

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

**95 Perry Street
Buffalo, New York
May 11, 2023
12:00 p.m.**

Call to Order:

Committee Members Present:

Trina Burruss
David J. Nasca
Dennis M. Penman (Committee Chair)

Committee Members Absent:

Catherine Amdur
Janique S. Curry (attended via Zoom)

Officers Present:

Brandy Merriweather, President
Rebecca Gandour, Executive Vice President
Mollie M. Profic, Treasurer
Kevin J. Zanner, Secretary
Atiqa Abidi, Assistant Treasurer

Others Present: Barbara A. Danner, CPA, Freed Maxick CPAs, P.C.; Alexis M. Florczak, Hurwitz Fine P.C.; Soma Hawramee, ECIDA Compliance Officer; David Herdlick, CPA, Herdlick Tax Credit, LLC; Antonio Parker, BUDC Project Manager; and Mark Stebbins, CPA, Freed Maxick CPAs, P.C.

Roll Call – The meeting was called to order at 12:03 p.m. by Mr. Penman. A quorum of the Committee was not present. Agenda items 2 and 4 were presented first for informational purposes. Ms. Burruss joined the meeting during the presentation of agenda item 4, at which time a quorum of the Committee was present.

- 1.0 Approval of March 9, 2023 Meeting Minutes** – The minutes of the March 9, 2023 meeting of the Audit & Finance Committee were presented. Mr. Nasca made a motion to approve the meeting minutes. The motion was seconded by Ms. Burruss and unanimously carried (3-0-0).
- 2.0 Draft 2022 BUDC 990/990-T** – Ms. Profic presented an update regarding the draft 2022 IRS Form 990/990T prepared by Freed Maxick. Ms. Profic shared a handout showing the ownership structure of 683 Northland LLC and the interest payments being made by 683 WTC, LLC to BUDC, which result in taxable unrelated business income. The tax obligation is a consequence of the for-profit tax credits structure that was established for the 683 Northland project. Total federal and state taxes owed are \$135,319. Ms. Profic indicated that a copy of the draft Form 990/990T will be circulated to the BUDC Board for review. It is anticipated that BUDC will file final copies of the Form 990/990T by the May 15th deadline, but an automatic extension is available if needed.
- 3.0 683 Northland Tax Credit Discussion** – Ms. Gandour introduced the tax credits consulting team from Freed Maxick and Herdlick Tax Credit, LLC to lead a discussion regarding the tax credits structure for the 683 Northland project and the requirements and timing for unwinding the structure. It was noted that annual payments to the historic tax credits investor in the form of priority returns

will continue until 2025. Since the inception of the project, these annual payments have been made with revenue that is generated from project operations, and payments through 2025 are anticipated to be funded from the same revenue source. At the end of the period, the investor has a put option to exercise which will trigger a payment obligation to redeem the investor's interest in the project. These payments were contemplated at the onset of the project and are included in the project agreements. The tax credits consulting team then reviewed with the Committee the requirements for unwinding the New Markets tax credits structure, including preliminary strategies for minimizing potential tax impacts.

- 4.0 **Northland Central – Phase I Construction Additional HVAC Work Claim Update** – Mr. Zanner reported that a mediation conference with Judge Walker took place on April 28th. The mediation conference was unsuccessful as the defendants were unwilling to present any settlement offer. As a result, the court issued a scheduling order, which includes an October 10, 2024 trial date. Discovery is to be completed by May 31, 2024. BUDC counsel is developing a litigation budget that would include an estimate of legal fees and expenses through trial. Ms. Gandour added that BUDC staff is disappointed with the defendants' refusal to negotiate a resolution.

- 5.0 **General Funding Source Updates** – Ms. Gandour reported that the Empire State Development Board of Directors approved a \$1.8 million grant to BUDC for the microgrid system and a \$55 million grant for the Northland Corridor Redevelopment Area. She commented on the 631 Northland project, which is expected to utilize brownfield cleanup program tax credits and historic tax credits. A consultant for the 631 Northland project has not been selected. Ms. Merriweather reported that BUDC staff is concluding the hiring process for a director of construction and project development, which will provide much needed additional capacity. The City of Buffalo continues to work on the American Rescue Plan allocation to BUDC, and BUDC will meet with the Office of Strategic Planning this week regarding this funding. Ms. Merriweather also reported that Ralph Wilson Legacy Funding, administered through the Community Foundation for Greater Buffalo, recently confirmed a funding allocation to BUDC to pay for the cost of the BUDC project manager salary.

- 6.0 **Adjournment** – There being no further business to come before the Committee, the May 11, 2023 meeting of the Audit & Finance Committee was adjourned at 1:05 p.m.

Respectfully submitted,



Kevin J. Zanner
Secretary