

**MINUTES OF THE REGULAR MEETING OF THE  
MEMBERS OF THE  
ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
(ECIDA)**

**DATE AND PLACE:** February 8, 2010, at the Erie County Industrial Development Agency, 275 Oak Street, Buffalo, New York 14203

**PRESENT:** Philip C. Ackerman, Barry Brandon, Hon. Byron W. Brown, Hon. Anthony F. Caruana, Hon. Chris Collins, Philip Corwin, Hon. David A. Franczyk, Michael Hoffert, Hon. Mary F. Holtz, Hon. Timothy M. Kennedy, Michael Laipple, Frank B. Messiah, Dr. Andrew J. Rudnick, Richard Vogan, Hon. Barry Weinstein, and Hon. Barbara Miller-Williams

**EXCUSED:** Jonathan Dandes, James F. Doherty, and Lawrence M. Meckler

**OTHERS PRESENT:** Al Culliton, Chief Operating Officer; John Cappellino, Executive Vice President; David Kerchoff, Assistant Treasurer; Karen Fiala, Assistant Treasurer; Andrew Schoeppich, Treasurer; and Robert G. Murray, Assistant Secretary

There being a quorum present at 9:20 a.m., the Regular Meeting of the Members of the Erie County Industrial Development Agency was called to order by Mr. Ackerman.

**MINUTES**

The minutes of the meeting of January 11, 2010, were presented. Upon motion made by Mr. Messiah, and seconded by Dr. Rudnick, approval of the minutes of the Regular Meeting of the Members of the ECIDA was unanimously carried.

**REPORTS**

Financial Report. The 2009 year-end financial reports were distributed to the Members. Mr. Schoeppich discussed the report, noting the implications of the asset transfers from two affiliated entities, ILDC and BNRDC, to the ECIDA, which was approved by the Board for the purposes of streamlining operations, accounting and reporting efforts, and to enable the ILDC to provide tax exempt financing for not-for-profits. Mr. Schoeppich noted that net income exceeded budget, and said proceeds will be utilized for future economic development endeavors and projects. Mr. Schoeppich also discussed the “rainy day reserve fund,” which was established to enable the ECIDA to pay the New York State Industrial Development Agency tax in the event the State seeks to levy and collect the tax, and to mitigate against future revenue losses that may result from the continuing economic crisis. There being no further questions, Mr. Ackerman directed that the financial report be received and filed.

2009 Legal Expenses. A letter from Harris Beach dated December 23, 2009, was presented to the Members by Mr. Ackerman, showing a recap of legal fees for the ECIDA and its affiliates during 2009. This letter and accompanying table was presented to the Buffalo News in response to a recent Freedom of Information Law request whereby the Buffalo News asked for copies of all Harris Beach and Travers Collins invoices and engagement letters. Mr. Culliton stated that approximately forty percent of the work performed by Harris Beach resulted from the assumedly non-recurring “stem to stern” comprehensive legal review of the organization and operations of ECIDA and its affiliates. Work was also done to restructure the ECIDA and its affiliates to minimize certain adverse income tax liabilities. Legal fees were also incurred related to office and procedural streamlining processes which included the “Lean Office” application and closing process, as well as legal review of outreach efforts such as the “Road to a Brighter Future” initiative and expenses to fully review liability insurance coverage, compliance issues and governance issues.

## **INFORMATION ITEMS**

IRB Closings 2010. Mr. Kerchoff stated that there has been one closing for 2010 (Dunn Tire, LLC). There being no further questions, Mr. Ackerman directed that the report be received and filed.

ILDC/RDC Loan Approvals/Closings under \$350,000. Mr. Kerchoff presented the report dated from January 11, 2010 to February 3, 2010, which included two RDC loans that closed (Lancaster Knives, Inc. and Value Centric, LLC). Two new ILDC loans (Norbert & Lynn Gabel and Minimax Concrete Corp.) through the micro loan program were approved and closed, respectively. There being no further questions, Mr. Ackerman directed that the report be received and filed.

## **ACTION ITEMS**

Grant Approval for Railroad Improvements. Mr. Cappellino presented the Board with a resolution for consideration to approve the ECIDA as an applicant for a Community Capital Assistance Program (CCAP) grant of \$100,000 in state (New York State Dormitory Authority) money, to be utilized for reconstruction and rehabilitation of Erie County Rail Line #1246 in Hamburg, New York. There being no further questions, upon motion made by Mr. Hoffert, and seconded by Mr. Weinstein, the resolution was unanimously carried. A full copy of the resolution is attached hereto.

## **INDUCEMENT RESOLUTIONS**

### **Kanandague Interests, LLC – Lease/Leaseback – 201 West Huron Street, Buffalo, NY**

Ms. Fiala presented this \$1,800,000 Adaptive Reuse Project for the renovation of an existing building into an apartment facility. This project is located in the West Village Local Historic District. There being no further questions, upon motion made by Mayor Brown, and seconded by Mr. Weinstein, the following resolution was unanimously carried:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF THE KANANDAGUE INTERESTS LLC (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 FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND/OR RENOVATION AND EQUIPPING OF THE PROJECT, AND (B) A PARTIAL REAL PROPERTY TAX ABATEMENT THROUGH A PAYMENT-IN-LIEU-OF-TAX AGREEMENT, AND (C) A MORTGAGE RECORDING TAX EXEMPTION FOR FINANCING RELATED TO THE PROJECT; AND (vi) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, PAYMENT-IN-LIEU-OF-TAX AGREEMENT AND RELATED DOCUMENTS

**OMFS Properties, LLC – Lease/Leaseback – 711 Young Street, Buffalo, NY 14150**

Ms. Fiala presented this \$2,300,000 project which has a strong research and development component in its first phase involving the construction of a 3,200 square foot building. Dental and maxillofacial surgery research will be done in conjunction with the UB Dental School at this first phase building. Phase two involves construction of a 3,200 square foot addition for patient care and surgery, focusing on populations difficult to treat due to severe medical conditions and low income patients/families. It is projected that some 25% of the patients to be served at this new facility will be from outside the area. There being no further questions, upon motion made by Mr. Caruana and seconded by Ms. Holtz, the following resolution was unanimously carried:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF OMFS PROPERTIES LLC (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 FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT, (B) A PARTIAL REAL PROPERTY TAX ABATEMENT THROUGH A PAYMENT-IN-LIEU-OF-TAX AGREEMENT,

AND (C) A MORTGAGE RECORDING TAX EXEMPTION FOR FINANCING RELATED TO THE PROJECT; AND (vi) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, A PAYMENT-IN-LIEU-OF-TAX AGREEMENT AND RELATED DOCUMENTS

## **SPECIAL RESOLUTIONS**

### **Flexo Transparent, Inc. – Lease/Leaseback – 1070, 1132 and 1146 Seneca Street, Buffalo, NY**

Ms. Fiala presented a reaffirming resolution for this project previously induced on February 9, 2009, for the construction and renovation of approximately 45,000 square feet of multiple buildings for the development of an industrial and manufacturing facility. There being no further questions, upon motion made by Mayor Brown, seconded by Mr. Kennedy, the following resolution was unanimously carried:


REAFFIRMED AND RESTATED RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE ACQUISITION, RENOVATION AND CONSTRUCTION OF A FACILITY BY FLEXO TRANSPARENT, INC. (THE “COMPANY”) AUTHORIZING (i) THE UNDERTAKING OF THE PROJECT TO PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT, (B) A PARTIAL REAL PROPERTY TAX ABATEMENT THROUGH THE PILOT AGREEMENT, AND (C) A MORTGAGE RECORDING TAX EXEMPTION FOR FINANCING RELATED TO THE PROJECT; AND (ii) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, AND A PAYMENT-IN-LIEU-OF-TAX AGREEMENT AND RELATED DOCUMENTS

## **MANAGEMENT TEAM REPORTS**

Bond/Loan Report. Mr. Culliton presented a schedule of backlogged and closed bond/lease projects and a backlog of loans, noting that the RDC has had a very good year regarding loan amounts, and current as of January 31, 2010, there were \$1,607,500 in loans approved and waiting to close. There is one loan in the pipeline (Sweeney Steel), for \$500,000, and two loans were closed within the last 30 days (Minimax Concrete and ValueCentric), totaling \$350,450. There being no further questions or comments, Mr. Ackerman requested the report be received and filed.

There being no further business, upon motion made by Mr. Ackerman, and seconded by Dr. Rudnick, and unanimously carried, the meeting was adjourned.

Dated: February 8, 2010

  
\_\_\_\_\_  
Robert G. Murray, Assistant Secretary

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**RESOLUTION**

*(Grant Disbursement Agreement –CCAP Grant)*

A regular meeting of the Erie County Industrial Development Agency was convened on Monday, February 8, 2010 at 9:00 a.m.

The following resolution was duly offered and seconded, to wit:

RESOLUTION AUTHORIZING EXECUTION AND ADOPTION OF A GRANT DISBURSEMENT AGREEMENT RELATIVE TO THE AGENCY'S ACCEPTANCE OF A COMMUNITY CAPITAL ASSISTANCE PROGRAM (CCAP) GRANT IN THE AMOUNT OF \$100,000 TO BE UTILIZED FOR RECONSTRUCTION AND REHABILITATION OF ERIE COUNTY RAIL LINE # 1246

**WHEREAS**, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 293 of the Laws of 1970 of the State of New York, as amended (collectively, the "Act"), the ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the "Agency") was created as a public benefit corporation of the State with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing, commercial and other facilities as authorized by the Act to prevent unemployment and economic deterioration; and

**WHEREAS**, both the County of Erie (the "County") and the Agency are interested in the fostering of business growth and job creation within the County; and

**WHEREAS**, the County recognizes that the Agency is a community-wide organization with the expertise and capacity to improve the general prosperity and economic welfare of the people of Erie County; and

**WHEREAS**, on September 23, 2008, the Agency submitted an application to the Dormitory Authority of the State of New York (DASNY) for a Community Capital Assistance Grant; and

**WHEREAS**, on December 7, 2009, DASNY advised the Agency that it had been selected in accordance with DASNY procedures required to receive a CCAP grant in the amount of \$100,000 for purposes of reconstruction and rehabilitation of Erie County Rail Line #1246; and

**WHEREAS**, DASNY has determined that the Agency has fulfilled all criteria necessary to receive a CCAP grant as set forth in authorizing regulations for CCAP; and

**WHEREAS**, the Agency now desires to execute the Grant Disbursement Agreement ("GDA") relative to the Agency's acceptance of a Community Capital Assistance Program

(CCAP) grant in the amount of \$100,000 to be utilized for reconstruction and rehabilitation of the Erie County Rail Line # 1246, a true copy of which is attached hereto as Exhibit A; and

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. The Agency hereby determines that the execution of the GDA constitutes a Type II Action within the meaning of the State Environmental Quality Review Act and the regulations thereunder ("SEQRA") and therefore no further actions or proceedings under SEQRA need be undertaken by the Agency in connection therewith.

Section 2. The Agency hereby determines that the execution and adoption of the GDA will facilitate economic development and job creation/retention for the benefit of the economy and people of Erie County.

Section 3. In accordance with the Agency's goals and purposes set forth above, the Agency is hereby authorized to enter into the CCAP GDA with the Dormitory Authority of the State of New York in the form attached hereto as Exhibit A, relative to disbursement of grant proceeds in the amount of \$100,000 to be utilized for reconstruction and rehabilitation of Erie County rail line # 1246.

Dated: February 8, 2010

STATE OF NEW YORK )  
COUNTY OF ERIE ) SS:

I, the undersigned Assistant Secretary of the Erie County Industrial Development Agency, DO HEREBY CERTIFY:

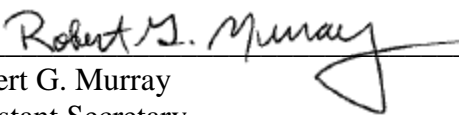
That I have compared the annexed extract of minutes of the meeting of the Erie County Industrial Development Agency (the "Agency"), including the resolution contained therein, held on February 8, 2010, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of the Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY, that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 9<sup>th</sup> day of February, 2010.

  
\_\_\_\_\_  
Robert G. Murray  
Assistant Secretary

[SEAL]