

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

**DATE AND PLACE:** April 26, 2023, at the Center of Excellence in Bioinformatics and Life Sciences (CBLIS), 701 Ellicott Street, The Event Space/Conference Room B2-205, located on the 2nd 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. Glenn R. Nellis, Hon. Mark C. Poloncarz and Kenneth A. Schoetz

**EXCUSED:** Hon. Diane Benczkowski, Hon. Bryon W. Brown, James Doherty, Dottie Gallagher, Michael P. Hughes, Hon. Brian Kulpa, Hon. Darius G. Pridgen and Paul Vukelic

**OTHERS PRESENT:** John Cappellino, President & CEO; Beth O’Keefe, Vice President of Operations/Secretary; Mollie Profic, Chief Financial Officer; Atiqah Abidi, Assistant Treasurer; Gerald Manhard, Chief Lending Officer; 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/Assistant Secretary; Laurie Hendrix, Administrative Coordinator; Robbie Ann McPherson, Director of Marketing & Communications and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC

**GUESTS:** Alex Carducci on behalf of the City of Buffalo; Zachary Evans and Daniel Castle on behalf of Erie County; Josh Veronica on behalf of Buffalo Niagara Partnership; Ryan McCarthy and Mike Wopperer on behalf of Wood and Brooks; and Dale Shoemaker and Garrett Looker on behalf of Investigative Post;

There being a quorum present at 12:13 p.m., the meeting of the members of the Erie County Industrial Development Agency (the “ECIDA” or “Agency”), was called to order by Chair, Ms. McDuffie.

## MINUTES

The minutes of the March 22, 2023 meeting of the members were presented. Mr. Lipsitz moved and Mr. Nellis 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 March financial reports. The balance sheet shows that the IDA finished the month with total assets of \$31.2M (includes unrestricted cash of \$7.4M available for Agency operations) and net assets of \$20.4M. The monthly income statement shows a net loss of \$167,000 for March. Operating revenue of \$182,000 was below the monthly budget by \$47,000, due mainly to timing of administrative fees received during the month. Operating expenses of \$202,000 were \$43,000 under budget. The year-to-date Income Statement shows revenues of \$575,000, including administrative fee revenue of \$276,000. We are at about 61% of our budget for the first quarter of the year. Nearly \$700,000 of administrative fees have been collected in April, bringing that total to over half of our annual budget. Expenses of \$638,000 are \$73,000 below budget. After strategic initiatives and depreciation, there is currently a net loss of \$229,000 for the year. Ms. McDuffie directed that the report be received and filed.

2023 Tax Incentive Induced/Closing Schedule. Mr. Cappellino presented this report to the members. Ms. McDuffie directed that the report be received and filed.

Nominating Committee Update. Mr. Lipsitz confirmed that the Nominating Committee met last week and approved and recommends for approval the slate of officers and committee appointments.

Mr. Emminger moved and Ms. Abbott seconded to approve the entire slate of officers and committee appointments. Ms. McDuffie called for the vote and the entire slate of officers and committee appointments were unanimously approved.

UDAG Financing Approval. Mr. Cappellino reviewed the proposed UDAG funding availability for projects at Renaissance Commerce Park (“RCP”) and the Angola Agricultural Park. As development at both the RCP and the Angola Ag Park continue to move forward, the ILDC is advancing several large capital projects. As an example, last year Mr. Cappellino noted that the ILDC completed the first section of Steelworkers Way and this year the ILDC will be advancing new water and sewer lines and completing Phase 2 of Steelworkers Way and planning for the first phase of new road and utility corridor out at the Angola Ag. Park. These projects are larger capital projects with multiple funding sources, each with their own reimbursement schedules, requiring the ILDC to cash flow projects while the reimbursements are processed.

Additionally, the ILDC does incur some carrying costs for items like sewer and water taxes, brownfield reporting and miscellaneous legal costs. This creates a need for the ILDC to be able to access UDAG funding to cash flow projects and construction costs while awaiting reimbursement and carrying cost funds.

By additional way of background, Mr. Cappellino reminded members that the initial funding for the purchase and acquisition of RCP and the Angola Ag Park were also funded through UDAG funds. For those transactions, the ILDC agreed to return 50% of any land sale proceeds to the UDAG fund. To date the ILDC has returned approximately \$583,000 to the UDAG fund. Presently the Agency has an available cash balance of approximately \$9.6M in UDAG funds.

Mr. Cappellino stated that he is seeking approval to authorize the ILDC to utilize UDAG funds to float project cash flows and fund certain carrying costs in compliance with federal rules and regulations for the land development activities of the ILDC. A financial accounting of the UDAG fund balance and cash flow activities will continue to be provided to the Agency annually.

At this point in time, Rev. Blue joined the meeting.

Mr. Poloncarz moved and Mr. Johnson seconded to approve of the UDAG financing. 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 FUNDING AGREEMENT WITH THE BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION (“ILDC”) FOR (I) PLANNING AND CONSTRUCTION OF PUBLIC ROADWAYS, WATER AND SEWER INFRASTRUCTURE WITHIN AND UPON LANDS OWNED BY THE ILDC AT THE RENAISSANCE COMMERCE PARK IN LACKAWANNA, NEW YORK AND UPON LANDS OWNED BY THE ILDC AT THE AGRI-BUSINESS PARK IN THE TOWN OF EVANS, NEW YORK, (II) FUNDING LAND CARRYING COSTS INCLUDING SEWER AND WATER TAXES AND REQUIRED STATE AND FEDERAL REPORTING ACTIVITIES AND (III) FUNDING PROFESSIONAL SERVICES INCLUDING LEGAL, ENGINEERING, AND PLANNING SERVICES ALL RELATED TO THE FOREGOING, FROM THE AGENCY’S U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT URBAN DEVELOPMENT ACTION GRANT (“UDAG”) REFLOW FUND

Economic Inclusion PILOT. Mr. Cappellino reviewed the proposed Economic Inclusion Program. Mr. Cappellino thanked all the members of the working group that met over many months to discuss the program and for their hard work and dedication. Also a special thanks was given to our chair, Ms. McDuffie, and Mr. Lipsitz, chair of the Policy Committee, for their leadership, as well as so many others that contributed to the formation of the policy.

Mr. Cappellino then presented the new policy and program which will be unique in New York state that will encourage applicants to the ECIDA that seek a PILOT to opt into participating in the Economic Inclusion Program, which will offer additional PILOT benefits for meeting certain MBE/WBE utilization goals, employment diversity goals, and additional Diversity Equity and Inclusion activities. This policy and program represent the continuation of the important effort and goal of this Agency and board to encourage and promote development that provides opportunities for all the residents of our region.

Over the last several months, we provided a copy of the proposed policy and UTEP amendment to all of the taxing jurisdictions in Erie County, we solicited comments from the taxing authorities through a zoom information session, and we held an educational information meeting for Board members. The Policy Committee did review the policy and voted unanimously to recommend it to the full Board for adoption.

Mr. Cappellino then presented a power point presentation which described the program in more detail.

Mr. Lipsitz spoke in favor of the policy, noting ECIDA is a front-runner in New York State on these issues for the betterment of economic development. Mr. Lipsitz thanked Mr. Cappellino, the staff and the Policy Committee members for their underlying efforts.

Ms. McDuffie spoke in favor of the policy noting the ECIDA is setting an example for the state to provide inclusion in economic development and reward best practices for the benefit of the community. Ms. McDuffie thanked staff and Policy Committee members for their good work to establish this policy.

Ms. Johnson also spoke in favor of the project.

Mr. Poloncarz commended the Policy Committee and ECIDA team for their extensive efforts, noting this is a fair policy rewarding businesses for inclusionary practices which benefit diversity, equity and inclusion.

Mr. Lipsitz moved and Rev. Blue seconded to approve of the Economic Inclusion PILOT Policy. Ms. McDuffie then called for the vote and the following resolution was unanimously approved:

**RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY APPROVING AND ADOPTING THE ECONOMIC INCLUSION PILOT POLICY AS AN ADDENDUM TO THE AMENDED AND RESTATED COUNTYWIDE INDUSTRIAL DEVELOPMENT AGENCY UNIFORM TAX EXEMPTION POLICY**

Policy Committee Update. Mr. Lipsitz provided a report and confirmed that the Policy Committee unanimously approved the Wood and Brooks project for recommendation to the Board for approval.

**INDUCEMENT RESOLUTION**

Wood and Brooks Properties LLC, 2101 Kenmore Avenue, Tonawanda, New York. Ms. O’Keefe reviewed this proposed sales tax exemption and mortgage recording tax benefit project which will convert the Wood & Brooks piano factory complex into mixed use development starting with an existing 6 story building and adjacent single-story building. The space will create 55 residential apartment units (62,300 SF) with the remaining space to be used by a commercial tenant (36,070 SF).

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 \$19,658,492 (which represents the product of 85% multiplied by \$23,127,638, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 1 FTE existing full time equivalent (“FTE”) and 2 PTE existing part time equivalent (“PTE”) 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 1 FTE employees. 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 spoke in favor of the project.

Mr. Emminger then moved and Ms. Abbott seconded to approve the Project. Ms. McDuffie then called for the vote and the following resolution was unanimously approved:

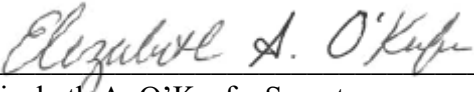
RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF WOOD AND BROOKS PROPERTIES LLC, AND/OR INDIVIDUAL(S) OR AFFILIATE(S), SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS BEHALF (INDIVIDUALLY, AND/OR COLLECTIVELY, THE "COMPANY") IN CONNECTION WITH 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, AND (B) A MORTGAGE RECORDING TAX EXEMPTION BENEFIT FOR FINANCING RELATED TO THE PROJECT; AND (v) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

#### **MANAGEMENT TEAM REPORTS**

Mr. Cappellino stated in recognition of Administrative Professional's Day, he wanted to take this opportunity to thank the great team at the ECIDA. Among their many duties includes ensuring that these meeting go smoothly and we have all of the materials and information needed for these meetings.

There being no further business to discuss, Ms. McDuffie adjourned the meeting of the Agency at 12:51 p.m.

Dated: April 26, 2023

  
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Elizabeth A. O'Keefe, Secretary