

Anthony J. Picente Jr.
County Executive
Shawna Papale
Executive Director/Secretary/Treasurer
Jennifer Waters
Assistant Secretary



David C. Grow
Chairman
Michael Fitzgerald
Vice Chairman

Ferris Betrus Jr.
Kirk Hinman
Mary Faith Messenger
Eugene Quadraro
Stephen Zogby

To: Oneida County Local Development Corporation Board of Directors
From: Shawna M. Papale
Date: November 11, 2022
RE: OCLDC Meeting Agenda

The Oneida County Local Development Corporation shall meet – **8:00 AM (immediately AFTER the OCIDA meeting), Friday, November 18, 2022 at 584 Phoenix Drive, Rome, NY 13441.**

Members of the public may listen to the OCLDC meeting by calling +1-408-418-9388, Access code: 263 407 22173 or attend in person. The Minutes of the Corporation meeting will transcribed and posted on the OCLDC website.

1. Approve Minutes – 9/16/22
2. Financial Review
3. OCLDC-EDGE 2023 Contract
4. OCLDC-EDGE 2023 Supplemental Contract

**DRAFT Minutes of the Meeting of the
Oneida County Local Development Corporation
September 16, 2022
584 Phoenix Drive, Rome, NY/Webex Video/Teleconference**

Members Present: David Grow, Michael Fitzgerald; Ferris Betrus; Kirk Hinman; Mary Faith Messenger; Gene Quadraro.

EDGE Staff Present: Steven DiMeo; Shawna Papale, Maureen Carney; Bill Van Shufflin; Tim Fitzgerald; Laura Cohen; Mark Kaucher; and Hannah Phillips.

Other Attendees: Rome Mayor Jackie Izzo; Laura Ruberto, Bond, Schoeneck & King (WebEx); Mark Levitt and Jenna Peppenelli, Levitt & Gordon (WebEx).

Chair Grow called the meeting to order at 9:58 AM.

Minutes

The August 19, 2022 meeting minutes were reviewed. Concerning the Preswick Glen Series 2017 Bonds, F. Betrus clarified that he is a member of the board of the LutheranCare Foundation, and not Preswick Glen. **A motion to approve the minutes, as corrected, was moved by M. Fitzgerald and seconded F. Betrus. The motion carried 6-0.**

Interim Financials

M. Carney reviewed the August 31st interim financial report. She stated that due to minimal activity, there was nothing that required the attention of the members.. **The interim financials were received and accepted, subject to audit.**

2023 Budget

M.F. Messenger presented to the members the proposed 2023 budget. She stated that it does not anticipate any income aside from bank interest. She also stated that the Special Economic Development Projects budget line is increasing by \$35,000. With no questions or comments, **A motion to approve the proposed OCLDC 2023 Budget as presented was moved by M. Fitzgerald and seconded by E. Quadraro. The motion carried 6-0.**

NYSEDC IDA Academy – November 10, 2022

S. Papale informed the members that the NYS Economic Development Council is hosting its Fall 2022 IDA Academy in Utica, at the Delta Hotel on November 10th. She invited members to attend if available. Chair Grow stated that the LDC has been asked to sponsor the event. He suggested that the LDC partner with the Oneida County IDA in sponsoring the event at \$2,500 apiece, for a total \$5,000 sponsorship. **A motion to approve sponsoring the NYSEDC IDA Academy at an amount of \$2,500, with OCIDA sponsoring at an identical amount was moved by M. Fitzgerald and seconded by E. Quadraro. The motion carried 6-0.**

BOCES Carpentry Program Support

S. Papale shared that she had been approached by Oneida-Herkimer-Madison BOCES to consider supporting its carpentry trade program. She shared that there is considerable interest in the program from potential trainees, but that there is a financial barrier to enrolling, due to the cost of tuition and tools. **M. Fitzgerald made a motion to that the OCLDC approve sponsoring the BOCES carpentry trade program at an amount of \$7,500, with OCIDA sponsoring at an identical amount. E. Quadraro seconded the motion, which passed 6-0.**

Masonic Medical Research Institute

S. Papale brought to the attention of the members that an application for financial assistance is anticipated from Masonic Medical Research Institute. This is expected to come before the LDC in the near future.

There being no further business, at 10:06 AM Chair Grow asked for a motion to adjourn the meeting: F. Betrus moved, and M. Fitzgerald seconded the motion to adjourn. Motion carried 6-0.

Respectfully Submitted,
Tim Fitzgerald

OCLDC
Notes to the Financial Statements
October 31, 2022

OCLDC Balance Sheet:

1. Cash decreased by \$246K or 33% over the last 12 months
2. The balance in accrued expenses is 10 months of the 2022 audit fee accrual and the remaining balance on the contract with MVCC for scholarship expenses not yet paid
3. The dollars committed for the job growth initiative are segregated in fund balance as board restricted

OCLDC Income Statement:

1. The LDC entered into an agreement with MVCC to provide funds to the college in the amount of \$100,000 for the purpose of creating and administering a micro-electronics laboratory on the MVCC Rome Campus which was paid in September

No other significant items to report

Oneida County Local Development Corp
Balance Sheet
October 31, 2022 and 2021

	Current Year	Prior Year
Assets		
Current Assets		
Cash and Cash Equivalents	503,218	749,680 ¹
Restricted Cash - Job Growth Initiative	100,000	100,000 ¹
Restricted Cash - Marcy Nano Wetlands Escrow	298,698	298,453
Prepaid Expense	0	220
Total Current Assets	<u>901,916</u>	<u>1,148,352</u>
Fixed Assets		
Computer Equipment - Net	<u>20,307</u>	<u>25,181</u>
Fixed Assets	20,307	25,181
Other Assets		
Organization Expenses	17,567	17,567
Amortization Organization Costs	<u>(10,833)</u>	<u>(9,955)</u>
Total Other Assets	6,734	7,612
Total Assets	<u><u>928,957</u></u>	<u><u>1,181,146</u></u>
Liabilities & Net Assets		
Liabilities		
Current Liabilities		
Accounts payable	221	210
Accrued Expenses	<u>28,503</u>	<u>56,634 ²</u>
Total Current Liabilities	28,723	56,844
Long Term Liabilities		
Marcy Nano Wetlands Escrow	<u>298,698</u>	<u>298,453</u>
Total Long Term Liabilities	298,698	298,453
Total Liabilities	<u>327,421</u>	<u>355,297</u>
Net Assets		
OCLDC Nets Assets - Board Restricted	100,000	100,000 ³
OCLDC Net Assets	<u>501,536</u>	<u>725,849</u>
Total Net Assets	601,536	825,849
Total Liabilities & Net Assets	<u><u>928,957</u></u>	<u><u>1,181,146</u></u>

Oneida County Local Development Corp
 Budget Comparison Report
 Current Period: 10/1/2022 - 10/31/2022
 Budget Period: 1/1/2022 - 12/31/2022

	Current Period Actual	Current Period Budget	Year-to-Date Actual	Year-to-Date Budget	Yearly Budget	Remaining Budget
Revenue						
Interest Income Banks	90	13	328	125	150	(178)
Revenue	90	13	328	125	150	(178)
Expenses						
Bank Service Charges	2	0	20	0	0	(20)
Sponsorships	0	0	2,750	0	0	(2,750)
Support - Special Econ Develop Projects	5,000	5,000	50,000	50,000	60,000	10,000
Contract Services Special E-D	0	0	100,000	0	0	(100,000) ¹
Contracted Services Auditing	0	417	3,334	4,167	5,000	1,666
Consulting Legal Expenses	1,150	1,150	11,300	11,300	13,600	2,300
Contract Services Marketing	0	0	435	0	0	(435)
Contracted Services- Other	221	217	2,205	2,167	2,600	395
Insurance	0	117	171	1,167	1,400	1,229
Service Fees -EDGE	2,500	2,500	25,000	25,000	30,000	5,000
Amortization Expense	73	75	732	750	900	168
Depreciation Expense	406	417	4,062	4,167	5,000	938
Expenses	9,352	9,892	200,008	98,717	118,500	(81,508)
Excess or (Deficiency) of Revenue Over Expenses	(9,262)	(9,879)	(199,680)	(98,592)	(118,350)	81,330

Oneida County Local Development Corp
Statement of Cash Flows
For the Period Ending October 31, 2022

Cash Flows From (Used by) Operating Activities

Increase (Decrease) in Net Assets \$ (224,312)

Adjustments for Noncash Transactions

Depreciation and Amortization 878

(Increase) Decrease in Assets

Accounts Receivable 0

Prepaid Expenses 220

Increase (Decrease) in Liabilities

Accounts Payable and Accrued Liabilities (28,121)

Net Cash Flows From Operating Activities (251,335)

Cash Flows From (Used By) Investing Activities

Capital Expenditures 4,874

Net Cash From (Used by) Investing Activities 4,874

Cash Flows From (Used By) Financing Activities

Repayments of Long Term Debt 0

Proceeds from Long Term Debt 0

Net Cash Flows (Used by) Financing Activities 0

Net Increase (Decrease) in Cash and Cash Equivalents (246,461)

Cash and Cash Equivalents, Beginning of Year 849,680

Cash and Cash Equivalents, End of Year \$ 603,218

LEVITT & GORDON

ATTORNEYS AT LAW
91 GENESEE STREET
P.O. BOX 97
NEW HARTFORD, NEW YORK 13413

(315) 724-2194 * TELECOPIER (315) 724-2261

MARK D. LEVITT
JENNA R. PEPPENELLI

DEAN L. GORDON
Of Counsel

November 15, 2022

Oneida County Local Development Corporation

Attn: David Grow, Chairman

584 Phoenix Drive

Rome, New York 13441-4105

**Re: Oneida County Local Development Corporation
Calendar Year 2023 Staff Service Agreements**

Each calendar year OCLDC enters into Staff Service Agreements with various entities, whereunder OCLDC staff provides administrative and professional services to various not-for-profit organizations and governmental entities. Below is a listing of the Staff Service Agreements provided herewith, along with a listing of the material changes:

1. OCLDC Staff Service Agreement:
 - a. No changes.
2. OCLDC Supplemental Agreement:
 - a. Service fee increased to \$95,000 (previously \$60,000).

We have reviewed the Staff Service Agreement presented and there are no other changes from the Agreement of last year.

Very truly yours,

Levitt & Gordon Esqs.

By: 

Mark D. Levitt

MDL:mlb

STAFF SERVICES AGREEMENT-CY ~~2021~~20222023

THIS STAFF SERVICES AGREEMENT-CY ~~2021~~20222023(this "Agreement"), dated as of December __, ~~2020-2022~~ is by and between **ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION**, a New York not-for-profit corporation with its principal office at 584 Phoenix Drive, Rome, New York 13441 ("EDGE") and **ONEIDA COUNTY LOCAL DEVELOPMENT CORPORATION**, a New York not-for-profit local development corporation with its principal office at 584 Phoenix Drive, Rome, New York 13441 ("OCLDC"). EDGE and OCLDC are sometimes referred to herein, individually, as a "Party" and, collectively, as the "Parties".

WITNESSETH:

WHEREAS, EDGE was formed and exists for the general purpose of promoting economic development primarily within the corporate limits of Oneida County, New York; and

WHEREAS, OCLDC was formed and exists for the general purpose of promoting economic development in Oneida County; and

WHEREAS, EDGE employs administrative personnel and support staff (collectively, the "Staff") who maintain an expertise in various matters relating to economic development; and

WHEREAS, OCLDC desires to avail itself of the Staff's expertise and services which the Staff can provide (collectively, the "Staff Services"), upon and subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises and undertakings herein contained, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **DESCRIPTION OF STAFF/STAFF SERVICES.** EDGE will assign various members of the Staff to perform Staff Services for and on behalf of OCLDC. EDGE shall designate one of the Staff members to be the "primary" Staff member assigned to perform and/or coordinate the Staff Services. If OCLDC becomes dissatisfied with such designated staff member, EDGE shall designate a replacement staff member acceptable to OCLDC in its sole discretion. If EDGE fails to designate a staff member acceptable to OCLDC, OCLDC may terminate this Agreement upon 30 days written notice. The Staff Services to be performed by the Staff for and on behalf of OCLDC shall consist of general administrative and staff support services relating to economic development within Oneida County and shall include, but not necessarily be limited to, those Staff Services more particularly described on **Exhibit A** annexed hereto and made a part hereof. The Staff shall perform the Staff Services at EDGE's principal office or at such other locations as EDGE deems necessary or desirable in order to discharge its obligations hereunder.

2. **EDGE'S RESPONSIBILITIES.** EDGE will recruit, interview, select, hire and assign those members of the Staff who, in EDGE's judgment, are best qualified to perform all EDGE work including, without limitation, the Staff Services. As the Staff's employer, EDGE will (a) maintain all necessary personnel and payroll records for the Staff, (b) calculate the Staff's wages and withhold taxes and other government-mandated charges, if any, (c) remit such taxes and charges to the appropriate government entity, (d) pay net wages and furnish benefits, if any, directly to the Staff, and (e) provide for such insurance coverage as may be required of it herein.

3. **STAFF ASSIGNED TO OCLDC.** Those members of the Staff assigned by EDGE to provide Staff Services for and on behalf of OCLDC pursuant to this Agreement shall at all times be deemed employees of EDGE. The Staff shall not be deemed employees of OCLDC for any purpose and shall not be entitled to participate in any OCLDC employee benefit plans including pension, 401(k), profit sharing, retirement, deferred compensation, welfare, insurance, disability, bonus, vacation pay, severance pay, and other similar plans, programs and agreements, whether reduced to writing or not.

4. **EDGE REPRESENTATION.** EDGE represents that the members of the Staff whom it assigns to work on OCLDC projects and/or matters (collectively, the "OCLDC Projects/Matters") will satisfactorily perform the Staff Services. If a particular member of the Staff does not perform such Staff Services to OCLDC's satisfaction, EDGE will arrange for said Staff member to be replaced by another Staff member within twenty (20) days after it receives notice from OCLDC that it is not satisfied with such Staff member's performance on OCLDC Projects/Matters. In those instances where OCLDC is dissatisfied with a particular Staff member's performance on OCLDC Projects/Matters, EDGE's replacement of such Staff member by another Staff member shall be OCLDC's sole and exclusive remedy, except as may be otherwise provided for herein.

5. **COMPLIANCE WITH LAWS.** In connection with its performance under this Agreement, EDGE will comply with all laws, regulations, and orders, to the extent applicable to EDGE including, but not limited to, equal opportunity employment laws and regulations, the Fair Labor Standards Act, and the Immigration Reform and Control Act.

6. **OCLDC's RESPONSIBILITIES.** OCLDC shall specify, in detail, to EDGE the OCLDC Projects/Matters which OCLDC desires to have the Staff perform for and on its behalf, and shall set specific objectives and goals in connection therewith. OCLDC shall furnish EDGE with such information, guidelines, reports and the like as may be reasonably necessary in order for EDGE to direct the Staff to effect and carry out their functions and responsibilities in connection with such OCLDC Projects/Matters.

7. **SERVICE FEE** In consideration of the Staff Services to be furnished to OCLDC by EDGE hereunder during the Term, OCLDC shall pay a service fee (the "Service Fee") to EDGE in the amount of **THIRTY THOUSAND AND NO/100ths DOLLARS (\$30,000.00)**. The Service Fee shall be paid to EDGE within thirty (30) days after the date

that EDGE presents an invoice therefor to OCLDC. EDGE shall invoice OCLDC on a monthly basis for the calendar year in twelve monthly installments.

The Service Fee covers the Staff Services provided to OCLDC during the Term, including those set forth on **Exhibit A** annexed hereto, as well as that portion of EDGE's general office overhead allocable to the Staff Services provided to OCLDC.

The Service Fee does not include any out-of-pocket expenses incurred by EDGE in providing the Staff Services including, without limitation, the following: the costs of third-party service providers retained by EDGE to perform Staff Services for or on behalf of OCLDC including consultants, accountants and attorneys, the premiums for OCLDC's insurance coverage (i.e., liability, D&O, and property insurance), OCLDC's annual audit fees, reimbursements of interest costs and other fees, OCLDC's meeting expenses, collection costs on OCLDC loans, the costs of any annual or other contributions made by OCLDC to other organizations, the costs of special events attended or sponsored by OCLDC, NYS filing fees, safety deposit box fees, the cost of occupancy of space at 584 Phoenix Drive, Rome, New York 13441 by OCLDC, bank charges on OCLDC bank accounts, and any costs or expenses of an extraordinary nature. Notwithstanding anything to the contrary contained in this Agreement, during the Term (as hereinafter defined) EDGE shall not engage any third-party service provider to perform Staff Services for or on behalf of OCLDC or incur any single out-of-pocket expense for Staff Services in excess of \$1,000.00 (or aggregate out-of-pocket expenses in excess of \$2,500.00) without OCLDC's prior consent. EDGE shall bill OCLDC on a monthly basis for all out-of-pocket expenses incurred by EDGE in performing the Staff Services.

8. **TERM.** The term of this Agreement shall be for one (1) year commencing on **January 1, 2021-20222023** and ending on **December 31, 2021-20222023**, inclusive (the "Term"), unless (a) this Agreement is earlier terminated in accordance with the provisions hereof or (b) both Parties, prior to the expiration of the Term of this Agreement, mutually agree, in writing, to extend, renew, or continue this Agreement beyond **December 31, 2021-20222023**. Both Parties reserve the right to negotiate terms for an extension, renewal or continuation of this Agreement, subject to the approval of each Party's governing body. Negotiations for an extension, renewal or continuation of this Agreement shall commence at least sixty (60) days prior to the end of the Term. Notwithstanding anything to the contrary herein contained, EDGE reserves the right to terminate this Agreement immediately if OCLDC fails to pay the Service Fee within thirty (30) days of its due date.

9. **DOCUMENTATION OF TIME WORKED.** EDGE shall arrange for the Staff to devote such time to OCLDC Projects/Matters as may be necessary or required, in EDGE's judgment, to properly, promptly and completely perform such OCLDC Projects/Matters in a good and workmanlike manner. EDGE shall maintain bi-weekly timesheets, and such other documentation as may be necessary to demonstrate the amount of time spent by the Staff on OCLDC Projects/Matters.

10. **INDEMNIFICATION.** To the fullest extent permitted by applicable law, each Party hereto (each, individually, an "Indemnifying Party") shall indemnify the other Party

hereto, and its contractors, officers, directors, servants, agents, representatives, and employees (each, individually, an "Indemnified Party" and, collectively, the "Indemnified Parties"), from and against any and all liabilities, damages, losses, costs, expenses (including, without limitation, any and all reasonable attorneys' fees and disbursements), causes of action, suits, claims, damages, penalties, obligations, demands or judgments of any nature, including, without limitation, for death, personal injury and property damage and claims brought by third parties for personal injury and/or property damage (collectively, "Damages"), incurred by any Indemnified Party to the extent caused by (i) any breach of this Agreement by the Indemnifying Party, its contractors, officers, directors, members, servants, agents, representatives, or employees, or (iii) the negligence, unlawful act or omission, or intentional misconduct of the Indemnifying Party, its contractors, officers, directors, members, servants, agents, representatives, or employees, arising out of or in connection with this Agreement, or the Staff Services, except to the extent such Damages are directly caused by the breach of this Agreement, the negligence, unlawful act or omission, or intentional misconduct of the Indemnified Party or any person or entity for whom the Indemnified Party is legally responsible.

11. **INSURANCE.** Each Party shall obtain and maintain during the Term, at its own cost and expense, insurance against such risks and for such amounts as are customarily insured against by businesses of like type and size, including, but not limited to, the following coverages with the following limits of coverage:

- (a) Commercial General Liability insurance with a combined single limit per occurrence in respect of bodily injury, disease, death and property damage of not less than \$1,000,000, and an aggregate limitation of not less than \$2,000,000, which insurance shall include contractual liability insurance.
- (b) Workers' Compensation and Employer's Liability and State-mandated Disability Benefits Liability insurance covering all persons employed by such Party, with the limits of insurance required by law.
- (c) Business automobile liability insurance with limits of insurance not less than \$1,000,000 for each accident.
- (d) Such other policies of insurance as such Party shall be required by applicable law to obtain and provide.

In addition, EDGE shall obtain and maintain fidelity bond insurance or other insurance covering employee dishonesty with limits of coverage of not less than \$1,000,000.

Each Party's insurance shall be written by a company or companies licensed to do business in the State of New York and reasonably satisfactory to the other Party with a Best's rating of A or better and financial size category of at least Class VII, or such higher standard as the other Party shall reasonably require. Deductibles and

terms and conditions of each Party's insurance shall be subject to the other Party's reasonable approval. All policies and certificates of insurance shall state that the carrier cannot cancel or refuse to renew or create a material reduction in coverage without giving the other Party at least thirty (30) days' prior written notice. To the extent commercially available, each party's liability insurance shall include contract liability coverage for the "indemnification" requirements set forth in Section 10 hereof.

Each Party's Commercial General Liability insurance policy and Business automobile liability insurance policy shall name the other Party as an additional insured, on a primary and non-contributory basis, as its interests may appear (or loss payee in the case of property insurance). On the date hereof, each Party shall deliver to the other Party certificate(s) of insurance evidencing the required insurance coverages hereunder.

Each Party shall attempt to cause its property insurance carrier to agree to a waiver of subrogation. If any insurance policy cannot be obtained with a waiver of subrogation, or if one is obtainable only at additional cost, then the Party undertaking to obtain the insurance shall notify the other Party of such fact. The other Party shall have ten (10) business days after receipt of notice to (i) direct the Party undertaking to provide insurance to place it with a company reasonably satisfactory to the other Party that will issue it with a waiver of subrogation at no greater cost, or (ii) agree to pay the additional premium. To the extent that the Parties obtain insurance with a waiver of subrogation, the Parties release each other from any claims for damages that are caused by or result from risks that such policies cover.

Each Party may provide any required insurance under a blanket policy.

12. **PERMITS AND LICENSES.** Each Party will maintain in effect during the Term of this Agreement any and all Federal, State, and/or local licenses and permits which may be required with respect to the respective business in which such party is engaged.

13. **THIRD PARTY BENEFICIARIES.** Except as may be otherwise provided herein, this Agreement is not intended to confer any rights, privileges or causes of action upon any third party.

14. **FORCE MAJEURE.** EDGE will not be responsible for any failure or delay in providing the Staff Services to OCLDC if such failure or delay is due to labor disputes and strikes, fire, riot, war, terrorism, acts of God, or any other causes beyond the control of EDGE.

15. **NOTICES.** All notices, consents, or other communications required or permitted from either Party to the other under this Agreement shall be in writing and shall be deemed received (i) upon actual receipt when personally delivered, (ii) upon acknowledgment of receipt if sent by facsimile, (iii) upon the expiration of the third business day after being deposited in the United States mails, postage prepaid, certified or registered mail, or (iv) upon the expiration of the first business day after being deposited with a

nationally-recognized overnight courier service, pre-paid for next day delivery, addressed as follows:

If to EDGE: Economic Development Growth
 Enterprises Corporation
 584 Phoenix Drive
 Rome, New York 13441
 Attn: Steven J. DiMeo
 Its President

If to OCLDC: Oneida County Local Development Corporation
 584 Phoenix Drive
 Rome, New York 13441
 Attn: David C. Grow
 Its Chairman

16. **GOVERNING LAW.** This Agreement will be governed by and construed in accordance with the law of the State of New York, without reference to its choice of law rules or principles.

17. **SECTION HEADINGS.** The Section headings of this Agreement are for the convenience of the Parties only and shall in no way alter, modify, amend, limit, or restrict the contractual obligations of the Parties hereunder.

18. **SEVERABILITY; WAIVER.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement. Any delay or waiver by a Party to declare a breach or seek any remedy available to it under this Agreement or by law will not constitute a waiver as to any past or future breaches or remedies.

19. **ASSIGNMENT.** Neither EDGE nor OCLDC may assign this Agreement without the prior written consent of the other Party. This Agreement shall be binding upon the Parties and their respective successors and permitted assigns.

20. **INDEPENDENT CONTRACTOR.** In its performance of this Agreement, EDGE will at all times act in its own capacity and rights as an independent contractor, and nothing contained herein may be construed to make EDGE an agent or partner of, or joint venturer with, OCLDC or make EDGE and OCLDC joint employers of the Staff.

21. **WAIVER OF JURY TRIAL.** Each Party hereby expressly waives any right to trial by jury for any action or proceeding brought under this Agreement and agrees that any action or proceeding hereunder shall be tried by a judge without a jury.

22. **FURTHER ASSURANCES.** Each Party hereby agrees to take or cause to be taken such further actions, to execute, acknowledge, deliver and file, or cause to be executed, acknowledged, delivered and filed, such further documents and instruments,

and to use its commercially reasonable efforts to obtain such consents, as may be necessary or as may be reasonably requested in order to fully effectuate the purposes, terms and conditions of this Agreement, whether at or after the execution of this Agreement.

23. **LIMITATION OF LIABILITY.** Notwithstanding anything to the contrary in this Agreement, under no circumstance shall either Party have any liability whatsoever for consequential, incidental, special or punitive damages, howsoever claimed or arising and whether or not foreseeable.

24. **MISCELLANEOUS.** The Parties acknowledge and agree that OCLDC is managed by OCLDC's Board of Directors (the "OCLDC Board") and, to the extent that the OCLDC Board has delegated management duties to OCLDC's officers, OCLDC's officers. The Parties further acknowledge that nothing contained in this Agreement shall confer on EDGE any power or authority to manage OCLDC, which power and authority shall remain with the OCLDC Board and/or OCLDC's officers at all times. Without limiting the generality of the foregoing, the Parties acknowledge and agree that (a) the Staff Services shall be strictly administrative (rather than managerial) in nature, and (b) EDGE shall have no authority to execute contracts or agreements on OCLDC's behalf or otherwise bind OCLDC.

Neither this Agreement nor anything contained in this Agreement shall be deemed to make either Party an affiliate or sponsor of the other.

25. **ENTIRE AGREEMENT.** This Agreement (including **Exhibit A** annexed hereto) contains the entire understanding and agreement between the Parties with respect to the subject matter covered, and all prior agreements, understanding, covenants, promises, warranties, and representations, oral or written, express or implied, not incorporated in this Agreement are superseded. This Agreement may not be amended or supplemented in any way except in writing, dated and signed by the authorized officers of both Parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have caused this Staff Services Agreement-
CY ~~2019~~ 20222023 to be signed by their respective duly authorized officers as of the day
and year first written above.

EDGE:

**ECONOMIC DEVELOPMENT GROWTH
ENTERPRISES CORPORATION**

By: _____
Rocco F. Arcuri Sr.
Its Chairperson

OCLDC:

**ONEIDA COUNTY LOCAL DEVELOPMENT
CORPORATION**

By: _____
David C. Grow
Its Chairman

EXHIBIT A

1. Actively offer to eligible entities that are in Oneida County that can and need to utilize civic facility bonding for opportunities of investment and refinancing that are eligible for civic facility bonding, and negotiation such deals that are to be acted upon by Oneida County Local Development Corporation (OCLDC).
2. Comply with New York State requirements set forth for the governance and operation of the Oneida County Local Development Corporation including all required reporting, monitoring, auditing.
3. Market the programs and benefits of OCLDC through written materials, presentation, website, press releases, and meetings with potential clients who would utilize civic facility bonding.
4. Provide all accounting and finance support for OCLDC, including administrative support for completion of necessary financial reports, coordinating the completion of financial audits, completes all other reports required by government funding agencies, and provides other financial information and analyses as requested by OCLDC.
5. Assist OCLDC in the hiring of consultants, securing professional services, and in the development of requests for proposals and qualifications for feasibility studies, and securing A/E services for various projects.
6. Provide necessary staff and administrative support to OCLDC, its Audit and Governance Committees, and other committees established by OCLDC.
7. Provide such other services or staff support functions as may be requested by OCLDC from time to time.
8. Maintain and update as necessary the application documents of the OCLDC that would be distributed to potential applicants to the OCLDC.
9. Subject to the provisions of Section 1 of this Agreement, EDGE hereby designates Shawna Papale as the "primary" Staff member.

SUPPLEMENTAL STAFF SERVICES AGREEMENT- CY ~~2021~~20222023

THIS SUPPLEMENTAL STAFF SERVICES AGREEMENT- CY ~~2021~~20222023 (this "Agreement"), dated as of January 1, ~~2021~~20222023, is by and between **ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION**, a New York not-for-profit corporation with its principal office at 584 Phoenix Drive, Rome, New York 13441 ("EDGE") and **ONEIDA COUNTY LOCAL DEVELOPMENT CORPORATION**, a New York public benefit corporation with its principal office at 584 Phoenix Drive, Rome, New York 13441 ("OCLDC"). EDGE and OCLDC are sometimes referred to herein, individually, as a "Party" and, collectively, as the "Parties".

W I T N E S S E T H:

WHEREAS, EDGE was formed and exists for the general purpose of promoting economic development primarily within the corporate limits of Oneida County, New York; and

WHEREAS, OCLDC was formed under Article 18 of the General Municipal Law as a public benefit corporation and exists for the general purpose of promoting economic development in Oneida County; and

WHEREAS, EDGE employs administrative personnel and support staff (collectively, the "Staff") who maintain an expertise in various matters relating to economic development and who are available to provide staff services (collectively, the "Staff Services") to OCLDC; and

WHEREAS, concurrently herewith, EDGE and OCLDC have entered into a Staff Services Agreement- CY ~~2021~~20222023 (the "Basic Staff Services Agreement"); and

WHEREAS, the Basic Staff Services Agreement provides, among other things, that during CY ~~2021~~20222023 EDGE is to furnish to OCLDC the Staff Services (as such term is defined therein) in consideration of a \$30,000.00 service fee (the "Basic Service Fee"); and

WHEREAS, the Basic Staff Services Agreement anticipates that EDGE will provide a certain volume of Basic Staff Services to OCLDC during CY ~~2021~~20222023 (the "Basic Volume of Staff Services"); and

WHEREAS, during CY ~~2021~~20222023, OCLDC desires EDGE to provide a supplemental volume of Staff Services over and above the Basic Volume of Staff Services (collectively, the "Supplemental Staff Services") and EDGE is willing to do so in consideration of a SIXTYNINETY FIVE THOUSAND AND NO/100TH

DOLLARS (\$65095,000.00) supplemental service fee (the "Supplemental Service Fee") and upon the other terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises and undertakings herein contained, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. DESCRIPTION OF STAFF/SUPPLEMENTAL STAFF SERVICES.

EDGE will assign various members of the Staff to perform Supplemental Staff Services for and on behalf of OCLDC. Subject to OCLDC's approval, EDGE shall designate one of the Staff members to be the "primary" Staff member assigned to perform and/or coordinate the Supplemental Staff Services. If OCLDC becomes dissatisfied with such designated staff member, EDGE shall designate a replacement staff member acceptable to OCLDC in its sole discretion. If EDGE fails to designate a staff member acceptable to OCLDC, OCLDC may terminate this Agreement upon 30 days written notice. The Supplemental Staff Services to be performed by the Staff for and on behalf of OCLDC shall consist of general administrative and staff support services relating to economic development within Oneida County and shall include, but not necessarily be limited to, those Supplemental Staff Services more particularly described on **Exhibit A** annexed hereto and made a part hereof. The Staff shall perform the Supplemental Staff Services at EDGE's principal office or at such other locations as EDGE deems necessary or desirable in order to discharge its obligations hereunder.

2. EDGE'S RESPONSIBILITIES. EDGE will recruit, interview, select, hire and assign those members of the Staff who, in EDGE's judgment, are best qualified to perform all EDGE work including, without limitation, the Supplemental Staff Services. As the Staff's employer, EDGE will (a) maintain all necessary personnel and payroll records for the Staff, (b) calculate the Staff's wages and withhold taxes and other government-mandated charges, if any, (c) remit such taxes and charges to the appropriate government entity, (d) pay net wages and furnish benefits, if any, directly to the Staff, and (e) provide for such insurance coverage as may be required of it herein.

3. STAFF ASSIGNED TO OCLDC. Those members of the Staff assigned by EDGE to provide Supplemental Staff Services for and on behalf of OCLDC pursuant to this Agreement shall at all times be deemed employees of EDGE. The Staff shall not be deemed employees of OCLDC for any purpose and shall not be entitled to participate in any OCLDC employee benefit plans including pension, 401(k), profit sharing, retirement, deferred compensation, welfare, insurance, disability, bonus, vacation pay, severance pay, and other similar plans, programs and agreements, whether reduced to writing or not. EDGE will require all Staff members who are assigned to work on OCLDC projects and/or matters (collectively, the "OCLDC Projects/Matters") to acknowledge, in writing, the application of the terms of this Section. EDGE will endeavor to notify OCLDC prior

to recruiting and/or hiring any person as a member of the Staff whom it anticipates will be assigned to work on OCLDC Projects/Matters.

4. **EDGE REPRESENTATION.** EDGE represents that the members of the Staff whom it assigns to OCLDC Projects/Matters will satisfactorily perform the Supplemental Staff Services. If a particular member of the Staff does not perform such Supplemental Staff Services to OCLDC's satisfaction, EDGE will arrange for said Staff member to be replaced by another Staff member within twenty (20) days after it receives notice from OCLDC that it is not satisfied with such Staff member's performance on OCLDC Projects/Matters. In those instances where OCLDC is dissatisfied with a particular Staff member's performance on OCLDC Projects/Matters, EDGE's replacement of such Staff member by another Staff member shall be OCLDC's sole and exclusive remedy.

5. **COMPLIANCE WITH LAWS.** In connection with its performance under this Agreement, EDGE will comply with all laws, regulations, and orders, to the extent applicable to EDGE including, but not limited to, equal opportunity employment laws and regulations, the Fair Labor Standards Act, and the Immigration Reform and Control Act.

6. **OCLDC's RESPONSIBILITIES.** OCLDC shall specify, in detail, to EDGE the OCLDC Projects/Matters, which OCLDC desires to have the Staff perform for and on its behalf, and shall set specific objectives and goals in connection therewith as set forth in Exhibit A. OCLDC shall furnish EDGE with such information, guidelines, reports and the like as may be reasonably necessary in order for EDGE to direct the Staff to effect and carry out their functions and responsibilities in connection with such OCLDC Projects/Matters. Should the OCLDC require any further project assistance or additional services they reserve the right to request those from EDGE at such time and modify this agreement.

7. **SERVICE FEE** In consideration of the Supplemental Staff Services to be furnished to OCLDC by EDGE hereunder during the Term, OCLDC shall pay a supplemental service fee (the "Supplemental Service Fee") to EDGE in the amount of ~~FIFTY SIXTYNINTY FIVE THOUSAND AND NO/100ths DOLLARS (\$65095,000.00)~~. The Supplemental Service Fee shall be paid to EDGE on a monthly basis in twelve equal monthly installments.

The Supplemental Service Fee covers the Supplemental Staff Services provided to OCLDC during the Term, including those set forth on **Exhibit A** annexed hereto, as well as that portion of EDGE's general office overhead allocable to the Supplemental Staff Services provided to OCLDC.

The Supplemental Service Fee does not include any out-of-pocket expenses incurred by EDGE in providing the Supplemental Staff Services including, without limitation, the following: the costs of third-party service providers retained by EDGE to perform Supplemental Staff Services for or on behalf of

OCLDC including consultants, accountants and attorneys, the premiums for OCLDC's insurance coverage (i.e., liability, D&O, and property insurance), OCLDC's annual audit fees, reimbursements of interest costs and other fees, OCLDC's meeting expenses, collection costs on OCLDC loans, the costs of any annual or other contributions made by OCLDC to other organizations, the costs of special events attended or sponsored by OCLDC, NYS filing fees, safety deposit box fees, the cost of occupancy of space at 584 Phoenix Drive, Rome, New York 13441 by OCLDC, bank charges on OCLDC bank accounts, and any costs or expenses of an extraordinary nature. Notwithstanding anything to the contrary contained in this Agreement, EDGE shall not engage any third-party service provider to perform Supplemental Staff Services for or on behalf of OCLDC or incur any out-of-pocket expense for Supplemental Staff Services in excess of \$1000 (or aggregate out-of-pocket expenses in excess of \$2,500) without OCLDC's prior consent. EDGE shall bill OCLDC on a monthly basis for all out-of-pocket expenses incurred by EDGE in performing the Supplemental Staff Services.

8. **TERM.** The term of this Agreement shall be for one (1) year commencing on **January 1, ~~2021~~ 20222023** and ending on **December 31, ~~2021~~ 20222023**, inclusive (the "Term"), unless both Parties, prior to the completion of the Term of this Agreement, mutually agree, in writing, to extend, renew, or continue this Agreement beyond December 31, ~~2021~~ 20222023. Both Parties reserve the right to negotiate terms for an extension, renewal or continuation of this Agreement, subject to the approval of each Party's governing body. Negotiations for an extension, renewal or continuation of this Agreement shall commence at least sixty (60) days prior to the end of the Term. Notwithstanding anything to the contrary herein contained, EDGE reserves the right to terminate this Agreement immediately if OCLDC fails to pay the Service Fee within thirty (30) days of its due date.

9. **DOCUMENTATION OF TIME WORKED.** EDGE shall arrange for the Staff to devote such time to OCLDC Projects/Matters as may be necessary or required, in EDGE's judgment, to properly, promptly and completely perform such OCLDC Projects/Matters in a good and workmanlike manner. EDGE shall maintain bi-weekly timesheets, and such other documentation as may be necessary to demonstrate the amount of time spent by the Staff on OCLDC Projects/Matters.

10. **INDEMNIFICATION.** To the fullest extent permitted by applicable law, each Party hereto (each, individually, an "Indemnifying Party") shall indemnify the other Party hereto, and its contractors, officers, directors, servants, agents, representatives, and employees (each, individually, an "Indemnified Party" and, collectively, the "Indemnified Parties"), from and against any and all liabilities, damages, losses, costs, expenses (including, without limitation, any and all reasonable attorneys' fees and disbursements), causes of action, suits, claims, damages, penalties, obligations, demands or judgments of any nature, including, without limitation, for death, personal injury and property damage and claims brought by third parties for personal injury and/or property damage (collectively,

"Damages") incurred by any Indemnified Party to the extent caused by (i) any breach of this Agreement by the Indemnifying Party, its contractors, officers, directors, members, servants, agents, representatives, or employees, or (iii) the negligence, unlawful act or omission, or intentional misconduct of the Indemnifying Party, its contractors, officers, directors, members, servants, agents, representatives, or employees, arising out of or in connection with this Agreement, or the Supplemental Staff Services, except to the extent such Damages are directly caused by the breach of this Agreement, the negligence, unlawful act or omission, or intentional misconduct of the Indemnified Party or any person or entity for whom the Indemnified Party is legally responsible.

11. **INSURANCE.** Each Party shall obtain and maintain during the Term, at its own cost and expense, insurance against such risks and for such amounts as are customarily insured against by businesses of like type and size, including, but not limited to, the following coverages with the following limits of coverage:

- (a) Commercial General Liability insurance with a combined single limit per occurrence in respect of bodily injury, disease, death and property damage of not less than \$1,000,000, and an aggregate limitation of not less than \$2,000,000, which insurance shall include contractual liability insurance.
- (b) Workers' Compensation and Employer's Liability and State-mandated Disability Benefits Liability insurance covering all persons employed by such Party, with the limits of insurance required by law.
- (c) Business automobile liability insurance with limits of insurance not less than \$1,000,000 for each accident.
- (d) Such other policies of insurance as such Party shall be required by applicable law to obtain and provide.

In addition, EDGE shall obtain and maintain fidelity bond insurance or other insurance covering employee dishonesty with limits of coverage of not less than \$5,000,000.

Each Party's insurance shall be written by a company or companies licensed to do business in the State of New York and reasonably satisfactory to the other Party with a Best's rating of A or better and financial size category of at least Class VII, or such higher standard as the other Party shall reasonably require. Deductibles and terms and conditions of each Party's insurance shall be subject to the other Party's reasonable approval. All policies and certificates of insurance shall state that the carrier cannot cancel or refuse to renew or create a

material reduction in coverage without giving the other Party at least thirty (30) days' prior written notice. To the extent commercially available, each party's liability insurance shall include contract liability coverage for the "indemnification" requirements set forth in Section 10 hereof.

Each Party's Commercial General Liability insurance policy and Business automobile liability insurance policy shall name the other Party as an additional insured, on a primary and non-contributory basis, as its interests may appear (or loss payee in the case of property insurance). On the date hereof, each Party shall deliver to the other Party certificate(s) of insurance evidencing the required insurance coverages hereunder.

Each Party shall attempt to cause its property insurance carrier to agree to a waiver of subrogation. If any insurance policy cannot be obtained with a waiver of subrogation, or if one is obtainable only at additional cost, then the Party undertaking to obtain the insurance shall notify the other Party of such fact. The other Party shall have ten (10) business days after receipt of notice to (i) direct the Party undertaking to provide insurance to place it with a company reasonably satisfactory to the other Party that will issue it with a waiver of subrogation at no greater cost, or (ii) agree to pay the additional premium. To the extent that the Parties obtain insurance with a waiver of subrogation, the Parties release each other from any claims for damages that are caused by or result from risks that such policies cover.

EDGE may provide any required insurance under a blanket policy.

12. **PERMITS AND LICENSES.** Each Party will maintain in effect during the Term of this Agreement any and all Federal, State, and/or local licenses and permits which may be required with respect to the respective business in which such Party is engaged.

13. **THIRD PARTY BENEFICIARIES.** Except as may be otherwise provided herein, this Agreement is not intended to confer any rights, privileges or causes of action upon any third party.

14. **FORCE MAJEURE.** EDGE will not be responsible for any failure or delay in providing the Supplemental Staff Services to OCLDC if such failure or delay is due to labor disputes and strikes, fire, riot, war, terrorism, acts of God, or any other causes beyond the control of EDGE.

15. **NOTICES.** All notices, consents, or other communications required or permitted from either Party to the other under this Agreement shall be in writing and shall be deemed received (i) upon actual receipt when personally delivered, (ii) upon acknowledgment of receipt if sent by facsimile, (iii) upon the expiration of the third business day after being deposited in the United States mails, postage prepaid, certified or registered mail, or (iv) upon the expiration of the first business

day after being deposited with a nationally-recognized overnight courier service, pre-paid for next day delivery, addressed as follows:

If to EDGE:

Economic Development Growth
Enterprises Corporation
584 Phoenix Drive
Rome, New York 13441
Attn: Steven J. DiMeo
Its President

_____ If to OCLDC: Oneida County Local
Development Corporation
584 Phoenix Drive
Rome, New York 13441
Attn: David C. Grow
Its Chairman

16. **GOVERNING LAW.** This Agreement will be governed by and construed in accordance with the law of the State of New York, without reference to its choice of law rules or principles.

17. **SECTION HEADINGS.** The Section headings of this Agreement are for the convenience of the Parties only and shall in no way alter, modify, amend, limit, or restrict the contractual obligations of the Parties hereunder.

18. **SEVERABILITY; WAIVER.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement. Any delay or waiver by a Party to declare a breach or seek any remedy available to it under this Agreement or by law will not constitute a waiver as to any past or future breaches or remedies.

19. **ASSIGNMENT.** Neither EDGE nor OCLDC may assign this Agreement without the prior written consent of the other Party. This Agreement shall be binding upon the Parties and their respective successors and permitted assigns.

20. **INDEPENDENT CONTRACTOR.** In its performance of this Agreement, EDGE will at all times act in its own capacity and rights as an independent contractor, and nothing contained herein may be construed to make EDGE an agent or partner of, or joint venturer with, OCLDC or make EDGE and OCLDC employers of the Staff

21. **WAIVER OF JURY TRIAL.** Each Party hereby expressly waives any right to trial by jury for any action or proceeding brought under this Agreement and agrees that any action or proceeding hereunder shall be tried by a judge without a jury.

22. **FURTHER ASSURANCES.** Each Party hereby agrees to take or cause to be taken such further actions, to execute, acknowledge, deliver and file, or cause to be executed, acknowledged, delivered and filed, such further documents and instruments, and to use its commercially reasonable efforts to obtain such consents, as may be necessary or as may be reasonably requested in order to fully effectuate the purposes, terms and conditions of this Agreement, whether at or after the execution of this Agreement.

23. **LIMITATION OF LIABILITY.** Notwithstanding anything to the contrary in this Agreement, under no circumstance shall either Party have any liability whatsoever for consequential, incidental, special or punitive damages, howsoever claimed or arising and whether or not foreseeable.

24. **MISCELLANEOUS.** The Parties acknowledge and agree that OCLDC is managed by OCLDC's Members (the "OCLDC Members") and, to the extent that the OCLDC Members delegated management duties to OCLDC's officers, OCLDC's officers. The Parties further acknowledge that nothing contained in this Agreement shall confer on EDGE any power or authority to manage OCLDC, which power and authority shall remain with the OCLDC Members and/or OCLDC's officers at all times. Without limiting the generality of the foregoing, the Parties acknowledge and agree that (a) the Supplemental Staff Services shall be strictly administrative (rather than managerial) in nature, and (b) EDGE shall have no authority to execute contracts or agreements on OCLDC's behalf or otherwise bind OCLDC.

Nothing contained in this Agreement shall be deemed to make either Party an affiliate or sponsor of the other.

21. **ENTIRE AGREEMENT.** This Agreement (including **Exhibit A** annexed hereto) contains the entire understanding and agreement between the Parties with respect to the subject matter covered, and all prior agreements, understanding, covenants, promises, warranties, and representations, oral or written, express or implied, not incorporated in this Agreement are superseded. This Agreement may not be amended or supplemented in any way except in writing, dated and signed by authorized officers both parties.

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| **IN WITNESS WHEREOF**, the parties have caused this Supplemental Staff Services Agreement-CY ~~2021-2022~~2023 to be signed by their respective duly authorized officers as of the day and year first written above.

EDGE:

**ECONOMIC DEVELOPMENT GROWTH
ENTERPRISES CORPORATION**

By: _____
Steven J. DiMeo
Its President

OCLDC:

**ONEIDA COUNTY LOCAL DEVELOPMENT
CORPORATION**

By: _____
David C. Grow
Its Chairman

EXHIBIT A

1. Actively promote, attract, encourage and develop job and business opportunities through utilization of the IDA program benefits solely or in conjunction with other economic development and packaging of proposals to prospective clients and/or business, and negotiations of deals that are to be acted upon by Oneida County Local Development Corporation (OCLDC) for bonding opportunities.
2. Comply with New York State requirements set forth for the governance and operation of the Oneida County Local Development Corporation including all required reporting, monitoring, auditing.
3. Market the programs and benefits of OCLDC through written materials, presentation, website, press releases, and meetings with potential clients.
4. Provide all accounting and finance support for OCLDC, including administrative support for completion of necessary financial reports, coordinating the completion of financial audits, completes all other reports required by government funding agencies, and provides other financial information and analyses as requested by OCLDC. This includes the billing and remitting of PILOT payments which are due directly to the OCLDC where the OCLDC did bonding such as Utica College, Hamilton College, MVHS.
- 4.5. Assist OCLDC in the hiring of consultants, securing professional services, and in the development of requests for proposals and qualifications for feasibility studies, and securing A/E services for various projects.
- 5.6. Provide necessary staff and administrative support to OCLDC, its Audit and Governance Committees, and other committees established by OCLDC.
- 6.7. Provide such other services or staff support functions as may be requested by OCLDC from time to time.
- 7.8. Participate in training and information events such as annual Economic Development Council.
- 8.9. Maintain and update as necessary the application documents of the OCLDC that would be distributed to potential applicants to the OCLDC.

