

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

- DATE:** January 26, 2022
- LIVE STREAMED:** This meeting is being live-streamed and made accessible on the ECIDA’s website at www.ecidany.com.
- PRESENT:** Denise Abbott, Hon. Diane Benczkowski, Rev. Mark E. Blue, Hon. Joseph Emminger, Dottie Gallagher, Hon. Howard Johnson, Tyra Johnson, Hon. Brian Kulpa, Richard Lipsitz, Brenda W. McDuffie, Hon. Glenn R. Nellis, Hon. Mark C. Poloncarz, Hon. Darius G. Pridgen, Sister Denise Roche, Kenneth A. Schoetz and Paul Vukelic
- EXCUSED:** Hon. Bryon W. Brown, James Doherty and Renee Wilson
- OTHERS PRESENT:** John Cappellino, President & CEO; Mollie Profic, Chief Financial Officer/Assistant Secretary; Beth O’Keefe, Vice President of Operations; Atiqa Abidi, Assistant Treasurer; Gerald Manhard, Chief Lending Officer/Assistant Secretary; Grant Lesswing, Business Development Officer; Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant; Robbie Ann McPherson, Director of Marketing & Communications, Sean Fallon, Project Manager; Pat Smith, Senior Bookkeeper; Lori Szewczyk, Director of Grants; Christopher Andreucci, Bond Counsel/Harris Beach and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC
- GUESTS:** Maria Whyte, Erie County; Alex Carducci on behalf of the City of Buffalo; Peter Krog and Scott Fairbrother on behalf of 791 Washington Street, LLC; Joan Gredys and Jeanette Foote on behalf of Arbor Multifamily Lending, LLC; Dr. Uzo Ihenko and Kelechi Chillis Ihenko on behalf of Broadway Development & Management; Suzanne Risman on behalf of Lactalis American Group; Patrick Kilcullen on behalf of 134 High Street/BNMC

There being a quorum present at 12:03 p.m., the members of the Erie County Industrial Development Agency (the “ECIDA” or “Agency”), was called to order by Chair McDuffie.

MINUTES

The minutes of the November 17, 2021 meeting of the members were presented. Sister Denise moved and Mr. Poloncarz seconded to approve of the minutes. Ms. McDuffie called for the vote and the minutes were unanimously approved.

At this point in time, Mr. Kulpa and Mr. Lipsitz joined the meeting.

REPORTS/ACTION ITEMS/INFORMATION ITEMS

Financial Report. Ms. Profic noted that there was no traditional financial report this month due to year-end audit preparations. She then provided a brief update on a few items: (1) The Finance & Audit Committee met on December 14th. The two items on the agenda were an ILDC bond recommendation and a presentation from Freed Maxick about their 2021 audit plan. Freed Maxick completed some interim work for the ECIDA, RDC and ILDC audits at the beginning of January, and the final work is set to commence on Monday, January 31st. The audits are planned to be completed in time for the Finance & Audit Committee to review and approve draft reports at their March 16th meeting with the reports coming to the Boards at the March 23rd meetings. This will allow us to have all the necessary approvals in place prior to the March 31st ABO filing deadline; and (2) While still closing out the year, she provide the Board with an update on where the ECIDA ended the year from an administrative fee standpoint. In 2021, we had \$2.4M of administrative fee revenue (approximately 133% of our budgeted amount). This was the first time we exceeded our budgeted administrative fees since 2017 and our best year from a fee revenue standpoint since 2015. Further information will be provided and discussed at the February meeting. Ms. McDuffie directed that the report be received and filed.

Governance Committee. Ms. O'Keefe presented a review of the most recently completed governance committee meeting. Ms. McDuffie directed that the report be received and filed.

2021 Tax Incentive Induced/Closing Schedule/Estimated Real Property Tax Impact. Ms. O'Keefe presented this report to the members. Ms. McDuffie directed that the report be received and filed.

At this point in time, Mr. Emminger joined the meeting.

Approval of Contract. Ms. Szewczyk presented this a resolution to the members to authorize the execution of a contract with LiRo Engineers to design landscaping and historical markers/amenities for the Shoreline Trail Enhancement project in the City of Lackawanna First Ward BOA. Mr. Poloncarz moved and Mr. Johnson seconded to approve the resolution. Ms. McDuffie then 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 LIRO ENGINEERS, INC. TO PROVIDE LANDSCAPING AND HISTORICAL MARKERS DESIGN SERVICES WITHIN THE CITY OF LACKAWANNA FIRST WARD BROWNFIELD OPPORTUNITY AREA ALONG THE SHORELINE TRAIL, ABUTTING THE RENAISSANCE

COMMERCE PARK, CONNECTING THE CITY OF BUFFALO AND CITY OF LACKAWANNA

Policy Committee Update. Mr. Lipsitz presented the report of the most recently held Policy Committee meeting and noted the members approved the four (4) projects which are being presented to the Agency today. Ms. McDuffie directed that the report be received and filed.

INDUCEMENT RESOLUTIONS

791 Washington Street, LLC, 791 Washington Street, Buffalo, New York. Mr. Cappellino reviewed this proposed sales tax exemption and mortgage recording tax exemption benefits project which consists of a project that was previously approved by the ECIDA Board in both 2016 and 2017. Prior approvals anticipated both the Buffalo Culinary School and an extended-stay hotel as project components for this nearly 500,000 sq. ft. facility. Due to the pandemic, the developer was forced to go through a significant redesign effort that resulted in delays and substantially higher design costs to determine how to proceed with the project. The new project plans for substantial renovation to convert the site into mixed-use including market rate housing and intends to offer 243 units with 10% (25 units) committed to workforce housing at 80% AMI. In addition, 60,000 sq. ft. will be available to businesses looking to locate on the Buffalo Niagara Medical Campus. The Project's cost benefit ratio was presented to and reviewed by the members present and the costs of incentives so applied for, the anticipated new tax revenues to be generated by the Project, as well as the Project's contemplated community benefits were discussed and considered.

Mr. Poloncarz expressed support of the project and thanked the company for sticking through with this project before and during the pandemic.

As a condition precedent of receiving Financial Assistance, and as a material term or condition as approved by the Agency in connection with the Project, the Company covenants and agrees and understands that it 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, through the conclusion of the later of two (2) years following either (x) the construction completion date, or (y) 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 \$91,800,000 (which represents the product of 85% multiplied by \$107,950,000, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment – that there at least 4 (four) full time equivalent ("FTE") employees in the Facility as stated in the Company's Application for Financial Assistance as described below:
 - the number of current FTE employees in the then current year at the Facility; and
 - that within two (2) years of Project completion, the Company has maintained and created FTE employment at the Facility equal to 4 (four) FTE employees

[representing the product of 85% multiplied by 5 (being the 5 new FTE employee positions proposed to be created by the Company as stated in its Application)]. 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. Pridgen moved and Mr. Blue seconded to approve the Project. Ms. McDuffie spoke in favor of the project and the company's resiliency and 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 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 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

Arbor Multifamily Housing, LLC, 500 Colvin Woods, Tonawanda, New York. Mr. Cappellino reviewed this proposed sales tax exemption benefit project which consists of an intermunicipal move requiring the ECIDA's compliance with both statutory and its Uniform Tax Exemption Policy, intermunicipal move procedures. The company plans to relocate from

Lancaster to Tonawanda and must purchase new office furniture, AV equipment, build out a state-of-the-art computer room, an upscale breakroom and employee lounge at its new location. The Project's cost benefit ratio was presented to and reviewed by the members present and the costs of incentives so applied for, the anticipated new tax revenues to be generated by the Project, as well as the Project's contemplated community benefits were discussed and considered.

As a condition precedent of receiving Financial Assistance, and as a material term or condition as approved by the Agency in connection with the Project, the Company covenants and agrees and understands that it 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 (x) the construction completion date, or (y) 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 \$1,785,000 (which represents the product of 85% multiplied by \$2,100,000, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 168 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 within two (2) years of Project completion, the Company has maintained and created FTE employment at the Facility equal to 189 FTE employees [representing the sum of (x) 168 Baseline FTE and (y) 21 FTE employees, being the product of 85% multiplied by 25 (being the 21 new FTE employee positions proposed to be created by the Company as stated in its Application)]. 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. Emminger moved and Sister Denise seconded to approve the Project.

Mr. Poloncarz commented on the need for the Agency to maintain a regional perspective committed to growth and benefits for the greater community, and also commented on the small size of the sales tax benefit.

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 ARBOR MULTIFAMILY LENDING, 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 SALES TAX EXEMPTION BENEFIT FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT, AND (v) AUTHORIZING THE NEGOTIATION AND EXECUTION OF AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

Broadway Development & Management Group, LLC, 343-345 Broadway, Buffalo, New York. Ms. O'Keefe reviewed this proposed sales tax exemption and mortgage recording tax exemption benefits project which is an adaptive reuse project of an historic 3-story 44,000 sq. ft. commercial building located in an distressed census tract on Buffalo's East Side. The first floor will include common areas/tenant amenities as well as office, warehouse and retail space. The second and third floors will be converted into workforce housing with rents based on 80% of the AMI. The Project's cost benefit ratio was presented to and reviewed by the members present and the costs of incentives so applied for, the anticipated new tax revenues to be generated by the Project, as well as the Project's contemplated community benefits were discussed and considered.

Mr. Pridgen spoke in favor of the project.

As a condition precedent of receiving Financial Assistance, and as a material term or condition as approved by the Agency in connection with the Project, the Company covenants and agrees and understands that it 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, through the conclusion of the later of two (2) years following either (x) the construction completion date, or (y) 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 \$10,625,000 (which represents the product of 85% multiplied by \$12,500,000, being the total project cost as stated in the Company’s application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 2 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 within two (2) years of Project completion, the Company has maintained and created FTE employment at the Facility equal to 9 FTE employees [representing the sum of (x) 2 Baseline FTE and (y) 7 new FTE employees, being the product of 85% multiplied by 8 (being the 8 new FTE employee positions proposed to be created by the Company as stated in its Application)]. 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. Pridgen moved and Mr. Johnson seconded to approve the Project. 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 BROADWAY DEVELOPMENT & MANAGEMENT GROUP, 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, AND (B) A MORTGAGE RECORDING TAX EXEMPTION BENEFIT FOR FINANCING RELATED TO THE PROJECT; AND (v) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

Lactalis American Group, Inc., 2376 South Park Avenue, Buffalo, New York. Ms. O’Keefe reviewed this proposed sales tax exemption and real property tax abatement benefits project which consists of the construction of a 5,660 sq. ft. addition to their existing 26,865 sq. ft. one-store office building to provide current and future employees with the space needed to support the company’s U.S. operations from the Buffalo, New York facility. The Project’s cost benefit ratio was presented to and reviewed by the members present and the costs of incentives so applied for, the anticipated new tax revenues to be generated by the Project, as well as the Project’s contemplated community benefits were discussed and considered.

Mr. Lipsitz expressed support of the project.

As a condition precedent of receiving Financial Assistance, and as a material term or condition as approved by the Agency in connection with the Project, the Company covenants and agrees and understands that it 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 \$1,221,192 (which represents the product of 85% multiplied by \$1,436,697, being the total project cost as stated in the Company’s application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 334 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 within two (2) years of Project completion, the Company has maintained and created FTE employment at the Facility equal to 356 FTE employees [representing the sum of (x) 334 Baseline FTE and (y) 22 FTE employees, being the product of 85% multiplied by 27 (being the 27 new FTE employee positions proposed to be created by the Company as stated in its Application)]. 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 spoke in favor of the project.

Mr. Lipsitz moved and Mr. Blue seconded to approve the Project. 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 LACTALIS AMERICAN 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 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


MANAGEMENT TEAM REPORT

CEDS Update. Mr. Cappellino provided an update to the members on the revised and updated CEDS plan.

UTEP Policy Update. Mr. Cappellino updated members on the contemplated amendment to the Countywide UTEP.

There being no further business to discuss, Ms. McDuffie adjourned the meeting of the Agency at 12:49 p.m.

Dated: January 26, 2022



Gerald Manhard, Assistant Secretary