

**AGREEMENT APPROVING PILOT TERMS  
AND ALLOCATING PILOT PAYMENTS**

**THIS AGREEMENT APPROVING PILOT TERMS AND ALLOCATING PILOT PAYMENTS** (this "Agreement"), dated as of October 1, 2013 (the "Execution Date"), is by, between and among **ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a New York public benefit corporation, having an office at 584 Phoenix Drive, Rome, New York 13441 (the "Agency"), **COUNTY OF ONEIDA**, a New York municipal corporation, having an office at the County Office Building, 800 Park Avenue, Utica, New York 13501 (the "County"), **WHITESBORO CENTRAL SCHOOL DISTRICT**, a New York school district, having an office at 67 Whitesboro Street, Yorkville, New York 13495 (the "School District"), **TOWN OF MARCY**, a New York municipal corporation, having an office at Marcy Town Hall, 8881 Paul Becker Road, Marcy, New York 13403 (the "Town"), **MAYNARD FIRE DISTRICT**, a New York fire district, having an office at 9500 Maynard Drive, Marcy, New York 13403 (the "Fire District"), **DUNHAM PUBLIC LIBRARY**, a New York school district public library, having an office at 76 Main Street, Whitesboro, New York 13492 (the "Library"), and **ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION**, a New York not-for-profit corporation and duly qualified Section 501(c)(3) organization under the Internal Revenue Code, having an office at 584 Phoenix Drive, Rome, New York 13441 ("EDGE"). The Agency, the County, the School District, the Town, the Fire District, the Library and EDGE are also each referred to individually as a "Party" and, collectively, as the "Parties".

**RECITALS:**

**A.** The People of the State of New York, acting by and through the Trustees of the State University of New York ("SUNY"), heretofore have acquired and may hereafter acquire the fee title to certain parcels of real property situate in the Town of Marcy, County of Oneida, and State of New York (collectively, the "State Land"), which State Land now forms and may in the future form a part of the SUNY Institute of Technology at Utica/Rome campus (the "SUNYIT Campus").

**B.** The legal description of the State Land is set forth in **Schedule 1** attached hereto and made a part hereof, which **Schedule 1** may be amended at any time and from time to time to reflect changes in the legal description of the State Land (regardless of whether such changes occur as the result of additions to or subtractions from the premises comprising the State Land or otherwise).

**C.** The New York State Legislature, pursuant to Chapter 953 of the Laws of 1983, as amended by Chapter 462 of the Laws of 2001 (the "Authorizing Legislation"), declared that the development of a "technologically oriented industrial park, which may include a nanotechnology manufacturing facility" on the State Land is a high economic development priority.

**D.** Pursuant to the Authorizing Legislation, SUNY, The Research Foundation of State University of New York ("SUNY RF"), a New York not-for-profit corporation, and EDGE,

whose corporate purposes are, among other things, to encourage the location and expansion of industrial and manufacturing capacity, the creation of new and improved job opportunities, the reduction of unemployment and the betterment of individual and community prosperity within Oneida County and its environs, entered into an Amended and Restated Project Development Agreement dated as of May 1, 2010 (the "PDA").

**E.** The Institute of Technology Foundation at Utica/Rome, Inc. (the "SUNYIT Foundation") and Fort Schuyler Management Corporation ("FSMC"), both New York not-for-profit corporations, joined in the execution of the PDA for the purpose of confirming their various covenants and obligations to SUNY, SUNY RF and EDGE thereunder.

**F.** The PDA provides, among other things, that EDGE is to act as the "lead developer" of a project (the "Project" or "Marcy Nanocenter at SUNYIT Project") to develop, construct and market the State Land, the EDGE Land and any Additional Project Property (as such term is hereinafter defined) for use by one or more semiconductor manufacturers, nanotechnology and/or other high technology end-users (each, an "End User").

**G.** EDGE heretofore has acquired and hereafter may acquire the fee title to certain parcels of real property situate in the Town of Marcy, County of Oneida, and State of New York (collectively, the "EDGE Land") and desires that the EDGE Land and the State Land be developed as part of the Marcy Nanocenter at SUNYIT Project.

**H.** The legal description of the EDGE Land is set forth in **Schedule 2** attached hereto and made a part hereof, which **Schedule 2** may be amended at any time and from time to time to reflect changes in the legal description of the EDGE Land (regardless of whether such changes occur as the result of additions to or subtractions from the premises comprising the EDGE Land or otherwise).

**I.** The State Land and the EDGE Land are hereinafter collectively referred to as the "Land".

**J.** The legal description of the Land is set forth **Exhibit A** attached hereto and made a part hereof, which **Exhibit A** may be amended at any time and from time to time to reflect changes in the legal description of the Land (regardless of whether such changes occur as the result of additions to or subtractions from the premises comprising the Land or otherwise).

**K.** The Parties acknowledge and agree that the Project is expected to have a positive, transformative effect on the economy of Oneida County and the entire Mohawk Valley Region by, among other things, encouraging population stabilization and/or growth.

**L.** To further the Marcy Nanocenter at SUNYIT Project, SUNY ground leased a portion of the SUNYIT Campus, including the State Land (the "Ground Leased Premises"), to FSMC pursuant to an Amended and Restated Ground Lease dated as of May 1, 2010 (the "Ground Lease") and FSMC, in turn, ground subleased a portion of the Ground Leased Premises to EDGE pursuant to an Amended and Restated Ground Sublease dated as of May 1, 2010 (the "Ground Sublease").

**M.** Pursuant to its authority under the PDA and the Ground Sublease, EDGE has undertaken to make the Land “shovel ready” for development by, among other things, constructing a new 4-lane access road running in a north-south direction between the former Edic Road/River Road intersection in the Town of Marcy and the Land (the “Marcy-SUNYIT Parkway”), a sanitary sewer line running southward from the Land to a point on the south side of River Road near the existing Marcy Interceptor Sewer, and a water transmission main running southward from the existing water transmission mains owned by the Mohawk Valley Water Authority (“MVWA”) located to the north of Mulaney Road in the Town of Marcy to the Land, and by applying to the U.S. Army Corps of Engineers for a permit under Section 404 of the Clean Water Act so as to enable certain wetlands areas situate on the Land to be disturbed.

**N.** Notwithstanding the aforesaid work performed by EDGE, and work performed by the County, Niagara Mohawk Power Corporation d/b/a National Grid (“National Grid”), MVWA and others, substantial additional work and improvements, and actions, relating to the Project still need to be undertaken on or in the vicinity of the Land and elsewhere in order to maximize the development potential of the Land and make the same ready for its intended use including, without limitation, project engineering, planning and permitting, the payment of required fees to taxing jurisdictions, the payment of legal and financing costs, the relocation of National Grid’s Porter Terminal #6 electric transmission line, the construction of an electric substation on or near the Land and a redundant electrical feed to the Land, the construction of a new 42” diameter sewer interceptor running between the Town of Marcy and the Oneida County Sewage Treatment plant in the City of Utica, the construction of replacement wetlands in the Oriskany Flats Wildlife Management Area and the performance of certain other on-site and off-site wetland mitigation measures designed to offset the loss of jurisdictional wetlands on the Land impacted by the Project, the construction of a neutralization plant to allow direct discharges of treated industrial wastewater into the New York State Barge Canal, the construction of upgrades and other capital improvements to expand the capacity of MVWA’s water filtration plant, the undertaking of other capital improvements to expand MVWA’s raw transmission feeds and provide increased water storage capacity, the construction of a ring road on the Land and upgrades to a County road known as Edic Road, the provision of major earthwork and general site preparation and development work on the Land including clearing and grubbing, grading, site compaction, and earthmoving activities, the construction of storm drainage improvements, the construction of retaining walls, and driveways, the rough grading of parking lots and the creation of building pads ready for development, the provision of funding to support the development of facilities, the acquisition of interests in real property and easements required for the Project, the provision of funding for the ground lease payments, as well as the construction of various other on-site and off-site infrastructure and improvements (collectively, the Project-Related Improvements”).

**O.** To help sustain the long term viability of the Project, the Parties have determined that it will be necessary to provide funds for job training and recruitment, for the establishment of the Oneida County STEM Education Fund (as such term is hereinafter defined) and for the creation of an Oneida County Sewer District Sewer Improvements Fund (as such term is hereinafter defined) to fund capital projects that reduce combined sewer overflows (CSOs) and reduce inflow and infiltration within the Oneida County Sewer District’s sewer system, facilitate

the purchase of sewer credits necessary to comply with the NYS Department of Environmental Conservation/Oneida County Consent Order and City of Utica Long Term Control Plan, and finance environmentally friendly projects that would reduce stormwater discharges within the Oneida County Sewer District's main interceptors and local sewer distribution network as well as projects that would expand the Oneida County Sewer District's sewage treatment capacity.

**P.** In order to better facilitate the Marcy Nanocenter at SUNYIT Project, FSMC and/or EDGE have requested or will request the Agency, with respect to each New Facility (as such term is hereinafter defined), to undertake:

(i) a "straight lease transaction", as that term is defined in Section 854(15) of the General Municipal Law, for a "project", as that term is defined in Section 854(4) of the General Municipal Law (the "Agency Project"), consisting of (a)(1) the acquisition by the Agency of an interest in all or some portion of the EDGE Land, (2) the construction on such EDGE Land of buildings and related improvements (the "Agency Project Buildings and Related Improvements"), and (3) the acquisition of equipment (the "Agency Project Equipment") and the installation of the same in or on the Agency Project Buildings and Related Improvements (the EDGE Land, the Agency Project Buildings and Related Improvements, and the Agency Project Equipment are hereinafter sometimes collectively referred to as the "Agency Project Facility"), and (b) the grant of certain other "Financial Assistance", as that term is defined in Section 854(14) of the General Municipal Law, with respect to the foregoing including an exemption from sales taxes, mortgage recording taxes and real property taxes, and the lease of the Agency Project Facility from FSMC and/or EDGE and/or their or its End User assignee(s), and leaseback of the Agency Project Facility to FSMC and/or EDGE and/or their or its End User assignee(s), pursuant to one or more lease agreements and one or more leaseback agreements; and

(ii) a lease/leaseback or other transaction for a project (the "State Land Project"), which may consist of (a)(1) the acquisition by the Agency of an interest in all or some portion of the State Land, (2) the construction on such State Land of buildings and related improvements (the "State Land Project Buildings and Related Improvements") and (3) the acquisition of equipment (the "State Land Project Equipment") and the installation of the same in or on the State Land Project Buildings and Improvements (the State Land, the State Land Project Buildings and Related Improvements and the State Land Project Equipment are hereinafter sometimes collectively referred to as the "State Land Project Facility").

**Q.** In connection with the Agency Project, FSMC and/or EDGE have requested, or may request, the Agency to enter into one or more payment-in-lieu-of-tax agreements (each, an "Agency Project PILOT Agreement") with FSMC, EDGE and/or their or its End User assignee(s), as the case may be (each, an "Agency Project PILOT Party"), pursuant to which the Agency Project PILOT Party will make payments in lieu of real property taxes (the "Agency Project PILOT Payments") on each New Facility situate on the EDGE Land.

R. In connection with the State Land Project, FSMC and/or EDGE have requested, or may request, the Agency to enter into one or more payment-in-lieu tax agreements (each, a “State Land Project PILOT Agreement”) with FSMC, EDGE and/or their or its End-User assignee(s), as the case may be (each, a “State Land Project PILOT Party”), pursuant to which the State Land Project PILOT Party will make payments in lieu of real property taxes or other contractual payments (the “State Land Project PILOT Payments”) on each New Facility situate on the State Land.

S. The Parties now desire to set forth their consent to each PILOT Agreement (as such term is hereinafter defined) and approve the essential terms of each PILOT Agreement described in **Exhibit B** hereto.

T. Pursuant to the authority contained in Section 858(15) of the General Municipal Law and the case precedent of Palmateer v. Greene County Industrial Development Agency, 38 A.D.3d 1087 (3d Dept. 2007), the Parties also desire to set forth their agreement regarding the allocation of PILOT Payments (as such term is hereinafter defined) among EDGE and the Affected Tax Jurisdictions (as such term is hereinafter defined) for the entire term of each PILOT Agreement and any renewal thereof.

U. Each Agency Project Facility is intended to encompass each building or group of buildings constructed as a New Facility on the EDGE Land and each State Land Project Facility is intended to encompass each building or group of buildings constructed as a New Facility on the State Land, as designated by the Agency from time to time in a certain PILOT Agreement for each such New Facility that will be consistent with the terms, covenants and conditions set forth in **Exhibit B**.

**NOW, THEREFORE**, in consideration of the Recitals, the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions. All capitalized terms used in this Agreement and not otherwise defined shall have the meaning set forth as follows:

“Additional Project Property” means any real property or interest in real property acquired by EDGE on or after the date hereof in connection with or in furtherance of the Project including, without limitation, any real property acquired in fee, any easement or right-of-way upon, across, over or under any real property, any leasehold interest or sub-leasehold interest in any real property, and any license in or right to use or occupy any real property, regardless of whether such real property or interest in real property adjoins or is appurtenant to the Land.

“Affected Tax Jurisdictions” means the County, the School District, the Town, the Fire District and the Library.

“Affected Tax Jurisdictions’ Fund” means that certain fund to be established and administered by the Agency for the benefit of the Affected Tax Jurisdictions. The Affected Tax Jurisdictions’ Fund is more particularly described in Section 3 FIRST hereof.

“Agency” means the Oneida County Industrial Development Agency, a New York public benefit corporation, having an office at 584 Phoenix Drive, Rome, New York 13441.

“Agency Project” shall have the meaning ascribed to such term in Recital P(i) above.

“Agency Project Buildings and Related Improvements” shall have the meaning ascribed to such term in Recital P(i)(a)(2) above.

“Agency Project Equipment” shall have the meaning ascribed to such term in Recital P(i)(a)(3) above.

“Agency Project Facility” shall have the meaning ascribed to such term in Recital P(i)(a)(3) above.

“Agency Project PILOT Agreement” shall have the meaning ascribed to such term in Recital Q above.

“Agency Project PILOT Party” shall have the meaning ascribed to such term in Recital Q above.

“Agency Project PILOT Payments” shall have the meaning ascribed to such term in Recital Q above.

“Aggregate Annual PILOT Payment Allocation” means, with respect to the PILOT Year in question, the aggregate amount of all PILOT Payments allocated to an Affected Tax Jurisdiction under all of the PILOT Agreements. In any instance where the Affected Tax Jurisdiction in question is the Town, the Aggregate Annual PILOT Payment Allocation of the Town for the PILOT Year in question shall be the aggregate amount of all PILOT Payments allocated to the Town out of (a) the Affected Tax Jurisdictions’ Funds established under all of the PILOT Agreements and (b) the Community Host Payment Funds established under all of the PILOT Agreements. In any instance where the Affected Tax Jurisdiction in question is one other than the Town, the Aggregate Annual PILOT Payment Allocation of such Affect Tax Jurisdiction for the PILOT Year in question shall be aggregate amount of all PILOT Payments allocated to such Affected Tax Jurisdiction out of the Affected Tax Jurisdictions’ Funds established under all of the PILOT Agreements.

“Agreement” means this Agreement Approving PILOT Terms and Allocating PILOT Payments.

“Authorizing Legislation” shall have the meaning ascribed to such term in Recital C above.

“Community Host” means the Town, acting in its capacity as “community host” for the Project.

“Community Host Payment Fund” means that certain fund to be established and administered by the Agency for the benefit of the Town (acting in its capacity as “community host” for the Project). The Community Host Payment Fund is more particularly described in Section 3 SECOND hereof.

“Completion Date” means, with respect to each New Facility, the earlier of (i) the taxable status date that such New Facility is reflected on the annual assessment roll or property record card as having a Certificate of Occupancy or (ii) the date that is two (2) years after the Construction Commencement Date for such New Facility.

“Construction Commencement Date” shall mean, with respect to each New Facility, the applicable taxable status date of the Town following the date of the issuance of a building permit for such New Facility.

“Construction PILOT Payment Period Commencement Date” means, with respect to each New Facility, January 1 of the first year following the Construction Commencement Date for such New Facility.

“Construction PILOT Payment Period” means, with respect to each New Facility, the period of time (not to exceed two (2) years) beginning on the Construction PILOT Payment Period Commencement Date and continuing through and including the date immediately preceding the Permanent PILOT Payment Period Commencement Date.

“Construction PILOT Payment Period PILOT Year” means, with respect to each New Facility, (a) the first calendar year occurring during said Construction PILOT Payment Period and (b) if the Completion Date has not yet occurred, the second calendar year occurring during said Construction PILOT Payment Period.

“County” means the County of Oneida, a New York municipal corporation having an office at the County Office Building, 800 Park Avenue, Utica, New York 13501.

“Early Termination Charge” shall have the meaning ascribed to such term in Section 4(b) hereof.

“Declaration” means any instrument whereby common area maintenance charges are levied, assessed or imposed by the State, SUNY, FSMC, EDGE or a landowners/tenants association against or upon the End User(s) for the maintenance, landscaping, signage or the provision of other amenities within any common or similar areas located on the Land.

“EDGE” means Economic Development Growth Enterprises Corporation, a New York not-for-profit corporation, having an office at 584 Phoenix Drive, Rome, New York 13441.

“EDGE Land” shall have the meaning ascribed to such term in Recital G above. The EDGE Land is more particularly described in **Schedule 2** attached hereto and made a part hereof. If EDGE acquires or transfers any EDGE Land after the date hereof, the Parties shall amend **Schedule 2** and **Exhibit A** accordingly.

“EDGE Lenders” means those lenders to whom EDGE is obligated with respect to the EDGE Project-Related Debt.

“EDGE Project-Related Debt” means any debt incurred by EDGE for the purposes of financing and/or refinancing the hard and soft costs of making Project-Related Improvements and paying for other Project-Related Development costs including, without limitation, the costs of the following: on-site and off-site wetlands mitigation, site development and infrastructure improvements, construction of access roads and parking improvements, the construction of an electric substation and extension of a redundant power feed to the Land, the relocation of electric transmission and other utility lines, the construction of a gas yard, incentive financing to help offset the construction costs of clean room manufacturing space, administrative offices, R & D facilities, warehousing and related semiconductor facilities, the purchase of real property in fee and other interests therein (e.g., easements), incentive financing to help offset the costs of constructing a neutralization plant for direct discharges in the NYS Barge Canal and upgrades to MVWA’s water distribution system necessary to support End User requirements, and all legal, accounting, design, engineering, planning, consulting, professional, permitting and governmental fees, lender closing costs and fees, and interest charges and other necessary capital expenditures for the Project. EDGE Project-Related Debt shall include any monies which EDGE is obligated to set aside in order to maintain a minimum debt service coverage ratio of 1.15 to 1.0. Notwithstanding anything to the contrary contained herein, in order for any indebtedness incurred by EDGE to qualify as “EDGE Project-Related Debt”, the same must first be approved by the Agency (after it first consults with EDGE), which approval shall not be unreasonably withheld, conditioned or delayed.

“EDGE Project-Related Debt Service Fund” means that certain fund to be established and administered by EDGE for the purpose of paying, prepaying and/or otherwise servicing EDGE Project-Related Debt (and to enable EDGE to maintain a minimum debt service coverage ratio of 1.15 to 1.0). The EDGE Project-Related Debt Service Fund is more particularly described in Section 3 **FOURTH** hereof.

“Effective Date” shall have the meaning ascribed to such term in Section 16 hereof.

“End User” shall have the meaning ascribed to such term in Recital F above.

“Excess SID Credit” shall have the meaning ascribed to such term in Section 2(c)(ii) hereof.

“Execution Date” means the date first set forth above.

“Fire District” means the Maynard Fire District, a New York fire district, having an address of 9500 Maynard Drive, Marcy, New York 13403.



“First PILOT Year of the Construction PILOT Payment Period” means, with respect to each New Facility (regardless of whether such New Facility is situate on the EDGE Land or the State Land), the PILOT Year which commences on the Construction Period PILOT Payment Commencement Date.

“First PILOT Year of the Permanent PILOT Payment Period” means, with respect to each New Facility (regardless of whether such New Facility is situate on the EDGE Land or the State Land), the PILOT Year which commences on the Permanent PILOT Payment Commencement Date.

“FSMC” means Fort Schuyler Management Corporation, a New York not-for-profit corporation, having an address of 100 Seymour Road, Utica, New York 13502.

“Funds” means the Affected Tax Jurisdictions’ Fund, the Community Host Payment Fund, the NYS Refundable Equity Investment Fund, the EDGE Project-Related Debt Service Payment Fund and the Marcy Nanocenter at SUNYIT Project Development Fund.

“Ground Lease” means the Amended and Restated Ground Lease between SUNY, as ground lessor, and FSMC, as ground lessee, dated as of May 1, 2010.

“Ground Leased Premises” shall have the meaning ascribed to such term in Recital L above.

“Ground Sublease” means the Amended and Restated Ground Sublease between FSMC, a ground sublessor, and EDGE, as ground sublessee, dated as of May 1, 2010.

“Land” shall have the meaning ascribed to such term in Recital I above. The Land is more particularly described in Exhibit A attached hereto and made a part hereof. If the State acquires or transfers any State Land after the date hereof or if EDGE acquires or transfers any EDGE Land after the date hereof, the Parties shall amend Exhibit A accordingly, if necessary.

“Library” means the Dunham Public Library, a New York school district public library, having an address of 76 Main Street, Whitesboro, New York 13492.

“Marcy Nanocenter at SUNYIT Project” shall have the meaning ascribed to such term in Recital F above.

“Marcy Nanocenter at SUNYIT Project Development Fund” means that certain fund to be established and administered by EDGE for the general purposes of financing, refinancing and/or otherwise funding various Project-Related Development Costs which are not financed, refinanced and/or otherwise funded by EDGE Project-Related Debt including, without limitation, (a) all costs associated with the acquisition of EDGE Land or other interests in real property, (b) all costs associated with the design, engineering, installation and/or construction of Project-Related Improvements, (c) the costs of financing, refinancing and/or otherwise funding Project-Related Job-Training/Recruitment, (d) the costs of capitalizing and/or replenishing the Oneida

County, STEM Education Fund, and (e) the costs of capitalizing and/or replenishing the OCSD Sewer Improvements Fund. The Marcy Nanocenter at SUNYIT Project Development Fund is more particularly described in Section 3 FIFTH hereof.

“Marcy-SUNYIT Parkway” shall have the meaning ascribed to such term in Recital M above.

“MVCC” means Mohawk Valley Community College, a community college affiliated with SUNY, having an office at 1101 Sherman Drive, Utica, New York 13501.

“MVWA” means Mohawk Valley Water Authority, a New York public benefit corporation, having an office at 1 Kennedy Plaza, Utica, New York 13502.

“National Grid” means Niagara Mohawk Power Corporation d/b/a National Grid, a New York corporation, having an office at 300 Erie Boulevard West, Syracuse, New York 13202.

“New Facility” means each building or group of buildings and related improvements constructed either on the EDGE Land or on the State Land by an End User for which the Construction Commencement Date is after the date of this Agreement. Each New Facility shall include that portion of the EDGE Land or the State Land upon which such building or group of buildings and related improvements have been constructed.

“NYS Refundable Equity Investment” means that certain equity investment to be made by the State in the Project after the Effective Date for the purpose of funding various Project-Related Improvements, which equity investment is to be refunded to the State. The amount of the NYS Refundable Equity Investment shall be determined by the Agency (after it first consults with the State and EDGE) and may be increased at any time and from time to time.

“NYS Refundable Equity Investment Fund” means that certain fund to be established and administered by EDGE for the purposes of refunding the NYS Refundable Equity Investment to the State. The NYS Refundable Equity Investment Fund is more particularly described in Section 3 THIRD hereof.

“OCSD Sewer Improvements Fund” means that certain fund to be established and administered by the Oneida County Sewer District for the purposes of constructing, reconstructing, operating, maintaining and repairing such sewer improvements within the boundaries of said Oneida County Sewer District as the latter deems necessary or desirable in order to facilitate the Project or development generated thereby and/or related thereto.

“Oneida County Sewer District” means the Oneida County Sewer District, a County Sewer District established by the Oneida County Board of Supervisors under Article 5A of the County Law, as amended, having an address of 51 Leland Avenue, Utica, New York 13503.

“Oneida County STEM Education Fund” means that certain fund to be jointly established and administered by the County, MVCC, SUNYIT, and Oneida-Herkimer-Madison BOCES for

the purposes of facilitating the Project by providing STEM Education throughout Oneida County, New York.

“Oneida-Herkimer-Madison BOCES” means the Oneida-Herkimer-Madison Board of Cooperative Educational Services, a New York board of cooperative educational services, having an office at 4747 Middle Settlement Road, New Hartford, New York 13413.

“PDA” means the Amended and Restated Project Development Agreement, dated as of May 1, 2010, by and among EDGE, SUNY and SUNY RF (and joined in by the SUNYIT Foundation and FSMC).

“Permanent PILOT Payment Period Commencement Date” means, with respect to each New Facility (regardless of whether such New Facility is situate on the EDGE Land or the State Land), the January 1 date immediately following the Completion Date.

“Permanent PILOT Payment Period” means, with respect to each New Facility (regardless of whether such New Facility is situate on the EDGE Land or the State Land), that period of time of up to forty-seven (47) years beginning on the Permanent PILOT Payment Period Commencement Date.

“Permanent PILOT Payment Period PILOT Year” means, with respect to each New Facility, (a) each calendar year occurring during said Permanent PILOT Payment Period up to, but not including, the last calendar year (or portion thereof) occurring during said Permanent PILOT Payment Period and (b) the last calendar year (or portion thereof) occurring during said Permanent PILOT Payment Period.

“PILOT Agreement” means each Agency Project PILOT Agreement and State Land Project PILOT Agreement.

“PILOT Allocation Agreement” means this Agreement.

“PILOT Extension Term” shall have the meaning ascribed to such term in Section 2(c)(iii) hereof.

“PILOT Party” means (a) an Agency Project PILOT Party and (b) a State Land Project PILOT Party. A PILOT Party may be EDGE, FSMC and/or one or more End Users or its or their assignees approved by the Agency.

“PILOT Payments” shall mean (a) payments in lieu of real property taxes on a New Facility pursuant to an Agency Project PILOT Agreement and (b) payments in lieu of real property taxes or other contractual payments on a New Facility pursuant to a State Land Project PILOT Agreement.

“PILOT Year” means, with respect to each New Facility (regardless of whether such New Facility is situate on the EDGE Land or the State Land), each Construction PILOT Payment Period PILOT Year and each Permanent PILOT Payment Period PILOT Year.

“Project” shall have the meaning ascribed to such term in Recital F above.

“Project-Related Development Costs” means any costs relate to the development of the Project including, without limitation, the costs of making Project-Related Improvements.

“Project-Related Improvements” shall have the meaning ascribed to such term in Recital N above.

“Project-Related Job Training/Recruitment” means any job training and education, and recruitment, made available by or through EDGE or others to the End User(s) in order to facilitate the Project. Notwithstanding anything to the contrary contained herein, in order to be deemed “Project-Related Job Training/Recruitment Funds”, the same shall be approved by the Agency (after it first consults with EDGE), which approval shall not be unreasonably withheld, conditioned or delayed.

“School District” means the Whitesboro Central School District, a New York school district, having an office at 67 Whitesboro Street, Yorkville, New York 13495.

“SID Charges” means any special ad valorem levies, special assessments or other special district or improvement district or area charges.

“SID Credit” shall have the meaning ascribed to such term in Section 2(c)(i) hereof.

“SID Credit Amount” shall have the meaning ascribed to such term in Section 2(c)(i) hereof.

“SID Taxing Entity” means the Affected Tax Jurisdiction that levies SID Charges against all or any portion of the Land or any property abutting or adjoining the Land.

“State” means the State of New York, and its departments and agencies and public benefit corporations.

“State Land” shall have the meaning ascribed to such term in Recital A above. The State Land is more particularly described in **Schedule 1** attached hereto and made a part hereof. If the State acquires or transfers any State Land after the date hereof, the Parties shall amend **Schedule 1** and **Exhibit A** accordingly.

“State Land Project” shall have the meaning ascribed to such term in Recital P(ii) above.

“State Land Project Buildings and Improvements” shall have the meaning ascribed to such term in Recital P(ii)(a)(2) above.

“State Land Project Equipment” shall have the meaning ascribed to such term in Recital P(ii)(a)(3) above.

“State Land Project Facility” shall have the meaning ascribed to such term in Recital P(ii)(a)(3) above.

“State Land Project PILOT Agreement” shall have the meaning ascribed in to such term in Recital R above.

“State Land Project PILOT Party” shall have the meaning ascribed to such term in Recital R above.

“State Land Project PILOT Payments” shall have the meaning ascribed to such term in Recital R above.

“STEM Education” means science technology, engineering and math education.

“SUNY” means the State University of New York, a New York education corporation, having an office at State University Plaza, Albany, New York 12246.

“SUNYIT” means the SUNY Institute of Technology of Utica/Rome, a State-operated institution which comprises part of SUNY, having an address of 100 Seymour Road, Utica, New York 13502.

“SUNYIT Campus” shall have the meaning ascribed to such term in Recital A above.

“SUNYIT Foundation” means the Institute of Technology Foundation of Utica/Rome, Inc., a New York not-for-profit corporation, having an office at 100 Seymour Road, Utica, New York 13502.

“SUNY RF” means The Research Foundation of State University of New York, a New York not-for-profit corporation, having an office at 35 State Street, Albany, New York 12207.

“Third-Party Consents” shall have the meaning ascribed to such term in Section 9 hereof.

“Town” means the Town of Marcy, a New York municipal corporation, having an office at Marcy Town Hall, 8881 Paul Becker Road, Marcy, New York 13403.

“User Charges” means contractual charges imposed on a person or entity based on such person or entity’s actual use of services or facilities (e.g., water rents and sewer rents).

2. Approval of and Consent to PILOT Agreement(s); Special Districts, Special Assessments/Credit for SID Charges.

(a) (i) Each of the Affected Tax Jurisdictions hereby approves of and consents to one or more PILOT Agreements between the Agency and each PILOT Party approved by the Agency, which PILOT Agreements shall include terms and conditions approved by the Agency, provided the PILOT Agreements shall comply with the essential terms described in **Exhibit B** attached hereto and made a part hereof.

(ii) Each of the Parties acknowledges and agrees:

(A) that as long as the State Land is exempt from taxation, such State Land is not liable for special ad valorem levies, but special assessments imposed against such State Land on a benefit basis may be collectible if the requirements of Section 19 of the Public Lands Law are met.

(B) that as long as the EDGE Land is exempt from taxation, such EDGE Land is also exempt from special ad valorem levies to the extent provided in Section 490 of the Real Property Tax Law.

(C) User Charges are not taxes, special ad valorem levies or special assessments.

(b) After the Execution Date, neither the Town nor the County shall (i) create a special district or improvement district or area which abuts or adjoins the Land or which includes all or any portion of the Land within its territorial boundaries or (ii) amend an existing special district or special improvement district or area to change the assessment method from an ad valorem basis to a benefit basis, without the prior written consent of the Agency, EDGE and any End User(s) who would be obligated to pay any SID Charges associated therewith.

(c) (i) If for any reason a New Facility (regardless of whether such New Facility is situated on the EDGE Land or the State Land) shall be subject to any SID Charges, notwithstanding the Town and County's agreement set forth in Section 2(b) above, then the amount of SID Charges assessed against such New Facility each year shall be applied as a dollar for dollar credit (the "SID Credit") that shall reduce the PILOT Payments due from the End User with respect to such New Facility for the PILOT Year in which the SID Charges are due and payable. An amount equal to the SID Credit (the "SID Credit Amount") shall be subtracted from the Aggregate Annual PILOT Payment Allocation of the Affected Tax Jurisdiction that levied the SID Charges (the "SID Taxing Entity"). Once the SID Credit Amount has been subtracted from the Aggregate Annual PILOT Payment Allocation of the SID Taxing Entity in question, the Agency shall then re-allocate said subtracted amount in the manner necessary to place the Affected Tax Jurisdictions (other than the SID Taxing Entity in question) and the Funds (other than the Affected Tax Jurisdictions' Fund and, if applicable, the Community Host Payment Funds) in the same position that they would have been in had there been no SID Credit in the first place (or as nearly so as is possible). The provisions of this paragraph will not apply for any SID Charges or assessments requested by the End User and does not cover the imposition of any common area charges that may be levied, assessed or imposed by means of a Declaration.

(ii) If the SID Credit Amount for any year exceeds the Aggregate Annual PILOT Payment Allocation of the SID Taxing Entity in question, the excess amount (the "Excess SID Credit") shall be carried forward to subsequent years and applied each year to reduce the annual PILOT Payments due from the End User in question, and shall be subtracted from the Aggregate Annual PILOT Payment Allocation of the SID Taxing Entity in question, until the entire amount of the Excess SID Credit has been fully used.

(iii) If necessary, the term of the applicable PILOT Agreement(s) shall be extended for such period of time necessary for the entire Excess SID Credit to be applied to reduce PILOT Payments due from the End User in question (the "PILOT Extension Term"). During the PILOT Extension Term, such End User shall make annual PILOT Payments to the Agency in amounts equal to the real property taxes that would be due if the New Facility in question were owned by such End User and the Agency had no interest therein. The PILOT Payments during the PILOT Extension Term shall be allocated pro rata among the Affected Tax Jurisdictions in proportion to the amount of real property taxes that each Affected Tax Jurisdiction would receive if such New Facility was subject to normal taxation and will not be subject to the fixed allocation set forth in Section 3 of this Agreement. The Excess SID Credit shall be applied to reduce the SID Taxing Entity's share of PILOT Payments during the PILOT Extension Term until the entire remaining Excess SID Credit has been fully used.

3. Allocation of PILOT Payments by Agency. Each of the Affected Tax Jurisdictions acknowledges and agrees that, without the funding provided by the NYS Refundable Equity Investment Fund and the EDGE Project-Related Debt, there would not be a Project capable of making the payments under the PILOT Agreement(s). Accordingly, each of the Affected Tax Jurisdictions agrees that the Agency shall allocate the PILOT Payments received from each PILOT Party among the Affected Tax Jurisdictions' Fund, the Community Host Payment Fund, the NYS Refundable Equity Investment Fund, the EDGE Project-Related Debt Service Fund and the Marcy Nanocenter at SUNYIT Project Development Fund in the following order of priority and amounts:

FIRST: During each PILOT Year (beginning with the First PILOT Year of the Construction Period) during the term of each PILOT Agreement and any renewal term thereof, the Agency shall (a) deposit into the Affected Tax Jurisdictions' Fund an amount equal to the PILOT Payments received by it multiplied by the percentage corresponding to such PILOT Year as set forth in **Column 2 of Exhibit C** attached hereto and made a part hereof and (b) then, within thirty (30) days from the Agency's receipt of the annual payment under the PILOT Agreement, pay over and distribute the Affected Tax Jurisdictions from the Affected Tax Jurisdictions' Fund the following proportional amounts thereof:

17.65 % thereof to the County;

65.27% thereof to the School District;

9.99 % thereof to the Town;

5.01 % thereof to the Fire District; and

2.08 % thereof to the Library.

By way of illustration, if during the first (1<sup>st</sup>) PILOT Year of the Construction PILOT Payment Period the Agency received \$1,500,000.00 in PILOT Payments from an End User with respect to a New Facility, the Agency would be obligated

to deposit the sum of \$150,000.00 into the Affected Tax Jurisdictions' Fund ( $\$1,500,000.00 \times 10\% = \$150,000.00$ ). By way of further illustration, if during the fourteenth (14<sup>th</sup>) PILOT Year of the Permanent PILOT Payment Period the Agency received \$4,000,000.00 in PILOT Payments from an End User with respect to a New Facility, the Agency would be obligated to deposit the sum of \$920,000.00 into the Affected Tax Jurisdictions' Fund ( $\$4,000,000.00 \times 23\% = \$920,000.00$ ).

SECOND: During each PILOT Year (beginning with the First PILOT Year of the Construction PILOT Payment Period) during the term of each PILOT Agreement and any renewal term thereof, the Agency shall deposit into the Community Host Payment Fund an amount equal to two percent (2%) of the total PILOT Payments received by it as is more particularly set forth in **Column 3 of Exhibit C** attached hereto and made a part hereof (at the same time that it deposits the required amount into the Affected Tax Jurisdictions' Fund pursuant to paragraph FIRST above) and (b) then, within thirty (30) days from the Agency's receipt of the annual payment under the PILOT Agreement, pay over and distribute to the Town (acting in its capacity as "community host" for the Project) all of the monies on deposit therein on the conditions that (x) the Town shall use such monies for one or more of the following purposes (i) to make repairs to existing Town improvements which are necessitated by the Project, (ii) to help defray the cost of capital expenditures required to be made by the Town due to the additional burdens and demands placed on Town services by virtue of the Project, and (iii) to upgrade and/or construct new infrastructure improvements necessitated by the development of the Marcy Site and/or the other development in the Town resulting from the Project and (y) upon EDGE's request, the Town shall accept the dedication of the "ring road", or any portions thereof, as and for a public road or public roads; provided, however, that such "ring road", or portion thereof, meets applicable Town specifications.

THIRD: During each PILOT Year (beginning with the First PILOT Year of the Construction PILOT Payment Period) during the term of each PILOT Agreement and any renewal term thereof, the Agency shall deposit into the NYS Refundable Equity Investment Fund such proportion of the PILOT Payments received by it as are then remaining (after it has deposited (a) the required amount into the Affected Tax Jurisdictions' Fund pursuant to the paragraph FIRST above and (b) the required amount into the Community Host Payment Fund pursuant to paragraph SECOND above) as is necessary to fully fund that portion of the NYS Refundable Equity Investment which is scheduled to be refunded by EDGE to the State during such PILOT Year, if any.

FOURTH: During each PILOT Year (beginning with the First PILOT Year of the Construction PILOT Payment Period) during the term of each PILOT Agreement and any renewal term thereof, the Agency shall deposit into the EDGE Project-Related Debt Service Fund such proportion of the PILOT Payments received by it as are then remaining (after it has deposited (a) the required amount



into the Affected Tax Jurisdictions' Fund pursuant to paragraph FIRST above, (b) the required amount into the Community Host Payment Fund pursuant to paragraph SECOND and (c) the required amount, if any, into the NYS Refundable Equity Investment Fund pursuant to paragraph THIRD above) as is necessary to enable EDGE to pay, prepay and/or otherwise service the EDGE Project-Related Debt (and maintain a minimum debt service coverage ratio of 1.15 to 1.0).

FIFTH: During each PILOT Year (beginning with the First PILOT Year of the Construction PILOT Payment Period) during the term of each PILOT Agreement and any renewal term thereof, the Agency shall deposit into the Marcy Nanocenter at SUNYIT Project Development Fund all of the PILOT Payments received by it as are then remaining (after it has deposited (a) the required amount into the Affected Tax Jurisdictions' Fund pursuant to the paragraph FIRST above, (b) the required amount into the Community Host Payment Fund pursuant to paragraph SECOND above, (c) the required amount, if any, into the NYS Refundable Equity Investment Fund pursuant to paragraph THIRD above, and (d) the required amount, if any, into the EDGE Project-Related Debt Service Fund pursuant to paragraph FOURTH above).

EDGE shall then allocate and distribute from the Marcy Nanocenter at SUNYIT Project Development Fund all of such monies (but in such proportions as it deems necessary or advisable, in its sole discretion), to do any one or more of the following:

(a) finance, refinance and/or otherwise fund all costs associated with the acquisition of the EDGE Land and any Additional Project Property;

(b) finance, refinance and/or otherwise fund all costs associated with the design, engineering, installation and/or construction of Project-Related Improvements;

(c) finance, refinance and/or otherwise fund all costs associated with Project-Related Job Training/Recruitment;

(d) capitalize and/or replenish the Oneida County STEM Education Fund;

(e) capitalize and/or replenish the OCSD Sewer Improvements Fund; and

(f) finance, refinance and/or otherwise fund any other Project-Related Development Costs.

#### 4. PILOT Agreement Provisions for the Benefit of EDGE Lenders.

(a) In addition to the essential terms described in Exhibit B, and other terms approved by the Agency, each PILOT Agreement shall contain such provisions as may be

requested by EDGE in order to provide EDGE, and the EDGE Lenders, with assurances satisfactory to them, in their sole discretion, that such PILOT Agreement, the guarantees thereof and/or security instruments relating thereto, if any, may not be amended or modified without the written approval of the EDGE Lenders and will be enforceable against each End User (and other applicable obligors) at all times until the NYS Refundable Equity Investment allocable to such End User has been fully refunded to the State and the EDGE Project-Related Debt allocable to such End User has been indefeasibly paid in full to the EDGE Lenders.

(b) Without limiting the generality of the foregoing, if EDGE so requests, the PILOT Agreement shall provide that if, prior to the date that the NYS Refundable Equity Investment allocable to an End User has been fully refunded to the State and the EDGE Project-Related Debt allocable to an End User has been indefeasibly paid in full to the EDGE Lenders, the PILOT Agreement is set aside, invalidated or otherwise terminates or is terminated with respect to such End User then, and in any such event, and regardless of the reason therefor, the NYS Refundable Equity Investment allocable to such End User and the EDGE Project-Related Debt allocable to such End User shall be deemed (for the purposes of the PILOT Agreement) to have been “accelerated” thereby becoming immediately due and payable, in full, and such End User shall pay an early termination charge (the “Early Termination Charge”) to the Agency in an amount equal to that portion of the NYS Refundable Equity Investment allocable to such End User which then remains to be refunded to the State plus the then unpaid and outstanding combined principal balances of the “accelerated” the EDGE Project-Related Debt (including all interest and other sums due pursuant thereto or in connection therewith, *e.g.*, prepayment penalties, hedge agreement “breakage” fees, etc.) allocable to such End User and that upon the Agency’s receipt of such Early Termination Charge, it shall immediately deposit the same into the NYS Refundable Equity Investment Fund and/or the EDGE Project-Related Debt Service Fund, as applicable, whereupon EDGE shall disburse the same proportionately in such amounts as are necessary to fully refund the NYS Refundable Equity investment to the State allocable to such End User and pay the unpaid and outstanding balance of the EDGE Project-Related Debt allocable to such End User to the EDGE Lenders, in full. The Early Termination Charge shall be deemed to be a PILOT Payment.

5. Assignment of PILOT Agreement(s) and Related Documents. As collateral security for the payment of the EDGE Project-Related Debt, the Agency agrees to assign its rights under each PILOT Agreement (as to each End User and/or New Facility), the payments due to the Agency under such PILOT Agreement except for the payments due to the Affected Taxing Jurisdictions under Section 3 hereof, the guarantees thereof and/or security instruments relating thereto, if any, and this Agreement to the EDGE Lenders to the extent necessary to enable said EDGE Lenders to enforce and fully collect upon their security for the EDGE Project-Related Debt applicable to such End User and/or New Facility. Each such assignment shall be in form and content satisfactory to the Agency, EDGE and the EDGE Lenders, in their sole discretion. Each of the Affected Tax Jurisdictions hereby acknowledges and consents to each of such assignments. The Parties to this Agreement acknowledge and agree that the Parties shall be obligated to execute and deliver such other documents and/or agreements to confirm the terms, covenants and conditions of this Agreement and the PILOT Agreements and the priority of the allocation of the payments under the PILOT Agreements.

6. Notices. All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when delivered and, if delivered by mail, shall be sent by certified mail, postage prepaid, addressed as follows:

To the Agency: Oneida County Industrial Development Agency  
153 Brooks Road  
Rome, New York 13441-4105  
Attn.: Chairman

With a Copy To: Bond, Schoeneck & King, PLLC  
501 Main Street  
Utica, New York 13501  
Attn.: Linda E. Romano, Esq.

To the Town: Town of Marcy  
Marcy Town Hall  
8881 Paul Becker Road  
Marcy, New York 13403  
Attn.: Town Supervisor

With a Copy To: William P. Schmitt, Esq.  
Gorman, Waszkiewicz, Gorman & Schmitt  
1508 Genesee Street  
Utica, New York 13502

To the County: County of Oneida  
County Office Building  
800 Park Avenue  
Utica, New York 13501  
Attn: Commissioner of Finance

With a Copy To: Gregory J. Amoroso, Esq.  
County Attorney  
Oneida County Office Building  
800 Park Avenue  
Utica, New York 13501

To the School District: Whitesboro Central School District  
67 Whitesboro Street  
Yorkville, New York 13495  
Attn.: District Superintendent

With a Copy To: Richard A. Frye, Esq.  
Frye and Carbone  
2219 Genesee Street  
Utica, New York 13501

To Fire District: Maynard Fire District  
9500 Maynard Drive  
Marcy, New York 13403  
Attn: President

With a Copy To: Gregory A. Mattacola, Esq.  
Mattacola Law Firm  
217 N. Washington Street  
Rome, New York 13440

To the Library: Dunham Public Library  
76 Main St.  
Whitesboro, New York 13492

With a Copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To EDGE: Economic Development Growth Enterprises Corporation  
584 Phoenix Drive  
Rome, New York 13441  
Attn.: President

With a Copy To: Saunders Kahler, L.L.P.  
185 Genesee Street, Suite 1400  
Utica, New York 13501  
Attn.: Joseph E. Saunders, Esq.

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this Section.

7. Special Obligation of Agency. (a) The obligations and agreements of the Agency contained herein and in any other instrument or document executed in connection herewith or therewith, and any instrument or document supplemental hereto or thereto, shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent or employee of the Agency in his individual capacity, and the members, officers, agents and employees of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby. The obligations and agreements of the Agency contained herein or therein shall not constitute or give rise to an obligation of the State of New York or of the County of Oneida, and neither the State of New York nor the County of Oneida shall be liable hereon or thereon, and, further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency, payable solely from the revenues (if any) of the Agency derived and to be derived from the lease, sale or other disposition of

the Agency Project Facility and the State Land Project Facility. The limitations on the obligations of the Agency contained in this Section 7 by virtue of any lack of assurance required by Section 7(b) hereof shall not be deemed to prevent the occurrence and full force and effect of any event of default pursuant hereto.

(b) No order or decree of specific performance with respect to any of the obligations of the Agency hereunder or thereunder shall be sought or enforced against the Agency unless (A) the party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and ten (10) days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten (10) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period, and (B) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses, and (C) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents or employees shall be subject to potential liability, the party seeking such order or decree shall (1) agree to indemnify and hold harmless the Agency and its members, officers, agents and employees against any liability incurred as a result of its compliance with such demand, and (2) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents and employees against all liability expected to be incurred as a result of compliance with such request.

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

9. Consents. Each Party represents and warrants to the other Parties that it has obtained all of the corporate and/or governing board approvals, consents and/or authorizations necessary for it to enter into this Agreement and that, with the exception of any Third-Party Consents (as hereinafter defined), it knows of no other approvals, consents and/or authorizations which would be needed in order for this Agreement to take effect. The Parties shall use their best efforts to obtain all third-party approvals, consents and/or authorizations, if any, required in order for this Agreement to take effect (collectively, the "Third-Party Consents"). The Third-Party Consents may, but do not necessarily, include those of SUNY, SUNY RF and FSMC. The Parties hereby designate EDGE to determine which Third-Party Consents, if any, are required in order for this Agreement to take effect and to take the lead in obtaining any such Third-Party Consents.

10. Release of Land. If requested by the Agency and EDGE, the parties shall release all or any one or more portions of the Land from the operation of this Agreement.

11. Section Headings. The section headings contained in this Agreement are for convenience and reference only and shall not be used to interpret or construe provisions.

12. Further Assurances. The parties agree to do such further acts and things and to execute and deliver such additional agreements and instruments as may be reasonably necessary to give effect to the purposes of this Agreement and the Parties' agreements hereunder.

13. Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

14. Recitals. The Recitals set forth above are hereby incorporated into and made a part of this Agreement as if set forth in full herein.

15. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

16. Effective Date. The effective date (the "Effective Date") of this Agreement shall be on the earlier of (a) the date on which EDGE determines and certifies to the other Parties, in writing, that all of the Third-Party Consents required in order for this Agreement to take effect have been obtained or (b) the date on which EDGE determines and certifies to the other Parties, in writing, that no Third Party Consents are required in order for this Agreement to take effect. Notwithstanding the preceding sentence, Section 2(b) and Section 9 of this Agreement shall be effective as of the Execution Date.

17. Entire Agreement; Amendments; Waivers. This Agreement (including the exhibits and schedules hereto) contains the entire agreement of the Parties with respect to the subject matter hereof and no oral statement or written matter prior to the date of this Agreement shall have any effect or force. This Agreement may not be changed, modified, amended, waived, superseded, renewed, extended or terminated orally, but only by an agreement in writing signed by the Parties or, in the case of a waiver, by the Party waiving compliance.

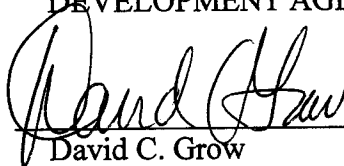
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**IN WITNESS WHEREOF**, the Parties have caused this Agreement Approving PILOT Terms and Allocating PILOT Payments to be executed and delivered by their duly authorized officers as of the Execution Date.

**AGENCY:**

ONEIDA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By:



David C. Grow  
Chairman

**COUNTY:**

COUNTY OF ONEIDA

By:

Anthony J. Picente, Jr.  
County Executive

**SCHOOL DISTRICT:**

WHITESBORO CENTRAL  
SCHOOL DISTRICT

By:

David Langone  
Superintendent of Schools

**TOWN:**

TOWN OF MARCY

By:

Brian Scala  
Town Supervisor

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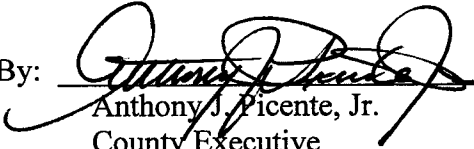
**AGENCY:**

ONEIDA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
David C. Grow  
Chairman

**COUNTY:**

COUNTY OF ONEIDA

By:  \_\_\_\_\_  
Anthony J. Picente, Jr.  
County Executive

**SCHOOL DISTRICT:**

WHITESBORO CENTRAL  
SCHOOL DISTRICT

By: \_\_\_\_\_  
David Langone  
Superintendent of Schools

**TOWN:**

TOWN OF MARCY

By: \_\_\_\_\_  
Brian Scala  
Town Supervisor



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By: \_\_\_\_\_  
Anthony J. Picente, Jr.  
County Executive

SCHOOL DISTRICT:

WHITESBORO CENTRAL  
SCHOOL DISTRICT

By: David Langone  
David Langone  
Superintendent of Schools

TOWN:

TOWN OF MARCY

By: \_\_\_\_\_  
Brian Scala  
Town Supervisor

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ONEIDA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
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Chairman

**COUNTY:**

COUNTY OF ONEIDA

By: \_\_\_\_\_  
Anthony J. Picente, Jr.  
County Executive

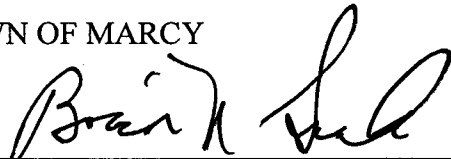
**SCHOOL DISTRICT:**

WHITESBORO CENTRAL  
SCHOOL DISTRICT

By: \_\_\_\_\_  
David Langone  
Superintendent of Schools

**TOWN:**

TOWN OF MARCY

By:  \_\_\_\_\_  
Brian Scala  
Town Supervisor

28.

**LIBRARY:**

DUNHAM PUBLIC LIBRARY

By: John H. Levitas  
Name: John H. Levitas  
Title: President - Board of Trustees

**FIRE DISTRICT:**

MAYNARD FIRE DISTRICT

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

**EDGE:**

ECONOMIC DEVELOPMENT GROWTH  
ENTERPRISES CORPORATION

By: \_\_\_\_\_  
Steven J. DiMeo  
President

**LIBRARY:**

DUNHAM PUBLIC LIBRARY

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

**FIRE DISTRICT:**

MAYNARD FIRE DISTRICT

By: Theodore S. Kogut  
Name: Theodore S. Kogut  
Title: Chairman, Fire Comm.

**EDGE:**

ECONOMIC DEVELOPMENT GROWTH  
ENTERPRISES CORPORATION

By: \_\_\_\_\_  
Steven J. DiMeo  
President

**LIBRARY:**

DUNHAM PUBLIC LIBRARY

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

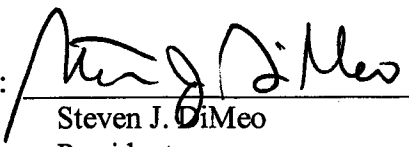
**FIRE DISTRICT:**

MAYNARD FIRE DISTRICT

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

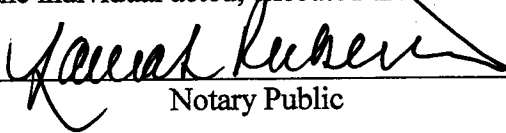
**EDGE:**

ECONOMIC DEVELOPMENT GROWTH  
ENTERPRISES CORPORATION

By:  \_\_\_\_\_  
Steven J. DiMeo  
President

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

On this 20<sup>th</sup> day of September, 2013, before me, the undersigned, personally appeared **DAVID C. GROW**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

LAURA S. RUBERTO  
Notary Public, State of New York  
Appointed in Oneida County  
Reg. No. 01RU5031396  
Commission Expires August 1, 2014

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

On this \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, personally appeared **ANTHONY J. PICENTE, JR.**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

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

On this \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, personally appeared **DAVID LANGONE**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

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

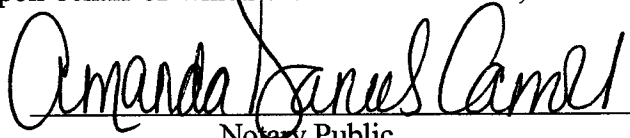
On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, personally appeared **DAVID C. GROW**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

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

On this 13<sup>th</sup> day of September, 2013, before me, the undersigned, personally appeared **ANTHONY J. PICENTE, JR.**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

**AMANDA DANIELS CARROLL**  
Commissioner of Deeds  
City of Utica, New York  
Commission Expires Dec. 31, 2014

  
\_\_\_\_\_  
Notary Public

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

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, personally appeared **DAVID LANGONE**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

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

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, personally appeared **DAVID C. GROW**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument. -

\_\_\_\_\_  
Notary Public

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

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, personally appeared **ANTHONY J. PICENTE, JR.**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

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

On this 7 day of August, 2013, before me, the undersigned, personally appeared **DAVID LANGONE**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

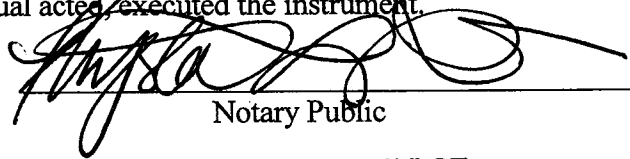
Brenda C. Waters  
Notary Public

**BRENDA C. WATERS**  
Notary Public in the State of New York  
Qualified in Oneida County  
Reg. #01WA4785000  
My commission expires 8-25-14



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

On this 27<sup>th</sup> day of August, 2013, before me, the undersigned, personally appeared **BRIAN SCALA**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

**KRYSTAL PAVLOT**  
Commissioner of Deeds  
City of Utica, New York  
Commission Expires Dec. 31, 2014

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

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

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

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

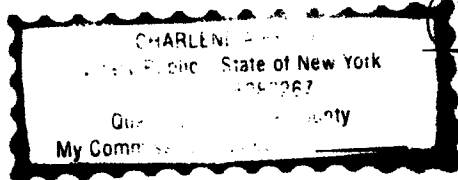
STATE OF NEW YORK )  
 ) ss.:  
COUNTY ONEIDA )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, personally appeared **BRIAN SCALA**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

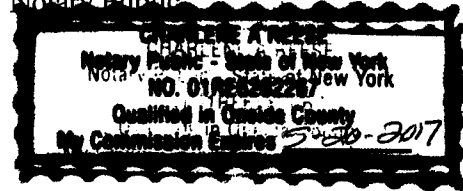
\_\_\_\_\_  
Notary Public

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

On this 10 day of September, 2013, before me, the undersigned, personally appeared John H. Levitas, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Charles A. Reue  
\_\_\_\_\_  
Notary Public



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

On this \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public



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

On this 28<sup>th</sup> day of August, 2013, before me, the undersigned, personally appeared **STEVEN J. DiMEO**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Greg J Amoroso  
Notary Public

**GREGORY J. AMOROSO**  
Notary Public, State of New York  
No. 02AM5024250  
Qualified in Oneida County  
My Commission Expires 2014