging Kit Sublease Agreement”); and

WHEREAS, the Company intends to further sublease the balance of the Facility (the “Non-Project Facility”) to a tenant or tenants to be identified from time to time (the “Non-Project Sublessee” and together with the Lodging Kit Sublessee, the “Sublessees”) for uses not related to the Project; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Project and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company in connection with the Project in the form of exemptions from sales and use taxes and reduction in real property taxes relating to the Project for a period of ten years (the “Financial Assistance”), which financial assistance is consistent with the Agency’s Uniform Tax Exemption Policy, and which will be more particularly set forth in a final authorizing resolution; and

WHEREAS, based upon representations made by the Company in the Application, the value of the Financial Assistance is described as follows:

- Sales and use tax exemption not to exceed \$76,431
- Exemptions from real property taxes valued at approximately \$174,585

WHEREAS, the Company and/or the Sublessee have committed to retain its existing 26 FTEs for the term of the Leaseback Agreement and create an additional 8 FTEs at the Facility by the end of the third year of the Leaseback Agreement as a result of undertaking the Project, and the Agency will condition the proposed Financial Assistance on the Company achieving the same (the “Employment Obligation”), or else be subject to recapture or termination of Financial Assistance relating to the Project; and

WHEREAS, prior to the closing of a lease-leaseback transaction, and the granting of any Financial Assistance, a public hearing (the “Hearing”) will be held so that all persons with views in favor of or opposed to either the Financial Assistance contemplated by the Agency, or the location or nature of the Facility, can be heard; and

WHEREAS, notice of the Hearing will be given prior to the closing of a lease-leaseback transaction, and the granting of any Financial Assistance, and such notice (together with proof of publication) will be substantially in the form annexed hereto as **Exhibit A**; and

WHEREAS, the minutes of the Hearing are or will be annexed hereto as **Exhibit B**; and

WHEREAS, the Project will result in the removal or abandonment of the Company's existing facility also located in the Village of Boonville, Town of Boonville, Oneida County, New York; and

WHEREAS, the Company has represented in its application that the Project is reasonably necessary to (a) discourage the Company from moving out of State and consolidating operations at one of the Company's existing locations outside of the State and (b) preserve the Company's competitive position in its industry because the limitations of the existing property and facility impede the Company's and/or the Sublessee's ability to (i) expand its business operations and (ii) strengthen and grow its presence in Central New York; and

WHEREAS, the Agency has given due consideration to the application of the Company and to representations by the Company that the proposed lease-leaseback transaction is either an inducement to the Company and/or the Sublessee to maintain and expand the Facility in the County or is necessary to maintain the competitive position of the Company in its industry; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively, the "SEQR Act" or "SEQRA"), the Agency constitutes a "State Agency"; and

WHEREAS, prior to the granting of any Financial Assistance and following the determination of the lead agency, the Agency will complete its environmental review and make determinations for purposes of SEQRA.

NOW, THEREFORE, BE IT RESOLVED by the Oneida County Industrial Development Agency (a majority of the members thereof affirmatively concurring) that:

Section 1. (a) The Project and the Agency's Financial Assistance therefor, will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the County and the people of the State of New York and improve their standard of living, and

thereby serve the public purposes of the Act and the same is, therefore, approved.

- (b) It is desirable and in the public interest for the Agency to enter into a lease-leaseback transaction for the purpose of providing financial assistance for the Project, as reflected in the Company's application to the Agency as may be amended from time to time prior to the closing of the lease-leaseback transaction.
- (c) The Project is reasonably necessary to (a) discourage the Company and/or the Sublessee from moving out of State and (b) preserve the Company's and/or the Sublessee's competitive position in its industry.

Section 2.

The form and substance of a proposed inducement agreement (in substantially the Agency's standard form containing the terms contemplated in this resolution) by and among the Agency, the Sublessee and the Company setting forth the undertakings of the Agency, the Sublessee and the Company with respect to the closing of the lease-leaseback transaction, and the completion of the Facility (the "Agreement") is hereby approved. The Chairman of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Agreement, with such changes in terms and form as the Chairman shall approve. The execution thereof by the Chairman shall constitute conclusive evidence of such approval.

Section 3.

The Agency shall assist the Company in the Project and will provide the Financial Assistance with respect thereto subject to (i) obtaining all necessary governmental approvals, (ii) approval of the members of the Company and the directors of the Sublessee, (iii) approval of the members of the Agency, (iv) satisfactory completion of the environmental review of the Facility by the Agency in compliance with the State Environmental Quality Review Act, (v) agreement by the Agency, the Sublessee and the Company upon mutually acceptable terms and conditions for the Leaseback Agreement and other documentation usual and customary to transactions of this nature, (vi) the condition that there are no changes in New York State Law which prohibit or limit the Agency from fulfilling its obligation and commitment as herein set forth to enter into the lease-leaseback transaction and (vii) payment by the Company or the Sublessee of the Agency's transaction fee and the

fees and disbursements of transaction counsel, more particularly described in the Inducement Agreement.

Section 4.

The Company is herewith and hereby appointed the agent of the Agency to acquire, construct, renovate, equip and complete the Facility. The Company is hereby empowered to delegate its status as agent of the Agency to the agents, subagents, contractors, subcontractors, materialmen, suppliers, vendors and such other parties as the Company may choose in order to acquire, construct, renovate, equip and complete the Facility. The terms and conditions for the appointment of the Company as agent of the Agency for the purposes described in this resolution are set forth in the form of the attached letter addressed to the Company, marked as **Exhibit C** to this resolution. The form of such letter is incorporated herein by reference and is approved and adopted by the Agency, and the Chairman or Executive Director of the Agency or any other duly authorized official of the Agency are authorized to execute and deliver such letter to the Company upon satisfaction of the conditions described in Section 3 hereof. The Agency hereby appoints the Company, the agents, subagents, contractors, subcontractors, materialmen, vendors and suppliers of the Company as agents of the Agency solely for purposes of making sales or leases of goods, services, and supplies to the Facility, and any such transaction between any agent, subagent, contractor, subcontractor, materialmen, vendor or supplier, and the Company, as agent of the Agency shall be deemed to be on behalf of the Agency and for the benefit of the Facility. The Company shall indemnify the Agency with respect to any transaction of any kind between and among the Company, the Company, the agents, subagents, contractors, subcontractors, materialmen, vendors and/or suppliers and the Company, as agent of the Agency.

Section 5.

The Agency is hereby directed to schedule the Hearing, so that the Agency may receive comments from all interested parties on the financial assistance contemplated by the Agency and the Financial Assistance requested by the Company.

Section 6.

The law firm of Bond, Schoeneck & King, PLLC is appointed Transaction Counsel in connection with the lease-leaseback transaction.

Section 7. Counsel to the Agency and Transaction Counsel are hereby authorized to work with counsel to the Company and Sublessee and others to prepare, for submission to the Agency, all documents necessary to effect the lease-leaseback transaction.

Section 8. The Chairman of the Agency is hereby authorized and directed (i) to distribute copies of this resolution to the Company and Sublessee, (ii) to distribute copies of this resolution to the Oneida County Executive, the Village of Boonville Mayor, the Town of Boonville Supervisor, the Adirondack Central School District Superintendent and the Adirondack Central School District Clerk of the Board of Education; and (iv) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 9. This resolution shall take effect immediately.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, (ii) the meeting was open for the public to attend and public notice of the date, time and location for the meeting was duly given, (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout the meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____ 2024.

Shawna Papale, Secretary

EXHIBIT A

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York State General Municipal Law, will be held by the Oneida County Industrial Development Agency (the "Agency") on the ___ day of _____ 2024 at ___ a.m., local time, at _____, New York in connection with the following matters:

West Dacks LLC, on behalf of itself and/or the principals of West Dacks LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "Company") has requested the Oneida County Industrial Development Agency (the "Agency") assist with a project consisting of (a) acquisition and renovation of a 181,345± square foot building (the "Existing Improvements") situated on a 44± acre parcel of land located at 210 Grove Street, Village of Boonville, Town of Boonville, Oneida County, New York (the "Land"); (b) construction of a 2,300± square foot addition to the Existing Improvements (the "Addition" and together with the Existing Improvements, the "Improvements"); and (c) acquisition and installation of equipment in the Improvements (the "Equipment"), all to be used for the purpose of supplying household and linen supplies to the commercial lodging industry (the Land, the Improvements and the Equipment referred to collectively as the "Facility" and the acquisition, construction, renovation and equipping of the Facility is referred to collectively as the "Project"). The Project will be initially owned and/or operated by the Company.

The Company will lease the Facility to the Agency pursuant to a lease agreement, and the Agency will lease the Facility back to the Company pursuant to a leaseback agreement. The Company will further sublease 103,000± square feet of the Facility to Lodging Kit Company, Inc. (the "Lodging Kit Sublessee") for its operation, and will lease the balance of the Facility to tenant or tenants to be identified from time to time for uses unrelated to the Project. At the end of the lease term, the Agency will terminate its leasehold interest in the Facility. The Agency is contemplating providing financial assistance in the form of reduction of real property taxes for a period of ten years on that portion of the Facility relating to the Project, and exemptions from sales tax on materials and equipment acquired and installed in connection with the Project, which financial assistance is consistent with the Agency's Uniform Tax Exemption Policy, to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to the closing of the transactions described herein.

A representative of the Agency will at the above-stated time and place hear and accept written comments from all persons with views in favor of or opposed to either the proposed financial assistance to the Company or the location or nature of the Facility. Comments may also be submitted to the Agency in writing or electronically prior to the hearing. Minutes of the Public Hearing will be transcribed and posted on the Agency's website. A copy of the Application for Financial Assistance filed by the Company with the Agency, including an analysis of the costs and benefits of the proposed Project, is available for public inspection at the offices of the Agency, 584 Phoenix Drive, Rome, New York and on the Agency's website.

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

Dated: February __, 2024

By: /s/ Shawna M. Papale, Executive Director

EXHIBIT B

MINUTES OF PUBLIC HEARING

Oneida County Industrial Development Agency
2024 Real Estate Lease
West Dacks LLC/Lodging Kit Company, Inc. Facility

1. Tim Fitzgerald, representing the Oneida County Industrial Development Agency (the "Agency"), called the hearing to order at ____ a.m.
2. Mr. Fitzgerald being the Assistant Secretary of the Agency recorded the minutes of the hearing.
3. Mr. Fitzgerald then described the proposed project and related financial assistance as follows:

West Dacks LLC, on behalf of itself and/or the principals of West Dacks LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "Company") has requested the Oneida County Industrial Development Agency (the "Agency") assist with a project consisting of (a) acquisition and renovation of a 181,345± square foot building (the "Existing Improvements") situated on a 44± acre parcel of land located at 210 Grove Street, Village of Boonville, Town of Boonville, Oneida County, New York (the "Land"); (b) construction of a 2,300± square foot addition to the Existing Improvements (the "Addition" and together with the Existing Improvements, the "Improvements"); and (c) acquisition and installation of equipment in the Improvements (the "Equipment"), all to be used for the purpose of supplying household and linen supplies to the commercial lodging industry (the Land, the Improvements and the Equipment referred to collectively as the "Facility" and the acquisition, construction, renovation and equipping of the Facility is referred to collectively as the "Project"). The Project will be initially owned and/or operated by the Company.

The Company will lease the Facility to the Agency pursuant to a lease agreement, and the Agency will lease the Facility back to the Company pursuant to a leaseback agreement. The Company will further sublease 103,000± square feet of the Facility to Lodging Kit Company, Inc. (the "Lodging Kit Sublessee") for its operation, and will lease the balance of the Facility to tenant or tenants to be identified from time to time for uses unrelated to the Project. At the end of the lease term, the Agency will terminate its leasehold interest in the Facility. The Agency

is contemplating providing financial assistance in the form of reduction of real property taxes for a period of ten years on that portion of the Facility relating to the Project, and exemptions from sales tax on materials and equipment acquired and installed in connection with the Project, which financial assistance is consistent with the Agency's Uniform Tax Exemption Policy, to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to the closing of the transactions described herein.

4. Mr. Fitzgerald then opened up the hearing for comments from the floor for or against the proposed financial assistance and the location and nature of the Facility. Attached is a listing of the persons heard and a summary of their views.
5. Mr. Fitzgerald then asked if there were any further comments, and, there being none, the hearing was closed at _____ a.m.

Tim Fitzgerald, Assistant Secretary

STATE OF NEW YORK)
 : SS.:
COUNTY OF ONEIDA)

I, the undersigned Secretary of the Oneida County Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the foregoing copy of the minutes of a public hearing held by the Oneida County Industrial Development Agency (the "Agency") on _____, 2024 at _____ a.m. local time, at _____, New York, with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of the minutes in connection with such matter.

I FURTHER CERTIFY that (i) the hearing was open for the public to attend and public notice of the date, time and location for said hearing was duly given, (ii) the hearing in all respects was duly held, and (iii) members of the public had an opportunity to be heard.

IN WITNESS WHEREOF, I have hereunto set my hand as of _____, 2024.

Secretary

EXHIBIT C

[To be printed on IDA letterhead and delivered to the Company when appropriate]

_____, 2024

West Dacks LLC
210 Grove Street
Boonville NY 13309

RE: *Oneida County Industrial Development Agency Lease-Leaseback Transaction
(West Dacks LLC/Lodging Kit Company, Inc. Facility)*

Ladies and Gentlemen:

Pursuant to a resolution duly adopted on February 9, 2024, the Agency appointed West Dacks LLC (the "Company") its agent in connection with a transaction in which the Agency will assist in (a) acquisition and renovation of a 181,345± square foot building (the "Existing Improvements") situated on a 44± acre parcel of land located at 210 Grove Street, Village of Boonville, Town of Boonville, Oneida County, New York (the "Land"); (b) construction of a 2,300± square foot addition to the Existing Improvements (the "Addition" and together with the Existing Improvements, the "Improvements"); and (c) acquisition and installation of equipment in the Improvements (the "Equipment"), all to be used for the purpose of supplying household and linen supplies to the commercial lodging industry (the Land, the Improvements and the Equipment referred to collectively as the "Facility" and the acquisition, construction, renovation and equipping of the Facility is referred to collectively as the "Project").

This appointment includes authority to purchase on behalf of the Agency all materials to be incorporated into and made an integral part of the Facility, and the following activities as they relate to any acquisition, construction, renovation, equipping and completion of any buildings, whether or not any materials, equipment or supplies described below are incorporated into or become an integral part of such buildings: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with acquisition, construction, renovation and equipping; (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with acquisition, construction, renovation and equipping; and (iii) all purchases, leases, rentals

and uses of equipment, machinery, and other tangible personal property (including installation costs), installed or placed in, upon or under such building, including all repairs and replacements of such property.

The Agency will appoint the Company as its only direct agent for the Project. The agency appointment includes the power of the Company to delegate such agency appointment, in whole or in part, to agents, subagents, contractors, subcontractors, materialmen, suppliers and vendors of the Company and to such other parties as the Company chooses so long as they are engaged, directly or indirectly, in the activities hereinbefore described. Please advise the Executive Director of the Agency if you wish to appoint a contractor or other subagent, and the Agency will issue an ST-60 to that party.

In exercising this agency appointment, you and each of your properly appointed agents and subagents must claim the sales tax exemption for all purchases by giving your vendors New York State Form ST-123. The supplier or vendor should identify the Facility on each bill or invoice as the "**West Dacks LLC Facility**" and indicate thereon that the Company, its agents, subagents, contractors and subcontractors acted as agent for the Agency in making the purchase.

You and each of your agents, subagents, contractors and/or subcontractors claiming a sales tax exemption in connection with the Facility must complete a New York State Department of Taxation and Finance Form ST-60. Original copies of each completed Form ST-60 must be delivered to the Agency within five (5) days of the appointment of each of your agents, subagents, contractors or subcontractors. Any agent, subagent, contractor or subcontractors of the Sublessee which delivers completed Form ST-60 to the Agency will be deemed to be the agent, subagent, contractor or subcontractor of the Agency for purposes of constructing and equipping the Facility, and shall only then be authorized to use Form ST-123 as described above. Failure to comply with these requirements may result in loss of sales tax exemptions for the Facility.

It is important to note that contractors and subcontractors who have not been appointed subagent cannot use the sales tax exemption for equipment rental, tools, supplies and other items that do not become part of the finished project. Contractors and subcontractors must be appointed as agent or sub-agent of the Agency to use the Agency sales tax exemption for these purchases. Contractors and subcontractors who have not been appointed a subagent and are making purchases that would otherwise be exempt outside of the Agency's interest in the Facility must claim the sales tax exemption for construction materials by giving their vendors a completed "Contractor Exempt Purchase Certificate" (Form ST-120.1) checking box (a).

The aforesaid appointment of the Sublessee as agent of the Agency to construct and equip the Facility shall expire at the earlier of (a) the completion of such activities and improvements, or (b) February 9, 2025, provided, however, such appointment may be extended at the discretion of the Agency, upon the written request of the Company if such activities and improvements are not completed by such time, and further provided that the Agency shall not unreasonably withhold its consent to the extension of such appointment.

The value of the sales tax to be abated relating to the construction and equipping of the Facility currently authorized by the Agency is not to exceed \$76,431.00. The Agency is required by law to recapture any New York State sales tax exemptions claimed by the

Company that exceed \$76,431.00 for purchases made relating to the Project in the aggregate.

You should be aware that the New York State General Municipal Law requires you to file an Annual Statement (Form ST-340) with the New York State Department of Taxation and Finance regarding the value of sales tax exemptions you, your agents, consultants or subcontractors have claimed pursuant to the authority we have conferred on you with respect to the Project. We are providing a form of a worksheet for you to track all exempt purchases made in completing the Project, using Forms ST-123 or Form ST-120.1. Please provide the Agency with a copy of Form ST-340 along with your annual report to the Agency and this worksheet. The penalty for failure to file such statement, or to provide a copy to the Agency, is the removal of your authority to act as an agent.

If, for some reason, this transaction never closes, you will be liable for payment of the sales tax, if applicable and you are not otherwise exempt, on all materials purchased.

Please sign and return a copy of this letter for our files. The Agency will issue and deliver Form ST-60 to you upon receipt of this signed agency appointment letter. The Agency reserves the right to issue a revised agency appointment letter with respect to the process for utilizing and reporting exemptions hereunder.

Very truly yours,

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Name:
Title:

ACCEPTED & AGREED:

WEST DACKS LLC

By: _____
Name:
Title:



ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION
 584 Phoenix Drive • Rome, New York 13441
 315-338-0393 • 800-765-4990 • FAX 315-338-5694
 E-Mail: info@mvedge.org • www.mvedge.org

February 2, 2024

Oneida County Industrial
 Development Agency
 584 Phoenix Drive
 Rome, New York 13441

Re: EDGE Flex Space Facility

Dear Agency Members:

On or about December 1, 2023, Economic Development Growth Enterprises Corporation (“EDGE”) filed an Application for Financial Assistance (the “Application”) with the Agency with regard to the above-referenced project (the “Project”). At its December 8, 2023 meeting, the Agency considered the Application and adopted an Inducement Resolution with respect to the Project. The purpose of this letter is to supplement the Application with some additional information regarding the Project.

As EDGE’s President, Steven J. DiMeo, reported to the Agency on December 8, 2023, EDGE plans to build a 60,000± sq. ft. flex-space building and related improvements on land which it owns situate at the Marcy Nanocenter Site in Marcy, New York (the “Flex Space Facility”) and, as landlord, lease space in the Flex Space Facility to tenants engaged in semiconductor manufacturing supply chain activities including Danfoss Silicon Power LLC (“Danfoss”). Danfoss also leases the Quad C Facility located at 330 Technology Drive, Marcy, New York.

The Application was based largely on Danfoss’ plans as they stood when EDGE submitted the Application to the Agency. Since then, Danfoss has further refined and/or revised its plans somewhat. Set forth below is a side-by-side comparison of various component parts of the Project as originally stated in the Application and as supplemented by this letter:

	<u>Original Plans</u>	<u>Supplemental Plans</u>
Number of sq. ft. in Flex Space Facility to be occupied by Danfoss	43,243± sq. ft.	30,250± sq. ft.
% of Flex Space Facility to be occupied by Danfoss	73.5%	50.18%
Remaining space in Flex Space Facility	17,038± sq. ft.	30,031± sq. ft.

available for lease to others		
Danfoss' Expected use of facility space	Combination of office space, test & assembly space and warehouse space	warehouse space
Aggregate Annual PILOT Payments (over 49 years)	\$8,587,378.00	\$7,389,180.00
Aggregate Amount Allocated to Affected Taxing Jurisdiction (over 49 years)	\$2,432,566.76	\$2,081,000.00
Aggregate Amount of 2% Commitment Payment to Town of Marcy (over 49 years)	\$171,747.54	\$147,000.00
New FTEs	51 FTEs (28 FTEs at Flex Space Facility & 23 FTEs at Quad C Facility)	51 FTEs (between the Flex Space Facility and the Quad C Facility)
Retained FTEs	295 FTEs (295 FTEs at Quad C Facility)	295 FTEs (between the Flex Space Facility and the Quad C Facility)

Please let the undersigned know if you have any questions or need any additional information.

Very truly yours,

ECONOMIC DEVELOPMENT GROWTH
ENTERPRISES CORPORATION

By: 
William VanShufflin
SVP Strategic Initiatives

JES/mag
Enclosures

Anthony J. Picente Jr.
County Executive

Shawna M. Papale
Secretary/ Treasurer/
Executive Director

Timothy Fitzgerald
Assistant Secretary

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

OCIDA



584 Phoenix Drive
Rome, New York 13441-4105
(315) 338-0393, fax (315) 338-5694

Stephen R. Zogby
David C. Grow
Franca Armstrong
James J. Genovese, II
Aricca R. Lewis
Kristen Martin
Tim Reed

To: Oneida County Industrial Development Agency Board of Directors
From: Shawna M. Papale
Date: February 1, 2024
RE: Flex Space Public Hearing

Mark Kaucher called the meeting to order at 10 AM on January 18, 2024 and the Flex Space project submitted by Mohawk Valley EDGE as induced by the IDA.

In attendance were Shawna Papale, Mark Kaucher, and Tim Fitzgerald. William Vanshufflin was present representing Mohawk Valley EDGE. Stephen Buda was present representing the Maynard Fire District. Bill Vanshufflin spoke to the project and what it entailed at that time. Mr. Buda shared that the fire department is pleased with being included in the Marcy Nanocenter PILOT allocation arrangement with the other tax jurisdictions. He spoke in support of the project.

The public hearing concluded at 10:35 AM.

**Inducement Resolution Amendment
EDGE Flex Space Facility at Marcy Nanocenter**

RESOLUTION OF THE ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY TAKING OFFICIAL ACTION TO AMEND AN INDUCEMENT RESOLUTION PREVIOUSLY ADOPTED IN CONNECTION WITH A LEASE-LEASEBACK TRANSACTION, AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT AGREEMENT AND MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE PROJECT.

WHEREAS, Economic Development Growth Enterprises Corporation, on behalf of itself and its principals (collectively, the "Company" and sometimes referred to as "EDGE"), or an entity to be formed on behalf of any of the foregoing, applied to the Agency to enter into a transaction in which the Agency will assist in construction of a 60,281± square foot single story Flex Space building including loading docks and all utilities and infrastructure to support the same (collectively, the "Improvements") on a 17± acre portion of a parcel of land situate at 2049 Wafer Loop Road in the Town of Marcy, Oneida County, New York (the "Land"); and acquisition and installation of furniture, fixtures and equipment in the Improvements (the "Equipment"), to provide adaptable logistics/warehousing space for supply chain companies for the purpose of supporting the semiconductor and advanced electronics industry and in furtherance of the master plan for the Marcy Nanocenter site (the Land, the Improvements and the Equipment is referred to collectively as the "Facility" and the construction and equipping of the Improvements is referred to as the "Project"); and

WHEREAS, the Project is subject to the terms of an Agreement Approving PILOT Terms and Allocating PILOT Payments dated as of October 1, 2013 by and among the Agency, the County of Oneida, Whitesboro Central School District, the Town of Marcy, Maynard Fire District, Dunham Public Library and EDGE (sometimes hereinafter referred to as the "PILOT Allocation Agreement"); and

WHEREAS, in the Company's Application for Financial Assistance dated December 1, 2023 (together with all related materials, the "Application") the Company made representations with respect to the Project, including but not limited to the below:

WHEREAS, on December 8, 2023 the Agency adopted an inducement resolution (the "Inducement Resolution") granting preliminary approval for Financial Assistance in support of the Project and authorized the Agency to conduct a public hearing; and

WHEREAS, in the Inducement Resolution the Agency outlined the reasons it intends to deviate from its Uniform Tax Exemption Policy (the “Policy”) and delivered to the affected tax jurisdictions a copy of the Inducement Resolution and provided notice of the public hearing; and

WHEREAS, the Agency conducted a public hearing on January 18, 2024, minutes of which have been received by and reviewed by the Agency; and

WHEREAS, the Company has now submitted to the Agency a letter and supporting materials dated February 2, 2024 outlining revisions to the Project that have transpired since the Application was submitted (the “Supplemental Application Materials”), which revisions are summarized below:

- (1) Original Application: The Company projected it would sublease 44,243± square feet of the Facility to Danfoss Silicon Power LLC (the “Sublessee”) for its operation, to support the continued growth of the Sublessee at the Quad C facility at SUNY Poly (the “Quad C Facility”) and would further sublease the remaining square feet of the Facility to another user or users relating to growing a regional ecosystem for the semiconductor and advanced electronic industry.

Supplemental Application Materials: The Sublessee requested a change to the Sublease Agreement where it will occupy 30,250± square feet of the Facility. The terms of the Sublease Agreement provide for up to a 20 year sublease term and gives the Sublessee the option to terminate early under certain conditions (the “Sublease Agreement”). The Company still intends to further sublease the remaining square feet of the Facility to another user or users (possibly including Sublessee) relating to growing a regional ecosystem for the semiconductor and advanced electronic industry.

- (2) Original Application: The Company projected the Facility would be utilized to provide light manufacturing, office, labs/technology and logistics/warehousing space for supply chain companies for the purpose of supporting the semiconductor and advanced electronics industry and in furtherance of the master plan for the Marcy Nanocenter site.

Supplemental Application Materials. The Company has determined the more accurate projected use of the Facility is to provide adaptable logistics/warehousing space for supply chain companies for the purpose of supporting the semiconductor and advanced electronics industry and in furtherance of the master plan for the Marcy Nanocenter site

(3) Original Application: The financial assistance requested by the Company was described as follows (the “Financial Assistance”):

- Sales and use tax exemption valued at \$61,250.00
- Mortgage recording tax exemptions valued at \$66,060.00
- Based upon projections that the Facility will be used as multiple classifications of space, the Company shall pay approximately \$8,587,378.00 in real property taxes over 49 years (which figure may be updated from time to time)

Supplemental Application Materials: The revised financial assistance requested by the Company is described as follows (the “Revised Financial Assistance”):

- Sales and use tax exemption still valued at \$61,250.00
- Mortgage recording tax exemptions still valued at \$66,060.00
- Based upon the projected use of the Facility as adaptable logistics/warehouse space, the Company shall pay approximately \$7,389,180.00 in real property taxes over 49 years (which figure may be updated from time to time); and

(4) Original Application: The Company projected that the Project will result in the Company creating and retaining (or causing the Sublessee to create and retain) the following full time equivalent (“FTE”) positions: (a) create 51 FTEs (28 FTEs at the Facility and 23 FTEs at the Quad C Facility) prior to the commencement of the third lease year and maintain all for the balance of the term of the Leaseback Agreement; and (b) retain 295 FTEs at the Quad C Facility for the full term of the Leaseback Agreement, all as a result of the Company undertaking the Project (the “Employment Obligation”)

Supplemental Application Materials: The Company projects that the Project will result in the Company creating and retaining (or causing the Sublessee to create and retain) the following full time equivalent (“FTE”) positions: (a) create 51 FTEs between the Facility and the Quad C Facility prior to the commencement of the third lease year and maintain all for the term of the Sublease Agreement; and (b) retain 295 FTEs between the Facility and the Quad C Facility for the term of the Sublease Agreement, all as a result of the Company undertaking the Project (the “Revised Employment Obligation”); and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Agency now wishes to amend the Inducement Resolution based upon the Supplemental Application Materials.

NOW, THEREFORE, BE IT RESOLVED by the Oneida County Industrial Development Agency (a majority of the members thereof affirmatively concurring) that:

Section 1. (a) The construction and equipping of the Facility and the Agency's financial assistance therefor, as amended by the Supplemental Application Materials, will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the County and the people of the State of New York and improve their standard of living, and thereby serve the public purposes of the Act and the same is, therefore, approved.

(b) It is desirable and in the public interest for the Agency to enter into a lease-leaseback transaction, for the purpose of providing financial assistance for the construction and equipping of the Facility, as reflected in the Application as amended by the Supplemental Application Materials, and as the Application may be further amended from time to time prior to the closing of the lease-leaseback transaction.

Section 2. The form and substance of a proposed inducement agreement (substantially in the Agency's standard form reflecting the terms contained in the Inducement Resolution and this supplemental resolution) by and between the Agency and the Company setting forth the undertakings of the Agency and the Company with respect to the closing of the lease-leaseback transaction, and the development of the Facility (the "Agreement") is hereby approved. The Chairman of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Agreement, with such changes in terms and form as the Chairman shall approve. The execution thereof by the Chairman shall constitute conclusive evidence of such approval.

Section 3. Subject to the conditions set forth in Section 5.02 of the Agreement, the Agency shall assist the Company in its construction and equipping of the Facility and will provide the Revised Financial Assistance with respect thereto; provided, however, that the Agency must approve the EDGE Project Related Debt prior to entering into documents relating to the EDGE Project Related Debt

and conferring mortgage recording tax exemption with respect to the EDGE Project Related Debt.

Section 4. The Agency shall conduct a second public hearing. The legal notice shall be substantially in the form attached hereto as Exhibit A, and the minutes of the hearing shall be prepared in substantially the form attached hereto as Exhibit B.

Section 5. The Chairman of the Agency is hereby authorized and directed (i) to distribute copies of this resolution to the Company and the affected tax jurisdictions; and (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 6. This resolution shall take effect immediately.

DRAFT

STATE OF NEW YORK)
 : ss.:
COUNTY OF ONEIDA)

I, the undersigned Secretary of the Oneida County Industrial Development Agency DO HEREBY CERTIFY THAT:

I have compared the foregoing copy of a resolution of the Oneida County Industrial Development Agency (the "Agency"), with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of such resolution and of the proceedings of the Agency in connection with such matter.

Such resolution was passed at a meeting of the Agency duly convened in public session on February 9, 2024 at eight a.m., local time, at Rome, New York which the following members were:

Members Present:

Members Present Webex:

EDGE Staff Present:

Others Present:

Others Present Webex/Teleconference:

The question of the adoption of the foregoing resolution was duly put to vote, with the members voting as follows:

and, therefore, the resolution was declared duly adopted.

The Agreement, the Application and the Supplemental Application Materials are in substantially the form presented to and/or approved at such meeting.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, (ii) pursuant to Sections 103a and 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public and public notice of the time and place of said meeting was duly given in accordance with such Sections 103a and 104, (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____ 2024.

Shawna Papale, Secretary

DRAFT

EXHIBIT A
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York State General Municipal Law, will be held by the Oneida County Industrial Development Agency (the "Agency") on the ____ day of _____ 2024 at _____AM, local time, at 8801 Paul Becker Road, Town of Marcy, Oneida County, New York 13403 in connection with the following matters:

Economic Development Growth Enterprises Corporation, on behalf of itself and its principals (collectively, the "Company" and sometimes referred to as "EDGE"), or an entity to be formed on behalf of any of the foregoing, has applied to the Agency to enter into a transaction in which the Agency will assist in construction of a 60,281± square foot single story Flex Space building including loading docks and all utilities and infrastructure to support the same (collectively, the "Improvements") on a 17± acre portion of a parcel of land situate at 2049 Wafer Loop Road in the Town of Marcy, Oneida County, New York (the "Land"); and acquisition and installation of furniture, fixtures and equipment in the Improvements (the "Equipment"), to provide adaptable logistics/warehousing space for supply chain companies for the purpose of supporting the semiconductor and advanced electronics industry and in furtherance of the master plan for the Marcy Nanocenter site (the Land, the Improvements and the Equipment is referred to collectively as the "Facility" and the construction and equipping of the Improvements is referred to as the "Project"). The Facility will be initially operated by the Company, and the Company will sublease a portion of the Facility to Danfoss Silicon Power LLC (the "Sublessee") for its operation.

The Agency contemplates it will provide financial assistance in the form of exemptions from mortgage recording taxes, exemptions from sales and use taxes on materials and/or equipment used or incorporated in the Facility, and payment of real property taxes for a period of 49 years consistent with the Agreement Approving PILOT Terms and Allocating PILOT Payments dated as of October 1, 2013 by and among the Agency, the County of Oneida, Whitesboro Central School District, the Town of Marcy, Maynard Fire District, Dunham Public Library and EDGE, conditioned upon the Company maintaining (or causing the Sublessee to maintain) certain employment levels at the Facility, which financial assistance represents a deviation from the Agency's Uniform Tax Exemption Policy, to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency. The Agency conducted a public hearing on January 18, 2024 regarding the Project. Following the public hearing, the Company submitted supplemental application materials to the Agency revising certain terms of the Project and the proposed financial assistance, and the Agency wishes to conduct a second public hearing.

A representative of the Agency will at the above-stated time and place hear and accept written comments from all persons with views in favor of or opposed to either the proposed financial assistance to the Company or the location or nature of the Facility. A copy of the Application for Financial Assistance filed by the Company with the Agency, including an analysis of the costs and benefits of the proposed Project, is available for public inspection at the offices of the Agency, 584 Phoenix Drive, Rome, New York.

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY
By: /s/ Shawna M. Papale, Executive Director
Dated: February 9, 2024

EXHIBIT B

MINUTES OF PUBLIC HEARING

Oneida County Industrial Development Agency
2024 Real Estate Lease
EDGE Flex Space Facility

1. _____, _____ of the Oneida County Industrial Development Agency (the "Agency"), called the hearing to order at _____ a.m.
2. _____, recorded the minutes of the hearing.
3. _____ then described the proposed project and related financial assistance as follows:

Economic Development Growth Enterprises Corporation, on behalf of itself and its principals (collectively, the "Company" and sometimes referred to as "EDGE"), or an entity to be formed on behalf of any of the foregoing, has applied to the Agency to enter into a transaction in which the Agency will assist in construction of a 60,281± square foot single story Flex Space building including loading docks and all utilities and infrastructure to support the same (collectively, the "Improvements") on a 17± acre portion of a parcel of land situate at 2049 Wafer Loop Road in the Town of Marcy, Oneida County, New York (the "Land"); and acquisition and installation of furniture, fixtures and equipment in the Improvements (the "Equipment"), to provide adaptable logistics/warehousing space for supply chain companies for the purpose of supporting the semiconductor and advanced electronics industry and in furtherance of the master plan for the Marcy Nanocenter site (the Land, the Improvements and the Equipment is referred to collectively as the "Facility" and the construction and equipping of the Improvements is referred to as the "Project"). The Facility will be initially operated by the Company, and the Company will sublease a portion of the Facility to Danfoss Silicon Power LLC (the "Sublessee") for its operation.

The Agency contemplates it will provide financial assistance in the form of exemptions from mortgage recording taxes, exemptions from sales and use taxes on materials and/or equipment used or incorporated in the Facility, and payment of real property taxes for a period of 49 years consistent with the Agreement Approving PILOT Terms and Allocating PILOT Payments dated as of October 1, 2013 by and among the Agency, the County of Oneida, Whitesboro Central School District, the Town of Marcy, Maynard Fire District, Dunham Public Library and EDGE, conditioned upon the Company maintaining

(or causing the Sublessee to maintain) certain employment levels at the Facility, which financial assistance represents a deviation from the Agency's Uniform Tax Exemption Policy, to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency. The Agency conducted a public hearing on January 18, 2024 regarding the Project. Following the public hearing, the Company submitted supplemental application materials to the Agency revising certain terms of the Project and the proposed financial assistance, and the Agency wishes to conduct a second public hearing.

4. _____ then opened up the hearing for comments from the floor for or against the proposed financial assistance and the location and nature of the Facility. Attached is a listing of the persons heard and a summary of their views.
5. _____ then asked if there were any further comments, and, there being none, the hearing was closed at _____ a.m.

[Name]

STATE OF NEW YORK)
 : SS.:
COUNTY OF ONEIDA)

I, the undersigned Secretary of the Oneida County Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the foregoing copy of the minutes of a public hearing held by the Oneida County Industrial Development Agency (the "Agency") on _____, 2024 at _____ a.m. local time, at 8801 Paul Becker Road, Town of Marcy, Oneida County, New York 13403 with the original thereof on file in the office of the Issuer, and that the same is a true and correct copy of the minutes in connection with such matter.

I FURTHER CERTIFY that (i) pursuant to Title 1 of Article 18-A of the New York General Municipal Law, said hearing was open to the general public, and public notice of the time and place of said hearing was duly given in accordance with such Title 1 of Article 18-A, (ii) the hearing in all respects was duly held, and (iii) members of the public had an opportunity to be heard.

IN WITNESS WHEREOF, I have hereunto set my hand as of _____, 2024.

Secretary

RESOLUTION OF THE ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY APPROVING: (A) THE TENDER OF AN OFFER TO PURCHASE PURSUANT TO §303 OF THE EMINENT DOMAIN PROCEDURES LAW OF THE STATE OF NEW YORK ("EDPL"); AND (B) THE COMMENCEMENT OF A PROCEEDING UNDER EDPL ARTICLE 4 TO ACQUIRE THE CERTAIN PROPERTY KNOWN AS 411 COLUMBIA STREET, CITY OF UTICA, ONEIDA COUNTY, NEW YORK (THE "PROPERTY") BY EMINENT DOMAIN; AND (C) THE CLOSING OF A LEASE-LEASEBACK TRANSACTION

WHEREAS, Central Utica Building, LLC (the "CUB") presented an application (the "Application") to the Oneida County Industrial Development Agency (the "Agency") requesting that the Agency consider the provision of financial assistance supporting the construction of a 94,000± square foot state-of-the-art medical office building and appurtenant facilities including parking areas and all infrastructure, utilities and amenities to support the same (collectively, the "Improvements") situated on parcels of land described in the Application to the Agency adjacent to the new Wynn Hospital (the "Wynn Hospital") located at the corner of State and Columbia Streets, City of Utica, Oneida County, New York (the "Land") and acquisition and installation of equipment in the Improvements (the "Equipment"), all for the purpose of providing a seamless and integrated health care delivery system together with the Wynn Hospital, and to enhance and expand the delivery of health care services to the community (the Land, the Improvements and the Equipment are referred to collectively as the "Facility" and the construction and equipping of the Improvements is referred to as the "Project"); and (ii) to provide certain financial assistance in support of the Project, consisting of exemptions from sales and use taxes and exemptions from mortgage recording taxes, pursuant to Article 18-A of the General Municipal Law of the State of New York and Chapter 372 of the Laws of 1970 of the State of New York, as may be amended from time to time (collectively, the "Act"); and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the "Regulations"), the City of Utica Planning Board (the "Planning Board") served as Lead Agency (as defined in the SEQR Act and Regulations) for purposes of conducting a coordinated review of the environmental impacts of a certain project undertaken by the Mohawk Valley Health System ("MVHS") consisting of construction of a 670,000± square foot hospital, central utility plant, parking facilities (one municipal parking garage and multiple surface lots), medical office building (by private developer), campus grounds, utility/pedestrian bridge (over Columbia Street) and helipad (the "MVHS Project"), all in accordance with the SEQR Act and the Regulations; and

WHEREAS, by resolution adopted April 18, 2019 (the "Planning Board SEQRA Resolution"), the Planning Board determined to issue a written findings statement regarding the relevant environmental impacts, facts and conclusions disclosed in the Planning Board's Final Environmental Impact Statement dated February 2019 and accepted by the Planning Board on March 21, 2019 (the "FEIS") in accordance with the requirements of Section 617.11 of the Regulations; and

WHEREAS, the Planning Board issued a Findings Statements under SEQRA (the "Findings Statement") wherein the Planning Board concluded with respect to the MVHS Project that: (1) the requirements of 6 NYCRR Part 617 have been met; and (2) consistent with social,

economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable; and

WHEREAS, the Agency adopted a Statement of Findings on January 21, 2022 for the Facility pursuant to which the Agency found: (1) the Facility is located in a "highly distressed area" as such term is defined in Section 854(18) of the Act; and (2) the Facility will preserve, private sector jobs in the State of New York and thereby serve the public purposes of the Act and to undertake the Project as requested by CUB; and

WHEREAS, on January 21, 2022, the Agency adopted a certain resolution pursuant to SEQRA finding that there was no material change in the scope of the Project under SEQRA that would affect the Findings Statement adopted by the Planning Board and that no additional review under SEQRA was required for the Project; and

WHEREAS, MVHS owns three of the parcels comprising the Land and has ground leased those parcels to CUB pursuant to a Ground Lease with a term of 99 years (the "Ground Lease"); and

WHEREAS, to accommodate the parking requirements for the Facility, CUB represented that it must acquire the property located at 411 Columbia Street, City of Utica, Oneida County, New York a/k/a SBL No.: 318.41-2-38 (the "O'Brien Property") for the Project; and

WHEREAS, on January 14, 2022, CUB represented that it was unable to obtain ownership or control of the O'Brien Property and requested that the Agency initiate proceedings under the EDPL to acquire the O'Brien Property from J.P. O'Brien Plumbing and Heating Supply, Inc. now known as Rome Plumbing & Heating Supply Co., Inc. ("O'Brien") and its purported contract vendee being Bowers Development, LLC ("Bowers");

WHEREAS, pursuant to Article 2 of the EDPL, the Agency conducted a Public Hearing on February 23, 2022 at 9.00 AM at the Oneida County Legislative Chambers, Oneida County Office Building, 10th Floor, 800 Park Avenue, City of Utica, Oneida County, New York;

WHEREAS, on March 3, 2022 the Agency adopted a resolution authorizing the financial assistance in support of the Project subject to the satisfaction of certain conditions, which conditions have been addressed to the satisfaction of the Agency; and

WHEREAS, on April 7, 2022 and pursuant to Section 204 of the EDPL, the Agency adopted a resolution approving its Determinations and Findings on the acquisition of the O'Brien Property pursuant to eminent domain (the "EDPL Findings").

WHEREAS, pursuant to Section 207 of the EDPL, Bowers and O'Brien commenced a proceeding on May 9, 2022 against the Agency and CUB in the Appellate Division, Fourth Department (the "Appellate Division"); and

WHEREAS, on September 15, 2022, the Planning Board granted final site plan approval and a special use permit for the Facility; and

WHEREAS, on December 23, 2022, the majority of the Appellate Division issued a Memorandum and Order granting the petition of Bowers and O'Brien and annulling the EDPL Findings determining that the Agency lacked the requisite authority to acquire the O'Brien Property with a single judge dissenting (the "2022 AD Determination"); and

WHEREAS, on March 17, 2023, the Appellate Division granted the application of the Agency and CUB for leave to appeal from the 2022 AD Determination to the New York State Court of Appeals ("COA"); and

WHEREAS, on or about April 7, 2023, Bowers and O'Brien represented that the O'Brien Property had been acquired by Utica Med Building, LLC, a New York limited liability company, having the same address as Bowers being 6308 Fly Road, East Syracuse, New York 13058 (the "Utica Med") (NYSCEF Index No.: EFCA2023-000906, Document No.1, p.2, Footnote 2); and

WHEREAS, on December 14, 2023, the COA issued a Memorandum reversing the determination of the majority in the 2022 AD Determination finding that the Agency had the requisite authority to acquire the O'Brien Property and remanding the proceeding to the Appellate Division to address the arguments made by O'Brien and Bowers that were not addressed by the majority in the 2022 AD Determination; and

WHEREAS, on February 2, 2024, upon the remittitur from the COA, the Appellate Division issued a certain Memorandum and Order dismissing the petition; and

WHEREAS, as of February 6, 2024, a deed conveying the O'Brien Property from O'Brien to Utica Med had not been filed in the Office of the Oneida County Clerk.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. Pursuant to Section 303 of the EDPL, the Agency hereby approves an offer to acquire the O'Brien Property for the sum of \$1,200,000 (the "Offer Price"), and authorizes the Chairman of the Agency to execute and deliver an offer letter under Section 303 of the EDPL to O'Brien, Bowers and its purported acquiring affiliate, Utica Med, to acquire the O'Brien Property by eminent domain.

Section 2. Pursuant to Section 402(B) of the EDPL, the Agency authorizes: (1) Goldman Attorneys PLLC, its Special Counsel, to initiate all proceedings necessary to acquire the O'Brien Property, including prevesting discovery, and (2) the Chairman and/or Vice Chairman of the Agency to execute any and all required pleadings, certificates and notices, and (3) the closing of the lease-leaseback transaction and all actions authorized in the Final Authorizing Resolution.

Section 3. The Agency authorizes the staff of the Agency and Special Counsel, Goldman Attorneys PLLC to undertake any and other work, notices, filings and/or submissions required to effectuate the determinations set forth in this resolution.

Section 4. The Agency hereby ratifies, confirms and approves all prior actions taken by the Agency, its directors, officers, employees and agents, with respect to the Project.

Section 5. This resolution shall take effect immediately.

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DRAFT

STATE OF NEW YORK)
 : SS.:
COUNTY OF ONEIDA)

I, the undersigned Secretary of the Oneida County Industrial Development Agency, **DO HEREBY CERTIFY THAT:**

I have compared the foregoing copy of a resolution of the Oneida County Industrial Development Agency (the "Agency") with the original thereof on file in the office of the Agency, and the same is a true and correct copy of such resolution and of the proceedings of the Agency in connection with such matter.

Such resolution was passed at a meeting of the Board of Directors of the Agency duly convened in public session on February 9, 2024 at 8:00 a.m. local time, at 584 Phoenix Drive, Rome, New York 13440 at which the following members were:

Members Present: Stephen R. Zogby
 David C. Grow
 James J. Genovese II
 Aricca R. Lewis
 Tim Reed
 Kristen Martin
 Franca Armstrong

Staff Present:

The question of the adoption of the foregoing resolution was duly put to vote on roll call, which resulted as follows:

Voting Aye

Voting Nay

and, therefore, the resolution was declared duly adopted.

I FURTHER CERTIFY that (i) all directors of the Agency had due notice of said meeting, (ii) pursuant to Sections 103a and 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public and public notice of the time and place of said meeting was duly given in accordance with such Sections 103a and 104, (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 9th day of February, 2024.

Secretary

DRAFT