

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

DATE AND PLACE: May 31, 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, Hon. Joseph Emminger, Dottie Gallagher, Michael P. Hughes, Hon. Brian Kulpa, Richard Lipsitz, Jr., Brenda W. McDuffie, Hon. Glenn R. Nellis, Hon. Mark C. Poloncarz, Kenneth A. Schoetz and Paul Vukelic

EXCUSED: Hon. Diane Benczkowski, Rev. Mark E. Blue, Hon. Bryon W. Brown, James Doherty, Hon. Howard Johnson, Tyra Johnson, Denise McCowan and Hon. Darius G. Pridgen

OTHERS PRESENT: John Cappellino, President & CEO; Mollie Profic, Chief Financial Officer; 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: Zachary Evans and Daniel Castle on behalf of Erie County; Josh Veronica on behalf of Buffalo Niagara Partnership; Mike Montante on behalf of Uniland Development; Jonathan Epstein on behalf of Buffalo News, Jacob Tierney on behalf of Business First, Quinn Bushen on behalf of Empire State Development and Byron DeLuke on behalf of TM Montante-50 Gates Circle

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 the Chair, Ms. McDuffie.

MINUTES

The minutes of the April 26, 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 April financial reports. The balance sheet shows that the IDA finished the month with total assets of \$33.3M and net assets of \$20.9M. The \$2M increase in total assets from March is due mainly to a new grant receivable of \$1.7M and an increase in unrestricted cash of nearly \$500,000. Liabilities increased due to the increase in deferred revenue related to the grant receivable. The monthly income statement shows a net income of \$492,000 for April. Operating revenue of \$802,000 was above the monthly budget by \$579,000, due mainly to timing of administrative fees received during the month. The fee related to a bond that closed in April accounted for nearly half of the monthly fee revenue. Operating expenses of \$236,000 were in line with the monthly budget. There was \$51,000 of strategic initiative costs during the month, and depreciation/amortization of \$22,000. The year-to-date Income Statement shows revenues of \$1.4M, including administrative fee revenue of \$992,000. We are at about 54% of our annual administrative fee budget through April, and looking back this is our strongest revenue start through April since 2017. Expenses of \$875,000 are \$71,000 below budget. Net income before strategic initiatives and depreciation was \$503,000. After strategic initiatives of \$151,000 and depreciation/amortization of \$89,000, there is currently net income of \$263,000 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.

Approval of Grant for Engineering Service for Rail Yard Work. Mr. Cappellino updated members on the contemplated Renaissance Commerce Park phase “2b” (Parcel #1) purchase, being land that is presently encumbered with certain rail lines owned and operated by the South Buffalo Railway Company (the “SBRC”) and whose purchase by the ILDC is conditioned upon relocation of those rail lines, to allow the parcel to be fully redeveloped. To induce the ILDC’s acquisition and development of this site, and to preserve SBRC’s use and business operations of the rail lines, the underlying rail line easements and rail lines need to be relocated to an agreed upon site. It is estimated that the cost of relocating the rail lines will be approximately \$7.1 million, including \$600,000 or design and engineering. This cost estimate does not include the purchase of additional land to accommodate the relocation, but Mr. Cappellino stated that Tecumseh has agreed to convey certain lands for such use to SBRC at no cost to facilitate the rail line relocation off Parcel #1. Mr. Cappellino explained that the IDA is seeking approval to enter into a funding agreement with the County of Erie in an amount not to exceed \$600,000 to be used for survey, environmental investigation, and engineering design and related services for the removal and reconstruction of the rail line.

Ms. Gallagher moved and Mr. Lipsitz seconded to approve of the Erie County funding agreement. Ms. McDuffie then called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (“AGENCY”) AUTHORIZING THE AGENCY TO ENTER INTO A FUNDING AGREEMENT WITH THE COUNTY OF ERIE (“COUNTY”) IN AN AMOUNT NOT TO EXCEED \$600,000 TO BE UTILIZED FOR ENGINEERING SERVICES IN RELATION TO THE AGENCY’S CONTEMPLATED REMOVAL OF CERTAIN RAILWAY FACILITIES LOCATED IN THE RENAISSANCE COMMERCE PARK

Policy Committee Update. Mr. Lipsitz informed the board that the Policy Committee recommends approval of the TM Montante/50 Gates Circle project, as presented to the Board today.

INDUCEMENT RESOLUTION

TM Montante, LLC, 50 Gates Circle, Buffalo, New York. Mr. Cappellino reviewed this proposed sales tax exemption and mortgage recording tax benefit project which is an adaptive reuse project and will transform a mostly vacant 11,2000 sq. ft. building into a mixed use development. The new use of this building will result in 2,230 sq. ft. dedicated to therapist offices and the remaining 8,970 sq. ft of space used for 12 residential apartment units with one until being offered at 80% AMI.

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

Mr. DeLuke spoke on behalf of the project and the applicant. Mr. Deluke discussed the housing component of the Project.

Ms. Gallagher spoke in favor of adaptively reusing buildings as a balance with other housing strategies. She also suggested the Agency study the affordable and workforce housing needs of the County.

Ms. McDuffie stated she has asked staff to review this issue and pursue establishing a working group to undertake this analysis.

Mr. Poloncarz confirmed that Erie County will still receive a county real property tax, despite the use of the Section 485-a real property tax abatement being provided by the City of Buffalo.

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 made with respect to the Project at the time of Project completion equals or exceeds \$2,945,962 (which represents the product of 85% multiplied by \$3,465,838, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 4 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 FTE employment at the Facility equal to 4 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.

Ms. Gallagher then moved and Mr. Vukelic 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 TM MONTANTE DEVELOPMENT 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

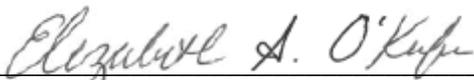
PUBLIC HEARING IN CONNECTION WITH THE PROJECT; (iii) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (iii) AUTHORIZING THE UNDERTAKING OF THE PROJECT TO PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES TAX EXEMPTION BENEFIT FOR PURCHASES AND RENTALS 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

MANAGEMENT TEAM REPORTS

Mr. Cappellino informed members of anticipated changes to the RDC's loan administration plan.

There being no further business to discuss, Ms. McDuffie adjourned the meeting of the Agency at 12:30 p.m.

Dated: May 31, 2023



Elizabeth A. O'Keefe, Secretary