

Buffalo Urban Development Corporation

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Audit & Finance Committee Meeting Friday - June 23rd, 2017 - Noon BUDC Offices, 4th Floor, 95 Perry

Agenda

1. Approval of Minutes of March 14, 2017 Meeting *(Action) (Enclosure)*
2. 683 Northland PLA/Community Workforce Agreement *(Recommendation) (Enclosure)*
3. Audit & Finance Committee Charter Review *(Recommendation) (Enclosure)*
4. SEP Payment Process Changes Memo *(Information) (Enclosure)*
5. Form 990 Update Memo *(Information) (Enclosure)*
6. 683 Northland – Construction Bridge Loan Update *(Information)*
7. 683 Northland – Rehabilitation Tax Credit Financing Update *(Information)*
8. 683 Northland – Gilbane Guaranteed Maximum Price (GMP) Update *(Information)*
9. Northland Beltline – CDBG Funding Update *(Information)*
10. Northland Beltline – Restore New York Funding Update *(Information)*
11. Northland Beltline - ESD Funding Update *(Information)*
12. BBRP/BUDC Loan Program Update *(Information)*
13. Adjournment *(Action)*



**Minutes of the
Audit & Finance Committee Meeting
Buffalo Urban Development Corporation
95 Perry Street
Buffalo, New York
March 14, 2017
12:00 p.m.**

Call to Order:

Committee Members Present:

James W. Comerford
David J. Nasca
Dennis M. Penman (Committee Chair)

Committee Members Absent:

[None]

Officers Present:

Peter M. Cammarata, President
David A. Stebbins, Executive Vice President
Brandye Merriweather, Vice President
Mollie M. Profic, Treasurer
Kevin J. Zanner, Secretary

Others Present: Dawn Boudreau, ECIDA; Janique S. Curry, BUDC Board member; Sara Dayton, Lumsden & McCormick; and Seth Hennard, Lumsden & McCormick, LLP.

Roll Call: The roll of Committee members was called at 12:15 p.m. and a quorum was determined to be present.

- 1.0 Approval of Minutes of the September 19, 2016 Meeting** – The minutes of the September 19, 2016 meeting of the Audit & Finance Committee were presented. Mr. Nasca made a motion to approve the meeting minutes. The motion was seconded by Mr. Comerford and unanimously carried.
- 2.0 Draft 2016 BUDC Audited Financial Statements** – Sara M. Dayton and Seth D. Hennard of Lumsden & McCormick, LLP presented the draft 2016 audited financial statements. Ms. Dayton reported that Lumsden & McCormick, LLP is issuing an “unmodified” (i.e., clean) opinion that the financial statements present fairly, in all material respects, the financial position of the Corporation as of December 31, 2016 and the changes in financial position and cash flows for the year, in conformity with accounting principles generally accepted in the United States. Ms. Dayton also reviewed the management letter, noting that based on a limited review, the auditing firm did not identify any deficiencies in internal control which would be considered material weaknesses. The Committee discussed the draft financial statements and the management letter. In response to a question from Mr. Nasca, Ms. Profic explained how BUDC segregates finance and banking related tasks to minimize internal control issues. The Committee also discussed how BUDC’s finances will evolve over the next twelve to eighteen months, in light of the construction of the WNY Workforce Training Center and the historic tax credits transaction. At the conclusion of the discussion, Mr. Nasca made a motion to recommend that the Board of Directors accept the 2016 draft audited financial statements. The motion was seconded by Mr. Comerford and unanimously carried.
- 3.0 Draft 2016 BBRF Audited Financial Statements** – Ms. Profic reviewed the draft 2016 financial statements for the Buffalo Brownfields Redevelopment Fund. It was noted that these financial statements are being presented to the Committee for information

purposes only, as ECIDA is the custodian for the Buffalo Brownfields Redevelopment Fund. The draft BBRF financial statements will be presented to the ECIDA Board for approval at its March meeting.

- 4.0 2016 BBRF Reimbursement Request** – Ms. Profic presented the written summary of third party expenses that are proposed for reimbursement from the Buffalo Brownfields Redevelopment Fund (BBRF). Copies of the written expense summary were included in the meeting agenda packet circulated in advance of the meeting. Ms. Profic noted that third party expenses for BLCP, RiverBend and the Northland Corridor are eligible for reimbursement from the BBRF. The total amount of third party expenses being requested for reimbursement is \$337,796, of which \$245,330 relates to Northland Corridor project expenses. The Committee discussed the reimbursement request. In response to a question from Mr. Penman, Mr. Cammarata indicated that expenses related to the Trico property are not eligible for reimbursement as that property is owned by Buffalo Brownfield Restoration Corporation. Ms. Profic also confirmed that the current cash balance in the fund is approximately 2.4 million dollars. At the conclusion of the discussion, Mr. Comerford made a motion to recommend that the Board of Directors approve the BBRF reimbursement request as set forth in the written expense summary. The motion was seconded by Mr. Nasca and unanimously carried.
- 5.0 New York Bank Account – 683 Northland LLC** – Ms. Profic reported that BUDC plans to establish depository accounts for 683 Northland LLC and 683 WTC, LLC and referred the Committee to KeyBank’s form of resolution to authorize the depository accounts, a copy of which was included in the meeting agenda materials. These accounts are needed for the 683 Northland historic tax credits transaction. Formal resolutions will be presented at the March meeting of the BUDC Board of Directors. Mr. Nasca made a motion to recommend that the Board authorize the establishment of depository accounts at KeyBank for 683 Northland LLC and 683 WTC, LLC. The motion was seconded by Mr. Comerford and unanimously carried.
- 6.0 Banking Request for Proposals** – Mr. Cammarata reported that ECIDA is issuing a request for proposals (RFP) for banking services. In past years, BUDC joined ECIDA in issuing RFPs for banking services. This year, BUDC executive staff is recommending that BUDC not participate in the RFP process due to the volume of activity relating to the Northland Corridor project. Ms. Profic noted that BUDC is not required to solicit proposals from lending institutions at this time, and may defer the process. The Committee discussed and concurred with the recommendation of BUDC executive staff to continue the current depository relationship with KeyBank and refrain from participating in the ECIDA banking RFP process.
- 7.0 Investment & Deposit Policy Re-adoption** – Ms. Profic presented the BUDC Investment and Deposit Policy. No changes to the policy were proposed. Mr. Comerford made a motion to recommend that the Board of Directors re-adopt the Investment and Deposit Policy in its current form without changes. The motion was seconded by Mr. Nasca and unanimously carried.
- 8.0 2016 BUDC Investment Report** – Ms. Profic presented the 2016 Investment Report. Mr. Nasca made a motion to recommend that the Board of Directors approve the investment Report in the form presented to the Committee and authorize submission of the report to the Authorities Budget Office. The motion was seconded by Mr. Comerford and unanimously carried.
- 9.0 Audit & Finance Committee Charter Review** – Mr. Cammarata presented the Audit & Finance Committee Charter. There was an extended discussion regarding the charter. Mr. Zanner noted that the charter was adopted in conformance with Public Authorities Law requirements, but that the expansion of BUDC’s mission may warrant

further review of the charter and the inclusion of provisions relating to the Committee's finance functions and responsibilities. Mr. Penman suggested that the Board should be involved in developing modifications to the Audit & Finance Charter and the Governance Committee Charter. The Committee agreed that the charter review would occur subsequent to the March Board meeting and that the current charter should be re-adopted in the interim. At the conclusion of the discussion, Mr. Comerford made a motion to re-adopt the Audit & Finance Committee Charter in its current form without changes. The motion was seconded by Mr. Nasca and unanimously carried.

- 10.0 **Audit & Finance Committee Self-Evaluation** – Ms. Boudreau presented the Audit & Finance Committee self-evaluation. The Committee discussed the self-evaluation and the 2016 activities of the Committee. No changes were proposed. Mr. Comerford made a motion to approve the Committee self-evaluation in the form presented. The motion was seconded by Mr. Nasca and unanimously carried.
- 11.0 **Audit & Finance Committee Training** – The Committee reviewed and discussed an article entitled "*Benefits of Audit Committees and Audit Committee Charters for Governmental Entities*", copies of which were included in the meeting agenda materials circulated in advance of the meeting.
- 12.0 **2016 ECIDA Salary Reimbursement Final Quarter Invoice** – Mr. Cammarata circulated a copy of the January 25, 2017 invoice to BUDC detailing ECIDA staff time and costs charged to BUDC for 2016. The total cost as invoiced was \$46,340.61.
- 13.0 **2016 ECIDA BBRP Grant Recap** – Ms. Profic reviewed with the Committee a written summary detailing BUDC's 2016 expenditures of the ECIDA grant to BUDC for the Buffalo Building Reuse Project.
- 14.0 **2016 Regionally Significant Project Fund Recap** – Mr. Cammarata reviewed with the Committee a written summary of revenues and expenditures for the Regionally Significant Project Fund. The balance in the RSP fund as of February 28, 2017 is \$106,721.73.
- 15.0 **2016 Summary of Legal Invoices** – Mr. Cammarata presented a summary of BUDC's legal fees for 2016. Total legal fees for 2016 were \$101,850, which were lower than the previous year.
- 16.0 **2016 Interns Expense** – Mr. Cammarata presented a summary identifying the 2016 expenses incurred by BUDC for its intern program.
- 17.0 **2016 Property Report** – Mr. Cammarata presented the BUDC property report for the year ending December 31, 2016. The report reflects changes to the fair market value of 683 Northland and other properties. The property report will be submitted to the Authorities Budget Office as part of the BUDC annual report.
- 18.0 **BBRP/BUDC Loan Program Update** – Ms. Merriweather presented a brief report regarding the BBRP loan program. The loan for the Alexandre Apartments project is expected to close in the next few weeks. Ms. Merriweather noted that there are currently five loans in various stages of the loan program approval process. The deadline to submit applications for BBRP loan program funding for this calendar quarter is March 31st.

- 19.0 Adjournment** – There being no further business to come before the Audit & Finance Committee, upon motion made by Mr. Nasca, seconded by Mr. Comerford and unanimously carried, the March 14, 2017 meeting of the Audit & Finance Committee was adjourned at 1:45 p.m.

Respectfully submitted,



Kevin J. Zanner, Secretary

NORTHLAND WORKFORCE TRAINING CENTER
COMMUNITY WORKFORCE AGREEMENT

This Community Workforce Agreement (“CWA”) is entered into ___ by and between Buffalo Urban Development Corporation (“BUDC”) and the Buffalo Building and Construction Trades Council acting on their own behalf and on behalf of their affiliates. The CWA is incorporated into and referenced by the Project Labor Agreement (“PLA”) for the Northland Workforce Training Center (“Project”) signed by the parties on _____. All terms in the CWA have the same meaning as the terms in the PLA.

The CWA seeks to stabilize and ensure standard working conditions for all craft workers on site, promote efficiency and timely completion of the Project, expand opportunities for community residents in the skilled construction trades, and encourage close cooperation between the parties and community residents for a satisfactory and mutually beneficial relationship.

The CWA meets the requirements set forth in the City of Buffalo Code Chapter 96-13 specifying goals for minority, female, local resident and apprentice employment on City of Buffalo public works. The CWA also complies with the obligations set forth in Mayor Byron Brown’s Executive Orders #17-01, #17-02 and #17-05 strengthening and enforcing Chapter 96-13. The CWA further seeks to expand opportunities in the skilled construction trades by supporting the employment of apprentices who are minority, female or residents of the City of Buffalo.

All Contractors engaged in Project Work as defined in the PLA are bound to the CWA and shall sign a Letter of Assent indicating their intent to be bound by all terms of both the PLA and CWA (Schedule B to the PLA).

The CWA supports Minority and Women Owned Business Enterprise (MWBE) goals on the Project of twenty five percent (25%) minority owned business enterprise and five percent (5%) female owned business enterprise as set forth in City of Buffalo Code Chapter 96-13(f). The MWBE goals and related requirements are set forth in the contracts for construction between Gilbane Building Company (“Gilbane”), acting as the Construction Manager for BUDC, and Contractors. Nothing in this CWA shall minimize or relieve Contractors from obligations set forth in such contracts.

The parties agree that Contractors and Unions shall achieve goals through cooperation and good faith effort. No payment shall be withheld from Contractors due to failure to meet goals provided the Contractor has demonstrated good faith efforts to achieve goals by working with Local Unions and their apprenticeship programs, BUDC, Gilbane, and Compliance & Administrative Services of New York (“CASNY”).

SECTION 1.1 PRE-HIRE RECOGNITION

The Contractors recognize the signatory Unions as the sole and exclusive bargaining representatives of all craft employees who are performing Project Work within the scope of Article 3 of the PLA.

SECTION 1.2 UNION REFERRAL

- A. The Contractors agree to hire all craft employees for Project Work covered by this Agreement through the job referral systems and hiring halls established in *in this* Agreement and in the Local Unions' area collective bargaining agreements (attached as Schedule A to this Agreement). Contractors and subcontractors unfamiliar with the union referral systems and hiring halls may initiate contact with the appropriate trade(s) pursuant to the trade contact list annexed hereto as Schedule G. The Unions agree to provide such craft employees (including apprentices) to all Contractors on a non-discriminatory basis. Notwithstanding this, Contractors shall have sole right to determine the competency of all referrals; the number of employees required; and the selection of employees for layoff (subject to Article 5, Section 5.3).

In the event that a Local Union is unable to fill any request for qualified employees within a 48-hour period after such requisition is made by a Contractor (Saturdays, Sundays and holidays excepted), the Contractor must notify a representative of Gilbane Building Company and/or Compliance & Administrative Services of New York ("CASNY") and may employ qualified applicants from any other available source. In the event that the Local Union does not have a job referral system, the Contractor shall give the Local Union first preference to refer applicants, subject to the other provisions of the CWA. The Local Unions will cooperate with Contractor requests for minority, women, and City of Buffalo ("City") resident referrals to meet the goals of the CWA Section 1.4. If necessary, these workers may be delivered under a "Direct Entry" designation or by use of a Department of Labor waiver.

- B. (1) A Contractor not signatory to any Schedule A collective bargaining agreements may request by name its core employee(s), and the Local Union will honor referral of those persons who have applied to the Local Union for Project Work and who meet the following qualifications:
- (i) Possess any license required by New York State law for the Project Work to be performed;
 - (ii) Were on the Contractor's active payroll for at least 500 hours in the 12 months;
 - (iii) Have the ability to safely perform the basic functions of the applicable trade.
- (2) No more than fifty per centum (50%) of the employees covered by this Agreement, per Contractor by craft, shall be hired through the provisions of Paragraph B of this

section (any fraction shall be rounded to the next highest whole number). Craft forepersons and/or general forepersons shall be included in this 50 percent. The Contractor may hire per craft, 1 employee referred by the applicable trade or craft, then 1 employee who is employed by the Contractor, and shall repeat the process, 1 and 1, until the crew requirements for that craft are met. If requested by the appropriate Union, a Contractor utilizing this provision for by-name referrals shall furnish the Union with a written certification/payroll records that the individuals requested for referral meet the requirements of (i) - (iii) above.

(3) The Local Unions recognize that an objective of the Project is to encourage and foster work opportunities for certified MWBEs, including newly certified MWBE. Local Unions will work cooperatively with BUDC, Gilbane and/or CASNY in their efforts to contracting opportunities MWBEs. Nothing in this section shall impede the promotion, expansion or growth of existing and newly certified MWBE contractors.

SECTION 1.3 MINORITY, FEMALE AND CITY RESIDENT EMPLOYMENT GOALS

The Local Unions represent that their hiring halls and referral systems shall be operated in a non-discriminatory manner and in full compliance with all applicable federal, state and local laws and regulations which require equal employment opportunities. Referrals shall not be affected in any way by the rules, regulations, bylaws, constitutional provisions or any other aspects or obligations of union membership, policies, or requirements and shall be subject to such other conditions as are established in the PLA and CWA. The union agrees that seniority or other preference rules may not be utilized to frustrate the minority, female and resident goals of the Project. No employment applicant shall be discriminated against by any referral system or hiring hall because of the applicant's union membership or lack thereof.

The Unions recognize and acknowledge that workforce diversity of minorities, women and local residents are employment goals consistent with values of fair play. The Local Unions and Contractors will cooperate and make a good faith effort to refer women, minorities and city residents in sufficient numbers to meet the Project's workforce diversity goals of five percent (5%) female, twenty five percent (25%) minority, and thirty percent (30%) City resident hours worked. The Unions and Contractors will strive to achieve these goals based upon hours worked by craft.

In an effort to further these goals, the Unions and Contractors agree that if the Contractor's workforce would not fulfill these goals using the referral procedures in Section 1.2, and either the Union or the Contractor is able to refer additional qualified women, minority and City resident employees, then such employees shall be hired without regard to the special provisions of Section 1.2(B)(2). In the event that neither the Local Union nor the Contractor are able to refer qualified minority, female or City resident employees in percentages sufficient to meet these goals, the Contractor shall make a good faith effort to employ qualified minority, female or City resident employees from any other available source. It is further understood that the special provisions of this paragraph shall terminate once the Project's diversity goals are met.

SECTION 1.4 BUFFALO BUILDING TRADES PRE-APPRENTICESHIP PROGRAM

The Local Unions agree to admit up to twenty (20) individuals into the Buffalo Building Trades Pre-Apprenticeship Program during the term of this PLA. The City of Buffalo, BUDC, Gilbane, CASNY and Local Unions shall recruit pre-apprentices from the City of Buffalo, with priority from the following zip codes:

Priority zip codes: 14211 (project location), 14215, 14214, 14212

Additional zip codes: 14213, 14208, 14207, 14206, 14204, 14201

Interviews and selection process will be conducted by City of Buffalo's Chief Diversity Officer and the Buffalo Employment and Training Center (BETC). Pre-apprentices accepted into the program shall be provided eight (8) weeks paid instruction in a Trade of their selection. Upon completion of the program, participants shall have Direct Entry into the selected Trade, provided the participant meets the minimum entry criteria for the Trade's apprenticeship program, a list of which is attached hereto, and there is work availability for apprentice employment.

SECTION 1.5 APPRENTICE EMPLOYMENT AND RATIOS

Recognizing the need to maintain continuing supportive programs designed to develop adequate numbers of competent workers in the construction industry and to provide craft entry opportunities for minorities, women and economically disadvantaged non-minority males, Contractors will employ apprentices in their respective crafts to perform such work as is within their capabilities and that is customarily performed by the craft in which they are indentured. Contractors may utilize apprentices and such other appropriate classifications as are contained in the applicable Schedule A in ratio not less than 20% percent of the workforce by craft (without regard to whether a lesser ratio is set forth in Schedule A). The first person assigned to the job shall be a Journeyman. The second person assigned may be an apprentice. Subsequent assignments shall be Journeymen until the applicable ratio is achieved. This assignment shall be repeated until staffing needs are satisfied. Apprentices and such other classifications as are appropriate will be employed in a manner consistent with the provisions of the applicable Schedule A.

Contractors on site shall comply with the City of Buffalo Code Chapter 96-13 requiring employment of a minimum of ten percent (10%) of all hours worked to be performed by persons enrolled in New York State certified apprenticeship programs for contracts in excess of \$100,000. Moreover, given the importance of apprenticeship as an entry point into the skilled construction trades, Contractors shall make every effort to reach a twenty percent (20%) apprentice hour goal on all contracts exceeding \$100,000.

SECTION 1.6 MINORITY AND FEMALE APPRENTICES

To assist the Contractors in attaining a maximum effort on this Project, the Unions agree to work in close cooperation with, and accept monitoring by, the New York State Department of

Labor to ensure that minorities and women are afforded every opportunity to participate in apprenticeship programs that result in the placement of apprentices on this Project. Contractors will make good faith efforts to ensure that of the total apprentice hours performed, ten percent (10%) of such hours are performed by minority and female apprentices.

The Local Unions will cooperate with Contractor requests for minority and women referrals to meet this Contractor effort. These workers may be delivered under a "Direct Entry" designation or by use of a Department of Labor Waiver. Contractors and Local Unions and their apprenticeship programs shall cooperate with Gilbane Building Company and the Buffalo Employment and Training Center (BETC) to further this effort.

SECTION 1.7 HELMETS TO HARDHATS

The Contractors and the Unions desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The Contractors and the Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (the "Center") and the Center's "Helmets to Hardhats" program as a resource for preliminary orientation and assessment of construction aptitude; referral to apprenticeship programs or hiring halls; counseling and mentoring; and support networks, employment opportunities, and other needs as identified by the parties.

The Unions and the Contractors agree to work with the Center to create and maintain an integrated database of veterans interested in working on the Project as well as information about apprenticeship and employment opportunities related to this Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

SECTION 1.8 COOPERATIVE AND GOOD FAITH EFFORTS

The Contractors and Unions agree that they shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, marital status, age, union or non-union status, real or perceived sexual orientation or any other status protected by law, in any manner prohibited by law or regulation. It is recognized that special procedures may be established by Contractors and Local Unions and the New York State Department of Labor for the training and employment of persons who have not previously qualified to be employed on construction projects of the type covered by this Agreement. The parties to this Agreement shall assist in such programs and agree to use their best efforts to ensure that the goals for female and minority employment are met on this Project. Nothing in this section shall be grievable.

Every effort will be made to address problems in recruitment and retention of minority, female, City resident journeymen and apprentice employees throughout the duration of the Project. If concerns arise about a Contractor's ability to meet goals, Contractors and Unions shall meet with BUDC, Gilbane and/or CASNY to address the deficiency and determine a method to address recruitment and retention of qualified employees. The Contractor shall make good faith efforts to achieve the minority, female and City residency goals across its entire workforce, including any

“core” employees, on a Contractor’s payroll. No payment to a Contractor will be withheld due to failure to meet goals unless the Contractor has failed to demonstrate good faith effort.

Evidence of Contractor good faith effort shall include:

1. Contractors’ documented efforts to recruit qualified minority, female, City resident and apprentice employees.
2. Contractors’ timely submission of monthly workforce utilization reports and other documents as necessary;
3. Contractors willingness to meet and/or communicate within a reasonable time with BUDC, Gilbane and/or CASNY to discuss reports, goals, recruitment or any related matter as needed;

Evidence of Local Union good faith efforts shall include:

4. Local Unions’ timely response to requests for qualified minority, female and resident journeymen and apprentices from the hall. If no member is available, the Union shall provide a letter indicating unavailability.
5. Local Union willingness to meet and/or communicate within a reasonable time with BUDC, Gilbane and/or CASNY to discuss reports, goals, recruitment or any related matter as needed;
6. Local Union participation in community outreach events as opportunities arise;
7. Local Unions timely efforts to provide sufficient number of apprentices to meet the 20% apprentice hour goal. Such efforts shall include Local Unions considering the indenture of qualified minority, female and resident first year apprentices, either through Direct Entry from the Buffalo Building Trades Pre-Apprenticeship Program or through traditional entry methods.

SECTION 1.9 LANGUAGE OF AGREEMENT

The use of the masculine or feminine gender in this Agreement shall be construed as including both genders.

SECTION 1.10 CROSS AND QUALIFIED REFERRAL

The Local Unions shall not knowingly refer to a Contractor an employee then employed by another Contractor working under this Agreement. The Local Unions shall exert their utmost efforts to recruit sufficient numbers of skilled and qualified crafts employees to fulfill the requirements of the Contractor.

SECTION 1.11 UNION DUES

All employees covered by this Agreement shall be subject to the union security provisions contained in the applicable Schedule A local agreements, as amended from time to time, but only for the period of time during which they are performing Project Work and only to the extent of

tendering payment of the applicable agency shop fee or union dues and assessments uniformly required for union membership in the Local Union signatory to this Agreement which represents the craft in which the employee is performing Project Work. No employee shall be discriminated against at the Project site because of the employee's union membership or lack thereof. In the case of unaffiliated employees, the dues payment will be received by the Local Unions as an agency shop fee.

Each Contractor shall be responsible for and guarantee the payment of all applicable union dues or agency shop fees payable by employees working on the Project. The Local Unions and/or the Council shall notify the Construction Manager within 48 hours whenever a Contractor or Subcontractor fails to make a payment and such delinquency remains outstanding after 30 days. Notification must be in writing and may be by email. If written notice of such a delinquency is received by a Contractor within that 48-hour period, the Contractor shall notify the Construction Manager immediately but in any case within 24 hours. If the Construction Manager receives notice of a delinquency by Contractor or Subcontractor, it shall deposit into escrow or withhold from any funds due to the Contractor or Subcontractor the amount of that delinquency, up to the total amount due, until any dispute regarding the delinquency has been resolved. If the Construction Manager withholds funds from a Contractor due to a delinquency by a Subcontractor, the Contractor may withhold funds from the Subcontractor until the delinquency is resolved. The Construction Manager/Owner shall have no other obligation with respect to contributions owed by any Contractor (or its Subcontractor), but the Contractor shall continue to be obligated with respect to contributions based on work done by the Contractor. If notice of a delinquency is not received by Owner within the required time periods, Owner shall have no basis upon which to withhold, with respect to that delinquency, any part of a payment which is otherwise due.

SECTION 1.12 OTHER FEDERAL AND LOCAL REQUIREMENTS RELATED TO THE EMPLOYMENT OF LABOR

The parties acknowledge that some contracts for construction covered under this Agreement are funded in whole or in part by the Department of Housing and Urban Development ("HUD") and contain federally required employment goals for low-income workers (referred to as "Section 3" workers). Nothing in this Agreement shall be interpreted to hinder or prohibit compliance with federal requirements.

The parties further acknowledge that the Project is seeking financial assistance from the Erie County Industrial Development Agency ("ECIDA"). As a condition of receipt of the financial assistance, the Owner must comply with the ECIDA "Local Labor Policy" (Schedule I) which requires that 90% all employees on site reside in the "Local Labor Area" defined as Erie, Niagara, Chautauqua, Cattaraugus, Allegany, Wyoming, Genesee or Wyoming counties. Contractors agree to cooperate with the Owner/Construction Manager to provide information on employees' residence to comply with the Local Labor Policy. If compliance with the Local Labor Policy is impracticable, the Contractor must contact the Owner/Construction Manager to address the concern and seek waiver as appropriate.

BUFFALO URBAN DEVELOPMENT CORPORATION

AMENDED AND RESTATED
AUDIT AND FINANCE COMMITTEE CHARTER

The Board of Directors of Buffalo Urban Development Corporation (the "Corporation") hereby adopts this Amended and Restated Audit and Finance Committee Charter ("Charter") of the Corporation as of the Effective Date set forth herein.

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ARTICLE I

Purpose

The purpose of the Audit and Finance Committee (the "Audit Committee") shall be to: (1) assure that the Corporation's Board of Directors (the "Board") fulfills its responsibilities for the Corporation's internal and external audit process, the financial reporting process and the system of risk assessment and internal controls over financial reporting; (2) provide an avenue of communication between management, the independent auditors and the Board; (3) oversee the Corporation's capital requirements and its acquisition, management and repayment of debt, and to recommend policies concerning the same; and (4) review and make recommendations regarding budgetary matters.

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ARTICLE II

Powers

The Audit Committee shall have the power to: (1) conduct or authorize investigations into any matters within its scope of responsibility; (2) seek any information it requires from Corporation employees, all of whom should be directed by the Board to cooperate with the Audit Committee's requests; and (3) meet with Corporation staff, independent auditors, experts, other advisors or Corporation counsel, as the Audit Committee may deem appropriate. The Board shall ensure that the Audit Committee has sufficient resources to carry out its duties under this Charter.

ARTICLE III

Composition of the Audit and Finance Committee

A. The Audit Committee shall be appointed by the Board and shall be comprised of not less than three (3) independent members, who shall constitute a majority of the Committee. In the event that the Board has less than three (3) independent members, the Board may appoint non-independent members to the Audit Committee so long as the independent members constitute a majority of the Committee. The term "independent member" as defined in Section 2825 of the New York Public Authorities Law, shall mean a member who: (i) is not, and in the past two years

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has not been, employed by the Corporation or an affiliate in an executive capacity; (ii) is not, and in the past two years has not been, employed by an entity that received remuneration valued at more than Fifteen Thousand Dollars for goods and services provided to the Corporation or received any other form of financial assistance valued at more than Fifteen Thousand Dollars from the Corporation; (iii) is not a relative of an executive officer or employee in an executive position of the Corporation or an affiliate; and (iv) is not, and in the past two years has not been, a lobbyist registered under a state or local law and paid by a client to influence the management decisions, contract awards, rate determinations or any other similar actions of the Corporation or an affiliate of the Corporation.

B. Appointees to the Audit Committee are required to possess the necessary skills to understand the duties and functions of the Audit Committee and be familiar with corporate financial and accounting practices. The Board shall designate one member of the Audit Committee to serve as Chair of the Audit Committee. Each member of the Audit Committee shall serve for a term of one (1) year and until his or her successor shall be appointed and qualified.

ARTICLE IV

Committee Meetings

A. The Audit Committee will meet at least annually and as frequently as may be necessary or appropriate in order to fulfill the functions outlined in this Charter. The Audit Committee may invite other individuals, such as staff members, auditors or other technical experts to attend meetings and provide pertinent information, as necessary.

B. Meeting notices will be prepared for each meeting and provided to Audit Committee members by electronic or regular mail at least five (5) days in advance of the scheduled meeting. Meetings shall be held in compliance with the requirements of the Open Meetings Law. Agenda materials will be provided in advance of each meeting. A quorum of the Audit Committee shall consist of a majority of the members then serving on the Audit Committee. The affirmative vote of a majority of the members then serving on the Audit Committee shall constitute an act of the Audit Committee. Minutes of the Committee meetings shall be recorded by the Secretary or, in his or her absence, an Assistant Secretary or any other person designated as secretary of the meeting by the Chair of the Audit Committee.

ARTICLE V

Committee Responsibilities

The Board has delegated responsibilities to the Audit Committee in furtherance of the committee's purposes. Those responsibilities include the following:

A. Independent Auditors and Financial Statements

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Deleted: . C. Audit Committee members shall be prohibited from being an employee of the Corporation or an immediate family member of an employee of the Corporation. Members of the Audit Committee shall not engage in any private business transactions with the Corporation or receive compensation from any private entity that has material business relationships with the Corporation, or be an immediate family member of an individual that engages in private business transactions with the Corporation or receives compensation from an entity that has material business relationships with the Corporation. ¶

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ARTICLE II¶

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Deleted: The Audit Committee shall have responsibilities related to: (a) the independent auditor and annual financial statements; (b) oversight of management's internal controls, compliance and risk assessment practices; (c) special investigations and whistleblower policies; and (d) miscellaneous issues related to the financial practices of the Corporation. ¶

The Audit Committee shall:

(i) Recommend to the Board the appointment of independent auditors, establish the compensation to be paid to the auditors retained by the Corporation, pre-approve all audit services provided by the independent auditor and provide oversight of the audit services provided by the independent auditor.

(ii) Engage independent auditors to provide permitted audit services, consistent with and in accordance with the procurement policy of the Corporation. The Corporation's independent auditor shall be prohibited from providing non-audit services unless having received previous written approval from the Audit Committee. Non-audit services include tasks that directly support the Corporation's operations, such as (a) bookkeeping or other services related to the accounting records or financial statements of the Corporation; (b) financial information systems design and implementation; (c) appraisal or valuation services, fairness opinions, or contribution-in-kind reports; (d) actuarial services; (e) internal audit outsourcing services; (f) management functions or human resource services; (g) broker or dealer, investment advisor, or investment banking services; and (h) legal services and expert services unrelated to the audit function.

(iii) Review and approve the Corporation's audited financial statements, associated management letter and all other auditor communications.

(iv) Review significant accounting and reporting issues, including complex or unusual transactions and management decisions, and recent professional and regulatory pronouncements, and understand their impact on the financial statements of the Corporation.

(v) Meet with the Corporation's independent auditor at least annually to discuss the financial statements of the Corporation, and on an as-needed basis to discuss any significant issues that may have arisen during the course of the audit.

(vi) Review and discuss any significant risks reported in the independent audit findings and recommendations and assess the responsiveness and timeliness of management's follow-up activities pertaining to the same.

B. Internal Controls, Compliance and Risk Assessment

The Audit Committee shall review management's assessment of the effectiveness of the Corporation's internal controls and review the actions taken by management on the independent accountants' and auditors' suggestions for correcting weaknesses, if any, in the Corporation's internal controls, regulatory compliance, organizational structure and operations, and if applicable, any weaknesses noted.

C. Special Investigations

The Audit Committee shall:

(i) Ensure that the Corporation has an appropriate confidential mechanism for individuals to report suspected fraudulent activities, allegations of corruption, fraud, criminal activity, conflicts of interest or abuse by the directors, officers or employees of the Corporation or any persons having business dealings with the Corporation or breaches of internal control.

(ii) Develop procedures for the receipt, retention, investigation and/or referral of complaints concerning accounting, internal controls and auditing.

(iii) Request and oversee special investigations as needed and/or refer specific issues to the Board or appropriate committee of the Board for further investigation.

D. Annual Budget

The Audit Committee shall:

(i) Review the Corporation's proposed annual operating budget as presented by Corporation management for the upcoming fiscal year.

(ii) Recommend the annual budget to the Board for approval after incorporating any modifications the Audit Committee deems appropriate.

(iii) Make recommendations to the Board regarding transfers of money under the budget, if requested by the Board.

E. Capitalization, Financial and Procurement Requirements

The Audit Committee shall:

(i) Assess the financial requirements of the Corporation's capital plans. The assessment is to include current and future capital needs, a justification of why such capital expenditures are required and a review and explanation of funding sources for capital projects such as grants, bank loans and existing cash reserves.

(ii) Review the financial aspects of the Corporation's proposed projects, major transactions, significant expenditures, new programs and services, as well as proposals to discontinue programs and services, and make recommendations to the Board based on such reviews.

(iii) Review and recommend changes to the Corporation's procurement policy, including thresholds for procuring commodities, equipment, goods or services with or without written requests for proposals.

(iv) Review proposals for financing the Corporation's capital expenditures and other business ventures, and make recommendations to the Board concerning such proposals and the level and nature of debt that may be acquired by the Corporation. In connection with such reviews, the Audit Committee shall consider such information as it determines to be consistent with

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prudent borrowing practices, including, without limitation, the ability of the Corporation to generate cash flow to support its debt obligations and other cash flow needs,

(v) Review the Corporation's existing loan agreements and other debt facilities, and make recommendations for repayment, consolidation and refinancing, if appropriate.

(vi) When requested by the Board, make recommendations to the Board concerning criteria that should govern the Corporation's financings.

(vii) Review, at least annually, the Corporation's insurance policies and liability coverage, and make recommendations regarding changes to each, if appropriate.

F. Other Responsibilities

The Audit Committee shall:

(i) Obtain information and training needed to enhance the Audit Committee members' understanding of the role of the independent auditor, the risk management process, internal controls, budgeting, capitalization requirements, debt acquisition and an appropriate level of familiarity in financial reporting standards and processes.

(ii) Review this Charter annually, reassess its adequacy and recommend to the Board any proposed changes. This Charter shall be updated as applicable laws, regulations, accounting and auditing standards change.

(iii) Conduct an annual self-evaluation of its performance, including the effectiveness of the Committee, its compliance with this Charter, and how it has discharged its duties and met its responsibilities as outlined herein.

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ARTICLE VI
Committee Reports

The Audit Committee shall:

A. Report its actions and recommendations to the Board at each regular meeting of the Board following a meeting of the Audit Committee and when otherwise requested by the Board.

B. At the Board's request, report to the Board regarding the status of and the Audit Committee's recommendations for the Corporation's proposed and existing borrowing arrangements and other debt facilities.

C. Report to the Board on a periodic basis, at least annually, the findings of its independent auditors. These reports shall include careful consideration of the actions taken by management on the independent auditors' suggestions for correcting weaknesses, if any, in the Corporation's internal controls, regulatory compliance, organizational structure and operations.

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¶ C. Provide a self-evaluation
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These reports may include the adequacy of the audit effort by the Corporation's independent auditors, the financial and regulatory compliance reporting decisions of management, the adequacy of disclosure of information essential to a fair presentation of the financial affairs and regulatory compliance efforts of the Corporation, and the organization and quality of the Corporation's system of management and internal accounting controls.

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D. Report to the Board, at least annually, regarding any proposed changes to this Charter.

ARTICLE VII
Amendments

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This Charter shall be effective upon the affirmative vote of the Board of Directors of the Corporation and may be amended upon affirmative vote of a majority of the Board of Directors of the Corporation.

Effective Date: April 7, 2009

Amended: March 2, 2010

Re-adopted: March 26, 2013

Re-adopted: March 14, 2014

Re-adopted: March 31, 2015

Re-adopted: March 29, 2016

Re-adopted: March 28, 2017

Amended and Restated: _____, 2017

Buffalo Urban Development Corporation

95 Perry Street
Suite 404
Buffalo, New York 14203
phone: 716-856-6525
fax: 716-856-6754
web: buffalourbandevelopment.com

ITEM 4



MEMORANDUM

To: All Employees
From: Mollie Profic, Treasurer
Re: Simplified Employee Pension (SEP) Contributions
Date: March 31, 2017

In an effort to reduce the amount of time spent on administrative tasks related to quarterly SEP contributions, the Finance Department is making the following changes to the quarterly payment process beginning with the contribution for the first quarter of 2017:

1. Annually (by January 31) each employee will receive, review, and sign an accounting of the total SEP contributions made by the Agency for the preceding calendar year. The original signed copy will be kept on file.
2. On a quarterly basis each employee will receive a notice detailing contribution made to his/her SEP account. No signature will be required.

Employees are expected to notify the Finance Department of any changes to their SEP account administration. Failure to do so may result in a delay to your contribution.

Peter Cammarata

From: Profic, Mollie <mprofic@ecidany.com>
Sent: Tuesday, May 30, 2017 2:54 PM
To: bbrown@city-buffalo.com; ben@firstamherst.com; bmehaffy@ch.ci.buffalo.ny.us; christopher.schoepflin@esd.ny.gov; cslater@cslaterlaw.com; Darius G. Pridgen ; dnasca@evansbank.com; dpenman@ciminelli.com; delsenbeck@phillipslytle.com; Dottie Gallagher-Cohen ; jcomerford@city-buffalo.com; jcurry1@ecmc.edu; kim_minkel@nfta.com; Whyte, Maria; sstepniak@city-buffalo.com; tkucharski@buffaloniagara.org; Hersey, Thomas; thomas.beauford@gmail.com
Cc: Peter Cammarata; 'David A. Stebbins'; Brandye Merriweather (bmerriweather@buffalourbandevelopment.com); Kevin J. Zanner; Bach, Bradley
Subject: RE: BUDC 2016 Form 990 - Draft
Attachments: Revised BUDC 2016 Draft 990.pdf

Good afternoon,

I received an updated draft of BUDC's Form 990 from our auditors today and want to pass it along for your review. The only change is to Schedule R Part I, where the LLCs controlled by BUDC are now listed as disregarded entities.

Sincerely,

Mollie Profic, CPA, CIA

Treasurer

Buffalo Urban Development Corporation

95 Perry Street, Suite 404

Buffalo, NY 14203

Main (716) 856-6525

Fax (716) 856-6754

www.buffalourbandevelopment.com