



**Buffalo and Erie County Industrial Land Development Corporation
Joint Annual Board of Directors Meeting & Annual Meeting of the Members**

**April 24, 2024
At 12:30 p.m.**

**ECIDA Offices
95 Perry Street, 4th Floor Conference Room
Buffalo, New York 14203**

1.0 Call to Order

2.0 Approval of Minutes

2.1 Approval of the March 27, 2024 Minutes of the Meeting of the Membership (Action Item) (Pages 2-5)

3.0 Reports / Action Items / Information Items:

3.1 Financial Report (Informational) (Pages 6-9)

3.2 Annual Report of Directors (Informational) (Page 10)

3.3 Loan Status Report (Informational) (Page 11)

3.4 Nominating Committee Update

a) Election of Officers/Committee Appointments (Action Item) (Pages 12-14)

3.5 Re-Adoption of ILDC By-Laws (Action Item) (Pages 15-24)

3.6 Design and Engineering Services for the Erie County Agribusiness Park Access Road Project (Action Item) (Pages 25-29)

4.0 Management Team Reports:

4.1

5.0 Adjournment- Next Meeting May 29, 2024

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

- DATE AND PLACE:** March 27, 2024, at the Erie County Industrial Development Agency, 95 Perry Street, 4th Floor Conference Room, Buffalo, New York 14203
- PRESENT:** Denise Abbott, Hon. Daniel Castle, Hon. Howard Johnson and Richard Lipsitz, Jr.
- EXCUSED:** April Baskin, Hon. Byron W. Brown and Hon. Mark C. Poloncarz
- OTHERS PRESENT:** John Cappellino, President & CEO; Beth O’Keefe, Vice President of Operations; Mollie Profic, Chief Financial Officers; Grant Lesswing, Director of Business Development; Gerald Manhard, Chief Lending Officer; Soma Hawramee, Compliance Portfolio Manager; Michelle Moore, Compliance Associate; Atiqa Abidi, Accounting Manager; Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant/Assistant Secretary; Andrew Pawenski, Harris Beach PLLC and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC
- GUESTS:** Zachary Evans on behalf of Erie County

There being a quorum present at 1:17 p.m., the Meeting of the Board of Directors of the Buffalo and Erie County Industrial Land Development Corporation was called to order by Mr. Lipsitz, who presided over the meeting in the absence of Chair Poloncarz.

MINUTES

Ms. Abbott moved, and Mr. Johnson seconded to approve of the February 28, 2024 minutes. Mr. Lipsitz called for the vote and the minutes were unanimously approved.

REPORTS / ACTION ITEMS / INFORMATION ITEMS

Financial Report. Ms. Profic presented the February financial reports. The balance sheet shows ILDC ended the month with total assets of \$17.1M. All the line items have been pretty consistent since the end of 2023. Liabilities of \$9.5M are amounts owed to ECIDA (\$5.4M) and deferred grant revenue. Net assets total \$7.6M. The February income statement shows \$1,600 of revenue, \$2,000 of expenses and \$400 of net special project expenses. Factoring in non-operating income, there was a \$600 loss in February. The year-to-date income statement shows operating revenues of \$3,000 and expenses of \$4,000. Special project expenses of \$3,200 and \$300 of non-operating income led to a net loss of \$4,400 so far in 2024. Mr. Lipsitz directed that the report be received and filed.

Finance & Audit Committee Update. Ms. Profic provided a summary of the joint Finance & Audit Committee meeting held on March 21st. Our auditors from Lumsden McCormick presented draft 2023 audited financial statements. The three main points of the presentation were an unmodified (clean)

opinion on the financial statements, there were no uncorrected audit adjustments, and there were no material weaknesses or significant deficiencies noted (no management letter comments). The Committee also reviewed and recommend the items listed under #2-8 for approval or re-adoption: 2023 Public Authorities Report, 2023 Investment Reports, Investment & Deposit Policy, Committee Charter, Committee Self-Evaluation, Management's Assessment of the Effectiveness of Internal Controls, and Corporate Credit Card Policy with no suggested changes.

Ms. Profic reviewed the Committee's Self-Evaluation. She stated that each year the Committee completes a self-evaluation, as required by the Committee Charter. Essentially, did the Committee fulfill its duties per the Committee Charter? Comments in the rightmost column give some detail of the Committee activity throughout the year, and additional notes were provided. In 2023, the Committee officially convened a total of 5 times and fulfilled its duties as documented. Mr. Lipsitz directed that the report be received and filed.

Audited Financial Statements. Ms. Profic reviewed the draft 2023 audited financial statements, required communications, and management letter. Lumsden McCormick's required communications with those charged with governance, which documents the auditors' responsibility related to the financial statement audit, notes that there were no matters of concern that arose related to the significant risks identified, a summary of accounting estimates made within the financials, that there were no uncorrected audit adjustments, and no disagreements with management. The most significant estimates for ILDC are the depreciation of capital assets and the allowance for uncollectible loans. She mentioned an unmodified opinion was issued on the statements. The management letter notes no significant deficiencies or material weaknesses. The Representation Letter will be signed once the audit is approved by the board. Ms. Profic reviewed the draft financial statements. As a component unit of Erie County, the ILDC's financial statements are prepared based on Governmental Accounting Standards and include a Management's Discussion and Analysis section, which provides a condensed overview of the statements. The balance sheets show there were total assets of \$17.1M as of December 31, 2023, compared to \$18.9M at the end of 2022. Current assets decreased \$1.9M, due to decreases in cash and grants receivable. Noncurrent assets increased slightly from \$7.3M to \$7.4M due to an increase in capital assets. Liabilities decreased \$2.0M, due to a \$6.4M decrease in unearned revenue associated with grants awarded but not yet spent/earned, combined with a \$4.3M increase in amounts due to ECIDA. ILDC has been borrowing funds from ECIDA's UDAG fund to cash flow projects that are being funded with reimbursable grants. There was an increase in net position of \$236,000, mostly due to an increase in net investment in capital assets. The statements of revenues, expenses, and changes in net position (income statements) detail the change in net position for the year. Operating revenues of \$35,000 include interest on loans and administrative fees related to bond modifications. Operating expenses of \$288,000 consists mainly of the \$189,000 provision for uncollectible loans under the Microloan program administered by ILDC on behalf of Erie County. Most of these microloans have a forgiveness component if a certain amount of principal is paid as agreed. What this provision for uncollectible loans does is recognize the best-case scenario, where borrowers are repaying 50% or 60% of their loan and the rest being forgiven. Special project grants include income and expenses related to grants, including \$3.6M from Empire State Development and \$2.6 from the Economic Development Administration ("EDA") related to sewer work at Renaissance Commerce Park ("RCP"), as well as \$129,000 sub granted from Erie County for new loans in the Microloan fund. Grant expenses of \$6.3M are mainly related to RCP. Overall there was an increase in net position of \$236,000 in 2023, compared to a decrease of \$513,000 in 2022. The cash flows statements detail the changes in cash each year. The remainder of the financials are the notes, supplementary information, and the Schedule of Expenditures of Federal Awards. The expenditures related to the RCP sewer project funded by EDA triggered a Single Audit for 2023. Ms. Profic is pleased to report there were no findings or questioned costs noted as a result of the Single Audit. These drafts were reviewed and discussed in detail with the Finance & Audit Committee on March 21, and they recommended approval to

the Board. We will continue to work with Lumsden McCormick to file IRS Form 990 and the Data Collection Form related to the single audit.

Mr. Castle moved and Ms. Abott seconded to approve of the audited financial statements. Mr. Lipsitz called for the vote and the audited financial statements were unanimously approved.

2023 Investment Report. Ms. Profic reviewed this report which is required by Public Authorities Law and includes ILDC's investment guidelines, the results of the annual audit of these guidelines, and detail of investment income and fees for the year. \$6,400 of investment income was earned on the accounts during 2023, and no fees were paid. This report was reviewed by the Finance & Audit Committee at their March 21 meeting and recommended to the Board for approval.

Mr. Johnson moved and Ms. Abbott seconded to approve of the 2023 Investment Report. Mr. Lipsitz then called for the vote and the 2023 Investment Report was unanimously approved.

Governance Committee Update: Ms. O'Keefe provided the Board members with an update. Mr. Lipsitz directed that the report be received and filed.

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

REVIEW AND ADOPTION OF POLICIES, REPORTS AND COMMITTEE CHARTERS.

2023 Mission Statement, Performance Measures and Results; 2024 Mission Statement and Performance Measures and 2023 Public Authorities Report. Ms. O'Keefe reviewed the 2023 Mission Statement, Performance Measures and Results and the 2024 Mission Statement and Performance Measures. Ms. Profic reviewed the 2023 Public Authorities Report. Ms. Profic stated as a Public Authority of the State of New York, ECIDA and its affiliates are required to comply with the NYS Public Authorities Law and submit a comprehensive annual report including information on several topics. Several of the items are covered by other documents, like the operations and accomplishments and financial statements, which are note throughout the document. The third item, Mission Statement & Performance Measurements, is updated each year with actual results. Many of the items included are standard from year to year and are also approved or re-adopted by the Board annually and was updated for 2023 to update the work underway at ILDC-owned properties, the RDC's lending activity, and the approval of the Economic Inclusion Policy. Attachments include outstanding bond information, salary & benefit information, projects undertaken by each entity, our Property Report, Board Member attendance, and the Procurement Reports for each entity. Once approved, the certification will be signed by Mr. Cappellino and Ms. Profic and the report will be posted to the website. This report was reviewed by the Governance Committee at their meeting on March 20th and the Finance & Audit Committee at their meeting on March 21st and has been recommended to the Board for approval.

Ms. Abbott moved and Mr. Castle seconded to approve of the 2023 Mission Statement, Performance Measures and Results; 2024 Mission Statement and Performance Measures and 2023 Public Authorities Report. Mr. Lipsitz called for the vote and the 2023 Mission Statement, Performance Measures and Results; 2024 Mission Statement and Performance Measures and 2023 Public Authorities Report was unanimously approved.

RE-ADOPT POLICIES AND CHARTERS

Mr. Lipsitz noted that Items 4-23 on the agenda were reviewed by counsel, the Board Committees recommended no changes, and as such, the staff recommends that the policies and charters items numbered 4-23 be approved without any changes. Ms. Abott moved and Mr. Castle seconded to approve of the various polices and charters as itemized below. Mr. Lipsitz called for the vote and the following policies and charters were then unanimously approved:

- Airborne Infectious Disease Policy
- Board Member Compensation, Reimbursement & Attendance Policy
- Code of Ethics & Conflict of Interest Policy
- Defense & Indemnification Policy
- Corporate Credit Card Policy
- ECIDA Employee Compensation Program
- Fee Structure Policy
- Finance & Audit Committee Charter
- Governance Committee Charter
- Investment & Deposit Policy
- Procurement Policy
- Professional Services RFP Process and Policy
- Property Disposition Guidelines
- Real Property Acquisition Policy
- Sexual Harassment Policy
- Statement of Duties & Responsibilities of the Board of Directors
- Statement of the Competencies & Personal Attributes Required by Board Members
- Travel, Conferences, Meals & Entertainment Policy
- Video Conferencing Policy
- Whistleblower Policy and Procedures

There being no further business to discuss, Mr. Lipsitz adjourned the meeting at 1:30 p.m.

Dated: March 27, 2024

Elizabeth A. O'Keefe, Secretary

Industrial Land Development Corp.
Financial Statements
As of March 31, 2024

INDUSTRIAL LAND DEVELOPMENT CORPORATION ("ILDC")

Balance Sheet

March 31, 2024

	March 2024	February 2024	December 2023
ASSETS:			
Restricted Cash *	\$ 382,790	\$ 414,308	\$ 407,345
Grants Receivable	9,160,559	9,160,559	9,191,178
Loans Receivable, net	503,858	478,076	495,740
Prepaid Acquisition Costs	698,605	697,929	697,929
Total Loan Assets	<u>10,745,812</u>	<u>10,750,872</u>	<u>10,792,192</u>
Capital Assets	6,356,268	6,356,268	6,356,268
Total Assets	<u>\$ 17,102,080</u>	<u>\$ 17,107,140</u>	<u>\$ 17,148,460</u>
LIABILITIES & NET ASSETS:			
Accounts Payable	\$ -	\$ -	\$ 879,715
Due to/(from) ECIDA	5,420,740	5,362,076	4,519,375
Other Liabilities	4,107,273	4,163,899	4,163,816
Total Liabilities	<u>9,528,013</u>	<u>9,525,975</u>	<u>9,562,905</u>
Restricted Fund Balance	7,574,068	7,581,165	7,585,555
Total Liabilities & Net Assets	<u>\$ 17,102,080</u>	<u>\$ 17,107,140</u>	<u>\$ 17,148,460</u>

Loan Portfolio Summary:	March 2024	February 2024	December 2023
# of Loans	<u>41</u>	<u>40</u>	<u>40</u>

* Cash is invested in interest bearing accounts at M&T Bank. The maximum FDIC insured amount is \$250,000 with the remainder collateralized with government obligations by the financial institution.

INDUSTRIAL LAND DEVELOPMENT CORPORATION ("ILDC")

Income Statement

Month of March 2024

	Actual vs. Budget		
	Actual	Budget	Variance
REVENUES:			
Interest Income - Loans	\$ 1,759	\$ 1,417	\$ 342
Grant Income - Microloan Program	-	13,667	(13,667)
Proceeds from (Cost of) Land Sales	-	(20,798)	20,798
Total Revenues	1,759	(5,714)	7,473
EXPENSES:			
Management Fee - ECIDA	\$ 2,000	\$ 2,000	\$ -
Provision for Loan Losses	-	26,250	(26,250)
Professional Services	4,510	5,600	(1,090)
General Office Expenses	-	417	(417)
Other Expenses	(100)	840	(940)
Total Expenses	6,410	35,106	(28,696)
SPECIAL PROJECT GRANTS:			
Industrial Land Park - ESD	52,717	241,554	(188,837)
Industrial Land Park - EDA	-	132,540	(132,540)
Industrial Land Park - ECIDA	-	8,333	(8,333)
Angola Ag Park - ECIDA Grant	-	4,167	(4,167)
Other grant revenue	3,947	22,564	(18,617)
Industrial Land Park grant reimbursement	-	(25,000)	25,000
Industrial Land Park costs	(53,626)	(382,427)	328,801
Angola Ag Park costs	(1,670)	(4,167)	2,497
Other grant expenses	(3,947)	(22,564)	18,617
Total Special Project Grants	(2,579)	(25,000)	22,421
NET OPERATING INCOME/(LOSS):	(7,231)	(65,821)	58,590
NONOPERATING REVENUE:			
Interest Income	133	167	(33)
Total Nonoperating Revenue	133	167	(33)
NET INCOME/(LOSS):	\$ (7,097)	\$ (65,654)	\$ 58,557

* Represents an allocation of salary and benefit costs from the ECIDA based on time charged to ILDC. The amount booked is currently based on 2024 budget.

INDUSTRIAL LAND DEVELOPMENT CORPORATION ("ILDC")

Income Statement

Year to Date: March 31, 2024

	Actual vs. Budget			Actual vs. Prior Year		
	Actual	Budget	Variance	Actual	Prior Year	Variance
REVENUES:						
Interest Income - Loans	\$ 4,704	\$ 4,250	\$ 454	\$ 4,704	\$ 4,902	\$ (198)
Grant Income - Microloan Program	-	41,000	(41,000)	-	-	-
Proceeds from (Cost of) Land Sales	-	(62,393)	62,393	-	-	-
Total Revenues	4,704	(17,143)	21,848	4,704	4,902	(198)
EXPENSES:						
Management Fee - ECIDA	\$ 6,000	\$ 6,000	-	\$ 6,000	\$ 31,600	\$ (25,600)
Provision for Loan Losses	-	26,250	(26,250)	-	-	-
Professional Services	4,510	16,800	(12,290)	4,510	2,287	2,223
General Office Expenses	422	1,250	(828)	422	(0)	422
Other Expenses	(100)	2,519	(2,619)	(100)	5,748	(5,848)
Total Expenses	10,832	52,819	(41,986)	10,832	39,635	(28,802)
SPECIAL PROJECT GRANTS:						
Industrial Land Park - ESD	52,717	724,662	(671,945)	52,717	107,520	(54,803)
Industrial Land Park - EDA	-	397,621	(397,621)	-	85,945	(85,945)
Industrial Land Park - ECIDA	79,963	25,000	54,963	79,963	70,765	9,199
Angola Ag Park - ECIDA Grant	-	12,500	(12,500)	-	29,680	(29,680)
Other grant revenue	3,947	67,691	(63,744)	3,947	-	3,947
Industrial Land Park grant reimbursement	-	(75,000)	75,000	-	-	-
Industrial Land Park costs	(133,980)	(1,147,282)	1,013,303	(133,980)	(267,080)	133,101
Angola Ag Park costs	(4,511)	(12,500)	7,989	(4,511)	(2,919)	(1,592)
Other grant expenses	(3,947)	(67,691)	63,744	(3,947)	-	(3,947)
Total Special Project Grants	(5,810)	(75,000)	69,190	(5,810)	23,911	(29,721)
NET OPERATING INCOME/(LOSS):	(11,938)	(144,962)	133,024	(11,938)	(10,822)	(1,117)
NONOPERATING REVENUE:						
Interest Income	451	500	(48)	451	820	(369)
Total Nonoperating Revenue	451	500	(48)	451	820	(369)
NET INCOME/(LOSS):	\$ (11,487)	\$ (144,462)	\$ 132,976	\$ (11,487)	\$ (10,002)	\$ (1,486)

* Represents an allocation of salary and benefit costs from the ECIDA based on time charged to ILDC. The amount booked is currently based on 2024 budget.



MEMORANDUM

TO: Buffalo & Erie County Industrial Land Development Corporation Members
FROM: Mollie Profic, CFO
SUBJECT: Annual Report of Directors
DATE: April 24, 2024

Under Section 519 of the New York State Not-for-profit Corporation Law, ILDC is required to present an annual report at its annual member meeting. The annual report is to include 1) information on the assets and liabilities of ILDC as of the end of the prior fiscal year, 2) the principal changes in assets and liabilities during the prior fiscal year, 3) the revenue or receipts of ILDC during the prior fiscal year, 4) the expenses or disbursements of ILDC during the prior fiscal year and 5) The number of members of ILDC as of the date of the report, together with a statement of increase or decrease in the number of members during the prior fiscal year and a statement of the place where the names and places of residence of the current members may be found.

The audited financial statements were approved by ILDC's Board of Directors at their March 27, 2024 meeting and were presented to the ILDC members in order to satisfy the first four requirements noted above. A copy of the audited financial statements can be located at <http://www.ecidany.com/about-us-corporate-reports>.

In satisfaction of the final requirement of the NYS Not-for-profit Corporation Law, ILDC has 1 membership position at April 24, 2024 which is the same as reported at the prior year's annual meeting. The name of the member of ILDC may be found at: <http://www.ecidany.com/about-us-board-of-directors> while the places of residence of current board members may be found at the ILDC offices at 95 Perry Street, Suite 403, Buffalo, New York 14203.



Loan Status Report April 2024

<u>ILDC Loans Approved Since Last Meeting</u>	<u>Municipality</u>	<u>Amount</u>
None		

<u>ILDC Loans Closed Since Last Meeting</u>	<u>Municipality</u>	<u>Amount</u>
None		

<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>
None		

<u>2024 - Loans Closed</u>	<u>YTD Loan Total</u>	<u>Jobs to be Created</u>	<u>Retained Jobs</u>
1	\$35,000	1	1

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>
Kevin Thie d/b/a Buffalo Firewood	\$34,723	\$1,679	150+	Borrower filed Chapter 7 bankruptcy. Attorney's monitoring bankruptcy
Wild Discs, LLC	\$32,082	\$1,344	120+	Borrower in process of filing For Ch. 7 Bankruptcy. Attorney's monitoring filing.

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

\$66,805 / \$1,171,548 = 5.70% Delinquency Rate (41 Loans)

ILDC Funds Available to Lend: \$220,000

2024 - 2025 ECIDA/RDC/ILDC Board Committees & Officers

Executive Committee ECIDA/RDC	<u>Current Committee Members</u>	<u>Proposed Committee Members</u>
7 Board members, President & CEO, as specified in By-Laws	Chair - Brenda McDuffie (Chair)	Chair - Brenda McDuffie (Chair)
	Vice Chair - Richard Lipsitz	Vice Chair - Richard Lipsitz
	County Executive - Hon Mark Poloncarz	County Executive - Hon Mark Poloncarz
	Mayor Buffalo – Hon. Byron Brown	Mayor Buffalo – Hon. Byron Brown
	Hon. Joseph Emminger (Chair, RDC Loan Committee)	Hon. Joseph Emminger (Chair, RDC Loan Committee)
	Glenn Nellis - (Representing the Finance & Audit Committee)	Glenn Nellis - (Representing the Finance & Audit Committee)
	Hon. Darius Pridgen (Chair, Loan Write-Off)	Ken Schoetz (Chair, Loan Write-Off Committee)
	President & CEO John Cappellino [non-voting]	President & CEO John Cappellino [non-voting]

Finance & Audit Committee ECIDA/RDC/ILDC	<u>Current Committee Members</u>	<u>Proposed Committee Members</u>
At least 3 Board members specified in By-Laws. Not less than 3 independent members per PAL. 3-4 Meetings a Year	Michael Szukala (Chair)	Michael Szukala (Chair)
	Penny Beckwith (M&T)	Penny Beckwith (M&T)
	Allison DeHoney	Allison DeHoney
	Denise McCowan*	Denise McGowan
	Glenn Nellis*	Glenn Nellis*
	Paul Vukelic*	Hon. Brian Nowak*
	William Witzleben (M&T)	Paul Vukelic*
		William Witzleben (M&T)

Governance Committee ECIDA/RDC/ILDC	<u>Current Committee Members</u>	<u>Proposed Committee Members</u>
At least 3 Board members specified in By-Laws. Not less than 3 independent members per PAL. 1-2 Meetings a Year	Brenda McDuffie* (Chair)	Brenda McDuffie* (Chair)
	Thomas Baines	Thomas Baines
	Zachary Evans	Zachary Evans
	Michael Hughes	Hon. Howard Johnson
	Hon. Brian Kulpa	Tyra Johnson*
	Hon. Howard Johnson	Hon. Brian Kulpa
	Tyra Johnson*	Hon. Christopher Scanlon
	Ken Schoetz*	Ken Schoetz*
David State	David State	

*Board members who fill seats required by By-laws

2024 - 2025 ECIDA/RDC/ILDC Board Committees & Officers

Loan Committee ECIDA/RDC	<u>Current Committee Members</u>	<u>Proposed Committee Members</u>
By-Laws specify no more than 5 members of the Policy Committee plus 2 City members and 1 County member 6-12 Meetings a Year	Hon. Joseph Emminger (Chair)	Hon. Joseph Emminger (Chair)
	Denise Abbott	Denise Abbott
	[City 2] Rebecca Gandour	[City 2] Rebecca Gandour
	[Other] Nancy LaTulip	[Other] Nancy LaTulip
	[County 1] David McKinley (Community Bank N.A.)	[County 1] David McKinley (Community Bank N.A.)
	[Other] Michael Taylor (Pursuit Lending)	[Other] Michael Taylor (Pursuit Lending)
	[City 1] Royce Woods (Evans Bank)	[City 1] Royce Woods (Evans Bank)

Loan Write-off Committee ECIDA/RDC/ILDC	<u>Current Committee Members</u>	<u>Proposed Committee Members</u>
At least 3 Board members specified in By-Laws 1 Meeting a Year	Hon. Darius Pridgen* (Chair)	Ken Schoetz*(Chair)
	Penny Beckwith (M&T)	Penny Beckwith (M&T)
	Tyra Johnson*	Tyra Johnson*
	Ken Schoetz*	Brian Nowak*
	William Witzleben (M&T)	William Witzleben (M&T)

Compensation Committee ECIDA	<u>Current Committee Members</u>	<u>Proposed Committee Members</u>
No by-law requirement 1-2 Meetings a Year	Hon. Mark Poloncarz (Chair)	Hon. Mark Poloncarz (Chair)
	Rev. Mark Blue	Rev. Mark Blue
	Dottie Gallagher	Michael Hughes
	Michael Hughes	Richard Lipsitz
	Richard Lipsitz	Brenda McDuffie
	Brenda McDuffie	Ken Schoetz
	Ken Schoetz	

Nominating Committee ECIDA/RDC/ILDC	<u>Current Committee Members</u>	<u>Proposed Committee Members</u>
No by-law requirement 1 Meeting a Year	Hon. Mark Poloncarz (Chair)	Hon. Mark Poloncarz (Chair)
	Zachary Evans	Rev. Mark Blue
	Richard Lipsitz	Zachary Evans
	Ken Schoetz	Richard Lipsitz
	*Vacant	Ken Schoetz

*Board members who fill seats required by By-laws

2024 - 2025 ECIDA/RDC/ILDC Board Committees & Officers

Policy Committee ECIDA/RDC	<u>Current Committee Members</u>	<u>Proposed Committee Members</u>
At least 3 Board members specified in By-Laws 10-12 Meetings a year	Richard Lipsitz* (Chair)	Richard Lipsitz* (Chair)
	Denise Abbott	Denise Abbott
	Hon. April Baskin	Hon. April Baskin
	A.J. Baynes	A.J. Baynes
	Rev. Mark Blue*	Rev. Mark Blue*
	Hon. Byron Brown	Hon. Byron Brown
	Zachary Evans	Zachary Evans
	Susan McCartney	Susan McCartney
	Brenda McDuffie*	Brenda McDuffie*
	Glenn Nellis	Glenn Nellis
	Laura Smith	Laura Smith
	David State	David State
	Lavon Stephens	Lavon Stephens
	Hon. John Tobia	Paul Vukelic
Paul Vukelic	*Vacant	

OFFICERS	<u>Current Officers</u>			<u>Proposed Officers</u>		
	<u>ECIDA</u>	<u>RDC</u>	<u>ILDC</u>	<u>ECIDA</u>	<u>RDC</u>	<u>ILDC</u>
Chair	Brenda McDuffie		Hon. Mark Poloncarz	Brenda McDuffie		Hon. Mark Poloncarz
Vice Chair	Richard Lipsitz			Richard Lipsitz		
President & CEO	John Cappellino			John Cappellino		
Vice President	Mollie Profic, Beth O'Keefe			Mollie Profic, Beth O'Keefe		
Treasurer	Mollie Profic			Mollie Profic		
Assistant Treasurers	Jerry Manhard, Atiqa Abidi, Daryl Spulecki			Jerry Manhard, Atiqa Abidi, Daryl Spulecki		
Secretary	Beth O'Keefe			Beth O'Keefe		
Assistant Secretaries	Jerry Manhard, Carrie Hocieniec			Jerry Manhard, Carrie Hocieniec		

OTHER DESIGNATED POSITIONS	<u>Designated Positions</u>	<u>Designated Positions</u>
Chief Financial Officer	Mollie Profic	Mollie Profic
Accounting Manager	Atiqa Abidi	Atiqa Abidi
Chief Lending Officer	Jerry Manhard	Jerry Manhard
Contracting Officer (required in Property Disposition Policy)	Mollie Profic	Mollie Profic
Electronic Records Retention Officer	Brian Krygier	Brian Krygier
Ethics Officer (required in Conflict of Interest Policy)	John Cappellino	John Cappellino
FOIL Officer	Robbie Ann McPherson	Robbie Ann McPherson
FOIL Appeals Officer	John Cappellino	John Cappellino
Human Resources Officers	Mollie Profic, Pat Smith	Mollie Profic, Pat Smith
Non-electronic Records Retention Officer	Carrie Hocieniec	Carrie Hocieniec

*Board members who fill seats required by By-laws

Nominating Committee Approved Date – March 22, 2024 Board Approved Date – April 24, 2024

BY-LAWS

OF

BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION

ARTICLE I – OFFICES

The principal offices of the Buffalo and Erie County Industrial Land Development Corporation (the "Corporation") shall be in the City of Buffalo, County of Erie, and State of New York. The Corporation may also have offices at such other places within the State of New York as the Board of Directors (the "Board") may from time to time determine or the business of the Corporation may require.

ARTICLE II – PURPOSES AND POWERS

1. The Corporation is incorporated and shall be operated for the exclusive charitable or public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, carrying on scientific research for the purpose of aiding a community or geographical area by attracting new industry in the community or area, and lessening the burdens of government and acting in the public interest.

2. In furtherance of its purposes set forth in paragraph (1) but not for any other purpose, the Corporation shall have, in addition to all other powers (including all powers in furtherance of its corporate purposes mentioned in Section 202 of the Not-for-Profit Corporation Law) the following powers: to construct, acquire, rehabilitate and improve for use by others, industrial or manufacturing plants in the territory in which its operations are principally to be conducted; to assist financially in such construction, acquisition, rehabilitation and improvement; to maintain such plants for others in such territory; to disseminate information and furnish advice, technical assistance and liaison with federal, state and local authorities with respect thereto; to acquire by purchase, lease, gift, bequest, devise or otherwise, real or personal property or interests therein; to borrow money and to issue negotiable bonds, notes and other obligations therefor; to issue negotiable revenue bonds, notes and other obligations on behalf of Erie County for the benefit of not-for-profit corporations and private entities to finance projects thereof in furtherance of the purposes of the Corporation and solely for the purposes set forth in the July 24, 2009, Erie County Legislature Resolution No. 218, as may amended by the Erie County Legislature from time to time, and notwithstanding Section 510 of the Not-For-Profit Corporation Law (Disposition of all or substantially all assets), without leave of the Court, to sell, lease, mortgage or otherwise dispose of or encumber any such plants or any of its real or personal property or any interest therein upon such terms as it may determine; and, in connection with loans from the New York Job Development Authority, to enter into covenants and agreements and to comply with all the terms, conditions and provisions thereof and otherwise to carry out its corporate purposes; and to foster and encourage the location or expansion of industrial or manufacturing plants in the territory in which the operations of the Corporation are principally to be conducted; provided, however, that the Corporation shall not attempt to influence legislation, by propaganda or otherwise, or participate or intervene, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office; and provided, further, that any revenue bonds, notes or obligations of the Corporation issued on behalf of Erie County shall (a) never be the debt of the State of New York, Erie County or any political subdivision and neither the State of New York, Erie County nor any political subdivision thereof shall be liable thereon and (b) shall be payable solely out of revenues and receipts derived from the leasing or sale by the Corporation of the applicable project.

ARTICLE III – MEMBERSHIP

1. MEMBERSHIP. The sole member of the Corporation (the “Member”) shall be the County of Erie acting by and through the Erie County Executive, ex officio.

2. RIGHTS AND POWERS OF MEMBER. The Member shall have and exercise all the rights and powers of corporate membership created by the laws of the State of New York, the Certificate of Incorporation or the By-laws of the Corporation.

3. ANNUAL MEETING OF THE CORPORATION. The Member shall hold an annual meeting of the Corporation, once during the first fiscal year of the Corporation’s existence and thereafter after the end of each fiscal year, in all cases at a convenient time and place designated by the Member. At the annual meeting, the Member shall receive the annual report if and to the extent required under Section 4 of these By-Laws and transact such other business as may properly come before the meeting, including the appointment of Directors when appropriate.

4. SPECIAL MEETING. The President/CEO, and/or the Executive Vice President, and/or the Chair may, when he/she deems it desirable, and shall, upon the request of the Member, call a special meeting of the Membership of the Corporation for the purpose of transacting any business designated in the call. The call for a special meeting may be given personally to the member or may be mailed to the business or home address of the member, or sent via electronic mail, not less than ten (10) days nor more than fifty (50) days prior to the date of the special meeting. Waivers of notice may be signed by the member for failing to receive a proper notice. At such special meeting no business shall be considered other than as designated in the call, but if the member is agreeable thereto, with or without notice thereof, any and all business may be transacted at such special meeting.

5. WAIVER OF NOTICE. Notice of meetings, annual, regular or special, need not be given to any member who submits a signed waiver of notice in person, whether before or after the meeting. The attendance of any member at a meeting, without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice by him or her.

6. NO ACTION BY MEMBER WITHOUT A MEETING. Whenever the Member is required or permitted to take any action by vote, no such action may be taken without a meeting where the Member entitled to vote thereon is present.

7. ANNUAL REPORT TO MEMBER. At the annual meeting of the Corporation, except for the annual meeting during the first fiscal year of the Corporation’s existence, the Treasurer or the Assistant Treasurer of the Corporation shall present an annual report showing in appropriate detail the complete audited financial statement of the Corporation for the fiscal year immediately preceding the date of the report showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses and disbursements of the Corporation; and a summary of the activities of the Corporation during the preceding year. The annual report shall be filed with the minutes of the annual meeting.

ARTICLE IV – DIRECTORS

1. MANAGEMENT OF THE CORPORATION. The Corporation shall be managed by the Board. Each director shall be at least eighteen (18) years of age.

2. NUMBER, ELECTION AND TERM OF DIRECTORS.

(a) The number of Directors shall be seven. As used in these By-laws, “the entire Board of Directors” means the total number of Directors which the Corporation would have in accordance

with the preceding sentence if there were no vacancies on the Board.

(b) One director shall be the chairperson of the Erie County Legislature, ex officio; one director shall be the chairperson of the Erie County Legislature's Economic Development Committee, ex officio; one director shall be the President of the local AFL-CIO, ex officio (collectively, the aforementioned three directors are sometimes hereinafter referred to as the "Designated Directors" or individually as a "Designated Director"); and four directors to be appointed by the Member and who shall serve at the Member's pleasure. The membership of a Designated Director shall terminate upon the inauguration or appointment of his or her successor in such office, which successor in office shall thereupon become the Designated Director.

(c) Directors are eligible to serve an unlimited number of consecutive terms.

3. RESIGNATIONS AND REMOVAL OF DIRECTORS. Any Director, except a Designated Director, of the Corporation may resign at any time by giving written notice to the President or the Secretary. Such resignation shall take effect at the time specified therein or, if no time is specified, then on delivery. Any or all of the directors may be removed for cause or without cause, however, a Designated Director shall only be removed for cause by the Member.

4. QUORUM OF DIRECTORS. The presence at any directors' meeting of a majority of the individuals then serving as directors shall constitute a quorum for the transaction of business or of any specified item of business.

5. ACTION OF THE BOARD. Unless otherwise required by law, the vote of a majority of the directors shall be the act of the Board. Each director present shall have one vote.

6. PLACE AND TIME OF BOARD MEETINGS. The Board may hold its meetings at the office of the Corporation or at such other places, either within the State of New York, as it may from time to time determine.

7. REGULAR AND ANNUAL MEETINGS. Monthly meetings of the Board shall be held at such time and place as directed by the Chair. One such monthly meeting per year shall be designated by the Board as its annual meeting.

8. NOTICE OF MEETINGS OF THE BOARD, ADJOURNMENT. Written notice stating the time and place of each regular meeting of the directors shall be given by the Secretary, personally or by mail or by electronic mail, not less than ten (10) days before the date of the meeting, to each director. The Secretary shall cause to be mailed, via U.S. or electronic mail, not less than ten (10) days nor more than fifty (50) days before the annual meeting to every director a notice stating the time and place of the annual meeting. Notice of a meeting need not be given to any director who submits a waiver of notice, whether before or after the meeting, or who attends the meeting without protesting prior thereto or at its commencement, the lack of notice to him or her. A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. Notice of the adjournment shall be given all directors who were absent at the time of the adjournment and, unless such time and place are announced at the meeting, to the other directors.

9. SPECIAL MEETINGS. The President/CEO, and/or the Executive Vice President, and/or the Chair may, when he/she deems it desirable, and shall, upon the written request of four (4) members of the board of directors, call a special meeting of the Corporation for the purpose of transacting any business designated in the call. The call for a special meeting may be given personally to each director or may be mailed to the business or home address of each director, or sent via electronic mail, not less than ten (10) days nor more than fifty (50) days prior to the date of the special meeting. Waivers of notice

may be signed by any director failing to receive a proper notice. At such special meeting no business shall be considered other than as designated in the call, but if all directors are present at a special meeting, with or without notice thereof, and are all agreeable thereto, any and all business may be transacted at such special meeting.

10. NO ACTION WITHOUT A MEETING. Whenever directors are required or permitted to take any action by vote, no such action may be taken without a meeting where the directors entitled to vote thereon are present.

11. ORDER OF BUSINESS. At the regular meeting of the Corporation, the order of business, under the direction and discretion of the Chair, shall include:

- Roll call
- Reading of the minutes of the preceding meeting
- Reports of committees
- Reports of officers
- Old and unfinished business
- New business
- Adjournments

12. WAIVER OF NOTICE. Notice of meetings, annual, regular or special, need not be given to any director who submits a signed waiver of notice in person, whether before or after the meeting. The attendance of any director at a meeting, without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice by him or her.

13. VOTING OF SECURITIES HELD BY THE CORPORATION. Stocks or other securities owned by the Corporation may be voted in person or by proxy as the Board of Directors shall specify. In the absence of any direction by the Board of Directors, such stocks or securities shall be voted by the President/CEO or, in the absence or vacancy of the position of the President/CEO, by the Executive Vice President as he or she shall determine.

14. CHAIR. During any period when the individual acting by and on behalf of the Sole Member appoints himself/herself as a director, that individual shall be the Chair. At all other times, the Chair shall be designated by a majority of the Board. The Chair will preside at all meetings of the Corporation. The Chair shall have the authority to sign all agreements, contracts, deeds and any other instruments on behalf of the Corporation. The Chair shall submit his/her recommendation and such information as he/she shall deem pertinent concerning the business, affairs, and policies of the Corporation at each meeting of the Board. In the event of a vacancy on a committee of the Corporation, the Chair may designate a successor to fill the unexpired portion of the term. In the event of a vacancy in the chair of a committee of the Corporation, the Chair will designate a successor to fill the unexpired portion of the term.

15. COMPENSATION. All Directors shall serve without compensation. All Directors may be reimbursed for reasonable expenses incurred in the performance of corporate duties.

ARTICLE V – COMMITTEES OF THE CORPORATION

1. NOMINATING COMMITTEE. There shall be a nominating committee which shall consist of such individuals selected by the Board to nominate such candidates as they deem appropriate for the Chair, officers of the Corporation, and directors of the Corporation or other individuals to serve upon its Committees.

2. STANDING COMMITTEES. The Board, by resolution adopted by a majority of the entire Board, may designate standing committees to include individuals who are not members of the Board. Each committee shall have such authority of the Board as may be delegated and as is set forth in the resolution adopted by the Board. Each committee shall keep minutes of proceedings and report to the Board.

3. LIMITATION OF AUTHORITY OF COMMITTEES. No standing committee shall have authority as to the following matters:

- (a) The submission to the Member of any action requiring Member approval under this Article V;
- (b) The filling of vacancies in the Board or in any committee;
- (c) The amendment or repeal of the By-Laws or the adoption of new By-Laws; and
- (d) The amendment or repeal of any resolution of the Board which by its terms shall not be so amendable or repealable.

4. TERM OF OFFICE OF COMMITTEE MEMBERS. Except as otherwise provided in these By-laws, the chairs and all members of the committees shall be appointed by the Board at the annual meeting of the Board, and shall serve until the next annual meeting and until their successors are duly appointed and qualified. Committee members appointed to fill vacancies shall serve until the next annual meeting of the Board and until their successors are appointed and qualified.

5. SPECIAL COMMITTEES. The Board at any time and from time to time, by resolution adopted by a majority of the entire Board, may create such special committees as may be deemed desirable, to serve at the pleasure of the Board, and the members of which shall be appointed by the Chair with the consent of the Board. These committees shall have only the lawful powers specifically delegated to them by the Board, except that no such committee shall have powers which are not authorized for any standing committees of the Board under Section (2) hereof and by law.

6. POLICY COMMITTEE.

- (a) The Policy Committee shall be comprised of the following:
 - (i) Such individuals appointed with the consent of the Board at the annual meeting of the Board, who shall serve for terms of one (1) year.
- (b) The committee chair for the Policy Committee shall be designated by a majority of the Board.
- (c) The Policy Committee shall:
 - (i) Have the power to call for such reports and documentation as it deems necessary to properly monitor the Corporation's operation;
 - (ii) Propose to the Board policy guidelines and policy statements appropriate to the Corporation and its mission; and
 - (iii) Perform such other duties as may be delegated to them by the Board, from time to time.

7. FINANCE & AUDIT COMMITTEE.

(a) The Finance & Audit Committee shall be comprised of the following:

(i) At least three (3) independent individuals whom, to the extent practicable, shall be familiar with corporate financial and accounting practices, appointed with the consent of the Board at the annual meeting of the Board.

(b) The committee chair for the Finance & Audit Committee shall be designated by a majority of the Board.

(c) The Finance & Audit Committee shall be responsible:

(i) To provide assistance to the Board in fulfilling its fiduciary responsibilities relating to accounting, reporting and regulatory compliance practices;

(ii) To maintain a direct line of communication between the Board and the Corporation's independent accountants and auditors to provide for exchanges of views and information;

(iii) To maintain, as appropriate, a direct line of communication between the Board and the governmental authorities having audit authority or official oversight of the Corporation; and

(iv) To approve the budget of the Corporation for submission to the Board.

Particularly, and without limiting the generality of the foregoing, the Financing & Audit Committee shall be responsible for recommending to the Board the level of cash reserves and the level of fund balances. The Finance & Audit Committee shall also recommend to the Board the hiring of a certified independent accounting firm, establish the compensation to be paid to such accounting firm, provide direct oversight of the performance of the independent audit performed by the accounting firm hired for such purposes and receive reports from such accounting firm. The Finance & Audit Committee shall report to the Board on a periodic basis, at least annually, the findings of its independent accountants and auditors. These reports shall include careful consideration of 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. These reports may include the adequacy of the audit effort by the Corporation's independent accountants and 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 control.

(d) The Finance & Audit Committee shall be comprised of not less than three independent members, within the meaning of, and to the extent required by, Section 2825 of the New York Public Authorities Law, as amended from time to time. In the event that the Corporation has less than three independent members of its Board, the Corporation may appoint non-independent members to the Finance & Audit Committee, provided that the independent members must constitute a majority of the members of the Finance & Audit Committee.

8. GOVERNANCE COMMITTEE.

(a) The Governance Committee shall be comprised of the following:

(i) At least three (3) independent individuals appointed with the consent of the Board at the annual meeting of the Board, who shall serve for terms of one (1) year.

(b) The committee chair for the Governance Committee shall be designated by a majority of the Board.

(c) The Governance Committee shall be responsible to:

(i) Keep the Board informed of current best governance practices;

(ii) Review corporate governance trends;

(iii) Update the Corporation's corporate governance principles; and

(iv) Advise those responsible for appointing members to the Board of the skills and experience required of potential Board members.

(d) The Governance Committee shall be comprised of not less than three independent members, within the meaning of, and to the extent required by, Section 2825 of the New York Public Authorities Law, as amended from time to time. In the event that the Corporation has less than three independent members of its Board, the Corporation may appoint non-independent members to the Governance Committee, provided that the independent members must constitute a majority of the members of the Governance Committee.

ARTICLE VI – OFFICERS

1. OFFICERS, APPOINTMENT, TERM.

(a) Appointed Officers

The officers of the Erie County Industrial Development Agency (the "ECIDA") shall hold the same positions with this Corporation. Their term of office as officers of the Corporation shall be concurrent with their term of office as officers of the ECIDA. The Board will appoint such other officers as it may determine, who shall have such duties, powers and functions as hereinafter provided. Such officers' term of office shall be concurrent with the term of office of the ECIDA officers. Should the term of a director expire, or should the term of employment with the Corporation of an officer who is not a director expire, his or her term as an officer shall simultaneously expire. Notwithstanding the provisions set forth in this Article, the powers to perform and exercise the duties and functions of any of the officers of the Corporation may be limited from time to time via resolution of the Board.

(b) Removal and Resignation

Any officer appointed by the Board may be removed by the Board with or without cause. In the event of the death, resignation or removal of an officer, the Board in its discretion may appoint a successor to fill the unexpired term. Any two (2) or more offices may be held by the same person, except the offices of President/Chief Executive Officer (CEO) and Secretary.

2. VICE-CHAIR. The Vice-Chair shall perform the duties of the Chair in the absence or incapacity of the Chair. In the event of the resignation or death of the Chair, the Vice-Chair shall become acting Chair and perform the duties of the Chair until such time as the Corporation shall appoint a new Chair.

3. PRESIDENT/CHIEF EXECUTIVE OFFICER (CEO). The President/CEO shall be the chief executive officer of the Corporation. The President/CEO may not be a member of the Corporation. He/She shall attend all meetings of the Corporation and its committees with the right to take part in

discussions and to recommend such measures as he/she may deem necessary or expedient, and he/she shall perform such other duties and shall have such other powers as may be prescribed for him/her by law or by the Corporation. The President/CEO shall have the authority to sign all agreements, contracts, deeds and any other instruments on behalf of the Corporation. The President/CEO shall have all necessary incidental powers to perform and exercise any of the duties and functions as specified above or lawfully delegated to him/her. He/She shall exercise supervision and control of all administrative functions of the Corporation, including personnel budgeting, program and policy implementation. He/She shall be responsible to the Corporation for the implementation of all resolutions, orders, programs or projects of the Corporation.

4. VICE PRESIDENTS. Any one or more of the Vice Presidents may be designated by the Corporation as an Executive Vice President. The Vice Presidents or Executive Vice President may not be a member of the Corporation. The Executive Vice President shall have such powers and perform such duties as the directors may from time to time prescribe. In the absence or inability of the President/CEO to perform his/her duties or exercise his/her powers, the Executive Vice President, or, if there be more than one, a Vice President designated by the Corporation, shall exercise the powers and perform the duties of the President/CEO subject to the direction of the Corporation.

5. TREASURER. The Treasurer shall have the care and custody of all the funds and securities of the Corporation and shall deposit said funds in the name of the Corporation in such bank or trust company as the directors may elect; he or she shall, when duly authorized by the Board, sign and execute all contracts in the name of the Corporation, he or she shall also sign all checks, drafts, notes and orders for the payment of money, which shall be duly authorized by the Board and shall be countersigned by the President/CEO or a Vice President; he or she shall at all reasonable times exhibit his or her books and accounts to any director or member of the Corporation upon application at the office of the Corporation during ordinary business hours. The Treasurer shall not be a member and/or director of the Corporation. At the end of the corporate year, he or she shall present the results of the independent audit performed by the accounting firm hired for such purposes at the annual meeting of the members, at which time he or she shall also present an annual report setting forth in full the financial conditions of the Corporation. During the absence or disability of the Executive Vice President, the Treasurer shall also solicit and guide the preparation of loan, grant or assistance applications and have authority to present such applications to the Board for its review and approval.

6. ASSISTANT TREASURER. During the absence or disability of the Treasurer the Assistant Treasurer designated by the Chair, shall have the powers and functions of the Treasurer. The Assistant Treasurer shall not be a member and/or director of the Corporation.

7. SECRETARY. The Secretary shall keep the minutes of the Board and also the minutes of the members. He or she shall have the custody of the seal of the Corporation and shall affix and attest the same to documents when duly authorized by the Board. He or she shall attend to the giving and serving of all notices of the Corporation and shall have charge of such books and papers as may be assigned to him or her and perform all the duties incidental to his or her office. He or she shall keep a membership roll containing the names, alphabetically arranged, of all persons who are members of the Corporation, showing their places of residence and the time when they became members.

8. ASSISTANT SECRETARY. During the absence or disability of the Secretary, the Assistant Secretary, or if there are more than one, the one so designated by the Chair, shall have all the powers and functions of the Secretary.

9. SURETIES AND BONDS. In case the Board shall so require, any officer or agent of the Corporation shall execute to the Corporation a bond in such sum and with such surety or sureties as the Board may direct, conditioned upon the faithful performance of his or her duties to the Corporation and including responsibility for negligence and for the accounting for all property, funds or securities of the

Corporation which may come into his or her hands.

ARTICLE VII – SEAL

The seal of the Corporation shall be in the form of a circle and shall bear the name of the Corporation and the year of its organization.

ARTICLE VIII – CONSTRUCTION

If there be any conflict between the provisions of the Certificate of Incorporation and these By-Laws, the provisions of the Certificate of Incorporation shall govern.

ARTICLE IX - ETHICAL STANDARDS

1. Except for any Prohibited Conflict as defined under State Law and as expressed within the Corporation's Code of Ethics, as amended from time to time, all members, directors, officers or employees of the Corporation shall adhere to the following procedures:

(a) All real and potential conflicts of interest shall be disclosed in writing to the Ethics Officer as soon as practicable after learning of the real or potential conflict of interest. The written disclosure must (i) identify the matter before the Corporation, (ii) identify the Standard of Conduct in question and (iii) contain sufficient facts and circumstances in order to accurately convey the extent of the member's, director's, officer's or employee's interest in such matter. In addition, in the event a member or director of the Corporation has a conflict, he or she shall verbally disclose the conflict during a public session of a Corporation meeting at which the matter creating the conflict appears on the agenda. Such verbal disclosure shall be recorded in the minutes of the meeting and be made part of the public record.

(b) The member, director, officer or employee with the conflict of interest shall refrain from participating in discussions or decisions on the matter creating the conflict. In addition, in the event a member of the Corporation has a conflict, he or she shall recuse him or herself from any deliberations and abstain from voting on such matter creating the conflict.

(c) The member, director, officer or employee with the conflict of interest shall refrain from directly or indirectly attempting to influence the discussions, decisions, deliberations or vote on the matter giving rise to such conflict.

2. In all other respects, the member, directors, officers and employees of the Corporation shall operate in accordance with ethical standards as enumerated in the Not-for-Profit Corporation Law of the State of New York, as the same may be amended from time to time, and any ethics or conflicts of interest policy statement approved by the Board, and any ethical standards imposed under all applicable State and Federal laws, as the same may be amended from time to time.

3. In addition to any other ethical standards applicable to any member or director of the Corporation pursuant to these By-Laws or other applicable law, a majority of the members and directors of the Corporation, other than those who serve by virtue of holding a civil office of the State of New York, shall, to the extent required by law, be "independent members," as defined in Section 2825 of the New York Public Authorities Law, as amended from time to time.

ARTICLE X - INDEMNIFICATION OF MEMBERS

DIRECTORS AND OFFICERS

Any person made a party to any action, suit or proceeding by reason of the fact that he or she is or was a member, director, officer or employee of the Corporation, or any corporation which he or she served as such at the request of this Corporation, shall be indemnified by this Corporation against the reasonable expenses, including attorney's fees, actually and necessarily incurred by him or her in connection with the defense of such action, suit or proceeding or in connection with any appeal therein, except in relation to matters as to which it shall be adjudged in such action, suit or proceeding that (i) such member, director, officer or employee acted in bad faith, (ii) liability resulted from the active and deliberate dishonesty of such individual, or (iii) such individual gained in fact a financial profit or other advantage to which he or she was not legally entitled. Such right of indemnification shall not be exclusive of any other rights to which such member, director, officer or employee may be entitled to apart from the provisions of this Article.

ARTICLE XI – AMENDMENTS

The By-Laws may be adopted, amended or repealed by the affirmative vote of at least a majority of the individuals then serving as directors or by the affirmative vote of the Member of the Corporation.

ARTICLE XII – DISSOLUTION

In the event of the dissolution of the Corporation or the winding up of its affairs, the Board of Directors shall, after paying or making provision for the payment of all debts and liabilities of the Corporation of whatsoever kind or nature, distribute all of the remaining assets and property of the Corporation to Erie County for furtherance of the purposes set forth in paragraph (a) of Section 1411 of the Not For Profit Corporation Law. Any of such assets not so disposed of shall be disposed of by order of the Supreme Court of the State of New York pursuant to Section 1008 of the Not For Profit Corporation Law.

ARTICLE XIII – MISCELLANEOUS

It shall be the policy of the Corporation to adopt By-Laws, rules, regulations, policies, procedures and conduct its operations in accordance with all applicable State, Federal and local laws.

Amended and Adopted July 10, 2006
Amended and Adopted September 10, 2007
Amended and Adopted April 20, 2009
Amended and Adopted November 9, 2009
Amended and Restated and Adopted December 8, 2009
Amended and Adopted March 21, 2011
Amended and Adopted April 22, 2015
Re-adopted April 24, 2024



MEMORANDUM

Date: April 24, 2023

To: Buffalo and Erie County Industrial Land Development Corporation (“ILDC”)

From: ILDC Staff

Re: Design and Engineering Services for the Ag Park Road Infrastructure Project at the Erie County Agribusiness Park

Summary:

The Buffalo and Erie County Land Development Corporation (“ILDC”) issued a Request for Proposals (“RFP”) on February 9, 2024, seeking a qualified Architectural and Engineering (“A/E”) firm to provide design and engineering services for the Ag Park Road Infrastructure Project at the Erie County Agribusiness Park, the former Angola airport, in the Town of Evans.

The ILDC partnering with Erie County seeks to construct approximately 325 feet of new roadway extending north from Eden Evans Center Road to connect with a former north-south aircraft runway that will be converted to a new road with utility infrastructure capable of supporting the future buildout of development parcels for Agribusiness Park tenants. The former runway is approximately 3,200 feet long, though this project will only involve conversion of approximately 1,200 feet. The road will serve as the site’s main access route, providing truck and vehicle access to the site including any future service roads and development parcels.

The project will also require the demolition of four one-story metal buildings, totaling approximately 14,700 sf, which were used by the former airport for various purposes including warehousing and offices.

RFP Process:

In response to the RFP, ILDC received five (5) quality proposals from highly qualified A/E firms. The proposals were thoroughly evaluated February 28, 2024, by the seven-member Selection Committee, made up of staff from the ILDC, Erie County and the Town of Evans. Following a review of the proposals as well as interviews with two firms, the ILDC/Selection Committee selected LiRo Engineers, Inc. d/b/a LiRo-Hill (“LiRo”) as the top respondent to the RFP. As a result of the selection process, the ILDC recommends awarding LiRo the Ag Park Infrastructure Road Project and having the firm provide Engineering Documents (Engineer’s Report, Design Plans, and Specifications) along with construction administration and resident engineer services during construction work on the project.

Funding:

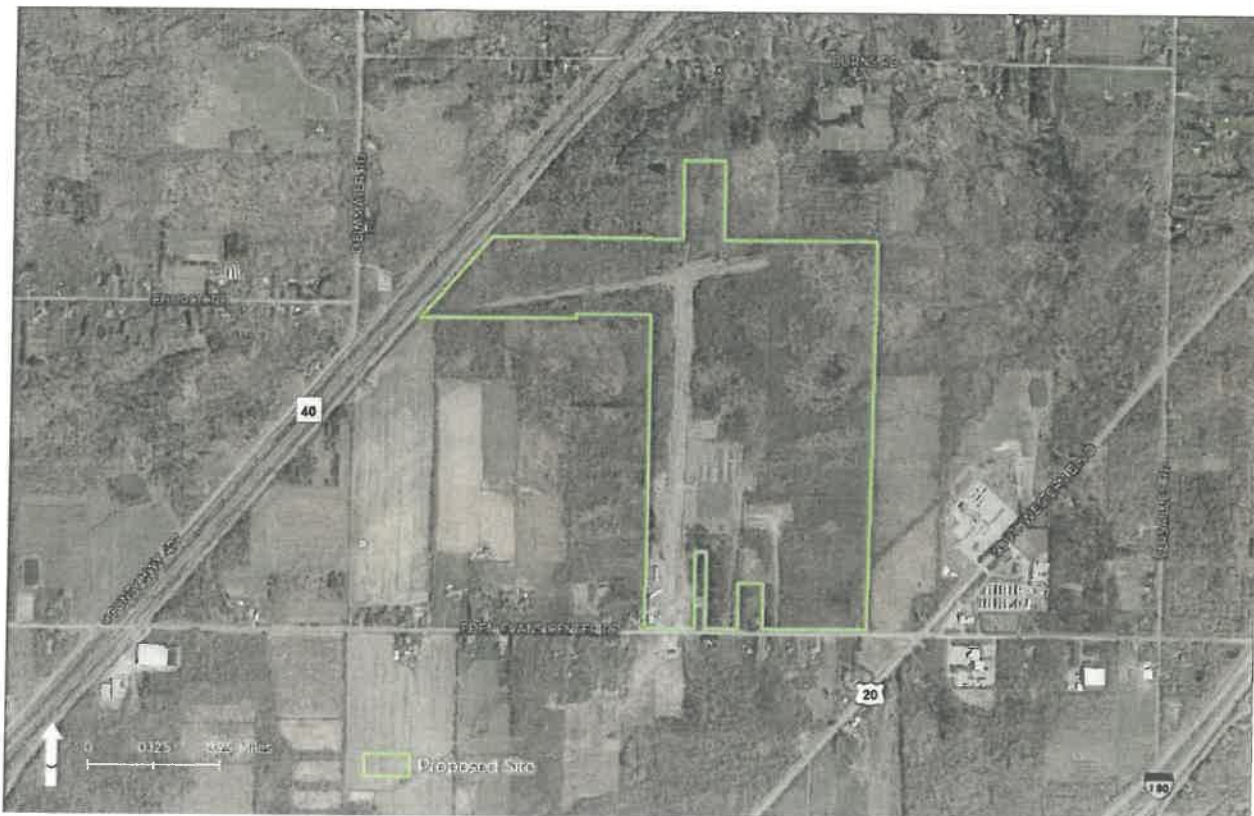
On March 16, 2022, the ILDC received notification from Empire State Development (“ESD”) of an award in the amount of **\$250,000** for the Ag Park Road Infrastructure Project to support building demolition, and construction of the new industrial entrance road and utilities. These funds will be used for the design and engineering phase of the project.

Requested Action:

Seeking approval from the ILDC Board of Directors to contract with LiRo Engineers, Inc. d/b/a LiRo-Hill to provide design and engineering services for the Ag Park Road Infrastructure Project at the Erie County Agribusiness Park in the Town of Evans and to take all actions necessary to implement the project as described.

Map:

Figure 1: Project Site Location, Town of Evans, NY



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

RESOLUTION

A regular meeting of the Buffalo and Erie County Industrial Land Development Corporation was convened on Wednesday, April 24, 2024, at 12:30 p.m.

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

RESOLUTION OF THE BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION (“ILDC”) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A CERTAIN AGREEMENT WITH LIRO ENGINEERS, INC D/B/A LIRO-HILL (“LIRO”) IN AN AMOUNT NOT TO EXCEED \$250,000 TO BE UTILIZED FOR ENGINEERING SERVICES IN RELATION TO THE ILDC’S CONTEMPLATED ROAD INFRASTRUCTURE PROJECT AT THE ANGOLA AGRI-BUSINESS PARK

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 (the “NPC Law”), to relieve and reduce unemployment, promote and provide for additional and maximum employment, better and maintain job opportunities in Erie County (the “County”) and to lessen the burdens of government and act in the public interest; and

WHEREAS, the ILDC owns approximately 240 acres of real property located at and adjacent to 1526 Eden Evans Center Road, Evans, NY 14006 (the “Real Property”) and acquired same for purposes of developing an agribusiness park (the “Erie County Agribusiness Park”) consistent with the ILDC’s job creation mission and to assist the County in efforts to alleviate the burdens of government; and

WHEREAS, the ILDC, in partnership with the County, seeks to (i) construct approximately 325 feet of new roadway extending north from Eden Evans Center Road to connect with a former north-south aircraft runway, of which approximately 1,200 feet will be converted to a new road with utility infrastructure capable of supporting the future buildout of development parcels for Agribusiness Park tenants, and serving as the Erie County Agribusiness Park’s main access route, and (ii) demolish four (4) one-story metal buildings, totaling approximately 14,700 square feet located within the Erie County Agribusiness Park (collectively, the “Ag Park Road Infrastructure Project”); and

WHEREAS, on March 16, 2022, the ILDC received notification from Empire State Development (“ESD”) of an award in the amount of \$250,000 to support building demolition, and construction of the new industrial entrance road and utilities in furtherance of the Ag Park Road Infrastructure Project; and

WHEREAS, the ILDC requires certain design and engineering services to assist with the development of the Ag Park Road Infrastructure Project, including, but not limited to providing provide engineering documents (including an engineer’s report, design plans, and specifications) along with construction administration and resident engineer services during construction work on the Ag Park Road Infrastructure Project (the “Ag Park Engineering Services”); and

WHEREAS, the ILDC issued a Request for Proposals (“RFP”) on February 9, 2024, seeking a qualified Architectural and Engineering (“A/E”) firm to provide the Ag Park Engineering Services; and

WHEREAS, in response to the RFP, the ILDC received five (5) quality proposals from highly qualified A/E firms, which were thoroughly evaluated on February 28, 2024 by the seven-member Selection Committee, made up of staff from the ILDC, the County and the Town of Evans; and

WHEREAS, following a review of the proposals, as well as interviews with two firms, the ILDC/Selection Committee selected LiRo Engineers, Inc. d/b/a LiRo-Hill (“LiRo”) as the top respondent to the RFP, and ILDC recommends retaining LiRo for the Ag Park Engineering Services; and

WHEREAS, to facilitate the completion of the Ag Park Engineering Services, the ILDC desires to enter into an agreement with Liro in an amount not to exceed \$250,000 to be used to complete the Ag Park Engineering Services; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA"), the ILDC must satisfy the applicable requirements set forth in SEQRA prior to undertaking the action as described herein; and

WHEREAS, the action contemplated herein involves the conducting of engineering studies and services, does not otherwise commit the ILDC to commence or engage in any activity and pursuant to 6 N.Y.C.R.R. §617.5(c)(27) of the SEQRA regulations, and as a result, the action contemplated herein is a Type II Action as defined thereunder and no findings or determination of significance are required under SEQRA.

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

Section 1. Subject to the terms of this Resolution, the Chair, the Vice Chair, the President/Chief Executive Officer, the Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer, in consultation with ILDC counsel, are hereby authorized, on behalf of the ILDC, to negotiate and to enter into an agreement with LiRo in an amount not to exceed \$250,000, to be used to complete the Ag Park Engineering Services, and any appropriate change or scope additions as approved by the Chief Executive Officer, in consultation with the ILDC

Board Chair, and to take all actions necessary to implement the Ag Park Road Infrastructure Project as described.

Section 2. The officers, employees, and agents of the ILDC are hereby authorized and directed for and in the name and on behalf of the ILDC to do all acts and things required and to execute and deliver all such checks, certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent so acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the ILDC with all of the terms, covenants and provisions of the documents executed for and on behalf of the ILDC.

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

Section 4. These resolutions shall take effect immediately.

Dated: April 24, 2024