

Buffalo Urban Development Corporation

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Buffalo Urban Development Corporation Audit & Finance Committee Meeting Monday – July 13th, 2020 - Noon

Via Video Conference Call & Live Stream Audio

Agenda

1. Approval of Minutes of June 10, 2020 Meeting (*Action*) (*Enclosure*)
2. Buffalo Urban Development Corporation – Draft 2019 990/990-T (*Information*) (*more materials to be provided under separate cover*)
3. Cash Flow Analysis Process / Timeline (*Information*)
4. Historic Tax Credit Certification Update (*Information*)
5. Draft Amended and Restated Leasing Policy for Northland Corridor Properties (*Information*) (*Enclosure*)
6. Adjournment (*Action*)

**Minutes of the Meeting
of the
Audit & Finance Committee
of
Buffalo Urban Development Corporation**

Via Video Conference Call & Live Stream Audio

**June 10, 2020
12:00 p.m.**

Call to Order:

Committee Members Present:

Trina Burruss
James Comerford
Janique S. Curry
David J. Nasca
Dennis M. Penman (Committee Chair)

Committee Members Absent:

Officers Present:

Peter M. Cammarata, President
Brandye Merriweather, Vice President
Mollie M. Profic, Treasurer
Kevin J. Zanner, Secretary
Atiqa Abidi, Assistant Treasurer

Others Present: Rebecca Gandour, BUDC; and David A. Stebbins, Bisonwing Planning and Development, LLC.

Roll Call; Order of Business – The Secretary called the roll of the members of the Audit & Finance Committee at 12:05 p.m. and a quorum of the Committee was determined to be present. Ms. Burruss joined the meeting during the presentation of agenda item 5.

The meeting was held via video/telephone conference in accordance with the provisions of Executive Order 202.1, issued by Governor Andrew Cuomo on March 12, 2020. The meeting was also live-streamed to the general public and recorded. A transcript of the meeting will be made available at a later date.

- 1.0 Approval of Minutes of the March 19, 2020 Meeting** – The minutes of the March 19, 2020 meeting of the Audit & Finance Committee were presented. Mr. Comerford made a motion to approve the meeting minutes. The motion was seconded by Ms. Curry and unanimously carried.
- 2.0 683 Northland Phase II Construction Completion and Milestones** – Mr. Cammarata reported on the completion of Phase II construction and issuance of temporary certificates of occupancy for the red shed building and the 4th floor office space. Ms. Profic then updated the Committee on the cost certification process. Freed Maxick is expected to begin the cost certification work for the Phase II project by the end of June, which will facilitate receipt of the fourth installment of historic tax credits equity for the project.

- 3.0 541 East Delavan / 777 Northland Construction Update (Restore NY V)** – Mr. Cammarata presented an update on the Restore NY V grant that will be utilized for the projects at 541 East Delavan and 777 Northland. He noted that BUDC had intended to utilize this grant exclusively for 541 E. Delavan, but that ESD is now requiring that a portion of the grant funding be used for 777 Northland. The Phase 1(B) work at 541 East Delavan is near completion. The Phase 1(C) work was suspended due to COVID-19, and BUDC is evaluating on a weekly basis whether to re-start that portion of the work. The Phase 1(D) design work to be performed by Watts has also been placed on hold.
- 4.0 KeyBank Lines of Credit Update** – Ms. Profic reported that two KeyBank lines of credit were established as of April 29th. With the Restore NY V grant being a reimbursement-based grant, BUDC is using the 1.8 million dollar line of credit as bridge financing for the 541 East Delavan and 777 Northland projects. On May 13th, BUDC submitted a Restore NY V reimbursement request in the amount of \$853,396. Ms. Profic indicated that the turnaround for reimbursement requests is two to three months, and that BUDC will pay down its line of credit with the grant funds once received. 683 Northland LLC is utilizing its one million dollar line of credit to pay monthly interest on the KeyBank construction loan. Ms. Profic explained that the construction loan will be paid down with the Brownfield Cleanup Program tax credit equity and that BUDC and Freed Maxick are working on a document submission to the NYS Department of Taxation & Finance for the end of this month. In response to a question from Mr. Nasca, Ms. Profic confirmed that BUDC had anticipated earlier receipt of the BCP tax credit equity. The Committee discussed timing issues relative to grant and tax credit equity sources of funding. Mr. Penman requested that BUDC staff prepare for the Committee a simplified graphic illustration to include sources and uses and an updated timeline.
- 5.0 Paycheck Protection Program Loan Update** – Ms. Profic updated the Committee regarding the Paycheck Protection Program (PPP) loan. BUDC received a PPP loan in the amount of \$85,620, the proceeds of which are primarily being used by BUDC for the payment of eligible payroll costs. Ms. Profic noted that recent changes in the PPP program have reduced the percentage of funds that must be utilized for payroll from 75% to 60% and expanded the period of time to spend the loan proceeds to 24 weeks. Approximately \$60,000 of the loan proceeds have been utilized to date.
- 6.0 Restore NY Funding Sources** – Mr. Cammarata provided an update on the Restore NY IV and V grants. The Restore NY IV grant was used for the 612 Northland project, which has been completed. A final reimbursement request in the amount of \$384,069.49 will be submitted soon. Mr. Cammarata noted that the Restore NY grants include a local match requirement, and that BUDC utilized funding in the amount of \$337,002 from the Buffalo Brownfields Redevelopment Fund (BBRF) as the match. Mr. Cammarata noted that the update on the Restore NY V grant was provided to the Committee during the KeyBank line of credit discussion. He also reported that National Grid has awarded BUDC a grant in the amount of \$131,250 for the 541 East Delavan project.
- 7.0 683 Northland – Historic Tax Credits Funding Update** – Ms. Profic provided an update on the historic tax credits funding. To date, BUDC has received three installments of historic tax credit equity for the project totaling \$9,462,792. There are three outstanding installments. The next installment in the amount of \$3,119,821 will be processed once the cost certification report for the Phase II construction is submitted. Ms. Profic noted that the requirements for receiving the fifth and sixth installments are less burdensome.

- 8.0 683 Northland – Brownfield Cleanup Program Tax Credits Funding Update** – Ms. Profic provided an update on the Brownfield Cleanup Program tax credits funding. The request for Phase 1 site preparation and tangible property tax credits in the amount of \$13,390,404 was submitted in April 2019 as part of the 2018 tax return. Since that time, there have been several communications with and responses to information requests issued by the NYS Department of Taxation & Finance. BUDC is working with Freed Maxick to respond to a further request for documentation by the end of June.
- 9.0 683 Northland – Misc. Funding Sources Update** – Mr. Cammarata reported on two other funding sources for 683 Northland. Sometime in early to mid-July, BUDC expects to receive an additional \$921,000 from the ESD equipment grant. A small grant from NYSERDA in the amount of \$7,827 is also anticipated.
- 10.0 683 Northland – Tenant Lease Rent Roll Update** – Mr. Cammarata presented an update on 683 Northland tenancies. Through the tax credits structure, tenants pay rent to 683 Northland Master Tenant, LLC, which remits payments to the owner, 683 Northland LLC. NWTC and BMW have continued to make rent payments without interruption in accordance with their specific lease arrangements. Mr. Cammarata noted that BUDC has received requests from two tenants to adjust the timing of their lease payments, which requests will be evaluated by the Real Estate Committee. All other rents in Northland Corridor are being paid and received on a timely basis. Committee members commented on the potential impact of lease payment deferrals on cash flow and the use of the line of credit to address temporary cash flow needs.
- 11.0 Buffalo Brownfields Redevelopment Fund (BBRF) Update** – Ms. Profic reported on the BBRF. The cash balance in the BBRF as of May 31st is approximately \$290,000. BUDC has borrowed a total of \$1,047,436 from the BBRF for the Northland Avenue road project and Restore NY funded projects, which will be repaid once reimbursements are received.
- 12.0 Regionally Significant Project (RSP) Fund Update** – Ms. Profic reported that the current balance in the RSP Fund is \$17,500, which has been committed for use to pay the consultant for the Ellicott Node project.
- 13.0 Ralph C. Wilson, Jr. Centennial Park Funding Update** – Ms. Profic reported on grant funding for the Centennial Park project. To date, BUDC has been awarded three grants from the Ralph C. Wilson, Jr. Foundation in the amount of 2.8 million, 3.9 million and \$5,975,150, respectively. Mr. Stebbins commented on the transition of his role in the project to Ms. Merriweather and Ms. Gandour.
- 14.0 National Grid Economic Development Program Project Funding Update** – Mr. Cammarata updated the Committee on grant applications and opportunities for funding through National Grid.
- 15.0 BBRP/BUDC Loan Program Update** – Ms. Merriweather provided an update on the BBRP loan program. Two developers have expressed interest for loan funding in response to the current RFP. The submission deadline is June 30th. Alexandre Apartments has paid off the principal balance of its BBRP loan. BUDC's underwriter, Pursuit, is evaluating a loan extension request submitted for the Phoenix Brewery Apartments project.

16.0 Adjournment – There being no further business to come before the Committee, upon motion made by Ms. Curry, seconded by Mr. Comerford and unanimously carried, the June 10, 2020 meeting of the Audit & Finance Committee was adjourned at 1:10 p.m.

Respectfully submitted,



Kevin J. Zanner
Secretary

BUFFALO URBAN DEVELOPMENT CORPORATION

**AMENDED AND RESTATED LEASING POLICY
FOR NORTHLAND CORRIDOR PROPERTIES**

A. Purpose.

This leasing policy (the "Leasing Policy") sets forth the requirements and procedures for the leasing of buildings located in the Northland Corridor Project area that are owned by Buffalo Urban Development Corporation or any of its subsidiary or affiliated companies (hereinafter "BUDC").

B. Leasing Requirements.

1. Written Appraisal.

BUDC shall engage a licensed appraiser to prepare a written fair market rent study ("FMR Study") for the buildings located at 631, 683 and 741 Northland Avenue and 537 East Delavan Avenue (the "Northland Properties") prior to entering into any lease arrangement. The FMR Study shall be updated from time to time to account for changing market conditions as determined by BUDC.

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2. Marketing.

BUDC, through its property manager/rental agent, shall publicly advertise and market the Northland Properties to prospective tenants at rental rates that are consistent with their appraised fair market rent value as set forth in the FMR Study (the "Appraised Rent Value").

3. Tenant Use.

BUDC shall not lease any of the Northland Properties for a use that is inconsistent with the overall redevelopment plan of the Northland Corridor or not reflective of the surrounding community, or for any purpose that is inconsistent with BUDC's corporate purpose, mission or the law under which BUDC is incorporated.

4. Negotiation of Lease Transactions.

All leases of Northland Properties shall be made through negotiation, upon terms and conditions acceptable to BUDC and authorized in compliance with the terms of this Leasing Policy. Without limiting the generality of the preceding sentence, the specific lease terms to be negotiated will be reflective of the particular location (i.e., building, building space or property) to be leased, and may include provisions for tenant improvements, triple net lease obligations and such other commercial lease terms and conditions as BUDC deems appropriate.

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C. Procedure for Lease Approvals.

1. Short Term Leases.

The President and any Vice President of BUDC shall each have the authority to negotiate and execute all leases that are for a term of one (1) to twelve (12) months with annual rent of no more than Fifteen Thousand Dollars (\$15,000), provided that the rent to be received under the lease is not less than the Appraised Rent Value of the property. The President or Vice President (as applicable) shall report the terms of any lease entered into in accordance with this paragraph at the respective meetings of the Real Estate Committee and Board of Directors that immediately follow the date of execution of the lease.

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2. Mid-Term/Mid-Size Leases.

The BUDC Real Estate Committee shall have the authority to authorize the negotiation and execution by the President and any Vice President of the following categories of leases:

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(a) Leases that are for a term of one (1) to twelve (12) months with annual rent of more than Fifteen Thousand Dollars (\$15,000) but less than Twenty Five Thousand Dollars (\$25,000), provided that the rent to be received under the lease is not less than the Appraised Rent Value of the property; and

(b) Leases that are for a term of more than twelve (12) months up to thirty-six (36) months with annual rent of Twenty Five Thousand Dollars (\$25,000) or less, provided that the rent to be received under the lease is not less than the Appraised Rent Value of the property.

(c) All leases executed in accordance with paragraph 2(a) or 2(b) this section shall be reported at the next meeting of the BUDC Board of Directors that follows the date of execution of the lease.

3. Leases Requiring Board Approval.

The approval of the BUDC Board of Directors of a Northland Properties lease arrangement shall be required under the following circumstances:

(a) Any lease in which the rent to be received by BUDC is less than the Appraised Rent Value of the property.

(b) Any lease for a term that exceeds thirty-six (36) months.

(c) Any lease in which the annual rent is in excess of Twenty Five Thousand Dollars (\$25,000).

D. Other Requirements.

1. Leases for Less than Appraised Rent Value.

The procedures for Board review and approval that are set forth in Article III(B)(5) of the BUDC Property Disposition Guidelines shall apply to any proposed lease in which the rent to be received by BUDC is less than the Appraised Rent Value of the property. For purposes of determining whether the rent to be received by BUDC under a particular lease arrangement is less than the appraised fair market rent, any costs that the tenant will be responsible for under the terms of the lease, including base rent, items of additional rent (utilities, CAM charges, insurance, etc.) and any tenant improvements to be paid for or financed by the tenant may be factored into such determination at BUDC's discretion.

2. Written Statements.

Written statements shall be prepared and submitted as required under Article III(B)(4) of the BUDC Property Disposition Guidelines for any lease in which the annual base rent over the term of the lease exceeds Fifteen Thousand Dollars (\$15,000).

F. Lease Modifications.

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~~The President of BUDC shall have the authority to negotiate and execute written modifications of any existing lease that was previously authorized in accordance with the provisions of this Policy, provided however, that the approval of the BUDC Real Estate Committee shall be required for any proposed modification to (i) reduce by ___ % or more the amount of rent payable by the tenant over the term of the lease or (ii) reduce or extend the term of any lease.~~

G. Effective Date; Amendments.

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This Leasing Policy shall be effective as of the date that the Board of Directors approves the policy by affirmative vote of a majority of the Board, and may be amended upon the affirmative vote of a majority of the Board.

Adopted: December 15, 2015
Amended: _____, 2020