

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

DATE AND PLACE: October 25, 2023, at the Center of Excellence in Bioinformatics and Life Sciences (CBLS), 701 Ellicott Street, The Event Space/Conference Room B2-205, located on the 2nd floor, Buffalo, New York 14203.

PRESENT: Hon. Diane Benczkowski, Rev. Mark Blue, Hon. Joseph Emminger, Dottie Gallagher, Hon. Howard Johnson, Richard Lipsitz, Jr., Brenda McDuffie, Denise McGowan, Hon. Glenn R. Nellis, Hon. Mark Poloncarz, Kenneth A. Schoetz and Paul Vukelic

EXCUSED: Denise Abbott, Hon. Bryon W. Brown, James Doherty, Michael P. Hughes, Tyra Johnson, Hon. Brian Kulpa and Darius G. Pridgen

OTHERS PRESENT: John Cappellino, President & CEO; Beth O'Keefe, Vice President of Operations; Gerald Manhard, Chief Lending Officer; Atiqa Abidi, Accounting Manager; Soma Hawramee, Compliance Portfolio Manager; Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant/Assistant Secretary; Laurie Hendrix, Administrative Coordinator; and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC

GUESTS: Zachary Evans on behalf of Erie County; Alex Carducci on behalf of the City of Buffalo; Jacob Tierney on behalf of Business First; Daniel Castle on behalf of the County; Michael Szukala on behalf of Erie County; Dennis Penman and Deep Katdare on behalf of Related Affordable; Pete Peterson and Eric Jefferson on behalf of MJ Peterson; and Rick Ganci on behalf of Joint School Construction Board (JSCB)

There being a quorum present at 12:05 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 September 27, 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. Abidi presented the September financial reports. The balance sheet shows that the IDA ended the month with total assets of \$32.8M, which includes unrestricted cash of \$7.3M available for Agency operations, and net assets of \$20.3M. There were not any major shifts on the balance sheet line items from August. Operating revenue of \$276,000 was below the monthly budget by \$60,000, due mainly to less administrative fees collected during the month. Operating expenses were \$216,000 and below our monthly budget by \$13,000. After depreciation, there was net income of \$36,000 for the month. The year-to-date Income Statement revenues of \$2.3M, including administrative fee revenue of \$1.3M. We are at 74% of our 2023 administrative fee budget through September. Expenses of \$2.1M are slightly ahead of budget. Special project grant revenue nets to \$77,000. Net income before strategic investments and depreciation is \$218,000. There is currently a net loss of \$297,000 for the year. Ms. McDuffie directed that the report be received and filed.

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

Finance and Audit Committee Update. Mr. Szukala, Finance and Audit Committee Chair, updated members on most recent Finance & Audit Committee meeting, firming the committee recommended and approved of the Westchester and JSCB bond issuances. Ms. McDuffie directed that the report be received and filed.

Review of 2024 Budget Timetable and Approval of 2024 Proposed Budget. Ms. Abidi reviewed the budget review process. She stated that the Agency held two Budget Q&A sessions since the last Board meeting and had some good insights and conversation around the process. Ms. Abidi reviewed the proposed 2024 budget. Ms. Abidi reviewed the narrative discussing budget methodology and substantial changes from the prior year budget. She also reviewed the operational portion of the budget. When compared to the 2023 budget, the Agency is looking at a slight decrease for operating revenues and an increase in expenses in 2024. Operating revenues are budgeted at \$2.8M, which includes \$1.8M of administrative fees. The Agency is projecting around \$1.84M of administrative fee revenues for 2023. Total operating expenses are budgeted at \$2.9M, which is about a 2% increase over the 2023 budget. There is a budgeted operating loss of about \$103,900, which takes into account hiring of a new staff member. She reviewed the proposed and potential uses of funds already on hand for special projects. The reserves for future projects are noted simply for the possibility of future projects, should the opportunity arise. Including all of these possibilities, the bottom line budgeted net loss is \$1.4M. There haven't been any changes to the budgeted figures since we reviewed them last month. She also reviewed the 3-year forecast as required by the Authorities Budget Office, including the proposed 5-year capital budget, including IT and facilities at 143 Genesee and 95 Perry Street. There is \$180,000 included in the budget for 95 Perry for expanding the large conference room. The Finance & Audit Committee voted on September 21 to recommend approval of the proposed budget as presented. Mr. Poloncarz moved and Mr. Nellis seconded to approve of the proposed 2024 budget. Ms. McDuffie then called for the vote and the motion was unanimously approved.

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 Resolution Authorizing the ECIDA to Hire a Consultant for Design & Engineering Services Related to the Industrial Rail (WYE Yard) Relocation Project. Mr. Cappellino reviewed the project and summarized the memorandum that was included in the Board package provided to members.

Mr. Poloncarz moved and Mr. Johnson seconded to approve of the hiring of a consultant for design and engineering services related to the Industrial Rail (WYE Yard) relocation project. 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 AN AGREEMENT WITH C&S COMPANIES (C&S) IN AN AMOUNT NOT TO EXCEED \$600,000 TO BE UTILIZED FOR DESIGN AND ENGINEERING SERVICES IN RELATION TO THE AGENCY’S CONTEMPLATED REMOVAL AND EXPANSION OF CERTAIN RAILWAY FACILITIES LOCATED IN THE RENAISSANCE COMMERCE PARK

Policy Committee Update. Mr. Lipsitz, Chair of the Policy Committee, noted there was no meeting of the Policy Committee as there was no quorum.

BOND RESOLUTIONS

Westchester Park Preservation, L.P., 55 Ralston Avenue, Tonawanda, New York 14217. Ms. O’Keefe reviewed this proposed tax-exempt bond, sales and use tax and mortgage recording tax benefits project involving the renovation of an existing 201 unit affordable property for seniors that consists of two buildings connected by a passageway on the ground floor. The first building is a five-story elevator serviced building and the second building is a two-story split level low-rise building without elevator access. The project consists of the modernization of 100% of units to include new bathrooms, kitchens, flooring and lighting, painting, landscaping, improvements, modernization of community space and adding free site wide Wi-Fi. 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.

Mr. Emminger spoke in favor of the project and moved to support the project.

Ms. Benczkowski disclosed she maintains a real estate license with MJ Peterson, the operator of the facility, but confirmed no financial or contractual relationship with the project.

Mr. Katdare then spoke on behalf of the applicant and briefly described the renovation project.

Mr. Lipsitz seconded the motion.

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 \$30,260,000 (which represents the product of 85% multiplied by \$35,600,000, being the total project cost as stated in the Application).
- (ii) Employment Commitment – that there are at least four (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 years of Project Completion, the Company has maintained employment at the Facility equal to four (4) FTE employees, being the Baseline FTE employee position as stated in the Company’s Application. To confirm and verify the Company’s employment numbers, the Issuer requires that, at a minimum, the Company provide employment data to the Issuer on a quarterly basis, said information to be provided on the Issuer’s “Quarterly Employment Survey” form to be made available to the Company by the Issuer.
- (iii) Local Labor Commitment – that the Company adheres to and complies with the Issuer’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 Issuer’s Pay Equity Policy.
- (v) Unpaid Real Property Tax Policy Commitment – that the Company is compliant with the Issuer’s Unpaid Real Property Tax Policy.

Ms. McDuffie then called for the vote and the following resolution was unanimously approved:

RESOLUTION (A) AUTHORIZING THE ISSUANCE, AND SALE OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY MULTIFAMILY HOUSING REVENUE BONDS (WESTCHESTER PARK PRESERVATION, L.P. PROJECT), IN ONE OR MORE SERIES, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$25,000,000; (B) THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS; AND (C) MAKING A FINDING IN COMPLIANCE WITH THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT.

Refinancing of the Agency's School Facility Refunding Revenue Bond (City School District of the City of Buffalo Project). Mr. Cappellino reviewed the City School District of the City of Buffalo project which will finance outstanding debt associated with the initial funding related to various public school facilities improvements including renovation, construction, and reconstruction of such existing facilities and equipping and furnishing of such public school facilities within the City of Buffalo.

Mr. Poloncarz moved and Ms. Gallagher seconded to approve the Project as proposed. Ms. McDuffie then called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE ISSUANCE OF REFUNDING BONDS TO REFUND ALL OR A PORTION OF THE SERIES 2013A BONDS WITH RESPECT TO ITS PROJECT FOR THE CITY SCHOOL DISTRICT OF THE CITY OF BUFFALO AND AUTHORIZING OTHER MATTERS IN CONNECTION THEREWITH

Approval of Resolution for Replacement of Remarketing Agent for Canisius High School – Series 2008 Bonds. Mr. Cappellino reviewed the request for the replacement of the remarketing agent relating to the ECIDA's Canisius High School variable rate demand civic facility revenue bonds.

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

RESOLUTION (A) THE CONSENT OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE "ISSUER") TO THE REPLACEMENT OF THE REMARKETING AGENT RELATING TO THE ISSUER'S VARIABLE RATE DEMAND CIVIC FACILITY REVENUE BONDS (THE CANISIUS HIGH SCHOOL OF BUFFALO, N.Y. PROJECT – LETTER OF CREDIT SECURED), SERIES 2008 ISSUED BY THE ISSUER ON JANUARY 30, 2008; (B) THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS; AND (C) MAKING A FINDING IN COMPLIANCE WITH THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT

There being no further business to discuss, Ms. McDuffie adjourned the meeting of the Agency at 12:47 p.m.

Dated: October 25, 2023



Elizabeth A. O'Keefe, Secretary