

Authorities Budget Office

A Member of the ECIDA Financing and Development Group

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April 23, 2024

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110 State Street
Albany, New York 12236

Director
State of New York Division of Budget
State Capitol Building 128
Albany, New York 12207

Commissioner
New York State Office of General Services
Corning Tower, 41st Floor
Empire State Plaza
Albany, New York 12242

President
New York State Senate
Room 330, State Capital Building
Albany, New York 12247

Speaker
New York State Assembly
Legislative Office Building, Room 932
Albany, New York 12248

Director
State of New York Authorities Budget Office
P.O. Box 2076
Albany, New York 12220-0076

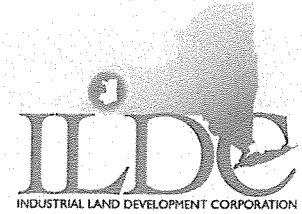
**RE: Buffalo and Erie County Industrial Land Development Corporation
Notice of Disposition of Property by Negotiation**

To Whom It May Concern:

Pursuant to subparagraph (ii) of paragraph (d) of subdivision (6) of section 2897 of Title 5-A of Article 9 of the Public Authorities Law (“PAL”), the following explanatory statement is being provided at least 90 days prior to the disposal of real property by negotiation:

EXPLANATORY STATEMENT. The Buffalo and Erie County Industrial Land Development Corporation’s (the “ILDC”) proposed disposition of real property as described herein is within the purpose, mission, and governing statutes of the ILDC and is thereby exempted from publicly advertising for bids pursuant to PAL §2897(6)(c)(v). As authorized by PAL §2897(6)(c) and because the property that is the subject of this correspondence is the type of property described in PAL §2897(6)(d)(i)(C), the ILDC intends to dispose of the property as described herein by negotiation not less than 90 days from the date of this notice.

The ILDC is the owner of a certain approximately 6.43 +/- acre parcel of real property located at 3445 River Road, Tonawanda, Erie County, New York, Tax Parcel No. 65.13-2-1 (the “Real Property”).



MN8 Energy Development Company LLC (the “Lessee”) and the ILDC have entered into a certain non-binding Term Sheet, dated as of October 25, 2023, containing certain terms and conditions pursuant to which the ILDC will enter into a certain Option to Lease and Lease Agreement (the “Lease Option”) for the lease of the Real Property to Lessee. Lessee intends to utilize the Real Property to construct a 250 Megawatt +/- Battery Energy System with a 4-hour duration, consisting of battery container units, inverters, electrical control equipment, and other required equipment to construct a fully operational energy infrastructure project (the “Facility”), leading to the creation of new jobs and being a transaction and activity consistent with the ILDC’s mission and purposes. Pursuant to the Lease Option, Lessee will be granted an option, of up to five (5) years, to lease the Real Property (the “Option Period”) allowing Lessee time to undertake due diligence with respect to its Facility. During the Option Period, Lessee shall have the right to exercise its option, and in such an event, the Lease will commence (“Lease Commencement”) and Lessee would begin construction of its Facility over a contemplated 1-2 year time period (the “Construction Period”) followed by an anticipated twenty-year term of occupancy upon the Real Property (the “Commercial Term”) with an option for two additional occupancy periods of five years each, (the “Extension Term”) during which Lessee would collect, transmit, and store electric power upon the Real Property.

In accordance with applicable provisions of the PAL and Policy Guidance No. 15-03 issued by the State of New York Authorities Budget Office, the following details regarding the Disposition of the Real Property are provided:

1) Description of the parties involved in the Transaction:

Lessor: Buffalo and Erie County Industrial Land Development Corporation
Lessee: MN8 Energy Development Company LLC

2) Justification for Disposing of Real Property by Negotiation:

The Real Property has long been vacant and underutilized and is currently off the tax rolls. The Real Property is also a remediated New York State Superfund Site, subject to a certain soil management plan and an environment easement restricting and complicating its re-use. The contemplated re-use of the Real Property will result in new investment, increase the local tax base, and help to facilitate New York State renewable energy goals, all for the benefit of Erie County.

3) Identification of Property:

6.43 +/- acres of real property located at 3445 River Road, Tonawanda, Erie County, New York, Tax Parcel No. 65.13-2-1.



4) **Estimated Fair Market Value of Property:**

The ILDC obtained an independent appraisal from KLV Appraisal Group, Inc. dated July 21, 2023, that determined the annual fair market rental value of the Real Property to be approximately \$20,580.00.

5) **Proposed Option and Lease Payment and Rent Value:**

The Lessee will pay an option payment and a rent payment for the Real Property as follows:

- For the first year of the Option Period: \$21,000.00;
- For the second year of the Option Period: \$29,000.00;
- For the third year of the Option Period: \$40,000.00;
- For the fourth year (first renewal) of the Option Period: \$60,000.00;
- For the fifth year (second renewal) of the Option Period: \$70,000.00;
- Construction Period (Anticipated to be 1-2 years) the annual Rent shall be \$50,000
- Commercial Term and Extension Term. The annual Rent shall be \$100,000 with a 4% escalator for up to a thirty-year term.

6) **Size of the Property:**

6.43 +/- acres.

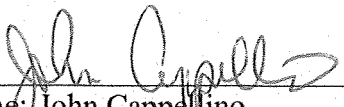
7) **Expected Date of Lease of the Real Property:**

The Lease Commencement will commence not less than ninety (90) days after the date of the Explanatory Statement.

Any questions or comments relating to the proposed disposition may be sent to the ILDC at the address noted above.

Sincerely,

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

By: 
Name: John Cappellino
Title: President/CEO