

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

**DATE AND PLACE:** September 28, 2022, at 701 Ellicott Street, Center of Excellence in Bioinformatics and Life Sciences (CBLs), in the Event Space/Conference Room B2-205 on the second floor, Buffalo, New York 14203.

**PRESENT:** Denise Abbott, Rev. Mark E. Blue, Hon. Joseph Emminger, Hon. Howard Johnson, Tyra Johnson, Richard Lipsitz, Jr., Denise McCowan, Brenda W. McDuffie, Hon. Mark C. Poloncarz, Hon. Darius G. Pridgen and Kenneth A. Schoetz

**EXCUSED:** Hon. Diane Benczkowski, Hon. Bryon W. Brown, James Doherty, Dottie Gallagher, Michael P. Hughes, Hon. Brian Kulpa, Hon. Glenn R. Nellis and Paul Vukelic

**OTHERS PRESENT:** John Cappellino, President & CEO; Beth O’Keefe, Vice President of Operations; Mollie Profic, Chief Financial Officer; Atiqah Abidi, Assistant Treasurer; Gerald Manhard; Chief Lending Officer/Secretary; Grant Lesswing; Director of Business Development; Andrew Federick, Business Development Officer; Soma Hawramee, Compliance Portfolio Manager, Brian Krygier, Director of Information Technology; Carrie Hocienec, Operations Assistant/Assistant Secretary; Robbie Ann McPherson, Director of Marketing & Communications; Laurie Hendrix, Administrative Coordinator and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC

**GUESTS:** Zachary Evans, Thomas Baines and Maria Whyte, Erie County; Alex Carducci on behalf of the City of Buffalo; Brandye Merriweather on behalf of BUDC; James Fink on behalf of Business First and J. Dale Shoemaker on behalf of Investigative Post

There being a quorum present at 12:17 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 August 24, 2022 meeting of the members were presented. Mr. Lipsitz moved and Mr. Blue seconded to approve of the minutes. Ms. McDuffie called for the vote and the minutes were unanimously approved.

## REPORTS/ACTION ITEMS/INFORMATION ITEMS

A. 2023 Budget Timetable and 2023 Proposed Budget. Ms. Profic reviewed the 2023 proposed ILDC budget review process and the 2023-2027 proposed capital budget. She advised that the Finance and Audit Committee will meet again in October for a final review and recommendation of the draft budgets. Two educational Q&A sessions for Board meetings have been scheduled for October 6 and October 7. The budget will be presented for formal approval at the next meeting. Budgets must be submitted to the ABO by November 1.

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

B. Professional Auditing Services Recommendation. Ms. Profic summarized the recent Professional Auditing Services RFP process. The ECIDA's professional services RFP process requires proposals for this service to be solicited at least every five years. In July, the ECIDA issued a joint RFP for the Agency and its affiliates (RDC, ILDC) and Western Region Corporation. The RFP requested services for three years plus two additional one year extensions, however the engagement may be terminated at any time. Four proposals were received and evaluated by an internal review committee. After evaluation and follow-up, Lumsden McCormick is recommended as the top-rated firm. They have vast experience auditing similar clients (and the Agency from 2012-2016) and a robust government services practice. They are located in the historic Cyclorama building in downtown Buffalo and are involved in a program whose goal is to expose minority students to accounting careers. Ms. Profic reviewed their proposed fees. On September 23, members of the Finance & Audit Committee that were present reviewed and concurred with the staff recommendation. Ms. Profic is requesting that the Board approve Lumsden McCormick to provide professional auditing services for the 2022-2024 audits, with an option of contracting for the 2025-2026 audits.

Mr. Emminger moved and Ms. Abbott seconded to approve Lumsden McCormick to provide professional auditing services for the 2022-2024 audits, with an option of contracting for the 2025-2026 audits. Ms. McDuffie then called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT  
AGENCY ("AGENCY") TO ENTER INTO A CONTRACT WITH LUMSDEN  
MCCORMICK, LLP TO PROVIDE PROFESSIONAL AUDITING SERVICES  
TO THE AGENCY

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

Policy Committee Update. Mr. Lipsitz provided members with an update on the most recently completed Policy Committee meeting, noting the Committee reviewed the 950 Broadway project and noted the Committee recommended the project to the Board for approval. Ms. McDuffie directed that the report be received and filed.

## INDUCEMENT RESOLUTION

950 Broadway, LLC, 950 Broadway Avenue, Buffalo, New York. Ms. O’Keefe reviewed this proposed sales tax exemption and mortgage recording tax exemption benefit project which consists of the renovation and equipping of a mixed-use facility consisting of 28 affordable apartment units (18,118 sq. ft.) and ground floor commercial and retail space (22,452 sq. ft.).

Mr. Pridgen spoke in favor of the project and confirmed CAO and the Urban Farm tenant will be the employees/tenants. Mr. Johnson spoke in favor of the project.

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

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

- (i) Investment Commitment – the total investment actually made with respect to the Project at the time of Project completion equals or exceeds \$9,905,783 (which represents the product of 85% multiplied by \$11,653,862, being the total project cost as stated in the Company’s application for Financial Assistance).
- (ii) Employment Commitment – that, within two years of Project completion, there are at least 30 existing full time equivalent (“FTE”) employees located at, or to be located at, the Facility [representing the product of 85% multiplied by 36 (being the total number of new FTE employee positions as proposed to be created by the Company as stated in the Company’s application for Financial Assistance)]. 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. Johnson moved and Mr. Pridgen seconded to approve the Project.

Ms. Johnson disclosed she has a business relationship with the Company as an outside vendor unrelated to the Project but stated she would abstain from participating in the discussion and would not vote.

Ms. McDuffie called for the vote and the following resolution was unanimously approved with Ms. Johnson abstaining:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF 950 BROADWAY LLC AND/OR INDIVIDUAL(S) OR AFFILIATE(S), SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS BEHALF (INDIVIDUALLY, AND/OR COLLECTIVELY, THE "COMPANY") IN CONNECTION WITH A CERTAIN PROJECT DESCRIBED BELOW; (ii) RATIFYING THE SCHEDULING, NOTICING, AND CONDUCTING OF A PUBLIC HEARING IN CONNECTION WITH THE PROJECT; (iii) MAKING A DETERMINATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; (iv) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (v) AUTHORIZING THE UNDERTAKING OF THE PROJECT TO PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES TAX EXEMPTION BENEFIT FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT, AND (B) A MORTGAGE RECORDING TAX EXEMPTION BENEFIT FOR FINANCING RELATED TO THE PROJECT, AND (vi) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

## **REPORTS/ACTION ITEMS/INFORMATION ITEMS**

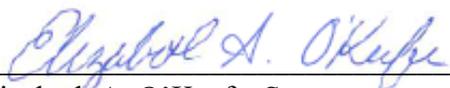
Buffalo's Race for Place. Brandye Merriweather from Buffalo Urban Development Corporation (BUDC) provided a presentation to members on the BUDC talent and workforce attraction activities.

## **MANAGEMENT TEAM REPORTS**

Mr. Cappellino informed members that ECIDA/ILDC has received the 2022 IEDC Silver Award for its work at the Renaissance Commerce Park, for its Multi-Year Economic Development Program.

There being no further business to discuss, Ms. McDuffie adjourned the meeting of the Agency at 1:01 p.m.

Dated: September 28, 2022

  
\_\_\_\_\_  
Elizabeth A. O'Keefe, Secretary