

**Resolution Approving Modification of
EDGE Project Related Debt
(Cree, Inc. Facility)**

Date: December 8, 2022

At a meeting of the Oneida County Industrial Development Agency (the "Agency") held at 584 Phoenix Drive, Rome, New York 13441 on the 8th day of December 2022, the following members of the Agency were:

Members Present: David Grow, Michael Fitzgerald; Steve Zogby, Kirk Hinman, Gene Quadraro Mary Faith Messenger

Members Present: WebEx: Ferris Betrus.

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to approving the modification of certain EDGE Project Related Debt in furtherance of the Cree, Inc. Facility.

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

Voting Aye

David Grow
Michael Fitzgerald
Ferris Betrus
Kirk Hinman
Mary Faith Messenger
Gene Quadraro
Steve Zogby

Voting Nay

RESOLUTION APPROVING THE MODIFICATION OF CERTAIN EDGE PROJECT RELATED DEBT AND EXECUTION OF MODIFICATION DOCUMENTS WITH RESPECT TO THE CREE, INC. FACILITY LOCATED IN THE TOWN OF MARCY, ONEIDA COUNTY.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended and Chapter 372 of the Laws of 1970 of the State of New York (collectively, the "Act"), the Agency was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, Economic Development Growth Enterprises Corporation, on behalf of itself and its principals (collectively, "EDGE"), and Cree, Inc., on behalf of itself and its principals (collectively, the "Company"), entered into a transaction in which the Agency is assisting in the (i) acquisition of an interest in a 55.25± acre parcel of land situate at Edic Road in the Town of Marcy, Oneida County, New York (the "Land"), (ii) construction on the Land of four buildings with 450,000± square feet of floor area consisting of (a) a three-story administrative building measuring 75,000± square feet; (b) a three-story, 300,000± square foot ballroom style wafer fabrication building with total cleanroom space measuring 100,000 - 135,000 square feet; (c) a HPM Warehouse, (d) a single-story Central Utilities Building measuring 70,000± square feet, and (e) all utilities and infrastructure to support the same (collectively, the "Improvements"); and (iii) acquisition and installation of furniture, fixtures and equipment in the Improvements (the "Equipment"), all for the purpose of providing a state of the art wafer fabrication plant to support the substantial growth of the Company in its target markets (the Land, the Improvements and the Equipment is referred to collectively as the "Facility" and the construction, renovation and equipping of the Improvements is referred to as the "Project"); and

WHEREAS, The People of the State of New York, acting by and through the State University of New York (the "State") owns in fee a 53.76± acre portion of the Land (the "State Land") and leases the StateLand to Fort Schuyler Management Corporation ("FSMC") pursuant to aa Amended and Restated Ground Lease dated as of May 1, 2010, as may have been or may be amended from time to time (the "First Ground Lease"); and

WHEREAS, FSMC ground subleases the State Land to EDGE pursuant to a Second Ground Sublease, as may be amended from time to time (the "Second Ground Lease"); and

WHEREAS, EDGE owns in fee a 1.49± acre portion of the Land (the "EDGE Land"); and

WHEREAS, EDGE sub-subleases the Facility to the Company pursuant to a Ground Sublease, as may be amended from time to time (the "Third Ground Lease"); and

WHEREAS, the Agency acquired a leasehold interest in the Facility pursuant to a Lease Agreement from the Company to the Agency (the "Lease Agreement") and leases the Facility back to the Company pursuant to a Leaseback Agreement from the Agency to the Company (the "Leaseback Agreement"); and

WHEREAS, the Agency provides financial assistance in support of the Project in the form of exemptions from mortgage recording taxes and exemptions from sales and use taxes on materials and/or the Equipment used or incorporated in the Facility; and

WHEREAS, the Agency made provision for payments-in-lieu-of-taxes (the "PILOT Payments") by the Company to the Agency pursuant to a Payment-In-Lieu-of-Tax Agreement (the "PILOT Agreement"), which PILOT Payments are to be allocated by the Agency in accordance with the terms of an Agreement Approving PILOT Terms and Allocating PILOT Payments dated as of October 1, 2013 by and among the County of Oneida, Whitesboro Central School District, the Town of Marcy, Maynard Fire District, Dunham Public Library (each an "Affected Tax Jurisdiction" and collectively, the "Affected Tax Jurisdictions"), the Agency and EDGE (the "Allocation Agreement"); and

WHEREAS, the payments under the PILOT Agreement are a first-priority lien on the Facility, secured by a PILOT Mortgage from the Agency and the Company to the Agency, for the benefit of the Taxing Authorities (the "PILOT Mortgage"); and

WHEREAS, the Company represented that it will create certain full time equivalent ("FTE") positions at the Facility, as a result of undertaking the Facility (the "Employment Obligation"), and the Financial Assistance is conditioned upon the Company achieving the Employment Obligation for a period of ten (10) years following completion of the Facility, and failure to do so may result in the termination or recapture of Financial Assistance; and

WHEREAS, EDGE has agreed to undertake certain site work in furtherance of the Project (the "EDGE Project Related Improvements") and to finance a portion of the costs of the EDGE Project Related Improvements by undertaking certain site work in furtherance of the Project (the "EDGE Project Related Debt"); and

WHEREAS, NBT Bank, National Association (the "Bank"), together with a consortium of other lenders to be identified at a later date (collectively, the "EDGE Lenders," and together with the Bank, collectively, the "Lenders") have agreed to finance the EDGE Project Related Improvements by extending one or more loans to EDGE in the principal sum of up to \$9,250,000.00, to be secured by one or more mortgages and/or other documents deemed necessary by the Lenders to secure their respective interests (the "Lenders' Financing Documents"); and

WHEREAS, by resolution adopted on October 23, 2020 (the "Resolution") the Agency approved EDGE Project Related Debt in an amount not to exceed \$9,450,000.00 on the condition that the Lender's Financing Documents are not extended without the express written approval of the Agency; and

WHEREAS, EDGE has requested, and the Bank has approved, a modification of certain terms of financing relating to two loans extended by the Bank to EDGE relating to the EDGE Project Related Debt, which modification does not increase the principal amount of the loans but does extend the payment terms from five to ten years, in addition to other modifications to the loan terms; and

WHEREAS, EDGE submitted a request to the Agency to approve the modification of the EDGE Project Related Debt and deliver to the Bank a certificate in substantially the form attached hereto as Exhibit A (the "Written Consent") and any other documents the Bank may require to modify the Lender's Financing Documents (together with the Written Consent, the "Modification Documents"); and

WHEREAS, the Agency recognizes that the Project is vitally important to economic development efforts in Oneida County, and desires to approve the modification of the EDGE Project Related Debt in support of the Project.

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

Section 1. The Agency hereby finds and determines:

(a) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(b) The Facility constitutes a “project”, as such term is defined in the Act; and

(c) Approving the modification of the EDGE Project Related Debt will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Oneida County and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(d) Modification of the EDGE Project Related Debt is reasonably necessary to induce EDGE to undertake the EDGE Project Related Improvements and to induce the Company to maintain and expand its business operations in the State of New York; and

(e) It is desirable and in the public interest for the Agency to approve the modification of the EDGE Project Related Debt; and

(f) The Modification Documents, in the Agency’s customary forms and subject to review by counsel, will be effective instruments whereby the Agency approves the modification of the EDGE Project Related Debt and modifies the terms of the EDGE Project Related Debt as presented to the Agency.

Section 2. In consequence of the foregoing, the Agency hereby determines to: (i) approve the modification of the EDGE Project Related Debt; and (ii) execute, deliver and perform the Modification Documents.

Section 3. The Agency is hereby authorized to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such modification of EDGE Project Related Debt are hereby approved, ratified and confirmed.

Section 4. The form and substance of the Modification Documents are hereby approved, subject to (i) the inclusion of the Agency’s standard financing provisions; (ii) the condition that the Lenders’ Financing Documents will not be further extended without the express written approval of the Agency; and (iii) approval of Agency counsel.

Section 5.

(a) The Chairman, Vice Chairman, Secretary or any member of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Modification Documents, all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman, Vice Chairman, Secretary or any member of the

Agency shall approve, and such other related documents as may be, in the judgment of the Chairman and Agency Counsel, necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter collectively called the "Closing Documents"). The execution thereof by the Chairman, Vice Chairman, or any member of the Agency shall constitute conclusive evidence of such approval.

(b) The Chairman, Vice Chairman, Secretary or member of the Agency are further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Leaseback Agreement).

Section 6. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Closing Documents, and to execute and deliver all such additional certificates, instruments and documents, pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Closing Documents binding upon the Agency.

Section 7. This resolution shall take effect immediately.

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

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

That I have compared the annexed extract of the minutes of the meeting of the Agency, including the resolutions contained therein, held on the 18th day of November 2022 with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

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 place of said meeting was duly given, (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 this 8th day of December 2022.

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: 
Shawna M. Papale, Secretary

EXHIBIT A

**CONSENT BY AGENCY TO MODIFICATION OF EDGE PROJECT-RELATED DEBT
SECURED BY THE COLLATERAL ASSIGNMENT OF RENTS AND PAYMENTS.**

The Oneida County Industrial Development Agency (the “Agency”), by and through its duly authorized representative signing below, hereby confirms that it has consented to Economic Development Growth Enterprises Corporation’s (“EDGE”) modification of the terms of certain EDGE Project-Related Debt secured by a Collateral Assignment of Rents and Payments dated November 24, 2020 from EDGE and the Agency to NBT Bank, National Association.

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By: _____
David C. Grow, Chairman

STATE OF NEW YORK:

Ss.:

COUNTY OF ONEIDA:

On this _____ day of November, 2022, before me, a notary public in and for such State, did personally appear David C. Grow, to me personally known or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument; and acknowledged before me that he/she executed the same in his/her capacities; and that by his/her signature on the instrument, the individual, or the person upon whose behalf such individual acted, executed the same.

Notary Public - State of NY