

ERIENET LOCAL DEVELOPMENT CORPORATION

MEMORANDUM

January Board Meeting Information

January 20, 2023

To: The Members of the Board of Directors

From: Thomas E. Baines, Esq., Chair 

Attached is the agenda and accompanying materials that will be discussed during the January meeting of the Board of Directors, which will take place at the Offices of the ECIDA, 4th floor Conference Room Buffalo, New York 14203, Monday, January 23, 2022 at 2:00 p.m.

Should you have any questions regarding the attached information, please contact me at (716) 858- 8390.

Thank you,

TEB/ci

Cc: Benjamin Swanekamp

Attachments

ERIENET LOCAL DEVELOPMENT CORPORATION

Meeting of the Board of Directors

ECIDA, 4th Floor Conference Room

95 Perry Street

Buffalo, New York 14203

Monday, January 23, 2023, 2:00 p.m.

Agenda

1. Roll call and declaration of quorum
2. Approval of the Draft Minutes from the Friday, December 16, 2022 Board Meeting
3. Report of the Chair
 - i. ECC Technologies Update – Matt Crider
 - ii. Board Meeting Calendar
 - iii. Executive Director Search Update
4. Committee Reports- No Committees met
5. Unfinished Business - No unfinished business
6. Resolutions
 - 23-01 RESOLUTION OF THE ERIENET LOCAL DEVELOPMENT CORPORATION (“ENLDC”) AUTHORIZING (i) THE NEGOTIATION AND EXECUTION OF AN AGREEMENT TO ENGAGE LEIDOS ENGINEERING OF NY, PC TO PROVIDE ENGINEERING AND DESIGN SERVICES FOR ATTACHMENT OF BROADBAND ASSETS UPON AND WITHIN NATIONAL GRID INFRASTRUCTURE AND (ii) THE NEGOTIATION AND EXECUTION OF AN AGREEMENT TO ENGAGE ECC TECHNOLOGIES, INC. TO PROVIDE SALES, MARKETING, AND OPERATIONS SUPPORT SERVICES
7. Adjournment – (Next board meeting: February 21, 2023)

ErieNet Local Development Corporation

Board Meeting

Friday, December 16, 2022

DRAFT Meeting Minutes

The Board of Directors meeting was held on December 16, 2022, in the Conference Room on the tenth floor of the Edward A. Rath County Office Building located at 95 Franklin Street, Buffalo, New York and by videoconference, in accordance with the Corporation's Bylaws and Chapter 1 of the Laws of 2022. A quorum was present as indicated:

Members:

Mark Cornell, Erie County Deputy Budget Director
Jeremy Toth, Erie County Attorney
Daniel Castle, Erie County Commissioner of Environment and Planning
John Spears, Director of the Buffalo and Erie County Public Library
Thomas E. Baines, Erie County Deputy Commissioner of Planning & Economic Development

Absent:

Michael Breeden, Erie County Chief Information Officer
Joseph Lorigo, Erie County Legislature Minority Leader
Timothy Meyers, Erie County Legislature Majority Leader

Other Attendees:

Benjamin Swanekamp, Erie County Chief of Staff

1. Open Board Meeting, Roll Call, and declaration of Quorum – The meeting was called to order by the Chair of the Board at 2:01 p.m., roll call was taken by Courtney Scordato and a quorum was declared present.
2. Approval of the Draft Minutes from September 12, 2022 Initial Board Meeting – Upon motion by Mr. Toth and seconded by Mr. Cornell, the Draft Board Minutes were unanimously approved.
3. Report of the Chair
 - i. Administrative Services
 - a. Marketing & Sales RFP – Chairman Baines informed the Board that the RFP for Marketing & Sales has been posted and all submission are due by December 21st. A selection committee of Mr. Spears, Mr. Breeden and Mr. Baines will be meeting to review and discuss once all submissions received.
 - b. Executive Director – Chairman Baines stated a posting for the Executive Director position has been listed and at this time, we have received 14

resumes. Mr. Baines will compile a list of all applicants for the Personnel Committee to review once the posting is closed.

- c. ConnectAll Meeting – Mr. Castle provided an update to the Board about the 12/16/22 meeting that took place. Until January 13th the County has the ability to review and challenge areas covered by service providers. Mr. Castle stated that if there are areas that indeed are not covered, the County can provide proof of no-coverage and potentially receive funding to get coverage in that particular area. Mr. Castle states he will have an update at the next Board Meeting.

4. Committee Reports – Mr. Toth reached out to Robert Murry to establish Governance Committee.

5. Unfinished Business – No unfinished business

6. Resolutions

22-05 RESOLUTION OF THE ERIENET LOCAL DEVELOPMENT CORPORATION (“ENLDC”) TO (i) NEGOTIATE AND EXECUTE A CERTAIN MEMORANDUM OF UNDERSTANDING WITH THE COUNTY OF ERIE GOVERNING THE RECEIPT AND UTILIZATION OF FEDERAL AMERICAN RESCUE PLAN FUNDING (“ARP FUNDS”) AND (ii) APPROVE OF THE PURCHASE OF CERTAIN PROJECT EQUIPMENT

Upon motion by Mr. Toth and seconded by Mr. Castle, Resolution 22-01 was unanimously approved.

7. Adjournment - Upon motion made by Mr. Toth and seconded by Mr. Spears the meeting adjourned at 2:19 p.m.

BY: _____

**ERIENET LOCAL DEVELOPMENT CORPORATION
RESOLUTION 23-01**

A regular meeting of the ErieNet Local Development Corporation was convened on January 23, 2023 at 2:00, p.m.

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

RESOLUTION OF THE ERIENET LOCAL DEVELOPMENT CORPORATION (“ENLDC”) AUTHORIZING (i) THE NEGOTIATION AND EXECUTION OF AN AGREEMENT TO ENGAGE LEIDOS ENGINEERING OF NY, PC TO PROVIDE ENGINEERING AND DESIGN SERVICES FOR ATTACHMENT OF BROADBAND ASSETS UPON AND WITHIN NATIONAL GRID INFRASTRUCTURE AND (ii) THE NEGOTIATION AND EXECUTION OF AN AGREEMENT TO ENGAGE ECC TECHNOLOGIES, INC. TO PROVIDE SALES, MARKETING, AND OPERATIONS SUPPORT SERVICES

WHEREAS, the ENLDC is an affiliate of the County of Erie (the “County”) and 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, ENLDC was specifically created and empowered by the County to study, design, and engineer an Open Access Network and to ultimately install internet services within and throughout the County to ensure growth, equity and prosperity for the County (the “Project”), and

WHEREAS, it is contemplated that certain portions of the Project, including but not limited to certain fiber optic cable and supporting equipment (collectively, the “Broadband Assets”) will necessarily need to be installed upon and/or located within existing distribution poles, ducts and rights-of-ways owned and under the jurisdiction of National Grid (the “National Grid Infrastructure”); and

WHEREAS, prior to installing Broadband Assets upon/within the National Grid Infrastructure, National Grid requires that ENLDC undertakes certain required pre-construction survey and engineering design and make ready work analysis and studies of the National Grid Infrastructure (the “Infrastructure Analysis”) for purposes of ensuring that Broadband Assets installation and operations can utilize and not otherwise adversely impact National Grid Infrastructure; and

WHEREAS, National Grid has preapproved five engineering firms, and otherwise will only permit one of these preapproved five engineering firms, to undertake the required Infrastructure Analysis; and

WHEREAS, on September 8, 2022, ECC Technologies, Inc. (“ECC”), on behalf of ENLDC, and in compliance with National Grid’s requirements, issued a request for proposals to the five preapproved engineering firms seeking to procure a service provider to undertake the required Infrastructure Analysis (the “Infrastructure RFP”); and

WHEREAS, only two of the five preapproved engineering firms responded to the Infrastructure RFP, and

WHEREAS, the Chair and ECC have reviewed the two RFP responses, and based upon cost a differential of approximately \$200,000, recommend that ENLDC engage Leidos Engineer of NY, PC (“Leidos”) to undertake the Infrastructure Analysis; and

WHEREAS, ENLDC desires to engage a consultant to provide operations management services, sales and operations administration, marketing services, general administration services, customer services, pre-sales design services, and network operations services (collectively, “Sales, Marketing, and Operations Support Services”); in support of the Project; and

WHEREAS, ENLDC desires that the Sales, Marketing, and Operations Support Services consultant will, as ENLDC transitions from design and construction to operations, facilitate and oversee the buildout and maintenance of the Project’s client base, including municipalities and those in the telecommunications, healthcare, and education industries; and

WHEREAS, on November 30, 2022, ENLDC issued a Sales, Marketing, and Operations Support Services request for proposals for (the “Sales, Marketing and Operations RFP”), in a manner consistent with its Procurement Policy, to seven qualified firms and posted the Sales, Marketing and Operations RFP on the Erie County Division of Purchase Procurement website: and

WHEREAS, ECC was the only respondent to the Sales, Marketing and Operations RFP; and

WHEREAS, an ENLDC selection committee met on January 11, 2023 to review the ECC Sales, Marketing and Operations RFP response and based upon ECC’s knowledge of the industry and the Project, the selection committee recommends that ENLDC engage ECC to undertake the activities as so specified within the Sales, Marketing and Operations RFP.

NOW, THEREFORE, BE IT RESOLVED BY THE ERIENET LOCAL DEVELOPMENT CORPORATION AS FOLLOWS:

Section 1. The ENLDC hereby ratifies, authorizes, and approves of the issuance of the Leidos RFP and the Sales, Marketing and Operations RFP.

Section 2. In accordance with the New York State Environmental Quality Review Act (“SEQRA”), the Infrastructure Analysis is a Type II action exempt from review pursuant to Section 617.5(c)(27) of the SEQRA regulations.

Section 3. In accordance with SEQRA, the action so specified within the Sales, Marketing and Operations RFP is a Type II action exempt from review pursuant to Section 617.5(c)(25) and (26)) of the SEQRA regulations.

Section 4. Based upon the foregoing, and in compliance with ENLDC’s Procurement Policy, the ENLDC hereby selects Leidos to undertake the Infrastructure Analysis, and hereby authorizes the Chair to negotiate and execute a contract with

Leidos, in consultation with the ENLDC's general counsel, to undertake the Infrastructure Analysis, in an amount not to exceed \$1,238,400 and any appropriate change orders or scope additions as approved by the Chair.

Section 5. Based upon the foregoing, and in compliance with ENLDC's Procurement Policy, the ENLDC hereby selects ECC to undertake the services described in the Sales, Marketing and Operations RFP and hereby authorizes the Chair to negotiate and execute a contract with ECC, in consultation with the ENLDC's general counsel, in an amount not to exceed \$1,440,000 and any appropriate change orders or scope additions as approved by the Chair.

Section 5. The officers, employees and agents of the ENLDC are hereby authorized and directed for and in the name and on behalf of the ENLDC to do all acts and things required and to negotiate, execute and deliver all such 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 acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the ENLDC with all of the terms, covenants and provisions of the documents executed for and on behalf of the ENLDC as related thereto and hereto.

Section 6. 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 7. This resolution shall take effect immediately.

Dated: January 23, 2023

ERIENET LOCAL DEVELOPMENT CORPORATION

MEMORANDUM

FROM: Thomas E. Baines, Esq., Chair
TO: ErieNet Local Development Corp. Board of Directors
DATE: January 23, 2023
RE: **RFP for Sales, Marketing & Operating Services**

On November 30, 2022, ErieNet Local Development Corp. in accordance with the ErieNet Procurement Policy, advertised and issued an RFP seeking proposals for sales, marketing, and operations support services. The purpose of this RFP is to obtain meaningful, competitive proposals so the Corporation may select a firm that best meets its needs and requirements in managing its day-to-day operations and executing elements of its business plan. As ErieNet transitions from design and construction to operation of its fiber optic network, it is seeking to build and maintain a client base, including municipalities and those in the telecommunications, healthcare, and education industries.

Despite the fact that the RFP was distributed via email to over seven (7) firms, as well as shared through the Erie County Division of Purchase Procurement site, only ECC Technologies submitted a proposal.

A Selection Committee consisting of three ErieNet Board members (Thomas E. Baines, Dan Castle, Mike Breeden) was established to review the proposal. Committee members were provided Conflict of Interest (COI) Certifications that listed the bidding firm and any subcontractors, a proposal ranking matrix, and a copy of the technical proposal. Each member independently reviewed the proposal based on the RFP criteria.

The Selection Committee met on January 11, 2023 to discuss the proposal. members commented that ECC has a wealth of knowledge in the industry and inherent familiarity with ErieNet's mission and goals since they have been integral in development of the ErieNet Feasibility Study, and Business Plan. It was also commented that ECC should put forth more effort to finding MWBE sub-contractors. Following the technical review, committee members reviewed the proposed cost.

After the Selection Committee met, ECC gave an overview of their proposal.

It was the unanimous vote of the Selection Committee to select ECC's proposal for the project.

ERIENET LOCAL DEVELOPMENT CORPORATION

MEMORANDUM

FROM: Thomas E. Baines, Esq., Chair
TO: ErieNet Local Development Corp. Board of Directors
DATE: January 23, 2023
RE: **RFP for Make Ready Engineering**

On September 8, 2022, ECC Technologies, on behalf of ErieNet Local Development Corp., issued an RFP seeking proposals to procure a make ready engineering contractor to assess approximately 6,000 poles on behalf of National Grid.

National Grid has five (5) approved external Design Engineer Contractors (TRC, Leidos, CHA, Osmose, PowerEngineering) for Pre-Construction Survey and Engineering Design and Make Ready work. Further, National Grid has made its Asset Management and Workflow Management systems available to these Contractors to be able to utilize existing records and complete the requirements necessary.

The RFP was distributed via email to all five (5) firms via email. Of the five that received the RFP, only two responded. Of the three that did not respond, two declined due to workload, the other did not respond to repeated emails and phone calls.

Given the highly technical nature of the service, the ECC team reviewed both quotes from the two respondents (Leidos and CHA) and made the recommendation to ErieNet LDC based upon pricing, see the table below.

Costs based on 6,000 poles	Unit price		Total price	
	CHA	Leidos	CHA	Leidos
Field collection per pole	\$ 115.00	\$ 140.00	\$ 690,000.00	\$ 840,000.00
GIS design per pole	\$ 115.00	\$ 65.00	\$ 690,000.00	\$ 390,000.00
Pole loading 240-4% of the poles	\$ 260.00	\$ 35.00	\$ 62,400.00	\$ 8,400.00
			\$ 1,442,400.00	\$ 1,238,400.00
	Cost difference		\$ 204,000.00	

It is the recommendation of our consultant ECC Technologies to award Leidos Engineering this contract.



LOCAL DEVELOPMENT CORPORATION

ErieNet LDC Board of Director's Meeting Schedule - 2023

Monday, January 23	2:00 p.m.
Tuesday, February 21	1:00 p.m.
Tuesday, March 21	1:00 p.m.
Tuesday, April 18	1:00 p.m.
Tuesday, May 16	1:00 p.m.
Tuesday, June 20*	1:00 p.m.
Tuesday, July 18	1:00 p.m.
Tuesday, August 15	1:00 p.m.
Tuesday, September 19*	1:00 p.m.
Tuesday, October 17	1:00 p.m.
Tuesday, November 21	1:00 p.m.
Tuesday, December 19	1:00 p.m.