

Town Board Meeting December 11, 2023

Supv. Crossen called the monthly meeting of the Alabama Town Board to order at 7:00 p.m. Roll Call was taken, Councilperson Fisher, LaGrou, Klotzbach, Veazey and Supv. Crossen were present. Also present were Supt. Covell, Mark Masse, Dave Bencic and Attorney Boylan.

Privilege of the Floor

Dave Bencic – Had questions on Solar Law:

Is there any incentive zoning for Solar?

50% or 100% of one plot – does it have to be farm or woods?

Will Solar decrease the cost of our electric?

Noise – if there are any issues the solar company should be the one to pay to prove if it is within the limits, not the person complaining.

Setbacks – keep the power/batteries as far away from residences as you can.

Highway – Supv. Covell gave update:

Fence posts are in, putting up snow fence this week.

Mini loader and new truck were delivered.

Green lights being installed on plows.

Water Dist. #2 – all of the parts that were at the highway dept. are in Batavia. New applicants will deal directly with Batavia beginning Jan. 1st.

Kurt Health Insurance – In order for Kurt to get healthcare on January 1st, the Town has to pay for 36 days in the previous quarter. Disc. held. The Town will pay for the 36 days as a pre-pay on the January abstract.

Resignation

Judge Taucher sent a letter rescinding his resignation. Disc. held.

MOTION by Councilperson LaGrou, seconded by Supv. Crossen to accept Jeff Tauscher's letter rescinding his resignation. Approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Notice of Claim

The Town received a Notice of Claim on 12/5/23, Jason Hurley is the Claimant. It was sent to the Town Attorney and the insurance company.

2024 Committee Assignments

Supv. Crossen asked the Board Members to review the committee list and let him know what committee(s) they want to serve on in 2024.

Town of Oakfield Lease for Court

OFFICE AND COURT FACILITIES LEASE AGREEMENT

THIS LEASE, made this _____ day of _____, 2023, by and between the **TOWN OF OAKFIELD**, having offices at 3219 Drake Street Road, Oakfield, New York; herein called "Landlord", and the **TOWN OF ALABAMA**, having offices at 2218 Judge Road, Oakfield, New York, herein called "Tenant".

IN CONSIDERATION of the mutual covenants and agreements contained herein it is agreed as follows:

1. Landlord hereby leases to Tennant and Tennant hereby rents from Landlord, the space hereinafter called the "Premises". Located at Landlord's Community and Government Center, 3219 Drake Street Road, Oakfield, New York, including the right to use common parking areas as follows:
 - A. At all times, exclusive use of one office consisting of approximately 143 square feet, shared use of the Court Clerk office space, and one storage room consisting of approximately 76 square feet.
 - B. During the hours of Tenant's Town Court operations, use of the Courtroom Facilities and two conference rooms.
 - C. At all times, non-exclusive use of restroom facilities.
2. The Premises is leased for a term of 3 years, to commence on the 1st of January 2024.
3. The rent shall be for sum of Seven Thousand Dollars (\$7,000.00) per year for three years (3). Monies are to be paid on or before the 15st day of February of each year.
4. Either party may terminate the Lease by providing to the other party a written notice on or before December 31st of any calendar year, to be effective on December 31st of the following calendar year. No termination shall be effective during the calendar year.
5. Landlord shall be responsible to pay for any telephone, security system, and trash removal contracts.
6. **ALL OFFICE SUPPLIES ARE AT THE TENTANT'S EXPENSE.**
7. Tenant shall use and occupy the Premises for office activities and to operate its Town Court by its Town Judges and support staff, and for no other purpose without the written consent of the Landlord. The Tenant's Town Judges shall coordinate with the Landlord's Town Judges the times and dates for Tenant to hold its Court operations, with the Landlord's court operations to have precedence with regard to times and dates.
8. Tenant shall pay rent to Landlord at Landlord's above stated address, or at such other place as Landlord may designate in writing, without demand and without counterclaim, deduction or set off.
9. Tenant shall commit no act of waste and shall take good care of the Premises and the fixtures and appurtenances therein, and shall, in the use and occupancy of the Premises, conform to all laws, orders and regulations of Federal, State and Municipal Governments or any of their departments.
10. The Landlord's responsibilities for maintenance and repairs are as follows:
 - A. The Landlord shall be responsible for all maintenance and repairs of existing common areas, including, but not limited to, common exits and entrances to and from the building, common ramps, common hallways within the building of which the leased Premises is a part, common parking, sidewalks and roadways.
 - B. The Landlord shall also be responsible for all structural maintenance and repairs to existing facilities, including, but not limited to, the existing roof, interior, exterior walls (and windows), floors, ceiling and foundation.
 - C. The Landlord shall also be responsible for all maintenance and repairs involving the existing and current configurations for the electrical system, plumbing system, sewage system, heat and air cooling installations.

- D. Notwithstanding the foregoing, the Tenant shall reimburse the Landlord for any maintenance, repair, rebuilding, or other costs incurred by Landlord as the result of damages caused by the action or failure to act by the Tenant, its agents, employees, servants and invitees.
11. Tenant shall no do any of the following:
 - A. Without first obtaining the written consent of Landlord, make any alterations or improvements in, to or about the Premises.
 - B. Do or suffer anything to be done on the Premises which will increase the rate of fire or casualty insurance on the building.
 - C. Permit the accumulation of waste or refuse matter on the leased Premises or anywhere in or near the building.
 12. Tenant may not sublease all or any portion of the Premises.
 13. The Landlord agrees to pay all utilities for the building of which the leased Premises are a part, including, but not limited to, heat. Light, gas, electric, water and sewer.
 14. Tenant agrees to promptly notify the Landlord upon determining that repairs need to be made to the leased Premises and Tenant further agrees to allow the Landlord to examine the leased Premises at any tie during the term of this Lease, upon reasonable notice to the Tenant, for the purpose of making repairs, or determining whether repairs need to be made, or for any other legitimate purposes.
 15. In case the leased Premises shall be damaged by fire or other unavoidable casualty so that the same shall be thereby rendered unusable by the Tenant, then the rent shall be suspended or abated until the said Premises shall have been put in proper condition for use by the Tenant. In case of fire, other damage or casualty, the Landlord shall thereupon cause the damage to be repaired, but if the Premises be so damaged that the Landlord shall decide not to rebuild, which decision shall be solely within the discretion of the Landlord, the term hereby created shall cease, and the rent shall either be paid by the Tenant or rent shall be refunded to the Tenant on a prorated basis for such period of time up to the date of the casualty.
 16. Tenant is granted the right, in common with the Landlord and other tenants and licensees of the Landlord, to use common exits and entrances to and from the building of which the leased Premises is a part, parking, sidewalks and roadways, all in areas and upon conditions as designated by Landlord. The Tanat is expressly prohibited from storing any and all property in any common areas. The tenant agrees to keep the common areas clear at all times.
 17. The Tenants shall hold harmless, indemnify and defend Landlord from all liability, penalties, losses, damages, costs, expenses, causes of action, claims and/or judgements, including reasonable attorney's fees, which arise by reason of any injury or death to any person or persons, or damage to the property of any person or persons resulting from the actions or inaction of the Tenant, its agents, servants, employees and invitees which in , upon or in any way connected with the leased Premises or use of the common areas, during the term of the Lease or any occupancy hereunder.
 18. The Landlord shall hold harmless, indemnify and defend Tenant from all liability, penalties, losses, damages, costs expenses, cause of action, claims and/or judgements, including reasonable attorney's fees, which arise by reason of any injury or death to any person pr persons, or damage to the property of any person or persons, resulting from the actions or inaction of the Landlord, its agents, servants, employees and invitees while in , upon or in any way connected with all areas inside or outside of the building known as the Community and

Government Center in the Town of Oakfield, New York, during the term of this Lease or any occupancy hereunder.

19. If Tenant defaults in the payment of rent, or defaults in the performance of any of the other covenants or conditions hereof, Landlord may give Tenant notice of such default and if Tenant does not cure any rent default within three (3) days, or other default within ten (10) days, after the giving of such notice (or if such other default is of such nature that it cannot be completely cured within such period, if Tenant does not commence such curing within such ten (10) days thereafter proceed with reasonable diligence and in good faith to cure such default) then Landlord may terminate this Lease on not less than ten (10) days' notice to Tenant, and on the date specified in said notice the term of this Lease shall terminate, and Tenant shall then quite and surrender the Premises to Landlord, but Tenant shall remain liable as hereinafter provided. If this Lease shall have been so terminated by Landlord, Landlord may at any time thereafter resume possession of the Premises by any lawful means and remove Tenant or other occupants and their effects.
20. The failure of either party to insist on strict performance of any covenant or condition hereof, or to exercise any option herein contained, shall not be construed as a waiver of such covenant, condition, or option in any other instance. This Lease cannot be changed or terminated orally.
21. Interruption or curtailment of any service maintained in the building, if caused by strikes, mechanical difficulties or any causes beyond Landlord's control whether similar or dissimilar to the enumerated, shall not entitle Tenant to any claim against Landlord or to any abatement in rent and shall not constitute constructive or partial eviction, unless Landlord fails to take such measures as many be reasonable in the circumstances to restore the service without undue delay. If the Premises are rendered untenable in whole or in part, for a period of ten (10) consecutive business days, by the making of repairs, replacements or additions, other than those made with Tenant's consent or caused by misuse or neglect by Tenant or Tenant's agents, servants, visitors or licensees, there shall be a proportionate abatement of rent during the period of such untenable.
22. All notices or demands required or desired to be given pursuant to this Lease shall be in writing and addressed to the parties at the addresses given on the first page of this Lease; or at such other addresses as shall be designated hereafter by either party in writing. Such notice or demand shall take effect when received.
23. If any provision of this Lease shall be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render the unenforceable this Lease or any other provisions hereof and a valid and enforceable construction shall be given to the invalid and unenforceable provision to best reflect the commercial intent of the parties expressed herein. In the event such construction is not available, then the parties shall agree to replace the invalid provision with a valid provision which most closely reflects the commercial intent of the parties which is expressed herein.
24. No representation or promise shall be binding on the parties hereto except those representation and promises contained herein or in some future writing signed by the parties making such representations or promises.
25. Landlord has made no representation or promises with respect to the said Premises except as herein expressly set forth. The taking of possession of the demised Premises by the Tenant shall be conclusive evidence as against the Tenant that the Tenant accepts the same "as is" and that said Premises and the building and fixtures of which the same form a part was in good and satisfactory condition at the time such possession was taken.

26. Landlord covenants that if, and so long as Tenant pays the tent and any additional rent as herein provided, and performs the covenants hereof, Tenant shall peaceably and quietly have, hold and enjoy the Premises for the term herein mentioned, subject to the provisions of the Lease.
27. This Agreement and the performance of the parties hereunder shall be construed in accordance with the governed by the laws of the State of New York. The parties agree that claims asserted or causes of action arising hereunder shall be submitted to the jurisdiction of the Courts of the State of New York and shall be venued in Genesee county.

IN WITNESS WHEREOF, the parties hereto have duly executed this Lease the date first appearing above.

TOWN OF OAKFIELD

BY: _____
Matthew E. Martin, Supervisor

TOWN OF Alabama

BY: _____
Robert Crossen, Supervisor

MOTION by Councilperson Fisher, seconded by Councilperson Klotzbach to accept the Town of Oakfield’s Court Lease for a term of three (3) years beginning January 1, 2024 and have Supv. Crossen sign it. Approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

2024 Salary Schedule

***Town of Alabama
Proposed 2024 Salary Schedule***

Position	Salary
Supervisor	\$19,000.00
Bookkeeper	\$9,105.00
Councilpersons (4 each) (\$12,240 total)	\$ 3,060.00
Town Clerk/Collector	\$39,790.00
Registrar	\$ 1,030.00
Deputy Town Clerk	\$ 18.50 per hour
Town Justice (2 each) (\$19,700 total)	\$ 9,850.00
Court Clerk	\$ 8,440.00
Assessor	\$16,500.00
Zoning Enforcement Officer	\$ 7,000.00
Building Code/Fire Inspector	\$ 7,000.00
Cleaner	\$ 18.50 per hour
Highway Superintendent	\$77,365.00
Motor Equipment Operator	\$28.73 per hour
Deputy Highway Supt.	\$29.73 per hour
Laborer	\$ 18.50 per hour

Sr. Laborer	\$ 21.00 per hour
On Call Seasonal Truck Driver	\$ 27.76 per hour
Alabama Cemetery Caretaker	\$ 2,380.00
Historian	\$ 850.00
Bingo Inspector	\$ 200.00
Zoning Board of Appeals Member	\$ 30.00 per mtg
Zoning Board of Appeals Chairman	\$ 50.00 per meeting
Planning Board Member	\$ 40.00 per mtg
Planning Board Chairman	\$ 50.00 per meeting
Zoning/Planning Bd. Clerk	\$ 18.50 per hour
Assessment Board of Review	\$ 110.00 per day
Mileage for Town Employees	\$ IRS Rate
Water System/Treatment Plant Operator WD#1	\$ 24.50 per hour
Buildings/Grounds Maintenance	\$ 5,900.00
Assistance to Supv. Stipend for Town Clerk	\$1,545.00
Deputy Supervisor	\$ 530.00
New Court Clerk Trainee	\$ 18.50 per hour
Water District Oversight Stipend for Hgwy Supt	\$2,325.00

MOTION by Councilperson LaGrou, seconded by Councilperson Veazey to adopt the 2024 Salary Schedule as written. Approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Water District #1 Loan

WHEREAS, Water District #1, due to the increasing cost of operation, the increasing cost and frequency of required testing, and the increasing cost of water purchased, has insufficient margins to pay its ongoing expenses, and

WHEREAS Water District #1 currently has inadequate funds to pay its current obligations, and

WHEREAS, it will take several months to raise the water rate so as to provide sufficient margin to fund the district.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Alabama duly convened as follows:

1. The Supervisor is hereby authorized to pay interest from the Water District #1 account (\$4000 principle, 174 days, at a 2% simple interest rate) \$38.14 to General Funds for the previous year's loan.
2. The Supervisor is hereby is authorized to repay from and temporarily readvance from surplus General Funds of the Town the sum of \$4,000.00 to Water District #1 Fund pursuant to provisions of section 9-a of the General Municipal Law of the State of New York.

3. Such temporary advance shall be repaid with interest at two (2) percent by Water District #1 to the General Fund as soon as monies are available, but in any event not later than December 31, 2024.
4. This resolution shall take effect at the transition point between 12/31/2023 and 1/1/2024.

Councilperson Fisher offered the resolution which was seconded by Councilperson LaGrou and approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

STAMP – Mark Masse gave update:

Received a non-binding letter of intent from a company for 60 acres. The EDC can't act on it without SEQR. Disc. held.

They are working on the budget for FASTNY, almost done with it.

Edward continues to work with the planning board.

Sound Study – Supv. Crossen informed the Board that it has been completed.

Edwards Vacuum Findings Statement

Motion to Confirm Conformance with the Findings and Amended Findings Issued by the Alabama Town Board, as SEQR Involved Agency, to Approve the Community Investment Agreement with Edwards Vacuum, LLC at the STAMP Site

Whereas, the Town of Alabama (Town) has received a proposed Host Community Investment Agreement with Edwards Vacuum, LLC for a facility (Project) to be located in the Western New York Science & Technology Manufacturing Park (STAMP) in the Town of Alabama, the Town's consent to enter into said Agreement is subject to SEQR and

Whereas, the development and operation of STAMP was the subject of a Generic Environmental Impact Statement and all discretionary actions related to STAMP are subject to the Findings issued under 6 NYCRR Part 617 of the Environmental Conservation Law (SEQR); and

Whereas, in accordance with SEQR, the Genesee County Economic Development Center (GCEDC), as the SEQR Lead Agency, accepted a Final Generic Environmental Impact Statement (FGEIS) on January 19, 2012 and issued Findings on the FGEIS on March 12, 2012 (DGEIS and FGEIS are collectively, the GEIS); and

Whereas, the Town Board issued its own written findings for STAMP on August 13, 2012 (2012 Findings) prior to rezoning STAMP from Agricultural Residential to Advanced Manufacturing; and

Whereas, in 2016 several changes were made to the Project and the GCEDC and the Town issued Amended Findings on June 27, 2017 (2017 Amended Findings); and

Whereas, in 2020, the GCEDC worked with National Grid and the New York Power Authority to allow STAMP access to high power 345 kv lines, thereby increasing the energy consumption threshold of STAMP from 185 megawatts to 450 megawatts and the GCEDC determined that this change would not result in any significant adverse impact (see 2020 GCEDC Findings); and

Whereas, collectively, the 2012 Findings and the 2017 Amended Findings, are collectively known as The Findings; and

Whereas, in late 2022, the GCEDC undertook a review of the Project to determine whether the Project has the potential to have any significant adverse environmental impacts that were not previously analyzed and addressed in the GEIS and The Findings; and

Whereas, by resolution dated February 2, 2023 (GCEDC Edwards Findings), the GCEDC, considering both the magnitude and importance of each potential environmental impact indicated, and upon the GCEDC's knowledge of the GEIS and The Findings as well as STAMP and surrounding area and such further investigations of the Project and its environmental effects as the GCEDC deemed appropriate, the GCEDC found that all potential environmental impacts associated with the Project were adequately addressed in the GEIS and The Findings and that no further SEQRA compliance relative to the Project is required; and

Whereas, the Alabama Town Board, acting as an Involved Agency, and having considered all relevant information set forth in the GEIS and The Findings as well as the 2023 GCEDC Findings and the Affidavit and having weighed and balanced the relevant environmental impacts with social, economic and other essential considerations; and

Whereas, actions carried out in conformance with the mitigating measures as outlined in The Findings avoid or minimize, to the maximum extent practicable, adverse environmental impacts disclosed in the GEIS, and

Whereas, the Alabama Town Board, utilizing the Findings Forms created by the Town Board to evaluate compliance with The Findings, a completed copy of which is attached hereto for the Project and incorporated herein, and discussing each mitigating measure and conditions in these documents, has determined that the Project is in substantial conformance with The Findings.

Now, Therefore, Be It Resolved that the Alabama Town Board, acting as a SEQR Involved Agency, confirms that the Project and the Town's action proposed to be taken to Approve the proposed Host Community Investment Agreement for Edwards Vacuum, LLC is in substantial conformance with the GEIS and Town Board Findings for STAMP and that no further action is required pursuant to SEQR before approving the proposed Host Community Investment Agreement for Edwards Vacuum, LLC; and

Be it Further Resolved that the Supervisor is authorized to sign the Findings Forms, which along with the attached materials, documents this decision; and

Be it Further Resolved that this resolution take effect immediately

Councilperson Fisher offered the resolution which was seconded by Councilperson LaGrou and approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Edwards Vacuum Host Community Agreement

HOST COMMUNITY INVESTMENT AGREEMENT

THIS HOST COMMUNITY INVESTMENT AGREEMENT (the "Community Investment Agreement"), dated as of the ____ day of December, 2023, by and between the **TOWN OF ALABAMA**, a municipal corporation, with offices at 2218 Judge Road, Oakfield, New York 14125 (the

"Town") on behalf of the Town Board and **EDWARDS VACUUM LLC**, a Delaware limited liability company, having an address 6416 Inducon Drive, Sanborn, New York 14132 (the "Company").

W I T N E S S E T H:

WHEREAS, the Town has an obligation to promote the health and welfare of its residents, and to protect their real and personal property within the town; and

WHEREAS, pursuant to a resolution duly adopted by the members of the Town Board on [_____], 2023 (the "Resolution"), the Town determined to enter into this Community Investment Agreement with the Company; and

WHEREAS, the Company has undertaken a capital project at the WNY STAMP site in the Town of Alabama, Genesee County consisting of the acquisition of approximately 50 acres and the construction of a 240,000 square foot vacuum pump manufacturing facility (the "Facility"); and

WHEREAS, the Company recognizes that such project (the "Project") will impact the surrounding community, particularly the Town of Alabama, Genesee County, New York; and

WHEREAS, in consideration for the impacts on the community and the support and participation of the Town with respect to the Project, the Company has agreed to provide TWENTY (20) annual payments to the Town, as set forth in the attached Schedule A made a part of this Host Community Investment Agreement (collectively, the "Community Benefits"); and

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

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

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

Article I – Representations and Covenants

Section 1.1. Representations and Covenants of the Town.

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

(a) The Town is a municipal corporation duly established and validly existing under the laws of the State of New York and has the authority to enter into the transaction contemplated by this Community Investment Agreement and to carry out its obligations hereunder.

(b) The Town has been duly authorized by a resolution duly adopted by the Town Board to authorize the Supervisor to execute and deliver this Community Investment Agreement.

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

Section 1.2. Representations and Covenants of the Company.

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

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

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

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

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

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

(b) *Payment of Annual Host Community Investment Fee.* The Company, pursuant to the terms of this Community Investment Agreement, shall remit to the Town an Annual Host Community Investment Fee equal to an amount correlating to the Total Payment Amount, as set forth within **Schedule A** attached hereto based on the construction of a 240,000 square foot facility. The Company's failure to remit any Annual Host Community Investment Fee due pursuant to this Community Investment Agreement within thirty (30) days following notice from the Town that the Company failed to make the applicable payment by the corresponding Payment Date shall require additional payment by the Company of a late payment penalty equal to five percent (5%) of the amount due and (ii) for each month, or any part thereof, that any such Annual Investment Fee is delinquent beyond the first month, interest on the total

amount due plus the late payment penalty, in an amount equal to ten percent (10%) per annum (iii) plus any costs the Town incurs in connection with the process to collect said delinquent payment.

(c) *Use of Fund; Public Purposes.* The parties agree and acknowledge that payments made hereunder are to provide revenues for public purposes to be undertaken by the Town and/or any duly appointed agent or assignee thereof. The revenues paid by the Company to the Town, which shall be utilized at the sole and absolute discretion of the Town, are to be provided for (but not limited to) the following purposes;

(i) for capital improvements (including but not limited to Highway Department equipment) for water, sewer, drainage or construction of public facilities (i.e. town hall, highway facilities) or to pay debt service for capital improvements for those purposes

(ii) for improvements to fire protection

(iii) for purposes of tax stabilization

Article III - Construction; Expansion; Transfer of Facility; Termination; Default.

Section 3.1. During all phases of construction, the Company hereby agrees to:

- a) Limit noise producing construction activity during the hours of 10:00 pm to 7:00 am.
- b) Use the ‘conservative approach’ (Department of Environmental Conservation Assessing and Mitigating Noise Impacts February 6, 2001) when completing the any required noise impact studies.
- c) After construction all facilities shall be ‘Dark Sky Compliant’ using fixtures with the IDA or equivalent seal of approval.

Section 3.2. Intentionally omitted.

Section 3.3. This Community Investment Agreement shall be for a term of twenty (20) years to commence as of the date hereof, unless otherwise terminated by the written agreement of the parties hereto or as otherwise provided herein. Any such termination shall require the Company to make a pro-rated payment of Annual Investment Fee as of the date of termination, such pro-rated payment to be reflective of the number of days within the calendar year of termination that this Community Investment Agreement was in effect.

Section 3.4. Reference is made to that certain Tax Agreement by and between the Agency (as hereinafter defined) and the Company (as it may be amended, restated or replaced from time to time, the “Tax Agreement”), pursuant to which the Company is eligible for an exemption from the payment of Real Estate Taxes (as defined in the Tax Agreement). In the event that the Facility is transferred from the Agency (as hereinafter defined) to the Company (i.e., the lease/leaseback agreements are terminated), and the Company is no longer eligible for an exemption from the payment of Real Estate Taxes under the Tax Agreement (a “Tax Exemption Termination Event”), the obligations of the Company to make payments hereunder shall, to such extent, be null and void except as otherwise expressly provided below.

Notwithstanding the foregoing provisions of this Section 3.4, if for any period from and after the occurrence of a Tax Exemption Termination Event the Company is continuing to operate the Facility, then: (a) the Company shall continue to make payments hereunder during such period; and (b) if the total amount of Real Estate Tax levied by the Town against the Facility for any tax year during such period is less than the Town Base Payment set forth in the Tax Agreement with respect to such tax year, the

Company shall pay to the Town an amount equal to the differential between the total amount of Real Estate Tax so levied by the Town and such Town Base Payment, which payment shall be made in the manner provided in the Tax Agreement (as if it remained in effect); provided, however, that the Company shall have no obligation to make the payments described in clauses (a) and (b) above from and after the expiration or earlier termination of this Community Investment Agreement or at any time that the Company has ceased operating the Facility.

Article IV - Miscellaneous.

Section 4.1. This Community Investment Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

Section 4.2. All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, or by national overnight courier service, or by e-mail, addressed as follows:

To the Town:

Town of Alabama
2218 Judge Road
Oakfield, New York 14125
Attention: Town Supervisor
E-mail: alabamasupervisor@gmail.com

To Town Counsel:

Boylan Law Office, LLP
45 West Main Street
LeRoy, New York 14482
Attn: Mark S. Boylan, Esq.
E-mail: mboylan@boylanlawoffice.com

To the Company:

Edwards Vacuum LLC
6416 Inducon Drive
Sanborn, New York 14132
Attn.: Machel Morey, Esq.
E-mail: machelle.morey@atlascope.com

To Company Counsel:

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

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

Section 4.3. This Community Investment Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the federal or state courts located in Genesee County, New York.

Section 4.4. The Town, in its exclusive discretion, may assign this Community Investment Agreement to a third-party for purposes of administering the undertakings outlined herein, however, no such assignment shall relieve the Town of its obligations hereunder. In the event of such assignment, the Town shall notify the Company in writing at least thirty (30) days in advance of the effective date of any such assignment.

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

Section 4.5. (a) The obligations and agreements of the Town contained herein shall be deemed the obligations and agreements of the Town, and not of any member, officer, agent or employee of the Town in his individual capacity, and the members, officers, agents and employees of the Town shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.

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

(b) No order or decree of specific performance with respect to any of the obligations of the Town hereunder shall be sought or enforced against the Town unless (1) the party seeking such order or decree shall first have requested the Town in writing to take the action sought in such order or decree of specific performance, and ten (10) days shall have elapsed from the date of receipt of such request, and the Town shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten (10) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period, (2) if the Town refuses to comply with such request and the Town's refusal to comply is based upon its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall place, in an

account with the Town, an amount or undertaking sufficient to cover such reasonable fees and expenses, and (3) if the Town refuses to comply with such request and the Town's refusal to comply is based upon its reasonable expectation that it or any of its members, officers, agents or employees shall be subject to potential liability, the party seeking such order or decree shall (A) agree to indemnify and hold harmless the Town and its members, officers, agents (other than the Company) and employees against any liability incurred as a result of its compliance with such demand, and (B) if requested by the Town, furnish to the Town satisfactory security to protect the Town and its members, officers, agents (other than the Company) and employees against all liability reasonably expected to be incurred as a result of compliance with such request.

Section 4.5. This Community Investment Agreement shall be binding upon and shall inure to the benefit to each of the parties hereto, and their successors and permitted assigns; including, but not limiting to, the sale or transfer of all or any part of the Company.

Section 4.6. Each of the Town and the Company waives claims against each other for, and neither shall be liable to the other for, consequential, incidental, special or punitive damages in connection with the performance or failure to perform this Community Investment Agreement.

[Remainder of Page Intentionally Left Blank]

[Signature Page to Community Investment Agreement]

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

TOWN OF ALABAMA

By: _____
Robert Crossen, Town Supervisor

EDWARDS VACUUM LLC

By: _____
Name: Aaron Prato
Title: Assistant Secretary

SCHEDULE A
TO
HOST COMMUNITY INVESTMENT AGREEMENT
DATED AS OF NOVEMBER ____, 2023
BETWEEN
TOWN OF ALABAMA
AND
EDWARDS VACUUM LLC

<u>Payment Year</u>	<u>Payment Due Date</u>	<u>Total Payment Amount</u>
Year 1	January 1, 2026	\$130,000
Year 2	January 1, 2027	\$130,000
Year 3	January 1, 2028	\$130,000
Year 4	January 1, 2029	\$130,000
Year 5	January 1, 2030	\$130,000
Year 6	January 1, 2031	\$130,000
Year 7	January 1, 2032	\$130,000
Year 8	January 1, 2033	\$130,000
Year 9	January 1, 2034	\$130,000
Year 10	January 1, 2035	\$130,000
Year 11	January 1, 2036	\$130,000
Year 12	January 1, 2037	\$130,000
Year 13	January 1, 2038	\$130,000
Year 14	January 1, 2039	\$130,000
Year 15	January 1, 2040	\$130,000
Year 16	January 1, 2041	\$130,000
Year 17	January 1, 2042	\$130,000
Year 18	January 1, 2043	\$130,000
Year 19	January 1, 2044	\$130,000
Year 20	January 1, 2045	\$130,000
TOTAL		\$2,600,000

MOTION by Councilperson LaGrou, seconded by Councilperson Fisher to adopt the Host Community Investment Agreement with Edwards Vacuum, LLC. and have Supv. Crossen sign it. Approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Plug Power – shutting down construction for two months.

Water District #2 Project Completion Resolution

**WATER DISTRICT #2
PROJECT COMPLETION RESOLUTION**

WHEREAS, the Town of Alabama has substantially completed construction of the Water District #2 Project; and

WHEREAS, the Town of Alabama has \$75.76 of funds remaining for their Water District #2 Project which must be de-obligated; and

WHEREAS, the Town Board of Trustees of the Town of Alabama received notice of final completion for the Water District #2 Project; NOW, therefore be it.

RESOLVED, that the Town Board of Trustees of the Town of Alabama accepts the Water District #2 Project as complete and authorizes final payment to the contractors as well as the de-obligation of the remaining \$75.76 of funds.

BE IT FURTHER RESOLVED, that the Town Board of Trustees of the Town of Alabama hereby states an operator appropriately licensed by New York State has been retained to oversee operation of the water system Alabama Water District #2 PWD ID# 1830051.

Supv. Crossen offered the resolution which was seconded by Councilperson Fisher and approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Executive Session

MOTION by Councilperson Klotzbach, seconded by Councilperson Veazey to go into executive session at 8:01 p.m. to discuss matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation; and/or Negotiations and updates subject to NDAs regarding the IZA; and/or Negotiations regarding the Teamsters Contract with Attorney Boylan and Mark Masse. Approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

MOTION by Councilperson Klotzbach, seconded by Councilperson LaGrou to come out of executive session at 8:30 p.m. Approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Court – nothing new

Town Hall – nothing new

Solar Law Update – will try to meet in February to review law.

Union Wages for 2024

MOTION by Councilperson Veazey, seconded by Councilperson Fisher to increase payroll for highway MEO's 3.5% and \$1.00 per hour for Lead/Deputy Highway Supt. Approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Union Healthcare Participation Agreement 1/1/2024 to 12/31/2026

MOTION by Councilperson LaGrou, seconded by Councilperson Veazey to accept the participation agreement and allow Supv. Crossen to sign it. Approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Approval of Minutes

11/13/2023 Public hearings & Board Meeting – MOTION by Councilperson Fisher, seconded by Supv. Crossen to accept minutes as presented. Approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Supervisors Report

12/4/23 -- MOTION by Councilperson LaGrou, seconded by Councilperson Klotzbach to accept report as written. Approved by Roll Call Vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Audit Bills

MOTION by Councilperson Veazey, seconded by Councilperson Fisher to accept Abstract #012-2023 and pay bills in the amount of \$99,182.73 vouchers 230 to 268 General Fund; \$64,266.66 vouchers 183 to 204 Highway Fund; \$12,172.04 vouchers 33 to 34 Water District 2; \$38.14 voucher 30 Water District 1. Approved by Roll Call Vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

December 2023 Transfers:

\$ 937.56 from	A1990.4 to A1440.4	(Engineer)
\$ 80.00 from	A1990.4 to A8015.41	(ZBA training)
\$ 28.14 from	A1410.41 to A1410.42	(Clerk mileage)
\$5,757.37 from	A1990.4 to A5182.4	(Outdoor lighting)
\$1,137.93 from	A1990.4 to A9060.8	(Jeff Healthcare)

MOTION by Councilperson LaGrou, seconded by Councilperson Veazey to transfer funds as listed. Approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Town Clerk’s Report

November 2023 -- MOTION by Councilperson Fisher, seconded by Councilperson Klotzbach to accept report as written. Approved by Roll Call Vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Assessor’s Report – No report submitted

CEO/ZEO Report

November 2023 -- MOTION by Councilperson Veazey, seconded by Councilperson Fisher to accept report as written. Approved by Roll Call Vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Old Business

Engine brake complaint – nothing new.

Supv. Crossen thanked Councilperson LaGrou for her service on the Town Board, this is her last meeting.

MOTION by Councilperson LaGrou, seconded by Councilperson Fisher to adjourn meeting at 8:44 p.m. Approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Respectfully Submitted,

Rebecca L. Borkholder
Town Clerk