

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

DATE AND PLACE: October 6, 2022 at the Erie County Industrial Development Agency, 95 Perry Street, 4th Floor Conference Room, Buffalo, New York 14203

PRESENT: Hon. April Baskin; Rev. Mark E. Blue; Richard Lipsitz, Jr.; Brenda W. McDuffie; Hon. Glenn R. Nellis; Laura Smith, David J. State; Lavon Stephens; Paul Vukelic and Maria Whyte

EXCUSED: Denise Abbott; Hon. Bryon W. Brown; Johanna Coleman; Colleen DiPirro and Hon. John Tobia

OTHERS PRESENT: Beth O’Keefe, Vice President of Operations; Grant Lesswing, Director of Business Development; Soma Hawramee, Compliance Portfolio Manager; Brian Krygier, Director of Information Technology; Carrie Hocienec, Operations Assistant; and Pietra G. Zaffram, General Counsel/Harris Beach PLLC

GUESTS: Don Dimitroff on behalf of Sonwil Distribution; Lindsey Haubenreich on behalf of Phillips Lytle; David Brown on behalf of Ellicott Townhomes; Stephen Yonaty on behalf of Cannon, Heyman & Weiss, LLP; Olivia Hill on behalf of Invest Buffalo Niagara and J. Dale Shoemaker on behalf of Investigative Post

There being a quorum present at 9:04 a.m., the Meeting of the Policy Committee was called to order by Mr. Lipsitz.

MINUTES

The minutes of the September 1, 2022 Policy Committee meeting were presented. Upon motion made by Mr. Vukelic to approve of the minutes, and seconded by Ms. McDuffie, the aforementioned Policy Committee meeting minutes were unanimously approved.

PROJECT MATRIX

Ms. O’Keefe reviewed the Agency’s 2022 Tax Incentives Project Matrix. Mr. Lipsitz directed that the report be received and filed.

PROJECT PRESENTATIONS

5100 North America Drive, LLC, 5100 North America Drive, West Seneca, New York 14224. Ms. O’Keefe presented this proposed sales tax, mortgage recording tax and real property

tax abatement benefits project involving the construction of an approximately 323,000+/- sq. ft. distribution warehouse to be owned by applicant and leased to Sonwil Distribution and serve as a multi-temperature (cold/ambient) distribution warehouse. It will be rail served (Norfolk Southern) and contain state of the art material handling systems.

General discussed ensued.

Ms. O’Keefe confirmed that 5100 North America Drive LLC is seeking approximately \$11,830,173 in assistance including sales tax exemption, mortgage tax exemption and real property tax exemption. Total payroll is projected at \$68.5M for the direct and indirect jobs created including 259 construction jobs. The resulting cost benefit is 1:6 so for every \$1 of incentives the community benefit is \$6 in payroll & tax revenue.

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 = \$61,764,000 85% = \$52,499,400
Employment	Coincides with 10-year PILOT	Maintain Base = 22 Create 85% of Projected Projected = 19 85% = 16 Recapture Employment = 38
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	Coincides with 10-Year PILOT	Adherence to policy
Unpaid Tax	Coincides with 10-Year PILOT	Adherence to policy
Recapture Period	Coincides with 10-Year PILOT	Recapture of state and local sales taxes, mortgage recording tax and real property taxes

Ms. Whyte moved, and Mr. Nellis seconded to recommend the project as proposed be forwarded to the members of the ECIDA for approval. Mr. Lipsitz called for the vote and the project was then unanimously approved.

At this point in time, Ms. Baskin joined the meeting.

ELLICOTT PARK TOWNHOMES COMMUNITY PARTNERS, L.P.

Ellicott Park Townhomes Community Partners, L.P., 10 Durham Court (a/k/a 221 and 291 William Street), Buffalo, New York 14204. Ms. O’Keefe presented this proposed sales and use tax and mortgage recording tax exemption benefits project also involving the Agency’s issuance of its tax-exempt bonds in an amount not to exceed \$30,000,000. The project will involve the renovation of a 220-unit family Section 8 (68% or 150 units) affordable housing community located in twenty-one two-story wood frame with brick façade townhouse style buildings on 2 non-contiguous parcels totaling 8.9 acres in downtown Buffalo.

Ms. McDuffie thanks the company for the their project, noting that securing quality housing for Section 8 tenants is important.

General discussion ensued.

Ms. O’Keefe confirmed that Ellicott Park Townhomes Community Partners, L.P. is seeking approximately \$1,280,856 in assistance including sales and use tax exemption and mortgage tax exemption. Total payroll is projected at \$27,102,625 for the direct and indirect jobs created including 210 construction jobs. The resulting cost benefit is 1:22 so for every \$1 of incentives the community benefit is \$22 in payroll & tax revenue. For Erie County, every \$1 of incentives provides \$42 in community benefits.

Ms. O’Keefe stated that in exchange for providing the sales and use tax and mortgage recording 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 = \$54,664,295 85% = \$46,464,650
Employment	Coincides with Recapture Period	Maintain Base = 2 FT, 1 PT (2 FTE) Create 85% of Projected Projected = 2 FT, 2 PT (3 FTE) 85% = 2 FTE Recapture Employment = 4 FTE
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	Coincides with Recapture Period	Adherence to policy
Unpaid Tax	Coincides with Recapture Period	Adherence to policy

Recapture Period	2 years after project completion	Recapture of state and local sales and use taxes and mortgage recording tax
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Mr. Blue 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 the vote and the project was then unanimously approved.

OAHS TONAWANDA TC LLC

OAHS Tonawanda TC LLC, 5 Main Street, Tonawanda, New York 14150. Ms. O’Keefe presented this proposed mortgage recording tax exemption benefit project also involving the Agency’s issuance of its tax-exempt bonds in an amount not to exceed \$13,000,000. The project will involve the rehabilitation of a 100-unit senior housing facility including renovating the interiors of all units and the common areas, upgrading all electrical equipment to energy efficient equipment, updating the building envelope and improving various site features.

General discussion ensued.

Ms. O’Keefe confirmed that OAHS Tonawanda TC LLC is seeking approximately \$89,003 in assistance including mortgage tax exemption. Total payroll is projected at \$8,266,028 for the direct and indirect jobs created including 59 construction jobs. The resulting cost benefit is 1:98 so for every \$1 of incentives the community benefit is \$98 in payroll & tax revenue. For Erie County, every \$1 of incentives provides \$279 in community benefits.

Ms. O’Keefe stated that in exchange for providing the mortgage recording tax abatement benefit, 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 = \$25,040,720 85% = \$21,284,612
Employment	Same as recapture period	Maintain Base = 3 FT, 1 PT Create 85% of Projected Projected = 1 PT 85% = 0 Recapture Employment = 3 FTE
Local Labor	Construction Period	Adherence to policy including quarterly reporting

Pay Equity	Same as recapture period	Adherence to policy
Unpaid Tax	Same as recapture period	Adherence to policy
Recapture Period	2 years after project completion	Recapture of mortgage recording tax

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

MWBE UPDATE

Mr. Lipsitz noted the Policy Committee and its MWBE policy working group have been working diligently on a draft policy and have prepared a proposal for consideration by the full board.

Ms. Whyte advised that the group has been working since late summer of last year and she provided Committee members with an overview of the process. The working group began with a review of the Onondaga policy. Upon review it became clear that the Onondaga County policy really revolved around workforce matters. They then reviewed New York State’s policies and conducted a Constitutional analysis with the assistance of counsel. The group then went to work on a two-phase policy. She advised that Phase I will be an opt-in policy; not a requirement, in order to address Constitutional considerations. Phase II involved creation of what the policy would look like, including reviewing construction period efforts, such as addressing what it means to be “acting in good faith”, and also reviewing post construction period. Ms. Whyte gave credit to the Buffalo Niagara Partnership who put together an extensive presentation regarding survey results from the private business community on MWBE actions. Next, the group developed the PILOT itself, including different tiers for different activities. She advised Buffalo Niagara Partnership has supported the Agency regarding compliance and supportive services to put this proposal together, along with counsel drafting the language. Ms. Whyte noted that direct, specific attention is needed to address the wealth gap and stated the Agency is the only IDA in the state leading the way in implementing a MWBE policy.

Mr. Lipsitz stated that the work on all of these policies would not have happened without Ms. Whyte, and the policy will likely become a model to be used throughout New York State.

Mr. Blue moved and Ms. McDuffie seconded to recommend the proposed MWBE policy as proposed be forwarded to the members of the ECIDA for discussion approval.

Ms. McDuffie commented that there has been extremely thoughtful deliberation in drafting the proposed policy. She noted the Committee has taken the time to do it right and the benefit will accrue to the entire community. She stated it is good business and the time it took is well worth it and appreciated Ms. Whyte’s leadership.

Ms. Smith stated that all the notifications for UTEP have to go out and the Committee wants the policy to be utilized and she recommends a review of the first year of implementation be conducted in Policy Committee.

Mr. Lipsitz advised that Mr. Cappellino has been a huge supporter of this policy. Mr. State inquired whether the Agency staff requires additional support to implement the policy. Ms. O'Keefe advised that staff has had discussions and are working through the process.

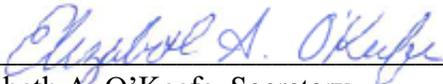
At this point in time, Ms. Baskin left the meeting.

Ms. O'Keefe advised there will be two educational sessions offered to Board members and the anticipated implementation date will be the second quarter of 2023.

Mr. Lipsitz called for the vote and the motion was then unanimously approved.

There being no further business to discuss, Mr. Lipsitz adjourned the meeting at 10:01 a.m.

Dated: October 6, 2022



Elizabeth A. O'Keefe, Secretary