

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

DATE AND PLACE: December 21, 2022, at the Northland Workforce Training Center, 683 Northland Avenue, Community Room, Buffalo, New York 14211

PRESENT: Denise Abbott, Rev. Mark E. Blue, Hon. Joseph Emminger, Dottie Gallagher, Michael P. Hughes, Hon. Brian Kulpa, Tyra Johnson, Richard Lipsitz, Jr., Brenda W. McDuffie, Hon. Glenn R. Nellis, Hon. Mark C. Poloncarz and Kenneth A. Schoetz

EXCUSED: Hon. Diane Benczkowski, Hon. Bryon W. Brown, James Doherty, Hon. Howard Johnson, Denise McCowan, Hon. Darius G. Pridgen and Paul Vukelic

OTHERS PRESENT: John Cappellino, President & CEO; Mollie Profic, Chief Financial Officer; Atiqah Abidi, Senior Accountant; Gerald Manhard, Chief Lending Officer/Secretary; Grant Lesswing, Director of Business Development; Andrew Federick, Business Development Officer; Soma Hawramee, Compliance Portfolio Manager, Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant/Assistant Secretary; Laurie Hendrix, Administrative Coordinator; Robbie Ann McPherson, Director of Marketing & Communications; Robert G. Murray, Esq., General Counsel/Harris Beach PLLC and Christopher Canada, Bond Counsel/Hodgson Russ.

GUESTS: Zachary Evans on behalf of Erie County; Alex Carducci on behalf of the City of Buffalo; Tom Colella on behalf of Highway Rehabilitation; James Panepinto on behalf of 132 Dingens Street, LLC and Adam Pratt on behalf of A. Pratt Holdings/Sherex Fastening Solutions

There being a quorum present at 12:10 p.m., the meeting of the members of the Erie County Industrial Development Agency (the “ECIDA” or “Agency”), was called to order by Chair, Ms. McDuffie.

MINUTES

The minutes of the November 30, 2022 meeting of the members were presented. Mr. Kulpa moved and Mr. Hughes 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. Ms. Profic presented the November 2022 financial report. The balance sheet shows the month ended with total assets of \$30.2M and net assets of \$20.4M. The largest change in the balance sheet line items from October was a cash decrease of \$141,000, due to expenses exceeding revenue last month. Operating revenue of \$87,000 was below the monthly budget by \$135,000, due mainly to \$7,000 of administrative fees collected during the month. Operating expenses were \$213,000 and overall below our monthly budget by \$15,000. After depreciation, there was net loss of \$134,000 for the month. The year-to-date Income Statement shows revenues of \$2.0M, including administrative fee revenue of \$1.1M. We are at 61% of our 2022 administrative fee budget through November. In December we've received \$255,000 of administrative fees and should receive an additional \$130,000 before the end of the year. This will bring us to about \$1.5M or 82% of our budgeted fee revenue for 2022. Expenses of \$2.5M are \$72,000 under budget for the year. Special project grant revenue nets to \$199,000. After strategic investments and depreciation, there is currently a net loss of \$543,000 for the year. Ms. McDuffie directed that the report be received and filed.

2022 Tax Incentive Induced/Closing Schedule. Mr. Cappellino presented this report to the members. Ms. McDuffie directed that the report be received and filed.

PFRAP Grant Approval. Mr. Cappellino described the \$2,100,000 grant award from New York State Department of Transportation ("NYSDOT") to repair certain portions of the Buffalo Southern Railroad Inc., said line owned by Erie County, leased to the Agency, who manages the line for the benefit of Erie County, and sub-leases said line to Buffalo Southern Railroad.

Mr. Poloncarz moved to enter into the grant agreement and undertake the maintenance work. Mr. Nellis seconded the motion. General discussion ensued. Ms. McDuffie called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") AUTHORIZING THE AGENCY TO NEGOTIATE AND ENTER INTO A GRANT AGREEMENT BETWEEN THE AGENCY AND THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION (THE "DOT") RELATIVE TO CERTAIN RAILROAD INFRASTRUCTURE IMPROVEMENTS, CONSTRUCTION AND MAINTENANCE ACTIVITIES TO BE UNDERTAKEN AT THE RENAISSANCE COMMERCE PARK IN AN AMOUNT OF \$1,703,553

Policy Committee Update. Mr. Lipsitz updated members on the most recently completed Policy Committee meeting, noting the Policy Committee unanimously approved the two projects on today's agenda for approval. Ms. McDuffie directed that the report be received and filed.

INDUCEMENT RESOLUTIONS

132 Dingens Street, LLC, 132 Dingens Street, Buffalo, New York. Mr. Cappellino reviewed this proposed sales tax exemption, mortgage recording tax exemption and real property tax abatement benefit project which consists of the construction of an approximately 81,000 sq. ft. addition to a newly constructed spec warehouse intended for both warehouse and light manufacturing uses.

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 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 \$7,905,000 (which represents the product of 85% multiplied by \$9,300,000, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 18 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 15 FTE employees [being the product of 85% multiplied by 18 (being the 18 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. Kulpa moved and Mr. Emminger 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 132 DINGENS 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) 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

Highway Rehabilitation Corporation, 11061 Walden Avenue, Alden, New York. Mr. Cappellino reviewed this proposed sales tax exemption, mortgage recording tax exemption and real property tax benefit project which consists of the construction of a 23,000 sq. ft. building that will be used to manufacture and maintain equipment.

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 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 \$4,441,250 (which

represents the product of 85% multiplied by \$5,225,000, being the total project cost as stated in the Company's application for Financial Assistance).

- (ii) Employment Commitment – that there are at least 67 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 79 FTE employees [representing the sum of (x) 67 Baseline FTE and (y) 12 FTE employees, being the product of 85% multiplied by 15 (being the 15 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

Mr. Emminger moved and Ms. Gallagher 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 HIGHWAY REHABILITATION 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

MANAGEMENT TEAM REPORTS

Mr. Cappellino thanked all members for their outstanding efforts during 2022 and for supporting the Agency and its staff.

There being no further business to discuss, Ms. McDuffie adjourned the meeting of the Agency at 12:28 p.m.

Dated: December 21, 2022



Elizabeth A. O'Keefe, Secretary