



**Erie County
Stadium
Corporation**

A Subsidiary of Empire State Development

ERIE COUNTY STADIUM CORPORATION

at the

University of Buffalo - Center of Excellence in Bioinformatics & Life Sciences
701 Ellicott Street - Conference Room B2-209
Buffalo, New York 14203

Meeting of the Directors

Monday

January 23, 2023 – 2:00 pm

PROPOSED AGENDA

CORPORATE ACTION

1. Orchard Park (Erie County) - Erie County Stadium Civic Project - Adoption of Findings Pursuant to Sections 10(d), and 10(g) of the New York State Urban Development Corporation Act of 1968, as Amended (the "Act"); Authorization to Adopt the General Project Plan ("GPP"); Authorization to Make a Determination of No Significant Effect on the Environment; Authorization to Hold a Public Hearing; Authorization to Acquire and Lease Real Property; Authorization to Enter into a Lease and Other Agreements; and Authorization to Take All Related Actions

Item 1



FOR CONSIDERATION

January 23, 2023

TO: The Directors

FROM: Hope Knight

SUBJECT: Orchard Park (Erie County) - Erie County Stadium Civic Project

REQUEST FOR: Adoption of Findings Pursuant to Sections 10(d), and 10(g) of the New York State Urban Development Corporation Act of 1968, as Amended (the "Act"); Authorization to Adopt the General Project Plan ("GPP"); Authorization to Make a Determination of No Significant Effect on the Environment; Authorization to Hold a Public Hearing; Authorization to Acquire and Lease Real Property; Authorization to Enter into a Lease and Other Agreements; and Authorization to Take All Related Actions

General Project Plan

I. Project Summary

Project Owner: County of Erie (the "County")
95 Franklin Street
Buffalo, New York 14202

Contact: Honorable Mark Poloncarz
Erie County Executive
95 Franklin Street
Buffalo, NY 14202

Project Tenant: OPSTAD, LLC, an affiliate of Buffalo Bills, LLC (the "Bills")
One Bills Drive
Orchard Park, New York 14127

Tenant Contact: Ron Raccuia
President & CEO
Buffalo Bills, LLC
One Bills Drive
Orchard Park, New York 14127

Proposed Project: Design, construction and operation of a new stadium for the Buffalo Bills NFL franchise (the "Project").

ECSC/State Investment: \$600,000,000

Anticipated Funding

Source: FY 2022-2023 New York State Budget Appropriation. Annual payments referenced below will be paid from future NYS Budget Appropriations.

II. Financial Summary

A. Stadium Construction (2022-2026)

Financing Uses	Estimated Cost
- Design and Construction of a New Stadium	\$1,400,000,000
Financing Sources	
- Buffalo Bills	\$550,000,000
- Erie County	\$250,000,000
- State	<u>\$600,000,000</u>
Total:	\$1,400,000,000

B. Annual Funding (2026 -2056)

Financing Uses	Annual Cost	Total Cost
- Capital Improvement Fund	\$10,900,000	\$327,000,000
- Maintenance and Repair Fund (15 Years)	\$6,670,000	\$100,050,000
Total:	\$17,570,000	\$427,050,000

Financing Sources

	<u>Year 1</u>	<u>Total</u>
- Buffalo Bills*	\$900,000	\$27,000,000
- Erie County**	\$4,000,000	\$120,000,000
- State*	\$6,000,000	\$180,000,000
- State (15 Years)	\$6,670,000	\$100,050,000
Total:	\$17,570,000	\$427,050,000

* Total cost does not include increases adjusted annually based on the Consumer Price Index capped at 2.2% annually.

** County commitment is estimated and limited to revenue generated by surcharges on ticketing, parking, and concessions.

III. Project Description

A. Background

The last remaining National Football League franchise in New York State is the Buffalo Bills NFL team. The Bills enjoy extraordinary loyal fan support in Western New York and Southern Ontario and generate significant economic activity for Erie County and New York State. Since 1973, Highmark Stadium (which opened in 1973, replacing WPA-era War Memorial Stadium on the East Side of Buffalo) is home to the Bills and located in Orchard Park, a suburb of Buffalo.

In May of 2013, ESD, through its subsidiary, the Erie County Stadium Corporation (“ECSC” or the “Corporation”), the County and Buffalo Bills LLC, entered into a ten-year lease of Highmark Stadium. The stadium and surrounding complex which includes the practice facility, administration buildings, parking lots and related infrastructure is owned by the County, leased to the ECSC, and subleased to the Bills through July of 2023. As the current lease expires after the 2022-23 season and because Highmark Stadium has reached the end of its useful life, in March of 2022, an agreement in principle was reached among Governor Hochul, Erie County Executive Mark Poloncarz and Bills owners’ Kim & Terry Pegula to design and construct a new facility across Abbott Road in Orchard Park. A copy of the memorandum of understanding entered into by the parties can be found at: <https://www2.erie.gov/exec/index.php?q=documents>

The Project will involve the design and construction of new facility and a commitment by the Bills to remain in Western New York for the next thirty (30) years.

B. Summary of Transaction

i. Construction/Ownership

The expected cost of the new stadium is \$1.4 billion with the parties agreeing to share costs with the State contributing \$600 million, the County \$250 million and the Bills \$550 million. The Bills contribution will include any amounts derived from the sale of personal seat licenses (“PSLs”) which the Bills will be responsible for the marketing and sale as agent of the ECSC, the owner of the facility. The Bills will be responsible for contracting for the design and construction of the new stadium and will bear responsibility for all cost overruns. Construction is expected to begin mid-2023 with completion anticipated in time for the 2026 season. Current renderings of the new stadium are attached hereto as **Exhibit A**.

The new facility will be constructed by the Bills across Abbott Road on existing parking lots and unused land owned by the County that is part of the SUNY Erie south campus. Upon completion of construction, ownership of the new stadium and the entire stadium complex consisting of approximately 242 acres will be transferred to ECSC which will then lease the complex to the Bills for thirty (30) years. A site plan of the stadium complex footprint is attached hereto as **Exhibit B**.

The new facility will be a state-of-the-art open-air stadium with a minimum seating capacity of 60,000 seats and a maximum capacity of 63,000 seats with finishes, amenities and concourses comparable to recent NFL stadiums. The stadium will be a minimum 1.35 million square feet with eight to nine levels with a mixture of general seating, club seating, premium seating and suite offerings as well as a standing room only area and party decks. The Project will include construction of an approximate 65,000 square foot auxiliary technology building which will consist of areas for TV broadcasters and a production data center. The Project will also include demolition of Highmark Stadium upon completion of the new stadium.

ii. Term

The term of the lease is thirty (30) years which is non-terminable and not subject to any buyout right. As part of the transaction, a separate non-relocation agreement will be executed by the Bills that will provide the right to specific performance requiring the Bills to play at the new stadium should they attempt to break the lease. If the County and State are unable to enforce their right of specific performance, the Bills would be required to pay liquidated damages by repaying all Project costs incurred by the State and County in the event the breach occurs in the first fifteen (15) years of the lease which amount will thereafter decline annually in equal amounts for the remaining years of the term.

iii. Annual Costs

Annual payments will be made by the parties that will be used by the Bills to maintain and repair the facility and are broken down into two categories: (a) a capital improvement fund (the "CIF"); and (b) a repair and maintenance fund ("RMF"). In year one of the lease, the total payments to the CIF will be \$10.9 million and the RMF will be \$6.75 million.

The CIF will be funded by contributions made by: (a) the State \$6 million; (b) the County \$4 million; and (c) the Bills rent - \$900,000. The amounts will be adjusted annually based on the Consumer Price Index, but any increase will not exceed 2.2%. The County's contribution is an estimate and will be limited to actual amounts generated by surcharges on ticketing, parking, and concessions. The CIF will be used by the Bills for the capital upkeep of the stadium complex. In addition, the Bills will be permitted to use one-third of the funds contributed by the State to the CIF for expenses related to security and utilities for events occurring and the new facility.

The RMF will be funded annually for fifteen (15) years by the State at \$6.67 million per year. The RMF will be used by the Bills for capital improvements, maintenance and other repairs needed for the upkeep of the stadium complex. Except for the contributions to the CIF and RMF, all other capital and operating expenses of the new stadium will be the responsibility of the Bills.

iv. Community Benefits Agreement

The transaction includes a Community Benefits Agreement ("CBA") whereby the Bills have agreed to provide various benefits to support the local community. The CBA outlines a multi-facet program to encourage participation in the Project by the local community, including people of

color, women, veterans, LGBTQ+, low-income, and other targeted members of the community. Community benefits directed towards these target groups include: (a) MWBE participation in construction, maintenance and operations; (b) prevailing wage and living wage requirements; (c) transportation improvements; (d) workforce training and development, apprenticeship and internship programs; and (e) numerous other benefits (including, without limitation, expanding of youth programming in the region (for example, in conjunction with the Buffalo Urban League), support of anti-violence initiatives (including gun violence), support of mental health initiatives, supporting recycling programs, higher education support, food insecurity initiatives, and other programs that support the upward mobility of impoverished and low-income neighborhoods.

Specifically, the CBA will: (a) set a 30% goal for Minority and Women Business Enterprises (“MWBE”) and a 6% goal for Service-Disabled Veteran Business Enterprises (“SDVOB”) certified by the State or County for all retailers, vendors, and service companies used in stadium maintenance and operations; (b) set a 30% goal for food products used by concessionaire’s be purchased from Erie County certified MWBE food service companies; (c) require the Bills to promote and give preference to food and beverage items for sale at the stadium that are produced and/or manufactured in New York State; (d) require the Bills to apply prevailing wage programs for employees during construction and promote living wage standards in its employment practices for employees working at the stadium; (d) require the County and Bills to work in in good faith to expand public transportation to the stadium and require a public transportation hub be implemented in the stadium complex design; (e) provide for mentoring/technical assistance/internship/educational opportunities by the Bills to (i) promote the training of a diverse workforce from the various target groups during the construction, maintenance and operation of the Project; (ii) provide for paid internships for local high school students with a 30% goal of such students residing in disadvantaged communities; and (iii) collaborate with local area high schools and colleges for opportunities for members of the Bills and/or the Bills organization to speak to classes of student groups regarding the business of sports and the opportunities that exist in the sporting industry with the aim of encouraging diversity and inclusion in professional sports front offices.

Other benefits that are part of the CBA include: (a) the Bills continued support for anti-violence and mental health initiatives through Bills-led anti-violence awareness and mental health campaigns, promoting local anti-violence campaigns and supporting local community organizations whose mission include anti-violence work and mental health work, respectively; (b) the development, implementation and maintenance of a sustainability operations plan to address solid waste recycling as well as other efforts to reduce carbon emissions and the carbon footprint of the new stadium; (c) the Bills commitment to work collaboratively with local artists to develop a community art program in connection with the new stadium and to make available personnel to participate in education lectures and classroom activities in area educational institutions such as ECC and BOCES.

In addition, the CBA will create a Community Benefit Oversight Committee (“CBOC”) made up of representatives appointed by the County, ECSC and the Bills that will be tasked with monitoring, oversight and accountability with respect to the commitments made by the Bills contained in the

CBA. The CBOC will identify priorities where the Bills can best direct their resource commitments which at a minimum will be valued at \$3 million per year.

v. Lease Extension

Construction of the stadium is expected to begin in the spring of 2023 with completion expected in time to permit the Bills to play there for the 2026 season. Pending completion of the new facility, the existing leases and related agreements will be extended on a year-to-year basis on the same terms and conditions contained in the 2013 agreements. This includes the annual payments that will be made to the Bills by the County and State through ECSC that are broken down into three categories: (a) working capital; (b) operating/game day expense reimbursement; and (c) annual stadium capital improvement allowance that is expended by the County to maintain the existing stadium. In year ten of the lease (2021-22), the payments were: (a) \$4.09 million working capital; (b) \$6.45 million operating/game day expense reimbursement; and (c) \$5.48 million Stadium capital improvement allowance. These amounts will be adjusted annually for future lease extension years based on the Consumer Price Index in accordance with the 2013 agreements. The capital improvement allowance payable by the State through ECSC and the County is reduced by the Bills rent payment which in year 10 was \$953,834. The remaining obligation to make these payments are split evenly between the State and the County.

vi. Additional Benefits

Once complete, the new stadium will be available to the State, ECSC and the County to host civic events. The County will be permitted to hold up to five events per year while the State or ECSC may hold an unlimited number of events per year. In addition, ECSC and the County will be authorized to use the Bills logos and trademarks valued at \$800,000 per lease year and the County will be provided a hospitality suite which will be available for use by the County and its guests for all events at the new facility.

C. Design and Construction

The Bills will hold the contracts for the design and construction of the new stadium and be responsible for all cost overruns. In addition, it is expected the Bills will enter a Project Labor Agreement with the local trade unions to govern work rules associated with construction of the Project. ESD/ECSC and County personnel will be involved in all aspects of the Project and will oversee the procurement of all contracts, attend construction meetings, monitor construction, and review and approve contractors' requisitions. ESD staff will secure and authorize payment of State funds when all requirements are satisfied.

IV. Statutory Findings

1. That there exists in the area in which the Project is to be located a need for the educational, cultural, recreational, community, municipal, public service, or other civic facility to be included in the project;

The Buffalo Bills have played in Orchard Park for over 50 years. The Bills maintain a sizable following in Western New York and are a source of civic pride for the residents thereof. If the Bills franchise were to relocate to another area, it would be considered indicative of a loss of major market status for Buffalo and Western New York. The team provides considerable entertainment, recreational and community services to the Erie County and New York State which will continue for the foreseeable future as a result of the Project.

2. That such Project shall consist of a building or buildings which are suitable for educational, cultural, recreational, community, municipal, public service or other civic purposes;

The current stadium was constructed for professional football in 1972 and has been continuously used for that purpose. The Project which consists of the design and construction of a new facility will continue and enhance that use. The Bills are an important asset of Erie County, and the Project will allow Western New York and New York State residents to continue to enjoy the recreational and entertainment value provided by the team. In addition, the new stadium will be available for use for civic events by the State and County.

3. That such Project will be leased to or owned by the State or an agency or instrumentality thereof, a municipality or an agency or instrumentality thereof, a public corporation, or any other entity which is carrying out a community, municipal, public service or other civic purpose, and that adequate provision has been, or will be made for the payment of the cost of acquisition, construction, operation, maintenance, and upkeep of this project;

Upon completion of the new stadium, the County will transfer title to the Corporation which will lease the same to the Bills. The costs of construction of the improvements and operating and maintaining the facility will be financed by the parties as described above.

4. That the plans and specifications assure adequate light, air, sanitation, and fire protection;

The Project will be constructed in accordance with all applicable codes.

5. The requirements of Section 10(g) of the Act are satisfied.

No residential relocation is required because there are no families or individuals residing on the site.

V. Environmental Review

The County of Erie, as lead agency, completed an environmental review of the proposed Project, pursuant to the requirements of the State Environmental Quality Review Act ("SEQRA") and the implementing regulations of the New York State Department of Environmental Conservation. This review found the project to be a Type I Action, and after coordinated review with other involved and interested agencies, the County determined it would not have a significant effect on the environment. The County issued a Negative Declaration on January 19, 2023. ESD staff reviewed the Negative Declaration and supporting materials and concurs. It is recommended

that the Directors make a Determination of No Significant Effect on the Environment.

Because the Project location has the potential to contain indigenous archaeological resources that are eligible for inclusion on the State and National Registers of Historic Places, ESD consulted with the NYS Office of Parks, Recreation and Historic Preservation (“OPRHP”) pursuant to Section 14.09 of the State Historic Preservation Act and given the nature of the resources, also consulted with the Seneca Nation of Indians, Tonawanda Seneca Nation, and Tuscarora Nation. ESD entered a Letter of Resolution (“LOR”) with OPRHP, and the NYS Department of Environmental Conservation and will ensure that its stipulations are adhered to in the undertaking of the Project. The Buffalo Bills and County signed the LOR as a Concurring Party, and the Seneca Nation of Indians, Tonawanda Seneca Nation, and Tuscarora Nation were also invited to sign the LOR as Concurring Parties.

VI. Non-Discrimination and Contractor & Supplier Diversity

ESD’s Non-Discrimination and Contractor and Supplier Diversity policy will apply. The Bills shall be required to solicit and utilize Minority and Women-owned Business Enterprise (“MWBEs”) and Service-Disabled-Veteran-owned Business Enterprises (“SDVOBs”) for any contractual opportunities generated in connection with the construction of the Project and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8 and 9 NYCRR § 252.2(m)) to achieve at a minimum, an overall MWBE Participation Goal of 30%, and an SDVOB Participation Goal of 6%. The goal shall include a Minority Business Enterprise (“MBE”) Participation Goal of 15% and a Women Business Enterprise (“WBE”) Participation Goal of 15% related to the total value of the State’s funding. The expenditure of the annual Capital Improvement Fund and Repair and Maintenance Fund shall also be subject to MWBE and SDVOB goals which will be set annually based on the use of the funding.

VII. Requested Actions

The Directors are requested to: (a) make Civic Project findings pursuant to Section 10(d) and 10(g) of the Act; (b) adopt the General Project Plan; (c) authorize the holding of a public hearing; (d) authorize the Corporation to acquire and lease to the Bills the project site; (e) authorize the Corporation to enter in all agreements necessary for the Project; (f) make a determination of no significant effect on the environment; and (g) take all related actions.

Attachments

Resolutions

Exhibit A – Stadium Renderings

Exhibit B – Site Plan

January 23, 2023

ERIE COUNTY STADIUM CORPORATION - Orchard Park (Erie County) – Erie County Stadium Civic Project – Adoption of Findings Pursuant to Sections 10(d), and 10(g) of the New York State Urban Development Corporation Act of 1968, as Amended Authorization to Adopt the General Project Plan; Authorization to Hold a Public Hearing; Authorization to Acquire and Lease Real Property; Authorization to Enter into a Lease and Other Agreements; and Authorization to Take All Related Actions

RESOLVED, that on the basis of the materials presented to this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Erie County Stadium Corporation (the “Corporation”), relating to the Erie County Stadium Civic Project (the “Project”), the Corporation hereby finds pursuant to Section 10 of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”):

(1) that there exists in the area in which the Project is to be located a need for the educational, cultural, recreational, community, municipal, public service or other civic facility to be included in the project;

(2) that such Project shall consist of a building or buildings which are suitable for educational, cultural, recreational, community, municipal, public service or other civic purposes;

(3) that such Project will be leased to or owned by the State or an agency or instrumentality thereof, a municipality or an agency or instrumentality thereof, a public corporation, or any other entity which is carrying out a community, municipal, public service or other civic purpose, and that adequate provision has been, or will be made for the payment of the cost of acquisition, construction, operation, maintenance, and upkeep of this project;

(4) that the plans and specifications assure adequate light, air, sanitation, and fire protection; and be it further

RESOLVED, that on the basis of the materials presented to this meeting relating to the Project indicating that there are no families or individuals to be displaced from the Project area, the Corporation hereby finds that the requirements of Section 10(g) of the Act are satisfied; and be it further

RESOLVED, that the Corporation does adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the “Plan”) for the Project submitted to this meeting, together with such changes therein as the President and Chief Executive Officer of the Corporation or her designee(s) may deem appropriate, a copy of which Plan, together with such changes, is hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, that the Corporation is authorized to hold a public hearing on the Plan; and be it further

RESOLVED, that upon written finding of the President and Chief Executive Officer of the Corporation that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective at the conclusion of such hearing; and that upon such written finding being made, the Corporation is hereby authorized to acquire property and lease the same in accordance with the terms contained in the Materials and the President and Chief Executive Officer of the Corporation or her designee(s) be, and each of them hereby is authorized to enter in all agreements necessary to effectuate the Project; and be it further

RESOLVED, that the President of the Corporation or her designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to execute and deliver any and all documents, contracts and other agreements and to take all actions as he or she may in his or her sole discretion consider to be necessary or proper to effectuate the foregoing resolutions.

* * *

January 23, 2023

ERIE COUNTY STADIUM CORPORATION - Orchard Park (Erie County) – Erie County Stadium Civic Project – Determination of No Significant Effect on the Environment

RESOLVED, that on the basis of the materials submitted to the Directors with respect to the Erie County Stadium Civic Project (the “Project”), the Corporation hereby makes a determination that the proposed action will not have a significant adverse effect on the environment.

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