

Buffalo Urban Development Corporation

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Buffalo Urban Development Corporation Board of Directors Meeting

Date: Tuesday, March 29, 2022

Time: Noon

Conference Call for Board Members and Staff
Live Stream Audio for Press and Public

1.0 CALL TO ORDER

2.0 READING OF THE MINUTES (Action) (Enclosure)

3.0 NEW BUSINESS

3.1 Audit & Finance Committee Report (Enclosure)

3.1.1 683 Northland Master Tenant, LLC Audited Financial Statements (Information) (Enclosure)

3.1.2 2021 BUDC Audited Consolidated Financial Statements Approval (Action) (Enclosure)

3.1.3 2021 Audited Financial Statements - BBRF (Information) (Enclosure)

3.1.4 2021 Investment Report Approval (Action) (Enclosure)

3.1.5 Investment and Deposit Policy Re-adoption (Action) (Enclosure)

3.1.6 2021 Brownfield Expenses Reimbursement From BBRF Approval (Action) (Enclosure)

3.2 Monthly Financial Report Approval (Action) (Enclosure)

3.3 Governance Committee Report (Enclosure)

3.3.1 2021 Mission Statement & Performance Measurements w/ Results (Information)(Enclosure)

3.3.2 2022 Mission Statement & Performance Measurements Approval (Action)(Enclosure)

3.3.3 Procurement Policy Re-adoption (Action) (Enclosure)

3.3.4 Property Disposition Guidelines Re-adoption (Action)(Enclosure)

3.3.5 Updated Whistleblower Policy (Action)(Enclosure)

3.3.6 2021 Public Authorities Annual Report Approval (Action)(Enclosure)

3.4 Ralph C. Wilson, Jr. Centennial Park – MLB-MLBPA Youth Development Foundation Grant Agreement (Action)(Enclosure)

3.5 Ralph C. Wilson, Jr. Centennial Park – MVVA Master Service Agreement Amendment: ADA Accessible Kayak Launch (Action)(Enclosure)

3.6 308 Crowley Street - Sale of Approx. 3.65 Acres of Land (Action)(Enclosure)

3.7 308 Crowley Project Update (Information)

3.8 Northland Corridor Project Update (Information)

3.9 Race For Place Project Update (Information)

3.10 Buffalo Lakeside Commerce Park Project Update (Information)

4.0 LATE FILES

5.0 TABLED ITEMS

6.0 EXECUTIVE SESSION

7.0 ADJOURNMENT (Action)

Hon. Byron W. Brown, Chairman of the Board • Dennis Penman, Vice Chairman • Brandye Merriweather, President
Rebecca Gandour, Executive Vice President • Mollie Profic, Treasurer • Atiqa Abidi, Assistant Treasurer • Kevin J. Zanner, Secretary

**Minutes of the Meeting
of the
Board of Directors
of
Buffalo Urban Development Corporation**

Via Video Conference Call & Live Stream Audio

**February 22, 2022
12:00 p.m.**

Directors Present:

Trina Burruss
Daniel Castle
Janique S. Curry
Dennis W. Elsenbeck
Michael J. Finn
Thomas Halligan
Thomas A. Kucharski
Brendan R. Mehaffy
Kimberley A. Minkel
David J. Nasca
Darius G. Pridgen

Directors Absent:

Mayor Byron W. Brown (Chair)
Darby Fishkin
Dottie Gallagher
Dennis M. Penman (Vice Chair)
Maria R. Whyte

Officers Present:

Brandye Merriweather, President
Rebecca Gandour, Executive Vice President
Mollie M. Profic, Treasurer
Kevin J. Zanner, Secretary
Atiqa Abidi, Assistant Treasurer

Guests Present: Alexis M. Florczak, Hurwitz & Fine, P.C.; Laurie Hendrix, ECIDA Administrative Coordinator; Lisa Hicks, City of Buffalo Office of Strategic Planning; and Seth Piccirillo, Buffalo Niagara Partnership.

- 1.0** **Roll Call** – Mr. Mehaffy serves a chair of the meeting and called the meeting to order at 12:03 p.m. The Secretary called the roll and a quorum of the Board was determined to be present. Mr. Pridgen left the meeting following the presentation and vote on agenda item 4.2.

The meeting was held via Zoom in accordance with the provisions of Article 7 of the Public Officers Law, as amended effective January 14, 2022, which authorizes public bodies to conduct meetings and take such action authorized by law without permitting in public in-person access to meetings and to authorize such meetings to be held remotely by conference call or similar service, provided that the public has the ability to view or listen to such proceeding and that such meetings are recorded and later transcribed.

- 2.0** **Approval of Minutes – Meeting of January 25, 2022** – The minutes of the January 25, 2022 meeting of the Board of Directors were presented. Mr. Pridgen made a motion to approve the meeting minutes. The motion was seconded by Mr. Nasca and unanimously carried (11-0-0).

3.0 Monthly Financial Reports

- 3.1 683 Northland Master Tenant, LLC Financial Statements** – Ms. Profic presented the financial statements for 683 Northland Master Tenant, LLC for the period ending January 31, 2022. Ms. Profic noted that year-end audits are underway. Draft audited financial statements will be presented to the Audit & Finance Committee at its March 22nd meeting and to the Board at its March 29th meeting.
- 3.2 BUDC Consolidated Financial Statements** –Ms. Profic presented the consolidated financial statements for BUDC and its affiliates, 683 Northland LLC and 683 WTC, LLC for the period ending January 31, 2022. Ms. Burruss made a motion to accept the BUDC consolidated financial statements. The motion was seconded by Ms. Minkel and unanimously carried (11-0-0).

4.0 New Business

- 4.1 Ralph C. Wilson, Jr. Centennial Park – RCWJF Grant Agreement #5** – Ms. Gandour presented her February 22, 2022 memorandum regarding the Ralph C. Wilson, Jr. Foundation Grant Agreement #5 for the Centennial Park project. This item was reviewed by the Downtown Committee at its February 16th meeting and is being recommended for approval. Following the presentation, Ms. Minkel made a motion to: (i) accept the \$6,906,050.00 grant award from the Ralph C. Wilson, Jr. Foundation for Phase 1 core park construction; and (ii) authorize the President or Executive Vice President to execute the Grant Agreement and take such other actions as are necessary or appropriate to implement this action. The motion was seconded by Ms. Curry and unanimously carried (11-0-0).
- 4.2 Ralph C. Wilson, Jr. Centennial Park – SJB Contract Amendment** – Ms. Gandour presented her February 22, 2022 memorandum regarding a proposed amendment to the SJB Services Agreement for additional environmental services for the Centennial Park project. This item was reviewed by the Downtown Committee at its February 16th meeting and is being recommended for approval. Following the presentation, Mr. Nasca made a motion to: (i) approve an amendment to the SJB Agreement in the amount of \$40,000.00 for the additional environmental scope of work; and (ii) authorize the President or Executive Vice President to execute an amendment to the Agreement and take such other actions as are necessary or appropriate to implement this action. The motion was seconded by Mr. Finn and unanimously carried (11-0-0).
- 4.3 Bisonwing Planning and Development, LLC Agreement Renewal** – Ms. Gandour reported that the Audit & Finance Committee approved a consulting agreement with Bisonwing Planning and Development, LLC for assistance with projects relating to the Northland Corridor, Build Back Better grant and other BUDC matters. The contract is for a not-to-exceed amount of \$25,000.
- 4.4 Mustard Seed Consulting, LLC Agreement Renewal** – Ms. Merriweather reported that the Real Estate Committee approved a consulting agreement renewal with Mustard Seed Consulting, LLC for community outreach and marketing services at Northland. The contract is for a not-to-exceed amount of \$25,000.
- 4.5 Buffalo Lakeside Commerce Park – Project Update** – Ms. Gandour presented the following update regarding BLCPP matters:

Sale to Zephyr Investors: BUDC is working with one of Zephyr's consultants to provide information requested on stormwater retention and documents for the site.

193 Ship Canal Parkway: BUDC continues to engage in discussions with GW Burnett and NYSDEC with respect to this site.

BLCP Property Owners Association: BUDC submitted its first bill to Uniland for its share of POA expenses.

4.6 Ralph C. Wilson, Jr. Centennial Park – Project Update – Ms. Gandour reported that the City of Buffalo released its RFQ for a construction manager for the project. Responses to the RFQ are due on March 4th. Construction documents are at fifty percent completion and are under review.

4.7 Northland Beltline Corridor Update – Ms. Gandour presented the Northland Beltline Corridor Project update as follows:

Build Back Better Grant Update: BUDC is working with UBRI and ESD on the region's Phase 2 application. BUDC is working on completing its draft budget and project narrative and collecting letters of support to submit with the application, which are due this week. Phase 2 applications are due March 15th and if selected, BUDC would be eligible to receive \$32 million of \$100 million in grant funding to the region.

NWTC/ESD/BUDC MOU: The equipment inventory update has been completed and BUDC is working with ESD on the updated MOU that incorporates the updated equipment inventory. The MOU will be presented for review and approval at a future meeting of the Board.

Community Solar & Microgrid Project: BUDC received a pre-development summary from Frey Electric, and is awaiting ESD's response regarding the remaining \$1.8 million in funding for this project.

4.8 Race for Place Project Update – Ms. Merriweather presented an update regarding Buffalo's Race for Place. Douglas Development was selected through an RFP process as the developer for the Mohawk Ramp site. The project will include mixed-income housing, a mobility hub, retail space, and additional parking. In response to a question from Mr. Nasca, Ms. Merriweather indicated that the mobility hub will incorporate multi-modal access and maximize walkability. The project will also incorporate the Simon Electric properties on Ellicott Street, and the overall project aligns well with the Ellicott Street Placemaking Strategy. The curbside management RFP was released. Stantec was selected as the consultant for the flexible smart street corridors work, which will further the recommendations contained in the Future of Mobility report. BUDC continues to work with the Arts Commission on the public art component for the entertainment district project. The Loan Committee will meet on March 1st to discuss modifications to the BBRP loan program.

4.9 308 Crowley Project Update – Ms. Merriweather reported that BUDC continues to work with BUDC counsel and Enterprise Folding Box on the land sale, which is anticipated to close sometime in March. BUDC is also working with the City on phase 2 demolition plans.

5.0 Late Files – None.

6.0 Tabled Items – None.

7.0 Executive Session – None.

8.0 Adjournment – There being no further business to come before the Board, on motion made by Ms. Curry, seconded by Mr. Kucharski and unanimously carried, the February 22, 2022 Board of Directors meeting was adjourned at 12:36 p.m.

Respectfully submitted,

Kevin J. Zanner, Secretary

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Item 3.1

MEMORANDUM

TO: Buffalo Urban Development Corporation Board of Directors
FROM: Dennis Penman, Audit & Finance Chair & Mollie Profic, Treasurer
SUBJECT: Audit & Finance Committee Report
DATE: March 29, 2022

At the Audit & Finance Committee Meeting scheduled for March 22, 2022, no quorum was present. The Committee members present reviewed the following items for Board consideration or action.

Item 3.2 is the 2021 Audited Financial Statements for 683 Northland Master Tenant, LLC. Representatives from Freed Maxick gave a detailed presentation of the Statements to the Committee. This document is presented to the Board for your information only.

Item 3.3 is the 2021 Audited Consolidated Financial Statements for BUDC. Representatives from Freed Maxick gave a detailed presentation of the Statements to the Committee. The Committee members present agreed that the item should be moved to the Board for approval.

Item 3.4 is the 2021 Audited Financial Statements for the Buffalo Brownfields Redevelopment Fund (BBRF) and is provided to the Board for your information only.

Item 3.5 is the 2021 Investment Report, which provides a summary of BUDC’s investment activity in 2021. The Committee members present agreed that the item should be moved to the Board for approval.

Item 3.6 is the Investment and Deposit Policy. This is a re-adoption of this document.

Item 3.7 is the memorandum requesting reimbursement of brownfield expenses for 2021. The Committee members present agreed to move to the Board for approval the reimbursement of brownfield expenses related to Buffalo Lakeside Commerce Park, Riverbend, Northland, and 308 Crowley Street from the Buffalo Brownfields Redevelopment Fund (BBRF) in the amount of 136,484.

In addition, the Audit & Finance Committee members present reviewed the following items that do not require Board action:

- Audit & Finance Committee Charter Review
- Audit & Finance Committee Training Document
- 2021 Property Report
- Management’s Assessment of Internal Controls
- Funding source updates
- BBRP/BUDC Loan Program update

Hon. Byron W. Brown, Chairman of the Board • Dennis Penman, Vice Chairman • Brandye Merriweather, President
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REPORT TO THE MANAGING MEMBER

**683 NORTHLAND MASTER TENANT, LLC
(A LIMITED LIABILITY COMPANY)**

DECEMBER 31, 2021

**DRAFT
Tentative and Preliminary
For Discussion and Internal
Purposes Only-Subject to Revision**

[date]

To the Managing Member of
683 Northland Master Tenant, LLC
(A Limited Liability Company)
95 Perry Street, Suite 404
Buffalo, New York 14203

Attention: Managing Member:

We are pleased to present this report related to our audit of the financial statements of 683 Northland Master Tenant, LLC (the Company) as of and for the year ended December 31, 2021. This report summarizes certain matters required by professional standards to be communicated to you in your oversight responsibility for 683 Northland Master Tenant, LLC's financial reporting process.

This report is intended solely for the information and use of the Managing Member and management, and is not intended to be, and should not be, used by anyone other than these specified parties. It will be our pleasure to respond to any questions you have about this report. We appreciate the opportunity to continue to be of service to 683 Northland Master Tenant, LLC.

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Tentative and Preliminary
For Discussion and Internal
Purposes Only-Subject to Revision

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 Engagement Letter

 Representation Letter

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Required Communications

Generally accepted auditing standards (AU-C 260, *The Auditor's Communication With Those Charged With Governance*) require the auditor to promote effective two-way communication between the auditor and those charged with governance. Consistent with this requirement, the following summarizes our responsibilities regarding the financial statement audit as well as observations arising from our audit that are significant and relevant to your responsibility to oversee the financial reporting process.

Area	Comments
Our Responsibilities With Regard to the Financial Statement Audit	Our responsibilities under auditing standards generally accepted in the United States of America have been described to you in our arrangement letter dated January 18, 2022. Our audit of the financial statements does not relieve management or those charged with governance of their responsibilities, which are also described in that letter.
Overview of the Planned Scope and Timing of the Financial Statement Audit	We have issued a separate communication dated January 18, 2022 regarding the planned scope and timing of our audit and identified significant risks.
Accounting Policies and Practices	<p data-bbox="631 793 1442 951">Preferability of Accounting Policies and Practices Under generally accepted accounting principles, in certain circumstances, management may select among alternative accounting practices. In our view, in such circumstances, management has selected the preferable accounting practice.</p> <p data-bbox="631 993 1442 1203">Adoption of or Change in Accounting Policies Management has the ultimate responsibility for the appropriateness of the accounting policies used by the Company. The Company did not adopt any significant new accounting policies, nor have there been any changes in existing significant accounting policies during the current period. The following is a description of significant accounting policies that are currently being evaluated for future application:</p> <p data-bbox="719 1245 1442 1688">In February 2016, the FASB issued ASU 2016-02, Leases (Topic 842). The guidance in this ASU supersedes the leasing guidance in Topic 840, Leases. Under the new guidance, lessees are required to recognize lease assets and lease liabilities on the balance sheet for all leases with terms longer than 12 months. Leases will be classified as either finance or operating, with classification affecting the pattern of expense recognition in the statement of operations. The new standard is effective for fiscal years beginning after December 15, 2021, including interim periods within those fiscal years. A modified retrospective transition approach is required for lessees for capital and operating leases existing at, or entered into after, the beginning of the earliest comparative period presented in the financial statements, with certain practical expedients available. The Company is currently evaluating the impact of the pending adoption of the new standard on the financial statements.</p>

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Area	Comments
Accounting Policies and Practices (Continued)	<p>Significant or Unusual Transactions We did not identify any significant or unusual transactions or significant accounting policies in controversial or emerging areas for which there is a lack of authoritative guidance or consensus.</p> <p>Management's Judgments and Accounting Estimates Accounting estimates are an integral part of the preparation of financial statements and are based upon management's current judgment. The process used by management encompasses their knowledge and experience about past and current events and certain assumptions about future events. You may wish to monitor throughout the year the process used to compute and record these accounting estimates.</p>
Basis of Accounting	The financial statements were prepared on the assumption that the Company will continue as a going concern.
Audit Adjustments	Audit adjustments, other than those that are clearly trivial, proposed by us and recorded by 683 Northland Master Tenant, LLC are shown in the attached Summary of Recorded Audit Adjustments.
Uncorrected Misstatements	We are not aware of any uncorrected misstatements other than misstatements that are clearly trivial.
Disagreements With Management	We encountered no disagreements with management over the application of significant accounting principles, the basis for management's judgments on any significant matters, the scope of the audit, or significant disclosures to be included in financial statements.
Consultations With Other Accountants	We are not aware of any consultations management had with other accountants about accounting or auditing matters.
Significant Issues Discussed With Management	No significant issues arising from the audit were discussed or the subject of correspondence with management.
Significant Difficulties Encountered in Performing the Audit	We did not encounter any significant difficulties in dealing with management during the audit.
Letter Communicating Other Matters	We have separately communicated other matters identified during our audit of the financial statements, and this communication is attached as Exhibit A.
Significant Communications Written Between Management and Our Firm	Copies of significant written communications between our firm and the management of the Company, including the representation letter provided to us by management, are attached as Exhibit B.

683 Northland Master Tenant, LLC
Year End: December 31, 2021
Summary of Recorded Audit Adjustments

Number	Date	Name	Account No	Debit	Credit
1	12/31/2021	Distributions	3000.000	263,828	
1	12/31/2021	Accrued Priority Return	2011.000		263,828

To properly record accrued priority return.

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Exhibit A - Letter Communicating Other Matters

As a service to you, we looked for other areas that will bring value or foresight to the Company. The observations made and recommendations developed are the result of our normal audit procedures and not of any study, consequently, they are limited only to those more important areas which came to our attention during the course of our examination.

Leases

In February 2016, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update 2016-02 – *Leases* (Topic 842) ("ASU 2016-02"). ASU 2016-02 created Topic 842, *Leases*, supersedes all existing lease guidance under US GAAP. Under the new guidance, lessees will be required to recognize leases on the balance sheet as right of use assets with a corresponding lease liability. The effective date for the ASU is for annual periods beginning after December 15, 2021 and interim periods within fiscal years beginning after December 15, 2022. The process of identifying, examining leases and calculating the corresponding right of use asset and liability can be extensive and time consuming. The Company needs to perform an analysis of all leases to determine applicability to ensure they are in compliance with the ASU by the end of 2022.

Buffalo, New York
DATE

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Exhibit B - Significant Written Communications Between Management and Our Firm

Engagement letter – previously furnished

Representation letter – see attached

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**AUDITED
FINANCIAL STATEMENTS**

**683 NORTHLAND MASTER TENANT, LLC
(A LIMITED LIABILITY COMPANY)**

DECEMBER 31, 2021

**DRAFT
Tentative and Preliminary
For Discussion and Internal
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683 NORTHLAND MASTER TENANT, LLC
(A LIMITED LIABILITY COMPANY)

BALANCE SHEETS
December 31,

ASSETS	2021	2020
Current assets:		
Cash - operating	\$ 107,787	\$ 56,739
Tenant receivables	74,685	30,533
Prepaid insurance	106,662	90,355
Total current assets	<u>289,134</u>	<u>177,627</u>
Reserves:		
Operating reserve	335,857	335,689
Asset management fee reserve	30,111	40,095
Total reserves	<u>365,968</u>	<u>375,784</u>
Prepaid rent - sublessee	426,309	306,965
Prepaid leasing commission	217,938	112,223
Tenant security deposits	84,854	75,750
Equipment, net	6,535	8,964
Prepaid rent - Master Lease Agreement	25,528,001	19,996,180
Total assets	<u><u>26,919,339</u></u>	<u><u>\$ 21,053,493</u></u>
LIABILITIES AND MEMBERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 144,550	\$ 119,334
Due to related parties	254,935	381,281
Total current liabilities	<u>399,485</u>	<u>500,615</u>
Operating deficit loan	132,359	49,931
Tenant security deposits	84,854	75,750
Deferred rent liability - Master Lease Agreement	5,309,411	3,916,352
Deferred rent liability - sublessee	6,150,839	6,703,913
Distribution payable - priority return	263,941	148,209
Total liabilities	<u>12,340,889</u>	<u>11,394,770</u>
Members' equity	<u>14,578,450</u>	<u>9,658,723</u>
Total liabilities and members' equity	<u><u>\$ 26,919,339</u></u>	<u><u>\$ 21,053,493</u></u>

See accompanying notes.

683 NORTHLAND MASTER TENANT, LLC
(A LIMITED LIABILITY COMPANY)

STATEMENTS OF OPERATIONS
For the Years Ended December 31,

	<u>2021</u>	<u>2020</u>
Revenues:		
Rental revenue	\$ 1,468,498	\$ 1,249,168
Additional rental revenue	648,676	390,730
Other income	261	556
Total revenues	<u>2,117,435</u>	<u>1,640,454</u>
Expenses:		
Rent expense	1,879,742	1,879,742
Utilities expense	150,924	126,631
Payroll	149,471	149,829
Insurance expense	120,629	115,150
Repairs and maintenance	120,242	90,993
Professional fees	85,899	52,206
Property management fee	67,515	49,861
Real estate taxes	19,636	20,645
Asset management fee	10,000	10,000
Miscellaneous expense	7,920	7,232
Total expenses	<u>2,611,968</u>	<u>2,502,289</u>
Loss from operations	(494,533)	(861,835)
Other expenses:		
Depreciation expense	<u>(2,429)</u>	<u>(2,429)</u>
Net loss	\$ <u>(496,962)</u>	\$ <u>(864,264)</u>

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See accompanying notes.

683 NORTHLAND MASTER TENANT, LLC
(A LIMITED LIABILITY COMPANY)

STATEMENTS OF CHANGES IN MEMBERS' EQUITY
For the Years Ended December 31,

	<u>INVESTOR MEMBER</u>	<u>MANAGING MEMBER</u>	<u>TOTAL</u>
Members' equity - January 1, 2020	\$ 7,316,480	\$ 178,050	\$ 7,494,530
Members' capital contributions	3,176,666	-	3,176,666
Distributions	(148,209)	-	(148,209)
Net loss	(855,621)	(8,643)	(864,264)
Members' equity - December 31, 2020	<u>9,489,316</u>	<u>169,407</u>	<u>9,658,723</u>
Members' capital contributions	5,680,517	-	5,680,517
Distributions	(263,828)	-	(263,828)
Net loss	(491,992)	(4,976)	(496,962)
Members' equity - December 31, 2021	<u>\$ 14,414,013</u>	<u>\$ 162,437</u>	<u>\$ 14,578,450</u>
Percentage interest	<u>99.00%</u>	<u>1.00%</u>	<u>100%</u>

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See accompanying notes.

683 NORTHLAND MASTER TENANT, LLC
(A LIMITED LIABILITY COMPANY)

STATEMENTS OF CASH FLOWS
For the Years Ended December 31,

	<u>2021</u>	<u>2020</u>
Cash flows from operating activities:		
Net loss	\$ (496,962)	\$ (864,264)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation	2,429	2,429
Decrease (increase) in assets:		
Tenant receivables	(44,152)	331,081
Prepaid insurance	(16,307)	(71,854)
Accrued rental income	(119,344)	(260,970)
Prepaid leasing commission	(105,715)	(112,223)
Prepaid rent - Master Lease Agreement	1,393,059	1,445,129
Increase (decrease) in liabilities:		
Security deposit liability	9,104	36,300
Accounts payable	25,216	86,906
Due to related parties	126,346	58,850
Operating deficit loan	83,228	-
Deferred rent liability - sublessee	(53,074)	(580,483)
Net cash provided by operating activities	<u>50,336</u>	<u>70,901</u>
Cash flows from investing activities:		
Equipment purchases	-	(3,912)
Net cash used by investing activities	<u>-</u>	<u>(3,912)</u>
Cash flows from financing activities:		
Members' contributions	5,680,517	3,176,666
Distributions	(148,096)	(105,026)
Payments of prepaid rent under the Master Lease Agreement	(5,532,421)	(3,071,640)
Net cash provided by financing activities	<u>-</u>	<u>-</u>
Net increase in cash and restricted cash	<u>50,336</u>	<u>66,989</u>
Cash and restricted cash - beginning of year	<u>508,273</u>	<u>441,284</u>
Cash and restricted cash - end of year	<u>\$ 558,609</u>	<u>\$ 508,273</u>
Non-cash financing transactions:		
Non-cash distribution recorded as distribution payable	<u>\$ 263,941</u>	<u>\$ 148,209</u>

See accompanying notes.

**683 NORTHLAND MASTER TENANT, LLC
(A LIMITED LIABILITY COMPANY)**

**STATEMENTS OF CASH FLOWS (CONTINUED)
For the Years Ended December 31,**

The following table provides a reconciliation of cash and restricted cash to the amounts reported within the balance sheets:

	<u>2021</u>	<u>2020</u>
Cash - operating	\$ 107,787	\$ 56,739
Tenant security deposits	84,854	75,750
Operating reserve	335,857	335,689
Asset management fee reserve	30,111	40,095
	<u>\$ 558,609</u>	<u>\$ 508,273</u>

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See accompanying notes.

**683 NORTHLAND MASTER TENANT, LLC
(A LIMITED LIABILITY COMPANY)**

NOTES TO THE FINANCIAL STATEMENTS

NOTE 1. ORGANIZATION

683 Northland Master Tenant, LLC (the Company) is a limited liability company formed pursuant to the laws of the State of New York on September 7, 2017. 683 Northland LLC, a related entity, was formed to facilitate the ownership, rehabilitation and operation of a commercial and industrial facility located at 683 Northland Avenue, City of Buffalo, known as the Niagara Machine & Tool Works Factory (the Property). 683 Northland LLC serves as lessor to the Company. The relationship between lessor and lessee is governed by a Master Lease Agreement dated December 28, 2017. The major activities of the Company are governed by the Master Tenant Amended and Restated Operating Agreement.

The Property is located in a historic district on the National Register of Historic Places and will receive an allocation of federal and state historic rehabilitation tax credits under Section 47 of the Internal Revenue Code of 1986, as amended, and New York credit for Rehabilitation of Historic Properties under Section 606(00) of New York State tax law. The Property is being developed in two phases; Phase 1 received an allocation of rehabilitation tax credits during the year ended December 31, 2018; Phase 2 received allocations for the years ending December 31, 2020 and 2019. No further credits are anticipated.

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Accounting: The accompanying financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP).

Cash: The statement of cash flows considers amounts available for current operations to be cash and includes amounts restricted for repayment of tenant security deposits and reserves.

Concentration of Credit Risk: The Company maintains its cash in bank deposit accounts which, at times, may exceed federally insured limits. The Company has not experienced any losses in such accounts. The Company believes it is not exposed to any significant credit risk on cash.

During the year ended December 31, 2021, three tenants represented 90% (95% - 2020) of rental revenue and 98% (97% - 2020) of accounts receivable.

Tenant Receivables: Tenant receivables consists of receivables from tenants for rent and other charges, if applicable, recorded according to the terms of their sublease agreements. Tenant receivables do not bear interest. The Company holds tenant security deposits as collateral for tenant receivables. On a periodic basis, the Company evaluates its tenant receivables and establishes an allowance for doubtful accounts. There was no allowance for doubtful accounts for the years ended December 31, 2021 and 2020.

Prepaid Leasing Commissions: Prepaid leasing commissions consists of commission paid out in connection with obtaining long term subleases. The Company recognizes commission expenses incurred over the life of the applicable lease as required under ASC 840. Prepaid leasing commissions amounted to \$217,938 as of the year ended December 31, 2021 (\$112,223 - 2020).

Revenue Income: The Company recognizes revenue on the date rent becomes due in accordance with the subleases. Rental payments received in advance are deferred until earned. All leases between parties are operating leases.

Income Taxes: No provision or benefit has been made for income taxes in the accompanying financial statements since taxable income or loss of the Company is passed through to the respective members for reporting passes through to, and is reportable by, the members individually.

NOTES TO THE FINANCIAL STATEMENTS

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Operating Lease: The Company is obligated under a Master Lease Agreement (the Agreement) (Note 6), with a related entity, through 2037. Minimum rent is recognized over the term of the lease using the straight-line method. In addition to minimum rents, the lease requires payments for utilities, insurance, maintenance costs, real estate taxes, and all other operating expenses. Minimum rent due under the Agreement consists of base rent and prepaid rent. As of December 31, 2021, the Company paid \$25,528,601 in prepaid rent (\$19,996,180 – 2020).

Use of Estimates: In preparing financial statements in accordance with U.S. GAAP, management makes estimates and assumptions that affect amounts reported in the financial statements and accompanying notes. Actual results could differ from these estimates and assumptions.

Recently Issued Accounting Pronouncement: In February 2016, the FASB issued ASU 2016-02, *Leases (Topic 820)*. The guidance in this ASU supersedes the leasing guidance in Topic 840, *Leases*. Under the new guidance, lessees are required to recognize lease assets and lease liabilities on the balance sheet for all leases with terms longer than 12 months. Leases will be classified as either finance or operating, with classification affecting the pattern of expense recognition in the statements of operations. The new standard is effective for fiscal years beginning after December 15, 2021. A modified retrospective transition approach is required for lessees for capital and operating leases existing at, or entered into after, the beginning of the earliest comparative period presented in the financial statements, with certain practical expedients available. The Company is currently evaluating the impact the adoption of this guidance will have on the financial statements.

Subsequent Events: These financial statements have not been updated for subsequent events occurring after [date], which is the date these financial statements were available to be issued.

NOTE 3. TENANT SECURITY DEPOSITS

Tenant security deposits are maintained in a separate bank account from operating funds. They are tracked by name of the tenant internally by the Company and are segregated on the accompanying balance sheets.

NOTE 4. RESERVES

Asset Management Fee Reserve: The Company was required to establish a reserve to fund the payment of asset management fees in the amount of \$60,000 upon receipt of the third capital contribution from the investor member. As of December 31, 2021, the reserve amounted to \$30,111 (\$40,095 – 2020). The remaining required funding of the asset management fee reserve has been reduced by the investor member.

Operating Reserve: The Company was required to establish an operating reserve to fund any operating deficits as approved by the investor member. An initial contribution of \$335,000 was to be deposited into the operating reserve upon receipt of the third capital contribution from the investor member which occurred during the year ended December 31, 2019. Funds are required to be held in a segregated, interest-bearing account with a federally insured financial institution. As of December 31, 2021, the reserve amounted to \$335,857 (\$335,689 – 2020).

Replacement Reserve: The Company is required to establish a replacement reserve to fund any replacement costs as approved by the investor member. The reserve is to be funded annually in the amount of \$48,000 (subject to a 3% increase per year) from net cash flow in accordance with the allocation of profits and losses (Note 8). Funds are required to be held in a segregated, interest-bearing account with a federally insured financial institution. As of December 31, 2021 and 2020, there was no net cash flow available to fund the replacement reserve.

**683 NORTHLAND MASTER TENANT, LLC
(A LIMITED LIABILITY COMPANY)**

NOTES TO THE FINANCIAL STATEMENTS

NOTE 5. CAPITAL CONTRIBUTIONS

The Company consists of two members; 683 WTC, LLC and NTCIC HTC Community Fund II, LLC (NTCIC). 683 WTC, LLC is the managing member and a 1% owner. NTCIC is the investor member and has a 99% membership interest.

The managing member is required to contribute capital of \$198,360 according to the terms of the amended and restated operating agreement. As of December 31, 2021 and 2020, the managing member has made all required contributions.

The investor member is required to contribute capital of \$20,354,240 based upon the completion of requirements by the Company as defined in the amended and restated operating agreement. As of December 31, 2021, the investor member made required contributions amounting to \$18,319,975 (\$12,639,458 – 2020). Total remaining required capital contributions amounted to \$2,090,803 as of December 31, 2021 (\$7,771,320 – 2020).

NOTE 6. TRANSACTIONS WITH AFFILIATES

The Company has a Master Lease Agreement (the Agreement) with the lessor, a related entity, to pay rental expense commencing on August 26, 2018, the day prior to the first date on which Phase I of the building was placed in service for purposes of the historical tax credits through 2037. For the years ended December 31, 2021 and 2020, the Company recognized \$1,879,742 in rental expense. The lease agreement includes scheduled rent increases over the term of the lease, which in accordance with U.S. GAAP will be recognized on a straight-line base over the term of the lease.

Future minimum rental payments to be paid under the Master Lease Agreement are contractually due as follows:

2022	\$ 484,486
2023	492,423
2024	528,046
2025	558,098
2026	565,617
Thereafter	<u>6,890,373</u>
	<u>\$ 9,519,043</u>

Due to Related Parties: The Company owes certain operating expenses paid by related parties directly to a third party on behalf of the Company. These amounts are recorded as due to related parties on the accompanying balance sheets.

NOTE 7. COMMERCIAL RENTAL REVENUE

The following are several subleases the Company has entered into:

Northland Workforce Training Center: The Company entered into a sublease agreement with the Economic Development Group, Inc. d/b/a Northland Workforce Training Center, (NWTC), commencing on September 1, 2018, and extending through August 31, 2033. The agreement calls for payment of prepaid rent and additional rent. Rental income from the sublease agreement is being recognized on a straight-line basis, in accordance with U.S. GAAP, over the term of the lease. Prepaid rent in the amount of \$7,678,971 was due and paid during the year ended December 31, 2018; \$511,931 of rental income related to the prepaid rent was recognized during the years ended December 31, 2021 and 2020. The Company is required to estimate additional rental income on a monthly basis and provide NWTC with a statement of actual additional rent incurred within 90 days of year end. During the year ended December 31, 2021, \$292,708 in additional rental income was recognized (\$196,903 – 2020).

683 NORTHLAND MASTER TENANT, LLC
(A LIMITED LIABILITY COMPANY)

NOTES TO THE FINANCIAL STATEMENTS

NOTE 7. COMMERCIAL RENTAL REVENUE (CONTINUED)

Additionally, the Company entered into a second sublease agreement during 2019 for an additional space related to the Northland Workforce Training Center commencing October 1, 2019 and extending through July 31, 2026. The agreement calls for prepayment of rent in the amount of \$288,000. The entire prepaid rent balance was paid during the year ending December 31, 2020. For the year ended December 31, 2021, the Company recognized \$41,142 in rental income based on the second sublease agreement (\$58,286 – 2020).

Buffalo Manufacturing Works: The Company entered into a sublease agreement with Edison Welding Institute Inc. d/b/a Buffalo Manufacturing Works, commencing on July 1, 2019, and extending through June 30, 2034. For the years ended December 31, 2021 and 2020, the Company recognized \$475,400 in rental income based on this agreement.

Manna Culinary Group: The Company entered into a sublease agreement with Manna Culinary Group, Inc. commencing on September 30, 2019, and extending through October 31, 2024. Under the sublease agreement, base rent payments begin March 1, 2020. For the year ended December 31, 2021 and 2020, the Company recognized \$21,715 in rental income based on this agreement.

Sparkcharge: The Company entered into a sublease agreement with Sparkcharge, Inc. commencing on March 1, 2020, and extending through February 28, 2023. For the year ended December 31, 2021, the Company recognized \$37,200 in rental income based on this agreement (\$31,000 – 2020).

Retech: The Company entered into a sublease agreement with Retech Systems LLC. commencing on July 1, 2020 and extending through December 31, 2030. For the year ended December 31, 2021, the Company recognized \$284,946 in rental income based on this agreement (\$144,391 – 2020).

Rodriguez Construction: The Company entered into a sublease agreement with Rodriguez Construction Group Inc. commencing on December 1, 2020 and extending through November 30, 2025. For the year ended December 31, 2021, the Company recognized \$5,742 in rental income based on this agreement (\$3,145 – 2020).

Garwood Medical: The Company entered into a sublease agreement with Garwood Medical Devices, LLC commencing on December 1, 2020 and extending through November 30, 2025. For the year ended December 31, 2021, the Company recognized \$39,600 in rental income based on this agreement (\$3,300 – 2020).

Bank on Buffalo: The Company entered into a sublease agreement with CNB Financial Corporation d/b/a Bank on Buffalo commencing on April 1, 2021, and extending through September 30, 2031. For the year ended December 31, 2021, the Company recognized \$18,821 in rental income based on this agreement. For the year ended December 31, 2020, there was no rental income recognized for this sublease agreement.

The following is a schedule of minimum future rental revenue on noncancelable leases with an initial term greater than one year:

2022	\$ 1,465,594
2023	1,431,494
2024	1,429,329
2025	1,412,055
2026	1,330,871
Thereafter	<u>8,247,033</u>
Total	\$ <u>15,316,376</u>

NOTES TO THE FINANCIAL STATEMENTS

NOTE 8. ALLOCATION OF PROFITS AND LOSSES

In accordance with the amended and restated operating agreement, operating profits and losses and credits, other than those arising from a capital transaction, will be allocated in the ratio 1% to the managing member and 99% to the investor member. Profits and losses arising from a capital transaction will be allocated to the members in various amounts as described in the amended and restated operating agreement depending on if the amounts are profits or losses and if the members' capital account balances are negative or positive.

All net cash flow available for distribution shall be paid annually as follows:

- (i) To the investor member in the amount of any unpaid adjusters;
- (ii) To the investor member in the amount of any outstanding special tax distribution;
- (iii) The investor member in the amount of any outstanding priority return for the fiscal year plus any outstanding priority return for any prior fiscal year;
- (iv) To fund the replacement reserve;
- (v) To the repayment of any subordinated loans (and accrued interest thereon) and any operating deficit loans; and
- (vi) The balance to the members in accordance with their percentage interests.

Profits arising from a capital transaction will be distributed in the following order: first to each member, an amount equal to their negative capital account basis based on their proportionate share of the anticipated distribution; second, any remaining profits are distributed in accordance with the members' capital accounts.

Losses arising from a capital transaction will be allocated in the following order: first to each member, an amount equal to their positive capital account basis based on their proportionate share of the anticipated distribution; second, any remaining losses are distributed in accordance with the members' capital accounts.

For distributions other than cash flow and distributions prior to dissolution or termination of the Company, assets and proceeds will be distributed in the following order:

- (i) To the payment of all matured debts and liabilities of the Company and all expenses of the Company incident to any Capital Transaction, excluding (i) debts and liabilities of the Company to members or any affiliates, and (ii) all unpaid fees owing to any developer entity;
- (ii) To the setting up of any reserves which the liquidator (or the managing member if the distribution is not pursuant to the liquidation of the Company) deems reasonably necessary for contingent, unmatured or unforeseen liabilities or obligations of the Company;
- (iii) To the payment to the investor member of any unpaid credit recovery loans and interest thereon;
- (iv) To the investor member in the amount of any outstanding priority return;
- (v) To the payment of any unpaid special tax distribution plus an amount equal, on an after-tax basis, to the local, state and federal taxes projected (at the applicable tax rate) to be imposed on the members of the investor member as a result of the capital transaction;
- (vi) To the repayment of any unpaid debts and liabilities (including unpaid fees) owed to the members or any affiliates by the Company for Company obligations; and
- (vii) The balance to the members in accordance with their percentage interests.

NOTES TO THE FINANCIAL STATEMENTS

NOTE 8. ALLOCATION OF PROFITS AND LOSSES (CONTINUED)

The amended and restated operating agreement requires the distribution of cash based upon the net cash flow calculation. Distributable cash flow is calculated annually as defined by the amended and restated operating agreement. Based upon the calculation, there is no net cash flow available to be distributed for the years ending December 31, 2021 and 2020. However, according to the amended and restated operating agreement, any priority return not distributed shall accrue and remain payable until net cash flow becomes available. Under the amended and restated operating agreement, the priority return is based upon 1.5% of the portion of capital contributions attributable to federal historic tax credits and is pro-rated for any periods less than a full year. As of December 31, 2021, \$263,941 was accrued as payable to the investor member for the priority return (\$148,209 – 2020). During the year ended December 31, 2021, the investor member was paid \$148,096 for the 2020 accrued priority return (\$105,026 – 2020).

NOTE 9. OPERATING DEFICIT GUARANTY

In accordance with the amended and restated operating agreement, the managing member will provide funds to the Company so as to allow them to cover accrued accounts payable on a 60-day current basis. Any funds advanced shall be provided in the form of an operating deficit loan. An operating deficit loan shall be treated as a subordinated loan and shall bear no interest. As of December 31, 2021, \$132,359 was loaned to the Company from the managing member (\$49,931 – 2020).

NOTE 10. PROPERTY MANAGEMENT

The Company entered into a property management agreement with Mancuso Management Inc. (Mancuso) in December 2017. Under the agreement, Mancuso is to provide leasing and property management services. Under the agreement, the monthly management fee is calculated at 5% of rents billed or \$2,700, whichever is higher. A new agreement was entered into with Mancuso effective January 1, 2021 through December 31, 2021 with an option to extend up to five additional one-year terms. As of December 31, 2021 the option to extend through December 31, 2023 was exercised. For the year ended December 31, 2021, \$67,515 of property management fees were incurred and paid (\$49,861 – 2020).

NOTE 11. RECONCILIATION OF TAXABLE LOSS

The reconciliation of financial statement net loss to the taxable loss of the Company for the years ended December 31, are as follows:

	<u>2021</u>	<u>2020</u>
Financial statement net loss	\$ (496,962)	\$ (864,264)
Add (subtract) nondeductible items per tax return:		
Book to Tax depreciation	2,429	(1,484)
Section 467 income	658,590	492,034
Section 467 expense	<u>(440,807)</u>	<u>(404,553)</u>
Taxable loss	<u>\$ (276,750)</u>	<u>\$ (778,264)</u>

The Company files income tax returns in the U.S. Federal jurisdiction and New York State.

NOTES TO THE FINANCIAL STATEMENTS

NOTE 12. PAYMENT IN LIEU OF TAXES (PILOT)

The Company entered into a 7-year agreement (the Agreement), through December 31, 2026, with the Erie County Industrial Development Agency (ECIDA), on behalf of the City of Buffalo (the City), the City of Buffalo School District (the School District), and County of Erie (the County), whereby the Company pays an annual PILOT payment to the City, the County and the School District. The Company was exempt from taxes until the tax fiscal year beginning in 2019. Beginning in 2019, the Company shall pay a payment in lieu of taxes composed of a land component, an existing improvements component, and a variable component. The variable component will be impacted by application of an annual payment factor. The payment factor will be 10% for the first two years of the Agreement, 20% for the next two years of the Agreement, and 30% for the final three years of the Agreement. The Company paid taxes amounting to \$19,626 for the year ended December 31, 2021 (\$20,645 - 2020).

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Tentative and Preliminary
For Discussion and Internal
Purposes Only-Subject to Revision**

REPORT TO THE BOARD OF DIRECTORS

BUFFALO URBAN DEVELOPMENT CORPORATION

DECEMBER 31, 2021

DRAFT
Tentative and Preliminary
For Discussion and Internal
Purposes Only-Subject to Revision

XXXXX, 2022

To the Members of the Board of Directors
Buffalo Urban Development Corporation
95 Perry Street, Suite 403
Buffalo, New York 14203

Members of the Board:

We are pleased to present this report related to our audits of the financial statements of the Buffalo Urban Development Corporation (BUDC), as of and for the year ended December 31, 2021. This report summarizes certain matters required by professional standards to be communicated to you in your oversight responsibility for BUDC's financial reporting process.

This report is intended solely for the information and use of the BUDC and management and is not intended to be and should not be used by anyone other than these specified parties. It will be our pleasure to respond to any questions you have about this report. We appreciate the opportunity to be of service to the BUDC.

Very truly yours,

Freed Maxick CPAs, P.C.

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Tentative and Preliminary
For Discussion and Internal
Purposes Only - Subject to Revision

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Required Communications

Generally accepted auditing standards (AU-C 260, *The Auditors Communications with Those Charged with Governance*) require the auditor to promote effective two-way communication between the auditor and those charged with governance. Consistent with this requirement, the following summarizes our responsibilities regarding the financial statement audit as well as observations arising from our audit that are significant and relevant to your responsibility to oversee the financial reporting process.

Area	Comments
Our Responsibilities with Regard to the Financial Statement Audit	Our responsibilities under auditing standards generally accepted in the United States of America and <i>Government Auditing Standards</i> , issued by the Comptroller General of the United States, have been described to you in our arrangement letter dated January 25, 2022. Our audit of the financial statements does not relieve management or those charged with governance of their responsibilities which are also described in that letter.
Overview of the Planned Scope and Timing of the Financial Statement Audit	We have issued a separate communication regarding the planned scope and timing of our audit and have discussed with you our identification of and planned audit response to significant risks of material misstatement.
Accounting Policies and Practices	<p>Preferability of Accounting Policies and Practices</p> <p>Under generally accepted principles, in certain circumstances, management may select among alternative accounting practices. In our view, in such circumstances, management has selected the preferable accounting practice.</p> <p>Adoption of, or Change in, Accounting Policies</p> <p>Management has the ultimate responsibility for the appropriateness of the accounting policies used by BUDC. BUDC did not adopt any significant new accounting policies nor have there been any changes in significant existing policies during the current period.</p> <p>Significant or Unusual Transactions</p> <p>We did not identify any significant or unusual transactions or significant accounting policies in controversial or emerging areas for which there is a lack of authoritative guidance or consensus.</p> <p>Management’s Judgments and Accounting Estimates</p> <p>Summary information about the process used by management in formulating particularly sensitive accounting estimates and about our conclusions regarding the reasonableness of those estimates is in the attached “Summary of Significant Accounting Estimates.”</p>
Basis of Accounting	The financial statements were prepared on assumption that the entity will continue as a going concern.

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Required Communications (Continued)

Audit Adjustments

The audit adjustments, other than those that are clearly trivial, proposed by us and recorded by the BUDC are shown on the attached "Summary of Recorded Audit Adjustments."

Uncorrected Misstatement

We are not aware of any uncorrected misstatements other than misstatements that are clearly trivial.

Disagreements with Management

We encountered no disagreements with management over the application of significant accounting principles, the basis for management's judgments on any significant matters, the scope of the audit, or significant disclosures to be included in the financial statements.

Consultations with Other Accountants

We are not aware of any consultations management had with other accountants about accounting or auditing matters.

Significant Issues Discussed with Management

No significant issues arising from the audit were discussed with or were the subject of correspondence with management.

Significant Difficulties Encountered in Performing the Audit

We did not encounter any significant difficulties in dealing with management during the audit.

Difficult or Contentious Matters That Required Consultation

We did not encounter any significant and difficult or contentious matters that required consultation outside the engagement team.

Significant Written Communication Between Management and Our Firm

A copy of the representation letter provided to us by management is attached as Exhibit A.

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**Buffalo Urban Development Corporation
 Summary of Significant Accounting Estimates
 Year Ended December 31, 2021**

Accounting estimates are an integral part of the preparation of financial statements and are based upon management's current judgment. The process used by management encompasses their knowledge and experience about past and current events and certain assumptions about future events. You may wish to monitor throughout the year the process used to determine and record these accounting estimates. The following describes the significant accounting estimates reflected in the BUDC's December 31, 2021 financial statements:

<u>Estimate</u>	<u>Accounting Policy</u>	<u>Management's Estimation Process</u>	<u>Basis of our conclusions on Reasonableness of Estimate</u>
Depreciation of Property, Plant & Equipment	Management depreciates property, plant and equipment over the estimated lives of the assets.	Useful lives were assigned based on BUDC's useful life policy. Management was consistent in calculating depreciation based on the useful lives assigned to each asset.	The methods and lives used to estimate depreciation expense appears reasonable.

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**Buffalo Urban Development Corporation
 Summary of Recorded Audit Adjustments
 Year Ended December 31, 2021**

Account No	Name	Debit	Credit
1902 ENT01	Development Costs - BLCP		(11,780)
5902 ENT01	Proceeds from Land Sales - BLCP	33,450	
5912 ENT01	Cost of Land Sales - BLCP		(21,670)
To properly record sale of land related to BLCP as of December 31, 2021.			
		33,450	(33,450)

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Recently Issued Accounting Standards

The GASB has issued several statements not yet implemented by the BUDC. BUDC's management has not yet determined the effect these Statements will have on the BUDC's financial statements. However, BUDC plans to implement all standards by the required dates. The Statements which might impact the BUDC are as follows:

Summary of GASB Statement No. 87, Leases

This Statement issued in June 2017 will be effective for BUDC with its fiscal year ending December 31, 2022. This Statement better meets the information needs of financial statement users by improving accounting and financial reporting for leases by governments. This Statement increases the usefulness of governments' financial statements by requiring recognition of certain lease assets and liabilities for leases that previously were classified as operating leases and recognized as inflows of resources or outflows of resources based on the payment provision of the contract. It establishes a single model for lease accounting based on the foundational principle that leases are financings of the right to use an underlying asset. Under this Statement, a lessee is required to recognize a lease liability and an intangible right-to-use lease asset, and a lessor is required to recognize a lease receivable and a deferred inflow of resources, thereby enhancing the relevance and consistency of information about governments' leasing activities.

The requirements of this Statement are effective for reporting periods beginning after December 15, 2021. Earlier application is encouraged.

Summary of GASB Statement No. 89, Accounting for Interest Cost Incurred Before the End of a Construction Period

This Statement issued in June 2018 will be effective for BUDC beginning with its fiscal year ending December 31, 2022. The primary objectives of this Statement are (1) to enhance the relevance and comparability of information about capital assets and the cost of borrowing for a reporting period and (2) to simplify accounting for interest cost incurred before the end of a construction period.

This Statement establishes accounting requirements for interest cost incurred before the end of a construction period. Such interest cost includes all interest that previously was accounted for in accordance with the requirements of paragraphs 5–22 of Statement No. 62, *Codification of Accounting and Financial Reporting Guidance Contained in Pre-November 30, 1989 FASB and AICPA Pronouncements*, which are superseded by this Statement. This Statement requires that interest cost incurred before the end of a construction period be recognized as an expense in the period in which the cost is incurred for financial statements prepared using the economic resources measurement focus. As a result, interest cost incurred before the end of a construction period will not be included in the historical cost of a capital asset reported in a business-type activity or enterprise fund.

This Statement also reiterates that in financial statements prepared using the current financial resources measurement focus, interest cost incurred before the end of a construction period should be recognized as an expenditure on a basis consistent with governmental fund accounting principles.

The requirements of GASB Statement No. 89 are effective for financial periods beginning after December 15, 2021. Earlier application is encouraged.

Summary of GASB Statement No. 96, *Subscription-Based Information Technology Arrangements*

This Statement issued in May 2020 will be effective for the BUDC beginning with its fiscal year ending December 31, 2023. This Statement provides guidance on the accounting and financial reporting for subscription-based information technology arrangements (SBITAs) for government end users (governments). A SBITA is defined as a contract that conveys control of the right to use another party's (a SBITA vendor's) information technology (IT) software, alone or in combination with tangible capital assets (the underlying IT assets), as specified in the contract for a period of time in an exchange or exchange-like transaction.

This Statement establishes that a SBITA results in a right-to-use subscription asset—an intangible asset—and a corresponding subscription liability. To the extent relevant, the standards for SBITAs are based on the standards established in GASB Statement No. 87, *Leases*, as amended.

The requirements of this Statement are effective for fiscal years beginning after June 15, 2022, and all reporting periods thereafter. Earlier application is encouraged.

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Tentative and Preliminary
For Discussion and Internal
Purposes Only—Subject to Revision

XXXXXX, 2022

The Finance & Audit Committees, Boards of Directors, and Management
Buffalo Urban Development Corporation

In planning and performing our audits of the financial statements of the Buffalo Urban Development Corporation (BUDC), of and for the year ended December 31, 2021, in accordance with auditing standards generally accepted in the United States of America, we considered the BUDC's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the separate financial statements, but not for the purpose of expressing an opinion on the effectiveness of the BUDC's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the BUDC's financial statements will not be prevented, or detected and corrected, on a timely basis.

Our consideration of internal control was for the limited purpose described in the first paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

This communication is intended solely for the information and use of management, the Finance and Audit Committees, Boards of Directors, and others within the BUDC. It is not intended to be, and should not be, used by anyone other than these specified parties.

Freed Maxick CPAs, P.C.

**EXHIBIT A – SIGNIFICANT WRITTEN COMMUNICATION
BETWEEN MANAGEMENT AND OUR FIRM**

**DRAFT
Tentative and Preliminary
For Discussion and Internal
Purposes Only-Subject to Revision**

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**AUDITED
CONSOLIDATED FINANCIAL STATEMENTS**

**BUFFALO URBAN DEVELOPMENT
CORPORATION**

DECEMBER 31, 2021

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FINANCIAL SECTION

BUFFALO URBAN DEVELOPMENT CORPORATION

Management's Discussion and Analysis

December 31, 2021
(UNAUDITED)

Buffalo Urban Development Corporation (BUDC) is a not-for-profit corporation whose mission is to support the urban economic development efforts of the region through acquisition, remediation and management of distressed properties, and to engage in related real estate development activities for the purpose of attracting and/or retaining new and existing businesses to the City of Buffalo, New York (the City) as part of the region. The mission of BUDC also includes supporting the revitalization of the City by serving as the lead management entity for Buffalo Building Reuse Project (BBRP) initiatives, working in collaboration with the Mayor's Office of Strategic Planning, including the coordination of financial assistance for downtown adaptive re-use projects and public right-of-way improvements.

For financial reporting purposes, BUDC is classified as a governmental entity that is required to comply with accounting standards issued by the Governmental Accounting Standards Board (GASB) because a majority of its governing body are officials of local governments or appointed by officials of local governments. Under GASB Statement No. 34, *Basic Financial Statements - and Management's Discussion and Analysis - for State and Local Governments*, BUDC is required to present management's discussion and analysis (MD&A) to assist readers in understanding BUDC's financial performance.

In compliance with GASB Statement No. 34, we present the attached overview and analysis of the financial activities of BUDC for the years ended December 31, 2021, 2020 and 2019. We encourage readers to consider the information presented here in conjunction with BUDC's audited financial statements.

In 2017, BUDC's financial reporting entity expanded as a result of a tax credit transaction to bring historic tax credits (HTC) and new markets tax credit (NMTC) funding to the development project at 683 Northland Avenue (the Project), the location of the Northland Workforce Training Center (Workforce Training Center). The financial reporting entity consists of (a) BUDC (the primary entity), (b) 683 WTC, LLC (WTC), of which BUDC is the sole member, and (c) 683 Northland LLC (683 Northland), of which WTC holds a 95% equity interest. All significant intercompany balances and transactions between the three entities are eliminated in the consolidated financial statements. WTC is also the managing member of 683 Northland Master Tenant, LLC (Master Tenant) and holds a 1% equity interest.

Basic Overview of the Financial Statements

Included in this Annual Report are the following financial statements:

- 1) **Statement of Net Position** – This statement shows the reader what BUDC owns (assets and deferred outflows) and what BUDC owes (liabilities and deferred inflows). The difference between BUDC's assets, deferred outflows, liabilities and deferred inflows (net position) can be one way to measure BUDC's financial position. Over time, increases or decreases in BUDC's net position is one indicator of whether its financial health is improving or deteriorating.
- 2) **Statement of Revenues, Expenses, and Changes in Net Position** – This statement reports BUDC's operating and nonoperating revenues by major source along with operating expenses. The difference between total revenues and expenses can be one way to measure BUDC's operating results for the year.
- 3) **Statement of Cash Flows** – This statement reports BUDC's cash flows from operating, noncapital financing, capital and related financing, and investing activities.

Financial Highlights

- BUDC's net position increased by 11% from \$76,743,000 in 2020 to \$85,318,000 in 2021.
- BUDC experienced an increase in net position of \$7,614,000 in 2021 compared to a decrease of \$2,472,000 in 2020 due mainly to the receipt of brownfield tax credits by WTC in 2021. Grant income and development costs decreased in 2021, compared to 2020.
- BUDC's total assets decreased by \$6,351,000 primarily due to a \$3,489,000 decrease in grants receivable and a \$4,051,000 decrease in net capital assets, combined with a \$2,448,000 increase in cash.
- BUDC's total liabilities decreased \$14,926,000 as a result of the repayment of construction loan debt during 2021.

Condensed Comparative Financial Statements:**1. Statements of Net Position:**

The following table (Table 1) presents condensed comparative financial information and was derived from the audited consolidated statements of net position of BUDC.

Table 1
Consolidated Statements of Net Position at December 31, 2021, 2020 and 2019
(Amounts in thousands)

	<u>2021</u>	<u>2020</u>	<u>\$ Change</u>	<u>% Change</u>	<u>2019</u>
Assets:					
Cash	\$ 2,818	\$ 370	\$ 2,448	662%	\$ 247
Receivables	10,161	13,650	(3,489)	-26%	10,781
Restricted cash	4,487	3,753	734	20%	5,235
Other current assets	6,627	7,153	(526)	-7%	8,135
Loans receivable	9,666	10,416	(750)	-7%	10,791
Equity investment	178	178	-	0%	198
Capital assets, net	108,785	112,836	(4,051)	-4%	110,458
Construction in process	-	-	-	0%	2,697
Land and improvements held for sale	3,363	4,080	(717)	-18%	4,087
Total assets	\$ 146,085	\$ 152,436	\$ (6,351)	-4%	\$ 152,629
Liabilities:					
Current liabilities	\$ 26,191	\$ 45,256	\$ (19,065)	-42%	\$ 15,333
Long-term liabilities	34,576	30,437	4,139	14%	58,692
Total liabilities	60,767	75,693	(14,926)	-20%	74,025
Net position:					
Net investment in capital assets	87,868	73,760	14,108	19%	73,261
Restricted	3,624	4,021	(397)	-10%	4,702
Unrestricted	(6,174)	(1,038)	(5,136)	495%	641
Total net position	\$ 85,318	\$ 76,743	\$ 8,575	11%	\$ 78,604
Total liabilities and net position	\$ 146,085	\$ 152,436	\$ (6,351)	-4%	\$ 152,629

Cash – Cash increased \$2,448,000 due to a decrease in receivables and an overall decrease in expenses during 2021.

Receivables – Receivables include grant and other receivables owed as a result of BUDC's development projects. The \$3,489,000 decrease is primarily due to \$5,000,000 of grants awarded to BUDC during 2021, compared to \$8,500,000 of grant receipts during the year.

Restricted cash – Restricted cash includes amounts held by the Erie County Industrial Development Agency (ECIDA) on behalf of BUDC related to the Buffalo Brownfields Redevelopment Fund and the Buffalo Building Reuse Project loan fund. Also included in restricted cash are amounts received from ESD held in segregated interest accounts, which may be drawn down upon approval from ESD. The increase of \$734,000 is mainly due to the repayment of a loan in 2021.

Other current assets – Other current assets include prepaid expenses, developer fees receivable (BUDC) and interest receivable. The \$526,000 decrease from 2020 to 2021 is due mainly to the collection of developer fees in 2021.

Loans receivable – Loans receivable decreased \$750,000 in 2021, as one loan was paid off under the Buffalo Building Reuse Project loan program.

Capital assets, net – Capital assets net of accumulated depreciation decreased \$4,051,000 primarily due depreciation expense of \$4,226,000. Portions of 537 East Delavan Avenue and other properties were also capitalized and placed in service in 2021.

Land and improvements held for sale – Land and improvements held for sale represents property held at BLCP and 308 Crowley Avenue and has been reduced to its net realizable value; estimated by management to be the fair value of the property when sold. Land was sold at BLCP and 308 Crowley during 2021, accounting for the decrease.

Current liabilities - The \$19,065,000 decrease in current liabilities was primarily due to repayment of a portion (\$18,919,000) of 683 Northland's KeyBank construction loans during 2021.

Long-term liabilities – Long-term liabilities increased \$4,139,000 due to an increase in 683 Northland LLC's deferred rent liability under a Master Lease Agreement with its tenant, 683 Northland Master Tenant, LLC.

2. Change in Net Position:

The following table (Table 2) presents condensed comparative financial information and was derived from BUDC's audited statements of revenues, expenses, and changes in net position.

Table 2
Change in Net Position for the Years ended December 31, 2021, 2020 and 2019
(Amounts in thousands)

	<u>2021</u>	<u>2020</u>	<u>\$ Change</u>	<u>% Change</u>	<u>2019</u>
Revenue:					
Grants	\$ 4,425	\$ 8,816	\$ (4,391)	-50%	\$ 20,800
PILOT agreements	41	172	(131)	-76%	299
Loan interest and commitment fees	112	153	(41)	-27%	150
Rental and other revenue	14,870	2,034	12,836	631%	14,842
Total revenue	19,448	11,175	8,273	74%	36,091
Expenses:					
Development costs	\$ 4,253	\$ 5,294	\$ (1,041)	-20%	\$ 2,580
Adjustment to net realizable value	99	419	(320)	-76%	576
Salaries and benefits	483	546	(63)	-12%	509
General and administrative	2,092	2,091	1	0%	3,094
Management fee	70	92	(22)	-24%	134
Depreciation	4,226	4,198	28	1%	3,224
Total expenses	11,223	12,640	(1,417)	-11%	10,117
Operating income (loss)	8,225	(1,465)	9,690	-661%	25,974
Loss on disposal	(118)	-	(118)	-100%	-
Interest income	1	1	-	0%	19
Interest expense	(450)	(933)	483	-52%	(1,172)
Amortization expense	(44)	(75)	31	-41%	(75)
Change in net position	\$ 7,614	\$ (2,472)	\$ 10,086	-408%	\$ 24,746

3. Revenue and Expense Analysis:

Grants – Grant income includes income from the Ralph C. Wilson, Jr. Foundation and Great Lakes Commission for work related to Ralph C. Wilson, Jr. Centennial Park, and Empire State Development and NYSERDA for projects along the Northland Corridor. Grant income is recognized as the related grant expenses are incurred. In 2021, \$4,176,000 of grant revenue was recognized for Centennial Park and \$249,000 for Northland. The decrease of \$4,391,000 from 2020 reflects a continued decrease in revenue from larger grants related to 683 Northland Avenue.

Rental and other revenue – Other revenue includes WTC's 2018 brownfield tax credit refund, rental income from 683 Northland Master Tenant, LLC under the Master Lease Agreement, rent from other Northland tenants and other income. The increase of \$12,836,000 from 2020 was due to the \$12,720,000 brownfield tax credit refund of WTC received during the year.

Development costs – Development costs include those costs related to various BUDC projects but excludes certain BLCF and Northland development costs that are reflected in “adjustment to net realizable value” as discussed below. The decrease of \$1,041,000 is the result of lower costs in 2021 due to Ralph C. Wilson, Jr. Centennial Park project timing.

Adjustment to net realizable value – The adjustment to net realizable value represents certain Northland and BLCF capitalized development costs. These costs are added to the book value of capital assets and land and improvements held for sale; however, an offsetting adjustment is recorded to reduce the net book value to equal the estimated net realizable value of each property.

Salaries and benefits – Salaries and benefits decreased by \$63,000 or 12% due mainly to the retirement of an employee in 2021.

General and administrative – General and administrative costs remain consistent at \$2,092,000 in 2021 (\$2,091,000 in 2020). Included in this category are expenses related to the Workforce Training Center project, such as amounts granted to Buffalo Brownfields Redevelopment Corporation and rent payments.

Management fee – The management fee represents costs charged for certain ECIDA staff that spend a portion of their time performing financial, compliance, administrative and property management services on behalf of BUDC under a shared services agreement. Asset management fees charged to 683 Northland by NMTC and HTC investors were also reported here in 2019, and reclassified to general and administrative costs in 2020.

Depreciation – Depreciation expense increased \$28,000 from \$4,198,000 in 2020 to \$4,226,000 in 2021. The majority of depreciation expense (\$4,146,000) was related to the building and improvements at 683 Northland Avenue.

Loss on disposal – The loss on disposal for 2021 represents the difference between the sale prices of property sold at BLCF and 308 Crowley and the book value of those properties. A gain on the disposal of certain equipment by 683 Northland LLC is also included.

Interest expense – Interest expense relates mainly to loans payable by 683 Northland and lines of credit of both BUDC and 683 Northland. The \$483,000 decrease in interest expense from 2020 to 2021 is reflective of repayment of a portion of the construction loans and BUDC's line of credit during 2021.

4. Budget Analysis:

Each year, BUDC prepares an operating budget and three-year forecast. BUDC's 2021 budget was presented and approved by the Board of Directors on October 27, 2020. The following table (Table 3) presents an analysis of BUDC's performance compared to the approved 2021 budget.

Table 3
Budget to Actual Analysis for the year ended December 31, 2021
(Amounts in thousands)

	<u>Actual</u>	<u>Original Budget</u>	<u>Actual to Budget</u>	
			<u>\$ Change</u>	<u>% Change</u>
Revenue:				
Grants	\$ 4,425	\$ 9,052	\$ (4,627)	-51%
PILOT agreements	41	83	(42)	-51%
Loan interest and commitment fees	112	97	15	15%
Other	14,870	2,008	12,862	641%
Total revenue	19,448	11,240	23,263	207%
Expenses:				
Development costs	\$ 4,253	\$ 5,241	\$ (988)	-19%
Adjustment to net realizable value	99	-	99	100%
Salaries and benefits	483	534	(51)	-10%
General and administrative	2,092	1,464	628	43%
Management fee	70	103	(33)	-32%
Depreciation	4,226	4,600	(374)	-8%
Total expenses	11,223	11,942	(719)	-6%
Operating income (loss)	8,225	(702)	8,927	-1272%
Loss on disposal	(118)	(58)	(60)	103%
Interest income	1	1	-	0%
Interest expense	(450)	(729)	279	-38%
Amortization expense	(44)	(44)	-	100%
Change in net position	\$ 7,614	\$ (1,532)	\$ 9,146	-597%

Note: The original 2021 budget was not amended; therefore, only one budget column is presented.

Budget to Actual Analysis:

Overall, BUDC's change in net position exceeded the budget by \$9,146,000. Grant revenue was \$4,627,000 below budget due to lower than anticipated recognition of grant revenue from Ralph C. Wilson, Jr. Foundation related to the Centennial Park Project. Other revenue surpassed the budgeted amount by \$12,862,000 due to recognition of the 2018 brownfield tax credit refund by WTC. Development costs of \$4,253,000 were below budget by \$988,000. This is directly related to the lower recognition of grant revenue. General and administrative expenses of \$2,092,000 were above the budget by \$628,000. 683

Northland recognized \$217,000 of expense related to the sale of certain equipment. Interest expense of \$450,000 was \$279,000 higher than budget, due to repayments of long-term debt.

5. Economic Factors Impacting BUDC:

BUDC has limited sources of operating funds that can support its ongoing operating costs. As a result, BUDC is reliant upon future land sales occurring at its BLCP business park and future revenues at the Northland Corridor redevelopment site to support operations.

6. Requests for Information:

This financial report is designed to provide a general overview of BUDC's finances. Questions concerning any of the financial information provided in this report should be addressed to the Treasurer of BUDC at (716) 856-6525. General information relating to BUDC can be found at its website www.buffalourbandevelopment.com.

**BUFFALO URBAN DEVELOPMENT CORPORATION
CONSOLIDATED STATEMENTS OF NET POSITION
DECEMBER 31,**

DRAFT

	<u>2021</u>	<u>2020</u>
ASSETS		
Current assets:		
Cash	\$ 2,817,690	\$ 425,719
Grants receivable	10,160,553	13,649,610
Restricted cash	4,487,462	3,697,709
Other current assets	6,626,745	7,152,726
Total current assets	<u>24,092,450</u>	<u>24,925,764</u>
Noncurrent assets:		
Loans receivable, net	9,666,400	10,416,400
Equity investment	178,051	178,051
Capital assets, net	108,785,225	112,835,377
Land and improvements held for sale, net	3,363,434	4,080,387
Total noncurrent assets	<u>121,993,110</u>	<u>127,510,215</u>
Total assets	<u>\$ 146,085,560</u>	<u>\$ 152,435,979</u>
LIABILITIES		
Current liabilities:		
Accounts payable and accrued expenses	\$ 959,332	\$ 874,573
Unearned revenue	14,373,673	13,822,911
Line of credit	677,158	1,416,953
Current portion of loans payable	10,180,810	29,141,944
Total current liabilities	<u>26,190,973</u>	<u>45,256,381</u>
Noncurrent liabilities:		
Deferred rent liability	20,219,190	16,079,828
Loans payable	14,099,750	14,099,750
Note payable	257,381	257,381
Total noncurrent liabilities	<u>34,576,321</u>	<u>30,436,959</u>
NET POSITION		
Net investment in capital assets	87,868,099	73,759,690
Restricted	3,624,405	4,020,554
Unrestricted (deficit)	(6,174,238)	(1,037,605)
Total net position	<u>85,318,266</u>	<u>76,742,639</u>
Total liabilities and net position	<u>\$ 146,085,560</u>	<u>\$ 152,435,979</u>

See accompanying notes.

BUFFALO URBAN DEVELOPMENT CORPORATION
CONSOLIDATED STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
FOR THE YEARS ENDED DECEMBER 31,

DRAFT

	<u>2021</u>	<u>2020</u>
Operating revenues:		
Grant revenue	\$ 4,425,140	\$ 8,816,375
Brownfield funds	40,821	171,903
Loan interest and commitment fees	112,107	152,597
Rental and other revenue	14,869,875	2,033,807
Total operating revenues	<u>19,447,943</u>	<u>11,174,682</u>
Operating expenses:		
Development costs	4,253,370	5,294,325
Adjustment to net realizable value	98,713	418,386
Salaries and benefits	482,778	546,021
General and administrative	2,091,562	2,091,258
Management fee	70,408	91,454
Depreciation	4,225,517	4,198,380
Total operating expenses	<u>11,222,348</u>	<u>12,639,824</u>
Operating income (loss)	8,225,595	(1,465,142)
Nonoperating revenues (expenses):		
Loss on disposal	(118,382)	-
Interest income	722	1,278
Amortization expense	(43,675)	(74,872)
Interest expense	(450,479)	(933,410)
Total nonoperating expenses, net	<u>(611,814)</u>	<u>(1,007,004)</u>
Change in net position	7,613,781	(2,472,146)
Net position - beginning of year	76,742,639	78,603,896
Add: capital contributions	<u>961,846</u>	<u>610,889</u>
Net position - end of year	<u>\$ 85,318,266</u>	<u>\$ 76,742,639</u>

See accompanying notes.

**BUFFALO URBAN DEVELOPMENT CORPORATION
CONSOLIDATED STATEMENTS OF CASH FLOWS
FOR THE YEARS ENDED DECEMBER 31,**

DRAFT

	<u>2021</u>	<u>2020</u>
Cash flows from operating activities:		
Amounts received from Brownfields funds	\$ 67,767	\$ 229,279
Grants received	8,464,959	9,026,593
Receipts from loans and commitment fees	112,107	152,597
Repayments of loans	750,000	375,000
Rental and other revenue	19,562,372	3,951,260
Payments to employees, suppliers, and other	(6,934,777)	(8,994,092)
Net cash provided by operating activities	<u>22,022,428</u>	<u>4,740,637</u>
Cash flows from capital and related financing activities:		
Acquisition and construction of capital assets	(449,194)	(6,364,450)
Proceeds from sale/disposal of capital assets	872,400	-
Repayment of line of credit	(923,370)	677,445
Proceeds from line of credit	183,575	-
Repayment of loans	(18,961,134)	-
Capital contributions	961,846	631,199
Net cash used by capital and related financing activities	<u>(18,315,877)</u>	<u>(5,055,806)</u>
Cash flows from investing activities:		
Change in restricted cash	(789,753)	1,536,876
Interest earned	722	1,278
Interest paid	(525,549)	(1,044,206)
Net cash provided (used) by investing activities	<u>(1,314,580)</u>	<u>493,948</u>
Net increase in cash	2,391,971	178,779
Cash - beginning of year	<u>425,719</u>	<u>246,940</u>
Cash - end of year	<u>\$ 2,817,690</u>	<u>\$ 425,719</u>
Reconciliation of operating income (loss) from operations to net cash provided by operating activities:		
Operating income (loss)	\$ 8,225,595	\$ (1,465,142)
Adjustment to reconcile income from operations to net cash provided by operating activities:		
Depreciation expense	4,225,517	4,198,380
Increase (decrease) in grants receivable	3,489,057	(2,868,964)
Decrease in other current assets	525,981	982,499
Decrease in loans receivable	750,000	375,000
Increase (decrease) in accounts payable and accrued expenses	116,154	(1,186,829)
Increase in unearned revenue	550,762	3,079,182
Increase in deferred rent liability	4,139,362	1,626,511
Net cash provided by operating activities	<u>\$ 22,022,428</u>	<u>\$ 4,740,637</u>
Non-cash transactions:		
Capital asset purchases not yet disbursed	\$ -	\$ 390,059
Grants received but not yet earned	548,961	3,079,182

See accompanying notes.

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The financial statements of the Buffalo Urban Development Corporation (BUDC) have been prepared in conformity with accounting principles generally accepted in the United States of America (U.S. GAAP) as applied to government units. The Governmental Accounting Standards Board (GASB) is the accepted standard setting body for establishing governmental accounting and financial reporting principles. The more significant of the BUDC's accounting policies are described below.

A. REPORTING ENTITY

The Buffalo Urban Development Corporation (BUDC) was incorporated to facilitate partnership with the private sector in the development of the City of Buffalo (the City). Funding was initially received from the City; however the City has not allocated direct funding to BUDC for several years and future allocations are not expected. Funding is received primarily from land sales, grant funding, and loan repayments. In 2005, an agreement between BUDC, Erie County Industrial Development Agency (ECIDA), the City, and Erie County (the County) established the Buffalo Brownfields Redevelopment Fund (the Fund). The Fund dedicates certain payments received in lieu of real estate taxes (PILOT) for future eligible project costs. The fund is administered by ECIDA and reimburses BUDC for eligible project costs incurred. The activity of the Fund is included in these financial statements.

The financial reporting entity consists of (a) the primary entity, which is BUDC, (b) 683 WTC, LLC, (WTC) of which BUDC is the sole member, and (c) 683 Northland LLC, (Northland) in which 683 WTC, LLC has a 95% equity interest.

In accordance with U.S. GAAP, BUDC is not considered a component unit of another entity.

B. BASIS OF PRESENTATION

Revenues from grants, Brownfield funds, rental payments and interest on loans are reported as operating revenues. All expenses related to operating BUDC are reported as operating expenses. Certain other transactions are reported as nonoperating activities including BUDC's interest income from deposits and interest expense related to long-term debt.

When both restricted and unrestricted resources are available for use, it is BUDC's policy to use restricted resources first, then unrestricted resources as they are needed.

C. CONSOLIDATED FINANCIAL STATEMENT PRESENTATION

The consolidated financial statements include the accounts of BUDC, WTC, and Northland. All significant intercompany balances and transactions have been eliminated in the accompanying consolidated financial statements. These consolidated financial statements have been prepared in conformity with U.S. GAAP.

D. MEASUREMENT FOCUS AND BASIS OF ACCOUNTING

BUDC is considered a special-purpose government engaged in business-type activities. Business-type activities are those that are financed in whole or in part by fees charged to external parties for goods or services. The financial statements of BUDC are reported using the economic resources measurement focus and the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded at the time liabilities are incurred; regardless of when the cash transaction takes place.

Nonexchange transactions, in which BUDC gives or receives value without directly receiving or giving equal value in exchange, include grants. Revenue from grants is recognized in the year in which all eligibility requirements have been satisfied.

E. CASH AND RESTRICTED CASH

BUDC's cash consists of cash on hand and demand deposits. Certain assets are classified on the balance sheet as restricted because their use is limited.

F. LOANS RECEIVABLE

Loans receivable are presented net of an allowance for uncollectible accounts. BUDC maintains an allowance for estimated uncollectible accounts which is based on an analysis of the loan portfolio and reflects an amount that, in management’s judgment, is adequate to provide for potential loan losses. Loans are written off when, in management’s judgment, no legal recourse is available to collect the amount owed.

Interest on loans receivable is accrued as required by the terms of the agreement; management considers that collection is probable based on the current economic condition of the borrower. Accrual of interest ceases when management adjusts a loan reserve to 50% or more of the loan’s outstanding balance.

G. OTHER CURRENT ASSETS

Certain payments to vendors reflect costs applicable to future accounting periods and are recorded as prepaid expenses. These amounts are included in other current assets and amounted to \$6,188,769 and \$6,646,600 for December 31, 2021 and 2020, respectively. Other current assets include interest and accounts receivables and amounted to \$437,976 and \$506,126 for December 31, 2021 and 2020, respectively.

H. CAPITAL ASSETS

Capital assets are recorded at acquisition cost and depreciated over the estimated useful lives of the respective assets using the straight-line method. The cost of repairs, maintenance and minor replacements are expensed as incurred, whereas expenditures that materially extend property lives are capitalized. When depreciable property is retired or otherwise disposed of, the cost and related accumulated depreciation are removed from the accounts and any gain or loss is reflected in income. Contributed capital assets are recorded at fair value at the date received.

Capitalization thresholds (the dollar value above which asset acquisitions are added to the capital asset accounts), depreciation methods, and estimated useful lives of capital assets reported in the BUDC are as follows:

	<u>Capitalization Threshold</u>	<u>Depreciation Method</u>	<u>Estimated Useful Life</u>
Furniture and equipment	\$1,000	Straight-line	3-10 years
Buildings and improvements	\$1,000	Straight-line	5-40 years

I. INSURANCE

BUDC is exposed to various risks of loss related to torts, theft of, damage to, and destruction of assets, personal injury liability, and natural disasters. These risks are covered by commercial insurance purchased from independent third parties. Judgments and claims are recorded when it is probable that an asset has been impaired or a liability has been incurred and the amount of loss can be reasonably estimated. Settled claims from these risks has not yet exceeded commercial insurance coverage for the past three years.

J. NET POSITION

Equity is classified as net position and displayed in three components:

- a. *Net investment in capital assets* - Consists of capital assets including restricted capital assets, net of accumulated depreciation and related debt.
- b. *Restricted* - Consists of net positions with constraints on the use either by (1) external groups such as creditors, grantors, contributors, or laws or regulations of other governments; or (2) law through constitutional provisions or enabling legislation. Included in this classification are the Buffalo Brownfields Redevelopment Fund and a loan fund.
- c. *Unrestricted* - The net amount of assets, deferred outflows of resources, liabilities, and deferred inflows of resources that are not included in the determination of net investment in capital assets or the restricted component of net position and therefore are available for general use by BUDC.

K. INCOME TAXES

BUDC is exempt from federal income tax under Internal Revenue Code Section 501(c)(3) and the income realized will not be subject to New York State corporate franchise tax. BUDC is subject to unrelated business income tax related to certain lending transactions associated with WTC.

L. STATEMENTS OF CASH FLOWS

For the purposes of the statements of cash flows, BUDC considers all cash, other than restricted cash, which includes cash and demand accounts.

M. USE OF ESTIMATES IN THE PREPARATION OF FINANCIAL STATEMENTS

The preparation of financial statements in accordance with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets, deferred outflows of resources, liabilities, deferred inflows of resources and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses/expenditures during the reporting period. Actual results could differ from those estimates.

N. ACCOUNTING PRONOUNCEMENTS

The following are GASB Statements that have been issued recently and are currently being evaluated, by BUDC, for their potential impact in future years.

- Statement No. 87, *Leases*, which will be effective for the year ending December 31, 2022.
- Statement No. 91, *Conduit Debt Obligations*, which will be effective for the year ending December 31, 2022.
- Statement No. 92, *Omnibus 2020*, which will be effective for the year ending December 31, 2022.
- Statement No. 93, *Replacement of Interbank Offered Rates*, which is effective for the year ending December 31, 2021, except for paragraph 11b, which will be effective for the year ending December 31, 2022.
- Statement No. 94, *Public-Private and Public-Public Partnerships and Availability Payment Arrangements*, which will be effective for the year ending December 31, 2023.
- Statement No. 96, *Subscription-Based Information Technology Arrangements*, which will be effective for the year ending December 31, 2023.
- Statement No. 97, *Certain Component Unit Criteria, and Accounting and Financial Reporting for Internal Revenue Code Section 457 Deferred Compensation Plans-an amendment of GASB Statements No. 14 and 84, and a supersession of GASB Statement No. 32*, which will be effective for the year ending December 31, 2022.

O. RECLASSIFICATIONS

Certain prior year amounts have been reclassified to conform with current year presentation.

NOTE 2. CASH AND INVESTMENTS

BUDC's investment policies are governed by State statutes. In addition, BUDC has its own written investment policy. BUDC monies must be deposited in Federal Deposit Insurance Corporation (FDIC)-insured commercial banks or trust companies located within the State. BUDC is authorized to use interest bearing demand accounts and certificates of deposit. Permissible investments include obligations of the United States Treasury and its agencies, repurchase agreements and obligations of the State and its localities.

Collateral is required for demand deposits and certificates of deposits not covered by federal deposit insurance. Obligations that may be pledged as collateral are obligations of the United States and its agencies, obligations of the State and its municipalities and school districts and obligations issued by other than New York State rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.

As of December 31, 2021 and 2020, BUDC's aggregate bank deposits were considered fully collateralized.

Investment and Deposit Policy

BUDC follows an investment and deposit policy, the overall objective of which is to adequately safeguard the principal amount of funds invested or deposited; conformance with federal, state and other legal requirements; and provide sufficient liquidity of invested funds in order to meet obligations as they become due. Oversight of investment activity is the responsibility of BUDC's Treasurer.

Interest Rate Risk

Interest rate risk is the risk that the fair value of investments will be affected by changing interest rates. BUDC's investment policy does not limit investment maturities as a means of managing its exposure to fair value losses arising from increasing interest rates.

Credit Risk

BUDC's policy is to minimize the risk of loss due to failure of an issuer or other counterparty to an investment to fulfill its obligations. BUDC's investment and deposit policy authorizes the reporting entity to purchase the following types of investments:

- Interest bearing demand accounts.
- Certificates of deposit.
- Obligations of the United States Treasury and United States agencies.
- Obligations of New York State and its localities.

Custodial Credit Risk

Custodial credit risk is the risk that in the event of a failure of a depository financial institution, the reporting entity may not recover its deposits. In accordance with BUDC's investment and deposit policy, all deposits of BUDC including interest bearing demand accounts and certificates of deposit, in excess of the amount insured under the provisions of the Federal Deposit Insurance Corporation (FDIC) shall be secured by a pledge of securities with an aggregate value equal to 100% of the aggregate amount of deposits. BUDC restricts the securities to the following eligible items:

- Obligations issued, fully insured or guaranteed as to the payment of principal and interest, by the United States Treasury and United States agencies.
- Obligations issued or fully insured or guaranteed by the State of New York and its localities.
- Obligations issued by other than New York State rated in one of the three highest rating categories by at least one nationally recognized statistical rating organizations.

NOTE 3. LOANS RECEIVABLE

BUDC has an agreement with Pursuit (formerly New York Business Development Corporation) to provide loans to facilitate the development and adaptive reuse of vacant or underutilized buildings in certain designated areas. The loan agreement provides for \$9,000,000 in total funding from five participating lending banks, with interest rates determined by the banks. The balance of the loans outstanding were \$0 and \$750,000 at December 31, 2021 and 2020, respectively. Interest payments are due monthly and principal is due at maturity.

In 2017, BUDC made a loan in the amount of \$9,666,400 to Northland NMTC Investment Fund, LLC (NMTC). Interest accrues at the rate of one percent per annum (1%) and is due quarterly. Interest only payments from the date of first advance, which was December 28, 2017 through December 31, 2024 are payable quarterly. Principal and interest shall be paid commencing December 31, 2024 through December 31, 2042. NMTC pledges its entire interest in BACDE NMTC Fund 16, LLC and NTCIC-Northland, LLC. The following is a summary of the loans receivable. BUDC's policy is to present loans receivable net of an allowance for uncollectible loans. Management has determined that no allowance for these loans was necessary in 2021 and 2020.

	<u>2021</u>	<u>2020</u>
Downtown Loan Fund	\$ -	\$ 750,000
NMTC Investment Fund	<u>9,666,400</u>	<u>9,666,400</u>
Total loans receivable	<u>\$ 9,666,400</u>	<u>\$ 10,416,400</u>

NOTE 4. CAPITAL ASSETS

Capital asset activity for the BUDC for the year ended December 31, 2021 was as follows:

	<u>Balance</u> <u>01/01/2021</u>	<u>Increases</u>	<u>Decreases</u>	<u>Balance</u> <u>12/31/2021</u>
Non-depreciable capital assets				
Land	\$ 874,014	\$ -	\$ -	\$ 874,014
Idle buildings and improvements	<u>4,687,894</u>	<u>336,940</u>	<u>-</u>	<u>5,024,834</u>
Total non-depreciable capital assets	<u>5,561,908</u>	<u>336,940</u>	<u>-</u>	<u>5,898,848</u>
Depreciable capital assets:				
Buildings and improvements	107,814,194	69,920	-	107,884,114
Furniture and equipment	7,925,057	6,688	420,120	7,511,625
Less: accumulated depreciation	<u>8,465,782</u>	<u>4,225,517</u>	<u>181,937</u>	<u>12,509,362</u>
Total depreciable assets, net	<u>107,273,469</u>	<u>(4,148,909)</u>	<u>238,183</u>	<u>102,886,377</u>
Total capital assets, net	<u>\$ 112,835,377</u>	<u>\$ (3,811,969)</u>	<u>\$ 238,183</u>	<u>\$ 108,785,225</u>

Capital asset activity for the BUDC for the year ended December 31, 2020 was as follows:

	<u>Balance</u> <u>01/01/2020</u>	<u>Increases</u>	<u>Decreases</u>	<u>Balance</u> <u>12/31/2020</u>
Non-depreciable capital assets				
Land	\$ 844,942	\$ 29,072	\$ -	\$ 874,014
Construction work in progress	2,697,320	2,276,653	4,973,973	-
Idle buildings and improvements	<u>5,510,766</u>	<u>1,639,434</u>	<u>2,462,306</u>	<u>4,687,894</u>
Total non-depreciable capital assets	<u>9,053,028</u>	<u>3,945,159</u>	<u>7,436,279</u>	<u>5,561,908</u>
Depreciable capital assets:				
Buildings and improvements	100,718,306	7,095,888	-	107,814,194
Furniture and equipment	7,666,432	305,670	47,045	7,925,057
Less: accumulated depreciation	<u>4,282,524</u>	<u>4,198,380</u>	<u>15,122</u>	<u>8,465,782</u>
Total depreciable assets, net	<u>104,102,214</u>	<u>3,203,178</u>	<u>31,923</u>	<u>107,273,469</u>
Total capital assets, net	<u>\$ 113,155,242</u>	<u>\$ 7,148,337</u>	<u>\$ 7,468,202</u>	<u>\$ 112,835,377</u>

Land, buildings, and improvements related to the Northland Corridor amounted to \$5,898,848 and \$5,561,908 at December 31, 2021 and 2020. BUDC intends to return these properties to productive use, assist with revitalizing the surrounding neighborhood, and provide employment opportunities for nearby residents by creating a new manufacturing hub on the City's east side. Once completed, BUDC expects to lease the property to local businesses, government agencies, and nonprofit organizations.

Due to the extensive amount of revitalization, pollution remediation (Note 14), and other related activities, the anticipated costs of certain Northland properties exceed the expected fair value of the properties based on current estimates. Adjustments to net realizable value totaled \$660 and \$418,386 for the years ended December 31, 2021 and 2020, respectively.

NOTE 5. LAND AND IMPROVEMENTS HELD FOR DEVELOPMENT AND SALE

In 2002, on behalf of the City, BUDC agreed to undertake a multi-phase Brownfield reclamation and redevelopment project at the former Hanna Furnace site and land surrounding the Union Ship Canal, now known as Buffalo Lakeside Commerce Park (BLCP). BUDC accepted 104 acres of tax foreclosed property from the City, demolished derelict structures, and constructed approximately 5,000 linear feet of roads and infrastructure. Funding for this work was provided by the State, the City, and the County. With additional funding from the State, BUDC purchased 130 acres of land to add to the BLCP and constructed additional roads and infrastructure. Between 2004 and 2008 there were multiple BLCP parcels sold to local businesses. In 2021, approximately 20 acres of land were sold to a local developer.

In 2018, BUDC purchased approximately 7 acres of property at 308 Crowley Street in the City of Buffalo for the purpose of remediation and redevelopment. The property includes a derelict building which will undergo select demolition. One acre of land was sold in 2020, and .65 acres were sold in 2021.

Land and improvements held for sale are recorded at net realizable value based on assessment of the fair value of each project as follows at December 31,:

	<u>2021</u>	<u>2020</u>
BLCP	\$ 8,533,718	\$ 9,211,452
308 Crowley	71,510	83,719
Less adjustment to net realizable value (BLCP)	<u>5,241,794</u>	<u>5,214,784</u>
Total land and improvements held for development and sale	<u>\$ 3,363,434</u>	<u>\$ 4,080,387</u>

NOTE 6. GRANTS RECEIVABLE AND UNEARNED REVENUE

BUDC was awarded several grants between 2016-2020 from Empire State Development (ESD) for the demolition, remediation, renovation, construction and site/street improvements for various Northland properties and the Western New York Workforce Training Center project (Training Center). In 2021, BUDC was awarded a \$200,000 grant for the planning for a solar array and microgrid system at the Training Center.

In 2019, BUDC was awarded a \$3,998,549 grant from ESD under the Restore NY Program in support of the demolition and rehabilitation at certain properties in the Northland Corridor. A \$131,250 grant was also awarded from National Grid's Brownfield Redevelopment Program in support of this work.

Between 2019-2021, BUDC was awarded six grants from the Ralph C. Wilson, Jr. Foundation totaling \$21,397,150 for project coordination and advancing the transformation of Ralph C. Wilson, Jr. Centennial Park into a world-class park and recreational amenity for the City and the Western New York Region.

To further support the shoreline components of the Centennial Park project, BUDC was awarded two grants totaling \$1,224,252 from the Great Lakes Commission in 2020 and 2021.

The following is a summary of grants receivable and unearned grant revenue at December 31,:

	<u>2021</u>	<u>2020</u>
Grants receivable:		
ESD	\$ 2,033,102	\$ 4,382,619
National Grid	250,000	250,000
Ralph C Wilson Jr. Foundation	7,740,000	8,300,000
NYSERDA	-	23,136
Great Lakes Commission	137,451	693,855
	<u>\$ 10,160,553</u>	<u>\$ 13,649,610</u>

Unearned revenue:

ESD	\$ 1,835,008	\$ 1,762,728
National Grid	381,250	381,250
Ralph C Wilson Jr. Foundation	11,850,415	11,058,342
NYSERDA	-	119,232
Great Lakes Commission	7,000	501,359
Other	300,000	-
	<u>\$ 14,373,673</u>	<u>\$ 13,822,911</u>

NOTE 7. ACCOUNTS PAYABLE AND ACCRUED EXPENSES

The following is a summary of accounts payable and accrued expenses at December 31,:

	<u>2021</u>	<u>2020</u>
Accounts payable	\$ 862,805	\$ 741,247
Accrued payroll	23,615	36,435
Accrued interest	23,812	57,791
Other accrued expenses	49,100	39,100
	<u>\$ 959,332</u>	<u>\$ 874,573</u>

NOTE 8. DEFERRED RENT LIABILITY

Northland has a Master Lease Agreement (the Agreement) with the master tenant member to receive rental income commencing August 26, 2018, the day prior to the first date on which Phase I of the Building was placed in service for purposes of the historical tax credits, through the year ended December 31, 2037. Northland recognized \$1,879,742 in rental revenue related to the Agreement for the years ended December 31, 2021 and 2020. The lease agreement includes scheduled rent increases over the term of the lease, which in accordance with U.S. GAAP, will be recognized on a straight-line basis over the term of the lease. Northland will reduce the deferred rent liability by \$1,879,742 over each of the next 5 years and through the remainder of the life of the lease agreement.

Future minimum rental receipts to be received under the Master Lease Agreement are contractually due as follows as of December 31, 2021:

2022	\$ 484,486
2023	492,423
2024	528,046
2025	558,098
2026	565,617
Thereafter	6,890,373
	<u>\$ 9,519,043</u>

NOTE 9. NOTE PAYABLE

In connection with the purchase of property related to BLCP, BUDC issued a non-interest bearing note payable in an amount equal to the greater of \$525,000 (\$13,125 per acre) or a percentage of the resale price of the developed property. At December 31, 2021 and 2020, the note payable amounted to \$257,381, which represents the remaining 19.61 acres of land at \$13,125 per acre. No payments are required until any portion of the property is sold.

NOTE 10. LINE OF CREDIT

BUDC entered into a revolving line of credit agreement with KeyBank on April 29, 2020 which allows for borrowings up to \$1,800,000. Borrowings are to be used to pay for specific projects that are reimbursed through grants but require the work to be completed prior to reimbursement and for general working capital purposes. Borrowed amounts on the line bear interest at an adjusted LIBOR rate (3.25% - 2021) per annum and are collateralized by security interest in all assets of BUDC. Interest payments are due on the first of each month. Principal is due upon demand. The line of credit had an outstanding amount of \$0 and \$923,370 on December 31, 2021 and 2020, respectively.

Northland entered into a non-revolving line of credit agreement with KeyBank on April 29, 2020 which allows for borrowings up to \$1,000,000. Buffalo Urban Development Corporation, 683 WTC, LLC, and BBRC Land Company I, LLC, related parties, are guarantors this agreement. Borrowings are to be used to pay interest on the Bridge loans (see Note 6) while awaiting member contributions. Borrowed amounts on the line bear interest at an adjusted LIBOR rate (3.25% at December 31, 2021) per annum and are collateralized by security interest in all assets of 683 WTC, LLC, BUDC and BBRC Land Company I, LLC. All outstanding principal and interest amounts are due upon maturity. The agreement was amended in 2021 and matures on December 31, 2022. The line of credit had an outstanding amount of \$677,158 and \$493,583, respectively.

NOTE 11. LOANS PAYABLE

Mortgage Payable

During 2017, Northland borrowed amounts totaling \$13,730,000 related to the Northland Corridor project from BACDE NMTC Fund 16, LLC and NTCIC-NORTHLAND, LLC. BUDC is a guarantor on the loan agreement. Interest accrues at the rate of 1.33776% and is due quarterly. The loans are collateralized by the building. Interest only payments from the date of agreement, December 28, 2017 through December 31, 2024 are payable quarterly. Principal and interest are due quarterly, commencing December 31, 2024, until the maturity date of December 28, 2052. Under the mortgage agreements, Northland shall pay BACDE NMTC Fund 16, LLC an annual asset management fee of \$45,000 through 2025 and NTCIC-NORTHLAND, LLC an annual asset management fee of \$10,000 through 2026.

Bridge Loan

Northland entered into two bridge loan agreements with KeyBank on December 28, 2017, in the amounts of \$20,000,000 (Loan A) and \$10,000,000 (Loan B). BUDC, WTC and BBRC Land Company I, LLC are guarantors on the loan agreement. The loan is collateralized by security interest in all assets of WTC, BBRC Land Company I, LLC and Northland, assignment of rents by Northland, and assignment of construction contracts and architect's agreements. The bridge loan agreement for Loan B matured on June 30, 2021 and was paid in full as of December 31, 2021. The bridge loan agreement for Loan A was extended through December 31, 2022. The balance outstanding at December 31, 2021 totaled \$10,180,810 (\$29,100,000 - 2020). Interest on Loan A is calculated at the prime rate (as established by KeyBank), plus .25% with a floor of 3% (3% at December 31, 2021). Interest on Loan B is calculated at the prime rate (as established by KeyBank) plus .25% per annum. Accrued interest amounted to \$23,812 as of December 31, 2021 (\$55,207 - 2020). Management intends to repay the bridge loans with the proceeds from the Master Lease Agreement payments and capital contributions from the managing member. The capital contributions from the managing member will be funded by the proceeds received in connection with the Brownfield tax credits.

Term Note

BUDC entered into a term note agreement with M&T Bank on February 28, 2019 totaling \$369,750 for the purchase of the land and building at 714 Northland. This note is interest-bearing only until maturity in March 2024.

The above debt is summarized by funding source below as follows at December 31:

	<u>2021</u>	<u>2020</u>
KeyBank	\$ 10,180,810	\$ 29,100,000
BACDE NMTC Fund 16, LLC	8,730,000	8,730,000
NTCIC-NORTHLAND, LLC	5,000,000	5,000,000
M&T Bank	369,750	369,750
Paycheck Protection Program	-	85,620
	<u>24,280,560</u>	<u>43,285,370</u>
Less: debt issuance costs	-	43,676
	<u>\$ 24,280,560</u>	<u>\$ 43,241,694</u>

Current maturities of long term debt are as follows for the years ended December 31:

2022	\$ 10,180,810
2023	-
2024	469,938
2025	404,116
2026	409,549
Thereafter	12,816,147
	<u>\$ 24,280,560</u>

Interest expense for the year ending December 31, 2021 and 2020 was \$450,479 and \$933,410, respectively.

NOTE 12. EQUITY INVESTMENT

Equity investment represents WTC's 1% investment in 683 Northland Master Tenant, LLC (Master Tenant). WTC utilizes the historical cost method of accounting for its investment in the Master Tenant which results in the equity investment balance being comprised of WTC's original capital contribution in the Master Tenant. The investment amounted to \$178,051 at December 31, 2021 and 2020.

NOTE 13. RESTRICTED NET POSITION

BUDC's restricted net position consists of amounts related to the Buffalo Brownfields Redevelopment Fund in the amount of \$278,701 and \$720,294 at December 31, 2021 and 2020, respectively, and a loan fund in the amount of \$3,345,704 and \$3,300,260 at December 31, 2021 and 2020, respectively.

NOTE 14. NOTES RECEIVABLE WTC

BUDC and WTC have note agreements in the amount of \$25,045,279 and \$27,142,000 whereby BUDC will advance proceeds to WTC as requested. The notes carry an interest rate of one percent (1%), compounded annually and the notes are for a period of thirty years. The balance of the notes plus accrued interest is due upon maturity date at December 28, 2047. The total outstanding balance on these notes was \$52,187,279 and \$51,049,259 at December 31, 2021 and 2020, respectively. Accrued interest on the loan amounted to \$1,501,646 and \$952,415 at December 31, 2021 and 2020, respectively.

NOTE 15. POLLUTION REMEDIATION

Various pollution remediation activities will be necessary at Northland during development. Based on preliminary environmental studies and design plans, management believes clean-up activities will amount to \$4,575,000. The current estimate includes 87% of the total Northland acreage acquired and the remaining sections are expected to be demolished or consist of parking lots that will require limited clean-up.

Management expects the entire cost of the remediation to be reimbursed by State grants; therefore no pollution remediation liability has been accrued in these financial statements

NOTE 16. SUBSEQUENT EVENTS

Management has evaluated subsequent events through XXXX, 2022, which is the date the financial statements are available for issuance and have determined there are no subsequent events that require disclosure under generally accepted accounting principles, other than those noted above.

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SUPPLEMENTARY INFORMATION

**BUFFALO URBAN DEVELOPMENT CORPORATION
CONSOLIDATING STATEMENTS OF NET POSITION
DECEMBER 31, 2021**

	Buffalo Urban Development Corporation	683 WTC LLC	683 Northland LLC	Eliminations	Total
ASSETS					
Current assets:					
Cash and cash equivalents	\$ 2,694,285	\$ 52	\$ 123,353	\$ -	\$ 2,817,690
Grants receivable	10,160,553	-	-	-	10,160,553
Restricted cash	4,096,471	-	390,991	-	4,487,462
Other current assets	7,998,177	15	135,559	(1,507,006)	6,626,745
Total current assets	24,949,486	67	649,903	(1,507,006)	24,092,450
Noncurrent assets:					
Loans receivable	61,853,679	-	-	(52,187,279)	9,666,400
Equity investment	-	59,498,971	-	(59,320,920)	178,051
Capital assets, net	8,329,383	-	100,455,842	-	108,785,225
Land and improvements held for sale, net	3,363,434	-	-	-	3,363,434
Total noncurrent assets	73,546,496	59,498,971	100,455,842	(111,508,199)	121,993,110
Total assets	\$ 98,495,982	\$ 59,499,038	\$ 101,105,745	\$ (113,015,205)	\$ 146,085,560
LIABILITIES					
Current liabilities:					
Accounts payable and accrued expenses	\$ 878,057	\$ 1,507,006	\$ 81,275	(1,507,006)	\$ 959,332
Unearned grant revenue	14,373,673	-	-	-	14,373,673
Lines of credit	-	-	677,158	-	677,158
Current portion of loans payable	-	-	10,180,810	-	10,180,810
Total current liabilities	15,251,730	1,507,006	10,939,243	(1,507,006)	26,190,973
Noncurrent liabilities:					
Deferred rent liability	-	-	20,219,190	-	20,219,190
Loans payable	369,750	52,187,279	13,730,000	(52,187,279)	14,099,750
Note payable	257,381	-	-	-	257,381
Total noncurrent liabilities	627,131	52,187,279	33,949,190	(52,187,279)	34,576,321
NET POSITION (DEFICIT)					
Net investment in capital assets	11,323,067	-	76,545,032	-	87,868,099
Restricted	3,624,405	-	-	-	3,624,405
Unrestricted (deficit)	67,669,649	5,804,753	(20,327,720)	(59,320,920)	(6,174,238)
Total net position (deficit)	82,617,121	5,804,753	56,217,312	(59,320,920)	85,318,266
Total liabilities and net position	\$ 98,495,982	\$ 59,499,038	\$ 101,105,745	\$ (113,015,205)	\$ 146,085,560

(1) This represents activities between the entities to be eliminated for the consolidated financial statements.

BUFFALO URBAN DEVELOPMENT CORPORATION
CONSOLIDATING STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
FOR THE YEAR ENDED DECEMBER 31, 2021

	Buffalo Urban Development Corporation	683 WTC LLC	683 Northland LLC	Eliminations	Total
Operating revenues:					
Grant revenue	\$ 4,425,140	\$ -	\$ -	\$ -	\$ 4,425,140
Brownfield funds	40,821	-	-	-	40,821
Loan interest and commitment fees	661,338	-	-	(1)	112,107
Rental and other revenue	269,709	12,719,974	1,880,192	-	14,869,875
Total operating revenue	5,397,008	12,719,974	1,880,192	(549,231)	19,447,943
Operating expenses:					
Development costs	4,253,370	-	-	-	4,253,370
Adjustment to net realizable value	98,713	-	-	-	98,713
Salaries and benefits	482,778	-	-	-	482,778
General and administrative	1,562,291	6,860	522,411	-	2,091,562
Management fee	70,408	-	-	-	70,408
Depreciation	79,506	-	4,146,011	-	4,225,517
Total operating expenses	6,547,066	6,860	4,668,422	-	11,222,348
Operating income (loss)	(1,150,058)	12,713,114	(2,788,230)	(1)	8,225,595
Nonoperating revenues (expenses):					
Gain (loss) on disposal	(147,345)	-	28,963	-	(118,382)
Interest income	500	52	170	-	722
Amortization expense	-	-	(43,675)	-	(43,675)
Interest expense	(15,706)	(549,231)	(434,773)	549,231	(450,479)
Total nonoperating expenses, net	(162,551)	(549,179)	(449,315)	549,231	(611,814)
Change in net position	(1,312,609)	12,163,935	(3,237,545)	-	7,613,781
Net position (deficit) - beginning of year	83,929,730	(6,359,182)	44,635,017	(1)	76,742,639
Add: capital contributions	-	-	14,819,840	(1)	961,846
Net position (deficit) - end of year	\$ 82,617,121	\$ 5,804,753	\$ 56,217,312	\$ (59,320,920)	\$ 85,318,266

(1) This represents activities between the entities to be eliminated for the consolidated financial statements.

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INTERNAL CONTROL AND COMPLIANCE

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**AUDITED
SCHEDULE OF REVENUES, EXPENSES AND
CHANGES IN NET POSITION**

**BUFFALO BROWNFIELDS REDEVELOPMENT
FUND**

DECEMBER 31, 2021

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Schedule of Revenues, Expenses and Changes in Net Position..... 3

Notes to the Schedule 4

**BUFFALO BROWNFIELDS REDEVELOPMENT FUND
SCHEDULE OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
FOR THE YEAR ENDED DECEMBER 31, 2021**

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Operating revenues:

City of Buffalo PILOTs by end user:

Cobey	\$ 41,174
Total City of Buffalo PILOTs	<u>41,174</u>

County of Erie PILOTs by end user:

Sorwil	62,986
Cobey	30,243
Total County of Erie PILOTs	<u>93,229</u>

Total operating revenues	134,403
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Operating expenses:

City of Buffalo share of PILOTs	20,587
County of Erie share of PILOTs	47,864
Eligible project costs	507,728
Total operating expenses	<u>576,179</u>

Operating loss	(441,776)
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Nonoperating revenues:

Interest income	<u>183</u>
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Change in net position	(441,593)
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Net position - beginning	<u>720,294</u>
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Net position - ending	<u><u>\$ 278,701</u></u>
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See accompanying notes.

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Financial Reporting Entity: The Buffalo Brownfields Redevelopment Fund (the Fund) was formed in July 2005 by agreement between Erie County Industrial Development Agency (ECIDA), the City of Buffalo (the City), the County of Erie (the County), and Buffalo Urban Development Corporation (BUDC) for the purpose of remediation and redevelopment of Brownfields properties in the City. Under this agreement, ECIDA receives payments in lieu of taxes (PILOTs) from property owners located within the Buffalo Lakeside Commerce Park (BLCP). These PILOT payments are the result of abated City and County property taxes, as authorized by ECIDA. A portion of these PILOT payments is paid to the City and County, while the remainder is held in the Fund to assist in further development of BLCP. After completion of BLCP, funds can be used in connection with similar projects located within the City that are undertaken by BUDC.

Basis of Presentation: The schedule of revenues, expenses, and changes in net position (the schedule) presents the activity of the Fund, which is accounted for and is part of BUDC's financial statements. The schedule has been prepared on the accrual basis of accounting in conformity with accounting principles generally accepted in the United States of America as applied to governmental units and specifically business-type activities. The Governmental Accounting Standards Board is the accepted standard-setting body for establishing governmental accounting and financial reporting principles.

Buffalo Urban Development Corporation
Investment Report
For the year ended December 31, 2021

Buffalo Urban Development Corporation 2021 Annual Investment Report

Purpose of Report:

Under Section 2925(6) of the Public Authorities Law, BUDC is required to annually prepare and approve an Investment Report. The Investment Report is to include: BUDC's Investment Guidelines (see below), the results of the annual independent audit (see below), a list of the total investment income received by the corporation and a list of the fees, commissions or other charges paid to each investment banker, broker, agent, dealer and advisor rendering investment associated services to the corporation since the last investment report.

The attached schedule details the corporation's investment income and related fees for the year ended December 31, 2021 and was approved by the BUDC Board of Directors at their March 29, 2022 meeting.

Investment Guidelines:

In accordance with Section 2925 of the Public Authorities Law, BUDC is required to adopt Investment Guidelines which detail its operative policy and instructions to staff regarding the investing, monitoring and reporting of funds of the Agency. In addition, BUDC has elected to follow the deposit and investment restrictions contained in Sections 10 and 11 of the General Municipal Law as a "best practice".

BUDC's Investment Guidelines were approved by the BUDC Board of Directors at their March 29, 2022 meeting and are posted on the BUDC website at <http://www.buffalourbandevelopment.com/budc-corporate-policies>. The Investment Guidelines are consistent with the Guidelines adopted on March 30, 2021.

Investment Audit:

BUDC's auditors have audited the corporation's compliance with the Investment Guidelines for Public Authorities. In their report dated March XX, 2022 Freed Maxick CPAs have indicated that BUDC complied, in all material respects, with these Investment Guidelines.

Buffalo Urban Development Corporation (BUDC) and Affiliates
Annual Investment Report
For the year ended December 31, 2021

Account Type	Financial Institution	GIL Balance		Interest Rate ^a Dec 2021	2021		Restricted Purpose
		1/1/2021	12/31/2021		Investment Income	Fees	
BUDC Accounts:							
1 Interest Checking	KeyBank	315,188	2,568,435	0.01%	273	-	General BUDC Checking account.
2 Interest Checking	KeyBank	6,100	6,100	-	-	-	Northland Corridor account
3 Interest Checking	KeyBank	2,550,261	3,345,704	-	-	-	Downtown Loan Fund
4 Interest Checking	KeyBank	217,484	561,316	0.02%	183	-	Restricted account for City of Buffalo real estate development ^b
5 Interest Checking	KeyBank	425,333	39,709	0.01%	7	-	Imprest account for grant ACA26
6 Interest Checking	KeyBank	55,647	119,750	0.05%	45	-	Account for 714 Northland property
7 Interest Checking	KeyBank	4,383	-	-	-	-	Imprest account for grant Z415 ^c
8 Interest Checking	KeyBank	-	149,742	0.01%	13	-	Imprest account for ESD grant #133857 ^d
		<u>\$ 3,574,397</u>	<u>\$ 6,790,757</u>		<u>\$ 520</u>	<u>\$ -</u>	
883 Northland LLC Accounts:							
9 Interest Checking	KeyBank	48,784	123,353	0.05%	165	-	General 883 Northland Checking account
10 Interest Checking	KeyBank	55,490	23,813	0.05%	2	-	Interest Reserve account
11 Checking	Citibank	180,250	151,000	-	-	-	NTCIC Reserve Checking account
12 Checking	Citibank	284,508	216,178	-	-	1,148	BACDE Reserve Checking account
		<u>\$ 549,032</u>	<u>\$ 514,343</u>		<u>\$ 167</u>	<u>\$ 1,148</u>	
883 WTC, LLC Accounts:							
13 Interest Checking	KeyBank	0	52	0.01%	52	-	General 883 WTC Checking account
		<u>\$ 0</u>	<u>\$ 52</u>		<u>\$ 52</u>	<u>\$ -</u>	
		<u>\$ 4,123,429</u>	<u>\$ 7,305,153</u>		<u>\$ 739</u>	<u>\$ 1,148</u>	

Notes:

All accounts are FDIC guaranteed and secured by collateral posted by the depository or its agent for balances above the FDIC limit.

^a The Interest Rate is the annualized rate for the month of December 2021 and is prior to the deduction of fees (if any).

^b This account is known as the Buffalo Brownfields Redevelopment Fund (BBRF) and is held by the ECIDA on behalf of BUDC.

^c Account closed 2021.

^d New account opened in 2021

BUFFALO URBAN DEVELOPMENT CORPORATION
INVESTMENT AND DEPOSIT POLICY

ARTICLE I
Scope

Section 2925 of the New York Public Authorities Law requires the Buffalo Urban Development Corporation (the “Corporation”) to adopt by resolution comprehensive investment guidelines which detail its operative policy and instructions to officers and staff regarding the investing, monitoring and reporting of funds of the Corporation.

This investment and deposit policy (“Investment Policy”) is adopted by the Corporation pursuant to the foregoing provisions of the Public Authorities Law and shall apply to all moneys and other financial resources available for investment on the Corporation’s own behalf or, when applicable, on behalf of any other entity or individual. The provisions of this Investment Policy are also consistent with the requirements of Sections 10 and 11 of the New York General Municipal Law, which the Corporation is not required to comply with, but has elected to follow as a “best practice.”

This Investment Policy shall be applicable to all affiliates and subsidiaries of the Corporation, and to all other affiliates or subsidiary companies of the Corporation which may hereafter be established by the Corporation and which are determined to be subject to the requirements of Section 2925 of the Public Authorities Law (an “Affiliate”). Unless otherwise indicated, all references to the “Corporation” herein shall also include the each Affiliate.

ARTICLE II
Governing Principles

A. Investment Objectives.

The primary objectives of the Corporation’s investment policy are, in order of priority, as follows: (i) to conform with all applicable federal, state and local laws and legal requirements; (ii) to adequately safeguard principal; (iii) to provide sufficient liquidity to meet all operating requirements of the Corporation; and (iv) to obtain a reasonable rate of return.

B. Diversification.

The policy of the Corporation is to diversify by investment instrument, by maturity, and where practicable by financial institution.

C. Internal Controls.

1. All funds received by an officer or employee of the Corporation shall be promptly deposited with the depositories designated by the Corporation (pursuant to Article III.A of this Investment Policy) for the receipt of such funds.

2. The Treasurer or Assistant Treasurer of the Corporation shall maintain or cause to be maintained a proper record of all books, notes, securities or other evidence of indebtedness held by the Corporation for investment and deposit purposes. Such record shall identify the security, the fund for which it is held, the place where kept, the date of sale or other disposition, and the amount received from such sale or other disposition.

3. The Corporation is responsible for establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that deposits and investments are safeguarded against loss from unauthorized use or disposition, that transactions are executed in accordance with management's authorization and recorded properly, and are managed in compliance with applicable laws and regulations.

D. Authorized Financial Institutions and Dealers.

The Corporation shall maintain a list of financial institutions and dealers approved for investment purposes and establish appropriate limits to the amount of investments that may be outstanding with each financial institution or dealer. All financial institutions with which the Corporation conducts business must be creditworthy as determined by criteria established by the Treasurer or Assistant Treasurer of the Corporation. All banks with which the Corporation does business shall provide their most recent Consolidated Report of Condition (Call Report) at the request of the Corporation. Security dealers not affiliated with a bank shall be required to be classified as reporting dealers affiliated with the New York Federal Reserve Bank, as primary dealers.

E. Purchase of Investments.

The Corporation may contract for the purchase of investments directly, including through a repurchase agreement, from an authorized trading partner. All purchased obligations, unless registered or inscribed in the name of the Corporation, shall be purchased through, delivered to, and held in the custody of a bank or trust company. Such obligations shall be purchased, sold or presented for redemption or payment by such bank or trust company only in accordance with prior written authorization from the officer authorized to make the investment. All such transactions shall be confirmed in writing to the Corporation by the bank or trust company and shall be held pursuant to a written custodial agreement as described in Article IV.C.2 of this Policy.

F. Repurchase Agreements.

The Corporation may enter into repurchase agreements subject to the following restrictions:

1. All repurchase agreements must be entered into subject to a Master Repurchase Agreement.
2. Trading partners are limited to commercial banks or trust companies authorized to do business in New York State and primary reporting dealers.
3. Obligations shall be limited to obligations of the United States of America and obligations guaranteed by agencies of the United States of America.
4. No substitution of securities will be allowed.
5. Obligations purchased pursuant to a repurchase agreement shall be held by a custodian other than the trading partner, pursuant to a written custodial agreement that complies the terms of Article IV.C.2 of this Policy.

ARTICLE III **Investments**

A. General Policy.

It is the general policy of the Corporation that funds not required for immediate expenditure shall be invested as described in Article III.B below. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of the principal as well as the probable income, net of fees, to be derived.

B. Permitted Investments.

The Treasurer or Assistant Treasurer is authorized to invest funds not required for immediate expenditure in the following investments, which are permitted under Section 11 of the General Municipal Law:

1. Special time deposit accounts in, or certificates of deposit issued by any commercial bank or trust company that is located in and authorized to do business in New York State, provided that such deposit account or certificate of deposit is secured in the same manner as provided in Article IV.B of this Investment Policy and is payable within such time as the proceeds shall be needed to meet expenditures for which the funds were obtained;
2. Obligations of the United States of America;
3. Obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America;

4. Obligations of the State of New York; and
5. Such other obligations as may be permitted under Section 11 of the General Municipal Law.

All investments as provided in Sections B(2) through B(5) of this Article shall be payable or redeemable at the option of the Corporation within such times as the proceeds will be needed to meet expenditures for purposes for which the moneys were provided and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable or redeemable at the option of the Corporation within two years of the date of purchase, and comply with such other requirements as set forth in Section 11 of the General Municipal Law.

ARTICLE IV **Deposits**

A. Designation of Depositories.

The Corporation shall, by resolution, designate one or more commercial banks or trust companies for the deposit of Corporation funds received by the Corporation. Such resolution shall specify the maximum amount that may be kept on deposit at any time with each bank or trust company. Such designations and amounts may be changed at any time by further resolution of the Corporation.

B. Collateralization of Deposits.

All deposits of the Corporation (including certificates of deposit and special time deposits) in excess of the amount insured under the provisions of the Federal Deposit Insurance Act shall be secured as follows:

1. By a pledge of "eligible securities" with an aggregate "market value" as defined by Section 10 of the General Municipal Law, at least equal to the aggregate amount of deposits. A list of eligible securities is attached hereto as Schedule A.
2. By a pledge of a pro rata portion of a pool of eligible securities, having in the aggregate a market value at least equal to the aggregate amount of deposits from all such officers within New York State at such bank or trust company.
3. By an irrevocable letter of credit issued by a qualified bank (other than the bank with which the money is being deposited or invested) in favor of the Corporation for a term not to exceed ninety (90) days with an aggregate value equal to 140% of the aggregate amount of deposits and the agreed upon interest, if any. A qualified bank is one whose commercial paper and other unsecured short-term debt obligations are rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization or by a bank that is in compliance with applicable minimum risk-based capital requirements.

4. By an eligible surety bond payable to the Corporation for an amount at least equal to 100% of the aggregate amount of deposits and the agreed upon interest, if any, executed by an insurance company authorized to do business in New York State, whose claims-paying ability is rated in the highest rating category by at least two nationally recognized statistical rating organizations. The terms and conditions of any eligible surety bond shall be subject to Board approval.

C. Safekeeping and Collateralization.

Eligible securities used for collateralizing deposits shall be held by the depository and/or third party bank or trust company subject to security and custodial agreements as described below.

1. Security Agreement Requirements. The security agreement shall provide that eligible securities are being pledged to secure Corporation deposits together with agreed upon interest, if any, and any costs or expenses arising out of the collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted or released and the events which will enable the Corporation to exercise its rights against the pledged securities. In the event that the securities are not registered or inscribed in the name of the Corporation, such securities shall be delivered in a form suitable for transfer or with an assignment in blank to the depository or its custodial bank.

2. Custodial Agreement Requirements. The custodial agreement shall provide that securities held by the bank or trust company, as agent of and custodian for the Corporation, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The custodial agreement should also describe that the custodian shall confirm the receipt, substitution or release of the securities. The custodial agreement shall provide for the frequency of revaluation of eligible securities and for the substitution of securities when a change in the rating of a security may cause ineligibility. Such agreement shall include all provisions necessary to provide the Corporation a perfected interest in the securities and may include such other terms as the Board deems necessary.

ARTICLE V

Monitoring and Reporting Obligations

The following monitoring and reporting procedures shall be applicable in connection with the deposit and investment of funds subject to this Investment Policy:

A. Monthly Monitoring.

Each cash and investment account statement will be reviewed and reconciled on a monthly basis. The Treasurer or Assistant Treasurer will review each account reconciliation for accuracy and will investigate any unusual items noted.

B. Monitoring and Reporting.

Pursuant to Section 2925(5) of the Public Authorities Law, the Treasurer or Assistant Treasurer of the Corporation shall present a report at each meeting of the Board of Directors which will include the following information: (i) the cash and investment balances of the Corporation; (ii) identification of any new investments since the last report; (iii) information concerning the selection of investment bankers, brokers, agents dealers or auditors since the last report; and (iv) the names of the financial institutions holding Corporation deposits.

C. Annual Monitoring and Reporting.

1. On an annual basis, the Corporation will obtain an independent audit of its financial statements, which shall include an audit of its cash and investments and the Corporation's compliance with this Investment Policy. The results of the independent audit shall be made available to the Board of Directors at the time of its annual review of this Investment Policy.

2. Pursuant to Section 2925(6) of the Public Authorities Law, staff shall, on an annual basis, prepare and submit for Board approval an investment report which shall include this Investment Policy, amendments to the Investment Policy since the last investment report, an explanation of the Investment Policy and any amendments, the results of the annual independent audit, the investment income record of the Corporation and a list of the total fees, commissions or other charges paid to each investment banker, broker, agent, dealer and advisor rendering investment associated services to the Corporation since the last investment report. The investment report will be distributed to those individuals identified in Section 2925(7)(b) of the Public Authorities Law. The Corporation shall make available to the public copies of its investment report upon reasonable request therefor.

ARTICLE VI
Annual Review

This Investment Policy shall be reviewed and approved by the Board of Directors of the Corporation on an annual basis.

ARTICLE VII
Savings Clause

Nothing contained in Section 2925 of the Public Authorities Law shall be deemed to alter, affect the validity of, modify the terms of or impair any contract, agreement or investment of funds made or entered into by the Corporation in violation of, or without compliance with the provisions of Section 2925 of the Public Authorities Law.

SCHEDULE A
ELIGIBLE SECURITIES

Obligations issued by the United States of America, an agency thereof or a United States government sponsored corporation or obligations fully insured or guaranteed as to the payment of principal and interest by the United States of America, an agency thereof or a United States government sponsored corporation.

Obligations issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, and the African Development Bank.

Obligations partially insured or guaranteed by any agency of the United States of America, at a proportion of the market value of the obligation that represents the amount of the insurance or guaranty.

Obligations issued or fully insured or guaranteed by the State of New York, obligations issued by a municipal corporation, school district or district corporation of New York State or obligations of any public benefit corporation which under a specific state statute may be accepted as security for deposit of public moneys.

Obligations issued by states (other than the State of New York) of the United States rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.

Obligations of Puerto Rico rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.

Obligations of counties, cities and other governmental entities of another state having the power to levy taxes that are backed by the full faith and credit of such governmental entity and rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.

Obligations of domestic corporations rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization.

Any mortgage related securities, as defined in the Securities Exchange Act of 1934, as amended, which may be purchased by banks under the limitations established by federal bank regulatory agencies.

Commercial paper and bankers' acceptances issued by a bank (other than the bank with which the money is being deposited or invested) rated in the highest short-term category by at least one nationally recognized statistical rating organization and having maturities of not longer than sixty days from the date they are pledged.

Zero-coupon obligations of the United States government marketed as "Treasury STRIPS."

Adopted: 4/7/2009
Re-Adopted: 4/6/2010
Re-Adopted: 3/29/2011
Re-Adopted: 3/27/2012
Re-Adopted: 3/26/2013
Re-Adopted: 3/25/2014
Amended and Adopted: 3/31/2015
Re-Adopted: 3/29/2016
Re-Adopted: 3/28/2017
Amended and Adopted: 3/27/2018
Re-adopted: 3/26/2019
Re-adopted: 3/31/2020
Re-adopted: 3/30/2021

Buffalo Urban Development Corporation

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Suite 404
Buffalo, New York 14203
phone: 716-856-6525
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Item 3.1.6

MEMORANDUM

TO: BUDC Board of Directors
FROM: Mollie Profic, Treasurer
SUBJECT: Reimbursement of Brownfield Expenses from Brownfield Fund
DATE: March 29, 2022

The Buffalo Brownfields Redevelopment Fund (“BBRF” or the “Fund”) allows certain third-party expenses incurred by BUDC in connection with the development of Buffalo Lakeside Commerce Park (“BLCP”) to be reimbursed. Under the Fund Administration Agreement, these out-of-pocket third-party costs “include, but are not limited to, land acquisition, site investigations, site planning, remediation, road and utility construction and related legal costs”.

On September 26, 2012, the Board designated the BLCP project as complete, which allowed for the expansion of the use of BBRF funds to “other comparable projects” in the City of Buffalo. Riverbend, Northland and 308 Crowley Street were designated “comparable” projects by the Board beginning October 1, 2012, January 1, 2015 and June 26, 2018, respectively.

Since 2011, reimbursements have been approved for costs incurred related to BLCP, Riverbend and Northland. Grant application fees related to Northland totaling \$311,848 were approved for reimbursement by the Board on May 10, 2018. Additional reimbursement of BLCP, Riverbend, Northland and 308 Crowley costs from January 1, 2018 – December 31, 2018 in the amount of \$419,785 were approved by the Board on March 26, 2019, for a total of \$731,633 in 2018. 2019 project costs (including Restore NY 4 grant local match) of \$787,080 were approved by the Board on March 31, 2020. Additional costs related to unrelated business income tax (UBIT) of \$98,436 was approved, bringing total 2020 approved project costs to \$886,366. 2020 project costs of \$454,828 were approved by the Board on March 30, 2021. \$52,900 of environmental cleanup costs approved by the Board on March 28, 2017 were also reimbursed in 2021.

We are now requesting reimbursement of Riverbend and Northland costs incurred in 2021. Costs incurred related to BLCP and 308 Crowley Street have been netted with land sale proceeds in 2021. Attachment 1 to this memorandum details the \$136,615 in eligible third-party costs that have been incurred by BUDC and which are eligible for reimbursement by the Fund. After this reimbursement, the BBRF balance will be approximately \$444,500.

Hon. Byron W. Brown, Chairman of the Board • Dennis Penman, Vice Chairman • Brandye Merriweather, President
Rebecca Gandour, Executive Vice President • Mollie Profic, Treasurer • Atiqah Abidi, Assistant Treasurer • Kevin J. Zanner, Secretary

This item was reviewed with the Audit & Finance Committee members present on March 22, 2022.

Action:

I am requesting that the Committee recommend the approval of the reimbursement to BUDC of \$136,615 in third party Riverbend and Northland costs from the BBRF as outlined in Attachment 1 to this memorandum.

Buffalo Urban Development Corporation
Summary of Costs Paid by BUDC & Reimbursable from BBRF
For the Year Ended December 31, 2021

Buffalo Lakeside Commerce Park	<u>2021</u>
<i>Landscaping</i>	\$ 40,066
<i>Legal Costs</i>	73,030
<i>Property Insurance</i>	9,879
<i>Snow removal</i>	5,000
<i>Operations & Maintenance</i>	2,091
<i>Consultants</i>	7,160
<i>Utilities</i>	525
<i>Less: non-refundable portion of deposit on land purchase</i>	(12,000)
<i>Less: maintenance costs reimbursed by POA member</i>	(3,806)
<i>Netted against proceeds from land sale</i>	<u>(121,945)</u>
	-
Riverbend	
<i>Taxes, Operations & Maintenance</i>	132
308 Crowley	
<i>Landscaping</i>	3,766
<i>Legal Costs</i>	9,431
<i>Consultants</i>	4,960
<i>Operations & Maintenance</i>	204
<i>Property Insurance</i>	29,785
<i>Netted against proceeds from land sale</i>	<u>(48,146)</u>
	-
Northland*	
<i>Insurance</i>	66,568
<i>General Development</i>	-
<i>Operations & Maintenance</i>	21,356
<i>Legal Costs</i>	35,057
<i>Snow removal</i>	57,058
<i>Landscaping</i>	19,404
<i>714 Northland costs</i>	65,527
<i>Consultants</i>	15,220
<i>Utilities (net of reimbursements from tenant)</i>	1,882
<i>Marketing</i>	-
<i>Less: 612 Northland & 714 Northland rents received</i>	<u>(145,589)</u>
	136,484
 Total	 <u><u>\$ 136,615</u></u>

*The Northland costs represent those costs that are not eligible or reimbursed through grant agreement(s).

683 Northland Master Tenant, LLC
Financial Statements
February 28, 2022
(Unaudited)

683 NORTHLAND MASTER TENANT, LLC
Balance Sheet

ASSETS	February 2022	January 2022	December 2021
Current assets:			
Cash	\$ 59,338	\$ 193,486	\$ 107,787
Tenant receivable	98,002	56,384	74,685
Prepaid expenses	87,891	97,686	106,662
Total current assets	<u>245,231</u>	<u>347,556</u>	<u>289,134</u>
Prepaid rent - sublessee	438,415	432,362	426,309
Prepaid leasing commission	213,113	215,525	217,938
Tenant security deposits	84,850	84,850	84,854
Cash reserves	365,997	365,983	365,968
Equipment, net	6,535	6,535	6,535
Prepaid rent - Master Lease Agreement	<u>25,528,601</u>	<u>25,528,601</u>	<u>25,528,601</u>
Total assets	<u>\$ 26,882,742</u>	<u>\$ 26,981,412</u>	<u>\$ 26,919,339</u>
LIABILITIES & MEMBERS' EQUITY			
Current liabilities:			
Accounts payable	\$ 65,106	\$ 206,885	\$ 144,550
Due to related parties	254,935	254,935	254,935
Total current liabilities	<u>320,041</u>	<u>461,820</u>	<u>399,485</u>
Operating deficit loan	132,359	132,359	132,359
Tenant security deposits	84,850	84,850	84,854
Deferred rent liability - Master Lease Agreement	5,541,953	5,425,682	5,309,411
Deferred rent liability - sublessee	6,058,660	6,104,749	6,150,839
Distribution payable - priority return	<u>263,941</u>	<u>263,941</u>	<u>263,941</u>
Total noncurrent liabilities	<u>12,081,763</u>	<u>12,011,581</u>	<u>11,941,404</u>
MEMBERS' EQUITY	<u>14,480,938</u>	<u>14,508,011</u>	<u>14,578,450</u>
Total liabilities and net position	<u>\$ 26,882,742</u>	<u>\$ 26,981,412</u>	<u>\$ 26,919,339</u>

683 NORTHLAND MASTER TENANT, LLC
Income Statement

Year-to-Date For the Period Ended:

	<u>February 2022</u>	<u>January 2022</u>	<u>December 2021</u>
Revenues:			
Rental revenue	\$ 244,356	\$ 122,178	\$ 1,468,498
Additional rental revenue	122,120	61,060	648,676
Interest and other revenue	49	25	261
Total revenues	<u>366,525</u>	<u>183,263</u>	<u>2,117,435</u>
Expenses:			
Rent expense	313,290	156,645	1,879,742
Payroll	21,889	10,675	149,471
Utilities expense	37,726	44,594	150,924
Insurance expense	20,317	10,158	120,629
Professional fees	9,030	2,413	85,899
Property management fee	11,622	5,811	67,515
Real estate taxes	4,081	241	19,626
Repairs and maintenance	46,082	23,165	120,242
Asset management fee	-	-	10,000
Miscellaneous expense	-	-	7,920
Depreciation expense	-	-	2,429
Total expenses	<u>464,037</u>	<u>253,702</u>	<u>2,614,397</u>
Net loss	(97,512)	(70,439)	(496,962)
Members' equity - beginning of period	<u>14,578,450</u>	<u>14,578,450</u>	<u>9,658,723</u>
Change in members' equity	(97,512)	(70,439)	(496,962)
Members' capital contributions	-	-	5,680,517
Distributions	-	-	(263,828)
Members' equity - end of period	<u>\$ 14,480,938</u>	<u>\$ 14,508,011</u>	<u>\$ 14,578,450</u>

683 NORTHLAND MASTER TENANT, LLC
Statement of Cash Flows

Year-to-Date For the Period Ended:

	February 2022	January 2022	December 2021
Cash flows from operating activities:			
Net loss	\$ (97,512)	\$ (70,439)	\$ (496,962)
Adjustments to reconcile net loss to net cash provided by operating activities:			
Depreciation	-	-	2,429
Decrease (increase) in assets:			
Tenant receivables	(23,317)	18,301	(44,152)
Prepaid insurance	18,771	8,976	(16,307)
Accrued rental income	(12,106)	(6,053)	(119,344)
Prepaid leasing commission	4,825	2,413	(105,715)
Prepaid rent - Master Lease Agreement	232,542	116,271	1,393,059
Increase (decrease) in liabilities:			
Security deposit liability	(4)	(4)	9,104
Accounts payable	(79,444)	62,335	25,216
Due to related parties	-	-	(126,346)
Operating deficit loan	-	-	82,428
Deferred rent liability - sublessee	(92,179)	(46,090)	(553,074)
Net cash provided (used) by operating activities	(48,424)	85,710	50,336
Cash flows from investing activities:			
Equipment purchases	-	-	-
Net cash used by investing activities	-	-	-
Cash flows from financing activities:			
Members' contributions	-	-	5,680,517
Distributions	-	-	(148,096)
Payments of prepaid rent under Master Lease Agreement	-	-	(5,532,421)
Net cash provided by financing activities	-	-	-
Net increase (decrease) in cash	(48,424)	85,710	50,336
Cash and restricted cash - beginning of period	558,609	558,609	508,273
Cash and restricted cash - end of period	\$ 510,185	\$ 644,319	\$ 558,609

683 NORTHLAND MASTER TENANT, LLC
Budget to Actual Comparison

	YTD February 2022	YTD Budget 2022	Variance
Revenues:			
Rental revenue	\$ 244,356	\$ 245,492	\$ (1,136)
Additional rent revenue	122,120	105,833	16,287
Interest and other revenue	49	83	(34)
Total revenues	<u>366,525</u>	<u>351,409</u>	<u>15,117</u>
Expenses:			
Rent expense	313,290	313,290	(0)
Payroll	21,889	28,960	(7,071)
Utilities	37,726	15,333	22,393
Insurance	20,317	20,500	(183)
Professional fees	9,030	11,333	(2,303)
Property management fee	11,622	12,333	(711)
Real estate taxes	4,081	4,000	81
Repairs and maintenance	46,082	35,333	10,749
Asset management fee	-	1,667	(1,667)
Miscellaneous	-	833	(833)
Depreciation	-	405	(405)
Total expenses	<u>464,037</u>	<u>443,989</u>	<u>20,048</u>
Net income (loss)	\$ (97,512)	\$ (92,580)	\$ (4,932)

Budget variances:

- Additional rent represents amounts charged to tenants for common area maintenance (CAM) charges, insurance, etc. This is ahead of budget due to higher utility costs charged back to tenants.
- Utility costs are trending above budget due to increases in rates. Costs incurred must be paid by the Master Tenant, then billed back to tenants in the following month based on leased area. Some common area charges are absorbed.
- Repairs and maintenance includes building automation system costs and snow removal.

Buffalo Urban Development Corporation
Consolidated Financial Statements
February 28, 2022
(Unaudited)

BUFFALO URBAN DEVELOPMENT CORPORATION
Consolidated Statements of Net Position
(Unaudited)

ASSETS	February 2022	January 2022	December 2021
Current assets:			
Cash	\$ 2,116,236	\$ 2,594,504	\$ 2,817,690
Restricted cash	4,535,026	4,477,069	4,487,462
Grants receivable	9,650,727	9,650,727	10,160,553
Other current assets	6,601,722	6,625,678	6,626,745
Total current assets	<u>22,903,712</u>	<u>23,347,978</u>	<u>24,092,450</u>
Noncurrent assets:			
Loans receivable	9,666,400	9,666,400	9,666,400
Equity investment	178,051	178,051	178,051
Capital assets, net	108,125,225	108,455,225	108,785,225
Land and improvement held for sale, net	3,363,434	3,363,434	3,363,434
Total noncurrent assets	<u>121,333,110</u>	<u>121,663,110</u>	<u>121,993,110</u>
Total assets	<u>\$ 144,236,822</u>	<u>\$ 145,011,088</u>	<u>\$ 146,085,560</u>
LIABILITIES			
Current liabilities:			
Accounts payable and accrued expenses	\$ 423,597	\$ 284,508	\$ 959,332
Lines of credit	677,158	677,158	677,158
Loans payable, current	10,180,810	10,180,810	10,180,810
Unearned grant revenue	13,947,714	14,413,646	14,373,673
Total current liabilities	<u>25,229,280</u>	<u>25,556,122</u>	<u>26,190,973</u>
Note payable	257,381	257,381	257,381
Deferred rent liability	19,986,648	20,102,919	20,219,190
Loans payable, noncurrent	14,099,750	14,099,750	14,099,750
Total noncurrent liabilities	<u>34,343,779</u>	<u>34,460,051</u>	<u>34,576,321</u>
NET POSITION			
Net investment in capital assets	87,208,099	87,538,099	87,868,099
Restricted	3,699,600	3,639,243	3,624,405
Unrestricted	(6,243,936)	(6,182,426)	(6,174,238)
Total net position	<u>84,663,763</u>	<u>84,994,916</u>	<u>85,318,266</u>
Total liabilities and net position	<u>\$ 144,236,822</u>	<u>\$ 145,011,088</u>	<u>\$ 146,085,560</u>

Balance Sheet Notes:

- Capital assets decrease is due to monthly depreciation expense.
- Lines of credit: balances at end of February are BUDC: \$0 ; 683 Northland: \$677,158. 683 Northland took no advances during the month and BUDC's line is currently paid down.
- Unearned grant revenue decreased \$466,000 due to recognition of grant revenue.

BUFFALO URBAN DEVELOPMENT CORPORATION
Consolidated Statements of Revenues, Expenses
and Changes in Net Position
Year to Date (with Comparative Data)
(Unaudited)

	<u>February 2022</u>	<u>January 2022</u>	<u>December 2021</u>
Operating revenues:			
Grant revenue	\$ 425,958	\$ 3,027	\$ 4,425,140
Brownfield funds	30,170	-	40,821
Loan interest and commitment fees	16,111	8,055	112,107
Rental and other revenue	<u>343,717</u>	<u>174,458</u>	<u>14,869,875</u>
Total operating revenues	815,955	185,540	19,447,943
Operating expenses:			
Development costs	142,600	10,429	4,253,370
Adjustment to net realizable value	26,535	-	98,713
Salaries and benefits	60,944	31,420	482,778
General and administrative	519,857	105,589	2,091,562
Management fee	13,600	6,800	70,408
Depreciation	<u>660,000</u>	<u>330,000</u>	<u>4,225,517</u>
Total operating expenses	<u>1,423,536</u>	<u>484,238</u>	<u>11,222,348</u>
Operating income (loss)	(607,580)	(298,697)	8,225,595
Non-operating revenues (expenses):			
Loss on disposal	-	-	(118,382)
Interest expense	(47,001)	(24,696)	(450,479)
Amortization expense	-	-	(43,675)
Interest income	<u>79</u>	<u>42</u>	<u>722</u>
Total non-operating revenues (expenses)	<u>(46,923)</u>	<u>(24,653)</u>	<u>(611,814)</u>
Change in net position	(654,503)	(323,350)	7,613,781
Net position - beginning of period	<u>85,318,266</u>	<u>85,318,266</u>	<u>76,742,639</u>
Add: Capital contribution	-	-	961,846
Net position - end of period	<u>\$ 84,663,762</u>	<u>\$ 84,994,915</u>	<u>\$ 85,318,266</u>

BUFFALO URBAN DEVELOPMENT CORPORATION
Consolidating Statement of Net Position
February 28, 2022 (Unaudited)

	Buffalo Urban Development Corporation	683 WTC, LLC	683 Northland LLC	Eliminations (1)	Total
ASSETS					
Current assets:					
Cash	\$ 2,001,658	\$ 52	\$ 114,526	\$ -	\$ 2,116,236
Restricted cash	4,146,533	-	388,493	-	4,535,026
Grants receivable	9,650,727	-	-	-	9,650,727
Other current assets	7,980,475	15	132,359	(1,511,126)	6,601,722
Total current assets	23,779,394	67	635,377	(1,511,126)	22,903,712
Noncurrent assets:					
Loans receivable	61,853,679	-	-	(52,187,279)	9,666,400
Equity investment	-	59,498,971	-	(59,320,920)	178,051
Capital assets, net	8,329,383	-	99,795,842	-	108,125,225
Land and improvement held for sale, net	3,363,434	-	-	-	3,363,434
Total noncurrent assets	73,546,496	59,498,971	99,795,842	(111,508,199)	121,333,110
Total assets	\$ 97,325,890	\$ 59,499,038	\$ 100,431,219	\$ (113,019,325)	\$ 144,236,822
LIABILITIES					
Current liabilities:					
Accounts payable and accrued expense	\$ 392,089	\$ 1,511,126	\$ 31,508	(1,511,126)	\$ 423,597
Line of credit	-	-	677,158	-	677,158
Loans payable, current	-	-	10,180,810	-	10,180,810
Unearned grant revenue	13,947,714	-	-	-	13,947,714
Total liabilities	14,339,804	1,511,126	10,889,476	(1,511,126)	25,229,280
Noncurrent liabilities:					
Note payable	257,381	-	-	-	257,381
Deferred rent liability	-	-	19,986,648	-	19,986,648
Loans payable, noncurrent	369,750	52,187,279	13,730,000	(52,187,279)	14,099,750
Total noncurrent liabilities	627,131	52,187,279	33,716,648	(52,187,279)	34,343,779
NET POSITION					
Net investment in capital assets	11,323,067	-	75,885,032	-	87,208,099
Restricted	3,699,600	-	-	-	3,699,600
Unrestricted	67,336,288	5,800,633	(20,059,937)	(59,320,920)	(6,243,936)
Total net position	82,358,955	5,800,633	55,825,095	(59,320,920)	84,663,763
Total liabilities and net position	\$ 97,325,890	\$ 59,499,038	\$ 100,431,219	\$ (113,019,325)	\$ 144,236,822

(1) This represents activity between the entities to be eliminated for the consolidated financial statements.

BUFFALO URBAN DEVELOPMENT CORPORATION
Consolidating Statement of Revenues, Expenses and Changes in Net Position
Year to Date February 28, 2022 (Unaudited)

	Buffalo Urban Development Corporation	683 WTC, LLC	683 Northland LLC	Eliminations (1)	Total
Operating revenues:					
Grant revenue	\$ 425,958	\$ -	\$ -	\$ -	\$ 425,958
Brownfield funds	30,170	-	-	-	30,170
Loan interest and commitment fees	16,111	-	-	-	16,111
Rental and other revenue	30,427	-	313,290	-	343,717
Proceeds from land sales, net	-	-	-	-	-
Total operating revenue	502,665	-	313,290	-	815,955
Operating expenses:					
Development costs	142,600	-	-	-	142,600
Adjustment to net realizable value	26,535	-	-	-	26,535
Salaries and benefits	60,943	-	-	-	60,944
General and administrative	515,543	4,120	194	-	519,857
Management fee	13,600	-	-	-	13,600
Depreciation	-	-	660,000	-	660,000
Total operating expenses	759,221	4,120	660,194	-	1,423,536
Operating income	(256,556)	(4,120)	(346,903)	-	(607,580)
Non-operating revenues (expenses):					
Interest expense	(1,682)	-	(45,320)	-	(47,001)
Amortization expense	-	-	-	-	-
Interest income	70	-	9	-	79
Other income/expenses	-	-	-	-	-
Total non-operating revenues (expenses)	(1,612)	-	(45,311)	-	(46,923)
Change in net position	(258,168)	(4,120)	(392,215)	-	(654,503)
Net position - beginning of year	82,617,122	5,804,753	56,217,310	(59,320,920)	85,318,265
Add: capital contributions	-	-	-	-	(1)
Net position - end of period	\$ 82,358,955	\$ 5,800,633	\$ 55,825,095	\$ (59,320,920)	\$ 84,663,763

(1) This represents activity between the entities to be eliminated for the consolidated financial statements.

BUFFALO URBAN DEVELOPMENT CORPORATION
Budget to Actual Comparison
Year to Date February 28, 2022 (Unaudited)

	<u>YTD February 2022</u>	<u>YTD Budget 2022</u>	<u>Variance</u>
Operating revenues:			
Grant revenue	\$ 425,958	\$ 2,234,167	\$ (1,808,209)
Brownfield funds	30,170	11,167	19,003
Loan interest and commitment fees	16,111	16,111	(0)
Rental and other revenue	343,717	334,555	9,162
Proceeds from land sales, net	-	(11,917)	11,917
Total operating revenues	<u>815,955</u>	<u>2,584,082</u>	<u>(1,768,127)</u>
Operating expenses:			
Development costs	142,600	117,805	24,795
Adjustment to net realizable value	26,535	-	26,535
Salaries and benefits	60,944	80,805	(19,861)
General and administrative	519,857	1,746,254	(1,226,397)
Management fee	13,600	15,750	(2,150)
Depreciation	660,000	680,333	(20,333)
Total operating expenses	<u>1,423,536</u>	<u>2,640,948</u>	<u>(1,217,412)</u>
Operating income (loss)	<u>(607,580)</u>	<u>(56,866)</u>	<u>(550,715)</u>
Non-operating revenues (expenses):			
Interest expense	(47,001)	(65,612)	18,611
Interest income	79	167	(88)
Other income	-	150,243	(150,243)
Total non-operating revenues (expenses)	<u>(46,923)</u>	<u>84,797</u>	<u>(131,720)</u>
Change in net position	<u>\$ (654,503)</u>	<u>\$ 27,931</u>	<u>\$ (682,434)</u>

Budget variances:

- Grant revenue relates mainly to Ralph C. Wilson, Jr. Centennial Park and Northland Solar Projects. The variance is due to lower grant revenue recognition than anticipated as a result of project timing.
- Rental and other revenue consists of recognition of prepaid rent income (straight-line basis) by 683 Northland LLC from 683 Northland Master Tenant, LLC, and rent income at properties other than 683 Northland Avenue.
- Development costs consist of property/project-related costs (e.g. construction, operations and maintenance, legal and utility costs). Some costs will be capitalized upon project completion.
- General and administrative costs consist of consultants, insurance, rents, audit, marketing and other G&A costs. Rents include BUDC offices, Buffalo Manufacturing Works base rent (per ESD grant agreement) and recognition of prepaid rent for Workforce Training Center. Consultant costs for Ralph C. Wilson, Jr. Centennial Park are also captured here, with the variance due mainly to timing.
- Depreciation relates mainly to capitalized assets at 683 Northland Avenue.
- Interest expense represents cost of borrowing related to construction of 683 Northland and the related line of credit.

Buffalo Urban Development Corporation

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Item 3.3

MEMORANDUM

TO: Buffalo Urban Development Corporation Board of Directors
FROM: Thomas Kucharski, Governance Committee Chair
SUBJECT: Governance Committee Report
DATE: March 29, 2022

At the March 8, 2022 Governance Committee meeting, the Governance Committee reviewed the following items that do not require any action by the full Board of Directors:

- 2021 Mission Statement & Performance Measurements w/ Results
- Board of Directors 2021 Self-Evaluation Process
- Governance Committee 2021 Self-Evaluation Process
- Code of Ethics
- Governance Committee Charter
- Travel, Conferences, Meals & Entertainment Policy
- 2021 Summary of Employee Benefits
- PAAA Training Opportunities
- New Board Member Orientation Process
- Property Disposition Guidelines

The Governance Committee also reviewed and recommended that the following items be forwarded to the full Board for approval:

- 2022 Mission Statement and Performance Measurements (Item 3.3.2 to follow)
- Procurement Policy (Item 3.3.3 to follow)
- Property Disposition Guidelines (Item 3.3.4 to follow)
- Updated Whistleblower Policy (See updated policy attached as Item 3.3.5)
- 2021 Public Authorities Annual Report (Item 3.1.6 to follow)

No changes were recommended to the Procurement Policy or the Property Disposition Guidelines. The Committee is recommending a modification to the BUDC Whistleblower Policy to conform the policy to a recent change in NYS law governing whistleblower protections.

Action: The Board of Directors is requested to approve the following: (i) 2022 Mission Statement and Performance Measurements; (ii) Procurement Policy; (iii) Property Disposition Guidelines; (iv) Whistleblower Policy, as amended; (v) and the 2021 Public Authorities Report

Hon. Byron W. Brown, Chairman of the Board • Dennis Pennan, Vice Chairman • Brandye Merriweather, President
Rebecca Gandour, Executive Vice President • Mollie Profic, Treasurer • Atiqah Abidi, Assistant Treasurer • Kevin J. Zanner, Secretary

Buffalo Urban Development Corporation (BUDC)

2021 Mission Statement and Performance Measurements (w/ Results)

Date Approved: 3/30/2021

BUDC Mission Statement:

The mission of Buffalo Urban Development Corporation (BUDC) is to support the urban economic development efforts of the region through acquisition, remediation and management of distressed properties, and to engage in related real estate development activities for the purpose of attracting and/or retaining new and existing businesses to the City as part of the region. The mission of BUDC also includes supporting the revitalization of downtown Buffalo by serving as the lead management entity for Buffalo Building Reuse Project (BBRP) and Race for Place initiatives, working in collaboration with the City of Buffalo; including the coordination of financial assistance for downtown adaptive re-use projects and public right-of-way improvements.

BUDC Performance Measurements:

Goal: To reclaim abandoned and distressed land and buildings for future development.

Objective A: Continue to establish the Northland Beltline (“Northland”) as the prime urban area for reclamation, by implementing the redevelopment strategy and continuing to engage in appropriate planning processes and leasing for future development.

New Measurement: Negotiate and execute a lease with Bank on Buffalo for branch bank space at Northland Central.

Result: Negotiated and executed a lease amendment with Bank on Buffalo.

Measurement: Assemble any additional properties that become available which are needed to enhance Northland.

Result: No additional properties have become available that were needed to enhance Northland.

Measurement: Obtain City of Buffalo Planning Board approval for various phases of Northland redevelopment as they occur.

Result: No City of Buffalo Planning Board approvals were needed.

Measurement: Obtain State Historic Preservation Office (SHPO) approval to maximize the preservation of structures that will contribute to the redevelopment of Northland and the select demolition of structures that are an impediment to the redevelopment.

Result: No new structures were introduced to SHPO for approval.

Measurement: Manage all compliance and milestones related to the financing for Northland Central; including Historic Preservation Tax Credits, Brownfield Cleanup Program Tax Credits, New Market Tax Credits, and bridge loan financing.

Result: Compliance milestones were met, but reimbursements for Brownfield Cleanup Program Tax Credits are delayed due to the standard audit process.

Measurement: Negotiate and execute any lease agreement amendments with tenants at Northland Central, 714 Northland, and 612 Northland.

Result: Negotiated and executed a second lease renewal with Well Worth Products, Inc for 714 Northland.

Measurement: Continue to implement the Soil (Site) Management Plan (SMP) for Northland Central, under the NYS Brownfield Cleanup Program.

Result: Remedial investigations completed at Northland Central and Site (soil) Management Plan (SMP) implemented.

Measurement: Continue effective M/WBE Utilization and Workforce Participation programs for remaining Northland construction.

Result: M/WBE Utilization and Workforce Participation programs continued to be effective.

Measurement: Continue to implement the Restore NY V Grant initiatives, including renovations at 541 E. Delavan and select demolition at 777 Northland.

Result: 541 E. Delavan construction paused by COVID pandemic.

Measurement: Continue the implementation of the Historic Preservation Mitigation measures agreed to with the State Historic Preservation Office, according to the Memorandum of Agreement (MOA).

Result: MOA measures implemented for all development activities.

Measurement: Continue to work with the NYSDEC regarding Superfund investigation and remediation at the 537 E. Delavan site.

Result: NYSDEC is continuing to monitor all wells through December 31, 2022.

Measurement: If funding becomes available, begin renovations or other actions necessary to bring other space across Northland to a “ready-to-lease” condition.

Result: BUDC is actively pursuing funding as part of the regional application to the Economic Development Administration (EDA)’s Build Back Better program.

Measurement: Continue the Community Outreach Program, with one additional Public Meeting and one additional Stakeholder Advisory Committee Meeting, and additional community outreach through social media.

Result: The Community Outreach Program was centered on the Northland Business Network Series. Two additional presentations were organized

and held via a Zoom platform with break-out sessions. Northland video series released 1st video in Northland Marketing video series.

Measurement: Continue to implement the green infrastructure plan for 537 E. Delavan, if construction resumes.

Result: Based on the paused development activity at 537 E. Delavan, no further green infrastructure work was advanced.

Measurement: Execute a contract with the consultant team for the Community Solar and Microgrid project. Initiate the pre-development planning, analysis, and financing phases of the project.

Result: Negotiated and executed a consulting agreement with Frey Electric to advance the pre-development planning, analysis, and financing phases of the project.

Measurement: Continue to work with energy stakeholders to solicit funding from Eaton Corporation to create an Energy Experience Center at Northland Central, and get construction of same underway.

Result: Due to the COVID pandemic, the energy stakeholders have put this initiative on hold, but have remained in communication with Eaton Corporation.

Measurement: Finalize the procurement process and execute a contract with the consultant team for the tax credit, legal, and accounting services needed to determine the feasibility of moving forward with a renovation project at 631 Northland.

Result: 631 Northland is included in the Build Back Better program application. If successful, consultant contracts will be executed.

Objective B: Secure funds to continue to advance the Northland Beltline projects.

New Measurement: Pursue a Grant Disbursement Agreement (GDA) with Empire State Development (ESD) for \$1.8M in additional funding for the Northland Community Solar & Microgrid Project.

Result: ESD has been active in the pre-development activities. An application to the ESD Board is anticipated in early 2022 for the \$1.8M in additional funding.

New Measurement: Draw-down all funds related to the \$200,000 GDA (#133,857) with ESD for the Northland Community Solar & Microgrid Project.

Result: An imprest account has been established for the \$200,000 in ESD funds. One draw was completed in 2021.

New Measurement: Submit an application to National Grid for additional funding related to the Northland Community Solar & Microgrid Project.

Result: Once pre-development is complete, an application will be submitted to National Grid for additional funding related to the Northland Community

Solar & Microgrid Project. The project is also included in the Build Back Better scope of work.

New Measurement: Continue to draw-down funds related to the City's Restore NY V GDA (#AD009) for new work to be completed at 541 E. Delavan and 777 Northland.

Result: No new work was completed.

New Measurement: Submit all documentation for the 6th installment of Historic Tax Credits related to the development of Northland Central.

Result: Documentation for the 6th installment of Historic Tax Credits related to the development of Northland Central is delayed due to the ongoing 2019 BTC standard audit process.

New Measurement: Receive 2018 Brownfield Tax Credit (BTC) refund from NYS related to the Northland Central redevelopment.

Result: Received.

New Measurement: Complete submittal and receive 2019 BTC refund from NYS related to the Northland Central redevelopment.

Result: 2019 BTC was submitted in September 2020 but has not yet been received.

New Measurement: Complete submittal for 2020 BTC refund from NYS related to the Northland Central redevelopment.

Result: 2020 BTC refund claim was submitted in October 2021. The beginning stages of an audit are underway.

New Measurement: Submit an application to the US Economic Development Administration (EDA) for funding related to the rehabilitation of 631 Northland.

Result: 631 Northland is part of the regional application to the EDA's Build Back Better program.

Measurement: Close-out all documentation related to the \$10.3M GDA (#Z415) with ESD for Northland Central.

Result: This grant was fully closed out in April 2021.

Measurement: Draw-down all remaining funds related to the \$6M GDA (#AC426) with ESD for Northland Workforce Training Center equipment.

Result: Documentation to draw down the remaining funds will be submitted to ESD in early 2022.

Measurement: Identify additional funding sources (i.e. grants and tax credits) and income opportunities for future phases of Northland Beltline projects.

Result: Northland Corridor Phase 3 is included in the regional application to the EDA's Build Back Better program.

Objective C: Continue to transition Northland management responsibilities to the Northland Project Manager.

New Measurement: Follow-through on the sub-division of 537 E. Delavan to create new marketable properties.

Result: Survey documentation was finalized in early January 2022 and submitted to Erie County Real Property Services.

New Measurement: Complete land swap with Plesh for Northland Central parking lot development.

Result: Completed.

New Measurement: Manage construction of 714 Northland parking lot improvements.

Result: Managed clean up and minor improvements to 714 Northland parking lot.

New Measurement: Coordinate the environmental remediation at 1669 Fillmore.

Result: All tank removals completed to NYSDEC satisfaction at 1669 Fillmore.

New Measurement: Re-engage Watts Engineers and 34 Group to resume Phase 1C construction at 541 E. Delavan.

Result: Delayed due to funding constraints but included as part of the regional application to the EDA's Build Back Better program.

New Measurement: Re-engage 34 Group to begin select demolition at 777 Northland.

Result: Delayed due to funding constraints but included as part of the regional application to the EDA's Build Back Better program.

New Measurement: Coordinate involvement with University of Buffalo Urban Design class regarding the plan for Houdaille Place at 537 E. Delavan.

Result: Project did not move forward.

New Measurement: On a monthly basis, coordinate all Northland property maintenance and repairs with Mancuso Management.

Result: Met with Mancuso Management on a monthly basis to coordinate all Northland property maintenance and repairs.

Measurement: Complete the Beltline Brownfield Opportunity Area (BOA) Nomination Document and submit to the NYS Department of State for review.

Result: Beltline BOA continues to be under review by New York Department of State.

Measurement: Further Development of the Northland Small Business Networking Series. Schedule two (2) additional events in 2021.

Result: The Community Outreach Program was centered on the Northland Business Network Series. Two additional presentations were organized and held via a Zoom platform with break-out sessions.

Measurement: Continue to work with LISC to implement components of the Northland Corridor Delavan Grider Community Enhancement Project from 2020.
Result: BUDC continues to explore ways to collaborate with LISC in the Delavan Grider neighborhood.

Measurement: Complete required annual and bi-annual compliance reports for ECIDA and NTCIC/Tax Credit Investors.
Result: All reports produced on a timely basis.

Objective D: Prepare land and buildings for development through remediation, select demolition, infrastructure upgrades/construction, site improvements, and amenity construction.

New Measurement: Continue to move the 308 Crowley site to the point that partial demolition can occur.
Result: Phase 1 of demolition has been completed. Phase 2 of demolition is anticipated to begin shortly.

New Measurement: Finalize the Brownfield Cleanup Work Plan with NYS Department of Environmental Conservation for 193 Ship Canal Parkway.

Result: Work plan continues to be negotiated between NYSDEC, G.W. Burnett and BUDC.

Measurement: Assemble appropriate properties throughout the City to increase inventory for future brownfield projects.
Result: No additional properties were assembled.

Measurement: Number of acres remediated to shovel-ready condition.
Result: None

Measurement: Number of building square feet rehabilitated to leasable condition.
Result: No additional buildings were rehabilitated.

Goal: To attract and/or retain new and existing businesses to the City and region.

Objective A: Market BUDC properties as an urban alternative for new construction of light manufacturing, distribution and office facilities.

New Measurement: Close on the Land Sale Agreement with Uniland Development for 255 Ship Canal Parkway.
Result: Land sale of 225 Ship Canal closed.

New Measurement: Close on the Land Sale Agreement with Zephyr Investors for various BLCP parcels.

Result: Land sale agreement with Zephyr Investors was amended to accommodate additional due diligence.

New Measurement: Negotiate and close on a Land Sale Agreement with G.W. Burnett for 193 Ship Canal Parkway.

Result: Land sale agreement with G.W. Burnett is in active negotiations.

Measurement: Assist in a minimum of four (4) prospects interested in purchasing land and/or buildings.

Result: Continued to work with three (3) land purchasers and prospects at BLCP, In addition, new interest is developing for the purchase of land in the Northland Corridor.

Measurement: A minimum of six (6) “earned” media appearances and five hundred (500) website page and social media views.

Result: Both measurements exceeded.

Measurement: Maintain infrastructure amenities to enhance the marketability of the BLCP and Northland properties.

Result: All infrastructure amenities were maintained properly at both BLCP and the Northland Corridor. In addition, a property owners association was created to ensure additional maintenance and sustainability.

Objective B: Support the economic development efforts of the City of Buffalo Office of Strategic Planning (OSP) with the task of expanding or relocating businesses of a diverse nature in the City.

Measurement: Close on the sale of a portion of 308 Crowley to Enterprise Folding Box.

Result: Closed on an additional sale to Enterprise Folding Box Company including a cinder block building for their expansion.

Measurement: Assist in identifying parcels of land currently in or to be added to marketable inventory.

Result: Working on another sale of land to Enterprise Folding Box Company.

Measurement: Number of businesses contacted, as directed by OSP.

Result: Approximately sixty (60) businesses contacted. In addition, BUDC partnered with OSP on various small business pandemic recovery efforts.

Objective C: Support the economic development efforts of the City by maintaining procurement practices that encourage the participation of local (50%), minority (25%), and women-owned (5%) businesses.

Measurement: All informal bids, formal bids, request for proposals, and requests for qualifications will include the City's participation goals listed above.

Result: Standard procedure for all proposals and bids.

Goal: To support the revitalization of Downtown Buffalo.

Objective A: Serve as lead management entity for BBRP/Race for Place initiatives.

Measurement: A minimum of twenty (25) companies contacted.

Result: Approximately fifty (50) businesses contacted.

Objective B: Coordinate financial assistance for adaptive re-use projects.

Measurement: A minimum of two (2) projects assisted.

Result: Worked with several property owners to coordinate financial assistance.

Objective C: Manage lending program as an incentive for adaptive re-use and/or new construction projects.

Measurement: A minimum of two (2) loans approved and closed.

Result: No loans approved or closed.

Measurement: Implement approved loan modifications for the Downtown Loan Program.

Result: Currently under review by loan committee.

Objective D: Assist coordination of public right-of-way and public space improvements.

New Measurement: Promote and coordinate added creativity and innovation within the public realm.

Result: Coordinated with the City of Buffalo and partners on innovation concepts. Also received notice of funding award for an innovative placemaking grant. Coordinated with City of Buffalo and partners on small business social distancing initiatives to aid in small business Covid-19 recovery.

New Measurement: Further the recommendations included in the Future of Mobility Report.

Result: Coordinated with the City of Buffalo to further the future of mobility report recommendations including Requests for Proposals related to Curbside Management; Mohawk Ramp Redevelopment and Transportation Demand Management in the central business district.

New Measurement: Coordinate a series of Innovative Focus Group sessions to gain community input on upcoming smart city technologies and related infrastructure improvements.

Result: Conducted additional outreach via virtual meetings, due to covid BUDC plans to execute additional concepts in 2022.

New Measurement: Further the recommendations from Race for Place for continued outreach through community focus groups.

Result: Conducted additional outreach via virtual meetings, due to covid BUDC plans to execute additional concepts in 2022.

Measurement: A minimum of two (2) city blocks and one (1) public space improved.

Result: Three (3) city blocks improved.

Measurement: Identify funding and develop waterfront public realm strategy and continue waterfront stakeholder coordination efforts.

Result: Submitted successful application for waterfront public realm strategy. Facilitated four (4) waterfront coordination meetings.

Measurement: Finalize Flower District / Ellicott Corridor Concept Plan.

Result: Finalized and released Ellicott Street Placemaking Strategy.

Measurement: Facilitate a strategy to improve downtown infrastructure maintenance and sustainability with the six partners.

Result: BUDC continues to work with partners on concepts to build private public partnerships for public realm to expand downtown business improvement district.

Measurement: Coordinate with six (6) partners to develop strategy for a capital campaign to solicit private funding for public realm improvements.

Result: Coordinated with the City of Buffalo and partners on concepts to build private public partnerships for public realm.

Objective E: *Coordinate additional phases of Queen City Pop Up (QCPU).*

Result: Successfully re-launched QCPU Holiday Edition featuring five (5) retailers.

New Measurement: Explore outdoor QCPU Concepts.

Result: BUDC is currently in coordination with the City on funding on QCPU outdoor editions.

Measurement: Coordinate at least two (2) technical assistance and/or business recovery sessions for QCPU retailers.

Result: Provided financial assistance and business recovery opportunities to retailers.

Measurement: Maintain a webpage and directory for/of QCPU participants.

Result: BUDC is in the process of website design and directory for retailers.

Objective F: Continue coordination of the publication, marketing, and online promotion of Buffalo's Race for Place Plan.

Result: BUDC also promoted Race for Place on several webinars, podcasts, and local radio stations to increase awareness.

New Measurement: Expand digital presence for raceforplacebuffalo.com.

Result: BUDC is in the process of enhancing race for place landing page into the BUDC webpage for enhanced visibility.

Objective G: Build awareness of Downtown programs, tools, and incentives.

New Measurement: At least two (2) earned appearances on regional and/or national platforms.

Measurement: At least two (2) presentations to business associations, professional organizations, and community groups.

Result: Presentations to Urbanism Next National, City of Buffalo Board of Block Clubs, WUFO radio, Smart Growth Network Conference, Mass Dept. of Transportation Innovation Conference, Catching up with the Clerk Radio program. Media appearances related to the launch and promotion of the Buy Black Buffalo "Lunch Crawl and Happy Hour" to support downtown black owned restaurants in collaboration with the City of Buffalo.

Objective H: Promote the construction of additional units of downtown housing.

Measurement: The announcement of two hundred fifty (250) units to be constructed.

Result: Announcement of new housing exceeded 250 units.

Objective I: Coordinate the resolution or redevelopment of targeted problem properties within the BBRP boundaries.

Measurement: A minimum of three (3) problem properties addressed.

Result: Assisted with two (2) properties.

Goal: To transform LaSalle Park into Ralph C. Wilson Centennial Park, and a world class waterfront park and recreational amenity that will serve both neighborhood residents, regional citizens and visitors.

Objective A: Assist the City of Buffalo and other partners with the management of the design and due diligence phases of the project.

New Measurement: Negotiate and execute contract with Michael Van Valkenburgh Associates for Construction Documents.

Measurement: Manage the design team and the design process to ensure that the project proceeds on schedule and within budget.

Result: Managed the design team by attending weekly meetings with the core team made up of City of Buffalo and Ralph C. Wilson Jr. Foundation members and bi-weekly meetings with MVAA, UBRI and Buffalo Waterkeeper to ensure milestones are completed.

Measurement: Negotiate and execute contracts for additional required due diligence investigations, NEPA and other regulatory approvals.

Result: The project management team Gardiner and Theobald has organized all regulatory approvals. We have completed all environmental due diligence investigations and approvals such as SEQR and SHPO on as need basis, the NEPA will be completed in 2022.

Objective B: Assist the City of Buffalo and other partners with the overall management of the project.

Measurement: Manage the contract and deliverable for the project management team contracted to provide assistance.

Result: Negotiated and executed a contract extension with the project management team of Gardiner and Theobald for bid and contractual, construction, post construction, and final accounting services.

Objective C: Assist the City of Buffalo and other partners with identifying, securing and managing funding for the implementation of the project.

Measurement: Work with the Ralph C. Wilson Foundation to apply for and manage grants that they have committed for the design and implementation of the project.

Result: BUDC managed previously awarded Wilson Foundation Grants RG-1812-06793, RG-1904-0735, RG-2002-08808, RG-2003-08836, RG-2011-09787, and RG-2011-09787. BUDC also applied for Grant 5 in fall of 2021 and received award notice in January 2022.

Measurement: Work with other partners, including Buffalo Niagara Waterkeeper and the Ralph C. Wilson Foundation, to identify additional funding sources to implement and construct the project.

Result: BUDC, in collaboration with partners, identified several funding opportunities to close the funding gap on the construction of the park, including the National Park Service Land and Water Conservation Fund grant.

Measurement: Prepare, submit, execute and manage funding applications and agreements that are secured for the project.

Result: BUDC assisted in the preparation and management of numerous funding applications in collaboration with the City of Buffalo, Buffalo Waterkeeper and others.

Objective D: Assist the City of Buffalo and other partners with ensuring effective and sustainable long-term maintenance and operations of the park.

Measurement: Work with the City of Buffalo and the design and project management team to ensure that the final design of the park is sustainable from a maintenance and operations perspective and provides equitable access to the surrounding community.

Result: Worked Received the construction documents at 50 and currently all parties are reviewing and commenting. Established Ralph C. Wilson Jr. Centennial Park Conservancy.

Measurement: Assist the Ralph C. Wilson Foundation, the City of Buffalo and other project partners to identify and secure funding and a governance structure to ensure sustainable long-term maintenance and operations of the park.

Result: Established the Ralph C. Wilson Jr. Centennial Park Conservancy for future funding and maintenance of the part post construction.

Goal: To effectively manage property, development projects and initiatives.

Objective A: Engage in all aspects of productive property management including marketing, leasing, maintenance, etc.

Measurement: Keep property related costs within budget.

Result: Property related costs were maintained within budget.

Objective B: Support development projects by working with regional utility companies to include their grant programs in local initiatives. Package other economic development incentives to enhance the marketability of properties.

Measurement: A minimum of two (2) projects referred.

Result: All new projects were referred to National Grid and National Fuel for grant program consideration, including new Northland Central tenants.

Additional Questions:

- 1. Have the board members acknowledged that they have read and understood the mission of BUDC?**

The Board discussed and approved the BUDC's mission statement at the March 30, 2021 Board meeting.

- 2. Who has the power to appoint the management of BUDC?**

The Board of Directors appoints the management of BUDC to the positions of President, Executive Vice-President, Vice-President, Treasurer, Assistant Treasurer and Secretary.

- 3. If the Board appoints management, do you have a policy you follow when appointing the management of BUDC?**

The Board follows the BUDC By-Laws when appointing management.

- 4. Briefly describe the role of the Board and the role of management in the implementation of the mission.**

Management works closely with the Chair, Vice-Chair and Committee Chairs in formulating an on-going work plan for management to carry out the strategic goals related to the mission of the organization. Board members review and approve individual projects, initiatives and transactions to ensure that they are consistent with BUDC's mission. Board members also review and approve the annual budget to ensure resources are allocated appropriately to meet the BUDC's mission.

- 5. Has the Board acknowledged that they have read and understood the responses to each of these questions?**

Yes, these questions and responses were discussed and approved by the Board at the March 30, 2021 Board meeting.

Buffalo Urban Development Corporation (BUDC)

2022 Mission Statement and Performance Measurements

Date Approved:

BUDC Mission Statement:

The mission of Buffalo Urban Development Corporation (BUDC) is to support the urban economic development efforts of the region through acquisition, remediation and management of distressed properties, and to engage in related real estate development activities for the purpose of attracting and/or retaining new and existing businesses to the City as part of the region. The mission of BUDC also includes supporting the revitalization of downtown Buffalo by serving as the lead management entity for Buffalo Building Reuse Project (BBRP) and Race for Place initiatives, working in collaboration with the City of Buffalo; including the coordination of financial assistance for downtown adaptive re-use projects and public right-of-way improvements. BUDC also serves as the lead management entity for the Ralph C. Wilson, Jr. Centennial Park transformation.

BUDC Performance Measurements:

Goal: To reclaim abandoned and distressed land and buildings for future development.

Objective A: Continue to establish the Northland Beltline (“Northland”) as the prime urban area for reclamation, by implementing the redevelopment strategy and continuing to engage in appropriate planning processes and leasing for future development.

New Measurement: Complete Phase 2 EDA Build Back Better Application for 631 Northland; 612 Northland; 541 East Delavan Ave.; 777 Northland Ave; Clean Energy Microgrid and other relevant infrastructure improvements

Measurement: Assemble any additional properties that become available which are needed to enhance Northland.

Measurement: Obtain City of Buffalo Planning Board approval for various phases of Northland redevelopment as they occur.

Measurement: Obtain State Historic Preservation Office (SHPO) approval to maximize the preservation of structures that will contribute to the redevelopment of Northland and the select demolition of structures that are an impediment to the redevelopment.

Measurement: Manage all compliance and milestones related to the financing for Northland Central; including Historic Preservation Tax Credits, Brownfield Cleanup Program Tax Credits, New Market Tax Credits, and bridge loan financing.

- Measurement: Negotiate and execute any lease agreement amendments with tenants at Northland Central and 612 Northland.
- Measurement: Continue to implement the Soil (Site) Management Plan (SMP) for Northland Central, under the NYS Brownfield Cleanup Program.
- Measurement: Continue effective M/WBE Utilization and Workforce Participation programs for remaining Northland construction.
- Measurement: Continue to implement the Restore NY V Grant initiatives, including renovations at 541 E. Delavan and select demolition at 777 Northland.
- Measurement: Continue the implementation of the Historic Preservation Mitigation measures agreed to with the State Historic Preservation Office, according to the Memorandum of Agreement (MOA).
- Measurement: Continue to work with the NYSDEC regarding Superfund investigation and remediation at the 537 E. Delavan site.
- Measurement: If funding becomes available, begin renovations or other actions necessary to bring other space across Northland to a “ready-to-lease” condition.
- Measurement: Continue the Community Outreach Program, with one additional Public Meeting and one additional Stakeholder Advisory Committee Meeting, and additional community outreach through social media.
- Measurement: Continue to implement the green infrastructure plan for 537 E. Delavan, if construction resumes.
- Measurement: Complete the pre-development planning, analysis, and financing phases of the Community Solar and Microgrid project.
- Measurement: Execute a contract with the consultant team for the tax credit, legal, and accounting services needed to determine the feasibility of moving forward with a renovation project at 631 Northland.
- Objective B: Secure funds to continue to advance the Northland Beltline projects.*
- Measurement: Pursue a Grant Disbursement Agreement (GDA) with Empire State Development (ESD) for \$1.8M in additional funding for the Northland Community Solar & Microgrid Project.
- Measurement: Draw-down all remaining funds related to the \$200,000 GDA (#133,857) with ESD for the Northland Community Solar & Microgrid Project.
- Measurement: Submit an application to National Grid for additional funding related to the Northland Community Solar & Microgrid Project.

- Measurement: Continue to draw-down funds related to the City's Restore NY V GDA (#AD009) for new work to be completed at 541 E. Delavan and 777 Northland.
- Measurement: Submit all documentation for the 6th installment of Historic Tax Credits related to the development of Northland Central.
- Measurement: Confirm receipt of 2020 BTC refund from NYS related to the Northland Central redevelopment.
- Measurement: Draw-down all remaining funds related to the \$6M GDA (#AC426) with ESD for Northland Workforce Training Center equipment.
- Measurement: Identify additional funding sources (i.e. grants and tax credits) and income opportunities for future phases of Northland Beltline projects.
- Objective C: Continue to transition Northland management responsibilities to the Director of Construction & Project Development*
- Measurement: Manage construction of 714 Northland parking lot improvements.
- Measurement: Re-engage Watts Engineers and 34 Group to resume Phase 1C construction at 541 E. Delavan.
- Measurement: Re-engage 34 Group to begin select demolition at 777 Northland.
- Measurement: On a monthly basis, coordinate all Northland property maintenance and repairs with Mancuso Management.
- Measurement: Continue to engage NYS Department of State on review of Beltline Brownfield Opportunity Area (BOA) Nomination Document.
- Measurement: Coordinate two (2) networking events Northland area small businesses
- Measurement: Continue to collaborate with LISC to implement components of the Northland Corridor Delavan Grider Community Enhancement Project from 2020.
- Measurement: Complete required annual and bi-annual compliance reports for ECIDA and NTCIC/Tax Credit Investors.
- Objective D: Prepare land and buildings for development through remediation, select demolition, infrastructure upgrades/construction, site improvements, and amenity construction.*

New Measurement: Negotiate and close on a Land Sale Agreement for remaining land at 308 Crowley Street

Measurement: Finalize the Brownfield Cleanup Work Plan with NYS Department of Environmental Conservation for 193 Ship Canal Parkway.

Measurement: Assemble appropriate properties throughout the City to increase inventory for future brownfield projects.

Measurement: Number of acres remediated to shovel-ready condition.

Measurement: Number of building square feet rehabilitated to leasable condition.

Goal: To attract and/or retain new and existing businesses to the City and region.

Objective A: Market BUDC properties as an urban alternative for new construction of light manufacturing, distribution and office facilities.

Measurement: Close on the Land Sale Agreement with Zephyr Investors for various BLCP parcels.

New Measurement: Negotiate and close on a Land Sale Agreement with G.W. Burnett for 193 Ship Canal Parkway.

Measurement: Assist in a minimum of four (4) prospects interested in purchasing land and/or buildings.

Measurement: A minimum of six (6) “earned” media appearances and five hundred (500) website page and social media views.

Measurement: Maintain infrastructure amenities to enhance the marketability of the BLCP and Northland properties.

Objective B: Support the economic development efforts of the City of Buffalo Office of Strategic Planning (OSP) with the task of expanding or relocating businesses of a diverse nature in the City.

Measurement: Close on the sale of a portion of 308 Crowley to Enterprise Folding Box.

Measurement: Number of businesses contacted, as directed by OSP.

Objective C: Support the economic development efforts of the City by maintaining procurement practices that encourage the participation of local (50%), minority (25%), and women-owned (5%) businesses.

Measurement: All informal bids, formal bids, request for proposals, and requests for qualifications will include the City's participation goals listed above.

Goal: To support the revitalization of Downtown Buffalo.

Objective A: Serve as lead management entity for BBRP/Race for Place initiatives.

Measurement: A minimum of twenty (25) companies contacted.

Objective B: Coordinate financial assistance for adaptive re-use projects and/or new construction projects.

Measurement: A minimum of two (2) projects assisted.

Objective C: Manage lending program as an incentive for adaptive re-use and/or new construction projects.

Measurement: A minimum of two (2) loans approved and closed.

Measurement: Facilitate consensus around proposed loan program modifications and implement approved modifications for the Downtown Loan Program.

Objective D: Assist coordination of public right-of-way and public space improvements.

Measurement: Promote and coordinate added creativity and innovation within the public realm.

Measurement: Further the recommendations included in the Future of Mobility Report.

Measurement: Coordinate a series of Innovative Focus Group sessions to gain community input on upcoming smart city technologies and related infrastructure improvements.

Measurement: Further the recommendations from Race for Place for continued outreach through community focus groups.

Measurement: A minimum of two (2) city blocks and one (1) public space improved.

Measurement: Complete Waterfront/Inner Harbor public realm strategy and continue waterfront stakeholder coordination efforts.

Measurement: Further the recommendations outlined Ellicott Street Placemaking Strategy

Measurement: Facilitate a strategy to improve downtown infrastructure maintenance and sustainability with the six partners.

Measurement: Coordinate with the six partners to develop strategy for a capital campaign to solicit private funding for public realm improvements.

Objective E: Coordinate additional phases of Queen City Pop Up (QCPU).

Measurement: Explore outdoor QCPU Concepts.

Measurement: Maintain a webpage and directory for/of QCPU participants.

Objective F: Continue coordination of the publication, marketing, and online promotion of Buffalo's Race for Place Plan.

Measurement: Expand digital presence for raceforplacebuffalo.com.

Objective G: Build awareness of Downtown programs, tools, and incentives.

Measurement: At least two (2) earned appearances on regional and/or national platforms.

Measurement: At least two (2) presentations to business associations, professional organizations, and community groups.

Objective H: Promote the construction of additional units of downtown housing.

New Measurement: The announcement of two hundred fifty (250) units to be constructed, with at least 20% affordable units.

Objective I: Coordinate the resolution or redevelopment of targeted problem properties within the BBRP boundaries.

Measurement: A minimum of three (3) problem properties addressed.

Goal: To transform LaSalle Park into Ralph C. Wilson Centennial Park, and a world class waterfront park and recreational amenity that will serve both neighborhood residents, regional citizens and visitors.

Objective A: Assist the City of Buffalo and other partners with the management of the design and due diligence phases of the project.

Measurement: Manage the design team and the design process to ensure that the project proceeds on schedule and within budget.

Measurement: Negotiate and execute contracts for any additional required due diligence investigations, NEPA and other regulatory approvals.

Objective B: Assist the City of Buffalo and other partners with the overall management of the project.

Measurement: Manage the contract and deliverable for the project management team contracted to provide assistance.

New Measurement: Work with the City of Buffalo and project management team to execute a Construction Management Contract.

Objective C: Assist the City of Buffalo and other partners with identifying, securing and managing funding for the implementation of the project.

Measurement: Work with the Ralph C. Wilson Foundation to apply for and manage grants that they have committed for the design and implementation of the project.

Measurement: Work with other partners, including Buffalo Niagara Waterkeeper and the Ralph C. Wilson Foundation, to identify additional funding sources to implement and construct the project.

Measurement: Prepare, submit, execute and manage funding applications and agreements that are secured for the project.

Objective D: Assist the City of Buffalo and other partners with ensuring effective and sustainable long-term maintenance and operations of the park.

Measurement: Continue to work with the City of Buffalo and the design and project management team to ensure that the final design of the park is sustainable from a maintenance and operations perspective and provides equitable access to the surrounding community.

Goal: To effectively manage property, development projects and initiatives.

Objective A: Engage in all aspects of productive property management including marketing, leasing, maintenance, etc.

Measurement: Keep property related costs within budget.

Objective B: Support development projects by working with regional utility companies to include their grant programs in local initiatives. Package other economic development incentives to enhance the marketability of properties.

Measurement: A minimum of two (2) projects referred.

Additional Questions:

- 1. Have the board members acknowledged that they have read and understood the mission of BUDC?**

The Board discussed and approved the BUDC's mission statement at the March 29, 2022 Board meeting.

- 2. Who has the power to appoint the management of BUDC?**

The Board of Directors appoints the management of BUDC to the positions of President, Executive Vice-President, Vice-President, Treasurer, Assistant Treasurer and Secretary.

- 3. If the Board appoints management, do you have a policy you follow when appointing the management of BUDC?**

The Board follows the BUDC By-Laws when appointing management.

- 4. Briefly describe the role of the Board and the role of management in the implementation of the mission.**

Management works closely with the Chair, Vice-Chair and Committee Chairs in formulating an on-going work plan for management to carry out the strategic goals related to the mission of the organization. Board members review and approve individual projects, initiatives and transactions to ensure that they are consistent with BUDC's mission. Board members also review and approve the annual budget to ensure resources are allocated appropriately to meet the BUDC's mission.

- 5. Has the Board acknowledged that they have read and understood the responses to each of these questions?**

Yes, these questions and responses were discussed and approved by the Board at the March 29, 2022 Board meeting.

BUFFALO URBAN DEVELOPMENT CORPORATION

AMENDED AND RESTATED PROCUREMENT POLICY

A. Scope and Purpose.

Pursuant to Section 2824 of the Public Authorities Law, the Buffalo Urban Development Corporation ("BUDC") is required to establish and adopt a procurement policy. This Amended and Restated Procurement Policy ("Policy") shall also be applicable to all procurements undertaken by any existing subsidiary or affiliated organizations of BUDC and such other subsidiaries and affiliates as may hereafter be established by BUDC.

B. Procurement Procedures.

1. Solicitation Procedures for the Purchase of Goods and Services.

- a. Up to \$10,000 per instance – Documented verbal quotes or written/fax/email quotes from at least two vendors.
- b. Greater than \$10,000 to \$25,000 per instance – Written/fax/email quotes from at least three vendors.
- c. Greater than \$25,000 to \$100,000 per instance – Formal written Request for Proposal (RFP) submitted to at least three vendors and posted at the BUDC website.
- d. Greater than \$100,000 per instance – Formal written Request for Proposal (RFP) submitted to at least three vendors, posted at the BUDC website and publicly noticed in the NYS Contract Reporter.
- e. Notwithstanding the foregoing, if it is reasonably anticipated that cumulative procurements pursuant to subsections (a) or (b) above will cost between \$25,000 and \$100,000 per calendar year for a single vendor or service, BUDC shall comply with the provisions of subsection (c) above; or if such cumulative procurements are reasonably anticipated to cost over \$100,000 per calendar year, BUDC shall comply with the provisions of subsection (d) above.

2. Exceptions. Alternative proposals or quotations shall not be required for procurements made through or with respect to:

- a. New York State or Erie County contracts.
- b. State Finance Law Section 175-b (from agencies for the blind or severely handicapped).

- c. **Correction Law Section 186 (articles manufactured in correctional institutions).**
- d. **Emergency Procurements – an emergency exists if the delay caused by soliciting quotes would endanger public health, welfare or property. Approval of the President after consultation with the officers of BUDC is necessary, which shall be documented in the procurement file and shall include a description of the facts giving rise to the emergency and the basis for selecting the particular vendor.**
- e. **Time Sensitive Economic Development Opportunity – An opportunity is time-sensitive when a vendor must be retained quickly to avoid a delay that would adversely impact an economic development project or initiative of BUDC. Such time-sensitive situations include, but are not limited to: the possible loss of grant funding; the termination, default or withdrawal of an existing vendor; the need to respond to a court order or regulatory directive; or some other compelling need for goods or services. Approval of the President after consultation with the officers of BUDC is necessary, which shall be documented in the procurement file and shall also include a description of the facts relating to the time-sensitive opportunity and the basis for selecting the particular vendor.**
- f. **Sole Source Procurements – A “sole source” means a situation where (i) there is only one possible source in the marketplace for the goods or services, (ii) no other goods and/or services provide substantially equivalent or similar benefits, and (iii) considering the benefits, the cost to BUDC is reasonable and in the best interests of BUDC. Approval of the President after consultation with the officers of BUDC is necessary, which shall be documented in the procurement file along with an explanation of the basis for the procurement qualifying as a sole source procurement.**
- g. **Single Source Procurements – A “single source” means a situation where, even though two or more vendors are available to supply the required goods or services, BUDC determines that: (i) one particular vendor has unique knowledge or expertise with respect to the required goods, services or project, rendering the use of competitive procedures impractical; and (ii) considering the benefits, the cost to BUDC is reasonable. Approval of the President after consultation with the officers of BUDC is necessary, which shall be documented in the procurement file along with an explanation of the basis for concluding that a single**

source procurement was in the best interests of BUDC and the manner in which BUDC identified the selected vendor.

- h. **Utilities and Affiliate Transactions** – The purchase of utilities and inter-affiliate or subsidiary transactions are excepted from alternative proposal/quotation requirements.
- i. **Unavailability of the minimum number of vendors required under Section B, as applicable, that are able or willing to respond to a solicitation.**
- j. **Resolution Waiving Solicitation Requirements** – The BUDC Board of Directors may adopt a resolution prospectively waiving solicitation requirements upon the Board's determination that solicitation would be impractical and such waiver is in the best interests of BUDC.

3. **Basis for the Award of Contracts.**

It is the general policy of BUDC to award contracts to the lowest responsible dollar offeror who meets the specifications therefor. BUDC may award contracts to other than the lowest responsible dollar offeror under circumstances that BUDC determines justify an award to other than the lowest responsible dollar offeror. In making any such determination, BUDC shall consider relevant factors including, without limitation:

- a. **The vendor is an MBE or WBE firm, or relative to other vendors for the specific procurement has demonstrated the ability to meet or exceed applicable M/WBE and/or minority or workforce participation requirements;**
- b. **Delivery, quality and quantity requirements;**
- c. **Past vendor performance and/or experience;**
- d. **Which proposal is most advantageous to BUDC, considering other factors in addition to price;**

- e. Unavailability of the minimum number of vendors required under Section B, as applicable, that are able or willing to respond to a solicitation; and
- f. Any procurement excepted from the alternative proposal/quotation requirements as set forth in subsection 2 of this Section B, and the procurement of professional services in Section E of this Policy.

4. Documentation: Procurement Tracking Form.

Each procurement made under this Policy shall be documented on a separate Procurement Tracking Form, the form of which is attached hereto as Schedule A and made a part hereof. An annual procurement report shall be presented to the Audit & Finance Committee.

5. Contents of Requests for Proposals (RFP).

For all procurements under this Policy that require an RFP, the following information shall be included in the solicitation:

- a. Goods being sought or the scope of services desired;
- b. The projected term of the contract;
- c. Criteria to be used in evaluating proposals and the requirements that must be fulfilled;
- d. Schedule of relevant dates;
- e. Insurance requirements;
- f. M/WBE goals; and
- g. Designation of the BUDC representative to whom communications regarding the RFP should be directed.

6. Contents of Requests for Qualifications (RFQ).

For all procurements under this Policy that require an RFQ, the following information shall be included in the solicitation:

- a. The scope of services desired;

- b. Criteria to be used in evaluating qualifications and the requirements that must be fulfilled;
- c. Insurance requirements, if applicable;
- d. M/WBE goals; and
- e. Designation of the BUDC representative to whom communications regarding the RFQ should be directed.

C. Erie County Businesses and Minority & Women Owned Enterprises.

It is the goal of BUDC to provide opportunities for the purchase of goods and services from (i) business enterprises located in Erie County and (ii) certified minority and/or women-owned business enterprises. To that end, BUDC will utilize available lists of M/WBE businesses certified by Erie County and/or State of New York and use its best efforts to solicit proposals from such businesses by notifying them of opportunities to submit proposals for goods or services when practical. In addition, where the procurement of a specific good or service is to be accomplished using funds other than the funds of BUDC or its affiliates, BUDC shall comply with all M/WBE goals and other M/WBE requirements applicable to such funding.

D. Effect on Other Procurement Requirements.

Where the procurement of a specific good or service is to be accomplished using funds other than the funds of BUDC and such funding sources specify different or more restrictive procurement requirements than are provided for in this Policy, the procurement requirements of the funding source will supersede the requirements of this Policy.

In those instances where BUDC is a recipient of federal funds which it will use to pay for goods or services, the procurement provisions set forth in 2 C.F.R. §200.318 et seq. shall apply, including procurement requirements applicable to goods or services that exceed \$150,000 in value (as such amount is adjusted in accordance with 48 C.F.R. Section 2.101). For procurements using federal funds, BUDC shall include in its contract with the vendor or contractor the applicable contract provisions set forth in Appendix II to Part 200 of Title 2 of the Code of Federal Regulations, or any successor regulation or appendix.

E. Professional Services.

Contracts for professional services involve the application of specialized expertise, the use of professional judgment, or a high degree of creativity. Professional services include services which require special education and/or training, license to practice or are creative in nature. Examples are: lawyers, doctors, accountants, and engineers. Furthermore, professional service contracts often involve a relationship of personal trust and confidence. Procurement of professional services in an amount up to \$25,000 is not subject to the solicitation procedures contained in Sections B(1)(a) and (b) of this Policy. Procurement of professional services in an amount greater than \$25,000

shall be made through a written Request for Proposal (RFP) or a Request for Qualifications (RFQ) process.

F. Procurement of Insurance.

Procurement of Insurance Brokerage services is subject to this Policy as a professional service. Notwithstanding the foregoing, actual insurance policies procured are not subject to the requirements of this Policy.

G. Procurement Lobbying.

BUDC shall follow the applicable provisions of the New York Procurement Lobbying Law (State Finance Law §§ 139-j, 139-k)) for any contract or other agreement for an article of procurement involving an estimated annualized expenditure in excess of \$15,000.

H. Reporting Requirements.

Procurements are intended to be made for no greater than the fair market value of the asset procured. In the event circumstances exist in which the acquisition of an asset is made where the contract price to be paid by BUDC exceeds the fair market value of the asset, BUDC shall include in its annual report required by Section 2800(2) of the Public Authorities Law a detailed explanation of the justification for making the purchase and a certification by the President and Chief Financial Officer of BUDC that they have reviewed the terms of the acquisition and determined that it complies with applicable law and this Policy.

I. Approval Thresholds.

The following approval thresholds shall apply to the procurement of all goods and services, except those procurements made under Section B(2)(d) and (e):

1. The President and Executive Vice President of BUDC are each authorized to procure goods and services in an amount up to \$10,000. Prior to procuring such goods or services, the President or Executive Vice President shall confer with the Treasurer to confirm that the proposed expenditure is within budgetary limits. The President or Executive Vice President shall report the procurement of goods and services at the next Board of Directors meeting following the date of procurement.
2. The Audit and Finance Committee, Downtown Committee and Real Estate Committee, as applicable, are each authorized to approve the procurement of goods and services greater than \$10,000, but not in excess of \$25,000. Prior to procuring such goods or services, the President and applicable committee chair shall confer with the Treasurer to confirm that the proposed expenditure is within budgetary limits. The President or Executive Vice President shall report the procurement of goods and

services authorized by the applicable committee at the next BUDC Board of Directors meeting following the date of procurement.

3. The procurement of goods and services in an amount greater than \$25,000 shall require the approval of the BUDC Board of Directors. By resolution, the Board may delegate to BUDC executive staff or a committee of the Board the authority to procure goods or services in an amount greater than \$25,000 without Board approval.

J. Annual Review.

This Policy shall be annually reviewed and approved by BUDC's Board of Directors.

Adopted: 7/7/2009
Amended & Adopted: 6/8/2010
Re-adopted: 3/29/2011
Re-adopted: 3/27/2012
Re-adopted: 2/26/2013
Amended and Adopted: 3/31/2015
Re-adopted: 3/29/2016
Re-adopted: 3/28/2017
Amended & Adopted: 3/27/2018
Re-adopted: 3/26/2019
Re-adopted: 3/31/2020
Re-adopted: 3/30/2021

SCHEDULE A
Procurement Tracking Form

Procurement Tracking Form

Original Solicitation Date: _____ Procurement Category: Goods/Services
 Procurement Description: _____ Professional Services

Approving Party (§ 1, 1-3): President Executive Vice President BUDC Committee Board of Directors

Vendor Selected: _____

Is Vendor an M/WBE? Yes No If Yes, Specify type: _____ Contract Price: _____

Date Awarded: _____ Source of Funds: _____

If A Procurement Exception Applies, Please Explain (§ 8(2)(a-1)):
 (e.g., Emergency, Time Sensitive Opportunity, Sole Source, Single Source, etc.)

Reporting Procedure (§ 1, 1-3)

Procurement Report Delivered to:	<input type="radio"/> Board of Directors <input type="radio"/> N/A
Date of Report (Meeting):	_____

Quotations/Proposals Received:

#	Vendor	Type of Solicitation (§ 8(1)(a-d))	Amount
1		<input type="radio"/> RFP/RFO/Written Proposal <input type="radio"/> Written <input type="radio"/> Verbal	
2		<input type="radio"/> RFP/RFO/Written Proposal <input type="radio"/> Written <input type="radio"/> Verbal	
3		<input type="radio"/> RFP/RFO/Written Proposal <input type="radio"/> Written <input type="radio"/> Verbal	
4		<input type="radio"/> RFP/RFO/Written Proposal <input type="radio"/> Written <input type="radio"/> Verbal	
5		<input type="radio"/> RFP/RFO/Written Proposal <input type="radio"/> Written <input type="radio"/> Verbal	
6		<input type="radio"/> RFP/RFO/Written Proposal <input type="radio"/> Written <input type="radio"/> Verbal	

Was Lowest Cost Proposal Selected? Yes No

If No, Please Explain (§ 8(3)(a-h)):

[Section ("§") references in this form refer to sections of the BUDC Amended and Restated Procurement Policy]
 v.103/27/2018

BUFFALO URBAN DEVELOPMENT CORPORATION

Procurement Procedures Applicable to the Expenditure of Federal Funds

ARTICLE I

Scope

1.1 The procurement of goods and services made by Buffalo Urban Development Corporation or any of its affiliates or subsidiaries ("**BUDC**") involving the expenditure by BUDC of federal funds will be undertaken in accordance with the procurement procedures set forth herein (the "**Policy**") and the applicable provisions of 2 CFR Sections 200.318 through 200.326. All other procurements (i.e., those made with non-federal funds) shall be made in accordance with the BUDC procurement policy then in effect.

ARTICLE II

Procurement Standards

2.1 All procurements subject to this Policy are to be undertaken in a manner that provides for full and open competition consistent with the standards set forth in 2 CFR Section 200.319. Regardless of the procurement method utilized, BUDC may only award contracts to responsible contractors or vendors possessing the ability to perform successfully under the terms and conditions of the procurement. Consideration will be given to such matters as contractor/vendor integrity, compliance with public policy, record of past performance and financial and technical resources in awarding contracts.

2.2 Solicitations will contain a clear and accurate description of the technical requirements for the material, product, or service to be procured and will identify all requirements that the bidders must fulfill and all other factors that will be used by BUDC in evaluating bids or proposals. In addition, BUDC will ensure that all solicitations include enough qualified sources to ensure maximum open and free competition.

2.3 In order to ensure objective contractor/vendor performance and eliminate unfair competitive advantages, contractors/vendors that develop or draft specifications, requirements, statements of work, invitations for bids, or requests for proposals will be excluded from competing for such procurements.

2.4 Solicitations will not contain features that unduly restrict competition. Some examples of situations considered under federal regulations to be restrictive of competition include, but are not limited to, the following:

- Placing unreasonable requirements on firms in order for them to qualify to do business with BUDC;
- Requiring unnecessary experience and excessive bonding;
- Non-competitive pricing practices between firms or between affiliated companies;
- Executing non-competitive contracts with consultants that are on retainer contracts
- Specifying only a “brand name” product instead of allowing “an equal” product to be offered; and
- Any arbitrary action in the procurement process.

2.5 In undertaking procurements, BUDC shall avoid the acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach to procuring the specific good or service.

2.6 Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms. In accordance with 2 CFR Section 200.321, BUDC will take affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. These affirmative steps include the following:

- Placing qualified small and minority businesses and women's business enterprises on BUDC's solicitation lists;
- Assuring that BUDC solicits small and minority businesses and women's business enterprises whenever they are potential sources;
- When economically feasible, dividing total project requirements into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;
- Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises;
- Using the services and assistance, as appropriate, of organizations such as the Small Business Administration and the Minority Business Development Agency of the United States Department of Commerce; and
- Requiring the prime contractor, if subcontracts are to be let, to take the above affirmative steps.

ARTICLE III **Methods of Procurement**

3.1 Methods. In accordance with 2 CFR Section 200.320, BUDC shall procure good and services utilizing one of the following methods: (i) micro-purchase procedures; (ii) small purchase procedures; (iii) procurement by competitive proposals; or (iv) procurement by competitive sealed bids. In addition, BUDC may procure goods and services without competition under the circumstances set forth in Section 3.6.

3.2 Micro-purchases (2 CFR Section 200.67). Micro-purchases involve the acquisition of goods or services that in the aggregate, cost no more than the Micro-Purchase Threshold, as such threshold is set forth in 2 CFR Section 200.67 (currently \$10,000). Micro-purchases may be made without soliciting competitive quotations, provided that the BUDC President considers the price to be reasonable, and such determination is documented in the record of procurement.

3.3 Small Purchases (2 CFR Section 200.68). Small purchases involve the acquisition of goods or services that cost no more than the Simplified Acquisition Threshold, as such threshold is set forth in 2 CFR Section 200.68 (currently \$250,000). For small purchases, BUDC will obtain written price or rate quotations from an adequate number of qualified sources, which generally will involve soliciting written price or rate quotations from a minimum of two (2) vendors.

3.4 Procurement through Competitive Proposals. As provided in 2 CFR Section 200.320(d), the competitive proposals method of procurement is normally conducted with more than one source submitting an offer and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. When the competitive proposal method is used, the following requirements apply:

- Requests for proposals (RFP) must be publicized and identify all evaluation factors and their relative importance;
- Proposals must be solicited from an adequate number of qualified sources—three proposals will generally be deemed adequate;
- BUDC will utilize a documented method for conducting technical evaluations of the proposals received and for selecting recipients;
- Contracts will be awarded to the responsible firm whose proposal is most advantageous to BUDC, with price and other factors considered.

BUDC may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. This method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform such services.

3.5 Procurement by Sealed Bids. BUDC may procure goods and services through the use of a competitive sealed bid process. Where sealed bid procurement is used, bids must be publicly solicited with a firm fixed-price contract (lump sum or unit price) to be awarded to the responsible bidder whose bid is the lowest in price while conforming to all material terms and conditions of the solicitation.

3.5.1 Construction Services. As provided in 2 CFR Section 200.320, the competitive sealed bid method of procurement is the preferred method of procuring construction services, if the following conditions apply: (A) a complete, adequate, and realistic specification or purchase description is available; (B) two or more responsible bidders are willing and able to

compete effectively for the business; and (C) the procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

Where sealed bids are used, the following requirements apply:

- Bids must be solicited from a sufficient number of known suppliers who are given adequate response time prior to the date set for opening the bids;
- The invitations for bids must define the items or services in order for the bidder to properly respond;
- All bids should be opened at the time and place identified in the invitation for bids;
- A firm fixed price contract will be made in writing to the lowest responsive and responsible bidder; and
- Any or all bids may be rejected if there is a sound documented reason for doing so.
- Bid bonds, performance bonds and payment bonds are required as provided in 2 CFR Section 200.325.

3.6 Procurements without Competition. BUDC may procure goods or services without competition when one or more of the following circumstances apply:

- The good or service being procured is available only from a sole source;
- The public exigency or emergency nature of the procurement will not permit a delay resulting from a competitive solicitation;
- The federal awarding agency or pass-through entity expressly authorizes non-competitive proposals in response to a written request from BUDC; or
- After solicitation of a number of sources, competition is determined by BUDC to be inadequate.

ARTICLE IV

Contracts: Incorporation of Federal Contract Provisions

4.1 All contracts entered into by BUDC shall contain the applicable provisions set forth in Appendix II to 2 CFR Part 200, or any successor regulation or appendix. BUDC shall undertake such cost or price analysis as may be required in accordance with 2 CFR Section 200.323. Time and materials contracts are discouraged and shall be utilized only in compliance with the provisions of 2 CFR 200.318(j)(i).

ARTICLE V

Records of Procurement Transactions

5.1 BUDC will maintain records of all procurements made pursuant to this Policy. Such records shall include, at a minimum, a written report with relevant source documents setting forth the rationale for the method of procurement selected, the type of contract, the basis

for contractor selection or rejection, and the basis for the contract price. Source documents for purposes of this Article shall include receipts, purchase orders, invoices, RFP/RFQ data and bid documents. These documents will be maintained for such period of time as the federal award or sub-grant requires, or if no such period is specified, in accordance with BUDC records retention policies.

ARTICLE VI

Conflicts of Interest

6.1 No employee, director, officer or agent of BUDC may participate in the selection, award or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, director, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. In the event that a conflict of interest, real or apparent, exists, the employee, director officer, or agent of BUDC shall notify the appropriate official(s) of BUDC, and such conflict of interest shall be processed in accordance with the provisions of the BUDC Code of Ethics.

6.2 No employee, director, officer or agent of BUDC shall solicit or accept gratuities, favors, or anything of monetary value from current or prospective consultants, contractors, vendors in connection with any federal procurements made under this Policy. For purposes of this Section, "gratuities, favors, or anything of monetary value" shall include money, services, loans, travel, entertainment, hospitality or any financial transaction on terms not available to the general public, but shall not include normal hospitality or promotional materials if such hospitality or materials do not exceed \$100.00 in value and are not received in circumstances in which it might reasonably be inferred that they were given with intention to influence or reward an employee, director, officer or agent of BUDC in relation to the performance of their duties.

6.3 Any BUDC employee, director, officer, or agent who knowingly and deliberately violates the provisions of this Article may be subject to disciplinary action up to and including termination or employment or removal from the board or office. Any contractor or potential contractor who knowingly and deliberately violates these provisions will be barred from future transactions with BUDC.

ARTICLE VII

Contract Approval Thresholds

7.1 The approval thresholds set forth in Section (I) of the BUDC Procurement Policy shall be applicable to the procurement of all goods and services made under this Policy, other than emergency procurements made pursuant to Section 3.6.

ARTICLE VIII
Amendments

8.1 This Policy may be amended from time to time by the BUDC Board of Directors.

Adopted: October 27, 2020

Re-adopted: March 30, 2021

BUFFALO URBAN DEVELOPMENT CORPORATION

Property Disposition Guidelines

The Buffalo Urban Development Corporation ("BUDC") is required by Section 2896 of the Public Authorities Law to adopt by resolution comprehensive guidelines regarding the use, awarding, monitoring and reporting of contracts for the disposal of Property (as defined herein). The following guidelines (the "Guidelines") are adopted pursuant to such requirement and are applicable with respect to the use, awarding, monitoring and reporting of all Property Disposition Contracts which are (i) entered into by BUDC or (ii) solicited or awarded by BUDC on behalf of any subsidiary of BUDC (a "BUDC Subsidiary").

ARTICLE I DEFINITIONS

1. "Contracting Officer" shall mean the officer of BUDC who shall be appointed by resolution of the Board of Directors of BUDC to be responsible for the disposition of Property.
2. "Dispose" or "disposal" or "disposition" shall mean the transfer of title or any other beneficial interest in Property from BUDC or a BUDC Subsidiary to any unrelated third party.
3. "Property" shall mean personal property in excess of Five Thousand Dollars (\$5,000.00) in value, real property, or any other legally transferable interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party.
4. "Property Disposition Contracts" shall mean written agreements for the sale, lease, transfer or other disposition of Property from BUDC or a BUDC Subsidiary to any unrelated third party.
5. "Real Property" shall mean real property and interests therein.

ARTICLE II APPOINTMENT AND DUTIES OF CONTRACTING OFFICER

A. Appointment

The Contracting Officer shall be an officer of BUDC appointed by the Board of Directors who is responsible for the supervision and direction over the custody, control and disposition of

Property and responsible for BUDC's compliance with and enforcement of these Guidelines. The Executive Vice President of BUDC shall be the Contracting Officer for purposes of these Guidelines.

B. Duties

The duties of the Contracting Officer shall include the following:

1. Maintaining adequate inventory controls and accountability systems for all Property under BUDC's control.
2. Periodically conducting an inventory of Property to determine which Property may be disposed of.
3. Preparing an annual written report of all Property. Each report shall include a list of all Real Property, a full description of all real and personal property disposed of during the reporting period, the price received and the name of the purchaser for all Property sold during each reporting period. Each report shall be completed and delivered to the New York State Comptroller, the Director of the Budget, the Commissioner of General Services and the New York State Legislature no later than ninety (90) days following the completion of BUDC's fiscal year.
4. Disposing of Property as promptly as possible in accordance with these Guidelines, as directed by BUDC.

ARTICLE III
PROPERTY DISPOSITION REQUIREMENTS

A. Method of Disposition

1. Subject to such exceptions and/or requirements set forth in these Guidelines, in the event that BUDC or a BUDC Subsidiary determines to dispose of any of its Property, BUDC shall endeavor to dispose of such Property for at least the fair market value of the Property. The disposition of Property may be made by sale, exchange, or transfer, for cash, credit or other Property, with or without warranty, and upon such terms and conditions as are determined by BUDC to be appropriate and reasonable and consistent with these Guidelines.
2. No disposition of Real Property, or any interest in Real Property, may be made unless an appraisal of the value of such Real Property has been made by an independent appraiser and included in the record of the transaction. In addition, no disposition of any personal property, which because of its unique nature or the unique circumstances of the proposed transaction is not readily valued with reference to an active market for similar property, shall be made without an independent appraisal.

B. Award and Approval of Property Disposition Contracts

1. Compliance with Guidelines; Approval Requirements. All dispositions of Property shall be conducted in accordance with these Guidelines by or under the supervision of the Contracting Officer. Any proposed dispositions of real property shall be presented to the BUDC Real Estate Committee for consideration, and if approved by said committee, shall be submitted to the BUDC Board of Directors for approval or other appropriate action.

2. Disposition by Public Bid.

(a) All Property Disposition Contracts may be made only after publicly advertising for bids, unless the criteria set forth in Article III(B)(3) below has been satisfied for such contracts to be made by negotiation or public auction.

(b) Whenever public advertising for bids is required, (i) the advertisement for bids shall be made at such time prior to the disposal or contract, through such methods, and on such terms and conditions, as shall permit full and free competition consistent with the value and nature of the Property; (ii) all bids shall be publicly disclosed at the time and place stated in the advertisement; and (iii) the award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to BUDC and New York State, price and other factors considered.

(c) Any public bid for the disposition of Property may be rejected, refused, or declined by BUDC or the Contracting Officer on any basis or ground allowable at law.

3. Disposition by Negotiated Sale/Public Auction. The following dispositions are exempt and excepted from the public bidding requirements set forth above in Article III(B)(2) and may be consummated through a negotiated sale or by public auction:

(a) Below Market Dispositions. BUDC may dispose of Property for less than the fair market value of the Property under the circumstances set forth in Article III(B)(5) of these Guidelines.

(b) Disposition of Certain Personal Property. BUDC may dispose of personal property where such personal property has qualities separate from the utilitarian purpose of such property, such as artistic quality, antiquity, historical significance, rarity, or other quality or similar effect, that would tend to increase its value, or if the personal property is to be sold in such quantity that, if it were disposed of through public advertisement and bidding, would adversely affect the state or local market for such property, and the estimated fair market value of such property and other satisfactory terms of disposal can be obtained by negotiation.

(c) Disposition of Low FMV Property. BUDC may dispose of Property the fair market value of which does not exceed Fifteen Thousand Dollars (\$15,000.00).

(d) Disposition Following Receipt of Unacceptable Bid Prices. BUDC may dispose of Property where the bid prices received by BUDC after public advertising are not

commercially reasonable (either as to all or some part of the Property) as determined by BUDC in its sole discretion.

(e) Disposition to New York State. BUDC may dispose of Property to New York State or any political subdivision of New York State.

(f) Disposition Authorized by Law. BUDC may dispose of Property where such disposition is otherwise authorized by law.

4. Reporting Requirements Regarding Negotiated Dispositions.

(a) Preparation of Written Statements. The Contracting Officer shall prepare a written statement explaining the circumstances of each negotiated disposition of Property involving any of the following:

- (i) the negotiated disposition of personal property which has an estimated fair market value in excess of Fifteen Thousand Dollars (\$15,000.00);
- (ii) the negotiated disposition of Real Property that has an estimated fair market value in excess of One Hundred Thousand Dollars (\$100,000.00);
- (iii) the negotiated disposition of Real Property that will be disposed of by lease, if the estimated annual rent over the term of the lease is in excess of Fifteen Thousand Dollars (\$15,000.00); or
- (iv) the negotiated disposition of Real Property or real and related personal property where the same will be disposed of by exchange, regardless of value, or any Property any part of the consideration for which is Real Property.

(b) Submission of Written Statements. Written statements prepared pursuant to Article III(B)(4) shall be submitted to the New York State Comptroller, the Director of the Budget, the Commissioner of General Services and the State Legislature no later than ninety (90) days prior to the date on which the disposition of Property is expected to take place. The Contracting Officer shall maintain a copy of all written statements at BUDC's principal office.

5. Disposal of Property for Less Than Fair Market Value.

(a) No asset owned, leased or otherwise in the control of BUDC may be sold, leased or otherwise alienated for less than its fair market value unless such disposition meets one of the following requirements:

(i) The transferee is a government or other public entity, and the terms and conditions of the disposition require that ownership and use of the asset will remain with the government or any other public entity.

(ii) The purpose of the disposition is within BUDC's corporate purpose, mission or its governing statute.

(b) In the event that BUDC seeks to dispose of an asset for less than its fair market value and neither of the circumstances set forth in Section 5(a)(i) and (ii) are applicable, then BUDC shall provide written notification of the proposed disposition to the Governor, the Speaker of the Assembly and the temporary President of the Senate, and such proposed disposition shall be subject to approval or denial by the Governor, the Senate or the Assembly in accordance with the provisions set forth in the Section 2897 (7) of the Public Authorities Law.

(c) In the event a below fair market value disposition is proposed, the following information shall be provided to the BUDC Board of Directors and to the public:

(i) A full description of the asset;

(ii) An appraisal of the fair market value of the asset and any other information establishing the fair market value that may be sought by the Board;

(iii) A description of the purpose of the disposition and a reasonable statement of the kind and amount of the benefit to the public resulting from the disposition, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the disposition, the benefits, if any, to the communities in which the asset is situated as are required by the disposition;

(iv) A statement of the value to be received compared to the fair market value;

(v) The names of any private parties participating in the disposition, and if different than the statement required by paragraph (iv) above, a statement of the value to the private party; and

(vi) The names of other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used.

(d) Before authorizing the disposition of any property for less than fair market value, the BUDC Board of Directors shall consider the information described in 5(c) above and make a written determination that there is no reasonable alternative to the proposed below market disposition that would achieve the same purpose as the proposed disposition.

ARTICLE IV
GENERAL PROVISIONS

A. Annual Review and Submission of Guidelines

These Guidelines shall be annually reviewed and approved by the BUDC Board of Directors. On or before the 31st day of March of each year, BUDC shall file with the New York State Comptroller a copy of the most recently reviewed and adopted guidelines, including the name of the Contracting Officer, and shall post the Guidelines on BUDC's website. Guidelines posted on BUDC's website shall be maintained at least until the Guidelines for the following year are posted on BUDC's website.

B. Effect of Awarded Contracts

These Guidelines are intended for the guidance of the officers, directors and employees of BUDC and its Subsidiaries only. Nothing contained herein is intended or shall be construed to confer upon any person, firm or corporation any right, remedy, claim or benefit under, or by reason of, any requirement or provision hereof, or be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, these Guidelines. Without limiting the generality of the preceding sentence, any deed, bill of sale, lease, or other instrument executed by or on behalf of BUDC or a BUDC Subsidiary, purporting to transfer title or any other interest in Property shall be conclusive evidence of compliance with these Guidelines insofar as concerns title or other interest of any bona fide grantee or transferee who has given valuable consideration for such title or other interest and has not received actual or constructive notice of lack of compliance with these Guidelines prior to the closing.

C. Effective Date; Amendments.

These Guidelines shall be effective upon the affirmative vote of the Board of Directors of the Corporation and may be amended upon affirmative vote of a majority of the Board of Directors.

Effective Date: November 30, 2006

Amended: March 2, 2010

Re-Adopted: March 29, 2011

Re-Adopted: March 27, 2012

Re-adopted: February 26, 2013

Re-adopted: February 25, 2014

Re-adopted: March 31, 2015

Re-adopted: March 29, 2016

Re-adopted: March 28, 2017

Re-adopted: March 27, 2018

Re-adopted: March 26, 2019

Re-adopted; March 31, 2020

Re-adopted: March 30, 2021

6. No director, officer or employee of BUDC should by his or her conduct give reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

7. Each director, officer and employee of BUDC should abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by him or her or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.

8. Each director, officer or employee of BUDC should endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

ARTICLE II

Conflicts of Interest

1. Purpose. The purpose of this Article is to protect BUDC when it is considering entering into a transaction or arrangement that might benefit the private interest of a Related Party, and to set forth procedures for handling potential or actual Conflicts of Interest and Related Party Transactions.

2. Definitions.

"Conflict of Interest." A Conflict of Interest exists if an outside interest or activity influences (or reasonably appears to influence) the ability of an individual to exercise objectivity, impairs the individual's ability or independence in fulfilling his or her duties to BUDC or reasonably tends to conflict with the proper discharge of his or her duties to BUDC.

"Financial Interest." An individual has a Financial Interest if the individual has, directly or indirectly, through business, investment, or a Relative:

- (i) An ownership or investment interest in any entity with which BUDC has a transaction or arrangement;
- (ii) A compensation arrangement with BUDC or with any entity or individual with which BUDC has a transaction or arrangement;
or
- (iii) A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which BUDC is negotiating a transaction or arrangement.

(ii) If disclosure is made at a meeting of any BUDC committee or to the BUDC Ethics Officer or BUDC legal counsel, the matter will be referred to the Governance Committee for determination of whether a Conflict of Interest and/or Related Party Transaction exists.

(b) The Interested Person shall, at the request of the Board or the Governance Committee, as applicable, explain the circumstances of the actual or potential Conflict of Interest and/or Related Party Transaction. The Interested Person shall not, however, be present at, participate in, or attempt to influence the Board or Governance Committee deliberation or vote regarding whether a Conflict of Interest and/or Related Party Transaction exists.

(i) If the Board or the Governance Committee, as applicable, determines that the agreement, transaction or arrangement is a Related Party Transaction, then the Board or the Governance Committee shall follow the procedures for Related Party Transactions set forth in Section 4 of this Article.

(ii) If the Board or the Governance Committee, as applicable, determines that a Conflict of Interest exists, but the agreement, transaction or arrangement does not constitute a Related Party Transaction, then the Board or the Governance Committee may proceed with its consideration of the transaction, provided however, that the Interested Person shall abstain from deliberation and voting regarding the transaction.

(iii) If the Board or the Governance Committee, as applicable, determines that a Conflict of Interest does not exist, then the Board or the Governance Committee may proceed with its consideration of the transaction, and the Interested Person may participate in the deliberation and voting regarding the transaction.

(iv) The existence and resolution of the potential Conflict of Interest and/or Related Party Transaction shall be documented in the minutes of the meeting(s) at which the matter was discussed and voted upon.

4. Related Party Transactions.

(a) BUDC may enter into a Related Party Transaction only if the Board or the Governance Committee determines that the transaction is fair, reasonable and in BUDC's best interest at the time of such determination (such determination shall be

documented in the minutes of the meeting at which the Related Party Transaction was approved); provided, however, that prior to entering into the transaction, the Board or the Governance Committee shall consider alternatives to the extent available.

(b) Related Party Transactions shall be approved by not less than a majority vote of the Board or the Governance Committee, as applicable (not counting the Interested Person for purposes of voting or quorum). The Board or Governance Committee shall contemporaneously document in the meeting minutes the basis for approval, including its consideration of alternative transactions.

5: Annual Disclosure. Prior to the initial election of any director or officer, and annually thereafter, he or she shall complete, sign and submit to the Secretary a written statement identifying, to the best of his or her knowledge, any entity of which he or she is an officer, director, trustee, member, owner (either as a sole proprietor or as partner), or employee, and with which BUDC has a relationship, and any transaction in which he or she might have a conflicting interest. Compliance with the financial disclosure requirements of the City of Buffalo, if so applicable, shall be deemed compliance with the requirements of this Section.

ARTICLE III Ethics Officer

The Executive Vice President of BUDC shall serve as the Ethics Officer. In the event of a vacancy, the BUDC Governance Committee Chair shall serve as the Ethics Officer until such time as the BUDC Board appoints a successor.

The Ethics Officer shall report to the Board. The Ethics Officer shall have the duties set forth below, and such other duties as may be prescribed by the Board:

1. Advise in confidence each director, officer or employee of BUDC who seeks guidance regarding ethical behavior.
2. Receive and investigate complaints about possible violations of this Code of Ethics.
3. Dismiss complaints found to be without substance.
4. Prepare investigative reports of his or her findings to be submitted for action by the Chair or the Board.

ARTICLE IV Reporting Unethical Behavior; Whistleblower Policy

In accordance with Title 12 of Article 9 of the Public Authorities Law, BUDC has adopted a Whistleblower Policy to afford certain protections to individuals who, in good

faith, report violations of the Code of Ethics or other instances of potential wrongdoing within BUDC. The Whistleblower Policy provides BUDC directors, officers, and employees with a confidential means to report credible allegations of misconduct, wrongdoing, or unethical behavior and to protect those individuals, when acting in good faith, from personal or professional retaliation. Any director, officer or employee who seeks to report a violation of the Code of Ethics or other instances of potential wrongdoing should utilize the reporting procedures set forth in the Whistleblower Policy.

ARTICLE V Implementation; Annual Review

This Code of Ethics shall be provided to all directors, officers and employees of BUDC upon commencement of employment or appointment and shall be reviewed annually by BUDC's Governance Committee.

Approved and Adopted: 6-2-2009
Reviewed by Governance Committee: 5-24-2010
Re-Adopted: 3-29-2011
Amended and Adopted: 3-27-2012
Re-adopted: 2-26-2013
Re-adopted: 2-25-2014
Amended and Adopted: 3-31-2015
Re-adopted: 3-29-2016
Amended and Adopted: 3-28-2017
Reviewed: 3-5-2018 (Governance Committee of the Board of Directors)
Reviewed: 3-13-2019 (Governance Committee of the Board of Directors)
Reviewed: 3-16-2020 (Governance Committee of the Board of Directors)
Reviewed: 3-4-2021 (Governance Committee of the Board of Directors)

BUFFALO URBAN DEVELOPMENT CORPORATION (“BUDC”)

WHISTLEBLOWER POLICY

I. Introduction

- a. **Applicability:** This Whistleblower Policy (“Policy”) shall apply to the Buffalo Urban Development Corporation (“BUDC”), its existing affiliates and any other affiliated entities that may hereafter be established by BUDC (hereinafter collectively referred to as the “Corporation”) upon approval by the Board of Directors of the Corporation.
- b. **Scope:** In accordance with Title 12 of Article 9 of the Public Authorities Law, the Corporation is required to adopt a policy to protect individuals who, in good faith, report violations of the Corporation’s Code of Ethics or other instances of potential wrongdoing within the Corporation.
- c. **Purpose:** This Policy provides directors, officers and employees of the Corporation with a confidential means to report credible allegations of misconduct, wrongdoing, or unethical behavior and to protect those individuals, when acting in good faith, from personal or professional retaliation.

II. Definitions

- a. **“Corporation Employee”:** All directors and officers of the Corporation, and all staff employed by the Corporation, whether employed full-time or part-time, employed pursuant to a contract, employed temporarily, or employed on a probationary basis.
- b. **“Good Faith”:** Information concerning potential Wrongdoing is disclosed in “good faith” when the individual making the disclosure reasonably believes such information to be true and reasonably believes that it constitutes potential Wrongdoing.
- c. **“Personnel Action”:** Any action affecting compensation, appointment, promotion, transfer, assignment, reassignment, reinstatement or evaluation of performance.
- d. **“Whistleblower”:** Any Corporation Employee who in good faith discloses information concerning Wrongdoing by another Corporation Employee, or concerning the business of the Corporation itself.
- e. **“Wrongdoing”:** Any alleged corruption, fraud, criminal or unethical activity, misconduct, waste, conflict of interest, intentional reporting of false or misleading information, or abuse of authority engaged in by a Corporation Employee that relates to the Corporation.

III: Reporting Wrongdoing

All Corporation Employees who discover or have knowledge of potential Wrongdoing concerning directors, officers or employees of the Corporation; or a person having business dealings with the Corporation; or concerning the Corporation itself, shall report such activity in accordance with the following procedures:

- a. The Corporation Employee shall disclose any information concerning Wrongdoing either orally or in a written report to his or her supervisor, or to the Corporation's ethics officer, general counsel, or human resources representative.
- b. A Corporation Employee who discovers or has knowledge of Wrongdoing shall report such Wrongdoing in a prompt and timely manner.
- c. The identity of the Whistleblower and the substance of his or her allegations will be kept confidential to the best extent possible.
- d. The individual to whom the potential Wrongdoing is reported shall investigate and handle the claim in a timely and reasonable manner, which may include referring such information to the Authorities Budget Office or an appropriate law enforcement agency where applicable.
- e. Should a Corporation Employee believe in good faith that disclosing information within the Corporation pursuant to Section III(a) above would likely subject him or her to adverse Personnel Action or be wholly ineffective, the Corporation Employee may instead disclose the information to the Authorities Budget Office or to an appropriate law enforcement agency, if applicable. The Authorities Budget Office's toll free number (1-800-560-1770) should be used in such circumstances.

IV: No Retaliation or Interference

No Corporation Employee shall retaliate against any Whistleblower for the disclosure of potential Wrongdoing, whether through threat, coercion, or abuse of authority; and, no Corporation Employee shall interfere with the right of any other Corporation Employee by any improper means aimed at deterring disclosure of potential Wrongdoing. Any attempts at retaliation or interference are strictly prohibited, and:

- a. No Corporation Employee who, in good faith, discloses potential violations of the Corporation's Code of Ethics or other instances of potential Wrongdoing shall suffer harassment, retaliation or adverse Personnel Action.
- b. All allegations of retaliation against a Whistleblower or interference with an individual seeking to disclose potential Wrongdoing will be investigated by the Corporation.
- c. Any Corporation Employee who retaliates against or attempts to interfere with any individual for having in good faith disclosed potential violations of the Corporation's

Code of Ethics or other instances of potential Wrongdoing is subject to disciplinary action, which may include termination of employment.

- d. Any allegation of retaliation or interference will be taken and treated seriously and, irrespective of the outcome of the initial complaint, will be treated as a separate matter.

V: Other Legal Rights Not Impaired

This Policy is not intended to limit, diminish or impair any other rights or remedies that an individual may have under the law with respect to disclosing potential wrongdoing free from retaliation or adverse personnel action, including without limitation the whistleblower protections provided under Civil Service Law §75-b, Labor Law § 740, State Finance Law § 191 (commonly known as the "False Claims Act"), and Executive Law § 55(1). BUDC shall comply with all such provisions as applicable, including the posting of any notice required pursuant to Labor Law § 740, as amended effective January 26, 2022.

~~a. Specifically, this Policy is not intended to limit any rights or remedies that an individual may have under the laws of the State of New York, including but not limited to the following provisions: Civil Service Law §75-b, Labor Law § 740, State Finance Law § 191 (commonly known as the "False Claims Act"), and Executive Law § 55(1).~~

~~b.~~

~~a. With respect to any rights or remedies that an individual may have pursuant to Civil Service Law § 75-b or Labor Law § 740, any employee who wishes to preserve such rights shall, prior to disclosing information to a government body, have made a good faith effort to provide the appointing authority or his or her designee the information to be disclosed and shall provide the appointing authority or designee a reasonable time to take appropriate action unless there is imminent and serious danger to public health or safety. (See Civil Service Law § 75-b[2][b]; Labor Law § 740[3]).~~

VI. Implementation

This Whistleblower Policy shall be provided to all directors, officers, and employees of the Corporation and shall be reviewed annually by the Corporation's Governance Committee.

Approved and Adopted: 3/27/2012

Re-adopted: 2/26/2013

Re-adopted: 2/25/2014

Re-adopted: 3/31/2015

Re-adopted: 3/29/2016

Re-adopted: 3/28/2017

Reviewed: 3/5/2018 (Governance Committee of the Board of Directors)

Reviewed: 3/13/2019 (Governance Committee of the Board of Directors)

Reviewed: 3/16/2020 (Governance Committee of the Board of Directors)

Reviewed: 3/4/2021 (Governance Committee of the Board of Directors)

BUFFALO URBAN DEVELOPMENT CORPORATION

**RIVERBEND LLC
BUFFALO LAKESIDE COMMERCE PARK I LLC
NORDEL I LLC
NORDEL II LLC
683 WTC LLC
683 NORTHLAND LLC
KING CROW LLC
714 NORTHLAND LLC
631 NORTHLAND LLC**

2021 ANNUAL REPORT
(For purposes of Section 2800(2) of the Public Authorities Law)

Purpose of the Annual Report:

As a local development corporation established by the City of Buffalo, the Buffalo Urban Development Corporation (BUDC) is required to comply with New York State's Public Authorities Law. Under this Law, BUDC is required to submit a comprehensive annual report that includes information on:

1. Operations and accomplishments
2. Financial Reports
3. Mission Statement & Performance Measurements
4. Bonds and notes outstanding
5. Compensation (for those earning \$100,000 +)
6. Projects undertaken during the year
7. Property Report
8. Code of Ethics
9. An assessment of internal control structure and effectiveness
10. Legislation that forms the statutory basis of the authority
11. Board structure
12. By-Laws
13. Listing of material changes in operations and programs
14. Four-year Financial Plan
15. Board Performance Evaluations
16. Assets/Services brought or sold without competitive bidding
17. Description of material pending litigation

In compliance with the Public Authorities Law, the following required information is presented for the fiscal year ended December 31, 2021.

1. Operations & Accomplishments:

A report on the 2021 operations and accomplishments of the BUDC and its affiliates is posted on BUDC's website at <http://www.buffalourbandevelopment.com/budc-corporate-reports>.

2. Financial Reports:

i) Audited Financial Statements:

The audited financial statements for the BUDC will be posted on its website at <http://www.buffalourbandevelopment.com/budc-corporate-reports>. The financial statement certification is included on page 8.

The financial statements are audited on an annual basis, by BUDC's independent auditors Freed Maxick CPAs, P.C. In their opinion, the financial statements present fairly, in all material respects, the financial position of BUDC as of December 31, 2021 and the changes in net assets and its cash flows for the years then ended in conformity with accounting principals generally accepted in the United States of America.

ii) Grants & Subsidy Programs:

BUDC and its affiliates are recipients of certain Federal, State, Local and private foundation grant programs that are utilized for land development projects. Details of the various grants are outlined in BUDC's audited financial statements.

iii) Operating & Financial Risks:

The following outline some of the operating and financial risks that impact BUDC:

- Liquidity – A significant portion of BUDC's assets consist of land and buildings held for sale or lease which are not readily convertible to cash. Since BUDC relies upon land sales and lease revenues to fund operations, a reduction in the amount of cash derived from land sales and lease revenues could cause BUDC difficulty in funding operations.
- Recovery of Land held for sale – BUDC has capitalized a large proportion of its development costs as "Land and improvements held for sale". If BUDC has difficulty selling the underlying parcels due to local economic conditions, it may not be able to recover the amount recorded on the financial statements.
- Environmental – Since BUDC and its affiliates may assume title to properties with environmental contamination, it is exposed to the related potential clean-up costs, litigation and other liabilities.
- Regulatory – BUDC is subject to various regulations including those imposed by the NYS Authorities Budget Office. These regulations may increase the cost of compliance or impact the financial position of the Corporation. In 2017, BUDC closed on tax credit financing for the redevelopment of 683 Northland (Northland Central) involving New Markets and Historic Tax Credits. Changes to regulations governing these and Brownfield Tax Credits could impact the overall funding of the project.
- Funding – As a not-for-profit local development corporation, BUDC has limited sources of operating funds and relies heavily on grant funding for certain projects. BUDC management is always cognizant of the fact that a change in the legislative climate or administration of the State could have a significant effect on future grant opportunities.

BUDC mitigates a portion of the above risks with prudent internal financial management, external financial and legal guidance, and comprehensive insurance coverage.

iv) Current bond ratings:

BUDC does not issue bonds on its own behalf and therefore is not rated by municipal bond rating agencies.

v) Long-term liabilities including leases and employee benefit plans:

BUDC has long-term liabilities related to loans and notes payable as described in Section 4.

3. Mission Statement & Performance Measurements:

BUDC's Mission Statement & Performance Measurements Report for 2021 is included in Attachment 1. This document was reviewed and approved by the Board at the March 30, 2021 Board meeting.

4. Schedule of Bonds and Notes Outstanding:

In 2006, BUDC issued \$675,000 in promissory notes in connection with the expansion of its Buffalo Lakeside Commerce Park remediation and redevelopment. During 2007, \$150,000 of these notes were repaid while in 2008 an additional \$267,619 of these notes were repaid, leaving a balance of \$257,381 outstanding at December 31, 2021. In 2017, 683 Northland LLC borrowed amounts totaling \$13,730,000 related to the Northland Workforce Training Center project as part of a transaction to syndicate certain tax credits. 683 Northland LLC also entered into two agreements for bridge financing in 2017 totaling \$30,000,000; \$10,180,810,000 of which was outstanding at December 31, 2021. In 2019, BUDC entered into a \$369,750 term note for a property purchase. See Attachment 2 for detail of BUDC's loans and notes payable.

5. Compensation Schedule:

See Attachment 3 for a list of BUDC employees who were paid a salary exceeding \$100,000 during 2021. Attachment 3A is a summary of benefits provided to those staff per the New York State Public Authorities Reporting Information System (PARIS). Biographies for these individuals are posted on BUDC's website at <http://www.buffalourbandevelopment.com/budc-contact-us>. Salaries and benefit information for other BUDC staff are also reported under PARIS.

None of the Directors of the Buffalo Urban Development Corporation or its affiliates receive any compensation for their services as Directors. None of the Officers of the Buffalo Urban Development Corporation or its affiliates receive any compensation for their services as Officers, beyond their compensation as employees.

6. Projects Undertaken by the Corporation during fiscal year 2021:

See above Operations and Accomplishments report posted at <http://www.buffalourbandevelopment.com/budc-corporate-reports> for a listing of various initiatives accomplished in 2021.

7. Listing of certain Property of the Corporation:

Attachment 4 provides information regarding the real property holdings of BUDC and its affiliates.

8. Code of Ethics:

The Corporation's Code of Ethics is posted on BUDC's website at <http://www.buffalourbandevelopment.com/budc-corporate-policies>.

9. Assessment of the Effectiveness of Internal Control Structure and Procedures:

Management's Assessment of the Effectiveness of Internal Controls of BUDC is posted on BUDC's website at <https://www.buffalourbandevelopment.com/budc-corporate-reports>.

BUDC's independent auditors have conducted tests of the effectiveness of BUDC's internal controls over financial reporting and their report is included in the audited financial statements posted on BUDC's website at <https://www.buffalourbandevelopment.com/budc-corporate-reports>.

10. Legislation that forms the Statutory Basis of the Authority:

BUDC

BUDC is a local development corporation which was formed and empowered to conduct certain projects pursuant to Not-For-Profit Corporation Law § 1411. Distinguished from IDAs (which exist as public benefit corporations), LDCs are established as charitable corporations that are empowered 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 ("Benefited Territory") and to make loans. LDCs can provide financial assistance for the construction, acquisition, rehabilitation, improvement, and maintenance of facilities for others in its Benefited Territory. Specific LDC powers include the ability to: (i) disseminate information and furnish advice, technical assistance and liaison services to Federal, State and local authorities; (ii) to acquire by purchase, lease, gift, bequest, devise or otherwise, real or personal property; and (iii) to borrow money and to issue negotiable bonds, notes and other obligations. LDCs are empowered to sell, lease, mortgage or otherwise dispose of or encumber facilities or any real or personal property or any interest therein.

A copy of this specific legislation can be found at the following address:

[http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=\\$\\$NPC1411\\$\\$@TXNPC01411+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=35134270+&TARGET=VIEW](http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=$$NPC1411$$@TXNPC01411+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=35134270+&TARGET=VIEW)

11. Description of the Authority and its Board Structure:

i) Names of Committees and Committee Members:

Buffalo Urban Development Corporation is administered by a Real Estate Committee, Audit & Finance Committee, Governance Committee, Downtown Committee, and Loan Committee. A description of the committees and a listing of committee members is posted on the BUDC website at <http://www.buffalourbandevelopment.com/budc-board-committees>.

ii) List of Board Meetings & Attendance:

A list of the 2021 Board meetings and Board attendance is outlined on Attachment 5.

iii) Description of major authority units, subsidiaries: BUDC's Corporate Chart is included in Attachment 6.

iv) Number of Employees:

BUDC had four full-time employees in 2021. It also utilized employees of the Erie County Industrial Development Agency (ECIDA) to provide financial, administrative, and property management services on a fee basis, through a shared services agreement.

v) Organizational Chart:

BUDC's organizational chart is posted on BUDC's website at:
<http://www.buffalourbandevelopment.com/budc-contact-us>

12. Bylaws:

The Bylaws for BUDC are posted on its website at

http://www.buffalourbandevelopment.com/documents/bude_corporate_policies/BUDCBY-Laws_Feb_2012.pdf.

13. Listing of Material Changes in Operations and Programs:

In 2021, BUDC staff continued developing and managing a material change in BUDC operations and programs that began in 2019, as indicated in Section 1 (Operations & Accomplishments) in the section titled Waterfront / Ralph C. Wilson, Jr. Centennial Park Project. BUDC applied to the Ralph C. Wilson, Jr. Foundation for grant funds to assist the City of Buffalo to become more engaged in downtown waterfront planning and development activities. The Foundation initially awarded BUDC a \$2.8 million dollar grant to enhance both BUDC's and the City's capacity to manage such development activities and to successfully implement the design and construction of Ralph C. Wilson, Jr. Centennial Park. The project continues to progress as it nears 50% Construction Documents phase and moves towards the first phase of construction, which is anticipated to begin in 2022. In addition to securing and managing grant additional funding from the Ralph C. Wilson Foundation in the amount of \$3.06 million, BUDC was also successful in leveraging additional funding from the Community Foundation for an additional BUDC support staff, the Great Lakes Foundation and others to support this transformational project. BUDC also continues to successfully manage contracts with Gardiner & Theobald for project management and cost estimating services, as well as a contract with Michael Van Valkenburg & Associates for landscape design services.

BUDC also continued to make significant strides in the Northland Beltline Corridor redevelopment area in 2021, despite the disruption caused by the COVID 19 pandemic. BUDC was able to attract additional tenants to the campus such as Garwood Medical and Bank On Buffalo. BUDC also worked in collaboration with partners at City of Buffalo, Invest Buffalo Niagara, Northland Workforce Training Center and the UB Regional Institute on a joint application for federal funding through the EDA Build Back Better

grant program to bring additional resources for the continued development of properties within the Northland Beltline Corridor. The WNY Region was successful in securing planning funding and to also advance to Phase 2 of the program that has the potential to unlock millions in capital funding for the Northland Corridor and the WNY region.

These investments in existing assets/infrastructure will increase development density in the City of Buffalo that encourages walkability and multi-modal transportation, connects dis-advantaged communities with employment clusters, and attracts private investment to further foster a vibrant, sustainable community in line with the Region's established smart growth principles. The Northland Beltline Corridor continues to evolve as an innovation hub focused on workforce training, advanced manufacturing, and energy, with a focus on encouraging job training and employment for East Side residents. The combined project at Northland Central has exceeded \$100 million. In addition to the grant funding from ESD, NYPA and the City of Buffalo, additional financing has been provided by Citibank and Key Bank, through the use of Historic Preservation Tax Credits and New Market Tax Credits allocated through the National Trust Community Investment Corporation and Building America Community Development Entity. Key Bank has provided construction bridge financing.

14. Four-Year Financial Plan:

A copy of the four-year financial plan is posted on BUDC's website at <http://www.buffalourbandevelopment.com/budc-corporate-reports>.

15. Board Performance Evaluations:

The BUDC Board of Directors conducted a Board Performance Evaluation for 2021 and forwarded the results to the Authorities Budget Office. The results of the survey are not subject to disclosure under Article six of the Public Officers Law.

16. Assets/Services bought or sold without competitive bidding:

Attachment 7 is a Procurement Report that will be filed under PARIS. The report outlines the assets and services purchased through competitive and non-competitive bidding for those procurements in excess of \$5,000.

17. Description of material pending litigation:

The audited financial statements for BUDC outline any material pending litigation. The audited financial statements are posted on BUDC's website at <http://www.buffalourbandevelopment.com/budc-corporate-reports>.

Certification Pursuant to Section 2800(3) of the Public Authorities Law

Pursuant to Section 2800 (3) of the Public Authorities Law, each of the undersigned Officers of Buffalo Urban Development Corporation, does hereby certify with respect to the annual financial report of the Corporation (the "Annual Financial Report") posted on BUDC's website at <http://www.buffalourbandevelopment.com/budc-corporate-reports> that based on the officer's knowledge:

1. The information provided in the Annual Financial Report is accurate, correct and does not contain any untrue statement of material fact;
2. Does not omit any material fact which, if omitted, would cause the financial statements contained in the Annual Financial Report to be misleading in light of the circumstances under which such statements are made; and
3. Fairly presents in all material respects the financial condition and results of operations of the Corporation as of and for, the periods presented in such financial statements.

Brandye M. Merrweather
President

Date

Mollie Profic
CFO

Date

Buffalo Urban Development Corporation

95 Perry Street
Suite 404
Buffalo, New York 14203
phone: 716-856-6525
fax: 716-856-6754

web: buffalourbandevelopment.com



Item 3.4

MEMORANDUM

TO: BUDC Board of Directors

FROM: Antonio Parker, Project Manager

SUBJECT: Ralph C. Wilson, Jr. Centennial Park –MLB-MLBPA Youth Development Foundation Grant Agreement

DATE: March 29, 2022

In 2021, BUDC submitted a grant application to the Major League Baseball (MLB) Youth Development Foundation for the field renovation component of the Ralph C. Wilson, Jr. Foundation Centennial Park (“Centennial Park”) project. The MLB Youth Development Foundation approved BUDC’s grant application on March 8, 2022 for an award in the amount of \$960,000 (the “Grant Agreement”). This renovation project will include the installation of new lighting at the youth baseball and softball fields at Centennial Park. As a condition of receiving the grant funds, BUDC will be required to submit scheduled reports on the accounting and status of the field renovation, which project manager Gardiner & Theobald (G&T) will complete and provide to BUDC for submission. The Grant Agreement extends through November 30, 2025 unless extended by the MLB Youth Development Foundation in its discretion.

Although a formal recommendation could not be given due to a lack of quorum at the March 16, 2022 Downtown Committee meeting, the Committee members present discussed the item and agreed it should be moved to the Board for approval.

ACTION:

I am requesting that the BUDC Board of Directors: (i) accept the \$960,000 grant award from the MLB Youth Development Foundation; and (ii) authorize the BUDC President or Executive Vice President to execute the Grant Agreement and take such other actions as are necessary to implement this authorization.

Hon. Byron W. Brown, Chairman of the Board • Dennis Penman, Vice Chairman • Brandye Merriweather, President
Rebecca Gandour, Executive Vice President • Mollie Profic, Treasurer • Atiqah Abidi, Assistant Treasurer • Kevin J. Zanner, Secretary

Buffalo Urban Development Corporation

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Buffalo, New York 14203
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web: buffalourbandevelopment.com



Item 3.5

MEMORANDUM

TO: BUDC Board of Directors

FROM: Antonio Parker, Project Manager

**SUBJECT: Ralph C. Wilson, Jr. Centennial Park – MVVA Master Service Agreement
Amendment: ADA Accessible Kayak Launch**

DATE: March 29, 2022

In May 2019, the BUDC Board of Directors approved a Master Service Agreement (the “MVVA Agreement”) with Michael Van Valkenburgh Associates (“MVVA”) for Schematic Design and Design Development for Ralph C. Wilson, Jr. Centennial Park (“Centennial Park”). The MVVA Agreement has been subsequently amended to provide for additional Schematic Design costs, inclusion of the Pedestrian Bridge Schematic Design, additional Design Development, to incorporate provisions relating to Great Lakes Commission Grant Funding, and the preparation of Construction Documents.

At the October 26, 2021 BUDC Board meeting, the Board authorized MVVA to proceed with Construction Document Package Two and released the contingency described in the Fourth Amendment to the MVVA Agreement for Centennial Park.

The Centennial Park design team, led by Project Manager Gardiner & Theobald (“G&T”), recently identified the need for additional design work to incorporate an ADA Kayak Transfer Platform at the Blueway Site at Centennial Park. G&T is recommending an amendment to the MVVA Agreement for this additional work, which will be completed by MVVA subconsultant, Beech & Bonaparte.

The total cost of this work is \$41,814.16 and will be paid with existing grant awards from the Ralph C. Wilson, Jr. Foundation as follows:

Hon. Byron W. Brown, Chairman of the Board • Dennis Penman, Vice Chairman • Brandye Merriweather, President
Rebecca Gandour, Executive Vice President • Mollie Profic, Treasurer • Atiqa Abidi, Assistant Treasurer • Kevin J. Zanner, Secretary

- \$38,063 in unused funds from Wilson Grant #1
- \$3,751.16 in unused funds from Wilson Grant #2

ACTION:

I am requesting that the BUDC Board of Directors approve an amendment to the MVVA Master Service Agreement in the amount of \$41,814.16 for additional design work to include an ADA Accessible Kayak Transfer Platform at Centennial Park; and (ii) authorize the President or Executive Vice President to execute the amendment to the MVVA Master Service Agreement and take such other actions as are necessary to implement this authorization.

Hon. Byron W. Brown, Chairman of the Board • Dennis Penman, Vice Chairman • Brandye Merriweather, President
Rebecca Gandour, Executive Vice President • Mollie Profic, Treasurer • Atiqa Abidi, Assistant Treasurer • Kevin J. Zanner, Secretary

Buffalo Urban Development Corporation

95 Perry Street
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Buffalo, New York 14203

phone: 716-856-6525

fax: 716-856-6754

web: buffalourbandevelopment.com



Item 3.6

MEMORANDUM

TO: BUDC Board of Directors

FROM: Brandy Merriweather, President

SUBJECT: Sale of 3.63 +/- acres of Real Property at 308 Crowley to Douglas Development Corporation

DATE: March 29, 2022

BUDC's core mission includes the acquisition of brownfield and distressed properties and the repositioning of these properties for future redevelopment and a return to productive use. To that end, BUDC and the Mayor's Office of Strategic Planning previously identified the former manufacturing complex located at 308 Crowley Avenue in the Riverside section of the City of Buffalo as a strategic brownfield acquisition for BUDC. In June of 2018, BUDC acquired the site through a wholly owned subsidiary limited liability company (King Crow, LLC).

Douglas Development Corporation desires to purchase the remaining 3.63 +/- acre parcel of land and improvements located at the 308 Crowley site. BUDC executive staff and Douglas Development Corporation representatives negotiated the terms of a Land Sale Agreement, with a proposed purchase price for the parcel in the amount of \$120,000.00. The property is being sold in "as-is" condition. The Land Sale Agreement will include a provision requiring Douglas Development Corporation to ensure that the end use of the site is compatible with the residential neighborhood in which it is located. The developer will also agree to restore and retain the tower structure and most of the warehouse located on the site.

An independent appraisal of the property was obtained, which valued the parcel at \$120,000.00. The BUDC Real Estate Committee reviewed the proposed sale transaction at its March 22, 2022 meeting and is recommending that the Board of Directors approve the sale of the property to Douglas Development Corporation. A Resolution authorizing the sale is attached to this memorandum.

Hon. Byron W. Brown, Chairman of the Board • Dennis Penman, Vice Chairman • Brandy Merriweather, President
Rebecca Gandour, Executive Vice President • Mollie Profic, Treasurer • Atiqa Abidi, Assistant Treasurer • Kevin J. Zanner, Secretary

ACTION:

We are requesting that the Board of Directors adopt the attached Resolution to approve the sale of a 3.63 +/- acre parcel at 308 Crowley to Douglas Development Corporation.

Hon. Byron W. Brown, Chairman of the Board • Dennis Penman, Vice Chairman • Brandye Merriweather, President
Rebecca Gandour, Executive Vice President • Mollie Profic, Treasurer • Atiqa Abidi, Assistant Treasurer • Kevin J. Zanner, Secretary

**RESOLUTION OF THE BOARD OF DIRECTORS OF
BUFFALO URBAN DEVELOPMENT CORPORATION
(BUDC) TO ENTER INTO A LAND SALE AGREEMENT
WITH DOUGLAS DEVELOPMENT CORPORATION OR AN
AFFILIATED ENTITY FOR THE SALE OF
APPROXIMATELY 3.63 +/- ACRES OF REAL PROPERTY
LOCATED AT 308 CROWLEY STREET, BUFFALO, NEW
YORK**

WHEREAS, BUDC 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, improve and maintain job opportunities, lessen the burdens of government and to combat community deterioration and blight, all to promote the general and public welfare of the people of the City of Buffalo; and

WHEREAS, in furtherance of these purposes, BUDC is empowered, among other things, to assist with the environmental remediation and redevelopment of brownfield sites and other environmentally distressed properties and returning such properties to productive use, and to sell or convey such properties; and

WHEREAS, in accordance with the BUDC Property Disposition Guidelines (“Guidelines”) and applicable provisions of the New York Public Authorities Law (“PAL”), and subject to such exceptions and/or requirements set forth in the Guidelines and the PAL, BUDC may dispose of real property by sale, exchange, transfer, for cash, credit or other property, with or without warranty, and upon such terms and conditions as are determined by BUDC to be appropriate and reasonable and consistent with the Guidelines; and

WHEREAS, BUDC is the sole member of King Crow, LLC, a limited liability company formed by BUDC to hold title to the real property and improvements located at 308 Crowley Avenue, Buffalo, New York; and

WHEREAS, Douglas Development Corporation (the “Company”) submitted a proposal to purchase, on an “as-is, where is” basis, the real property and improvements located at 308 Crowley Street (the “Real Property”); and

WHEREAS, BUDC obtained an independent appraisal from GAR Associates LLC (the “Appraisal”) that appraised the value of the Real Property to be \$120,000.00; and

WHEREAS, BUDC and the Company have negotiated a proposed purchase price for the Real Property of \$120,000.00, an amount that is consistent with the appraised value of the Real Property.

NOW, THEREFORE, BE IT RESOLVED BY THE BUFFALO URBAN DEVELOPMENT CORPORATION AS FOLLOWS:

Section 1. BUDC hereby determines that the proposed sale of the Real Property to the

Company is within the purpose, mission and statutory authority of BUDC, including the provisions of the BUDC Restated Certificate of Incorporation.

Section 2. BUDC hereby approves the sale by King Crow LLC of the Real Property to the Company (or a subsidiary or affiliate designated by the Company) for the purchase price of \$120,000.00.

Section 3. The President and the Executive Vice President of BUDC are each hereby authorized to negotiate and execute a land sale agreement ("Land Sale Agreement") for the sale of the Real Property to the Company, such agreement to be in a form acceptable to BUDC counsel. The Land Sale Agreement shall include provisions requiring the Company to ensure that the end use of the Real Property is compatible with the residential neighborhood in which it is located, and that Company agrees to restore and retain the tower structure and most of the warehouse located on the Real Property.

Section 4. The President and Executive Vice President are each hereby authorized for and in the name and on behalf of King Crow, LLC and BUDC to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses, to enforce or waive any conditions precedent to closing in the Land Sale Agreement, and to do all such further acts and things as may be necessary or, in the opinion of President or Executive Vice President acting, desirable and proper in connection with the sale and closing of the transaction to effect the purposes of these resolutions.

Section 5. These resolutions shall take effect immediately.

Dated: March 29, 2022