

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

**DATE AND PLACE:** August 24, 2016, at the Erie County Industrial Development Agency, 95 Perry Street, 5<sup>th</sup> Floor ESD Conference Room, Buffalo, New York 14203

**PRESENT:** Hon. Byron W. Brown, James F. Doherty, Dennis Elsenbeck, Hon. Joseph H. Emminger, Dottie Gallagher-Cohen, Richard Lipsitz, Jr., Brenda W. McDuffie, Frank B. Messiah, John J. Mudie, Hon. Glenn R. Nellis, Hon. Mark C. Poloncarz, Hon. Edward A. Rath, III and Paul V. Vukelic

**EXCUSED:** Hon. Diane Benczkowski, David L. Lowrey, Hon. Darius G. Pridgen Sister Denise Roche and Hon. Barry A. Weinstein

**OTHERS PRESENT:** Steve Weathers, Chief Executive Officer; John Cappellino, Executive Vice President; Karen M. Fiala, Assistant Treasurer; Bradley Bach, Assistant Treasurer; and Robert G. Murray, Secretary

**GUESTS:** Andrew Federick, Erie County Senior Economic Development Specialist

There being a quorum present at 11:30 a.m., the meeting of the members of the Erie County Industrial Development Agency was called to order by its Chair, Ms. McDuffie.

**MINUTES**

The minutes of the June 22, 2016 Meeting of the Members were presented. Mr. Lipsitz moved and Mr. Doherty 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. Mr. Bach presented the financial statements for July 2016 noting that the Agency as of July 31, 2016 has net assets of approximately \$32 million. The monthly income statement shows total revenues of approximately \$80,000, being approximately \$184,000 below budget, and expenses of approximately \$231,000, being approximately \$18,000 below budget for the month of July, 2016. The year-to-date income statement shows revenues are below budget by approximately \$325,000, and operating expenses are also below budget by approximately \$9,000. Net income for the year is approximately \$4,600,000.

There being no further questions or comments, Ms. McDuffie directed that the report be received and filed.

Proposed Budget Timetable and Review of 2017 Budget. Mr. Weathers reviewed the proposed budget review timetable and the proposed budget for the ECIDA for 2017. In particular, Mr. Weathers noted that the Agency has budgeted for \$1,800,000 in Administrative Fees based off a rolling ten-year average. Expenses are projected at \$3,200,000 and net income before special projects is budgeted at \$178,000. After expenses related to special projects, a net loss of \$711,000 is budgeted. Mr. Weathers next briefly reviewed the ECIDA five-year capital budget for 2017-2021. There being no further discussion, Ms. McDuffie directed that the report be received and filed.

Foreign Trade Zone Amendment. Mr. Manhard provided background with respect to the Agency's role in administering Foreign Trade Zone No. 23 on behalf of Erie County since 1998. Mr. Manhard provided background on the role of a Foreign Trade Zone and provided operator reports with respect to the companies utilizing the Foreign Trade Zone in 2015. Mr. Manhard noted that the Erie County Legislature has approved and authorized the Agency to continue to assist in the administration and management of the Foreign Trade Zone from September 1, 2016 until August 31, 2021. The resolution before the Agency today authorizes the Agency to enter into a contract with Erie County and with appropriate consultants and contractors for the purpose of the continued administration of Foreign Trade Zone No. 23.

Mr. Poloncarz moved and Mr. Rath seconded, to approve of the aforementioned resolution. Ms. McDuffie called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE AGENCY TO ENTER INTO A CONTRACT WITH THE COUNTY OF ERIE AND WITH APPROPRIATE CONSULTANT(S) AND/OR CONTRACTORS AND/OR SUB-CONTRACTOR(S) FOR THE PURPOSE OF THE CONTINUED ADMINISTRATION OF FOREIGN TRADE ZONE NO. 23

2016 Tax Incentive Induced/Closing Schedule. Ms. Fiala presented this report. There being no questions, Ms. McDuffie directed that the report be received and filed.

Policy Committee Update. Mr. Lipsitz noted that the Policy Committee reviewed and recommends approval of the three projects that are on today's agenda. Ms. McDuffie directed that this report be received and filed.

## **INDUCEMENT RESOLUTIONS**

Calspan Corporation, 4455 Genesee Street, Cheektowaga, New York. Ms. Fiala reviewed this proposed sales tax exemption, mortgage recording tax exemption, and real property tax abatement benefits project involving the construction of a 50,000 sq. ft. facility at the present site of the company's existing facility located in the Town of Cheektowaga. The

expansion will allow Calspan to undertake research and development of life safety systems for vehicle and pedestrian safety.

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 termination and/or recapture of state and local sales and use tax exemption benefits, mortgage recording tax exemption benefits and real property tax abatement benefits, submit on at least an annual basis or as otherwise indicated below, through the term 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 \$6,009,500 (which represents the product of 85% multiplied by \$7,070,000, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment - that there are at least one hundred thirteen (113) 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 one hundred twenty-two (122) FTE employees [representing the sum of one hundred thirteen (113) Baseline FTE plus nine (9), being the product of 85% multiplied by eleven (11) (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 ensued. Mr. Rath moved and Mr. Vukelic seconded to approve of the project. Ms. McDuffie called for the vote, and the following resolutions were unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY THAT ACTION TO UNDERTAKE THE CALSPAN CORPORATION (THE "COMPANY") PROJECT WILL NOT HAVE A SIGNIFICANT ADVERSE IMPACT ON THE ENVIRONMENT

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF CALSPAN CORPORATION, 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) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (iv) 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 (v) 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

2855 Clinton St., LLC (Shell Fab), 3254 Clinton Street, West Seneca, New York. Ms. Fiala reviewed this proposed sales tax exemption, mortgage recording tax exemption and real property tax abatement benefits project and stated that the company has no room to expand at its existing location, and in order to meet customer demand, the company is purchasing a vacant parcel and will be constructing a 55,000± sq. ft. manufacturing facility. The company is also purchasing \$400,000 of additional manufacturing equipment.

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 termination and/or recapture of state and local sales and use tax exemption benefits, mortgage recording tax exemption benefits and real property tax abatement benefits, submit on at least an annual basis or as otherwise indicated below, through the term 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 \$2,324,750 (which represents the product of 85% multiplied by \$2,735,000, being the total project cost as stated in the Company’s application for Financial Assistance).
- (ii) Employment Commitment - that there are at least forty-five (45) 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 fifty-three (53) FTE employees [representing the sum of forty-five (45) Baseline FTE plus eight (8) being the product of 85% multiplied by ten (10) (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.

A general discussion ensued. Mr. Elsenbeck moved and Mr. Doherty seconded to approve of the project. Ms. McDuffie called for the vote, and the following resolutions were unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY THAT ACTION TO UNDERTAKE THE 2855 CLINTON ST., LLC (THE “COMPANY”) PROJECT WILL NOT HAVE A SIGNIFICANT ADVERSE IMPACT ON THE ENVIRONMENT

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF 2855 CLINTON ST., 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) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (iv) 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 (v) 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

791 Washington Street, LLC (Redevelopment of Trico Building), 791 Washington Street, Buffalo, New York. Mr. Cappellino reviewed this proposed sales tax and mortgage recording tax exemption benefits project involving the renovation and redevelopment of the former Trico Building on Washington Street in the City of Buffalo. Mr. Cappellino reviewed the proposed demolition and renovation work which, when complete, will result in a mixed use structure serving as the site for a new Buffalo Culinary School, and Extended Stay Hotel to serve patients and visitors of the Buffalo Niagara Medical Campus, market rate housing to meet the expanding demand for employees and students located on the medical campus, and a limited retail component that will serve the campus and surrounding community. In addition, the building will house commercial space. Mr. Cappellino further noted that the sales tax benefit, with respect to the commercial space, will be limited to only the core and shell component of such space. Parking space will need to be constructed and it is expected to be constructed within the facility as the current location lacks sufficient space for vehicles.

Mr. Cappellino commented that the facility totals approximately 479,000 sq. ft. and is located in a highly distressed census tract. According to state law, Mr. Cappellino stated that if more than 1/3 of the costs of the total project are devoted to retail uses, and at present, Mr. Cappellino stated that 51% of the total project costs associated with the project is classified as retail, an IDA must make a retail finding on the project that will require the affirmation of same from the Erie County Executive. Mr. Cappellino also stated that the company will be relying on the Section 485-e real property tax abatement or, at a future point in time, may request a custom PILOT Agreement that would allow PILOT increment financing to support public infrastructure related to the project. Mr. Cappellino also noted that approximately 130 new jobs will be created.

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 termination and/or recapture of state and local sales and use tax exemption benefits and mortgage recording tax exemption benefits, submit, on an annual basis or as otherwise indicated below through the conclusion of

the later of either two (2) years following (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 \$76,916,960.00 (which represents the product of 85% multiplied by \$90,490,542.00, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment - that the Company has maintained and created FTE employment at the Facility equal to One Hundred Ten (110) FTE employees [the product of 85% multiplied by One Hundred Thirty (130) (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.

Mr. Brown then moved to approve the project. He then spoke in favor of the project and of the good work and good track record of the project's developers, the Krog Corporation. Mr. Brown reminded members that the Policy Committee unanimously approved of the project and then thanked the Policy Committee and staff for their good work in deliberation and also thanked the County Executive and his team for their review and support of the project. Mr. Brown stressed the importance of the project as a bridge between the west and east sides of the City of Buffalo and as a bridge between the Buffalo Niagara Medical Campus and the core area of the City of Buffalo. Mr. Brown confirmed that the project will most likely rely on the Section 485-e real property tax exemption benefit from the City of Buffalo which indicates the City's strong commitment to this project.

Mr. Poloncarz seconded to approve of the project and then spoke in favor of the project as a key entry point into the City, and thanked the company for agreeing to limit the sales tax benefit on the vacant commercial portion of the project.

Mr. Lipsitz expressed his support for the project and emphasized the thorough review undertaken by the Policy Committee leading to its support of the project.

Mr. Mudie thanked the developers for undertaking this project and wished them good luck.

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

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF 791 WASHINGTON STREET, 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, RECONSTRUCTION AND/OR RENOVATION, REHABILITATION 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

### **SPECIAL RESOLUTION**

Joint School Construction Board 2009A Bond Re-Financing. Ms. Fiala reviewed the underlying resolutions by which the Agency authorized issuance of its school facility bonds on behalf of the City of Buffalo and the City School District of the City of Buffalo in order to finance various public school facilities to assist in the acquisition, renovation, construction and improvement of such public school facilities within the City. Ms. Fiala noted the Agency has been requested to authorize the refunding of the Series 2009A bonds issued in 2013 in the total amount of approximately \$62,000,000.

Mr. Brown moved to support the refunding request and stressed the importance of the project's savings for the benefit of the Buffalo City Schools. Mr. Nellis seconded the motion. Ms. McDuffie 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 A PORTION OF THE SERIES 2009A BONDS WITH RESPECT TO ITS PROJECT FOR THE CITY SCHOOL DISTRICT OF THE CITY OF BUFFALO AND AUTHORIZING OTHER MATTERS IN CONNECTION THEREWITH



## MANAGEMENT TEAM REPORTS

Mr. Weathers provided members with an update on various management activities. An update on the Beverly Gray project was provided and Mr. Weathers noted that the Agency has provided \$150,000 of funding, as previously authorized, and Mr. Brown responded that the City is now allocating the required match of \$500,000 to the Beverly Gray Center.

Mr. Weathers updated members on Dawn Boudreau's compliance luncheons that she holds with developers and companies receiving Agency financial assistance to insure proper compliance and monitoring is being undertaken.

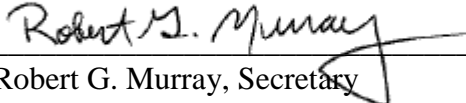
Mr. Weathers presented members with a draft press release related to the contemplated acquisition of the American Red Cross facility. Mr. Poloncarz expressed his support for the American Red Cross-Not-For-Profit Campus concept and its mission to assist health and human service and community benefit initiatives.

Mr. Elsenbeck questioned Mr. Weathers if the idea is to leverage themes, like workforce development, or just to try to get any tenant to occupy the facility. Mr. Weathers responded that the Agency is looking to provide space to workforce and community development not-for-profits with the goal of improving the workforce.

Mr. Cappellino updated members on upcoming speakers for the upcoming best practices in economic development meetings.

There being no further business to discuss, Ms. McDuffie adjourned the meeting at 12:07 p.m.

Dated: August 24, 2016

  
Robert G. Murray, Secretary