

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

- DATE AND PLACE:** June 1, 2023 at the Erie County Industrial Development Agency, 95 Perry Street, 4th Floor Conference Room, Buffalo, New York 14203
- PRESENT:** Denise Abbott; Hon. April Baskin; A.J. Baynes; Rev. Mark E. Blue Zachary Evans; Richard Lipsitz, Jr.; Dr. Susan McCartney; Brenda W. McDuffie; Hon. Glenn R. Nellis; Laura Smith, David J. State; Lavon Stephens and Hon. John Tobia
- EXCUSED:** Hon. Bryon W. Brown and Paul Vukelic
- OTHERS PRESENT:** John Cappellino, President and Chief Executive Officer; Grant Lesswing, Director of Business Development; Andrew Federick, Property and Business Development Officer; Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant; and Robert G. Murray, General Counsel/Harris Beach PLLC
- GUESTS:** Josh Veronica on behalf of Buffalo Niagara Partnership; Alex Carducci on behalf of the City of Buffalo; Rebecca Brady on behalf of Top Seedz; David Chiazza on behalf of Iskalo Development; Chris Ahlers, Lisa Polizzi, Keith Sernick, Jill Szpylman on behalf of Stark Technologies; and Greg Setter, Michael Driscoll, Randy Bernick on behalf of Rosina Foods

There being a quorum present at 9:01 a.m., the Meeting of the Policy Committee was called to order by Mr. Lipsitz.

MINUTES

The minutes of the May 4, 2023 Policy Committee meeting were presented. Upon motion made by Mr. Nellis to approve of the minutes, and seconded by Mr. Baynes, the aforementioned Policy Committee meeting minutes were unanimously approved.

PROJECT MATRIX

Mr. Cappellino reviewed the Agency's Project Matrix. Mr. Lipsitz directed that the report be received and filed.

PROJECT PRESENTATION

Rosina Food Products Inc., 75 Empire and 130 Empire Drive, West Seneca, New York 14224. Mr. Cappellino presented this proposed sales tax, mortgage recording tax and real property tax abatement benefits project involving the expansion of the pasta manufacturing plant at 75 Empire Drive by 12,000 sq. ft. to accommodate a new ravioli production line, to renovate/reconfigure existing office space to create more welfare areas for manufacturing associates and renovate a vacant building at 130 Empire Drive into an office building to accommodate pasta facility office associates displace as a result of the expansion and improvements of the past manufacturing facility, consolidation of office space and to allow for future growth of administrative staff.

Mr. Cappellino confirmed that Rosina Food Products, Inc. is seeking approximately \$919,525 in assistance including sales tax exemption, mortgage tax exemption and real property tax exemption. Total payroll is projected at \$75,000,000 for the direct and indirect jobs created including 70 construction jobs. The resulting cost benefit is 369:1 so for every \$1 of incentives the community benefit is \$369 in payroll & tax revenue. Erie County: for every \$1 of incentives the community benefit is \$490 in benefits to the community.

Mr. Cappellino 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 = \$16,000,000 85% = \$13,600,000 |
| Employment | Coincides with 10-year PILOT | Maintain Base = 275 FTE Create 85% of Projected Projected = 15 FTE 85% = 12 FTE Recapture Employment = 287 FTE |
| Local Labor | Construction Period | Adherence to policy including quarterly reporting |
| Pay Equity | Coincides with 10-year PILOT | Adherence to policy |
| Unpaid Tax | Coincides with 10-year PILOT | Adherence to policy |
| Recapture Period | Coincides with 10-year PILOT | Recapture of state and local sales taxes, mortgage recording tax and real property tax |

General discussion ensued. Mr. Setter then spoke on behalf of Rosina to describe the project. Mr. Stephens confirmed Rosina works with Buffalo and Erie County Workforce Investment programs. Mr. Baynes queried as to where workers come from. Mr. Setter advised their work force typically resides within Cheektowaga, Lackawanna and Buffalo. Ms. McDuffie spoke in favor of the project.

At this point in time, Ms. Baskin joined the meeting.

Mr. Evans queried as to time periods for employees to move through the pay scale. Mr. Setter advised increases on merit are standard operating procedures, and additional background on Rosina's employee advancement programs and opportunities was provided.

Mr. Tobia expressed support for Rosina's project and its employee training program.

Ms. Baskin queried as to specialty contractor considerations that may preclude the use of MWBE firms. Mr. Setter responded that there are certain chemical usage and machinery usage specialties that require specific contractors in contrast to opening up that specialty to any and all potential contractors.

Ms. Smith spoke in favor of the project and queried as to how ECIDA incentives will help the project.

Mr. Setter stated there are ever increasing costs of materials and labor to undertake the new project combined with the need to retain and attract new employees such that any financial assistance helps and is mutually beneficial to the Rosina and the community.

Ms. McDuffie moved and Mr. Stephens 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.

Stark Tech, 91 Sawyer Avenue, Tonawanda, New York 14150. Mr. Cappello presented this proposed sales tax and mortgage recording tax benefits project involving the major renovation of an existing 125,000 sq. ft. facility that contains high bay ceilings and high-capacity cranes.

Mr. Cappellino confirmed that Stark Teck is seeking approximately \$454,375 in assistance including sales tax exemption and mortgage recording tax exemption. Total payroll is projected at \$410,600,000 for the direct and indirect jobs created including 43 construction jobs. The resulting cost benefit is 1:854 so for every \$1 of incentives the community benefit is \$854 in payroll & tax revenue. Erie County: for every \$1 of incentives the community benefit is \$1,609 in benefits to the community.

Mr. Cappellino stated that in exchange for providing the sales and use tax and mortgage recording tax exemption 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 = \$16,250,000 85% = \$13,812,500 |
| Employment | Coincides with recapture period | Maintain Base = 50 FTE Create 85% of Projected Projected = 120 FT, 10 PT (125 FTE) 85% = 106 FTE Recapture Employment = 156 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 and mortgage recording tax |

Mr. Ahlers spoke on behalf of the company describing the company's history and discussing the proposed project.

Mr. Evans, an Erie County employee, noted that Erie County has contracts with Stark and that he will abstain from discussion and voting on this project.

Ms. McDuffie spoke in favor of the project and queried as to where Stark sources its employees. Mr. Ahlers responded it sources employees from the local union halls, and recruits from SUNY at Buffalo and other engineering schools. Ms. McDuffie encouraged the Company to work with the Northland Workforce Training Center.

Mr. Lipsitz asked what the Company would do in the absence of Agency financial assistance.

Mr. Ahlers stated that all financial assistance helps given that the building requires significant new investment and that the Company is also making a significant investment, and similar to rationale provided by Rosina Foods, in the prior discussion, the financial assistance is mutually beneficial.

Ms. Abbott moved and Mr. Baynes seconded to recommend the project as proposed be forwarded to the members of the ECIDA for approval.

Ms. Baskin asked that the Company establish a MWBE policy.

Mr. Lipsitz called for the vote, Mr. Evans abstained from the vote, and the project was then approved by a vote of 12 in favor, no objections, and 1 abstention.

Iskalo 101 Oak LLC, 101 Oak Street, Buffalo, New York 14206. Mr. Cappellino presented this proposed sales tax benefits project involving the renovations needed to ready the leased 34,379 sq. ft. of the 67,385 sq. ft. building for a new manufacturing-based tenant, Top Seedz, including constructing a vault to house new transformers, new switchgear inside the building, new electric service panels and metering for each tenant space. Other unanticipated costs including but not limited to: installation of water, gas and sanitary line to serve tenant production areas and demolition of low bay section of the building and addition of windows on building exterior to provide natural light to office areas.

Mr. Cappellino confirmed that Iskalo 101 Oak LLC is seeking approximately \$153,125 in assistance including sales tax exemption. Total payroll is projected at \$20,011,642 for the direct and indirect jobs created including 15 construction jobs. The resulting cost benefit is 134:1 so for every \$1 of incentives the community benefit is \$134 in payroll & tax revenue. Erie County: for every \$1 of incentives the community benefit is \$234 in benefits to the community.

Mr. Cappellino stated that in exchange for providing the sales and use tax exemption 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 = \$3,500,000 85% = \$2,975,000 |
| Employment | Coincides with recapture period | Maintain Base = 29 FTE Create 85% of Projected Projected = 13 FTE 85% = 11 FTE Recapture Employment = 40 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 |

Mr. Cappellino confirmed that the company has 42 FTE but upon moving into the new facility, will decrease the number of employees to 29 FTE due to efficiencies of the new facility, but then will increase employment by 13 FTEs within the next two years, bringing the total employment to 42 FTEs.

Mr. Chiazza spoke on behalf of the company and confirmed landlord will be making improvements to the facility for the benefit of tenants and tenants will ultimately be charged for landlord improvements which may or may not also include sales tax.

Mr. Evans queried if 100% of sales tax will go to tenant. Mr. Chiazza explained that a majority of the benefit would be allocated to the tenant based on occupancy percentage.

Mr. Baynes confirmed this will be a 10-year lease.

Ms. Brady spoke on behalf of Top Seedz, tenant of the building, providing company history and growth track record and described her Company's use of Journey's End immigration placement program to help Top Seedz find employees.

Mr. Chiazza then clarified that at the time of application submission the jobs/payroll was Top Seedz data, which was listed at 29 FTE and Top Seedz did not include the additional 13 employees because those were considered "interim" only allowing Top Seedz to meet current sales orders, and noted Top Seedz could have just as easily used an employee search or outsourcing firm to find contract employees to fill these interim jobs, but that in any event, Top Seedz goal is to keep such workers on a going forward basis.

Mr. State stated Top Seedz is a tenant of NFTA, being Mr. State's employer, and he will abstain from the discussion and voting.

Ms. Baskin queried as to if the project has goals to retain MWBE vendors, or will it just hire qualified vendors.

Mr. Chiazza responded it has challenges retaining any vendors locally due to the numbers of vendors and contractors already engaged to construct the new Buffalo Bills stadium, but stated, in selecting a contractor, all things being equal, that an MWBE vendor would be selected.

Ms. McCartney expressed concerns that Top Seedz will be reducing the employment numbers.

Mr. Stephens confirmed the new jobs will be high skilled jobs with more pay.

Mr. Evans confirmed the number of employees is 42. Ms. Smith confirmed that this is really a 42 FTE jobs retention project. Mr. Chiazza then stated that the reason 29 FTE jobs is currently provided within the ECIDA application is because it matches and is consistent with the number of jobs – 29 - submitted on the NYS Excelsior Jobs Program application.

Mr. Murray then that the application can be amended to reflect the current number of FTE positions, being 42.

Mr. Lipsitz stated he will recommend that the application be sent to the board without recommendation of the Policy Committee so no formal vote will be taken at today's meeting because the application must be updated/amended.

Ms. McCartney moved and Mr. Nellis seconded that the Policy Committee move the application, without recommendation, to the Board for consideration at its next meeting, pending the applicant, in the interim, submits an updated application to reflect the correct job numbers.

Mr. Lipsitz called for the vote, Mr. State abstained from the vote, and the motion was then approved by a vote of 12 in favor, no objections, and 1 abstention.

There being no further business to discuss, Mr. Lipsitz adjourned the meeting at 10:55 a.m.

Dated: June 1, 2023



Elizabeth A. O'Keefe, Secretary