

ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY
FIRST AMENDMENT TO INDUCEMENT RESOLUTION

**LABORERS WAY 1, 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, September 25, 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) AN INCREASE IN THE AMOUNT OF SALES TAX EXEMPTION BENEFIT AND (ii) CERTAIN MATERIAL TERMS AND CONDITIONS RELATED TO THE PROVISION OF FINANCIAL ASSISTANCE WITH RESPECT TO THE LABORERS WAY 1, 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, LABORERS WAY 1, 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 310 Ship Canal Parkway, City of Buffalo, Erie County, New York (the “Land”), (ii) the construction on the Land of an approximately 75,000+/- sq. ft. cannabis cultivation facility to be utilized for the production, packaging and distribution of cannabis (the “Improvements”), and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the “Equipment”; and, together with the Land and the Improvements, the “Facility”); and

WHEREAS, by resolution adopted on August 24, 2022 (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 fifteen (15) 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, with respect to the foregoing, the Agency authorized and approved 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 \$12,437,500, 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 \$1,088,281, and

WHEREAS, the Agency recently received notification from the Company that Project costs have increased due to longer than expected design requirements for the interior improvements of the Facility as well as higher than anticipated construction costs and on August 16, 2024, the Company submitted an amended application for Financial Assistance (the “Amended Application”) requesting an increase in the approved expenditure amount of goods and services to be purchased as so related to the Project, and that would otherwise be subject to New York State and local sales and use tax, from \$12,437,500 (as approved in the Original Resolution) to \$18,630,000, thus increasing the sale tax benefit amount from \$1,088,281 up to an amount not to exceed \$1,630,125 (the “Revised Sales Tax Exemption Benefit”); and

WHEREAS, related thereto, pursuant to General Municipal Law Section 859-a, on September 5, 2024, at 10:00 a.m., at the Agency’s offices, at 95 Perry Street, Suite 403, 4th Floor Conference Room, Buffalo, New York 14203, the Agency held a public hearing with respect to the Project and the proposed Amended Application and financial assistance (as herein described) 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.

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. With respect to the foregoing and based upon the representations and warranties made by the Company in its Amended Application, the Agency hereby authorizes and approves the Revised Sales Tax Exemption Benefit with respect to the Project and the increased Project costs.

Section 3. 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)(i) 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 estimated amount up to \$18,630,000, which may result in New York State and local sales and use tax exemption benefits (“sales and use tax exemption benefits”) not to exceed \$1,630,125. The Agency may consider any requests by the Company for increases in 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.

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(C)(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 \$38,496,500 (which represents the product of 85% multiplied by \$45,290,000, being the total project cost as stated in the Company’s Amended Application).

Section 5. 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: September 25, 2024