

Erie County Industrial Development Agency
Meeting of the Membership



August 24, 2022
at 12:00 p.m.

1.0 Call to Order

- 1.1 Call to Order Meeting of the Membership
- 1.2 Welcome New Board Member – Denise McCowan, President - Erie County Association of School Boards

2.0 Approval of Minutes:

- 2.1 Minutes of the July 27, 2022 Meeting of the Membership (Action Item) (Pages 2-11)

3.0 Reports / Action Items / Information Items:

- 3.1 Financial Report (Informational) (Pages 12-15)
- 3.2 Finance & Audit Committee Update
 - a) 2021 Single Audit Report (Action Item) (Pages 16-20)
- 3.3 2022 Tax Incentives Induced/Closing Schedule (Informational) (Pages 21-22)
- 3.4 Policy Committee Update (Informational) (Pages 23-26)

4.0 Inducement Resolution(s):

	ECIDA Incentives	Private Investment	Municipality
4.1 Laborers Way/Zephyr (Pages 27-71)	\$3,087,290	\$27,800,000	Buffalo

5.0 Management Team Report:

- 5.1

6.0 Adjournment - Next Meeting September 28, 2022 @ 12:00 p.m.

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

- MEETING:** July 27, 2022
- LIVE STREAMED:** This meeting is being live-streamed and made accessible on the ECIDA's website at www.ecidany.com.
- PRESENT:** Denise Abbott, Hon. Diane Benczkowski, Rev. Mark E. Blue, Hon. Joseph Emminger, Hon. Howard Johnson, Tyra Johnson, Hon. Brian Kulpa, Richard Lipsitz, Brenda W. McDuffie, Hon. Glenn R. Nellis, Hon. Mark C. Poloncarz and Kenneth A. Schoetz
- EXCUSED:** Hon. Bryon W. Brown, James Doherty, Dottie Gallagher, Michael P. Hughes, Denise McCowan, 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/Assistant Secretary; Atiqa Abidi, Assistant Treasurer; Gerald Manhard, Chief Lending Officer/Assistant Secretary; Grant Lesswing, Director of Business Development; Andrew Federick, Business Development Officer; Soma Hawramee, Compliance Portfolio Manager; Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant; Robbie Ann McPherson, Director of Marketing & Communications, Sean Fallon, Project Manager; Pat Smith, Senior Bookkeeper; Lori Szewczyk, Director of Grants; Laurie Hendrix, Administrative Coordinator; and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC
- GUESTS:** Zachary Evans, Erie County; Lisa Hicks and Alex Carducci on behalf of the City of Buffalo; Julius Aebly on behalf of A&A Associates; Joe Casullo on behalf of Carrier Terminal Services, Inc.; Steve Helms on behalf of Perry's Ice Cream Company; Joseph Paolini and Molly Penale on behalf of Spaulding Business Park, LLC and Tracy Verrier on behalf of MRB Group

There being a quorum present at 12:05 p.m., the meeting of the members of the Erie County Industrial Development Agency (the "ECIDA" or "Agency"), was called to order by Chair McDuffie.

MINUTES

The minutes of the June 22, 2022 meeting of the members were presented. Mr. Lipsitz moved and Mr. Johnson 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. Profic presented the June 2022 financial report. The balance sheet shows the month ended with total assets of \$30.0M (includes unrestricted cash of \$7.7M available for Agency operations) and net assets of \$20.7M. UDAG case of \$10.7M is in restricted cash. The monthly income statement shows net income of \$277,000 for June. Operating revenue of \$334,000 was above the monthly budget by \$106,000, due mainly to timing of administrative fees received during the month. Operating expenses were \$228,000 and in line with the monthly budget. Under Special Project Grants, \$181,000 of net income was recognized in June, mainly due to timing of EDA funds passed through to the RDC in July. After depreciation, there was net income of \$277,000 for the month. The year-to-date Income Statement shows revenues of \$1.1M, including administrative fee revenue of \$678,000. We are at about 37% of our 2022 annual budget through June. We continue to have a good pipeline of projects so should make up ground in the second half of the year. Expenses of \$1.4M are \$6,000 above budget, this is due mainly to CEDS update costs recognized in 2022 which are included in Professional Services. Special project grant revenue nets to \$327,000. After strategic investments and depreciation, there is currently a net loss of \$164,000 for the year. Ms. McDuffie directed that the report be received and filed.

2022 Tax Incentive Induced/Closing Schedule. Mr. Cappellino presented this report to the members. Ms. McDuffie directed that the report be received and filed.

Resolution to Adopt the 2022-2026 Comprehensive Economic Development Strategy (CEDS) for Erie County. Mr. Cappellino reviewed the 2022-2026 CEDS update and Economic Recovery Plan for Erie County.

Mr. Emminger and Mr. Kulpa thanked the CEDS Committee and staff for its good work.

Mr. Emminger moved and Mr. Kulpa seconded to approve of the 2022-2026 Comprehensive Economic Development Strategy. Ms. McDuffie called for the vote, and the following resolution was unanimously approved.

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT
AGENCY APPROVING REVISIONS AND UPDATES WITH REGARD TO
THE 2022 REGIONAL COMPREHENSIVE ECONOMIC DEVELOPMENT
STRATEGY

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

Resolution for Recapture Waiver. Mr. Cappellino presented this item and reviewed the memorandum prepared for this item which extends the COVID-19 recapture waiver for

employment shortfalls, originally implemented for the 2020 calendar year, to the 2021 calendar year.

Mr. Johnson moved and Mr. Poloncarz seconded to approve of the extension of the COVID-19 waiver for the 2021 calendar year for employment shortfalls. Ms. McDuffie called for the vote, and the following resolution was unanimously approved.

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY ("AGENCY") TO EXTEND THE TEMPORARY MODIFICATION OF THE AGENCY'S POLICY FOR TERMINATION AND/OR MODIFICATION OF AGENCY FINANCIAL ASSISTANCE AND RECAPTURE OF AGENCY FINANCIAL ASSISTANCE PREVIOUSLY GRANTED

Policy Committee Update. Mr. Lipsitz provided members with an update on the most recently completed Policy Committee meeting, noting the Committee reviewed the A&A Union Road project again, confirmed that the Policy Committee confirmed its prior approval of this project, and also agreed noted that the Policy Committee was supportive of establishing a working group to review COVID-19 impacts on commercial office space.

Mr. Cappellino also confirmed that the Policy Committee discussed a reconsideration of the A&A Union Road project, confirmed its original approval of the project, and noted the project is permissible under State law and ECIDA policies, and that the ECIDA has, as a practice, not held up consideration of a project during a time when project related policy changes are being considered.

Ms. McDuffie directed that the report be received and filed.

INDUCEMENT RESOLUTION

A&A Union Road LLC, 1471 Union Road, West Seneca, New York. Mr. Lipsitz confirmed that the Project proposal and terms and conditions, as presented at the prior ECIDA board meeting, have not changed, and noted the members all have the Resolution and related terms and conditions before them.

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, 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 actually made with respect to the Project at the time of Project completion equals or exceeds \$2,644,119 (which represents the product of 85% multiplied by \$3,110,729, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 12 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 13 FTE employees [representing the sum of (x) 12 Baseline FTE and (y) 1 FTE employees, being the product of 85% multiplied by 2 (being the 2 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. Lipsitz moved and Mr. Nellis seconded to approve 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 A&A UNION ROAD, 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, (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 (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

Carrier Terminal Services, Inc., 380 Vulcan Street, Tonawanda, New York. Ms. O'Keefe reviewed this proposed sales tax exemption, mortgage recording tax exemption and real property tax benefit project which consists of the purchase and renovation of 170,399 sq. ft. of space within the 21 buildings located at 380, 400, 408 and 416 Vulcan Street in the Town of Tonawanda which will be completed in phases targeting a completion date of January 2024. The property will be used by Speed Global Services for warehouse and distribution uses.

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.

Mr. Emminger spoke in favor of the project.

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, 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 actually made with respect to the Project at the time of Project completion equals or exceeds \$6,073,250 (which represents the product of 85% multiplied by \$7,145,000, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 5 existing full time equivalent (“FTE”) employees (consisting of 4 FTE and 2 PTE employees as stated in the Application, being the “Baseline FTE”); and
 - the number of current FTE/PTE employees in the then current year at the Facility; and
 - that the Company has maintained and created FTE/PTE employment at the Facility equal to 8 FTE employees [the 8 FTE employees being calculated by taking the sum of the Baseline FTE of 5 plus the product of 3, being the product of 85% multiplied by 4 (representing the new, 3 FTE and 2 PTE 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. Emminger moved and Mr. Johnson seconded to approve 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 CARRIER TERMINAL SERVICES 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) 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, (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

Perry's Ice Cream Co. Inc., 1 Ice Cream Plaza, Akron, New York. Ms. O'Keefe reviewed this proposed sales tax exemption, mortgage recording tax exemption and real property tax benefit project which consists of the construction of an approximately 23,000 sq. ft. building next to an existing structure at the facility. The new building will house a new extruded ice cream novelty machine which can be used for dairy and non-dairy, more than one base flavor, inclusions, toppings and dipped coatings as well as with conveyoring and upgrading the site's engine and pumping rooms.

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.

Mr. Poloncarz spoke in favor of the project.

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, 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 actually made with respect to the Project at the time of Project completion equals or exceeds \$15,300,00 (which represents the product of 85% multiplied by \$18,000,000, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 363 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 the Company has maintained and created FTE employment at the Facility equal to 375 FTE employees [representing the sum of (x) 363 Baseline FTE and (y) 12 FTE employees, being the product of 85% multiplied by 15 (being the 15 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. Poloncarz moved and Mr. Lipsitz seconded to approve 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 PERRY'S ICE CREAM COMPANY, 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) 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, (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 (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

Spaulding Business Park, LLC, Gibson Street (corner of Gibson & Hackett Drive), Tonawanda, New York. Ms. O'Keefe reviewed this proposed sales tax exemption, mortgage recording tax exemption and real property tax benefit project which consists of developing a business park that will rent light manufacturing and warehouse distribution space to businesses. Five buildings of approximately 9,000 sq. ft. each are anticipating for the site for a total of 45,760 sq. ft. of available rental space. The project will be completed in phases over the next two to three year period.

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, 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 actually made with respect to the Project at the time of Project completion equals or exceeds \$1,746,750 (which represents the product of 85% multiplied by \$2,055,000, being the total project cost as stated in the Company's application for Financial Assistance).

- (ii) Employment Commitment - that within two (2) years of Project completion, the Company has maintained and created FTE employment at the Facility equal to 17 FTE employees [being the product of 85% multiplied by 20 (being the 20 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. Poloncarz moved and Mr. Emminger seconded to approve 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 SPAULDING BUSINESS PARK 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, (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 (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

MANAGEMENT TEAM REPORTS

Mr. Cappellino presented a report to the members that the finance team has begun work on the 2023 budget process.

Mr. Cappellino also reported welcomed new Board Member, Denise McCowan, who will be replacing Renee Wilson as President of the Erie County Association of School Boards.

Mr. Cappellino also congratulated board members of both the ECIDA and ILDC who were on the Business First Power 200 Women... April Baskin, Diane Benczkowski, Brenda McDuffie, Dottie Gallagher and Deputy County Executive, Maria Whyte.

There being no further business to discuss, Ms. McDuffie adjourned the meeting of the Agency at 12:49 p.m.

Dated: July 27, 2022

Elizabeth A. O'Keefe, Secretary

Erie County Industrial Development Agency
Financial Statements
As of July 31, 2022

ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY ("ECIDA")

Balance Sheet

July 31, 2022

	July 2022	June 2022	December 2021
ASSETS:			
Cash *	\$ 7,374,874	\$ 7,708,187	\$ 7,851,664
Restricted Cash & Investments *	19,589,441	19,353,801	19,656,732
Due from Affiliates	506,652	470,652	755,496
Due from Buffalo Urban Development Corp.	65,227	60,457	105,721
Other Receivables	120,115	126,877	35,629
Total Current Assets	<u>27,656,308</u>	<u>27,719,974</u>	<u>28,405,242</u>
Grants Receivable	699,964	699,964	863,473
Venture Capital Investments, net of reserves	506,886	506,886	506,886
Capital Assets	1,097,043	1,107,043	1,164,083
Total Long-Term Assets	<u>2,303,893</u>	<u>2,313,893</u>	<u>2,534,441</u>
TOTAL ASSETS	<u><u>\$ 29,960,201</u></u>	<u><u>\$ 30,033,867</u></u>	<u><u>\$ 30,939,684</u></u>
LIABILITIES & NET ASSETS			
Accounts Payable & Accrued Exp.	\$ 134,605	\$ 184,830	\$ 452,629
Deferred Revenues	688,595	693,165	872,993
Funds Held on Behalf of Others	8,766,833	8,423,940	8,717,606
Total Liabilities	<u>9,590,034</u>	<u>9,301,934</u>	<u>10,043,228</u>
Net Assets	<u>20,370,167</u>	<u>20,731,933</u>	<u>20,896,455</u>
TOTAL LIABILITIES & NET ASSETS	<u><u>\$ 29,960,201</u></u>	<u><u>\$ 30,033,867</u></u>	<u><u>\$ 30,939,684</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 July 2022

	Actual vs. Budget		
	Actual	Budget	Variance
REVENUES:			
Administrative Fees, net of refunds	\$ 14,770	\$ 154,583	\$ (139,814)
Affiliate Management Fees	43,950	45,125	(1,175)
Interest Income - Cash & Investments	1,121	1,042	79
Rental Income	19,659	20,617	(957)
Other Income	-	833	(833)
Total Revenues	79,500	222,200	(142,700)
EXPENSES:			
Salaries & Benefits	\$ 154,069	\$ 169,542	\$ (15,472)
General Office Expenses	24,092	23,880	212
Building Operating Costs	28,767	20,312	8,456
Professional Services	4,110	5,583	(1,473)
Public Hearings & Marketing	59	5,000	(4,941)
Travel, Mileage & Meeting Expenses	244	2,917	(2,673)
Other Expenses	566	625	(59)
Total Expenses	211,908	227,858	(15,951)
SPECIAL PROJECT GRANTS:			
Revenues	\$ 40,112	\$ 80,945	\$ (40,832)
Expenses	(184,470)	(75,261)	(109,209)
	(144,358)	5,683	(150,041)
NET INCOME/(LOSS) BEFORE OTHER STRATEGIC INVESTMENTS & DEPRECIATION:			
	(276,765)	25	(276,790)
OTHER STRATEGIC INVESTMENTS AND INITIATIVES:			
Bethlehem Steel Industrial Park Grant	-	(8,333)	8,333
Angola Ag Park Grant	-	(8,333)	8,333
Other Strategic Initiatives	(75,000)	-	(75,000)
	(75,000)	(16,667)	(58,333)
NET INCOME/(LOSS) BEFORE DEPRECIATION:			
	(351,765)	(16,642)	(335,124)
Depreciation	(10,000)	(10,000)	-
NET INCOME/(LOSS):	\$ (361,765)	\$ (26,642)	\$ (335,124)

ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY ("ECIDA")

Income Statement

Year to Date: July 31, 2022

	Actual vs. Budget			Actual vs. Prior Year		
	Actual	Budget	Variance	Actual	Prior Year	Variance
REVENUES:						
Administrative Fees, net of refunds	\$ 693,344	\$ 1,082,083	\$ (388,740)	\$ 693,344	\$ 1,269,028	\$ (575,684)
Affiliate Management Fees	314,300	315,875	(1,575)	314,300	302,700	11,600
Interest Income - Cash & Investments	2,910	7,292	(4,382)	2,910	5,586	(2,676)
Rental Income	137,471	144,317	(6,845)	137,471	138,551	(1,079)
Other Income	14,783	24,333	(9,551)	14,783	12,928	1,855
UDAG Venture Investment Reflow	-	-	-	-	2,425	(2,425)
Total Revenues	1,162,807	1,573,900	(411,093)	1,162,807	1,731,217	(568,410)
EXPENSES:						
Salaries & Benefits	1,188,871	1,243,792	(54,922)	1,188,871	1,081,393	107,477
General Office Expenses	172,849	167,160	5,689	172,849	143,745	29,104
Building Operating Costs	134,014	142,182	(8,167)	134,014	132,113	1,902
Professional Services	120,949	67,183	53,766	120,949	68,467	52,482
Public Hearings & Marketing	36,234	35,000	1,234	36,234	52,942	(16,708)
Travel, Mileage & Meeting Expenses	11,790	20,417	(8,627)	11,790	6,711	5,079
Other Expenses	5,098	4,375	723	5,098	2,418	2,681
Total Expenses	1,669,806	1,680,109	(10,303)	1,669,806	1,487,790	182,016
SPECIAL PROJECT GRANTS:						
Revenues	631,059	566,612	64,448	631,059	4,143,710	(3,512,651)
Expenses	(448,111)	(526,828)	78,717	(448,111)	(4,537,468)	4,089,357
	182,948	39,783	143,165	182,948	(393,758)	576,706
NET INCOME/(LOSS) BEFORE OTHER STRATEGIC INVESTMENTS & DEPRECIATION:						
	\$ (324,050)	\$ (66,425)	\$ (257,625)	\$ (324,050)	\$ (150,331)	\$ (173,720)
OTHER STRATEGIC INVESTMENTS AND INITIATIVES:						
Zero Net Energy costs (Z7+)	\$ -	\$ (365,118)	\$ 365,118	\$ -	\$ -	\$ -
Bethlehem Steel Industrial Park Grant	(8,055)	(100,000)	91,945	(8,055)	(163,091)	155,036
Angola Ag Park Grant	(49,183)	(100,000)	50,817	(49,183)	(49,860)	677
Bethlehem Steel Industrial Park Grant Reimb	-	250,000	(250,000)	-	-	-
Buffalo Urban Development Corporation	-	(100,000)	100,000	-	-	-
Other Strategic Initiatives	(75,000)	(125,000)	50,000	(75,000)	(75,000)	-
	(132,238)	(540,118)	407,880	(132,238)	(287,951)	155,713
NET INCOME/(LOSS) BEFORE DEPRECIATION:						
	(456,288)	(606,543)	150,255	(456,288)	(438,282)	(18,006)
Depreciation	(70,000)	(70,000)	-	(70,000)	(70,000)	-
NET INCOME/(LOSS):	\$ (526,288)	\$ (676,543)	\$ 150,255	\$ (526,288)	\$ (508,282)	\$ (18,006)

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (ECIDA)
 BUFFALO & ERIE COUNTY REGIONAL DEVELOPMENT CORP (RDC)
 BUFFALO & ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORP (ILDC)**

2023 Budget Review Process

<u>Date</u>	<u>Description</u>	
July-August	Review of draft 2023 budgets by ECIDA management. (a) Prioritize any proposed budget requests for initiatives. (b) Formal budget requests compiled.	
August 19	Finance & Audit Committee meeting – initial review of proposed budgets.	
September 23 (tentative)	Finance & Audit Committee meeting to discuss any updates/recommend proposed budgets to Boards.	
September 28	Review of 2023 draft budgets at Board meetings.	
TBD	Board Q&A budget session #1 via Zoom (voluntary).	
TBD	Board Q&A budget session #2 via Zoom (voluntary).	
October	Adjustments to budget based on Board feedback and Finance & Audit Committee approval of final budgets (<i>if necessary</i>).	
October 26 th	Board meeting – action to approve final 2023 budgets.	
November 1 st	Deadline for final approved budget to be submitted to the ABO.	

SINGLE AUDIT REPORT

**ERIE COUNTY INDUSTRIAL DEVELOPMENT
AGENCY**

DECEMBER 31, 2021

DRAFT

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY
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**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FOR THE YEAR ENDED DECEMBER 31, 2021**

<u>Federal Grantor/Pass-Through Grantor/ Program or Cluster Title</u>	<u>Federal Assistance Listing Number</u>	<u>Pass-Through Entity Identifying Number</u>	<u>Passed-Through to Subrecipients</u>	<u>Total Federal Expenditures</u>
<u>U.S. Department of Commerce</u>				
<i>Direct Program</i>				
Economic Development Supprt for Planning Organizations	11.302	N/A	\$ -	\$ 17,259
<i>Economic Development Cluster</i>				
COVID-19 - Economic Adjustment Assistance	11.307	N/A	5,206,190	5,206,190
<i>Total Economic Development Cluster</i>			<u>5,206,190</u>	<u>5,206,190</u>
<i>Total U.S. Department of Commerce</i>			<u>5,206,190</u>	<u>5,223,449</u>
Total Expenditures of Federal Awards			\$ <u>5,206,190</u>	\$ <u>5,223,449</u>

DRAFT

See notes to schedule of expenditures of federal awards.

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY
NOTES TO THE SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FOR THE YEAR ENDED DECEMBER 31, 2021**

NOTE 1 - BASIS OF PRESENTATION

The accompanying Schedule of Expenditures of Federal Awards (the Schedule) includes federal award activity of the federal financial assistance programs administered by the ECIDA for the year ended December 31, 2021. The information in this Schedule is presented in accordance with the requirements of Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Because the Schedule presents only a selected portion of the operations of the ECIDA, it is not intended to and does not present the financial position, changes in net position, or cash flows of the ECIDA.

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Expenditures reported on the Schedule are reported on the modified accrual basis of accounting. Such expenditures are recognized following the cost principles contained in the Uniform Guidance, wherein certain types of expenditures are not allowable or are limited as to reimbursement. The amounts reported as federal expenditures were obtained from the ECIDA's financial reporting system, which is the source of the ECIDA's basic financial statements.

NOTE 3 - INDIRECT COST

The ECIDA has elected not to use the 10% de minimis indirect cost rate allowed under the Uniform Guidance.

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**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED DECEMBER 31, 2021**

I. SUMMARY OF AUDITOR'S RESULTS

Financial Statements

Type of report the auditor issued on whether the financial statements audited were prepared in accordance with GAAP:

Unmodified

Internal control over financial reporting:

- Material weakness(es) identified? yes X no
- Significant deficiency(ies) identified? yes X none reported

Noncompliance material to financial statements noted? yes X no

Federal Awards

Internal control over major federal programs:

- Material weakness(es) identified? yes X no
- Significant deficiency(ies) identified? yes X none reported

Type of auditor's report issued on compliance for major federal programs:

Unmodified

Any audit findings disclosed that are required to be reported in accordance with 2 CFR 200.518(a)? yes X no

Identification of major Federal programs:

Assistance Listing Number(s)

Name of Federal Program or Cluster

11.307

COVID-19 - Economic Adjustment Assistance

Dollar threshold used to distinguish between Type A and Type B programs:

\$ 750,000

Auditee qualified as low-risk auditee? yes X no

II. FINANCIAL STATEMENT FINDINGS

There were no financial statement findings noted for the fiscal year ended December 31, 2021.

III. FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

There were no federal award findings or questioned costs noted for the fiscal year ended December 31, 2021.

Tax Incentives Approved - 2022

Approval Date	Project Name	Project City/Town	Private Investment/ Project Amount	Minimum Investment Commitment	FT Jobs Retained	PT Jobs Retained	FT Jobs to be Created	PT Jobs to be Created	Job Creation	Const Jobs	Spillover Jobs	Length of Term	Incentive Amount	Cost Benefit Ratio
Jan-22	791 Washington Street, LLC ¹ Arbor Multifamily Lending	Buffalo	\$107,950,000	85% threshold \$91,800,000	0	0	5	0	85% -New 4 jobs	571	433	Period of PILOT 10 Years	\$3,719,000	1:20
Jan-22	Broadway Development & Management ¹	Tonawanda	\$2,100,000	85% threshold \$1,785,000	168	0	25	0	85% -New 21 jobs	0	158	project completion date + 2 yrs	\$183,750	1:304
Jan-22	Lactalis American Group, Inc.	Buffalo	\$12,500,000	85% threshold \$10,625,000	2	0	8	0	85% -New 7 jobs	56	55	project completion date + 2 yrs	\$693,500	1:14
Jan-22	471 Elmwood, LLC ¹	Buffalo	\$1,436,697	85% threshold \$1,221,192	334	0	27	0	85% -New 22 jobs	5	1390	project completion date + 2 yrs	\$126,793	1:9994
Mar-22	Worksport, Ltd.	West Seneca	\$3,590,000	85% threshold \$3,051,500	0	0	1	0	85% -New 1 job	20	10	project completion date + 2 yrs	\$122,500	1:15
Apr-22	380 Vuclan	Tonawanda	\$15,006,887	85% threshold \$12,755,854	0	0	6	10	85% -New 9 job	30	33	project completion date + 2 yrs	\$103,562	1:67
Jul-22	Perry's Ice Cream	Akron	\$7,145,000	85% threshold \$6,073,250	4	2	3	2	85% -New 3 Jobs	25	26	Period of PILOT 7 Years	\$1,610,699	1:6
Jul-22	Spaulding Business Park	Tonawanda	\$18,000,000	85% threshold \$15,300,000	365	14	15	0	85% -New 12 Jobs	79	690	Period of PILOT 7 Years	\$684,891	1:490
Jul-22	A & A Union Road, LLC	West Seneca	\$2,055,000	85% threshold \$1,746,750	0	0	20	0	85% -New 17 Jobs	8	24	Period of PILOT 7 Years	\$403,241	1:27
Jul-22			\$3,110,729	85% threshold \$2,644,119	12	1	2	0	85% -New 1 Job	13	33	Period of PILOT 7 Years	\$521,790	1:31
Totals:			Private Investment/ Project Amount		FT Jobs Retained	PT Jobs Retained	FT Jobs Created	PT Jobs Created	Job Creation	Const Jobs	Spillover Jobs		Incentive Amount	
Adaptive Reuse Subtotal			\$124,040,000		2	0	14	0		647	498		\$4,535,000	
2022 Total			\$172,894,313		885	17	112	12		807	2852		\$8,169,726	

¹ Adaptive Reuse

Tax Incentives Closings - 2022

Project Name	Project Amount at Closing	FT Jobs at App	Projected Year 2 FT Jobs	PT Jobs at App	Projected Year 2 PT Jobs	Project City	Induced Date	Est. Project Completion Date
Unifrax Line 7	\$ 36,000,000	27	37	0	0	Tonawanda	3/27/2019	12/31/2021
Workspport	\$ 15,666,887	0	6	0	10	West Seneca	4/27/2022	12/31/2027
Calspan Corporation	\$ 15,092,000	143	163	3	3	Cheektowaga	6/1/2022	12/31/2022
Sucro Real Estate, LLC	\$ 7,625,000	5	50	0	0	Lackawanna	1/27/2021	4/30/2023
	\$ 74,383,887	175	256	3	13			
Projects Closed = 4								
FT Projected New Jobs = 81								
PT Projected New Jobs = 10								

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

- DATE:** August 4, 2022
- LIVE STREAMED:** This meeting is being live-audio streamed and made accessible on the Agency's website at www.ecidany.com.
- PRESENT:** Denise Abbott; Hon. April Baskin; Rev. Mark E. Blue; Richard Lipsitz, Jr.; Hon. Glenn R. Nellis; Laura Smith; David J. State; Lavon Stephens; Hon. John Tobia; Paul Vukelic and Hon. Maria Whyte
- EXCUSED:** Hon. Bryon W. Brown, Johanna Coleman, Colleen DiPirro and Brenda W. McDuffie
- OTHERS PRESENT:** John Cappellino, President & CEO; Mollie Profic, Chief Financial Officer; Atiqa Abidi, Assistant Treasurer; Andrew Federick, Business Development Officer; Soma Hawramee, Compliance Portfolio Manager; Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant; Robbie Ann McPherson, Director of Marketing & Communications; Pat Smith, Senior Bookkeeper; and Robert Murray General Counsel/Harris Beach PLLC
- GUESTS:** Zachary Evans on behalf of the County; Ryan Herrell on behalf of Laborers Way

There being a quorum present at 9:07 a.m., the Meeting of the Policy Committee was called to order by Mr. Lipsitz.

MINUTES

The minutes of the July 7, 2022 Policy Committee meeting were presented. Upon motion made by Ms. Abbott to approve of the minutes, and seconded by Ms. Baskin, the aforementioned Policy Committee meeting minutes were unanimously approved.

PROJECT MATRIX

Mr. Cappellino reviewed the Agency's 2022 Tax Incentives Project Matrix. Mr. Cappellino advised that as of this meeting 10 projects have been approved, three of which are adaptive reuse project. Mr. Lipsitz directed that the report be received and filed.

PROJECT PRESENTATIONS

Laborers Way 1, LLC, 310 Ship Canal Parkway, Buffalo, New York 14218. Mr. Cappellino presented this proposed sales tax, mortgage recording tax and real property tax abatement benefits project involving the property acquisition, remediation and construction of 2 one-story steel framed structures totally 75,000 sq. ft. on the site consisting of an office building and a production building. The facility will be used for cannabis production--manufacturing, cultivating, packaging and distribution.

Ms. Baskin was intrigued with the project's robust focus in disadvantaged communities to mitigate the effects of cannabis-related discrimination. Ms. Baskin inquired as to the plan the applicant will put in place to achieve a workforce representative of those members of the community who have been marginalized because of cannabis-related matters.

Mr. Herrell responded that for operational goals, the Company has conducted a number of outreach events. They are working with community leaders and they all are reaching out to the target audience, talking to local education centers to set up training. Mr. Herrell also noted the state will be issuing micro-licenses.

Ms. Baskin stated it would be helpful to identify agencies who have specialized in this type of identification of members of the marginalized workforce.

Mr. Blue stated he would like to know how other organizations and outlets have accomplished such goals and asked whether the Company has asked for assistance in reaching its workforce goals.

Mr. Herrell stated that on the construction side, they are working with general contractors who have extensive databases available to them from working with public works projects. Also, they have been advertising in trade publications. Erie County Community College is also going to set up training programs.

Mr. Blue suggested WUFO, and local papers such as the Challenger as possible outlets.

Ms. Whyte congratulated the applicant on working with BUDC, who has worked to attract investment in the Lakeside Commerce Park. Ms. Whyte noted that the licensing procedure for this facility requires that the applicant submit a Social Equity Plan to New York State. Ms. Whyte inquired whether the Company would be willing to file with the Agency their Social Equity Plan. Mr. Herrell replied in the affirmative and stated he appreciated the feedback.

Ms. Abbott asked what would happen if the Company were unable to reach its workforce goals?

Mr. Herrell stated on the construction side, the projections are goals, although the Company is putting forth a good faith effort to meet its hiring objectives.

Mr. Lipsitz noted that the project is the first cannabis-related proposal before the Committee.

Mr. Cappellino confirmed that Laborers Way 1, LLC is seeking approximately \$2,840,048 in assistance including sales tax exemption, mortgage tax exemption and real property tax abatement benefits. Total payroll is projected at \$85,984,983 for the direct and indirect jobs created including 119 construction jobs. The resulting cost benefit is 1:28 so for every \$1 of incentives the community benefit is \$28 in payroll & tax revenue. For Erie County, every \$1 of incentives provides \$34 in community benefits.

Ms. O’Keefe stated that in exchange for providing the sales and use tax, mortgage recording tax exemption 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. Total Project Amount = \$27,800,000 85% = \$23,630,000
Employment	Coincides with 10-year PILOT	Maintain Base = 0 Create 85% of Projected Projected = 37 FTE 85% = 31 FTE Recapture Employment = 31 FTE
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	Coincides with 15-year PILOT	Adherence to policy
Unpaid Tax	Coincides with 15-year PILOT	Adherence to policy
Recapture Period	Coincides with 15-year PILOT	Recapture of state and local sales taxes, mortgage recording tax and real property tax abatement

Ms. Abbott moved and Ms. Whyte seconded to recommend the project as proposed be forwarded to the members of the ECIDA for approval. Mr. Lipsitz called for a roll call vote and the proposed project was approved with a vote of 10 with 1 abstained vote with Ms. Abbott, Ms. Baskin, Mr. Blue, Mr. Lipsitz, Mr. Nellis, Ms. Smith, Mr. State, Mr. Stevens, Mr. Vukulic and Ms. Whyte voting in the affirmative and Mr. Tobia abstained from voting.

Ms. Baskin requested that the Company provide the referenced Social Equity Report or some deeper understanding of the plan to identify and implement its workforce goals. Mr. Blue and Ms. Whyte agreed with Ms. Baskin.

MWBE UPDATE

Mr. Cappellino provided an update to Committee members. Materials have been forwarded to Mr. Murray to review. We will meet again to create a policy. Next meeting includes August to early September then working meeting to review draft policy, notify change to UTEP policy, informational session then Board approval.

Ms. Whyte stated they are looking for approval at the October Policy Committee and then November Board meeting. She also notified members that the only other county who has addressed MWBE is Onondaga County. Erie is more comprehensive and we are pioneers in this area.

There being no further business to discuss, Mr. Lipsitz adjourned the meeting at 9:38 a.m.

Dated: August 4, 2022

Elizabeth A. O'Keefe, Secretary

Laborers Way 1, LLC/Zephyr (Managing Partner)
\$ 27,800,000
PRIVATE INVESTMENT INDUCEMENT RESOLUTION

ELIGIBILITY	Project Title: Laborers Way 1												
<ul style="list-style-type: none"> • NAICS Section – 531120 	Project Address: 310 Ship Canal Parkway Buffalo, NY 14218 (City of Buffalo School District)												
COMPANY INCENTIVES	Agency Request												
<ul style="list-style-type: none"> • Approximately \$ 1,088,281 in sales tax savings • Approximately \$ 1,879,009 in real property tax savings • Up to 3/4 of 1% of the final mortgage amount estimated at \$ 120,000. 	A sales tax, mortgage recording tax and real property tax abatement in connection with the construction of two buildings totaling 75,000 sq ft to be used for cannabis cultivation that includes production, packaging and distribution.												
JOBS & ANNUAL PAYROLL													
<ul style="list-style-type: none"> • Current Jobs: 0 • Projected / new jobs: 20 FT, 34 PT (37 FTE) • Est. salary/yr. of jobs created: \$60,000 FT, \$35,000 PT • Total jobs after project completion: 37 FTE • Construction Jobs: 119 	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Land Acquisition</td> <td style="text-align: right;">\$ 425,000</td> </tr> <tr> <td>New Building Construction</td> <td style="text-align: right;">\$ 21,825,000</td> </tr> <tr> <td>Infrastructure</td> <td style="text-align: right;">\$ 3,050,000</td> </tr> <tr> <td>Soft Costs/Other</td> <td style="text-align: right;">\$ 2,500,000</td> </tr> <tr> <td>Total Project Cost</td> <td style="text-align: right;">\$ 27,800,000</td> </tr> <tr> <td> 85%</td> <td style="text-align: right;"> \$ 23,630,000</td> </tr> </table>	Land Acquisition	\$ 425,000	New Building Construction	\$ 21,825,000	Infrastructure	\$ 3,050,000	Soft Costs/Other	\$ 2,500,000	Total Project Cost	\$ 27,800,000	 85%	 \$ 23,630,000
Land Acquisition	\$ 425,000												
New Building Construction	\$ 21,825,000												
Infrastructure	\$ 3,050,000												
Soft Costs/Other	\$ 2,500,000												
Total Project Cost	\$ 27,800,000												
 85%	 \$ 23,630,000												
	Company Description												
PROJECTED COMMUNITY BENEFITS*	Laborers Way 1, LLC will be the owner/ landlord for this facility. The 75,000 sq ft facility will be subleased to Etain, LLC. Etain, founded by Amy, Hillary and Keeley Peckham received its medical marijuana license in 2015, With a focus on delivering high quality products, Etain currently operates four dispensaries across NYS with a flagship location in Manhattan and other locations in Kingston, Syracuse and Yonkers. Additionally, Etain operates a greenhouse facility in Chestertown, NY which is currently undergoing an expansion from 12,000 sq ft to 56,000 sq ft.												
<ul style="list-style-type: none"> • Term: 15 YEARS – PILOT Deviation (BLCP PILOT Agmt) • NET Community Benefits: \$ 92,463,618 • Spillover Jobs: 141 <p>Total Payroll: \$ 85,984,983</p>	Project Description												
INCENTIVE COST / COMMUNITY BENEFIT RATIO (discounted at 2%)*	The applicant, Laborers Way 1, LLC is under contract to purchase designated Brownfield land (project site) within the Buffalo Lakeside Commerce Park from the Buffalo Urban Development Corporation (BUDC). Following the property acquisition and remediation, the company will construct 2 one-story steel framed structures totaling 75,000 sq ft on the site consisting of an office building and a production building. This facility will be used for cannabis production - manufacturing, cultivating, packaging and distribution. The facility will focus on recreational and/or medical cannabis consistent with NYS laws and the Office of Cannabis Management (OCM) regulations. 100% of the products (such as oils, edibles, and extracts for adult-use) created at the site will be sold within NYS. This project is the first phase of a plan to create approx. 211,000 sq ft campus on this site, comprised of 3 buildings supporting cultivation and manufacturing operations.												
<p>Incentives: \$ 2,840,048</p> <p>Community Benefit: \$ 80,824,364</p> <p>Cost: Benefit Ratio</p> <ul style="list-style-type: none"> • 1:28 													

* 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	1,879,009
	Sales	1,088,281
	Mortgage Recording	120,000
	Total	3,087,290
	Discounted at 2%	2,840,048

Benefit: Projected Community Benefit*

BENEFITS	Region	Recipient	Revenue Type	\$ Amount **
	Erie County	Individuals	Payroll Construction	17,482,687
			Payroll Permanent	68,502,296
		Public	Property Taxes	1,252,665
			Sales Taxes	714,750
			Other Muni Rev (NFTA)	40,000
	New York State	Public	Income Taxes	3,869,324
			Sales Taxes	601,895
			Total Benefits to EC + NYS***	92,463,618
			Discounted at 2%	80,824,364

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

Discounted Cost \$ 2,840,048
 Discounted Benefit \$ 80,824,364
 Ratio 1:28

Conclusion: The Cost Benefit for this project is 1:28. For every \$1 in costs (incentives), this project provides \$28 in benefits (payroll & tax revenue). **Note: For Erie County, every \$1 in costs (incentives) provides \$34 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
\$400,800	\$ 9,400,800	\$ 271,527	\$ 981,146	\$ 208,779
Combined Tax Rate: \$ 23.198				

Draft Recapture Material Terms

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of project amount. Total project amount = \$ 27,800,000 85% = \$ 23,630,000
Employment	Coincides with 10-year PILOT	Maintain Base = 0 Create 85% of Projected Projected = 37 FTE 85% = 31 FTE Recapture Employment = 31 FTE
Local Labor	Construction period	Adherence to policy including quarterly reporting
Pay Equity	Coincides with 15-year PILOT	Adherence to Policy
Unpaid Tax	Coincides with 15-year PILOT	Adherence to Policy
<u>Recapture Period</u>	Coincides with 15-year PILOT	Recapture of Mortgage recording tax, state and local sales taxes

Recapture applies to:

- State and Local Sales Taxes
- Real Property Tax
- 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 created 31 FTE jobs, 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

- 8/2/22: Public hearing held.
- 8/24/22: Inducement Resolution presented to Board of Directors adopting SEQR with City of Buffalo Common Council as lead agency confirmation that the project will be carried out in conformance with the conditions and thresholds contained in the 2002 FGEIS.
- 8/24/22: Lease/Leaseback Inducement Resolution presented to the Board of Directors

**EVALUATIVE CRITERIA – Laborers Way: Zephyr
AGRICULTURAL, FOOD PROCESSING**

Evaluative Criteria	Notes
Wage Rates (above median wage for area)	The average salary for FT jobs to be created = \$60,000.
Regional Wealth Creation (% of sales/customers outside area)	100% of sales within NYS, 10% within Erie County.
In Region Purchases (% of purchases from local growers)	In region purchases are anticipated to be = 20%
Research & Development Activities	The company plans to perform research and development activities on new products / services at this location and is attributing 5% of operating expenses to R&D.
Investments in Energy Efficiency/ LEED/Renewable Resources	The company states that equipment selection will be made to ensure efficient use of energy. Energy recovery measures will also be evaluated and considered when equipment is secured for the project.
Locational Land Use Factors, Proximity to Supporting Local Agricultural Production	The applicant plans to remediate the project site prior to occupancy under the standards and requirements per the NYS Brownfield Cleanup Program. The primary use is as a cannabis production facility within the city limits of the City of Buffalo
Retention/Flight Risk	Without financial assistance from ECIDA and other incentives – the project would explore other locations for expansion.
MBE/WBE Utilization	See MBE/ WBE Utilization form outlining company commitments in the areas of employment and construction as well as other relevant information.
Workforce Access – Proximity to Public Transportation	Bus stop at Fuhrmann Blvd & Buffalo Harbor for the NFTA Bus #42.
Additional Criteria Consideration	Letter of Support – Buffalo Mayor Byron Brown

DATE OF INDUCEMENT: August 24, 2022

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-Laborer's Way / Zephyr

Dollar Value of New Construction and Renovation Costs	Estimated New Assessed Value of Property Subject to IDA*	County Tax Rate/1000	Local Tax Rate (Town/City/Village)/1000	School Tax Rate/1000
24,875,000	9,000,000	5.028272	18.169375	n/a

*Apply equalization rate to value

PILOT Year	% Payment	County PILOT Amount	Town PILOT Amount	School PILOT Amount	Total PILOT	Full Tax Payment w/o PILOT	Net Exemption
1	0.2	\$11,066	\$39,987	\$0	\$51,053	\$218,076	\$167,023
2	0.2	\$11,066	\$39,987	\$0	\$51,053	\$218,076	\$167,023
3	0.3	\$15,592	\$56,340	\$0	\$71,931	\$218,076	\$146,145
4	0.3	\$15,592	\$56,340	\$0	\$71,931	\$218,076	\$146,145
5	0.4	\$20,117	\$72,692	\$0	\$92,809	\$218,076	\$125,267
6	0.4	\$20,117	\$72,692	\$0	\$92,809	\$218,076	\$125,267
7	0.4	\$20,117	\$72,692	\$0	\$92,809	\$218,076	\$125,267
8	0.4	\$20,117	\$72,692	\$0	\$92,809	\$218,076	\$125,267
9	0.4	\$20,117	\$72,692	\$0	\$92,809	\$218,076	\$125,267
10	0.5	\$24,643	\$89,044	\$0	\$113,687	\$218,076	\$104,389
11	0.5	\$24,643	\$89,044	\$0	\$113,687	\$218,076	\$104,389
12	0.5	\$24,643	\$89,044	\$0	\$113,687	\$218,076	\$104,389
13	0.5	\$24,643	\$89,044	\$0	\$113,687	\$218,076	\$104,389
14	0.5	\$24,643	\$89,044	\$0	\$113,687	\$218,076	\$104,389
15	0.5	\$24,643	\$89,044	\$0	\$113,687	\$218,076	\$104,389
TOTAL		\$301,757	\$1,090,381	\$0	\$1,392,137	\$3,271,147	\$1,879,009

*** Estimates provided are based on current property tax rates and assessment value (current as of date of application submission) and have been calculated by IDA staff

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 (Tax Credits, Grants, ESD Incentives, etc.)
27,800,000	1,879,009	1,088,281	120,000	tax credit amt unknown.

Note: special district taxes are not subject to PILOT abatement

Calculate % =(Est. PILOT + Est. Sales Tax+ Est. Mortgage Tax+ Other)/Total Project Costs: 11%

Erie County Industrial Development Agency
MRB Cost Benefit Calculator



Date: July 26, 2022
 Project Title: Laborer's Way 1
 Project Location: 310 Ship Canal Parkway, Buffalo, NY 14218

Economic Impacts

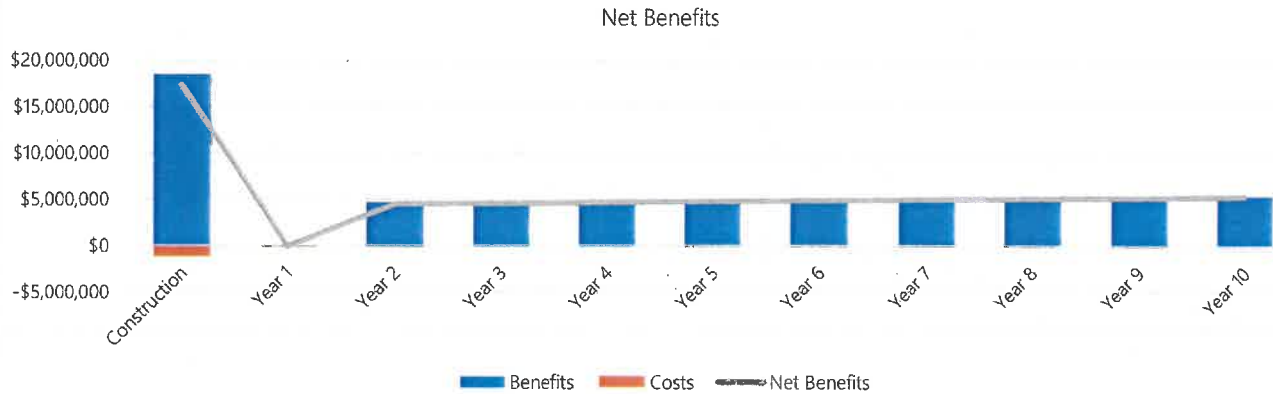
Summary of Economic Impacts over the Life of the PILOT

Project Total Investment
 \$27,800,000

Temporary (Construction)			
	Direct	Indirect	Total
Jobs	119	108	227
Earnings	\$11,266,396	\$6,216,291	\$17,482,687
Local Spend	\$27,244,000	\$19,288,651	\$46,532,651

Ongoing (Operations) Aggregate over life of the PILOT			
	Direct	Indirect	Total
Jobs	37	33	70
Earnings	\$34,810,336	\$33,691,960	\$68,502,296

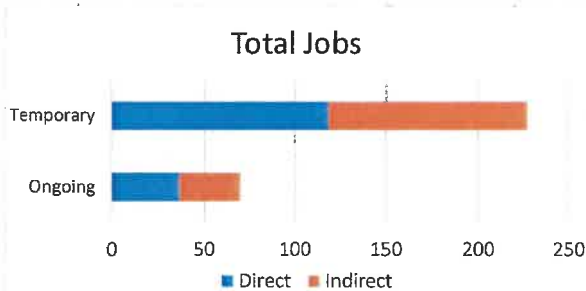
Figure 1



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	\$1,879,005	\$1,631,767
Sales Tax Exemption	\$1,088,281	\$1,088,281
Local Sales Tax Exemption	\$590,781	\$590,781
State Sales Tax Exemption	\$497,500	\$497,500
Mortgage Recording Tax Exemption	\$120,000	\$120,000
Local Mortgage Recording Tax Exemption	\$40,000	\$40,000
State Mortgage Recording Tax Exemption	\$80,000	\$80,000
Total Costs	\$3,087,286	\$2,840,048

State and Local Benefits

	Nominal Value	Discounted Value*
Local Benefits	\$87,992,398	\$76,914,024
To Private Individuals	\$85,984,983	\$75,198,841
Temporary Payroll	\$17,482,687	\$17,482,687
Ongoing Payroll	\$68,502,296	\$57,716,155
Other Payments to Private Individuals	\$0	\$0
To the Public	\$2,007,415	\$1,715,183
Increase in Property Tax Revenue	\$1,252,665	\$1,050,877
Temporary Jobs - Sales Tax Revenue	\$145,325	\$145,325
Ongoing Jobs - Sales Tax Revenue	\$569,425	\$479,766
Other Local Municipal Revenue	\$40,000	\$39,216
State Benefits	\$4,471,219	\$3,910,340
To the Public	\$4,471,219	\$3,910,340
Temporary Income Tax Revenue	\$786,721	\$786,721
Ongoing Income Tax Revenue	\$3,082,603	\$2,597,227
Temporary Jobs - Sales Tax Revenue	\$122,379	\$122,379
Ongoing Jobs - Sales Tax Revenue	\$479,516	\$404,013
Total Benefits to State & Region	\$92,463,618	\$80,824,364

Benefit to Cost Ratio

	Benefit*	Cost*	Ratio
Local	\$76,914,024	\$2,262,548	34:1
State	\$3,910,340	\$577,500	7:1
Grand Total	\$80,824,364	\$2,840,048	28:1

*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:

Project employment policy will have a commitment to promoting social equity and diversity, with a focus on hiring members of disadvantaged communities to create a diverse, equitable, and inclusive environment. Project will promote inclusion in the cannabis industry by making ongoing financial contributions to established nonprofits working on police and criminal justice reform related to cannabis. Additionally, reinvestment will be focused on communities that have been significantly impacted by cannabis-related convictions. Additional construction jobs will be immediately created with specific goals for hiring minority and communities that have been disproportionately impacted by cannabis-related crimes. Our business plan includes construction hiring goals of at least 25% minority workforce participation and at least 5% women workforce participation. Priority employment will also be given to employees that live locally in Buffalo. Project will also include facilities geared towards helping new operators establish a business with minimal capital investment, onsite job training, and business mentoring.



CITY OF BUFFALO
OFFICE OF THE MAYOR

BYRON W. BROWN
MAYOR

July 28, 2022

Mr. John Cappellino
Chief Executive Officer
Erie County Industrial Development Agency
95 Perry Street, Suite 403
Buffalo, New York 14203

Dear Mr. Cappellino:

The City of Buffalo supports Zephyr Investor's plans to construct a cannabis production facility within Buffalo Lakeside Commerce Park. We believe that this project will be a catalyst for economic development within the City by diversifying Buffalo's local economy and adding new employment opportunities for Buffalo residents.

Following property acquisition and remediation, the company will construct two, one-story steel framed structures totaling 75,000 sq ft on the site. The facility will be used primarily as a cannabis production facility for light manufacturing, cultivating, packaging and distribution. The \$27 million project is anticipated to create 20 full-time and 34 part-time jobs. Beyond the jobs created once the facility is operational, construction job opportunities will be created with specific goals for hiring minority communities that have been disproportionately impacted by cannabis-related crimes. As a result, the project will work to mitigate the impacts of cannabis incarcerations while advancing workforce and economic goals of our city.

The new construction of Zephyr's cannabis manufacturing facility is a welcome addition to the impressive revitalization efforts that continue to propel our local economy forward.

Sincerely,

Byron W. Brown
Mayor

PUBLIC HEARING DEVIATION SCRIPT

**Laborers Way 1, 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 August 2, 2022 at 9:00 a.m.,
at the Agency's offices at 95 Perry Street, Suite 403, 4th Floor Conference Room,
Buffalo, New York 14203

ATTENDANCE:

Masiello, Martucci & Associates
Alexa Sass – BUDC
Grant Lesswing – ECIDA
Aleece Burgio – MJI Solutions
Soma Hawramee – ECIDA

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 Andrew Federick. I am the Business Development Officer of the Erie County Industrial Development Agency, and I have been designated by the Agency to be the hearing officer to conduct this virtual public hearing. This public hearing is being live-streamed and made accessible on the Agency's website at www.ecidany.com.

2. PURPOSE: Purpose of the Hearing.

Hearing Officer: We are here to hold the public hearing on the Laborers Way 1, 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 July 21, 2022.

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 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”).

The Agency will acquire a leasehold interest in the Facility and lease the Facility back to the Company. The Company will operate the Facility during the term of the lease. At the end of the lease term, the leasehold interest will be terminated. The Agency contemplates that it will provide financial assistance to the Company for qualifying and certain specified portions of the Project in the form of sales and use tax exemption benefits and mortgage recording tax exemption benefits, and real property tax abatement benefits. With respect to the contemplated real property tax abatement, the Company has requested, in cooperation with the City of Buffalo (the “City”) and the County of Erie (the “County”), that the Agency and the Company enter into a non-standard payment-in-lieu-of-tax agreement (“PILOT Agreement”) whereby the Company will make payment, for each tax fiscal year, in an amount equal to the real property taxes that would be paid as if the Company owned the Facility and the Agency had no interest in the Facility, multiplied by the applicable percentage set forth below:

<u>PILOT Year</u>	<u>Applicable Percentage</u>
1	20%
2	20%
3	30%
4	30%
5	40%
6	40%
7	40%
8	40%
9	40%
10	50%
11	50%
12	50%
13	50%
14	50%
15	50%

The PILOT Agreement will operate consistent with the Buffalo Lakeside Commerce Park Development and PILOT Redistribution Agreement, dated as of July 1, 2005, by and among the Buffalo Urban Development Corporation (the “BUDC”), the City, the County, and the Agency (the “BLCP Agreement”). The BLCP Agreement established the Buffalo Brownfield Redevelopment Fund (the “BBRF”) to be funded, in this case, with certain portions of the PILOT Agreement payments as herein described. Funds deposited in the BBRF are to be utilized for certain infrastructure costs associated with lands owed by BUDC adjacent to the

Project Facility and/or for other comparable project undertaken by BUDC located with the City of Buffalo. The BLCP Agreement requires that, with respect to the Project, PILOT Agreement payments be made to the Agency, and then (i) 50% of the PILOT Agreement payment will be submitted to the BBRF, and (ii) 50% of the PILOT Agreement payment will be remitted to the City and the County.

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, please submit it on the Agency's website or mail to the Agency at 95 Perry Street, Suite 403, Buffalo, New York 14203. The comment period closes at 4:00 p.m. on August 23, 2022. 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.

Tony Masiello, Masiello, Martucci & Associates – I am a consultant representing Zephyr Partners. Zephyr is the managing member of the project applicant Laborers Way 1, and is a southern California based real estate developer with local ties to Buffalo through their CEO, Brad Termini. Zephyr's past real estate experience is primarily in California ranging from the development of residential communities to industrial buildings including construction of one of the largest cannabis manufacturing facilities in the state of California. Zephyr was looking for the right opportunity in Buffalo and was fortunate to come to an agreement with the Buffalo Urban Development Corporation in 2019 to acquire their 73 acres of land in the Lakeside Commerce Park located in southern Buffalo.

Laborers Way 1 sits on approximately 5 net acres within the park and will be the first phase of a multi-phased project that will ultimately create an approximate 1 million square foot industrial cannabis campus. The first phase includes the construction of two buildings totaling approximately 75,000 square feet that will be utilized for manufacturing, cultivation, packaging, and distribution. The facility will focus on both adult-use and medical cannabis consistent with New York State laws and the Office of Cannabis Management regulations. And 100% of the products produced at the facility will be sold within New York State.

Regarding tenancy, Zephyr is in the final discussions with The Etain Companies to lease 100% of the first phase and to build a second phase, which will grow their footprint at the park over

200,000 square feet in total. RIV Capital, its parent company, recently acquired ownership and control of The Etain Companies, who is one of the original five medicinal cannabis license recipients in New York State and is currently one of ten approved vertically integrated cannabis operators in the state. Given the formation of our new partnership with Etain we are very excited to be able to invest significant resources and capital while creating new permanent and temporary jobs for the local community in Buffalo.

Once the first phase is fully operational, the facility is expected to be running 24 hours a day and 7 days a week and anticipated to produce over 50 new permanent jobs plus temporary construction jobs. The permanent jobs will include roles such as, cultivation laborers, product development specialists, maintenance technicians, packaging technicians, administrative staff, and marketing professionals. Project employment policies will have a commitment to promoting social equity and diversity, with a focus on hiring members of disadvantaged communities to create a diverse, equitable, and inclusive environment with priority employment given to employees that live locally in Buffalo.

To conclude, we are very thankful for the opportunity to apply for the ECIDA's financial assistance programs. When determining which market to expand to, we analyzed various locations and determined that the subject site in Buffalo was ideal given the ability to apply for financial assistance being essential in securing a tenant. The Incentives allow for the ability to keep operating costs low in order to maintain competitiveness in a new and expanding industry. Without the benefits offered by the ECIDA, our project would not be feasible from an economic standpoint and our tenant would need to pursue alternative locations.

We would like to thank Mayor Brown, Buffalo city staff and the community for being very supportive of our project during the planning and permitting process. Working with the different local agencies has been a breath of fresh air compared to the challenges we face back in California. Finally, we would like to thank the ECIDA staff for diligently working with us throughout the application process and the ECIDA board for considering our application. We are beyond excited to kick off our first of many development projects in the community. Thank you.

6. ADJOURNMENT:

As there were no further statements and/or comments, the Hearing Officer closed the public hearing at 9:10 a.m.

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY
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, August 24, 2022 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 LABORERS WAY 1, 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, (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 (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, 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, as a condition of purchasing the Land from the Buffalo Urban Development Corporation (the "BUDC"), the Company has requested that the Agency enter into a payment in lieu of tax agreement (the "PILOT Agreement") consisting of: (i) a fifteen year term PILOT Agreement with respect to the Facility, and (ii) a PILOT Agreement payment structure whereby the Company will make payment, for each tax fiscal year, in an amount equal to the amount of real property taxes that would be paid as if the Company owned the Facility and the Agency had no interest in the Facility, multiplied by the applicable percentage of 20% for PILOT Agreement years 1 and 2, 30% for PILOT Agreement years 3 and 4, 40% for PILOT Agreement years 5, 6, 7, 8, and 9, and 50% for PILOT Agreement years 10, 11, 12, 13, 14 and 15 (collectively, (i) and (ii), being the "PILOT Deviation"); and

WHEREAS, the PILOT Agreement will operate consistent with the Buffalo Lakeside Commerce Park Development and PILOT Redistribution Agreement, dated as of July 1, 2005, by and among BUDC, the City of Buffalo, the County of Erie, and the Agency (the "BLCP Agreement"); and

WHEREAS, the BLCP Agreement established the Buffalo Brownfield Redevelopment Fund (the "BBRF") to be funded, in this case, with certain portions of the PILOT Agreement payments as herein described; and

WHEREAS, PILOT Agreement funds deposited in the BBRF are to be utilized for certain infrastructure costs associated with lands owed by BUDC adjacent to the Project Facility and/or for other comparable project undertaken by BUDC located with the City of Buffalo; and

WHEREAS, the BLCP Agreement requires that, with respect to the Project, PILOT Agreement payments be made to the Agency, and then (i) 50% of the PILOT Agreement payment will be submitted to the BBRF, and (ii) 50% of the PILOT Agreement payment will be remitted to the City and the County; and

WHEREAS, the proposed PILOT Agreement and PILOT Deviation as described in the preceding "Whereas" clauses deviates from the Agency's Uniform Tax Exemption Policy ("UTEP") in connection with the Agency's undertaking of the Project; and

WHEREAS, Notice Letters detailing the PILOT Agreement and the PILOT Deviation as same deviate from the Agency's UTEP were mailed or delivered to the chief executive officers of each Affected Tax Jurisdiction on or about July 20, 2022; and

WHEREAS, at this August 24, 2022 regular meeting of the Agency, the Agency allowed representatives of all Affected Tax Jurisdictions present at the meeting to address the Agency with respect to the deviation from the Agency's Policy; 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, (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, pursuant to General Municipal Law Section 859-a, on August 2, 2022, at 9:00 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 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, the City of Buffalo Common Council (the "Common Council") 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, and determined that the Project was a "Type I" action; and

WHEREAS, the Agency did not object to the Common Council's request to be Lead Agency, as defined under SEQR; and

WHEREAS, on May 14, 2019, the Common Council issued a negative declaration ("Negative Declaration") under SEQR, with respect to the Company's Project, which, at that point in time, consisted of a 1, 375,000 sq. ft facility and on October 25, 2021, the City of Buffalo Planning Board determined that the Project, as described herein, has been significantly reduced in size and will therefore have less of an impact on environmental resources as the originally proposed action; 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 August 24, 2022 resolution to approve 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 the Act.

(I) Based upon a thorough and complete review of the Application and its accompanying materials and information, the Environmental Assessment Form submitted by the Company, and the proceedings conducted by the Agency and Common Council, to date, pursuant to SEQR, the Agency hereby:

(i) consents to and affirms the status of the Common Council as “Lead Agency” within the meaning of and for all purposes of complying with SEQR and determines that the proceedings undertaken by the Common Council 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 I Action” as that term is defined under SEQR;

(iii) reviews, considers, ratifies, and adopts such proceedings by the Common Council, 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 proposed PILOT Agreement and PILOT Deviation request deviates from the terms of the Agency’s UTEP to the extent that the Company has requested a PILOT Agreement providing for: (i) a fifteen year term whereby the Company will make payment, for each tax fiscal year, in an amount equal to the amount of real property taxes that would be paid as if the Company owned the Facility and the Agency had no interest in the Facility, multiplied by the applicable percentage of 20% for PILOT Agreement years 1 and 2, 30% for PILOT Agreement years 3 and 4, 40% for PILOT Agreement years 5, 6, 7, 8, and 9, and 50% for PILOT

Agreement years 10, 11, 12, 13, 14 and 15, and (ii) PILOT Agreement payments be made to the Agency, and then (x) 50% of the PILOT Agreement payment will be submitted to the BBRF, and (y) 50% of the PILOT Agreement payment will be remitted to the City and the County. The Agency hereby approves of the deviation from its UTEP for this PILOT Deviation request and approves of the PILOT Agreement request as described herein. In making this determination, the Agency has considered the following factors as required by the Act and its UTEP, no single one of which is determinative:

- The extent to which the project will create or retain permanent, private sector jobs. The Company has represented that construction jobs will be created during the construction time period, and that 37 new full-time employee positions related to the operation of the Facility will be created.
- The estimated value of tax exemptions to be provided. The value of the Agency's Financial Assistance is estimated to be approximately \$3,087,300.
- Whether affected taxing jurisdictions shall be reimbursed by the Project occupant if the Project does not fulfill the purposes for which an exemption was provided. The Company will be subject to potential Financial Assistance recapture with respect to the sales tax exemption benefits, the mortgage recording tax exemption benefits, and the real property tax abatement benefits in the event it does not adhere to the Agency's standard material terms and conditions of receipt of Financial Assistance.
- The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity. The impact of the Project is a positive one on the community, as it will continue to promote job opportunities, general prosperity and economic welfare for the residents of Erie County and the City of Buffalo.
- The amount of private sector investment generated or likely to be generated by the proposed project. The total private sector investment in the Project is expected to be approximately \$27,800,000.
- The demonstrated public support for a proposed project. The City of Buffalo has expressed support for the Project and the PILOT Agreement as herein described.
- The likelihood of accomplishing the proposed project in a timely fashion. It is anticipated that Project construction will begin immediately upon approval of the Project and will be completed by June 30, 2023.
- The effect of the proposed project upon the environment. The Project will not have an adverse impact upon the environment.
- The extent to which the Project will require the provision for additional services. This Project will not require any additional services beyond those already in existence.

- The extent to which the Project will provide additional sources of revenue for municipalities and school districts. The Project is a positive one economically, in that the proposed PILOT Agreement payments will be greater than what would be collected in the event the Project is not undertaken and in the event the Company opted to take advantage of the real property tax abatement available to it under Section 485-e of the New York State Real Property Tax Law.

(K) 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)*: The average salary for FT jobs to be created = \$60,000.

(ii) *Regional Wealth Creation (% sales/customers outside area)*: 100% of sales within NYS, 10% within Erie County.

(iii) *In Region Purchases (% of overall purchases)*: In region purchases are anticipated to be = 20%.

(iv) *Research & Development Activities*: The company plans to perform research and development activities on new products/services at this location and is attributing 5% of operating expenses to R&D.

(v) *Investments in Energy Efficiency/LEED/Renewable Resources*: The company states that equipment selection will be made to ensure efficient use of energy. Energy recovery measures will also be evaluated and considered when equipment is secured for the project.

(vi) *Locational Land Use Factors, Proximity to Supporting Local Agricultural Production*: The applicant plans to remediate the project site prior to occupancy under the standards and requirements per the NYS Brownfield Cleanup Program. The primary use is as a cannabis production facility within the city limit of the City of Buffalo.

(vii) *Retention/Flight Risk*: Without financial assistance from ECIDA and other incentives – the project would explore other locations.

(viii) *MBE/WBE Utilization*: See MBE/WBE Utilization form outlining company commitments in the areas of employment and construction as well as other relevant information.

(ix) *Workforce Access-Proximity to Public Transportation*: Bus stop at Fuhrmann Blvd & Buffalo Harbor for the NFTA Bus #42.

(x) *Additional Criteria Consideration*: Letter of Support – Buffalo Mayor Byron Brown.

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. 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 \$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, 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 \$120,000; 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 \$1,879,009, resulting in estimated total PILOT payments of \$1,392,137 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 mortgage recording 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 mortgage recording 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, the Employment 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 mortgage recording 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 actually made with respect to the Project at the time of Project completion equals or exceeds \$23,630,000 (which represents the product of 85% multiplied by \$27,800,000, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 31 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 31 FTE employees [representing the sum of product of 85% multiplied by 37 (being the 37 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.

Section 4. 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 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 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 6. The Chair (or Vice Chair) and/or Executive Director of the Agency are hereby authorized and directed to give notice in writing to the chief executive officer of each affected tax jurisdiction regarding the proposed deviation of the terms of PILOT Agreement from the Agency's Uniform Tax Exemption Policy, and to do such further things or perform such acts as may be necessary to comply with Section 874 of the Act.

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: August 24, 2022



Laborers Way 1

[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	Laborers Way 1
Project Summary	The applicant is planning on developing approx. 75,000 square feet of manufacturing space in Buffalo.
Applicant Name	Laborers Way 1, LLC
Applicant Address	700 Second Street
Applicant Address 2	NA
Applicant City	Encinitas
Applicant State	California
Applicant Zip	92024
Phone	(310) 480-6766
Fax	
E-mail	Slevin@zephyrpartners.com
Website	NA
NAICS Code	531120

Business Organization

Type of Business	Limited Liability Company
Year Established	2021
State in which Organization is established	Delaware

Individual Completing Application

Name	Seth Levin
Title	EVP
Address	700 Second Street
Address 2	
City	Encinitas
State	California
Zip	92024
Phone	

Fax**E-Mail** SLEVIN@ZEPHYRPARTNERS.COMCompany Contact - Authorized Signer for Applicant

Contact is same as individual completing application No

Name Brad Termini

Title CEO

Address 700 Second Street

Address 2

City Encinitas

State California

Zip 92024

Phone

Fax

E-Mail Brad@Zephyrpartners.com

Company Counsel

Name of Attorney Amy Fitch

Firm Name Hodgson Russ LLP

Address 140 Pearl Street

Address 2 Suite 100

City Buffalo

State New York

Zip 14202

Phone (716) 848-1384

Fax (716) 819-4653

E-Mail afitch@hodgsonruss.com

Benefits Requested (select all that apply)

Exemption from Sales Tax Yes

Exemption from Mortgage Tax Yes

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%.

The subject Project includes a total of two buildings in one-story steel-framed structures with approximately 72 surface parking spaces and located on approximately 5.3 net acres of unimproved land along the waterfront in Buffalo Lakeside Commerce Park. The Property was adjacent to a former steel mill and is a designated brownfield site that is owned by the Buffalo Urban Development Corporation ("BUDC") and included within a city-approved redevelopment plan to revitalize the historically industrial area. The Applicant is under contract to purchase the Property from BUDC with an anticipated land closing date in June/July 2022 and the Applicant has spent several years and invested capital to entitle the Project, which has received land use approvals by the City of Buffalo, allowing the development to proceed. Planning Board approved the Project in October 2021, and the design team anticipates receiving a building permit in June/July 2022. Additionally, the Project has received support from the City of Buffalo Mayor's Office and BUDC. The Applicant will remediate the site prior to occupancy under the standards and requirements outlined within the New York State Brownfield Cleanup Program. The Applicant plans to acquire the Property, build the Project, install equipment and lease the space to a tenant who will operate the facility. The Applicant has an executed Memorandum of Understanding (MOU) and is finalizing a lease with a tenant, RIV Capital, who will sublease the property to their subsidiary, Etain, for the initial 75,000 square feet of space. Furthermore, the additional site acreage at the Property allows for up to 1.25 million square feet and the long-term plan is to continue expansion at the site as the New York state market matures over time. The Project will be used primarily as a cannabis production facility, with space for a variety of uses including manufacturing, cultivation, packaging, and distribution. The facility will focus on both recreational and medical cannabis consistent with New York State (NYS) laws and the Office of Cannabis Management (OCM) regulations. NYS has a process by which they are converting medicinal licenses to adult-use/recreational, as regulations are introduced. Etain currently has a medicinal license for one manufacturing facility and four retail dispensaries. In June 2022, Etain submitted their request to OCM to add our Buffalo facility to their license. The request is considered "by right". The Applicant's tenant will comply with all NYS cannabis regulations and licensing laws, and products include raw cannabis flower and other cannabis-based products such as oil, edibles, and extracts for adult-use. 100% of the products produced at the facility will be created and sold within NYS. Once the Project is fully operational, the facility is expected to be running 24 hours a day and 7 days a week. Including the land acquisition, the Project is estimated to cost approximately \$27,800,000. Upon completion of the Project, the facility is anticipated to produce 20 new full-time jobs and 34 new part-time jobs, for a total of 54 new jobs. The completed Project will include jobs for skilled manufacturing, product development specialists, maintenance technicians, packaging technicians, administrative staff, and marketing professionals. It is anticipated that the part-time employees will work on average between 20-30 hours per week, but we have budgeted for up to 40 hours per week on average. Project employment policies will have a commitment to promoting social equity and diversity, with a focus on hiring members of disadvantaged communities to create a diverse, equitable, and inclusive environment. Additionally, reinvestment will be focused on communities that have been significantly impacted by cannabis-related convictions. Beyond the jobs that will be created once fully operational, construction jobs will also be immediately created with specific goals for hiring minority and communities that have been disproportionately impacted by cannabis-related crimes. Priority employment will also be given to employees that live locally in Buffalo. The Project will also include facilities geared towards helping new operators establish a business with minimal capital investment, onsite job training, and business mentoring. Laborers Way 1, LLC will be the owner/landlord and LW1 Operator, LLC, which is wholly owned by Laborers Way 1, LLC, is set up to be the operating entity. Project ownership is fully controlled by Laborers Way Partners, LLC with 50% controlled by Zephyr Laborers Way, LLC and 50% controlled by USA DRES, LLC. Additionally, Brad Termini is a member with an indirect ownership of more than 20%.

Estimated % of sales within Erie County	10 %
Estimated % of sales outside Erie County but within New York State	90 %
Estimated % of sales outside New York State but within the U.S.	0 %
Estimated % of sales outside the U.S.	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?

20

Describe vendors within Erie County for major purchases

Cleaning, Service/Maintenance, Food Service, Hardware (tools, PVC/tubing, screws, nails, bolts, and other miscellaneous supplies), and Hard Goods (pots, hoses, fans, etc.)

Section II: Eligibility Questionnaire - Project Description & Details

Project Location

Address of Proposed Project Facility

310 Ship Canal Parkway

Town/City/Village of Project Site

Buffalo

School District of Project Site

City of Buffalo School District

Current Address (if different)

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

SBL Number(s) for proposed Project

132.15-2-1

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

0

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

Land

\$ 400,800

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.)

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)

Project is new construction of 75,000 square feet to be used for cannabis cultivation facilities including production, packaging and distribution.

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

We are only considering New York State for this expansion project.

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

Yes

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

State Department of Environmental Conservation's Brownfield Cleanup Program - TBD

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 Agency's financial assistance is necessary for our business operations and expansion within the New York market. When determining which market to expand to, we analyzed various locations and determined that the subject site in Buffalo and the ability to apply for financial assistance was essential in attracting the tenant and current investor stakeholders. If financial assistance from the Agency and other local incentive programs are not received our business would need to be reevaluated from the stakeholders perspective.

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?

Applicant would need to reassess business expansion to this location and explore other locations for expansion.

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)

Bus stop at Fuhrmann Blvd & Buffalo Harbor for the 42 bus line.

Has a project related site plan approval application been submitted to the appropriate planning department?

Yes

If Yes, include the applicable municipality's and/or planning department's approval resolution, the related State Environmental Quality Review Act ("SEQR") "negative declaration" resolution, if applicable, and the related Environmental Assessment Form (EAF), if applicable.

If No, list the ECIDA as an "Involved Agency" on the related EAF that will be submitted to the appropriate municipality and/or planning department for site plan approval.

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

Yes

Describe the present zoning/land use

Zoning of D-IL

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?

Yes

If yes, please explain

Site is being enrolled into the Brownfield Cleanup Program for known slag fill materials, petroleum and metals in the soils.

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

No

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?

Yes

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

Equipment selection will be made to ensure efficient use of energy. Energy recovery measures will also be evaluated and considered when equipment is secured for the project

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?

Yes

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

5%

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.

Retail Sales	No	Services	No
---------------------	----	-----------------	----

Please check any and all end uses as identified below.

- | | | |
|--|---------------------------|-------------------------------------|
| No Acquisition of Existing Facility | No Assisted Living | Yes Back Office |
| No Civic Facility (not for profit) | No Commercial | No Equipment Purchase |
| No Facility for the Aging | No Industrial | No Life Care Facility (CCRC) |
| No Market Rate Housing | No Mixed Use | No Multi-Tenant |
| No Retail | No Senior Housing | Yes Manufacturing |
| No 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.

			Cost	% of Total Cost
Manufacturing/Processing	68,040 square feet	\$	25,200,000	91%
Warehouse	square feet	\$	0	0%
Research & Development	square feet	\$	0	0%
Commercial	square feet	\$	0	0%
Retail	square feet	\$	0	0%
Office	7,000 square feet	\$	2,600,000	9%
Specify Other	square feet	\$	0	0%

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

No

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

Standard

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

8/30/2022

End date : Estimated completion date of project

6/30/2023

Project occupancy : estimated starting date of occupancy

7/1/2023

Capital Project Plan / Budget

Estimated costs in connection with Project

1.) Land and/or Building Acquisition

\$ 425,000 square feet 6 acres

2.) New Building Construction

\$ 21,825,000 75,000 square feet

3.) New Building addition(s)

\$ 0 square feet

4.) Reconstruction/Renovation

\$ 0 square feet

5.) Manufacturing Equipment

\$ 0

6.) Infrastructure Work

\$ 3,050,000

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

\$ 0

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

\$ 2,500,000

9.) Other Cost

\$ 0

**Explain Other
Costs****Total Cost** \$ 27,800,000Construction Cost Breakdown:

Total Cost of Construction	\$ 24,875,000 (sum of 2, 3, 4 and 6 in Project Information, above)
Cost of materials	\$ 12,437,500
% sourced in Erie County	50%

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 \$ 12,437,500

Estimated State and local Sales and Use Tax Benefit (product of 8.75% multiplied by the figure, above): \$ 1,088,281

** 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): \$ 27,800,000

Bank Financing: \$ 0

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) Brownfield Tax Credit (amount of tax credits are not known at this time)

Total Sources of Funds for Project Costs: \$27,800,000

Have you secured financing for the project? Yes

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).	16,000,000
Lender Name, if Known	
Estimated Mortgage Recording Tax Exemption Benefit (product of mortgage amount as indicated above multiplied by 3/4 of 1%):	\$120,000

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): No

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.

ECIDA encourages applicants to utilize MBE/WBE contractors for their projects. Describe your company’s internal practices that promote MBE/WBE hiring and utilization

Project employment policy will have a commitment to promoting social equity and diversity, with a focus on hiring members of disadvantaged communities to create a diverse, equitable, and inclusive environment. Project will promote inclusion in the cannabis industry by making ongoing financial contributions to established nonprofits working on police and criminal justice reform related to cannabis. Additionally, reinvestment will be focused on communities that have been significantly impacted by cannabis-related convictions. Additional construction jobs will be immediately created with specific goals for hiring minority and communities that have been disproportionately impacted by cannabis-related crimes. Priority employment will also be given to employees that live locally in Buffalo. Project will also include facilities geared towards helping new operators establish a business with minimal capital investment, onsite job training, and business mentoring

Is project necessary to expand project employment?

Yes

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 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).

Current # of jobs at proposed project location or to be relocated at project location	If financial assistance is granted – project the number of FT and PT jobs to be retained	If financial assistance is granted – project the number of FT and PT jobs to be created upon 24 months (2 years) after Project completion	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
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				upon 24 months (2 years) after project completion **
Full time	0	0	20	20
Part time	0	0	34	34
Total	0	0	54	

Salary and Fringe Benefits for Jobs to be Retained and Created

Category of Jobs to be Retained and/or Created	# of Employees Retained and/or Created	Average Salary for Full Time	Average Fringe Benefits for Full Time	Average Salary for Part Time (if applicable)	Average Fringe Benefits for Part Time (if applicable)
Management	1	\$ 150,000	\$ 22,500	\$ 0	\$ 0
Professional	3	\$ 110,000	\$ 16,500	\$ 0	\$ 0
Administrative	0	\$ 0	\$ 0	\$ 0	\$ 0
Production	50	\$ 45,000	\$ 6,750	\$ 35,000	\$ 5,250
Independent Contractor	0	\$ 0	\$ 0	\$ 0	\$ 0
Other	0	\$ 0	\$ 0	\$ 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.

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):

Address			
Full time	0	0	0
Part time	0	0	0
Total	0	0	0

Payroll Information

Annual Payroll at Proposed Project Site upon completion

2,390,000

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)

60,000

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

35,000

Estimated salary range of jobs to be created

From (Full Time)	45,000	To (Full Time)	150,000
From (Part Time)	30,000	To (Part Time)	40,000

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

310 Ship Canal Parkway, Buffalo, New York 14218

Name and Address of Owner of Premises

Laborers Way 1, LLC 700 Second Street Encinitas, CA 92024

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

unimproved land with roadway bisecting Premises and preserved wetlands to the north.

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

land to be developed into 75,000 square feet of manufacturing and office space

Describe all known former uses of the Premises

former steel mill and designated brownfield site

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

Yes

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

Current owner is Buffalo Urban Development Corporation. Applicant is under contract to acquire the Premises.

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 TBD
Address 310 Ship Canal Parkway
Contact Person
Phone
Fax
E-Mail
Federal ID #
SIC/NAICS Code

SS

Section V: Tenant Information

PART 1 TO BE COMPLETED BY LESSEE (DEVELOPER)

Tenant Name

RIV Capital US Real Estate LLC

Property Address:

310 Ship Canal Parkway

City/Town/Village

Buffalo

The following information is an outline relative to the potential client and their proposed contract to sublease space in the above reference facility

Amount of space to be leased (square feet)

75,000

What percentage of the building does this represent?

100

Are terms of lease:

NET

If GROSS lease, please explain how Agency benefits are passed to the tenant

Estimated date of occupancy

7/1/2023

PART 2 TO BE COMPLETED BY PROPOSED TENANT

Company Name:

RIV Capital US Real Estate LLC (a wholly-owned subsidiary of RIV Capital Inc.)

Local Contact Person:

Matt Mundy

Title:

General Counsel and Chief Strategy Officer

Current Address:

40 King St. West Suite 2504, Toronto, Ontario, Canada, M5H 3C2

Phone:

(905) 466-2191

Fax:

E-Mail:

matt@rivcapital.com

Website:

rivcapital.com

Company President/General Manager:

Mark Sims

Number of employees moving to new project location:

Full-Time:

0

Part-Time:

0

Total:

Please describe briefly the nature of the business in which the proposed tenant is/will be engaged. This should include NAICS Code; type of business and products or services; percent of total sales in Erie County and the United States:

NAICS Code: 053 Type of Business: Real Estate Leasing/Subleasing Description of Business: RIV Capital US Real Estate LLC is engaged in the business of leasing and sub-leasing properties. It is a wholly owned subsidiary of RIV Capital Inc. RIV Capital US Real Estate LLC will sublease the property to Etain LLC, which owns and operates legally licensed medical cannabis cultivation and retail dispensaries in the state of New York. Percent of total sales in Erie County and United States: 10% and 100%, respectively

Attach additional information as necessary.

History of Company (i.e. start-up, recent acquisition, publicly traded)

About RIV Capital: For complete detail on the history of RIV Capital Inc. (the "Company"), please refer to the Annual Information Form filed with the Canadian Securities Administrators ("CSA") at sedar.com On March 30, 2022, the Company entered into definitive agreements (the "Etain Purchase Agreements") to acquire (the "Etain Acquisition") ownership and control of Etain IP LLC and Etain, LLC, owners and operators of legally licensed cannabis cultivation and retail dispensaries in the state of New York, (the "Etain Companies" or "Etain"). About Etain: Etain is one of the original five medical cannabis license recipients in the state of New York and is currently one of ten approved vertically integrated operators. Etain was founded by Amy Peckham, Hillary Peckham, and Keeley Peckham with another strong woman in mind - their grandmother, Frances "Granny Franny" Keeffe. During Granny Franny's battle with ALS, the Peckham women began researching medical marijuana and discovered all the potential benefits it could provide. Determined to provide similar relief to others, Etain received its medical marijuana license in 2015, and the Peckham women have been focused on delivering high-quality wellness products. Etain currently operates four dispensaries across New York State, with a flagship location in Manhattan and prominent locations in Kingston, Syracuse and Yonkers. As a Registered Organizations ("ROs"), Etain expects to be grandfathered in as one of ten vertically-integrated cannabis companies in New York State's adult-use program, and will be permitted to open four additional dispensaries. Additionally, Etain operates a greenhouse cultivation facility in Chestertown, which is currently undergoing expansion increasing its size from 12,000 sq. ft. to 56,000 sq. ft. Etain retained Moelis and Company LLC in late-2021 to explore and consummate a sale of its New York operations, and after two rounds of bidding, RIV Capital emerged as the exclusive party to consummate a deal. Pursuant to the transaction, Etain submitted a request ("Request") to the New York Cannabis Control Board and the New York State Office of Cannabis Management to authorize a change in control in the ownership of Etain. As part of the Request, Etain requested regulatory approval to establish an additional cannabis cultivation and manufacturing facility located in Buffalo, New York. Currently, RIV Capital has entered into a Memorandum of Understanding (the "MOU") with LABORERS WAY 1, LLC, for development of a site in Buffalo, New York (the "Zephyr Project"). RIV Capital is finalizing a long-term lease for the property identified as part of the Zephyr Project pursuant to the terms and subject to the conditions of the MOU. RIV Capital would then sublease the property to Etain. The goal is to create an approximately 211,000 square foot campus comprised of 3 buildings supporting cultivation and manufacturing operations (collectively, the "Zephyr Facility"). The first phase includes the 75,000 square foot facility at the Project location. The Zephyr Project would be in addition to the Chestertown Expansion.

Please list the square footage which the proposed tenant will lease at the Project location

75,000

Please list the square footage which the proposed tenant leases at its present location(s)

0

Describe the economic reason for either the increase or decrease in leased space.

Tenant is expanding

Will the project result in a relocation and/or abandonment of other tenant/user(s) facilities in Erie County, or New York State?

No

If owned, what will happen to the existing facility once vacated?

If leased, when does lease expire?

7/31/2038

Are any of the proposed tenant's current operations located in facilities which have received an Industrial Development Agency benefit?

No

If yes, please provide details as to location, and amount of leased space, how long leased?

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

700 Second Street

City/Town

Encintas

State

California

Zip Code

92024

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?

No

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