

### Meeting Agenda - Audit and Finance Committee

Genesee Gateway Local Development Corp Tuesday, October 3, 2023 – 8:30 a.m. Location: 99 MedTech Drive, Innovation Zone

Page #	Topic	Discussion Leader	Desired Outcome	
	1, Call to Order – Enter Public Session	D. Cunningham		
	2. Chairman's Report & Activities	D. Cunningham		
	2a. Agenda Additions / Other Business			
2-5	2b. Minutes; September 5, 2023			
	3. Discussions / Official Recommendations to the Board:			
6-11	3a. August 2023 Financial Statements	L. Farrell	Disc / Vote	
12	3b. GGLDC Budget Timeline	L. Farrell	Discussion	
	3c. GGLDC 2024 Budget Assumptions	L. Farrell	Discussion	
	3d. Auditor Selection	L. Farrell	Discussion	
	3e. Insurance Renewal	L. Farrell	Discussion	
13-14	3f. Land Lease Rates	M. Masse	Disc / Vote	
15-25	3g. Host Agreement with Atlas Copco	M. Masse	Disc / Vote	
26	3h. Transfer Funds to STAMP Sewer Works	M. Masse	Disc / Vote	
27	3i. Workforce Development Fund - Sources and Uses	C. Suozzi	Discussion	
28-30	3j. Workforce Development Fund – Refrigeration Equipment	C. Suozzi	Disc / Vote	
	4. Adjournment	D. Cunningham		



### **GGLDC Audit & Finance Committee Meeting** Tuesday, September 5, 2023 Location – 99 MedTech Drive, Innovation Zone 8:30 a.m.

### **MINUTES**

### **ATTENDANCE**

Committee Members: J. Tretter, M. Brooks, P. Battaglia,

Staff:

L. Farrell, M. Masse, J. Krencik, S. Hyde, P. Kennett, L. Casey

Guests:

M. Gray (GCEDC Board Member), P. Zeliff (GCEDC/GGLDC Board Member), K.

Manne (GCEDC Board Member)

Absent:

D. Cunningham

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

P. Battaglia called the meeting to order at 8:48 a.m. in the Innovation Zone.

### 2. CHAIRMAN'S REPORT & ACTIVITES

- 2a. Agenda Additions / Other Business Nothing at this time.
- 2b. Minutes: August 1, 2023
- M. Brooks made a motion to recommend approval of the August 1, 2023 minutes; the motion was seconded by J. Tretter. Roll call resulted as follows:

J. Tretter

- Yes

P. Battaglia

- Yes

M. Brooks

- Yes

D. Cunningham - Absent

The item was approved as presented.

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

3a. July 2023 Financial Statements - L. Farrell reviewed with the Committee the significant items of the July 2023 long form financial statements.

- There are no significant changes to the balance sheet from last month.
- Accounts payable decreased. The MedTech Centre Property Management Fee and Economic Development Support Grant that is accrued monthly and paid quarterly was paid to the EDC in July.
- In the operating fund, we collected \$33,500 of OCR funds related to the Genesee CARES grant. Funds were disbursed to program grant award recipients, which was recognized as grant expense.
- There is an increase in interest income.

- Most of the strategic investment money is held in the Genesee Agri-Business, LLC because of the land sales that have occurred at the Ag Park. On the dashboards that include the Genesee Agri-Business, LLC, you will see interest income of \$7,800.
- There is regular monthly activity for MedTech Centre.
- J. Tretter made a motion to recommend to the full Board the approval of the July 2023 Financial Statements as presented; the motion was seconded by M. Brooks. Roll call resulted as follows:

J. Tretter - Yes

P. Battaglia - Yes

T. Bender - Yes

D. Cunningham - Absent

The item was approved as presented.

- **3b. GGLDC Budget Timeline** The 2024 Budget is due to the ABO and OSC by November 1, 2023. L. Farrell reviewed the timeline to emphasize the need for a quorum at the October 26, 2023 Board meeting. Board members were asked to notify staff as soon as possible if they have a conflict.
- P. Battaglia stated that he may have a conflict for the October 26<sup>th</sup> Board meeting. L. Farrell stated that staff may poll for the Board's availability sooner than customary to ensure that we will have a quorum.
- **3c.** Subordination Agreement Craft Cannery acquired and installed filling equipment that increased their capacity and efficiencies to their production in 2021. Financing for that project included a loan from the Genesee Gateway Local Development Corp.'s (GGLDC) Loan Fund #2 in the amount of \$132,000 that provided gap financing on the project. The term loan has an interest rate of Prime with a floor of 3% per annum, to be readjusted annually, and is being amortized over a 10-year term. The loan was secured by a first position lien filing on the equipment, cross-corporate and personal guarantees from the members as well as a landlord waiver to access the collateral as necessary as they did not own the building. Craft Cannery (LNK Holdings, LLC) is securing bank financing so they can now purchase the building at 7100 AppleTree Avenue. In connection with that financing, the bank is requesting the attached subordination agreement be signed by the GGLDC.

Fund Commitment: None

Committee Action Request: Recommend approval and execution of the Subordination Agreement.

The Committee stated that they are not willing to subordinate the lien position on the equipment. The Committee requested a revised agreement.

J. Tretter made a motion to table Agenda item 3c – Subordination Agreement; the motion was seconded by M. Brooks. Roll call resulted as follows:

J. Tretter- Yes

P. Battaglia - Yes

T. Bender Yes

D. Cunningham - Absent

The item was tabled.



**3d. Batavia Home Fund Seed Funding** –The Town and City of Batavia and the GCEDC had previously approved the Batavia Home Fund Agreement in November of 2022, and the GCEDC Board approved the Home Fund Policy in July 2023. The agreement is that the GCEDC can utilize Host Benefit Agreements on housing projects to put money into the fund. The GCEDC would be the custodian of the funds, and any project would complete an application to request the money. There would be a three-person committee (GCEDC, Town and City) that would review the applications and make approvals/disapprovals.

The allowable uses of the funds are as follows:

- i. Extraordinary development costs related to hazardous material abatement, remediation, flood hazard areas, etc.
- ii. Demolition / rehabilitation of vacant residential structures that cause community and neighborhood blight.
- iii. Provide incentives to the conversion of rental properties to single family homes
- iv. Infrastructure modernization and improvements including all costs related to planning, design and constructing roadways, multi-modal, water, sewer, gas, electric, telecommunication enhancements, storm water management facilities and related green infrastructure including landscaping and streetscape improvements related to redevelopment projects.
- v. Expansion of sewer capacity at Wastewater Treatment Plant for Studies, Engineering, Construction and Expansion.
- vi. Matching funds to secure other grant resources to further capitalize redevelopment projects in the BOA area.
- vii. Land assemblage, property acquisition and due diligence for Agency Projects consistent with Section 2 of this Agreement.
- viii. Marketing expenses for existing programs such as 421-F, 485-R and Core Housing Owner Incentive Exemption (CHOICE).
- ix. Grants to support CHOICE program.

The GGLDC is looking to contribute funding to start the fund.

Fund Commitment: \$100,000 to come from Strategic Investments.

**Committee Action Request:** Recommend to the full Board approval of contributing \$100,000 to the Batavia Home Fund from Strategic Investments. This is a grant to the GCEDC. Strategic investments will be replenished with the land sale proceeds from the MedTech Centre housing project if those funds are not required to be paid to USDA.

- P. Zeliff reiterated that the policy includes language that City use of funds is not allowed until funds from Host Agreements have flown through to the fund, as opposed to using initial seed money.
- J. Tretter made a motion to recommend to the full Board the approval of a \$100,000 grant from Strategic Investments to the GCEDC to provide seed funding for the Batavia Home Fund; the motion was seconded by M. Brooks. Roll call resulted as follows:

J. Tretter - Yes
P. Battaglia - Yes

- Yes

T. Bender



### D. Cunningham - Absent

The item was approved as presented.

3e. LED Lighting Installation for MedTech Centre - There is Federal and NYS legislation that is looking to ban the sale of fluorescent bulbs soon. NYC has already implemented that all commercial buildings must switch to LED by 2025. To stay ahead of this, the GGLDC asked three companies for bids to replace the fluorescent lights in the MedTech Centre with LED lighting. Some of the lights in the MedTech Centre have already been replaced with LED and the following bids would complete the remainder of the building.

- 1. \$79,598.00 Gilligan Electric
- 2. Severino Electric did not submit a bid
- 3. Humphrey Electric did not submit a bid

Fund Commitment: \$79,598.00.

Board Action Request: Approval of LED light replacement contract for MedTech Center to Gilligan Electric for \$79,598.00.

M. Gray offered a suggestion that costs can be reduced by cutting out the ballasts and direct wiring the bulbs.

M. Masse stated that he would contact the above-listed contractors to provide a new quote for the revised scope of work. The Committee also requested that more contractors are contacted to request a bid.

M. Brooks made a motion to table Agenda item 3e - LED Lighting Installation for MedTech Centre; the motion was seconded by J. Tretter. Roll call resulted as follows:

J. Tretter-- Yes

P. Battaglia - Yes

T. Bender - Yes

D. Cunningham - Absent

The item was tabled.

### 4. ADJOURNMENT

As there was no further business, J. Tretter made a motion to adjourn at 9:07 a.m., seconded by M. Brooks and passed unanimously.



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### Genesee Gateway Local Development Corp. August 2023 Dashboard Balance Sheet - Accrual Basis

Balance Sheet - Acei us	ii Dasi	,		[Per Audit]
ACCETC.		8/31/23	7/31/23	12/31/22
ASSETS: Cash - Unrestricted	S	722,740 \$	704,470	628,057
Cash - Restricted (A) (1)	3.963	1,601,847	1,596,357	681,869
Cash - Reserved (B) (2)		1,482,935	1,412,321	1,652,599
Cash - Subtotal	-	3,807,522	3,713,148	2,962,525
Grants Receivable		1,268	1,268	34,325
Accounts Receivable		6,232	6,100	9,043
Lease Receivable GASB - Current Portion		509,788	509,788	509,788
Loans Receivable - Current Portion		620,849	557,295	426,864
Other Current Assets (3)	- 60	22,717	25,180	4,088
Total Current Assets	_	4,968,376	4,812,779	3,946,633
Land Held for Dev. & Resale		2,182,234	2,182,234	2,182,234
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	9,430,953
Less Accumulated Depreciation	\$51	(2,477,564)	(2,461,388)	(2,348,163)
Net Property, Plant & Equip.	200	6,953,389	6,969,565	7,082,790
Lease Receivable GASB - Noncurrent Portion		2,453,344	2,453,344	2,453,344
Loans Receivable - Noncurrent Portion (Net of \$176,545 Allow for Bad Debt		797,258	875,905	1,156,666
at 12/31/22 and \$170,238 at 8/31/23 & 7/31/23) Equity Investment in Genesee Agri-Business, LLC (4)		2,562,240	2,562,240	2,562,240
Other Assets	-	5,812,842	5,891,489	
	-			6,172,250
Total Assets	-	17,734,607	17,673,833	17,201,673
<u>LIABILITIES:</u>				
Accounts Payable (5)		65,955	33,958	45,963
Unearned Revenue (6)		41,103	41,442	40,934
Security Deposits		109,944	109,944	109,944
Loans Payable - Current Portion		88,850	88,555	86,516
Bonds Payable - Current Portion		156,464	156,100	152,945
Total Current Liabilities		462,316	429,999	436,302
Loans Payable - Noncurrent Portion		2,032,312	2,039,852	2,091,939
Bonds Payable - Noncurrent Portion		2,237,047	2,250,982	2,351,872
Total Noncurrent Liabilities		4,269,359	4,290,834	4,443,811
Total Liabilities		4,731,675	4,720,833	4,880,113
DEFERRED INFLOW OF RESOURCES				
Deferred Inflow - Leases		2,914,240	2,914,240	2,914,240
Total Deferred Inflow of Resources		2,914,240	2,914,240	2,914,240
EQUITY	\$_	10,088,692 \$	10,038,760	9,407,320

### Significant Events:

- 1. Cash Restricted YTD increase due to receipt of first payment under the Plug Power Host Community Investment Agreement (\$900K).
- 2. Cash Reserved YTD decrease due to \$200K loan to J&R Fancher disbursed in June.
- 3. Other Current Assets Prepaid D&O, Cyber, General Liability and Umbrella insurance.
- 4. Equity Investment in Genesee Agri-Business, LLC Ties to corresponding GAB, LLC financial statements.
- 5. Accounts Payable H. Sicherman 2022 expenses to be paid when drawn from related OCR grants, grant for continuing Economic Development Program Support and MedTech Centre Property Management.
- 6. Unearned Revenue MedTech Centre rent and interest received in advance.
- (A) Restricted = DL Community Benefit Agreement (CBA) Funds, Plug Power Host Community Investment Funds, Security Deposits, USDA Debt Sinking Fund.
- (B) Reserved = OCR loan repayments, Strategic Investment Funds, Economic Development Loan Funds, Batavia Micropolitan Area Redevelopment Loan Funds, Grant Funds.

# Genesee Gateway Local Development Corp. August 2023 Dashboard Profit & Loss - Accrual Basis

								2023	2023
		Month t		-		TD		Board Approve	YTD%
		8/31/23	8/31/22		2023		2022	Budget	of Budget
Operating Revenues:	e.	50,000 f	1 027 501	Ф	1 112 207	Φ	1.067.207	<b>.</b>	
Grants (1)	\$	50,000 \$		\$	1,413,297	\$	1,867,307		
Interest Income on Loans		3,756	1,709		21,787		13,959	15,992	
Rent		62,707	61,518		501,968		494,539	751,578	
Common Area Fees - Parks		₹.	0.70		500		500	500	
Fees			7.50		4,250		9,980	-	N/A
Other Revenue		63	-		375		1,144		N/A
Land Sale Proceeds				-	(*)		304,101		_ N/A
Total Operating Revenues		116,526	1,100,728		1,942,177		2,691,530	1,690,718	
Operating Expenses:									
Operations & Maintenance		17,374	14,502		124,070		91,368	238,200	52%
Professional Services		7,262	25,683		73,956		100,662	136,146	54%
Econ. Dev. Prog. Support Grant		25,000	25,000		200,000		200,000	300,000	67%
Site Development Expense		₽:	22				3	474,156	0%
Cost of Sales		7.4	15		10 <del>5</del> 23		383,004	71	N/A
Grant Expense (2)		#3	286,900		678,069		697,300	869,648	78%
Real Estate Dev. (Capitalized)			2		-		-	15,000	0%
Buildings/Furniture/Equip. (Capitalized)		**	18		3 <b>.</b>		=	120,000	0%
Balance Sheet Absorption		83					89	(135,000	) 0%
Depreciation	12	16,176	16,433	=	129,401		131,468	194,235	67%
Total Operating Expenses		65,812	368,518	_	1,205,496		1,603,802	2,212,385	
Operating Revenue (Expense)		50,714	732,210		736,681		1,087,728	(521,667	)
Non-Operating Revenues (Expenses):									
Other Interest Income (3)		12,286	224		47,172		1,622	1,380	3418%
Interest Expense		(13,068)	(13,507)		(102,481)		(108,215)	(152,619	
Total Non-Operating Exp.		(782)	(13,283)		(55,309)		(106,593)	(151,239	_
Change in Net Assets		49,932	718,927		681,372		981,135	(672,906	)
Net Assets - Beginning		10,038,760	8,979,657		9,407,320		8,717,449		=>
Net Assets - Ending	\$	10,088,692 \$	9,698,584	\$	10,088,692	\$	9,698,584		

### Significant Events:

- 1. Grant Revenue RPNY Solar 6, LLC and RPNY Solar 7, LLC Workforce Dev/Ec Dev Program Support Grants (\$50K); YTD includes first payment received under Plug Power Host Investment Agreement (\$900K), OCR Grant/Genesee CARES (\$438K) and Batavia Solar/YSG Workforce Dev/Ec Dev Program Support Grant (\$25K).
- 2. Grant Expense YTD includes OCR Grant/Genesee CARES funds received and disbursed; Transfers to the STAMP Sewer Works and STAMP Water Works entities to cover start-up costs and legal expenses.
- 3. Other Interest Income Interest rates have increased substantially; invested funds into a 3-month CD for additional interest inc.

# Genesee Gateway Local Development Corp. August 2023 Dashboard Statement of Cash Flows

	August 2023	YTD
CASH PROVIDED BY OPERATING ACTIVITIES:		
Grant Income \$	50,000 \$	1,446,354
Interest Income on Loans	3,743	23,088
Rental Income	62,444	503,874
Common Area Fees - Parks		500
Fees	12	4,250
Other Revenue	63	547
Operations & Maintenance	(15,371)	(145,779)
Professional Services		(101,283)
Economic Development Program Support Grant	Sq.	(150,000)
Grant Expense	5	(678,069)
Issuance of Loans	*	(200,000)
Repayment of Loans	15,093	365,423
Net Cash Provided By Operating Activities	115,972	1,068,905
CASH FLOWS USED BY CAPITAL & RELATED FINANCING ACTIVITIES:		
Principal Payments on Bonds & Loans	(20,816)	(168,599)
Interest Paid on Bonds & Loans	(13,068)	(102,481)
Net Cash Used By Capital & Related Financing Activities	(33,884)	(271,080)
CASH FLOWS PROVIDED BY INVESTING ACTIVITIES:		
Interest Income	12,286	47,172
Net Cash Provided By Investing Activities	12,286	47,172
Net Change in Cash	94,374	844,997
Cash - Beginning of Period	3,713,148	2,962,525
Cash - End of Period \$	3,807,522 \$	3,807,522
RECONCILIATION OF OPERATING REVENUE		
TO NET CASH PROVIDED BY OPERATING ACTIVITIES:		
Operating Revenue \$	50,714 \$	736,681
Adjustments:		, , , , , , , ,
Depreciation Expense	16,176	129,401
Decrease (Increase) in Grants/Accounts Receivable	(132)	35,868
Decrease (Increase) in Other Current Assets	2,463	(18,629)
Decrease in Loans Receivable	15,093	165,423
Increase in Operating Accounts Payable	31,997	19,992
(Decrease) Increase in Unearned Revenue	(339)	169
Total Adjustments	65,258	332,224
Net Cash Provided By Operating Activities \$	115,972 \$	1,068,905

### Genesee Gateway Local Development Corp. August 2023 Dashboard **Balance Sheet - Accrual Basis**

				COMBI	NED
	GGLDC	GABLLC			Per Audit
ACCETC.	8/31/23	8/31/23	Eliminations	8/31/23	12/31/2022
ASSETS: Cash - Unrestricted \$	722,740 \$	12 (4	s - s	722,740 \$	628,057
Cash - Restricted (A)	1,601,847		,	1,601,847	681,869
Cash - Reserved (B)	1,482,935	2,649,878		4,132,813	4,231,256
Cash - Subtotal	3,807,522	2,649,878	-	6,457,400	5,541,182
Grants Receivable	1,268	194		1,268	34,325
Accts Receivable - Current	6,232	24		6,232	9,043
Lease Receivable GASB - Current	509,788	13,445	2	523,233	523,233
Loans Receivable - Current	620,849	12		620,849	426,864
Other Current Assets	22,717			22,717	4,088
<b>Total Current Assets</b>	4,968,376	2,663,323		7,631,699	6,538,735
Land & Improvements	2,182,234	1,339,730	÷	3,521,964	3,521,964
Buildings & Improvements	7,202,120	3800 18	¥	7,202,120	7,202,120
Furniture, Fixtures & Equipment	46,599	_ 4 _	e	46,599	46,599
Total Property, Plant & Equip.	9,430,953	1,339,730	¥9	10,770,683	10,770,683
Less Accumulated Depreciation	(2,477,564)			(2,477,564)	(2,348,163
Net Property, Plant & Equip.	6,953,389	1,339,730		8,293,119	8,422,520
Lease Receivable GASB - Noncurrent	2,453,344	108,914	- €	2,562,258	2,562,258
Loans Receivable - Noncurrent	797,258		28	797,258	1,156,666
Equity Investment in GAB, LLC	2,562,240	12	(2,562,240)		- 4
Other Assets	5,812,842	108,914	(2,562,240)	3,359,516	3,718,924
TOTAL ASSETS	17,734,607	4,111,967	(2,562,240)	19,284,334	18,680,179
LIABILITIES:					
Accounts Payable	65,955	2	120	65,955	45,963
Unearned Revenue	41,103	1,273		42,376	40,934
Customer Deposit (1)		20,000	183	20,000	20,000
Security Deposits	109,944		(*:	109,944	109,944
Loans Payable - Current Portion	88,850	-	7.0	88,850	86,516
Bonds Payable - Noncurrent Portion	156,464	-		156,464	152,945
Total Current Liabilities	462,316	21,273	72	483,589	456,302
Loans Payable - Noncurrent Portion	2,032,312	3	624	2,032,312	2,091,939
Bonds Payable - Noncurrent Portion	2,237,047			2,237,047	2,351,872
Total Noncurrent Liabilities	4,269,359		1.7	4,269,359	4,443,811
TOTAL LIABILTIES	4,731,675	21,273		4,752,948	4,900,113
DEFERRED INFLOW OF RESOURCES					
Deferred Inflow - Leases	2,914,240	122,359	327	3,036,599	3,036,599
Total Deferred Inflow of Resources	2,914,240	122,359		3,036,599	3,036,599
EQUITY \$	10,088,692 \$	3.968.335 \$	(2,562,240) \$	11,494,787 \$	10,743,467

### Significant Events:

1. Customer Deposit GABLLC YTD - CH4Biogas.

### Genesee Gateway Local Development Corp. August 2023 Dashboard Profit & Loss - Accrual Basis

				COMB	INED
	<b>GGLDC</b> 8/31/23	<b>GABLLC</b> 8/31/23	Eliminations	8/31/23	Combined YTD
Operating Revenues:					
Grants \$	50,000	\$ -	\$ - \$	50,000 \$	1,413,297
Interest Income on Loans	3,756		#	3,756	21,787
Rent	62,707	1,273	#	63,980	512,103
Common Area Fees - Parks	77	-	<b>3</b> 8	類	6,858
Fees	Hi	-	2	9	4,250
Other Revenue	63		u <del></del>	63	20,375
Total Operating Revenues	116,526	1,273	2	117,799	1,978,670
Operating Expenses:					
Operations & Maintenance	17,374	0.63	₩.	17,374	128,670
Professional Services	7,262	(e		7,262	73,956
Econ. Dev. Program Support Grant	25,000	10€.	±1	25,000	200,000
Grant Expense	21	72	72	-	678,069
Depreciation	16,176	( <del>*)</del>	6 <del></del> -	16,176	129,401
Total Operating Expenses	65,812	( <del>(*)</del>		65,812	1,210,096
Operating Revenue	50,714	1,273	-	51,987	768,574
Non-Operating Revenues (Expenses):					
Other Interest Income	12,286	10,794	292	23,080	85,227
Interest Expense	(13,068)	*		(13,068)	(102,481)
Total Non-Operating Rev (Exp)	(782)	10,794		10,012	(17,254)
Change in Net Assets	49,932	12,067	-	61,999	751,320
Net Assets - Beginning	10,038,760	3,956,268	(2,562,240)	11,432,788	10,743,467
Net Assets - Ending \$	10,088,692	\$ 3,968,335	\$ (2,562,240) \$	11,494,787 \$	11,494,787

# 2024 Budget Timeline

# Genesee Gateway Local Development Corporation

Week of Sept 4

Week of Sept 11

Week of Sept 18

Oct 3 @ 8:30am

Oct 24 @ 8:30am

Oct 26 @ 4pm

By Nov 1

Planning Assumptions / Preliminary Inputs

Budget Worksheet Inputs - CFO & Sr. VP of Ops Review

**CEO Review of Draft Budget** 

Audit & Finance Committee - Budget Workshop Meeting

Audit & Finance Committee - Review & Recommendation

**Board Review & Approval** 

Budget to ABO/Post on GCEDC Web Site

### Agricultural Farm Land Lease Rates for 2024

**Discussion:** See attached summary.

Fund commitment: None.

Committee action request: Recommend approval to the full Board of the 2024 agricultural land

lease rates.

3f

### 2024 Land Lease Rates Agricultural leases

### **Genesee Gateway Local Development Corp.**

Lessee	Location	Term	Rate / acre			
Boxler Dairy	Agri-Business Park	One year	\$	110.00		

### **Host Community Investment Agreement**

**Discussion:** Atlas Copco Holdings USA, Inc. is looking to construct a 240,000 square foot dry vacuum pump manufacturing facility at the STAMP site. In connection with that development, Atlas Copco Holdigns, USA, Inc. is seeking to enter into a Host Community Investment Agreement with the GGLDC. The revenues paid by the Company to the Corporation, which shall be utilized at the sole and absolute discretion of the Corporation, are to be provided (i) to facilitate future development and public infrastructure improvements within Genesee County related to the STAMP site; (ii) as a source of funding for prospective costs and expenses associated with and related to anticipated transportation corporation services and additional infrastructural improvements to be provided as a result of the STAMP needs in Genesee County; (iii) debt service and (iv) other economic development purposes.

Fund Commitment: None.

**Committee Action Request:** Recommend approval and execution of the Host Community Investment Agreement with Atlas Copco Holdings, USA, Inc.

### HOST COMMUNITY INVESTMENT AGREEMENT

THIS HOST COMMUNITY INVESTMENT AGREEMENT (the "Community Investment Agreement"), dated as of the [\_\_\_] day of July 2023, by and between the GENESEE GATEWAY LOCAL DEVELOPMENT CORPORATION, a not-for-profit local development corporation of the State of New York (the "State"), with offices at 99 MedTech Drive, Suite 106, Batavia, New York 14020 (the "Corporation") and ATLAS COPCO USA HOLDINGS INC., a Delaware business corporation having an address at 6 Century Drive, Suite 310, Parsippany, New Jersey 07054 (the "Company"), with acknowledgment hereof by STAMP WATER WORKS, INC., a business corporation of the State, with offices at 99 MedTech Drive, Suite 106, Batavia, New York 14020 ("STAMP Water") and STAMP SEWER WORKS, INC., a business corporation of the State, with offices at 99 MedTech Drive, Suite 106, Batavia, New York 14020 ("STAMP Sewer").

### WITNESSETH:

WHEREAS, pursuant to the purposes and powers contained within Section 1411 of the Not-for-Profit Corporation Law ("N-PCL") of the State, as amended (hereinafter collectively called the "Act"), and pursuant to its certificate of incorporation filed on September 20, 2004, as amended (the "Certificate"), 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, pursuant to a resolution duly adopted by the members of the Corporation on June 29, 2023 (the "Resolution"), the Corporation determined to enter into this Community Investment Agreement with the Company; and

WHEREAS, the Company has agreed to undertake a capital project (the "Project") at the WNY STAMP site (the "STAMP site") in the Town of Alabama, Genesee County consisting of: (i) the acquisition by the Company of certain real property located on Crosby Road and Alleghany Road, each in the Town of Alabama, New York (the "Land", being more particularly described as all or a portion of tax parcel Nos. 10.-1-13.1 and 10.-1-15.11, as may be subdivided and subsequently merged), (ii) the planning, design and construction of an approximately 240,000 square foot manufacturing facility and related office space for operation as a dry pump manufacturing facility, along with utility and site improvements, parking lots, loading docks, access and egress improvements, signage, curbage, landscaping and stormwater retention improvements (collectively, the "Improvements"); and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land and the Improvements, the "Facility"); and

WHEREAS, the Company recognizes that such Project has impacted and will impact the surrounding community, particularly the STAMP site, Genesee County, New York; and

WHEREAS, in consideration for the impacts on the community and the support and participation of Genesee County with respect to the Project, the Company has agreed to provide twenty (20) annual payments to the Corporation, as set forth within this Community Investment Agreement (collectively, the "Community Investments"); and

WHEREAS, in furtherance of satisfying the Community Investments, the Corporation shall administer the community Investment fund (the "Fund") established pursuant to the terms and conditions contained herein; and

WHEREAS, the Corporation and the Company wish to memorialize the terms and conditions associated with the Fund in order to satisfy the Community Investments.

NOW, THEREFORE, in consideration of the covenants herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

### <u>Article I – Representations and Covenants</u>

Section 1.1. Representations and Covenants of the Corporation.

The Corporation makes the following representations and covenants as the basis for the undertakings on its part herein contained:

- (a) The Corporation is duly established and validly existing under the provisions of the Act and has the power to enter into the transaction contemplated by this Community Investment Agreement and to carry out its obligations hereunder.
- (b) The Corporation has been duly authorized to execute and deliver this Community Investment Agreement.
- (c) Neither the execution and delivery of this Community Investment Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Community Investment Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of the Act or of any corporate restriction or any agreement or instrument to which the Corporation is a party or by which it is bound, or will constitute default under any of the foregoing.
  - Section 1.2. Representations and Covenants of the Company.

The Company makes the following representations and covenants as the basis for the undertakings on its part herein contained:

- (a) The Company is a business corporation duly formed, validly existing and in good standing under the laws of the State of Delaware, is authorized to do business in the State, has the authority to enter into this Community Investment Agreement and has duly authorized the execution and delivery of this Community Investment Agreement.
- (b) To the best of the Company's knowledge, neither the execution and delivery of this Community Investment Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Community Investment Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Company is a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any such instrument or agreement.
- (c) To the best of the Company's knowledge, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of the Company, threatened against or affecting the Company, to which the Company is a party, and in which an adverse result would materially diminish or adversely impact on the Company's ability to fulfill its obligations under this Community Investment Agreement.

### Article II - Payee/Payment of Annual Community Investment Fee.

- Section 2.1. (a) *Payee*. For so long as this Community Investment Agreement is in effect, the Company agrees to pay to the Corporation (at its address noted above) an annual Investment fee (the "Annual Investment Fee") on or before January 1 of each calendar year commencing on January 1, 2026 (the "Payment Date"), an amount correlating to the Total Payment Amount, as set forth within <u>Schedule A</u> hereto. The Company hereby agrees to pay all such amounts due pursuant to this Community Investment Agreement on or before each Payment Date in accordance with the terms hereof.
- (b) Payment of Annual Investment Fee. The Company, pursuant to the terms of this Community Investment Agreement, shall remit to the Corporation an Annual Investment Fee equal to an amount correlating to the Total Payment Amount, as set forth within Schedule A hereto. The Company's failure to remit any Annual Investment Fee due pursuant to this Community Investment Agreement within thirty (30) days following notice from the Corporation that the Company failed to make the applicable payment by the corresponding Payment Date shall require additional payment by the Company of a late payment penalty equal to five percent (5%) of the amount due and (ii) for each month, or any part thereof, that any such Annual Investment Fee is delinquent beyond the first month, interest on the total amount due plus the late payment penalty, in an amount equal to ten percent (10%) per annum.
- (c) Use of Fund; Public Purposes. The parties agree and acknowledge that payments made hereunder are to provide revenues for public purposes to be undertaken by the Corporation and/or any duly appointed agent or assignee thereof. The revenues paid by the Company to the Corporation, which shall be utilized at the sole and absolute discretion of the Corporation, are to be provided (i) to facilitate future development and public infrastructure improvements within

Genesee County related to the STAMP site; (ii) as a source of funding for prospective costs and expenses associated with and related to anticipated transportation corporation services and additional infrastructural improvements to be provided as a result of the STAMP needs in Genesee County; (iii) debt service and (iv) other economic development purposes.

### Article III - Transfer of Facility; Termination; Default; Remedies.

- Section 3.1. This Community Investment Agreement shall be for a term of twenty (20) years to commence as of the date hereof, unless otherwise terminated by the written agreement of the parties hereto or as otherwise provided herein. Any such termination hereunder shall require the Company to make a pro-rated payment of Annual Investment Fee as of the date of termination, such pro-rated payment to be reflective of the number of days within the calendar year of termination that this Community Investment Agreement was in effect. Notwithstanding anything contained herein to the contrary, should that certain Tax Agreement, dated as of the date hereof, by and between the Company and Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (as such agreement may be amended from time to time), terminate, expire or otherwise be cancelled, this Community Investment Agreement and the Company's payment obligations hereunder shall also terminate and expire.
- Section 3.2. Each of the following shall be an "Event of Default" under this Community Investment Agreement: (a) the failure by the Company to make any payment due and owing the Corporation or its duly authorized agent and/or assignee within sixty (60) days of written demand therefore and such failure continued for ten (10) days following the Company's receipt of written notice thereof; or (b) the failure by the Company to observe or perform any other covenant, condition or agreement required by this Community Investment Agreement to be observed or performed and such failure shall have continued for a period of thirty (30) days after the Corporation gives written notice to the Company, specifying that failure and stating that it be remedied, or in the case of any such default which can be cured with due diligence but not within such thirty (30) day period, the Company's failure to proceed promptly to cure such default and thereafter prosecute the curing of such default with due diligence.
- Section 3.3. Whenever any Event of Default shall have occurred and be continuing, the Corporation may take, to the extent permitted by law, any one or more of the following remedial steps: (a) terminate this Community Investment Agreement; (b) [intentionally omitted]; and (c) take any other action at law or in equity which may appear necessary or desirable to collect the payments then due or thereafter to become due hereunder, and to enforce the obligations, agreements or covenants of the Company under this Community Investment Agreement.
- Section 3.4. In the event that the Facility is transferred from the Agency (as hereinafter defined) to the Company (i.e., the lease/leaseback agreements are terminated), and the Company is ineligible for a continued tax exemption, the obligations of the Company to make payments hereunder shall, to such extent, be null and void.

### Article IV - Changes in Law.

Section 4.1. To the extent the Facility is declared to be subject to taxation or assessment by an amendment to the Act, other legislative change, or by final judgment of a Court of competent jurisdiction, the obligations of the Company hereunder shall, to such extent, be null and void.

### Article V - Miscellaneous.

Section 5.1. This Community Investment Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

Section 5.2. All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid or by national overnight courier service, or by e-mail, addressed as follows:

### To the Corporation:

Genesee Gateway Local Development Corporation 99 MedTech Drive, Suite 106 Batavia, New York 14020 Attention: Donald Cunningham, President

E-mail: gcedc@gcedc.com

### To Corporation Counsel:

Harris Beach PLLC
99 Garnsey Road
Pittsford, New York 14534
Attn: Russell E. Gaenzle, Esq.
E-mail: rgaenzle@harrisbeach.com

### To the Company:

Atlas Copco USA Holdings Inc. 6 Century Drive, Suite 310 Parsippany, New Jersey 07054

Attn: [\_\_\_\_\_]
E-mail: [\_\_\_\_\_]

### To Company Counsel:

Hodgson Russ LLP
The Guaranty Building
140 Pearl Street, Suite 100
Buffalo, New York 14202
Attn: Rafael F. Pignataro, Esq.

E-mail: rpignataro@hodgsonruss.com

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. A hand-delivered notice shall be effective upon delivery; a notice sent by certified mail shall be effective three (3) days after mailing; a notice by overnight delivery service shall be effective as of the date of delivery as confirmed by the delivery receipt; and a notice sent by e-mail shall be effective as of the date of delivery as confirmed by the delivery receipt.

Section 5.3. This Community Investment Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the federal or state courts located in Genesee County, New York.

Section 5.4. The Corporation, in its exclusive discretion, may assign this Community Investment Agreement to a third-party for purposes of administering the undertakings outlined herein; however, no such assignment shall relieve the Corporation of its obligations hereunder. In the event of such assignment, the Corporation shall notify the Company in writing at least thirty (30) days in advance of the effective date of any such assignment.

Notwithstanding anything to the contrary, the Company may sell, assign, or dispose of all or substantially all of its property, and may assign this Community Investment Agreement, to any permitted assignee of, or sublessee under, that certain Leaseback Agreement dated as of the date hereof between Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center, as lessor, and the Company (the "Agency"), as lessee (the "Leaseback Agreement"). In such event, the Corporation will accept the assignee of this Community Investment Agreement as the "Company" for all purposes of this Community Investment Agreement and will release the original Company from any and all liabilities under this Community Investment Agreement with respect to acts, events or omissions occurring after such assignment. The Company and/or the assignee shall notify the Corporation in writing in the event of such assignment.

Section 5.5. (a) The obligations and agreements of the Corporation contained herein shall be deemed the obligations and agreements of the Corporation, and not of any member, officer, agent or employee of the Corporation in his individual capacity, and the members, officers, agents and employees of the Corporation shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.

(b) The obligations and agreements of the Corporation contained herein and in the other related documents shall not constitute or give rise to an obligation of the State of New York or of Genesee County, New York and neither the State of New York nor Genesee County, New York shall be liable hereon or thereon.

The obligations and agreements of the Company contained herein shall be deemed the obligations and agreements of the Company, and not of any member, officer, agent or employee of the Company in his or her individual capacity, and the members, officers, agents and employees of the Company shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.

(c) No order or decree of specific performance with respect to any of the obligations of the Corporation hereunder shall be sought or enforced against the Corporation unless (1) the party seeking such order or decree shall first have requested the Corporation in writing to take the action sought in such order or decree of specific performance, and ten (10) days shall have elapsed from the date of receipt of such request, and the Corporation shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten (10) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period, (2) if the Corporation refuses to comply with such request and the Corporation's refusal to comply is based upon its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall place, in an account with the Corporation, an amount or undertaking sufficient to cover such reasonable fees and expenses, and (3) if the Corporation refuses to comply with such request and the Corporation's refusal to comply is based upon its reasonable expectation that it or any of its members, officers, agents or employees shall be subject to potential liability, the party seeking such order or decree shall (A) agree to indemnify and hold harmless the Corporation and its members, officers, agents (other than the Company) and employees against any liability incurred as a result of its compliance with such demand, and (B) if requested by the Corporation, furnish to the Corporation satisfactory security to protect the Corporation and its members, officers, agents (other than the Company) and employees against all liability reasonably expected to be incurred as a result of compliance with such request.

Section 5.6. Each of the Corporation and the Company waives claims against each other for, and neither shall be liable to the other for, consequential, incidental, special or punitive damages in connection with the performance or failure to perform this Community Investment Agreement

[Remainder of Page Intentionally Left Blank]

### [Signature Page to Community Investment Agreement]

IN WITNESS WHEREOF, the parties hereto have executed this Community Investment Agreement as of the day and year first above written.

DEVELOPMENT CORPORATION
By:
Donald Cunningham, President
ATLAS COPCO USA HOLDINGS INC.
D <sub>1/2</sub>
By:

GENESEE GATEWAY LOCAL

## ACKNOWLEDGMENT OF CORPORATION'S RIGHTS UNDER COMMUNITY INVESTMENT AGREEMENT

The undersigned hereby acknowledges receipt of notice of the Community Investment Agreement (the "Community Investment Agreement") by and between the GENESEE GATEWAY LOCAL DEVELOPMENT CORPORATION (the "Corporation") and ATLAS COPCO USA HOLDINGS INC. (the "Company"), including the right of the Corporation to collect and receive all amounts payable in such amounts and at such times as set forth in Schedule A to the Community Investment Agreement. The foregoing shall not be construed, however, as a waiver or release of any claims or rights that the undersigned may at any time have against the Corporation or the Company, and the undersigned expressly reserves any such claims or rights and the right to pursue the same at law or in equity.

Title: [

### SCHEDULE A

TO

# HOST COMMUNITY INVESTMENT AGREEMENT DATED AS OF [ ] 1, 2023

BETWEEN

# GENESEE GATEWAY LOCAL DEVELOPMENT CORPORATION AND

### ATLAS COPCO USA HOLDINGS INC.

Payment Year	Payment Due Date	Total Payment Amount
Year 1	January 1, 2026	\$ 150,000
Year 2	January 1, 2027	\$ 150,000
Year 3	January 1, 2028	\$ 150,000
Year 4	January 1, 2029	\$ 150,000
Year 5	January 1, 2030	\$ 150,000
Year 6	January 1, 2031	\$ 150,000
Year 7	January 1, 2032	\$ 150,000
Year 8	January 1, 2033	\$ 150,000
Year 9	January 1, 2034	\$ 150,000
Year 10	January 1, 2035	\$ 150,000
Year 11	January 1, 2036	\$ 150,000
Year 12	January 1, 2037	\$ 150,000
Year 13	January 1, 2038	\$ 150,000
Year 14	January 1, 2039	\$ 150,000
Year 15	January 1, 2040	\$ 150,000
Year 16	January 1, 2041	\$ 150,000
Year 17	January 1, 2042	\$ 150,000
Year 18	January 1, 2043	\$ 150,000
Year 19	January 1, 2044	\$ 150,000
Year 20	January 1, 2045	\$ 150,000
TOTAL		\$3,000,000

### Transfer money to STAMP Sewer Works Corp.

**Discussion:** The GGLDC has funds received under Host Community Investment Agreements from projects at the STAMP site and would like to transfer \$135,000 to the STAMP Sewer Works Corp. (SSWC) to cover potential legal expenses related to the easements for the forcemain.

**Fund Commitment:** Transfer \$135,000 to SSWC from the payments received under Host Community Investment Agreements from projects at the STAMP site.

Board Action Request: Recommend approval of transfer of funds as listed above.

GGLDC 2023 Workforce Development Fund

Comments		Comments	BEA to assist with Mechatronics planning and recruiting events and materials in k-12, annual fee	Assist in making GLOW with Your Hands and GLOW with Your Hands Healthcare sustainable	Cornell in High School sanitation workshop, received grant by NYS to Cornell	Ramps for both events, one time purchase	GCC Tech War's for students 6-12th grade	STEAM Jam 3-5th grade	Support student focused communications	Support the program	Support additional mechatronics equipment for GV BOCES	Support the program	RIT Workshop for High School Seniors, not ready	City of Batavia Police Night Out			
Status			paid	paid		paid	paid	paid	scheduled	scheduled	scheduled	paid	n/a	paid			
Updated \$125,322	\$125,322		\$2,500	\$12,500	0\$	\$3,000	\$1,000	\$318	\$5,000	\$5,000	\$4,992	\$1,000	0\$	\$250	\$35,560	\$89,762	
Approved Collected \$125,322	\$125,322		\$2,500	\$12,500	\$20,000	\$4,000	\$2,500		\$3,500	\$5,000	\$5,000	\$1,000	\$20,000		\$76,000	\$49,322	
Solar Projects			BEA Premier Membership	GLOW Works, Inc	Cornell In High School Program	Box Car Derby	Tech Wars Event	Tech Wars STEAM Jam	Marketing & Communications	Pre-Apprenticeship Bootcamp	Refrigeration Equipment	Finger Lakes Youth Apprenticeship	RIT in High School				
Sources	Total Sources	Uses													Total Uses	Net	

31

### **GGLDC**

# Chris Suozzi- Vice President of Business & Workforce Development Report of Management

### October 5, 2023

### **Workforce Equipment**

Discussion: To discuss new refrigeration equipment for GV BOCES

GV BOCES was looking to purchase new refrigeration Amatrol equipment to support education for local companies including HVAC and food processing operations.

We lead the way in assisting the purchase and financing for the refrigeration equipment:

Uses \$25,000 Equipment

Sources \$15,000- Grant from WDI \$5,000 - Donation from Artic Refrigeration \$5,000 - GGLDC \$25,000 Total

### Action:

This equipment was pre-approved by the GGLDC budget and it is recommended by staff to pay the invoice which came in under the \$5000 budget at \$4,992.08.

### **Memorandum of Understanding**

### Memorandum of Understanding

### Between

### Genesee Valley BOCES &

### **Genesee Gateway Local Development Corporation**

This Memorandum of Understanding (MOU) sets forth the terms and understanding between Genesee Valley BOCES (GV BOCES) and Genesee Gateway Local Development Corporation (GGLDC)

To assist in purchasing refrigeration equipment to support the Electromechanical/Mechatronics program at GV BOCES.

### Background

The GGLDC has supported the mechatronics program at GV BOCES. This additional specialized equipment will help support the training for local careers, especially in food processing and HVAC companies in Genesee County.

### Responsibilities

This MOU will assist GV BOCES in purchasing refrigeration equipment with support from GGLDC and other GV BOCES partners.

(Reference attached invoice 9/30/23 for \$4,992.08)

### **Contact Information**

Genesee Valley BOCES
Jon Sanfratello,
Director of Instructional Programs
80 Munson St,
Le Roy, NY 14482
(585) 344-7915/658-7915

Issue Date 08/31/2023

### GENESEE VALLEY BOCES 80 MUNSON ST. LE ROY, NY 14482

Invoice Number 211-24A

Due Date: 09/30/2023



### **INVOICE**

Issued To:

GENESEE GATEWAY LOCAL DEVELOPMENT CORP

C/O CHRIS SUOZZI 99 MEDTECH DRIVE, SUITE 106

BATAVIA, NY 14020

GGLDC

tem Number	Item Description	Amount
	GENERAL FUND MISCELLANEOUS	A
	MONETARY REIMBURSEMENT FOR REFRIGERATION EQUIPMENT - ELECTRICAL MECHANICAL TRADES PROGRAM AUGUST 2023 GENESEE VALLEY BOCES - BATAVIA CAMPUS	4,992.08
		g
	Invoice Total	4,992.0

Any questions, contact Kim Riedmiller, Treasurer (585) 344 - 7509

Please remit to: GENESEE VALLEY BOCES