

ERIENET LOCAL DEVELOPMENT CORPORATION

MEMORANDUM

May Board Meeting Information

May 16, 2023

To: The Members of the Board of Directors

From: Melissa Hartman, Executive Director

Attached is the agenda and accompanying materials that will be discussed during the May meeting of the Board of Directors, which will take place at the Offices of the ECIDA, 95 Perry Street, 4th floor Conference Room, Buffalo, New York 14203, Tuesday, May 16, 2023 at 1:00 p.m.

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

Thank you,

MMH/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

Tuesday, May 16, 2023, 1:00 p.m.

Agenda

1. Roll call and declaration of quorum
2. Approval of the Draft Minutes from the Tuesday, April 18, 2023 Board Meeting
3. Report of the Chair
 - i. Construction Services RFP/CLW update
4. Executive Director's Report – Melissa Hartman
5. Committee Reports- No Committees met this month.
6. Unfinished Business - No unfinished business.
7. Resolutions
 - 2023-08** RESOLUTION OF THE ERIENET LOCAL DEVELOPMENT CORPORATION ("ENLDC") AUTHORIZING THE EXECUTION OF A USER AGREEMENT FOR TEMPORARY OFFICE AT THE BUFFALO AND ERIE COUNTY LIBRARY ("B&ECPL")
 - 2023-09** RESOLUTION OF THE ERIENET LOCAL DEVELOPMENT CORPORATION ("ENLDC") AUTHORIZING THE NEGOTIATION AND EXECUTION OF AN AGREEMENT TO ENGAGE UBERTECHIT SERVICES, INC. TO PROVIDE INFORMATION TECHNOLOGY ("IT") SERVICES
 - *2023-10** – (Construction Services)
8. Adjournment – (Next board meeting: June 20, 2023)

ErieNet Local Development Corporation

Board Meeting

Tuesday, April 18, 2023

DRAFT Meeting Minutes

The Board of Directors meeting was held on April 18, 2023, in the Board Room on the fourth floor of the ECIDA office located at 95 Perry Street, Buffalo, New York 14203 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:

Thomas E. Baines, Erie County Deputy Commissioner of Planning & Economic Development
Michael Breeden, Erie County Chief Information Officer
Daniel Castle, Erie County Commissioner of Environment and Planning
Mark Cornell, Erie County Deputy Budget Director
Jason Keding, Town of Boston
John Mills, Erie County Legislature Minority Leader
John Spears, Director of the Buffalo and Erie County Public Library
Jeremy Toth, Erie County Attorney

Absent:

Timothy Meyers, Erie County Legislature Majority Leader

Other Attendees:

Benjamin Swanekamp, Erie County Chief of Staff
Courtney Italia, Erie County Environment & Planning
Matt Crider, ECC Technologies
Mac Zukoff, ECC Technologies
Melissa Hartman
Robert Murry, Harris Beach

1. Open Board Meeting, Roll Call, and declaration of Quorum – The meeting was called to order by the Chair of the Board at 1:04 p.m., roll call was taken by Mr. Baines and a quorum was declared present.
2. Approval of the Draft Minutes from March 21, 2023 Board Meeting – Upon motion by Mr. Mills and seconded by Mr. Breeden the Draft Board Minutes were unanimously approved.
3. SEQR Update – Mr. Murry (Harris Beach) gave an overview of the steps that ErieNET takes to make sure the corporation stays within the regulations of SEQR.

4. Report of the Chair

i. Welcome – Melissa Hartman

Executive Session: Upon motion made by Mr. Castle and seconded by Mr. Mills the Board went into Executive Session (*Pursuant to Public Officers Law 105 (1)(f)*). No actions were taken during Executive Session. Motion made by Mr. Keding and seconded by Mr. Castle to exit Executive Session.

ii. ECC Technologies Update - Mr. Crider gave a brief update on the status of the ErieNet design and easements. See Attachment

5. Committee Reports-

i. Personnel Committee – It is the recommendation that an employment agreement is executed between ENLDC and Melissa Hartman appointing her as Executive Director upon presentation of Resolution 23-04 on the Board meeting agenda.

ii. Selection Committee – Construction Services RFP – ECC/RFP Selection Committee – Mr. Baines and Mr. Crider gave the board an overview of the sole company who sent in a proposal. Discussion ensued. ECC Technologies will gather additional information about the company and other risk mitigating factors.

6. Unfinished Business – No unfinished business

7. Resolutions

23-04 RESOLUTION OF THE ERIENET LOCAL DEVELOPMENT CORPORATION (“ENLDC”) APPPOINTING AN EXECUTIVE DIRECTOR AND AUTHORIZING THE ENLDC CHAIRPERSON IN CONSULTATION WITH THE PERSONNEL COMMITTEE AND LEGAL COUNSEL TO NEGOTIATE AND EXECUTE AN EMPLOYMENT AGREEMENT BETWEEN THE EXECUTIVE DIRECTOR AND ENLDC

Discussion ensued, and upon motion by Mr. Castle and seconded by Mr. Breeden, Resolution 23-04 was unanimously approved.

23-05 RESOLUTION OF THE ERIENET LOCAL DEVELOPMENT CORPORATION (“ENLDC”) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A SHARED SERVICES AGREEMENT WITH THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Discussion ensued, and upon motion by Mr. Breeden and seconded by Mr. Keding, Resolution 23-05 was unanimously approved.

23-06 RESOLUTION OF THE ERIENET LOCAL DEVELOPMENT CORPORATION (“ENLDC”) AUTHORIZING THE NEGOTIATION AND EXECUTION OF AN AGREEMENT WITH GRAYBAR TO PROVIDE OUTSIDE PLANT FIBER OPTIC CABLE AND TELECOMMUNICATIONS CABINETS

Discussion ensued, and upon motion by Mr. Breeden and seconded by Mr. Castle, Resolution 23-06 was unanimously approved.

23-07 RESOLUTION OF THE ERIENET LOCAL DEVELOPMENT CORPORATION (“ENLDC”) AUTHORIZING (i) THE NEGOTIATION AND EXECUTION OF AN AGREEMENT TO ENGAGE THE DDS COMPANIES TO PROVIDE PROFESSIONAL ENGINEERING SERVICES TO ENLDC

Discussion ensued, and upon motion by Mr. Cornell and seconded by Mr. Keading, Resolution 23-07 was unanimously approved.

23-08 RESOLUTION OF THE ERIENET LOCAL DEVELOPMENT CORPORATION (“ENLDC”) AUTHORIZING THE NEGOTIATION AND EXECUTION OF AN AGREEMENT TO ENGAGE DRESCHER & MALECKI, LLP (D&M) FOR AUDITING SERVICES

Mark Cornell gave a brief update on the independent external Audit for 2022 financials that Erie County is handling. Due to the nature of ErieNET’s bylaws and board appointments, ErieNET is considered a blended component of the County which therefore requires audited financials for 2022,, and upon motion by Mr. Breeden and seconded by Mr. Mills, Resolution 23-08 was unanimously approved.

8. Adjournment - Upon motion made by Mr. Toth and seconded by Mr. Breeden the meeting adjourned at 2:39 p.m.

BY: _____
Thomas E. Baines, Esq.
CHAIR

Meeting of the Board of Directors ECIDA
4th Floor Conference Room 95 Perry Street Buffalo, New York 14203
Tuesday, April 18, 2023, 1:00 p.m.

ECC Technologies Report

1. ErieNET Design & CM Contract

A. Route Design

- Route design is substantially complete.
- Mapped major institutions and employers with significant telecom budgets for Erie County against the proposed backbone. (3391) sites within ¼ mile, and (1492) within ½ mile, and (1600) within 1 mile of fiber backbone.
- Design includes new stadium site – ***Rescheduled Bills meeting to 4/25 10am Rath Rm. 1004.***
- Rath Bldg. PoP going out for bids May 2023. County bid for room improvements, and ENLDC RFP for PoP Cabinets and Equipment.
- Evaluating PS / Fire Training Center as secondary PoP. UB is open to PoP site at their North (Amherst) Campus. PoPs will also be valuable revenue generators as Co-Location Sites with Carriers and ISPs.
- Erie County will need to be lead agency for SEQR evaluation for the ErieNET project. Waiting on LDC counsel to advise as to SEQR process.

B. Utility Coordination

- Make Ready Engineering is stalled until insurances and contracts are settled.
- Attorney modifying contract language recognizing ECC Tech as Agent for LDC.
- Thomas receiving insurance quotes (USI) to compare with Lawley, and then decide.

C. Construction

- Attorney reviewing underground construction contracts (all contracts) in light of previous mentioned “agency”. Construction on hold until this is settled.

D. Fiber Optic Cable RFP

- Proposals received Friday 3/17/23 – Recommend Graybar supplying Prymision Fiber, \$1,506,040 estimated contract value.

E. Telecom Cabinets RFP

- Proposals received Friday 3/17/23 – Recommend Graybar API MiniFort, \$293,643 estimated contract value.

F. Professional Engineering Services RFP

- Proposals due Friday 3/24/23 – Recommend DDS, \$1,114,655 estimated contract value.
- DDS will use MWBE firm from Erie County List for Survey work.

G. Fiber Optic Infrastructure Installation RFP

- Proposal received 4/10/23, only (1) proposal from CLW, \$11,175,755 estimated contract value. CLW MBE firm out of Michigan, but not Erie County or NYS certified. CLW buying material via MBE supplier.
- Prior experience with Armstrong for Springville to Gowanda build, and other builds across the NYS. ECC Tech CM, Mac Zukoff, has had good results when using CLW with Armstrong builds.
- Proposal within Business Plan Budget, with 15% construction contingency. Proposal did not provide for a 100% Construction Bond. **10% retention will be held on invoiced and agreed upon completed work.**

2. ErieNET Sales, Marketing & Operations Contract

- A. 1/31/23 Contract Award Notification Letter to ECC Tech** – Waiting on LDC Attorney review of Agreement for contract execution (see prior contract mentions).

B. Marketing Plan

The design of the ErieNet marketing plan will be focused on a marketing communications strategy to maximize the potential of the ErieNet network and provide a framework for growth. The first step in this process is brand and messaging development which includes:

- Logo and branding development
- Mission Statement development
- Website design
- Social Media Platform development
- Marketing Material Creation
- Outreach Campaign Development

The anticipated timeline for initial content creation and beta website development is early May.

- C. Fulltime Sales Exec** for ErieNET hired by ECC Tech. Ty Rizek (former Charter Spectrum Business Account Executive) will be starting next week 4/24/23.
- D. Google Fiber** - Ben Swanekamp will be re-engaging Google Fiber negotiations.
- E. Connect All Program** – Broader conversation needed for last mile opportunities and how can ErieNET play a role. ECC Tech will work with our Executive Director to develop a strategy and plan.
- F. Updated Business Plan Budget & Validation of ENLDC Sales quotes**
- RFP(s) pricing received are within Business Plan budgets. ECC Tech will be developing firm pricing quotes for potential customers, particularly UB & City of Buffalo.

**ERIENET LOCAL DEVELOPMENT CORPORATION
RESOLUTION 23-08**

A regular meeting of the ErieNet Local Development Corporation was convened on May 16, 2023 at 1:00 p.m.

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

RESOLUTION OF THE ERIENET LOCAL DEVELOPMENT CORPORATION (“ENLDC”) AUTHORIZING THE EXECUTION OF A COLLABORATIVE USE LEASE AGREEMENT FOR TEMPORARY OFFICE SPACE AT THE BUFFALO AND ERIE COUNTY LIBRARY (“B&ECPL”)

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, the Board of Trustees of the B&ECPL possess exclusive management authority of the Central Library at 1 Lafayette Square Buffalo, New York, including determinations of use of space in said facility, for library purposes; and

WHEREAS, the B&ECPL is seeking to develop and enhance collaborative relationships with community organizations that provide a public benefit in order to provide a broad range of mission related programs and services in a central location, which is essential to quality public service; and

WHEREAS, the B&ECPL is supportive of providing temporary office space to ErieNet as the organization establishes its operations.

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

Section 1. Based upon the foregoing, and in compliance with the ENLDC Real Property Acquisition Policy, the ENLDC hereby agrees to enter into a Collaborative Use Lease Agreement with the B&ECPL for an initial six (6) month term, renewable for additional six (6) month periods by mutual agreement

at a space rental cost not to exceed \$15.00 per sq. ft. (\$425.00 per month for 340 sq. ft.), plus an additional \$50.00 monthly utility charge for use of VOIP telecommunications equipment/services, subject to adjustment for any renewal terms.

Section 2. 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 3. Any and all actions heretofore taken or authorized by the ENLDC and/or its 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.

Dated: May 16, 2023

**ERIENET LOCAL DEVELOPMENT CORPORATION
RESOLUTION 23-09**

A regular meeting of the ErieNet Local Development Corporation was convened on May 16, 2023 at 1:00 p.m.

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

RESOLUTION OF THE ERIENET LOCAL DEVELOPMENT CORPORATION (“ENLDC”) AUTHORIZING THE NEGOTIATION AND EXECUTION OF AN AGREEMENT TO ENGAGE UBERTECHIT SERVICES, INC. TO PROVIDE INFORMATION TECHNOLOGY (“IT”) SERVICES

WHEREAS, ErieNet Local Development Corporation was established (the “ENLDC”) pursuant to and in accordance with Section 1411 of the Not-for-Profit Corporation Law (“N-PCL”) as a charitable not-for-profit corporation of the State of New York (the “State”) with purposes and powers included and as set forth within N-PCL Section 1411 (hereinafter, the “Act”); 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, pursuant to the ENLDC’s Procurement Guidelines, a contract for services up to \$5,000 per instance will be at the discretion of the ENLDC Executive Director or authorized designee; and

WHEREAS, ENLDC requires the use of IT services to undertake its operations; and

WHEREAS, it is the recommendation of the ENLDC Executive Director to authorize ENLDC to enter into a service agreement for IT services; and

WHEREAS, the Board of Directors desires to authorize the ENLDC to negotiate and enter into a contract with UBERTECHIT Services, Inc., for IT services.

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

Section 1. Based upon the foregoing, and in compliance with ENLDC’s Procurement Policy, the ENLDC hereby authorizes the Executive Director to negotiate and execute an agreement with UBERTECHIT Services, Inc. in consultation with the ENLDC’s general counsel, to provide IT services in an

amount not to exceed \$600.00 a year, for a maximum term not to exceed three years, including any renewals or extensions from the date of execution of said agreement. The agreement shall include such other terms and conditions as the Executive Director determines to be appropriate and in the best interest of ENLDC.

Section 2. 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 3. Any and all actions heretofore taken or authorized by the ENLDC and/or its 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.

Dated: May 16, 2023