



**Meeting Agenda – Audit and Finance Committee**

Genesee Gateway Local Development Corp

Tuesday, August 30, 2022 – 8:30 a.m.

Location: 99 MedTech Drive, Innovation Zone

<b>Page #</b>	<b>Topic</b>	<b>Discussion Leader</b>	<b>Desired Outcome</b>
	1. Call To Order – Enter Public Session	D. Cunningham	
2-3	<b>Discussion – Genesee CARES Update</b>	J. Krencik / M. Zimmerman	Discussion
	1a. Executive Session Motion to enter executive session under the Public Officers Law, Article 7, Open Meetings Law Section 105 for the following reasons: 1. The medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation. 1b. Enter Public Session	D. Cunningham	
4-6	<b>2. Chairman’s Report &amp; Activities</b> 2a. Agenda Additions / Other Business 2b. Minutes: August 2, 2022	D. Cunningham	Vote
7-11 12 13-28	<b>3. Discussions / Official Recommendations to the Board:</b> 3a. July 2022 Financial Statements 3b. GGLDC Budget Timeline 3c. Revised PSA for Ag Park 3d. Genesee CARES Update	L. Farrell L. Farrell M. Masse J. Krencik	Disc / Vote Discussion Disc / Vote Disc / Vote
	<b>4. Adjournment</b>	D. Cunningham	

GGLDC

Jim Krencik, Director of Marketing & Communications

Audit & Finance Meeting Report

August 30, 2022

**Genesee CARES**

As of August 23, the 22 small businesses participating in the Genesee CARES initiative have submitted over \$670,000 of expenditures across five disbursement requests to the NYS Office of Community Renewal.

Sixteen of the participating small businesses have submitted for their entire grant awards, with a remaining 6 small businesses with partial or full grant funding available for a total of \$203,615 in remaining grant funds.

Please see the next page for full information.

The County's grant contract with NYS OCR is set to expire on October 14, 2022.

While we anticipate all of the remaining businesses will submit for reimbursement and meet their grant obligations by this date, a short extension to the grant deadline will afford GGLDC additional time to compile all the grant documentation, submit final reimbursement requests, and successfully closeout the program.

We'd like to request County Manager Matt Landers to submit a request to NYS OCR for a 3-month extension of the program, to January 14, 2023.

**Genesee CARES - Status of Grant Disbursements & Eligible Reimbursements as of August 23, 2022**

Applicant	ID	Location	Awarded Funding Level	Disbursement Request #1 - Disbursed	Disbursement Request #2 - Disbursed	Disbursement Request #3 - To Be Disbursed	Disbursement Request #4 - Submitted to OCR	Disbursement Request #5 - Submitted to OCR	Remaining Available Award to Request for Disbursement
First Wave Technology	1	Batavia - Town	\$25,000				\$25,000		\$0
Sweet Betty's	2	LeRoy	\$20,000	\$13,179		\$6,821			\$0
Pro Construction	3	Bergen	\$25,000	\$25,000					\$0
Red Roof Inn	4	Batavia - Town	\$25,000		\$25,000				\$0
Terry Hills	5	Batavia - Town	\$75,000						\$75,000
La Quinta	6	Batavia - Town	\$25,000		\$25,000				\$0
Hodgins Engraving	7	Batavia - Town	\$60,000			\$60,000			\$0
Rivers Performance	8	Batavia - Town	\$10,000	\$5,221		\$4,779			\$0
Chaps Elba Diner	9	Elba	\$50,000						\$50,000
Craft Cannery	10	Bergen	\$60,000				\$60,000		\$0
Sikes Enterprises	11	Batavia - City	\$25,000		\$25,000				\$0
New Caryville Inn	12	Oakfield	\$25,000			\$25,000			\$0
Center Street Smokehouse	13	Batavia - City	\$25,000						\$18,555
Smokin Eagle BBQ	14	LeRoy	\$50,000				\$6,445		\$0
John's Service	15	Batavia - City	\$25,000					\$14,541	\$10,459
Alleghany Services	16	Basom	\$60,000					\$60,000	\$0
Eden Café	17	Batavia - City	\$25,000		\$18,901				\$0
Copperhead Creek Bar	18	Batavia - City	\$75,000			\$40,300			\$34,700
Byron Hotel & Trailhouse	19	Byron	\$50,000					\$50,000	\$0
Empire Hemp	20	Batavia - City	\$15,000						\$15,000
Fava Brothers Lawn Care	21	Byron	\$60,000					\$60,000	\$0
The Spa at Artemis	22	Batavia - City	\$65,000				\$63,076	\$1,924	\$0
<b>Totals</b>			\$875,000	\$43,400	\$143,901	\$142,999	\$169,061	\$171,924	\$203,715
				5%	16%	16%	19%	20%	23%

16 Project submitted for disbursement of 100% of eligible Genesee CARES grant

1 Project submitted for disbursement of a portion of eligible Genesee CARES grant

3 Projects have not yet submitted for disbursements of eligible Genesee CARES grants

**GGLDC Audit & Finance Committee Meeting**

**Tuesday, August 2, 2022**

**Location – 99 MedTech Drive, Innovation Zone**

**8:30 a.m.**

**MINUTES**

**ATTENDANCE**

Committee Members: D. Cunningham, T. Bender, P. Battaglia, T. Felton  
Staff: L. Farrell, M. Masse, L. Casey, J. Krencik, S. Hyde, P. Kennett  
Guests: C. Yunker  
Absent:

**1. CALL TO ORDER / ENTER PUBLIC SESSION**

D. Cunningham called the meeting to order at 10:49 a.m. in the Innovation Zone.

**2. CHAIRMAN'S REPORT & ACTIVITIES**

**2a. Agenda Additions / Other Business** – Nothing at this time.

**2b. Minutes: July 6, 2022**

**T. Bender made a motion to recommend approval of July 6, 2022 minutes; the motion was seconded by P. Battaglia. Roll call resulted as follows:**

T. Felton - Yes  
P. Battaglia - Yes  
T. Bender - Yes  
D. Cunningham - Yes

**The item was approved as presented.**

**3. DISCUSSIONS / OFFICIAL RECOMMENDATIONS TO THE BOARD:**

**3a. June 2022 Financial Statements** - L. Farrell reviewed with the Committee the significant items of the June 2022 long form financial statements.

- On line 8 of the balance sheet, there is restricted cash grant funds of \$43,400. We collected funds from OCR in June for the Genesee CARES grant award. The grant awards were not paid out to the recipients until July. The receipt and payment of these funds crossed over months; therefore, they were held in restricted cash grant funds in the interim.
- In the operating fund, \$43,400 was recorded as CDBG/Genesee CARES grant revenue.
- Also in the operating fund, on line 13 there is strategic investments interfund revenue of \$279,000, which was transferred into the operating fund from the Fancher land sale at Buffalo East Tech Park.

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- On Buffalo East Tech Park, there is gross land sales of \$304,000 and the related cost of sales. There is an accounting loss mostly attributable to writing off land that was donated to the GGLDC at fair market value.
- Regular monthly activity for MedTech Centre, which is on budget at 50% or less as expected.

**P. Battaglia made a motion to recommend to the full Board the approval of the June 2022 Financial Statements as presented; the motion was seconded by T. Felton. Roll call resulted as follows:**

- T. Felton - Yes
- P. Battaglia - Yes
- T. Bender - Yes
- D. Cunningham - Yes

**The item was approved as presented.**

**3b. Strategic Investments Analysis** - L. Farrell reviewed the Strategic Investments Analysis with the Committee. She noted the following:

- The Fancher land sale proceeds were included in the strategic investments analysis. The gross land sale proceeds of \$304,000 were used, in part, to repay \$137,382 due from the Buffalo East Tech Park fund. The remaining net proceeds of \$160,000 is shown coming into strategic investments from the Fancher land sale.
- We collected \$50,000 (\$25,000/project) from Trousdale Solar I & II, which can be used to support workforce development and/or the overall economic development program. There are 5 additional solar projects that have been approved by the Board but have not closed.
- There is a placeholder of \$30,000 for a workforce development consultant for years 2022 through 2026.
- There is a reserved amount of \$500,000 listed as a use for future shovel-ready requirements at MedTech Centre. This reserve is also listed as an opportunity because it could be removed.
- The Plug Power Community Investment Agreement of \$900,000/year for 20 years will be tracked in a separate analysis.

**P. Battaglia made a motion to remove the reserved funds of \$500,000 for future shovel-ready requirements at MedTech Centre from the strategic investments analysis; the motion was seconded by T. Felton. Roll call resulted as follows:**

- T. Felton - Yes
- P. Battaglia - Yes
- T. Bender - Yes
- D. Cunningham - Yes

**The item was approved as presented.**

S. Hyde left the meeting at 11:01 a.m.

**3c. Genesee CARES Update** – J. Krencik provided an update on the Genesee CARES grant program. With the support of the New York State Office of Community Renewal and Genesee County, the Genesee CARES Business Recovery Fund has completed a first round of grant disbursements to eligible businesses. Rounds 2-4 of grant disbursements have been submitted and are currently with OCR.

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There have been multiple rounds of reimbursement requests because OCR limits the disbursement amount to the recipient's (Genesee County) crime coverage insurance policy, which is \$150,000. M. Zimmerman and the Harrison Studio will continue to assist businesses to disburse the remaining funds of \$394,700.

### 4. ADJOURNMENT

P. Battaglia made a motion to adjourn at 11:12 a.m., seconded by T. Bender and passed unanimously.

**Genesee Gateway Local Development Corp.**  
**July 2022 Dashboard**  
**Balance Sheet - Accrual Basis**

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	<u>7/31/22</u>	<u>6/30/22</u>	[Per Audit] <u>12/31/21</u>
<b><u>ASSETS:</u></b>			
Cash - Unrestricted	\$ 586,118	\$ 585,165	\$ 503,196
Cash - Restricted (A) (1)	588,564	631,905	588,161
Cash - Reserved (B) (2)	1,726,977	1,788,068	1,447,826
Cash - Subtotal	2,901,659	3,005,138	2,539,183
Grants Receivable	20,312	20,312	34,980
Accounts Receivable	2,883	1,506	8,059
Loans Receivable - Current Portion	277,548	276,965	281,792
Other Current Assets (3)	17,755	20,650	10,439
<b>Total Current Assets</b>	<b>3,220,157</b>	<b>3,324,571</b>	<b>2,874,453</b>
Land Held for Dev. & Resale	2,182,234	2,182,234	2,556,367
Buildings & Improvements	7,202,120	7,202,120	7,202,120
Furniture, Fixtures & Equipment	46,599	46,599	46,599
Total Property, Plant & Equip.	9,430,953	9,430,953	9,805,086
Less Accumulated Depreciation	(2,268,094)	(2,251,660)	(2,153,059)
<b>Net Property, Plant &amp; Equip.</b>	<b>7,162,859</b>	<b>7,179,293</b>	<b>7,652,027</b>
Loans Receivable - Noncurrent Portion (Net of \$176,545 Allow for Bad Debt at 7/31/22 & 6/30/22 and \$201,229 at 12/31/21)	1,004,987	1,019,582	764,495
Equity Investment in Genesee Agri-Business, LLC (4)	2,562,240	2,562,240	2,562,240
<b>Other Assets</b>	<b>3,567,227</b>	<b>3,581,822</b>	<b>3,326,735</b>
<b>Total Assets</b>	<b>13,950,243</b>	<b>14,085,686</b>	<b>13,853,215</b>
<b><u>LIABILITIES:</u></b>			
Accounts Payable (5)	32,932	97,092	46,279
Unearned Revenue (6)	40,422	41,718	56,571
Security Deposits	109,944	109,944	109,944
Loans Payable - Current Portion	85,089	84,806	76,328
Bonds Payable - Current Portion	152,068	151,531	148,743
<b>Total Current Liabilities</b>	<b>420,455</b>	<b>485,091</b>	<b>437,865</b>
Loans Payable - Noncurrent Portion	2,128,407	2,135,629	2,178,456
Bonds Payable - Noncurrent Portion	2,421,724	2,436,163	2,519,445
<b>Total Noncurrent Liabilities</b>	<b>4,550,131</b>	<b>4,571,792</b>	<b>4,697,901</b>
<b>Total Liabilities</b>	<b>4,970,586</b>	<b>5,056,883</b>	<b>5,135,766</b>
<b>EQUITY</b>	<b>\$ 8,979,657</b>	<b>\$ 9,028,803</b>	<b>\$ 8,717,449</b>

**Significant Events:**

1. Cash Restricted - Genesee CARES funds were received in June and paid out in July.
2. Cash Reserved - YTD increase due to the Fancher land sale.
3. Other Current Assets - Prepaid Cyber, D&O, and general liability insurance.
4. Equity Investment in Genesee Agri-Business, LLC - Ties to corresponding GAB, LLC financial statements.
5. Accounts Payable - Grant for continuing Economic Development Program Support and MedTech Centre Property Management.
6. Unearned Revenue - Loan interest and MedTech Centre rent received in advance.

(A) Restricted = Genesee Cares Grant, Community Benefit Agreement (CBA) Funds, Security Deposits, USDA Debt Sinking Fund.

(B) Reserved = OCR loan repayments, Strategic Investment Funds, Economic Development Loan Funds, Batavia Metropolitan Area Redevelopment Loan Funds, Grant Funds.

**Genesee Gateway Local Development Corp.**  
**July 2022 Dashboard**  
**Profit & Loss - Accrual Basis**

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	Month to Date		YTD		2022	2022
	7/31/22	7/31/21	2022	2021	Board Approved Budget	YTD % of Budget
<b><u>Operating Revenues:</u></b>						
Grants (1)	\$ -	\$ -	\$ 829,806	\$ 50,000	\$ 932,648	89%
Interest Income on Loans	1,707	2,053	12,250	10,978	19,940	61%
Rent	61,518	56,593	433,021	423,911	738,695	59%
Common Area Fees - Parks	-	-	500	500	500	100%
Fees	-	-	9,980	3,000	-	N/A
Other Revenue	-	-	1,144	27	-	N/A
Land Sale Proceeds (2)	-	-	304,101	337,500	-	N/A
<b>Total Operating Revenues</b>	<b>63,225</b>	<b>58,646</b>	<b>1,590,802</b>	<b>825,916</b>	<b>1,691,783</b>	
<b><u>Operating Expenses:</u></b>						
Operations & Maintenance	5,534	2,851	76,866	75,210	209,801	37%
Professional Services	9,179	6,961	74,979	64,872	162,192	46%
Econ. Dev. Prog. Support Grant	25,000	25,000	175,000	175,000	300,000	58%
Site Development Expense	-	-	-	14,625	93,000	0%
Cost of Sales (2)	-	-	383,004	621,489	-	N/A
Grant Expense (3)	43,400	-	410,400	658,145	819,648	50%
Real Estate Dev. (Capitalized)	-	-	-	100	15,000	0%
Buildings/Furniture/Equip. (Capitalized)	-	-	-	-	5,000	0%
Balance Sheet Absorption	-	-	-	(100)	(20,000)	0%
Depreciation	16,434	16,327	115,035	114,288	197,203	58%
<b>Total Operating Expenses</b>	<b>99,547</b>	<b>51,139</b>	<b>1,235,284</b>	<b>1,723,629</b>	<b>1,781,844</b>	
<b>Operating Revenue (Expense)</b>	<b>(36,322)</b>	<b>7,507</b>	<b>355,518</b>	<b>(897,713)</b>	<b>(90,061)</b>	
<b><u>Non-Operating Revenues (Expenses):</u></b>						
Other Interest Income	218	232	1,398	1,951	1,600	87%
Interest Expense	(13,042)	(13,458)	(94,708)	(98,181)	(160,518)	59%
<b>Total Non-Operating Exp.</b>	<b>(12,824)</b>	<b>(13,226)</b>	<b>(93,310)</b>	<b>(96,230)</b>	<b>(158,918)</b>	
<b>Change in Net Assets</b>	<b>(49,146)</b>	<b>(5,719)</b>	<b>262,208</b>	<b>(993,943)</b>	<b>\$ (248,979)</b>	
<b>Net Assets - Beginning</b>	<b>9,028,803</b>	<b>8,910,064</b>	<b>8,717,449</b>	<b>9,898,288</b>		
<b>Net Assets - Ending</b>	<b>\$ 8,979,657</b>	<b>\$ 8,904,345</b>	<b>\$ 8,979,657</b>	<b>\$ 8,904,345</b>		

**Significant Events:**

1. Grant Revenue - ; YTD includes OCR Grant/Genesee CARES, Two solar projects closed (Trousdale Solar I & II) and OCR grant/loan to HP Hood (\$734K).
2. Land Sale Proceeds / Cost of Sales - YTD includes J&R Fancher land sale.
3. Grant Expense Ops - OCR Grant/Genesee CARES funds disbursed in July; YTD - 50% of OCR grant funds were disbursed to HP Hood as a grant.



**Genesee Gateway Local Development Corp.**  
**July 2022 Dashboard**  
**Statement of Cash Flows**

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	July 2022	YTD
<b>CASH (USED) PROVIDED BY OPERATING ACTIVITIES:</b>		
Grant Income	\$ -	\$ 844,474
Interest Income on Loans	1,699	18,577
Rental Income	57,366	414,280
Common Area Fees - Parks	-	500
Fees	-	9,980
Other Revenue	-	1,144
Net Land Sale Proceeds	-	304,101
Operations & Maintenance	(1,114)	(93,880)
Professional Services	(23,377)	(90,783)
Economic Development Program Support Grant	(75,000)	(150,000)
Site Development Expense	-	(18,943)
Cost of Land Sales	-	(8,871)
Grant Expense	(43,400)	(410,400)
Issuance of Loans	-	(367,000)
Repayment of Loans	14,012	130,752
Net Cash (Used) Provided By Operating Activities	(69,814)	583,931
<b>CASH FLOWS USED BY CAPITAL &amp; RELATED FINANCING ACTIVITIES:</b>		
Principal Payments on Bonds & Loans	(20,841)	(135,684)
Interest Paid on Bonds & Loans	(13,042)	(87,169)
Net Cash Used By Capital & Related Financing Activities	(33,883)	(222,853)
<b>CASH FLOWS PROVIDED BY INVESTING ACTIVITIES:</b>		
Interest Income	218	1,398
Net Cash Provided By Investing Activities	218	1,398
Net Change in Cash	(103,479)	362,476
Cash - Beginning of Period	3,005,138	2,539,183
Cash - End of Period	\$ 2,901,659	\$ 2,901,659
<b>RECONCILIATION OF OPERATING REVENUE (EXPENSE) TO NET CASH (USED) PROVIDED BY OPERATING ACTIVITIES:</b>		
Operating Revenue (Expense)	\$ (36,322)	\$ 355,518
Adjustments:		
Depreciation Expense	16,434	115,035
Decrease in Land Held For Dev. & Resale	-	374,133
(Increase) Decrease in Grants/Accounts Receivable	(1,377)	19,844
(Increase) Decrease in Other Current Assets	2,895	(7,316)
(Increase) Decrease in Loans Receivable	14,012	(236,248)
Decrease Operating Accounts Payable	(64,160)	(20,886)
Decrease in Unearned Revenue	(1,296)	(16,149)
Total Adjustments	(33,492)	228,413
Net Cash (Used) Provided By Operating Activities	\$ (69,814)	\$ 583,931

**Genesee Gateway Local Development Corp.**  
**July 2022 Dashboard**  
**Balance Sheet - Accrual Basis**

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	<u>GGLDC</u>	<u>GABLLC</u>	<u>Eliminations</u>	<u>COMBINED</u>	
				<u>7/31/22</u>	<u>7/31/22</u>
<b>ASSETS:</b>					
Cash - Unrestricted	\$ 586,118	\$ -	\$ -	\$ 586,118	\$ 503,196
Cash - Restricted (A)	588,564	-	-	588,564	588,161
Cash - Reserved (B)	1,726,977	2,551,556	-	4,278,533	3,988,986
Cash - Subtotal	<u>2,901,659</u>	<u>2,551,556</u>	-	<u>5,453,215</u>	<u>5,080,343</u>
Grants Receivable	20,312	-	-	20,312	34,980
Accts Receivable - Current	2,883	-	-	2,883	8,059
Loans Receivable - Current	277,548	-	-	277,548	281,792
Other Current Assets	17,755	-	-	17,755	10,439
<b>Total Current Assets</b>	<u><b>3,220,157</b></u>	<u><b>2,551,556</b></u>	<u><b>-</b></u>	<u><b>5,771,713</b></u>	<u><b>5,415,613</b></u>
Land & Improvements	2,182,234	1,339,730	-	3,521,964	3,896,097
Buildings & Improvements	7,202,120	-	-	7,202,120	7,202,120
Furniture, Fixtures & Equipment	46,599	-	-	46,599	46,599
Total Property, Plant & Equip.	<u>9,430,953</u>	<u>1,339,730</u>	<u>-</u>	<u>10,770,683</u>	<u>11,144,816</u>
Less Accumulated Depreciation	<u>(2,268,094)</u>	<u>-</u>	<u>-</u>	<u>(2,268,094)</u>	<u>(2,153,059)</u>
<b>Net Property, Plant &amp; Equip.</b>	<u><b>7,162,859</b></u>	<u><b>1,339,730</b></u>	<u><b>-</b></u>	<u><b>8,502,589</b></u>	<u><b>8,991,757</b></u>
Loans Receivable - Noncurrent	1,004,987	-	-	1,004,987	764,495
Equity Investment in GAB, LLC	2,562,240	-	<u>(2,562,240)</u>	-	-
<b>Other Assets</b>	<u><b>3,567,227</b></u>	<u><b>-</b></u>	<u><b>(2,562,240)</b></u>	<u><b>1,004,987</b></u>	<u><b>764,495</b></u>
<b>TOTAL ASSETS</b>	<u><b>13,950,243</b></u>	<u><b>3,891,286</b></u>	<u><b>(2,562,240)</b></u>	<u><b>15,279,289</b></u>	<u><b>15,171,865</b></u>
<b>LIABILITIES:</b>					
Accounts Payable	32,932	-	-	32,932	46,279
Unearned Revenue	40,422	-	-	40,422	56,571
Security Deposits	109,944	-	-	109,944	109,944
Loans Payable - Current Portion	85,089	-	-	85,089	76,328
Bonds Payable - Current Portion	152,068	-	-	152,068	148,743
<b>Total Current Liabilities</b>	<u><b>420,455</b></u>	<u><b>-</b></u>	<u><b>-</b></u>	<u><b>420,455</b></u>	<u><b>437,865</b></u>
Loans Payable - Noncurrent Portion	2,128,407	-	-	2,128,407	2,178,456
Bonds Payable - Noncurrent Portion	2,421,724	-	-	2,421,724	2,519,445
<b>Total Noncurrent Liabilities</b>	<u><b>4,550,131</b></u>	<u><b>-</b></u>	<u><b>-</b></u>	<u><b>4,550,131</b></u>	<u><b>4,697,901</b></u>
<b>TOTAL LIABILITIES</b>	<u><b>4,970,586</b></u>	<u><b>-</b></u>	<u><b>-</b></u>	<u><b>4,970,586</b></u>	<u><b>5,135,766</b></u>
<b>EQUITY</b>	<u><b>\$ 8,979,657</b></u>	<u><b>\$ 3,891,286</b></u>	<u><b>\$ (2,562,240)</b></u>	<u><b>\$ 10,308,703</b></u>	<u><b>\$ 10,036,099</b></u>

(A) Restricted = Community Benefit Agreement (CBA) Funds, Security Deposits, USDA Debt Sinking Fund, Grant Funds.

(B) Reserved = OCR loan repayments, Strategic Investment Funds, Economic Development Loan Funds, Batavia Micropolitan Area Redevelopment Loan Funds, Grant Funds.

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**Genesee Gateway Local Development Corp.  
July 2022 Dashboard  
Profit & Loss - Accrual Basis**

	GGLDC		GABLLC		COMBINED	
	7/31/22	7/31/22	7/31/22	7/31/22	7/31/22	Combined YTD
<b>Operating Revenues:</b>						
Grants	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 829,806
Interest Income on Loans	1,707	-	-	-	1,707	12,250
Rent	61,518	-	-	-	61,518	440,486
Common Area Fees - Parks	-	-	-	-	-	6,794
Fees	-	-	-	-	-	9,980
Other Revenue	-	-	-	-	-	1,144
Land Sale Proceeds	-	-	-	-	-	304,101
<b>Total Operating Revenues</b>	<b>63,225</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>63,225</b>	<b>1,604,561</b>
<b>Operating Expenses:</b>						
Operations & Maintenance	5,534	-	-	-	5,534	81,413
Professional Services	9,179	-	-	-	9,179	74,979
Econ. Dev. Program Support Grant	25,000	-	-	-	25,000	175,000
Site Development Expense	-	-	-	-	-	-
Cost of Sales	-	-	-	-	-	383,004
Grant Expense	43,400	-	-	-	43,400	410,400
Real Estate Development (Capitalized)	-	-	-	-	-	-
Balance Sheet Absorption	-	-	-	-	-	-
Depreciation	16,434	-	-	-	16,434	115,035
<b>Total Operating Expenses</b>	<b>99,547</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>99,547</b>	<b>1,239,831</b>
<b>Operating Revenue (Expense)</b>	<b>(36,322)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>(36,322)</b>	<b>364,730</b>
<b>Non-Operating Revenues (Expenses):</b>						
Other Interest Income	218	173	-	-	391	2,582
Interest Expense	(13,042)	-	-	-	(13,042)	(94,708)
<b>Total Non-Operating Rev (Exp)</b>	<b>(12,824)</b>	<b>173</b>	<b>-</b>	<b>-</b>	<b>(12,651)</b>	<b>(92,126)</b>
<b>Change in Net Assets</b>	<b>(49,146)</b>	<b>173</b>	<b>-</b>	<b>-</b>	<b>(48,973)</b>	<b>272,604</b>
<b>Net Assets - Beginning</b>	<b>9,028,803</b>	<b>3,891,113</b>	<b>(2,562,240)</b>	<b>10,357,676</b>	<b>10,357,676</b>	<b>10,036,099</b>
<b>Net Assets - Ending</b>	<b>\$ 8,979,657</b>	<b>\$ 3,891,286</b>	<b>\$ (2,562,240)</b>	<b>\$ 10,308,703</b>	<b>\$ 10,308,703</b>	<b>\$ 10,308,703</b>

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# 2023 Budget Timeline

## Genesee Gateway Local Development Corporation

- Week of Sept 5 Planning Assumptions / Preliminary Inputs
- Week of Sept 12 Budget Worksheet Inputs – CFO & Sr. VP of Ops Review
- Week of Sept 19 CEO Review of Draft Budget
- Oct 4 @ 8:30am Audit & Finance Committee - Budget Workshop Meeting
- Oct 25 @ 8:30am Audit & Finance Committee - Review & Recommendation
- Oct 27 @ 4pm Board Review & Approval
- By Nov 1 Budget to ABO/Post on GCEDC Web Site

**Review of Purchase and Sale Agreement for Ag Park Property**

**Discussion:** At the May GGLDC Audit & Finance Committee meeting a Purchase and Sale Agreement from a potential project to acquire approximately 20 acres out of tax parcel 13-1-170.11 for \$1,000,000 was approved. That PSA was not fully executed and some of the terms have been changed. This is a new PSA being brought forward for consideration of approval.

**Fund Commitment:** Legal fees to Harris Beach for the transaction as listed in the resolution.

**Committee Action Request:** Recommend approval of revised Purchase and Sale Agreement and payment of legal fees in connection with closing.

**PURCHASE AND SALE CONTRACT  
FOR LOTS, VACANT LAND AND FARMS  
("Agreement")**

When signed, this document becomes a binding contract.  
Purchaser or Seller may wish to consult their own attorney.

**PURCHASER(S):** LA FERMIERE INC., a Delaware corporation with an address of 190 Christopher Columbus Drive, Suite 4A, Jersey City, New Jersey, 07302

**SELLER(S):** GENESEE AGRI-BUSINESS, LLC, a New York limited liability company with an address at 99 MedTech Drive, Suite 106, Batavia, New York 14020

**OFFER TO PURCHASE**

Purchaser offers to purchase the property described below from Seller on the following terms:

**1. PROPERTY DESCRIPTION:** Property known as part of land owned by the Genesee Agri Business, LLC. The approximate size of the Property to be purchased by the Purchaser from the Seller is approximately 20.00 acres ("Land"). The Land is depicted per attached Exhibit "A" and consists of part of tax parcel 13.-1-170.11, and situated in the Town of Batavia. The actual acreage of the Land to be purchased by the Purchaser from the Seller shall be determined based on the Updated Survey Map (as defined in paragraph 5.B below). In addition to the Land, the property to be purchased also includes all rights and appurtenances pertaining to the Land, including ,without limitation: (i) any and all access and other easements, covenants, privileges and hereditaments benefitting the Land, whether or not of record; (ii) any and all access, air, water, riparian, development and utility rights; (iii) all improvements located on the Land, if any (iv) all strips and gores of land adjoining or abutting the Land, if any (collectively, the "Property").

**2. PRICE; AMOUNT AND HOW IT WILL BE PAID:** The purchase price (the "Purchase Price") to be paid by the Purchaser to the Seller shall be \$50,000.00 per acre or fraction thereof with a maximum purchase price of \$1,000,000.00 and the maximum purchase price shall apply notwithstanding if the size of the Property exceeds 20.00 acres based on the Updated Survey Map to be provided by the Seller but paid for by the Purchaser, provided said difference is less than .5 acres. Should the difference be more than .5 acres than Purchaser shall pay \$50,000 per acre or portion thereof.

The Purchaser shall receive a credit at Closing (as defined in paragraph 4) for the Deposit (as defined in paragraph 11) made hereunder. The balance of the Purchase Price, as adjusted pursuant to paragraph 8, shall be paid as follows: (Check and complete applicable provisions.)

(A) \$500,000 by official bank draft, wire, or certified check at Closing.

(B) \$500,000 loan payable to Genesee Agri Business, LLC (per separate agreement) and as set forth in Section 25 hereof.

**3. DUE DILIGENCE AND CONTINGENCIES:**

- A. Due Diligence Review.** Purchaser agrees and acknowledges that as of the Date of Acceptance (defined below), Purchaser has had the opportunity to determine the feasibility of Purchaser's planned development of the Property, and, at Purchaser's sole expense, Purchaser, or its authorized agents, have entered upon the Property for the purpose of making its required non-invasive inspections, surveys, examination and/or tests on the Property that Purchaser deemed reasonably necessary ("Inspections") and, as a result of its Inspections, Purchaser hereby acknowledges and agrees that, except as expressly provided in this Agreement, (1) the Property is being conveyed by Seller in "as-is" condition, (2) that Purchaser is fully familiar with the condition of the Property, and (3) that Purchaser shall buy the Property based solely on Purchaser's knowledge of the Property and not in reliance on any representation made by Seller or any employee or agent of Seller.
- B. Developmental Approvals.** Purchaser's obligation to purchase the Property pursuant to this Agreement shall be conditioned on Purchaser obtaining all approvals, including, but not limited to, approvals, permits, rezoning, special use permits, variances, special exemptions, National Environmental Policy Act ("NEPA") approval, subdivision and other permits and approvals necessary or appropriate in Purchaser's sole discretion for Purchaser's intended use of the Property as a food manufacturing facility (the "Approvals"). Seller shall, in all ways, fully cooperate with Purchaser in the pursuit of the Approvals including, without limitation, executing any plats, permits and any other applications necessary to obtain each and every Approval. Seller shall be responsible, at its sole cost and expense, to secure a rezoning of the Property for use as an Industrial Park and said rezoning shall be included in the definition of Approvals. "Final Approval" of the Approvals shall be the date when: (i) all of the Approvals have been reviewed and finally approved by all appropriate agencies, (ii) any ordinances with respect to the Approvals have taken effect, (iii) the time has passed for appeal of all Approvals, (iv) no notice of referendum or initiative with respect to any Approval has been published or publicized and (v) any appeals or litigation with respect to any of the above have been prosecuted and resolved in a manner which is satisfactory to Purchaser and are not subject to remand to lower courts or governmental agencies. If Final Approval has not occurred on or before one hundred eighty (180) days after the Date of Acceptance (the "Approval Deadline"), Purchaser may, at its option, either (a) prior to the expiration of the Approval Deadline request an additional thirty (30) days to obtain Approvals which request Seller shall grant so long as Purchaser is diligently pursuing its Approvals, (b) terminate this Agreement in which event this Agreement shall be of no further force and effect, or (c) waive this contingency, at Purchaser's sole and absolute discretion, and proceed with the Closing.
- C. Financial Incentives.** Purchaser's obligation to purchase the Property pursuant to this Agreement shall be conditioned on Purchaser securing an commitment from each respective New York State agency for the following financial incentives on or before the Approval Deadline: (i) property tax abatement from real property taxes from Genesee County Industrial Development Agency ("GCEDC"); (ii) sales taxes abatement from GCEDC; (iii) mortgage tax abatement form GCEDC; (iv) Excelsior Award in the amount of \$1,350,000.00 from Empire State Development; (v) Federal Community Development

Block Grant from New York State Office of Community Renewal in the amount of \$734,000.00.

4. **CLOSING DATE, PLACE, AND POSSESSION:** Closing shall take place via escrow with the Title Company (as hereinafter defined) within thirty (30) days after the expiration or earlier waiver of the Approvals Deadline, or on such earlier date or place as Seller and Purchaser may mutually agree; provided however, in no event shall closing occur past March 31, 2023 (the "Closing Date"), except as otherwise expressly provided for herein. Notwithstanding the foregoing, Purchaser shall have the right to accelerate the Closing by providing written notice thereof, in which event the Closing shall occur on the 10<sup>th</sup> day after the date of such notice. Notwithstanding the foregoing, the Purchaser shall have the right to extend the Closing Date until September 30, 2023 so long as Purchaser is not in default under the terms of this Agreement and so long as Purchaser has filed its application(s) for local incentives from GCEDC by March 31, 2023, by delivering written notice to Seller on or before March 31, 2023 and payment to Seller of a non-refundable extension fee of One Hundred Eighty Thousand and No/100 U.S. Dollars (\$180,000.00) upon the exercise of such extension (the "Closing Extension Deposit"), which Closing Extension Deposit shall be automatically earned and released to Seller upon delivery of same; provided, however, that if the Closing occurs, the Closing Extension Deposit shall be applied to the Purchase Price at Closing. The definition of "Deposit" shall be deemed to include the Closing Extension Deposit if such deposit is made. Additionally, notwithstanding the Purchaser's ability to extend the Closing Date in accordance with the terms of this paragraph, it is expressly agreed and acknowledged that the Closing shall not occur later than September 30, 2023.

5. **TITLE AND RELATED DOCUMENTS:** Seller shall provide the following documents in connection with the sale:

- A. **Deed.** Seller will deliver to Purchaser at Closing a properly signed and notarized Bargain and Sale Deed with covenant against grantor's acts and subject to trust fund provisions of Section 13 of the Lien Law.
- B. **Abstract, Bankruptcy and Tax Searches.** Seller, at Purchaser's expenses, shall obtain an instrument survey map within thirty (30) days after the Date of Acceptance based upon the dimensions of the Property as set forth at Exhibit A. Within thirty (30) calendar days from Seller's receipt of the instrument survey map (as defined in paragraph 16) Seller shall, at Seller's expense, order and provide to Purchaser an updated abstract of title for the Property, obtain copies of all tax receipts for the Property, fully guaranteed tax, title and United States District Court searches (minimum 60 year searches), including, without limitation, bankruptcy, judgment and tax lien searches and searches under the Uniform Commercial Code of records in the appropriate offices, dated or redated subsequent to the Date of Acceptance and local tax certificates where such taxes are not covered by such searches (collectively, the "Abstract of Title"). Seller, at Purchaser's expense, shall have the instrument survey map updated upon receipt of the Abstract of Title which instrument survey map shall reference the Abstract of Title (the "Updated Survey Map"). Purchaser shall thereafter have the right to obtain a title commitment (the "Title Commitment"), at Purchaser's expense, from a title company of Purchaser's choice (the "Title Company"). The Updated Survey Map shall reference the Abstract of Title and show the Property and all improvements, curb cuts, joint or common driveways, independent driveways along the boundary line, rights of way, building lines, easements and other structures affecting the

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same. Said Updated Survey Map shall be prepared by a land surveyor licensed in the State of New York and meet standard requirements of the Title Company and the Genesee County Bar Association, at Purchaser's expense, dated or redated after the Date of Acceptance and certified to such parties as Purchaser may request. If the Updated Survey Map shows any encroachment, setback violation, boundary line discrepancy or any other conditions that renders the Property unmarketable or interferes with the intended use of the Property as a food manufacturing facility (the "Intended Use"), the same shall, provided it is not a Permitted Encumbrance (as defined herein), be deemed and treated in the same manner as a Title Objection (as defined herein). Purchasers shall have the right, at any time on or before the twentieth (20th) day after Purchaser has received the Abstract of Title and Updated Survey Map, to examine the Abstract of Title and Survey, and to identify to Seller in writing those item(s), if any, which Purchaser finds objectionable (each, a "Title Objection"). If Purchaser fails to identify any Title Objections during such twenty (20) day period, then all matters shown on Schedule "B" of the Title Commitment, real estate taxes which are a lien against the Property, but which are not yet due and payable, shall be deemed "Permitted Encumbrances." If Purchaser makes any Title Objection during such twenty (20) day period, then, prior to Closing (the "Title Cure Period"), Seller shall either (i) notify Purchaser in writing that the Title Objection(s) will not be cured (subject to the remaining terms of this Section 7), or (ii) cure such Title Objection(s) (which shall include payment of any monetary liens from the Closing proceeds).

- C.** If Seller fails or elects not to cure a Title Objection during the Title Cure Period (Seller hereby agreeing to use its good faith efforts to cure any Title Objection as long as such cure can readily and promptly be affected), then Purchaser shall have the right to either:
- (i) waive such Title Objection and purchase the Property, without reduction or abatement in the Purchase Price, in which event the waived Title Objection shall be deemed to be a Permitted Encumbrance; or
  - (ii) terminate this Agreement by notifying Seller thereof in writing prior to Closing, and in the event of such termination by Purchaser all rights and duties under this Agreement shall cease except for those matters which, by their terms, survive the termination of this Agreement, Purchaser shall return the Updated Survey Map and Abstract of Title to Seller, and the parties shall remain responsible for their own respective costs associated with this Agreement.
- D.** Notwithstanding anything contained hereinabove to the contrary, Seller and Purchaser hereby acknowledge and agree that Purchaser automatically (i.e., without the need for further notice to Seller) objects to all mortgage liens, mechanic's liens, judgments and other monetary encumbrances and Seller hereby agrees to have any and all such mortgage liens, mechanic's liens, and judgments (including, without limitation, any delinquent taxes or assessments) satisfied and removed from the Property at (to the extent the same may be paid from the Closing proceeds) or before the Closing. If either party secures a commitment for title insurance at standard rates in face amount equal to the Purchase Price to insure marketability of title against any objection raised for the benefit of Purchaser, and Purchaser in its sole discretion agrees to accept insurable title, Seller shall pay the difference between the cost thereof and the cost of a fee policy had such title objections

not existed, and in such event this Agreement shall remain and continue in full force and effect.

- E. Corporate Documents.** Seller will furnish and deliver to Purchaser or Purchaser's attorney at least thirty (30) calendar days before the Closing Date, at Seller's expense, a current Certificate of Good Standing.
- F. Title Company Affidavits and Other Documents.** Seller will deliver to Purchaser at Closing such affidavits and other agreements as may be reasonably required by Purchaser's title insurance company to issue a fee title insurance policy to purchaser for the Property, including a commercially reasonable title affidavit and gap indemnity.
- G. Wetland Assessment and Delineation.** Purchaser, at Purchaser's expense shall have the option to secure a wetland assessment and delineation of the Property, upon prior notice to Seller, prior to the Approval Deadline.

**6. MARKETABILITY OF TITLE:**

- A.** The deed and other documents delivered by Seller shall be sufficient to convey good marketable title to the Property in fee simple, free, and clear of all liens and encumbrances. However, Purchaser agrees to accept title to the Property subject to (i) the lien of current real estate taxes not due and payable and (ii) public utility easements along lot lines as long as the Purchaser has determined those easements do not interfere with any improvements Purchaser may construct in compliance with all present zoning and building codes applicable to the Property (the "Permitted Exceptions"). Seller and Purchaser agree to furnish any documents required by federal or state laws for transfer of title to real property.
- B.** THE PURCHASER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, (1) THE PROPERTY IS BEING CONVEYED BY SELLER IN "AS-IS" CONDITION, (2) THAT PURCHASER SHALL BE FULLY FAMILIAR WITH THE CONDITION OF THE PROPERTY, AND (3) THAT PURCHASER SHALL BUY THE PROPERTY BASED SOLELY ON PURCHASER'S KNOWLEDGE OF THE PROPERTY AND NOT IN RELIANCE ON ANY REPRESENTATION MADE BY SELLER OR ANY EMPLOYEE OR AGENT OF SELLER. SELLER EXPRESSLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND REGARDING THE PROPERTY EXCEPT AS EXPRESSLY SET FORTH HEREIN, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATIONS OR WARRANTIES REGARDING THE PHYSICAL CONDITION OR ENVIRONMENTAL COMPLIANCE OF THE PROPERTY. THE WAIVER CONTAINED IN THIS SECTION SHALL SURVIVE CLOSING.

**7. REPRESENTATIONS AND WARRANTIES OF SELLER:** Seller represents and warranties to Purchaser as follows:

- a.** Seller has full right and authority to enter into this Agreement and to perform all of the obligations of Seller contained herein. Seller owns fee simple title to the Property.

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- b. No action, suit, or other proceeding (including, but not limited to, condemnation actions) is pending or has been threatened in writing, that concerns or involves the Property or Seller's interest in the Property.
- c. Seller has no actual knowledge, without independent investigation, of the violation of any laws, ordinances, orders, regulations, or requirements of any federal, state, county or municipal authority or any insurance carrier ("Laws") affecting the Property or any portion thereof. If Seller receives any notices of any outstanding violations prior to Closing, Seller will notify Purchaser within five (5) business days thereof and will advise Purchaser that, prior to Closing, Seller shall either (i) not cure said violation or (ii) cure such violation. If Seller fails or elects not to cure such violation, then Purchaser shall have the right to either waive such violation and proceed to Closing or terminate this Agreement in the event the violation materially impairs the Purchaser's Intended Use of the Property.
- d. Except for this Agreement, Seller has not entered into any Agreement to sell, or lease the Property or any part thereof and Seller will not do so during the term of this Agreement.
- e. All representations and warranties of Seller contained in this Agreement shall survive for a period of six (6) months after the Closing.

**8. RECORDING COSTS, MORTGAGE TAX, TRANSFER TAXES AND CLOSING ADJUSTMENTS:** Purchaser shall pay the real property transfer tax. Purchaser will pay for recording the deed and any mortgage, and for the entire mortgage tax subject to any terms contained in an incentive package, if any, from GCEDC. The following, as applicable, will be prorated and adjusted between Seller and Purchaser as of the Closing Date, excluding any delinquent items, interest, and penalties: current taxes or special district fees computed on a fiscal year basis, rent payments, fuel oil on the Property, water charges, pure water charges, sewer charges, current common charges, or assessments. If there is a water meter at the Property, Seller shall furnish an actual reading to a date not more than thirty (30) days before the Closing Date. At Closing, the water charges and any sewer rent shall be apportioned on the basis of such actual reading.

**9. ZONING:** Seller represents that the Property is currently zoned for use as a Commercial and Industrial Park and that Seller and will represent at Closing that the Property is zoned for use as an Industrial Park and may be used for a food manufacturing facility.

**10. RISK OF LOSS:** Risk of loss or damage to the Property by fire or other casualty until transfer of title shall be assumed by the Seller. If damage to the Property by fire or such other casualty occurs prior to transfer, Purchaser may cancel this Agreement without any further liability to Seller. If Purchaser does not cancel but elects to close, then Seller shall transfer to Purchaser any insurance proceeds, or Seller's claim to insurance proceeds payable for such damage.

**11. DEPOSIT TO SELLER:** Purchaser shall make a Twenty Thousand and no/100 U.S. Dollars (\$20,000.00) non-refundable deposit ("Deposit") to Seller within three (3) business days following the Date of Acceptance, which Deposit shall be automatically earned and released to Seller upon delivery of same. Such Deposit shall be credited against the total Purchase Price at

Closing. Should this Agreement be terminated for any reason the Deposit shall remain non-refundable and retained by Seller.

**11. DEFAULT; LIQUIDATED DAMAGES:**

- (a) Seller's Default. In the event that the sale of the Property fails to close as a result of a default under this Agreement by the Seller, Purchaser may (i) sue Seller for specific performance and reasonable attorney's fees or (ii) terminate this Agreement, in which event Seller shall pay to Purchaser Purchaser's reasonable out-of-pocket costs in connection with the Purchaser's due diligence costs and expenses in the amount an amount not to exceed Five Thousand and No/100 Dollars (\$5,000.00) as liquidated damages resulting from Seller's breach hereof and thereafter neither party shall have any further rights hereunder. Notwithstanding anything to the contrary contained herein, if there is any default by Seller hereunder, such default shall not be effective until expiration of fifteen (15) business days after Purchaser shall give to Seller written notice of such default which notice shall afford to Seller the option within such fifteen (15) business day period to cure the default in accordance with the notice given by Purchaser.
- (b) Purchaser's Default. In the event that the sale of the Property fails to close as a result of a default under this Agreement by Purchaser, Seller may (i) sue Purchaser for specific performance, and reasonable attorney's fees or (ii) terminate this Agreement in which event thereafter neither party shall have any further rights hereunder. Notwithstanding anything to the contrary contained herein, if there is any default by Purchaser hereunder, such default shall not be effective until expiration of fifteen (15) business days after Seller shall give to Purchaser written notice of such default, which notice shall afford to Purchaser the option within such fifteen (15) business day period to cure the default in accordance with the notice given by Seller.

**12. REAL ESTATE BROKER:** Seller and Purchaser acknowledge that no broker brought about this transaction. Seller and Purchaser warrant and represent that they have not dealt with any other brokers in connection with the sale embraced in this Agreement and agree to indemnify and hold each other harmless from the claims of any other brokers for commissions. The provisions of this paragraph 12 shall survive Closing.

**13. RESPONSIBILITY OF PERSONS UNDER THIS CONTRACT; ASSIGNABILITY:**

If more than one person signs this Agreement as Purchaser, each person and any party who takes over that person's legal position will be responsible for keeping the promises made by Purchaser in this Agreement. If more than one person signs this Agreement as Seller, each person or any party who takes over that person's legal position, will be fully responsible for keeping the promises made by Seller. Purchaser shall not have the right to assign its rights, duties and obligations pursuant to this Agreement or any of its rights hereunder without the prior written consent of Seller, which consent shall not be unreasonably conditioned, withheld or delayed; provided, however, Purchaser shall be permitted to assign this Agreement to any affiliate or subsidiary, or an entity created for the acquisition contemplated herein without obtaining Seller's consent so long as the Purchaser named herein remains fully responsible for the performance of all of Purchaser's obligations under this Agreement. No assignment shall be effective unless and

until Purchaser provides Seller with a notice of assignment together with a copy of the applicable assignment and assumption agreement.

**14. ENTIRE CONTRACT:** This Agreement when signed by both Purchaser and Seller will be the record of the complete agreement between the Purchaser and Seller concerning the purchase of the Property. No verbal agreements or promises made by either the Seller or the Purchaser shall be binding.

**15. NOTICES.** All notices under this Agreement shall be in writing and shall be deemed validly given if sent by certified mail or by overnight delivery via a commercial courier to the addresses specified below by either party or its counsel. Counsel to the parties may provide any required notice. Any notice issued by or on behalf of the Seller or Purchaser with respect to this Agreement must also simultaneously be provided to the counsel for the receiving party to be effective as follows:

Seller:

Genesee Agri Business, LLC  
Attn: Mark A. Masse  
99 MedTech Drive  
Suite 106  
Batavia, New York 14020

Counsel for Seller:

Harris Beach PLLC  
99 Garnsey Road  
Pittsford, New York 14534  
Attention: Michael E. Condon, Esq.  
E-mail: [mcondon@harrisbeach.com](mailto:mcondon@harrisbeach.com)  
Phone: (585) 419-8613

Purchaser:

La Fermiere, Inc.  
205 North 9<sup>th</sup> Street  
Brooklyn, NY 11211  
ATTN: Lucas Praticci, VP

Outside Counsel for Purchaser:

Harter Secrest & Emery LLP  
1600 Bausch & Lomb Place  
Rochester, NY 14604  
ATTN: Kelly A. Pronti, Esq.  
Email: [Kpronti@hselaw.com](mailto:Kpronti@hselaw.com)  
Phone: (585) 905-1802

**16. ACCESS TO PROPERTY/DUE DILIGENCE.** Purchaser and/or its agents and employees agree and acknowledge that prior to the Date of Acceptance, Purchaser has had access to the Property at any reasonable time for purposes of making its Inspections. Purchaser has or will bear all costs associated with its Inspections of the Property performed or conducted by

Purchaser, or at the request of Purchaser, by its agent(s) or otherwise. Purchaser agrees to indemnify, defend and hold Seller harmless from all actual suits, causes of action, losses, payments and expenses, including, but not limited to, reasonable attorneys' fees (collectively, "Loss and Expense") arising from: (a) any personal injury or property damage caused by the Purchaser, or Purchaser's representatives, agents or employees during the Inspections of the Property; and (b) any and all mechanics', laborers', materialmen's or other liens asserted against the Property resulting from Purchaser's Inspections; which indemnity shall survive Closing or the earlier termination of this Agreement.

**17. INTEREST IN PROPERTY.** Seller represents that, except for Seller there are no persons in possession or occupancy of the Property or any part thereof, nor are there any persons who have possessory rights in respect to the Property or any part thereof. Any possession, occupancy and/or possessory rights of any persons other than Seller, shall be terminated by Seller on or prior to the Closing Date.

**18. COMMON AREA CHARGES; COMMUNITY FEES.** The common area charges, association fees or other community fees or assessments (including, but not limited to, any charges, dues or fees due in connection with the Genesee Valley Agri-Business Park) shall not exceed One Thousand Nine Hundred and no/100 Dollars (\$1,900.00) annually for the first two (2) years following the Closing Date with annual 5% increases thereafter. The deed of conveyance shall provide for payment of such fees.

**20. APPLICABLE LAW.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York. The parties further agree that for the purposes of litigation arising between the parties, venue shall be laid in Genesee County Supreme Court. The prevailing party shall be entitled to reasonable attorney fees and costs.

**21. COUNTERPARTS.** This Agreement may be signed in several counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one and the same instrument. Any counterpart to which is attached the signatures of all parties shall constitute an original of this Agreement.

**22. AUTHORITY.** Purchaser certifies to Seller that the execution, delivery and performance by Purchaser of this Agreement and the performance of the Purchaser of the transactions contemplated hereunder have been duly authorized by Purchaser and that the individual signing this Agreement on behalf of Purchaser has the full authority of Purchaser to enter into this Agreement. Subject to obtaining final board approval, Seller certifies to the Purchaser that the Seller owns the Property and that the individual signing this Agreement on behalf of the Seller has the full authority of the Seller to enter into this Agreement. Seller accepts the offer and agrees to sell on the terms and conditions set forth above.

**23. ENVIRONMENTAL.** Seller represents and warrants to the best of its actual knowledge without independent investigation or inquiry that it has not received written notice that the Property is in violation of any federal, state, local or administrative agency ordinance, law, rule, regulation, order or requirement relating to environmental conditions or Hazardous Material. The term "Hazardous Material" means any material, substance or waste that is listed, regulated, or otherwise defined as "hazardous," "toxic," "radioactive," or a "pollutant," or "contaminant" (or words of similar intent of meaning) under any applicable law, including but not limited to

petroleum, petroleum by-products, asbestos or asbestos-containing material, toxic mold, poly chlorinated biphenyls, flammable or explosive substances, or pesticides.

**24. EDA GRANT ASSISTANCE FOR PARK.** The Seller and Purchaser acknowledge that the premises were improved, in part, with funding from the United States Economic Development (EDA), United States Department of Commerce, EDA Project Number 01-01-14201. Consequently, all recipients or owners and/or their successors and assigns, agree as follows:

a. The deed shall include a covenant that will restrict the use of the Property to industrial/business purposes and require the Property to be used in compliance with all federal and state laws. The covenant will be effective until September 28, 2032.

b. Upon written request, Purchaser agrees to provide Seller and/or EDA with available documents, evidence or reports generated in the normal course of business demonstrating that the Property is being used in compliance with federal and state law, including but limited to, applicable federal and state environmental laws.

**25. PROMISSORY NOTE.** Within thirty (30) days after the Date of Acceptance, Seller shall provide to Purchaser a proposed promissory note and other applicable security documents. The promissory note will be structured as a loan in the amount of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) to be held by Seller with a five (5) year term and to be forgiven by Seller after five (5) years upon Purchaser achieving the following performance benchmarks: a capital investment of at least \$25.8M and creation of one hundred thirty-five (135) jobs within five (5) years of the Closing Date pro-rated over the five (5) year period to correspond with the loan forgiveness. In the event that Purchaser either (i) makes any modifications to its current plans for a food manufacturing facility which results in any decrease in the projected job creation or timing of said job creation, or (ii) reduces the amount of acreage it purchases, then Seller reserves the right to modify the terms of the proposed promissory note and any other applicable security documents contemplated by this paragraph.

***[REMAINDER OF PAGE HAS BEEN LEFT INTENTIONALLY BLANK  
SIGNATURES ON FOLLOWING PAGE]***

**GENESEE AGRI BUSINESS, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_, 2022

WITNESS: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_, 2022

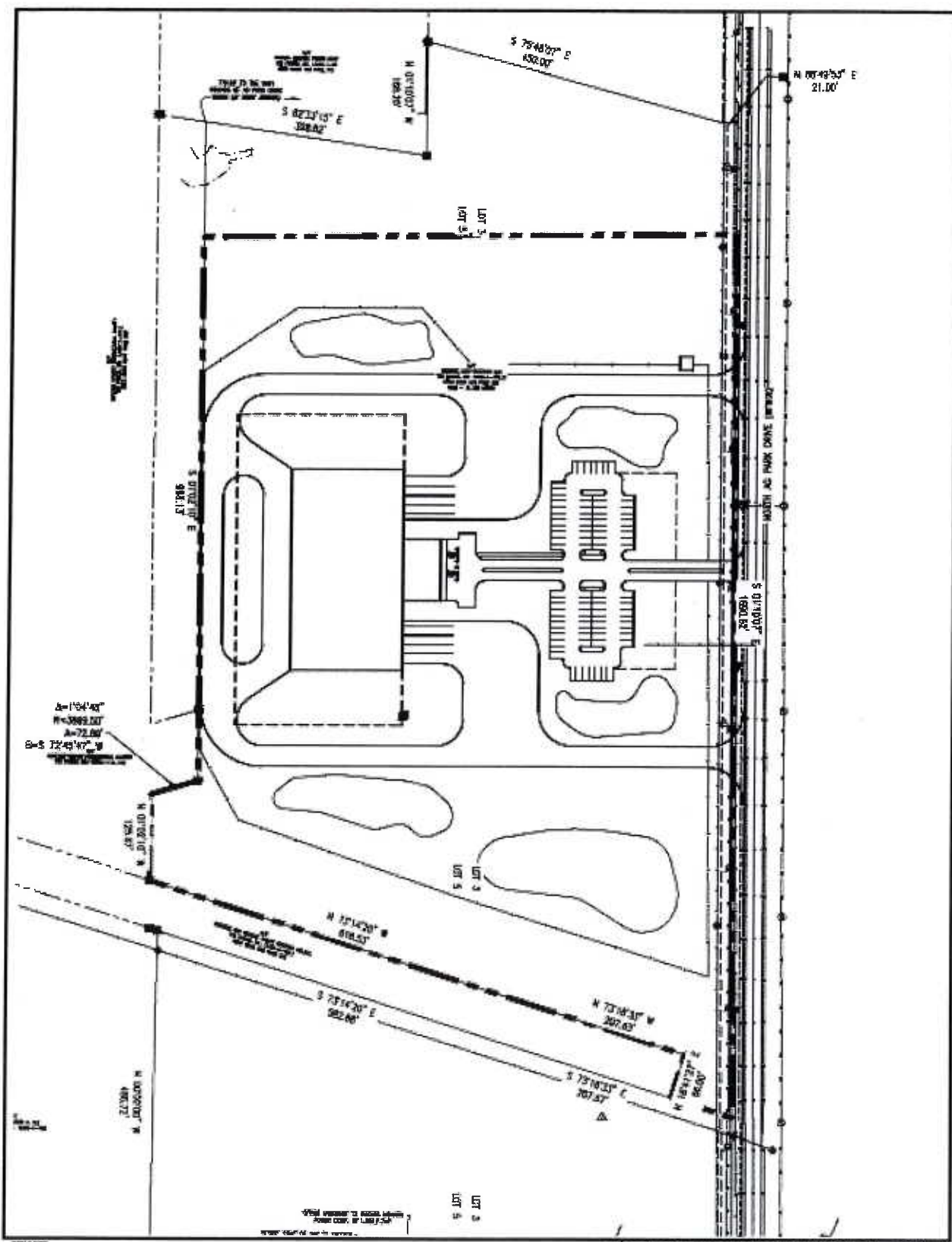
**PURCHASER: LA FERMIERE INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_, 2022

WITNESS: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_, 2022



# Exhibit A



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**GENESEE GATEWAY LOCAL DEVELOPMENT CORPORATION**

**AUTHORIZING RESOLUTION**

(Sale of Land to La Fermiere Inc.)

A regular meeting of the Genesee Gateway Local Development Corporation (the "Corporation") was convened on \_\_\_\_\_, 2022, at 3:00 p.m.

The following resolution was duly offered and seconded, to wit:

Resolution No. # \_\_\_/2022 - \_\_\_

RESOLUTION OF THE GENESEE GATEWAY LOCAL DEVELOPMENT CORPORATION, AS THE MANAGING MEMBER OF GENESEE AGRI-BUSINESS LLC AUTHORIZING (I) THE SALE OF CERTAIN LANDS OWNED BY GENESEE AGRI-BUSINESS LLC TO LA FERMIERE INC. (THE "COMPANY") COMPRISING APPROXIMATELY 20 +/- ACRES LOCATED IN THE TOWN OF BATAVIA, GENESEE COUNTY, NEW YORK, AND KNOWN AS TAX PARCEL 13.-1-170.11 (THE "LAND"), (II) THE PROVISION OF CERTAIN FINANCIAL INCENTIVES TO THE COMPANY, (III) THE EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT FOR THE CONVEYANCE OF THE LAND AND (IV) THE EXECUTION AND DELIVERY OF DOCUMENTS NECESSARY AND INCIDENTAL TO THE FOREGOING.

WHEREAS, pursuant to the purposes and powers contained within Section 1411 of the Not-for-Profit Corporation Law of the State of New York (the "State"), as amended (hereinafter collectively called the "Act"), and pursuant to its certificate of incorporation filed on September 20, 2004 (the "Certificate"), the **GENESEE GATEWAY LOCAL DEVELOPMENT CORPORATION** (the "Corporation") was established as a not-for-profit local development corporation of the State with the authority and power to own, lease and sell personal and real property for the purposes of, among other things, acquiring, constructing and equipping certain projects exclusively in furtherance of the charitable or public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, by encouraging the development of, or retention of, an industry in the community or area, and lessening the burdens of government and acting in the public interest; and

WHEREAS, the Corporation is the managing and majority member of **GENESEE AGRI-BUSINESS LLC** ("GAB"); and

WHEREAS, among other property, GAB owns approximately 20+/- acres of vacant land located at North Ag Park Drive, Town of Batavia, Genesee County, New York (the "Land"); and

WHEREAS, **LA FERMIERE INC.** and its permitted assigns (the "Company") has offered to purchase the Land in connection with a certain project to be undertaken by the Company

thereon pursuant to the terms and conditions of that certain Purchase and Sale Agreement, the form of which is attached hereto as Exhibit A (the "Purchase and Sale Agreement").

WHEREAS, GAB desires to transfer to the Company, for and in consideration of \$50,000.00 per acre, an approximately 20 +/- acre parcel of land located in the Genesee Valley Agri-Business Park (the "Park") at North Ag Park Drive, in the Town of Batavia, Genesee County, New York, known as tax parcel 13.-1-170.11 (the "Land"); and

WHEREAS, the Corporation desires to adopt a resolution authorizing (i) the sale of the Land to the Company, (ii) the execution of the Purchase and Sale Agreement for the Land, (iii) the provision of certain financial incentives to the Company exclusive of what may be provided to the Company by the Genesee County Industrial Development Agency, and (iv) the execution and delivery of a deed and related documents in connection with the purchase and sale of the Land and the provision of said financial incentives (the "Closing Documents"); and

WHEREAS, the Purchase and Sale Agreement in connection therewith has been negotiated and is presented to this meeting for approval and execution.

NOW, THEREFORE, BE IT RESOLVED BY THE DIRECTORS OF THE GENESEE GATEWAY LOCAL DEVELOPMENT CORPORATION AS FOLLOWS:

Section 1. The Corporation hereby finds and determines that:

(A) By virtue of the Act and the Certificate, the Corporation has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act and the Certificate; and

(B) The Corporation has the authority to take the actions contemplated herein pursuant to the Act and the Certificate; and

(C) The Corporation finds that the proposed transfer of the Land constitutes a "Type II action" pursuant to New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA"), and therefore is exempt from review under SEQRA.

Section 2. The Corporation hereby authorizes the transfer of the Land to the Company (such metes and bounds description to be agreed upon by the Buyer and GAB) and the provision of the aforementioned financial incentives, subject to compliance with all applicable law, including, without limitation, the New York State Public Authorities Accountability Act and the execution and delivery of all documents necessary and incidental thereto.

Section 3. The Chairman, Vice Chairman, President/Chief Executive Officer and/or Senior Vice President of Operations of the Corporation are hereby authorized, on behalf of the Corporation and GAB, to do all acts and things required and to execute and deliver all such deeds, certificates, instruments and documents, to pay all such fees, charges and expenses and to do all

such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Corporation with all of the terms, covenants and provisions of the documents executed for and on behalf of the Corporation.

Section 4. Harris Beach PLLC shall be entitled to attorney fees, exclusive of third party costs (i.e. recording costs, survey, etc.) not to exceed \$20,000.00 subject to no substantive title issues, municipal approval issues and/or environmental issues arising in connection with the purchase and sale of the Land, in which event, additional attorney fees are authorized as necessary to resolve such foregoing issues.

Section 5. These Resolutions shall take effect immediately upon adoption.

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Donald Cunningham	[ ]	[ ]	[ ]	[ ]
Thomas H. Felton	[ ]	[ ]	[ ]	[ ]
Sarah Noble-Moag	[ ]	[ ]	[ ]	[ ]
Gregg Torrey	[ ]	[ ]	[ ]	[ ]
Todd Bender	[ ]	[ ]	[ ]	[ ]
Paul Battaglia	[ ]	[ ]	[ ]	[ ]
Jonathan Tretter	[ ]	[ ]	[ ]	[ ]
Craig Yunker	[ ]	[ ]	[ ]	[ ]
Pete Zelif	[ ]	[ ]	[ ]	[ ]

The Resolutions were thereupon duly adopted.