



**Meeting Agenda – Audit and Finance Committee**

Genesee Local Development Corp.

Tuesday, February 2, 2021 – 8:30 a.m.

Location: Electronically

Page #	Topic	Discussion Leader	Desired Outcome
	<b>1. Call To Order – Enter Public Session</b> Because of the Novel Coronavirus (COVID-19) Emergency and State and Federal bans on large meetings or gatherings and pursuant to Governor Cuomo's Executive Order 202.1 issued on March 12, 2020 suspending the Open Meetings Law, this Meeting is being held electronically via conference call / video conference instead of a public meeting open for the public to attend in person.	D. Cunningham	
2-4	<b>2. Chairman's Report &amp; Activities</b>  2a. Agenda Additions / Other Business  2b. Minutes: January 5, 2021	D, Cunningham	Vote
	<b>3. Discussions / Official Recommendations to the Board:</b>		
5-16	3a. General Liability Insurance	Tompkins / L. Farrell	Disc / Vote
17-27	3b. D&O Insurance	Lawley / L. Farrell	Disc / Vote
17-27	3c. Cyber Insurance	Lawley / L. Farrell	Disc / Vote
28-32	3d. December 2020 Unaudited Financial Statements	L. Farrell	Disc / Vote
33-35	3e. Strategic Investments Update	L. Farrell	Discussion
36-39	3f. MedTech Center Stairs: Paint and Resurface	L. Farrell	Disc / Vote
40-57	3g. Loan Agreement with HP Hood (OCR)	M. Masse	Disc / Vote
58-75	3h. Loan Agreement with Upstate Niagara (OCR)	M. Masse	Disc / Vote
76-87	3i. PSA option for BETP – Fancher	M. Masse	Disc / Vote
88-100	3j. Change Order for Corfu WWTF Expansion	M. Masse	Disc / Vote
	4. Adjournment	D. Cunningham	Vote

**GGLDC Audit & Finance Committee Meeting**

**Tuesday, January 5, 2021**

**Location - Electronically**

**8:30 a.m.**

**MINUTES**

**ATTENDANCE**

Committee Members: T. Bender, P. Battaglia, D. Cunningham, T. Felton

Staff: L. Farrell, M. Masse, L. Casey, P. Kennett, J. Krencik, S. Hyde, C. Suozzi

Guests: M. Gray (GCEDC Board Member), C. Klotzbach (GCEDC Board Member),  
P. Zeliff (GCEDC Board Member), R. Fancher (J&R Fancher)

Absent:

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

D. Cunningham called the meeting to order at 8:32 a.m. via conference call / video conference.

Because of the Novel Coronavirus (COVID-19) Emergency and State and Federal bans on large meetings or gatherings and pursuant to Governor Cuomo's Executive Order 202.1 issued on March 12, 2020 suspending the Open Meetings Law, this Meeting is being held electronically via conference call / video conference instead of a public meeting open for the public to attend in person.

**1a. Presentation: J & R Fancher** - J & R Fancher Property Holdings, LLC is proposing to construct a mixed-use building with approximately 20 apartments and retail space on 3 buildable acres (5.8 acres total) at Buffalo East Technology Park in Pembroke, NY. This portion would be considered Phase I of the project.

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

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

**2b. Minutes: December 1, 2020**

**T. Felton made a motion to recommend approval of the December 1, 2020 minutes; the motion was seconded by T. Bender. 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:**

**DRAFT**

**3a. November 2020 Financial Statements-** L. Farrell reviewed with the Committee the significant items of the November 2020 long form financial statements and noted the following:

- On the balance sheet, restricted cash grant funds decreased. At the end of October there was a balance of \$3,600 from the Freightliner OCR draw. In November, these funds were used to pay H. Sicherman for administrative fees related to the Freightliner OCR grant.
- MedTech Centre accounts receivable decreased by about \$53,000. We received \$57,000 from Finger Lakes Service Group's insurance in November.
- Accounts payable increased by our monthly accrual for amounts that are paid to the GCEDC quarterly for the Economic Development Program Support Grant and the MTC Property Management Fee.
- Normal monthly activity on the income statements for all funds.
- On the P&L for MedTech Centre, the unbudgeted line item (Line 78) is related to the MTC insurance claim.
- We received \$1.1M in land sale proceeds related to the HP Hood land sale. *This was noted during the EDC meeting.*

**P. Battaglia made a motion to recommend to the full Board the approval of the November 2020 Financial Statements; 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. Resolution for the formation of Water & Sewer Works Corp** – The STAMP on-site water system and on-site sanitary sewer treatment system with off-site discharge will be owned, operated and maintained by two entities that are to be formed under NYS Transportation Corporation Law. The GGLDC will be the sole shareholder of these corporations. The GGLDC has petitioned and received consent from Genesee County Department of Health, Genesee County Highway Department, the Town of Alabama Highway Department, and the Town of Alabama regarding the formation of the water works corporation and has petitioned and received consent from Genesee County Department of Health, Orleans County Department of Health, the Genesee County Highway Department, the Town of Shelby Highway Department and the Town of Shelby.

**P. Battaglia made a motion to recommend to the full Board authorizing resolution #01/2021-01 for the formation of the Water and Sewer Works Corps; the motion was seconded by T. Bender. Roll call resulted as follows:**

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

**The item was approved as presented.**

**3c. PSA – BETP** The GGLDC has received a Purchase and Sale Agreement from a potential market rate housing complex to acquire approximately 5.8 acres (3.0 acres buildable) out of tax parcel 19.-1-74 for \$150,000.

**DRAFT**

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

Resolution No. #01 2021 - 02

RESOLUTION OF THE GENESEE GATEWAY LOCAL DEVELOPMENT CORPORATION AUTHORIZING (I) THE SALE OF CERTAIN LANDS TO J & R FANCHER PROPERTY HOLDINGS, LLC COMPRISING APPROXIMATELY 5.8 +- ACRES LOCATED IN THE TOWN OF PEMBROKE, GENESEE COUNTY, NEW YORK, AND KNOWN AS PART OF TAX PARCEL 19.-1-74 (THE "LAND"), AND (II) THE EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT FOR THE CONVEYANCE OF THE LAND AND THE EXECUTION AND DELIVERY OF DOCUMENTS NECESSARY AND INCIDENTAL THERETO

**T. Felton made a motion to recommend to the full Board the approval of the Purchase and Sale Agreement, authorizing resolution #01/2021-02, and payment of legal fees in connection with the closing; 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.**

**3d. MTC Roof Repair Invoice** – The roof at the MedTech Centre suffered roof damage due to the high winds in December 2019. This damage was not covered under the warranty because the winds were more than 50 mph. The GGLDC submitted this as an insurance claim. The insurance company approved the claim and the company to complete the work. The GGLDC has a contract with a company that is certified to complete the repairs that will not invalidate our current warranty. The damage resulted in about 25% of the roof needing to be replaced. The board had approved this contract in March of 2020 but had subsequently rescinded that approval due to issues with the repair.

The Committee discussed remitting payment in the amount of \$34,897.21, which reduces the previous authorization by \$2,479.79. This reduction in payment is equal to the insurance settlement received less out-of-pocket expenses incurred by the GGLDC to remediate and repair significant damage to the inside of the building that occurred at the time that Great Lakes Service Group completed the roof repair due to their negligence.

**T. Bender made a motion to recommend to the full Board authorization to pay \$34,897.21 to Finger Lakes Service Group for the MedTech Centre roof repair; 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.**

**4. ADJOURNMENT**

P. Battaglia made a motion to adjourn at approximately 8:52 a.m., seconded by T. Bender and passed unanimously.

**GGLDC**  
**Audit & Finance Committee Report**  
**February 2, 2021**

**Insurance Renewal**

The Board previously approved extending insurance coverage with Selective Insurance through the end of February 2021 while Tompkins worked on obtaining alternative insurance proposals. Tompkins went out to bid for the Agency's 2021 insurance renewal. Other markets were explored as listed in the attached document, but they were unable to find another carrier that was able to meet the GCEDC's needs at an affordable rate.

Joe Teresi, Dave Boyce and Tim Spezzano will be attending the committee meeting to discuss.

The total premium proposed by Selective is within the amounts included in the EDC and LDC 2021 budgets.

**COVERAGE**

	2020 Selective	2021 Selective
<b>PROPERTY EXPOSURES</b>		
Buildings	\$7,048,428	\$7,362,669
Business Personal Property	\$94,987	\$97,552
Business Income/Loss of Rents	\$505,000	\$640,000
<b>COMMERCIAL GENERAL LIABILITY EXPOSURES</b>		
Real Estate Development Property (Acres)	263	236
Vacant Land (Acres)	1,235	1,267
Buildings - mercantile, manufacturing (Square footage)	42,000	42,000
Subcontractors (Cost)	\$50,000	\$50,000
Dwellings - One Family	1	0
Warehouse (Square footage)	4,950	4,950
<b>PREMIUM</b>		
TOTAL PREMIUM	\$34,150	\$35,620

**OTHER MARKETS APPROACHED**

- Acadia** - declined due to classification: Real Estate development ineligible
- AmTrust** - declined due to large schedule of Real Estate development land
- Chubb** - declined due to classification: Real Estate development ineligible
- Cincinnati** - declined due to classification: liability exposure during site improvement
- C.NA** - declined due to classification: Real Estate development ineligible
- GNY Mutual** - declined due to classification: Real Estate development ineligible
- Hanover** - declined due to classification: Real Estate development ineligible
- Hartford** - declined due to classification: Real Estate development ineligible
- Liberty Mutual** - no response to submission: multiple attempts
- Michigan Millers** - declined due to classification: Real Estate development ineligible
- Nationwide** - declined due to classification: Real Estate development ineligible
- Philadelphia** - declined due to classification: Real Estate development ineligible
- Travelers** - County or city must be insured with Travelers before they will review EDC
- Utica National** - declined due to classification: Real Estate development ineligible

Hi Jeanne,

I hope all is well! Unfortunately this one does not fit our appetite & I'll have to pass. Best of luck in placing their coverage & stay safe!

**David Smith**  
Sr. Underwriter – Middle & Large Commercial  
New York State Regional Office

The Hartford Financial Services Group, Inc.  
301 Woods Park Drive | 1st Floor  
Clinton, NY 13323  
P: 315-235-4473  
Email: [david.smith5@thehartford.com](mailto:david.smith5@thehartford.com)

Endorsements: [agency.services@thehartford.com](mailto:agency.services@thehartford.com)

Electronic Business Center (EBC): <http://ebc.thehartford.com>



Business Insurance  
Employee Benefits  
Auto  
Home

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Jeanne,

After reviewing this account would not be a fit for Commercial Accounts. I will see if our Public Sector unit can move forward.

Thanks

Cody Betton | Account Executive | Commercial Accounts  
Travelers  
One Park Place | Suite 400  
Albany, NY 12205  
Office- 518-454-4520

Good morning Jeanne,

This was referred to PSS for review. In order to consider an economic development authority, we must write the county or city for which it is set up. Is there an opportunity on either of those in this case?  
Thank you.

Tami Jo Stark, MBA, CPCU, CIC/ Territory Manager/Public Sector Services  
Travelers  
112 Washington Place, Suite 910  
Pittsburgh, PA 15219  
304 546 8115 mobile  
412 338 3024 office  
866 763 5785 direct fax

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**Jeanne Prill**

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**From:** Abdella, Anibal <Anibal.Abdella@acadia-ins.com>  
**Sent:** Friday, December 18, 2020 5:16 PM  
**To:** Jeanne Prill  
**Cc:** Milano, Peter  
**Subject:** [EXTERNAL] Declination: Genesee County Economic Development Center

\*\*\* THIS EMAIL WAS SENT FROM A SOURCE EXTERNAL TO TOMPKINS. USE CAUTION IF CLICKING ON LINKS OR OPENING ATTACHMENTS \*\*\*

Date: December 18, 2020

Tompkins Insurance Agencies, Inc.

Attn: Jeanne Prill, Assistant Vice President/CI Marketing Specialist

Re: Genesee County Economic Development Center

Line(s) of business: Package & Umbrella

Effective date: 03/01/2021

Dear Jeanne:

We appreciate the opportunity to review this account for consideration. Unfortunately we are unable to quote this for you due to:

- Loss Experience
  - Unable to compete with current pricing
  - Unsatisfactory loss control
  - Poor financials
  - Other: Real estate development operations are outside of Acadia's underwriting appetite
- 

Please feel free to contact me if you have any questions or if we can be of further assistance. Again thank you for considering Acadia as a potential carrier for this risk.

Regards,

Peter Milano, Underwriter I, Commercial Lines  
(518) 292-5006

Anibal Abdella, AINS, AIS  
Acadia Insurance  
(a Berkley Company)



# Memo



Wesco Insurance Company  
An AmTrust Financial Company

DATE: 1/14/2021  
TO: jprill@tompkinsfinancial.com;  
Tompkins Insurance Agencies, Inc.  
FAX NUMBER: (585) 344-1354  
FROM: Robert Chwalkowski  
SUBJECT: Genesee County Economic Development Center Quote# 4902939 -  
Decline Account

After reviewing the information provided, we must decline this risk for the following reasons:

Declined – Large Schedule of Real Estate Development land, Ineligible exposure, Warehouses, Dwellings.

We appreciate your business and thank you for considering AmTrust to meet your client's insurance needs.

**Jeanne Prill**

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**From:** Cerio, Jeremy <jcerio@chubb.com>  
**Sent:** Friday, December 18, 2020 3:35 PM  
**To:** Spampinato, Corry L  
**Cc:** Jeanne Prill  
**Subject:** RE: YELLOW- [EXTERNAL] Submission: Genesee Economic Development Center 3/1/2021 [Incident: 201217-004276]

Sorry Jeanne,  
This one would be outside of our appetite.

Thanks  
Jeremy

**CHUBB**

**Jeremy Cerio**  
Territory Sales Leader - Chubb Small Business

645 Clinton Square, Rochester, NY 14604, United States  
O 585-238-8029 M 585-491-1342  
E [jcerio@chubb.com](mailto:jcerio@chubb.com)



Small Commercial Help Desk: 1-800-664-8514

Your Small Commercial UW: **Lindsay Heske** [Lindsay.Heske@chubb.com](mailto:Lindsay.Heske@chubb.com) 860-408-2584

Small Commercial Billing: 1-833-550-9660 [SCBilling@chubb.com](mailto:SCBilling@chubb.com)

Small Commercial Claims Line: BOP, Umbrella: 1-844-539-3801

Small Commercial Claims: WC: 1-800-699-9916

Claims FNOL Email: [ACECRS-claims@chubb.com](mailto:ACECRS-claims@chubb.com)

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**From:** Spampinato, Corry L  
**Sent:** Friday, December 18, 2020 9:22 AM  
**To:** Cerio, Jeremy  
**Cc:** Jeanne Prill  
**Subject:** FW: YELLOW- [EXTERNAL] Submission: Genesee Economic Development Center 3/1/2021 [Incident: 201217-004276]

Good morning Jeremy,  
This isn't a fit for middle market – due to the size of it, it would fall to you in small business.  
Can you take a look at this and let Jeanne know if it's something you can consider?

Please note that I will be out of the office December 23<sup>rd</sup> and our office is closed December 24<sup>th</sup> & 25<sup>th</sup>.

**Jeanne Prill**

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**From:** Gordon, Jamison <Jamison\_Gordon@CINFIN.com>  
**Sent:** Wednesday, January 20, 2021 10:47 AM  
**To:** Jeanne Prill  
**Cc:** Groat, James  
**Subject:** [EXTERNAL] RE: Submission: Genesee Economic Development Center 3/1/2021

\*\*\* THIS EMAIL WAS SENT FROM A SOURCE EXTERNAL TO TOMPKINS. USE CAUTION IF CLICKING ON LINKS OR OPENING ATTACHMENTS \*\*\*

Hello Jeanne,

This is our response from the last time we looked at this account. Please let me know if you feel the exposures have changed or if we are off base?

Linda -  
Thank you for your submission.

Cincinnati does not write industrial development agencies for several reasons : the owned property is often "incubator" LRO occupancies, difficult to underwrite and control on the property coverage side ; the land and buildings under development - a liability policy becomes an owners interest policy during construction and development, with the same construction exposures and NY labor law issues as a contractor.

Please accept this email as our formal declination.

**From:** Jeanne Prill  
**Sent:** Monday, January 11, 2021 11:22 AM  
**To:** Gordon, Jamison  
**Cc:** Groat, James  
**Subject:** RE: Submission: Genesee Economic Development Center 3/1/2021



**EXTERNAL EMAIL**  
**Do not open attachments or click links in emails from unexpected or unknown senders.**

Looks like my submission was missing some COPE info for Location# 2. Apologies for any inconvenience.  
Revised Property ACORD attached. Thank you.

Jeanne Prill, CPCU  
Assistant Vice President/CI Marketing Specialist  
Tompkins Insurance Agencies, Inc.  
90 Main St, Batavia, NY 14020  
Telephone 607-257-6035 Extension 40927  
Fax 888-339-8337  
Mobile 607-220-7216

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**Jeanne Prill**

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**From:** Culhane, Jennifer <JCULHAN@nationwide.com>  
**Sent:** Friday, December 18, 2020 12:21 PM  
**To:** Jeanne Prill  
**Subject:** [EXTERNAL] re: Genesee County Economic Development Center - Account: 105383687

\*\*\* THIS EMAIL WAS SENT FROM A SOURCE EXTERNAL TO TOMPKINS. USE CAUTION IF CLICKING ON LINKS OR OPENING ATTACHMENTS \*\*\*

Good afternoon Jean,

Thank you for the opportunity to review the above referenced account.

After a review of the insured's operations, and industries served, we are going to decline to offer coverage.

We are not currently a market for the operations to include comprehensive site development and renovation exposures.

We reviewed this account in 2013, and it was declined for same.

Thanks again for checking with Nationwide!

Have a great afternoon!

Sincerely,



**Nationwide**  
Is on your side



Jennifer Culhane  
Small Market Premier Commercial Lines Underwriter  
Proud Nationwide Member 2015  
NERO  
267.416.3889  
jculhan@nationwide.com

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**Jeanne Prill**

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**From:** Maier, Kyle <Kyle.Maier@phly.com>  
**Sent:** Monday, January 4, 2021 10:40 AM  
**To:** Jeanne Prill  
**Cc:** Murray, Kathy  
**Subject:** [EXTERNAL] GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER, DBA: GENESEE, 31324 PathID: 14311999, Effective 3/1/2021

\*\*\* THIS EMAIL WAS SENT FROM A SOURCE EXTERNAL TO TOMKINS. USE CAUTION IF CLICKING ON LINKS OR OPENING ATTACHMENTS \*\*\*

Hi Jeanne,

I just left you a voicemail on this account. Based on the information we have currently this is not something that would be a fit for our real-estate product. Thank you for giving us an opportunity and please let us know if we can help with anything else you may be working on.

Thank you,  
Kyle Maier  
Marketing Representative  
Philadelphia Insurance Companies  
A Member of the Tokio Marine Group

100 Corporate Parkway, Suite 304 | Amherst, NY 14226  
O: 716.541.9566 | M: 716.364.5159 | [Kyle.Maier@phly.com](mailto:Kyle.Maier@phly.com)  
[PHLY.com](http://PHLY.com)

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**Jeanne Prill**

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**From:** Kathy DeRousseau <kderousseau@GNY.com>  
**Sent:** Thursday, January 14, 2021 11:04 AM  
**To:** Jeanne Prill  
**Subject:** [EXTERNAL] Genesee County Economic Development Center 4463512


\*\*\* THIS EMAIL WAS SENT FROM A SOURCE EXTERNAL TO TOMPKINS. USE CAUTION IF CLICKING ON LINKS OR OPENING ATTACHMENTS \*\*\*

Jeanne,

Thank you for the above submission. Unfortunately I am going to have to decline to offer a quote on this risk. GNY is not a market for any type of real estate development exposures. Sorry I was not able to help. If you have any questions please do not hesitate to contact me.

Thank you,  
Kathy



Kathy DeRousseau | Senior Production Underwriter | Greater New York Insurance Companies |  
180 Glastonbury Blvd. | Glastonbury | CT | 06033 | Telephone: 860-652-7090 Ext 3126 | Direct: 860-  
248-7686 | Mobile 716-982-1800 | Fax: |  
Email: kderousseau@GNY.com  
For more information about Greater New York Insurance Companies, please visit our website at  
[www.GNY.com](http://www.GNY.com)  
Check us out on LinkedIn 

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**Jeanne Prill**

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**From:** uticanational.underwritingteam@uticanational.com  
**Sent:** Friday, December 18, 2020 12:04 PM  
**To:** lusanne.buckley@uticanational.com; OnbaseAdmin@uticanational.com; Jeanne Prill; CHRISTINA.BUSH@UTICANATIONAL.COM  
**Subject:** [EXTERNAL] Underwriting Decision on GENESEE AGRI-BUSINESS LLC, GENESEE COUNTY ECONOMIC DEVELOPMENT CE - CPP/UMB - Acct# 300613385 - Agent ID U9902 - Agent Name -TOMPKINS INS AGENCIES,INC  
**Importance:** High

\*\*\* THIS EMAIL WAS SENT FROM A SOURCE EXTERNAL TO TOMPKINS. USE CAUTION IF CLICKING ON LINKS OR OPENING ATTACHMENTS \*\*\*

Thank you for giving Utica National the opportunity to review GENESEE AGRI-BUSINESS LLC, GENESEE COUNTY ECONOMIC DEVELOPMENT CE.

Unfortunately, we are unable to provide the requested coverage due to: Not a market for land development operations or economic development agencies. Thank you for the opportunity to review!

If you have any questions about this decision, please contact your underwriter, CHRISTINA BUSH, directly at 3152356626 or toll free at 1(800)-678-8422 ext 6626. Your underwriter can also be reached via email at Christina.bush@uticanational.com.

We appreciate your business and look forward to your next submission.

Sincerely,

*Your Utica National Underwriting Team*

Note: This email box does not respond to incoming messages.

**Jeanne Prill**

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**From:** Lane, Brian <BLane@mimillers.com>  
**Sent:** Wednesday, January 27, 2021 10:54 AM  
**To:** Jeanne Prill  
**Subject:** [EXTERNAL] 2021 01 27 - Decline - Genesee Economic Development Corporation, dba Genesee County Economic Development Center  
**Attachments:** Cleaned\_ACORDS all lines.pdf; Cleaned\_IMPORTED FROM PDF PRINT DRIVER.PDF

\*\*\* THIS EMAIL WAS SENT FROM A SOURCE EXTERNAL TO TOMPKINS. USE CAUTION IF CLICKING ON LINKS OR OPENING ATTACHMENTS \*\*\*

Jeanne,

Thank you for thinking of Michigan Millers for your client's coverage needs. Unfortunately, this particular submission is not a fit. We are not a market for a not-for-profit corporation operating as a municipal economic growth and development agency, so I am declining to offer a quote.

Best regards,

Brian N. Lane, CPCU  
Production Underwriter  
Michigan Millers Insurance  
109 Bassett Road  
Amherst, New York 14221  
[BLane@mimillers.com](mailto:BLane@mimillers.com)  
Office: (517) 371-7749  
Mobile: (716) 327-2593



Good morning Jeanne.

Thank you for the phone call this morning, my apologies for the delay in reviewing this. Per our discussion, due to the development operations and potential for Labor Law claims, we regretfully are not a market for these types of risks.

Per usual, I appreciate the opportunity to review. So sorry we can't assist!  
Have a great day!

**Alaina Donegan**

Senior Middle Market Sales Underwriter  
The Hanover Insurance Group  
251 Salina Meadows Parkway, Suite 260  
North Syracuse, NY 13212

**Mobile:** 607.760.7775  
**Office:** 315.453.4376  
**Email:** [adonegan@hanover.com](mailto:adonegan@hanover.com)





**GGLDC**  
**Audit & Finance Committee Report**  
**February 2, 2021**

**D&O Insurance Renewal**

Lawley Insurance has provided us with a proposal for renewal of our current Directors & Officers/Employment Practices Liability Insurance with Travelers. The renewal price reflects an overall price increase of only \$528 (\$264/entity) compared to the current policy. The current policy expires on 2/23/2021.

The cost of this policy would be split between GCEDC and GGLDC (\$5,496/entity) and is within each entity's budget for 2021.

Coverage for the new Water and Sewer Works Transportation Corporations has not been included in this proposal. These entities can be added when we have more information to provide.

**Cyber Liability**

Lawley Insurance has provided us with a proposal for a Cyber Liability policy. The benefits of having this type of coverage in place will be discussed at the meeting.

# INSURANCE PROPOSAL



Genesee County Industrial  
Development Agency  
January 27, 2020

Lawley

lawleyinsurance.com | 1.844.4LAWLEY

# Risk Management

[lawleyinsurance.com/riskmanagement](http://lawleyinsurance.com/riskmanagement)

## Loss Control & Safety Services

- Safety Training & Safety Program Evaluations
- General Liability Loss Control
- Loss Source and Trending Analysis
- Code Rule 59 Consultation
- OSHA Assistance
- Defensive Driving Courses & Vehicle Fleet Loss Control
- Ergonomics Evaluation, Training, & Development
- Captive Loss Control
- Life Safety & Evacuation Plans
- Fire & Protection Systems Assistance
- Site Hazard Analysis
- Return to Work Programs
- Industrial Hygiene - Air, Noise Sampling
- Business Interruption - Contingency & Continuity Planning
- Contractual Liability & Risk Transfer
- Grant Submission & Training
- Accident Investigation

## Claims Management

- Claim Trend Analysis
- Claims Reviews (Workers' Compensation and General Liability)
- Claims Consulting Services
- Coverage Analysis Consulting and Monitoring
- Experience Modification Review and Recalculation
- First Aid Claim Program (Workers' Compensation)
- Litigation Management
- Reserve Analysis (Loss Forecaster Software)

## Personal Insurance

[lawleyinsurance.com/personal](http://lawleyinsurance.com/personal)

- Automobile Insurance
- Homeowners Insurance
- Vacation or Secondary Home Insurance
- Jewelry, Fine Arts, and Collectibles Insurance
- Renters Insurance
- Condominium Insurance
- Landlord (Rental Properties) Insurance
- Excess/Personal Umbrella Liability
- Flood Coverage, Primary & Excess
- Life Insurance
- Motorcycle Insurance
- Recreational Vehicle Insurance
- Watercraft Insurance
- Co-Ops Insurance
- Identity Theft Insurance
- Trip/Travel/International Medical & Evacuation Coverage
- Workers' Compensation (Domestic Help)
- Earthquake

## MyWave

[lawleyinsurance.com/mywave](http://lawleyinsurance.com/mywave)

**MyWave** – A customized portal for your HR needs: thousands of valuable resources, OSHA forms and peer-based forums to keep you informed and in-the-know

## Lawley Benefits University

[lawleyinsurance.com/lbu](http://lawleyinsurance.com/lbu)

**Lawley Benefits University** – Resources and events to help keep you informed about changes to healthcare legislation, healthcare reform, compliance issues and more. These tools help you successfully control insurance costs while staying educated on changes to the insurance environment

*Product services are subject to state regulations*

At Lawley Insurance we are committed to providing our clients with the best possible service. We have assembled an experienced team dedicated to your account.

The Specialty Account Manager supports your Producer in the servicing of your specialty policy needs.

<b>Specialty Account Manager</b>	Caitlin Celis	Phone:	(716) 849-4375
		Fax:	(716) 849-8291
		Email:	<a href="mailto:ccelis@lawleyinsurance.com">ccelis@lawleyinsurance.com</a>

The Insurance Advisor evaluates your exposures and designs a cost-effective program.

<b>Insurance Advisor</b>	William Fritts, Jr.	Phone:	(585) 344-9500
		Fax:	(716) 849-8291
		Email:	<a href="mailto:bfritts@lawleyinsurance.com">bfritts@lawleyinsurance.com</a>

The Account Executive supports your Producer and commercial lines team in the servicing of your account.

<b>Account Executive</b>	Susie E. Ott	Phone:	(585) 344-9501
		Fax:	(716) 849-8291
		Email:	<a href="mailto:sott@lawleyinsurance.com">sott@lawleyinsurance.com</a>

The Account Technician quality controls policy documents and manages all invoicing.

<b>Account Technician</b>	Cheryl Pena	Phone:	(716) 849-8687
		Fax:	(716) 849-8291
		Email:	<a href="mailto:cpena@lawleyinsurance.com">cpena@lawleyinsurance.com</a>

The Claim Consultant is responsible for reporting all loss information to the insurance company and then following up to make certain the claim is resolved.

<b>Claim Consultant</b>	Krista Voigt	Phone:	(716) 849-8651
		Fax:	(716) 849-8291
		Email:	<a href="mailto:kvoigt@lawleyinsurance.com">kvoigt@lawleyinsurance.com</a>

## Named Insured

Genesee County Industrial Development Agency dba Genesee County Economic Development Center  
 Genesee Gateway Local Development Corp  
 Genesee Agri-Business LLC  
 Genesee County Funding Corporation

**Policy Term:** 2/23/2021 - 2/23/2022  
**Retroactive Date:** Full Prior Acts  
**Policy Type:** Directors & Officers/Employment Practices Liability – Claims Made  
**Policy Number:** 106468425  
**Carrier:** Travelers Casualty & Surety Company of America - Admitted, "A++" A.M. Best Rating

Coverage	Limit	Retention
Directors & Officers Liability	\$5,000,000	\$10,000
Employment Practices Liability	\$1,000,000	\$10,000

## Additional Coverage Information

- Duty to Defend policy form
- Prior & Pending Litigation Date & Continuity Date
  - Directors & Officers: 2/23/1991
  - Employment Practices Liability: 2/23/2016
- Wage & Hour Defense Expense Sublimit: \$100,000
- Workplace Violence Expenses Sublimit \$250,000
- Defense Costs within the Limits
- Employment Practices Liability: Volunteers, Temporary Workers, and Interns are considered employees per the policy's definition of Employee

## Binding Requirements

- Request to bind

## Extended Reporting Period

- 12 Months at 75% of Annual Premium

This coverage form is written on a Claims-made basis. You may have an option to purchase an Extended Reporting Period (ERP) endorsement should your policy be cancelled or non-renewed

**Named Insured**

Genesee County Industrial Development Agency dba Genesee County Economic Development Center

**Policy Term:** 2/23/2021 - 2/23/2022  
**Retroactive Date:** Full Prior Acts  
**Policy Type:** Network Security / Privacy Liability Full Program – Claims Made  
**Carrier:** Hudson Excess Insurance Company (Non-Admitted: "A" A.M. Best Rating)

Coverage	Limit	Retention
First Party Insuring Agreement		
Business Interruption	\$1,000,000	6 hours
Contingent Business Interruption	\$1,000,000	6 hours
Digital Asset Destruction, Data Retrieval & System Restoration	\$1,000,000	\$5,000
System Failure Coverage	\$1,000,000	6 hours
Reputational Loss Coverage	\$1,000,000	2 weeks
Cyber Extortion & Ransomware Coverage	\$1,000,000	\$5,000
Breach Response & Remediation Expenses	\$1,000,000	\$5,000
Third Party Insuring Agreement		
Network Security & Privacy Liability	\$1,000,000	\$5,000
Regulatory Investigations, Fines & Penalties	\$1,000,000	\$5,000
Media Liability	\$1,000,000	\$5,000
PCI DSS Assessment Expenses	\$1,000,000	\$5,000
Breach Management Expenses	\$1,000,000	\$5,000
<b>Total Policy Aggregate</b>	<b>\$1,000,000</b>	<b>N/A</b>

**Additional Coverage Information**

- Social Engineering & Cyber Crime Sublimit: \$250,000
- Bodily Injury Claims: \$100,000
- Bricking Endorsement: \$1,000,000
- CryptoJacking Endorsement
- Defense Expenses Outside the Limit: \$1,000,000
- Forensic Accounting Coverage: \$50,000
- Invoice Manipulation Loss: \$250,000

**Increased Limit Option**

- Same terms & conditions as above
- \$1,000,000/\$1,000,000 limits increase to \$2,000,000/\$2,000,000
- Additional Premium: \$1,708.06

**Extended Reporting Period**

This coverage form is written on a Claims-made basis. You may have an option to purchase an Extended Reporting Period (ERP) endorsement should your policy be cancelled or non-renewed.

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Coverage	2/23/2020 - 2/23/2021	2/23/2021 - 2/23/2022
Directors & Officers Liability	\$ 10,464.00	\$ 10,992.00
Cyber Liability	N/A	\$3,199.61 <i>Including Taxes &amp; Fees</i>
<b>Total Premium</b>	<b>\$ 10,464.00</b>	<b>\$ 14,191.61</b>

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**Binding Requirements**

- Request to bind
- A completed, signed & dated Corvus Smart Cyber Application, including responses to all questions missing responses or answered with "Uncertain"
- Signed Total Cost Form
- Signed Terrorism Waiver if coverage is rejected
- Policyholder contact information (client name, policyholder name, email, job title) to grant access to the Corvus policyholder resource dashboard upon bind

Please review the contact information we have on file. Over the course of a year, we may need to reach out to you for updates, notices or important information. If there is a specific person we should contact directly for billing, claims, inspections, service requests, please note that next to their name and the preferred method of contact.

Changes or Corrections

Contact Name	Penny Kennett
Contact Address	Genesee County Industrial Development Agency 99 MedTech Dr STE 106 Batavia NY 14020
Contact Phone #	(585) 343-4866
Contact Email	pkennett@gcedc.com
Description	

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Genesee County Industrial Development Agency  
Genesee County Industrial Development Agency  
99 MedTech Dr STE 106  
Batavia, NY 14020

Is the mailing address listed above correct? Yes: \_\_\_\_\_ No: \_\_\_\_\_

If you have answered No to the question shown above, please make corrections below:

Please respond in Section 1 **and** Section 2, then sign where indicated:

**Section 1** - Select one of the following by placing an (X) in the appropriate box

By my signature below, I certify that I have requested Lawley Service bind coverage as shown in this proposal. All changes from the original proposal are noted and initialed.

By my signature below, I certify that I have requested Lawley Service bind coverage as shown in this proposal, with no changes from the original proposal

**Section 2** - Select one of the following by placing an (X) in the appropriate box

By my signature below, I certify that I have declined quotes for additional coverages

By my signature below, I certify that I have requested Lawley Service obtain Quotes for the following coverage: *(please list below)*

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Name: Genesee County Industrial Development Agency

Term: 2021 - 2022

We ask that you do not accept our brief description of the insurance coverages as a complete explanation of the policy terms. The actual policy language will govern the scope and limits of coverage involved.

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The following disclosure is provided pursuant to Insurance Department Regulation No. 194 (11 NYCRR 30.1 et seq.):

Lawley Service, Inc. and/or branch offices, ("the producer") is an insurance producer licensed by the State of New York. Insurance producers are authorized by their license to confer with insurance purchasers about the benefits terms and conditions of insurance contracts; to offer advice concerning the substantive benefits of particular insurance contracts; to sell insurance; and to obtain insurance for purchasers. The role of the producer in any particular transaction typically involves one or more of these activities.

Compensation will be paid to the producer, based on the insurance contract the producer sells. Depending on the insurer(s) and insurance contract(s) the purchaser selects, compensation will be paid by the insurer(s) selling the insurance contract or by another third party. Such compensation may vary depending on a number of factors, including the insurance contract(s) and the insurer(s) the purchaser selects. In some cases, other factors such as the volume of business a producer provides to an insurer or the profitability of insurance contracts a producer provides to an insurer also may affect compensation.

The insurance purchaser may obtain information about compensation expected to be received by the producer based in whole or in part on the sale of insurance to the purchaser, and (if applicable) compensation expected to be received based in whole or in part on any alternative quotes presented to the purchaser by the producer, by requesting such information from the producer.

January 28, 2021

Genesee County Industrial Development Agency  
Genesee County Industrial Development Agency  
99 MedTech Dr STE 106  
Batavia, NY 14020

Dear Penny:

Lawley has gone "paperless" and we encourage you to do the same. We are pleased to announce the option to receive your insurance policy documents electronically via E-mail.

If you would like to participate in our electronic delivery program, please review the following statement, provide us with your contact/recipient e-mail address and fax number, sign, and return to us via e-mail at ccelis@lawleyinsurance.com or fax number 716-849-8291.

We ("Client") hereby give consent and agree to receive documents related to insurance coverages written through or quoted by Lawley ("Agent/Broker") in the form of electronic records. Agent/Broker may transmit documents to Client through electronic media, including but not limited to electronic mail, optical disks (including but not limited to compact discs and digital versatile discs), floppy disks, hard drives, thumb drives, jump drives, magnetic tapes, facsimiles, downloads from Web sites, and any other kinds of electronic media acceptable to both Client and Agent/Broker. Documents to be so delivered include but are not limited to policy information pages and coverage forms; endorsements; binders; certificates and evidences of insurance; automobile insurance identification cards; premium quotations; premium worksheets; invoices; premium finance agreements; audit statements; loss control reports; claim reports; correspondence; and notices of cancellation and non-renewal. Client's signature or that of Client's representative signifies that Client voluntarily agrees to use electronic records in accordance with section 309 of the New York State Technology Law. Client understands that, from the date of this agreement until such time as Client or Client's representative revokes this consent in writing, Agent/Broker will send documents to Client in electronic form only and will not provide Client with paper copies of the documents. However, Client may specifically request a paper version of an electronically furnished document.

Please forward the documents to us via e-mail at:

Client contact E-mail address: \_\_\_\_\_

\_\_\_\_\_  
Client Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

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**Genesee Gateway Local Development Corp.**  
**December 2020 UNAUDITED Dashboard**  
**Balance Sheet - Accrual Basis**

	<u>12/31/20</u>	<u>11/30/20</u>	[Per Audit] <u>12/31/19</u>
<b>ASSETS:</b>			
Cash - Unrestricted	\$ 410,759	\$ 413,260	\$ 303,219
Cash - Restricted (A)	512,822	525,724	934,626
Cash - Reserved (B)	1,090,638	1,134,128	1,158,480
Cash - Subtotal	2,014,219	2,073,112	2,396,325
Grants Receivable	-	-	4,646
Accounts Receivable (1)	32,668	-	69
Loans Receivable - Current Portion	318,408	319,645	358,874
Other Current Assets (2)	872	1,308	872
<b>Total Current Assets</b>	<b>2,366,167</b>	<b>2,394,065</b>	<b>2,760,786</b>
Land Held for Dev. & Resale	3,496,874	3,495,374	3,489,854
Buildings & Improvements	7,202,120	7,202,120	7,202,120
Furniture, Fixtures & Equipment	46,599	46,599	43,600
Total Property, Plant & Equip.	10,745,593	10,744,093	10,735,574
Less Accumulated Depreciation	(1,957,031)	(1,940,723)	(1,760,244)
<b>Net Property, Plant &amp; Equip.</b>	<b>8,788,562</b>	<b>8,803,370</b>	<b>8,975,330</b>
Loans Receivable - Noncurrent Portion (Net of \$202,125 Allow for Bad Debt)	882,488	893,046	847,445
Equity Investment in Genesee Agri-Business, LLC (3)	3,220,240	3,220,240	3,220,240
<b>Other Assets</b>	<b>4,102,728</b>	<b>4,113,286</b>	<b>4,067,685</b>
<b>Total Assets</b>	<b>15,257,457</b>	<b>15,310,721</b>	<b>15,803,801</b>
<b>LIABILITIES:</b>			
Accounts Payable (4)	38,026	63,414	16,915
Unearned Revenue (5)	39,258	72,581	44,457
Security Deposits	109,944	109,944	108,680
Loans Payable - Current Portion	79,876	79,610	76,749
Bonds Payable - Current Portion	145,661	145,121	115,205
<b>Total Current Liabilities</b>	<b>412,765</b>	<b>470,670</b>	<b>362,006</b>
Loans Payable - Noncurrent Portion	2,261,584	2,268,363	2,341,460
Bonds Payable - Noncurrent Portion	2,681,703	2,695,314	2,850,337
<b>Total Noncurrent Liabilities</b>	<b>4,943,287</b>	<b>4,963,677</b>	<b>5,191,797</b>
<b>Total Liabilities</b>	<b>5,356,052</b>	<b>5,434,347</b>	<b>5,553,803</b>
<b>EQUITY</b>	<b>\$ 9,901,405</b>	<b>\$ 9,876,374</b>	<b>\$ 10,249,998</b>

**Significant Events:**

1. Accounts Receivable - Recoverable depreciation to be received related to MedTech Centre roof damage insurance claim; 241 Knapp Solar II project funding for Workforce Development & Economic Program Support; interest and misc.
2. Other Current Assets - Prepaid D & O Insurance.
3. Equity Investment in Genesee Agri-Business, LLC - ties to corresponding GAB, LLC financial statements.
4. Accounts Payable - 2020 expenses that will be paid in 2021.
5. Unearned Revenue - Balance includes MedTech Centre rent received in advance and interest received in advance; MedTech Centre insurance claim for wind damage roof repairs was recognized as revenue in December.

(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.

**Genesee Gateway Local Development Corp.**  
**December 2020 UNAUDITED Dashboard**  
**Profit & Loss - Accrual Basis**

	Month to Date		YTD		2020	2020
	12/31/20	12/31/19	2020	2019	Board Approved Budget	YTD % of Budget
<b>Operating Revenues:</b>						
Grants (1)	\$ 76,965	\$ (2,216)	\$ 419,769	\$ 812,775	\$ 924,615	45%
Interest Income on Loans	2,961	2,509	23,637	29,710	24,986	95%
Rent	58,224	58,237	701,552	680,653	724,855	97%
Common Area Fees - Parks	-	-	500	-	500	100%
Fees	-	-	4,900	9,481	-	N/A
Other Revenue	34,877	-	94,421	2,117	-	N/A
Land Sale Proceeds (3)	-	-	-	130,095	-	N/A
<b>Total Operating Revenues</b>	<b>173,027</b>	<b>58,530</b>	<b>1,244,779</b>	<b>1,664,831</b>	<b>1,674,956</b>	
<b>Operating Expenses:</b>						
Operations & Maintenance (2)	48,313	11,235	223,541	118,522	161,169	139%
Professional Services	31,368	25,334	132,995	139,467	155,483	86%
Econ. Dev. Prog. Support Grant	25,000	25,000	300,000	300,000	300,000	100%
Site Development Expense	12,993	-	525,641	2,289	727,612	72%
Cost of Sales	-	-	-	86,174	-	N/A
Grant Expense	-	-	-	-	819,648	0%
Real Estate Dev. (Capitalized)	1,500	-	7,020	13,090	11,670	N/A
Buildings/Furniture/Equip. (Capitalized)	-	-	2,999	59,671	-	0%
Balance Sheet Absorption	(1,500)	-	(10,019)	(72,761)	(11,670)	N/A
Depreciation	16,308	17,667	196,787	199,669	196,788	100%
<b>Total Operating Expenses</b>	<b>133,982</b>	<b>79,236</b>	<b>1,378,964</b>	<b>846,121</b>	<b>2,360,700</b>	
<b>Operating Revenue (Expense)</b>	<b>39,045</b>	<b>(20,706)</b>	<b>(134,185)</b>	<b>818,710</b>	<b>(685,744)</b>	
<b>Non-Operating Revenues (Expenses):</b>						
Other Interest Income	287	2,432	9,846	23,067	9,250	106%
Interest Expense	(14,301)	(19,765)	(224,254)	(264,732)	(245,105)	91%
<b>Total Non-Operating Exp.</b>	<b>(14,014)</b>	<b>(17,333)</b>	<b>(214,408)</b>	<b>(241,665)</b>	<b>(235,855)</b>	
<b>Change in Net Assets</b>	<b>25,031</b>	<b>(38,039)</b>	<b>(348,593)</b>	<b>577,045</b>	<b>\$ (921,599)</b>	
<b>Net Assets - Beginning</b>	<b>9,876,374</b>	<b>10,288,037</b>	<b>10,249,998</b>	<b>9,672,953</b>		
<b>Net Assets - Ending</b>	<b>\$ 9,901,405</b>	<b>\$ 10,249,998</b>	<b>\$ 9,901,405</b>	<b>\$ 10,249,998</b>		

**Significant Events:**

1. Grant Revenue - Balance of ABC Grant funds were used in December and the corresponding revenue was recognized; three solar projects closed in December (Townline Batavia Solar, 241 Knapp Solar I & II) and grant revenue was recognized supporting Workforce Development initiatives and the overall Ec. Dev. Program ; YTD includes Bright Oak Solar, \$225K OCR grant that supports loan to Freightliner and Darien Lake CBA payment.
2. Operations & maintenance - Includes MedTech Centre roof repairs caused by wind and water damage.

**Genesee Gateway Local Development Corp.**  
**December 2020 UNAUDITED Dashboard**  
**Statement of Cash Flows**

	<u>December 2020</u>	<u>YTD</u>
<b>CASH PROVIDED (USED) BY OPERATING ACTIVITIES:</b>		
Grant Income	\$ 50,000	\$ 397,450
Interest Income on Loans	1,209	21,568
Rental Income	56,483	698,848
Common Area Fees - Parks	-	500
Fees	-	4,900
Other Revenue	-	88,948
Operations & Maintenance	(10,995)	(186,048)
Professional Services	(44,294)	(148,700)
Economic Development Program Support Grant	(75,000)	(300,000)
Site Development Expense	(12,993)	(525,641)
Improvements of Land Held for Dev. & Resale	(1,500)	(7,020)
Issuance of Loans	-	(438,000)
Repayment of Loans	11,795	443,423
Net Cash Provided (Used) By Operating Activities	<u>(25,295)</u>	<u>50,228</u>
<b>CASH FLOWS USED BY CAPITAL &amp; RELATED FINANCING ACTIVITIES:</b>		
Principal Payments on Bonds & Loans	(19,584)	(214,927)
Interest Paid on Bonds & Loans	(14,301)	(224,254)
Purchase/Improvements of Buildings/Furniture/Equipment	-	(2,999)
Net Cash Used By Capital & Related Financing Activities	<u>(33,885)</u>	<u>(442,180)</u>
<b>CASH FLOWS PROVIDED BY INVESTING ACTIVITIES:</b>		
Interest Income	287	9,846
Net Cash Provided By Investing Activities	<u>287</u>	<u>9,846</u>
Net Change in Cash	(58,893)	(382,106)
Cash - Beginning of Period	2,073,112	2,396,325
Cash - End of Period	<u>\$ 2,014,219</u>	<u>\$ 2,014,219</u>
<b>RECONCILIATION OF OPERATING REVENUE (EXPENSE)</b>		
<b>TO NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES:</b>		
Operating Revenue (Expense)	\$ 39,045	\$ (134,185)
Adjustments:		
Depreciation Expense	16,308	196,787
Increase in Land Held For Dev. & Resale	(1,500)	(7,020)
Increase in Grants/Accounts Receivable	(32,668)	(27,953)
Decrease in Other Current Assets	436	-
Decrease in Loans Receivable	11,795	5,423
Increase (Decrease) in Operating Accounts Payable	(25,388)	21,111
Decrease in Unearned Revenue	(33,323)	(5,199)
Increase in Security Deposits	-	1,264
Total Adjustments	<u>(64,340)</u>	<u>184,413</u>
Net Cash Provided (Used) By Operating Activities	<u>\$ (25,295)</u>	<u>\$ 50,228</u>

**Genesee Gateway Local Development Corp.  
December 2020 UNAUDITED Dashboard  
Balance Sheet - Accrual Basis**

	GGLDC		GABLLC		COMBINED	
					12/31/20	Per Audit 12/31/2019
<b>ASSETS:</b>						
Cash - Unrestricted	\$ 410,759	\$ -	\$ -	\$ 410,759	\$ 303,219	
Cash - Restricted (A)	512,822	-	-	512,822	934,626	
Cash - Reserved (B)	1,090,638	1,695,534	-	2,786,172	1,425,731	
Cash - Subtotal	<u>2,014,219</u>	<u>1,695,534</u>	<u>-</u>	<u>3,709,753</u>	<u>2,663,576</u>	
Grants Receivable	-	-	-	-	4,646	
Accts Receivable - Current	32,668	-	-	32,668	69	
Loans Receivable - Current	318,408	-	-	318,408	358,874	
Other Current Assets	872	-	-	872	872	
<b>Total Current Assets</b>	<u>2,366,167</u>	<u>1,695,534</u>	<u>-</u>	<u>4,061,701</u>	<u>3,028,037</u>	
Land & Improvements	3,496,874	2,452,174	-	5,949,048	6,611,365	
Buildings & Improvements	7,202,120	-	-	7,202,120	7,202,120	
Furniture, Fixtures & Equipment	46,599	-	-	46,599	43,600	
Total Property, Plant & Equip.	<u>10,745,593</u>	<u>2,452,174</u>	<u>-</u>	<u>13,197,767</u>	<u>13,857,085</u>	
Less Accumulated Depreciation	(1,957,031)	-	-	(1,957,031)	(1,760,244)	
<b>Net Property, Plant &amp; Equip.</b>	<u>8,788,562</u>	<u>2,452,174</u>	<u>-</u>	<u>11,240,736</u>	<u>12,096,841</u>	
Loans Receivable - Noncurrent	882,488	-	-	882,488	847,445	
Equity Investment in GAB, LLC	3,220,240	-	(3,220,240)	-	-	
<b>Other Assets</b>	<u>4,102,728</u>	<u>-</u>	<u>(3,220,240)</u>	<u>882,488</u>	<u>847,445</u>	
<b>TOTAL ASSETS</b>	<u>15,257,457</u>	<u>4,147,708</u>	<u>(3,220,240)</u>	<u>16,184,925</u>	<u>15,972,323</u>	
<b>LIABILITIES:</b>						
Accounts Payable	38,026	-	-	38,026	20,135	
Unearned Revenue	39,258	-	-	39,258	45,657	
Security Deposits	109,944	-	-	109,944	108,680	
Loans Payable - Current Portion	79,876	-	-	79,876	76,749	
Bonds Payable - Noncurrent Portion	145,661	-	-	145,661	115,205	
<b>Total Current Liabilities</b>	<u>412,765</u>	<u>-</u>	<u>-</u>	<u>412,765</u>	<u>366,426</u>	
Loans Payable - Noncurrent Portion	2,261,584	-	-	2,261,584	2,341,460	
Bonds Payable - Noncurrent Portion	2,681,703	-	-	2,681,703	2,850,337	
<b>Total Noncurrent Liabilities</b>	<u>4,943,287</u>	<u>-</u>	<u>-</u>	<u>4,943,287</u>	<u>5,191,797</u>	
<b>TOTAL LIABILITIES</b>	<u>5,356,052</u>	<u>-</u>	<u>-</u>	<u>5,356,052</u>	<u>5,558,223</u>	
<b>EQUITY</b>	<u>\$ 9,901,405</u>	<u>\$ 4,147,708</u>	<u>\$ (3,220,240)</u>	<u>\$ 10,828,873</u>	<u>\$ 10,414,100</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.

**Genesee Gateway Local Development Corp.**  
**December 2020 UNAUDITED Dashboard**  
**Profit & Loss - Accrual Basis**

	GGLDC		GABLLC		COMBINED	
	12/31/20		12/31/20	Eliminations	12/31/20	Combined YTD
<b><u>Operating Revenues:</u></b>						
Grants	\$ 76,965	\$ -	\$ -	\$ -	\$ 76,965	\$ 419,769
Interest Income on Loans	2,961	-	-	-	2,961	23,637
Rent	58,224	1,200	-	-	59,424	715,352
Common Area Fees - Parks	-	-	-	-	-	5,500
Fees	-	-	-	-	-	4,900
Other Revenue	34,877	-	-	-	34,877	94,753
Land Sale Proceeds (1)	-	-	-	-	-	1,463,658
<b>Total Operating Revenues</b>	<b>173,027</b>	<b>1,200</b>	<b>-</b>	<b>-</b>	<b>174,227</b>	<b>2,727,569</b>
<b><u>Operating Expenses:</u></b>						
Operations & Maintenance	48,313	-	-	-	48,313	235,862
Professional Services	31,368	4,581	-	-	35,949	137,576
Econ. Dev. Program Support Grant	25,000	-	-	-	25,000	300,000
Site Development Expense	12,993	-	-	-	12,993	525,641
Real Estate Development (Capitalized)	1,500	-	-	-	1,500	7,020
Buildings/Furniture/Equipment (Capitalized)	-	-	-	-	-	2,999
Balance Sheet Absorption	(1,500)	-	-	-	(1,500)	(10,019)
Cost of Sales	16,308	-	-	-	16,308	719,948
Depreciation	-	-	-	-	-	180,479
<b>Total Operating Expenses</b>	<b>133,982</b>	<b>4,581</b>	<b>-</b>	<b>-</b>	<b>138,563</b>	<b>2,099,506</b>
<b>Operating Revenue (Expense)</b>	<b>39,045</b>	<b>(3,381)</b>	<b>-</b>	<b>-</b>	<b>35,664</b>	<b>628,063</b>
<b><u>Non-Operating Revenues (Expenses):</u></b>						
Other Interest Income	287	215	-	-	502	10,964
Interest Expense	(14,301)	-	-	-	(14,301)	(224,254)
<b>Total Non-Operating Rev (Exp)</b>	<b>(14,014)</b>	<b>215</b>	<b>-</b>	<b>-</b>	<b>(13,799)</b>	<b>(213,290)</b>
<b>Change in Net Assets</b>	<b>25,031</b>	<b>(3,166)</b>	<b>-</b>	<b>-</b>	<b>21,865</b>	<b>414,773</b>
<b>Net Assets - Beginning</b>	<b>9,876,374</b>	<b>4,150,874</b>	<b>(3,220,240)</b>	<b>-</b>	<b>10,807,008</b>	<b>10,414,100</b>
<b>Net Assets - Ending</b>	<b>\$ 9,901,405</b>	<b>\$ 4,147,708</b>	<b>\$ (3,220,240)</b>	<b>\$ -</b>	<b>\$ 10,828,873</b>	<b>\$ 10,828,873</b>

**Significant Events:**

1. Land Sale Proceeds GABLLC - HP Hood.



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Updated through 12.31.20 [1.29.2021]

**Genesee Gateway Local Development Corp. (GGLDC)  
Strategic Investments - SUMMARY  
Fiscal Years 2020 - 2024**

	2020	2021	2022	2023	2024	5 Yr Totals:	Comments
<b>Sources of Funds: Available for GGLDC Project Investments &amp; Operations Support</b>							
Opening GGLDC "Reserved for Strategic Investments" Cash Balances	927,224	2,009,555	1,333,920	1,087,599	969,180	927,224	
NYS Homes & Community Renewal Loan Repayments	210,260	181,743	147,220	147,220	127,545	813,988	Includes loan repayments from: First Wave Technologies, HP Hood (\$500K loan disbursed in March 2019 to be repaid at \$100K/year beginning in 2020) and Freightliner (\$234K loan disbursed in July 2019 to be repaid monthly over 5 years).
Wellsville Carpet Town 2019 Land Sale - Net Proceeds							
Upstate Niagara 2020 Land Sale - Net Proceeds	322,971					322,971	
HP Hood 2020 Land Sale - Net Proceeds	1,105,765					1,105,765	
Other:							
Solar Projects - Funding for Workforce Development & Econ. Dev. Program Support	75,000	25,000				100,000	Solar projects agree to pay \$25K each at the completion of their projects to support Workforce Development Initiatives, along with the overall ED Program.
Genesee County Chamber of Commerce CDBG Loan Repayments	14,387					14,387	Represents actual collections only - opportunity for future loan payments to be received.
Internal Borrowings/Repayments - Due to Strategic Investment Funds				127,608		127,608	Borrowed from and to be repaid to strategic investment funds; Majority used to repay loan from GGLDC related to BETP land purchase; Strategic investments will be reimbursed with future BETP land sale proceeds.
<b>Total Sources of Funds</b>	<b>2,655,607</b>	<b>2,216,298</b>	<b>1,481,140</b>	<b>1,362,427</b>	<b>1,096,725</b>	<b>3,411,943</b>	
<b>Uses: Strategic and Operational Investments:</b>							
<b>Real-Estate Development / Shovel-Ready Site Development Related:</b>							
Other	(120,000)					(120,000)	\$500,000 Housing Directional investment repurposed to a committed investment for the purpose of establishing the Batavia Micropolitan Area Redevelopment Fund (\$100K loaned in 2014/\$150K loaned in 2017/\$120K loaned in May 2020). [Amount reserved includes cash remaining from original \$500K commitment, plus interest earned on reserved funds.]
Other	(134,481)					(134,481)	Reserve established for future shovel-ready requirements @ MedTech Centre - Potentially reclass to reserve for Project Infrastructure Financing
Other					(500,000)	(500,000)	
<b>5 Yr Totals:</b>							

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Updated through 12.31.20 [1.29.2021]

**Genesee Gateway Local Development Corp. (GGLDC)  
Strategic Investments - SUMMARY  
Fiscal Years 2020 - 2024**

	2020	2021	2022	2023	2024	5 Yr Totals:	Comments
<b>Other</b>							
Reserved Funds: Project Infrastructure Financing		(500,000)				(500,000)	Placeholder - Would be repaid by future project revenues.
Subtotal Real-Estate Development / Shovel-Ready Site Development	(254,481)	(500,000)			(500,000)	(1,254,481)	
<b>Economic Development Program Support:</b>							
Economic Development Program Grant (GGLDC to GCEDC)	(300,000)	(300,000)	(300,000)	(300,000)	(300,000)	(1,500,000)	Approvals necessary for 2022 forward.
LDC Operations Costs & Site Infrastructure Maint. (excluding MTC)	(91,731)	(85,000)	(85,000)	(85,000)	(85,000)	(431,731)	Memo Only - Funds insurance, mowing, Fire District fees/property taxes, GGLDC audit fee, legal fees and other misc operating expenses (unreimbursable H. Sichertman services, GABLLC operating expenses, etc).
Subtotal Investments in Economic Development Program	(391,731)	(385,000)	(385,000)	(385,000)	(385,000)	(1,931,731)	
<b>Strategy, Workforce Development &amp; Entrepreneurship:</b>							
Edge Factor Membership Support / Mechanics / STEM Activities Support / Other WFD Initiatives	(14,303)	(1,447)				(15,750)	The Board authorized commitment of 50% of the Pearl Solar funding toward Workforce Development Initiatives.
Workforce Development Consultant	(11,611)	(30,000)	(30,000)	(30,000)	(30,000)	(131,611)	Board authorized - continued efforts for workforce development consultant as critical pillar to GCEDC/GGLDC Tech Based Economic Development Model. Any eligible funding secured will be used to offset this appropriation/funding. (Contract runs Aug-Aug. Current contract ends Aug 2021; Future approvals necessary to extend commitment beyond current contract.)
Subtotal Workforce Development & Entrepreneurship Investments	(25,914)	(31,447)	(30,000)	(30,000)	(30,000)	(147,361)	
<b>Other Cash Activity:</b>							
Common Area Charges - GVAB & BETP	\$ 5,500	\$ 6,771	\$ 6,771	\$ 6,771	\$ 6,771	\$ 32,584	
Land Lease Payments	\$ 17,032	\$ 27,298	\$ 14,688	\$ 14,982	\$ 15,281	\$ 89,281	
Internal (Borrowings) Repayments - thru date of worksheet	\$ (248)					(248)	
Interest Income	\$ 3,790					3,790	
Subtotal - Other	\$ 26,074	\$ 34,069	\$ 21,459	\$ 21,753	\$ 22,052	\$ 125,407	
Total Uses of Funds	(646,052)	(882,378)	(393,541)	(393,247)	(892,948)	(3,208,166)	
<b>Cumulative Year-End Cash Balances</b>	<b>2,009,555</b>	<b>1,333,920</b>	<b>1,087,599</b>	<b>969,180</b>	<b>203,777</b>	<b>203,777</b>	

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Updated through 12.31.20 [1.29.2021]

**Genesee Gateway Local Development Corp. (GGLDC)  
Strategic Investments - SUMMARY  
Fiscal Years 2020 - 2024**

	2020	2021	2022	2023	2024	5 Yr Totals:	Comments
<b>Opportunities:</b>							
DOL MedTech Centre Reserve (\$500K) could be removed in the future.							
- Potentially reclass to Reserve for Project Infrastructure Financing							
Grant funds to cover a portion of Workforce Development Consultant expenses.							
Genesee County Chamber of Commerce CDBG Loan Portfolio - Additional Repayments							
YSG Solar - Workforce Development & Ec. Dev. Program Support Funding (\$25K)							
YSG Solar - Annual Lease Payments (starting at \$12K/yr)							
Additional Solar Projects w/ \$25K each committed to Workforce Development & Ec. Dev. Program Support							
Land Sales - Approved:							
- Gateway II - Mega Properties (\$337,500 Gross Proceeds)							
Land Sales - Potential/Pending:							
- Gateway GS, LLC (approx. 14 acres remaining - \$466,000 Proceeds, Net of Purchase Credit for Roadway & Waterline)							
- GYAB - HP Hood (\$1,521,000 Gross Proceeds)							
- Project Granola ( \$750,000 Gross Proceeds)							
- BETP - Fancher Phase I (\$150,000 Gross Proceeds) (\$127K would be used to repay strategic inv funds; balance of \$23K would be net opportunity)							
- BETP - Fancher Phase II (\$100,000 Gross Proceeds)							
OCR Projects:							
- HP Hood & Upstate Niagara (50% loan / 50% grant)							
<b>Risks:</b>							
First Wave Technologies - Repayment of loan (term ends April 2021)							
<b>Note:</b>							
Potential WFD activity to be discussed.							

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**GGLDC**  
**Audit & Finance Committee Report**  
**February 2, 2021**

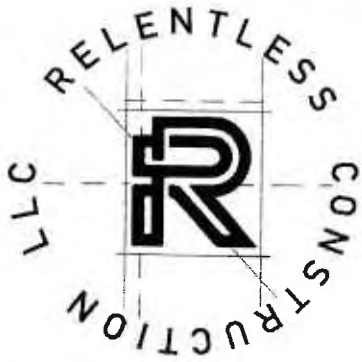
**MedTech Centre Stairs – Paint and Resurface**

**Discussion:** The GGLDC received three bids for painting and resurfacing of the three stairwells at the MedTech Centre building. The bids came in as follows:

- Relentless Construction, LLC \$12,750
- S.J.F Construction, Inc. \$16,825
- Whitney East, Inc \$19,023

**Fund commitment:** The GGLDC 2021 budget includes \$15,000 under the MedTech Centre site maintenance line item for this expense.

**Committee action request:** Recommend approval to the full Board of a contract with Relentless Construction, LLC for \$12,750.



13860 Gillette Rd  
Albion, NY 14411

Phone 585-416-9456  
Cell 585-416-8349

[josh@relentlessconstruction.com](mailto:josh@relentlessconstruction.com)

## Proposal: RC-127-09022020

Staircase Renovation  
Genesee County Economic Development Center  
Attn: Mark Masse  
99 MedTech Dr Suite 106  
Batavia, NY 14020

Attn: Mr. Mark Masse, CPA

Thank you for allowing me the opportunity to submit this proposal for the work reviewed at site. In this proposal you will find the work listed by stairwell with a description of the work requested. Relentless Construction, LLC uses all HEPA dust extractors and vacuum sanders to limit dust exposure up to 98% as rated by Festool. This is requested by OSHA at all commercial jobsites.

### Scope of work for ST1 and ST2:

- Scrape and sand all bubbled rust spots
- Prime with Rust Inhibitor before finish painting
- Apply (2) coats of color match metal contact industrial epoxy paint to all stringers
- Install 6" rubber base on all risers

### Scope of work for Main Staircase:

- Remove all white under stair covering for access to stairs. Once under stair is removed, we will thoroughly clean the pieces and parts before reinstalling.
- Remove all trad caps and clean remaining glue from tread
- Scrape and sand all bubbled rust spots
- Prime with Rust Inhibitor before finish painting
- Apply (2) coats of color match metal contact industrial epoxy paint to all stringers
- Install new tread cap as chosen at site visit. There are 24 treads total.
- Once complete we will reinstall under stair covering.

WE PROPOSE HEREBY TO FURNISH MATERIAL; AND LABOR – COMPLETE IN ACCORDANCE WITH THE SPECIFICATIONS ABOVE FOR THE SUM AMOUNT: \$ 12,750.00

UPON THE TERMS AND CONDITIONS SET FORTH IN THE ATTACHED CONTRACT, WHICH PROJECT WE ESTIMATE WILL REQUIRE APPROXIMATELY **4 WORKING DAYS TO COMPLETE.**

# Whitney East Inc.

General Contractor Construction Manager

1504 Scottsville Road

Rochester, NY 14623

585.328.7100 (ph)

585.328.4956 (fax)

WhitneyEast.com

Builders@WhitneyEast.com

8/10/2020

Mark Masse

Re: GCEDC Med-Tech Stair Tread Replacement

Dear Mark,

After reviewing the stairs GCEDC Med-Tech, below you will find the break out of the pricing to repair.

### End Stairwells (Qty of 2)

Flooring	\$ 9,354.00
Paint	\$ 1,800.00
Dumpsters	\$ 200.00
Supervision	\$ 340.00
Cleaning	\$ 200.00
Sub-Total	\$11,894.00
O&P (8%)	\$ 951.00
Total Price	\$12,845.00

### Main Entry Stairwell

Flooring	\$ 4,350.00
Paint	\$ 900.00
Dumpsters	\$ 100.00
Supervision	\$ 170.00
Cleaning	\$ 200.00
Sub-Total	\$ 5,720.00
O&P (8%)	\$ 458.00
Total Price	\$ 6,178.00

Total price for the three stairwells..... \$ 19,023.00

If there are any questions regarding this quoted feel free to contact me at any time.

Thanks,

*ZAC CONDIDORIO*

Zac Condidorio  
Project Manager / Estimator

**S.J.F. Construction, Inc.**

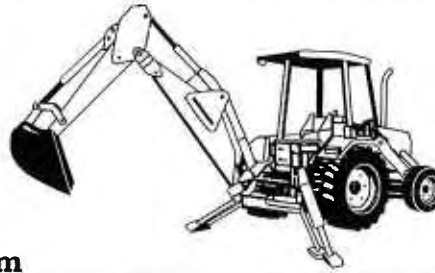
**2025 Attica Road**

**Darien Center, NY 14040**

**Telephone: (585) 547-9490**

**Facsimile: (585) 547-9401**

**Web Site: [www.sjfconstructioninc.com](http://www.sjfconstructioninc.com)**



DATE: October 22, 2020  
TO: GCEDC  
ATTN: Penny Kennett  
EMAIL: [gcedc@gcedc.com](mailto:gcedc@gcedc.com)  
PHONE: 548-9983  
RE: Painted stairways & new tread on surfaces

## ESTIMATE

- I). All materials and labor by S.J.F. Construction, Inc. unless specified below.
- II). Quote is valid for 30 days. Every attempt would be made to hold pricing as shown by working with established vendors.
- III). S.J.F. Construction, Inc. to supply owner with appropriate insurance certificate (general liability & worker's compensation).
- IV). No permits / No engineered plan costs included at this time.
- V). A capital improvement form would be required for each project as outlined. Should any of the projects be tax exempt the necessary form would be required previous to any work being performed.
- VI). All labor to be performed at a prevailing wage rate

### **Description of work:**

- Supply labor and materials to prep, prime and paint existing stairs at (3) locations as shown by GCEDC representative
  - Main stairs, ST-1 & ST-2
  - All rusted areas on the stairs will be scraped free and sanded free of any rust. All previously rusted areas will be spot primed with (1) coat of Kem-bond primer
  - All three stair areas will receive (2) finish coats of surface enamel (price below does not reflect any paint on existing railings)
- Supply labor to remove debris catcher on main stair
  - Store and put back into place once painting is finished
- Supply labor and material to remove existing stair treads and replace with a non-slip vinyl stair trend
  - Johnsonite rubber hammered x long depth with grip strip - 54"
    - Inclusive of tile, tread adhesive and epoxy corner adhesive

**Total estimate price for above job: \$16,825.00**

**Audit & Finance Committee  
February 3rd, 2021**

**Approval of loan and grant agreement with HP Hood, LLC**

**Discussion:** The Town of Batavia has completed, submitted and been approved to receive Federal grant assistance in the amount of \$734,000 from NYS Housing Trust Fund Corporation represented by the NYS Office of Community Renewal through the Community Development Block Grant (CDBG) Fund for the purpose of providing financing to assist HP Hood, LLC for the installation of a new filler line in at its existing production facility located at 5140 W. Ag Park Drive in the Town of Batavia. The GGLDC has previously approved a grant agreement with the Town of Batavia that lays out the terms and conditions of that funding being received by the Town of Batavia and then disbursed and administered by the GGLDC. The agreement before the committee today is the loan agreement for the \$734,000 between HP Hood, LLC and the GGLDC. The terms and conditions of this loan agreement are consistent with previous CDBG funding. It is 50% loan, 50% grant, five-year amortization and 0% interest rate.

**Fund commitment:** \$734,000 in CDBG funding that will be provided through the Town of Batavia.

**Committee action request:** Recommend approval to the full Board of the loan agreement with HP Hood, LLC for the CDBG funding.



## LOAN AND GRANT AGREEMENT

THIS AGREEMENT, entered into this        day of        , 2021 by and between Genesee Gateway Local Development Corporation, a not-for-profit corporation organized and existing under and by virtue of the laws of the State of New York and having its principal offices at 99 MedTech Drive, Batavia, New York 14020 (hereinafter the "Lender"), and HP Hood LLC, a Delaware limited liability company having offices and a place of business at Six Kimball Lane, Lynnfield, Massachusetts 01940 (hereinafter the "Borrower")

WITNESSETH:

WHEREAS, the Town of Batavia, New York (hereinafter the "Town") has received Community Development Block Grant funding for the purpose of providing financing to Borrower to support Borrower's installation of an additional filler line at its existing production facility located in the Genesee Valley Agri-Business Park within the Town; and

WHEREAS, pursuant to a Grant Agreement between the Town and the Lender dated December 18, 2020, the Town will provide such Community Development Block Grant funding to Lender for the purpose of making a loan or loans to Borrower.

NOW, THEREFORE, the parties do hereby agree as follows:

### Section 1. Definitions

Unless specifically provided otherwise or the context otherwise requires, when used in this Agreement:

1.01 "Application" means Town's grant application to the Office of Community Renewal dated September 4, 2020 for funding under the Community Development Block Grant program and any additional submittals by the Borrower to support the Application, with such Application and submittals being incorporated herein by reference and made a part hereof.

1.02 "CDBG" means Community Development Block Grant, a program of the United States Department of Housing and Urban Development.

1.03 "CDBG Funds" means Community Development Block Grant funds, including funds in the form of grants under 24 CFR Part 570, Subpart I, and Program Income as defined at 24 CFR 570.489(e).

1.04 "HTFC" means the New York State Housing Trust Fund Corporation.

1.05 "HUD" means the United States Department of Housing and Urban Development.

1.06 "Labor Market Area" shall have the meaning defined at 24 CFR 570.482(h)(2)(ii).

1.07 "OCR" means the Office of Community Renewal, an office of New York Homes and Community Renewal.

1.08 "OCR Grant" means the award of CDBG funds to the Town by HTFC as represented by OCR and as evidenced by Grant Agreement #83ED957-20 between the Town

and HTFC dated October 15, 2020.

1.09 "Project" means the activities described in the Application that are to be undertaken by Borrower in connection with its installation of an additional filler line at its existing production facility located at 5140 W. Ag Park Drive, Batavia, New York 14020.

1.10 "Town" means the Town of Batavia, a municipal subdivision of the State of New York.

1.11 "Town Agreement" means the Grant Agreement dated December 18, 2020 between the Town and Lender, pursuant to which the Town will make a grant to Lender for the purpose of funding the Loan and Grant (as such terms are hereinafter defined), such Grant Agreement being incorporated herein by reference and made a part hereof.

## SECTION 2. LOAN, GRANT, AND SECURITY

2.01 The Commitment. Subject to the terms and conditions of this Agreement and subject to Lender's receipt of sufficient funds pursuant to the Town Agreement, Lender agrees to make a loan to Borrower in an aggregate principal amount of Three Hundred Sixty-Seven Thousand and 00/100 dollars (\$367,000) (hereinafter the "Loan"), and a grant to Borrower in the aggregate principal amount of Three Hundred Sixty-Seven and 00/100 dollars (\$367,000) (hereinafter the "Grant"). The Loan shall be repaid over a five (5)-year term with interest at the rate of zero percent (0%) per annum. The Loan shall be evidenced by one or more promissory notes (the "Note" or "Notes").

2.02 Loan Repayment. Commencing on \_\_\_\_\_, 2022, Borrower shall make equal annual payments of principal sufficient to fully amortize the Loan over the Loan term as more fully set forth in the Note.

2.03 Intentionally omitted.

2.04 Intentionally omitted.

2.05 Use of Proceeds. The Loan and Grant proceeds shall be used by Borrower to finance machinery and equipment costs associated with the Project and incurred on or after \_\_\_\_\_ **[insert concurrence date]**.

2.06 Collateral. As security for repayment of the Loan, Borrower shall, at all times while the Loan shall remain unpaid, maintain for the benefit of Lender a letter of credit from Bank of America (Account Number: \_\_\_\_\_) (the "Letter of Credit") in an amount equal to the outstanding principal balance of the Loan, up to \$367,000. The Letter of Credit shall be used at Lender's option to pay the outstanding balance of the Loan upon the occurrence and/or continuance of an Event of Default, as hereinafter defined. The Borrower shall take no act or omission to prevent, delay or otherwise inhibit Lender's access to funds under the Letter of Credit with Bank of America in the event of an Event of Default. The Borrower authorizes Lender, through its authorized agents(s), to obtain information directly from Bank of America relative to the Letter of Credit.

2.07 Authorization to Perfect Interest. Lender may execute and file any instrument necessary to perfect its security interest in the collateral described in Section 2.06 of this Agreement without the necessity of Borrower signing such instrument.

2.08 Guarantees. Intentionally omitted.

2.09 Life Insurance. Intentionally omitted.

2.10 Subordination of Member, Officer, and Other Loans. Intentionally omitted.

2.11 Disbursement of Proceeds. The Loan and Grant proceeds shall be disbursed in the following manner:

(a) Lender shall not be obligated to disburse any Loan or Grant proceeds until each of the following has occurred:

(i) Borrower shall have executed all documents evidencing and securing the Loan and shall be in compliance therewith and no Event of Default, as hereinafter defined, shall have occurred;

(ii) Borrower shall have presented evidence satisfactory to Lender that all Loan and Grant proceeds to be disbursed represent paid or accrued expenses of Borrower which are eligible Project costs as described in the Application (or in any approved budget modifications thereto), which were incurred on or after \_\_\_\_\_ **[insert concurrence date]** and which were not paid for through the U.S. Small Business Administration's Paycheck Protection Program ("PPP") or Economic Injury Disaster Loans ("EIDL") or other COVID-19 relief program; and

(iii) Borrower shall have presented evidence satisfactory to Lender that the Project as described in the Application either (i) has been completed, or (ii) is being implemented and will be completed within a reasonable period of time as determined by Lender.

(b) Lender shall not be obligated to disburse Loan or Grant proceeds that exceed an aggregate amount equal to four percent (4%) of total documented Project Costs expended as of the date of the Loan or Grant disbursement.

(c) Borrower's request to receive Loan and Grant proceeds shall be made in writing to Lender and shall include a schedule detailing the total amount being requested and a reasonable breakdown of the amount by line item and/or subcontract.

(d) Lender shall have the right, at its sole option, to disburse all or any portion of the Loan and Grant proceeds by making payment directly to a contractor, subcontractor, or vendor to pay accrued expenses of Borrower which represent eligible Project costs.

(e) No Grant proceeds shall be disbursed to Borrower until all Loan proceeds have been disbursed.

(f) Notwithstanding any other provision of this Section 2.11, Lender shall not be obligated to disburse any Loan or Grant proceeds to Borrower that are requested by Borrower after October 14, 2022 or if an Event of Default has occurred.

### SECTION 3. REPRESENTATIONS AND WARRANTIES

In order to induce Lender to enter into this Agreement and to make the Loan and Grant herein provided for, Borrower hereby represents and warrants to Lender that:

3.01 Legal Existence. If an entity, Borrower is duly organized, validly existing and in good standing under the laws of the State of Delaware, is authorized to do business in the State of New York, and has the legal power to own its assets and to transact the business in which it is presently engaged.

3.02 Power and Authorization. Borrower has the authority and legal right to make, deliver and perform this Agreement and the documents evidencing and securing, or otherwise executed in connection with, the Loan and Grant (the "Loan Documents") and to borrow hereunder. No consent of any other party and no consent, license, approval or authorization of, or registration or declaration with, any governmental authority, bureau or agency is required in connection with the execution, delivery, performance, validity or enforceability of this Agreement or the Loan Documents.

3.03 No Legal Bar to Loans. The execution, delivery and performance of this Agreement and the Loan Documents will not, to the Borrower's knowledge, violate any provision of any existing law or regulation or of any order or decree of any court or governmental instrumentality, or any mortgage, indenture, contract or other agreement to which Borrower is a party or by which Borrower and any of its property or assets may be bound.

3.04 No Material Litigation. No litigation or administrative proceedings of or before any court, tribunal or governmental body is presently pending, or, to the knowledge of Borrower, threatened against Borrower with respect to this Agreement or the Loan Documents.

3.05 Financial Condition. Intentionally omitted,

3.06 No Default. Borrower is not in default in the payment of any municipal, state or federal tax relating to the Project or Borrower's facility in Batavia, New York.

3.07 Ownership of Properties; Liens. Intentionally omitted.

3.08 Filing of Statements and Reports. Intentionally omitted.

3.09 Job Relocation Statement. The Project will not result in the relocation of any industrial or commercial plant, facility or operation from one Labor Market Area (LMA) to another.

3.10 No Duplication of Benefits. None of the Project costs to be reimbursed with the Grant proceeds were paid from any other business assistance program or relief benefits from any other source, including, but not limited to, any program funded under the CARES Act or other COVID-19 relief legislation, such as the Paycheck Protection Program or Economic Injury Disaster Loans.

SECTION 4. CONDITIONS OF LENDING.

The obligation of Lender to make advances of the Loan and Grant is subject to the following conditions precedent to each advance unless waived by Lender:

4.01 Compliance with this Agreement. At the time of the making of the Loan and Grant or any advance thereof, Borrower shall have complied, and then be in compliance with, all the terms, conditions, covenants, representations and warranties herein set forth, as set forth in the Application, and as set forth in all documents executed in connection with the Loan and Grant including without limitation, this Agreement and the Note, and there shall exist no event of default under this Agreement or any document executed by and between Lender and Borrower evidencing the Loan.

4.02 Authorizing Action. Lender shall, at the time of the making of the Loan and Grant, have received copies of all papers evidencing all LLC action taken by the Borrower, and all legal matters incident to the Loan and Grant shall be satisfactory to the counsel for Lender.

4.03 Certifications. Intentionally omitted.

4.04 Opinion of Borrower's Counsel. Intentionally omitted.

4.05 Loan Documents. All documents required by this Agreement and required by Lender's counsel which evidence and secure the Loan and Grant shall have been executed and delivered to Lender.

4.06 Title Insurance. Intentionally omitted.

4.07 Municipal Compliance. Intentionally omitted.

4.08 Flood Hazard. Intentionally omitted.

4.09 Insurance.

(a) Borrower shall have delivered to Lender evidence of property insurance insuring Borrower's real and personal property located in Batavia, New York.

(b) Borrower shall have delivered to Lender evidence of liability insurance relating to Borrower's operations in Batavia, New York.

4.10 Other. Such other information and documentation as Lender may reasonably require.

4.11 Fees and Expenses. Borrower shall pay all costs and expenses of Lender incidental to the Loan and Grant including, without limitation, Lender's attorney's fees.

SECTION 5. AFFIRMATIVE COVENANTS

Borrower hereby covenants that so long as the Loan remains outstanding and unpaid, Borrower will, unless otherwise consented to in writing by Lender:

5.01 Financial Statements. Intentionally omitted.

5.02 Payment of Obligations. Pay and discharge at or before maturity, all of its obligations and liabilities relating to its facility in Batavia, New York, including without limitation tax liabilities, except where the same may be contested in good faith, and will maintain, in accordance with generally accepted accounting principles, appropriate reserves for the accrual of any of the same.

5.03 Maintenance of Properties; Insurance. Keep all properties useful and necessary in Borrower's operations in Batavia, New York in good working order and condition; maintain, with financially sound and reputable insurance companies, insurance on all of its property (both real and personal) located in Batavia, New York in such amounts as Borrower deems proper in accordance with sound business practices against such risks as are usually insured against in the same general area and by companies engaged in the same or a similar business; and furnish to Lender, upon written request, full information as to the insurance carried.

5.04 Taxes. Pay and discharge all taxes, assessments and governmental charges or levies imposed upon its property in Batavia, New York prior to the date on which any penalties attach thereto, provided that Borrower shall not be required by this to pay any such tax, assessment, charge or levy, the payment of which is being contested in good faith and by proper proceedings.

5.05 Existence. Maintain its existence and its authority to do business in New York State.

5.06 Records Retention. Retain all records and books of account that are directly pertinent to this Agreement for three (3) years after the OCR Grant and all pending matters have closed.

5.07 Inspection of Property, Books and Records. Permit Lender, OCR, HUD, the Inspector General of the United States, or any agents or representatives thereof, at any reasonable time and as often as may be reasonably desired, to examine and to make copies and abstracts of Borrower's records and books of accounts solely for the purpose of determining or verifying information pertinent to the covenants and conditions of this Loan Agreement.

5.08 Litigation. Promptly give notice in writing to Lender of all litigation and of all proceedings before any governmental or regulatory agency against Borrower relating to the Project or this Loan Agreement, except litigation or proceedings not materially affecting Borrower's operations in Batavia, New York.

5.09 Notices.

(a) Keep Lender fully informed as to all matters that may affect the ability of Borrower to perform the obligations under the Loan Documents.

(b) Furnish to Lender as soon as possible, and in any event within five days after the occurrence of any Event of Default under this Agreement, the statement in writing of any authorized representative of Borrower setting forth the details of such Event of Default and the action which Borrower proposes to take with respect thereto.

(c) Furnish to Lender such other information respecting the condition or operations, financial or otherwise, of Borrower as Lender may from time to time reasonably request.

5.10 Compliance With Federal Statutes. Comply with all of the following requirements as applicable:

(a) Title VI of the Civil Rights Act of 1964 {42 U.S.C. 2000d *et seq.*}, which provides that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(b) Section 109 of the Housing and Community Development Act of 1974 (the "Act"), as amended, and the implementing regulations at 24 CFR 570.602, which require that no person in the United States shall on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with community development funds made available pursuant to the Act. Section 109 of the Act, and the implementing regulations at 24 CFR Part 146 and 24 CFR Part 8 further provide for the prohibition of discrimination on the basis of age under the Age Discrimination Act of 1975 {42 U.S.C. 6101 *et seq.*}, or with respect to an otherwise qualified handicapped person as provided in section 504 of the Rehabilitation Act of 1973 {29 U.S.C. 794}.

(c) The Housing and Community Development Act of 1974, as amended, and the implementing regulations at 24 CFR Part 570.

(d) If Loan proceeds are used for construction in excess of \$2,000.00, Section 110 of the Housing and Community Development Act of 1974 (the "Act"), as amended, which requires that all laborers and mechanics employed by contractors or subcontractors on construction work financed in whole or in part with assistance received under the Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a to a-5), and which further requires compliance with the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*)

(e) If Loan proceeds are used for construction, the Copeland "Anti-Kickback" Act (17 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).

(f) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4021a).

(g) Executive Order 11246, as amended by Executive Order 12086, and the regulations issued pursuant thereto (41 CFR Chapter 60) which provided that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or federally assisted construction contracts.

The Borrower's compliance shall include causing all contractors and subcontractors providing labor services to be paid from Loan proceeds to comply with the provisions of Executive Order 11246, as amended by Executive Order 12086.

(h) The requirements of the Americans with Disabilities Act of 1990, as amended.

(i) The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.), and the implementing regulations contained in 24 CFR 570.608, respecting prohibition against the use of lead-based paint, notification of hazards of lead-based paint poisoning, and elimination of lead-based paint hazards.

(j) Standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).

(k) In the event services include the performance of experimental, developmental, or research work, the Federal Government and the Town shall have patent rights in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by HUD.

(l) All contracts subject to Section 3 of the Housing and Community Development Act of 1968, as amended (12 U.S.C. 1701u), shall include the clause set forth at 24 CFR 135.38 as provided in the Section 3 Rider.

(m) CDBG Funds shall not be used by Borrower to directly assist in the relocation of any industrial or commercial plant, facility, or operation from one Labor Market Area (as such term is defined at 24 CFR 570.482(h)(2)(ii) and is hereinafter referred to as "LMA") to another LMA if the relocation is likely to result in a significant loss of employment (as such term is defined at 24 CFR 570.482(h)(2)(iv)) in the LMA from which the relocation occurs.

5.11 Additional Federal, State, and Local Requirements. Be bound by, and comply with, all applicable Federal, State, and local laws and regulations, including, but not limited to, 2 CFR Part 200 and 24 CFR Part 570.

5.12 Completion of Project. Undertake and complete the Project in accordance with the Application and this Loan Agreement. Borrower acknowledges that the Loan and Grant are funded with monies provided through the CDBG program and is made available under a grant from OCR to the Town and agrees to complete the Project as approved by OCR in a manner consistent with the laws, regulations and policies of the CDBG program.

5.13 Project Cost Documentation. In the manner prescribed by the OCR, provide to Lender an accounting of all Project costs and documentation that such costs have been incurred by Borrower and have been paid.

5.14 Disclosure of Other Assistance. Notify Lender of (a) other business assistance or relief benefits received by Borrower from any other source, including, but not limited to, any assistance funded under the CARES Act or other COVID-19 relief legislation, such as the Paycheck Protection Program or Economic Injury Disaster Loans and (b) the use of such



assistance or relief benefits, for the purpose of verifying that none of the costs funded or to be funded under this Agreement were paid for with such assistance.

## SECTION 6. INTENTIONALLY OMITTED

## SECTION 7. EMPLOYMENT

7.01 Definitions. Unless specifically provided otherwise or the context otherwise requires, when used in this Section:

(a) "Covered Jobs" means any and all employment positions created by Borrower on or after October 15, 2020 and as a direct result of the Project, notwithstanding any estimates of covered jobs provided by Borrower for the Application.

(b) "Employment and Reporting System" means those forms and instructions, in written and/or electronic format, provided to Borrower by Lender for the purpose of reporting data and information required pursuant to this Section 7.

(c) "Family" means all persons living in the same household who are related by birth, marriage or adoption.

(d) "Household" means all persons who occupy a common housing unit.

(e) "Low- and Moderate-Income Person" means a member of a family having an income equal to or less than the applicable Section 8 lower income limit established by HUD. Unrelated individuals shall be considered as one-person families for this purpose.

7.02 Compliance with Federal Requirements. Borrower acknowledges that the Loan and Grant evidenced by this Agreement are subject to the requirements of Federal statute and regulation relative to the use of Community Development Block Grant funds, and that Borrower's agreement to accept the loan funds pursuant to this Agreement requires Borrower's compliance with regulations set forth in 24 CFR Part 570, and policies and procedures implemented thereunder by HUD, the United States Department of Labor, OCR, and such other Federal and State agencies as are or may in the future be charged with the responsibility of monitoring both Borrower's and Lender's compliance with low- and moderate-income benefit requirements.

7.03 Employment Undertaking. Borrower agrees to make a minimum of 51% of the Covered Jobs available to Low- and Moderate-Income Persons. For the purpose of this Agreement, a Covered Job will be considered to be available to Low- and Moderate-Income Persons if all of the following apply:

(a) The Covered Job does not require special skills that can only be acquired with substantial training, work experience, or education beyond high school (unless Borrower agrees to provide appropriate training to unqualified persons);

(b) Borrower uses a hiring practice that encourages Low- and Moderate-Income Persons to be applicants; and

(c) Borrower gives first consideration in hiring to qualified Low- and Moderate-Income Persons.

7.04 Job Calculation. In calculating Covered Jobs and the availability of Covered Jobs to Low- and Moderate-Income Persons, the following will apply:

(a) Only permanent jobs will be counted; temporary and construction jobs will not be counted.

(b) Jobs of 35 or more hours per week will be considered as one full-time job. Part-time permanent jobs of less than 35 hours per week will be converted to full-time equivalent jobs by dividing the number of part-time hours by 40.

(c) Seasonal jobs will be considered to be permanent jobs if the duration of the working period is long enough to classify the job as the employee's principal occupation.

7.05 Employment and Reporting System. Consistent with the instructions and forms that comprise the Employment and Reporting System, Borrower agrees to:

(a) Maintain data for each applicant for a Covered Job including:

(i) The applicant's name and address;

(ii) The applicant's family size, family income, race, ethnicity, gender, handicapped status, female-headed household status, elderly status, and unemployment status;

(iii) The applicant's status with respect to hiring for a Covered Job; and

(iv) If applicable, the reason(s) that an applicant who is a Low- and Moderate-Income Person was not hired for a Covered Job.

(b) Maintain data for each Covered Job which is created and filled including:

(i) The job title and its availability to Low- and Moderate-Income Persons;

(ii) Whether a Low- and Moderate-Income Person was hired for the job;

(iii) The salary or wage for the job and whether health benefits are offered for the job; and

(iv) A description of the hiring process for the job.

(c) Submit semi-annual reports of the applicants and Covered Job data to Lender.

7.06 Schedule of Employment Positions. Borrower represents that the employment positions created as a result of the Project are expected to be created no later than October 14, 2022 and are expected to be the following:

# of Jobs	Job Title	Required Skills, Education, and Experience	Estimated Salary/Wage	Hours Per Week
8	Warehouse worker	HS diploma/GED; exp. preferred; training provided	\$44,859	40
1	Batching tech	HS diploma/GED; BS/BA in science preferred; food exp.	\$54,098	40
1	Processing tech	HS diploma/GED; BS/BA in science preferred; food exp.	\$54,098	40
1	Milk receiver	HS diploma/GED; exp. preferred; training provided	\$54,098	40
1	Shift manager-processing	BS/BA; 5 yrs. food manuf. exp.; team leader exp.	\$100,006	40
4	Filler	HS diploma/GED; exp. preferred; training provided	\$54,098	40
4	Relief	HS diploma/GED; exp. preferred; training provided	\$54,098	40
4	Entry operator	HS diploma/GED; exp. preferred; training provided	\$42,522	40
12	Downstream	HS diploma/GED; exp. preferred; training provided	\$54,098	40
4	Palletizer	HS diploma/GED; exp. preferred; training provided	\$54,098	40
1	Shift manager-packaging	BS/BA; 5 yrs. manuf. exp.; team leader exp.	\$100,006	40
4	Maintenance tech	HS diploma/GED; manuf. exp. pref.; computer skills	\$71,919	40
1	Reliability engineer	BS/BA in engineering; 5 yrs. manuf. exp.	\$79,997	40
1	Maintenance coordinator	HS diploma/GED; 5 yrs. maintenance exp.; supervisor exp.	\$60,008	40
4	Quality tech	BS/BA; food manuf. exp.; food/dairy standards	\$57,745	40
2	Continuous improvement spec	BS/BA; 5 yrs. manuf. experience	\$61,870	40
1	Project engineer	BS/BA in engineering; manuf. experience	\$84,380	40
2	Blow molding tech	HS diploma/GED; exp. preferred; training provided	\$52,525	40

7.07 Right of Inspection. Borrower shall maintain in its files adequate documentation to support the data specified at Section 7.05 of this Agreement. Lender and any duly authorized

representative of OCR and HUD shall, at all reasonable times and upon prior written notice, have access to and the right to inspect and copy all such documentation.

7.08 Materiality of Borrower's Employment Undertaking. The obligations of Borrower set forth in this Section 7 are material obligations the breach of which shall constitute an Event of Default under Section 8 of this Agreement.

7.09 Job Relocation Certification. Consistent with Section 3.09 of this Agreement, Borrower hereby certifies to Lender that neither Borrower nor any of its subsidiaries has plans to relocate jobs as a result of the Project that would result in a significant job loss (as such term is defined at 24 CFR 570.482(h)(2)(iv)) in a Labor Market Area other than the Labor Market Area in which the Project is located.

## SECTION 8. DEFAULT

8.01 Events of Default. The occurrence of any one or more of the following events shall constitute an "Event of Default" hereunder:

(a) Failure by Borrower to pay any installment of the principal of the Note when due and the continuation of the same for thirty (30) days after receipt by Borrower of written notice of such failure from Lender.

(b) Any representation or warranty made by Borrower in this Agreement or in any report, certificate, financial statement, or other instrument furnished at any time under or in connection with this Agreement shall prove to have been false, misleading, or incorrect in any material respect as of the date made.

(c) Failure by Borrower to comply with any covenant, agreement or obligation contained in this Agreement or any of the Loan Documents (except the obligation to pay principal), and the continuation of the same for thirty (30) days after receipt by Borrower of written notice of such failure from Lender.

(d) Borrower shall: (i) apply for or consent to the appointment of or the taking of possession by a receiver, custodian, trustee, or liquidator of itself or of all or a substantial part of its property; (ii) admit in writing its inability, or be generally unable to pay its debts as such debts become due; (iii) make a general assignment for the benefit of its creditors; (iv) commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect); (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts; (vi) fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against itself in an involuntary case under the Federal Bankruptcy Code; or, (vii) take any action for the purpose of effecting the foregoing.

(e) A proceeding or case shall be commenced against Borrower in any court of competent jurisdiction, seeking: (i) the liquidation, reorganization, dissolution, winding-up, or composition or readjustment of debts of Borrower; (ii) the appointment of a trustee, receiver, custodian, liquidator or the like of Borrower or of all or any substantial part of its assets; or, (iii) similar relief in respect of Borrower under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case

shall continue undismissed, or an order, judgment, or decree approving or ordering any of the foregoing shall be entered and continued unstayed and in effect, for a period of ninety (90) days, or any order for relief against Borrower shall be entered in an involuntary case under the Federal Bankruptcy Code.

(f) Borrower shall cease its manufacturing operations in the Town of Batavia, Genesee County, New York for a continuous period of ninety (90) days.

(g) An "Event of Default" beyond any applicable grace, cure, or notice periods under any of the Loan Documents shall occur and be continuing.

8.02 Remedies on Default. Whenever any Event of Default referred to in Section 8.01 hereof shall have occurred and be continuing, Lender will have the right to take one or more of the following actions:

(a) Lender or its assigns, upon written notice to Borrower, may cause the entire unpaid principal balance of the Note, and any interest accrued thereon, to become immediately due and payable without any other notice or demand of any kind or any presentment or protest.

(b) Lender or its assigns may take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce the performance or observance of any obligations, agreements, or covenants of Borrower under this Agreement.

Any of the foregoing notwithstanding, upon an event of default under section 8.01(d) or (e) of this Agreement, the entire unpaid principal of the Note and any interest accrued thereon, shall become immediately due and payable automatically, and without presentation, demand or notice of any kind.

8.03 Remedies Cumulative. The rights and remedies of Lender under this Agreement shall be cumulative and shall not exclude any other rights and remedies of Lender allowed by law with respect to any default under this Agreement. Failure by Lender to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon default by Borrower hereunder shall not be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce by mandamus or other appropriate legal remedy a strict compliance by Borrower with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies.

8.04 No Additional Waiver Implied. In the event that any covenant or agreement contained in this Agreement shall have been breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver shall be binding unless it is in writing and signed by the party making such waiver. No course of dealing between Lender and Borrower or any delay or omission of Lender in exercising any rights hereunder shall operate as a waiver.

8.05 Effect on Discontinuance of Proceedings. In the event that any proceeding taken by Lender under this Agreement on account of any Event of Default hereunder shall have been discontinued or abandoned for any reason or shall have been determined adversely to Lender, then and in every such case, Lender shall be restored, respectively, to its former position and

rights hereunder, and all rights, remedies, powers, and duties of Lender shall continue as in effect prior to the commencement of such proceedings.

8.06 Agreement to Pay Attorney's Fees and Expenses. In the event that Borrower shall default under any of the provisions of this Agreement and Lender should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligation or agreement on the part of Borrower herein contained, Borrower agrees that it will, on demand, therefore pay to Lender the reasonable fees and disbursements of such attorneys and such other expenses so incurred.

## SECTION 9. MISCELLANEOUS

9.01 Notices. All notices, requests and demands to or upon the respective parties hereto shall be deemed to have been given or made three days after having been deposited in the mail, postage prepaid, return receipt requested, or one day after having been delivered to an overnight delivery service, addressed as set forth below or to such other address as may be hereafter designated in writing by the respective parties hereto:

Borrower: HP Hood LLC  
Six Kimball Lane  
Lynnfield, Massachusetts 01940

Lender: Genesee Gateway Local Development Corporation  
99 MedTech Drive, Suite 106  
Batavia, New York 14020

9.02 Further Assurances. Borrower will cooperate with Lender for the purpose of protecting Lender's interest in the sums due under this Agreement. Borrower will execute and deliver the instruments and assurances as Lender deems necessary or advisable for the implementation, effectuation, confirmation, or perfection of this Agreement and any rights of Lender hereunder.

9.03 Captions. The captions of the various sections and subsections of this Agreement have been inserted only for the purpose of convenience, and shall not be deemed in any manner to modify, explain, enlarge or restrict any of the provisions of this Agreement.

9.04 Exhibits. Exhibits shall constitute an integral part of this Agreement.

9.05 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and assigns, except that Borrower may not transfer or assign any of its rights or interests hereunder without the prior written consent of Lender.

9.06 Construction. This Agreement and the Note and the rights and obligations of the parties hereunder and thereunder shall be governed by and construed and interpreted in accordance with the laws of the State of New York. If any of the provisions of this Agreement shall be or become illegal or unenforceable under any law, the other provisions shall remain in full force and effect.

9.07 Interest. Intentionally omitted.

9.08 Prior Agreements Superseded. This Agreement shall completely supersede all other prior understandings or agreements, both written and oral, between Lender and Borrower relating to the Loan and Grant.

9.09 Amendments. This Agreement may be amended only with the written consent of Lender and Borrower or their duly authorized agents in writing.

9.10 Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of New York. The Borrower agrees that any action or proceeding to enforce the provisions of this Agreement may be commenced by the Lender in New York State Supreme Court in any county, or in the District Court of the United States in any district in which the Lender has an office, and the Borrower waives personal service of process and agrees that a summons and complaint commencing an action or proceeding in any such court shall be properly served and shall confer personal jurisdiction if served by registered mail to the Borrower at the Borrower's address or to such other individual and/or address as provided in written notice from the Borrower to the Lender, or as otherwise provided by the Laws of the State of New York or the United States. The Borrower agrees to waive any and all rights to change the venue of any action or proceeding brought to enforce the Agreement and waives any right to assert any counterclaim or set-off or any defense based upon statute of limitations or claims of laches in any such action or proceeding.

9.11 Assignment by Lender. Lender, in consideration of the CDBG Funds awarded to the Town by the New York State Housing Trust Fund Corporation (hereinafter "HTFC"), assigns all of its rights and remedies under this Agreement, the Note, and other financing documents to HTFC. In the event (i) the CDBG Agreement entered into between the Town and HTFC is terminated for any reason, or (ii) HTFC, in its sole and absolute discretion, finds deficient performance or inadequate management capacity on the part of the Town or Lender, HTFC shall have the right to notify Borrower under this Agreement and the Note to make payment directly to HTFC, and to enforce any and all obligations of Borrower under this Agreement and the Note or any other loan instrument executed in connection herewith. Until such time as HTFC elects to exercise such rights by mailing to the Town, Lender, and Borrower written notice thereof, Lender is authorized to collect payments and enforce all rights under this Agreement and the Note.

9.12 Indemnification. Borrower shall defend, indemnify, and hold harmless Lender, HTFC and Town and their respective agents and employees from and against any and all claims, actions, damages, losses, expenses, and costs of every nature and kind, including reasonable attorney's fees, incurred by or asserted or imposed against Lender, HTFC or Town arising out of the Project or Borrower's actions with respect to this Agreement.

9.13 Counterparts. This Agreement may be executed in counterparts, which when executed and delivered shall each be an original, but all such counterparts shall together constitute one and the same Agreement.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered by their proper and duly authorized offices as of the day and year first above written.

GENESEE GATEWAY LOCAL DEVELOPMENT CORPORATION, Lender

By: \_\_\_\_\_  
Don Cunningham, Chairman

HP HOOD LLC, Borrower

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



ACKNOWLEDGMENT OF SIGNATORY(IES)

State of New York       )  
  )  
County of Genesee     ) ss

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2020 before me, the undersigned, a Notary Public in and for said state, personally appeared Don Cunningham, to me known or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Signature of Notary Public

ACKNOWLEDGMENT OF SIGNATORY(IES)

Commonwealth of Massachusetts       )  
  )  
County of Essex   ) ss

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2020 before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_, to me known or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Signature of Notary Public

**Approval of loan and grant agreement with Upstate Niagara Cooperative, Inc.**

**Discussion:** The Town of Batavia has completed, submitted and been approved to receive Federal grant assistance in the amount of \$734,000 from NYS Housing Trust Fund Corporation represented by the NYS Office of Community Renewal through the Community Development Block Grant (CDBG) Fund for the purpose of providing financing to assist Upstate Cooperative, Inc. with the reactivation of a dormant yogurt production facility located at 5011 W. Ag Park Drive in the Town of Batavia. The GGLDC has previously approved a grant agreement with the Town of Batavia that lays out the terms and conditions of that funding being received by the Town of Batavia and then disbursed and administered by the GGLDC. The agreement before the committee today is the loan agreement for the \$734,000 between Upstate Cooperative, Inc. and the GGLDC. The terms and conditions of this loan agreement are consistent with previous CDBG funding. It is 50% loan, 50% grant, five-year amortization and 0% interest rate.

**Fund commitment:** \$734,000 in CDBG funding that will be provided through the Town of Batavia.

**Committee action request:** Recommend approval to the full Board of the loan agreement with Upstate Niagara Cooperative, Inc. for the CDBG funding.

## LOAN AND GRANT AGREEMENT

THIS AGREEMENT, entered into this        day of        , 2021 by and between Genesee Gateway Local Development Corporation, a not-for-profit corporation organized and existing under and by virtue of the laws of the State of New York and having its principal offices at 99 MedTech Drive, Batavia, New York 14020 (hereinafter the "Lender"), and Upstate Niagara Cooperative, Inc., a New York cooperative corporation having offices and a place of business at 25 Anderson Road, Buffalo, New York 14225 (hereinafter the "Borrower")

### WITNESSETH:

WHEREAS, the Town of Batavia, New York (hereinafter the "Town") has received Community Development Block Grant funding for the purpose of providing financing to Borrower to support Borrower's reactivation of a dormant yogurt production facility located in the Genesee Valley Agri-Business Park within the Town; and

WHEREAS, pursuant to a Grant Agreement between the Town and the Lender dated December 18, 2020, the Town will provide such Community Development Block Grant funding to Lender for the purpose of making a loan or loans to Borrower.

NOW, THEREFORE, the parties do hereby agree as follows:

#### Section 1. Definitions

Unless specifically provided otherwise or the context otherwise requires, when used in this Agreement:

1.01 "Application" means Town's grant application to the Office of Community Renewal dated September 4, 2020 for funding under the Community Development Block Grant program and any additional submittals by the Borrower to support the Application, with such Application and submittals being incorporated herein by reference and made a part hereof.

1.02 "CDBG" means Community Development Block Grant, a program of the United States Department of Housing and Urban Development.

1.03 "CDBG Funds" means Community Development Block Grant funds, including funds in the form of grants under 24 CFR Part 570, Subpart I, and Program Income as defined at 24 CFR 570.489(e).

1.04 "HTFC" means the New York State Housing Trust Fund Corporation.

1.05 "HUD" means the United States Department of Housing and Urban Development.

1.06 "Labor Market Area" shall have the meaning defined at 24 CFR 570.482(h)(2)(ii).

1.07 "OCR" means the Office of Community Renewal, an office of New York Homes and Community Renewal.

1.08 "OCR Grant" means the award of CDBG funds to the Town by HTFC as represented by OCR and as evidenced by Grant Agreement #83ED956-20 between the Town

and HTFC dated October 15, 2020.

1.09 "Project" means the activities described in the Application that are to be undertaken by Borrower in connection with its activation of a dormant yogurt production facility located at 5011 W. Ag Park Drive, Batavia, New York 14020.

1.10 "Town" means the Town of Batavia, a municipal subdivision of the State of New York.

1.11 "Town Agreement" means the Grant Agreement dated December 18, 2020 between the Town and Lender, pursuant to which the Town will make a grant to Lender for the purpose of funding the Loan and Grant (as such terms are hereinafter defined), such Grant Agreement being incorporated herein by reference and made a part hereof.

## SECTION 2. LOAN, GRANT, AND SECURITY

2.01 The Commitment. Subject to the terms and conditions of this Agreement and subject to Lender's receipt of sufficient funds pursuant to the Town Agreement, Lender agrees to make a loan to Borrower in an aggregate principal amount of Three Hundred Sixty-Seven Thousand and 00/100 dollars (\$367,000) (hereinafter the "Loan"), and a grant to Borrower in the aggregate principal amount of Three Hundred Sixty-Seven and 00/100 dollars (\$367,000) (hereinafter the "Grant"). The Loan shall be repaid over a five (5)-year term with interest at the rate of zero percent (0%) per annum. The Loan shall be evidenced by one or more promissory notes (the "Note" or "Notes").

2.02 Loan Repayment. Commencing on \_\_\_\_\_, 2022, Borrower shall make equal annual payments of principal sufficient to fully amortize the Loan over the Loan term as more fully set forth in the Note.

2.03 Intentionally omitted.

2.04 Intentionally omitted.

2.05 Use of Proceeds. The Loan and Grant proceeds shall be used by Borrower to finance equipment costs, hardware/software and IT equipment, and employee training costs associated with the Project and incurred on or after \_\_\_\_\_ **[insert concurrence date]**.

2.06 Collateral. As security for repayment of the Loan and Deferred Loan, Borrower shall give to Lender a perfected security interest in certain machinery and equipment of Borrower which shall be subject only to prior liens approved by Lender.

2.07 Authorization to Perfect Security Interest. Lender may execute and file any instrument necessary to perfect its security interest in the collateral described in Section 2.06 of this Agreement without the necessity of Borrower signing such instrument.

2.08 Guarantees. Intentionally omitted.

2.09 Life Insurance. Intentionally omitted.

2.10 Subordination of Member, Officer, and Other Loans. Intentionally omitted.

2.11 Disbursement of Proceeds. The Loan and Grant proceeds shall be disbursed in the following manner:

(a) Lender shall not be obligated to disburse any Loan or Grant proceeds until each of the following has occurred:

(i) Borrower shall have executed all documents evidencing and securing the Loan and shall be in compliance therewith and no Event of Default, as hereinafter defined, shall have occurred;

(ii) Borrower shall have presented evidence satisfactory to Lender that all Loan and Grant proceeds to be disbursed represent paid or accrued expenses of Borrower which are eligible Project costs as described in the Application (or in any approved budget modifications thereto), which were incurred on or after \_\_\_\_\_ **[insert concurrence date]** and which were not paid for through the U.S. Small Business Administration's Paycheck Protection Program ("PPP") or Economic Injury Disaster Loans ("EIDL") or other COVID-19 relief program;

(iii) Borrower shall have presented evidence satisfactory to Lender that all sources of Project financing as described in the Application have been committed or disbursed; and

(iv) Borrower shall have presented evidence satisfactory to Lender that the Project as described in the Application either (i) has been completed, or (ii) is being implemented and will be completed within a reasonable period of time as determined by Lender.

(b) Lender shall not be obligated to disburse Loan or Grant proceeds that exceed an aggregate amount equal to nineteen percent (19%) of total documented Project Costs expended as of the date of the Loan or Grant disbursement.

(c) Borrower's request to receive Loan and Grant proceeds shall be made in writing to Lender and shall include a schedule detailing the total amount being requested and a reasonable breakdown of the amount by line item and/or subcontract.

(d) Lender shall have the right, at its sole option, to disburse all or any portion of the Loan and Grant proceeds by making payment directly to a contractor, subcontractor, or vendor to pay accrued expenses of Borrower which represent eligible Project costs.

(e) No Grant proceeds shall be disbursed to Borrower until all Loan proceeds have been disbursed.

(f) Notwithstanding any other provision of this Section 2.11, Lender shall not be obligated to disburse any Loan or Grant proceeds to Borrower that are requested by Borrower after October 14, 2022 or if an Event of Default has occurred.

### SECTION 3. REPRESENTATIONS AND WARRANTIES

In order to induce Lender to enter into this Agreement and to make the Loan and Grant herein provided for, Borrower hereby represents and warrants to Lender that:

3.01 Legal Existence. If an entity, Borrower is duly organized, validly existing and in good standing under the laws of the State of New York and has the legal power to own its assets and to transact the business in which it is presently engaged.

3.02 Power and Authorization. Borrower has the authority and legal right to make, deliver and perform this Agreement and the documents evidencing and securing, or otherwise executed in connection with, the Loan and Grant (the "Loan Documents") and to borrow hereunder. No consent of any other party and no consent, license, approval or authorization of, or registration or declaration with, any governmental authority, bureau or agency is required in connection with the execution, delivery, performance, validity or enforceability of this Agreement or the Loan Documents.

3.03 No Legal Bar to Loans. The execution, delivery and performance of this Agreement and the Loan Documents will not, to the Borrower's knowledge, violate any provision of any existing law or regulation or of any order or decree of any court or governmental instrumentality, or any mortgage, indenture, contract or other agreement to which Borrower is a party or by which Borrower and any of its property or assets may be bound.

3.04 No Material Litigation. No litigation or administrative proceedings of or before any court, tribunal or governmental body is presently pending, or, to the knowledge of Borrower, threatened against Borrower or any subsidiary of Borrower or any of its or their properties or with respect to this Agreement or the Loan Documents, which, if adversely determined, would have material adverse effect on the business, assets or financial condition of Borrower or such subsidiary of Borrower.

3.05 Financial Condition. There have been no material adverse changes in the financial condition or operations of Borrower since the closing date of the latest financial statement furnished by Borrower to Lender, and Borrower is not an endorser or guarantor of any indebtedness or obligation of another not described in the Application or the financial statement previously furnished to Lender.

3.06 No Default. Borrower is not in default in the payment of any municipal, state or federal tax.

3.07 Ownership of Properties; Liens. Intentionally omitted.

3.08 Filing of Statements and Reports. Borrower has filed copies of all statements and reports which, to the knowledge of Borrower, are required to be filed with any governmental authority, agency, commission, board or bureau.

3.09 Job Relocation Statement. The Project will not result in the relocation of any industrial or commercial plant, facility or operation from one Labor Market Area (LMA) to another.

3.10 No Duplication of Benefits. None of the Project costs to be reimbursed with the Grant proceeds were paid from any other business assistance program or relief benefits from any other source, including, but not limited to, any program funded under the CARES Act or other COVID-19 relief legislation, such as the Paycheck Protection Program or Economic Injury

Disaster Loans.

#### SECTION 4. CONDITIONS OF LENDING.

The obligation of Lender to make advances of the Loan and Grant is subject to the following conditions precedent to each advance unless waived by Lender:

4.01 Compliance with this Agreement. At the time of the making of the Loan and Grant or any advance thereof, Borrower shall have complied, and then be in compliance with, all the terms, conditions, covenants, representations and warranties herein set forth, as set forth in the Application, and as set forth in all documents executed in connection with the Loan and Grant including without limitation, this Agreement and the Note, and there shall exist no event of default under this Agreement or any document executed by and between Lender and Borrower evidencing the Loan.

4.02 Corporate Action. Lender shall, at the time of the making of the Loan and Grant, have received copies of all papers evidencing all action taken by the directors of Borrower, and all legal matters incident to the Loan and Grant shall be satisfactory to the counsel for Lender.

4.03 Certifications. Lender shall, at the time of the making of the Loans, have received a certification by a duly authorized officer of Borrower that no material adverse change in the financial condition or operations, if any, of Borrower has occurred since the closing date of the latest financial statement, if any, furnished by Borrower to Lender; and that no suits or proceedings have been instituted against Borrower which in the opinion of Borrower will adversely affect the financial condition or any operations of Borrower.

4.04 Opinion of Borrower's Counsel. Counsel for the Borrower shall have delivered to Lender, in form and substance satisfactory to Lender and its counsel, an opinion that the Borrower has the power to execute and deliver the documents required under this Agreement and that all action of the Borrower has been properly authorized.

4.05 Loan Documents. All documents required by this Agreement and required by Lender's counsel which evidence and secure the Loan and Grant shall have been executed and delivered to Lender.

4.06 Title Insurance. Intentionally omitted.

4.07 Municipal Compliance. Intentionally omitted.

4.08 Flood Hazard. Intentionally omitted.

4.09 Insurance.

(a) Borrower shall have delivered to Lender evidence of property insurance insuring Borrower's real and personal property located at the Project site, which shall name Lender as a lender loss payee with respect to any collateral securing the Loan.

(b) Borrower shall have delivered to Lender evidence of liability insurance on which Lender is named as an additional insured and certificate holder, in form and content acceptable to Lender, and which shall provide for thirty (30) days' notice of cancellation to Lender.

4.10 Other. Such other information and documentation as Lender may reasonably require.

4.11 Fees and Expenses. Borrower shall pay all costs and expenses of Lender incidental to the Loan and Grant including, without limitation, Lender's attorney's fees.

## SECTION 5. AFFIRMATIVE COVENANTS

Borrower hereby covenants that so long as the Loan remains outstanding and unpaid, Borrower will, unless otherwise consented to in writing by Lender:

5.01 Financial Statements. Furnish to Lender as soon as possible, but in any event not later than one hundred twenty (120) days after the close of each fiscal year of Borrower, an accountant-prepared financial statement including a Balance Sheet, Statements of Income and Retained Earnings, and Statement of Cash Flows of Borrower and any of its subsidiaries for such fiscal year, setting forth in each case in comparative form the corresponding figures for the preceding fiscal period (if applicable), all in reasonable detail, prepared in accordance with generally accepted accounting principles applied on a basis consistently maintained throughout the period involved and with prior periods.

5.02 Payment of Obligations. Pay and discharge at or before maturity, all of its obligations and liabilities, including without limitation tax liabilities, except where the same may be contested in good faith, and will maintain, in accordance with generally accepted accounting principles, appropriate reserves for the accrual of any of the same.

5.03 Maintenance of Properties; Insurance. Keep all properties useful and necessary in the operation of Borrower's business at the Project site in good working order and condition; maintain, with financially sound and reputable insurance companies, insurance on all of its property (both real and personal) at the Project site in an amount not less than full replacement value, against such risks as are usually insured against in the same general area and by companies engaged in the same or a similar business and name Lender as lender loss payee with respect to any collateral for the Loan; and furnish to Lender, upon written request, full information as to the insurance carried.

5.04 Taxes. Pay and discharge all taxes, assessments and governmental charges or levies imposed upon it or on its income or profits or on any of its property prior to the date on which any penalties attach thereto, provided that Borrower shall not be required by this to pay any such tax, assessment, charge or levy, the payment of which is being contested in good faith and by proper proceedings.

5.05 Existence. Maintain its existence and its authority to do business in New York State.

5.06 Records Retention. Retain all records and books of account that are directly pertinent to this Agreement for three (3) years after the OCR Grant and all pending matters have closed.

5.07 Inspection of Property, Books and Records. Permit Lender, OCR, HUD, the Inspector General of the United States, or any agents or representatives thereof, at any reasonable time and as often as may be reasonably desired, to examine and to make copies and abstracts of Borrower's records and books of accounts solely for the purpose of determining or verifying information pertinent to the covenants and conditions of this Loan Agreement.



5.08 Litigation. Promptly give notice in writing to Lender of all litigation and of all proceedings before any governmental or regulatory agency against Borrower, or any subsidiary, or any of their properties, except litigation or proceedings not materially affecting the financial condition of Borrower or any subsidiary.

5.09 Notices.

(a) Keep Lender fully informed as to all matters that may affect the ability of Borrower to perform the obligations under the Loan Documents.

(b) Furnish to Lender as soon as possible, and in any event within five days after the occurrence of any Event of Default under this Agreement, the statement in writing of any authorized representative of Borrower setting forth the details of such Event of Default and the action which Borrower proposes to take with respect thereto.

(c) Furnish to Lender such other information respecting the condition or operations, financial or otherwise, of Borrower as Lender may from time to time reasonably request.

5.10 Compliance With Federal Statutes. Comply with all of the following requirements as applicable:

(a) Title VI of the Civil Rights Act of 1964 {42 U.S.C. 2000d *et seq.*}, which provides that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(b) Section 109 of the Housing and Community Development Act of 1974 (the "Act"), as amended, and the implementing regulations at 24 CFR 570.602, which require that no person in the United States shall on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with community development funds made available pursuant to the Act. Section 109 of the Act, and the implementing regulations at 24 CFR Part 146 and 24 CFR Part 8 further provide for the prohibition of discrimination on the basis of age under the Age Discrimination Act of 1975 {42 U.S.C. 6101 *et seq.*}, or with respect to an otherwise qualified handicapped person as provided in section 504 of the Rehabilitation Act of 1973 {29 U.S.C. 794}.

(c) The Housing and Community Development Act of 1974, as amended, and the implementing regulations at 24 CFR Part 570.

(d) If Loan proceeds are used for construction in excess of \$2,000.00, Section 110 of the Housing and Community Development Act of 1974 (the "Act"), as amended, which requires that all laborers and mechanics employed by contractors or subcontractors on construction work financed in whole or in part with assistance received under the Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a to a-5), and which further requires compliance with the Contract Work House and Safety Standards Act (40 U.S.C. 327 *et seq.*).

(e) If Loan proceeds are used for construction, the Copeland "Anti-Kickback" Act (17 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).

(f) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4021a).

(g) Executive Order 11246, as amended by Executive Order 12086, and the regulations issued pursuant thereto (41 CFR Chapter 60) which provided that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or federally assisted construction contracts. The Borrower's compliance shall include causing all contractors and subcontractors providing labor services to be paid from Loan proceeds to comply with the provisions of Executive Order 11246, as amended by Executive Order 12086.

(h) The requirements of the Americans with Disabilities Act of 1990, as amended.

(i) The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.), and the implementing regulations contained in 24 CFR 570.608, respecting prohibition against the use of lead-based paint, notification of hazards of lead-based paint poisoning, and elimination of lead-based paint hazards.

(j) Standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).

(k) In the event services include the performance of experimental, developmental, or research work, the Federal Government and the Town shall have patent rights in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by HUD.

(l) All contracts subject to Section 3 of the Housing and Community Development Act of 1968, as amended (12 U.S.C. 1701u), shall include the clause set forth at 24 CFR 135.38 as provided in the Section 3 Rider.

(m) CDBG Funds shall not be used by Borrower to directly assist in the relocation of any industrial or commercial plant, facility, or operation from one Labor Market Area (as such term is defined at 24 CFR 570.482(h)(2)(ii) and is hereinafter referred to as "LMA") to another LMA if the relocation is likely to result in a significant loss of employment (as such term is defined at 24 CFR 570.482(h)(2)(iv)) in the LMA from which the relocation occurs.

5.11 Additional Federal, State, and Local Requirements. Be bound by, and comply with, all applicable Federal, State, and local laws and regulations, including, but not limited to, 2 CFR Part 200 and 24 CFR Part 570.

5.12 Completion of Project. Undertake and complete the Project in accordance with the Application and this Loan Agreement. Borrower acknowledges that the Loan and Grant are funded with monies provided through the CDBG program and is made available under a grant from OCR to the Town and agrees to complete the Project as approved by OCR in a manner consistent with the laws, regulations and policies of the CDBG program.

5.13 Project Cost Documentation. In the manner prescribed by the OCR, provide to Lender an accounting of all Project costs and documentation that such costs have been incurred

by Borrower and have been paid.

5.14 Disclosure of Other Assistance. Notify Lender of (a) other business assistance or relief benefits received by Borrower from any other source, including, but not limited to, any assistance funded under the CARES Act or other COVID-19 relief legislation, such as the Paycheck Protection Program or Economic Injury Disaster Loans and (b) the use of such assistance or relief benefits, for the purpose of verifying that none of the costs funded or to be funded under this Agreement were paid for with such assistance.

## SECTION 6. INTENTIONALLY OMITTED

## SECTION 7. EMPLOYMENT

7.01 Definitions. Unless specifically provided otherwise or the context otherwise requires, when used in this Section:

(a) "Covered Jobs" means any and all employment positions created by Borrower on or after October 15, 2020 and as a direct result of the Project, notwithstanding any estimates of covered jobs provided by Borrower for the Application.

(b) "Employment and Reporting System" means those forms and instructions, in written and/or electronic format, provided to Borrower by Lender for the purpose of reporting data and information required pursuant to this Section 7.

(c) "Family" means all persons living in the same household who are related by birth, marriage or adoption.

(d) "Household" means all persons who occupy a common housing unit.

(e) "Low- and Moderate-Income Person" means a member of a family having an income equal to or less than the applicable Section 8 lower income limit established by HUD. Unrelated individuals shall be considered as one-person families for this purpose.

7.02 Compliance with Federal Requirements. Borrower acknowledges that the Loan and Grant evidenced by this Agreement are subject to the requirements of Federal statute and regulation relative to the use of Community Development Block Grant funds, and that Borrower's agreement to accept the loan funds pursuant to this Agreement requires Borrower's compliance with regulations set forth in 24 CFR Part 570, and policies and procedures implemented thereunder by HUD, the United States Department of Labor, OCR, and such other Federal and State agencies as are or may in the future be charged with the responsibility of monitoring both Borrower's and Lender's compliance with low- and moderate-income benefit requirements.

7.03 Employment Undertaking. Borrower agrees to make a minimum of 51% of the Covered Jobs available to Low- and Moderate-Income Persons. For the purpose of this Agreement, a Covered Job will be considered to be available to Low- and Moderate-Income Persons if all of the following apply:

(a) The Covered Job does not require special skills that can only be acquired with substantial training, work experience, or education beyond high school (unless Borrower agrees to provide appropriate training to unqualified persons);

(b) Borrower uses a hiring practice that encourages Low- and Moderate-Income Persons to be applicants; and

(c) Borrower gives first consideration in hiring to qualified Low- and Moderate-Income Persons.

7.04 Job Calculation. In calculating Covered Jobs and the availability of Covered Jobs to Low- and Moderate-Income Persons, the following will apply:

(a) Only permanent jobs will be counted; temporary and construction jobs will not be counted.

(b) Jobs of 35 or more hours per week will be considered as one full-time job. Part-time permanent jobs of less than 35 hours per week will be converted to full-time equivalent jobs by dividing the number of part-time hours by 40.

(c) Seasonal jobs will be considered to be permanent jobs if the duration of the working period is long enough to classify the job as the employee's principal occupation.

7.05 Employment and Reporting System. Consistent with the instructions and forms that comprise the Employment and Reporting System, Borrower agrees to:

(a) Maintain data for each applicant for a Covered Job including:

(i) The applicant's name and address;

(ii) The applicant's family size, family income, race, ethnicity, gender, handicapped status, female-headed household status, elderly status, and unemployment status;

(iii) The applicant's status with respect to hiring for a Covered Job; and

(iv) If applicable, the reason(s) that an applicant who is a Low- and Moderate-Income Person was not hired for a Covered Job.

(b) Maintain data for each Covered Job which is created and filled including:

(i) The job title and its availability to Low- and Moderate-Income Persons;

(ii) Whether a Low- and Moderate-Income Person was hired for the job;

(iii) The salary or wage for the job and whether health benefits are offered for the job; and

(iv) A description of the hiring process for the job.

(c) Submit semi-annual reports of the applicants and Covered Job data to Lender.

7.06 Schedule of Employment Positions. Borrower represents that the employment positions created as a result of the Project are expected to be created no later than October 14, 2022 and are expected to be the following:

# of Jobs	Job Title	Required Skills, Education, and Experience	Estimated Salary/Wage	Hours Per Week
1	Plant Operations Manager	10+ years relevant management experience	\$100,000	40
1	Quality Manager	5+ years relevant management experience	\$70,000	40
1	Maintenance Manager	5+ years relevant management experience	\$75,000	40
2	Production Supervisor	3+ years relevant management experience	\$55,000	40
4	Professionals	Technical skills & education as per job	\$50,000	40
2	Administrative Support	Office & communication skills; training provided	\$36,400	40
10	Production Processing	HS diploma/GED; training to be provided	\$45,760	40
16	Production Packaging	HS diploma/GED; training to be provided	\$45,760	40
4	Material Handling	HS diploma/GED; training to be provided	\$41,600	40
3	Lab Technician	Technical skills & education as per job	\$42,640	40
4	Mechanic	Technical skills & education as per job	\$52,000	40
2	Plant Sanitation	HS diploma/GED; training to be provided	\$36,400	40

7.07 Right of Inspection. Borrower shall maintain in its files adequate documentation to support the data specified at Section 7.05 of this Agreement. Lender and any duly authorized representative of OCR and HUD shall, at all reasonable times and upon prior written notice, have access to and the right to inspect and copy all such documentation.

7.08 Materiality of Borrower's Employment Undertaking. The obligations of Borrower set forth in this Section 7 are material obligations the breach of which shall constitute an Event of Default under Section 8 of this Agreement.

7.09 Job Relocation Certification. Consistent with Section 3.09 of this Agreement, Borrower hereby certifies to Lender that neither Borrower nor any of its subsidiaries has plans to relocate jobs as a result of the Project that would result in a significant job loss (as such term is defined at 24 CFR 570.482(h)(2)(iv)) in a Labor Market Area other than the Labor Market Area in which the Project is located.

SECTION 8.           DEFAULT

8.01 Events of Default. The occurrence of any one or more of the following events shall constitute an "Event of Default" hereunder:

(a) Failure by Borrower to pay any installment of the principal of the Note when due and the continuation of the same for thirty (30) days after receipt by Borrower of written notice of such failure from Lender.

(b) Any representation or warranty made by Borrower in this Agreement or in any report, certificate, financial statement, or other instrument furnished at any time under or in connection with this Agreement shall prove to have been false, misleading, or incorrect in any material respect as of the date made.

(c) Failure by Borrower to comply with any covenant, agreement or obligation contained in this Agreement or any of the Loan Documents (except the obligation to pay principal), and the continuation of the same for thirty (30) days after receipt by Borrower of written notice of such failure from Lender.

(d) Borrower shall: (i) apply for or consent to the appointment of or the taking of possession by a receiver, custodian, trustee, or liquidator of itself or of all or a substantial part of its property; (ii) admit in writing its inability, or be generally unable to pay its debts as such debts become due; (iii) make a general assignment for the benefit of its creditors; (iv) commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect); (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts; (vi) fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against itself in an involuntary case under the Federal Bankruptcy Code; or, (vii) take any action for the purpose of effecting the foregoing.

(e) A proceeding or case shall be commenced against Borrower in any court of competent jurisdiction, seeking: (i) the liquidation, reorganization, dissolution, winding-up, or composition or readjustment of debts of Borrower; (ii) the appointment of a trustee, receiver, custodian, liquidator or the like of Borrower or of all or any substantial part of its assets; or, (iii) similar relief in respect of Borrower under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment, or decree approving or ordering any of the foregoing shall be entered and continued unstayed and in effect, for a period of ninety (90) days, or any order for relief against Borrower shall be entered in an involuntary case under the Federal Bankruptcy Code.

(f) There shall be a default in respect of any evidence of indebtedness for money borrowed by Borrower (or with respect to the performance of any obligations of Borrower incurred in connection with any indebtedness for money borrowed) as a result of which the maturity of such indebtedness is accelerated or such indebtedness becomes due prior to its stated maturity.

(g) Borrower shall default under any provision of any document executed in respect to credit facilities now or hereafter existing between it and any lender.

(h) Borrower shall cease its manufacturing operations at the Project site in the Town of Batavia, Genesee County, New York for a continuous period of ninety (90) days.

(i) An "Event of Default" beyond any applicable grace, cure, or notice periods under any of the Loan Documents shall occur and be continuing.

8.02 Remedies on Default. Whenever any Event of Default referred to in Section 8.01 hereof shall have occurred and be continuing, Lender will have the right to take one or more of the following actions:

(a) Lender or its assigns, upon written notice to Borrower, may cause the entire unpaid principal balance of the Note, and any interest accrued thereon, to become immediately due and payable without any other notice or demand of any kind or any presentment or protest.

(b) Lender or its assigns may take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce the performance or observance of any obligations, agreements, or covenants of Borrower under this Agreement.

Any of the foregoing notwithstanding, upon an event of default under section 8.01(d) or (e) of this Agreement, the entire unpaid principal of the Note and any interest accrued thereon, shall become immediately due and payable automatically, and without presentation, demand or notice of any kind.

8.03 Remedies Cumulative. The rights and remedies of Lender under this Agreement shall be cumulative and shall not exclude any other rights and remedies of Lender allowed by law with respect to any default under this Agreement. Failure by Lender to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon default by Borrower hereunder shall not be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce by mandamus or other appropriate legal remedy a strict compliance by Borrower with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies.

8.04 No Additional Waiver Implied. In the event that any covenant or agreement contained in this Agreement shall have been breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver shall be binding unless it is in writing and signed by the party making such waiver. No course of dealing between Lender and Borrower or any delay or omission of Lender in exercising any rights hereunder shall operate as a waiver.

8.05 Effect on Discontinuance of Proceedings. In the event that any proceeding taken by Lender under this Agreement on account of any Event of Default hereunder shall have been discontinued or abandoned for any reason or shall have been determined adversely to Lender, then and in every such case, Lender shall be restored, respectively, to its former position and rights hereunder, and all rights, remedies, powers, and duties of Lender shall continue as in effect prior to the commencement of such proceedings.

8.06 Agreement to Pay Attorney's Fees and Expenses. In the event that Borrower shall default under any of the provisions of this Agreement and Lender should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligation or agreement on the part of Borrower herein

contained, Borrower agrees that it will, on demand, therefore pay to Lender the reasonable fees and disbursements of such attorneys and such other expenses so incurred.

## SECTION 9. MISCELLANEOUS

9.01 Notices. All notices, requests and demands to or upon the respective parties hereto shall be deemed to have been given or made three days after having been deposited in the mail, postage prepaid, return receipt requested, or one day after having been delivered to an overnight delivery service, addressed as set forth below or to such other address as may be hereafter designated in writing by the respective parties hereto:

Borrower: Upstate Niagara Cooperative, Inc.  
25 Anderson Road  
Buffalo, New York 14225

Lender: Genesee Gateway Local Development Corporation  
99 MedTech Drive, Suite 106  
Batavia, New York 14020

9.02 Further Assurances. Borrower will cooperate with Lender for the purpose of protecting Lender's interest in the sums due under this Agreement. Borrower will execute and deliver the instruments and assurances as Lender deems necessary or advisable for the implementation, effectuation, confirmation, or perfection of this Agreement and any rights of Lender hereunder.

9.03 Captions. The captions of the various sections and subsections of this Agreement have been inserted only for the purpose of convenience, and shall not be deemed in any manner to modify, explain, enlarge or restrict any of the provisions of this Agreement.

9.04 Exhibits. Exhibits shall constitute an integral part of this Agreement.

9.05 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and assigns, except that Borrower may not transfer or assign any of its rights or interests hereunder without the prior written consent of Lender.

9.06 Construction. This Agreement and the Note and the rights and obligations of the parties hereunder and thereunder shall be governed by and construed and interpreted in accordance with the laws of the State of New York. If any of the provisions of this Agreement shall be or become illegal or unenforceable under any law, the other provisions shall remain in full force and effect.

9.07 Interest. Intentionally omitted.

9.08 Prior Agreements Superseded. This Agreement shall completely supersede all other prior understandings or agreements, both written and oral, between Lender and Borrower relating to the Loan and Grant.

9.09 Amendments. This Agreement may be amended only with the written consent of Lender and Borrower or their duly authorized agents in writing.



9.10 Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of New York. The Borrower agrees that any action or proceeding to enforce the provisions of this Agreement may be commenced by the Lender in New York State Supreme Court in any county, or in the District Court of the United States in any district in which the Lender has an office, and the Borrower waives personal service of process and agrees that a summons and complaint commencing an action or proceeding in any such court shall be properly served and shall confer personal jurisdiction if served by registered mail to the Borrower at the Borrower's address or to such other individual and/or address as provided in written notice from the Borrower to the Lender, or as otherwise provided by the Laws of the State of New York or the United States. The Borrower agrees to waive any and all rights to change the venue of any action or proceeding brought to enforce the Agreement and waives any right to assert any counterclaim or set-off or any defense based upon statute of limitations or claims of laches in any such action or proceeding.

9.11 Assignment by Lender. Lender, in consideration of the CDBG Funds awarded to the Town by the New York State Housing Trust Fund Corporation (hereinafter "HTFC"), assigns all of its rights and remedies under this Agreement, the Note, and other financing documents to HTFC. In the event (i) the CDBG Agreement entered into between the Town and HTFC is terminated for any reason, or (ii) HTFC, in its sole and absolute discretion, finds deficient performance or inadequate management capacity on the part of the Town or Lender, HTFC shall have the right to notify Borrower under this Agreement and the Note to make payment directly to HTFC, and to enforce any and all obligations of Borrower under this Agreement and the Note or any other loan instrument executed in connection herewith. Until such time as HTFC elects to exercise such rights by mailing to the Town, Lender, and Borrower written notice thereof, Lender is authorized to collect payments and enforce all rights under this Agreement and the Note.

9.12 Indemnification. Borrower shall defend, indemnify, and hold harmless Lender, HTFC and Town and their respective agents and employees from and against any and all claims, actions, damages, losses, expenses, and costs of every nature and kind, including reasonable attorney's fees, incurred by or asserted or imposed against Lender, HTFC or Town arising out of the Project or Borrower's actions with respect to this Agreement.

9.13 Counterparts. This Agreement may be executed in counterparts, which when executed and delivered shall each be an original, but all such counterparts shall together constitute one and the same Agreement.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered by their proper and duly authorized offices as of the day and year first above written.

GENESEE GATEWAY LOCAL DEVELOPMENT CORPORATION, Lender

By: \_\_\_\_\_  
Don Cunningham, Chairman

UPSTATE NIAGARA COOPERATIVE, INC., Borrower

By: \_\_\_\_\_

ACKNOWLEDGMENT OF SIGNATORY(IES)

State of New York     )  
  ) ss  
County of Genesee    )

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2021 before me, the undersigned, a Notary Public in and for said state, personally appeared Don Cunningham, to me known or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Signature of Notary Public

ACKNOWLEDGMENT OF SIGNATORY(IES)

State of New York     )  
  ) ss  
County of Erie         )

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2021 before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_, to me known or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Signature of Notary Public

## Review of Purchase and Sale Agreement for BETP Property

**Discussion:** The GGLDC has received a Purchase and Sale Agreement from a potential retail project to acquire approximately 2.0 buildable acres out of tax parcel 19.-1-74 for \$100,000.

**Fund Commitment:** Legal fees to Harris Beach not to exceed \$7,500.00 for the transaction.

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

**PURCHASE AND SALE CONTRACT  
FOR VACANT LAND**

**PURCHASER(S):** J & R Fancher Property Holdings, LLC, a New York limited liability company with an address at 13661 Main Street, Akron, New York 14001

**SELLER(S):** Genesee Gateway Local Development Corp., a New York 501(c)(3) not-for-profit corporation with an address at 99 MedTech Drive, Batavia, NY 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 Gateway Local Development Corp., approximate size of 7.9 acres (2.0 +/- acres buildable). The Property is depicted per attached Exhibit "A" and consists of tax parcel 19.-1-74 (to be subdivided at Purchaser's sole cost and expense) situated in the Town of Pembroke (the "Property"). The actual acreage to be purchased by the Purchaser from the Seller shall be determined based on an accurate survey of the Property to be paid for by the Purchaser pursuant to this Contract.

**2. PRICE; AMOUNT AND HOW IT WILL BE PAID:** The purchase price to be paid by the Purchaser to the Seller (the "Purchase Price") shall be \$50,000 per buildable acre with a maximum purchase price of \$100,000 and the maximum purchase price shall apply if the size of the Property exceeds 2.0 +/- buildable acres based on the updated survey to be provided by the Seller to the Purchaser provided said difference is less than .5 acres.

The Purchaser shall receive a credit at closing for any deposit made hereunder. The balance of the Purchase Price shall be paid as follows: (Check and complete applicable provisions.)

- (A) By official bank draft, wire or certified check at closing.  
 (B) Other

**3. CONTINGENCIES:** Purchaser makes this offer subject to the following contingencies to be satisfied or waived by June 1, 2022:

- a. Financing for the purchase of the Property and development of a multi-use facility with retail and housing and related accessory uses reasonably acceptable to Purchaser.
- b. Due Diligence pursuant to paragraph 16, acceptable to Purchaser in its sole and absolute discretion.
- c. All of the Purchaser's required approvals for its intended use, including subdivisions, at Purchaser's sole cost and expense with Seller's cooperation.

**4. CLOSING DATE, PLACE, AND POSSESSION:** Transfer of title shall take place at the Genesee County Clerk's Office or at the offices of the Seller's attorney prior to September 30, 2022.

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 will furnish and deliver to Purchaser or Purchaser's attorney at least thirty (30) calendar days from the Contract Date, at Purchaser's expense, fully guaranteed tax, title and United States Court Searches dated or re-dated after the date of this Contract with a local tax certificate for Town, Village or City and School District taxes, if any (collectively, the "Title Evidence"). Purchaser will pay for continuing such searches to and including the day of closing..
- C. **Instrument Survey Map.** The Seller shall furnish at Purchaser's cost an instrument survey of the Property being purchased and shall have markers placed on the angle points and pins on the corners ("the Instrument Survey Map"). The Instrument Survey Map shall be prepared by a licensed surveyor and dated or re-dated after the date of this Contract. The Instrument Survey Map shall show acreage inclusive of the rights of way, if any and shall be furnished to the parties and their attorneys within thirty (30) calendar days from the receipt of the Title Evidence. The Instrument Survey Map shall be certified to meet the standard requirements of the Genesee County Bar Association and, if applicable, meet the filing standards for subdivision as set forth by the responsible agency of the county in which the Property is located.
- D. **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.
- E. **Tax Bills.** Seller shall furnish copies of receipted real estate tax bills for the Premises for the past twelve (12) months within twenty (20) calendar days from the Date of Acceptance.
- F. **Permits.** To the extent in Seller's possession, custody or control, Seller shall furnish copies of current Certificates of Occupancy, Sump Pump Certificates (if applicable), and an other municipal code compliance certificates, etc., and also all licenses, permits or similar documents affecting or relating to the Property within twenty (20) days from the Date of Acceptance.
- G. **Other Documents.** To the extent in Seller's possession, custody or control, Seller shall also furnish copies of all appraisals, plans, drawings, specifications, environmental impact statements and other written documentation affecting or relating to the Property, within twenty (20) days of the Date of Acceptance.

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) restrictive covenants of record common to the tract or subdivision of which the Property is a part, provided these restrictions have not been violated, or if they have been violated, that the statute of limitations

for any party to seek to enforce such violations has expired: (ii) the lien of current real estate taxes not due and payable: (iii) public utility easements along lot lines as long as the Purchaser has determined those easements do not interfere with any buildings now on the Property or with any improvements Purchaser may construct in compliance with all present restrictive covenants of record and zoning and building codes applicable to the Property: and (iv) the Award (defined below) (the "Permitted Exceptions"). Seller agrees to furnish any documents required by federal or state laws for transfer of title to real property.

B. THE PURCHASER ACKNOWLEDGES AND AGREES THAT THE PROPERTY IS BEING CONVEYED BY SELLER IN "AS-IS" CONDITION. THAT PURCHASER IS FULLY FAMILIAR WITH THE CONDITION OF THE PROPERTY. AND THAT PURCHASER IS BUYING 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, AND PURCHASER ACKNOWLEDGES SUCH DISCLAIMER OF 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 REPRESENTATIONS AND DISCLAIMER CONTAINED IN THIS SECTION SHALL SURVIVE CLOSING.

7. **OBJECTION TO TITLE:** If Purchaser raises a valid written objection to Seller's title, other than Permitted Exceptions, within twenty (20) days of receipt of all Title Evidence, which indicates that the title to the Property is unmarketable, Seller may cancel this Contract by giving prompt written notice of cancellation to Purchaser and Purchaser's Deposit shall be returned. However, if Seller is able to cure the title objection on or before the closing date, or if the title objection is insurable, then this Contract shall continue in force until the closing date, subject to the Seller curing the title objection and/or providing insurable title at Seller's expense. If Seller fails to cure the title objection or provide insurable title on or before the closing date, Purchaser may cancel this Contract by giving prompt written notice of cancellation to Seller. Purchaser's Deposit shall be returned and the parties shall have no further obligation to one another except for those obligations which explicitly survive termination of this contract.

8. **RECORDING COSTS, MORTGAGE TAX, TRANSFER TAXES AND CLOSING ADJUSTMENTS:** Seller will pay the real property transfer tax and real property gains tax, if applicable. Purchaser will pay for recording the deed and the mortgage, and for the entire mortgage tax subject to any terms contained in an incentive package, if any, from GCIDA. The parties agree to cooperate in the execution and timely filing of all necessary documentation to determine any real property transfer gains tax. The following, as applicable, will be prorated and adjusted between Seller and Purchaser as of the date of closing, 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 30 days before the closing date set forth in this Contract. 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 zoned for use as a Commercial and Industrial Park.

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 Contract 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 \$10,000.00 deposit ("Deposit") upon signing of the contract to be held in escrow by Seller's attorney Harris Beach PLLC, 99 Garnsey Road, Pittsford, NY 14534. Such Deposit shall be refundable until the expiration of the Contingency Period, as may be extended as set forth herein, at which time it shall become non-refundable and payable to the Seller but shall be credited against the Purchase Price at Closing. Should this Contract be terminated by Purchaser prior to the expiration of the Contingency Period, as may be extended as set forth herein, the Deposit shall be refunded to the Purchaser. In the event of Seller's default under this Purchase and Sale Contract, the Deposit shall be paid to the Purchaser as its sole and exclusive remedy.

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 Contract and agree to indemnify and hold each other harmless from the claims of any other brokers for commissions.

13. **RESPONSIBILITY OF PERSONS UNDER THIS CONTRACT; ASSIGNABILITY:** If more than one person signs this Contract 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 Contract. If more than one person signs this Contract 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 Contract or any of its rights hereunder without prior written consent of Seller, which consent shall not be unreasonably conditioned, withheld or delayed; provided, however, Purchaser shall be permitted to assign this Contract to an affiliate, parent or subsidiary of Purchaser 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 Contract 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 Contract 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. Any notice issued by or on behalf of the Seller or Purchaser with respect to this Contract must also simultaneously be provided to the counsel for the receiving party to be effective as follows:

Seller:

Genesee Gateway Local Development Corp.



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

Counsel for Seller:

F.L. Gorman, Esq.  
Harris Beach PLLC  
99 Garnsey Road  
Pittsford, New York 14534  
Tel: 585.419.8628  
Fax: 585.419.8816  
E-mail: flgorman@harrisbeach.com

Purchaser:

J&R Fancher Property Holdings, LLC  
13661 Main Street  
Akron, NY 14001

Counsel for Purchaser:

Alyssa M. Gross, Esq.  
William C. Moran & Associates, PC  
6500 Main Street, Suite 5  
Williamsville, NY 14221

16. ACCESS TO PROPERTY/DUE DILIGENCE. At any time after the date upon which this Contract is executed by both Purchaser and Seller ("Date of Acceptance"), Purchaser may inspect, survey, examine and/or test the Property and conduct such tests thereon as it deems appropriate, including any such non-invasive inspection, surveying, examination, and/or testing required to conduct such activities in support of locating the planned economic development project at the site to and including any activities necessary for the SEQR process, by agent or otherwise. Purchaser acknowledges and agrees that it shall have no right to conduct drilling, soil boring or other invasive testing on the Property without first obtaining Seller's prior written consent, which consent shall be exercised in Seller's sole and absolute discretion and shall be predicated upon Purchaser presenting Seller with a detailed map of the location of where such invasive testing shall be conducted, a description of the nature of such invasive testing and whatever environmental or engineering reports upon which Purchaser is basing its request for such drilling, soil boring or other invasive testing. Purchaser and/or its agents and employees shall have access to the Property at any reasonable time for purposes of making the foregoing inspections on prior reasonable notice to Seller. Unless otherwise agreed to in writing between the Purchaser and Seller, Purchaser shall bear all costs associated with the foregoing inspections and associated activities 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) arising from: (a) any personal injury or property damage caused by Purchaser's negligence during the inspection of the Property; (b) any and all mechanics', laborers', materialmen's or other liens asserted against the Property resulting from Purchaser's foregoing inspections; and (c) Purchaser's presence (or that of Purchaser's representatives, agents, employees, lenders, contractors, appraisers, architects and engineers) on or at the Property

during the term of this Contract, which indemnity shall survive closing or the earlier termination of this Contract. Purchaser agrees to return the Property in as near as possible its condition prior to Purchaser's entry thereon.

17. **INTEREST IN PROPERTY.** Except for the 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 possessions, 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 Business Park) shall not exceed One Hundred Fifty Dollars (\$150.00) annually.

19. **APPLICABLE LAW.** This Contract 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 attorney fees.

20. **COUNTERPARTS.** This Contract 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 Contract. Any counterpart delivered by electronic mail or facsimile transmission shall have the same force and effect as an original thereof.

21. **AUTHORITY.** Purchaser certifies to Seller that the execution, delivery and performance by Purchaser of this Contract and the performance of the Purchaser of the transactions contemplated hereunder have been duly authorized by Purchaser and that the individual signing this Contract on behalf of Purchaser has the full authority of Purchaser to enter into this Contract.

22. **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 ("Environmental Laws"). Seller further represents and warrants that it will provide any appraisals, plans, drawings, specifications, surveys, engineering reports, environmental studies, environmental impact statements related to the Property in its possession, custody or control within twenty (20) days of the Date of Acceptance.

Seller certifies to the Purchaser that the Seller owns the Property and that the individual signing this Contract on behalf of the Seller has the full authority of the Seller to enter into this Contract. Seller accepts the offer and agrees to sell on the terms and conditions set forth above.

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

GENESEE GATEWAY LOCAL DEVELOPMENT CORP.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2021

WITNESS: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_, 2021

PURCHASER:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2021

WITNESS: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_, 2021

Exhibit A



GIS Map of Property with Proposed Lot Line



GENESEE GATEWAY LOCAL DEVELOPMENT CORPORATION

AUTHORIZING RESOLUTION

(Sale of Land to J & R Fancher Property Holdings, LLC)

A regular meeting of the Genesee Gateway Local Development Corporation (the "Corporation") was convened on \_\_\_\_\_, \_\_\_\_\_, 2021, at 4:00 p.m.

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

Resolution No. # \_\_\_/2021 - \_\_\_

RESOLUTION OF THE GENESEE GATEWAY LOCAL DEVELOPMENT CORPORATION AUTHORIZING (I) THE SALE OF CERTAIN LANDS TO J & R FANCHER PROPERTY HOLDINGS, LLC COMPRISING APPROXIMATELY 7.9 +/- ACRES LOCATED IN THE TOWN OF PEMBROKE, GENESEE COUNTY, NEW YORK, AND KNOWN AS PART OF TAX PARCEL 19.-1-74 (THE "LAND"), AND (II) THE EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT FOR THE CONVEYANCE OF THE LAND AND THE EXECUTION AND DELIVERY OF DOCUMENTS NECESSARY AND INCIDENTAL THERETO

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, among other property, the Corporation owns approximately 16.6+/- acres of vacant land located at Alleghany Road, Town of Pembroke, Genesee County, New York; and

WHEREAS, **J & R FANCHER PROPERTY HOLDINGS, LLC** and its permitted assigns (the "Company") has offered to purchase a portion of 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, the Corporation desires to transfer to the Company, for and in consideration of \$50,000.00 per buildable acre, an approximately 7.9+/- acre parcel of land located in the Buffalo

East Tech Park (the "Park") at Alleghany Road, in the Town of Pembroke, Genesee County, New York, known as part of tax parcel 19.-1-74 (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, and (iii) a deed and related documents in connection with the purchase and sale of the Land (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 (such metes and bounds description to be agreed upon by the Buyer and the Corporation), 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, 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 \$7500.00 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	[ ]	[ ]	[ ]	[ ]
Mary Ann Wiater	[ ]	[ ]	[ ]	[ ]
Paul Battaglia	[ ]	[ ]	[ ]	[ ]
Todd Bender	[ ]	[ ]	[ ]	[ ]
Craig Yunker	[ ]	[ ]	[ ]	[ ]
Gregg Torrey	[ ]	[ ]	[ ]	[ ]
Pete Zelif	[ ]	[ ]	[ ]	[ ]

The Resolutions were thereupon duly adopted.

**Corfu WWTF expansion (joint project with the Town of Pembroke) change orders**

**Discussion:** In December of 2019, the GCEDC accepted the bid received from STC Construction for a Base Bid amount of \$4,861,000 and authorizing Change Order No. 1 with a deduct amount of \$500,000.

The GCEDC also accepted the bid received from Concord Electric for a Base Bid amount of \$393,000.

The GCEDC committed the cash on hand in restricted BETP account as of 9/30/19 which was \$15,822.

The work on the WWTF is almost complete, and there are two additional change orders presented today. One change order from STC and one from Concord Electric.

The Town of Pembroke has passed a bonding resolution that will cover the increase in cost as a result of the change orders and is not asking the GCEDC for any additional funds.

**Fund commitment:** Nothing additional.

**Committee action request:** Recommend approval to the full Board of the two change orders presented here with no additional commitment of funds.



Date of Issuance: January 21, 2021	Contract Effective Date: November 7, 2019
Owner: Town of Pembroke Genesee County Economic Development Center Genesee Gateway Local Development Center	Owner's Contract No.: 1
Contractor: STC Construction, Inc.	Contractor's Project No.: 1924
Engineer: CPL	Engineer's Project No.: 14243.00
Project: Corfu Wastewater Treatment Facility Expansion	Contract Name: Contract A – General Construction

The Contract is modified as follows upon execution of this Change Order:

Description: In order to facilitate more efficient long term operation of the treatment plant the heaters were changed from electric to natural gas.

Change to Natural Gas Heat \$ 27,000.00 Total

Attachments: HVAC Proposal 12-09-20

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES
Original Contract Price: \$ <u>4,861,000.00</u>	Original Contract Times: Substantial Completion: <u>November 1, 2020</u> Ready for Final Payment: <u>December 1, 2020</u>
Decrease Amount of Previously approved Change Order: \$ <u>500,000.00</u>	[Increase] [Decrease] from previously approved Change Orders No. <u>   </u> to No. <u>   </u> : Substantial Completion: <u>Unchanged</u> Ready for Final Payment: <u>Unchanged</u>
Contract Price prior to this Change Order: \$ <u>4,361,000.00</u>	Contract Times prior to this Change Order: Substantial Completion: <u>November 1, 2020</u> Ready for Final Payment: <u>December 1, 2020</u>
Increase of this Change Order: \$ <u>27,000.00</u>	Increase of this Change Order: Substantial Completion: <u>February 1, 2021</u> Ready for Final Payment: <u>March 1, 2021</u>
Contract Price incorporating this Change Order: \$ <u>4,388,000.00</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>February 1, 2021</u> Ready for Final Payment: <u>March 1, 2021</u>

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: <u><i>Shawn A. Camp</i></u>	By: <u><i>[Signature]</i></u>	By: _____
Engineer (if required)	Contractor (Authorized Signature)	Owner (Authorized Signature)
Title: <u>Vice President</u>	Title: <u>Vice President</u>	Title: _____
Date: <u>1/8/2021</u>	Date: <u>01/07/21</u>	Date: _____

ACCEPTED:	ACCEPTED:
By: _____	By: _____
Owner (Authorized Signature)	Owner (Authorized Signature)
Title: _____	Title: _____
Date: _____	Date: _____

3j

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# STC Construction, Inc.

December 9, 2020

Dan Insinna  
CPL  
205 St. Paul Street  
Suite 500  
Rochester, NY 14604

Re: **Final HVAC Gas Proposal**

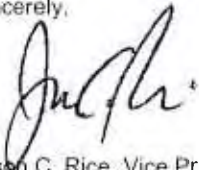
Dear Mr. Insinna:

STC Construction, Inc. is pleased to provide this proposal to complete the additional / modified HVAC scope of work as depicted on the revised drawing set dated 10/08/2020. See attached drawings W-03, H200, H201, H202, H900 for details. Proposal includes the modifications necessary to convert from Electric to Gas heat. Gas piping is included inside the buildings to the equipment. All buried gas line work is not included / by others.

**Modifications to Provide Gas Heat in lieu of Electric: ..... \$ 27,000.00 Add**

Thank you, and feel free to contact me with any questions regarding this proposal.

Sincerely,



Jason C. Rice, Vice President  
STC Construction, Inc.

Phone: 716-592-3400 • Fax: 716-592-4367

63 Zoar Valley Road • Springville, NY 14141  
Mailing Address: P.O. Box 459 • Springville, NY 14141-0459

3j

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Date of Issuance: January 8, 2021	Contract Effective Date: November 8, 2019
Owner: Town of Pembroke Genesee County Economic Development Center Genesee Gateway Local Development Center	Owner's Contract No.:
Contractor: Concord Electric Corporation	Contractor's Project No.: Corfu WWTP
Engineer: CPL	Engineer's Project No.: 14243.00
Project: Corfu Wastewater Treatment Facility Expansion	Contract Name: Contract B – Electrical

The Contract is modified as follows upon execution of this Change Order:

Description: To facilitate the more efficient long-term operation of the treatment plant, a natural gas line was installed and the heating system was changed to a natural gas fuel source in lieu of electric. To avoid comingling of accounts and provide a redundancy of utility service, a separate water line was run to the new treatment plant. For optimization of operation and maintenance, long-term durability, safety, and security, additional modifications were made to the lighting, outlets, plant controls, plant monitoring system, and blower controls.

Site gas & water lines	\$ 28,056.00
ATS relocation & electrical service change	\$ 14,887.53
Exterior lighting & Outlet additions	\$ 13,320.57
Plant control modifications and addition of blower VFD's	<u>\$ 17,573.82</u>
<b>Total</b>	<b>\$ 73,837.92</b>

Attachments: PCO#2R2, PCO#5, PCO#11, PCO#16R3

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES
Original Contract Price: \$ <u>393,000.00</u>	Original Contract Times: Substantial Completion: <u>November 1, 2020</u> Ready for Final Payment: <u>December 1, 2020</u>
No previous Change Orders: \$ <u>0.00</u>	No previous Change Orders: Substantial Completion: <u>Unchanged</u> Ready for Final Payment: <u>Unchanged</u>
Contract Price prior to this Change Order: \$ <u>393,000.00</u>	Contract Times prior to this Change Order: Substantial Completion: <u>November 1, 2020</u> Ready for Final Payment: <u>December 1, 2020</u>
Increase of this Change Order: \$ <u>73,837.92</u>	Increase of this Change Order: Substantial Completion: <u>February 1, 2021</u> Ready for Final Payment: <u>March 1, 2021</u>
Contract Price incorporating this Change Order: \$ <u>466,837.92</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>February 1, 2021</u> Ready for Final Payment: <u>March 1, 2021</u>

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: <u><i>Thomas A. Spahr</i></u>	By: <u><i>Patricia Clifford</i></u>	By: <u><i>James E. Schuchert</i></u>
Engineer (if required)	Contractor (Authorized Signature)	Owner (Authorized Signature)
Title: <u>Vice President</u>	Title: <u>Treasurer</u>	Title: <u>Supervisor</u>
Date: <u>1/15/2021</u>	Date: <u>1/14/21</u>	Date: <u>1/19/2021</u>

ACCEPTED:	ACCEPTED:
By: _____	By: _____
Owner (Authorized Signature)	Owner (Authorized Signature)
Title: _____	Title: _____
Date: _____	Date: _____

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# PROPOSED CHANGE ORDER

**Concord Electric Corp**  
705 Maple St  
Rochester, NY

CCN# 2  
Date: 10/16/2020  
Project Name: CORFU WWTP  
Project Number: CORFU WWTP  
Page Number: 1

Client Address:

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## Work Description

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ADD GAS PIPING PER DAVID BARSUK SCOPE OF WORK.

We reserve the right to correct this quote for errors and omissions.

This quote covers direct costs only and we reserve the right to claim for impact and consequential costs.

This price is good for acceptance within 10 days from the date of receipt.

We request a time extension of 3 days.

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## Itemized Breakdown

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### Summary

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GAS		26,720.00
<b>Material Total</b>		<b>26,720.00</b>
Subtotal		26,720.00
Overhead	(@ 5.000 %)	1,336.00
<b>Subtotal</b>		<b>28,056.00</b>
<b>Final Amount</b>		<b>\$28,056.00</b>

ORIGINAL

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# PROPOSED CHANGE ORDER

**Concord Electric Corp**  
705 Maple St  
Rochester, NY

CCN # 5  
Date: 10/14/2020  
Project Name: CORFU WWTP  
Project Number: CORFU WWTP  
Page Number: 1

Client Address:

## Work Description

PRICE FOR REVISED SERVICE.

We reserve the right to correct this quote for errors and omissions.

This quote covers direct costs only and we reserve the right to claim for impact and consequential costs.

This price is good for acceptance within 10 days from the date of receipt.

## Itemized Breakdown

Description	Qty	Net Price	U	Total Mat.	Labor	U	Total Hrs.
3 1/2" CONDUIT - RMC - GALV	60	1,556.60	C	933.96	25.00	C	15.00
3 1/2" COUPLING - RMC - GALV	1	1,616.51	C	16.17	0.20	E	0.20
3 1/2" ELBOW 90 DEG - RMC - GALV	6	48.04	E	288.24	250.00	C	15.00
3 1/2x 5" NIPPLE - RMC - GALV	1	1,314.68	C	13.15	110.00	C	1.10
3 1/2x 12" NIPPLE - RMC - GALV	4	2,661.74	C	106.47	110.00	C	4.40
3 1/2" CONN THRD HUB INSUL - RMC - MALL OR STL	4	5,926.01	C	237.04	115.00	C	4.60
3 1/2" BUSHING - PLASTIC	12	129.55	C	15.55	0.20	E	2.40
3 1/2" 2-PC CONDUIT STRUT CLAMP	4	163.02	C	6.52	6.00	C	0.24
3.5" CONDUIT - PVC80	90	289.48	C	260.53	7.25	C	6.53
# 1 THHN BLACK	10	1,423.20	M	14.23	19.00	M	0.19
#350 THHN BLACK	640	5,501.87	M	3,521.20	38.00	M	24.32
3 1/4x 1 5/8x 12G STRUT GALV	10	165.15	C	16.52	16.00	C	1.60
LOCKNUT	24	332.25	C	79.74	5.60	C	1.34
36X36X10 3R BOX	1	350.00	E	350.00	2.00	E	2.00
WEATHERHEADS	2	13,089.01	C	261.78	0.55	E	1.10
POINT OF ATTACHMENT	1	0.00	E	0.00	0.63	E	0.63
<b>Totals</b>	<b>870</b>			<b>6,121.08</b>			<b>80.65</b>

## Summary

General Materials		6,121.08
<b>Material Total</b>		<b>6,121.08</b>
ELECTRICIAN	(80.65 Hrs @ \$84.62)	6,824.60
<b>Subtotal</b>		<b>12,945.68</b>
Overhead	(@ 15.000 %)	1,941.85
<b>Subtotal</b>		<b>14,887.53</b>
<b>Final Amount</b>		<b>\$14,887.53</b>

ORIGINAL

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350 METRO PARK  
 ROCHESTER NY 14623-2614  
 Phone: 585-458-3600  
 Fax: 585-458-4318

To: CONCORD ELECTRIC CORP.  
 705 MAPLE STREET  
 ROCHESTER NY 14611-1713  
 Attn: STEVE TROMBLEY  
 Phone: 585-436-6870  
 Fax: 585-436-5766  
 Email: timothy.keeley@graybar.com

Date: 10/12/2020  
 Proj Name: CORFU NEW SERVICE  
 GB Quote #: 0236427427  
 Release Nbr:  
 Purchase Order Nbr:  
 Additional Ref#  
 Valid From: 10/12/2020  
 Valid To: 10/31/2020  
 Contact: TIMOTHY KEELEY  
 Email: timothy.keeley@graybar.com

**Proposal**

We Appreciate Your Request and Take Pleasure in Responding As Follows

Item	Item/Type	Quantity	Supplier	Catalog Nbr	Description	Price	Unit	Ext.Price
100		2 EA	ABB ELECTRICAL	SH 109	SG SH109 3 1/2IN SVCE CAP CLMP RGD/I	\$13,089.01	100	\$261.78
GB Part #: 88254301		UPC #: 78599143366						
200		4 EA	COOPER B-LINE SYS	B2016PAZN	PIPE/COND CLM PREASSEMB RIGID 3 1/2IN ZN	\$163.02	100	\$6.52
GB Part #: 88035293		UPC #: 78101161094						
300		10 EA	COOPER B-LINE SYS	B22SH-120GLV	SH CHNL 1 5/8 X 1 5/8-9/16 X 1 1/8 10FT	\$165.15	100	\$16.52
GB Part #: 88035486		UPC #: 78101121330						
400		1 EA	CONDUIT	3-1/2 X 5	3-1/2 X 5-GALVANIZED CONDUIT NIPPLE	\$1,314.68	100	\$13.15
GB Part #: 88273242		UPC #: 78669200643						
500		1 EA	CONDUIT	3-1/2-GALV- COUP	3-1/2-GALVANIZED RIGID COUPLING	\$1,616.51	100	\$16.17
GB Part #: 88273233		UPC #: 78669200139						

This equipment and associated installation charges may be financed for a low monthly payment through Graybar Financial Services (subject to credit approval). For more information call 1-800-241-7408 to speak with a leasing specialist.

To learn more about Graybar, visit our website at [www.graybar.com](http://www.graybar.com)

24-Hour Emergency Phone#: 1-800-GRAYBAR

Subject to the standard terms and conditions set forth in this document. Unless otherwise noted, freight terms are F.O.B. shipping point prepaid and bill. Unless noted the estimated ship date will be determined at the time of order placement.

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To: CONCORD ELECTRIC CORP.  
 705 MAPLE STREET  
 ROCHESTER NY 14611-1713  
 Attn: STEVE TROMBLEY

Date: 10/12/2020  
 Proj Name: CORFU NEW SERVICE  
 GB Quote #: 0236427427

### Proposal

We Appreciate Your Request and Take Pleasure in Responding As Follows

600	4 EA	COOPER CROUSE-HINDS	ST 9	CH MYERS 3 1/2 ZINC CONDUIT HUB	\$5,926.01	100	\$237.04
GB Part #: 88185199 UPC #: 78473110011							
700	90 EA	PVC COND	PVC-80-3-1/2	3-1/2 SCH80 COND 10FT	\$289.48	100	\$260.53
GB Part #: 94053951 UPC #: 98006006309							
800	6 EA	CONDUIT	3-1/2-90D-GALV- ELL	3-1/2-90 DEG STD RAD RIGID ELBOW	\$48.04	1	\$288.24
GB Part #: 88273234 UPC #: 78669200169							

Total in USD (Tax not included): \$1,099.95

This equipment and associated installation charges may be financed for a low monthly payment through Graybar Financial Services (subject to credit approval). For more information call 1-800-241-7408 to speak with a leasing specialist.

To learn more about Graybar, visit our website at [www.graybar.com](http://www.graybar.com) 24-Hour Emergency Phone#: 1-800-GRAYBAR

Subject to the standard terms and conditions set forth in this document. Unless otherwise noted, freight terms are F.O.B. shipping point prepaid and bill. Unless noted the estimated ship date will be determined at the time of order placement.

3j

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To: CONCORD ELECTRIC CORP.  
705 MAPLE STREET  
ROCHESTER NY 14611-1713  
Attn: STEVE TROMBLEY

Date: 10/12/2020  
Proj Name: CORFU NEW SERVICE  
GB Quote #: 0236427427

## Proposal

We Appreciate Your Request and Take Pleasure in Responding As Follows

### GRAYBAR ELECTRIC COMPANY, INC. TERMS AND CONDITIONS OF SALE

1. **ACCEPTANCE OF ORDER, TERMINATION** - Acceptance of any order is subject to credit approval and acceptance of order by Graybar Electric Company, Inc. ("Graybar") and, when applicable, Graybar's suppliers. If credit of the buyer or the goods or services ("Buyer") becomes unsatisfactory to Graybar, Graybar reserves the right to terminate upon notice to Buyer and without liability to Graybar.
2. **PRICES AND SHIPMENTS** - Unless otherwise quoted, prices for goods shall be those in effect at time of shipment, which shall be made F.O.B. shipping point, prepaid and bill. Unless otherwise indicated in the applicable quotation or statement of work, prices for services shall be those in effect at the time of completion. The contract price for goods and/or services shall be increased by the amount of any applicable tariff, export fee, assessment, levy, charge or duty of any kind whatsoever, imposed, assessed or collected by any governmental body, whether or not reflected in the costs charged to Graybar, and Graybar may increase its cost for goods and/or services proportionately to take into account such increases in Graybar's costs.
3. **RETURN OF GOODS** - Credit may be allowed for goods returned with prior approval. A delinquent may be made from credits issued to cover cost of handling. Returns will not be accepted for services or any material which has been installed at the request of or by Buyer. In addition, no custom orders may be returned.
4. **DELAY IN DELIVERY** - Graybar is not to be responsible for delays in delivery of goods or services occasioned by acts of God, failure of its suppliers to ship or deliver on time, or other circumstances beyond Graybar's reasonable control, including, but not limited to, sourcing, shipment or delivery issues caused by, related to or resulting from COVID-19 or other similar national or global health situations. Factory shipment or delivery times are best estimates, and in no case shall Graybar be liable for any consequential or special damages arising from any delay in provision of services, shipment or delivery.
5. **LIMITED WARRANTIES** - Graybar warrants that all goods sold are free of any security interest and will make available to Buyer all transferable warranties (including without limitation warranties with respect to intellectual property subsequently made to Graybar by the manufacturer of the goods). Buyer acknowledges that the performance of any service which affects the manufacturer's provided goods as indicated in the statement of work voids the manufacturer's warranty. Graybar shall use the same care and skill a similarly situated provider of like services would exercise following commonly accepted industry practices in the performance of its work under this agreement. GRAYBAR MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PURPOSE. END USER OTHERWISE AGREED TO, INCLUDING BY AN AUTHORIZED REPRESENTATIVE OF GRAYBAR, PRODUCTS SOLD HEREUNDER ARE NOT INTENDED FOR USE IN OR IN CONNECTION WITH (1) ANY SAFETY APPLICATION OR THE CONTAINMENT AREA OF A NUCLEAR FACILITY, OR (2) IN A HEALTH CARE APPLICATION, WHERE THE GOODS HAVE POTENTIAL FOR DIRECT PATIENT CONTACT OR WHERE A SIX (6) FOOT CLEARANCE FROM A PATIENT CANNOT BE MAINTAINED AT ALL TIMES.
6. **LIMITATION OF LIABILITY** - Buyer's remedies under this agreement are subject to any limitations contained in manufacturer's terms and conditions to Graybar, a copy of which will be furnished upon written request. Furthermore, Graybar's liability shall be limited to either repair or replacement of the goods, re-performance of the services, or refund of the purchase price, all at Graybar's option, and IN NO CASE SHALL GRAYBAR BE LIABLE FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES. In addition, claims for damages, other than loss in transit, must be made in writing (in more than five (5) days after receipt of shipment) unless otherwise agreed in the applicable statement of work, acceptance of services will occur not more than five (5) days after completion of performance.
7. **WARRANTY** - The failure of Graybar to meet upon the performance of any of the terms or conditions of this agreement or to exercise any right hereunder shall not be deemed to be a waiver of such terms, conditions, or rights in the future, nor shall it be deemed to be a waiver of any other term, condition, or right under this agreement.
8. **MODIFICATION OF TERMS AND CONDITIONS** - These terms and conditions, and any associated statement of work, supersede all other communications, negotiations, and prior oral or written statements regarding the subject matter of these terms and conditions. No change, modification, rescission, discharge, abandonment, or waiver of these terms and conditions shall be binding upon Graybar unless made in writing and signed in its behalf by a duly authorized representative of Graybar. No conditions, usage of trade, course of dealing or performance, understanding or agreement, purporting to modify, vary, explain, or supplement these terms and conditions shall be binding unless hereafter made in writing and signed by the party to be bound. Any proposed modifications or additional terms are specially rejected and deemed a material alteration thereof. If this document shall be placed in acceptance of a purchase order by Buyer, such acceptance is expressly conditioned upon Buyer's assent to any additional or different terms set forth herein.
9. **REGS.** - When Graybar ships explosive goods, a red dot may be included in the invoice. The Buyer should contact the nearest Graybar service location in return only.
10. **CERTIFICATION** - Graybar hereby certifies that these goods were produced in compliance with all applicable requirements of Sections 6, 7, and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under Section 14 thereof. This agreement is subject to Executive Order 13246, as amended, the Rehabilitation Act of 1973, as amended, the Vietnam Veterans Readjustment Assistance Act of 1974, as amended, E.O. 13496, 78 CFR Part 471, Appendix A to Subpart A, and the corresponding regulations, to the extent required by 48 CFR 101-11.1, 101-11.3, and 101-25.9, are incorporated herein by reference to the extent legally required.
11. **FOREIGN CORRUPT PRACTICES ACT** - Buyer shall comply with applicable laws and regulations relating to anti-corruption, including, without limitation, (i) the United States Foreign Corrupt Practices Act (FCPA) (15 U.S.C. § 7801-7804), et seq. (irrespective of the place of performance), and (ii) laws and regulations implementing the Organization for Economic Cooperation and Development's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the U.N. Convention Against Corruption, and the Inter-American Convention Against Corruption in Buyer's country of any country where performance of this agreement or delivery of goods will occur.
12. **ASSIGNMENT** - Buyer shall not assign its rights or delegate its duties hereunder or any interest herein without the prior written consent of Graybar, and any such assignment, in whole or in part, shall be void.
13. **GENERAL PROVISIONS** - All typographical or clerical errors made by Graybar or any quantity, include legends or publication are subject to correction. This agreement shall be governed by the law of the State of Missouri applicable to contracts to be formed and fully performed within the State of Missouri, without giving effect to the choice or conflicts of law provisions thereof. All suits arising from or concerning this agreement shall be filed in the Circuit Court of St. Louis County, Missouri, or the United States District Court for the Eastern District of Missouri, and no other place unless otherwise determined in Graybar's sole discretion. Buyer hereby irrevocably consents in the jurisdiction of such court and agrees to appear in one such action upon a return notice thereof.
14. **PAYMENT TERMS** - Payment terms shall be as stated on Graybar's invoice or as otherwise mutually agreed. As a condition of the sales agreement, a monthly service charge of the lesser of 1-1/2% or the maximum permitted by law may be added to all accounts not paid by set date. Visa, MasterCard, American Express, and Discover credit cards are accepted at point of purchase only.
15. **EXPORTING** - Buyer acknowledges that this order and the performance hereunder are subject to compliance with any and all applicable United States law's, regulations, or orders. Buyer agrees to comply with all such laws, regulations, and orders, including, if applicable, all requirements of the International Traffic in Arms Regulations and/or the Export Administration Act, as may be amended. Buyer further agrees that if the export laws are applicable, it will not disclose or re-export any technical data received under this order to any countries for which the United States government requires an export license or other supporting documentation in the time of export or transfer, unless Buyer has obtained prior written authorization from the United States Office of Export Control or other authority responsible for such matters.
16. **UNDECLARATION, CHANGES FOR SERVICES** - Buyer may cancel or make changes to a statement of work up to five (5) business days prior to commencement of the work. All changes and cancellations, other than those are subject to Graybar's prior written approval in Graybar's sole and absolute discretion. Buyer shall pay to Graybar amounts necessary to retain cancellation, reworking fees, and other charges applicable to the cancelled goods or services, including those incurred or submitted to by Graybar.

Signed: \_\_\_\_\_

This equipment and associated installation charges may be financed for a few monthly payment through Graybar Financial Services (subject to credit approval). For more information call 1-800-211-7408 to speak with a leasing specialist.

To learn more about Graybar, visit our website at [www.graybar.com](http://www.graybar.com)

24-Hour Emergency Phone#: 1-800-GRAYBAR

Subject to the standard terms and conditions set forth in this document. Unless otherwise noted, freight terms are F.O.B. shipping point prepaid and bill. Unless noted the estimated ship date will be determined at the time of order placement.

3j

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# PROPOSED CHANGE ORDER

**Concord Electric Corp**  
 705 Maple St  
 Rochester, NY

CCN# 11  
 Date: 10/28/2020  
 Project Name: CORFU WWTP  
 Project Number: CORFU WWTP  
 Page Number: 1

Client Address:

## Work Description

**FURNISH & INSTALL 4 NEW TYPE FL FLOOD LIGHTS.**

We reserve the right to correct this quote for errors and omissions.

This quote covers direct costs only and we reserve the right to claim for impact and consequential costs.

This price is good for acceptance within 10 days from the date of receipt.

## Itemized Breakdown

Description	Qty	Net Price	U	Total Mat.	Labor	U	Total Hrs.
2" CONDUIT - RMC - GALV	40	707.50	C	283.00	11.00	C	4.40
2" COUPLING - RMC - GALV	2	395.00	C	7.90	0.10	E	0.20
2" ELBOW 90 DEG - RMC - GALV	2	1,673.00	C	33.46	100.00	C	2.00
2" LOCKNUT - STEEL	16	216.45	C	34.63	0.10	E	1.60
2" BUSHING - PLASTIC	8	135.04	C	10.80	0.10	E	0.80
2" MEASURE CUT & THREAD LABOR - RMC - GALV	4	5.00	E	20.00	0.50	E	2.00
2" 1-H STRAP - RMC - MALL	5	609.21	C	30.46	4.25	C	0.21
3/4" CONDUIT - PVC80	220	64.40	C	141.68	4.50	C	9.90
1" CONDUIT - PVC80	130	88.49	C	115.04	5.25	C	6.83
3/4" ELBOW 90 DEG - PVC80	2	143.34	C	2.87	22.00	C	0.44
1" ELBOW 90 DEG - PVC80	4	217.10	C	8.68	25.00	C	1.00
3/4" COUPLING - PVC	4	38.80	C	1.55	0.10	E	0.40
1" COUPLING - PVC	8	58.90	C	4.71	0.10	E	0.80
3/4" 2-H STRAP - PVC	44	84.84	C	37.33	4.00	C	1.76
1" 2-H STRAP - PVC	14	104.47	C	14.63	4.00	C	0.56
#12 THHN BLACK	968	119.40	M	115.58	6.00	M	5.81
#10 THHN BLACK	572	287.00	M	164.16	7.00	M	4.00
4x 1 1/2" SQ BOX COMB KO	1	800.94	C	8.01	30.00	C	0.30
4" SQ 1G PLSTR RING 5/8" RISE	1	511.21	C	5.11	15.00	C	0.15
3/8-16x 2 1/4 WEDGE ANCHOR - 1 1/2" MIN DEPTH	5	0.00	C	0.00	18.00	C	0.90
#8 TO #10x 7/8 PLAS ANCHOR (3/16)	58	6.68	C	3.87	15.00	C	8.70
#10x 1 P/H SELF-TAP SCREW	58	9.75	C	5.66	5.50	C	3.19
1G TGL SWITCH PLATE - PLASTIC IVY	1	52.95	C	0.53	10.00	C	0.10
WEATHERPROOF SWITCH	1	4,848.58	C	48.49	45.00	C	0.45
TYPE FL FLOOD LIGHT	4	25.00	E	100.00	4.00	E	16.00
<b>Totals</b>	<b>2,172</b>			<b>1,198.15</b>			<b>72.50</b>

## Summary

General Materials 1,198.15  
 FL LIGHT FIXTURES 4,250.00

**ORIGINAL**

3j

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**PROPOSED CHANGE ORDER**

Client Address:

**Concord Electric Corp**  
705 Maple St  
Rochester, NY

CCN# 11  
Date: 10/28/2020  
Project Name: CORFU WWTP  
Project Number: CORFU WWTP  
Page Number: 2

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**Summary (Cont'd)**

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<b>Material Total</b>		<b>5,448.15</b>
ELECTRICIAN	(72.50 Hrs @ \$84.62)	6,134.95
<b>Subtotal</b>		<b>11,583.10</b>
Overhead	(@ 15.000 %)	1,737.47
<b>Subtotal</b>		<b>13,320.57</b>
<b>Final Amount</b>		<b>\$13,320.57</b>

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# PROPOSED CHANGE ORDER

**Concord Electric Corp**

705 Maple St  
Rochester, NY

CCN# 16  
Date: 12/24/2020  
Project Name: CORFU WWTP  
Project Number: CORFU WWTP  
Page Number: 1

Client Address:

**Work Description**

ADDITIONAL WORK DESCRIBED BELOW:

- 2) TWO 1.5" PVC FROM MCP TO GUTTER, TEN 1" PIPES FROM GUTTER TO DRIVES.
- 3) TWO TSP WIRE TO MAG METER TO EQ TANK. CORE MAN HOLE TO EQ TANK.
- 4) FOUR 3/4" PVC FROM GUTTER TO GUTTER THEN AROUND TANK TO SLUDGE HOLDING TANK #2 WITH YSI NETWORK CABLE MOUNT HOOD FOR CONTROLLER.
- 10) TWO 1" PVC CONDUITS PLUS GUTTER FROM MCP.
- 13) FOUR 70A 3P BREAKERS.

We reserve the right to correct this quote for errors and omissions.

This quote covers direct costs only and we reserve the right to claim for impact and consequential costs.

This price is good for acceptance within 10 days from the date of receipt.

**Itemized Breakdown**

Description	Qty	Net Price	U	Total Mat.	Labor	U	Total Hrs.
3/4" CONDUIT - RMC - GALV	110	279.00	C	306.90	6.00	C	6.60
3/4" COUPLING - RMC - GALV	6	128.00	C	7.68	0.10	E	0.60
3/4" ELBOW 90 DEG - RMC - GALV	3	444.00	C	13.32	40.00	C	1.20
3/4" TYPE LB STD CONDUIT BODY W/ CVR & GSKT - RM	3	19.94	E	59.82	0.65	E	1.95
1 1/2" LOCKNUT - STEEL	4	159.44	C	6.38	0.10	E	0.40
3/4" MEASURE CUT & THREAD LABOR - RMC - GALV	1	0.00	C	0.00	1.00	E	1.00
3/4x 4" FLEX COUPLING W/ MALE ENDS	2	195.42	E	390.84	0.50	E	1.00
3/4" FEM SEAL FTG - VERT ONLY - MALL	1	21.94	E	21.94	0.60	E	0.60
3/4" 1-H STRAP - RMC - MALL	31	171.94	C	53.30	4.00	C	1.24
3/4" FLEX - LIQUIDTIGHT METALLIC - GRAY	20	372.00	C	74.40	5.00	C	1.00
3/4" CONN STRAIGHT - LIQUIDTIGHT DIECAST	4	557.58	C	22.30	18.00	C	0.72
3/4" CONDUIT - PVC	230	108.00	C	248.40	5.20	C	11.96
1" CONDUIT - PVC	50	147.00	C	73.50	5.25	C	2.63
1 1/2" CONDUIT - PVC	60	230.00	C	138.00	7.00	C	4.20
3/4" CONDUIT - PVC	10	108.00	C	10.80	5.20	C	0.52
3/4" ELBOW 90 DEG - PVC	2	143.34	C	2.87	22.00	C	0.44
1" ELBOW 90 DEG - PVC	2	217.10	C	4.34	25.00	C	0.50
1 1/2" ELBOW 90 DEG - PVC	4	433.02	C	17.32	40.00	C	1.60
3/4" ELBOW 90 DEG - PVC	1	834.91	C	8.35	25.20	C	0.25
1" ELBOW 90 DEG - PVC	3	1,040.33	C	31.21	28.80	C	0.86
3/4" COUPLING - PVC	4	38.80	C	1.55	0.10	E	0.40
1" COUPLING - PVC	10	58.90	C	5.89	0.10	E	1.00
1 1/2" COUPLING - PVC	10	109.74	C	10.97	0.10	E	1.00
1 1/2" ADAPTER MALE - PVC	4	157.36	C	6.29	25.00	C	1.00
3/4" TYPE T STD CONDUIT BODY - PVC	2	1,058.26	C	21.17	55.00	C	1.10
1" TYPE T STD CONDUIT BODY - PVC	2	1,185.89	C	23.72	60.00	C	1.20

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**PROPOSED CHANGE ORDER**

Client Address:

**Concord Electric Corp**

705 Maple St  
Rochester, NY

CCN# 16  
Date: 12/24/2020  
Project Name: CORFU WWTP  
Project Number: CORFU WWTP  
Page Number: 2

Description	Qty	Net Price	U	Total Mat.	Labor	U	Total Hrs.
1 1/2" TYPE T STD CONDUIT BODY - PVC	4	2,441.87	C	97.67	85.00	C	3.40
TYPE F FITTING	1	597.01	C	5.97	14.00	C	0.14
3/4" 2-H STRAP - PVC	73	84.84	C	61.93	4.00	C	2.92
1" 2-H STRAP - PVC	17	104.47	C	17.76	4.00	C	0.68
1 1/2" 2-H STRAP - PVC	20	132.81	C	26.56	4.25	C	0.85
# 3 THHN BLACK	1,500	1,991.00	M	2,986.50	15.00	M	22.50
# 2 THHN BLACK	-1,500	2,239.00	M	-3,358.50	17.00	M	-25.50
#14 THHN GREEN	3,450	188.00	M	648.60	5.00	M	17.25
YSI CABLE FURNISHED BY OTHERS	600	0.00	M	0.00	32.00	M	19.20
#18- 2P F/A CABLE 105 DEG	200	250.00	M	50.00	14.00	M	2.80
4 9/16x 1 15/16" DEEP CAST BOX W/ 4x 3/4" HUBS - CI	1	48.30	E	48.30	0.80	E	0.80
COVER ROUND BLANK - CI	1	12.73	E	12.73	0.20	E	0.20
3 1/4x 1 5/8x 12G STRUT GALV	20	2,720.39	C	544.08	16.00	C	3.20
KINDORF STRAPS	18	3,241.54	C	583.48	0.25	E	4.50
3/8-16x 2 1/4 WEDGE ANCHOR - 1 1/2" MIN DEPTH	20	0.10	E	2.00	7.50	C	1.50
#8 TO #10x 7/8 PLAS ANCHOR (3/16)	123	6.68	C	8.22	7.50	C	9.22
#10x 1 P/H SELF-TAP SCREW	123	9.75	C	11.99	2.75	C	3.38
70A 3P BREAKER BOLT-ON	4	450.00	E	1,800.00	1.05	E	4.20
CORE DRILL	2	0.00	E	0.00	2.00	E	4.00
<b>Totals</b>	<b>5,256</b>			<b>5,108.56</b>			<b>120.22</b>

**Summary**

General Materials		5,108.56
<b>Material Total</b>		<b>5,108.56</b>
ELECTRICIAN	(120.22 Hrs @ \$84.62)	10,173.02
<b>Subtotal</b>		<b>15,281.58</b>
Overhead	(@ 15.000 %)	2,292.24
<b>Subtotal</b>		<b>17,573.82</b>
<b>Final Amount</b>		<b>\$17,573.82</b>

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