

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

- MEETING:** August 24, 2022
- LIVE STREAMED:** This meeting is being live-streamed and made accessible on the ECIDA’s website at www.ecidany.com.
- PRESENT:** Denise Abbott, Rev. Mark E. Blue, Hon. Bryon W. Brown, Hon. Joseph Emminger, Dottie Gallagher, Hon. Howard Johnson, Denise McCowan, Brenda W. McDuffie, Hon. Glenn R. Nellis and Kenneth A. Schoetz
- EXCUSED:** Hon. Diane Benczkowski, James Doherty, Michael P. Hughes, Tyra Johnson, Hon. Brian Kulpa, Richard Lipsitz, Hon. Darius G. Pridgen, and Hon. Mark C. Poloncarz
- OTHERS PRESENT:** John Cappellino, President & CEO; Atiqah 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, Pat Smith, Senior Bookkeeper; Laurie Hendrix, Administrative Coordinator; and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC
- GUESTS:** Zachary Evans, Maria Whyte and Michael Szukala on behalf of Erie County; Alex Carducci on behalf of the City of Buffalo, Brad Termini on behalf of Laborers Way/Zephyr Partners and Seth Piccirillo on behalf of Buffalo Niagara Partnership

There being a quorum present at 12:06 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.

Ms. McDuffie introduced new ECIDA member, Denis McCowan, the new President of the Erie County Association of School Boards.

MINUTES

The minutes of the July 27, 2022 meeting of the members were presented. Ms. Abbott 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

Financial Report. Ms. Abidi presented the July 2022 financial report. The balance sheet shows the month ended with total assets of \$29.9M (includes unrestricted cash of \$7.4M available for Agency operations) and net assets of \$20.3M [UDAG cash of \$10.6M is in restricted cash]. The monthly income statement shows net loss of \$363,000 for July. Operating revenue of \$79,500 was below the monthly budget by approximately \$143,000, due mainly to timing of administrative fees. Operating expenses were \$212,000 and in line with the monthly budget. Under Special Project Grants, \$144,000 of net loss was recognized in July, mainly due to timing of EDA funds received in June that were passed through to the RDC in July. After depreciation, there was net loss of \$362,000 for the month. The year-to-date Income Statement shows revenues of \$1.16M, including administrative fee revenue of \$693,000. We are at about 37% of our 2022 annual budget through July. Expenses of \$1.67M are in line with the budget. Special project grant revenue nets to \$183,000. After strategic investments and depreciation, there is currently a net loss of \$526,000 for the year. Ms. McDuffie directed that the report be received and filed.

Finance and Audit Committee Update. Ms. Abidi provided members with a brief review of the Committee meeting held on August 19 in which the Committee reviewed the first drafts of the ECIDA, RDC and ILDC budgets for 2023. There was also a discussion on the current RFP for professional audit services as well as the upcoming RFP for banking services. Ms. Abidi provided the 2023 budget timetable. The Finance & Audit Committee will meet again in September to review and recommend the draft budgets. The drafts will then be presented at the respective Board meetings on September 28. Two virtual Q&A sessions for Board members will be scheduled in early October. If there are significant adjustments to the 2023 budgets based on Board feedback, the Committee would then meet again and make an updated recommendation to the Boards. Final budgets will be presented to each Board at their October 26 meeting for approval. Budgets must then be submitted to the ABO by November 1. Mr. Szukala, Chair of the Finance & Audit Committee, reviewed the ECIDA Single Audit report and encouraged members to approve of same. Ms. McDuffie directed that the report be received and filed.

2021 Single Audit Report. Ms. Abidi reviewed the ECIDA Single Audit report. Because the ECIDA was the recipient of the EDA CARES Act grant funds that were sub-granted to RDC, ECIDA was also subject to Single Audit. Ms. Abidi noted that this should be the only year that this will happen as all the CARES Act grant funds have been sub-granted to RDC. Our auditors, Freed Maxick, completed the audit in July. There were no material weaknesses or deficiencies noted as a result of the audit. This item was reviewed with the Finance and Audit Committee and was recommended for approval by the Board.

Mr. Nellis moved and Mr. Emminger seconded to approve of the 2021 Single Audit Report. Ms. McDuffie then called for the vote and the motion was unanimously approved.

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. Cappellino provided members with an update on the most recently completed Policy Committee meeting, noting the Committee reviewed the Laborers Way/Zephyr 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

Laborers Way 1 LLC, 310 Ship Canal Parkway, Buffalo, 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 of designated Brownfield land within the Buffalo Lakeside Commerce Park from the Buffalo Urban Development Corporation (BUDC). Following the property acquisition and remediation, the company will construct two one-story steel framed structures totaling 75,000 sq. ft. consisting of an office building and a production building. This facility will be used for cannabis production, manufacturing, cultivating, packaging and distribution.

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 \$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.

Mr. Brown moved and Ms. Gallagher 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 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

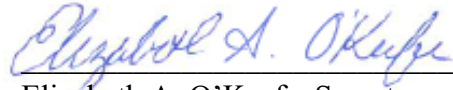
MANAGEMENT TEAM REPORTS

Mr. Cappellino presented the management team report to the members.

Ms. Whyte updated members on the progress of the MWBE policy, noting counsel is now preparing the final policy.

There being no further business to discuss, Ms. McDuffie adjourned the meeting of the Agency at 12:29 p.m.

Dated: August 24, 2022



Elizabeth A. O'Keefe, Secretary