

## INDUCEMENT AGREEMENT AND PROJECT AGREEMENT

THIS INDUCEMENT AGREEMENT AND PROJECT AGREEMENT RELATING TO THE **MOHAWK, ADIRONDACK & NORTHERN RAILROAD CORP. AND GENESEE & MOHAWK VALLEY RAILROAD CO., INC. 2023 PILOT EXTENSION** (the "AGREEMENT") is among the **ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York, with offices at 584 Phoenix Drive, Rome, New York 13441 (the "Agency"), **MOHAWK, ADIRONDACK & NORTHERN RAILROAD CORP. AND GENESEE & MOHAWK VALLEY RAILROAD CO., INC.** (collectively, the "Company") each a corporation duly organized, validly existing and in good standing under the laws of the State of New York, with offices at One Mill Street, Suite 101, Batavia, New York 14020.

Article 1. Preliminary Statement. Among the matters of mutual inducement which have resulted in the execution of this AGREEMENT are the following:

1.01. The Agency is authorized and empowered by the provisions of Article 18-A of the General Municipal Law of the State of New York as amended, and Chapter 372 of the Laws of 1970 of the State of New York, as may be amended from time to time (collectively, the "Act") to undertake "Projects" (as defined in the Act) and to lease or sell the same upon such terms and conditions as the Agency may deem advisable.

1.02. The purposes of the Act are (i) to promote industry and develop trade by inducing manufacturing, industrial, warehousing, research, recreation and commercial enterprises to locate or remain in the State and (ii) to encourage and assist in the providing of industrial pollution control facilities and (iii) to promote the economic welfare and prosperity of the inhabitants of the State. The Act vests the Agency with all powers necessary to enable it to accomplish such purposes.

1.03. (a) The Company previously conveyed to the Agency the fee interest to a certain industrial development facility consisting of a railroad yard in the City of Utica, trackage in the City of Rome and a line of rail running from City of Utica to the Oneida County – Lewis County line north of Boonville (collectively, the "Improvements"), all situated on several parcels of land measuring 450± acres in the aggregate running through the City of Rome, the City of Utica, the Village of Boonville, the Village of Remsen, the Village of Holland Patent, the Town of Boonville, the Town of Remsen, the Town of Steuben, the Town of Trenton and the Town of Marcy (collectively, the "Land"); and all equipment used in connection with the operation of the Improvements (the "Equipment"), all to be used for the purpose of providing essential rail service to customers in Oneida County (the Land, the Improvements and the Equipment referred to collectively as the "Facility").

(b) The Agency leases the Facility to the Company for its operation pursuant to a First Amended and Restated Lease Agreement dated as of April 15, 2012 (the "First Amended Lease Agreement"). The Facility is fully exempt from real property

taxes pursuant to the terms of a PILOT Agreement between the Agency and the Company dated as of April 15, 2012 (the "First Amended PILOT Agreement").

(c) The Company has submitted to the Agency an Application for Financial Assistance dated March 21, 2023, which Application may be amended from time to time prior to closing of the amended lease-leaseback transaction described below (the "Application") requesting that the Agency extend the term of the First Amended Lease Agreement and the First Amended PILOT Agreement for ten years, all to support the Company to continue to provide uninterrupted railroad transportation operations for its customers in Oneida County and to ensure the long term viability of local rail service in Oneida County (collectively, the "2023 Facility Extension").

1.04. The Company hereby represents to the Agency that the 2023 Facility Extension will not result in the removal of an industrial or manufacturing plant from one area of the State to another area of the State or an abandonment of one or more plants of the Company located in the State. To the extent the 2023 Facility Extension will result in the removal of an industrial or manufacturing plant from one area of the State to another area of the State or an abandonment of one or more plants of the Company located in the State, the Project (a) is reasonably necessary to discourage the Company from removing such other plant or facility to a location outside the State, or (b) is reasonably necessary to preserve the competitive position of the Company in its industry.

1.05. The Agency has determined that the 2023 Facility Extension, as described in the Application, will promote and further the purposes of the Act.

1.06. On March 28, 2023 the Agency adopted a resolution (the "Resolution" or the "Inducement Resolution") agreeing to undertake the 2023 Facility Extension in order to assist the Company and to effectuate the purposes of the Act and, subject to the happening of all acts, conditions and things required precedent to such undertaking and the satisfactory completion of such additional acts and reviews as the Agency may deem appropriate, to undertake an amended lease-leaseback transaction in connection with the 2023 Facility Extension.

1.07. (a) In the Resolution, the Agency contemplates that it will provide financial assistance to the Company by extending the period of time during which the Facility will be fully exempt from real property taxes for a period of ten additional years (the "Financial Assistance"), which Financial Assistance is a deviation from the Agency's Uniform Tax Exemption Policy (the "Policy"), and which will be more particularly set forth in a final authorizing resolution. The reasons the Agency is contemplating deviating from Policy are described in the Resolution.

(b) Based upon representations made by the Company in the Application, the value of the Financial Assistance currently authorized by the Agency is as follows:

- Exemptions from real property taxes, valued at approximately \$1 million

1.08. It is understood and agreed by the parties that the purpose of the Agency's provision of Financial Assistance with respect to the 2023 Facility Extension is to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of the Facility to advance job opportunities, health, general prosperity and economic welfare of the people of Oneida County and to otherwise accomplish the public purpose of the Act.

1.09. Attached as Exhibit A to this Agreement is a copy of the Second Amended and Restated PILOT Agreement that reflects the Financial Assistance currently contemplated by the Agency in the Resolution. The Company acknowledges that the Agency (a) reserves all rights to amend the Second Amended and Restated PILOT Agreement to reflect the terms of the Financial Assistance for which the Agency grants final approval as it authorizes in the final authorizing resolution and (b) is under no obligation to enter into the Second Amended and Restated PILOT Agreement unless all conditions described in Section 4.02 hereof are met to the satisfaction of the Agency.

Article 2. Undertakings on the Part of the Agency. Based upon the statements, representations and undertakings of the Company regarding the Facility and the 2023 Facility Extension and subject to the conditions set forth herein, the Agency hereby confirms and acknowledges:

2.01. Upon satisfactory completion of the conditions precedent set forth herein and in the Resolution and the satisfactory completion of such additional acts and reviews as the Agency may deem appropriate, the Agency will (A) adopt, or cause to be adopted, such proceedings and authorize the execution of such documents as may be necessary or advisable for (i) an amended lease-leaseback transaction that includes conversion of the sale-leaseback transaction to a lease-leaseback transaction, and (ii) the continued leasing of the Facility to the Company pursuant to the amended Leaseback Agreement, all as shall be authorized by law and be mutually satisfactory to the Agency and the Company and (B) shall enter into an amended lease-leaseback transaction pursuant to the terms of the Act, as then in force, for the purpose of financing certain costs of the Facility.

2.02. The Leaseback Agreement shall be amended to extend the Lease Term for an additional ten years and shall obligate the Company to make aggregate basic payments in the amount of \$750.00 relating to the Facility as and when the same shall become due and payable. The Company shall be entitled to acquire from the Agency title to (or terminate the Agency's leasehold interest in) the Facility for an aggregate amount of \$1.00, plus such additional amounts as prescribed in the Leaseback Agreement. The Leaseback Agreement and the amendment thereto shall contain all provisions required by law and such other provisions as shall be mutually acceptable to the Agency and the Company.

2.03. That all services, costs and expenses of whatever nature incurred in connection with the 2023 Facility Extension and the installation, replacement, rebuilding, restoration, repair, maintenance and operation of the Facility have been and will continue to be undertaken by the Company.

2.04. That, in connection with any lease by the Agency to the Company that is, in turn, subleased or leased by the Company, it is the intent of all parties to the transactions that any sublease or lease is undertaken by the Company as agent for the Agency.

2.05. That, at the request of the Company, and subject to the agreement between the Agency and the Company, any future transfers of fee or leasehold interest of any portion of real property upon which the Facility is located and not owned by the Agency, are hereby authorized, such transfers to be from the Company to the Agency, and there shall be no need for any further official action on behalf of the Agency other than the execution of the appropriate documents evidencing such transfer.

2.06. The Agency will take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.

Article 3. Undertakings on the Part of the Company. Based upon the statements, representations and undertakings of the Agency herein and in the Resolution and subject to the conditions set forth herein and in the Resolution, the Company agrees as follows:

3.01. [Intentionally Omitted]

3.02. (a) The Company is obligated to maintain at least 12 full time equivalent ("FTE") positions at the Facility (the "Employment Obligation") pursuant to the terms of a Job Creation and Recapture Agreement dated as of April 15, 2012 (the "Recapture Agreement") or else be subject to recapture or termination of financial assistance relating to the Facility as described therein. In the Application, the Company represented that the Company currently employs 12 FTE positions at the Facility.

(b) The Company has committed to maintain the existing 12 FTEs at the Facility and create an additional 2 FTEs at the Facility by the end of the third extended lease year as a result of the 2023 Facility Extension, and the Agency will condition the proposed Financial Assistance on the Company achieving the same, or else be subject to recapture or termination of Financial Assistance relating to the 2023 Facility Extension.

3.03. [Intentionally Omitted].

3.04. Contemporaneously with the closing of the amended lease-leaseback transaction the Company will enter into the amendment to the Leaseback Agreement with the Agency containing, among other things, the terms and conditions described in Section 2.02 hereof.

3.05. (a) The Company shall not permit to stand, and will, at its own expense, take all steps reasonably necessary to remove (or bond the same if acceptable to the Agency and its counsel), any mechanics' or other liens against the Facility for labor or materials furnished in connection with the 2023 Facility Extension. The Company shall forever defend, indemnify and hold the Agency, its members, officers, employees, and agents, and anyone for whose acts or omissions the Agency or any of them may be liable, harmless from and against all costs, losses, expenses, claims, damages and liabilities of whatever kind or nature arising, directly or indirectly, out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the 2023 Facility Extension or arising out of any contract or other arrangement therefor (and including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing).

(b) The Company shall forever defend, indemnify and hold harmless the Agency, its members, officers, employees and agents, and anyone for whose acts or omissions the Agency or any of them may be liable, from and against all claims, causes of action, liabilities and expenses (including without limitation attorneys' fees) howsoever arising for loss or damage to property or any injury to or death of any person (including, without limitation, death of or injury to any employee of the Company or any sublessee) that may occur subsequent to the date hereof by any cause whatsoever in relation to the Facility including the failure to comply with the provisions of Article 3.05 hereof, or arising, directly or indirectly, out of the 2023 Facility Extension or the ownership, acquisition, operation, maintenance, repair or financing of the Facility, and including, without limitation, any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

(c) The defense and indemnities provided for in this Article 3 shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its members, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by law. Without limiting the generality of the foregoing, the foregoing indemnifications shall apply to and encompass any action (or alleged failure to act) of the Agency pursuant to the SEQR Act.

(d) The Company shall provide and carry workers' compensation and disability insurance as required by law and comprehensive liability insurance with such coverages (including, without limitation, owner's protective for the benefit of the Agency

and contractual coverage covering the indemnities herein provided for), with such limits and with such companies as may be approved by the Agency. Attached hereto as Exhibit C are the Agency's insurance requirements that will be contained in the Leaseback Agreement. Upon the request of the Agency, the Company shall provide certificates of insurance in form satisfactory to the Agency evidencing such insurance.

3.06. With the exception of the authorizations required to be adopted by the Agency for the Agency to enter into the amended lease-leaseback transaction, the Company agrees that it will comply with all the requirements of all federal, state and local laws, rules and regulations of whatever kind and howsoever denominated applicable to the Agency and/or the Company with respect to the Facility, the 2023 Facility Extension, the operation and maintenance of the Facility and the financing thereof. Every provision required by law to be inserted herein shall be deemed to be set forth herein as if set forth in full; and upon the request of either party, this AGREEMENT shall be amended to specifically set forth any such provision or provisions. The Company certifies, under penalty of perjury, that it is in substantial compliance with all local, state and federal tax, worker protection and environmental laws, rules and regulations.

3.07. The Company will take such further action and adopt such further proceedings as may be required to implement its aforesaid undertakings or as it may deem appropriate in pursuance thereof.

3.08. If it should be determined that any State or local sales or compensatory use taxes or similar taxes however denominated are payable with respect to the acquisition, purchase or rental of machinery or equipment, materials or supplies in connection with the 2023 Facility Extension, or are in any manner otherwise payable directly or indirectly in connection with the Facility, the Company shall pay the same and shall defend and indemnify the Agency from and against any liability, expenses and penalties arising out of, directly or indirectly, the imposition of any such taxes.

3.09. [Intentionally Omitted]

3.10. If the Facility is leased to another party by the Agency and subleased to the Company, then in such event, the Company guarantees all of the covenants, undertakings and indemnities of such other party as set forth in this Article 3.

3.11. The Company shall provide annually, to the Agency, a certified statement and documentation: (i) enumerating the full time equivalent jobs retained and the full time equivalent jobs created as a result of the Financial Assistance, by category, including full time equivalent independent contractors or employees of independent contractors that work at the Facility, and (ii) indicating that the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that was provided in the application for Financial Assistance is still accurate and if it is not still accurate, providing a revised list of salary and fringe benefit averages or ranges for categories of

jobs retained and jobs created. Exhibit B contains the form of annual certification as well as additional assessment information that the Agency requires, on an annual basis, to be submitted to the Agency by the Company. As a condition of Financial Assistance, the Agency requires the Company to submit a summary of annual maintenance activity and expenditures. If the Company does not provide said annual certified statement to the Agency by the stated due date, a \$500.00 late fee will be charged to the Company for each thirty (30) day period the report is late beyond the due date, up until the time the report is submitted.

3.12. In accordance with the policies of the Agency, and the Resolution, the Company covenants and agrees that it may be subject to recapture of any and all Financial Assistance if it is determined by the Agency that:

(a) the Company has knowingly made a material false or misleading statement, or knowingly omitted any information which, if included, would have rendered any information in the application or supporting documentation false or misleading in any material respect, on its application for Financial Assistance; or

(b) the Company fails to meet and maintain the Employment Obligation; or

(c) the Company failed to submit to the Agency its annual report so that the Agency can confirm that the Company is achieving the Employment Obligation and other objectives of the 2023 Facility Extension.

If the Agency determines to recapture any Financial Assistance, the Company agrees and covenants that it will (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s), unless agreed to otherwise by any tax jurisdiction(s).

3.12. The Company acknowledges that the Agency's Financial Assistance is considered to be public funds under Section 224-a of the New York State Labor Law ("Prevailing Wage Requirements"). The Agency has determined that the Financial Assistance amounts to \$1,000,000.00 in the aggregate. If the Company determines that the 2023 Facility Extension is considered to be a "covered facility" under the Prevailing Wage Requirements, the Company acknowledges it is obligated under Subdivision 8(a) of the Prevailing Wage Requirements to certify under penalty of perjury within five (5) days of commencement of construction work whether the 2023 Facility Extension is subject to the provisions of the Prevailing Wage Requirements. Compliance with Prevailing Wage Requirements, if required, is wholly the obligation of the Company, and failure to comply may result in a stop-work order.

#### Article 4. General Provisions.

4.01. This AGREEMENT sets forth the terms and conditions under which Financial Assistance shall be provided to the Company; no Financial Assistance shall be provided to the Company prior to the effective date of this Agreement. This AGREEMENT shall remain in effect until the amendment to the Leaseback Agreement becomes effective. It is the intent of the Agency and the Company that this AGREEMENT be superseded in its entirety by the amendment to the Leaseback Agreement, except for the indemnities and guarantee of indemnities contained herein, which shall survive.

4.02. (a) It is understood and agreed by the Agency, the Company and the Sublessee that entering into the amended lease-leaseback transaction and the execution of the amendment to the Leaseback Agreement and related documents are subject to (i) obtaining all necessary governmental approvals, (ii) approval of the directors of the Company, (iii) approval of the members of the Agency, (iv) satisfactory completion of the environmental review of the Facility by the Agency in compliance with the State Environmental Quality Review Act, (v) agreement by the Agency and the Company upon mutually acceptable terms and conditions for the amendment to the Leaseback Agreement and other documentation usual and customary to transactions of this nature, (vi) the condition that there are no changes in New York State Law which prohibit or limit the Agency from fulfilling its obligation and commitment as herein set forth to enter into the amended lease-leaseback transaction and (vii) payment by the Company or the Sublessee of the Agency's transaction fee and the fees and disbursements of bond counsel or transaction counsel. The Agency's transaction fee is calculated based upon the project costs relating to the 2023 Facility Extension; based upon the 2023 Facility Extensions in the Company's Application, the transaction fee for the 2023 Facility Extension is estimated at \$5,000.00 which will be payable in full at closing.

(b) In the Resolution, the Agency identified the following additional conditions to the provision of Financial Assistance:

- i. The existing sale-leaseback transaction shall be converted to a lease-leaseback transaction, and at closing the Agency will reconvey fee title to all property back to the Company subject to the new leasehold estates to be created;
- ii. The Leaseback Agreement shall include insurance provisions containing such limits and terms to be recommended and approved by the Agency's insurance agent;
- iii. Due to the unique nature of the Facility being an infrastructure project and to ensure public safety, the Company agrees to regularly maintain the Facility and shall submit with its annual



report a summary of annual maintenance activity and expenditures;

- iv. Evidence that the Company has entered into an agreement with GLDC to continue to provide rail service to Griffiss Business and Technology Park for a minimum of ten years;
- v. The following conditions in the existing Lease Agreement shall remain intact:

(a) The Company agrees not to unreasonably withhold or unreasonably condition access or crossing or utility rights (the "Rights") to any municipality located in the County of Oneida, and to charge no more for existing and future Rights than actual and reasonable out-of-pocket costs incurred by the Company attendant with the portion of tracks to which the Rights pertain.

(b) The Company agrees not to unreasonably withhold or unreasonably condition easement or license agreements for utilities or access to adjacent private property owners provided however that the Company may charge such private property owners the actual costs incurred by the Company for creating and maintaining, and increased operating costs resulting from, such easements and licenses and further provided that the Company may charge private developers a market price for easements and licenses where other access is available to such private developers but access through and over the Facility is financially and/or practically advantageous to such private developers, and further provided that nothing contained herein shall be deemed or construed to prevent the Company from charging at all times and under all circumstances market prices for easements and licenses for utility (gas, oil, water, electricity, cable, telephone, Internet, etc.) transmission facilities to the extent they do not serve adjoining private property.

(c) The Company agrees to be responsible for regular maintenance and cleanup of the Facility, provided however, that nothing shall preclude the Company from requiring third parties to maintain and keep clean the specific areas covered by their easements or licenses.

4.03. The Company agrees that it will reimburse the Agency for all reasonable and necessary direct out-of-pocket expenses that the Agency may incur as a consequence of executing this AGREEMENT or performing its obligations hereunder.

Examples of such expenses include, but are not limited to, photocopies, phone and fax charges, postage and other shipping charges incurred in connection with closing the amended lease-leaseback transaction or complying with any requests after closing relating to the amended lease-leaseback transaction.

4.04. This AGREEMENT and the Financial Assistance contemplated by the Agency hereunder shall be valid for a period of twelve (12) months from the Inducement Date. If for any reason the amended lease-leaseback transaction does not close on or before twelve (12) months from the Inducement Date, the Company shall submit a written request to the Agency describing the reasons for the delay and requesting this AGREEMENT be extended for a period of twelve (12) months under the same terms and conditions contained herein.

4.05. If for any reason the amended lease-leaseback transaction does not close on or before twelve (12) months from the Inducement Date and is not extended by written agreement of the parties, the provisions of this AGREEMENT (other than the provisions of Articles 3.05, 3.06, 3.07 and 3.08 above, which shall survive) shall terminate and be of no further force or effect, and following such termination neither party shall have any rights against the other party except:

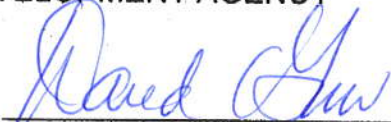
(a) The Company shall pay the Agency for all expenses which were incurred by the Agency in connection with the 2023 Facility Extension;

(b) The Company will pay the out-of-pocket expenses of members of the Agency, counsel for the Agency and Transaction Counsel incurred in connection with the 2023 Facility Extension and will pay the reasonable fees of counsel for the Agency and Transaction Counsel for legal services relating to the 2023 Facility Extension or the proposed financing thereof.

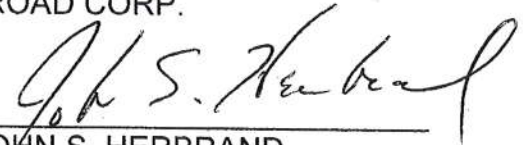
[signature page follows]

IN WITNESS WHEREOF, the parties hereto have entered into this AGREEMENT to be effective as of March 28, 2023.

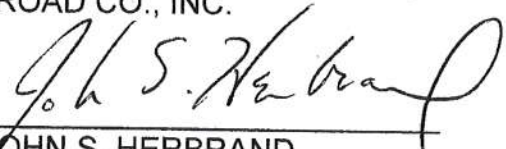
ONEIDA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

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

MOHAWK, ADIRONDACK & NORTHERN  
RAILROAD CORP.

By:   
\_\_\_\_\_  
JOHN S. HERBRAND  
SECRETARY & GENERAL COUNSEL

GENESEE & MOHAWK VALLEY  
RAILROAD CO., INC.

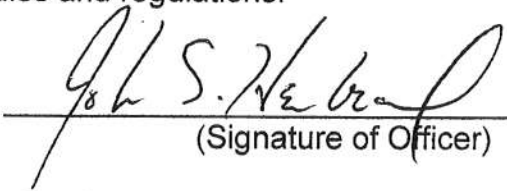
By:   
\_\_\_\_\_  
JOHN S. HERBRAND  
SECRETARY & GENERAL COUNSEL

**CERTIFICATION OF FACILITY OPERATOR**

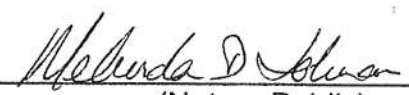
STATE OF NEW YORK    )  
COUNTY OF                ) ss.:

JOHN S. HERBRAND, being first duly sworn, deposes and says:

1. That I am the SECRETARY and GENERAL COUNSEL of **Mohawk, Adirondack & Northern Railroad Corp. and Genesee & Mohawk Valley Railroad Co., Inc. (collectively, the "Company")** and that I am duly authorized on behalf of the Company to bind the Company and to execute this Agreement.
  
2. That the Company confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the 2023 Facility Extension is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.

  
\_\_\_\_\_  
(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury  
this 17<sup>th</sup> day of April, 2023.

  
\_\_\_\_\_  
(Notary Public)

MELINDA D. JOHNSON  
Notary Public, State of New York  
No. 01JO6344407  
Qualified in Monroe County  
Commission Expires July 05, 2024

**EXHIBIT A**

Transcript Document No. [ ]

MOHAWK, ADIRONDACK & NORTHERN RAILROAD CORP.

and

GENESEE & MOHAWK VALLEY RAILROAD CO., INC.

and

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

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SECOND AMENDED AND RESTATED  
PAYMENT-IN-LIEU-OF-TAX AGREEMENT

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Oneida County Industrial Development Agency  
2023 Lease Amendment and Restatement  
(Mohawk, Adirondack & Northern Railroad Corp./  
Genesee & Mohawk Valley Railroad Co., Inc. 2023 Facility Extension)

Oneida County, City of Rome, City of Utica, Village of Boonville, Village of Remsen,  
Village of Holland Patent, Town of Boonville, Town of Steuben, Town of Trenton, Town  
of Remsen, Town of Marcy, Maynard Fire District, Dunham Public Library District,  
Utica City School District, Rome City School District, Adirondack Central School District,  
Remsen School District, Whitesboro Central School District  
Holland Patent School District

Tax Account Nos.: See Exhibit A attached hereto

## SECOND AMENDED AND RESTATED PAYMENT-IN-LIEU-OF-TAX AGREEMENT

THIS SECOND AMENDED AND RESTATED PAYMENT-IN-LIEU-OF-TAX AGREEMENT, dated as of \_\_\_\_\_, 2023, is by and among **MOHAWK, ADIRONDACK & NORTHERN RAILROAD CORP.**, a corporation duly organized and validly existing under the laws of the State of New York, having an address of One Mill Street, Suite 101, Batavia, New York 14020 ("MA&N"), **GENESEE & MOHAWK VALLEY RAILROAD CO. INC.**, a corporation duly organized and validly existing under the laws of the State of New York, having an address of One Mill Street, Suite 101, Batavia, New York 14020 ("G&MV") (MA&N and G&MV referred to collectively as the "Company") and **ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, an industrial development agency and a public benefit corporation of the State of New York having its principal office at 584 Phoenix Drive, Rome, New York 13441 (the "Agency").

### WITNESSETH:

WHEREAS, the Agency is authorized and empowered by the provisions of Title 1 of Article 18-A of the General Municipal Law, Chapter 99 of the Consolidated Laws of New York, as amended, (the "Enabling Act"), and Chapter 372 of the Laws of 1970 of the State of New York, as amended, constituting Section 901 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of, among others, industrial facilities for the purpose of promoting, attracting and developing economically sound commerce and industry in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, the Company previously conveyed to the Agency the fee interest to a certain industrial development facility consisting of a railroad yard in the City of Utica, trackage in the City of Rome and a line of rail running from City of Utica to the Oneida County – Lewis County line north of Boonville (collectively, the "Improvements"), all situated on several parcels of land measuring 450± acres in the aggregate running through the City of Rome, the City of Utica, the Village of Boonville, the Village of Remsen, the Village of Holland Patent, the Town of Boonville, the Town of Remsen, the Town of Steuben, the Town of Trenton, the Town of Remsen and the Town of Marcy (collectively, the "Land"); and all equipment used in connection with the operation of the Improvements (the "Equipment"), all to be used for the purpose of providing essential rail service to customers in Oneida County (the Land, the Improvements and the Equipment referred to collectively as the "Facility"); and

WHEREAS, the Agency leases the Facility to the Company for its operation pursuant to a First Amended and Restated Lease Agreement dated as of April 15, 2012 (the "First Amended Lease Agreement"); and

WHEREAS, the Facility is fully exempt from real property taxes pursuant to the terms of a PILOT Agreement between the Agency and the Company dated as of April 15, 2012 (the "First Amended PILOT Agreement"); and

WHEREAS, the Company has applied to the Agency requesting that the Agency extend the term of the First Amended Lease Agreement and the First Amended PILOT Agreement for ten years, all to support the Company to continue to provide uninterrupted railroad transportation operations for its customers in Oneida County and to ensure the long term viability of local rail service in Oneida County (collectively, the "2023 Facility Extension"); and

WHEREAS, in order to induce the Company to develop the Facility, the Agency is willing to extend the Lease Term (as said term is defined in the First Amended Lease Agreement); and

WHEREAS, the Agency has agreed to maintain its interest in the Facility in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Facility has been exempt from real property taxes, general property taxes, general school district taxes, general assessments, service charges or other governmental charges of a similar nature levied and/or assessed upon the Facility or the interest therein of the Company or the occupancy thereof by the Company commencing March 1, 1993 (the "Exempt Taxes"), because the Agency acquired the fee interest in the Facility and the Facility is used for a purpose within the meaning of the applicable Constitutional and statutory provisions, including the Enabling Act, provided, however, such exemption does not extend to special assessments or ad valorem levies; and

WHEREAS, the Agency has conveyed back to the Company the fee interest in the Facility, subject in all respects to the leasehold estate created by the First Amended and Restated Lease Agreement, and such that there is no merger between the fee estate and the leasehold estate, all to preserve the Agency's uninterrupted interest in the Facility; and

WHEREAS, the Company leases the Facility to the Agency pursuant to a Lease Agreement dated of even date herewith (the "Lease Agreement"); and

WHEREAS, the Agency leases the Facility back to the Company pursuant to the terms of a Second Amended and Restated Leaseback Agreement dated of even date herewith (the "Second Amended Leaseback Agreement")

WHEREAS, the Facility will continue to be fully exempt from Exempt Taxes for the Exemption Terms (more particularly set forth on the schedules attached hereto) because the Agency has converted its fee interest in the Facility to a leasehold interest and the Facility is used for a purpose within the meaning of the applicable Constitutional and statutory provisions, including the Enabling Act, provided, however, such exemption does not extend to special assessments or ad valorem levies; and

WHEREAS, each year of the Exemption Term is more particularly set forth on Schedule B attached hereto (each year of the Exemption Term is referred to as an "Exemption Year"); and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into this amended agreement making provision for payments-in-lieu-of-taxes and such assessments by the Company to the City of Rome, the City of Utica, the Village of Boonville, the Village of Remsen, the Village of Holland Patent, the Town of Boonville, the Town of Steuben, the Town of Trenton, Town of Remsen, the Town of Marcy, or any existing incorporated village or any village which may be incorporated after the date hereof, within which the Facility is or may be, wholly or partially located, Oneida County, Utica City School District, Rome City School District, Adirondack Central School District, Remsen School District, Whitesboro Central School District, Holland Patent School District, the Maynard Fire District and the Dunham Public Library District and any other appropriate special districts (hereinafter each a "Taxing Authority" and collectively the "Taxing Authorities") in which any part of the Facility is or is to be located; and

WHEREAS, the PILOT Payments (as defined below) represent a deviation from the Agency's Uniform Tax Exemption Policy (the "Policy"); and

WHEREAS, pursuant to Section 874 of the Act, the Agency sent a certified notice to the chief executive officer of each Taxing Authority providing a description of the PILOT Payments, the Agency's reasons for deviating from the Policy as well as the time and location of the public hearing and the meeting during which the Agency would consider a resolution approving the deviation from its Policy and the PILOT Payments; and

WHEREAS, all defined terms herein as indicated by the capitalization of the first letter thereof and not otherwise defined herein shall have the meanings ascribed to such terms as set forth in the Second Amended Leaseback Agreement.



NOW, THEREFORE, to provide for certain payments to the Taxing Authorities, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. (a) The Company shall pay to each Taxing Authority as set forth on Schedule A attached hereto and made a part hereof an amount in lieu of the Exempt Taxes (the "PILOT Payments") during each Exemption Year of the Exemption Term as follows:

(i) zero percent (0%) of Exempt Taxes from the first through and including the tenth Exemption Year;

(ii) all non-exempt taxes and charges upon the Facility from the first through and including the tenth Exemption Year; and

(iii) one hundred percent of such taxes after the tenth Exemption Year.

(b) Anything herein to the contrary, notwithstanding, this Agreement shall terminate on the date on which the Second Amended Leaseback Agreement shall terminate and the Agency shall terminate its leasehold interest in the Facility pursuant to the Second Amended Leaseback Agreement. The PILOT Payments under this Second Amended PILOT Agreement are subject to the terms and conditions of a certain Job Creation and Recapture Agreement dated as of even date (the "Recapture Agreement").

(c) Anything herein to the contrary, notwithstanding, upon the failure of the Company in making any payment when due hereunder and upon failure to cure such default within thirty (30) days of receipt of notice as herein provided, shall constitute an Event of Default under Section 7.1(a)(vi) of the Second Amended Leaseback Agreement, and the Agency may take any one or all remedial steps afforded it in Section 7.2 of the Second Amended Leaseback Agreement; provided, however, nothing herein contained shall be deemed to limit any other rights and remedies the Agency may have hereunder or under any other Transaction Document.

2. The Company will make PILOT Payments to each Taxing Authority hereunder for each Exemption Year by making the required payment to such Taxing Authority no later than the last day during which such Exempt Taxes could otherwise be made without penalty as if the Agency did not have a leasehold or other interest in the Facility. PILOT Payments that are delinquent under this Agreement shall be subject to a late penalty of five percent (5%) of the amount due which shall be paid by the Company

to the affected Taxing Authority at the time the PILOT Payment is paid. For each month, or part thereof, that the PILOT Payment is delinquent beyond the first month, interest shall accrue to and be paid to the affected Taxing Authority on the total amount due plus a late payment penalty in the amount of one percent (1%) per month until the payment is made. Anything herein to the contrary, notwithstanding, upon the failure of the Company in making any payment (or causing any payment to be made) when due hereunder and upon failure to cure such default within thirty (30) days of receipt of notice as herein provided, the Agency shall have the right to terminate the Second Amended Leaseback Agreement and this Second Amended PILOT Agreement, and the Company shall henceforth pay one hundred (100%) percent of the Exempt Taxes, together with all costs of collection, including but not limited to attorneys' fees. Nothing herein contained shall be deemed to limit any other rights and remedies the Agency may have hereunder or under any other Transaction Document.

3. The PILOT Payments to be made by the Company pursuant to this Agreement are intended to be in lieu of all Exempt Taxes that would have to be paid on the Facility leased to the Company by the Second Amended Leaseback Agreement if the Agency did not have a leasehold or other interest in the Facility.

4. If by reason of a change in the Constitution or laws of the State of New York, or an interpretation of the Constitution or the laws of the State of New York by the Court of Appeals (or such lower court from which the time to appeal has expired) of the State of New York, or for any other reason, the Company is required to pay any tax which the payments specified herein are intended to be in lieu of, the Company may deduct the aggregate of any such payments made by it from the amount herein agreed to be paid in lieu of such taxes and need only pay the difference. Furthermore, inasmuch as the PILOT Payments herein agreed to be made by the Company are intended to be in lieu of all Exempt Taxes, it is agreed that said payments shall not, as to any Exemption Year, be in an amount greater than would be payable for such year for such Exempt Taxes, in the aggregate, by a private corporation on account of its ownership of the Facility.

5. This Second Amended and Restated PILOT Agreement shall be binding upon the successors and assigns of the parties.

6. It is the intent of the parties that the Company will have all the rights and remedies of a taxpayer with respect to any real property or other tax, service charge, special benefit, ad valorem levy, assessment or special assessment or service charge because of which, or in lieu of which, the Company is obligated to make a payment hereunder, as if and to the same extent as if the Agency did not have a leasehold or other interest in the Facility. It is the further intent of the parties that the Company will have all of the rights and remedies of a taxpayer as if and to the same extent as if the

Agency did not have a leasehold or other interest in the Facility with respect to any proposed assessment or change in assessment concerning the property, or any portion thereof, whether through an assessor, board of assessment review, court of law, or otherwise and likewise will be entitled to protest before and be heard by such assessor, board of assessment review, court of law or otherwise and will be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or amount of any taxes that would have been payable but for the provisions hereof. In the event, however, that a court of competent jurisdiction shall enter an order or judgment determining or declaring that, by reason of the Agency's interest in the Facility, the Company does not have the right to bring a proceeding to review such assessment under the Real Property Tax Law or any other law, then the Company shall have the right to contest such assessment in the name and as the agent of the Agency, and the Agency agrees to cooperate with the Company in all respects in any such proceeding at the sole cost and expense of the Company. In any event, the Company agrees to notify the Agency in writing no less than forty-five days in advance of initiating any action with respect to any proposed assessment or change in assessment concerning the Facility. Notwithstanding anything herein to the contrary, for so long as this Agreement is in effect, the Company hereby unconditionally and irrevocably waives its right, if any, to apply for and/or receive the benefit of any other real property tax exemption with respect to the Facility, including, without limitation, any real property tax exemption that may be available under Section 485-b and Section 485-e of the Real Property Tax Law.

7. All amounts payable by the Company hereunder will be paid to the respective Taxing Authority and will be payable in such lawful money of the United States of America as at the time of payment is legal tender for the payment of public and private debts, including a check payable in such money.

8. (a) If any term or provision hereof should be for any reason held or adjudged to be invalid, illegal or unenforceable by any court of competent jurisdiction, such term or provision will be deemed separate and independent and the remainder hereof will remain in full force and effect and will not be invalidated, impaired or otherwise affected by such holding or adjudication.

(b) This Second Amended and Restated PILOT Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.

(c) All notices, certificates or other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when (i) mailed by United States registered or certified mail, postage prepaid, return receipt requested or (ii) when delivered by a commercial overnight courier that

guarantees next day delivery and provides a receipt, to the Agency or the Company, as the case may be, addressed as follows:

To the Agency: Oneida County Industrial Development Agency  
584 Phoenix Drive  
Rome, New York 13441-4105  
Attn.: Chairman

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

To the Company: Mohawk, Adirondack & Northern Railroad Corp.  
One Mill Street, Suite 101  
Batavia, New York 14020  
Attn.: David J. MonteVerde, President

Genesee & Mohawk Valley Railroad Co., Inc..  
One Mill Street, Suite 101  
Batavia, New York 14020  
Attn.: David J. MonteVerde, President

With a Copy to: John S. Herbrand, Esq.  
One Chase Square  
Suite 1900  
Rochester, New York 14604

provided, that the Agency or the Company may, by notice given hereunder to the other, designate any further or different addresses to which subsequent notices, certificates or other communications to them shall be sent.

(e) This Second Amended and Restated PILOT Agreement shall be governed by and construed in accordance with the laws of the State of New York.

(f) It is the intent of the Agency and the Company that the First Amended and Restated PILOT Agreement be superseded in its entirety by this Second Amended and Restated PILOT Agreement, effective immediately.

[Signature page follows]

IN WITNESS WHEREOF, the parties have executed this **Second Amended and Restated PILOT Agreement** as of the date first above written.

MOHAWK, ADIRONDACK & NORTHERN RAILROAD CORP.

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

GENESEE & MOHAWK VALLEY RAILROAD CO., INC.

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

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

On the \_\_\_\_ day of \_\_\_\_\_ 2023 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 instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

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

SECOND SIGNATURE PAGE TO  
SECOND AMENDED AND RESTATED PILOT AGREEMENT  
(MOHAWK, ADIRONDACK & NORTHERN RAILROAD CORP./  
GENESEE & MOHAWK VALLEY RAILROAD CO., INC.)

ONEIDA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

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

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

On the \_\_\_\_ day of \_\_\_\_\_ 2023 before me, the undersigned a notary public in and for said state, personally appeared **David C. Grow**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

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

**EXHIBIT A**

**TOWN            PARCEL #**

**MARCY**

304400            277.000-1-43  
304400            744.000-1-1

**BOONVILLE**

302601            033.006-3-49            village, MAN  
302601            033.006-3-88            village, IDA  
302601            033.006-4-8            village, IDA  
302689            048.000-1-4            town, MAN  
302689            084.000-2-19            town, MAN

**TRENTON**

305801            228.005-2-11            vill. Holland Pat  
305807            159.011-1-12            vill. Remsen  
305889            194.000-2-33.1  
305889            194.000-2-54            village, Hol. Pat  
305889            227.000-1-49  
305889            658.007-3-1  
305889            658-089-5-1  
305889            177.000-1-58

**REMSEN**

305289            121.000-1-31  
305289            140.000-1-3            vill. Remsen  
305289            752.089-4-1            town Remsen  
305289            752-089-4-2            town Remsen  
305201            140.019-1-17            vill. Remsen  
305201            652.001-3-1            vill. Remsen  
305201            752.001-1-1            vill. Remsen

**STEBEN**

305600            756.000-1-1  
305600            756.000-1-2  
305600            756.000-1-3  
305600            756.000-1-4  
305600            756.000-1-5  
305600            756.000-1-6

305600	756.000-1-7
305600	756.000-1-8
305600	756.000-1-9
305600	756.000-1-10
305600	756.000-1-11
305600	756.000-1-12
305600	756.000-1-13
305600	756.000-1-14
305600	756.000-1-15

**CITY OF  
ROME**

243.017-1-5.1  
002.013-76-2  
242.074-2-20  
259.002-1.2.3  
222.000-1-92  
242.048-1-22  
222-000-1-67

**CITY OF  
UTICA**

178572  
17-239170



**SCHEDULE A**

Receiver of Taxes  
County of Oneida  
800 Park Avenue  
Utica, New York 13501

Receiver of Taxes  
City of Utica  
One Kennedy Plaza  
Utica, New York 13502

Receiver of Taxes  
City of Rome  
198 North Washington Street  
Rome, New York 13440

Receiver of Taxes  
Village of Boonville  
13149 State Route 12  
Boonville, NY 13309

Receiver of Taxes  
Village of Remsen  
10606 Pine Street  
Remsen, NY 13438

Receiver of Taxes  
Town of Remsen  
10540 Academy Lane  
PO Box 308  
Remsen NY 13438

Receiver of Taxes  
Town of Boonville  
13149 State Route 12  
Boonville NY 13309

Receiver of Taxes  
Town of Trenton  
8520 Old Poland Road  
PO Box 26  
Trenton NY 13304

Receiver of Taxes  
Village of Holland Patent  
PO Box 302  
Holland Patent NY 13354

Receiver of Taxes  
Town of Steuben  
9458 Soule Rd  
Remsen, NY 13438

Receiver of Taxes  
Town of Marcy  
8801 Paul Becker Road  
Marcy, NY 13403

Receiver of Taxes  
Dunham Public Library District  
76 Main Street, #1027  
Whitesboro NY 13492

Receiver of Taxes  
Maynard Fire District  
9900 Maynard Drive  
Marcy NY 13403

Receiver of Taxes  
Utica City School District  
929 York Street  
Utica, New York 13502

Receiver of Taxes  
Rome City School District  
409 Bell Road  
Rome, New York 13440

Receiver of Taxes  
Adirondack Central School District  
110 Ford Street  
Boonville, NY 13309

Receiver of Taxes  
Remsen Central School  
PO Box 406  
Remsen, NY 13438

Receiver of Taxes  
Whitesboro Central School District  
65 Oriskany Blvd. Suite 1  
Whitesboro, NY 13492

Receiver of Taxes  
Holland Patent School District  
9601 Main Street  
Holland Patent NY 13354

**SCHEDULE B**

**EXEMPTION TERM**

<b>Exemption Year</b>	<b>County/Town/ Rome City/Library District/Fire District Fiscal Year</b>	<b>Utica City Fiscal Year</b>	<b>Village Fiscal Year</b>	<b>School Fiscal Year</b>
1	01/01/23 – 12/31/23	04/01/23 - 03/31/24	06/01/23 - 05/31/24	07/01/23 - 06/30/24
2	01/01/24 – 12/31/24	04/01/24 - 03/31/25	06/01/24 - 05/31/25	07/01/24 - 06/30/25
3	01/01/25 – 12/31/25	04/01/25 - 03/31/26	06/01/25 - 05/31/26	07/01/25 - 06/30/26
4	01/01/26 – 12/31/26	04/01/26 - 03/31/27	06/01/26 - 05/31/27	07/01/26 - 06/30/27
5	01/01/27 – 12/31/27	04/01/27 - 03/31/28	06/01/27 - 05/31/28	07/01/27 - 06/30/28
6	01/01/28 – 12/31/28	04/01/28 - 03/31/29	06/01/28 - 05/31/29	07/01/28 - 06/30/29
7	01/01/29 – 12/31/29	04/01/29 - 03/31/30	06/01/29 - 05/31/30	07/01/29 - 06/30/30
8	01/01/30 – 12/31/30	04/01/30 - 03/31/31	06/01/30 - 05/31/31	07/01/30 - 06/30/31
9	01/01/31 – 12/31/31	04/01/31 - 03/31/32	06/01/31 - 05/31/32	07/01/31 - 06/30/32
10	01/01/32 – 12/31/32	04/01/32 - 03/31/33	06/01/32 - 05/31/33	07/01/32 - 06/30/33

EXHIBIT B  
FORM OF ANNUAL REPORT TO AGENCY

Anthony J. Picente Jr.  
County Executive

Shawna M. Papale  
Secretary/  
Executive Director

Jennifer Waters  
Assistant Secretary

ONEIDA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

**OCIDA**

584 Phoenix Drive,  
Rome, New York 13441-4105  
(315) 338-0393, fax (315) 338-5694



David C. Grow  
Chairman

Michael Fitzgerald  
Vice Chairperson

Mary Faith Messenger  
Treasurer

Ferris Betrus, Jr.  
Kirk Hinman  
Eugene Quadraro  
Stephen Zogby

January 1, 20\_\_

**RESPONSE DUE NO LATER THAN FRIDAY, \_\_\_\_\_**

**Re: December 31, 20\_\_ Annual Report to the NYS Office of Comptroller, 20\_\_ REPORT YEAR**

**Project Name:                      Project Code:**

Dear ,

Pursuant to Section 859 of New York State General Municipal Law, all Industrial Development Agencies (IDA) are required to file annual Financial Statements with the Office of the State Comptroller.

Oneida County Industrial Development Agency (OCIDA) requires annual reporting on the value of all IDA tax exemptions applicable to your lease/PILOT project (sales tax, real property tax, mortgage recording tax), as well as the status of employment. This information must be provided on the enclosed Schedule of Supplemental Information.

Please provide copies of all 20\_\_ PILOT bills paid and any NYS T&F ST-340 Form (Sales and Use Tax Exemption Reporting Form) submitted to New York State for 20\_\_.

**The completed and certified forms must be returned no later than, \_\_\_\_\_. Failure to provide this information may result in the suspension or revocation of your tax exempt status with the**

**OCIDA.**

Please mail, fax, or e-mail your responses to: Mark Kaucher, Oneida County IDA, 584 Phoenix Drive, Rome, NY 13441 Fax: (315) 338-5694. [mkaucher@mvedge.org](mailto:mkaucher@mvedge.org)

If you have any questions, please do not hesitate to contact either Mark Kaucher, Timothy Fitzgerald, or me at (315) 338-0393. Thank you in advance for your assistance.

Sincerely,  
Shawna M. Papale  
Executive Director inquire

Encls.

## Instructions for OCIDA Annual Report

This mailing contains the following:

- ♦ **Customer Info Tab - Please update your information if necessary**
- ♦ **Schedule of Supplemental Information (Page 1 & 2)**

### Schedule of Supplemental Information

NOTE: ONLY EDIT FIELDS HIGHLIGHTED IN GREEN FOR SUPPLEMENTAL INFO PAGE 1 AND 2

**Page 1:** In the first box, answer whether or not your project was completed in Report Year. If it was completed before the Report Year, you do not need to answer this question.

#### **Tax Exemptions Section**

State and Local Sales Tax Column – ENTER STATE AND LOCAL SALES TAX THAT WOULD HAVE BEEN PAYABLE DURING REPORT YEAR IF THERE HAD BEEN NO IDA TAX EXEMPTION. Only report sales tax dollars exempted during the Report Year. Local and NYS sales tax exempted must be broken out separately. **Please provide copy of NYS ST-340 for Report Year.**

Real Property Tax Column – ENTER REAL PROPERTY TAX PAYMENTS THAT WOULD HAVE BEEN PAYABLE DURING REPORT YEAR IF THERE WERE NO IDA PILOT. Do not include Special District Assessment Tax Bill information, as special district taxes are not exempt through the OCIDA PILOT. (ie: sewer, water, lighting districts, etc.). **Please provide copies of the PILOT bills to the IDA.**

Mortgage Recording Tax Column – ENTER MORTGAGE RECORDING TAX THAT WOULD HAVE BEEN PAYABLE DURING REPORT YEAR IF THERE WERE NO IDA MORTGAGE RECORDING TAX EXEMPTION.

Total Exemptions – This formula will add all Sales Tax, Real Property Taxes, and Mortgage Recording Tax for you.

#### **Payments in Lieu of Taxes (PILOT) PAID Section**

ENTER THE ACTUAL PILOT PAYMENTS PAID TO THE TAXING JURISDICTIONS. Do not include Special District Assessment Tax payments (sewer and water, lighting districts, etc.) in your paid amounts. **Provide us with copies of the actual invoices you paid from.**

TOTAL PILOTS PAID Column – This formula will add all County, Local PILOT, and School District PILOTS for you.

#### **Example:**

If full County of Oneida taxes WITHOUT a PILOT would have equaled \$1,000. You would enter \$1,000 in the Real Property Tax column in the Exemptions Section. However, because you have a PILOT, you might only pay 1/3 of your taxes due (\$333). Thus, you would enter \$333 in the County column in the Payments in Lieu of Taxes (PILOTS).

**Page 2: # Current Full-Time Equivalent (FTE) Employees"/"# FTE Jobs Created/ # FTE Jobs Retained AS OF THE PERIOD ENDING DECEMBER 31 of the Report Year.**

"FTE" shall mean a full time employee that has a minimum of thirty-five (35) scheduled hours per week, or any combination of two or more part-time employees that work a minimum of fifteen (15) scheduled hours per week, when combined together, constitute the equivalent of a minimum of thirty-five (35) scheduled hours per week, and whose workplace location is the project facility. For this purpose an employee shall include a leased employee regularly retained by the Company

If any **Construction Jobs** were created during the Report Year as a result of your project, include in the # FTE Construction Jobs Created column.

**For Projects that Closed with the IDA After July 2016 - Salary & Fringe Benefits Section:** Read the sentence in bold print beneath the Job Reporting chart and determine whether or not you are able to check the box. Fill out chart if you cannot check the box.

#### **REPORT CERTIFICATION – Bottom of Page 2**

Review and update the Contact Information questions at the bottom of Page 2, then SIGN TO CERTIFY the information provided.

If you have any questions, please do not hesitate to call Mark Kaucher, Timothy Fitzgerald or Shawna Papale at 315-338-0393 or e-mail us at:

[mkaucher@mvedge.org](mailto:mkaucher@mvedge.org) [tfitzgerald@mvedge.org](mailto:tfitzgerald@mvedge.org) [spapale@mvedge.org](mailto:spapale@mvedge.org)

Please update contact information below if inaccurate. If you need to update your address, please do so on the tab "Supplemental Info Page 2".

Contact	
Contact Email	
Form Filler	
Form Filler Email	

Applicant Name	
Address Line 1	
Address Line 2	
City	
State	
Postal Code	
Country	

**20 Schedule of Supplemental Information (Straight Lease) PAGE 1**

Project Code:	
Type ("Lease" or "Bond/Note Issuance" or "Tax Exemption"):	
Project Name:	
Project Address Street line 1:	
Project Address Street line 2:	
City:	
State (Abbreviated):	
Postal Zipcode:	
Country:	
Total Project Amount:	
Approval Date:	
Is the project part of or related to an existing multi-phase project (Y/N)	
If yes: What is the original project code	
Project Purpose Category	
Did the IDA take Leashold Interest to the property (Y/N)	
Date IDA took leashold interest:	
Benefited Project Amount:	
Bond Amount	
Annual Lease Payment	
Federal Tax Status of Bonds	
Year Financial Assist Planned to end:	
There is no debt outstanding for this project (Y/N)	
IDA does not hold title to the property (Y/N)	
The project receives no tax exemptions (Y/N)	
Non-Profit (Y/N):	

**Was your project completed in 2021?** (Please mark the appropriate box with an **X**)

YES       NO

**If YES, what was the final project cost total?**

\$

<b>20 Exemptions - Amounts that <u>WOULD HAVE</u> been payable <u>AS FULL TAXES</u>, without IDA Assistance</b>			
(Please enter amounts in the fields highlighted in GREEN)			
Sales Tax (ST)	Real Property Taxes (RPT)	Mortgage Recording Tax (MR)	Total Tax Exemptions (Sum of ST, RPT and MRT)
State: \$ -	County: \$ -	\$ -	\$ -
Local: \$ -	Local (Sum of City/Town/Village): \$ -		
	School: \$ -		

Please check box with an **X** if applicable:

Not all of the data is reported. A letter for the explanation will be returned with this report.

<b>20 Payments in Lieu of Taxes (PILOTS) PAID.</b>			
DO NOT INCLUDE SPECIAL DISTRICT ASSESSMENT PAYMENTS (ie: sewer, water, lighting etc. districts)			
County PILOT	Local PILOT (sum of city/town/village)	School District PILOT	TOTAL PILOTS PAID
\$ -	\$ -	\$ -	\$ -

**Straight Lease:** Identify method of financial assistance utilized by project other than tax expemtions claimed by project. Identify by AMOUNT and TYPE:

FORM CONTINUED ON NEXT TAB "Supplemental Info Page 2" ➔



Full-Time Equivalent (FTE) Jobs Created and Retained - As of December 31, 2021 (see report instructions tab for more information)							
# FTE Employees at Project Location Prior to IDA Status	Original Estimate of Jobs to be Created	Original Estimate of Jobs to be Retained	Estimated average annual salary of jobs to be retained	# Current FTE Employees	# FTE Jobs Created During Fiscal Year	# FTE Jobs Retained During Fiscal Year	# FTE Contruction Jobs Created during Fiscal Year

Project Code:	0
Type:	0
Project Name:	0

**FOR PROJECTS CLOSED WITH THE AGENCY AFTER JULY 2016 ONLY.** If the salary and benefit information for categories of jobs retained and jobs created that was provided in the original project application is still accurate, please mark the box with an X. If the information is no longer accurate please complete the chart below.

Category of Jobs to be Retained and Created	# Of Current FTE Per Category	Average Annual Salary or Range of Salary				Average Annual Fringe Benefits or Range of Fringe Benefits
		Average	Range From	-	Range To	
Management				-		
Administrative				-		
Production				-		
Independent Contractor				-		
Other				-		

Contact Information (if different from Supplemental Info Page 1)	
NAME:	
Address:	
Telephone:	
Fax:	
Email:	
Person Completing Form:	

**I certify that to the best of my knowledge and belief all of the information on page 1 and 2 of the Annual Report is correct. I also understand that failure to report completely and accurately may result in enforcement of provisions of my agreement, including but not limited to voidance of the agreement and potential claw back of benefits.**

For instructions on how to sign your name in excel please see below this box.

Signed:	(Authorized Company Representative)
Type name:	
Date:	

**To draw your name in excel:**

- Click on the "Insert" Tab
- Click on "Illustrations"
- Select the "Shapes" Option
- Select the "Lines" subcategory
- The last option, if you hover your mouse over it will say "Freeform: Scribble" and looks like a looping line. This is the option you want to select. It will turn your mouse into a pencil after selecting. Then just click and hold to draw your signature in the box above.

## EXHIBIT C

### INSURANCE REQUIREMENTS

#### Section 3.4 Insurance Required.

At all times throughout the Lease Term, including, when indicated herein, during the Construction Period, the Company shall, at its sole cost and expense, maintain or cause to be maintained insurance of the following types of coverage and limits of liability with an insurance carrier qualified and admitted to do business in New York State. The Insurance carrier must have at least an A- (excellent) rating by A. M. Best.

Company shall pay, as the same become due and payable, all premiums with respect thereto, including, but not necessarily limited to:

(a) **Property Insurance:** Insurance against loss or damage by fire, lightning and other casualties customarily insured against in an all risk policy with special form perils, such insurance to be in an amount not less than the full replacement value of the completed Improvements, exclusive of footings and foundations, as determined by a recognized appraiser or insurer selected by the Company. During the Construction Period, such policy shall be written in the so-called "Builder's Risk Completed Value Non-Reporting Form" and shall contain a provision granting the insured permission to complete and/or occupy.

(b) **Workers' Compensation & Employers Liability Insurance** and **Disability Benefits Insurance** and each other form of insurance that the Company or any permitted sublessee is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company or any permitted sublessee who are located at or assigned to the Facility. Statutory New York limits shall apply to these policies. This coverage shall be in effect from and after the Completion Date or on such earlier date as any employees of the Company, any permitted sublessee, any contractor or subcontractor first occupy the Facility.

(c) **General Liability Insurance** protecting the Agency and the Company against loss or losses from liability (**including Railroad liability associated with the operation of railroads**) imposed by law or assumed in any written contract (including the contractual liability assumed by the Company under Section 5.2 hereof) and arising from personal injury, including bodily injury or death, or damage to the property of others, caused by an accident or occurrence with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. Such insurance shall be written on ISO Occurrence form CG 00 01 1001 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contracts, products-completed operations, XCU (explosion, collapse & underground coverage) and personal and advertising injury. **Comprehensive Automobile Liability Insurance** including all owned, non-owned and hired autos with a limit of liability of not less than \$1,000,000 (combined single limit or equivalent for personal injury, including bodily injury or death, and property damage) protecting the Agency and the Company against any loss or liability or damage for personal injury, including bodily injury or death, or property damage, and **Umbrella Liability Insurance**

of not less than \$10,000,000 per occurrence during the Construction Period and not less than \$5,000,000 per occurrence after the Completion Date.

(d) During the Construction Period (and for at least two years thereafter in the case of Products and Completed Operations as set forth below), the Company shall cause the general contractor to carry liability insurance of the type and providing the minimum limits set forth below:

(i) Workers' compensation & employer's liability and disability benefits insurance both with statutory limits in accordance with applicable law.

(ii) Comprehensive general liability providing coverage for:  
Premises and Operations  
Products and Completed Operations  
Contractual Liability  
Personal Injury Liability  
Broad Form Property Damage  
(including completed operations)  
Explosion Hazard  
Collapse Hazard  
Underground Property Damage Hazard  
Railroad operations

Such insurance shall have a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. The annual aggregate shall apply per Development Area. The contractor's general liability policy shall include coverage for the contractor and any of the additional insureds for any operations performed on residential projects including single or multi-family housing, residential condominiums, residential apartments and assisted living facilities.

The Contractor's General Liability policy shall not contain any "Labor Law" exclusions or any similar exclusions which exclude bodily injury to an employee of the insured or an employee of a contractor hired by the insured if it occurs in the course of employment. The Contractor's General Liability policy shall include coverage for the Contractor and any of the additional insured's for any operations performed on residential projects including single or multi-family housing, residential condominiums, residential apartments and assisted living facilities.

(iii) Railroad Protective Liability providing coverage to the Company and Agency with a limit of liability of not less than \$2,000,000 per occurrence and \$6,000,000 annual aggregate.

(iv) Comprehensive auto liability, including all owned, non-owned and hired autos, with a limit of liability of not less than \$1,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage).

(v) Umbrella Liability with limits of \$5,000,000 per occurrence and \$5,000,000 annual aggregate.

(e) A policy or policies of flood insurance in the maximum amount of flood insurance available with respect to the Facility under the Flood Disaster Protection Act of 1973, as amended, whichever is less. This requirement will be waived upon presentation of evidence satisfactory to the Agency that no portion of the Land is located within an area identified by the U.S. Department of Housing and Urban Development as having special flood hazards.

#### Section 3.5 Additional Provisions Respecting Insurance.

(a) All insurance required by Section 3.4 hereof shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the entity required to procure the same and authorized to write such insurance in the State. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the procuring entity is engaged. All policies evidencing the insurance required by Section 3.4 hereof shall provide for at least thirty (30) day's prior written notice of the restriction, cancellation or modification thereof to the Agency. The policies evidencing the insurance required by Section 3.4(c) hereof shall name the Agency as additional insured on a primary & non-contributory basis. All policies evidencing the insurance required by Sections 3.4(d) (ii) (iv) and (v) shall name the Agency and Company as additional insured on a primary and non-contributory basis for the ongoing construction phase and for two years following completion during the completed operations phase. The policies under Section 3.4 (a) shall contain appropriate waivers of subrogation. The policies under Section 3.4 (b), (c), (d) shall contain waivers of subrogation in favor of the Agency and Company.

(b) All policies or certificates (or binders) of insurance required by Sections 3.4 hereof shall be submitted to the Agency on or before the Closing Date. Attached to the certificate of insurance shall be a copy of the additional insured endorsement from the Company's General Liability policy. The Company shall deliver to the Agency before the renewal date of each policy a certificate dated not earlier than the immediately preceding month reciting that there is in full force and effect, with a term covering at least the next succeeding calendar year, insurance of the types and in the amounts required by Section 3.4 hereof and complying with the additional requirements of Section 3.5(a) hereof. Prior to the expiration of each such policy, the Company shall furnish the Agency with evidence that such policy has been renewed or replaced or is no longer required by this Leaseback Agreement. The Company shall provide such further information with respect to the insurance coverage required by this Leaseback Agreement as the Agency may from time to time reasonably require.

Agency shall be named as additional insured as follows:

Oneida County Industrial Development Agency, ISAOA  
584 Phoenix Drive  
Rome, New York 13441