



**Buffalo and Erie County Industrial Land Development Corporation
Board of Directors Meeting**

January 25, 2023

@ 12:30 p.m.

**Northland Workforce Training Center, Community Room
683 Northland Ave, Buffalo, NY 14211**

1.0 Call to Order

2.0 Approval of Minutes

2.1 Minutes of the October 26, 2022 Meeting of the Board of Directors (Action Item) (Pages 2-3)

3.0 Reports / Action Items / Information Items:

- 3.1 Finance & Audit Committee Update
 - a) Public Sector Banking Services RFP (Action Item) (Pages 4-7)
- 3.2 Loan Status Report (Informational) (Page 8)
- 3.3 Videoconferencing Procedures (Action Item) (Pages 9-15)
- 3.4 Project Status Report (Informational)

4.0 Management Team Report:

4.1

5.0 Adjournment - Next Meeting February 22, 2023 at 12:30 p.m.

**MINUTES OF THE MEETING OF THE
THE BOARD OF DIRECTORS
OF THE BUFFALO AND ERIE COUNTY
INDUSTRIAL LAND DEVELOPMENT CORPORATION
(ILDC)**

DATE AND PLACE: October 26, 2022, at Center of Excellence in Bioinformatics and Life Sciences (CBLIS), 701 Ellicott Street, Conference Room B2-205, Second Floor, Buffalo, New York 14203

PRESENT: Denise Abbott, Hon. Howard Johnson, Richard Lipsitz, Jr. and Hon. Mark C. Poloncarz

EXCUSED: Hon. April Baskin and Hon. Byron W. Brown

OTHERS PRESENT: John Cappellino, President & CEO; Beth O’Keefe, Vice President of Operations/Secretary; Mollie Profic, Chief Financial Officer; Atiqah Abidi, Assistant Treasurer; Gerald Manhard; Chief Lending Officer/Secretary; Andrew Federick, Business Development Officer; Soma Hawramee, Compliance Portfolio Manager; Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant/Assistant Secretary; Talia Johnson-Huff, Project Manager, Laurie Hendrix, Administrative Coordinator and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC

GUESTS: Zachary Evans and Thomas Baines on behalf of Erie County; Bukola Millia on behalf of Workforce Investment Board and J. Dale Shoemaker on behalf of Investigative Post

There being a quorum present at 1:23 p.m., the Meeting of the Board of Directors of the Buffalo and Erie County Industrial Land Development Corporation was called to order its Chair, Mr. Poloncarz.

MINUTES

Mr. Lipsitz moved and Ms. Abbott seconded to approve of the September 28, 2022 minutes. Mr. Poloncarz called for the vote and the minutes were unanimously approved.

REPORTS / ACTION ITEMS / INFORMATION ITEMS

Financial Report. Ms. Profic presented the September 2022 financial report. The balance sheet shows the month ended with total assets of \$17.5M. There weren't any significant fluctuations in asset accounts during the month. Liabilities are mainly deferred grant revenue of \$9.3M. Net assets total \$7.9M. One loan under the County Microloan program closed during the month. The September income statement shows \$1,800 of revenue, mainly grant income received from loans under the County's Microloan program. There were also \$12,000 of expenses and \$4,000 of special project expenses, resulting in a net loss of \$15,000 in September. The year to date income statement shows revenues of \$394,000 and expenses of \$221,000. Included in this figure is \$100,000 of bond administrative fee revenue that was subsequently paid to ECIDA under the existing shared services agreement. Net special project expenses of \$154,000 lead to net income of \$18,000 so far in 2022. Mr. Poloncarz directed that the report be received and filed.

Finance and Audit Committee Update: Ms. Profic advised that the Committee met on October 17 and reviewed, and recommended for approval, the 2023 budget to the members for formal consideration.

A. 2023 Budget Timetable. Ms. Profic reviewed the 2023 proposed budget review process.

B. Proposed 2023 Budget. Ms. Profic reviewed the proposed 2023 budget including a narrative and substantial changes to the budget for 2023. Ms. Profic advised there haven't been any changes to the 2023 budgeted amounts since it was reviewed last month. For 2023, the ILDC is budgeting revenue of \$453,000, expenses of \$313,000, and net special project expenses of \$164,000. Special projects include Renaissance Commerce Park and the Angola Ag Park, along with any expenses related to the portion of the County microloans that are granted to borrowers. This leads to an overall budgeted net loss of \$25,000.

Mr. Lipsitz moved and Mr. Johnson seconded to approve of the ILDC 2023 Budget. Mr. Poloncarz called for the vote and the ILDC 2023 Budget was unanimously approved.

ILDC Loan Status Report. Mr. Manhard provided this report to members. Mr. Poloncarz directed that the report be received and filed.

There being no further business to discuss, Mr. Poloncarz adjourned the meeting at 1:28 p.m.

Dated: October 26, 2022

Elizabeth A. O'Keefe, Secretary

MEMORANDUM

TO: ECIDA, RDC and ILDC Boards of Directors

FROM: Mollie Profic, Vice President

SUBJECT: Public-Sector Banking Services RFP

DATE: January 25, 2023

The ECIDA's Professional Services Request for Proposals (RFP) Process requires proposals for Banking Services to be solicited at least every 5 years. Proposals were last solicited in 2017, after which a banking relationship was established with M&T Bank. In November 2022, ECIDA and its affiliated entities, and Western Region Corporation conducted a joint RFP for banking services.

Request for Proposal Process:

The RFP was submitted directly to the top ten largest banks in Erie County per the 2022 Business First book of Lists and any banks that had proposed in 2017. Ads were also placed in The Buffalo News, the Buffalo Criterion, and Challenger Community News stating the Agency issued an RFP for these services. In addition, the RFP was posted on ECIDA's website. Proposals were due November 15, 2022. Five proposals were received.

Evaluation Process:

Proposals were evaluated by Mollie Profic, CFO, Atiqah Abidi, Senior Accountant, and Patricia Smith, Bookkeeper and points were assigned based on the following criteria as stated in the RFP:

- 1) Proposed Account Structure / Investment Program. (40%)
- 2) Qualifications and public sector banking experience of the individuals to be assigned. (25%)
- 3) Experience of the bank in providing similar services to local governments, CRA rating and local branch network. (25%)
- 4) Scope of services offered including degree of automation. (10%)

Based on the first-round score ratings, a short-list of three banks was developed: Evans Bank, Key Bank, and M&T Bank. The staff committee requested additional information and/or demonstration as needed.

Results:

While all of the respondents were capable and suitable partners, M&T Bank was the top-rated bank:

- M&T offers competitive interest rates, the highest earnings credit rate, and there is no requirement for non-interest-bearing accounts to support services.
- M&T has a dedicated government banking team headquartered in Buffalo. The Senior Relationship Manager for M&T Bank has over 17 years of government banking experience. Clients include IDAs, state agencies, counties, and public authorities.
- M&T has received an “outstanding” CRA rating since 1989.
- Forty branches throughout Erie County are convenient for staff tasked with making deposits.
- M&T offers a suite of anti-fraud services, including but not limited to: positive pay/reverse positive pay, ACH monitor, ACH debit block and check block. Multi-factor authentication (MFA) is required to log in to the bank’s Treasury Center. A smart phone app is also available.
- M&T is a community leader in Diversity, Equity and Inclusion initiatives, investment in technology, and is the leading small business lender in the Buffalo-Rochester market for 2022.

On January 10, 2023, the Joint Finance & Audit Committee reviewed the RFP results and recommended that their respective Boards approve the retention of M&T Bank as the prime bank of the ECIDA, RDC and ILDC.

Recommendation:

Per the following resolution, I am requesting that Boards approve the retention of M&T Bank as the prime bank of the ECIDA, RDC and ILDC to the respective Boards for the calendar years 2023-2025, with an option of retaining the bank for the 2026-2027 calendar years.

**RESOLUTION OF THE
BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION
REGARDING DEPOSITS OF MONEY AND THE INVESTEMENT OF FUNDS**

WHEREAS, the Buffalo and Erie County Industrial Land Development Corporation (the "ILDC") desires to adopt a resolution with respect to deposits and investments of public money in the name of the ILDC for use in normal business operations, in the furtherance of the corporate purposes of the ILDC; and

WHEREAS, in accordance with the ILDC's Professional Services Requests for Proposals Process and Policy, the ILDC issued an RFP for Banking Services, entitled "Public Sector Banking Services" (hereinafter referred to as the "Banking Services RFP"); and

WHEREAS, the Banking Services RFP was submitted to the ten largest banks located in Erie County, noticed on the ILDC's website, and placed in the Buffalo News, the Buffalo Criterion, and the Challenger Community News; and

WHEREAS, staff of the ILDC reviewed and scored the Banking Services RFP responses and based on initial scoring of the RFP responses, Evans Bank N.A., KeyBank N.A. and M&T Bank were selected for follow-up and additional requests for information; and

WHEREAS, ILDC staff recommends M&T Bank as the prime bank, to provide banking, cash management, and investment services to the ILDC; and

WHEREAS, on January 10, 2023, the ILDC's Finance & Audit Committee reviewed the Banking Services RFP process, the ILDC's staff memorandum regarding the recommendation of M&T Bank, and unanimously resolved to recommend to the ILDC that M&T Bank be chosen as the prime bank to provide banking, cash management, and investment services to the ILDC.

NOW, THEREFORE, BE IT RESOLVED BY THE BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION, AS FOLLOWS:

Section 1: The ILDC hereby affirms that it is hereby authorized to open and close such bank and investment accounts and to maintain such banking relations as may be determined by the President/Chief Executive Office ("CEO"), from time to time, to be necessary or appropriate for the transaction of the ILDC's business.

Section 2: Effective with the adoption of this resolution, the ILDC hereby finds, in comparison to the other Banking Services RFP respondents, that M&T Bank requires no service charges, has greater governmental banking experience, an "outstanding" CRA rating, and a dedicated project management team to assist with the banking transition as well as web-based banking, transaction services and positive pay features superior to the other Banking Services RFP respondents and as such, hereby designates M&T Bank as the ILDC's official depository of funds and to provide cash management and investment services as described within the Banking

Services RFP, said engagement to be for an initial three year term (2023 – 2025), with retention for 2026 and 2027 if approved by the Agency's Finance and Audit Committee.

Section 3. Each bank and investment account authorized by this resolution shall provide that no withdrawals shall be made from such accounts nor shall any checks be drawn thereon unless withdrawal slips or checks (as applicable) are signed by such individual or individuals as may be designated by both the Chair and the CEO.

Section 4. Each bank and investment account authorized by this resolution shall adhere to the current Investment and Deposit Policy as approved by the ILDC.

Section 5. This Resolution shall take effect immediately and shall remain in effect and be binding until revoked by written notice given by the ILDC to M&T Bank.

ADOPTED: January 25, 2023



Loan Status Report January 2023

<u>ILDC Loans Approved Since Last Meeting</u>	<u>Municipality</u>	<u>Amount</u>
Davies Hillside Farms (Agri-Business)	Springville	\$35,000
Goshen Farms (Agri-Business)	Chaffee	\$35,000
<u>ILDC Loans Closed Since Last Meeting</u>	<u>Municipality</u>	<u>Amount</u>
Davies Hillside Farms (Agri-Business)	Springville	\$35,000
Goshen Farms (Agri-Business)	Chaffee	\$35,000
<u>Loans in Closing Process</u>	<u>Municipality</u>	<u>Amount</u>
(None)		
<u>Loans in the Pipeline</u>	<u>Municipality</u>	<u>Amount</u>
1	Springville	\$35,000

<u>YE 2022 - Loans Closed</u>	<u>YTD Loan Total</u>	<u>Jobs to be Created</u>	<u>Retained Jobs</u>
14	\$435,000	13	16.5

Loan Portfolio Performance

Past Due Loans:

<u>Loan</u>	<u>Outstanding Balance</u>	<u>Amount Past Due</u>	<u>Days Past Due</u>	<u>Comments</u>
NONE				

Portfolio Delinquency Rate (Past Due Outstanding Loan Balance *divided by* Portfolio Balance):

\$0 / \$1,106,459 0% Delinquency Rate (36 Loans)

ILDC Funds Available to Lend: \$160,000

**BUFFALO AND ERIE COUNTY
INDUSTRIAL LAND DEVELOPMENT CORPORATION
RESOLUTION**

A meeting of the Buffalo and Erie County Industrial Land Development Corporation was convened on Wednesday, January 25, 2023 at 12:00 p.m.

The following resolution was duly offered and seconded, to wit:

**RESOLUTION OF THE BUFFALO AND ERIE COUNTY INDUSTRIAL LAND
DEVELOPMENT CORPORATION (“ILDC”) APPROVING THE USE OF
VIDEO CONFERENCING UNDER EXTRAORDINARY CIRCUMSTANCES
PURSUANT TO SECTION 103-A OF THE NEW YORK PUBLIC OFFICERS
LAW**

WHEREAS, the Buffalo and Erie County Industrial Land Development Corporation (the “ILDC”) is authorized and empowered by Section 1411 of the Not-for-Profit Corporation Law of the State of New York, as amended, to relieve and reduce unemployment, promote and provide for additional and maximum employment, better and maintain job opportunities in Erie County and to lessen the burdens of government and act in the public interest; and

WHEREAS, Section 103-a of the New York Public Officers Law (“POL”), as enacted by Part WW of Chapter 56 of the Laws of 2022, permits public bodies such as the ILDC to authorize their members to attend meetings by videoconference from locations that are not open to the public (“private locations”), when necessitated by “extraordinary circumstances,” provided that (i) the number of members of the public body who attend the meeting at location(s) where the public can attend is at least equal to the number required to satisfy the public body’s quorum requirement, (ii) the public body has established written procedures governing member and public attendance consistent with Section 103-a of the POL, (iii) such written procedures are conspicuously posted on the public website of the public body, and (iv) the other criteria specified in Section 103-a of the POL are satisfied; and

WHEREAS, ILDC staff, in consultation with the ILDC’s general counsel, have prepared a draft policy in compliance with Section 103-a of the POL entitled “Videoconferencing Participation Pursuant to Public Officers Law Section 103-a” (the “Videoconferencing Policy”) attached hereto as Exhibit A; and

WHEREAS, Section 103-a(2)(a) of the POL requires that the ILDC must adopt a resolution after a public hearing in order to authorize videoconferencing from a private location and as described within the Videoconferencing Policy; and

WHEREAS, the hearing so required was conducted on Monday, November 21, 2022 and the report thereon has been received and considered by the ILDC; and

WHEREAS, the ILDC deems it appropriate that the ILDC and any and all committees or subcommittees of the ILDC now existing or hereafter established be authorized to use videoconferencing to conduct meetings in the manner contemplated by Section 103-a of the POL.

NOW, THEREFORE, BE IT RESOLVED BY THE BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION, AS FOLLOWS:

Section 1. The ILDC hereby approves and adopts the Videoconferencing Policy and authorizes the ILDC and any and all committees or subcommittees of the ILDC now existing or hereafter established to use videoconferencing to conduct meetings in the manner authorized by Section 103-a of the POL, including meetings where a member who is unable to be physically present at any such meeting location due to extraordinary circumstances is permitted to attend and participate in the meeting by videoconferencing from a remote location that is not open to the public.

Section 2. The ILDC hereby directs that the Videoconferencing Policy be conspicuously posted on the public website of the ILDC in compliance with Section 103-a of the POL.

Section 3. Any and all actions heretofore taken or authorized by the ILDC and/or its members, officers, employees and agents with respect to this Resolution are hereby ratified, approved and confirmed in all aspects.

Section 4. This Resolution shall take effect immediately.

ADOPTED: January 25, 2023

EXHIBIT A

Videoconferencing Policy

(See Attached)

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (“ECIDA”),
BUFFALO AND ERIE COUNTY REGIONAL DEVELOPMENT
CORPORATION (“RDC”),
AND
BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT
CORPORATION (“ILDC”)**

**PROCEDURES FOR VIDEOCONFERENCING PARTICIPATION
PURSUANT TO PUBLIC OFFICERS LAW SECTION 103-A**

This Videoconferencing Participation Policy (“Policy”) shall apply to the Erie County Industrial Development Agency (“ECIDA”) and its affiliated corporations: Buffalo and Erie County Regional Development Corporation (“RDC”), Buffalo and Erie County Industrial Land Development Corporation (“ILDC”), and any other affiliated entities that may be established by the ECIDA (hereinafter collectively referred to as the “Agency”) upon approval by the respective Board of Directors or Members of the Agency.

In compliance with New York Public Officer’s Law (“POL”) § 103-a(2)(a), the Agency, following a public hearing, authorized the use of videoconferencing as described in POL Section 103-a by resolution(s) dated November 30, 2022.

The following procedures are hereby established to satisfy the requirement of POL § 103-a(2)(b) that “public bodies” must establish written procedures governing member and public attendance to permit its members to participate in Board and Committee meetings by videoconferencing from private locations, under Extraordinary Circumstances.

1. Agency Member Attendance:

A. All members of the Agency (“Members”) shall be physically present at the location(s) of the public meeting unless a Member cannot be physically present at the public meeting for one (1) or more of the circumstances enumerated in subsection B herein.

B. Members may be excused from physically attending any public meeting of the Agency, and may instead attend via videoconferencing from a private location, if any of the following circumstances (thereinafter “Extraordinary Circumstances”):

- (i) Disability of a Member.
- (ii) Illness of a Member.
- (iii) The Member has caregiving responsibilities for:
 - (a) one (1) or more dependents, or
 - (b) family member(s) with an illness or disability.

C. Notification of Agency.

- (i) In the event a Member is unable to be physically present at the designated public meeting location(s) and wishes to participate by videoconferencing from a private location due to an Extraordinary Circumstance, the Member must notify the Agency by submitting the form attached hereto as **Exhibit A** no later than ten (10) business days prior to the scheduled meeting to the President/CEO of the Agency to ensure proper notice of the meeting and related videoconference is given to the public.
- (ii) In the event an Extraordinary Circumstance arises within ten (10) business days of the scheduled meeting, the Member shall notify the President/CEO of the Agency immediately by submitting the form attached hereto as **Exhibit A** to provide the Agency with an opportunity to amend the notice of meeting.
- (iii) In the event an Extraordinary Circumstance arises within ten (10) business days of the scheduled meeting, and the Agency determines it would be impractical to amend the notice of meeting, the Agency may reschedule the meeting to a later date.

2. **Public Attendance:**

A. Members of the public shall be allowed to attend any public meeting conducted via videoconferencing at the physical location of the meeting, or via videoconferencing if a Member of the Agency attends via videoconferencing.

3. **Rules and Procedures for Public Meetings Conducted Via Video Conference:**

A. A quorum of Members participating in the meeting must be physically present at the meeting location(s) open to the public for the meeting to be properly convened. Members participating in the meeting via videoconferencing shall not count towards the Agency quorum requirements for the meeting but may participate and vote if a physical quorum of the Members exists.

B. Except in the case of executive sessions conducted pursuant to POL § 105, Members must be able to be seen, heard and identified by other Members and the public during any matter formally discussed or voted on, including, but not limited to, motions, proposals, and resolutions. This shall include the use of first and last name placards placed physically in front of the Members or, for Members participating by videoconferencing from a private location, such Members shall ensure their names appear on their videoconferencing screen or video feed.

C. If public comment or participation in the meeting is authorized or required, the video feed, and public participation therein, must be in real time, and the Agency shall ensure the meeting is conducted in a manner ensuring virtual public participation or testimony equal to in-person participation or testimony.

D. The meeting minutes for a meeting where a Member attends via videoconferencing shall include which Members participated remotely, and the meeting minutes shall be made available to the public pursuant to POL § 106.

E. The public notice for any meeting held via video conference shall include the following information:

- (i) Notification that videoconferencing will be used to conduct the meeting;
- (ii) Identification of where the public can view and/or participate in the meeting, including:
 - (a) the physical location(s) of the meeting; and
 - (b) any web addresses for video links; and
- (iii) Identification of the location(s) where any required documents and/or records will be posted or available for public viewing.

F. Each open portion of meetings held via videoconference must be recorded. The recording:

- (i) Must be posted or linked on the website of the Agency within five (5) business days of the meeting;
- (ii) Must remain available for a minimum of five (5) years after it is posted; and
- (iii) Shall be transcribed upon written request subject to any reasonable fees for the production thereof.

G. Meetings held via video conference must utilize technology to permit access by individuals with disabilities consistent with the 1990 Americans with Disabilities Act (ADA), as amended, and the corresponding guidelines thereto. For purposes of this section, the term “disability” shall have the meaning defined in New York Executive Law § 292.

4. **Miscellaneous.**

A. The in-person participation requirements of POL § 103-a(2)(c) shall not apply during a state disaster emergency declared by the governor pursuant to Executive Law § 28 or a local state emergency proclaimed by the chief executive of a county, city village or town pursuant to Executive Law § 24 if the Agency determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the Agency to hold an in-person meeting.

B. These procedures shall be conspicuously posted on the Agency’s website.

EXHIBIT A

**REQUEST FOR VIDEOCONFERENCING PARTICIPATION
PURSUANT TO PUBLIC OFFICERS LAW SECTION 103-A**

Meeting Date:	
Name of Member:	
Agency Membership:	
Reason for Physical Absence (Check All That Apply):	<input type="checkbox"/> Disability of the Member. <input type="checkbox"/> Illness of the Member. <input type="checkbox"/> The Member has caregiving responsibilities for: <input type="checkbox"/> one (1) or more dependents, or <input type="checkbox"/> family members with an illness or disability.
Description of Absence: (Summarize)	

For Agency Use Only:

<u>Date Request Received:</u>	
<u>Date Request Approved:</u>	
<u>Request Approved By: (Print Name)</u>	
<u>Signature:</u>	