

**MINUTES OF A MEETING OF THE  
POLICY COMMITTEE OF THE  
ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

- DATE AND PLACE:** January 5, 2023 at the Erie County Industrial Development Agency, 95 Perry Street, 4<sup>th</sup> Floor Conference Room, Buffalo, New York 14203
- PRESENT:** Denise Abbott; Hon. April Baskin; Rev. Mark E. Blue; Zachary Evans; Richard Lipsitz, Jr.; Brenda W. McDuffie; Hon. Glenn R. Nellis; and Lavon Stephens
- EXCUSED:** Hon. Bryon W. Brown; Colleen DiPirro; Laura Smith, David J. State<sup>1</sup>, Hon. John Tobia and Paul Vukelic
- OTHERS PRESENT:** John Cappellino, Chief Executive Officer; Beth O’Keefe, Vice President of Operations; Andy Federick, Business Development Officer; Soma Hawramee, Compliance Portfolio Manager; Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant; and Pietra G. Zaffram, General Counsel/Harris Beach PLLC
- GUESTS:** Alex Carducci on behalf of the City of Buffalo; Ryan McCarthy and Fred LaFaso on behalf of 356 Hertel Ave, LLC and Bill Sam on behalf of Commitment 2000, Inc.

There being a quorum present at 9:07 a.m., the Meeting of the Policy Committee was called to order by Mr. Lipsitz.

**MINUTES**

The minutes of the December 8, 2022 Policy Committee meeting were presented. Upon motion made by Mr. Nellis to approve of the minutes, and seconded by Mr. Blue, the aforementioned Policy Committee meeting minutes were unanimously approved.

**PROJECT MATRIX**

Mr. Cappellino reviewed the Agency’s 2022 Tax Incentives Project Matrix. Mr. Lipsitz directed that the report be received and filed.

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<sup>1</sup> Mr. State participated via video conference, and counted for quorum purposes, pursuant Section 103-A of the New York State Public Officer’s Law and the Agency’s Videoconferencing Participation Policy.

**PROJECT PRESENTATIONS**

356 Hertel Ave, LLC, 356 Hertel Avenue and 42 Foundry, Buffalo, New York 14207. Ms. O’Keefe presented this proposed sales tax benefit project involving the mixed-use redevelopment of an existing historic complex consisting of 82 apartments (72,000 sq. ft.), 30,000 sq. ft. self-storage facility and 14,000 sq. ft. of retail space.

General discussed ensued.

Ms. O’Keefe confirmed that 356 Hertel Ave, LLC is seeking approximately \$612,500 in assistance including sales tax exemption. Total payroll is projected at \$27,646,012 for the direct and indirect jobs created including 212 construction jobs. The resulting cost benefit is 1:47 so for every \$1 of incentives the community benefit is \$47 in payroll & tax revenue. Erie County: for every \$1 of incentives the community benefit is \$83 in benefits to the community.

Ms. O’Keefe stated that in exchange for providing the sales and use tax, the approval of this project will be conditioned upon adherence to certain material terms and conditions with respect to the potential modification, recapture and/or termination of financial assistance as follows:

**Draft Recapture Material Terms**

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of project amount. Total Project Amount = \$32,067,800 85% = \$27,257,630
Employment	Coincides with recapture period	Projected = 42 FTE Create 85% of Projected = 35 FTE Recapture Employment = 35 FTE
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	Coincides with recapture period	Adherence to policy
Unpaid Tax	Coincides with recapture period	Adherence to policy
Recapture Period	2 years after project completion	Recapture of state and local sales taxes

Ms. McDuffie moved, and Ms. Abbott seconded to recommend the project as proposed be forwarded to the members of the ECIDA for approval. Mr. Lipsitz called for the vote and the project was then unanimously approved.

Commitment 2000, Inc./Father Sam’s Bakery, 105 Monsignor Valente Drive, Buffalo, New York 14206. Ms. O’Keefe presented this proposed sales tax, mortgage recording tax and

real property tax abatement benefits project involving the construction of an approximately 17,000+/- sq. ft. building addition to add a third production line for bakery manufacturer.

General discussed ensued.

Ms. O’Keefe confirmed that Commitment 2000, Inc. is seeking approximately \$420,215 in assistance including sales tax exemption, mortgage tax exemption and real property tax exemption. Total payroll is projected at \$36,458,323 for the direct and indirect jobs created including 38 construction jobs. The resulting cost benefit is 89:1 so for every \$1 of incentives the community benefit is \$89 in payroll & tax revenue. Erie County: for every \$1 of incentives the community benefit is \$115 in benefits to the community.

Ms. O’Keefe stated that in exchange for providing the sales and use tax, mortgage recording tax exemption and real property tax abatement benefits, the approval of this project will be conditioned upon adherence to certain material terms and conditions with respect to the potential modification, recapture and/or termination of financial assistance as follows:

**Draft Recapture Material Terms**

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of project amount. Total Project Amount = \$8,623,800 85% = \$7,330,230
Employment	Coincides with 7-year PILOT	Maintain Base = 75 FTE Create 85% of Projected Projected = 11 FTE 85% = 9 FTE Recapture Employment = 84 FTE
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	Coincides with 7-Year PILOT	Adherence to policy
Unpaid Tax	Coincides with 7-Year PILOT	Adherence to policy
Recapture Period	Coincides with 7-Year PILOT	Recapture of state and local sales taxes, mortgage recording tax and real property taxes

Mr. Blue moved, and Ms. McDuffie seconded to recommend the project as proposed be forwarded to the members of the ECIDA for approval. Mr. Lipsitz called for the vote and the project was then unanimously approved.

**MWBE UPDATE**

Mr. Cappellino updated members on the UTEP policy which was updated and forwarded to Erie County for review. We are targeting March or April to present to the Board.

There being no further business to discuss, Mr. Lipsitz adjourned the meeting at 9:40 a.m.

Dated: January 5, 2023

  
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Elizabeth A. O'Keefe, Secretary