

Jeffery Joyner, Chair * **David Rowley**, Vice Chair * **Jeffrey Lord**, Treasurer * **Craig Gelbsman**, Secretary
Tom Armao * **Patricia Kennedy** * **Cheryl Robinson** * **Andrew Marietta** * **James Seward**

Jody Zakrevsky, CEO * **Joseph Scott**, Bond Counsel * **Kurt Schulte**, Counsel * **Meaghan Marino**, Dir. of Finance and Administration

The Mission of Otsego Now is to transform Otsego County's economy so that it can provide a prosperous livelihood for all its residents by attracting and retaining business investment from established and growing firms that will bring high-paying skilled jobs to our community.

COIDA BOARD AGENDA THURSDAY, MAY 26TH, 2022

- ROLL CALL
- CHAIR'S REMARKS
- APPROVAL OF MEETING MINUTES
 - April 5th, 2022 – COIDA Special Board Meeting Minutes
- REPORT OF THE AUDIT & FINANCE COMMITTEE AND TREASURER
- BILLS AND COMMUNICATIONS
- REPORT OF THE PROJECTS COMMITTEE
- NEW AND UNFINISHED BUSINESS
 - Solar Energy Pilot Policy
 - Soccer Lease
 - Interest in Otsego Business Park
 - Hodgson Russ Engagement Letter
- EXECUTIVE SESSION, IF NEEDED
- ADJOURNMENT

COUNTY OF OTSEGO INDUSTRIAL DEVELOPMENT AGENCY
April 5, 2022

MEETING MINUTES

CALL TO ORDER

Vice Chair, David Rowley, called to order a special meeting of COIDA at 8:01am. M. Marino conducted a roll call and determined there was a quorum. Voting members present included:

David Rowley	Jeffrey Lord (v)
Andrew Marietta (v)*	Tom Armao (v)
Patricia Kennedy (v)	James Seward (v)

Absent Board Member(s): Jeffery Joyner, Cheryl Robinson, Craig Gelbsman

Also, in attendance:

STAFF

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

GUESTS

Mary Manzanero, **Mostert, Manzanero, & Scott, LLP.**

* arrived after start of meeting
(v) – virtual

CHAIR'S REMARKS

Vice Chair, D. Rowley, welcomed fellow board members, staff, and guest, and moved immediately into the agenda.

2021 FINANCIAL AUDIT PRESENTATION

Mary Manzanero, of Mostert, Manzanero & Scott, LLP. reviewed the 2021 financial audit reports for IDA board members. The reports included the 2021 IDA Financial Statements, the 2021 IDA Management Report Letter, and the 2021 IDA Report to the Board. Mary also reviewed the same reports for the CRC and LDC during the IDA meeting. For more information about the 2021 CRC and LDC audited financials, please refer to the April 5th board meeting minutes for those agencies. Board members received copies of the reports prior to the meeting. Mary reviewed the IDA financial statements first and noted that there wasn't a lot of activity in 2021. The cash for the IDA was up approximately \$156,000 this in 2021. She pointed out that there is still \$150,000 outstanding in grant reimbursement from the Rail Yards GEIS and consulting. For notes receivables, she noted \$13,000 in payments that reflects one of four borrowers that is paying back the IDA. Mary noted that there is collateral held against the three notes that are not making payments, but she is

unclear on the chances of those actually getting paid back. P. Kennedy asked who the three borrowers were. M. Marino advised that they are Enviro Energy, Oneonta Theatre, and Foothills. Brooks Bottling is the one borrower making monthly payments. P. Kennedy asked what the agency would be doing with the three outstanding loans. J. Lord clarified that the agency has already acknowledged these loans as full losses and has moved them into reserves. He added that the agency still has collateral on these loans and that there could be a chance in the future to collect on those debts, so we don't want to write them off completely. Mary advised that she would not be reviewing the Report to the Board, as there were no deficiencies this year, as there have been in past years. J. Seward asked M. Manzanero to clarify the agency's profit for 2021. She advised that the agency had a profit of \$78,032, as revenues exceeded expenditures.

NEW BUSINESS / UNFINISHED BUSINESS

- **2021 IDA Financial Audit** – After reviewing the 2021 financial audit of the IDA, J. Zakrevsky asked the board to approve the audit so that it could be submitted the NYS ABO's PARIS Reporting system.
- **2021 IDA Annual Report** – The board had previously voted to approve the IDA's Annual Report, but it did not include the 2021 financial audit numbers, as the audit had not been completed at the time. J. Zakrevsky updated the report and included it for board members to review.

RESOLUTIONS

2021 IDA Financial Audit

J. Zakrevsky provided board members with copies of the IDA's 2021 audited financial reports completed by Mostert, Manzanero & Scott, LLP. After reviewing the reports with Mary Manzanero, J. Zakrevsky requested approval from the board to accept the IDA's 2021 financial audit.

J. Lord made a motion to approve the IDA's 2021 financial audit. P. Kennedy seconded the motion, and it was approved by remaining members present.

2021 IDA Annual Report

J. Zakrevsky provided board members with an updated copy of the IDA's 2021 Annual Report. The report was updated with the 2021 audited financial numbers.

J. Lord made a motion to approve the IDA's 2021 Annual Report. J. Seward seconded the motion, and it was approved by remaining members present.

PUBLIC COMMENT

There was no public in attendance.

ADJOURNMENT

P. Kennedy made a motion to adjourn the meeting of the IDA board at 8:12am.

UPCOMING MEETING SCHEDULE

- COIDA/OCCRC Audit & Finance Committee Meeting / Governance Committee / Projects Committee Meeting – April 14th, 2022
- COIDA/OCCRC Board Meeting – April 28th, 2022

***All meetings are held at the Otsego Now offices at 189 Main Street, Oneonta. NY. 13820, unless otherwise specified.**

DRAFT

COIDA DEPOSITS			
5/14/2022 - 5/25/2022			
Vendor	Amount	Date of Deposit	Notes
Empire State Development	\$19,800.00	19-May	Steiner's grant reimbursement
US House of Reps	\$750.00	18-May	cong. Delgado rent
	\$20,550.00		
TOTAL	\$20,550.00		

COIDA EXPENSES				
5/14/2022 - 5/25/2022				
Vendor	Amount Due	Due Date	Reimbursable?	Notes
BST	\$1,100			may accounting fees
BST	\$90.16			april reimbursable expenses
Spectrum	\$294.30			otsego now wifi/voice
Steiners*	\$19,278.82		yes	grant reimbursement
COIDA TOTAL	\$20,763.28			
*invoices already paid				

OTSEGO COUNTY

INDUSTRIAL DEVELOPMENT AGENCY

Off-Site Commercial Solar Photovoltaic Policy

Purpose

The Otsego County Industrial Development Agency (IDA) wishes to adopt an off-site commercial solar photovoltaic policy to encourage solar development for the following purposes:

1. Support New York State's "Reforming the Energy Vision" Initiative, which is intended to encourage renewable energy development that will spur economic growth and develop new energy business models. The initiative sets statewide goals of cutting greenhouse gas emissions by 80% by 2050 and generating 50% of New York's electricity from renewables by 2030.
2. Support consumer choice for renewable energy generation.
3. Administer a single countywide uniform tax exemption policy allowing municipalities to collect long-term predictable payments in lieu of taxes without the burden of developing and administering PILOT agreements at the municipal level.
4. Assist project developers by offering a single countywide tax exemption policy, eliminating the need to negotiate PILOTS with multiple taxing jurisdictions.
5. To enhance developers' prospects for financing community distributed generation projects by offering a uniform PILOT structure that is simple, predictable, and more appealing to lenders.

Policy

This policy provides incentives for off-site solar projects that provide renewable energy benefits to residential and commercial customers. Eligible projects are commercial scale projects, generally two megawatts or less, as outlined in state law. Types of eligible projects include:

- Community distributed solar /shared solar;
- Off-site generation projects that have a wholesale power purchase agreement with one or more users.

To respect variations in local municipal policy, each project application must include a letter from the host municipality endorsing the proposed payment in lieu of tax agreement with the IDA. It is strongly encouraged that applicants provide a preference or pre-offering to Herkimer County residents.

The following standard incentives will be offered:

Property Tax: Real estate taxes on the increased value resulting from improvements are partially abated over a fifteen (15) year period. The annual payment in lieu of taxes (PILOT) will range from

OTSEGO COUNTY INDUSTRIAL DEVELOPMENT AGENCY

\$5,000 to \$6,000 per megawatt (MW) of the facility's nameplate capacity, with a 2% increase each year. PILOT payments replace local, county, and school district taxes only; special district taxes are not eligible under the PILOT. The actual amount will depend on projected annual revenue.

Sales Tax: Exemption from State and local sales tax on project costs outlined in the IDA Policies and Procedures.

Mortgage Recording Tax: Exemption from the State share of the mortgage recording tax as outlined in the IDA policies and Procedures.

Fees

The applicant is responsible for paying the IDA Administrative Fee at the time of closing. The fee will be equal to 1.00% of the total value of expenses that are positively impacted by IDA incentives as well as an annual fee based upon 0.007%. The applicant is also responsible for paying the IDA for all legal costs it incurs including IDA Counsel.

Other

Unless specifically outlined in this policy, the applicant will be responsible for complying with all other rules and regulations as set forth in the IDA's Policies and Procedures.

Policy approved:

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.

May 24, 2022

County of Otsego Industrial Development Agency
189 Main Street
Oneonta, New York 13820
Attention: Jeffery Joyner, Chairman

Re: County of Otsego Industrial Development Agency
IDA Matters/Projects - 2022

Dear Chairman Joyner:

We are very pleased that the County of Otsego Industrial Development Agency (the “Agency”) has requested us (the “Firm”) to perform certain legal services for the Agency as Bond Counsel and Special Counsel to the Agency for calendar year 2022. The scope of the work you have asked us to undertake is briefly described on Schedules A and B attached to this letter. A description of our policy with respect to certain administrative matters, including attorney representation conflicts and client communications is attached as Schedule D to this letter.

For each type of work described on a schedule attached hereto, we propose to bill for such work in the manner described on the respective schedule relating thereto. If such bill is sent to a party other than the Agency, a courtesy copy of such bill will be sent to the Agency upon request.

In connection with performing legal services, we will typically incur expenses, such as photocopying, shipping of documents, travel, long distance telephone calls and filing fees. Such expenses are not included as part of our fee for professional legal services, and periodic statements showing the amount of such disbursements will be rendered to the party responsible for paying for the legal services to which such expenses relate. Such out-of-pocket expenses are not included as part of our fee for professional legal services, and periodic statements showing the amount of such disbursements will be made available for review by the Applicant and/or the Agency upon request. For your information, we have attached hereto as Schedule C our policy with respect to the recovery of client disbursements. If such bill is sent to a party other than the Agency, a courtesy copy of such bill will be sent to the Agency upon request.

In the unlikely event that a dispute arises between us relating to our fees, you may have the right to arbitration of the dispute pursuant to Part 137 of the Rules of the Chief Administrator of the Courts, a copy of which will be provided to you upon request.

During the course of this engagement, the Firm may collect certain personal information relating to the services contemplated by this letter. When we do so, we require that clients provide the minimum amount of personal information necessary for us to perform our legal services. The collection of any such personal information will be governed by, and such personal information will be processed in accordance with, the Firm’s Privacy Policy, as well as any applicable privacy laws and codes of professional

conduct. You can obtain a copy of the Firm's Privacy Policy on our website at www.hodgsonruss.com or by requesting one from us.

The Firm reserves the right to vary the services offered to the Agency from those illustrated above upon two months prior written notice to the Agency.

Please acknowledge your agreement to the above by signing and returning a copy of this letter for our records.

We appreciate the opportunity to represent you.

Very truly yours,

HODGSON RUSS LLP



By: _____
A. Joseph Scott, III

Agreed and Accepted this
_____ day of June, 2022

COUNTY OF OTSEGO
INDUSTRIAL DEVELOPMENT AGENCY

By: _____
(Vice) Chairman/Chief Executive Officer

SCHEDULE A

Applicant Projects

Services as Bond Counsel (or Special Counsel)

Where an applicant (the “Applicant”) requests that the Agency undertake a particular project (an “Applicant Project”) and such Applicant Project will be financed out of proceeds of taxable or tax-exempt revenue bonds issued by the Agency (each separate issue of bonds being sometimes hereinafter referred to as the “Bonds”), we would anticipate acting as bond counsel to the Agency with respect to said transaction. We understand that the Agency has retained Kurt D. Schulte, Esq., as local counsel or Agency Counsel. We further understand that the Agency would retain the option of using other law firms as Bond Counsel to the Agency where our Firm has a legal conflict, or where there are special circumstances. In our capacity as Bond Counsel to the Agency, we would work with Mr. Schulte on Applicant Projects.

As a matter of custom and prudence, both the issuers and purchasers of taxable and tax-exempt Bonds require an opinion of nationally recognized bond counsel. Such opinion ordinarily states that (1) the Bonds have been properly authorized and issued and are legal, valid and binding obligations of the Agency, (2) the legal documentation effectively provides the intended security for the Bonds, (3) interest on the Bonds is exempt from personal income taxes imposed by the State of New York, and (4), if the Bonds are intended to be issued as federally tax-exempt obligations, interest on the Bonds is excludable from gross income for federal income tax purposes. We anticipate rendering such opinions in connection with the issuance of each issue of the Bonds issued by the Agency during the period of our engagement.

Where the Applicant requests that the Agency undertake a Applicant Project and such project will not be financed out of proceeds of Bonds (a “Straight-Lease Transaction”), we would anticipate acting as special counsel to the Agency with respect to said transaction. As a matter of custom and prudence, the Agency and the Applicant require an opinion of counsel indicating that (1) the Straight-Lease Transaction has been properly authorized, and (2) the documents relating thereto have been properly executed by the Agency and are legal, valid and binding special obligations of the Agency. We anticipate rendering such opinions in connection with each Straight-Lease Transaction entered into by the Agency during the period of our engagement. In our capacity as Special Counsel to the Agency, we would work with Mr. Schulte on Applicant Projects.

In order to establish the factual basis for the legal conclusions expressed in such opinion, we will prepare a record of proceedings (or transcript) for each issue of Bonds and each Straight Lease Transaction, which transcript will contain all documents and other materials necessary to assure that the form and substance of the transaction conform with the applicable requirements of the Internal Revenue Code of 1986, as amended (the “Code”), the New York Industrial Development Agency Act (Article 18-A of the New York General Municipal Law) (the “Act”) and other applicable New York laws. The record of proceedings for each such transaction will typically include the following, as appropriate: (A) a copy of the application made by the Applicant to the Agency with respect to the particular project (the “Applicant Project”), together with documents relating to the Agency’s actions accepting said application, holding a public hearing with respect thereto, and obtaining any required approvals with respect to the Applicant Project from the governing board or “chief elected official” of the municipality for whose benefit the Agency was created; (B) a transfer of the proposed project facility (the “Project Facility”) by the Applicant (and/or any seller thereof) to the Agency; (C) an installment sale agreement or lease

agreement, whereby (1) the Applicant agrees, as agent of the Agency, to undertake and complete the Applicant Project, (2), if the transaction includes Bonds, the Agency agrees to make the proceeds of the Bonds available to pay the costs of the Applicant Project, and (3) the Agency grants to the Applicant the right to occupy the Project Facility and agrees to transfer ownership of the Applicant Project to the Applicant for a nominal sum (upon repayment of any Bonds); (D), if the transaction includes Bonds and there are multiple holders of the Bonds, a trust indenture between the Agency and a corporate trustee acting as representative of the owners of the Bonds; (E), if the transaction includes Bonds and if required by the purchasers of the Bonds, a mortgage and/or security agreement from the Agency and the Applicant to the trustee (or the owner of the Bonds); (F), if the transaction includes Bonds, a guaranty of the Bonds from the Applicant to the trustee (or the owner of the Bonds); (G) various other security documents; (H), if the transaction includes Bonds and the Bonds are intended to be issued as federally tax-exempt bonds, various tax compliance documents; (I), if the transaction includes Bonds, a bond purchase agreement among the Agency, the Applicant and the initial purchaser of the Bonds; and (J), if the transaction includes Bonds and the Bonds are intended to be offered to multiple potential purchasers, various bond offering documents (including a preliminary and a final official statement or private placement memorandum relating to the Bonds). As Bond Counsel or Special Counsel, we typically draft all of such documents (excepting the bond offering documents, which are typically drafted by counsel to the initial purchaser of the Bonds, with input from us), as well as other documents which are customary and appropriate in such transactions. In addition, we assume responsibility for certain administrative matters, such as coordinating meetings, preparing bond forms, making arrangements for the closing and coordinating with counsel to the other parties to the transaction.

We typically assume no responsibility for any disclosure which may be required under state or federal securities law in connection with the issuance and sale of the Bonds (excepting only the description of the Bonds and the bond documents appearing in the bond offering documents) or for the accuracy, completeness or fairness of statements, representations, information or financial data supplied by the Applicant, or any of its affiliates.

Where we represent an industrial development agency on a regular basis, we typically provide certain pre-application services at no cost to the Agency (or the applicant) unless an application is subsequently filed with the Agency and the transaction subsequently moves beyond the inducement phase. Such pre-application services include providing advice to Agency staff as to whether a proposed transaction meets the requirements of Article 18-A of the New York General Municipal Law (the "Act"); attendance at pre-application meetings with prospective applicants whenever requested by Agency staff; and attendance at seminars and other marketing events organized by Agency staff.

Upon receipt from the Agency of an application and accompanying documentation relating to a particular project, we review the application to ascertain conformity of the proposed project with applicable state and federal laws affecting the Agency; prepare an opinion letter to the Agency regarding the legality of the proposed project; assuming said project appears legal, prepare the necessary documentation allowing the Agency to indicate preliminary acceptance of said application and allowing the Agency to conduct a public hearing relating to the transaction; assist the Agency in complying with the requirements of the New York State Environmental Conservation Law applicable to said application; and, if the Agency determines to reject an application, advise the Agency on how best to accomplish said rejection. We typically request that our industrial development agency clients include as part of their application an indemnity agreement, whereby the Applicant agrees to pay all legal expenses incurred by the Agency, whether the transaction closes or not. Notwithstanding said indemnity agreement, we

typically do not seek payment from either the Applicant or the Agency if the transaction does not proceed beyond the final inducement resolution.

Once the Agency has adopted a final inducement resolution with respect to the Applicant Project (and, if the transaction includes Bonds, we have received a draft commitment letter from the initial purchaser of the Bonds), we will prepare a first draft of the basic documents relating to the transaction. Upon receipt of comments from the relevant parties, we will finalize the basic documents and distribute drafts of the various supplemental documents to be delivered at closing for approval of the various parties. If the transaction includes Bonds and the Bonds are intended to be reoffered to multiple parties, once the documents are in good order, (A) the initial purchaser will circulate the preliminary official statement or preliminary private placement memorandum to judge market interest in the Bonds, (B) once the preliminary official statement or preliminary private placement memorandum has been circulated, the initial purchaser of the Bonds will “price” the Bonds (i.e., set the interest rates and other business terms of the Bonds), and (C), if the Applicant accepts the pricing on the Bonds, the various parties would then enter into the bond purchase agreement and the other documents relating to the sale of the Bonds, and the sale of the Bonds will be consummated.

Upon closing and delivery of our opinion, our responsibilities as Bond Counsel or Special Counsel will be concluded with respect to the transaction; specifically, but without implied limitation, we do not undertake (unless separately engaged) to provide continuing advice to the Agency or any other party relating to the transaction.

Once an application is filed with the Agency, if the Applicant requests that we begin drafting the basic documents for the transaction and for any reason thereafter the transaction does not close, we typically bill the Applicant for our legal fees on an hourly basis, based on our standard hourly billing rates, as well as our disbursements incurred in connection therewith.

For sale/leaseback transactions, we generally charge Applicants a fixed fee in the range of \$5,000-30,000, plus disbursements, depending on the size, timetable and complexity of the matter. The size of the fee may be greater for large, multi-million dollar capital projects (e.g., large co-generation projects, solid-waste projects and wind-farm projects).

With respect to taxable and/or tax-exempt bond transactions, once the structure of said transaction is decided upon, based on our understanding of the proposed structure of the transaction, the anticipated timing of the closing, our normal hourly rates and our educated guess as to the amount of time it will take us to conclude a particular transaction, we will discuss with the Agency and/or furnish to the Applicant an estimate of our anticipated fees for such transaction. For certain transactions where the amount of required legal services which are predictable, we will if requested furnish a fixed fee for such transaction. Our fees as bond counsel are generally in the range of \$10,000-\$75,000, plus disbursements, again, depending on the size, type, timetable and complexity of the bond financing.

Our statement for services for an applicant transaction will be rendered at closing. If the structure of the transaction changes significantly, or the closing of the transaction occurs beyond a reasonable period (3 months for a Straight-Lease Transaction or 6 months for a bond transaction), and such restructuring or delay results in an increase in the time that we must expend on the transaction, we reserve the right to renegotiate any fixed fee. Any fee estimate is based upon the foregoing assumptions and further assumes that there will be no extraordinary questions of law, that the structure of the transaction does not change significantly once the initial draft of the basic documents are prepared and that we will

not need to prepare more than the normal 3 or 4 drafts of the documents prior to closing. It also assumes that our Firm will not be called upon to perform additional services with regard to securities law disclosure or other aspects of the transaction falling outside the traditional responsibilities of Bond Counsel or Special Counsel outlined above. In the event that the facts do not bear out the foregoing assumptions, we expect to charge for our additional services on an hourly basis. In any event, we will discuss with the Agency any additional services to be performed by us prior to our performing them.

We recognize that the Agency will have more applicants and more repeat business if project beneficiaries feel that they have been fairly treated by the Agency and its staff, including legal counsel. In this regard, we feel almost as a partner with the Agency and often sacrifice short-term gain for the long term interests of the Agency. Accordingly, we take pains to ensure that the project beneficiary is advised early on in the process regarding what magnitude of legal bills to expect, and endeavor to enter into an engagement letter with the client spelling out both his and our expectations prior to performing significant work beyond the inducement stage. We also endeavor to ensure that our bills do not exceed comparable bills rendered by upstate firms on comparable transactions.

Sometimes, our client will advise us early on in a transaction that the transaction is "fee-sensitive"-i.e., that the applicant will only utilize the Agency in the transaction if total fees are kept below a certain ceiling. In these circumstances, we will advise our client whether it is possible to keep our fees below a ceiling, and if we agree that it is possible, we will thereafter ensure that our fees do not exceed the ceiling. Similarly, if we agree to include our disbursements in such a ceiling, we will ensure that our total bill does not exceed the ceiling.

If the Agency or the Applicant requests that we perform additional services beyond those described above, our fee for those additional services will be based on the time which we devote to said additional services. Our Firm's hourly rates presently range between \$230 and \$815 for lawyers and between \$130 and \$410 for legal assistants. The current hourly rate for A. Joseph Scott, III is \$515/hour. Periodic statements showing the current legal fee due will be made available for review by the Applicant and/or the Agency upon request.

In connection with the issuance of the Bonds or a Straight-Lease Transaction, we typically incur significant out-of-pocket expenses, such as photocopying, shipping of documents, travel, long distance telephone calls and filing fees. In addition, we compile a closing transcript after the Bonds are issued or the Straight-Lease Transaction is completed, which is distributed to each of the parties to the transaction and which involves additional photocopying costs and binding fees. Such out-of-pocket expenses are not included as part of our fee for professional legal services, and periodic statements showing the amount of such disbursements will be made available for review by the Applicant and/or the Agency upon request. For your information, we have attached hereto as Schedule C our policy with respect to the recovery of client disbursements. The actual amount of the disbursements may be minimized by shipping documents first class mail rather than by overnight courier and by limiting the number of drafts of documents. Upon request, we will discuss with the Applicant or the Agency in more detail the steps we can take to minimize disbursements.

In performing our services as Bond Counsel or Special Counsel, our primary client relationship will be with the Agency, although the transaction will be for the primary benefit of the Applicant. We assume that the Applicant and the other parties to the transaction will retain such counsel as they deem necessary and appropriate to represent their respective interests in the transaction.

SCHEDULE B

Non-Applicant Projects

Where the Agency proposes to undertake a transaction involving a project which does not involve an applicant (a "Non-Applicant Project"), we would anticipate acting as counsel to the Agency with respect to said transaction. Examples of Non-Applicant Projects undertaken by industrial development agencies around New York State include offices for the industrial development agency, incubator buildings, industrial parks, shortline rail facilities, community centers, an airport, a parking garage and similar examples of "economic development infrastructure". Examples of transactions involving Non-Applicant Projects might include obtaining financing (in the form of grants and/or loans) with respect thereto; reviewing real estate title records and/or title reports relating thereto; reviewing acquisition and/or construction documentation relating thereto; documenting the leasing and/or sale thereof, in whole or in part; and handling other matters relating thereto. Other examples include the review of Agency policies and procedures, including policies relating to the Public Authorities Accountability Act of 2006, and the preparation of Application Forms and Policy Manuals.

Once we understand the scope of the work which the Agency desires us to undertake with respect to a particular transaction, we will discuss with the Agency an estimate of our anticipated fees for said transaction. We would expect to bill such matters at our normal hourly rates. Once we and the Agency reach an understanding as to the legal budget for said transaction, the source for payment thereof and the billing schedule related thereto, we will send a letter to the Agency memorializing said understanding. Periodic statements showing the current legal fee due will be made available for review by the Agency upon request.

SCHEDULE C

Firm Policy With Respect to Client Disbursements

In the course of providing legal services to its clients, the Firm will from time to time incur various expenses on their behalf. These expenses are generally invoiced to the client in addition to the fees for legal services rendered. It is the policy of the Firm to attempt to keep these charges as low as possible, consistent with the timely performance of high quality legal services. Further, the Firm reserves the right to adjust the various charges for client disbursements on an annual basis, in the course of the Firm's customary review of attorney hourly rates and charges. Any adjustments in such charges will be made available to the client at the client's request.

The client is entitled to establish certain parameters in an attempt to limit disbursement charges, but it must be recognized that certain charges may be inevitable due to the nature of the transaction or legal services involved. Clients who desire to establish parameters for disbursements should contact the attorney-in-charge of the specific matter.

Certain of the disbursements described below are increased by a multiplier to compensate the Firm for various costs not identifiable to a particular client.

Set forth below are summary descriptions of the categories of disbursements commonly incurred on behalf of our clients. This list is by no means exhaustive, and other charges not described below will be invoiced to the client in an appropriate manner. Furthermore, the charges for certain of the items described below are imposed by third parties and may be increased without notice to us or to our clients:

1. **BINDING:** The entire cost of binding transcripts for circulation to various financing participants is invoiced to the client. The total cost is a function on the number and size of the transcripts to be bound and the charges for photocopies (see below).
2. **COMPUTER TIME SHARING:** The actual cost of computer time sharing for access to legal and other data bases will be passed through to the client. These charges are generally incurred in the course of performing legal research.
3. **FILING AND RECORDING FEES AND CERTIFICATE CHARGES:** The cost of various filings and recordings with federal, state and local agencies is borne by the client. Charges for obtaining certified copies of documents from federal, state and local agencies are also invoiced to the client. Occasionally, due to the nature and timing of the transaction involved, filings or requests for certified copies will be handled through service companies which may charge a premium rate.
4. **PUBLICATION:** Certain transactions require the publication of legal notices. The charges for such publication are established by the respective newspaper or periodical, and it is the policy of the Firm to pay the vendor directly and then forward the invoice to the client for reimbursement of same to the Firm.
5. **STAFF OVERTIME:** When secretarial or other support staff are required to work overtime with respect to a specific transaction, the cost is invoiced to the client at the rate of \$32.00 per hour. In addition, all employees who work 10.5 consecutive hours or more are entitled to receive either

lunch or dinner at the Firm's expense. These meal costs will be charged to the client responsible for the overtime costs.

6. PHOTOCOPIES: Photocopies are charged at a rate of 10 cents per page. For large quantities of photocopying which do not require immediate turnaround, we will use a local photocopying service if it can provide copies at a lower rate.
7. SHIPPING AND LOCAL DELIVERY: The cost of shipment by Federal Express, United Parcel Service, Express Mail, U.S. Mail or other delivery service at the retail price charged for such service is invoiced directly to the client. The actual amount of the charges will depend upon the number, weight, and carrier of packages and letters sent. The client will also be charged for local delivery by outside couriers at their normal rates, and for our in-house courier (\$7.50 per delivery or package).
8. TELEPHONE: The Firm's telephone system allows for the attribution of long distance charges to the appropriate client and file. These charges include long distance charges for telecopies, as well as conference calls arranged through Soundpath Conferencing Services. Most of our long distance calls are placed through RCI Long Distance Service at rates approximately the same as AT&T rates.
9. TELECOPY: Telecopies are charged at 50 cents per page. The charge is designed to amortize the cost of acquiring and maintaining our telecopiers, as well as to cover the cost of administrative expenses associated with telecopy charges, the cost of collection and the time-value of money.
10. TRAVEL: The actual cost of travel, including charges for mileage for Firm-owned or attorney-owned automobiles at 58.5 cents per mile, parking, plane or train fares, taxi, hotel, meals, etc., will be invoiced to the client.

SCHEDULE D

Firm Policy With Respect to Various Administrative Matters

General

For your information, Part 1215 of the Joint Rules of the Appellate Division requires that a letter of engagement be sent to any person or entity that is responsible for the payment of attorney's fees. Further, in the unlikely event that a dispute arises between us relating to our fees, you may have the right to arbitration of the dispute pursuant to Part 137 of the Rules of the Chief Administrator of the Courts, a copy of which will be provided to you upon request.

Attorney Representation Conflicts and Waivers

In performing our services to the Agency, we represent only the Agency. We assume that other parties to a transaction involving the Agency will retain such counsel as they deem necessary and appropriate to represent their interest in the transaction. As we have discussed, you are aware that we represent many other clients in numerous and diverse matters. It is possible that, during the time that we are representing the Agency, some of our past, present or future clients will have transactions with the Agency (i.e., a transactional conflict). The Agency agrees that we may continue to represent, or may undertake in the future to represent, existing or new clients in any matter that is not substantially related to our work with the Agency (even if the interests of such clients in those other matters is directly adverse to the interests of the Agency); however, we agree that your prospective consent to conflicting representation shall not apply in any instance where, as a result of our representation of the Agency, we have obtained proprietary or other confidential information of a non-public nature, that, if known to such other client, could be used in any such other matter by such client to your material disadvantage. Examples of transactional conflicts include our representation of Manufacturers and Traders Trust Company, Springbrook NY, Inc., and RBC Capital Markets, Inc. on unrelated matters.

In certain circumstances, a past or present client of our Firm may ask us to represent that client directly in a transaction involving the Agency. In such situation, if the Agency obtains separate counsel to represent the Agency and if the Agency consents to our representation of such client in such transaction, we may represent such client in such transaction, even if the interests of such client in such transaction is directly adverse to the interests of the Agency; however, we agree that your prospective consent to such conflicting representation shall not apply in any instance where, as a result of our representation of the Agency, we have obtained proprietary or other confidential information of a non-public nature, that, if known to such other client, could be used in such transaction by such client to your material disadvantage.

Acceptance of this proposal further constitutes authorization by the Agency to permit the Chairman, the Chief Executive Officer or the Chief Operating Officer of the Agency to execute any writing required by our conflicts partner to resolve any such "potential" conflicts of interest that may arise in the future.

Client Communications

As noted above, in performing our services as bond counsel to the Agency, our client is the Agency, and we represent its interests in connection with the particular matter. While the Agency takes formal action by resolution of its board (the "Agency Board"), the Chief Executive Officer or the Chief Operating Officer typically has the day-to-day responsibility for the operations of the Agency and the undertaking of Applicant and Non-applicant Projects. Further, since the members of the Agency Board are appointed officials and not full-time employees of the Agency, we anticipate that the majority of our conversations and discussions will be with the Chairman, the Vice Chairman, the Chief Executive Officer (or Chief Operating Officer), the Chief Financial Officer and other officers of the Agency.

Accordingly, when we need to communicate information to the Agency, you agree that communicating same to the Chairman, the Vice Chairman, the Chief Executive Officer (or Chief Operating Officer), the Chief Financial Officer or any other official of the Agency shall be treated as if we had communicated such information to the full membership of the Agency. Further, if in our reasonable judgment we believe it necessary to communicate directly with the full membership of the Agency, we will be permitted to do so.