



**Erie County Industrial Development Agency  
ECIDA Board Meeting  
March 27, 2024 @ 12:00 p.m.**

**ECIDA Offices  
95 Perry Street, 4<sup>th</sup> Floor Conference Room  
Buffalo, New York 14203**

**1.0 Call to Order**

1.1 Call to Order Meeting of the Membership

**2.0 Approval of Minutes:**

2.1 Approval of Minutes of the November 29, 2023 Meeting of the Membership (Action Item) (Pages 3-8)

**3.0 Reports / Action Items / Information Items:**

- 3.1 Financial Report (Informational) (Pages 9-12)
- 3.2 Finance & Audit Committee Update (Informational) (Pages 13-14)
  - a) Committee Self-Evaluation (Informational) (Pages 15-19)
- 3.3 Audited Financial Statements (Action Item) (Pages 20-46)
- 3.4 2023 – Investment Report (Action Item) (Pages 47-49)
- 3.5 Governance Committee Report (Informational) (Pages 50-51)
  - a) Committee Self-Evaluation (Informational) (Pages 52-55)
  - b) Board of Directors Evaluation/Survey (Informational) (Page 56-57)
- 3.6 2024 Tax Incentives Induced/Closing Schedule (Informational) (Page 58)
- 3.7 Approval of Board Certification of Loan Administration Plan-CARES ACT RLF (Action Item) (Pages 59-61)
- 3.8 Buffalo Southern Railroad Capital Improvements Grant (Action Item) (Pages 62-65)
- 3.9 Policy Committee Update (Informational) (Pages 66-69)

**4.0 Inducement Resolution:**

|                             | <b>ECIDA<br/>Incentives</b> | <b>Private<br/>Investment</b> | <b>Municipality</b> |
|-----------------------------|-----------------------------|-------------------------------|---------------------|
| 4.1 SL Evans (Pages 70-116) | \$4,238,447                 | \$20,769,000                  | Town of Evans       |

**5.0 Amendatory Inducement Resolution**

|                              | <b>ECIDA<br/>Incentives</b> | <b>Private<br/>Investment</b> | <b>Municipality</b> |
|------------------------------|-----------------------------|-------------------------------|---------------------|
| 5.1 BPS Commissary (117-151) | \$1,479,997                 | \$35,327,500                  | Buffalo             |

**6.0 Special Resolution**

6.1 Calspan Assignment & Assumption Consent (Action Item) (Pages 152-171)

**7.0 Review and Adoption of Policies, Reports and Committee Charters (Action Items) (Separate Package)**

- 1. 2023 - Mission Statement, Performance Measures and Results (Pages 2-17)
- 2. 2024 - Mission Statement and Performance Measures (Pages 18-25)
- 3. 2023 - Public Authorities Report (Pages 26-78)

**Re-Adopt Policies & Charters (Action Items)**

4. Airborne Infectious Disease Policy (Pages 79-87)
5. Board Member Compensation, Reimbursement & Attendance Policy (Page 88)
6. Code of Ethics & Conflict of Interest Policy (Pages 89-94)
7. Defense & Indemnification Policy (Page 95)
8. Corporate Credit Card Policy (Pages 96-98)
9. ECIDA Employee Compensation Program (Pages 99-100)
10. Fee Structure Policy (For ECIDA & ILDC Only) (Page 101)
11. Finance & Audit Committee Charter (Pages 102-106)
12. Governance Committee Charter (Pages 107-109)
13. Investment & Deposit Policy (Pages 110-117)
14. Procurement Policy (Pages 118-122)
15. Professional Services RFP Process and Policy (Pages 123-125)
16. Property Disposition Guidelines (Pages 126-132)
17. Real Property Acquisition Policy (Pages 133-134)
18. Sexual Harassment Policy (Pages 135-143)
19. Statement of Duties & Responsibilities of the Board of Directors (Pages 144-146)
20. Statement of the Competencies & Personal Attributes Required of Board Members (Page 147)
21. Travel, Conferences, Meals & Entertainment Policy (Pages 148-153)
22. Video Conferencing Policy (Pages 154-157)
23. Whistleblower Policy and Procedures (Pages 158-160)

**8.0 Management Team Reports:**

8.1 2023 Year in Review

**9.0 Adjournment- Next Meeting April 24, 2024 (Annual Meeting)**

**MINUTES OF THE MEETING  
OF THE  
MEMBERSHIP OF THE  
ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
(ECIDA or AGENCY)**

**DATE AND PLACE:** November 29, 2023, at the Center of Excellence in Bioinformatics and Life Sciences (CBLIS), 701 Ellicott Street, The Event Space/Conference Room B2-205, located on the 2nd floor, Buffalo, New York 14203.

**PRESENT:** Denise Abbott, Rev. Mark Blue, Hon. Bryon W. Brown, Hon. Joseph Emminger, Michael P. Hughes, Richard Lipsitz, Jr., Brenda McDuffie, Denise McGowan, Hon. Glenn R. Nellis, Hon. Mark Poloncarz and Kenneth A. Schoetz

**EXCUSED:** Hon. Diane Benczkowski, James Doherty, Dottie Gallagher, Hon. Howard Johnson, Tyra Johnson, Hon. Brian Kulpa, Hon. Darius G. Pridgen and Paul Vukelic

**OTHERS PRESENT:** John Cappellino, President & CEO; Beth O’Keefe, Vice President of Operations; Mollie Profic, Chief Financial Officer; Grant Lesswing, Director of Business Development; Gerald Manhard, Chief Lending Officer; Andrew Federick, Property & Business Development Officer; Atiqa Abidi, Accounting Manager; Soma Hawramee, Compliance Portfolio Manager; Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant/Assistant Secretary; Lynette Thompson, Receptionist; and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC

**GUESTS:** Zachary Evans on behalf of Erie County; Alex Carducci on behalf of the City of Buffalo; Jonathan Epstein on behalf of Buffalo News; Kevin Dagher and Torrie Nasca on behalf of 1175 Delaware Place; Pierre Lorieau, Jim Kourtis, Christopher Bona, Don Heins, Jeffrey McGiveron on behalf of Lactalis

There being a quorum present at 12:04 p.m., the meeting of the members of the Erie County Industrial Development Agency (the “ECIDA” or “Agency”), was called to order by the Chair, Ms. McDuffie.

**MINUTES**

The minutes of the October 25, 2023, meeting of the members were presented. Mr. Poloncarz moved, and Mr. Schoetz seconded to approve of the minutes. Ms. McDuffie called for the vote and the minutes were unanimously approved.

## REPORTS/ACTION ITEMS/INFORMATION ITEMS

Financial Report. Ms. Abidi presented the October financial reports. The balance sheet shows that the IDA ended the month with total assets of \$32.6M and net assets of \$20.2M. There is a decrease in restricted cash and a corresponding increase from Affiliates due to \$950,000 of funds lent to ILDC for construction invoices that will be reimbursed with grant funds. Operating revenue of \$104,000 was below the monthly budget by \$118,000, due mainly to low administrative fees collected during the month. Operating expenses were \$237,000 and overall below our monthly budget by \$7,300. After grant expenses and depreciation, there was a net loss of \$161,000 for the month. The year-to-date Income Statement shows revenues of \$2.4M, including administrative fee revenue of \$1.3M. We are at 74% of our 2023 administrative fee budget through October. Expenses of \$2.4M are ahead of budget, mainly due to a few administrative fee refunds during the year. Special project grant revenue nets to \$59,000. Net income before strategic investments and depreciation is \$67,000. There is currently a net loss of \$458,000 for the year. Ms. McDuffie directed that the report be received and filed.

2023 Tax Incentive Induced/Closing Schedule. Mr. Cappellino presented this report to the members. Ms. McDuffie directed that the report be received and filed.

Approval of Resolution Authorizing the ECIDA to Contract Engineering Services for the Buffalo Southern Railroad Improvement Project. Mr. Cappellino reviewed the contemplated rail road improvement project and summarized the memorandum providing additional background material that was included in the Board package provided to members.

Mr. Emminger moved and Ms. Abbott seconded to approve of authorizing the ECIDA to contract engineering services related to the Buffalo Southern Railroad Improvement project. Ms. McDuffie then called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY ("AGENCY") AUTHORIZING THE AGENCY TO ENTER INTO AN AGREEMENT WITH C&S COMPANIES ("C&S") IN THE AMOUNT OF \$181,740 FOR DESIGN, ENGINEERING AND CONSTRUCTION ADMINISTRATION SERVICES IN RELATION TO THE AGENCY'S CONTEMPLATED RESTORATION OF CERTAIN RAILWAY FACILITIES

Policy Committee Update. Mr. Lipsitz, Chair of the Policy Committee, reviewed the results of the most recent Policy Committee meeting including confirmation that both projects before the Board today were approved by the Policy Committee.

## INDUCEMENT RESOLUTIONS

1175 Delaware Place, 1175 Delaware Avenue, Buffalo, New York. Ms. O'Keefe reviewed this proposed sales and use tax, mortgage recording tax and real property tax abatement benefits project involving the rehabilitation of a 58,000 sq. ft. nursing home operated by Emerald South and will incorporate 83 apartments units and one commercial space. A heavy focus will be on



tenant quality of life with improved indoor air quality, green roof, bike storage and EV charging and 30% of the units will be furnished to accommodate a growing demand by tenants.

The Project’s cost benefit ratio was presented to and reviewed by the members present and the costs of incentives so applied for, the anticipated new tax revenues to be generated by the Project, as well as the Project’s contemplated community benefits were discussed and considered.

As a condition precedent of receiving Financial Assistance, and as a material term or condition as approved by the Agency in connection with the Project, the Company must covenant and agree that it must, subject to potential modification, termination and/or recapture of Financial Assistance for failure to meet and maintain the commitments and thresholds as described below, on an annual basis or as otherwise indicated below through the termination of the PILOT Agreement, a certification, as so required by the Agency, confirming:

- (i) Investment Commitment- the total investment made with respect to the Project at the time of Project completion equals or exceeds \$14,237,500 (which represents the product of 85% multiplied by \$16,750,000, being the total project cost as stated in the Company’s application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 2 existing part time equivalent (“PTE”) employees located at, or to be located at, the Facility as stated in the Company’s application for Financial Assistance (the “Baseline PTE”); and
  - the number of current employees in the then current year at the Facility; and
  - that within two (2) years of Project completion, the Company has maintained and created PTE employment at the Facility equal to 2 PTE employees. To confirm and verify the Company’s employment numbers, the Agency requires that, at a minimum, the Company provide employment data to the Agency on a quarterly basis, said information to be provided on the Agency’s “Quarterly Employment Survey” form to be made available to the Company by the Agency.
- (iii) Local Labor Commitment - that the Company adheres to and complies with the Agency’s Local Labor Workforce Certification Policy on a quarterly basis during the construction period.
- (iv) Equal Pay Commitment – that the Company adheres to and complies with the Agency’s Pay Equity Policy.
- (v) Unpaid Real Property Tax Policy Commitment – that the Company is compliant with the Agency’s Unpaid Real Property Tax Policy.
- (vi) Construction Period Commitment – that the Company, in accordance with the EIP Policy, meets a 30% MWBE (25% MBE and 5% WBE) utilization rate, based upon total construction contract value, for construction activities.

- (vii) Post Construction Period Commitment – that the Company meets a 30% minority and women (minimum 20% minority and at least 30% minorities or women) job creation requirement within two years after Project completion and maintains those hires/percentages during the term of the applicable PILOT Agreement and on an annual basis completes/implements at least two (2) of the EIP Policy Best Practices as described therein during the term of the applicable PILOT Agreement.

Mr. Brown then moved to approve the project. Mr. Poloncarz then seconded to approve the project and spoke in favor of the project.

Ms. McDuffie stated this was the first EIP PILOT and noted housing is near bus line and will allow people to participate in the workforce at will.

Ms. McDuffie then called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF 1175 DELAWARE CAPITAL LLC, AND/OR INDIVIDUAL(S) OR AFFILIATE(S), SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS BEHALF (INDIVIDUALLY, AND/OR COLLECTIVELY, THE “COMPANY”) IN CONNECTION WITH A CERTAIN PROJECT DESCRIBED BELOW; (ii) RATIFYING THE SCHEDULING, NOTICING, AND CONDUCTING OF A PUBLIC HEARING IN CONNECTION WITH THE PROJECT; (iii) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (iv) AUTHORIZING THE UNDERTAKING OF THE PROJECT TO PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES TAX EXEMPTION BENEFIT FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT, AND (B) A MORTGAGE RECORDING TAX EXEMPTION BENEFIT FOR FINANCING RELATED TO THE PROJECT, AND (C) A PARTIAL ABATEMENT FROM REAL PROPERTY TAXES BENEFIT THROUGH THE PILOT AGREEMENT; AND (v) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, A PAYMENT-IN-LIEU-OF-TAX AGREEMENT, AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

Lactalis American Group, Inc., 2375 South Park Avenue, Buffalo, New York. Ms. O’Keefe reviewed this proposed sales and use tax benefit project involving a 30% increase in production capacity with infrastructure upgrades for the installation of new mozzarella and ricotta cheese production equipment, a new building addition for the whey evaporator and dryer equipment and regulatory plant-wide infrastructure upgrades.

The Project’s cost benefit ratio was presented to and reviewed by the members present and the costs of incentives so applied for, the anticipated new tax revenues to be generated by the Project, as well as the Project’s contemplated community benefits were discussed and considered.

As a condition precedent of receiving Financial Assistance, and as a material term or condition as approved by the Agency in connection with the Project, the Company covenants and agrees and understands that it must, subject to potential modification, termination and/or recapture of Financial Assistance for failure to meet and maintain the commitments and thresholds as described below, through the conclusion of the later of two (2) years following either (x) the construction completion date, or (y) the termination of the Agent Agreement, a certification, as so required by the Agency, confirming:

- (i) Investment Commitment- the total investment actually made with respect to the Project at the time of Project completion equals or exceeds \$37,847,100 (which represents the product of 85% multiplied by \$44,526,000, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 375 existing full time equivalent (“FTE”) employees located at, or to be located at, the Facility as stated in the Company's application for Financial Assistance (the “Baseline FTE”); and
  - the number of current FTE employees in the then current year at the Facility; and
  - that within two (2) years of Project completion, the Company has maintained and created FTE employment at the Facility equal to 397 FTE employees [representing the sum of (x) 375 Baseline FTE and (y) 22 FTE employees, being the product of 85% multiplied by 27 (being the 27 new FTE employee positions proposed to be created by the Company as stated in its Application)]. In an effort to confirm and verify the Company's employment numbers, the Agency requires that, at a minimum, the Company provide employment data to the Agency on a quarterly basis, said information to be provided on the Agency's “Quarterly Employment Survey” form to be made available to the Company by the Agency.
- (iii) Local Labor Commitment - that the Company adheres to and complies with the Agency's Local Labor Workforce Certification Policy on a quarterly basis during the construction period.
- (iv) Equal Pay Commitment – that the Company adheres to and complies with the Agency's Pay Equity Policy.
- (v) Unpaid Real Property Tax Policy Commitment – that the Company is compliant with the Agency's Unpaid Real Property Tax Policy.

Mr. Brown moved and Mr. Lipsitz seconded to approve the Project as proposed. Mr. Lipsitz spoke in favor of the project. Mr. Poloncarz also spoke in favor of the project.

Ms. McDuffie then called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF LACTALIS AMERICAN GROUP, INC., AND/OR INDIVIDUAL(S) OR AFFILIATE(S), SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS BEHALF (INDIVIDUALLY, AND/OR COLLECTIVELY, THE "COMPANY") IN CONNECTION WITH A CERTAIN PROJECT DESCRIBED BELOW; (ii) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (iii) AUTHORIZING THE UNDERTAKING OF THE PROJECT TO PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF A SALES TAX EXEMPTION BENEFIT FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT; AND (iv) AUTHORIZING THE NEGOTIATION AND EXECUTION OF AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

#### **MANAGEMENT TEAM REPORT**

Mr. Cappellino congratulated Atiqa Abidi for graduating from Leadership Buffalo.

There being no further business to discuss, Ms. McDuffie adjourned the meeting of the Agency at 12:33 p.m.

Dated: October 25, 2023

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Elizabeth A. O'Keefe, Secretary

**Erie County Industrial Development Agency**  
**Financial Statements**  
As of February 29, 2024

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY ("ECIDA")**

**Balance Sheet**

February 29, 2024

|   | February 2024               | January 2024                | December 2023               |
|---|-----------------------------|-----------------------------|-----------------------------|
| <b>ASSETS:</b>                                  |                             |                             |                             |
| Cash *  | \$ 6,894,135                | \$ 7,089,031                | \$ 7,476,867                |
| Restricted Cash & Investments *                 | 15,477,666                  | 15,094,842                  | 16,004,625                  |
| Due from Affiliates                             | 5,714,804                   | 5,686,604                   | 4,819,702                   |
| Due from Buffalo Urban Development Corp.        | 145,408                     | 132,200                     | 125,210                     |
| Other Receivables                               | 158,066                     | 121,250                     | 88,321                      |
| Total Current Assets                            | <u>28,390,078</u>           | <u>28,123,927</u>           | <u>28,514,725</u>           |
| <br>  |                             |                             |                             |
| Grants Receivable                               | 4,869,218                   | 4,869,218                   | 4,869,218                   |
| Lease Receivable                                | 789,655                     | 807,283                     | 824,838                     |
| Venture Capital Investments, net of reserves    | 506,886                     | 506,886                     | 506,886                     |
| Capital Assets                                  | 1,542,232                   | 1,484,397                   | 1,506,504                   |
| Total Long-Term Assets                          | <u>7,707,991</u>            | <u>7,667,784</u>            | <u>7,707,447</u>            |
| <br>  |                             |                             |                             |
| <b>TOTAL ASSETS</b>                             | <u><u>\$ 36,098,069</u></u> | <u><u>\$ 35,791,712</u></u> | <u><u>\$ 36,222,172</u></u> |
| <br>  |                             |                             |                             |
| <b>LIABILITIES &amp; NET ASSETS</b>             |                             |                             |                             |
| Accounts Payable & Accrued Exp.                 | \$ 302,823                  | \$ 169,618                  | \$ 455,331                  |
| Lease Payable                                   | 499,392                     | 510,540                     | 521,642                     |
| Deferred Revenues                               | 4,750,426                   | 4,770,424                   | 4,764,541                   |
| Funds Held on Behalf of Others                  | 9,899,611                   | 9,450,596                   | 9,516,218                   |
| Total Liabilities                               | <u>15,452,253</u>           | <u>14,901,179</u>           | <u>15,257,732</u>           |
| <br>  |                             |                             |                             |
| Deferred Inflows of Resources Related to Leases | 789,655                     | 807,283                     | 824,838                     |
| <br>  |                             |                             |                             |
| Net Assets                                      | <u>19,856,162</u>           | <u>20,083,250</u>           | <u>20,139,601</u>           |
| <br>  |                             |                             |                             |
| <b>TOTAL LIABILITIES &amp; NET ASSETS</b>       | <u><u>\$ 36,098,069</u></u> | <u><u>\$ 35,791,712</u></u> | <u><u>\$ 36,222,172</u></u> |

\* Cash and restricted cash is invested in checking accounts at M&T Bank. The maximum FDIC insured amount = \$250,000 with the remainder of the cash balance collateralized with government obligations by the financial institution.

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY ("ECIDA")**

**Income Statement**  
Month of February 2024

|   | <b>Actual vs. Budget</b> |                    |                     |
|---|--------------------------|--------------------|---------------------|
|   | <b>Actual</b>            | <b>Budget</b>      | <b>Variance</b>     |
| <b>REVENUES:</b>  |                          |                    |                     |
| Administrative Fees   | \$ 1,000                 | \$ 150,000         | \$ (149,000)        |
| Management Fees - Affiliates and Others                       | 39,033                   | 39,308             | (275)               |
| Rental Income   | 17,845                   | 18,433             | (589)               |
| Other Income  | -                        | 250                | (250)               |
| <b>Total Revenues</b>   | <b>57,878</b>            | <b>207,992</b>     | <b>(150,114)</b>    |
| <b>EXPENSES:</b>  |                          |                    |                     |
| Salaries & Benefits   | \$ 176,216               | \$ 188,823         | \$ (12,607)         |
| General Office Expenses                                       | 15,848                   | 24,008             | (8,160)             |
| Building Operating Costs                                      | 7,445                    | 4,533              | 2,912               |
| Professional Services   | -                        | 5,833              | (5,833)             |
| Public Hearings & Marketing                                   | 11,806                   | 5,417              | 6,389               |
| Travel, Mileage & Meeting Expenses                            | 3,312                    | 3,083              | 229                 |
| Depreciation and amortization                                 | 22,107                   | 22,500             | (393)               |
| Other Expenses  | 670                      | 1,396              | (726)               |
| <b>Total Expenses</b>   | <b>237,404</b>           | <b>255,594</b>     | <b>(18,189)</b>     |
| <b>SPECIAL PROJECT GRANTS:</b>                                |                          |                    |                     |
| Revenues  | \$ 19,998                | \$ 41,129          | \$ (21,131)         |
| Expenses  | (20,123)                 | (35,446)           | 15,323              |
|   | (125)                    | 5,683              | (5,808)             |
| <b>NET INCOME/(LOSS) BEFORE OTHER STRATEGIC INVESTMENTS :</b> |                          |                    |                     |
|   | (179,651)                | (41,919)           | (137,733)           |
| <b>OTHER STRATEGIC INVESTMENTS AND INITIATIVES:</b>           |                          |                    |                     |
| Bethlehem Steel Industrial Park Grant                         | (79,963)                 | (8,333)            | (71,630)            |
| Angola Ag Park Grant  | -                        | (4,167)            | 4,167               |
|   | (79,963)                 | (12,500)           | (67,463)            |
| <b>NET OPERATING INCOME/(LOSS) :</b>                          |                          |                    |                     |
|   | (259,615)                | (54,419)           | (205,196)           |
| <b>NON-OPERATING REVENUE:</b>                                 |                          |                    |                     |
| Interest Income   | 34,654                   | 13,208             | 21,446              |
| Interest Expense  | (2,127)                  | (2,500)            | 373                 |
|   | 32,527                   | 10,708             | 21,819              |
| <b>NET INCOME/(LOSS):</b>                                     | <b>\$ (227,088)</b>      | <b>\$ (43,710)</b> | <b>\$ (183,378)</b> |

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY ("ECIDA")**

**Income Statement**

Year to Date: February 29, 2024

|  | Actual vs. Budget   |                    |                     | Actual vs. Prior Year |                     |                     |
|--|---------------------|--------------------|---------------------|-----------------------|---------------------|---------------------|
|  | Actual              | Budget             | Variance            | Actual                | Prior Year          | Variance            |
| <b>REVENUES:</b>   |                     |                    |                     |                       |                     |                     |
| Administrative Fees  | \$ 112,581          | \$ 300,000         | \$ (187,419)        | \$ 112,581            | \$ 187,785          | \$ (75,204)         |
| Affiliate Management Fees                                    | 78,067              | 78,200             | (133)               | 78,067                | 100,367             | (22,300)            |
| Rental Income  | 35,616              | 36,867             | (1,250)             | 35,616                | 43,017              | (7,401)             |
| Other Income   | 6,130               | 6,500              | (370)               | 6,130                 | 6,000               | 130                 |
| <b>Total Revenues</b>  | <b>232,394</b>      | <b>421,567</b>     | <b>(189,173)</b>    | <b>232,394</b>        | <b>337,168</b>      | <b>(104,774)</b>    |
| <b>EXPENSES:</b>   |                     |                    |                     |                       |                     |                     |
| Salaries & Benefits  | 367,237             | 377,646            | (10,409)            | 367,237               | 320,656             | 46,581              |
| General Office Expenses                                      | 39,922              | 48,017             | (8,094)             | 39,922                | 56,492              | (16,569)            |
| Building Operating Costs                                     | 8,765               | 9,067              | (301)               | 8,765                 | 39,391              | (30,626)            |
| Professional Services  | -                   | 11,667             | (11,667)            | -                     | 8,115               | (8,115)             |
| Public Hearings & Marketing                                  | 11,865              | 10,833             | 1,032               | 11,865                | 7,445               | 4,420               |
| Travel, Mileage & Meeting Expenses                           | 4,338               | 6,167              | (1,829)             | 4,338                 | 2,523               | 1,814               |
| Depreciation and amortization                                | 44,215              | 45,000             | (785)               | 44,215                | 20,000              | 24,215              |
| Other Expenses   | 2,911               | 2,792              | 119                 | 2,911                 | 1,917               | 994                 |
| <b>Total Expenses</b>  | <b>479,253</b>      | <b>511,187</b>     | <b>(31,935)</b>     | <b>479,253</b>        | <b>456,539</b>      | <b>22,713</b>       |
| <b>SPECIAL PROJECT GRANTS:</b>                               |                     |                    |                     |                       |                     |                     |
| Revenues   | 20,655              | 82,258             | (61,603)            | 20,655                | 26,802              | (6,147)             |
| Expenses   | (46,413)            | (70,891)           | 24,478              | (46,413)              | (25,882)            | (20,531)            |
|  | <b>(25,758)</b>     | <b>11,367</b>      | <b>(37,125)</b>     | <b>(25,758)</b>       | <b>920</b>          | <b>(26,678)</b>     |
| <b>NET INCOME/(LOSS) BEFORE OTHER STRATEGIC INVESTMENTS:</b> |                     |                    |                     |                       |                     |                     |
|  | <b>\$ (272,617)</b> | <b>\$ (78,254)</b> | <b>\$ (194,363)</b> | <b>\$ (272,617)</b>   | <b>\$ (118,451)</b> | <b>\$ (154,166)</b> |
| <b>OTHER STRATEGIC INVESTMENTS AND INITIATIVES:</b>          |                     |                    |                     |                       |                     |                     |
| Bethlehem Steel Industrial Park Grant                        | \$ (79,963)         | \$ (100,000)       | \$ 20,037           | \$ (79,963)           | \$ -                | \$ (79,963)         |
| Angola Ag Park Grant   | -                   | (50,000)           | 50,000              | -                     | -                   | -                   |
| Bethlehem Steel Industrial Park Grant Reimb                  | -                   | 300,000            | (300,000)           | -                     | -                   | -                   |
| Buffalo Urban Development Corporation                        | -                   | (100,000)          | 100,000             | -                     | -                   | -                   |
| Other Strategic Initiatives                                  | -                   | (75,000)           | 75,000              | -                     | -                   | -                   |
|  | <b>(79,963)</b>     | <b>(25,000)</b>    | <b>(54,963)</b>     | <b>(79,963)</b>       | <b>-</b>            | <b>(79,963)</b>     |
| <b>NET OPEATING INCOME/(LOSS):</b>                           |                     |                    |                     |                       |                     |                     |
|  | <b>(352,581)</b>    | <b>(103,254)</b>   | <b>(249,327)</b>    | <b>(352,581)</b>      | <b>(118,451)</b>    | <b>(234,130)</b>    |
| <b>NON-OPERATING REVENUE:</b>                                |                     |                    |                     |                       |                     |                     |
| Interest Income  | 73,442              | 26,417             | 47,025              | 73,442                | 56,436              | 17,005              |
| Interest Expense   | (4,301)             | (2,500)            | (1,801)             | (4,301)               | -                   | (4,301)             |
|  | <b>69,141</b>       | <b>23,917</b>      | <b>45,224</b>       | <b>69,141</b>         | <b>56,436</b>       | <b>12,705</b>       |
| <b>NET INCOME/(LOSS):</b>                                    |                     |                    |                     |                       |                     |                     |
|  | <b>\$ (283,440)</b> | <b>\$ (79,337)</b> | <b>\$ (204,102)</b> | <b>\$ (283,440)</b>   | <b>\$ (62,015)</b>  | <b>\$ (221,425)</b> |





To: ECIDA, RDC & ILDC Boards of Directors  
From: Michael Szukala, Chair  
Date: March 27, 2024  
Re: Finance & Audit Committee Report

In accordance with its Committee Charter, the Finance & Audit Committee is required to “report its actions and recommendations to the Board at each regular meeting of the Board following a meeting of the Finance and Audit Committee and when otherwise requested by the Board”. This report is prepared to satisfy this requirement.

A joint meeting of the ECIDA, RDC & ILDC Finance & Audit Committee was held on March 21, 2024. Committee members present were: Michael Szukala, Chair, Glenn Nellis, Paul Vukelic, and William Witzleben. The following items were reviewed:

1) Lumsden McCormick CPAs Report including Draft 2023 Audited Financial Statements

The Agency’s auditors presented the Draft 2023 Audited Financial Statements for ECIDA, RDC, and ILDC (copies of which are included in respective Board packages).

- The independent auditors expressed an unmodified (clean) opinion on the financial statements of all entities. This type of opinion indicates that the financial statements present fairly, in all material respects, the financial position of the entities as of December 31, 2023 and the changes in financial position and cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.
- No uncorrected audit adjustments were noted.
- No significant deficiencies or material weaknesses in internal controls noted.

2) Public Authorities Accountability Act (PAAA) 2023 Annual Report

The joint Finance & Audit Committee reviewed the PAAA 2023 Annual Report required under the Public Authorities Law and recommended that it be approved by their respective Boards.

3) 2023 Investment Reports

The joint Finance & Audit Committee reviewed the 2023 Investment Reports, which are required under the Public Authorities Law and recommended that they be approved by their respective Boards.

4) Re-Adoption of Policies & Charter

The joint Finance & Audit Committee reviewed the following policies and charter of the ECIDA/RDC/ILDC:

- Corporate Credit Card Policy
- Investment and Deposit Policy
- Finance & Audit Committee Charter

ECIDA/RDC/ILDC General Counsel Harris Beach reviewed the above referenced items and did not recommend any changes. The Authorities Budget Office (ABO) did not publish any new recommended guidance for any of these policies.

5) Finance & Audit Committee Self-Evaluation

The joint Finance & Audit Committee approved a report that documents the Committee’s activities for 2023 as required under the Public Authorities Law.

- 6) The Committee reviewed Management's Assessment of the Effectiveness of Internal Controls, a document prepared by management based on internal control processes and procedures of the organization. The document will be posted on the website as required by the ABO.
- 7) The Committee reviewed a summary of the corporate credit card usage in accordance with the Corporate Credit Card Policy.
- 8) The Committee reviewed a document entitled "Audit Committees: So Much More Than Financial Statement Oversight" from Deloitte's Center for Board Effectiveness to satisfy the educational requirements set forth in the Finance & Audit Committee Charter.

**Erie County Industrial Development Agency (ECIDA), Buffalo and Erie County  
Regional Development Corporation (RDC), and Buffalo and Erie County  
Industrial Land Development Corporation (ILDC)**

**2023 Finance & Audit Committee Self-Evaluation**

**Responsibilities of the Finance & Audit Committee:**

The core responsibilities of the Finance & Audit Committee, as mandated under Section 2825 of the New York Public Authorities Law, are set forth in the Bylaws and include: (i) providing assistance to members of the Agency in fulfilling their fiduciary responsibilities relating to accounting, reporting, and regulatory compliance practices; (ii) maintaining, through regular meetings, direct communication between the members of the Agency and the Agency’s independent accountants and auditors; (iii) maintaining direct communication between members of the Agency and the governmental authorities having audit authority or fiscal oversight of the Agency; (iv) approving the budget of the Agency for submission to the Board; (v) approving and/or directing the transfers of moneys under the budget; (vi) recommending to the Board the level of cash reserves and the level of fund balances of the Agency.

| Finance & Audit Committee Self-Evaluation   | Yes                                 | No                       | Pending                  | Comments   |
|---|-------------------------------------|--------------------------|--------------------------|--|
| 1. Are the members of the Finance & Audit Committee appointed in accordance with the Bylaws and do individuals appointed to the Finance & Audit Committee possess the necessary skills to understand the duties and functions of the Finance & Audit Committee and are familiar with corporate financial and accounting practices?  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 2. Is each member of the Finance & Audit Committee an “independent member” within the meaning of, and to the extent required by, Section 2825 of the New York Public Authorities Law, as amended from time to time? Did Finance & Audit Committee members, who are members of the Agency, comply with the conflict of interest provisions applicable to public officers under Article 18 of the New York General Municipal Law? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 3. Did the Finance & Audit Committee meet a minimum of twice each calendar year?  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The Finance & Audit Committee met on 1/10/23, 3/16/23, 8/17/23, 9/21/23, 10/19/23 (no quorum), and 10/25/23. |

| Finance & Audit Committee Self-Evaluation  | Yes                                 | No                       | Pen<br>ding              | Comments  |
|--|-------------------------------------|--------------------------|--------------------------|---|
| <p>4. Were meeting notices and agendas prepared for each meeting and provided to Finance &amp; Audit Committee members by electronic or regular mail at least five (5) days in advance of the scheduled meeting? Were minutes of all meetings recorded by the Secretary or any Assistant Secretary of the Agency? Did all meetings comply with the requirements of the Open Meetings Law?</p>  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |   |
| <p>5. Did the Finance &amp; Audit Committee develop the Agency's audit practices, which should address independent auditors and financial statements; internal controls, compliance, and risk assessment; special investigations; and other responsibilities?</p>  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | See Questions #6-#10 below.   |
| <p>6. Did the Finance &amp; Audit Committee:</p> <p>(a) Recommend to the Board the appointment of independent auditors, establish the compensation to be paid to the auditors, and provide oversight of the audit services provided by the independent auditor?</p> <p>(b) Establish procedures for the engagement of the independent auditors to provide permitted audited services?</p> <p>(c) Review and approve the Agency's audited financial statements, associated management letter, and all other auditor communications?</p> <p>(d) Review significant accounting and reporting issues and understand their impact on the financial statements of the Agency?</p> <p>(e) Meet with the Agency's independent auditor at least annually to discuss the financial statements of the Agency and any issues that may have arisen during the audit?</p> <p>(f) Review and discuss any significant risks reported in the independent audit and assess the responsiveness of management's follow-up activities regarding same?</p> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <p>In March 2023, Lumsden McCormick completed audits of the ECIDA, RDC, and ILDC for the year ended 12/31/22. The auditors issued unmodified (clean) opinions that the statements fairly presented the financial position of the above referenced corporations. The auditors also indicated that the audits did not uncover any material weaknesses in internal control and there were no instances of non-compliance in accordance with government auditing standards.</p> |

| Finance & Audit Committee Self-Evaluation   | Yes                                 | No                       | Pen<br>ding              | Comments   |
|---|-------------------------------------|--------------------------|--------------------------|--|
| <p>7. Did the Finance &amp; Audit Committee review management's assessment of the effectiveness of the Agency's internal controls and review the actions taken by management on the independent accountants' and auditors' suggestions for correcting weaknesses in the Agency's internal controls, regulatory compliance, and organizational structure and operations?</p>   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <p>Management's assessment of the effectiveness of internal controls was reviewed with the Committee at the 3/16/23 meeting. The March 2023 audit reports did not identify any internal controls or material weaknesses.</p>   |
| <p>8. Did the Finance &amp; Audit Committee:</p> <p>(a) Ensure that the Agency has a confidential mechanism for individuals to report suspected fraudulent activities, allegations of corruption, fraud, criminal activity, conflicts of interest by directors, officers, or employees of the Agency or anyone having business dealings with the Agency?</p> <p>(b) Develop procedures for the receipt, retention, investigation, or referral of complaints concerning accounting, internal controls, and auditing?</p> <p>(c) Request and oversee special investigations as needed or refer specific issues to the Board or appropriate committee for further investigation?</p> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <p>The ECIDA adopted a Whistleblower Policy in March of 2012. The Policy describes the process for reporting suspected fraudulent activities and describes the protections afforded to individuals who report suspected fraudulent activities. The Policy was re-adopted by the Board of Directors on 3/22/23.</p> |
| <p>9. Did the Finance &amp; Audit Committee obtain information and training needed to enhance the committee members' understanding of the role of the independent auditor, the risk management process, internal controls, and appropriate level of familiarity in financial reporting standards and processes?</p>   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <p>On 3/16/23, the Committee received an article entitled, "2023: The year of the risk-centric agenda" published by the Deloitte Center for Board Effectiveness.</p>   |

| Finance & Audit Committee Self-Evaluation  | Yes                                 | No                       | Pen<br>ding              | Comments  |
|--|-------------------------------------|--------------------------|--------------------------|---|
| <p>10. Did the Finance &amp; Audit Committee:</p> <p>(a) Report its actions and recommendations to the Board?</p> <p>(b) Report to the Board at least annually regarding any changes to the Finance &amp; Audit Committee Charter?</p> <p>(c) Provide a self-evaluation to the Board on an annual basis?</p> <p>(d) Report to the Board at least annually on the findings of its independent auditors?</p> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <p>The Committee reported its actions and recommendations to the Board following each meeting. On 3/22/23, the Audit &amp; Finance Committee reported on its activities to the ECIDA Board of Directors. These activities included the: (1) Audit &amp; Finance Committee self-evaluation; (2) Audit &amp; Finance Committee Charter; (3) draft 2022 financial statements audited by Lumsden McCormick; (4) Corporate Credit Card Policy; (5) 2022 Public Authorities Annual Report; (6) Investment &amp; Deposit Policy; and (7) 2022 Investment Report.</p> |

## Finance & Audit Committee Self-Evaluation

### ***Other Self-Evaluation Notes***

In addition to the above:

- During its 1/10/23 meeting, the Committee discussed the 2022 audit plan with Lumsden McCormick and approved a recommendation to the Board for public sector banking services.
- During its 3/16/23 meeting, the Committee reviewed drafts of the 2022 audited financial statements for the ECIDA, RDC, and ILDC. The Committee also reviewed the 2022 PAAA Annual Report, 2022 Investment Reports, Investment & Deposit Policy, Finance & Audit Committee Charter, Corporate Credit Card Policy, the 2022 Finance & Audit Self-Evaluation, 2022 Management's Assessment of Internal Controls, and Corporate Credit Card Usage Report.
- During its 8/17/23 meeting, ECIDA staff discussed the ECIDA, RDC, and ILDC budget review process and the timelines for obtaining approval for those budgets. The Committee also reviewed drafts of the 2024 ECIDA, RDC, and ILDC operating and capital budgets and three-year forecasts. The Committee also approved a recommendation for actions related to the lease of office space at 95 Perry Street.
- During the 9/21/23 meeting, the Committee reviewed updated drafts of the 2024 ECIDA, RDC, and ILDC operating and capital budgets and three-year forecasts. The Committee approved a motion to forward the respective budgets to the Boards of each entity for approval.
- During the 10/25/23 meeting, the Committee recommended a tax-exempt bond issuance for Westchester Park Preservation, LP and a refinancing of the City School District of the City of Buffalo Series 2013A bonds be forwarded to the ECIDA board for approval.

# DRAFT

## COMMUNICATION WITH THOSE CHARGED WITH GOVERNANCE

March 21, 2024

Members of the Finance & Audit Committees and Boards of Directors  
Erie County Industrial Development Agency and related entities

We have audited the separate financial statements of Erie County Industrial Development Agency (ECIDA), Buffalo and Erie County Regional Development Corporation (RDC), and Buffalo and Erie County Industrial Land Development Corporation (ILDC), business-type activities (collectively, the Organizations) for the year ended December 31, 2023. Professional standards require that we advise you the following matters related to our audits.

### **Our Responsibility in Relation to the Financial Statement Audit**

As communicated in our engagement letter dated January 19, 2024, our responsibility, as described by professional standards, is to form and express an opinion about whether each entity's financial statements that have been prepared by management with your oversight are presented fairly, in all material respects, in accordance with accounting principles generally accepted in the United States of America. Our audits of each entity's financial statements do not relieve you or management of their respective responsibilities.

Our responsibility, as prescribed by professional standards, is to plan and perform our audits to obtain reasonable, rather than absolute, assurance about whether the financial statements are free of material misstatement. An audit of financial statements includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of each entity's internal control over financial reporting. Accordingly, as part of our audits, we considered the internal control of each entity solely for the purpose of determining our audit procedures and not to provide any assurance concerning such internal control.

We are also responsible to communicate significant matters related to the audits that are, in our professional judgment, relevant to your responsibilities in overseeing the financial reporting process. However, we are not required to design procedures for the purpose of identifying other matters to communicate to you.

### **Planned Scope and Timing of the Audit**

We conducted our audits consistent with the planned scope and timing we previously communicated to you in the engagement letter.

### **Compliance with All Ethics Requirements Regarding Independence**

The engagement team, others in our firm, as appropriate, and our firm have complied with all relevant ethical requirements regarding independence.

### **Significant Risks Identified**

Our audit planning and risk assessment identified management override of controls and improper revenue recognition as significant audit risks, both of which are presumptive risks in financial statement audits. Our audit procedures were designed to address these risks and no matters of concern were identified as a result of our procedures.



# DRAFT

## **Qualitative Aspects of the Organizations' Significant Accounting Practices**

### *Significant Accounting Policies*

Management has the responsibility to select and use appropriate accounting policies. A summary of the significant accounting policies adopted by the Organizations are included in Note 1 to each entity's financial statements. There have been no initial selections of accounting policies and no changes in significant accounting policies or their application during 2023. No matters have come to our attention that would require us, under professional standards, to inform you about (1) the methods used to account for significant unusual transactions and (2) the effect of significant accounting policies in controversial or emerging areas for which there is a lack of authoritative guidance or consensus.

### *Significant Accounting Estimates*

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's current judgments. Those judgments are normally based on knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ markedly from management's current judgments. The most sensitive accounting estimates affecting each entity's financial statements are:

- Establishing allowances for uncollectible loans
- Depreciable lives and methods
- Valuation of other assets
- Valuation of leases receivable and payable

Management's estimates of the above are based on management's knowledge and experience about past and current events and assumptions about future events. We evaluated the key factors and assumptions used to develop the estimates above and determined that they are reasonable in relation to each entity's financial statements taken as a whole.

### *Financial Statement Disclosures*

Certain financial statement disclosures involve significant judgment and are particularly sensitive because of their significance to financial statement users. We evaluated all disclosures in relation to each entity's financial statements as a whole and determined that they are reasonable.

### **Significant Difficulties Encountered During the Audit**

We encountered no significant difficulties in dealing with management relating to the performance of the audits.

### **Uncorrected and Corrected Misstatements**

For purposes of this communication, professional standards also require us to accumulate all known and likely misstatements identified during the audit, other than those that we believe are trivial, and communicate them to the appropriate level of management. Further, professional standards require us to also communicate the effect of uncorrected misstatements related to prior periods on the relevant classes of transactions, account balances or disclosures, and the financial statements as a whole. We discovered no such misstatements during our audit.

In addition, professional standards require us to communicate to you all material, corrected misstatements that were brought to the attention of management as a result of our audit procedures. No audit adjustments were made for the year ended December 31, 2023.

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## **Disagreements with Management**

For purposes of this letter, professional standards define a disagreement with management as a matter, whether or not resolved to our satisfaction, concerning a financial accounting, reporting, or auditing matter, which could be significant to each entity's financial statements or the auditors' report. No such disagreements arose during the course of the audits.

## **Circumstances that Affect the Form and Content of the Auditors' Report**

For purposes of this letter, professional standards require that we communicate any circumstances that affect the form and content of our auditors' reports. There were no modifications to the audit opinions.

## **Representations Requested from Management**

We have requested certain written representations from management, which are included in the management representation letter dated consistent with the financial statement audit report date.

## **Management's Consultations with Other Accountants**

In some cases, management may decide to consult with other accountants about auditing and accounting matters. Management informed us that, and to our knowledge, there were no consultations with other accountants regarding auditing and accounting matter.

## **Other Significant Matters, Findings, or Issues**

In the normal course of our professional association with the Organizations, we generally discuss a variety of matters, including the application of accounting principles and auditing standards, significant events or transactions that occurred during the year, business conditions affecting the Organizations, and business plans and strategies that may affect the risks of material misstatement. None of the matters discussed resulted in a condition to our appointment as the Organizations' auditors.

## **Other Matters**

We applied certain limited procedures to Management's Discussion and Analysis that supplements the basic financial statements for each entity. Our procedures consisted of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the financial statements, and other knowledge we obtained during our audit of the financial statements. We did not audit the RSI and do not express an opinion or provide any assurance on the RSI.

With respect to each of the supplementary information accompanying the financial statements of each entity, we made certain inquiries of management and evaluated the form, content, and methods of preparing the schedules to determine that the information complies with accounting principles generally accepted in the United States of America, the methods of preparing them has not changed from the prior period, and the schedules are appropriate and complete in relation to our audits of the Organizations' financial statements. We compared and reconciled the supplementary information to the underlying accounting records used to prepare the financial statements or to the financial statements themselves.

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This information is intended solely for the use of the Finance & Audit Committees, Board of Directors, and management of the Organizations. It is not intended to be and should not be used by anyone other than these specified parties.

# DRAFT

## MANAGEMENT LETTER

March 21, 2024

The Finance & Audit Committees, Boards of Directors, and Management  
Erie County Industrial Development Agency and related entities

In planning and performing our audits of the financial statements of Erie County Industrial Development Agency (ECIDA), Buffalo and Erie County Regional Development Corporation, and Buffalo and Erie County Industrial Land Development Corporation (collectively, the Organizations), business-type activities, as of and for the year ended December 31, 2023, in accordance with auditing standards generally accepted in the United States of America, we considered the Organizations' internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the separate financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Organizations' internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis.

Our consideration of internal control was for the limited purpose described in the first paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses. In addition, because of inherent limitations in internal control, including the possibility of management override of controls, misstatements due to error or fraud may occur and not be detected by such controls. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

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This communication is intended solely for the information and use of management, the Finance & Audit Committees, Boards of Directors, and others within the Organizations. It is not intended to be, and should not be, used by anyone other than these specified parties.

**DRAFT**

**ERIE COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY**

**FINANCIAL STATEMENTS**

**DECEMBER 31, 2023**

# DRAFT

ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

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December 31, 2023

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# DRAFT

## INDEPENDENT AUDITORS' REPORT

The Board of Directors  
Erie County Industrial Development Agency

### Report on the Audit of the Financial Statements

#### *Opinion*

We have audited the financial statements of Erie County Industrial Development Agency (ECIDA), a business-type activity, as of and for the years ended December 31, 2023 and 2022, and the related notes to the financial statements, which collectively comprise ECIDA's basic financial statements as listed in the table of contents.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of ECIDA as of December 31, 2023 and 2022, and the changes in its financial position and cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America (GAAP).

#### *Basis For Opinion*

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS) and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Our responsibilities under those standards are further described in the Auditors' Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of ECIDA, and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

#### *Responsibilities of Management for the Financial Statements*

Management is responsible for the preparation and fair presentation of the financial statements in accordance with GAAP, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about ECIDA's ability to continue as a going concern for one year beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

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## ***Auditors' Responsibilities for the Audit of the Financial Statements***

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS and *Government Auditing Standards*, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of ECIDA's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about ECIDA's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

## ***Required Supplementary Information***

GAAP requires that management's discussion and analysis be presented to supplement the financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with GAAS, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the financial statements, and other knowledge we obtained during our audit of the financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

# DRAFT

## ***Supplementary Information***

Our audit was conducted for the purpose of forming an opinion on the financial statements that collectively comprise ECIDA's basic financial statements. The accompanying supplementary information as listed in the table of contents is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with GAAS. In our opinion, the accompanying supplementary information is fairly stated in all material respects in relation to the financial statements as a whole.

## ***Other Reporting Required by Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated March 21, 2024 on our consideration of ECIDA's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, grant agreements, and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of ECIDA's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering ECIDA's internal control over financial reporting and compliance.

March 21, 2024



# DRAFT

## ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

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### Management's Discussion and Analysis (unaudited)

December 31, 2023

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Erie County Industrial Development Agency (ECIDA) is a public benefit corporation that provides tax incentives, financing programs, international trade assistance, land development, and other economic development services to the City of Buffalo (the City) and Erie County, New York (the County). In accomplishing its mission, ECIDA does not receive any operational funding from Federal, State, County, or local sources. Instead, ECIDA relies primarily upon administrative fees charged to those businesses that utilize its products and services.

As a public benefit corporation, ECIDA is required to comply with accounting standards issued by the Governmental Accounting Standards Board (GASB). Under GASB Statement No. 34, *Basic Financial Statements - Management's Discussion and Analysis - for State and Local Governments*, ECIDA is required to present management's discussion and analysis (MD&A) to assist readers in understanding ECIDA's financial performance.

In compliance with GASB Statement No. 34, we present the attached overview and analysis of the financial activities of ECIDA as of and for the years ended December 31, 2023, 2022, and 2021. We encourage readers to consider the information presented here in conjunction with ECIDA's audited financial statements.

#### Basic Overview of the Financial Statements

Included in this report are the following financial statements:

- 1) **Balance Sheets** - The balance sheets show the reader what ECIDA owns (assets and deferred outflows of resources) and what ECIDA owes (liabilities and deferred inflows of resources). ECIDA's assets and deferred outflows of resources less liabilities and deferred inflows of resources (net position) can be one way to measure ECIDA's financial position. Over time, increases or decreases in ECIDA's net position are an indicator of whether its financial health is improving or deteriorating.
- 2) **Statements of Revenues, Expenses, and Changes in Net Position** - This statement reports ECIDA's operating and nonoperating revenues by major source along with operating and nonoperating expenses. The difference between total revenues and expenses can be one way to measure ECIDA's operating results for the year.
- 3) **Statements of Cash Flows** - This statement reports ECIDA's cash flows from operating, capital and related financing, and investing activities.

#### Financial Highlights

- ECIDA's net position decreased by 2% from \$20,638,000 in 2022 to \$20,140,000 in 2023.
- ECIDA experienced a decrease in net position of \$498,000 in 2023 compared to \$228,000 in 2022.
- Administrative fees, a key source of revenue for ECIDA, increased 6% from \$1,656,000 in 2022 to \$1,750,000 in 2023.
- Operating expenses increased 4% from \$2,946,000 in 2022 to \$3,077,000 in 2023.

# DRAFT

## Condensed Comparative Financial Statements

### Balance Sheets at December 31:

| <i>in thousands</i>  | 2023             | 2022             | \$ Change       | % Change    | 2021             |
|--|------------------|------------------|-----------------|-------------|------------------|
| <b>Assets</b>  |                  |                  |                 |             |                  |
| Cash   | \$ 13,704        | \$ 18,401        | \$ (4,697)      | (26%)       | \$ 18,638        |
| Receivables and other assets                                 | 11,234           | 2,467            | 8,767           | 355%        | 3,121            |
| Capital assets, net  | 1,507            | 1,166            | 341             | 29%         | 1,422            |
| Restricted cash  | 9,777            | 9,524            | 253             | 3%          | 8,870            |
| <b>Total assets</b>  | <b>36,222</b>    | <b>31,558</b>    | <b>4,664</b>    | <b>15%</b>  | <b>32,051</b>    |
| <b>Liabilities</b>   |                  |                  |                 |             |                  |
| Other liabilities  | \$ 5,741         | \$ 958           | \$ 4,783        | 499%        | \$ 1,614         |
| Funds held on behalf of others                               | 9,516            | 9,318            | 198             | 2%          | 8,718            |
| <b>Total liabilities</b>                                     | <b>15,257</b>    | <b>10,276</b>    | <b>4,981</b>    | <b>48%</b>  | <b>10,332</b>    |
| <b>Deferred inflows of resources – leases</b>                | <b>825</b>       | <b>644</b>       | <b>181</b>      | <b>28%</b>  | <b>853</b>       |
| <b>Net position</b>  |                  |                  |                 |             |                  |
| Net investment in capital assets                             | 985              | 1,040            | (55)            | (5%)        | 1,134            |
| Restricted   | 11,116           | 11,332           | (216)           | (2%)        | 11,435           |
| Unrestricted   | 8,039            | 8,266            | (227)           | (3%)        | 8,297            |
| <b>Total net position</b>                                    | <b>20,140</b>    | <b>20,638</b>    | <b>(498)</b>    | <b>(2%)</b> | <b>20,866</b>    |
| <b>Total liabilities, deferred inflows, and net position</b> | <b>\$ 36,222</b> | <b>\$ 31,558</b> | <b>\$ 4,664</b> | <b>15%</b>  | <b>\$ 32,051</b> |

Receivables and other assets include grants receivable, affiliate receivables, leases receivable, prepaid expenses, and venture capital investments. The increase of \$8,767,000 is the result of significant increases in grants receivable and affiliate receivables. ECIDA was awarded three new grants totaling \$4,420,000 in 2023. Affiliate receivables increased from \$644,000 to \$4,869,000 due to funds borrowed by the Buffalo & Erie County Industrial Land Development Corporation (ILDC) for development costs that will be reimbursed through grant agreements. The decrease from 2021 to 2022 was the result of cash received from grant agreements, building leases, and affiliates.

Restricted cash consists primarily of funds held on behalf of others including the Erie County Regional Redevelopment Fund, Buffalo Brownfields Redevelopment Fund, and PILOT Increment Financing (PIF) funds. The \$253,000 or 3% increase from 2022 is primarily due to PILOT and PIF receipts of \$1,836,000 and interest of \$223,000 exceeding required disbursements to municipalities of \$662,000 and eligible project funds of \$1,199,000. Restricted cash also includes \$261,000 for the Railway Trust Fund, which increased \$54,000 from 2022. The \$654,000, or 7%, increase in 2022 over 2021 was due to receipts in excess of required disbursements to municipalities.

The \$4,783,000 increase in other liabilities is due to increases in unearned revenue of \$4,121,000, lease payable of \$395,000, and accounts payable of \$268,000. Unearned revenue is offset by grants receivable and is recognized as special project revenue as eligible activities are performed. ECIDA's office space lease expired during 2023 and a new lease is in effect through July 2027. The lease payable is the present value of lease payments through the end of the lease. The decrease from 2021 to 2022 was due to decreases in accounts payable, unearned revenue, and leases payable.

ECIDA has capitalized the present value of future lease receipts as a lease receivable and deferred inflow of resources. The lease receivable is reduced as cash is received and the deferred inflow of resources is recognized as rental income over the term of the lease contract. The \$181,000 or 28% increase in deferred inflows of resources related to leases is due to a new lease agreement signed in 2023 to extend Buffalo Urban Development Corporation's sublease for a portion of ECIDA's office lease through July 2027.

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## Statements of Revenues, Expenses, and Changes in Net Position for the years ended December 31:

| <i>in thousands</i>                        | 2023             | 2022             | \$ Change       | % Change      | 2021             |
|--|------------------|------------------|-----------------|---------------|------------------|
| <b>Operating revenues:</b>                 |                  |                  |                 |               |                  |
| Administrative fees                        | \$ 1,750         | \$ 1,656         | \$ 94           | 6%            | \$ 2,419         |
| Affiliate management fees                  | 287              | 466              | (179)           | (38%)         | 419              |
| Rental and other                           | 475              | 438              | 37              | 8%            | 405              |
| <b>Total operating revenues</b>            | <b>2,512</b>     | <b>2,560</b>     | <b>(48)</b>     | <b>(2%)</b>   | <b>3,243</b>     |
| <b>Operating expenses:</b>                 |                  |                  |                 |               |                  |
| Salaries and benefits                      | 2,035            | 1,999            | 36              | 2%            | 1,905            |
| General and administrative                 | 794              | 687              | 107             | 16%           | 564              |
| Depreciation, amortization, and other      | 248              | 260              | (12)            | (5%)          | 265              |
| <b>Total operating expenses</b>            | <b>3,077</b>     | <b>2,946</b>     | <b>131</b>      | <b>4%</b>     | <b>2,734</b>     |
| <b>Special project grants:</b>             |                  |                  |                 |               |                  |
| Revenues                                   | 518              | 966              | (448)           | (46%)         | 5,484            |
| Expenses                                   | (855)            | (896)            | 41              | (5%)          | (6,228)          |
| <b>Total special project grants</b>        | <b>(337)</b>     | <b>70</b>        | <b>(407)</b>    | <b>(581%)</b> | <b>(744)</b>     |
| <b>Operating loss</b>                      | <b>(902)</b>     | <b>(316)</b>     | <b>(586)</b>    | <b>185%</b>   | <b>(235)</b>     |
| <b>Nonoperating revenue (expense), net</b> | <b>404</b>       | <b>88</b>        | <b>316</b>      | <b>359%</b>   | <b>40</b>        |
| <b>Change in net position</b>              | <b>(498)</b>     | <b>(228)</b>     | <b>(270)</b>    | <b>118%</b>   | <b>(195)</b>     |
| Net position – beginning                   | 20,638           | 20,866           | (228)           | (1%)          | 21,098           |
| Restatement – GASB 87                      | -                | -                | -               | N/A           | (37)             |
| <b>Net position – ending</b>               | <b>\$ 20,140</b> | <b>\$ 20,638</b> | <b>\$ (498)</b> | <b>(2%)</b>   | <b>\$ 20,866</b> |

### Revenue Analysis

Administrative fees are primarily collected from the issuance of various forms of tax abatements and tax-exempt financing. Fees for tax abatement are based on the amount of project investment. ECIDA relies on these fees to cover its operating costs; however, the amount of fees collected in any given year is largely dependent upon the local economic climate and the timing between project approval and project commencement. Administrative fees increased \$94,000 or 6% in 2023 primarily due to an increase in the value of induced projects. Administrative fees were collected related to 22 different projects in 2023, down from 25 in 2022. In 2021, administrative fees were collected related to 31 projects.

Affiliate management fees represent salaries and overhead costs charged to ECIDA affiliates for services that ECIDA's employees provide to these organizations. ECIDA's affiliates include Buffalo & Erie County Regional Development Corporation (RDC), a lending corporation, and ILDC, a land development corporation. Affiliate management fees decreased \$179,000 in 2023 due to a decrease in chargeable hours.

Rental and other income is primarily comprised of rental income for building leases and rental income from the Port Terminal Facility.

### Expense Analysis

Salaries and benefits increased \$36,000, or 2%, in 2023 due to employee raises and a new employee hired in December 2023. In 2022, salaries and benefits increased \$94,000 from 2021 due to employee raises and performance incentives.

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General and administrative expenses increased \$107,000 from \$687,000 in 2022 to \$794,000 in 2023 primarily due to refunds of \$176,000 for previously recognized administrative fee revenue. The final project budget or incentive package was below initial estimates and the fee due to ECIDA was reduced accordingly. In 2022, general and administrative expenses increased \$123,000 primarily due to an \$89,000 refund for previously recognized administrative fee revenue.

Net special project grants decreased from net income of \$70,000 in 2022 to a net loss of \$337,000 in 2023. In 2023, grant expenses exceeded grant revenues due to carrying costs related to ILDC properties of \$210,000 and other grants from the Agency's Urban Development Action Grant (UDAG) fund. In 2022, grant revenues mostly equaled grant expenses as ECIDA passed through Erie County funds of \$385,000 to ILDC and \$198,000 of CARES Act funds to RDC.

Net nonoperating revenue increased \$316,000 in 2023 due to higher interest income earned on ECIDA's deposit accounts. Interest income of \$412,000 was offset by \$8,000 of interest expense related to ECIDA's office lease. In 2022, net nonoperating revenue increased \$48,000.

## Budget Analysis

ECIDA prepares an annual budget which was presented and approved by the Board of Directors on October 26, 2022. The following table presents an analysis of ECIDA's performance compared to the approved 2023 budget.

| <i>in thousands</i>                          | Actual          | Budget          | Variance<br>\$ | %            |
|--|-----------------|-----------------|----------------|--------------|
| <b>Operating revenues:</b>                   |                 |                 |                |              |
| Administrative fees                          | \$ 1,750        | \$ 1,800        | \$ (50)        | (3%)         |
| Affiliate management fees                    | 287             | 500             | (213)          | (43%)        |
| Rental and other                             | 475             | 504             | (29)           | (6%)         |
| <b>Total operating revenues</b>              | <b>2,512</b>    | <b>2,804</b>    | <b>(292)</b>   | <b>(10%)</b> |
| <b>Operating expenses:</b>                   |                 |                 |                |              |
| Salaries and benefits                        | 2,035           | 2,096           | (61)           | (3%)         |
| General and administrative                   | 794             | 734             | 60             | 8%           |
| Depreciation, amortization, and other        | 248             | 129             | 119            | 92%          |
| <b>Total operating expenses</b>              | <b>3,077</b>    | <b>2,959</b>    | <b>118</b>     | <b>4%</b>    |
| Operating loss before special project grants | (565)           | (155)           | (410)          | 265%         |
| <b>Special project grants:</b>               |                 |                 |                |              |
| Revenues                                     | 518             | 982             | (464)          | (47%)        |
| Expenses                                     | (855)           | (1,770)         | 915            | (52%)        |
| <b>Total special project grants</b>          | <b>(337)</b>    | <b>(788)</b>    | <b>451</b>     | <b>(57%)</b> |
| Nonoperating revenue, net                    | 404             | 6               | 398            | 6,633%       |
| <b>Change in net position</b>                | <b>\$ (498)</b> | <b>\$ (937)</b> | <b>\$ 439</b>  | <b>(47%)</b> |

## Budget to Actual Analysis

Overall, ECIDA's decrease in net position for 2023 was below the budgeted decrease by \$439,000. Administrative fees were 3% less than the budgeted amount due mainly to timing of tax incentive project closings. Total operating expenses were \$118,000 over budget mostly due to administrative fee refunds discussed previously. Net special project grants had a positive variance of \$451,000. Nonoperating revenue includes interest income on cash deposits and was \$398,000 greater than expected.

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## **Economic Factors Impacting ECIDA**

ECIDA relies extensively upon administrative fees to generate the majority of its annual revenue. As a result of current uncertain economic conditions and potential legislative/board actions, ECIDA's ability to generate the administrative fees necessary to support operations may be limited in the future.

## **Requests for Information**

This financial report is designed to provide a general overview of ECIDA's finances. Questions concerning any of the financial information provided in this report should be addressed to the CFO of ECIDA at (716) 856-6525. General information relating to ECIDA can be found at its website, [www.ecidany.com](http://www.ecidany.com).

# DRAFT

## ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

### Balance Sheets

| December 31,                                    | 2023                 | 2022                 |
|---|----------------------|----------------------|
| <b>Assets</b>                                   |                      |                      |
| <b>Current assets:</b>                          |                      |                      |
| Cash  | \$ 13,704,390        | \$ 18,400,853        |
| Receivables                                     |                      |                      |
| Affiliates                                      | 4,819,703            | 471,011              |
| Grants  | 4,869,218            | 644,183              |
| Leases  | 215,555              | 200,724              |
| Other   | 134,930              | 111,376              |
| Prepaid expenses                                | 78,600               | 89,319               |
|   | <u>23,822,396</u>    | <u>19,917,466</u>    |
| <b>Noncurrent assets:</b>                       |                      |                      |
| Leases receivable                               | 609,283              | 443,203              |
| Capital assets, net (Note 4)                    | 1,506,504            | 1,166,361            |
| Other assets                                    | 506,886              | 506,886              |
| Restricted cash                                 | 9,777,101            | 9,524,124            |
|   | <u>12,399,774</u>    | <u>11,640,574</u>    |
|   | <u>\$ 36,222,170</u> | <u>\$ 31,558,040</u> |
| <b>Liabilities and Net Position</b>             |                      |                      |
| <b>Current liabilities:</b>                     |                      |                      |
| Accounts payable                                | \$ 304,991           | \$ 37,003            |
| Lease payable                                   | 136,321              | 126,166              |
| Accrued expenses                                | 150,339              | 151,856              |
| Unearned revenue                                | 4,764,541            | 643,647              |
|   | <u>5,356,192</u>     | <u>958,672</u>       |
| <b>Noncurrent liabilities:</b>                  |                      |                      |
| Lease payable                                   | 385,321              | -                    |
| Funds held on behalf of others                  | 9,516,218            | 9,317,525            |
|   | <u>9,901,539</u>     | <u>9,317,525</u>     |
| <b>Deferred inflows of resources:</b>           |                      |                      |
| Deferred inflows of resources related to leases | 824,838              | 643,927              |
| <b>Net position:</b>                            |                      |                      |
| Net investment in capital assets                | 984,862              | 1,040,195            |
| Restricted                                      | 11,116,183           | 11,331,382           |
| Unrestricted                                    | 8,038,556            | 8,266,339            |
|   | <u>20,139,601</u>    | <u>20,637,916</u>    |
|   | <u>\$ 36,222,170</u> | <u>\$ 31,558,040</u> |

See accompanying notes.

# DRAFT

## ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

### Statements of Revenues, Expenses, and Changes in Net Position

| For the years ended December 31,             | 2023                 | 2022                 |
|--|----------------------|----------------------|
| <b>Operating revenues:</b>                   |                      |                      |
| Administrative fees                          | \$ 1,749,882         | \$ 1,656,279         |
| Affiliate management fees                    | 286,799              | 465,692              |
| Rental income                                | 316,002              | 308,450              |
| Other  | 159,191              | 129,643              |
| Total operating revenues                     | <u>2,511,874</u>     | <u>2,560,064</u>     |
| <b>Operating expenses:</b>                   |                      |                      |
| Salaries and benefits                        | 2,035,058            | 1,999,345            |
| General and administrative                   | 794,392              | 687,125              |
| Depreciation and amortization                | 204,228              | 258,776              |
| Other  | 43,207               | 1,354                |
| Total operating expenses                     | <u>3,076,885</u>     | <u>2,946,600</u>     |
| Operating loss before special project grants | <u>(565,011)</u>     | <u>(386,536)</u>     |
| <b>Special project grants:</b>               |                      |                      |
| Revenues                                     | 517,991              | 965,710              |
| Expenses                                     | (855,228)            | (895,280)            |
|  | <u>(337,237)</u>     | <u>70,430</u>        |
| Operating loss                               | (902,248)            | (316,106)            |
| <b>Nonoperating revenues:</b>                |                      |                      |
| Interest income                              | 412,432              | 102,271              |
| Interest expense                             | (8,499)              | (14,419)             |
|  | <u>403,933</u>       | <u>87,852</u>        |
| Change in net position                       | (498,315)            | (228,254)            |
| Net position - beginning                     | <u>20,637,916</u>    | <u>20,866,170</u>    |
| <b>Net position - ending</b>                 | <u>\$ 20,139,601</u> | <u>\$ 20,637,916</u> |

See accompanying notes.

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## ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

### Statements of Cash Flows

| For the years ended December 31,   | 2023                  | 2022                |
|--|-----------------------|---------------------|
| <b>Operating activities:</b>   |                       |                     |
| Cash from fees and rental income   | \$ 2,065,884          | \$ 1,964,729        |
| Cash from special project grants   | 413,850               | 955,653             |
| Cash received from (paid to) other sources   | (3,926,256)           | 880,247             |
| Payments to employees, suppliers, and other  | (2,595,467)           | (3,011,366)         |
| Payments for special project grants  | (855,228)             | (895,280)           |
| <b>Net operating activities</b>  | <b>(4,897,217)</b>    | <b>(106,017)</b>    |
| <b>Capital and related financing activities:</b>                                     |                       |                     |
| Purchases of capital assets  | (11,643)              | (2,959)             |
| Principal payments on leases   | (137,252)             | (162,214)           |
| Interest payments on leases  | (8,499)               | (14,419)            |
| Interest received on leases  | 43,976                | 42,673              |
| <b>Net capital and related financing activities</b>                                  | <b>(113,418)</b>      | <b>(136,919)</b>    |
| <b>Investing activities:</b>   |                       |                     |
| Change in restricted cash, net   | (54,284)              | (54,183)            |
| Interest received  | 368,456               | 59,598              |
| <b>Net investing activities</b>  | <b>314,172</b>        | <b>5,415</b>        |
| <b>Net change in cash</b>  | <b>(4,696,463)</b>    | <b>(237,521)</b>    |
| Cash - beginning   | 18,400,853            | 18,638,374          |
| Cash - ending  | \$ 13,704,390         | \$ 18,400,853       |
| <b>Reconciliation of operating loss to net cash flows from operating activities:</b> |                       |                     |
| Operating loss   | \$ (902,248)          | \$ (316,106)        |
| Adjustments to reconcile operating loss to net cash flows from operating activities: |                       |                     |
| Depreciation and amortization  | 204,228               | 258,776             |
| Changes in other assets and liabilities:   |                       |                     |
| Receivables  | (8,597,281)           | 504,202             |
| Prepaid expenses   | 10,719                | (59,772)            |
| Accounts payable   | 267,988               | (265,015)           |
| Accrued expenses   | (1,517)               | 1,245               |
| Unearned revenue   | 4,120,894             | (229,347)           |
| <b>Net operating activities</b>  | <b>\$ (4,897,217)</b> | <b>\$ (106,017)</b> |

See accompanying notes.

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## ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

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### Notes to Financial Statements

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#### 1. Summary of Significant Accounting Policies:

##### Nature of Organization

Erie County Industrial Development Agency (ECIDA) was created in 1970 by an act of the Legislature of the State of New York (the State) for the purpose of encouraging financially sound companies to establish themselves and prosper in Erie County (the County).

ECIDA has related party relationships with Buffalo and Erie County Industrial Land Development Corporation (ILDC) and Buffalo and Erie County Regional Development Corporation (RDC). All three entities are managed by the same personnel and RDC currently shares a common board with ECIDA. These entities share the same mission, which is to provide the resources that encourage investment, innovation, workforce development, and international trade resulting in a successful business climate focused on growth, economic stability, job creation, and job retention for businesses and individuals which improves the quality of life for the residents of the region.

##### Basis of Presentation

The financial statements of ECIDA have been prepared in conformity with accounting principles generally accepted in the United States of America (GAAP) as applied to governmental units. The Governmental Accounting Standards Board is the accepted standard-setting body for establishing governmental accounting and financial reporting principles.

##### Financial Reporting Entity

In evaluating how to define ECIDA for financial reporting purposes, management has considered all potential component units. The decision to include a potential component unit in ECIDA's reporting entity is based on accounting standards which consider legal standing, fiscal dependency, and financial accountability. Based on the application of these criteria, there are no additional entities included in ECIDA's financial statements.

##### Measurement Focus

ECIDA reports as a special-purpose government engaged in business-type activities. Business-type activities are those that are financed in whole or in part by fees charged to external parties for goods or services. ECIDA's financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded when a liability is incurred.

ECIDA's policy for defining operating activities in the statements of revenues, expenses, and changes in net position are those that generally result from exchange transactions such as payments received for services and payments made to purchase those goods or services. Certain other transactions are reported as nonoperating activities and include interest income, interest expense, and grants resulting from nonexchange transactions. Grants are recognized as receivable and unearned revenue at the time awarded and as revenue when all eligibility requirements imposed by the provider have been satisfied. ECIDA receives special project grants from various Federal, State, and County sources.

##### Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates.

##### Cash

Cash management is governed by State laws and as established by ECIDA's written policies. Cash resources must be deposited in FDIC-insured commercial banks or trust companies located within the State. Policies permit management to use demand accounts and certificates of deposit for daily operating funds. Investments are limited to obligations of the United States Treasury and its Agencies, repurchase agreements, and obligations of the State or its localities.

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Collateral is required for demand and time deposits and certificates of deposit not covered by Federal Deposit Insurance. Obligations that may be pledged as collateral include obligations of the United States and its agencies and obligations of the State and its municipalities and school districts.

Custodial credit risk is the risk that, in the event of a bank failure, ECIDA's deposits may not be returned to it. At December 31, 2023 and 2022, ECIDA's bank deposits were fully collateralized by FDIC coverage and securities held by the pledging institution's agent in ECIDA's name.

## Loans Receivable

Loans receivable are stated at the principal amount outstanding, net of an allowance for uncollectible loans. The allowance method is used to compute the provision for uncollectible loans.

Determination of the balance of the allowance for uncollectible loans is based on an analysis of the loan portfolio and reflects an amount that, in management's judgment, is adequate to provide for potential loan losses. Loans are written off when, in management's judgment, no legal recourse is available to collect the amount owed.

ECIDA previously provided a loan to a manufacturing company that would be forgiven as the company met certain criteria. At December 31, 2023 and 2022, the entire loan is reserved with \$100,000 installments forgiven annually through 2026 as the borrower satisfies the loan requirements.

## Capital Assets

Capital assets are recorded at cost. Depreciation is provided over estimated useful lives using the straight-line method. Maintenance and repairs are expensed as incurred; significant improvements are capitalized.

Capitalization thresholds to determine which asset purchases are added to capital accounts and the estimated useful lives of capital assets are:

|                            | Capitalization<br>Policy | Estimated<br>Useful Life in<br>Years |
|----------------------------|--------------------------|--------------------------------------|
| Buildings and improvements | \$ 1,000                 | 5 - 40                               |
| Furniture and equipment    | \$ 1,000                 | 3 - 10                               |

## Rental Property:

In 1989, ECIDA developed a public warehouse and trans-shipment facility (the Port Terminal Facility) at the Gateway Metroport facility in the City of Lackawanna. The Port Terminal Facility provides enclosed storage facilities and materials handling services for the trans-shipment of goods by water, rail, and truck. The facility is owned by ECIDA and is operated by Gateway Trade Center, Inc. Port Terminal Facility rental property assets are fully depreciated. ECIDA receives a percentage of annual Excess Cash Flow, as defined, from the operations at the Port Terminal Facility.

ECIDA also owns its former office space at 143 Genesee Street. This property is recorded at cost and leased to a third party (Note 7).

## Other Assets

Other assets include venture capital investments made by ECIDA in order to spur local economic growth. Venture capital investments are recorded at the lesser of cost or fair market value as determined by management's estimates based on available financial information.

## Net Position

Net position consists of the following components:

- *Net investment in capital assets* – consists of capital assets, net of accumulated depreciation, reduced by outstanding balances of any related debt obligations attributable to the acquisition, construction, or improvement of those assets.
- *Restricted* – consists of restricted assets reduced by related liabilities. Restrictions are imposed by the U.S. Department of Housing and Urban Development's Urban Development Action Grant (UDAG) program.
- *Unrestricted* – the net amount of assets, deferred outflows of resources, liabilities, and deferred inflows of resources that are not included in the determination of net investment in capital assets or the restricted component of net position and therefore are available for general use by ECIDA.

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## Tax Incentive Transactions

ECIDA maintains an economic development incentive program to provide sales, property, and/or mortgage recording tax benefits for qualified construction, renovation, or expansion projects or other economic development activities within Erie County. Under this program, ECIDA may take title to or a leasehold interest in the real and/or personal property involved in the project for the term of the incentive period. ECIDA simultaneously leases the property under a lease agreement to the company undertaking the project (lessee). ECIDA receives administrative fees from the lessee for providing these tax incentives which are recognized according to the terms of the fee agreement.

ECIDA is an issuer of tax-exempt bond financing for qualified manufacturers and low-income housing projects which meet the definition of conduit debt obligations. These bonds are obligations of the borrower and secured by the assets they finance. ECIDA receives bond issuance fees from the borrower for providing this service which is recognized according to the terms of the fee agreement. ECIDA also has a shared services agreement with ILDC under which administrative and staffing services are provided to ILDC in connection with its bond issuances to nonprofit organizations in exchange for the related bond issuance fees received by ILDC. At December 31, 2023 and 2022, previously issued bonds have an aggregate outstanding balance of \$574,130,953 and \$540,645,622, none of which is recognized as a liability of ECIDA.

ECIDA received \$10,000 and \$105,000 in administrative fees from ILDC in 2023 and 2022.

## 2. Special Project Grants:

*Bethlehem Shoreline Enhancement* – ECIDA received a grant from New York State Department of State in the amount of \$122,825 in June 2020 to support the construction and administration of Shoreline Trail enhancements on the former Bethlehem Steel property.

*Bethlehem Water and Sewer Design* – ECIDA received a grant from Erie County in the amount of \$700,000 in July 2020 to support the design, engineering, and construction administration of water and sewer utility extensions and upgrades on the former Bethlehem Steel property.

*Bethlehem Railroad Relocation* – ECIDA received a grant from Erie County in the amount of \$600,000 in June 2023 to support the relocation of rail infrastructure at the former Bethlehem Steel Property.

*Buffalo Southern Railroad* – ECIDA received a \$1,703,553 grant from New York State Department of Transportation (NYSDOT) in January 2023 and a \$250,000 grant from Erie County in July 2023 to support the restoration of five bridges and seven miles of track on the Buffalo Southern Railroad.

*DL&W Lancaster Industrial Track Improvement* – ECIDA received a \$1,616,470 grant from NYSDOT in April 2023 and a \$250,000 grant from Erie County in September 2023 to support the restoration of the DL&W Lancaster Industrial Track.

The following is a summary of grants receivable at December 31:

|  | 2023                | 2022              |
|--|---------------------|-------------------|
| Bethlehem Shoreline Enhancement                            | \$ 92,119           | \$ 92,119         |
| Bethlehem Water and Sewer Design                           | 356,936             | 545,566           |
| Buffalo Southern Railroad - 2017<br>PFRAP Rail Improvement | 140                 | 140               |
| Sumitomo Dunlop Rail - PFRAP                               | -                   | 6,358             |
| Bethlehem Railroad Relocation                              | 600,000             | -                 |
| Buffalo Southern Railroad                                  | 1,953,553           | -                 |
| DL&W Lancaster Industrial Track<br>Improvement             | 1,866,470           | -                 |
|  | <u>\$ 4,869,218</u> | <u>\$ 644,183</u> |

The following is a summary of unearned revenue at December 31:

|  | 2023                | 2022              |
|--|---------------------|-------------------|
| Bethlehem Shoreline Enhancement                | \$ 77,652           | \$ 108,152        |
| Bethlehem Water and Sewer Design               | 267,335             | 535,495           |
| Bethlehem Railroad Relocation                  | 600,000             | -                 |
| Buffalo Southern Railroad                      | 1,953,084           | -                 |
| DL&W Lancaster Industrial Track<br>Improvement | 1,866,470           | -                 |
|  | <u>\$ 4,764,541</u> | <u>\$ 643,647</u> |

## 3. Funds Held on Behalf of Others:

ECIDA holds cash for various development activities. ECIDA disburses these funds when given the appropriate authorization. The funds include:

|  | 2023                | 2022                |
|--|---------------------|---------------------|
| Erie County Regional<br>Redevelopment Fund | \$ 1,624,407        | \$ 1,820,634        |
| Buffalo Brownfields<br>Redevelopment Fund  | 236,191             | 452,106             |
| Jemal's Seneca Fund                        | 794,606             | 427,340             |
| Seneca Street Corridor Fund                | 3,086,042           | 2,387,879           |
| Main Street Improvement Fund               | 3,774,972           | 4,229,566           |
|  | <u>\$ 9,516,218</u> | <u>\$ 9,317,525</u> |

Restricted cash also includes \$260,883 and \$206,599 as of December 31, 2023 and 2022, respectively, for the Railway Trust Fund for activities related to two Erie County shortline railroads.

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## 4. Capital Assets:

|                                | Balance<br>January 1, 2023 | Increases           | Retirements/<br>Reclassifications | Balance<br>December 31, 2023 |
|--------------------------------|----------------------------|---------------------|-----------------------------------|------------------------------|
| Land                           | \$ 167,400                 | \$ -                | \$ -                              | \$ 167,400                   |
| Depreciable capital assets:    |                            |                     |                                   |                              |
| Land improvements              | 1,109,345                  | -                   | -                                 | 1,109,345                    |
| Buildings                      | 2,747,489                  | -                   | -                                 | 2,747,489                    |
| Furniture and equipment        | 470,145                    | 11,643              | -                                 | 481,788                      |
| Total depreciable assets       | <u>4,326,979</u>           | <u>11,643</u>       | <u>-</u>                          | <u>4,338,622</u>             |
| Less accumulated depreciation: |                            |                     |                                   |                              |
| Land improvements              | (934,700)                  | (30,033)            | -                                 | (964,733)                    |
| Buildings                      | (2,062,507)                | (36,043)            | -                                 | (2,098,550)                  |
| Furniture and equipment        | (441,423)                  | (15,433)            | -                                 | (456,856)                    |
| Total accumulated depreciation | <u>(3,438,630)</u>         | <u>(81,509)</u>     | <u>-</u>                          | <u>(3,520,139)</u>           |
| Total depreciable assets, net  | <u>888,349</u>             | <u>(69,866)</u>     | <u>-</u>                          | <u>818,483</u>               |
| Right-to-use lease assets:     |                            |                     |                                   |                              |
| Building                       | 737,415                    | 532,728             | (737,415)                         | 532,728                      |
| Accumulated amortization       | (626,803)                  | (122,719)           | 737,415                           | (12,107)                     |
| Total right-to-use assets, net | <u>110,612</u>             | <u>410,009</u>      | <u>-</u>                          | <u>520,621</u>               |
|                                | <u>\$ 1,166,361</u>        | <u>\$ 340,143</u>   | <u>\$ -</u>                       | <u>\$ 1,506,504</u>          |
|                                |                            |                     |                                   |                              |
|                                | Balance<br>January 1, 2022 | Increases           | Retirements/<br>Reclassifications | Balance<br>December 31, 2022 |
| Land                           | \$ 167,400                 | \$ -                | \$ -                              | \$ 167,400                   |
| Depreciable capital assets:    |                            |                     |                                   |                              |
| Land improvements              | 1,106,386                  | 2,959               | -                                 | 1,109,345                    |
| Buildings                      | 2,747,489                  | -                   | -                                 | 2,747,489                    |
| Furniture and equipment        | 470,145                    | -                   | -                                 | 470,145                      |
| Total depreciable assets       | <u>4,324,020</u>           | <u>2,959</u>        | <u>-</u>                          | <u>4,326,979</u>             |
| Less accumulated depreciation: |                            |                     |                                   |                              |
| Land improvements              | (879,876)                  | (54,824)            | -                                 | (934,700)                    |
| Buildings                      | (2,026,464)                | (36,043)            | -                                 | (2,062,507)                  |
| Furniture and equipment        | (420,997)                  | (20,426)            | -                                 | (441,423)                    |
| Total accumulated depreciation | <u>(3,327,337)</u>         | <u>(111,293)</u>    | <u>-</u>                          | <u>(3,438,630)</u>           |
| Total depreciable assets, net  | <u>996,683</u>             | <u>(108,334)</u>    | <u>-</u>                          | <u>888,349</u>               |
| Right-to-use lease assets:     |                            |                     |                                   |                              |
| Building                       | 737,415                    | -                   | -                                 | 737,415                      |
| Accumulated amortization       | (479,320)                  | (147,483)           | -                                 | (626,803)                    |
| Total right-to-use assets, net | <u>258,095</u>             | <u>(147,483)</u>    | <u>-</u>                          | <u>110,612</u>               |
|                                | <u>\$ 1,422,178</u>        | <u>\$ (255,817)</u> | <u>\$ -</u>                       | <u>\$ 1,166,361</u>          |

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## 5. Related Party Transactions:

ECIDA historically allocated a portion of personnel and rental costs to its affiliates, RDC and ILDC. In 2023, ECIDA chose to discontinue allocation of personnel and overhead costs to ILDC unless a corresponding revenue source is identified. ECIDA earned \$286,799 and \$465,692 in affiliate management fees for the years ended December 31, 2023 and 2022. Management fees and receivables by affiliate are as follows:

|      | Management Fees   |                   | Receivables         |                   |
|------|-------------------|-------------------|---------------------|-------------------|
|      | 2023              | 2022              | 2023                | 2022              |
| RDC  | \$ 286,799        | \$ 288,468        | \$ 300,328          | \$ 291,289        |
| ILDC | -                 | 177,224           | 4,519,375           | 179,722           |
|      | <u>\$ 286,799</u> | <u>\$ 465,692</u> | <u>\$ 4,819,703</u> | <u>\$ 471,011</u> |

In 2023, ECIDA provided ILDC with \$4,477,770 to temporarily finance various projects. These funds are expected to be repaid when ILDC receives reimbursement from grant sources.

In 2023 and 2022, Erie County provided \$129,000 and \$385,000, respectively, to ECIDA as a subrecipient of Community Development Block Grant funds. These funds were then transferred to ILDC for its Erie County BDF loan program. These amounts are included in special project grant revenues and expenses in the accompanying statements of revenues, expenses, and changes in net position.

## 6. Leases:

ECIDA, as lessee, entered into a non-cancelable lease for office space through July 31, 2027 and recognized a right-to-use lease asset at the present value of \$532,728 using a discount rate of 5%. The lease requires annual minimum payments of \$159,307 and utility charges that are determined on an annual basis. Principal and interest due in 2024 total \$136,321 and \$22,986, respectively.

ECIDA entered into a sublease agreement with Buffalo Urban Development Corporation for a portion of their office space through July 31, 2027. ECIDA recognized \$24,291 and \$23,153 in gross rental income, including interest at 5.0%, in 2023 and 2022. Annual receipts are expected to total \$21,046, plus utilities, through 2027.

ECIDA, as lessor, has entered into a non-cancelable lease for its former office through July 31, 2027. ECIDA recognized \$231,700 and \$220,386 in gross rental income, including interest at 5.0%, in 2022 and 2021. Annual receipts are expected to total \$230,856, plus utilities, through 2027.

## 7. Pension:

ECIDA maintains a defined contribution simplified employee pension (SEP) plan covering all of its employees. Employees are eligible to participate six months after employment, with employer contributions vesting immediately. During 2023 and 2022, ECIDA made discretionary contributions of 12% of eligible employees' salaries. ECIDA's expense for contributing to the plan for the years ended December 31, 2023 and 2022 amounted to \$177,368 and \$162,663 respectively. Employees are also permitted to participate in the New York State Deferred Compensation Plan but ECIDA does not make contributions to this plan.

## 8. Risk Management:

ECIDA purchases commercial insurance for various risks of loss due to torts, theft, damage, injuries to employees, and natural disasters in addition to insurance purchased to indemnify directors and officers. Settled claims resulting from these risks have not exceeded commercial insurance coverage in any of the past three years.

## 9. Commitments and Contingencies:

### Grants

ECIDA receives financial assistance from federal, state, and local agencies in the form of grants and fiduciary agreements. Managing these funds generally requires compliance with the terms and conditions specified in the agreements and may be subject to audit by the grantor agencies. Disallowed claims resulting from such audits could become a liability of ECIDA. Based on prior experience, management expects any such amounts to be immaterial.

### Litigation

ECIDA is subject to claims and lawsuits that arise in the ordinary course of business. In the opinion of management, these claims and lawsuits will not have a material adverse effect upon the financial position of ECIDA.



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## ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

### Supplementary Information Combining Schedule of Balance Sheets

December 31, 2023

|   | General<br>Account   | UDAG<br>Account      | Total                |
|---|----------------------|----------------------|----------------------|
| <b>Assets</b>                                   |                      |                      |                      |
| <b>Current assets:</b>                          |                      |                      |                      |
| Cash  | \$ 7,472,224         | \$ 6,232,166         | \$ 13,704,390        |
| Receivables                                     |                      |                      |                      |
| Affiliates                                      | 341,933              | 4,477,770            | 4,819,703            |
| Grants  | 4,869,218            | -                    | 4,869,218            |
| Leases  | 215,555              | -                    | 215,555              |
| Other   | 134,930              | -                    | 134,930              |
| Prepaid expenses                                | 78,600               | -                    | 78,600               |
|   | <u>13,112,460</u>    | <u>10,709,936</u>    | <u>23,822,396</u>    |
| <b>Noncurrent assets:</b>                       |                      |                      |                      |
| Leases receivable                               | 609,283              | -                    | 609,283              |
| Capital assets, net                             | 1,506,504            | -                    | 1,506,504            |
| Other assets                                    | 100,639              | 406,247              | 506,886              |
| Restricted cash                                 | 9,777,101            | -                    | 9,777,101            |
|   | <u>11,993,527</u>    | <u>406,247</u>       | <u>12,399,774</u>    |
|   | <u>\$ 25,105,987</u> | <u>\$ 11,116,183</u> | <u>\$ 36,222,170</u> |
| <b>Liabilities and Net Position</b>             |                      |                      |                      |
| <b>Current liabilities:</b>                     |                      |                      |                      |
| Accounts payable                                | \$ 304,991           | \$ -                 | \$ 304,991           |
| Lease payable                                   | 136,321              | -                    | 136,321              |
| Accrued expenses                                | 150,339              | -                    | 150,339              |
| Unearned revenue                                | 4,764,541            | -                    | 4,764,541            |
|   | <u>5,356,192</u>     | <u>-</u>             | <u>5,356,192</u>     |
| <b>Noncurrent liabilities:</b>                  |                      |                      |                      |
| Lease payable                                   | 385,321              | -                    | 385,321              |
| Funds held on behalf of others                  | 9,516,218            | -                    | 9,516,218            |
|   | <u>9,901,539</u>     | <u>-</u>             | <u>9,901,539</u>     |
| <b>Deferred inflows of resources:</b>           |                      |                      |                      |
| Deferred inflows of resources related to leases | 824,838              | -                    | 824,838              |
| <b>Net position:</b>                            |                      |                      |                      |
| Net investment in capital assets                | 984,862              | -                    | 984,862              |
| Restricted                                      | -                    | 11,116,183           | 11,116,183           |
| Unrestricted                                    | 8,038,556            | -                    | 8,038,556            |
|   | <u>9,023,418</u>     | <u>11,116,183</u>    | <u>20,139,601</u>    |
|   | <u>\$ 25,105,987</u> | <u>\$ 11,116,183</u> | <u>\$ 36,222,170</u> |

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## ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

### Supplementary Information Combining Schedule of Revenues, Expenses, and Changes in Net Position

For the year ended December 31, 2023

|  | General<br>Account  | UDAG<br>Account      | Total                |
|--|---------------------|----------------------|----------------------|
| <b>Operating revenues:</b>                   |                     |                      |                      |
| Administrative fees                          | \$ 1,749,882        | \$ -                 | \$ 1,749,882         |
| Affiliate management fees and rental income  | 286,799             | -                    | 286,799              |
| Rental income                                | 316,002             | -                    | 316,002              |
| Other  | 159,191             | -                    | 159,191              |
| Total operating revenues                     | 2,511,874           | -                    | 2,511,874            |
| <b>Operating expenses:</b>                   |                     |                      |                      |
| Salaries and benefits                        | 2,035,058           | -                    | 2,035,058            |
| General and administrative                   | 765,417             | 28,975               | 794,392              |
| Depreciation and amortization                | 204,228             | -                    | 204,228              |
| Other  | 43,207              | -                    | 43,207               |
| Total operating expenses                     | 3,047,910           | 28,975               | 3,076,885            |
| Operating loss before special project grants | (536,036)           | (28,975)             | (565,011)            |
| <b>Special project grants:</b>               |                     |                      |                      |
| Revenues                                     | 517,991             | -                    | 517,991              |
| Expenses                                     | (469,897)           | (385,331)            | (855,228)            |
|  | 48,094              | (385,331)            | (337,237)            |
| Operating loss                               | (487,942)           | (414,306)            | (902,248)            |
| <b>Nonoperating revenues:</b>                |                     |                      |                      |
| Interest income                              | 213,325             | 199,107              | 412,432              |
| Interest expense                             | (8,499)             | -                    | (8,499)              |
|  | 204,826             | 199,107              | 403,933              |
| Change in net position                       | (283,116)           | (215,199)            | (498,315)            |
| Net position - beginning                     | 9,306,534           | 11,331,382           | 20,637,916           |
| <b>Net position - ending</b>                 | <b>\$ 9,023,418</b> | <b>\$ 11,116,183</b> | <b>\$ 20,139,601</b> |

# DRAFT

## INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*

The Board of Directors  
Erie County Industrial Development Agency

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of Erie County Industrial Development Agency (ECIDA), a business-type activity, as of and for the year December 31, 2023, and the related notes to the financial statements, which collectively comprise ECIDA's basic financial statements, and have issued our report thereon dated March 21, 2024.

### Report on Internal Control over Financial Reporting

In planning and performing our audit of the financial statements, we considered ECIDA's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of ECIDA's internal control. Accordingly, we do not express an opinion on the effectiveness of ECIDA's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that have not been identified.

### Report on Compliance and Other Matters

As part of obtaining reasonable assurance about whether ECIDA's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.



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## **Purpose of this Report**

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of ECIDA's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering ECIDA's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

March 21, 2024

# DRAFT

## INDEPENDENT AUDITORS' REPORT ON COMPLIANCE WITH SECTION 2925(3)(f) OF THE NEW YORK STATE PUBLIC AUTHORITIES LAW

The Board of Directors  
Erie County Industrial Development Agency

We have audited, in accordance with auditing standards generally accepted in the United States of America, the financial statements of Erie County Industrial Development Agency (ECIDA), a business-type activity, as of and for the year ended December 31, 2023, and the related notes to the financial statements, and we have issued our report thereon dated March 21, 2024.

In connection with our audit, nothing came to our attention that caused us to believe that ECIDA failed to comply with §2925(3)(f) of the New York State Public Authorities Law regarding investment guidelines during the year ended December 31, 2023. However, our audit was not directed primarily toward obtaining knowledge of such noncompliance. Accordingly, had we performed additional procedures, other matters may have come to our attention regarding ECIDA's noncompliance with the above rules and regulations.

The purpose of this report is solely to describe the scope and results of our testing. This communication is not suitable for any other purpose.

March 21, 2024

**Erie County Industrial Development Agency  
Investment Report**

For the year ended December 31, 2023

# Erie County Industrial Development Agency

## 2023 Annual Investment Report

### **Purpose of Report:**

Under Section 2925(6) of the Public Authorities Law, the ECIDA is required to prepare and approve an annual Investment Report. The Investment Report is to include: the investment guidelines (see below), the results of the annual independent investment audit (see below), a list of the total investment income received by the corporation and a list of the fees, commissions or other charges paid to each investment banker, broker, agent, dealer and advisor rendering investment associated services to the corporation since the last Investment Report.

The attached schedule details the corporation's investment income and related fees for the year ended December 31, 2023 and were approved by the ECIDA membership on March 27, 2024.

### **Investment Guidelines:**

In accordance with Section 2925 of the Public Authorities Law, the ECIDA is required to adopt Investment Guidelines which detail its operative policy and instructions to staff regarding the investing, monitoring and reporting of funds of the Agency. In addition, the ECIDA is subject to the deposit and investment restrictions contained in Sections 10 and 11 of the General Municipal Law.

The Investment Guidelines were approved by the ECIDA membership on March 27, 2024 and are posted on the ECIDA website at <http://www.ecidany.com/about-us-corporate-policies>. The Investment Guidelines are consistent with the prior Guidelines adopted on March 22, 2023.

### **Investment Audit:**

The auditors for the ECIDA have audited the corporation's compliance with the Investment Guidelines for Public Authorities. In their report dated March 21, 2024, Lumsden McCormick LLP indicated that the Agency complied, in all material respects, with these Investment Guidelines.





To: ECIDA, RDC & ILDC Board of Directors  
From: Brenda McDuffie, Governance Committee Chair  
Date: March 27, 2024  
Re: Governance Committee Report

In accordance with its Committee Charter, the Governance Committee is required to “report its actions and recommendations to the Board at each regular meeting of the Board following a meeting of the Governance Committee and when otherwise requested by the Board”. This report is prepared to satisfy this requirement.

The ECIDA/RDC/ILDC Governance Committee met on March 20, 2024. Committee members present were Brenda McDuffie, Chair, Thomas Baines, Zachary Evans, Tyra Johnson, Brian Kulpa, and David State. The following items were reviewed:

1) 2023 PAAA Annual Report

The Governance Committee reviewed the ECIDA/RDC/ILDC 2023 PAAA Annual Report. No changes were recommended. The PAAA Annual Report will be reviewed by the full Boards during the March 27, 2024 Board meetings.

2) Results of 2023 Performance Measures

The Governance Committee met on January 31, 2024 to discuss the ECIDA/RDC/ILDC Mission Statement and 2023 Performance Measures. The Committee did not recommend any changes during the March 20 meeting. The results of the 2023 Performance Measures will be reviewed by the Boards during the March 27, 2024 Board meetings.

3) Mission Statement and 2024 Performance Measures

The Governance Committee met on January 31, 2024 to discuss the ECIDA/RDC/ILDC Mission Statement and 2024 Performance Measures. During this meeting the Committee provided input and made changes to certain metrics based on current economic conditions. One additional update was recommended during the March 20 meeting. The 2024 Mission Statement & Performance Measures will be reviewed by the Boards during the March 27, 2024 Board meetings.

4) 2023 Board of Directors’ Evaluation/Survey

The Governance Committee reviewed the summary sheets for the ECIDA, RDC, and ILDC Board surveys and discussed the importance of open dialogue and communication. The results will be reviewed with the Boards. The Governance Committee Chair will forward the summary sheets to the Authorities Budget Office (ABO) as required.

5) 2023 Governance Committee Self-Evaluation

The Governance Committee reviewed and approved the 2023 Governance Committee Self-Evaluation. The evaluation documents the activities of the Governance Committee during 2023

6) Re-Adoption of Policies, Charters & Guidelines

The Governance Committee reviewed the following policies, charters & guidelines of the ECIDA/RDC/ILDC:

- Airborne Infectious Disease Policy
- Board Member Compensation, Reimbursement & Attendance Policy
- Code of Ethics & Conflict of Interest Policy
- Defense & Indemnification Policy
- ECIDA Employee Compensation Program
- Fee Structure Policy
- Governance Committee Charter
- Procurement Policy
- Professional Services RFP Process and Policy
- Property Disposition Guidelines
- Real Property Acquisition Policy
- Sexual Harassment Policy
- Statement of Duties & Responsibilities of the Board of Directors
- Statement of the Competencies & Personal Attributes Required of Board Members
- Travel, Conferences, Meals & Entertainment Policy
- Whistleblower Policy and Procedures
- Videoconferencing Participation Policy

ECIDA General Counsel Harris Beach reviewed the above referenced policies and did not recommend any changes. The ABO did not publish any new recommended guidance for any of these policies. The Boards will be asked to re-adopt these policies during the March 27, 2024 Board meetings.

7) PARIS Report Update

The Governance Committee received an update on the status of the ABO's reporting requirements through the Public Authorities Reporting Information System (PARIS). The Agency is on track to complete the ECIDA, RDC, and ILDC PARIS reports on or before the March 31, 2024 deadline.

8) Board Member PAAA Training Update

The Governance Committee members present received an update on the status of the required ABO board member training. The Agency's Compliance Portfolio Manager tracks and forwards training opportunities to board members who have not had the required training and to those who have not had training within the last three years.

**Erie County Industrial Development Agency (ECIDA), Buffalo and Erie County Regional Development Corporation (RDC), and Buffalo and Erie County Industrial Land Development Corporation (ILDC)**

**2023 Governance Committee Self-Evaluation**

**Responsibilities of the Governance Committee:**

The core responsibilities of the Governance Committee, as mandated under Section 2824(7) of the New York Public Authorities Law, are set forth in the Bylaws and include: (i) keeping the Board informed of current best governance practices; (ii) reviewing corporate governance trends; (iii) updating the Agency’s corporate governance principles; and (iv) advising those responsible for appointing members to the Board on the skills and experiences necessary required of potential Board members.

| Governance Committee Self-Evaluation  | Yes                                 | No                       | Pending                  | Comments  |
|---|-------------------------------------|--------------------------|--------------------------|---|
| 1. Are the members of the Governance Committee appointed in accordance with the Bylaws and are individuals appointed to the Governance Committee knowledgeable, or have expressed a willingness to become knowledgeable, in matters pertaining to governance?   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |   |
| 2. Is each member of the Governance Committee an “independent member” within the meaning of, and to the extent required by, Section 2825 of the New York Public Authorities Law, as amended from time to time? Did Governance Committee members, who are members of the Agency, comply with the conflict of interest provisions applicable to public officers under Article 18 of the New York General Municipal Law? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |   |
| 3. Did the Governance Committee meet a minimum of once (1) each calendar year?  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The Governance Committee met on 1/26/23, 2/13/23, 3/13/23, and 9/19/23. |
| 4. Were meeting notices and agendas prepared for each meeting and provided to Governance Committee members by electronic or regular mail at least five (5) days in advance of the scheduled meeting? Were minutes of all meetings recorded by the Secretary or any Assistant Secretary of the Agency? Did all meetings comply with the requirements of the Open Meetings Law?   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |   |



| Governance Committee Self-Evaluation  | Yes                                 | No                       | Pending                  | Comments  |
|---|-------------------------------------|--------------------------|--------------------------|---|
| 5. Did the Governance Committee develop the Agency's governance practices, which should address transparency, independence, accountability, fiduciary responsibilities and management oversight?  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | See Questions #6-#9 below.  |
| 6. Did the Governance Committee develop a statement of the competencies and personal attributes required of Board members to assist those authorized to appoint members to the Board in identifying qualified individuals (it being acknowledged that membership in the Agency is determined pursuant to Section 891-a of the General Municipal Law)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | A Statement of the Competencies and Personal Attributes is posted on the ECIDA website. It was approved by the ECIDA Board of Directors on 2/16/10. Revisions to this document were not necessary in 2023.  |
| 7. Did the Governance Committee develop and recommend to the Board any revisions to the number and/or structure of Board committees?  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | No additional committees were recommended by the Governance Committee in 2023.  |
| 8. Did the Governance Committee develop and provide recommendations to the Board regarding Board member education, including new member orientation and regularly scheduled Board member training to be obtained from state-approved trainers as required under Section 2824(2) of the New York Public Authorities Law?                               | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | New Board members attend an orientation session hosted by ECIDA staff and are provided with a New Member Orientation Manual.<br><br>As of 12/31/23, 19 of 19 ECIDA/RDC Board members and 7 of 7 ILDC Board members have received the PAAA required training. All Board members who have not received the training received notifications throughout the year regarding PAAA training session dates. |
| 9. Did the Governance Committee develop, review and recommend to the Board the adoption and/or revisions to the following:<br><br>(i) the Agency's Code of Ethics.<br><br>(ii) written policies regarding conflicts of interest.  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |   |

| Governance Committee Self-Evaluation   | Yes                                 | No                       | Pending                  | Comments   |
|--|-------------------------------------|--------------------------|--------------------------|--|
| <p>(iii) written policies regarding the protection of whistleblowers from retaliation.</p> <p>(iv) equal opportunity and affirmative action policies.</p> <p>(v) written policies regarding procurement of goods and services, including policies relating to the disclosure of persons who attempt to influence the Agency's procurement process.</p> <p>(vi) written policies regarding the disposition of real and personal property and the acquisition of property.</p> <p>(vii) committee charters, including this Charter.</p> <p>(viii) any other policies or documents relating to the governance of the Agency, including rules and procedures for conducting the business of the Agency's Board, including the Agency's Bylaws. The Governance Committee will oversee the implementation and effectiveness of the Bylaws and other governance documents and recommend modifications to the Board as necessary or appropriate.</p> |                                     |                          |                          | <p>Items i) &amp; ii) are included in the ECIDA Code of Ethics and Conflict of Interest Policy. The Code was re-adopted by the full Board during its meeting on 3/22/23.</p> <p>(iii) In 2012, the Governance Committee approved a formal Whistleblower Policy. The Policy was re-adopted by the full Board during its meeting on 3/22/23.</p> <p>iv) The ECIDA's EEO policy is included in the Employee Handbook and the Procurement Policy.</p> <p>v) The ECIDA Procurement Policy was re-adopted by the full Board during its 3/22/23 meeting.</p> <p>vi) The ECIDA Property Disposition Guidelines were re-adopted by the full Board during its meeting on 3/22/23.</p> <p>vii) The ECIDA Governance Committee Charter was re-adopted by the full Board during its meeting on 3/23/22.</p> <p>viii) At its 3/13/23 meeting, the Governance Committee reviewed and recommended the adoption of the Airborne Infectious Disease Policy (ECIDA/RDC/ILDC). The policy was adopted by the full Board during its meeting on 3/22/23.</p> |
| <p>10. Did the Governance Committee:</p> <p>(i) report its actions and recommendations to the Board at each regular meeting of the Board following a meeting of the Governance Committee and when otherwise requested by the Board.</p>  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <p>The Committee reports its actions and recommendations to the Board following each meeting.</p> <p>i) &amp; ii) As stated above, all policies/guidelines referenced above were adopted or re-adopted by the Board on 3/22/23.</p>  |

| Governance Committee Self-Evaluation  | Yes | No | Pending | Comments   |
|---|-----|----|---------|--|
| <p>(ii) report to the Board, at least annually, regarding any proposed changes to this Charter.</p> <p>(iii) provide a self-evaluation of the Governance Committee's functions to the Board on an annual basis.</p> |     |    |         | <p>iii) On 3/13/23, the Committee performed a Self-Evaluation for the calendar year 2022 and provided a status report to the Board on 3/22/23.</p> |

| Governance Committee Self-Evaluation   |
|--|
| <p><b>Other Self-Evaluation Notes</b></p>  |
| <ol style="list-style-type: none"> <li>1) During its 1/26/23, 2/13/23, and 3/13/23 meetings, the Governance Committee, ECIDA staff and counsel discussed the results of ECIDA's 2022 Performance Measures.</li> <li>2) During its 1/26/23, 2/13/23, and 3/13/23 meetings, the Governance Committee, ECIDA staff and counsel discussed the ECIDA Mission Statement and 2023 Performance Measures.</li> <li>3) During its 3/13/23 meeting, the Governance Committee reviewed the 2022 Board evaluation for the ECIDA, RDC, and ILDC boards. The Committee discussed the results of these evaluations during the 3/23/23 Board meeting.</li> <li>4) During its 3/13/23 meeting, the Governance Committee reviewed and recommended the adoption of the Airborne Infectious Disease Policy (ECIDA/RDC/ILDC). The policy was adopted by the full Board during its meeting on 3/22/23.</li> <li>5) In addition to the above reference policies, the Governance Committee re-adopted the following ECIDA/RDC/ILDC Policies items during its meeting on 3/13/23: (a) Board Member Compensation, Reimbursement &amp; Attendance Policy, (b) Code of Ethics &amp; Conflict of Interest Policy, (c) Defense &amp; Indemnification Policy, (d) ECIDA Employee Compensation Program Fee Structure Policy (ECIDA &amp; ILDC only), (f) Governance Committee charter, (g) Procurement Policy (h) Property Disposition Guidelines, (i) Real Property Acquisition Policy, (j) Sexual Harassment Policy, (k) Statement of Duties &amp; Responsibilities of the Board of Directors, (l) Statement of the Competencies &amp; Personal Attributes Required of Board Members, (m) Travel, Conferences, Meals &amp; Entertainment Policy, (n) Whistleblower Policy. The policies were approved by the full Board during its 3/22/23 meeting.</li> <li>6) During its 3/13/23 meeting, the ECIDA staff provided the Governance Committee a status update on the ECIDA's Public Authority Reporting Information System (PARIS) report.</li> <li>7) During the 9/19/23 Governance Committee meeting, the Governance Committee approved the one-year extension plus an additional six-month extension through November 2024 for legal professional services.</li> </ol> |

**2023 ECIDA Summary Results of Confidential Evaluation of Board Performance**

| <b>Criteria</b>   | <b>Agree</b> | <b>Somewhat Agree</b> | <b>Somewhat Disagree</b> | <b>Disagree</b> |
|---|--------------|-----------------------|--------------------------|-----------------|
|   | <b>#</b>     | <b>#</b>              | <b>#</b>                 | <b>#</b>        |
| Board members have a shared understanding of the mission and purpose of the Authority.  | 15           | 1                     |                          |                 |
| The policies, practices and decisions of the Board are always consistent with this mission.   | 15           | 1                     |                          |                 |
| Board members comprehend their role and fiduciary responsibilities and hold themselves and each other to these principles.  | 15           | 1                     |                          |                 |
| The Board has adopted policies, by-laws, and practices for the effective governance, management and operations of the Authority and reviews these annually.             | 15           | 1                     |                          |                 |
| The Board sets clear and measurable performance goals for the Authority that contribute to accomplishing its mission.   | 15           |                       | 1                        |                 |
| The decisions made by Board members are arrived at through independent judgment and deliberation, free of political influence, pressure or self-interest.               | 15           |                       | 1                        |                 |
| Individual Board members communicate effectively with executive staff so as to be well informed on the status of all important issues.                                  | 15           | 2                     |                          |                 |
| Board members are knowledgeable about the Authority's programs, financial statements, reporting requirements, and other transactions.                                   | 13           | 3                     |                          |                 |
| The Board meets to review and approve all documents and reports prior to public release and is confident that the information being presented is accurate and complete. | 15           | 1                     |                          |                 |
| The Board knows the statutory obligations of the Authority and if the Authority is in compliance with state law.  | 14           | 2                     |                          |                 |
| Board and committee meetings facilitate open, deliberate and thorough discussion, and the active participation of members.  | 16           |                       |                          |                 |
| Board members have sufficient opportunity to research, discuss, question and prepare before decisions are made and votes taken.   | 14           | 2                     |                          |                 |
| Individual Board members feel empowered to delay votes, defer agenda items, or table actions if they feel additional information or discussion is required.             | 15           |                       | 1                        |                 |
| The Board exercises appropriate oversight of the CEO and other executive staff, including setting performance expectations and reviewing performance annually.          | 16           |                       |                          |                 |
| The Board has identified the areas of most risk to the Authority and works with management to implement risk mitigation strategies before problems occur.               | 14           | 2                     |                          |                 |
| Board members demonstrate leadership and vision and work respectfully with each other.  | 16           |                       |                          |                 |

Name of Authority: **Erie County Industrial Development Agency**

Date Completed: **March 6, 2024**

**2023 Summary Results of Confidential Evaluation of Board Performance**

| Criteria  | Comments   |
|---|--|
| Board members have a shared understanding of the mission and purpose of the Authority.  |  |
| The policies, practices and decisions of the Board are always consistent with this mission.   |  |
| Board members comprehend their role and fiduciary responsibilities and hold themselves and each other to these principles.  |  |
| The Board has adopted policies, by-laws, and practices for the effective governance, management and operations of the Authority and reviews these annually.             |  |
| The Board sets clear and measurable performance goals for the Authority that contribute to accomplishing its mission.   |  |
| The decisions made by Board members are arrived at through independent judgment and deliberation, free of political influence, pressure or self-interest.               |  |
| Individual Board members communicate effectively with executive staff so as to be well informed on the status of all important issues.                                  | All of these are true, but vary between individual board members. Some members are more active participants than others.                                 |
| Board members are knowledgeable about the Authority's programs, financial statements, reporting requirements, and other transactions.                                   |  |
| The Board meets to review and approve all documents and reports prior to public release and is confident that the information being presented is accurate and complete. |  |
| The Board knows the statutory obligations of the Authority and if the Authority is in compliance with state law.  | Have had great presentations to increase our knowledge and update us on regulations.<br><br>We rely on counsel to ensure the Board is in compliance.     |
| Board and committee meetings facilitate open, deliberate and thorough discussion, and the active participation of members.  |  |
| Board members have sufficient opportunity to research, discuss, question and prepare before decisions are made and votes taken.   | The staff is very good and sharing information needed/follow-up information and answering any questions.<br><br>Packages could sometimes go out earlier. |
| Individual Board members feel empowered to delay votes, defer agenda items, or table actions if they feel additional information or discussion is required.             |  |
| The Board exercises appropriate oversight of the CEO and other executive staff, including setting performance expectations and reviewing performance annually.          |  |
| The Board has identified the areas of most risk to the Authority and works with management to implement risk mitigation strategies before problems occur.               | We rely on counsel and outside auditors to assess risk and so advise the Board   |
| Board members demonstrate leadership and vision and work respectfully with each other.  |  |

Authority: **Erie County Industrial Development Agency (ECIDA); Buffalo and Erie County Regional Development Corporation (RDC) and Buffalo & Erie County Industrial Land Development Corporation (ILDC)**

Date Completed: March 6, 2024





**Item 3.7**

To: ECIDA & RDC Boards of Directors  
From: Mollie Profic, CFO  
Jerry Manhard, Chief Lending Officer  
Re: Board Certification of CARES Act Revolving Loan Fund Plan  
Date: March 27, 2024

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In 2020 the Erie County Industrial Development Agency (ECIDA) received an award of \$5,415,694 from the U.S. Department of Commerce, Economic Development Administration (EDA) Coronavirus Aid, Relief, and Economic Security (CARES) Act Revolving Loan Fund Supplemental Disaster Recovery and Resiliency Awards. \$5 million was used to establish the CARES Act Revolving Loan Fund (RLF), with the remaining \$415,694 earmarked for administrative costs. The purpose of establishing the RLF was to alleviate sudden and severe economic dislocation caused by the COVID-19 pandemic, to provide permanent resources to support economic resiliency, and to further the long-term economic adjustment objectives of the region served by this award.

As part of the required reporting to the EDA in connection with the operations of the RLF administered by the Buffalo & Erie County Regional Development Corporation (RDC), the ECIDA must certify that the RLF is being operated in accordance with the policies and procedures contained in the Loan Administration Plan (LAP), also referred to as the RLF Plan. The LAP for the CARES Act RLF was approved on March 2, 2021, in connection with the grant award. Under the terms of the award conditions, the LAP will be updated and approved by EDA every five years.

The CARES Act RLF is currently in the revolving phase of the award, with 31 loans approved and 28 outstanding. As these loans are repaid, the principal and interest will be added back to the fund and start to be lent out again in accordance with the LAP. Two loans have been fully repaid and one loan was written off as uncollectible as of December 31, 2023.

Key components of the LAP include borrower eligibility, loan size, interest rate, and loan terms. Many of the requirements of the LAP overlap with the Federal regulations under Title 2 of the U.S. *Code of Federal Regulations* Part 200 and are tested as part of the Single Audit performed annually. The testing performed as part of the Single Audit for the year ended December 31, 2023 yielded an unmodified (clean) opinion and did not yield any audit findings.

**Action:**

Requesting approval of the attached resolution certifying that the CARES Act Revolving Loan Fund is operating in accordance with the approved Loan Administration Plan.

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**CARES ACT REVOLVING LOAN FUND ANNUAL RESOLUTION**

The meeting of the Erie County Industrial Development Agency was convened on March 27, 2024 at 12:00 p.m.

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

**RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE "RLF BOARD" OR "AGENCY") IN CONNECTION WITH AN ANNUAL CERTIFICATION TO BE MADE UNDER THE STANDARD TERMS AND CONDITIONS AND ADMINISTRATIVE MANUAL REQUIREMENTS OF THE FEDERAL ECONOMIC DEVELOPMENT ADMINISTRATION**

**WHEREAS**, the Buffalo and Erie County Regional Development Corporation (the "RDC") was incorporated as an affiliate of the Erie County Industrial Development Agency (the "Agency") for the purpose of encouraging the retention and expansion of existing companies as well as the attraction of new companies to target areas of Erie County using the resources from various Revolving Loan Funds to make direct loans to individual companies; and

**WHEREAS**, the Agency received an award of \$5,415,694 from the U.S. Department of Commerce, Economic Development Administration (the "EDA") Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") Revolving Loan Fund Supplemental Disaster Recovery and Resiliency Awards (the "CARES Act Award") and related thereto, \$5,000,000 million was used to establish the CARES Act Revolving Loan Fund (the "RLF"), with the remaining \$415,694 earmarked for administrative costs; and

**WHEREAS**, the purpose of establishing the RLF was to alleviate sudden and severe economic dislocation caused by the COVID-19 pandemic, to provide permanent resources to support economic resiliency, and to further the long-term economic adjustment objectives of the region served by the CARES Act Award; and

**WHEREAS**, as part of the required reporting to the EDA in connection with the operations of the RLF administered by the RDC, the Agency must certify that the RLF is being operated in accordance with the policies and procedures contained in the Loan Administration Plan (the "LAP"), also referred to as the RLF Plan; and

**WHEREAS** the LAP for the CARES Act RLF was approved on March 2, 2021, in connection with the CARES Act Award, and under the terms of the award conditions, the LAP will be updated and approved by EDA every five (5) years; and

**WHEREAS**, procedures were conducted on a sample of loans in the RLF portfolio by Lumsden & McCormick, LLP as part of the audit requirements of Title 2 *U.S. Code of Federal Regulations* Part 200 *Uniform Administrative Requirements, Cost Principles and Audit*



*Requirements for Federal Awards* to ensure RDC's compliance with LAP as set forth by the EDA;  
and

**WHEREAS**, the Standard Terms and Conditions and Administrative Manual Requirements of the EDA require the RLF Board to provide annual certification that the RDC and the Grant Recipient's governing body (the Agency) have reviewed the RLF and have determined that the RLF is being operated in accordance with the policies and procedures contained in the LAP, and that the loan portfolio meets the standards contained therein.

**NOW, THEREFORE, BE IT RESOLVED BY THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:**

Section 1. To the best knowledge and belief of the members of the Agency and with the disclosures provided above, the RLF is being operated in accordance with the policies and procedures contained in the LAP, and the loan portfolio meets the standards contained therein.

Section 2. The Chair or Vice Chair, President/Chief Executive Officer, the Treasurer/Chief Financial Officer, the Vice President, and/or Assistant Treasurer of the Agency are hereby authorized to execute all necessary documents to make the required annual certification to the EDA including the notations as listed above.

Section 3. This resolution shall take effect immediately.

Dated: March 27, 2024



## **MEMO:**

**To: Board of Directors**

**Date: March 27, 2024**

**RE: Erie County Capital Grant – Rail Line 1246 (Buffalo Southern Railroad)**

### **Background:**

On September 21<sup>st</sup>, 2023, the Erie County Legislature approved a grant of up to \$400,000 for the Buffalo Southern Railroad Line Capital Improvement Project. The project includes funding for design, engineering, and construction costs for the general rehabilitation of the rail line, including highway grade crossings and bridge maintenance. Rail line 1246, the Buffalo Southern Railroad operates from Buffalo to Gowanda NY, as a shortline railroad serving multiple industries along the rail line.

The railroad line is owned by Erie County and managed by ECIDA through a management contract with the county.

### **Requested Action:**

Seeking authorization to enter into contract with Erie County for funding not to exceed \$400,000 for the Buffalo Southern Railroad Line Capital Improvement Project and the approval to take all actions necessary to complete the project.

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**RESOLUTION**

A regular meeting of the Erie County Industrial Development Agency was convened on Wednesday, March 27, 2024, at 12:00 p.m.

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

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") AUTHORIZING THE NEGOTIATION AND EXECUTION OF A GRANT AGREEMENT BETWEEN THE COUNTY OF ERIE AND THE AGENCY RELATIVE TO CERTAIN RAILROAD REPAIR AND MAINTENANCE ACTIVITIES TO BE UNDERTAKEN AT THE BUFFALO SOUTHERN RAILROAD (THE "RAILWAY FACILITIES") IN AN AMOUNT OF \$400,000

**WHEREAS**, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 293 of the Laws of 1970 of the State of New York, as amended (collectively, the "Act"), the Erie County Industrial Development Agency (the "Agency") was created as a public benefit corporation of the State with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing, commercial and other facilities as authorized by the Act to prevent unemployment and economic deterioration; and

**WHEREAS**, the Agency currently holds a leasehold interest in certain railroad properties owned by the County of Erie ("County"), more commonly known as a portion of USRA Line 1246, located between the City of Buffalo and Village of Gowanda, which is part of the Buffalo Southern Railway (the "Railway Facilities"); and

**WHEREAS**, on September 21, 2023, the County Legislature approved a grant of up to \$400,000 for the purpose of undertaking certain repair and maintenance activities on and about the Railway Facilities, including, but not limited to those services and work described in Exhibit A, attached hereto and made part hereof (the "Railway Work"); and

**WHEREAS**, due to the Agency's experience in contracting for construction projects on behalf of the County, the County wishes to engage the Agency to assist the County in completing the Railway Work; and

**WHEREAS**, the County has requested that the Agency enter into an agreement to authorize the receipt and allocation of \$400,000 of County funds (the "Railway Grant") towards the Railway Work (the "Railway Grant Agreement"), which shall establish the terms and conditions upon which the Railway Grant will be provided to the Agency, and the Agency has determined it is in the best interest of the Agency to enter into the Railway Grant Agreement to facilitate the completion of the Railway Work; and

**WHEREAS**, in compliance with Article 8 of the New York Environmental Conservation Law and the regulations adopted thereto at 6 N.Y.C.R.R. Part 617 (collectively referred to as

“SEQRA”), the Agency has reviewed the scope of the Railway Work and has determined that the Railway Work would be considered “maintenance or repair involving no substantial changes in an existing structure or facility;” as defined in 6 N.Y.C.R.R. Part 617.5(c)(1).

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:**

Section 1. The Agency hereby determines that no further SEQR compliance is required pursuant to 6 N.Y.C.R.R. Section 617.5(a), as the contemplated Railway Work is considered a Type II Action which will not result in a significant impact on the environment.

Section 2. Subject to the terms of this Resolution, the Chair, the Vice Chair, the President/Chief Executive Officer, the Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer, in consultation with Agency counsel, are hereby authorized, on behalf of the Agency, to negotiate and execute the Railway Grant Agreement, and to take all actions necessary to implement the project as described.

Section 3. The Agency hereby authorizes the President/Chief Executive Officer (the “Authorized Officer”) to do all acts and things required and to negotiate, execute the Railway Grant Agreement with such changes as may be required by the Authorized Officer in consultation with the Agency’s counsel, and to deliver all such 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 Authorized Officer so acting, desirable and proper to effect the purposes of this Resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 4. Any and all actions heretofore taken or authorized by the Agency and/or its members, officers, employees and agents with respect to this Resolution are hereby ratified, approved and confirmed in all aspects.

Section 5. These resolutions shall take effect immediately.

Dated: March 27, 2024

**EXHIBIT A**

**SCOPE OF SERVICES**

The Erie County Industrial Development Agency (the "Agency") agrees to act as Project Administrator, on behalf of the County of Erie (the "County"), for the Buffalo Southern Capital Project.

The Agency will solicit for and contract directly with the necessary, appropriate, and qualified construction firm and/or professional firm or firms to fulfill the Scope of Work.

The funding may be used for construction services, survey work, soil investigation, engineering design, bid review and analysis, construction administration, inspection and testing, field inspection services, site preparation work, and any other capital improvements to the identified bridge structures or railroad.

Expenditure of funds shall be in accordance with the requirements of the County.

**TIMELINE**

The Scope of Services described herein shall be completed in five (5) years from contract execution date.

**MINUTES OF A MEETING OF THE  
POLICY COMMITTEE OF THE  
ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

- DATE AND PLACE:** March 7, 2024 the Erie County Industrial Development Agency, 95 Perry Street, 4<sup>th</sup> Floor Conference Room, Buffalo, New York 14203
- PRESENT:** Denise Abbott, Rev. Mark Blue, Zachary Evans, Brenda W. McDuffie, Dr. Susan McCartney, Hon. Glenn Nellis, Laura Smith, David J. State, Lavon Stephens and Paul Vukelic
- EXCUSED:** A.J. Baynes, Hon. April Baskin, Hon. Byron W. Brown, Richard Lipsitz and Hon. John Tobia
- OTHERS PRESENT:** John Cappellino, President & CEO; Beth O’Keefe, Vice President of Operations; Mollie Profic, Chief Financial Officer; Grant Lesswing, Director of Business Development; Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant/ Assistant Secretary; Robbie Ann McPherson, Director of Marketing & Communications; Soma Hawramee, Compliance Portfolio Manager; Michelle Moore, Compliance Associate; Andrew Pawenski, Esq./Harris Beach PLLC and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC]
- GUESTS:** Paul Lavoie on behalf of SL Evans and Enrico D’Abate & Eric Eckman on behalf of 1016 East Delvan, LLC

There being a quorum present at 9:06 a.m., the Meeting of the Policy Committee was called to order by Chair McDuffie.

**MINUTES**

The minutes of the February 1, 2024 Policy Committee meeting were presented. Upon motion made by Ms. Abbott to approve of the minutes noting the correction, and seconded by Mr. Nellis, the Policy Committee meeting minutes were unanimously approved.

**PROJECT PRESENTATION**

SL Evans, 7612 & 7690 Southwestern Blvd., Evans, New York 14057. Ms. O’Keefe presented this proposed sales and use tax and real property tax abatement benefits project consisting of the ground mounted installation of 2 solar arrays producing a combined 8.25 MW of AC power that will be located on approximately 33 acres of undeveloped land. Ms. O’Keefe confirmed that SL Evans is seeking approximately \$4,238,477 in assistance including sales and use tax exemption and real property tax abatement benefits. The cost benefit is 4:1 so for every \$1 of incentives the community benefit is \$4 in payroll & tax revenue. For Erie County, every \$1 of incentives provides \$4 in community benefits.

At this point in time, Mr. Evans joined the meeting.

General discussion ensued.

Mr. Cappellino explained the company could have applied for the New York State Section 487 real property tax exemption benefit, which can provide up to a 100% abatement from real property taxes, but has opted to utilize the ECIDA PILOT real property tax abatement.

Ms. McCartney spoke in favor of the project, and inquired as to how many homes could be powered by the project. Mr. Lavoie spoke on behalf of the company and stated that enough energy could be generated to supply about 1,000 homes.

Ms. O’Keefe stated that in exchange for providing the sales and use tax and real property tax abatement benefits, the approval of this project will be conditioned upon adherence to certain material terms and conditions with respect to the potential modification, recapture and/or termination of financial assistance as follows:

**Draft Recapture Material Terms**

| Condition        | Term                         | Recapture Provision  |
|------------------|------------------------------|--|
| Total Investment | At project completion        | Investment amount equal to or greater than 85% of project amount.<br>Total Project Amount = \$20,769,000<br>85% = \$17,653,650 |
| Employment       | Coincides with 20-Year PILOT | No employment to be created as part of this project  |
| Local Labor      | Construction Period          | Adherence to policy including quarterly reporting  |
| Pay Equity       | Coincides with 20-Year PILOT | Adherence to policy  |
| Unpaid Tax       | Coincides with 20-Year PILOT | Adherence to policy  |
| Recapture Period | Coincides with 20-Year PILOT | Recapture of state and local sales taxes and real property tax   |

Mr. Vukelic moved and Ms. McCartney seconded to recommend the project as proposed be forwarded to the members of the ECIDA for approval. Ms. McDuffie called for the vote and the project was then unanimously recommended to be forwarded to the Board for approval.

At this point in time, Mr. Blue joined the meeting.

Amendatory Inducement Resolution - 1016 East Delavan, LLC (BPS Commissary Kitchen), 1016-1044 East Delavan Avenue, Buffalo, New York 14215. Ms. O’Keefe presented this proposed sales tax and mortgage recording tax benefits project involving the construction of a 67,000 sq. ft. single story commissary kitchen for the sole use of the Buffalo Public Schools (BPS) to prepare and distribute school meals to all schools in the district. Ms. O’Keefe noted this project was originally approved on July 26, 2023, and confirmed that since the original approval, the Company has eliminated its request for a PILOT benefit, and has increased its request with respect to the sales tax benefit amount and the mortgage recording tax benefit amount.

Ms. O’Keef explained that the existing facility could not meet the needs of the new programming requirements of the student meal plan created by the BPS. As part of this initiative, the facility will cook onsite, using locally grown products, creating fresh and high-quality meal options for students. The new building will include office space for administration and a test kitchen that will serve as a conference room/community space available for local community meetings and training for food service employees. The BPS needed a facility that can function at a higher level, promoting healthier meals for students and promoting a safe environment for its staff.

Ms. O’Keefe confirmed that 1016 East Delavan, LLC is seeking \$1,479,997 in incentives including sales tax and mortgage recording tax exemption benefits. The Projected Community Benefit includes a total payroll for the direct and indirect jobs created including 156 construction jobs over the project period of more than \$31.4M. The resulting cost benefit is 22:1 so for every \$1 of incentives the community benefit is \$22 in payroll & tax revenue. For Erie County, every \$1 of incentives provides \$22 in community benefits.

Ms. O’Keefe stated that in exchange for providing the sales and use tax and mortgage recording tax benefits, the approval of this project will be conditioned upon adherence to certain material terms and conditions with respect to the potential modification, recapture and/or termination of financial assistance as follows:

**Draft Recapture Material Terms**

| Condition        | Term                  | Recapture Provision  |
|------------------|-----------------------|--|
| Total Investment | At project completion | Investment amount equal to or greater than 85% of project amount.<br>Total Project Amount = \$34,135,084<br>85% = \$29,014,821 |



|                  |                                 |   |
|------------------|---------------------------------|---|
| Employment       | Coincides with recapture period | Maintain Base = 16 FT, 35 PT (33 FTE)<br>Create 85% of Projected<br>Projected = 15 PT<br>85% = 12 PT (6 FTE)<br>Recapture Employment = 39 FTE |
| Local Labor      | Construction Period             | Adherence to policy including quarterly reporting   |
| Pay Equity       | Coincides with recapture period | Adherence to policy   |
| Unpaid Tax       | Coincides with recapture period | Adherence to policy   |
| Recapture Period | Coincides with recapture period | Recapture of state and local sales taxes and mortgage recording tax   |

Ms. McDuffie spoke in favor of the project.

Mr. Eckman spoke on behalf of the applicant to further describe the project.

Mr. Blue moved and Mr. Evans seconded to recommend the project as proposed be forwarded to the members of the ECIDA for approval. Ms. McDuffie called for the vote and the project was then unanimously recommended to be forwarded to the Board for approval.

**ADAPTIVE REUSE DISCUSSION**

Housing Background. Mr. Cappellino outlined the potential goals of the Policy Committee as it contemplates establishing a housing policy:

1. Modify/formalize an affordable housing component that is currently in practice within the Adaptive Resue Policy (ADR).
2. Define specific affordable housing parameters within the adaptive reuse policy
3. Establish affordable housing compliance requirements.

Mr. Cappellino presented a power point describing the current ECIDA Adaptive Reuse Policy and practices as well as concepts for establishing a percentage affordable housing set aside, requiring rental rate limits based on AMI guidelines, required a certain size or number of bedrooms, or person(s) in a unit and rental rate limits.

General discussion ensued.

There being no further business to discuss, the meeting was adjourned at 10:15 a.m.

Dated: March 7, 2024

---

Elizabeth A. O’Keefe, Secretary

**SL Evans, LLC / Solar Liberty Energy Systems, Inc**

**\$ 20,769,000**

**PRIVATE INVESTMENT INDUCEMENT RESOLUTION**

|  |  |                         |               |                |              |                              |              |            |            |             |            |                           |                      |         |                   |
|--|--|-------------------------|---------------|----------------|--------------|------------------------------|--------------|------------|------------|-------------|------------|---------------------------|----------------------|---------|-------------------|
| <b>ELIGIBILITY</b>   | Project Title: SL Evans  |                         |               |                |              |                              |              |            |            |             |            |                           |                      |         |                   |
| <ul style="list-style-type: none"> <li>• NAICS Section – 221114</li> </ul>   | Project Address: 7612 & 7690 Southwestern Blvd, Evans, NY 14057<br>(Eden Central School District)  |                         |               |                |              |                              |              |            |            |             |            |                           |                      |         |                   |
| <b>COMPANY INCENTIVES</b>  |  |                         |               |                |              |                              |              |            |            |             |            |                           |                      |         |                   |
| <ul style="list-style-type: none"> <li>• Property tax savings = \$3.62 M (based upon NYS Appraisal for solar &amp; wind: 2023 cash flow model)</li> <li>• Up to \$ 525,000 in sales tax savings</li> </ul> | <p align="center"><b>Agency Request</b></p> <p>A sales tax and real property tax abatement in connection with a large-scale community solar project that aims to generate 8.25 MW of solar energy. The project will utilize approx. 22,300 solar modules and 66 string inverters which convert the sun’s energy into useable AC power.</p>   |                         |               |                |              |                              |              |            |            |             |            |                           |                      |         |                   |
| <b>JOBS &amp; ANNUAL PAYROLL</b>   |  |                         |               |                |              |                              |              |            |            |             |            |                           |                      |         |                   |
| <ul style="list-style-type: none"> <li>• Current Jobs: 0</li> <li>• Projected new jobs: 0</li> <li>• Projected new job salary: \$0</li> <li>• Construction Jobs: 90</li> </ul>                             | <table border="0"> <tr> <td>Manufacturing Equipment</td> <td align="right">\$ 11,444,004</td> </tr> <tr> <td>Infrastructure</td> <td align="right">\$ 1,880,000</td> </tr> <tr> <td>Non- Manufacturing Equipment</td> <td align="right">\$ 6,572,746</td> </tr> <tr> <td>Soft Costs</td> <td align="right">\$ 124,750</td> </tr> <tr> <td>Other Costs</td> <td align="right">\$ 747,500</td> </tr> <tr> <td><b>Total Project Cost</b></td> <td align="right"><b>\$ 20,769,000</b></td> </tr> <tr> <td><br/>85%</td> <td align="right"><br/>\$ 17,653,650</td> </tr> </table> <p align="center"><b>Company Description</b></p> <p>Solar Liberty Energy Systems, Inc is 100% owner of SL Evans, LLC. There is an intent to sell SL Evans, LLC to Catalyze Holdings or one of its affiliates.</p>   | Manufacturing Equipment | \$ 11,444,004 | Infrastructure | \$ 1,880,000 | Non- Manufacturing Equipment | \$ 6,572,746 | Soft Costs | \$ 124,750 | Other Costs | \$ 747,500 | <b>Total Project Cost</b> | <b>\$ 20,769,000</b> | <br>85% | <br>\$ 17,653,650 |
| Manufacturing Equipment  | \$ 11,444,004  |                         |               |                |              |                              |              |            |            |             |            |                           |                      |         |                   |
| Infrastructure   | \$ 1,880,000   |                         |               |                |              |                              |              |            |            |             |            |                           |                      |         |                   |
| Non- Manufacturing Equipment   | \$ 6,572,746   |                         |               |                |              |                              |              |            |            |             |            |                           |                      |         |                   |
| Soft Costs   | \$ 124,750   |                         |               |                |              |                              |              |            |            |             |            |                           |                      |         |                   |
| Other Costs  | \$ 747,500   |                         |               |                |              |                              |              |            |            |             |            |                           |                      |         |                   |
| <b>Total Project Cost</b>  | <b>\$ 20,769,000</b>   |                         |               |                |              |                              |              |            |            |             |            |                           |                      |         |                   |
| <br>85%  | <br>\$ 17,653,650  |                         |               |                |              |                              |              |            |            |             |            |                           |                      |         |                   |
| <b>PROJECTED COMMUNITY BENEFITS*</b>   |  |                         |               |                |              |                              |              |            |            |             |            |                           |                      |         |                   |
| <ul style="list-style-type: none"> <li>• Term: 20 YEARS</li> <li>• NET Community Benefits: \$14,632,021</li> <li>• Spillover Jobs: 79</li> </ul> <p>Total Payroll: \$12,845,937</p>                        | <p align="center"><b>Project Description</b></p> <p>In support of New York State’s 2030 Renewable Energy goals, the Town of Evans contacted the ECIDA to initiate a PILOT in accordance with the terms negotiated between the applicant SL Evans, LLC and the affected taxing jurisdictions: County, Town and School District.</p> <p>The project consists of the ground mounted installation of 2 solar arrays producing a combined 8.25 MW of AC power that will be located on approximately 33 acres of undeveloped land. This land is located within the Town’s Solar Overlay District on Southwestern Blvd. A Host Community Agreement has been reached valued at \$451,032 (\$2,250 /MWac per year with a 2% escalator for a 20 year term). A decommissioning bond was executed on Jan 5, 2024 by SL Evans, LLC and the Town of Evans.</p> |                         |               |                |              |                              |              |            |            |             |            |                           |                      |         |                   |
| <b>INCENTIVE COST / COMMUNITY BENEFIT RATIO (discounted at 2%)*</b>  |  |                         |               |                |              |                              |              |            |            |             |            |                           |                      |         |                   |
| <p>Incentives: \$3,451,547</p> <p>Community Benefit: \$14,435,867</p> <p>Cost: Benefit Ratio</p> <ul style="list-style-type: none"> <li>• 1:4</li> </ul>   |  |                         |               |                |              |                              |              |            |            |             |            |                           |                      |         |                   |

\* Cost Benefit Analysis Tool powered by MRB Group

## Economic Impact: Inform Analytics Cost-Benefit Analysis

The Erie County Industrial Development Agency uses the Cost Benefit Analysis Tool powered by MRB Group to assess the economic impact of a project applying for incentives. A Cost-Benefit Analysis is required by Section 859-a (5)(b) of General Municipal Law. For the complete Cost Benefit Analysis – please see the attached MRB Cost Benefit Calculator.

### Cost: Incentives

| COSTS | Tax Exemption      | Amount      |
|-------|--------------------|-------------|
|       | Property           | \$3,713,447 |
|       | Sales              | \$ 525,000  |
|       | Mortgage Recording | 0           |
|       | Total              | \$4,238,447 |
|       | Discounted at 2%   | \$3,451,547 |

### Benefit: Projected Community Benefit\*

| BENEFITS | Region                        | Recipient   | Revenue Type              | \$ Amount ** |
|----------|-------------------------------|-------------|---------------------------|--------------|
|          | Erie County                   | Individuals | Payroll Construction      | \$12,845,937 |
|          |                               |             | Payroll Permanent         | \$ 0         |
|          |                               | Public      | Property Taxes            | \$ 1,011,313 |
|          |                               |             | Sales Taxes               | \$ 106,782   |
|          |                               |             | Other Muni Revenue (NFTA) | \$ 0         |
|          | New York State                | Public      | Income Taxes              | \$ 578,067   |
|          |                               |             | Sales Taxes               | \$ 89,922    |
|          | Total Benefits to EC + NYS*** |             |                           | \$14,632,021 |
|          | Discounted at 2%              |             |                           | \$14,435,867 |

\* Cost Benefit Analysis Tool powered by MRB Group \*\*includes direct & indirect \$ over project period \*\*\*may not sum to total due to rounding

Discounted Cost           \$ 3,451,547  
 Discounted Benefit       \$14,435,867  
 Ratio                        1:4

**Conclusion:** The Cost Benefit for this project is: 4:1. For every \$1 in costs (incentives), this project provides \$4 in benefits (payroll & tax revenue). **Note: For Erie County, every \$1 in costs (incentives) provides \$4 in benefits to the community.**

### New Tax Revenue Estimated

| Current Yearly Taxes         | Estimated New Assessed Value <sup>1</sup> | Additional County Revenue over abatement period | Additional Town Revenue Over abatement period | Additional School Revenue over abatement period. | New Yearly Taxes Upon Expiration of Abatement Period <sup>2</sup> |
|------------------------------|---|---|---|--|---|
| \$4,559                      | \$ 5,902,079                              | \$174,712                                       | \$292,255                                     | \$635,537  | \$4,559   |
| Combined Tax Rate: \$ 40.026 |   |   |   |  |   |

<sup>1</sup>Assessed Value of property is based upon NYS Appraisal methodology for solar & wind project – 2023 cash flow approach. The figure above shows the combined increase in property value for the 2 solar arrays (Evans 1 and Evans 2).

<sup>2</sup>Reflects property taxes on land only assuming decommissioning of solar project post 20 year term.

### Draft Recapture Material Terms

| Condition               | Term                         | Recapture Provision  |
|-------------------------|------------------------------|--|
| Total Investment        | At project completion        | Investment amount equal to or greater than 85% of project amount.<br>Total project amount = \$ 20,769,000<br>85% = \$ 17,653,650 |
| Employment              | Coincides with 20-year PILOT | No employment to be created as part of this project.   |
| Local Labor             | Construction period          | Adherence to policy including quarterly reporting  |
| Pay Equity              | Coincides with 20-year PILOT | Adherence to Policy  |
| Unpaid Tax              | Coincides with 20-year PILOT | Adherence to Policy  |
| <u>Recapture Period</u> | Coincides with 20-year PILOT | Recapture of Real Property Tax, state and local sales taxes  |

Recapture applies to:

State and Local Sales Taxes  
Real Property Tax

### Recapture

Pursuant to New York State General Municipal Law, the agency shall modify, recover, recapture or terminate any financial assistance taken by the company that is in violation of the GML.

At completion of the project company must certify i) total investment amount is equal to or greater than 85% of the anticipated project amount; ii) company has maintained 0 FTE jobs and created 1 PTE job, iii) confirm adherence to local labor policy during construction and iv) its adherence to unpaid tax/pay equity policies for recapture term.

### Project ECIDA History

- 2/5/24: Public hearing held.
- 3/27/24: Inducement Resolution presented to Board of Directors adopting a Negative Declaration in accordance with SEQRA
- 3/27/24: Lease/Leaseback Inducement Resolution presented to the Board of Directors

**EVALUATIVE CRITERIA: ENERGY PRODUCTION**  
**SL Evans**

| Evaluative Criteria  | Notes  |
|--|--|
| Wage Rates (above median wage for area)  | There are no permanent FT or PT workers for the Solar project. Seasonal activities for mowing / other maintenance will be onsite as/when required.   |
| In Region Purchases (% of overall purchases, local construction jobs/supplies) | 5% of purchases will be made locally.  |
| Advances Renewable Energy Production/Transmission Goals                        | <p>SL Evans is a large-scale community solar project that will generate approximately 8.25MW of clean, reliable solar energy when completed.</p> <p>The project will utilize approximately 22,308 solar modules and 66 string inverters which convert the sun's energy into usable AC power. The modules will be mounted on steel racking, which will be anchored to the ground using driven piles.</p>  |
| Provides Capacity or Transmission to Meet Local Demand or Shortage             | The project will interconnect to National Grid's existing electrical distribution system. The power generated by the facility will be sold to consumers to directly offset their energy usage with local solar power while saving money on their electric bills.   |
| MBE/WBE Utilization  | <p>Client response: In line with our commitment to diversity and inclusion, we also want to emphasize our dedication to utilizing Minority and Women-Owned Business Enterprises (MWBE) where possible. We understand the importance of supporting these firms, recognizing the value they bring in fostering a diverse and inclusive local economy.</p> <p>While the specialized nature of solar requires us to use specialized labor firms, we are fully committed to using MWBE firms on the project when possible. By doing so, we aim to ensure that the benefits of our development extend across a broad spectrum of the community, aligning with our overarching goals of inclusivity and equal opportunity in the renewable energy sector.</p> |

DATE OF INDUCEMENT: March 27, 2024

**PILOT Worksheet: Estimate of Real Property Tax Abatement Benefits\*\*\* and Percentage of Project Costs financed from Public Sector sources**

**\*\* The PILOT Worksheet will be: (i) completed by IDA Staff based upon information contained within the Application, and (ii) provided to the Applicant for ultimate inclusion as part of this completed Application.**

**PILOT Estimate Table Worksheet-SL Evans, LLC**

|   |  |                      |   |                      |
|---|--|----------------------|---|----------------------|
| Dollar Value of New Construction and Renovation Costs | Estimated New Assessed Value of Property Subject to IDA* cash flow basis | County Tax Rate/1000 | Local Tax Rate (Town/City/Village)/1000 | School Tax Rate/1000 |
| N/A   | \$5,902,079  | 6.342939             | 10.609948                               | 23.073214            |

\*Apply equalization rate to value

| PILOT Year | County PILOT Amount | Town PILOT Amount | School PILOT Amount | Total PILOT | Full Tax Payment w/o PILOT | Net Exemption |
|------------|---------------------|-------------------|---------------------|-------------|----------------------------|---------------|
| 1          | \$7,191             | \$12,028          | \$26,157            | \$45,375    | \$236,237                  | \$190,862     |
| 2          | \$7,334             | \$12,268          | \$26,680            | \$46,283    | \$236,237                  | \$189,955     |
| 3          | \$7,481             | \$12,514          | \$27,213            | \$47,208    | \$236,237                  | \$189,029     |
| 4          | \$7,631             | \$12,764          | \$27,758            | \$48,152    | \$236,237                  | \$188,085     |
| 5          | \$7,783             | \$13,019          | \$28,313            | \$49,115    | \$236,237                  | \$187,122     |
| 6          | \$7,939             | \$13,280          | \$28,879            | \$50,098    | \$236,237                  | \$186,140     |
| 7          | \$8,098             | \$13,545          | \$29,457            | \$51,100    | \$236,237                  | \$185,138     |
| 8          | \$8,260             | \$13,816          | \$30,046            | \$52,122    | \$236,237                  | \$184,116     |
| 9          | \$8,425             | \$14,092          | \$30,647            | \$53,164    | \$236,237                  | \$183,073     |
| 10         | \$8,593             | \$14,374          | \$31,260            | \$54,227    | \$236,237                  | \$182,010     |
| 11         | \$8,765             | \$14,662          | \$31,885            | \$55,312    | \$236,237                  | \$180,925     |
| 12         | \$8,941             | \$14,955          | \$32,522            | \$56,418    | \$236,237                  | \$179,819     |
| 13         | \$9,119             | \$15,254          | \$33,173            | \$57,546    | \$236,237                  | \$178,691     |
| 14         | \$9,302             | \$15,559          | \$33,836            | \$58,697    | \$236,237                  | \$177,540     |
| 15         | \$9,488             | \$15,870          | \$34,513            | \$59,871    | \$236,237                  | \$176,366     |
| 16         | \$9,678             | \$16,188          | \$35,203            | \$61,069    | \$236,237                  | \$175,168     |
| 17         | \$9,871             | \$16,512          | \$35,907            | \$62,290    | \$236,237                  | \$173,947     |
| 18         | \$10,069            | \$16,842          | \$36,626            | \$63,536    | \$236,237                  | \$172,701     |
| 19         | \$10,270            | \$17,179          | \$37,358            | \$64,807    | \$236,237                  | \$171,431     |
| 20         | \$10,475            | \$17,522          | \$38,105            | \$66,103    | \$236,237                  | \$170,134     |
| TOTAL      | \$174,712           | \$292,244         | \$635,537           | \$1,102,493 | \$4,724,744                | \$3,622,251   |

**\*\*\* Estimates provided are based upon Amounts negotiated by the Affected Taxing Jurisdictions. Assessment = \$5,500/MW x 8.25 MW + 2% annual escalator. Above figures do not include the Host Community Agreement valued at \$ 451,032 for the 20 year PILOT period.**

**Percentage of Project Costs financed from Public Sector Table Worksheet:**

|                    |                          |  |   |                                  |
|--------------------|--------------------------|--|---|----------------------------------|
| Total Project Cost | Estimated Value of PILOT | Estimated Value of Sales Tax Incentive | Estimated Value of Mortgage Tax Incentive | Total of Other Public Incentives |
| \$20,769,000       | \$3,622,251              | \$525,000                              | N/A                                       |                                  |

**Note: special district taxes are not subject to PILOT abatement Calculate % = Est. PILOT + Est. Sales Tax+ Est. Mortgage Tax+ Other)/Total Project Costs: 20%**

# Fiscal Impacts



Cost-Benefit Analysis Tool powered by MRB Group

## Estimated Costs of Exemptions

|  | Nominal Value      | Discounted Value*  |
|--|--------------------|--------------------|
| Property Tax Exemption                 | \$3,713,447        | \$2,926,547        |
| Sales Tax Exemption                    | \$525,000          | \$525,000          |
| Local Sales Tax Exemption              | \$285,000          | \$285,000          |
| State Sales Tax Exemption              | \$240,000          | \$240,000          |
| Mortgage Recording Tax Exemption       | \$0                | \$0                |
| Local Mortgage Recording Tax Exemption | \$0                | \$0                |
| State Mortgage Recording Tax Exemption | \$0                | \$0                |
| <b>Total Costs</b>                     | <b>\$4,238,447</b> | <b>\$3,451,547</b> |

## State and Local Benefits

|   | Nominal Value       | Discounted Value*   |
|---|---------------------|---------------------|
| <b>Local Benefits</b>                       | <b>\$13,964,032</b> | <b>\$13,767,878</b> |
| To Private Individuals                      | \$12,845,937        | \$12,845,937        |
| Temporary Payroll                           | \$12,845,937        | \$12,845,937        |
| Ongoing Payroll                             | \$0                 | \$0                 |
| Other Payments to Private Individuals       | \$0                 | \$0                 |
| To the Public                               | \$1,118,095         | \$921,941           |
| Increase in Property Tax Revenue            | \$1,011,313         | \$815,160           |
| Temporary Jobs - Sales Tax Revenue          | \$106,782           | \$106,782           |
| Ongoing Jobs - Sales Tax Revenue            | \$0                 | \$0                 |
| Other Local Municipal Revenue               | \$0                 | \$0                 |
| <b>State Benefits</b>                       | <b>\$667,989</b>    | <b>\$667,989</b>    |
| To the Public                               | \$667,989           | \$667,989           |
| Temporary Income Tax Revenue                | \$578,067           | \$578,067           |
| Ongoing Income Tax Revenue                  | \$0                 | \$0                 |
| Temporary Jobs - Sales Tax Revenue          | \$89,922            | \$89,922            |
| Ongoing Jobs - Sales Tax Revenue            | \$0                 | \$0                 |
| <b>Total Benefits to State &amp; Region</b> | <b>\$14,632,021</b> | <b>\$14,435,867</b> |

## Benefit to Cost Ratio

|                    | Benefit*            | Cost*              | Ratio      |
|--------------------|---------------------|--------------------|------------|
| Local              | \$13,767,878        | \$3,211,547        | 4:1        |
| State              | \$667,989           | \$240,000          | 3:1        |
| <b>Grand Total</b> | <b>\$14,435,867</b> | <b>\$3,451,547</b> | <b>4:1</b> |

\*Discounted at 2%

## Additional Comments from IDA

Does the IDA believe that the project can be accomplished in a timely fashion? Yes



# Erie County Industrial Development Agency MRB Cost Benefit Calculator



Date: February 26, 2024  
 Project Title: SL Evans, LLC  
 Project Location: 7612 & 7690 Southwestern Blvd., Evans, NY 14057

## Economic Impacts

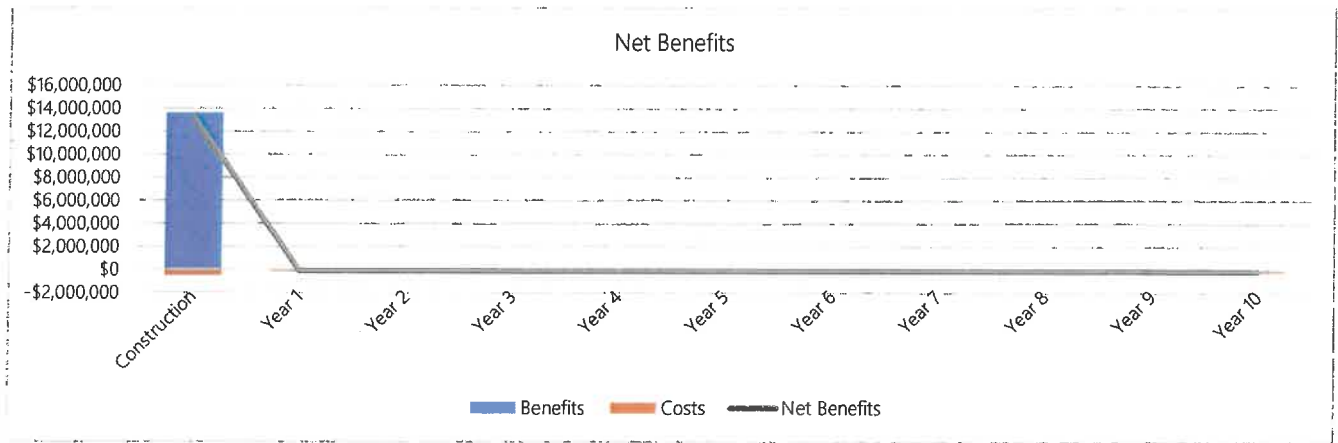
Summary of Economic Impacts over the Life of the PILOT  
 Project Total Investment  
 \$20,769,000

|             | Temporary (Construction) |              |              |
|-------------|--------------------------|--------------|--------------|
|             | Direct                   | Indirect     | Total        |
| Jobs        | 90                       | 79           | 169          |
| Earnings    | \$8,322,138              | \$4,523,799  | \$12,845,937 |
| Local Spend | \$19,938,240             | \$14,024,944 | \$33,963,184 |

|          | Ongoing (Operations) |          |       |
|----------|----------------------|----------|-------|
|          | Direct               | Indirect | Total |
| Jobs     | 0                    | 0        | 0     |
| Earnings | \$0                  | \$0      | \$0   |

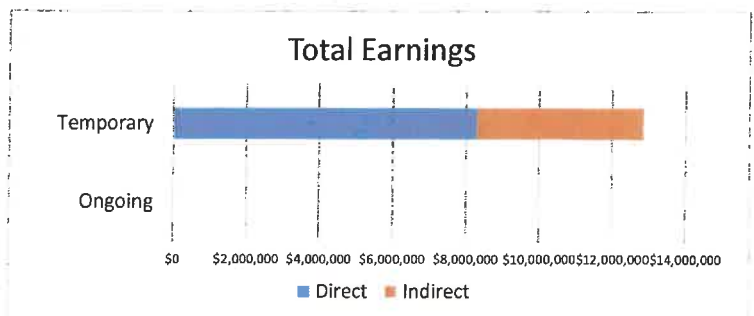
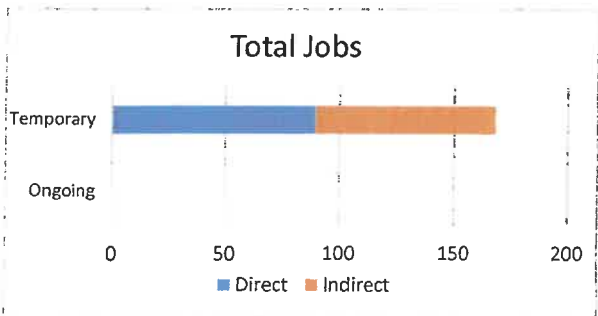
Figure 1



Net Benefits chart will always display construction through year 10, irrespective of the length of the PILOT.

Figure 2

Figure 3



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Ongoing earnings are all earnings over the life of the PILOT.



January 19, 2023

Mr. Grant Lesswing  
Director of Business Development  
Erie County Industrial Development Agency  
95 Perry Street, Suite 403  
Buffalo, NY 14203

RE: Request for Waiver – SL Evans

Dear Mr. Lesswing:

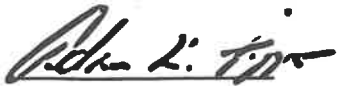
Solar Liberty, in partnership with SL Evans and Catalyze, LLC, is respectfully requesting a labor waiver from the Erie County Industrial Development Agency (ECIDA) for the post pounding aspect of our solar racking installation.

This specific task requires the use of a specialized GRT post pounding machine, a highly specialized machine in the solar industry. The manufacturer of this equipment, TerraSmart, mandates that operators of the GRT machine be certified by them to ensure the highest standards of safety and quality with the post pounding. Currently, there are no local subcontractors that we are aware of within Erie County or the adjoining counties that hold these necessary manufacturer's certifications.

While we deeply value local workforce participation and are committed to supporting the local economy, this unique requirement compels us to seek specialized labor from outside the region for this particular phase of the project.

SL Evans, Catalyze, and Solar Liberty are dedicated to providing our good faith efforts to fulfilling the 90% labor force requirement on the remaining aspects of the project, reaffirming our commitment to local employment and community engagement.

Very truly yours,



Adam K. Rizzo, President



Attention: Solar Liberty

Regarding the Evans, NY project. I am confirming that Terrasmart works closely with its partners to ensure proper training and certification of all GRT operators.

Thank you,

A handwritten signature in black ink, appearing to read "Chris Lantz", with a long horizontal flourish extending to the right.

**Chris Lantz**  
Director, Precontract  
Terrasmart, a Gibraltar Company

---

E: [clantz@terrasmart.com](mailto:clantz@terrasmart.com)  
M: 513-560-8107  
W: [Terrasmart.com](http://Terrasmart.com)

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**LOCAL LABOR  
VERIFIED EXEMPTION REQUEST**

\*Applicant Name: SL Evans, LLC

Contact: Matt Effler, VP Project Development for Catalyze Holdings, LLC

Phone (B): 914-275-2831

Phone (cell): 914.275.2831

Fax: \_\_\_\_\_

e-mail: Matt.Effler@catalyze.com

**Local Labor Defined**

Local Labor is defined as individuals residing in Erie County, Niagara County, Chautauqua County, Cattaraugus County, Allegany County, Wyoming County, Genesee County, and Orleans County (collectively, the "Local Labor Area").

**Local Labor Requirement**

At least 90% of all Project employees of the general contractor, subcontractor, or subcontractor to a subcontractor (collectively, the "Workers") working on the Project Site must reside within the Local Labor Area. Companies do not have to be local companies as defined herein, but must employ local Workers residing within the Local Labor Area to qualify under the 90% local labor criteria.

It is understood that at certain times, Workers residing within the Local Labor Area may not be available with respect to a Project. Under this condition, the Company is required to contact the Agency to request a waiver of the Local Labor Requirement (the "Local Labor Waiver Request") based on the following circumstances: (i) warranty issues related to installation of specialized equipment or materials whereby the manufacturer requires installation by only approved installers; (ii) specialized construction for which qualified Local Labor Area Workers are not available; or (iii) documented lack of Workers meeting the Local Labor Area requirement. The Agency shall evaluate the Local Labor Waiver Request and make its determination related thereto based upon the supporting documentation received with such waiver request.

**Pursuant to the Local Labor Policy below are provisions outlining the categories of exemption.**

**REASON FOR REQUEST: (Attach additional sheets if necessary)**

**See Below and Attached.**

**Specialized Construction and local contractor exemption being requested.**

**SL Evans, LLC is hiring Solar Liberty Energy Systems, Inc. as the project developer and prime contractor to build the SL Evans' solar project. Solar Liberty is headquartered in Buffalo, New York, County of Erie. Solar Liberty and its subcontractors will be building the solar racking system by first pounding posts into the ground using a specialized GRT post pounding machine.**

**The manufacturer of the solar racking solution, TerraSmart, requires that the operators and installers of the post pounding machine be certified with TerraSmart for construction purposes as explained in the attached confirmation letters. To the best of our knowledge, there are currently no Local Labor subcontractors within Erie County or the adjoining counties that hold these necessary manufacturer's certifications to complete the post pounding portion for the work. A good faith effort will be used to complete the remaining portions of the racking and full solar system installation.**

\*Applicant Signature: \_\_\_\_\_

Date: February 2, 2024\_

Number of Workers Needing Verified Exemption (s): Estimated 10 workers

Total number of workers on job site: Estimated 60 workers

Send Completed Form to:

ECIDA - Attn: Soma Hawramee, Compliance Portfolio Manager  
95 Perry Street, Suite 403  
Buffalo, New York 14203

\*only applicants may submit verified exemption requests



# Diversity, Equity and Inclusion Questionnaire

## 1. MWBE Contractors - Construction

The ECIDA encourages applicants to utilize MWBE contractors and suppliers for their projects and when feasible, to set a goal for MWBE participation during the construction period of the project. Below are links to the NYS and Erie County certified MWBE lists, including contractors, that can assist you with your utilization goals:

- New York State MWBE Certified List: <https://ny.newnycontracts.com/>
- Erie County MWBE Certified List: <https://www3.erie.gov/eo/mbe-wbe-resource-list>

Please provide detailed information regarding your company's plan to utilize MWBE contractors and suppliers for your project. Please include your project's MWBE utilization goals, what process and resources you plan to use or have utilized in the past to find and hire MWBEs, a list of the specific MWBE firms used on previous projects and/or firms you plan to use on the current project, and any history the company has of setting and meeting MWBE goals on past projects. The company may also include details with respect to the foregoing related to any MWBE policy and utilization goals that its general contractor has committed to implementing for the project.

In line with our commitment to diversity and inclusion, we also want to emphasize our dedication to utilizing Minority and Women-Owned Business Enterprises (MWBE) where possible. We understand the importance of supporting these firms, recognizing the value they bring in fostering a diverse and inclusive local economy. While the specialized nature of solar requires us to use specialized labor firms, we are fully committed to using MWBE firms on the project when possible. By doing so, we aim to ensure that the benefits of our development extend across a broad spectrum of the community, aligning with our overarching goals of inclusivity and equal opportunity in the renewable energy sector.

## 2. Minority & Women Employment - Current Workforce & Hiring Practices

The ECIDA encourages the hiring of a diverse workforce, especially for jobs created and retained as part of an ECIDA induced project. Below are some links to sites and organizations that will be helpful in achieving a diverse workforce:

- Northland Workforce Training Center: <https://northlandwtc.org/employers/>

- Workforce Buffalo: <https://www.workforcebuffalo.org/business-services/employer-services>
- New York State Job Bank: <https://myjobsny.usnlx.com/>
- Local Minority Newspapers: <https://www3.erie.gov/eoo/minority-newspaper>

Please provide detailed information regarding your company's current workforce and hiring practices as it relates to minority and women employees, including, if applicable, the company's Diversity, Equity and Inclusion plan and goals, any strategic partnerships the company has with educational and/or workforce development entities, and company strategies regarding outreach to minorities and women with the dissemination of job openings to the public:

SL Evans, LLC will not have any employees or hiring practices, but our affiliated company Catalyze Holdings, LLC is committed to equal employment opportunity and value the unique contributions that you can bring in terms of your education, opinions, culture, ethnicity, race, sex, gender identity and expression, nation of origin, age, languages spoken, veteran's status, color, religion, disability, sexual orientation, and beliefs. Catalyze Holdings, LLC employees will work on the development, construction, operations, and maintenance of this solar project.

### **3. Economic Inclusion Program**

The ECIDA's Economic Inclusion Program (EIP) is a voluntary "opt in" program providing an enhanced real property tax abatement to applicants who commit to implementing and meeting MWBE utilization and minority and women employment goals. The mission of the EIP is to enhance the beneficial public impact of projects receiving ECIDA assistance and to further the ECIDA's goal of advancing opportunities for MWBE businesses and minorities and women, in general, in the Erie County workforce. Please note, for a company to be considered an MWBE under the EIP it must be certified as an MWBE by New York State or Erie County.

Under the EIP, the standard ECIDA PILOT Agreement real property tax abatement schedules are enhanced by extending both the term and abatement percentages of the PILOT Agreement.

Please note the EIP is a *voluntary opt-in program* providing enhanced incentives in exchange for meeting MWBE utilization and minority and women employment goals. The applicant shall not engage in any unlawful discrimination against any employee or applicant by reason of race, creed, religion, color, age, disability, national origin, sex, gender, or any other characteristic protected by law, including, but not limited to, Title VII of the Civil Rights Act, the Americans with Disabilities Act, the Age Discrimination in

Employment Act, the Genetic Information Nondiscrimination Act, the New York State Human Rights Law, and any other similar laws, rules, or regulations. Applicants may bypass the EIP while still pursuing the ECIDA's standard PILOT Agreement.

Please check the box indicating that you have read the Economic Inclusion Program summary above and the attached FAQ document that can be found at the end of the questionnaire.

Please check the box if you are interested in tentatively opting into the Economic Inclusion Program (nonbinding) and would like further, detailed information on the program and process from your ECIDA business development officer.



## Economic Inclusion Program

**Q: What is the ECIDA Economic Inclusion Program?**

**A:** The Economic Inclusion Program, or EIP, is an opt-in, enhanced PILOT (payment in lieu of taxes) benefit for applicants who agree to meet MWBE utilization goals. The program is designed to encourage more opportunities for minority and women-owned businesses to participate in projects incentivized by the ECIDA.

**Q: Who is eligible to apply for the EIP?**

**A:** Applicants whose projects qualify for the standard ECIDA PILOT benefits are eligible to opt-in to the EIP enhanced PILOT benefit.

**Q: How does the EIP benefit work?**

**A:** At the time of filing a completed standard PILOT application, ECIDA incentive applicants may choose to opt-in to the EIP enhanced PILOT benefit. They must agree to MWBE utilization goals during construction and post-construction periods. If the applicant meets those goals, which are monitored by the ECIDA, the applicant will receive the enhanced PILOT benefits: up to 25% more savings over the standard PILOT, and up to 2 years added to the standard PILOT term.

**Q: What are the EIP MWBE utilization goals?**

**A:** Applicants must submit an MWBE Utilization Plan to the ECIDA prior to construction, and agree to a minimum 30% MWBE utilization rate (25% MBE, 5% WBE) for construction contracts and purchases. Post-construction, applicants must maintain a 30% MWBE (minimum 20% minority of the total 30% MWBE) job creation and/or job retention rate during the term of the EIP PILOT.

**Q: What if the applicant does not currently have an MWBE utilization policy?**

**A:** The ECIDA Business Development Team can provide resources for applicants to help them develop MWBE utilization policies. Applicants will receive technical support in ECIDA compliance reporting under the EIP enhanced PILOT program.

**Q: What if the applicant does not meet their MWBE goals?**

**A:** The applicant will have an opportunity to present their compliance efforts to the ECIDA Board of Directors. If the Board finds that compliance efforts were not sufficient, the applicant's EIP PILOT benefit will revert to the standard PILOT schedule [see Table on p. 2].

### *QuickFacts*

- EIP is an opt-in, enhanced PILOT benefit for applicants who agree to meet 30% MWBE utilization goals (minimum 25% MBE/5% WBE for construction contracts, and at least 20% MBE/10% WBE post-construction job creation and/or job retention).
- Qualified applicants approved for enhanced EIP PILOT may receive:
  - ♦ up to 25% additional abatement over standard PILOT
  - ♦ two years added to standard five, seven and 10-year PILOT terms
- Applicant must opt-in to the Economic Inclusion Program enhanced benefit at time of initial application filing.
- Projects are subject to compliance monitoring and ECIDA policies.
- Compliance applies to construction and full post-construction PILOT Term period.

For more details, call  
(716) 856-6525 ext. 128  
to speak with an experienced  
Business Development Officer

[www.ecidany.com](http://www.ecidany.com)



95 Perry Street, Suite 403  
Buffalo, NY 14203

Phone: 716-856-6525

Fax: 716-856-6754

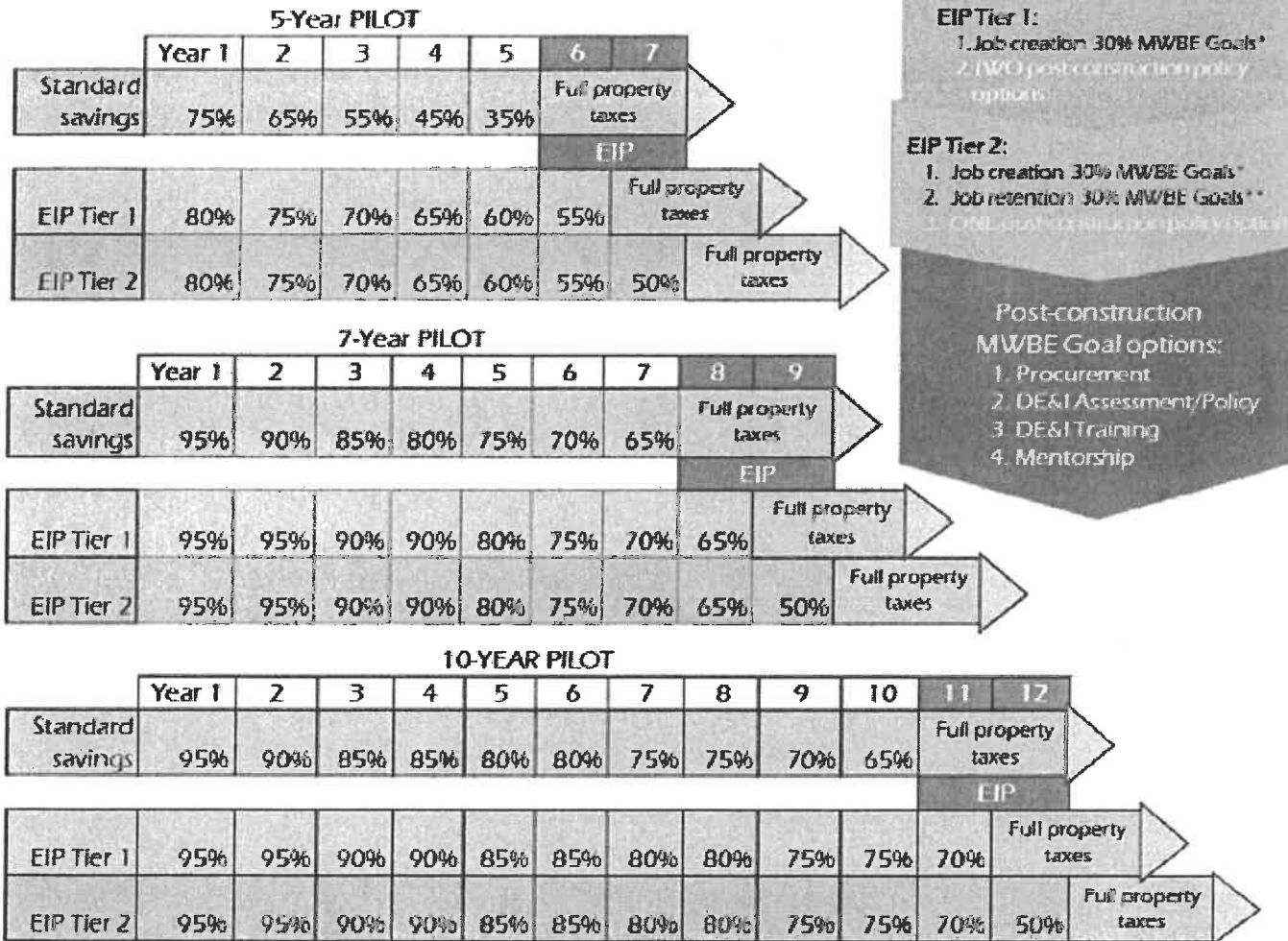
How can we help you meet your business expansion goals?



# Economic Inclusion Program

**Q. How does the EIP PILOT differ from the standard ECIDA PILOT?**

**A. If agreed-upon EIP 30% MWBE\* goals are met, the applicant will receive enhanced PILOT benefits, up to 25% more savings and an additional two years over the standard PILOT (see charts below).**



\*MWBE goals: minimum 30% MWBE utilization rate (25% MBE, 5% WBE) during construction

\*\*Minimum 30% MWBE (20% MBE, 10% WBE) post-construction job creation/job retention goals during the term of the EIP PILOT

**Q. What is the EIP Compliance Reporting process before, during and after construction?**

**A. Applicants must submit an MWBE Utilization Plan prior to construction; regular compliance reporting to the ECIDA during construction; and regular post-construction compliance reporting on Tier 1 or Tier 2 EIP policy requirements during full PILOT term.**

For details, call (716) 856-6525 ext. 128 to speak with an experienced Business Development Officer

[www.ecidany.com](http://www.ecidany.com)

How can we help you meet your business expansion goals?

## PUBLIC HEARING SCRIPT

**SL Evans, LLC and/or Individual(s) or  
Affiliate(s), Subsidiary(ies), or Entity(ies)  
formed or to be formed on its behalf  
Project**

Public Hearing to be held on February 5, 2024 at 9:00 a.m.,  
at the Town of Evans Town Hall, Conference Room, located at 8787 Erie Road,  
Angola, NY 14006

### **ATTENDANCE:**

Adam Rizzo – Solar Liberty

### **☒ 1. WELCOME: Call to Order and Identity of Hearing Officer.**

*Hearing Officer:* Welcome. This public hearing is now open; it is 9:00 a.m. My name is Grant Lesswing. I am the Director of Business Development of the Erie County Industrial Development Agency, and I have been designated by the Agency to be the hearing officer to conduct this public hearing. This public hearing is being live-streamed and made accessible on the Agency's website at [www.ecidany.com](http://www.ecidany.com).

### **☒ 2. PURPOSE: Purpose of the Hearing.**

*Hearing Officer:* We are here to hold the public hearing on the SL Evans, LLC and/or Individual(s) or Affiliate(s), Subsidiary(ies), or Entity(ies) formed or to be formed on its behalf project. The transcript of this hearing will be reviewed and considered by the Agency in determination of this project. Notice of this hearing appeared in The Buffalo News on Friday, January 26, 2024.

### **☒ 3. PROJECT SUMMARY: Description of Project and Contemplated Agency Benefits.**

*Hearing Officer:* The proposed project (the "Project") consists of: (i) the acquisition by the Agency of a leasehold interest in certain property located on 7612 and 7690 Southwestern Blvd., Town of Evans, Erie County, New York and all other lands in the Town of Evans where, by license or easement or other agreement, the Company or its designees are making improvements that benefit the Project (the "Land"), (ii) the installation of two ground mounted solar arrays totaling 8250kW (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").

The proposed financial assistance contemplated by the Agency includes New York State and local sales and use tax exemption benefits and real property tax abatement benefits (in compliance with Agency's uniform tax exemption policy).

**4. FORMAT OF HEARING:** Review rules and manner in which the hearing will proceed.

*Hearing Officer:* All those in attendance are required to register by signing the sign-in sheet at the front of the room; you will not be permitted to speak unless you have registered. Everyone who has registered will be given an opportunity to make statements and/or comments on the Project.

If you have a written statement or comment to submit for the record, you may leave it at this public hearing, submit it on the Agency's website or deliver it to the Agency at 95 Perry Street, Suite 403, Buffalo, New York 14203. The comment period closes at 4:00 p.m. on February 27, 2024. There are no limitations on written statements or comments.

**5. PUBLIC COMMENT:** Hearing Officer gives the Public an opportunity to speak.

*Hearing Officer:* If anyone is interested in making a statement or comment, please raise your hand, state your name and address; if you are representing a company, please identify the company. I request that speakers keep statements and/or comments to 5 minutes, and if possible, 3 minutes.

Adam Rizzo – I am here on behalf of SL Evans, LLC, Solar Liberty and Catalyze Holdings. We are very excited to bring this solar energy development to the Town of Evans, the County of Erie and the School District. It's going to have tremendous benefits to solar/green energy in New York State as well as supporting local jobs. We are excited to bring this project to completion and thanks to the ECIDA, the School District and the Town of Evans for this exciting opportunity.

**6. ADJOURNMENT:**

As there were no further statements and/or comments, the Hearing Officer closed the public hearing at 9:04 a.m.

**SIGN IN SHEET  
PUBLIC HEARING**

February 5, 2024, at 9:00 a.m.  
at the Town of Evans Town Hall, Conference Room, located at 8787 Erie Road, Angola, NY 14006  
regarding:

**SL Evans, LLC and/or Individual(s) or Affiliate(s),  
Subsidiary(ies), or Entity(ies) formed or to be formed on its behalf**

Project Location: 7612 and 7690 Southwestern Blvd., Town of Evans, Erie County, New York

| <b>Name</b> | <b>Company and/or Address</b>  | <b>X box to speak/<br/>comment</b> |
|-------------|--|------------------------------------|
| Adam Rizzo  | Solar Liberty<br>6500 Sheridan Drive, Suite 120<br>Williamsville, New York 14221 | X                                  |
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**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
INDUCEMENT RESOLUTION**

**SL EVANS, LLC, AND/OR INDIVIDUAL(S) OR AFFILIATE(S), SUBSIDIARY(IES),  
OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS BEHALF**

A regular meeting of the Erie County Industrial Development Agency was convened on Wednesday, March 27, 2024 at 12:00 p.m.

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

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF SL EVANS, LLC, AND/OR INDIVIDUAL(S) OR AFFILIATE(S), SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS BEHALF (INDIVIDUALLY, AND/OR COLLECTIVELY, THE "COMPANY") IN CONNECTION WITH A CERTAIN PROJECT DESCRIBED BELOW; (ii) RATIFYING THE SCHEDULING, NOTICING, AND CONDUCTING OF A PUBLIC HEARING IN CONNECTION WITH THE PROJECT; (iii) MAKING A DETERMINATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; (iv) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (v) AUTHORIZING THE UNDERTAKING OF THE PROJECT TO PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES TAX EXEMPTION BENEFIT FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT AND (B) A PARTIAL ABATEMENT FROM REAL PROPERTY TAXES BENEFIT THROUGH THE PILOT AGREEMENT; AND (vi) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, A PAYMENT-IN-LIEU-OF-TAX AGREEMENT, AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

**WHEREAS**, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 293 of the Laws of 1970 of the State of New York, as amended (collectively, the "Act"), the ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing, commercial and other facilities as authorized by the Act; and

**WHEREAS**, SL EVANS, LLC or on behalf of an affiliated entity formed or to be formed (the "Company") has submitted an application to the Agency (the "Application") requesting the Agency's assistance with a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold interest in certain property located on 7612 and 7690 Southwestern Blvd., Town of Evans, Erie County, New York and all other lands in the Town of

Evans where, by license or easement or other agreement, the Company or its designees are making improvements that benefit the Project (the “Land”), (ii) the installation of two ground mounted solar arrays totaling 8250kW (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”). The Facility will be initially owned and operated by the Company; and

**WHEREAS**, pursuant to General Municipal Law Section 859-a, on February 5, 2024, at 9:00 a.m., at the Town of Evans Town Hall, Conference Room, located at 8787 Erie Road, Angola, NY 14006, the Agency held a public hearing with respect to the Project and the proposed Financial Assistance (as hereinafter defined) being contemplated by the Agency (the “Public Hearing”) whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views; and

**WHEREAS**, it is contemplated that the Agency will (i) designate the Company as its agent for the purpose of undertaking the Project pursuant to an Agent and Financial Assistance Project Agreement (the “Agent Agreement”), (ii) negotiate and enter into a lease agreement (the “Lease Agreement”) and related leaseback agreement (the “Leaseback Agreement”) with the Company, pursuant to which the Agency will retain a leasehold interest in the Land, the Existing Improvements, the Improvements, the Equipment and personal property constituting the Facility; and (iii) provide Financial Assistance to the Company in the form of (a) an exemption benefit from all New York State and local sales and use taxes for purchases and rentals related to the Project with respect to the qualifying personal property included in or incorporated into the Facility or used in the acquisition, construction, reconstruction and/or renovation, rehabilitation or equipping of the Facility, and (b) a partial abatement from real property taxes benefit through a twenty (20) year “payment in lieu of tax agreement” (the “PILOT Agreement”) with the Company for the benefit of each municipality and school district having taxing jurisdiction over the Project, (collectively, the sales and use tax exemption benefit and the partial abatement from real property taxes benefit, are hereinafter collectively referred to as the “Financial Assistance”); and

**WHEREAS**, the Town of Evans Town Board (the “Town Board”) in accordance with Article 8 of the New York Environmental Conservation Law and the regulations promulgated thereto in 6 N.Y.C.R.R. Part 617 (collectively referred to as the “State Environmental Quality Review Act” and/or “SEQR”), undertook coordinated review with respect to the Project, established itself as Lead Agency as defined in SEQR, determined that the Project was an Type I action, and issued a negative declaration (“Negative Declaration”) under SEQR on September 20, 2023, with respect to the Project; and

**WHEREAS**, pursuant to and in accordance with applicable provisions SEQR, the Company has submitted to the Agency a Full Environmental Assessment Form (the “EAF”) with respect to the Project; and

**WHEREAS**, the Agency’s Local Labor Workforce Certification Policy (the “Local Labor Policy”) requires that at least 90% of all project employees of the general contractor, subcontractor, or subcontractor to a subcontractor (collectively, the “Workers”) working on the Project must reside within the local labor area consisting of the counties of Erie, Niagara,

Chautauqua, Cattaraugus, Allegany, Wyoming, Genesee, and Orleans (the “Local Labor Area”); and

**WHEREAS**, the Company has requested a waiver from the Agency’s Local Labor Policy with respect to the post pounding aspect of the solar racking installation component of the Project based on the fact that this specific task requires use of a GRT post pounding machine, and the manufacturer of this piece of equipment mandates that operators of the GRT post pounding machine be certified by the manufacturer to ensure the highest standards of safety and as related thereto, there are no local Workers known to the Company within the Local Labor Area that hold the necessary manufacturer’s certification; and

**WHEREAS**, the Company has stated that due to the lack of GRT post pounding certified Workers residing in the Local Labor Area, the Company is compelled to seek such GRT post pounding certified operators from outside of the Local Labor Area for this component of the Project; and

**WHEREAS**, on March 7, 2023, the Agency’s Policy Committee reviewed, discussed and considered the Company’s request for a waiver from the Local Labor Policy 90% requirement with respect to the GRT post pounding component of the Project, said waiver request fitting within one of the three permitted circumstances warranting a waiver from the Local Labor Policy, being a warranty issue related to installation of specialized equipment or materials whereby the manufacturer requires installation by only approved installers; and whereat the Policy Committee unanimously resolved to recommend that the Agency grant the requested waiver as herein described; and

**WHEREAS**, pursuant to Article 18-A of the Act, the Agency desires to adopt a resolution describing the Project and the Financial Assistance that the Agency is contemplating with respect to the Project.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:**

Section 1. The Company has presented an application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Company’s application and any other correspondence submitted by the Company to the Agency, public hearing comments, if any, Agency Policy Committee review of and recommendations related to the Project and its March 7, 2023 resolution to recommend Agency approval of the Project subject to the terms and conditions as described herein, the Policy Committee and Agency board member review of the Project’s cost benefit ratio, the costs of incentives so applied for, the anticipated new tax revenues to be generated by the Project, as well as the Project’s contemplated community benefits, and Agency board member review, discussion, and consideration of same, the Agency hereby finds and determines that:

(A) By virtue of the Act, the Agency 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

(B) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing and/or renovating and equipping the Project; and

(C) The Agency has the authority to take the actions contemplated herein under the Act; and

(D) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing and/or retaining employment opportunities in Erie County, New York and otherwise furthering the purposes of the Agency as set forth in the Act; and

(E) The Project will not result in the removal of a civic, commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company's application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries, and, to the extent occupants are relocating from one plant or facility to another in another area of the State, the Agency has complied with the Intermunicipal Movement procedures as required in the Countywide Industrial Development Agency Uniform Tax Exemption Policy; and

(F) The Agency has assessed all material information included in connection with the Application necessary to afford a reasonable basis for the decision by the Agency to provide Financial Assistance for the Project as described herein; and

(G) The Agency has prepared a written cost-benefit analysis satisfactorily identifying the extent to which the Project will create or retain permanent, private sector jobs, the estimated value of any tax exemption to be provided, the amount of private sector investment generated or likely to be generated by the Project, the likelihood of accomplishing the Project in a timely fashion, and the extent to which the Project will provide additional sources of revenue for municipalities and school districts, and any other public benefits that might occur as a result of the Project; and

(H) The Company has provided a written statement confirming that the Project as of the date of the Application is in substantial compliance with all provisions of the Act.

(I) Based upon a thorough and complete review of the Application and its accompanying materials and information, the EAF submitted by the Company, and the proceedings conducted by the Agency and the Town Board, to date, pursuant to SEQR, the Agency hereby:

(i) consents to and affirms the status of the Town Board as "Lead Agency" within the meaning of and for all purposes of complying with SEQR and determines that the proceedings undertaken by the Town Board under SEQR with respect to the undertaking of the Project by the Company (as agent of the Agency) satisfy the requirements of SEQR;



(ii) affirms that the Project involves a “Type 1 Action” as that term is defined under SEQR;

(iii) reviews, considers, ratifies, and adopts such proceedings by the Town Board, including the “Negative Declaration”;

(iv) determines that the Project will result in no major impacts and, therefore, is one which will not cause significant damage to the environment, that the Project will not have a “significant effect on the environment” as such quoted terms are defined in SEQR, and that no “environmental impact statement” as such quoted term is defined in SEQR need be prepared for this action; and

(v) determines that all of the provisions of SEQR that are required to be complied with as a condition precedent to the approval of the Financial Assistance contemplated by the Agency with respect to the Project, and the participation by the Agency in undertaking the Project, have been satisfied. This determination constitutes a “negative declaration” (as such quoted terms are defined under SEQR) for purposes of SEQR.

(J) The Project qualifies for Agency Financial Assistance as it meets the Agency’s evaluative criteria established by the Agency as required under General Municipal Law Section 859-a(5), as evidenced by the following:

(i) *Wage Rate (above median wage for area):* There are no permanent FT or PT workers for the Solar project. Seasonal activities for mowing/other maintenance will be onsite as/when required.

(ii) *In Region Purchases (% of overall purchases, local construction jobs/supplies):* 5% of purchases will be made locally.

(iii) *Advances Renewable Energy Production/Transmission Goals:* SL Evans is a large-scale community solar project that will generate approximately 8.25 MW of clean, reliable solar energy when completed. The project will utilize approximately 22,308 solar modules and 66 string inverters which convert the sun’s energy into usable AC power. The modules will be mounted on steel racking, which will be anchored to the ground using driven piles.

(iv) *Provides Capacity or Transmission to Meet Local Demand or Shortage:* The project will interconnect to National Grid’s existing electrical distribution system. The power generated by the facility will be sold to consumers to directly offset their energy usage with local solar power while saving money on their electric bills.

(v) *MBE/WBE Utilization:* Company response: In line with our commitment to diversity and inclusion, we also want to emphasize our dedication to utilizing Minority and Women-Owned Business Enterprises (MWBE) where possible. We understand the importance of supporting these firms, recognizing the value they bring to fostering a diverse and inclusive local economy. While the specialized nature of solar requires us to use specialized labor firms, we are fully committed to using MWBE firms on the project

when possible. By doing so, we aim to ensure that the benefits of our development extend across a broad spectrum of the community, aligning with our overarching goals of inclusivity and equal opportunity in the renewable energy space.

Section 2. The Agency hereby authorizes the undertaking of the Project and the provision of the Financial Assistance to the Company as described herein.

Section 3. The Agency finds that the Company is requesting a waiver from the Agency's Local Labor Workforce Certification Policy based on one of the three permissible exceptions to the use of local labor being: a warranty issue related to installation of specialized equipment or materials whereby the manufacturer requires installation by only approved installers. Based upon representations and materials provided by the Company, Agency staff review and consideration of same, and the Policy Committee recommendation to grant the Local Labor Area Policy waiver, the Agency hereby approves of the Company request for a waiver of the Local Labor Policy as herein described with respect to the GRT post pounding component of the Project stemming from a warranty issue related to installation of specialized equipment or materials whereby the manufacturer requires installation by only approved Workers and in recognition that such certified GRT post pounding Workers do not reside within the Local Labor Area.

Section 4. Subject to the Company executing an Agent Agreement and the delivery to the Agency of a binder, certificate or other evidence of insurance for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, construct and/or renovate and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; provided, however, the authority to appoint the Company to act as agent of the Agency, if said appointment is not duly made, as herein expressed, shall expire one year from the date of this resolution (unless extended for good cause by the Chair, the Vice Chair, the President/Chief Executive Officer, the Vice President, the Chief Financial Officer/Treasurer, and/or the Assistant Treasurer).

A. Financial Assistance. With respect to the foregoing, and based upon the representations and warranties made by the Company in its application for Financial Assistance, the Agency hereby:

(i) authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project and that would otherwise be subject to New York State and local sales and use tax in an amount estimated up to \$6,000,000 and, therefore, the value of the sales and use tax exemption benefits ("sales and use tax exemption benefits") authorized and approved by the Agency cannot exceed \$525,000, however, the Agency may consider any requests by the Company for increases to the amount of sales and use tax exemption benefits authorized by the Agency upon being

provided with appropriate documentation detailing the additional purchases of property or services; and

(iii) authorizes and approves that the real property tax abatement benefits (“PILOT benefits”) to be provided over the term of the PILOT Agreement are estimated to be approximately \$3,622,251 resulting in estimated total PILOT payments of \$1,102,493 over the term of the PILOT Agreement.

B. Terms and Conditions of Financial Assistance. Pursuant to Section 875(3) of the New York General Municipal Law, and per the policies of the Agency, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any New York State and local sales and use tax exemption benefits and/or partial abatements from real property taxes benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the New York State and local sales and use tax exemption benefits; (ii) the New York State and local sales and use tax exemption benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the New York State and local sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; (iv) the Company has made a material false statement on its application for Financial Assistance; (v) the New York State and local sales and use tax exemption benefits and/or the partial abatement from real property taxes benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with the Investment Commitment and/or the Local Labor Commitment, said commitments, as described below, being a material term or condition to use property or services in the manner approved by the Agency in connection with the Project; and/or (vi) the New York State and local sales and use tax exemption benefits and/or the partial abatement from real property taxes benefits are taken in cases where the Company fails to comply with the Equal Pay Commitment and/or the Unpaid Real Property Tax Policy Commitment, as described below, being a material term or condition to use property or services in the manner approved by the Agency in connection with the Project.

As a condition precedent of receiving Financial Assistance, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, must cooperate with the Agency in its efforts to recover or recapture any Financial Assistance, and promptly pay over any such amounts to the Agency that the Agency demands.

C. Commitments. As an additional condition precedent of receiving Financial Assistance, and as a material term or condition as approved by the Agency in connection with the Project, the Company covenants and agrees and understands that it must, subject to potential modification, termination and/or recapture of Financial Assistance for failure to meet and maintain the commitments and thresholds as described below, submit, on an annual basis or as otherwise indicated below through the termination of the PILOT Agreement, a certification, as so required by the Agency, confirming:

- (i) Investment Commitment- the total investment made with respect to the Project at the time of Project completion equals or exceeds \$17,653,650 (which represents the product of 85% multiplied by \$20,769,000, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Local Labor Commitment – except as specifically provided for herein, that the Company adheres to and complies with the Agency's Local Labor Workforce Certification Policy on a quarterly basis during the construction period.
- (iii) Equal Pay Commitment – that the Company adheres to and complies with the Agency's Pay Equity Policy.
- (iv) Unpaid Real Property Tax Policy Commitment – that the Company is compliant with the Agency's Unpaid Real Property Tax Policy.

Section 5. Subject to the terms of this Inducement Resolution, the Chair, the Vice Chair, the President/Chief Executive Officer, the Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer, are hereby authorized, on behalf of the Agency, to negotiate, execute and deliver (A) an Agent Agreement, (B) the Lease Agreement whereby the Company leases the Project to the Agency, (C) the related Leaseback Agreement whereby the Agency leases the Project back to the Company, and (D) the PILOT Agreement and (E) related documents; provided, however, that (i) the rental payments under the Leaseback Agreement to the Company include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project; and (ii) the terms of the PILOT Agreement are consistent with the Agency's Uniform Tax Exemption Policy, or procedures for deviation have been complied with accordingly.

Section 6. Subject to the terms of this Inducement Resolution, the Chair, the Vice Chair, the President/Chief Executive Officer, the Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer, are hereby authorized, on behalf of the Agency, to negotiate, execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender identified by the Company (the "Lender") up to a maximum principal amount necessary to undertake the Project, acquire the Facility and/or finance or refinance acquisition and Project costs or equipment and other personal property and related transactional costs (hereinafter, with the Lease Agreement, Leaseback Agreement, and related documents, collectively called the "Agency Documents"); and, where appropriate, the Secretary or the Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the Chair, the Vice Chair, the President/Chief Executive Officer, the Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer of the Agency shall approve, the execution thereof by the Chair, the Vice Chair, the President/Chief Executive Officer, the Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer of the Agency to constitute conclusive evidence of such approval; provided in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 7. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to negotiate, execute and deliver all such 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 Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 8. The provision by the Agency of Financial Assistance with respect to the Project as described herein is subject to the execution and delivery of the Agency's Administrative Fee Agreement (the "Fee Agreement") and payment by the Company of an administrative fee calculated in accordance with the Fee Agreement, all within sixty (60) days of the date of this resolution. In the event the Agency has not received the executed Fee Agreement and the appropriate fee within such sixty (60) day period, this resolution shall become automatically null and void and of no further effect and the Agency shall have no liability to the Company hereunder or otherwise, unless extended in the discretion of the Chair, the Vice Chair, the President/Chief Executive Officer, the Vice President, the Chief Financial Officer/Treasurer, or the Assistant Treasurer for good cause shown.

Section 9. This resolution shall take effect immediately, and shall expire one (1) year from the date hereof unless extended for good cause by the Chair, the Vice Chair, the President/Chief Executive Officer, the Vice President, the Chief Financial Officer/Treasurer, or the Assistant Treasurer.

Dated: March 27, 2024



### SL Evans PILOT

Instructions and Insurance Requirements Document

#### **Section I: Applicant Background Information**

Please answer all questions. Use "None" or "Not Applicable" where necessary. Information in this application may be subject to public review under New York State Law.

#### Applicant Information- Company Receiving Benefit

**Project Name** SL Evans

**Project Summary** Installation of 2 solar arrays totaling 8,250kW AC system size

**Applicant Name** SL Evans, LLC

**Applicant Address** 800 Gessner Rd. Suite 700

**Applicant Address 2**

**Applicant City** Houston

**Applicant State** Texas

**Applicant Zip** 77024

**Phone** (914) 275-2831

**Fax**

**E-mail** matt.effler@catalyze.com

**Website** www.catalyze.com

**NAICS Code** 221114

#### Business Organization

**Type of Business**

Limited Liability Company

**Year Established**

2022

**State**

Delaware

**Indicate if your business is 51% or more (Check all boxes that apply)**

[No] Minority Owned

[No] Woman Owned

**Indicate Minority and/or Woman Owned Business Certification if applicable (Check all boxes that apply)**

[No] NYS Certified

[No] Erie Country Certified

Individual Completing Application

**Name** Carrie Cosentino  
**Title** Project Development Manager  
**Address** 6500 Sheridan Dr. Suite 120  
**Address 2**  
**City** Buffalo  
**State** New York  
**Zip** 14221  
**Phone** (716) 634-3780  
**Fax**  
**E-Mail** carrie.cosentino@solarliberty.com

Company Contact- Authorized Signer for Applicant

**Contact is same as individual completing application** No  
**Name** Lamphung Ngo-Burns  
**Title** Chief Financial Officer  
**Address** 800 Gessner Rd. Suite 700  
**Address 2**  
**City** Houston  
**State** Texas  
**Zip** 77024  
**Phone** (914) 275-2831  
**Fax**  
**E-Mail** matt.effler@catalyze.com

Company Counsel

**Name of Attorney** Brandon Cottrell  
**Firm Name** Hodgson Russ LLP  
**Address** 140 Pearl St. Suite 100  
**Address 2**  
**City** Buffalo  
**State** New York  
**Zip** 14202  
**Phone** (585) 613-3938  
**Fax**  
**E-Mail** bcottrel@hodgsonruss.com

Benefits Requested (select all that apply).

**Exemption from Sales Tax** Yes  
**Exemption from Mortgage Tax** No

**Exemption from Real Property Tax** Yes

**Tax Exempt Financing\*** No

\* (typically for not-for-profits & small qualified manufacturers)

Applicant Business Description

**Describe in detail company background, history, products and customers. Description is critical in determining eligibility. Also list all stockholders, members, or partners with % ownership greater than 20%.**

SL Evans, LLC will own, operate, and maintain these community solar projects. Catalyze GBH Developer, LLC owns 100% SL Evans, LLC.

|   |      |
|---|------|
| <b>Estimated % of sales within Erie County</b>                            | 42 % |
| <b>Estimated % of sales outside Erie County but within New York State</b> | 13 % |
| <b>Estimated % of sales outside New York State but within the U.S.</b>    | 20 % |
| <b>Estimated % of sales outside the U.S.</b>                              | 25 % |

(\*Percentage to equal 100%)

**For your operations, company and proposed project what percentage of your total annual supplies, raw materials and vendor services are purchased from firms in Erie County?**

5

**Describe vendors within Erie County for major purchases**

Graybar, Wesco, Zand, Solar Liberty Energy Systems, Inc., Allegro Power



**Section II: Eligibility Questionnaire - Project Description & Details**

Project Location

**Address of Proposed Project Facility**

7612 and 7690 Southwestern Blvd.

**Town/City/Village of Project Site**

Evans

**School District of Project Site**

Eden Central School District

**Current Address (if different)**

**Current Town/City/Village of Project Site (if different)**

**SBL Number(s) for proposed Project**

207.00-4.11.111 and 207.00-4-11.112

**What are the current real estate taxes on the proposed Project Site**

\$3909.86

**If amount of current taxes is not available, provide assessed value for each.**

Land

\$ 0

Building(s)

\$ 0

If available include a copy of current tax receipt.

**Are Real Property Taxes current at project location?**

Yes

**If no please explain**

\*The ECIDA has an unpaid tax policy and you will be required to certify all taxes and PILOTS are current.

**Does the Applicant or any related entity currently hold fee title or have an option/contract to purchase the Project site?**

No

**If No, indicate name of present owner of the Project Site**

David Eckert and Maria Indrijani

**Does Applicant or related entity have an option/contract to purchase the Project site?**

No

**Describe the present use of the proposed Project site (vacant land, existing building, etc.)**

Vacant land

**Provide narrative and purpose of the proposed project (new build, renovations) square footage of existing and new construction contemplated and/or equipment purchases. Identify specific uses occurring within the project. Describe any and all tenants and any/all end users: (This information is critical in determining project eligibility)**

SL Evans is a large scale community solar project located on 33.3 acres of a combined 108 acres consisting of two parcels (207.00-4-11.111 and 207.00-4-11.112) of land in Erie County. SL Evans, LLC has entered into an option to lease agreement with the landowners (David Eckert and Maria Indrijani) to facilitate the development of this project. The project will generate approximately 8.25MW of clean, reliable solar energy when complete. The project will interconnect to NGRID's existing electrical distribution system. The power generated by the facility will be sold to consumers to directly offset their energy usage with local solar power while saving money on their electric bills. The project will utilize approximately 22,308 solar modules and 66 string inverters which convert the sun's energy into useable AC power. The modules will be mounted on steel racking, which will be anchored to the ground using driven piles.

**Municipality or Municipalities of current operations**

Town of Evans

**Will the Proposed Project be located within a Municipality identified above?**

Yes

**Will the completion of the Project result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state OR in the abandonment of one or more plants or facilities of the project occupant located within the state?**

No

**If the Proposed Project is located in a different Municipality within New York State than that Municipality in which current operations are being undertaken, is it expected that any of the facilities in any other Municipality will be closed or be subject to reduced activity?**

No

(If yes, you will need to complete the Intermunicipal Move Determination section of this application)

**Is the project reasonably necessary to prevent the project occupant from moving out of New York State?**

<BLANK>

**If yes, please explain and identify out-of-state locations investigated, type of assistance offered and provide supporting documentation available**

**Have you contacted or been contacted by other Local, State and/or Federal Economic Development Agencies?**

<BLANK>

**If yes, please indicate the Agency and nature of inquiry below**

**If the Project could be undertaken without Financial Assistance provided by the Agency, then provide a statement in the space provided below indicating why the Project should be undertaken by the Agency:**

**Describe the reasons why the Agency's financial assistance is necessary, and the effect the Project will have on the Applicant's business or operations. Focus on competitiveness issues, project shortfalls, etc... Your eligibility determination will be based in part on your answer (attach additional pages if necessary)**

Without a long term, locked in PILOT agreement, this project will not be feasible.

**Please confirm by checking the box, below, if there is likelihood that the Project would not be undertaken but for the Financial Assistance provided by the Agency**

Yes

**If the Applicant is unable to obtain Financial Assistance for the Project, what will be the impact on the Applicant and Erie County?**

Without a PILOT, the project will not be financeable. Erie County will not gain the PILOT revenue, which represents a large increase over current taxes paid on the land. Erie County residents would miss out on the opportunity to subscribe to a community solar program providing clean, renewable energy.

**Will project include leasing any equipment?**

Yes

If yes, please describe equipment and lease terms.

Construction will take place over 7 months. Various equipment will be rented during that time.

Site Characteristics

**Is your project located near public transportation?**

No

**If yes describe if site is accessible by either metro or bus line (provide route number for bus lines)**

**Has your local municipality and/or its planning board made a determination regarding the State Environmental Quality Review (SEQR) for your project?**

Yes

**If YES indicate in the box below the date the SEQR determination was made. Also, please provide us with a copy of the approval resolution and the related Environmental Assessment Form (EAF) if applicable.**

**If NO indicate in the box below the date you anticipate receiving a SEQR determination for your project. Also, please insure that the ECIDA has been listed as an "involved agency" on the related EAF submitted to the appropriate municipality and/or planning**

department.

9/20/2023

**Will the Project meet zoning/land use requirements at the proposed location?**

Yes

**Describe the present zoning/land use**

This project is in the Solar Overlay district

**Describe required zoning/land use, if different**

**If a change in zoning/land use is required, please provide details/status of any request for change of zoning/land use requirements**

**Is the proposed Project located on a site where the known or potential presence of contaminants is complicating the development/use of the property?**

No

**If yes, please explain**

**Has a Phase I Environmental Assessment been prepared, or will one be prepared with respect to the proposed Project Site?**

Yes

If yes, please provide a copy.

**Have any other studies, or assessments been undertaken with respect to the proposed Project Site that indicate the known or suspected presence of contamination that would complicate the site's development?**

No

If yes, please provide copies of the study.

**If you are purchasing new machinery and equipment, does it provide demonstrable energy efficiency benefits?**

Yes

**If yes, describe the efficiencies achieved**

You may also attach additional information about the machinery and equipment at the end of the application.

**Does or will the company or project occupant perform research and development activities on new products/services at the project location?**

No

If yes, include percentage of operating expenses attributed to R&D activities and provide details.

Select Project Type for all end users at project site (you may check more than one)

For purposes of the following, the term "retail sales" means (i) sales by a registered vendor under Article 28 of the Tax Law of the State of New York (the "Tax Law") primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law), or (ii) sales of a service to customers who personally visit the Project.

Will customers personally visit the Project site for either of the following economic activities? If yes with respect to either economic activity indicated below, you will need to complete the Retail section of this application.

|                     |    |                 |    |
|---------------------|----|-----------------|----|
| <b>Retail Sales</b> | No | <b>Services</b> | No |
|---------------------|----|-----------------|----|

Please check any and all end uses as identified below.

- |  |                           |                                     |
|--|---------------------------|-------------------------------------|
| <b>No Acquisition of Existing Facility</b> | <b>No Assisted Living</b> | <b>No Back Office</b>               |
| <b>No Civic Facility (not for profit)</b>  | <b>No Commercial</b>      | <b>No Equipment Purchase</b>        |
| <b>No Facility for the Aging</b>           | <b>No Industrial</b>      | <b>No Life Care Facility (CCRC)</b> |
| <b>No Market Rate Housing</b>              | <b>No Mixed Use</b>       | <b>No Multi-Tenant</b>              |

No Retail No Senior Housing No Manufacturing
Yes Renewable Energy No Other

For proposed facility please include the square footage for each of the uses outlined below

If applicant is paying for FFE for tenants, include in cost breakdown.

Table with 4 columns: Use Type, Unit, Cost, % of Total Cost. Rows include Manufacturing/Processing, Warehouse, Research & Development, Commercial, Retail, Office, and Specify Other.

If you are undertaking new construction or renovations, are you seeking LEED certification from the US Green Building Council?

<BLANK>

If you answered yes to question above, what level of LEED certification do you anticipate receiving? (Check applicable box)

<BLANK>

Provide estimate of additional construction cost as a result of LEED certification you are seeking < BLANK >

Will project result in significant utility infrastructure cost or uses Yes

What is the estimated project timetable (provide dates).

Start date : acquisition of equipment or construction of facilities

1/2/2024

End date : Estimated completion date of project

12/30/2024

Project occupancy : estimated starting date of occupancy

11/30/-0001

Capital Project Plan / Budget

Estimated costs in connection with Project

1.) Land and/or Building Acquisition

\$ 0 square feet acres

2.) New Building Construction

\$ 0 square feet

3.) New Building addition(s)

\$ 0 square feet

4.) Reconstruction/Renovation

\$ 0 square feet

**5.) Manufacturing Equipment**

\$ 11,444,004

**6.) Infrastructure Work**

\$ 1,880,000

**7.) Non-Manufacturing Equipment: (furniture, fixtures, etc.)**

\$ 6,572,746

**8.) Soft Costs: (Legal, architect, engineering, etc.)**

\$ 124,750

**9.) Other Cost**

\$ 747,500

**Explain Other  
Costs**

**Total Cost** \$ 20,769,000

Construction Cost Breakdown:

|                                   |   |
|-----------------------------------|---|
| <b>Total Cost of Construction</b> | \$ 1,880,000 (sum of 2, 3, 4 and 6 in Project Information, above) |
| <b>Cost of materials</b>          | \$ 18,016,750   |
| <b>% sourced in Erie County</b>   | 4%  |

Sales and Use Tax:

|   |              |
|---|--------------|
| <b>Gross amount of costs for goods and services that are subject to State and local sales and use tax- said amount to benefit from the Agency's sales and use tax exemption benefit</b> | \$ 6,000,000 |
| <b>Estimated State and local Sales and Use Tax Benefit (product of 8.75% multiplied by the figure, above):</b>  | \$ 525,000   |

\*\* Note that the estimate provided above will be provided to the New York State Department of Taxation and Finance. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to undertake the total amount of investment as proposed within this Application, and that the estimate, above, represents the maximum amount of sales and use tax benefit that the Agency may authorize with respect to this Application. The Agency may utilize the estimate, above, as well as the proposed total Project Costs as contained within this Application, to determine the Financial Assistance that will be offered.

**Project refinancing estimated amount, if applicable (for refinancing of existing debt only)** \$ 0

**Have any of the above costs been paid or incurred as of the date of this Application?** Yes

**If Yes, describe particulars:**

Sources of Funds for Project Costs:

|  |               |
|--|---------------|
| <b>Equity (excluding equity that is attributed to grants/tax credits):</b>   | \$ 2,076,900  |
| <b>Bank Financing:</b>   | \$ 18,692,100 |
| <b>Tax Exempt Bond Issuance (if applicable):</b>   | \$ 0          |
| <b>Taxable Bond Issuance (if applicable):</b>  | \$ 0          |
| <b>Public Sources (Include sum total of all state and federal grants and tax credits):</b>   | \$ 0          |
| <b>Identify each state and federal grant/credit: (ie Historic Tax Credit, New Market Tax Credit, Brownfield, Cleanup Program, ESD, other public sources)</b> |               |
| <b>Total Sources of Funds for Project Costs:</b>   | \$20,769,000  |

**Have you secured financing for the project?** No

Mortgage Recording Tax Exemption Benefit:

Amount of mortgage, if any that would be subject to mortgage recording tax:

**Mortgage Amount (include sum total of construction/permanent/bridge financing).** 0

**Lender Name, if Known**

**Estimated Mortgage Recording Tax Exemption Benefit (product of mortgage amount as indicated above multiplied by 3/4 of 1%):** \$0

Real Property Tax Benefit:

**Identify and describe if the Project will utilize a real property tax exemption benefit other than the Agency's PILOT benefit (485-a, 485-b, other):**

IDA PILOT Benefit: Agency staff will indicate the estimated amount of PILOT Benefit based on estimated Project Costs as contained herein and anticipated tax rates and assessed valuation, including the annual PILOT Benefit abatement amount for each year of the PILOT benefit and the sum total of PILOT Benefit abatement amount for the term of the PILOT as depicted in the PILOT worksheet in the additional document section.

Percentage of Project Costs financed from Public Sector sources: Agency staff will calculate the percentage of Project Costs financed from Public Sector sources based upon the Sources of Funds for Project Costs as depicted above. The percentage of Project Costs financed from public sector sources will be depicted in the PILOT worksheet in the additional document section.

**Is project necessary to expand project employment?**

No

**Is project necessary to retain existing employment?**

Yes

**Will project include leasing any equipment?**

Yes

If yes, please describe equipment and lease terms.

Construction will take place over 7 months. Various equipment will be rented during that time.

Employment Plan (Specific to the proposed project location)

The Labor Market Area consists of the following six counties: Erie, Niagara, Chautauqua, Cattaraugus, Wyoming and Genesee.

By statute, Agency staff must project the number of FTE jobs that would be retained and created if the request for Financial Assistance is granted. Agency staff will project such jobs over the TWO Year time period following Project completion. Agency staff converts PT jobs into FTE jobs by dividing the number of PT jobs by two (2).

|                  | <b>Current # of jobs at proposed project location or to be relocated at project location</b> | <b>If financial assistance is granted – project the number of FT and PT jobs to be retained</b> | <b>If financial assistance is granted – project the number of FT and PT jobs to be created upon 24 months (2 years) after Project completion</b> | <b>Estimate number of residents of the Labor Market Area in which the project is located that will fill the FT and PT jobs to be created upon 24 months (2 years) after project completion **</b> |
|------------------|--|---|--|---|
| <b>Full time</b> | 0  | 0   | 0  | 0   |
| <b>Part time</b> | 0  | 0   | 0  | 0   |
| <b>Total</b>     | 0  | 0   | 0  |   |

Salary and Fringe Benefits for Jobs to be Retained and Created

| Job Categories            | # of <u>Full Time</u><br>Employees retained<br>and created | Average<br>Salary for<br>Full Time | Average Fringe<br>Benefits for<br>Full Time | # of <u>Part Time</u><br>Employees retained<br>and created | Average<br>Salary for<br>Part Time | Average Fringe<br>Benefits for<br>Part Time |
|---------------------------|--|------------------------------------|---|--|------------------------------------|---|
| Management                | 0  | \$ 0                               | \$ 0  | 0  | \$ 0                               | \$ 0  |
| Professional              | 0  | \$ 0                               | \$ 0  | 0  | \$ 0                               | \$ 0  |
| Administrative            | 0  | \$ 0                               | \$ 0  | 0  | \$ 0                               | \$ 0  |
| Production                | 0  | \$ 0                               | \$ 0  | 0  | \$ 0                               | \$ 0  |
| Independent<br>Contractor | 0  | \$ 0                               | \$ 0  | 0  | \$ 0                               | \$ 0  |
| Other                     | 0  | \$ 0                               | \$ 0  | 0  | \$ 0                               | \$ 0  |
| <b>Total</b>              | 0  |                                    |   | 0  |                                    |   |

\*\* Note that the Agency may utilize the foregoing employment projections, among other items, to determine the financial assistance that will be offered by the Agency to the Applicant. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to retain the number of jobs and create the number of jobs with respect to the Project as set forth in this Application.

No **By checking this box, I certify that the above information concerning the current number of jobs at the proposed project location or to be relocated to the proposed project location is true and correct.**

Employment at other locations in Erie County: (provide address and number of employees at each location):

| Address      |   |   |   |
|--------------|---|---|---|
| Full time    | 0 | 0 | 0 |
| Part time    | 0 | 0 | 0 |
| <b>Total</b> | 0 | 0 | 0 |

Payroll Information

**Annual Payroll at Proposed Project Site upon completion**

0

**Estimated average annual salary of jobs to be retained (Full Time)**

0

**Estimated average annual salary of jobs to be retained (Part Time)**

0

**Estimated average annual salary of jobs to be created (Full Time)**

0

**Estimated average annual salary of jobs to be created (Part Time)**

0

**Estimated salary range of jobs to be created**

**From (Full Time) 0 To (Full Time) 0**

**From (Part Time) 0 To (Part Time) 0**

### Section III: Environmental Questionnaire

INSTRUCTIONS: Please complete the following questionnaire as completely as possible. If you need additional space to fully answer any question, please attach additional page(s).

#### General Background Information

##### **Address of Premises**

7612 & 7690 Southwestern Blvd., Evans, NY 14047

##### **Name and Address of Owner of Premises**

David Eckert and Maria Indrijani, 5111 Berg Rd., Buffalo, NY 14218

##### **Describe the general features of the Premises (include terrain, location of wetlands, coastlines, rivers, streams, lakes, etc.)**

Vacant, heavily wooded and grassy/vegetated land. Portion of Pike's Creek on the Northern portion and a natural gas pipeline is on the central-southern portion

##### **Describe the Premises (including the age and date of construction of any improvements) and each of the operations or processes carried out on or intended to be carried on at the Premises**

Construction to begin in April 2024 on ground mounted solar array

##### **Describe all known former uses of the Premises**

The Subject Property has been vacant land, consisting of agricultural, vegetated, wooded, and/or marsh/swamp land with a portion of Pike Creek on the northern portion and a gas well/pipeline on the central-southern portion since 1947; no structures have been depicted or formerly identified on-site.

##### **Does any person, firm or corporation other than the owner occupy the Premises or any part of it?**

No

##### **If yes, please identify them and describe their use of the property**

##### **Have there been any spills, releases or unpermitted discharges of petroleum, hazardous substances, chemicals or hazardous wastes at or near the Premises?**

No

##### **If yes, describe and attach any incident reports and the results of any investigations**

##### **Has the Premises or any part of it ever been the subject of any enforcement action by any federal, state or local government entity, or does the preparer of this questionnaire have knowledge of: a) any current federal, state or local enforcement actions; b) any areas of non-compliance with any federal, state or local laws, ordinances, rules or regulations associated with operations over the past 12 months?**

No

##### **If yes, please state the results of the enforcement action (consent order, penalties, no action, etc.) and describe the circumstances**

##### **Has there been any filing of a notice of citizen suit, or a civil complaint or other administrative or criminal procedure involving the Premises?**

No

##### **If yes, describe in full detail**

#### Solid And Hazardous Wastes And Hazardous Substances

**Does any activity conducted or contemplated to be conducted at the premises generate, treat or dispose of any petroleum, petroleum-related products, solid and hazardous wastes or hazardous substances?**



No

**If yes, provide the Premises' applicable EPA (or State) identification number**

**Have any federal, state or local permits been issued to the Premises for the use, generation and/or storage of solid and hazardous wastes?**

No

**If yes, please provide copies of the permits.**

**Identify the transporter of any hazardous and/or solid wastes to or from the Premises**

**Identify the solid and hazardous waste disposal or treatment facilities which have received wastes from the Premises for the past two (2) years**

**Does or is it contemplated that there will occur at the Premises any accumulation or storage of any hazardous wastes on-site for disposal for longer than 90 days?**

No

**If yes, please identify the substance, the quantity and describe how it is stored**

Discharge Into Waterbodies

**Briefly describe any current or contemplated industrial process discharges (including the approximate volume, source, type and number of discharge points). Please provide copies of all permits for such discharges**

**Identify all sources of discharges of water, including discharges of waste water, process water, contact or noncontact cooling water, and stormwater. Attach all permits relating to the same. Also identify any septic tanks on site**

**Is any waste discharged into or near surface water or groundwaters?**

No

**If yes, please describe in detail the discharge including not only the receiving water's classification, but a description of the type and quantity of the waste**

Air Pollution

**Are there or is it contemplated that there will be any air emission sources that emit contaminants from the Premises?**

No

**If yes, describe each such source, including whether it is a stationary combustion installation, process source, exhaust or ventilation system, incinerator or other source**

**Are any of the air emission sources permitted?**

No

**If yes, attach a copy of each permit.**

Storage Tanks

**List and describe all above and under ground storage tanks at the Premises used to store petroleum or gasoline products, or other chemicals or wastes, including the contents and capacity of each tank. Please also provide copies of any registrations/permits for the tanks**

**Have there been any leaks, spills, releases or other discharges (including loss of inventory) associated with any of these tanks?**

No

**If yes, please provide all details regarding the event, including the response taken, all analytical results or reports developed through investigation (whether internal or external), and the agencies which were involved**

Polychlorinated Biphenyls ("PCB" or "PCBs") And Asbestos

**Provide any records in your possession or known to you to exist concerning any on-site PCBs or PCB equipment, whether used or stored, and whether produced as a byproduct of the manufacturing process or otherwise.**

**Have there been any PCB spills, discharges or other accidents at the Premises?**

No

**If yes, relate all the circumstances**

**Do the Premises have any asbestos containing materials?**

No

**If yes, please identify the materials**

## Section IV: Facility Type - Single or Multi Tenant

### Is this a Single Use Facility or a Multi-Tenant Facility?

Single Use Facility

#### For Single Use Facility.

**Occupant Name** SL Evans, LLC  
**Address** 6500 Sheridan Dr. Suite 120  
**Contact Person** Solar Liberty Energy Systems, Inc.  
**Phone** (716) 634-3780  
**Fax**  
**E-Mail** nathan.rizzo@solarliberty.com  
**Federal ID #** 88-2983378  
**SIC/NAICS Code** 221114

SS

## **Section VI: Retail Determination**

To ensure compliance with Section 862 of the New York General Municipal Law, the Agency requires additional information if the proposed Project is one where customers personally visit the Project site to undertake either a retail sale transaction or to purchase services.

Please answer the following:

**Will any portion of the project (including that portion of the costs to be financed from equity or other sources) consist of facilities or property that are or will be primarily used in making sales of goods or services to customers who personally visit the project site?**

No

If yes, complete the Retail Questionnaire Supplement below. **If no, proceed to the next section.**

## **Section VII: Adaptive Reuse Projects**

Adaptive Reuse is the process of adapting old structures or sites for new purposes.

**Are you applying for tax incentives under the Adaptive Reuse Program?**

No

**Section VIII: Inter-Municipal Move Determination**

The Agency is required by state law to make a determination that, if completion of a Project benefiting from Agency Financial Assistance results in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, Agency financial Assistance is required to prevent the project occupant from relocating out of the state, or is reasonably necessary to preserve the project occupant's competitive position in its respective industry.

**Current Address**

**City/Town**

**State**

**Zip Code**

**Will the project result in the removal of an industrial or manufacturing plant of the Project occupant from one area of the state to another area of the state?**

No

**Will the project result in the abandonment of one or more plants or facilities of the Project occupant located within the state?**

No

**If Yes to either question, explain how, notwithstanding the aforementioned closing or activity reduction, the Agency's Financial Assistance is required to prevent the Project from relocating out of the State, or is reasonably necessary to preserve the Project occupant's competitive position in its respective industry:**

**Does this project involve relocation or consolidation of a project occupant from another municipality?**

**Within New York State**

No

**Within Erie County**

No

**If Yes to either question, please, explain**

**Will the project result in a relocation of an existing business operation from the City of Buffalo?**

No

**If yes, please explain the factors which require the project occupant to relocate out of the City of Buffalo (For example, present site is not large enough, or owner will not renew leases etc.)**

**What are some of the key requirements the project occupant is looking for in a new site? (For example, minimum sq. ft., 12 foot ceilings, truck loading docs etc.)**

**If the project occupant is currently located in Erie County and will be moving to a different municipality within Erie County, has the project occupant attempted to find a suitable location within the municipality in which it is currently located?**

<BLANK>

**What factors have lead the project occupant to consider remaining or locating in Erie County?**

**If the current facility is to be abandoned, what is going to happen to the current facility that project occupant is located in?**

**Please provide a list of properties considered, and the reason they were not adequate. (Some examples include: site not large enough, layout was not appropriate, did not have adequate utility service, etc.) Please include full address for locations.**

## ■ Section IX: Senior Housing

IDA tax incentives may be granted to projects under the Agency's Senior Citizen Rental Housing policy when the project consists of a multi-family housing structure where at least 90% of the units are (or are intended to be) rented to and occupied by a person who is 60 years of age or older.

**Are you applying for tax incentives under the Senior Rental Housing policy?**

No

## **Section X: Tax Exempt Bonds**

In order to receive the benefits of a tax-exempt interest rate bond, private borrowers and their projects must be eligible under one of the federally recognized private active bond categories (Fed Internal Rev Code IRC sections 142-144, and 1394).

**Are you applying for tax exempt bonds / refinancing of bonds related to a residential rental facility project?**

No



**1016 East Delavan, LLC**  
**\$ 35,327,500**  
**AMENDATORY INDUCEMENT RESOLUTION**

**ELIGIBILITY**

- NAICS Section – 236220

**COMPANY INCENTIVES**

- Original: Approx \$2,859,900 in real property tax savings.  
**Amended: \$0 prop tax savings**
- Original: Up to \$1,177,537 in sales tax savings  
**Amended: Up to \$1,263,247 in sales tax savings**
- Original: 3/4 of 1% of the final mortgage amount up to \$175,249  
**Amended: Up to \$216,750 in mortgage recording tax savings**

**JOBS & ANNUAL PAYROLL**

- Annual Payroll: \$ 2,393,000
- Current Jobs: 16 FT, 35 PT
- Avg salary/yr. - retained jobs  
FT = \$ 59,600, PT = \$30,000
- Projected new jobs: 15 PT
- Est. salary/yr. of PT jobs created:  
\$ 30,000
- Total jobs after project completion:  
16 FT, 50 PT
- Construction Jobs: 156

**PROJECTED COMMUNITY BENEFITS\***

- Term: 2 YEARS after project completion
- NET Community Benefits:  
\$ 33,417,739
- Spillover Jobs: 141
- Total Payroll: \$ 31,448,737

**INCENTIVE COST / COMMUNITY BENEFIT RATIO (discounted at 2%)\***

Incentives: \$ 1,479,997

Community Benefit: \$ 32,989,241

Cost: Benefit Ratio

- 1: 22

Project Title: BPS Commissary Kitchen

Project Address: 1016-1044 East Delavan Ave, Buffalo, NY 14215  
(Buffalo Central School District)

**Amended Agency Request**

Adjustments to project and resulting incentives to reflect 1) the Buffalo School District's intent to purchase the building post construction (no PILOT needed) and 2) increased project costs.

**Agency Request**

A sales and mortgage recording tax abatement in connection with the construction of a nearly 67,000 sq ft light industrial building that will serve as the new commissary kitchen for the Buffalo Public Schools.

|                              | Prior               | Current             |
|------------------------------|---------------------|---------------------|
| Land / Building Acquisition  | \$ 1,250,000        | \$ 1,110,000        |
| New Building Construction    | \$22,267,479        | \$ 26,249,298       |
| Non- Manufacturing Equipment | \$ 3,921,995        | \$ -                |
| Soft Costs/Other             | <u>\$ 5,628,325</u> | <u>\$ 6,775,786</u> |
| <b>Total Project Cost</b>    | <b>\$33,067,799</b> | <b>\$34,135,084</b> |
| <b>85%</b>                   | <b>\$28,107,629</b> | <b>\$29,014,821</b> |

**Company Description**

1016 East Delavan, LLC was created for the purpose of providing a new commissary kitchen for Buffalo Public Schools and is an arm of McGuire Development Company. McGuire Development Company was founded in 1960 and has a diverse portfolio and proven track record of producing high quality development projects for municipalities. Recent projects include the redevelopment of 75 West Huron into the Buffalo School of Culinary Arts and Hospitality Management.

**Project Description**

The project consists of the construction of a 67,000 sq ft single story commissary kitchen for the sole use of the Buffalo Public Schools (BPS) to prepare and distribute school meals to all schools in the district. The existing facility could not meet the needs of the new programming requirements of the student meal plan created by the BPS. As part of this initiative the facility will cook onsite, using locally grown products, creating fresh and high-quality meal options for students. The new building will include office space for administration and a test kitchen that will serve as a conference room / community space available for local community meetings & training for food service employees. The BPS needed a facility that can function at a higher level -promoting healthier meals for students and promoting a safe environment for its staff. The facility will distribute over 27,000 meals per day during the school year and 10,000 meals during the school's summer program. BPS has chosen to purchase the building from McGuire instead of being a building tenant. BPS will directly purchase equipment.

\* Cost Benefit Analysis Tool powered by MRB Group

## Economic Impact: Inform Analytics Cost-Benefit Analysis

The Erie County Industrial Development Agency uses the Cost Benefit Analysis Tool powered by MRB Group to assess the economic impact of a project applying for incentives. A Cost-Benefit Analysis is required by Section 859-a (5)(b) of General Municipal Law. For the complete Cost Benefit Analysis – please see the attached MRB Cost Benefit Calculator.

### Cost: Incentives

| COSTS | Tax Exemption      | Amount      |
|-------|--------------------|-------------|
|       | Property           | \$ 0        |
|       | Sales              | \$1,263,247 |
|       | Mortgage Recording | \$ 216,750  |
|       | Total              | \$1,479,997 |
|       | Discounted at 2%   | \$1,479,997 |

### Benefit: Projected Community Benefit\*

| BENEFITS | Region         | Recipient   | Revenue Type                  | \$ Amount ** |
|----------|----------------|-------------|-------------------------------|--------------|
|          | Erie County    | Individuals | Payroll Construction          | \$21,210,127 |
|          |                |             | Payroll Permanent             | \$10,238,610 |
|          |                | Public      | Property Taxes                | \$ 0         |
|          |                |             | Sales Taxes                   | \$ 261,417   |
|          |                |             | Other Muni Revenue (NFTA)     | \$ 72,250    |
|          | New York State | Public      | Income Taxes                  | \$ 1,415,193 |
|          |                |             | Sales Taxes                   | \$ 220,141   |
|          |                |             | Total Benefits to EC + NYS*** | \$33,417,739 |
|          |                |             | Discounted at 2%              | \$32,989,241 |

\* Cost Benefit Analysis Tool powered by MRB Group \*\*includes direct & indirect \$ over project period \*\*\* may not sum to total due to rounding

Discounted Cost           \$ 1,479,997  
 Discounted Benefit       \$32,989,241  
 Ratio                        1:22

**Conclusion:** The Cost Benefit for this project is: 22:1. For every \$1 in costs (incentives), this project provides \$22 in benefits (payroll & tax revenue). **Note: For Erie County, every \$1 in costs (incentives) provides \$22 in benefits to the community.**

### New Tax Revenue Estimated

| Current Yearly Taxes           | Estimated New Assessed Value | Additional County Revenue over abatement period | Additional Local Revenue Over abatement period | New Yearly Taxes Upon Expiration of Abatement Period |
|--------------------------------|------------------------------|---|--|--|
| \$ 3,186                       | \$ 14.7 M                    | n/a   | n/a  | n/a  |
| Combined Tax Rate: \$ 24.31888 |                              |   |  |  |

### Draft Recapture Material Terms

| Condition               | Term                             | Recapture Provision   |
|-------------------------|----------------------------------|---|
| Total Investment        | At project completion            | Investment amount equal to or greater than 85% of project amount.<br>Total project amount = \$34,135,084<br>85% = \$ 29,014,821               |
| Employment              | Coincides with recapture period  | Maintain Base = 16 FT, 35 PT (33 FTE)<br>Create 85% of Projected<br>Projected = 15 PT<br>85% = 12 PT (6 FTE)<br>Recapture Employment = 39 FTE |
| Local Labor             | Coincides with recapture period  | Adherence to policy including quarterly reporting   |
| Pay Equity              | Coincides with recapture period  | Adherence to Policy   |
| Unpaid Tax              | Coincides with recapture period  | Adherence to Policy   |
| <u>Recapture Period</u> | 2 years after project completion | Recapture of Mortgage recording tax, state and local sales taxes  |

Recapture applies to:

State and Local Sales Taxes  
Mortgage Recording Tax

#### Recapture

Pursuant to New York State General Municipal Law, the agency shall modify, recover, recapture or terminate any financial assistance taken by the company that is in violation of the GML.

At completion of the project company must certify i) total investment amount is equal to or greater than 85% of the anticipated project amount; ii) company has maintained 16 FT, 35 PT jobs and created 12 PT jobs (85% of projected), iii) confirm adherence to local labor policy during construction and iv) its adherence to unpaid tax/pay equity policies for recapture term.

#### Project ECIDA History

- 6/27/23: Public hearing held.
- 7/26/23: Inducement Resolution presented to Board of Directors adopting a Negative Declaration in accordance with SEQRA
- 7/26/23: Lease/Leaseback Inducement Resolution presented to the Board of Directors
- 2/26/24: Public hearing held.
- 3/27/24: Inducement Resolution presented to Board of Directors adopting a Negative Declaration in accordance with SEQRA
- 3/27/24: Amended Lease/Leaseback Inducement Resolution presented to the Board of Directors

EVALUATIVE CRITERIA  
 BACK OFFICE/DATA/CALL CENTERS  
 BPS Commissary Kitchen - 2024 Modification

| Evaluative Criteria                                       | Notes   |
|---|---|
| Wage Rate (above median wage for area)                    | Average wage for FT = \$59,600. Average wage for PT = \$30,000  |
| Regional Wealth Creation (% sales/customers outside area) | 81% of sales are within Erie County.  |
| In Region Purchases (% of overall purchases)              | 100% of total supplies, raw materials and vendor services will be purchased from firms in Erie County.                  |
| Supports Local Business or Cluster                        | N/A   |
| Retention/Flight Risk                                     | N/A   |
| LEED/Renewable Resources                                  | N/A   |
| MBE/WBE Utilization                                       | See attached.   |
| Workforce Access – Proximity to Public Transportation     | Site is located on the NFTA 26 Delavan bus line. Approx 50% of employees of this project rely on public transportation. |

DATE OF INDUCEMENT: 3/27/24

# Erie County Industrial Development Agency

## MRB Cost Benefit Calculator



Date: February 23, 2024  
 Project Title: 1016 East Delevan, LLC  
 Project Location: 1016-1044 East Delevan Ave, Buffalo, NY 14215

### Economic Impacts

Summary of Economic Impacts over the Life of the PILOT

Project Total Investment  
 \$34,135,084

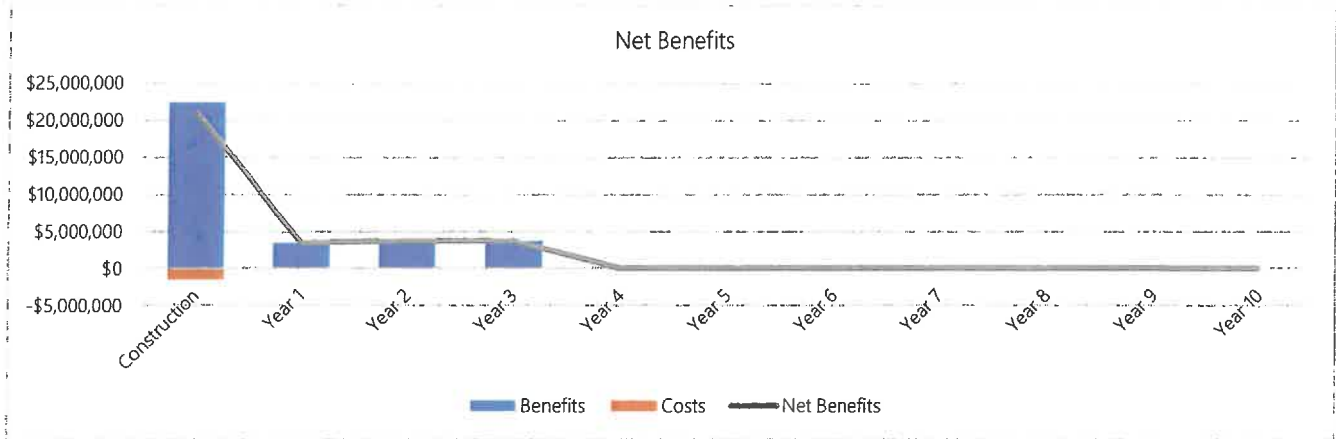
|             |  | Temporary (Construction) |              |              |
|-------------|--|--------------------------|--------------|--------------|
|             |  | Direct                   | Indirect     | Total        |
| Jobs        |  | 156                      | 131          | 287          |
| Earnings    |  | \$13,717,997             | \$7,492,130  | \$21,210,127 |
| Local Spend |  | \$32,769,681             | \$23,202,123 | \$55,971,804 |

|          |  | Ongoing (Operations) |             |              |
|----------|--|----------------------|-------------|--------------|
|          |  | Direct               | Indirect    | Total        |
| Jobs     |  | 40                   | 10          | 50           |
| Earnings |  | \$6,320,400          | \$3,918,210 | \$10,238,610 |

Aggregate over life of the PILOT

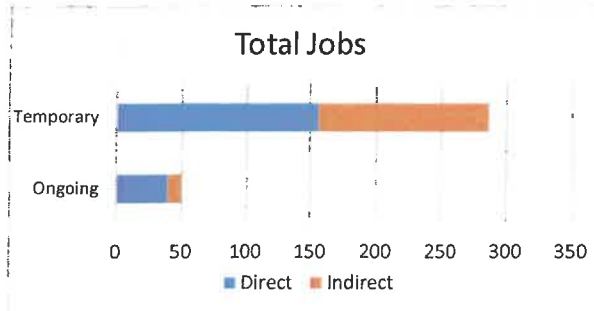
Figure 1



Net Benefits chart will always display construction through year 10, irrespective of the length of the PILOT.

Figure 2

Figure 3



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Ongoing earnings are all earnings over the life of the PILOT.

# Fiscal Impacts



Cost-Benefit Analysis Tool powered by MRB Group

## Estimated Costs of Exemptions

|  | Nominal Value      | Discounted Value*  |
|--|--------------------|--------------------|
| Property Tax Exemption                 | \$0                | \$0                |
| Sales Tax Exemption                    | \$1,263,247        | \$1,263,247        |
| Local Sales Tax Exemption              | \$685,763          | \$685,763          |
| State Sales Tax Exemption              | \$577,484          | \$577,484          |
| Mortgage Recording Tax Exemption       | \$216,750          | \$216,750          |
| Local Mortgage Recording Tax Exemption | \$72,250           | \$72,250           |
| State Mortgage Recording Tax Exemption | \$144,500          | \$144,500          |
| <b>Total Costs</b>                     | <b>\$1,479,997</b> | <b>\$1,479,997</b> |

## State and Local Benefits

|   | Nominal Value       | Discounted Value*   |
|---|---------------------|---------------------|
| <b>Local Benefits</b>                       | <b>\$31,782,404</b> | <b>\$31,374,851</b> |
| To Private Individuals                      | \$31,448,737        | \$31,045,949        |
| Temporary Payroll                           | \$21,210,127        | \$21,210,127        |
| Ongoing Payroll                             | \$10,238,610        | \$9,835,822         |
| Other Payments to Private Individuals       | \$0                 | \$0                 |
| To the Public                               | \$333,668           | \$328,903           |
| Increase in Property Tax Revenue            | \$0                 | \$0                 |
| Temporary Jobs - Sales Tax Revenue          | \$176,309           | \$176,309           |
| Ongoing Jobs - Sales Tax Revenue            | \$85,108            | \$81,760            |
| Other Local Municipal Revenue               | \$72,250            | \$70,833            |
| <b>State Benefits</b>                       | <b>\$1,635,334</b>  | <b>\$1,614,389</b>  |
| To the Public                               | \$1,635,334         | \$1,614,389         |
| Temporary Income Tax Revenue                | \$954,456           | \$954,456           |
| Ongoing Income Tax Revenue                  | \$460,737           | \$442,612           |
| Temporary Jobs - Sales Tax Revenue          | \$148,471           | \$148,471           |
| Ongoing Jobs - Sales Tax Revenue            | \$71,670            | \$68,851            |
| <b>Total Benefits to State &amp; Region</b> | <b>\$33,417,739</b> | <b>\$32,989,241</b> |

## Benefit to Cost Ratio

|                    | Benefit*            | Cost*              | Ratio       |
|--------------------|---------------------|--------------------|-------------|
| Local              | \$31,374,851        | \$758,013          | 41:1        |
| State              | \$1,614,389         | \$721,984          | 2:1         |
| <b>Grand Total</b> | <b>\$32,989,241</b> | <b>\$1,479,997</b> | <b>22:1</b> |

\*Discounted at 2%

## Additional Comments from IDA

Does the IDA believe that the project can be accomplished in a timely fashion? Yes

# MBE/WBE Utilization



ECIDA encourages applicants to utilize MBE/WBE contractors for their projects.

Describe your company's internal practices that promote MBE/WBE hiring and utilization:

With consideration to the neighborhood and community for which this new project will be constructed, we fully support and strive to create healthy community involvement in all aspects of development and construction of this new commissary building. We are committed to successfully implementing a plan to ensure that certified minority and women-owned businesses (MWBEs) are encouraged to participate in this exciting project. Through comprehensive monitoring and training, coupled with active community outreach, our team and those we work with continue to service the MWBE business community on all of our projects.

We are proud to utilize a strategy that has a proven track record in achieving diversity in our business relationships, for which our utilization goals of 25% MBE and 10% WBE contractor involvement are consistently attainable. Not just our team, but those we work with, such as BCC, have always met or exceeded MWBE requirements for their projects across Western New York. Additionally, Buffalo Public Schools and the City of Buffalo Board of Education have a diverse pool of employees, with active racial and gender recruitment. At the current Commissary, the employee pool is 78% women and 83% minority.

## PUBLIC HEARING SCRIPT

**1016 East Delavan, LLC and/or  
Individual(s) or Affiliate(s),  
Subsidiary(ies), or Entity(ies) formed or  
to be formed on its behalf Project**

Public Hearing to be held on February 26, 2024, at 9:00 a.m.  
at the Erie County Industrial Development Agency's offices located at  
95 Perry Street, Suite 403, Buffalo, NY 14203

### ATTENDANCE:

Enrico D'Abate – McGuire Development  
Ben Tsujimoto – The Buffalo News  
Carrie Hocienec – ECIDA  
Brian Krygier – ECIDA

### 1. WELCOME: Call to Order and Identity of Hearing Officer.

*Hearing Officer:* Welcome. This public hearing is now open; it is 9:03 a.m. My name is Grant Lesswing. I am the Director of Business Development of the Erie County Industrial Development Agency, and I have been designated by the Agency to be the hearing officer to conduct this public hearing. This public hearing is being live-streamed and made accessible on the Agency's website at [www.ecidany.com](http://www.ecidany.com).

### 2. PURPOSE: Purpose of the Hearing.

*Hearing Officer:* We are here to hold the public hearing on the 1016 East Delavan, LLC and/or Individual(s) or Affiliate(s), Subsidiary(ies), or Entity(ies) formed or to be formed on its behalf project. The transcript of this hearing will be reviewed and considered by the Agency in determination of this project. Notice of this hearing appeared in The Buffalo News on Tuesday, February 13, 2024.

### 3. PROJECT SUMMARY: Description of Project and Contemplated Agency Benefits.

*Hearing Officer:* The proposed project (the "Project") consists of: (i) the acquisition by the Agency of a leasehold interest in certain property located on 1016-1044 East Delavan Avenue, City of Buffalo, Erie County, New York, and all other lands in the City of Buffalo where, by license or easement or other agreement, the Company or its designees are making improvements that benefit the Project (the "Land"); (ii) the construction on the Land of an approximately 61,000+/- square-foot, single-story commissary kitchen for the sole use of the Buffalo Public Schools involving the installation of two industrial kitchens with meal preparation tables and commercial ovens as



well as office spaces for administration and a "test kitchen" that will serve as a conference room/community space for local community meetings and training for food service employees (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"). The Facility will be initially owned by the Company.

The proposed financial assistance contemplated by the Agency includes New York State and local sales and use tax exemption benefits and mortgage recording tax exemption benefits (in compliance with Agency's uniform tax exemption policy).

**4. FORMAT OF HEARING: Review rules and manner in which the hearing will proceed.**

*Hearing Officer:* All those in attendance are required to register by signing the sign-in sheet at the front of the room; you will not be permitted to speak unless you have registered. Everyone who has registered will be given an opportunity to make statements and/or comments on the Project.

If you have a written statement or comment to submit for the record, you may leave it at this public hearing, submit it on the Agency's website or deliver it to the Agency at 95 Perry Street, Suite 403, Buffalo, New York 14203. The comment period closes on March 26, 2024. There are no limitations on written statements or comments.

**5. PUBLIC COMMENT: Hearing Officer gives the Public an opportunity to speak.**

*Hearing Officer:* If anyone is interested in making a statement or comment, please raise your hand, state your name and address; if you are representing a company, please identify the company. I request that speakers keep statements and/or comments to 5 minutes, and if possible, 3 minutes.

Enrico D'Abate – Project Manager, McGuire Development, 455 Cayuga Road, Buffalo, NY 14225. I am here today to have our benefits reassessed both for the mortgage recording tax and the sales tax benefits. As a result of costs increasing from where the project was when we first received approval of these benefits to what the costs are now to date. Looking ahead to hopefully start construction soon.

**6. ADJOURNMENT:**

As there were no further statements and/or comments, the Hearing Officer closed the public hearing at 9:07 a.m.

**SIGN IN SHEET  
PUBLIC HEARING**

February 26, 2024, at 9:00 a.m.  
at the the Erie County Industrial Development Agency's offices located at  
95 Perry Street, Suite 403, Buffalo, NY 14203, regarding:

**1016 East Delavan, LLC and/or Individual(s) or Affiliate(s),  
Subsidiary(ies), or Entity(ies) formed or to be formed on its behalf**

Project Location: 1016-1044 East Delavan Avenue, City of Buffalo, Erie County, New York

| <b>Name</b>      | <b>Company and/or Address</b>                                      | <b>X box to speak/<br/>comment</b> |
|------------------|--|------------------------------------|
| Enrico D'Abate   | McGuire Development<br>455 Cayuga Road<br>Buffalo, New York 14225  | X                                  |
| Ben Tsujimoto    | The Buffalo News<br>726 Exchange Street<br>Buffalo, New York 14203 |                                    |
| Carrie Hocieniec | ECIDA<br>95 Perry Street, Suite 403<br>Buffalo, New York 14203     |                                    |
| Brian Krygier    | ECIDA<br>95 Perry Street, Suite 403<br>Buffalo, New York 14203     |                                    |
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**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**  
**FIRST AMENDMENT TO INDUCEMENT RESOLUTION**  
*(Amendatory Resolution)*

**1016 EAST DELAVAN, LLC, AND/OR INDIVIDUAL(S) OR AFFILIATE(S),**  
**SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS**  
**BEHALF**

A regular meeting of the Erie County Industrial Development Agency was convened on Wednesday, March 27, 2024 at 12:00 p.m.

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

AMENDATORY RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE APPROVAL OF (i) A REVISED SALES TAX EXEMPTION BENEFIT AND A REVISED MORTGAGE RECORDING TAX EXEMPTION BENEFIT, (ii) THE ELIMINATION OF A REAL PROPERTY TAX ABATEMENT BENEFIT, AND (iii) CERTAIN REVISED MATERIAL TERMS AND CONDITIONS RELATED TO THE PROVISION OF FINANCIAL ASSISTANCE WITH RESPECT TO THE 1016 EAST DELAVAN, LLC PROJECT (AS MORE FULLY DESCRIBED BELOW)

**WHEREAS**, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 293 of the Laws of 1970 of the State of New York, as amended (collectively, the “Act”), the ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the “Agency”) was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing, commercial and other facilities as authorized by the Act; and

**WHEREAS**, 1016 EAST DELAVAN, LLC or on behalf of an affiliated entity formed or to be formed (the “Company”) has submitted an application to the Agency (the “Application”) requesting the Agency’s assistance with a certain project (the “Project”) consisting of: (i) the acquisition by the Agency of a leasehold interest in certain property located on 1016-1044 East Delavan Avenue, City of Buffalo, Erie County, New York, and all other lands in the City of Buffalo where, by license or easement or other agreement, the Company or its designees are making improvements that benefit the Project (the “Land”); (ii) the construction on the Land of an approximately 67,000+/- square-foot, single-story commissary kitchen for the sole use of the Buffalo Public Schools to prepare and distribute school meals to all schools in the district. The facility will cook onsite, using locally grown products, creating fresh and high-quality meal options for students. The new facility will include two industrial kitchens with large meal preparation tables and large, commercial ovens as well as office spaces for administration and a "test kitchen" that will serve as a conference room/community space that will be available for local community meetings and training for food service employees (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"). The Facility will be initially operated and/or managed by the Company; and

**WHEREAS**, by resolution adopted on July 26, 2023 (the "Original Resolution") the Agency authorized financial assistance to the Company with respect to the Application in the form of (a) an exemption benefit from all New York State and local sales and use taxes for purchases and rentals related to the Project with respect to the qualifying personal property included in or incorporated into the Facility or used in the acquisition, construction, reconstruction and/or renovation, rehabilitation or equipping of the Facility, (b) a mortgage recording tax exemption benefit for the financing related to the Project, and (c) a partial abatement from real property taxes benefit through a ten (10) year "payment in lieu of tax agreement" (the "PILOT Agreement") with the Company for the benefit of each municipality and school district having taxing jurisdiction over the Project, (collectively, the sales and use tax exemption benefit, the mortgage recording tax exemption benefit, and the partial abatement from real property taxes benefit, are hereinafter collectively referred to as the "Financial Assistance"); and

**WHEREAS**, the Agency received notification from the Company dated January 31, 2024, stating that Project costs have increased and that the Buffalo School District intends to purchase the building post construction and on February 6, 2024, the Agency received an amended application for Financial Assistance (the "Amended Application") from the Company requesting an increase in New York State and local sales and use tax exemption benefits from \$1,177,537 up to an amount not to exceed \$1,263,247 (the "Revised Sales Tax Exemption Benefit") and an increase in mortgage recording tax exemption benefits from \$175,249 up to an amount not to exceed \$216,750 (the "Revised Mortgage Recording Tax Exemption Benefit"). The Company also advised the Agency that it would no longer require the Agency's PILOT Agreement and related real property tax abatement benefits; and

**WHEREAS**, pursuant to General Municipal Law Section 859-a, on February 26, 2024, at 9:00 a.m., at the Agency's offices, at 95 Perry Street, Suite 403, Buffalo, NY 14203, the Agency held a public hearing with respect to the Project and the Revised Sales Tax Exemption Benefit and the Revised Mortgage Recording Tax Exemption Benefit being contemplated by the Agency (the "Public Hearing") whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views; and

**WHEREAS**, the Agency desires to amend the Original Resolution with respect to the Revised Sales Tax Exemption Benefit and Revised Mortgage Recording Tax Exemption Benefit, to eliminate the PILOT Agreement real property tax abatement benefit, and to revise material terms and conditions as so related thereto.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:**

Section 1. All recitals, findings and determinations of the Agency contained in the Original Resolution are hereby reaffirmed, ratified, restated and incorporated herein by reference as if set forth herein in their entirety, except as modified by this Resolution.

Section 2. Based upon the representations made by the Company to the Agency in the Company's Amended Application and any other correspondence submitted by the Company to the Agency, public hearing comments, if any, Agency Policy Committee review of and recommendations related to the Project and its February 26, 2024 resolution to recommend Agency approval of the Project's Revised Sales Tax Exemption Benefit and Revised Mortgage Recording Tax Exemption Benefit, the Policy Committee and Agency board member review of the Project's cost benefit ratio, the costs of incentives so applied for, the anticipated new tax revenues to be generated by the Project, as well as the Project's contemplated community benefits, and Agency board member review, discussion, and consideration of same, the Agency hereby finds authorizes and approves of the Revised Sales Tax Exemption Benefit, the Revised Mortgage Recording Tax Exemption Benefit, and the elimination of the real property tax abatement benefit as approved within the Original Resolution.

Based upon the representations and warranties made by the Company in its Amended Application, subject to the terms and conditions as described herein, and Agency Board member review, discussion, and consideration of same, the Agency hereby finds, determines and hereby amends Section 3(A) of the Original Resolution in its entirety to read as follows:

(i) authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project and that would otherwise be subject to New York State and local sales and use tax in an amount estimated up to \$14,437,113, and, therefore, the value of the sales and use tax exemption benefits ("sales and use tax exemption benefits") authorized and approved by the Agency cannot exceed \$1,263,247, however, the Agency may consider any requests by the Company for increases to the amount of sales and use tax exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services; and

(ii) authorizes and approves that the value of the mortgage recording tax exemption benefit ("mortgage recording tax exemption benefits") shall not exceed \$216,750.

Section 4. Based upon the representations and warranties made by the Company in its Amended Application, subject to the terms and conditions as described herein, and Agency Board member review, discussion and consideration of same, the Agency hereby finds, determines and hereby amends Section 3(i) of the Original Resolution in its entirety to read as follows:

(i) Investment Commitment – the total investment made with respect to the Project at the time of Project completion equals or exceeds \$29,014,821 (which represents the product of 85% multiplied by \$34,135,084, being the total project cost as stated in the Company's Amended Application).

Section 5. Any and all references to the term “PILOT Agreement” and/or “a partial abatement from real property taxes benefit” as so contained within the Original Resolution are hereby eliminated and removed as if such terms were never set forth within the Original Resolution and such terms shall be of no impact or effect.

Section 6. Unless otherwise amended pursuant to the terms contained herein, the terms of the Original Resolution shall remain unchanged.

Section 6. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such 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 Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 7. All actions heretofore undertaken by the Agency and the Company as agent of the Agency are ratified and approved and the Agency and the Company, as agent of the Agency, are hereby authorized to continue to undertake the Project.

Section 8. These Resolutions shall take effect immediately.

Dated: March 27, 2024



## BPS Commissary Kitchen

[Instructions and Insurance Requirements Document](#)

### Section I: Applicant Background Information

Please answer all questions. Use "None" or "Not Applicable" where necessary. Information in this application may be subject to public review under New York State Law.

#### Applicant Information- Company Receiving Benefit

|                            |  |
|----------------------------|--|
| <b>Project Name</b>        | BPS Commissary Kitchen   |
| <b>Project Summary</b>     | A newly constructed 60,984-square-foot light industrial building located at 1016 East Delavan Avenue, which will serve as the new commissary kitchen for Buffalo Public Schools. This will include two industrial kitchens, 2 frozen storage coolers, two dry storage cools, one 18-wheeler truck dock, a pull through loading garage, and a box truck loading area. Additionally, there will be a test kitchen/conference room space that will be available to the community for public use/meetings. |
| <b>Applicant Name</b>      | 1016 East Delavan, LLC   |
| <b>Applicant Address</b>   | 455 Cayuga Road  |
| <b>Applicant Address 2</b> | Suite 100  |
| <b>Applicant City</b>      | Buffalo  |
| <b>Applicant State</b>     | New York   |
| <b>Applicant Zip</b>       | 14225  |
| <b>Phone</b>               | (716) 880-9198   |
| <b>Fax</b>                 |  |
| <b>E-mail</b>              | enrico@mcg-dev.com   |
| <b>Website</b>             | www.mcg-dev.com  |
| <b>NAICS Code</b>          | 236220   |

#### Business Organization

**Type of Business**  
Limited Liability Company

**Year Established**  
2006

**State**  
New York

#### **Indicate if your business is 51% or more (Check all boxes that apply)**

[No] Minority Owned  
 [No] Woman Owned

#### **Indicate Minority and/or Woman Owned Business Certification if applicable (Check all boxes that apply)**

[No] NYS Certified  
 [No] Erie Country Certified

### Individual Completing Application

**Name** Enrico R. D'Abate  
**Title** Project Manager  
**Address** 455 Cayuga Road  
**Address 2** Suite 100  
**City** Buffalo  
**State** New York  
**Zip** 14225  
**Phone** (716) 880-9198  
**Fax**  
**E-Mail** enrico@mcg-dev.com

### Company Contact- Authorized Signer for Applicant

**Contact is same as individual completing application** No  
**Name** Eric Ekman  
**Title** Vice President, Development & Acquisitions  
**Address** 455 Cayuga Road  
**Address 2** Suite 100  
**City** Buffalo  
**State** New York  
**Zip** 14225  
**Phone** (716) 829-1563  
**Fax**  
**E-Mail** eric@mcg-dev.com

### Company Counsel

**Name of Attorney** Michael M. Blinkoff  
**Firm Name** Blinkoff & Blinkoff, P.C.  
**Address** 501 John James Audubon Pkwy  
**Address 2** Suite 400  
**City** Amherst  
**State** New York  
**Zip** 14228  
**Phone** (716) 332-6104  
**Fax** (716) 332-6183  
**E-Mail** mblinkoff@blinkoff.com

### Benefits Requested (select all that apply).

**Exemption from Sales Tax** Yes



|   |     |
|---|-----|
| <b>Exemption from Mortgage Tax</b>      | Yes |
| <b>Exemption from Real Property Tax</b> | No  |
| <b>Tax Exempt Financing*</b>            | No  |

\* (typically for not-for-profits & small qualified manufacturers)

Applicant Business Description

**Describe in detail company background, history, products and customers. Description is critical in determining eligibility. Also list all stockholders, members, or partners with % ownership greater than 20%.**

The property and new commissary will be solely and wholly owned by 1016 East Delavan, LLC, and will then be sold to the School District following construction completion. 1016 East Delavan, LLC is a Limited Liability Company created for the purpose of providing a new commissary kitchen for Buffalo Public Schools, and is an arm of McGuire Development Company. For more than 50 years, since the founding of Frank McGuire's first company in 1960, the McGuire name has been synonymous with honesty, integrity, and hard work. The McGuire Development Company portfolio is diverse, and has a proven track record to produce the highest quality development projects for municipal entities. The most recent was the redevelopment of 75 West Huron into the Buffalo School of Culinary Arts and Hospitality Management. This project displayed McGuire's ability to utilize Brownfield and Historic Tax Credits to make the project feasible and produce the most favorable rent for Buffalo Public Schools. Similar to the Buffalo School of Culinary Arts and Hospitality Management project, this new commissary building will be a food service-focused municipal building with strict programming requirements. It is McGuire Development and 1016 East Delavan, LLC's mission to deliver a high-functioning, long-lasting asset for Buffalo Public Schools and the City of Buffalo. With a history of strong relationships with lenders who have supported the work that McGuire has done throughout Erie County, as well as the means to meet the equity needs and have true stake in the success of its projects, McGuire Development Company is a committed partner in the growth and prosperity of the Buffalo-Niagara region.

|   |      |
|---|------|
| <b>Estimated % of sales within Erie County</b>                            | 81 % |
| <b>Estimated % of sales outside Erie County but within New York State</b> | 1 %  |
| <b>Estimated % of sales outside New York State but within the U.S.</b>    | 18 % |
| <b>Estimated % of sales outside the U.S.</b>                              | 0 %  |

(\*Percentage to equal 100%)

**For your operations, company and proposed project what percentage of your total annual supplies, raw materials and vendor services are purchased from firms in Erie County?**

100

**Describe vendors within Erie County for major purchases**

Great Lakes Building Systems, Inc. Gypsum Systems, LLC PCS Plumbing & Heating, Inc. Dival Safety and Supplies Allied Mechanical

## Section II: Eligibility Questionnaire - Project Description & Details

### Project Location

**Address of Proposed Project Facility**

1016-1044 East Delavan Avenue

**Town/City/Village of Project Site**

Buffalo

**School District of Project Site**

Buffalo Public Schools

**Current Address (if different)**

1055 East Delavan Avenue

**Current Town/City/Village of Project Site (if different)**

Buffalo

**SBL Number(s) for proposed Project**

SBL No. 90.72-1-44 & 90.72-1-43

**What are the current real estate taxes on the proposed Project Site**

1,960

**If amount of current taxes is not available, provide assessed value for each.**

Land

\$ 87,000

Building(s)

\$ 0

If available include a copy of current tax receipt.

**Are Real Property Taxes current at project location?**

Yes

**If no please explain**

\*The ECIDA has an unpaid tax policy and you will be required to certify all taxes and PILOTS are current.

**Does the Applicant or any related entity currently hold fee title or have an option/contract to purchase the Project site?**

Yes

**If No, indicate name of present owner of the Project Site**

**Does Applicant or related entity have an option/contract to purchase the Project site?**

Yes

**Describe the present use of the proposed Project site (vacant land, existing building, etc.)**

Parking lot and Vacant Land

**Provide narrative and purpose of the proposed project (new build, renovations) square footage of existing and new construction contemplated and/or equipment purchases. Identify specific uses occurring within the project. Describe any and all tenants and any/all end users: (This information is critical in determining project eligibility)**

This project will include new construction of a 61,000 square foot, single-story commissary kitchen for the sole use and operation of Buffalo Public Schools to prepare and distribute school meals to all schools in the district, as well as other public-serving organizations. The biggest factor that has spurred the interest in a new commissary building is existing safety concerns at the current facility. Additionally, the existing facility cannot meet the needs of the new programming requirements of the student meal plan created by Buffalo Public Schools. Part of this initiative is to have a facility that can cook onsite, using locally grown products, creating fresh and high-quality meal options for the students. As a result, the new building will include two industrial kitchens with large meal preparation tables and large, commercial ovens. The new building will also include office spaces for administration, and a "test kitchen" that will serve as a conference room/community space that will be available for local community meetings and training for food service employees. With over 27,000 meals distributed per day during the school year, and 10,000 meals per day during the school's summer program, Buffalo Public Schools needs a facility that can function at a higher level, produce healthier meals for the students in the school district, and promote a safer environment for its staff. The deal between the School District and Developer has changed from a long-term lease to a sale in order to align with the municipal funding that has been approved and allocated by the School District, which is why the Project deal has changed. A build-to-suit new construction Project of this magnitude required a dedicated and experienced team, which McGuire provide to the District. The current approach is the most cost-effective route to meet the School District's expanded program and short timeline, and the ECIDA benefits are critical to maintaining a feasible construction budget.

#### **Municipality or Municipalities of current operations**

City of Buffalo

#### **Will the Proposed Project be located within a Municipality identified above?**

Yes

#### **Will the completion of the Project result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state OR in the abandonment of one or more plants or facilities of the project occupant located within the state?**

No

#### **If the Proposed Project is located in a different Municipality within New York State than that Municipality in which current operations are being undertaken, is it expected that any of the facilities in any other Municipality will be closed or be subject to reduced activity?**

No

(If yes, you will need to complete the Intermunicipal Move Determination section of this application)

#### **Is the project reasonably necessary to prevent the project occupant from moving out of New York State?**

No

#### **If yes, please explain and identify out-of-state locations investigated, type of assistance offered and provide supporting documentation available**

#### **Have you contacted or been contacted by other Local, State and/or Federal Economic Development Agencies?**

No

#### **If yes, please indicate the Agency and nature of inquiry below**

#### **If the Project could be undertaken without Financial Assistance provided by the Agency, then provide a statement in the space provided below indicating why the Project should be undertaken by the Agency:**

#### **Describe the reasons why the Agency's financial assistance is necessary, and the effect the Project will have on the Applicant's business or operations. Focus on competitiveness issues, project shortfalls, etc... Your eligibility determination will be based in part on your answer (attach additional pages if necessary)**

The goal of this project is to provide a new, safer and better performing kitchen for Buffalo Public Schools, who have outgrown the current facility that they operate in. To meet the programming requirements set forth by Buffalo Public Schools, following our initial bid package and award of this project, the initially projected development costs have increased, which directly impacts the purchase price, and has made the project financially complicated for Buffalo Public Schools. The overall shell construction has changed from a pre-fabricated metal building to traditional, steel-frame construction. Without the sales tax and mortgage tax exemptions provided by the ECIDA, the costs of the project will increase the total development costs and increase the sale price beyond what is feasible for Buffalo Public Schools. These exemptions will allow the sale price to be maintained at the Board of Education approved price.

#### **Please confirm by checking the box, below, if there is likelihood that the Project would not be undertaken but for the Financial Assistance provided by the Agency**

Yes

#### **If the Applicant is unable to obtain Financial Assistance for the Project, what will be the impact on the Applicant and Erie County?**

The investment currently made into this project by McGuire Development and 1016 East Delavan, LLC has been substantial, and that investment will be lost. Without the Mortgage and Sales Tax Benefits, the total development costs will lead to increases in the Project sale price, which would create further delays in construction start, as the Board of Education would have to reapprove a new sale price, which may not be feasible from the City School District's Budgetary standing. The Financial Assistance from the ECIDA on this Project has kept the deal for both parties feasible, and without them, the increases in construction costs will ultimately lead to the Project's failure to launch. Additionally, these delays would push out construction completion beyond the School District's current lease term (Sept. 2025). If this Project cannot go forward, the Buffalo City School District will be forced to renew in a space that has been identified as undersized, hazardous and underequipped to meet the needs of the incoming food service program.

**Will project include leasing any equipment?**

No

If yes, please describe equipment and lease terms.

Site Characteristics

**Is your project located near public transportation?**

Yes

**If yes describe if site is accessible by either metro or bus line (provide route number for bus lines)**

Yes, the site would be located on the NFTA "26 Delavan" bus line. About half of the employees of this project rely heavily on public transportation.

**Has your local municipality and/or its planning board made a determination regarding the State Environmental Quality Review (SEQR) for your project?**

Yes

**If YES indicate in the box below the date the SEQR determination was made. Also, please provide us with a copy of the approval resolution and the related Environmental Assessment Form (EAF) if applicable.**

**If NO indicate in the box below the date you anticipate receiving a SEQR determination for your project. Also, please insure that the ECIDA has been listed as an "involved agency" on the related EAF submitted to the appropriate municipality and/or planning department.**

07/17/2023

**Will the Project meet zoning/land use requirements at the proposed location?**

Yes

**Describe the present zoning/land use**

D-IL: Light Industrial: This use allows the light industrial activity and distribution that is consistent with the zoning requirements for the project.

**Describe required zoning/land use, if different**

The only additional zoning measure is to seek variances of curb cut widths along William L. Gaiter Parkway for larger vehicle delivery and shipments.

**If a change in zoning/land use is required, please provide details/status of any request for change of zoning/land use requirements**

We have received curb cut permits for the truck entrances off of Williams L. Gaiter Parkway.

**Is the proposed Project located on a site where the known or potential presence of contaminants is complicating the development/use of the property?**

No

**If yes, please explain**

**Has a Phase I Environmental Assessment been prepared, or will one be prepared with respect to the proposed Project Site?**

Yes

If yes, please provide a copy.

**Have any other studies, or assessments been undertaken with respect to the proposed Project Site that indicate the known or suspected presence of contamination that would complicate the site's development?**

No



**Provide estimate of additional construction cost as a result of LEED certification you are seeking** < BLANK >

**Will project result in significant utility infrastructure cost or uses** Yes

What is the estimated project timetable (provide dates).

**Start date : acquisition of equipment or construction of facilities**

4/1/2024

**End date : Estimated completion date of project**

8/31/2025

**Project occupancy : estimated starting date of occupancy**

9/1/2025

Capital Project Plan / Budget

**Estimated costs in connection with Project**

**1.) Land and/or Building Acquisition**

\$ 1,110,000

229,221 square feet

5 acres

**2.) New Building Construction**

\$ 26,249,298

60,984 square feet

**3.) New Building addition(s)**

\$ 0

square feet

**4.) Reconstruction/Renovation**

\$ 0

square feet

**5.) Manufacturing Equipment**

\$ 0

**6.) Infrastructure Work**

\$ 0

**7.) Non-Manufacturing Equipment: (furniture, fixtures, etc.)**

\$ 0

**8.) Soft Costs: (Legal, architect, engineering, etc.)**

\$ 6,775,786

**9.) Other Cost**

\$ 0

**Explain Other Costs**

**Total Cost** \$ 34,135,084

Construction Cost Breakdown:

**Total Cost of Construction** \$ 26,249,298 (sum of 2, 3, 4 and 6 in Project Information, above)

**Cost of materials** \$ 14,437,113

**% sourced in Erie County** 100%

Sales and Use Tax:

**Gross amount of costs for goods and services that are subject to State and local sales and use tax- said amount to benefit from the Agency's sales and use tax exemption benefit** \$ 14,437,113

**Estimated State and local Sales and Use Tax Benefit (product of 8.75% multiplied by the figure, above):** \$ 1,263,247

\*\* Note that the estimate provided above will be provided to the New York State Department of Taxation and Finance. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to undertake the total amount of investment as proposed within this Application, and that the estimate, above, represents the maximum amount of sales and use tax benefit that the Agency may authorize with respect to this Application. The Agency may utilize the estimate, above, as well as the proposed total Project Costs as contained within this Application, to determine the Financial Assistance that will be offered.

**Project refinancing estimated amount, if applicable (for refinancing of existing debt only)** \$ 0

**Have any of the above costs been paid or incurred as of the date of this Application?** No

**If Yes, describe particulars:**

Sources of Funds for Project Costs:

**Equity (excluding equity that is attributed to grants/tax credits):** \$ 6,427,500

**Bank Financing:** \$ 28,900,000

**Tax Exempt Bond Issuance (if applicable):** \$ 0

**Taxable Bond Issuance (if applicable):** \$ 0

**Public Sources (Include sum total of all state and federal grants and tax credits):** \$ 0

**Identify each state and federal grant/credit: (ie Historic Tax Credit, New Market Tax Credit, Brownfield, Cleanup Program, ESD, other public sources)**

**Total Sources of Funds for Project Costs:** \$35,327,500

**Have you secured financing for the project?** No

Mortgage Recording Tax Exemption Benefit:

Amount of mortgage, if any that would be subject to mortgage recording tax:

**Mortgage Amount (include sum total of construction/permanent/bridge financing).** 28,900,000

**Lender Name, if Known**

**Estimated Mortgage Recording Tax Exemption Benefit (product of mortgage amount as indicated above multiplied by 3/4 of 1%):** \$216,750

Real Property Tax Benefit:

**Identify and describe if the Project will utilize a real property tax exemption benefit other than the Agency's PILOT benefit (485-a, 485-b, other):**

IDA PILOT Benefit: Agency staff will indicate the estimated amount of PILOT Benefit based on estimated Project Costs as contained herein and anticipated tax rates and assessed valuation, including the annual PILOT Benefit abatement amount for each year of the PILOT benefit and the sum total of PILOT Benefit abatement amount for the term of the PILOT as depicted in the PILOT worksheet in the additional document section.

Percentage of Project Costs financed from Public Sector sources: Agency staff will calculate the percentage of Project Costs financed from Public Sector sources based upon the Sources of Funds for Project Costs as depicted above. The percentage of Project Costs financed from

public sector sources will be depicted in the PILOT worksheet in the additional document section.

**Is project necessary to expand project employment?**

No

**Is project necessary to retain existing employment?**

No

**Will project include leasing any equipment?**

No

If yes, please describe equipment and lease terms.

Employment Plan (Specific to the proposed project location)

The Labor Market Area consists of the following six counties: Erie, Niagara, Chautauqua, Cattaraugus, Wyoming and Genessee.

By statute, Agency staff must project the number of FTE jobs that would be retained and created if the request for Financial Assistance is granted. Agency staff will project such jobs over the TWO Year time period following Project completion. Agency staff converts PT jobs into FTE jobs by dividing the number of PT jobs by two (2).

|                  | <b>Current # of jobs at proposed project location or to be relocated at project location</b> | <b>If financial assistance is granted – project the number of FT and PT jobs to be retained</b> | <b>If financial assistance is granted – project the number of FT and PT jobs to be created upon 24 months (2 years) after Project completion</b> | <b>Estimate number of residents of the Labor Market Area in which the project is located that will fill the FT and PT jobs to be created upon 24 months (2 years) after project completion **</b> |
|------------------|--|---|--|---|
| <b>Full time</b> | 16   | 16  | 0  | 0   |
| <b>Part time</b> | 35   | 35  | 15   | 15  |
| <b>Total</b>     | 51   | 51  | 15   |   |

Salary and Fringe Benefits for Jobs to be Retained and Created

| <b>Job Categories</b>         | <b># of Full Time Employees retained and created</b> | <b>Average Salary for Full Time</b> | <b>Average Fringe Benefits for Full Time</b> | <b># of Part Time Employees retained and created</b> | <b>Average Salary for Part Time</b> | <b>Average Fringe Benefits for Part Time</b> |
|-------------------------------|--|-------------------------------------|--|--|-------------------------------------|--|
| <b>Management</b>             | 4  | \$ 45,000                           | \$ 13,500                                    | 0  | \$ 0                                | \$ 0   |
| <b>Professional</b>           | 1  | \$ 100,000                          | \$ 30,000                                    | 0  | \$ 0                                | \$ 0   |
| <b>Administrative</b>         | 6  | \$ 68,000                           | \$ 20,000                                    | 0  | \$ 0                                | \$ 0   |
| <b>Production</b>             | 4  | \$ 40,000                           | \$ 12,000                                    | 50   | \$ 30,000                           | \$ 0   |
| <b>Independent Contractor</b> | 0  | \$ 0                                | \$ 0   | 0  | \$ 0                                | \$ 0   |
| <b>Other</b>                  | 1  | \$ 45,000                           | \$ 13,000                                    | 0  | \$ 0                                | \$ 0   |
| <b>Total</b>                  | 16   |                                     |  | 50   |                                     |  |

\*\* Note that the Agency may utilize the foregoing employment projections, among other items, to determine the financial assistance that will be offered by the Agency to the Applicant. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to retain the number of jobs and create the number of jobs with respect to the Project as set forth in this Application.

Yes **By checking this box, I certify that the above information concerning the current number of jobs at the proposed project location or to be relocated to the proposed project location is true and correct.**

Employment at other locations in Erie County: (provide address and number of employees at each location):

| <b>Address</b> | <b>Full time</b> | <b>Part time</b> |
|----------------|------------------|------------------|
|                | 0                | 0                |



|                  |   |   |   |
|------------------|---|---|---|
| <b>Part time</b> | 0 | 0 | 0 |
| <b>Total</b>     | 0 | 0 | 0 |

Payroll Information

**Annual Payroll at Proposed Project Site upon completion**

2,393,000

**Estimated average annual salary of jobs to be retained (Full Time)**

59,600

**Estimated average annual salary of jobs to be retained (Part Time)**

30,000

**Estimated average annual salary of jobs to be created (Full Time)**

0

**Estimated average annual salary of jobs to be created (Part Time)**

30,000

**Estimated salary range of jobs to be created**

|                         |        |                       |        |
|-------------------------|--------|-----------------------|--------|
| <b>From (Full Time)</b> | 0      | <b>To (Full Time)</b> | 0      |
| <b>From (Part Time)</b> | 30,000 | <b>To (Part Time)</b> | 30,000 |

### Section III: Environmental Questionnaire

INSTRUCTIONS: Please complete the following questionnaire as completely as possible. If you need additional space to fully answer any question, please attach additional page(s).

#### General Background Information

##### **Address of Premises**

1016-1044 East Delavan Avenue Buffalo, NY 14215

##### **Name and Address of Owner of Premises**

East Delavan Property, LLC 1016 & 1044 East Delavan Avenue Buffalo, NY 14215

##### **Describe the general features of the Premises (include terrain, location of wetlands, coastlines, rivers, streams, lakes, etc.)**

1016 East Delavan: This parcel is a full functioning parking lot with chain-link fencing and a 2-foot demising wall along the east property line. The western property line is adjacent to Norfolk Avenue and its southern property line is adjacent to Delavan Avenue. 1044 East Delavan: This parcel is a vacant stretch of land with gradual elevation increasing from the southern property line moving north. The western property line runs adjacent to William L. Gaiter Parkway and the southern property line is adjacent to Delavan Avenue.

##### **Describe the Premises (including the age and date of construction of any improvements) and each of the operations or processes carried out on or intended to be carried on at the Premises**

The current use of 1016 East Delavan Avenue is a parking lot for employees of OSC that is located at 1001 East Delavan Avenue, following the purchase of the land in 2008 from American Axel.

##### **Describe all known former uses of the Premises**

##### **Does any person, firm or corporation other than the owner occupy the Premises or any part of it?**

No

##### **If yes, please identify them and describe their use of the property**

##### **Have there been any spills, releases or unpermitted discharges of petroleum, hazardous substances, chemicals or hazardous wastes at or near the Premises?**

No

##### **If yes, describe and attach any incident reports and the results of any investigations**

##### **Has the Premises or any part of it ever been the subject of any enforcement action by any federal, state or local government entity, or does the preparer of this questionnaire have knowledge of: a) any current federal, state or local enforcement actions; b) any areas of non-compliance with any federal, state or local laws, ordinances, rules or regulations associated with operations over the past 12 months?**

No

##### **If yes, please state the results of the enforcement action (consent order, penalties, no action, etc.) and describe the circumstances**

##### **Has there been any filing of a notice of citizen suit, or a civil complaint or other administrative or criminal procedure involving the Premises?**

No

##### **If yes, describe in full detail**

#### Solid And Hazardous Wastes And Hazardous Substances

**Does any activity conducted or contemplated to be conducted at the premises generate, treat or dispose of any petroleum, petroleum-related products, solid and hazardous wastes or hazardous substances?**

No

**If yes, provide the Premises' applicable EPA (or State) identification number**

**Have any federal, state or local permits been issued to the Premises for the use, generation and/or storage of solid and hazardous wastes?**

No

**If yes, please provide copies of the permits.**

**Identify the transporter of any hazardous and/or solid wastes to or from the Premises**

**Identify the solid and hazardous waste disposal or treatment facilities which have received wastes from the Premises for the past two (2) years**

**Does or is it contemplated that there will occur at the Premises any accumulation or storage of any hazardous wastes on-site for disposal for longer than 90 days?**

No

**If yes, please identify the substance, the quantity and describe how it is stored**

### Discharge Into Waterbodies

**Briefly describe any current or contemplated industrial process discharges (including the approximate volume, source, type and number of discharge points). Please provide copies of all permits for such discharges**

N/A

**Identify all sources of discharges of water, including discharges of waste water, process water, contact or noncontact cooling water, and stormwater. Attach all permits relating to the same. Also identify any septic tanks on site**

N/A

**Is any waste discharged into or near surface water or groundwaters?**

No

**If yes, please describe in detail the discharge including not only the receiving water's classification, but a description of the type and quantity of the waste**

### Air Pollution

**Are there or is it contemplated that there will be any air emission sources that emit contaminants from the Premises?**

No

**If yes, describe each such source, including whether it is a stationary combustion installation, process source, exhaust or ventilation system, incinerator or other source**

**Are any of the air emission sources permitted?**

No

**If yes, attach a copy of each permit.**

### Storage Tanks

**List and describe all above and under ground storage tanks at the Premises used to store petroleum or gasoline products, or other chemicals or wastes, including the contents and capacity of each tank. Please also provide copies of any registrations/permits for the tanks**

N/A

**Have there been any leaks, spills, releases or other discharges (including loss of inventory) associated with any of these tanks?**

No

**If yes, please provide all details regarding the event, including the response taken, all analytical results or reports developed through investigation (whether internal or external), and the agencies which were involved**

Polychlorinated Biphenyls ("PCB" or "PCBs") And Asbestos

**Provide any records in your possession or known to you to exist concerning any on-site PCBs or PCB equipment, whether used or stored, and whether produced as a byproduct of the manufacturing process or otherwise.**

**Have there been any PCB spills, discharges or other accidents at the Premises?**

No

**If yes, relate all the circumstances**

**Do the Premises have any asbestos containing materials?**

No

**If yes, please identify the materials**

## Section IV: Facility Type - Single or Multi Tenant

### Is this a Single Use Facility or a Multi-Tenant Facility?

Single Use Facility

#### For Single Use Facility

**Occupant Name** Buffalo Public Schools  
**Address** 65 Niagara Square, Room 717 City Hall  
**Contact Person** Ruth Conner  
**Phone** (716) 816-3314  
**Fax** (716) 897-8041  
**E-Mail** RLConner@buffaloschools.org  
**Federal ID #**  
**SIC/NAICS Code** 611110

SS

## Section VI: Retail Determination

To ensure compliance with Section 862 of the New York General Municipal Law, the Agency requires additional information if the proposed Project is one where customers personally visit the Project site to undertake either a retail sale transaction or to purchase services.

Please answer the following:

**Will any portion of the project (including that portion of the costs to be financed from equity or other sources) consist of facilities or property that are or will be primarily used in making sales of goods or services to customers who personally visit the project site?**

No

If yes, complete the Retail Questionnaire Supplement below. **If no, proceed to the next section.**

## **Section VII: Adaptive Reuse Projects**

Adaptive Reuse is the process of adapting old structures or sites for new purposes.

**Are you applying for tax incentives under the Adaptive Reuse Program?**

No

**Section VIII: Inter-Municipal Move Determination**

The Agency is required by state law to make a determination that, if completion of a Project benefiting from Agency Financial Assistance results in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, Agency financial Assistance is required to prevent the project occupant from relocating out of the state, or is reasonably necessary to preserve the project occupant's competitive position in its respective industry.

**Current Address**

1055 East Delevan Avenue

**City/Town**

Buffalo

**State**

New York

**Zip Code**

14215

**Will the project result in the removal of an industrial or manufacturing plant of the Project occupant from one area of the state to another area of the state?**

No

**Will the project result in the abandonment of one or more plants or facilities of the Project occupant located within the state?**

Yes

**If Yes to either question, explain how, notwithstanding the aforementioned closing or activity reduction, the Agency's Financial Assistance is required to prevent the Project from relocating out of the State, or is reasonably necessary to preserve the Project occupant's competitive position in its respective industry:**

The newly constructed Commissary will be directly across Delavan Avenue from the existing one. This will require some of the existing equipment to be transferred from the old Commissary to the new one.

**Does this project involve relocation or consolidation of a project occupant from another municipality?**

**Within New York State**

No

**Within Erie County**

No

**If Yes to either question, please, explain**

**Will the project result in a relocation of an existing business operation from the City of Buffalo?**

No

**If yes, please explain the factors which require the project occupant to relocate out of the City of Buffalo (For example, present site is not large enough, or owner will not renew leases etc.)**

The

**What are some of the key requirements the project occupant is looking for in a new site? (For example, minimum sq. ft., 12 foot ceilings, truck loading docs etc.)**

A larger, at least 60,000 square-foot, facility, on a 3-acre plot of land that was industrial-zoned, with at least two incoming 18-wheeler truck port, at least one incoming box truck docks, and 20-foot minimum ceiling clearance. Additionally, the building will need to have three outgoing delivery bays.

**If the project occupant is currently located in Erie County and will be moving to a different municipality within Erie County, has the project occupant attempted to find a suitable location within the municipality in which it is currently located?**

Yes

**What factors have lead the project occupant to consider remaining or locating in Erie County?**



The project location is directly across the street from the current location.

**If the current facility is to be abandoned, what is going to happen to the current facility that project occupant is located in?**

The current facility is privately owned and will be put on the market to be leased out.

**Please provide a list of properties considered, and the reason they were not adequate. (Some examples include: site not large enough, layout was not appropriate, did not have adequate utility service, etc.) Please include full address for locations.**

320 Scajaquada Street: The site at 1016 & 1044 East Delavan Avenue was a better location with more presence in the community.

## **Section IX: Senior Housing**

IDA tax incentives may be granted to projects under the Agency's Senior Citizen Rental Housing policy when the project consists of a multi-family housing structure where at least 90% of the units are (or are intended to be) rented to and occupied by a person who is 60 years of age or older.

**Are you applying for tax incentives under the Senior Rental Housing policy?**

No

**Section X: Tax Exempt Bonds**

In order to receive the benefits of a tax-exempt interest rate bond, private borrowers and their projects must be eligible under one of the federally recognized private active bond categories (Fed Internal Rev Code IRC sections 142-144, and 1394).

**Are you applying for tax exempt bonds / refinancing of bonds related to a residential rental facility project?**

No



## **MEMORANDUM**

**Date:** March 27, 2024

**To:** Erie County Industrial Development Agency Board of Directors

**From:** ECIDA Staff

**Re:** Consent Request from TransDigm, Inc. ("TransDigm") with respect to its acquisition of Calspan Corporation

### **Summary:**

The Erie County Industrial Development Agency ("ECIDA") received a consent request on or about February 27, 2024 from TransDigm, Inc (the "Consent Request") in relation to two (2) active ECIDA projects located at 4455 Genesee Street, Cheektowaga, New York and 40 Sonwil Drive, Cheektowaga, New York (the "Projects").

In the Consent Request, TransDigm notified the ECIDA that it had acquired all of the outstanding equity interests of certain companies related to the foregoing Projects, including Calspan Corporation (the "Equity Transaction"). As part of the Equity Transaction, Calspan Corporation merged into Calspan Genesee, LLC, and Calspan Genesee, LLC remained as the surviving entity (the "Merger"). Thereafter, Calspan Genesee, LLC amended its name to Calspan, LLC (the "Name Amendment"). The Merger resulted in Calspan, LLC assuming the obligations of Calspan Corporation.

Pursuant to Section 2(p) in both (i) that certain Agent and Financial Assistance Project Agreement dated as of October 11, 2016 in relation to the 4455 Genesee Street Project, and (ii) that certain Agent and Financial Assistance Project Agreement dated as of February 9, 2021 (the "Project Agreement"), to which both the ECIDA and Calspan Corporation are parties, the ECIDA's consent to the Merger is required.

### **Requested Action:**

Seeking approval from the ECIDA Board of Directors to consent to the Merger as described in the Consent Request and to take all actions necessary to effectuate the foregoing.

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
RESOLUTION**

A regular meeting of the Erie County Industrial Development Agency was convened on Wednesday, March 27, at 12:00 p.m.

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

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY CONSENTING TO THE MERGER OF CALSPAN CORPORATION INTO CALSPAN, LLC (THE "MERGER") AS REQUIRED PURSUANT TO CERTAIN PROJECT AGREEMENTS BY AND BETWEEN CALSPAN CORPORATION AND THE AGENCY RELATED TO CERTAIN FACILITIES RECEIVING FINANCIAL ASSISTANCE FROM THE AGENCY

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 293 of the Laws of 1970 of the State of New York, as amended (collectively, the "Act"), the Erie County Industrial Development Agency (the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing, commercial and other facilities as authorized by the Act; and

WHEREAS, Calspan Corporation (the "Company"), along with certain affiliate entities including (i) Genesee Holdings, LLC, and (ii) 4455 Genesee Street, LLC (collectively, the "2017 Affiliates") previously submitted an application (the "2017 Application") to the Agency requesting the Agency's assistance with a certain project (the "2017 Project") consisting of: (i) a portion of land located at 4455 Genesee Street, Town of Cheektowaga, Erie County, New York (the "Genessee Land") to be improved thereon with a 50,000+/- SF multi-purpose vehicle dynamics testing facility comprised of research and development space to be utilized for the development of life-saving safety systems creating a new standard in vehicle and pedestrian safety (the "Genessee Improvements"), and (ii) the acquisition and installation by the Company of certain items of machinery, equipment and other tangible personal property (the "Genessee Equipment," and collectively with the Genessee Land and Genessee Improvements, the "Genessee Facility"); and

WHEREAS, in furtherance of the 2017 Project and the delivery of financial assistance to the Company in connection therewith, the Agency, the Company and the 2017 Affiliates entered into certain agreements, including a certain Agent and Financial Assistance Project Agreement (the "2017 Agent Agreement"); and

WHEREAS, the Company, along with certain affiliate entities including (i) Genesee Holdings III, LLC, (ii) 4455 Genesee Street, LLC and (iii) Calspan Development and Construction, LLC (collectively, the "2021 Affiliates") previously submitted an application (the "2021 Application") to the Agency requesting the Agency's assistance with a certain project (the "2021 Project") consisting of: (i) the acquisition by the Agency of a leasehold interest in certain

property located at 40 Sonwil Drive, Town of Cheektowaga, Erie County, New York (the "Sonwil Land") and any existing improvements located thereon, together with the approximately 65,000 +/- square foot building thereon (the "Sonwil Existing Improvements"), (ii) the renovation of the Sonwil Existing Improvements to be used by the Company and Affiliates for a sled testing laboratory which would house two highly precise and powerful vehicle test stands (the "Sonwil Improvements"); and (iii) the acquisition and installation therein, thereon or thereabout of certain machinery, equipment and related personal property (the "Sonwil Equipment" and, together with the Sonwil Land, the Sonwil Existing Improvements, and the Sonwil Improvements, the "Sonwil Facility"); and

WHEREAS, in furtherance of the 2021 Project and the delivery of financial assistance to the Company and Affiliates in connection therewith, the Agency, the Company and the Affiliates entered into certain agreements, including a certain Agent and Financial Assistance Project Agreement (the "2021 Agent Agreement," and collectively with the 2017 Agent Agreement, the "Agent Agreements"); and

WHEREAS, on or about May 8, 2023, TransDigm Group ("TransDigm") acquired all of the outstanding equity interests of Calspan Holdings, LLC and CHTC LLC (the "Equity Transaction"), and as part of such Equity Transaction, the Company merged into Calspan Genesee, LLC, which thereafter changed its name to Calspan, LLC (the "New Company") (the "Merger"); and

WHEREAS, TransDigm, by letter dated February 27, 2024, a copy of which is attached hereto as **Exhibit A** (the "Consent Request"), has requested the Agency's consent to the Merger pursuant to Section 2(p) of the Agent Agreements; and

WHEREAS, the Agency desires to consent to the Merger, subject to the potential recapture of Financial Assistance as so related thereto and described herein.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. Subject to the terms and conditions contained within the Agent Agreements and this resolution, the Agency hereby approves the Merger, along with the execution and delivery by the Agency of any and all documents necessary and incidental thereto; provided, however, that in all events, that the Facility and the operation thereof shall continue to constitute a "project" under the Act and in no way shall be materially changed or modified without the prior written consent of the Agency, and further provided that per the policies of the Agency, the Agency may recover or recapture from the New Company any local sales tax and use tax exemption benefits taken or purported to be taken by the New Company, if it is determined by the Agency that: (i) such local sales tax and use tax exemption benefits are taken by any such person to which the person is not entitled, and/or (ii) which are in excess of the amounts authorized as provided for in Section 2(h) of the Agent Agreements, and/or (iii) which are for property or services not authorized by the Agency in connection with the approval as so provided herein and as further described below (collectively, items (i) through (ii) hereby defined as a "Recapture Event").

As a condition precedent of receiving local sales tax and use tax exemption benefits, the New Company must (i) if a Recapture Event determination is made by the Agency, cooperate with the Agency in its efforts to recover or recapture any real property tax abatement benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands, if and as so required to be paid over as determined by the Agency.

As an additional condition precedent of receiving local sales tax and use tax exemption benefits, and as a material term or condition as approved by the Agency in connection with the Project, the New Company covenants and agrees and understands that it must, subject to potential recapture of local sales tax and use tax exemption benefits for failure to meet and maintain the thresholds as described below, submit, on an annual basis or as otherwise indicated below through the term of the PILOT Agreement, a certification, as so required by the Agency, confirming:

- (i) the total investment actually made with respect to each Project at each Project's construction completion date;
- (ii) the number of current FTE employees in the then current year at the Facilities; and
- (iii) that, through the term of the Agent Agreements, the New Company has maintained and created, or caused to be maintained and created, FTE employment at the Facility equal to:
  - a. With respect to the 2017 Project: one hundred twenty-two (122) FTE employees
  - b. With respect to the 2021 Project: one hundred sixty-one (161) FTE employees
- (iv) the New Company adheres to and undertakes or has undertaken construction activities in compliance with the Agency's Local Labor Workforce Certification Policy and Local Labor Reporting Requirements on a quarterly reporting basis during the construction period;
- (v) the New Company adheres to and undertakes or has undertaken activities in compliance with the Agency's Pay Equity Policy; and
- (vi) the New Company is compliant with the Agency's Unpaid Real Property Tax Policy.

Section 3. Subject to the terms of this Resolution, the Chairman, the Vice Chairman, the Chief Executive Officer, the Chief Operating Officer, the Executive Vice President, the Chief Financial Officer/Treasurer, and/or the Assistant Treasurer, are hereby authorized, on behalf of the Agency, to negotiate, execute and deliver any documents necessary and incidental to the Merger as contemplated herein.

Section 4. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to negotiate, execute and deliver all such certificates, instruments and documents 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 Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 5. These Resolutions shall take effect immediately.

Dated: March 27, 2024



**EXHIBIT A**  
**[ATTACHED]**

**TRANSDIGM**  
GROUP INC.

February 27, 2024

Erie County Industrial Development Agency  
95 Perry Street, Suite 403  
Buffalo, New York 14203  
Attn: Chief Executive Officer

cc: Harris Beach PLLC  
726 Exchange Street, Suite 1000  
Buffalo, New York 14210  
Attn: Robert G. Murray, Esq.

*RE: Erie County Industrial Development Agency's consent to the merger of Calspan Corporation into Calspan Genesee, LLC, as more particularly described below*

To Whom it May Concern:

Reference is hereby made to the following agreements in relation to the following projects:

2017 Project: 4455 Genesee Street, Cheektowaga, New York

(i) Agent and Financial Assistance Project Agreement, dated as of October 11, 2016, between Erie County Industrial Development Agency ("IDA") and Calspan Corporation, Genesee Holdings, LLC ("Genesee Holdings") and 4455 Genesee Street, LLC ("4455 Genesee") (the "2016 AFAPA"); (ii) Lease Agreement, dated as of May 1, 2017, between Genesee Holdings and IDA (the "Genesee Lease Agreement"); (iii) Leaseback Agreement, dated as of May 1, 2017, between IDA and Genesee Holdings (the "Genesee Leaseback Agreement"); (iv) Payment in Lieu of Tax Agreement, dated as of May 1, 2017, between Genesee Holdings and IDA (the "Genesee PILOT Agreement"), and (v) Pilot Mortgage Agreement, dated as of May 1, 2017, between IDA and Genesee Holdings (the "PILOT Mortgage Agreement") (collectively, the "2017 Project Documents")

2022 Project: 40 Sonwil Drive, Cheektowaga, New York

(i) Agent and Financial Assistance Project Agreement, dated as of February 9, 2021, between IDA and Calspan Corporation, Genesee Holdings III, LLC ("Genesee III Holdings") and 4455 Genesee ("2021 AFAPA", and together with the 2016 AFAPA, the "AFAPA", and collectively with the 2017 Project Documents, the "Project Documents")

Consent Request: Approval of the merger of Calspan Corporation into Calspan Genesee, LLC, which amended its name to Calspan LLC.

1301 East 9<sup>th</sup> Street, Suite 3000  
Cleveland, Ohio 44114-1838

p. 216.706.2960 f. 216.706.2937  
[www.transdigm.com](http://www.transdigm.com)

# TRANSDIGM

GROUP INC.

Pursuant to that certain Equity Purchase Agreement, dated as of March 13, 2023 (the "Purchase Agreement"), by and among the parties thereto, TransDigm Inc. ("TransDigm"), as purchaser, acquired all of the outstanding equity interests of Calspan Holdings LLC ("Calspan Holdings") and CTHC LLC ("CTHC"), and collectively, with Calspan Holdings, the "Companies") on May 8, 2023 (the "Equity Transaction").

As part of the Equity Transaction, Calspan Corporation merged into Calspan Genesee, LLC, and Calspan Genesee, LLC remained as the surviving entity (the "Merger"). Thereafter, Calspan Genesee, LLC amended its name to Calspan, LLC ("Calspan") (the "Name Amendment"). The Merger resulted in Calspan taking on the obligations of Calspan Corporation. The organizational documents attached hereto as Schedule A, including (i) the Articles of Organization for Calspan Genesee, LLC (ii) the Certificate of Merger of Calspan Corporation and Calspan Genesee, LLC into Calspan Genesee, LLC, and (iii) the Certificate of Amendment of the Articles of Organization of Calspan Genesee, LLC, evidence the Merger and Name Amendment.

Pursuant to Section 2(p) of the 2016 AFAPA and the 2021 AFAPA, the IDA's consent to the Merger is required.

TransDigm hereby formally requests that the IDA provide its consent with respect to the aforementioned Merger. In addition, Calspan hereby affirms that it shall adhere to and comply with the terms of the Project Documents applicable to it, including, but not limited to the covenants set forth in Section 2(g)(5) of the 2016 AFAPA and 2021 AFAPA, including the Investment Commitment, Employment Commitment, Local Labor Commitment, Equal Pay Commitment and Unpaid Real Property Tax Policy Commitment (as defined therein).

Your prompt reply is sincerely appreciated. Thank you in advance for your assistance with this matter.

[Signature Page Follows]

1301 East 9<sup>th</sup> Street, Suite 3000  
Cleveland, Ohio 44114-1838

p. 216.706.2960 f. 216.706.2937  
[www.transdigm.com](http://www.transdigm.com)

# TRANSDIGM

GROUP INC.

**PURCHASER:**

TransDigm Inc.

By:   
Name: Liza Sabol  
Title: Treasurer

**CALSPAN:**

Calspan, LLC

By:   
Name: Liza Sabol  
Title: Treasurer

# **TRANSDIGM**

**GROUP INC.**

## **SCHEDULE A**

**Organizational Documents**

***[Attached hereto]***

9

[Schedule A]

**STATE OF NEW YORK  
DEPARTMENT OF STATE**

I hereby certify that the annexed copy for CALSPAN, LLC, File Number 230425003495 has been compared with the original document in the custody of the Secretary of State and that the same is true copy of said original.



WITNESS my hand and official seal of the Department of State, at the City of Albany, on May 10, 2023.

*Brendan C. Hughes*

Brendan C. Hughes  
Executive Deputy Secretary of State

Authentication Number: 100003475723 To Verify the authenticity of this document you may access the  
Division of Corporation's Document Authentication Website at <http://ecorp.dos.ny.gov>

**ARTICLES OF ORGANIZATION  
OF  
CALSPAN GENESEE, LLC  
Under Section 203 of the Limited Liability Company Law**

THE UNDERSIGNED, being a natural person of at least eighteen (18) years of age, and acting as the organizer of the limited liability company hereby being formed under Section 203 of the Limited Liability Company Law of the State of New York certifies that:

- FIRST:** The Name of the limited liability company is: **CALSPAN GENESEE, LLC**
- SECOND:** To engage in any lawful act or activity within the purposes for which limited liability companies may be organized pursuant to Limited Liability Company Law provided that the limited liability company is not formed to engage in any act or activity requiring the consent or approval of any state official, department, board, agency, or other body without such consent or approval first being obtained.
- THIRD:** The county, within this state, in which the office of the limited liability company is to be located is **ERIE**
- FOURTH:** The Secretary of State is designated as agent of the limited liability company upon whom process against the limited liability company may be served. The post office address to which the Secretary of State shall mail a copy of any process against the limited liability company served upon the Secretary of State by personal delivery is:  
**CALSPAN GENESEE, LLC  
4455 GENESEE STREET  
BUFFALO, NY 14225**
- FIFTH:** The limited liability company is to be managed by: **One or more members**

I certify that I have read the above statements, I am authorized to sign these Articles of Organization, that the above statements are true and correct to the best of my knowledge and belief and that my signature typed below constitutes my signature.

**IAN KLAK (Signature)**  
-----

**IAN KLAK, ORGANIZER  
LIPPES MATHIAS LLP**

|   |
|---|
| <p>Filed with the NYS Department of State on 04/25/2023<br/>Filing Number: 230425003495 DOS ID: 6807700</p> |
|---|

**50 FOUNTAIN PLAZA, SUITE 1700  
BUFFALO, NY 14202**

Filed by:

**IAN KLAK  
LIPPES MATHIAS LLP  
50 FOUNTAIN PLAZA, SUITE 1700  
BUFFALO, NY 14202**

Filed with the NYS Department of State on 04/25/2023  
Filing Number: 230425003495 DOS ID: 6807700



**STATE OF NEW YORK  
DEPARTMENT OF STATE**

I hereby certify that the annexed copy for CALSPAN, LLC, File Number 230427001450 has been compared with the original document in the custody of the Secretary of State and that the same is true copy of said original.



WITNESS my hand and official seal of the Department of State, at the City of Albany, on May 10, 2023.

*Brendan C. Hughes*

Brendan C. Hughes  
Executive Deputy Secretary of State

Authentication Number: 100003475724 To Verify the authenticity of this document you may access the  
Division of Corporation's Document Authentication Website at <http://ecorp.dos.ny.gov>

**CERTIFICATE OF MERGER  
OF  
CALSPAN CORPORATION  
AND  
CALSPAN GENESEE, LLC  
INTO  
CALSPAN GENESEE, LLC**

*Under Section 1003 of the Limited Liability Company Law*

We, the undersigned, being respectively the President and Secretary of Calspan Corporation and the Authorized Person of Calspan Genesee, LLC certify:

1. The name and jurisdiction of formation or incorporation of each constituent entity which is a party to this merger is as follows: Calspan Corporation, a New York corporation and Calspan Genesee, LLC, a New York limited liability company.
2. The Articles of Organization of Calspan Genesee, LLC were filed by the Department of State on April 25, 2023 and the Certificate of Incorporation of Calspan Corporation was filed by the Department of State on March 18, 2005 under the original name of Calspan I Corporation.
3. The agreement of merger has been approved and executed by each of the domestic limited liability companies or domestic other business entities that is a party thereto.
4. The name of the surviving entity is Calspan Genesee, LLC.
5. The Operating Agreement of the surviving limited liability company shall remain unchanged until amended or changed as provided therein or as provided by law.
6. The merger shall be effective upon the date of filing of this Certificate of Merger.
7. The Secretary of State is designated as agent of the Company upon whom process against the Company may be served. The address to which the Secretary of State shall mail a copy of any process against the Company served upon the Secretary of State is:  
  
Calspan Genesee, LLC  
4455 Genesee Street  
Buffalo, New York 14225
8. A copy of the Plan of Merger is on file at the offices of the surviving limited liability company, Calspan Genesee, LLC 4455 Genesee Street, Buffalo, New York 14225.
9. A copy of the agreement of merger will be furnished by the surviving domestic limited liability company on request and without cost to any member of any domestic limited liability company or to any person holding an interest in any other business entity that is to merge pursuant to such agreement.

[SIGNATURE PAGE TO FOLLOW]

Filed with the NYS Department of State on 04/27/2023  
Filing Number: 230427001450 DOS ID: 6807700

We have signed this certificate this 26<sup>th</sup> day of April, 2023.

**CALSPAN GENESEE, LLC**

By: /s/ Peter Sauer  
Peter Sauer, Authorized Person

**CALSPAN CORPORATION**

By: /s/ Peter Sauer  
Peter Sauer, President

By: /s/ Peter Bordonaro  
Peter Bordonaro, Secretary

Filed with the NYS Department of State on 04/27/2023  
Filing Number: 230427001450 DOS ID: 6807700

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**CERTIFICATE OF MERGER  
OF  
CALSPAN CORPORATION  
AND  
CALSPAN GENESEE, LLC  
INTO  
CALSPAN GENESEE, LLC**

**Under Section 1003 of the New York State Limited Liability Company Law**

**Filed by:** Lippes Mathias LLP  
50 Fountain Plaza, Suite 1700  
Buffalo, New York 14202

**DRAWDOWN  
CST REF  
14906970AR**

Filed with the NYS Department of State on 04/27/2023  
Filing Number: 230427001450 DOS ID: 6807700

**STATE OF NEW YORK  
DEPARTMENT OF STATE**

I hereby certify that the annexed copy for CALSPAN, LLC, File Number 230502003846 has been compared with the original document in the custody of the Secretary of State and that the same is true copy of said original.



WITNESS my hand and official seal of the Department of State, at the City of Albany, on May 10, 2023.

A handwritten signature in black ink that reads "Brendan C. Hughes".

Brendan C. Hughes  
Executive Deputy Secretary of State

Authentication Number: 100003475725 To Verify the authenticity of this document you may access the  
Division of Corporation's Document Authentication Website at <http://ecorp.dos.ny.gov>

**CERTIFICATE OF AMENDMENT  
OF THE  
ARTICLES OF ORGANIZATION  
OF  
CALSPAN GENESEE, LLC**

Under Section 211 of the  
New York Limited Liability Company Law

The undersigned, being the authorized person of Calspan Genesee, LLC hereby certifies that:

1. The name of the Company is Calspan Genesee, LLC.
2. The Articles of Organization were filed by the New York State Department of State on April 25, 2023.
3. Article 1 of the Articles of Organization is amended to change the name of the Company to Calspan, LLC. In order to effect said amendment, Article 1 is hereby amended to read in its entirety as follows:

“1. The name of the Limited Liability Company shall be Calspan, LLC”

IN WITNESS WHEREOF, the undersigned has subscribed this Certificate of Amendment this 1<sup>st</sup> day of May, 2023.

/s/ Peter Sauer  
Peter Sauer, Authorized Person

Filed with the NYS Department of State on 05/02/2023  
Filing Number: 230502003846 DOS ID: 6807700

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CERTIFICATE OF AMENDMENT  
OF  
ARTICLES OF ORGANIZATION  
OF  
CALSPAN GENESEE, LLC

Under and Pursuant to Section 211 of the Limited Liability Company Law  
of the State of New York

Lippes Mathias LLP  
50 Fountain Plaza, Suite 1700  
Buffalo, NY 14202-2216

Customer Reference # CALSP48170

DRAWDOWN

Filed with the NYS Department of State on 05/02/2023  
Filing Number: 230502003846 DOS ID: 6807700