

**Audit & Finance Committee Meeting**  
**April 14<sup>th</sup>, 2022**  
**8:00 A.M.**

**Jeff Lord, Chair • Craig Gelbsman, Vice Chair • Patricia Kennedy • Andrew Marietta**  
**Jeff Joyner • Tom Armao • Cheryl Robinson • David Rowley • James Seward**

**Jody Zakrevsky, CEO • Meaghan Marino, Director of Finance and Administration**  
**Joseph Scott, Bond Counsel • Kurt Schulte, Agency Counsel**

1. Chairman's Comments
2. Approval of March 10<sup>th</sup> Audit & Finance Committee Minutes
3. Payment of Bills
4. Review of Financials
5. New and Unfinished Business
  - 27 Market Street Discussion with City of Oneonta
  - Soccer Club Lease

**COUNTY OF OTSEGO INDUSTRIAL DEVELOPMENT AGENCY  
OTSEGO COUNTY CAPITAL RESOURCE CORPORATION**

**AUDIT & FINANCE COMMITTEE  
MARCH 10<sup>TH</sup>, 2022  
MEETING MINUTES**

**CALL TO ORDER**

The COIDA and OCCRC's joint Audit & Finance Committee meeting was called to order at 8:00am at the Otsego Now offices at 189 Main Street in Oneonta, NY. Members were given the option to attend the meeting virtually (v) or in-person. Members present included:

Jeffrey Lord  
Andrew Marietta (v)  
Jeffery Joyner  
Cheryl Robinson

Patricia Kennedy (v)\*  
David Rowley  
Tom Armao  
James Seward

Also, in attendance:

**STAFF**

Jody Zakrevsky, **CEO**  
Meaghan Marino, **Dir. of Finance and Admin.**

(v) – virtual

\* arrived after start of meeting.

**CHAIR'S COMMENTS**

J. Lord, Chair of the Audit & Finance Committee, welcomed fellow committee members and staff and moved immediately into the agenda

**MEETING MINUTES**

J. Lord requested a motion to approve the meeting minutes from the February 1<sup>st</sup> Audit & Finance Committee meeting. Members were given the draft minutes prior to the meeting for review. There being no corrections, D. Rowley made a motion to approve the meeting minutes. J. Joyner seconded the motion, and it was approved by remaining members.

**PAYMENT OF BILLS**

J. Lord reviewed the bills and deposits made since the February 1<sup>st</sup> Audit & Finance Committee meeting. Committee members received a report of the expenses and deposits prior to the meeting to review. He noted that most were normal operating expenses for the agency, with the exception of a bill from Barton and Loguidice for their administrative work on the EDA grant. J. Lord asked if this bill was a one-time

fee. M. Marino remarked that they were billing based on hours worked up to a set amount. They will monthly until their work is completed. He also reviewed deposits for the agency. Most rent payments, with one deposit being from Klugo for past due and current administrative fees. There was also administrative fees for the County's Microenterprise program and partial PILOT fees for the ZAED Properties, LLC. project.

C. Robinson made a motion to approve paying the expenses presented to the committee. J. Joyner seconded the motion, and it was approved by remaining members.

## **REVIEW OF FINANCIALS**

J. Zakrevsky reviewed his YTD budget with members. M. Marino also noted that Jim Lozano, CFO for the agency, included his January and February financial reports, including the Balance Sheet, Profit & Loss Statement, and Loan Portfolio.

## **NEW AND UNFINISHED BUSINESS**

- 2021 Financial Audit – J. Zakrevsky advised the committee that Mostert, Manzanero & Scott, LLP. have begun the audit of the agency's 2021 financials. He noted that it is late in the year for them to be starting. Auditors advised the agency that they would like to have the audit completed and to the board by the end of March, however, this poses a problem as the 2021 financial reporting to the NYS ABO is due by March 31<sup>st</sup>. Before J. Zakrevsky can submit the audited financials to the ABO, they need to be approved by the board. Because the audit reports will likely not be done by the March 24<sup>th</sup> board meeting, committee members suggested holding a special meeting to approve the reports and expedite the process.
- Tree Removal – J. Zakrevsky advised the board that a tree from the Rail Yards fell on the property and a branch from the tree damaged a fence on Shaffer Ave. Because it was an act of God, our insurance advised that we are not liable for the damage to the fence, but we did need to have the tree removed from the owner's yard. The agency had the tree removed and advised the owner that we would cover the cost to repair the fence. Oneonta Fence advised it would cost \$325 and it could be done by the end of the month, as the fence doesn't need to be replaced. J. Zakrevsky advised that when we had Control Tree Cut go to the property and remove the fence, we also asked them to survey the tree-line to see if there were additional trees that looked like they needed to come down. There were four trees that he recommended taking down at a cost of \$6,000. Committee members requested that additional estimates be received. J. Lord noted that this is the first time something like this has happened in the last 10 years, so the cost to repair the fence was much cheaper than paying to have four trees come down. Several committee members noted that the long-term vision for the Rail Yards would be to clean that part of the property up anyways, so does it make sense to take care of the trees now when, hopefully, they'll come down in development of the property.

## **EXECUTIVE SESSION**

D. Rowley made a motion to enter executive session with committee members only, under the Public Officers Law, Article 7, Open Meetings Law Section 105, at 9:01am for the following reasons: To discuss the loan portfolio of a borrower and to discuss the potential sale of property. The motion was seconded by J. Seward and approved by all committee members present. The committee entered executive session at 8:13am.

There was no action taken in executive session.

J. Lord made a motion to enter back into public session; C. Robinson seconded, and all members approved. Executive session ended at 8:44am.

## **ADJOURNMENT**

There being no further business to discuss, J. Joyner made a motion to adjourn the Audit & Finance committee meeting at 8:44am.

## **UPCOMING MEETING SCHEDULE**

The next Audit & Finance Committee meeting is April 14<sup>th</sup>, 2022 at 8:00am.

**COIDA EXPENSES**  
**3/24/2022 - 4/13/2022**

<b>Vendor</b>	<b>Amount Due</b>	<b>Due Date</b>	<b>Reimbursable?</b>	<b>Notes</b>
BST	\$1,100.00			april accounting
First Bankcard	\$870.01	25-Apr		nys edc conference; gotomeeting
ISD	\$237.50			march tech support
MRB Group	\$775.00			RISE grant app
NYSEG	\$90.92	27-Apr		pf streetlighting
NYSEG	\$427.16	24-Apr		189 main utilities
Paperkite	\$250.00			quarterly website maintenance
Paperkite	\$1,500.00			feb. marketing mgmt.
Paperkite	\$4,611.11			marketing campaign

**COIDA TOTAL    \$9,861.70**

**COIDA DEPOSITS**  
**3/24/2022 - 4/13/2022**

<b>Vendor</b>	<b>Amount</b>	<b>Date of Deposit</b>	<b>Notes</b>
CADE	\$1,050.00	4-Apr	apr. rent
Brooks	\$1,939.12	4-Apr	loan payment
Burr Truck	\$4,295.00	4-Apr	apr. rent
Southern Tier 8	\$100.00	4-Apr	apr. rent
IOXUS	\$5,000.00	4-Apr	apr. rent

<b>TOTAL</b>	<b>\$12,384.12</b>
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<b>2022 COIDA Draft Budget</b>				
Revised Projections				
<b>Revenues</b>	<b>2021 Year's End</b>	<b>2022 Adopted Budget</b>	<b>YTD</b>	<b>Mar</b>
<b>Operating Revenues</b>				
<b>Charges for Services (PILOTS)</b>	<b>\$273,178.14</b>	<b>\$73,344.00</b>	<b>\$13,453.00</b>	<b>\$2,110.50</b>
- Manor	\$50,000.00	\$50,000.00		
- Advanced Bio-Tech	\$50,396.30	\$3,500.00		
- Northern Eagle	\$3,850.00	\$3,850.00		
- Skyline Hospitalities				
- Hillside	\$1,500.00	\$1,500.00		
- Corning	\$7,791.00	\$7,791.00		
- Corning Solar				
- Corning Phase III Expansion	\$147,253.84	\$6,000.00		
- Simple Integrity, LLC				
- Heritage House	\$9,887.00	\$0.00		
- Klugo	\$2,500.00	\$703.00		\$2,110.50
- Springbrook		\$4,607.00		
<b>Rental and Financing Income</b>	<b>\$124,700.00</b>	<b>\$134,220.00</b>	<b>\$34,335.00</b>	<b>\$12,045.00</b>
- IOXUS	\$60,000.00	\$60,000.00	\$15,000.00	\$5,000.00
- Burr Trucking	\$42,950.00	\$51,540.00	\$12,885.00	\$4,295.00
- Rental in OBP for Digital Sign				
- Chamber of Commerce	\$0.00	\$0.00	\$0.00	
- Training Room Rental/Congressman	\$9,000.00	\$9,000.00	\$3,000.00	\$1,500.00
- Southern Tier 8	\$1,200.00	\$1,200.00	\$300.00	\$200.00
- C.A.D.E.	\$11,550.00	\$12,480.00	\$3,150.00	\$1,050.00
- OCCRC				
<b>Sub-Total Rentals</b>				
Other Operating Revenue	\$913.37	\$1,200.00	\$0.00	\$0.00
Administrative Fees				
Other Operating Revenue - Misc. Pilots	\$0.00	\$0.00		
Bank Interest				
Bad Debt Recovery/Bank Interest				
Otsego County Appropriation	\$63,750.00	\$63,750.00		
<b>Operating Revenues</b>	<b>\$462,541.51</b>	<b>\$272,514.00</b>	<b>\$47,788.00</b>	<b>\$14,155.50</b>

	2021 Year's End	2022 Adopted Budget	YTD	Mar
<b>Non-Operating Revenues</b>			<b>\$22.47</b>	<b>\$0.00</b>
Investment Earnings	\$87,538.20		\$0.00	
- Cleinman			\$0.00	
- JSJJ			\$0.00	
- Cooperstown Distillery			\$0.00	
- Cooperstown Distillery			\$0.00	
- Jones Marine			\$0.00	
- Brooks			\$22.47	
- HW Naylor				
- Enviro Energy			\$0.00	
State Subsidies/Grants	<b>\$505,000.00</b>	<b>\$475,000.00</b>		
- GE Microgrid Study			\$0.00	
- NYS ESD Grant Halal Meat Processing			\$0.00	
- Cooperstown Foundation			\$0.00	
- OCCRC Match				
- Railyard Study/ESD Richfield	\$150,000.00	\$475,000.00		
- 205 Traffic Study	\$30,000.00	\$0.00		
- Airport Study				
- GE Microgrid Study/ESD Richfield		\$0.00	\$0.00	
- ESD Grant for Richfield Spring	\$325,000.00			
Federal Subsidies/Grants	\$1,200,000.00	\$1,200,000.00		
Municipal Subsidies/Grants (Otsego Program Income)				\$0.00
<b>Public Authority Subsidies</b>				
Other Non-Operating Revenues			\$0.00	
- Operating Charges to OCCRC-Pilots	<b>\$42,905.00</b>	<b>\$42,905.00</b>		
- Hartwick	\$13,855.00			
- Springbrook	\$3,675.00			
- Bassett	\$25,375.00			
Sale of Property	\$0.00		\$0.00	
- Federal EDA Grant				
- IDA-Fund Balance		\$575,000.00		
- Richfield Sewer and Water	\$875,000.00			
- OCCRC		\$300,000.00		
- County Loan		\$600,000.00		
<b>Total Revenues</b>	<b>\$3,085,446.51</b>	<b>\$3,465,419.00</b>	<b>\$47,810.47</b>	<b>\$14,155.50</b>

<b>2022 COIDA Draft Budget</b>				
	<b>2021 Adopted Budget</b>	<b>2022 Adopted Budget</b>	<b>YTD</b>	<b>Mar</b>
<b>OPERATING EXPENSES</b>				
<i><b>Salaries and Wages</b></i>	<b>\$148,000.00</b>	<b>\$153,000.00</b>	<b>\$36,057.72</b>	<b>\$12,019.24</b>
<i><b>Other Employee Benefits</b></i>	<b>\$15,000.00</b>	<b>\$10,000.00</b>	<b>\$2,592.03</b>	<b>\$864.01</b>
- DBL	\$4,000.00		\$14.40	\$4.80
- Other Benefits	\$0.00		\$152.04	\$50.68
- FICA	\$4,800.00		\$2,758.47	\$919.49
- SUTA	\$2,152.00		\$0.00	\$0.00
- Payroll Service	\$6,000.00			\$986.69
- Interns				
<i><b>Subtotal Salary and Benefits</b></i>	<b>\$179,952.00</b>	<b>\$163,000.00</b>	<b>\$38,649.75</b>	<b>\$12,883.25</b>
<i><b>Professional Service Contracts</b></i>	<b>\$45,500.00</b>	<b>\$53,500.00</b>	<b>\$34,318.54</b>	<b>\$15,912.77</b>
- Paperkite Creations			\$10,472.22	\$2,611.11
- NYS EDC	\$0.00	\$5,000.00	\$5,000.00	\$5,000.00
- ISD	\$2,000.00	\$5,000.00	\$0.00	
- Delaware Engineering	\$0.00		\$0.00	
- Elan Planning	\$0.00		\$0.00	
- CFO for Hire/BST	\$15,000.00	\$15,000.00	\$3,480.32	\$1,190.16
- Hodgson Russ	\$5,000.00	\$2,000.00	\$0.00	
- Kurt D. Schulte	\$5,000.00	\$5,000.00	\$0.00	
- Audit	\$8,000.00	\$10,000.00	\$0.00	
- CGR	\$500.00	\$500.00	\$0.00	
- MVEDD	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00
- STEPRDB	\$5,000.00	\$6,000.00	\$6,000.00	
- ESD	\$0.00		\$0.00	
- PPE Recovery	\$0.00		\$0.00	
- Sweet Home Productions	\$0.00		\$0.00	
- Halal Meat Processing Facility	\$0.00		\$0.00	
- Barton & Loguidice	\$0.00		\$2,041.00	\$1,336.50
- Keystone Associates	\$0.00		\$0.00	
- MRB Group	\$0.00		\$2,325.00	\$775.00
- CRBE Real Estate Appraisal	\$0.00		\$0.00	



	2021 Adopted Budget	2022 Adopted Budget	YTD	Mar
<b>Advertising and Marketing</b>	<b>\$51,000.00</b>	<b>\$51,000.00</b>	<b>\$680.50</b>	<b>\$0.00</b>
- Chamber of Commerce				
- Prolifiq/Memberships				
- Sweet Home Productions				
- Marketing	\$50,000.00	\$50,000.00		
<b>Conference, Meetings</b>	<b>\$1,000.00</b>	<b>\$1,000.00</b>	<b>\$0.00</b>	
<b>Supplies and Materials</b>	<b>\$5,000.00</b>	<b>\$5,000.00</b>	<b>\$1,364.52</b>	<b>\$164.08</b>
- Office Cleaning				
- Office Supplies				\$164.08
<b>Computer, Phones, Copier</b>	<b>\$10,000.00</b>	<b>\$10,000.00</b>	<b>\$2,466.76</b>	<b>\$960.40</b>
- Copy Machine - Monthly Paper Fee				
- Copier Finance Charge				\$197.73
- Data/Wifi/Internet: Spectrum				329.94
- Data/Wifi/Internet: ISD				\$432.73
- Otsego Telephone				\$480.00
- Software Updates				
<b>Leased Office Space</b>	<b>\$57,540.04</b>	<b>\$57,540.04</b>	<b>\$12,350.01</b>	<b>\$4,116.67</b>
<b>Travel, Lodge, Meals</b>	<b>\$1,500.00</b>	<b>\$1,500.00</b>	<b>\$0.00</b>	
<b>Insurance</b>	<b>\$26,000.00</b>	<b>\$38,766.65</b>	<b>\$18,804.36</b>	<b>\$5,358.05</b>
- Property Insurance				
- Non-Profit PA				\$4,971.05
- NYFIF				
- Non-Profit Umbrella				
- Disability Benefits				
- Workmans Comp				\$387.00
<b>Utilities and Maintenance</b>	<b>\$25,000.00</b>	<b>\$25,000.00</b>	<b>\$2,543.45</b>	<b>\$963.44</b>
- Incubator/Siemens (Hale Trans) Electric				
- Incubator/Siemens (Hale Trans) Gas				
- Accruals (Hale Trans)				
- Oneonta Business Park				\$82.00
- 189 Main Street				\$579.69
- Soccer Field Maintenance/Richfield WS	\$2,400,000.00			
- Pony Farm Grass Mowing				
- General Maintenance				\$301.75

	<b>2021 Adopted Budget</b>	<b>2022 Adopted Budget</b>	<b>YTD</b>	<b>Mar</b>
<b>Filing, Payroll Services, Misc.</b>	<b>\$500.00</b>	<b>\$500.00</b>	<b>\$76.26</b>	<b>\$71.62</b>
<b>Interest: LOC</b>	<b>\$60,711.48</b>		<b>\$0.00</b>	
<b>Other Operating Expenditures</b>				
<b>Richfield Springs Industrial Park</b>		<b>\$2,400,000.00</b>		
<b>Reimbursement of County</b>		<b>\$600,000.00</b>		
<b>Total Expenditures</b>	<b>\$2,845,751.52</b>	<b>\$3,405,806.69</b>	<b>\$111,254.15</b>	<b>\$40,430.28</b>
<b>NET</b>	<b>\$239,694.99</b>	<b>\$59,612.31</b>	<b>\$63,443.68</b>	<b>\$26,274.78</b>

## **USE AND MAINTENANCE AGREEMENT**

**THIS AGREEMENT** made this \_\_\_\_ day of April 2022, by and between the County of Otsego Industrial Development Agency, a public benefit corporation organized and existing under the laws of the State of New York having its principal office at 189 Main St. Suite 500 Oneonta, NY 13820, hereafter referred to as “Agency” and the Oneonta Youth Soccer Association, Inc., a domestic corporation having its office and principal place of business at PO Box 303 Oneonta, NY 13820, hereinafter referred to as " OYSA".

WHEREAS, with regard to the Agency, Title 1 of Article 18-A of the General Municipal Law of the State of New York (the “Enabling Act”) was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York; and

WHEREAS, with regard to the Agency, the Enabling Act authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York (the “State”) and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and dispose of land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial purposes, in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, with regard to the Agency, the Enabling Act further authorizes each such agency, for the purpose of carrying out any of its corporate purposes, to lease or sell any or all of its facilities, whether then owned or thereafter acquired; and

WHEREAS, the Agency is currently the owner of property formerly known as the Wright National Soccer Campus situate on Browne Street in the Town of Oneonta, hereafter "Campus"; and

WHEREAS, OYSA wishes to use certain facilities, as hereafter defined, to promote the game of soccer and soccer related activities for all community members in and around Oneonta including soccer tournaments and clinics and to continue the tradition of holding collegiate practices, travel soccer games, recreational games and high school soccer games at the Campus, hereafter the "Events"; and

WHEREAS, the parties wish to memorialize the agreement made between them regarding each party's rights and obligations as hereinafter set forth;

NOW THEREFORE, IT IS AGREED, subject to the terms and conditions set forth herein, OYSA shall have a License to enter upon certain property owned by the Agency as follows:

1. Premises to be used by OYSA. OYSA shall have an exclusive license, subject to the rights reserved by the Agency in this agreement, to enter upon and use of a portion of the Campus located on Browne Street in the Town of Oneonta which shall consist of the property, soccer fields, parking lots and outbuildings situate south of Stadium Circle, hereafter the "Premises". Said use shall include all equipment owned by Agency on the Premises including the irrigation system, bleachers, soccer goals, nets and miscellaneous equipment, hereafter the "Equipment".

2. Term. The term of this agreement shall commence the date of this agreement and shall end on December 31, 2026 unless otherwise terminated pursuant to this agreement. Each party reserves the right to terminate this agreement upon ninety (90) days written notice to the other party provided, however, that in the event the Agency exercises this right, it will make good faith efforts to not negatively affect events previously scheduled by OYSA.

3. OYSA Representations. OYSA warrants and represents to the Agency that:
- (a) The organization is not-for-profit corporation organized and existing in good standing under the laws of the State of New York;
  - (b) Its Board of Directors has authorized and approved entering into this Agreement;
  - (c) Its members or agents have inspected or have had the opportunity to inspect the Premises and Equipment and is familiar with same and takes in an "AS IS" condition;
  - (d) Its staff has previously managed and organized Events hereinbefore described and has the expertise and experience to do so;
  - (e) Its staff shall be responsible for all aspects of organizing and operating the Events.

4. Agency Representations. The Agency warrants and represents to OYSA that:
- (a) It is a public benefit corporation organized and existing under the laws of the State of New York
  - (b) It is currently the owner of the Campus;
  - (c) It has authority to enter into this Agreement and its Members have authorized and approved entering into this use Agreement;
  - (d) The person signing this Use Agreement on behalf of the Agency has authority to do so;
  - (e) Has general comprehensive liability insurance in effect to insure its interests as owner.

5. Compliance with Supreme Court Order. OYSA acknowledges that the Premises was previously subject to an Order of the Hon. Michael V. Cocco, New York State Supreme Court Justice dated December 14, 2010 and entered in the Otsego County Clerk's Office on December 22, 2010, hereafter the "Order", to wit:

“.....provided that .... OCDC shall retain ownership of the soccer fields and grounds situate south of Stadium Circle for not less than five (5) years and shall insure that the fields are maintained in good condition and ready for use for purposes of training and competition during such five year period and further provided that no such restrictions shall apply to the building, parking lots and unimproved lands situate north of Stadium Circle....”

The Agency believes that the above requirements of the Order have expired, that all terms have been complied with and that said Order is no longer applicable; however, in the event it is determined by a Court of appropriate jurisdiction that any portion of the Order remains in effect, OYSA and Agency shall at all times during the Term of this Agreement comply with said Order.

6. OYSA Responsibilities. At all times during the Term of this Agreement, OYSA shall be responsible for the daily operations of the Premises, including but not limited to:

(a) maintaining or causing to be maintained, the soccer fields including mowing, watering, aerifying, lining of fields, and the proper use of fertilizers, herbicides and fungicides by a licensed NYSDEC approved applicator in such amounts and with such frequency so as to keep the fields in good condition and suitable for their intended use. OYSA shall require said applicator to provide a copy of his/her NYSDEC Pesticide License and provide a copy of said license to the Agency within 15 days of request;

(b) scheduling, advertising and organizing of all Events. In furtherance of its duty to schedule, advertise and organize, OYSA shall establish and maintain a central point of contact including a phone number and address;

(c) establishing, collecting and retaining fees for use of the soccer fields/facility;

(d) securing and retaining of sponsors and sponsorship fees;

(e) payment of all utilities, including electric, water and sewer bills when due, diesel fuel for the irrigation pump, garbage removal and insurance premiums as required in the Agreement;

(f) winterization of the bathroom and concession building and arranging for the shut off of water so that no damage occurs as a result of freezing;

(g) sole responsibility for inspection of Premises and repair of all equipment on the Premises, including, but not limited to, benches and bleachers and ensuring satisfactory condition for the safe use of same by participants, coaches and the general public, including the removal of defective wooden bleachers from the facility prior to any use of the facility for the 2017 soccer season.

(h) obtaining applicable Certificates of Insurance;

(i) any other responsibilities as set forth in this agreement.

7. Responsibilities. The Agency shall be responsible for the following:

(a) pay any property, school taxes or PILOTS on the property, if any, when due.

(b) contribute financially for items specified on Schedule A.

8. No warranty of condition or suitability by the Agency; acceptance “as is”. The Agency makes no warranty, either express or implied, as to the condition, design, operation, merchantability or fitness of the Premises or any part thereof or as to the suitability of the Premises or any part thereof for the OYSA’s purposes or needs. OYSA shall accept the Premises “as is”, without recourse of any nature against the Agency for any condition now or hereafter existing. No warranty of fitness for a particular purpose or merchantability is made.

9. General Liability Insurance. OYSA or any contractor or subcontractor that OYSA contracts with to provide service on the Premises or to use the fields for practice, games, leagues, concerts, etc., shall obtain and maintain the following insurance coverage(s) at its sole cost and expense from and after the date of commencement of the Agreement term which shall meet or exceed the requirements hereafter set forth:

(a) Unless otherwise specified, minimum contract insurance requirements are as follows:

(i) Liability Insurance. Comprehensive general liability insurance protecting and indemnifying Agency and OYSA against all claims and liabilities for injury or damage to persons or for the loss of life or of property occurring upon, in or about the Premises, and the public portions of the building, including the parking lot, caused by or resulting from any act or omission of OYSA, its officers, employees, agents, contractors, customers, guests, licensees and invitees. The general liability policies will not contain an exclusion for injuries to athletic participants.

Such insurance for the General Liability portion of the OYSA's policy shall have not less than the following coverage limits:

Bodily Injury & Property Damage per occurrence	\$1,000,000
Products and Completed Operations	\$1,000,000
Personal Injury& Advertising Liability per occurrence	\$1,000,000
General Liability Aggregate	\$2,000,000
Fire Legal Liability	\$500,000
Premises Medical Expense	\$5,000

(ii) Personal Property. All fire insurance covering personal property, equipment and inventory at the Premises.

(iii) Employer/Employee. Workers' Compensation and New York State Disability insurance, as required by law.

(b) In addition to a comprehensive general liability policy, OYSA will maintain an accident policy that extends coverage for athletic participation.

(c) All insurance required by this Article shall name OYSA, PO Box 303 Oneonta, NY 13820 and the County of Otsego Industrial Development Agency 189 Main St. Suite 500 Oneonta, NY 13820, as "Additional Insured".



(d) OYSA shall maintain a “Concussion Awareness and Safety Recognition Program” sufficient to ensure that coverage for “bodily injury” caused by concussion is not excluded from their liability policy.

(e) All insurance required by this Article shall be evidenced by valid and enforceable policies issued by insurance companies duly authorized to do business in the State of New York. Certificates of Insurance or original policies shall be delivered to Agency a minimum of fifteen (15) days prior to being allowed access on the Premises. If proof of said insurance is not provided, access to the Premises shall be denied.

10. Contractor/Subcontractor List. OYSA shall provide to Agency, within fifteen (15) days of demand therefore, a list of any and all contractors, subcontractors or agents that shall require access to the Premises along with proof of insurance as set forth above.

11. Hold Harmless Provisions. Both the OYSA and Agency agree to mutually indemnify and hold harmless the other and their respective directors, officers, agents, members and employees for all imposed by law third party claims, damages, losses and expenses including but not limited to reasonable attorney’s fees resulting from bodily injury and physical injury to tangible property including loss of use thereof caused by OYSA’s or Agency’s own negligence arising out of the subject matter of this agreement.

To effectuate the provisions of this section, each party agrees to provide for and insure, in the liability policies required by this Agreement, its liabilities assumed pursuant to this section.

Notwithstanding any other provisions of this Agreement, the obligations of each party pursuant to this section shall remain in full force and effect after the termination of this Use Agreement until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and the payment in full or the satisfaction of such claim, cause of action or prosecution and the payment of all expenses, charges and costs incurred by the Agency, or its officers, members, agents or employees, relating thereto.

12. Permits and Licenses. If any permits or licenses are required in connection with OYSA's use of Premises, OYSA agrees to obtain such permits or licenses in accordance with the requirements of all authorities having jurisdiction thereof. Agency agrees to cooperate if the licensing authority requires Agency consent or execution of necessary documents to obtain a permit or license in furtherance of this agreement.

13. Costs, Expenses and Repairs OYSA shall be responsible for any and all costs and expenses attributable to OYSA's use of the Premises. Specific financial responsibilities of the parties for repairs not otherwise specified in this agreement are set forth in Schedule A attached hereto, provided however that in the event the Agency exercises its right to terminate this Agreement as set forth in paragraph "2" for the purpose of pursuing a "non-soccer related" project and OYSA has made capital expenditures for the replacement of the irrigation pump, replacement of bleachers, or capital repairs to the concession buildings, Agency shall reimburse OYSA for those expenditures in a depreciated amount based on a 5 year straight-line depreciation schedule from the date of purchase; provided however, that prior to making any expenditure for said capital repair or replacement, OYSA shall present said proposed expenditure, with supporting documentation, to the Agency for approval, which approval shall not unreasonably be withheld.

In the event the Agency exercises its right to terminate this Agreement for a "soccer related" project, then in that event the Agency will not be obligated to reimburse OYSA for said expenditures.

In the event the lease terminates due to the expiration of the term, the Agency will not be obligated to reimburse OYSA for said expenditures.

OYSA shall provide to the Agency an accounting with supporting documentation of any such capital expenditures on or before December 31 of each year or within 15 days of request by the Agency.

14. Condition of Premises at end of Term. At the end of the Term, OYSA shall remove all equipment, temporary structures, signage, personal property, garbage, debris and return the Premises to the same condition, normal wear and tear excepted, as it was at the commencement of the Term.

15. Damages to Premises. In the event damage is caused to the Premises, or any other property or buildings on the Campus as a result of OYSA use of Premises for the Events, OYSA shall be responsible for the cost of correcting and fixing same and for reasonable damages, losses and expenses which Agency may incur as a result of such damage.

16. Waste. OYSA agrees to commit no act of waste with respect to the Premises and to maintain the Premises, as improved, during the period of this agreement. OYSA will immediately notify Agency of any significant maintenance issue of which it becomes aware.

17. Alterations. OYSA shall not make any permanent alterations to the Premises without the written permission of Agency, and in the event OYSA makes unauthorized alterations, OYSA shall be responsible for costs and expenses of correcting same.

18. Signage. OYSA shall have the nonexclusive right to advertise the events on the Premises, including the use of the billboard adjacent to NYS Route 205 during the term, provided said advertising complies with all municipal code and permitting requirements and said signage or advertising is approved in writing by the Agency. OYSA shall submit any proposed signage to the Agency 45 days prior to posting of signage for said approval. This provision is not intended to apply to operational signage (ie. “no smoking”, “no parking”, “no pets allowed”) or temporary sponsor advertising.

19. Right of Entry and Access to Premises. Agency or its duly authorized agents, reserves the right at all reasonable times to enter upon the Premises during the Term in conjunction with its duties as owner of Premises, including but not limited to marketing of the Premises, land surveying, soil testing, and environmental and archeological analysis. OYSA further agrees that the Agency shall have such rights of access to the Premises as may be reasonably necessary to cause the proper maintenance of the Premises in the event of failure by the OYSA to perform its obligations hereunder.

20. Statutory Compliance. Each party agrees to comply with all local, state, and federal statutes, rules and regulations during the Term of this Agreement.

21. No Landlord-Tenant Relationship. No Landlord or Tenant relationship shall be created by this agreement. OYSA shall be permitted access and use of the Premises for the purposes set forth in this Agreement and shall not have any possessory interest in the Premises nor shall OYSA's use be construed as having an occupancy in any form.

22. Discharge of Liens and Encumbrances. OYSA agrees not to create or suffer to be created any lien, including the filing of a Mechanics Lien on the Premises.

23. Events of Default defined. (A) The following shall be "Events of Default" under this Agreement, and the terms "Event of Default" or "default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

(1) A default by the OYSA in the due and punctual payment of the amounts specified to be paid pursuant to this Agreement and the continuance thereof for a period of fifteen (15) days after written notice thereof is given by the Agency to the OYSA.

(2) A default in the performance or observance of any other of the covenants, conditions or agreements on the part of the OYSA in this Agreement and the continuance thereof for a period of fifteen (15) days after written notice thereof is given by the Agency to the OYSA, provided that, if such default is capable of cure but cannot be cured within such fifteen (15) day period, the failure of the OYSA to commence to cure within such fifteen (15) day period and to prosecute the same with due diligence.

(3) OYSA shall file a petition in bankruptcy or assignment for benefit of creditors, or shall be adjudicated a bankrupt or make an assignment for the benefit of creditors or take advantage of any insolvency act.

(4) Any intentional misrepresentation or warranty made by the OYSA herein that proves to have been materially false at the time it was made.

(5) The imposition of a Lien on the Premises, due to OYSA's conduct, subject to the OYSA's ability to remove the Lien or post a bond in the amount of such Lien within fifteen (15) days after written notice of such Lien is given by the Agency to the OYSA.

(6) The removal of Equipment, owned by Agency, or any portion thereof, from the Premises without the prior written consent of the Agency.

(B) Notwithstanding the provisions of Paragraph 23(A) hereof, if by reason of force majeure (as hereinafter defined) either party hereto shall be unable, in whole or in part, to carry out its obligations under this Use Agreement and if such party shall give notice and full particulars of such force majeure in writing to the other party within a reasonable time after the occurrence of the event or cause relied upon, the obligations under this Use Agreement of the party giving such notice, so far as they are affected by such force majeure, shall be suspended during the continuance of the inability, which shall include a reasonable time for the removal of the effect thereof. The suspension of such obligations for such period pursuant to this subsection (B) shall not be deemed an Event of Default under this section. Notwithstanding anything to the

contrary in this subsection (B) an event of force majeure shall not excuse, delay or in any way diminish the obligations of the OYSA to obtain and continue in full force and effect the insurance required in paragraph 7 and to provide the indemnity required by paragraph 9 hereof. The term “force majeure” as used herein shall include acts outside of the control of the Agency and the OYSA, including but not limited to acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, orders of any kind of any Governmental Authority or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fire, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, partial or entire failure of utilities, or any other cause or event not reasonably within the control of the party claiming such inability. It is agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the party having difficulty, and the party having difficulty shall not be required to settle any strike, lockout or other industrial disturbances by acceding to the demands of the opposing party or parties.

23.1. Remedies on default. (A) Whenever any Event of Default hereunder shall have occurred, the Agency may, to the extent permitted by law, take any one or more of the following remedial steps:

(1) terminate this Agreement revoking OYSA’s license to be on the Premises;

(2) take any other action at law or in equity which may appear necessary or desirable to collect any amounts then due and to enforce the obligations, agreements or covenants of the OYSA under this Agreement.

(B) No action taken pursuant to this section shall relieve the OYSA from its obligations to make any payments required by this Agreement.

23.2. Remedies cumulative. No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under this Use Agreement or any other document now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Agency to exercise any remedy reserved to it in this Use Agreement, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

23.3. Agreement to pay attorneys' fees and expenses. In the event that either party should default under any of the provisions of this Agreement and either party should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the defaulting party herein contained, the defaulting party shall, on demand therefor, pay to the other party the reasonable fees of such attorneys and such other expenses so incurred, whether an action is commenced or not.

23.4. No additional waiver implied by one waiver. In the event any agreement contained herein should be breached by either party and thereafter such breach be waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder, unless so specified.

24. Assignability. This agreement may not be assigned to any other person or entity without the express written consent of the Agency.

25. Validity. In the case one or more of the provisions contained in this agreement shall, for any reason, be held to be invalid, illegal, or unenforceable on any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

26. Modification. This agreement constitutes the entire understanding of the parties and is a complete and exclusive statement of the terms of their agreement. No term, condition, understanding, or agreement purporting to modify the terms of this agreement shall be binding unless made in writing and signed by both parties hereto.

27. Waiver. No term or condition of this agreement shall be deemed to have been waived nor shall there be any estoppel to enforce any provision of this agreement except by a statement, in writing, signed by the party against whom enforcement of the waiver or estoppel is sought. Any written waiver shall not be deemed a continuing waiver unless specifically stated, shall operate any as to this specific term or condition waived, and shall not constitute a waiver concerning such term or condition for the future or as to any act other than that specifically waived.

28. Governing Law. This agreement is made under and shall be governed by and construed in accordance with the laws of the State of New York.

29. Notices. All notices, payments and consents to be given hereunder, by either party, shall be in writing and deemed given when sent by certified or registered mail, return receipt requested, to the other, delivered and addressed to the parties as follows:

To:  
County of Otsego Industrial Development Agency  
189 Main Street, Suite 500  
Oneonta, NY 13820  
Attention: Jody Zakrevsky



To:  
Oneonta Youth Soccer Association, Inc.  
5001 State Hwy. 23  
PMB 108  
Oneonta, NY 1382

30. Headings. The Headings of sections and subsections of this agreement are solely for the convenience of reference and shall not control the meaning or interpretation of any provision in the agreement.

31. Parties Bound. This agreement shall be binding upon the parties, together with their successors and assigns.

32. No recourse; special obligation. (A) The obligations and agreements of the Agency contained herein and any other instrument or document executed in connection herewith or therewith, and any other instrument or document supplemental thereto or hereto, shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent (other than the OYSA), servant or employee of the Agency in his individual capacity, and the members, officers, agents (other than the OYSA), servants 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, unless said person is personally responsible for the loss or damage.

(B) The obligations and agreements of the Agency contained herein and therein shall not constitute or give rise to an obligation of the State of New York or Otsego County, New York, and neither the State of New York nor Otsego County, New York 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 of the Agency derived from this Agreement.

(C) No order or decree of specific performance with respect to any of the obligations of the Agency hereunder shall be sought or enforced against the Agency unless (1) 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 days, shall have failed to institute and diligently pursue action to cause compliance with such request within such ten day period) or failed to respond within such notice period, (2) 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 its attorney an amount or undertaking sufficient to cover such reasonable fees and expenses.

33. Long Term. The parties shall make good faith efforts to work toward a long-term arrangement for the future use of the Premises taking into consideration the voluntary nature of the OSYA and the restrictions imposed on and regulations controlling the Agency, as well as the development of expanded recreational facilities and related uses that would enhance the overall year round use of the facility. OSYA and the Agency will develop a 5-year capital plan for improvements.

IN WITNESS WHEREOF, the parties have duly signed this agreement on the day and year first above written.

\_\_\_\_\_  
County of Otsego Industrial Development Agency  
By:

\_\_\_\_\_  
Oneonta Youth Soccer Association, Inc.  
By:

STATE OF NEW YORK     )

COUNTY OF OTSEGO     ) SS.:

On this       day of April 2022, before me, the undersigned, a Notary Public in and for said State 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 and acknowledged to me that he/she executed the same in his/her 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     )

COUNTY OF OTSEGO     ) SS.:

On this       day of April 2022, before me, the undersigned, a Notary Public in and for said State 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 and acknowledged to me that he/she executed the same in his/her 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

## **Schedule A**

### **Financial Responsibility for Repairs and Upkeep**

#### **OYSA**

Grounds/Soccer Fields – all aspects of maintenance and upkeep including mowing, fertilizing, weed control, aerification, watering, lining;

Soccer Goals – repair and replacement as needed;

Scoreboards – repair and replacement as needed;

Bleachers – removal of wooden bleachers, general upkeep, repair, replacement of defective sections/ materials and painting as necessary;

Irrigation System – general maintenance of pump, lines and sprinkler heads including replacement of pump or sprinkler heads as needed, provided that OYSA shall be responsible for the first \$5,000.00 of said repairs per calendar year and any costs of repairs in excess of \$5,000.00 per calendar year shall be split equally by OYSA and the Agency.

Chain link Boundary Fences – general maintenance, painting, trimming of shrubbery;

Concession building/bathrooms – general maintenance and cleaning, painting, winterization;

Parking lots – sealing and lining as needed.

#### **AGENCY**

Concession buildings/bathrooms – structural repairs including roof repair/ replacement;

Parking Lots – repaving as needed.