

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

**DATE AND PLACE:** August 28, 2019, at the Erie County Industrial Development Agency (the “ECIDA” or “Agency”), 95 Perry Street, 5<sup>th</sup> Floor ESD Conference Room, Buffalo, New York 14203

**PRESENT:** Hon. Bryon W. Brown, Hon. Joseph H. Emminger, Dottie Gallagher, Hon. Howard Johnson, Tyra Johnson, Hon. Brian J. Kulpa, Richard Lipsitz, Jr., Brenda W. McDuffie, Hon. Glenn R. Nellis, Hon. Mark C. Poloncarz, Kenneth A. Schoetz, Charles F. Specht and Art Wingerter

**EXCUSED:** Hon. Diane Benczkowski, Rev. Mark E. Blue, James F. Doherty, John J. Mudie, Sister Denise Roche and Hon. Darius G. Pridgen

**OTHERS PRESENT:** Steve Weathers, Chief Executive Officer; John Cappellino, Executive Vice President; Mollie Profic, Chief Financial Officer; Gerald Manhard, Chief Lending Officer; and Karen M. Fiala, Assistant Treasurer/Secretary

**GUESTS:** Robert G. Murray, Esq., General Counsel/Harris Beach PLLC; Christopher Pawenski, Coordinator, Industrial Assistance Program, of the Erie County Environment & Planning Department

There being a quorum present at 12:08 p.m., the meeting was called to order by Ms. McDuffie.

**MINUTES**

The minutes of the July 24, 2019 meeting of the members were presented. Mr. Nellis moved and Mr. Emminger seconded, to approve of the minutes. Ms. McDuffie called for the vote, and the minutes were then unanimously approved.

**REPORTS/ACTION ITEMS/INFORMATION ITEMS**

Financial Report. Ms. Profic presented the July 2019 financial report, noting that the balance sheet shows that the Agency finished the month with total assets of \$28.8 million and net assets of \$21.4 million. The monthly income statement shows an operating deficit of \$90,000 for July. Operating revenue was under budget by \$73,000, due largely to administrative fees. Operating expenses overall were over budget by \$17,000. After factoring in strategic initiatives and depreciation, there was a net loss of \$106,000 for the month. The year-to-date income statement shows revenues of \$1.3 million, being \$262,000 below budget for the year, and expenses of \$1.6 million, being \$47,000 below budget. These plus special project grants net to

an operating loss of \$236,000 through July. After strategic initiatives and depreciation, there is currently a net loss of \$682,000 for the year. Ms. McDuffie directed that the report be received and filed.

Finance & Audit Committee Update. Ms. Profic provided members with a brief summary of the most current Finance & Audit Committee meeting. The Committee was briefed on the 2020 budget process and reviewed the proposed budgets for the ECIDA, RDC and ILDC. The Finance & Audit Committee will meet again in September to discuss any updates and recommend proposed budgets to their respective Boards, followed by optional Board Q&A sessions in October. Any final adjustments to the proposed budgets will be reviewed in October and the Boards will take action on the budgets in October for submission to the ABO by the November 1 deadline. Ms. McDuffie directed that the report be received and filed.

2019 Tax Incentive Induced/Closing Schedule/Backlog Report. Ms. Fiala presented this report. Ms. McDuffie directed that the report be received and filed.

Approval of Resolution for Environment Consultant Selection Services. Mr. Cappellino reviewed the RFP process undertaken by the ECIDA/ILDC to retain environmental consulting services, and confirmed that LaBella Associates and C & S Companies were selected by the environmental consultant selection committee, consisting of ECIDA staff, Erie County Department of Environment and Planning Staff, and Mr. Robert Murray, counsel to the Agency, as a result of the review of the various RFP responses, for their experience and expertise in providing environmental services as needed. The Agency desires to enter into contracts, to be paid on an hourly rate for a three-year as needed basis, with LaBella Associates and C & S Companies for the provision of environmental services to the Agency for the redevelopment of industrial sites in Erie County.

Upon motion made by Mr. Kulpa and seconded by Mr. Johnson to enter into contracts with LaBella Associates and C & S Companies as discussed herein, Ms. McDuffie then called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT  
AGENCY AUTHORIZING THE ENGAGEMENT OF CONSULTING FIRMS  
LABELLA ASSOCIATES AND C & S COMPANIES TO PROVIDE  
ENVIRONMENTAL SERVICES TO THE ERIE COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

Approval of Resolution to Enter into Memorandum of Understanding (MOU) with Opportunity Zone Partners. Mr. Weathers informed the members that the Agency desires to enter into an Memorandum of Understanding (“MOU”) with the ILDC, the City of Buffalo Office of Strategic Planning, Invest Buffalo Niagara, Town of Amherst, City of Lackawanna, City of Tonawanda, and Town of Tonawanda to implement the Erie County Opportunity Zone Marketing Project and act as facilitator for said group to design and plan group process; guide and control monthly meetings; and record and disseminate actions and outcomes.

Mr. Kulpa and Mr. Emminger noted that the Town of Amherst and the Town of Tonawanda will be parties to the MOU and queried as to whether they have a conflict of interest

with respect to voting on this matter. Mr. Murray confirmed that they do not have a conflict of interest otherwise prohibiting them from voting on this matter.

Upon motion made by Mr. Emminger and seconded by Mr. Kulpa to have the Agency enter into the above described MOU. Ms. McDuffie then called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (“ECIDA”) AUTHORIZING THE ECIDA TO ENTER INTO A CERTAIN (i) MEMORANDUM OF UNDERSTANDING (“MOU”) WITH: THE BUFFALO AND ERIE COUNTY LAND DEVELOPMENT CORPORATION, THE CITY OF BUFFALO OFFICE OF STRATEGIC PLANNING, INVEST BUFFALO NIAGARA, TOWN OF AMHERST, CITY OF LACKAWANNA, CITY AND TOWN OF TONAWANDA, TO IMPLEMENT THE ERIE COUNTY OPPORTUNITY ZONE MARKETING PROJECT AND (ii) TAKE ALL ACTIONS REASONABLY NECESSARY TO COMPLETE THE ERIE COUNTY OPPORTUNITY ZONE MARKETING PROJECT, INCLUDING ACTING AS FACILITATOR TO THE OPPORTUNITY ZONE WORKING COMMITTEE.

Policy Committee Update. Mr. Lipsitz updated members on the most recently completed Policy Committee meeting and noted that the Committee reviewed and recommends all four projects for approval to be presented to the IDA board members at this meeting. Ms. McDuffie directed that the report be received and filed.

## **INDUCEMENT RESOLUTIONS**

201 Ellicott, LLC and Ellicott Green Acres, LLC (d/b/a Braymiller Market), 201-203 Ellicott Street, Buffalo, New York. Mr. Cappellino reviewed this proposed sales tax, mortgage recording tax and real property tax abatement benefits project consisting of the construction of a 21,510 sq. ft. fresh food market focusing on the sale and distribution of affordable fresh foods to restaurants, residents, commuters, visitors and businesses in the City of Buffalo. The retail portion of the grocery store will encompass 9,280 sq. ft. and the wholesale side of the business will occupy 9,580 sq. ft. A back office will take up the remaining space.

As a condition precedent of receiving Financial Assistance, and as a material term and condition established by the Agency in connection with its approval of the Project, Mr. Cappellino noted that the Company 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 \$5,866,615.00 (which represents the product of 85% multiplied by \$6,901,900.00, being the total project cost as stated in the Company’s application for Financial Assistance).

- (ii) Employment Commitment – the number of current FTE employees in the then current year at the Facility; and
  - that the Company has created full-time equivalent (“FTE”) employment at the Facility equal to 38 FTE employees [representing the product of 85% multiplied by 45 (being the 25 new FTE employee positions plus 20 new part-time equivalent (“PTE”) employees (with 2 PTE employees counting as 1 FTE employee) as proposed to be created by the Company as stated in the Company’s application for Financial Assistance)]. 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.

General discussion followed. Mr. Brown moved and Mr. Kulpa 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: (i) ACCEPTING THE APPLICATION OF 201 ELLICOTT, LLC AND ELLICOTT GREEN ACRES, LLC AND/OR INDIVIDUAL(S) OR AFFILIATE(S), SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON THEIR 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

Hertel Pacific, LLC/Cypress North Corp., 211 Hertel Avenue, Buffalo, New York. Ms. Fiala reviewed this proposed sales tax, mortgage recording tax and real property tax abatement benefits project wherein Cypress North is currently leasing space on Exchange Street in the City of Buffalo but has been slowly outgrowing its current leased space as it continues to expand products and services. The company has purchased a former 8,500 sq. ft. manufacturing facility located at 211 Hertel Avenue in the City of Buffalo and will be renovating the building as its primary office location but will not relocate until the current Exchange Street lease has expired.

As a condition precedent of receiving Financial Assistance, and as a material term and condition established by the Agency in connection with its approval of the Project, Ms. Fiala noted that the Company 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 \$794,886.00 (which represents the product of 85% multiplied by \$935,160.00, being the total project cost as stated in the Company’s application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 16 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 the Company has maintained and created FTE employment at the Facility equal to 18 FTE employees [representing the sum of the Baseline FTE plus 2 (being the total number of new FTE employee positions as proposed to be created by the Company as stated in the Company’s application for Financial Assistance)] within two (2) years of Project completion and the retention of such jobs in each such year thereafter until the termination of the PILOT Agreement. 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.

General discussion followed. Mr. Brown 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 OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF HERTEL PACIFIC, LLC, CYPRESS NORTH CORP. 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

Michigan Seneca Group Inc., 270 Michigan Avenue, Buffalo, New York. Ms. Fiala reviewed this proposed sales tax and mortgage recording tax benefits project which involves the adaptive reuse of the existing facility which covers 6 different buildings constructed in 1890. A full-scale renovation of 47,000 sq. ft. which is currently vacant, portions of which are eligible for New York state and federal historic tax credits, will require asbestos abatement, masonry repair, exterior cleaning, replacement of existing non-original windows with historically accurate units, updated code compliance measures including a new elevator and new egress stairs in the 6-story portion as well as updating of the fire suppression systems and new utility services to bring the complex into current code compliance. The renovation will include office/back office and warehouse space along with the addition of 6 market-rate apartments.

As a condition precedent of receiving Financial Assistance, and as a material term and condition established by the Agency in connection with its approval of the Project, Ms. Fiala

noted that the Company 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 conclusion of the later of two (2) years following either (i) the construction completion date, or (ii) 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 \$4,855,200.00 (which represents the product of 85% multiplied by \$5,712,000.00, being the total project cost as stated in the Company’s application for Financial Assistance).
- (ii) Employment Commitment – that there is at least 1 existing full time equivalent (“FTE”) employee 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 the Company has maintained and created FTE employment at the Facility equal to 30 FTE employees [representing the sum of Baseline FTE plus 29, the product of 85% multiplied by 35 (being the total number of new FTE employee positions as proposed to be created by the Company as stated in the Company’s application for Financial Assistance)]. 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.

General discussion followed. Mr. Brown moved and Mr. Schoetz 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: (i) ACCEPTING THE APPLICATION OF MICHIGAN-SENECA GROUP, INC., 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 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

Time Release Properties, LLC / Time Release Sciences, Inc., 2303 Hamburg Turnpike, Lackawanna, New York. Mr. Cappellino reviewed this proposed sales tax, mortgage recording tax and real property tax abatement benefits project which consists of the construction of an approximately 290,000 sq. ft. manufacturing facility at the former Bethlehem Steel site in the City of Lackawanna as well as investing \$6 million in new production equipment. The company currently operates out of a 120,000 sq. ft. facility located in the City of Buffalo at 205 Dingsen Street and due to space constraints is unable to expand at its current location.

As a condition precedent of receiving Financial Assistance, and as a material term and condition established by the Agency in connection with its approval of the Project, Mr. Cappellino noted that the Company 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 \$19,295,000.00 (which represents the product of 85% multiplied by \$22,700,000.00, being the total project cost as stated in the Company’s application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 103 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 the Company has maintained and created FTE employment at the Facility equal to 120 FTE employees [representing the sum of 103 Baseline FTE plus 17 (the product of 85% multiplied by 20 being the total number of new FTE employee positions as proposed to be created by the Company as stated in the Company’s application for Financial Assistance)] within two (2) years of Project completion and the retention of such jobs in each such year thereafter until the termination of the PILOT Agreement. 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. Poloncarz thanked the ECIDA board members for financially supporting the ILDC’s purchase of the Bethlehem Steel site and also thanked Steve Weathers and John Cappellino for their diligence and efforts to bring this new project to the site. He then thanked Deputy County Executive Maria Whyte, and Chris Pawenski and Ken Swanekamp from the Erie County Department of Environment and Planning for their efforts as well. He also thanked Time Release Properties for their commitment to the region and thanked New York State for providing grant money to facilitate the acquisition and the redevelopment of the Bethlehem Steel site and thanked the Erie County Legislature for making infrastructure funding commitments for this site.

General discussion followed. Mr. Poloncarz moved and Mr. Johnson 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: (i) ACCEPTING THE APPLICATION OF TIME RELEASE 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) 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 AGREEMENTS; AND (vi) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, PAYMENT-IN-LIEU-OF-TAX AGREEMENTS, AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

Workforce Retention Fund. Mr. Cappellino advised that the Agency is seeking approval to create a Workforce Retention Fund as so related to the Time Release Properties project and to enter into a funding agreement with the ILDC to provide up to \$500,000 of UDAG funds for the purpose of allowing the ILDC to provide up to \$750,000 in funding to Time Release Properties and Sciences (TRS) to retain and create 153 jobs as part of the development of a new production facility to be located on the former Bethlehem Steel site as discussed herein.

General discussion followed. Mr. Poloncarz moved and Mr. Lipsitz seconded to approve of the Workforce Retention Fund as proposed. Ms. McDuffie then called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE "ECIDA" OR THE "AGENCY") APPROVING A REQUEST FOR FUNDING FROM THE BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION ("ILDC") IN AN AMOUNT NOT TO EXCEED \$500,000 FROM THE AGENCY'S U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT URBAN DEVELOPMENT ACTION GRANT ("UDAG") REFLOW FUND

## **COMPLIANCE**

SelectOne RE Holdings. Mr. Cappellino reviewed the SelectOne project and ECIDA financial assistance provided to SelectOne related to its October 2014 project and its recent employment shortfall history resulting in a violation of the required material terms and conditions that SelectOne obligated itself to maintain as a condition of receiving ECIDA financial assistance.

Ms. Gallagher commented that new technology is changing the way the economy works so retention is becoming an important goal besides just job creation.

Mr. Cappellino reviewed three staff proposed options presented to the Policy Committee as a means by which to recapture financial assistance. Mr. Cappellino noted that the Policy Committee reviewed the proposed options and chose Option #2 unanimously which called for a pro-rata recapture based on the percentage of employment shortfall. Mr. Poloncarz moved and

Ms. Gallagher seconded to approve of Option #2 which is a pro-rata recapture based on employment shortfall. Ms. McDuffie then called for the vote and the motion was unanimously approved.

## **MANAGEMENT TEAM REPORTS**

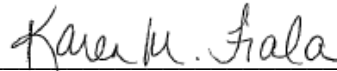
Mr. Weathers updated and informed members on various matters.

Mr. Weathers then asked Board members to enter into an attorney-client privilege discussion to seek legal advice. Ms. Gallagher moved and Mr. Nellis seconded to enter into an attorney-client privilege session. Ms. McDuffie called for the vote, which was unanimously carried, and the Agency entered into an attorney-client privilege session at 12:53 p.m.

Ms. Gallagher moved and Mr. Nellis seconded to conclude the attorney-client privilege session, Ms. McDuffie called for the vote, and the attorney-client privilege session was then unanimously terminated at 1:01 p.m.

There being no further business to discuss, Ms. McDuffie adjourned the meeting of the Agency at 1:01 p.m.

Dated: August 28, 2019



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Karen M. Fiala, Secretary