



Meeting Agenda – STAMP Committee
 Genesee County Economic Development Center
 Wednesday, September 6, 2023 - 8:00 a.m.
 Location: 99 MedTech Drive, Innovation Zone

Page #'s	Topic	Discussion Leader	Desired Outcome
	1. Call to Order – Enter Public Session	P. Zelif	
	1a. Executive Session Motion to enter executive session under the Public Officers Law, Article 7, Open Meetings Law Section 105 for the following reasons: <ol style="list-style-type: none"> 1. Discussions regarding proposed, pending or current litigation. 2. The medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation. 3. The proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof. 1b. Enter Public Session	P. Zelif	
2-5	2. Chairman's Report & Activities 2a. Agenda Additions / Deletions / Other Business 2b. Minutes: August 2, 2023	P. Zelif	Vote
6	3. Discussions / Official Recommendations to the Board: 3a. STAMP Payment for Easement	M. Masse	Disc / Vote
7-10	3b. STAMP Payment for Easements – Installation of Water Lines From Curb Box to House	M. Masse	Disc / Vote
11-13	3c. G. DeVincentis & Son Change Order – Force Main Contract	M. Masse	Disc / Vote
14-24	3d. Host Community Investment Agreement	M. Masse	Disc / Vote
	4. Adjournment	P. Zelif	Vote



GCEDC STAMP Committee Meeting
Wednesday, August 2, 2023
Location: 99 MedTech Drive, Innovation Zone
8:00 a.m.

MINUTES

ATTENDANCE

Committee Members: M. Clattenburg, C. Yunker, P. Zeliff, C. Kemp
Staff: M. Masse, L. Farrell, S. Hyde, C. Suozzi, P. Kennett, J. Krencik
Guests: M. Fitzgerald (Phillips Lytle/Video Conference), R. Crossen (Town of Alabama Supervisor), M. Landers (Genesee County Manager)
Absent:

1. Call to Order / Enter Public Session

P. Zeliff called the meeting to order at 8:00 a.m. in the Innovation Zone.

1a. Executive Session

M. Clattenburg made a motion to enter executive session under the Public Officers Law, Article 7, Open Meetings Law Section 105, at 8:00 a.m., for the following reasons:

1. Discussions regarding proposed, pending, or current litigation.
2. The medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation.
3. The proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.

The motion was seconded by C. Yunker and approved by all members present.

1b. Re-Enter Public Session

C. Yunker made a motion to enter back into public session at 9:16 a.m., seconded by M. Clattenburg and approved by all.

2. Chairman's Report & Activities

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

2b. Minutes: June 28, 2023

C. Yunker made a motion to approve the June 28, 2023 minutes; the motion was seconded by M. Clattenburg. Roll call resulted as follows:

P. Zeliff - Yes
C. Yunker - Yes

M. Clattenburg – Yes
C. Kemp - Yes

The item was approved as presented.

3. Discussions / Official Recommendations to the Board:

3a. Construction Update – M. Masse provided the following construction updates:

- 1) The directional drill project through the Fish & Wildlife Refuge began Monday, 7/31/23. We will receive weekly drilling reports to track the progress of how much has been drilled and how much pipe has been put in. They hit rock at the start but are hoping for improvement as they progress further into the refuge.
- 2) Construction for the Crosby Road Rebuild started Monday, 7/31/23 and should be completed in 5-6 weeks.

3b. Part 182 Issuance & Overview – M. Masse stated that we received the site-wide Part 182 Incidental Take Permit. There are mitigation requirements associated with the issuance of that permit. Sixty years of mitigation, including but not limited to, mowing, spraying and bird surveys for two parcels (33-acre parcel and 25-acre parcel). The GCEDC was able to avoid the issuance of a bond or letter of credit as the County stepped in to be the guarantor if the GCEDC fails. The County would then be responsible for the mitigation.

3c. CC Environment & Planning Part 182 Mitigation Oversight Contract - With the issuance of the site wide Part 182 for the STAMP site, there are obligations the GCEDC has under the permit conditions as it relates to the mitigation. CC Environment & Planning has proposed a contract that they will implement and oversee all aspects of the required monitoring and management of the grassland mitigation at STAMP per the DEC approved mitigation plan and permit conditions.

This scope of this contract will cover the first 15 years of the permit requirements.

Fund Commitment: \$213,112 to be covered under the escrow account established for the Part 182 permit.

Board Action request: Recommend approval to the full Board the proposal for CC Environment and Planning.

M. Clattenburg made a motion to recommend to the full Board the approval of the CC Environment & Planning Part 182 Mitigation Oversight Contract not to exceed \$213,112 as presented; the motion was seconded by C. Yunker. Roll call resulted as follows:

P. Zeff - Yes
C. Yunker - Yes
M. Clattenburg – Yes
C. Kemp - Yes

The item was approved as presented.

3d. Survey Quotes for Business Park Association - The GCEDC requested bids from three companies for a subdivision boundary survey map which includes the following:

- a. A metes and bounds legal description for all developable property at the STAMP site as highlighted on the attached map.
- b. Separate highlighting or identification of each parcel located the STAMP Site (Plug Power Site, Edwards Vacuum Site, GCEDC Site and NY Green Site) as identified on the attached map including the acreage of each tax lot located within each Site and the record or anticipated owner of each Site. Separate surveys and legal descriptions for the Plug Power Site and the Edwards Vacuum Site are complete and can be provided.
- c. A metes and bounds legal description for the portion of the STAMP Site that will be transferred to NY Green, Inc. as can be discussed on a call.
- d. A metes and bounds legal description for the portion of the STAMP Site that will be retained by GCEDC as highlighted on the attached map as "STAMP Utility area".
- e. A metes and bounds legal description and subdivision map for approximately 33 acres of a mitigation area to be transferred to NYS.

The survey will be used to identify property that will be used in a business park association model, to be able to bill companies based on the acreage they own, for any common charges at the STAMP site.

The results of the bids are as follows:

- 1. Bid of \$15,000 – Frandina Engineering and Land Surveying
- 2. Bid of \$17,000 - Welch & O'Donoghue
- 3. Townsend & Lamendola declined to bid.

Fund Commitment: Not to exceed \$15,000 to Frandina Engineering and Land Surveying for STAMP survey work from \$33 million.

Board Action Request: Approval of survey contract for STAMP.

C. Yunker made a motion to recommend to the full Board the approval of the Frandina Engineering & Land Surveying contract not to exceed \$15,000 as presented; the motion was seconded by M. Clattenburg. Roll call resulted as follows:

P. Zeff - Yes
C. Yunker - Yes
M. Clattenburg – Yes
C. Kemp - Yes

The item was approved as presented.

3e. Access Agreement for Plug Power – As part of their construction of their hydrogen facility, Plug Power would like to utilize the previously constructed marshalling yard directly to the north of their site as an additional construction parking area.

Fund Commitment: None.

Board Action Request: Recommend approval of access agreement.

C. Yunker made a motion to recommend to the full Board the approval of the Access Agreement for Plug Power as presented; the motion was seconded by M. Clattenburg. Roll call resulted as follows:

- P. Zeliff - Yes
- C. Yunker - Yes
- M. Clattenburg – Yes
- C. Kemp - Yes

The item was approved as presented.

4. Adjournment

As there was no further business, M. Clattenburg made a motion to adjourn at 9:25 a.m., seconded by C. Yunker and passed unanimously.

STAMP Payment for easement

Discussion: In conjunction with the installation of the force main from the STAMP site to the direct discharge point at Oak Orchard Creek, the following easement is needed:

1. Temporary Easement 20 – \$1,300

Fund Commitment: \$1,300 from the \$33 million.

Board Action Request: Approval of payment of \$1,300 to the holder of the easement number listed above.

STAMP Payment for easements

Discussion: In conjunction with the installation of the force main from the STAMP site to the direct discharge point at Oak Orchard Creek, the Board previously approved the payment of the following easements:

1. Temporary Easement 27 – Installation of water line from curb box to house - Estimated at \$2,500
2. Temporary Easement 16 – Installation of water line from curb box to house - Estimated at \$2,500

The GCEDC solicited quotes from the following contractors who had done residential water line installations in the Town of Alabama:

- a. Derrick Cassiano - \$9,680
- b. Rusty Hoffmeister - \$9,250

Fund Commitment: \$9,250 from the \$33 million.

Board Action Request: Approval of payment of \$9,250 to the contractor listed above for the installation of a water line to the holders of the easement numbers identified above.



D.G. Cassiano Excavating, LLC

2613 Judge Road
Oakfield, NY 14125
(585) 948-9042

Bill To:
GCEDC
99 MedTech Dr.
Batavia, NY 14020

Date: 07/23/2023
Quote No.: 10026

Qty	Description	Rate	Total
1	Install new water service at 6154 Alleghany Rd Alabama. Excavate and connect at road and bring into house and hook-up inside per Town of Alabama Specs. Excavation, material, labor and backfilling. Then return and restore Excavation with topsoil and re-seed. **This is only an estimate price subject to change**	\$4,120.00	\$4,120.00
1	Install new water service at 1318 Lewiston Rd Alabama. Excavate and connect at road and bring into house and hook-up inside per Town of Alabama Specs. Excavation, material, labor and backfilling. Then return and restore Excavation with topsoil and re-seed. **This is only an estimate price subject to change**	\$5,560.00	\$5,560.00

Total \$9,680.00



RUSTY HOFFMEISTER

4859 East Shelby Rd. Medina
585-703-6264

Estimate

Name/Address

Genesee County EDC
ATTN: Mark Masse
RE:
Jenn Schnauffer
6154 Alleghany Rd
Basom, NY 14013

Date

7/23/2023

Complete water service installation.

- Install meter pit at curb stop in front of property
- Install 250psi waterline, with tracer wire, from meter pit into laundry room
- Install right angle shut off valve, dual check valve, PRV and expansion tank per Town of Batavia regulations.

TOTAL \$4,500.00

THANK YOU



RUSTY HOFFMEISTER

4859 East Shelby Rd. Medina
585-703-6264

Estimate

Name/Address

Genesee County EDC
ATTN: Mark Masse
RE:
Don
1318 Lewiston Rd
Basom, NY 14013

Date

7/23/2023

Complete water service installation.

- Install meter pit at curb stop in front of property
- Install 250psi waterline, with tracer wire, from meter pit into the utility room at rear of house
- Install right angle shut off valve, dual check valve, PRV and expansion tank per Town of Batavia regulations

TOTAL \$4,750.00

THANK YOU

STAMP Change order for the force main contract through the INWR

Discussion: When the bids were submitted for this project in 2021, the crude oil and resin markets were highly volatile. Contractors at the pre bid conference were stating that the pipe suppliers would only give them a daily price for the pipe and would not guarantee it beyond that which is not usually customary in the construction business. The time difference between when the bid was submitted, and when it was awarded for them to order pipe, there had been an overall increase in the pipe price of \$150,547 as compared to the amount for that line item in the submitted bid.

Fund Commitment: An additional \$150,547 from the \$33 million.

Board Action Request: Approval of increase in change order of \$150,547 to G.DeVincentis & Son Construction Co., Inc.

Date of Issuance: _____ Effective Date: _____
 Owner: Genesee County Economic Development Center Owner's Contract No.: _____
 Contractor: G. DeVincentis & Son Construction Co., Inc. Contractor's Project No.: _____
 Engineer: CPL Engineer's Project No.: 15981.00
 Project: STAMP Force Main Contract Name: Contract A: Central Area

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

Description:

Increase in Contract Price to compensate for HDPE Material Price Increase. \$150,547.00

Attachments: *Letter dated April 1, 2021 from G. Devincentis & Son Construction Co., Inc.*

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price: \$ <u>9,777,000.00</u>	Original Contract Times: Substantial Completion: <u>October 1, 2021</u> Ready for Final Payment: <u>October 31, 2021</u> days or dates
[Increase] [Decrease] from previously approved Change Orders No. ___ to No. ___: NA \$ _____	[Increase] [Decrease] from previously approved Change Orders No. ___ to No. ___: NA Substantial Completion: _____ Ready for Final Payment: _____ days
Contract Price prior to this Change Order: \$ <u>9,777,000.00</u>	Contract Times prior to this Change Order: Substantial Completion: <u>October 1, 2021</u> Ready for Final Payment: <u>October 31, 2021</u> days or dates
Increase of this Change Order: \$ <u>150,547.00</u>	[Increase] [Decrease] of this Change Order: NA Substantial Completion: _____ Ready for Final Payment: _____ days or dates
Contract Price incorporating this Change Order: \$ <u>9,927,547.00</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>October 1, 2021</u> Ready for Final Payment: <u>October 31, 2021</u> days or dates

RECOMMENDED:		ACCEPTED:		ACCEPTED:	
By: _____	By: _____	By: _____	By: _____	By: _____	By: _____
Engineer (if required)	Owner (Authorized Signature)	Contractor (Authorized Signature)	Contractor (Authorized Signature)	Contractor (Authorized Signature)	Contractor (Authorized Signature)
Title: <u>Project Engineer</u>	Title: <u>Sr. Vice President of Operations</u>	Title: <u>Vice President</u>	Title: <u>Vice President</u>	Title: <u>Vice President</u>	Title: <u>Vice President</u>
Date: _____	Date: _____	Date: _____	Date: _____	Date: <u>08 August 2023</u>	Date: _____

Approved by Funding Agency (if applicable)

By: _____ Date: _____
 Title: _____



G. DEVINCENTIS & SON CONSTRUCTION CO., INC.

GENERAL CONTRACTORS

7 BELDEN STREET
BINGHAMTON, NEW YORK 13903

TELEPHONE (607) 723-9971
FAX (607) 723-9964

01 April 2021

Mr. Thomas A. Carpenter, P.E.
CPL Team Engineers
205 St. Paul Street
Suite 500
Rochester, New York 14604

Re: Change Order Request No. 1
HDPE Material Price Increase
STAMP FORCEMAIN
Contract A – Central Area

Dear Mr. Carpenter,

In accordance with Articles 11, 12 & 13 of the general conditions of the contract between the Genesee County Economic Development Center and G. DeVincentis & Son Construction Co., Inc., (GDV), dated 25 March 2021, ("Contract"), GDV hereby submits a claim for which it deems to be an additional expense incurred through no fault of our own.

On 16 February 2021 a Pre-bid Conference was held, and an in-length discussion took place regarding the volatility of the crude oil and resin market that was for lack of a better word "exploding". Over the past month the situation has worsened. Pursuant to yesterday afternoon's discussions, GDV was able to secure the HDPE pipe for the above referenced contract and avoid today's price increase. Below, is a cost accounting of the additional costs incurred. Attached to this letter are three quotes:

- ISCO quote at bid time
- ISCO quote dated 3/31/2021
- Core & Main quote dated 3/31/2021

PURCHASE PRICE	15,100 LF @ \$67.67 PER LF	\$1,021,817.00
BID PRICE	15,100 LF @ \$57.70 PER LF	< \$ 871,270.00 >
	INCREASE DUE GDV	\$ 150,547.00
	ADD 15% OH & P	\$ <u>WAIVED</u>
	TOTAL CHANGE ORDER No. 1	\$ 150,547.00

Sincerely,
G. DeVincentis & Son Construction Co. Inc.


Joseph S. DeVincentis
Vice President

cc: project file (changeorderno.1)

An Equal Opportunity Employer

Host Community Investment Agreement

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

Fund Commitment: None.

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

HOST COMMUNITY INVESTMENT AGREEMENT

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

WITNESSETH:

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

WHEREAS, pursuant to a resolution duly adopted by the members of the Corporation on June 29, 2023 (the "Resolution"), the Corporation determined to enter into this Community Investment Agreement with the Company; and

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

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

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

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

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

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

Article I – Representations and Covenants

Section 1.1. Representations and Covenants of the Corporation.

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

(a) The Corporation is duly established and validly existing under the provisions of the Act and has the power to enter into the transaction contemplated by this Community Investment Agreement and to carry out its obligations hereunder.

(b) The Corporation has been duly authorized to execute and deliver this Community Investment Agreement.

(c) Neither the execution and delivery of this Community Investment Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Community Investment Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of the Act or of any corporate restriction or any agreement or instrument to which the Corporation is a party or by which it is bound, or will constitute default under any of the foregoing.

Section 1.2. Representations and Covenants of the Company.

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

(a) The Company is a business corporation duly formed, validly existing and in good standing under the laws of the State of Delaware, is authorized to do business in the State, has the authority to enter into this Community Investment Agreement and has duly authorized the execution and delivery of this Community Investment Agreement.

(b) To the best of the Company's knowledge, neither the execution and delivery of this Community Investment Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Community Investment Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Company is a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any such instrument or agreement.

(c) To the best of the Company's knowledge, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of the Company, threatened against or affecting the Company, to which the Company is a party, and in which an adverse result would materially diminish or adversely impact on the Company's ability to fulfill its obligations under this Community Investment Agreement.

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

Section 2.1. (a) *Payee.* For so long as this Community Investment Agreement is in effect, the Company agrees to pay to the Corporation (at its address noted above) an annual Investment fee (the "Annual Investment Fee") on or before January 1 of each calendar year commencing on January 1, 2026 (the "Payment Date"), an amount correlating to the Total Payment Amount, as set forth within Schedule A hereto. The Company hereby agrees to pay all such amounts due pursuant to this Community Investment Agreement on or before each Payment Date in accordance with the terms hereof.

(b) *Payment of Annual Investment Fee.* The Company, pursuant to the terms of this Community Investment Agreement, shall remit to the Corporation an Annual Investment Fee equal to an amount correlating to the Total Payment Amount, as set forth within Schedule A hereto. The Company's failure to remit any Annual Investment Fee due pursuant to this Community Investment Agreement within thirty (30) days following notice from the Corporation that the Company failed to make the applicable payment by the corresponding Payment Date shall require additional payment by the Company of a late payment penalty equal to five percent (5%) of the amount due and (ii) for each month, or any part thereof, that any such Annual Investment Fee is delinquent beyond the first month, interest on the total amount due plus the late payment penalty, in an amount equal to ten percent (10%) per annum.

(c) *Use of Fund; Public Purposes.* The parties agree and acknowledge that payments made hereunder are to provide revenues for public purposes to be undertaken by the Corporation and/or any duly appointed agent or assignee thereof. The revenues paid by the Company to the Corporation, which shall be utilized at the sole and absolute discretion of the Corporation, are to be provided (i) to facilitate future development and public infrastructure improvements within

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

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

Section 3.1. This Community Investment Agreement shall be for a term of twenty (20) years to commence as of the date hereof, unless otherwise terminated by the written agreement of the parties hereto or as otherwise provided herein. Any such termination hereunder shall require the Company to make a pro-rated payment of Annual Investment Fee as of the date of termination, such pro-rated payment to be reflective of the number of days within the calendar year of termination that this Community Investment Agreement was in effect. Notwithstanding anything contained herein to the contrary, should that certain Tax Agreement, dated as of the date hereof, by and between the Company and Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (as such agreement may be amended from time to time), terminate, expire or otherwise be cancelled, this Community Investment Agreement and the Company's payment obligations hereunder shall also terminate and expire.

Section 3.2. Each of the following shall be an "Event of Default" under this Community Investment Agreement: (a) the failure by the Company to make any payment due and owing the Corporation or its duly authorized agent and/or assignee within sixty (60) days of written demand therefore and such failure continued for ten (10) days following the Company's receipt of written notice thereof; or (b) the failure by the Company to observe or perform any other covenant, condition or agreement required by this Community Investment Agreement to be observed or performed and such failure shall have continued for a period of thirty (30) days after the Corporation gives written notice to the Company, specifying that failure and stating that it be remedied, or in the case of any such default which can be cured with due diligence but not within such thirty (30) day period, the Company's failure to proceed promptly to cure such default and thereafter prosecute the curing of such default with due diligence.

Section 3.3. Whenever any Event of Default shall have occurred and be continuing, the Corporation may take, to the extent permitted by law, any one or more of the following remedial steps: (a) terminate this Community Investment Agreement; (b) [intentionally omitted]; and (c) take any other action at law or in equity which may appear necessary or desirable to collect the payments then due or thereafter to become due hereunder, and to enforce the obligations, agreements or covenants of the Company under this Community Investment Agreement.

Section 3.4. In the event that the Facility is transferred from the Agency (as hereinafter defined) to the Company (i.e., the lease/leaseback agreements are terminated), and the Company is ineligible for a continued tax exemption, the obligations of the Company to make payments hereunder shall, to such extent, be null and void.

Article IV - Changes in Law.

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

Article V - Miscellaneous.

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

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

To the Corporation:

Genesee Gateway Local Development Corporation
99 MedTech Drive, Suite 106
Batavia, New York 14020
Attention: Donald Cunningham, President
E-mail: gcedc@gcedc.com

To Corporation Counsel:

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

To the Company:

Atlas Copco USA Holdings Inc.
6 Century Drive, Suite 310
Parsippany, New Jersey 07054
Attn: [REDACTED]
E-mail: [REDACTED]

To Company Counsel:

Hodgson Russ LLP
The Guaranty Building
140 Pearl Street, Suite 100
Buffalo, New York 14202
Attn: Rafael F. Pignataro, Esq.
E-mail: rpignataro@hodgsonruss.com

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

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

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

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

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

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

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

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

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

[Remainder of Page Intentionally Left Blank]

[Signature Page to Community Investment Agreement]

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

**GENESEE GATEWAY LOCAL
DEVELOPMENT CORPORATION**

By: _____
Donald Cunningham, President

ATLAS COPCO USA HOLDINGS INC.

By: _____
[REDACTED], [REDACTED]

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

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

IN WITNESS WHEREOF, the undersigned has caused this Acknowledgment to be duly executed as of [REDACTED] 1, 2023.

STAMP WATER WORKS, INC.

By: _____
Name: [REDACTED]
Title: [REDACTED]

STAMP SEWER WORKS, INC.

By: _____
Name: [REDACTED]
Title: [REDACTED]

SCHEDULE A
TO
HOST COMMUNITY INVESTMENT AGREEMENT
DATED AS OF [REDACTED] 1, 2023
BETWEEN
GENESEE GATEWAY LOCAL DEVELOPMENT CORPORATION
AND
ATLAS COPCO USA HOLDINGS INC.

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