



**Buffalo and Erie County Regional Development Corporation  
Board of Director Meeting  
August 28, 2019  
@ 12:00 p.m.  
95 Perry Street  
5th Floor - ESD Conference Room  
Buffalo, New York 14203**

**1.0 Call to Order**

**2.0 Approval of Minutes**

- 2.1 Approval of the May 22, 2019 Minutes of the Joint Annual Board of Directors and Membership Meeting (Pages 2-3)

**3.0 Reports / Action Items / Information Items:**

- 3.1 Financial Report (Informational) (Pages 4-7)
- 3.2 Finance & Audit Committee Update (Informational) (Pages 8-9)
- 3.3 RDC Loan Status Report/Closing Report (Informational) (Pages 10-11)
- 3.4 Approval of the Following Loan Case(s):
  - a) WNY Medical Management, LLC – (Action Item) (Pages 12-18)

**4.0 Adjournment - Next Meeting September 25, 2019 @ 12:00 p.m.**

**MINUTES OF THE  
BOARD OF DIRECTORS  
OF THE  
BUFFALO AND ERIE COUNTY REGIONAL  
DEVELOPMENT CORPORATION  
(RDC)**

- DATE AND PLACE:** May 22, 2019, at the Erie County Industrial Development Agency, 95 Perry Street, 5<sup>th</sup> Floor ESD Conference Room, Buffalo, New York 14203
- PRESENT:** Rev. Mark E. Blue, Dottie Gallagher, Hon. Howard Johnson, Tyra Johnson, Hon. Brian J. Kulpa, Richard Lipsitz, Jr., Brenda W. McDuffie, Hon. Glenn R. Nellis, Hon. Mark C. Poloncarz, Sister Denise Roche, Kenneth A. Schoetz and Art Wingerter
- EXCUSED:** Hon. Diane Benczkowski, Hon. Bryon W. Brown, James F. Doherty, Hon. Joseph H. Emminger, John J. Mudie, Hon. Darius G. Pridgen, and Charles F. Specht
- OTHERS PRESENT:** Steve Weathers, Chief Executive Officer; Mollie Profic, Chief Financial Officer; and Karen M. Fiala, Secretary
- GUESTS:** Robert G. Murray, Esq., General Counsel; Maria Whyte, Deputy County Executive; Andrew Federick, Erie County Senior Economic Development Specialist

There being a quorum present at 12:20 p.m., the meeting of the RDC Board of Directors was called to order by its Chair, Ms. McDuffie.

**MINUTES**

The Minutes of the March 27, 2019, meeting of the Board of Directors of the RDC were presented. Mr. Kulpa moved, and Mr. Blue seconded, to approve of the minutes. Ms. McDuffie called for the vote and the minutes were unanimously approved.

**REPORTS/ACTION ITEMS/INFORMATION ITEMS**

Financial Report. Ms. Profic provided a report on the April, 2019 financial statements noting that the RDC finished the month of April with total assets of \$17.8 million and net assets of \$17.7 million. The monthly income statement shows net income of \$194,000 for April, with revenue exceeding budget by \$2,000. Total expenses include an adjustment out of the provision for loan losses in the amount of \$184,094, being the result of a borrower that suddenly closed earlier this year holding an auction and making the RDC whole on the outstanding loan amount.

The year to date income statement reflects \$190,000 of revenue and \$844,000 of expenses, for a net loss of \$655,000 through April. Ms. McDuffie directed that the report be received and filed.

At this point in time Ms. Johnson joined the meeting.

Annual Report of the Directors. Ms. Profic provided an overview of the Annual Report of the Directors per the New York Not-For-Profit Law.

Mr. Kulpa moved and Mr. Nellis seconded to approve of the Annual Report of the Directors. Ms. McDuffie called for the vote and the Annual Report of the Directors was unanimously approved.

2019 Loan Status Report and 2019 Closing Report. Mr. Weathers presented this report.

Mr. Poloncarz asked about the calculation of the delinquency rate and Mr. Weathers confirmed that the delinquency rate is based off of the total outstanding balance and not number of loans.

Ms. McDuffie directed that the report be received and filed.

Nominating Committee Update. Mr. Poloncarz provided members with a report on the Nominating Committee's most recent meeting whereat the committee reviewed the slate of committee members and officers, and recommend same for approval by the RDC. Mr. Lipsitz moved and Sister Denise seconded to approve of the Nominating Committee list of committee member and officer assignments. Ms. McDuffie then called for the vote and the motion was unanimously approved.

There being no further business to discuss, Ms. McDuffie then adjourned the meeting at 12:27 p.m.

Dated: May 22, 2019

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Karen M. Fiala, Secretary

**Regional Development Corporation**  
**Financial Statements**  
As of July 31, 2019

**REGIONAL DEVELOPMENT CORPORATION ("RDC")**

**Balance Sheet**

July 31, 2019

	July 2019	June 2019	December 2018
<b>ASSETS:</b>			
Restricted Cash**	\$ 6,383,344	\$ 6,182,886	\$ 5,963,260
Direct Loans *	12,491,326	12,648,643	12,927,117
50/50 Bank Participation Loans *	203,866	207,661	235,971
Reserve for Loan losses	<u>(1,410,349)</u>	<u>(1,410,349)</u>	<u>(449,810)</u>
Total Loan Assets, net	<u>11,284,844</u>	<u>11,445,955</u>	<u>12,713,278</u>
<b>TOTAL ASSETS</b>	<u><u>\$ 17,668,188</u></u>	<u><u>\$ 17,628,840</u></u>	<u><u>\$ 18,676,538</u></u>

<b>LIABILITIES &amp; NET ASSETS</b>			
Accounts Payable	\$ 200	\$ 200	\$ 315
Due to ECIDA	<u>218,449</u>	<u>187,349</u>	<u>352,232</u>
Total Liabilities	<u>218,649</u>	<u>187,549</u>	<u>352,547</u>
Restricted Fund Balance	<u>17,449,540</u>	<u>17,441,292</u>	<u>18,323,991</u>
<b>TOTAL LIABILITIES &amp; NET ASSETS</b>	<u><u>\$ 17,668,188</u></u>	<u><u>\$ 17,628,840</u></u>	<u><u>\$ 18,676,538</u></u>

<b>* Loan Portfolio Summary:</b>	July 2019	June 2019	December 2018
# of Direct Loans	42	42	44
# of 50/50 Bank Participation Loans	1	1	3
	<u>43</u>	<u>43</u>	<u>47</u>

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

**REGIONAL DEVELOPMENT CORPORATION ("RDC")**  
**Income Statement**  
Month of July 2019

	<b>Actual vs. Budget</b>		
	<b>Actual</b>	<b>Budget</b>	<b>Variance</b>
<b>REVENUES:</b>			
Interest Income - Loans	\$ 43,428	\$ 43,333	\$ 95
Interest Income - Cash & Inv.	3,550	833	2,717
Administrative Fees	1,125	833	292
Other Income	388	1,667	(1,279)
Total Revenues	<u>48,491</u>	<u>46,667</u>	<u>1,824</u>
<b>EXPENSES:</b>			
Management Fee - ECIDA*	29,200	29,167	33
Rent & Facilities Expenses	1,900	1,917	(17)
Professional Services	8,960	2,250	6,710
General Office Expenses	-	283	(283)
Other Expenses	183	1,340	(1,156)
Total Expenses	<u>40,243</u>	<u>34,956</u>	<u>5,287</u>
<b>NET INCOME/(LOSS):</b>	<u>\$ 8,248</u>	<u>\$ 11,710</u>	<u>\$ (3,463)</u>

\* Represents an allocation of salary and benefit costs from the ECIDA based on time charged to RDC. The amount booked reflects 2019 budgeted figures.

**REGIONAL DEVELOPMENT CORPORATION ("RDC")**

**Income Statement**

Year to Date: July 31, 2019

	Actual vs. Budget			Actual vs. Prior Year		
	Actual	Budget	Variance	Actual	Prior Year	Variance
<b>REVENUES:</b>						
Interest Income - Loans	\$ 305,281	\$ 303,333	\$ 1,947	\$ 305,281	\$ 239,909	\$ 65,372
Interest Income - Cash & Inv.	24,199	5,833	18,365	24,199	13,657	10,542
Administrative Fees	1,825	5,833	(4,008)	1,825	12,183	(10,358)
Other Income	1,550	11,667	(10,117)	1,550	2,875	(1,325)
<b>Total Revenues</b>	<b>332,854</b>	<b>326,667</b>	<b>6,188</b>	<b>332,854</b>	<b>268,623</b>	<b>64,231</b>
<b>EXPENSES:</b>						
Management Fee - ECIDA*	204,400	204,167	233	204,400	178,250	26,150
Provision for Loan Losses	960,539	102,083	858,455	960,539	54,350	906,189
Rent & Facilities Expenses	13,300	13,417	(117)	13,300	10,500	2,800
Professional Services	24,949	30,750	(5,801)	24,949	20,837	4,112
General Office Expenses	1,113	1,983	(871)	1,113	166	947
Other Expenses	1,711	9,377	(7,667)	1,711	5,134	(3,423)
<b>Total Expenses</b>	<b>1,206,011</b>	<b>361,777</b>	<b>844,234</b>	<b>1,206,011</b>	<b>269,236</b>	<b>936,774</b>
<b>NET INCOME/(LOSS):</b>	<b>\$ (873,156)</b>	<b>\$ (35,110)</b>	<b>\$ (838,046)</b>	<b>\$ (873,156)</b>	<b>\$ (613)</b>	<b>\$ (872,543)</b>

\* Represents an allocation of salary and benefit costs from the ECIDA based on time charged to RDC. The amount booked reflects 2019 budgeted figures.



### Item 3.2

To: ECIDA, RDC, ILDC Boards of Directors  
From: Michael Szukala, Chair  
Date: August 28, 2019  
Re: Finance & Audit Committee Report

In accordance with its Committee Charter, the Finance & Audit Committee is required to “report its actions and recommendations to the Board at each regular meeting of the Board following a meeting of the Finance and Audit Committee and when otherwise requested by the Board”. This report is prepared to satisfy this requirement.

A joint meeting of the ECIDA, RDC & ILDC Finance & Audit Committee was held on August 22, 2019. Committee members present were Michael Szukala, Chair, Penny Beckwith, Glenn Nellis, and Charles Specht.

The Committee was given a brief overview of the 2020 budget process, including pertinent dates and deadlines. See the “2020 Budget Review Process” on the following page for the timeline. The Committee then reviewed the 2020 proposed operating budgets of the ECIDA, RDC and ILDC, the 2020 proposed capital budget of the ECIDA, and the three-year forecasts of ECIDA, RDC and ILDC.

The Committee plans to meet again on September 16 to recommend any changes to the proposed budgets and take a vote to recommend proposed budgets to their respective Boards.



**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (ECIDA)  
 BUFFALO & ERIE COUNTY REGIONAL DEVELOPMENT CORP (RDC)  
 BUFFALO & ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORP (ILDC)**

**2020 Budget Review Process**

<b><u>Date</u></b>	<b><u>Description</u></b>	
July-August	Review of draft 2020 budgets by ECIDA management. (a) Prioritize any proposed budget requests for initiatives. (b) Formal budget requests compiled.	✓
August 22 <sup>nd</sup>	Finance & Audit Committee meeting – initial review of proposed budgets.	✓
September 16 <sup>th</sup>	Finance & Audit Committee meeting to discuss any updates/recommend proposed budgets to Boards.	
September 25 <sup>th</sup>	Formal review of 2020 draft budgets at Board meetings.	
October 2 <sup>nd</sup> 9:00 a.m.	Board Q&A budget session #1 (voluntary).	
October 9 <sup>th</sup> 2:00 p.m.	Board Q&A budget session #2 (voluntary).	
October	Adjustments to budget based on Board feedback and Finance & Audit Committee approval of final budgets ( <i>if necessary</i> ).	
October 23 <sup>rd</sup>	Board meeting – action to approve final 2020 budgets.	
November 1 <sup>st</sup>	Deadline for final approved budget to be submitted to the ABO.	



## Loan Status Report May 22, 2019 – August 27, 2019

<u>RDC Loans Approved Since Last Meeting</u>	<u>Municipality</u>	<u>Amount</u>
Buffalo Material Handling (Distributor/Repair)	Depew	\$ 225,000

<u>RDC Loans Closed Since Last Meeting</u>	<u>Municipality</u>	<u>Amount</u>
HLM Landscaping & Snow Removal (Contractor)	Buffalo	\$ 48,000

<u>Loans in Closing Process</u>	<u>Municipality</u>	<u>Amount</u>
Inex (Manufacturer)	Holland	\$ 340,000

<u>Loans in the Pipeline</u>	<u>Municipality</u>	<u>Amount</u>
WNY Medical Management, LLC (Healthcare)	Amherst/Buffalo	\$1,400,000

<u>2019 Delinquency</u>	<u>Loan Balance Outstanding</u>	<u>Delinquency Rate</u>
4 Accounts	\$66,789	5.2%

<u>2019 - Loans Closed</u>	<u>YTD Loan Total YTD</u>	<u>Total New Jobs Projected</u>	<u>Retained Jobs</u>	<u>Private Investment</u>
2	\$188,000	17	0	\$235,000

### RDC Loan Closings 2019

Project Name	Loan Amount	Jobs at App	Projected Year 3 Jobs	Project City	Closing Date	Project Product
Herb'N Garden	\$ 140,000	4	20	Buffalo	1/14/2019	RDC Loan
Horace Miller dba HML Landscaping	\$ 48,000	1	2	Buffalo	6/6/2019	Micro Loan

2 Project Closed  
 17 Jobs Projected      \$ 188,000      5      22

**Total:**

**Buffalo and Erie County Regional Development  
RDC Loan Analysis**

<b>Borrowers:</b>	WNY Medical Management, LLC	<b>Established:</b>	2007	<b>Type:</b>	LLC
<b>Project Address:</b>	3112 Sheridan Drive				
<b>City:</b>	Amherst	<b>State:</b>	New York	<b>Zip:</b>	14226
<b>Phone:</b>	716-931-4963	<b>Fax:</b>		<b>e-mail:</b>	clyons4554@hotmail.com
<b>Type of Business:</b>	Ambulatory Surgery Center	<b>NAICS:</b>	621493	<b>SIC:</b>	8011

**LOAN INFORMATION**

<b>RDC Loan Amount:</b>	\$1,400,000	<b>Purpose:</b>	Equipment and Permanent Working Capital	<b>Maturity:</b>	84 months
<b>Rate:</b>	5.25%	<b>Initial Date of Contact:</b>	4/7/2019	<b>Date of Site Visit:</b>	8/2/2019
<b>Jobs Existing:</b>	5 full-time 14 part-time	<b>Jobs Created:</b>	7 full-time 35 part-time	<b>Jobs Retained:</b>	n/a

**The Sources and uses of funds are as follows:**

<b>Source of Funds:</b>		
Evans Bank	\$2,800,000	
RDC Term Loan	\$1,400,000	
Equity	\$300,000	
<b>Total Funding</b>	<b>\$4,500,000</b>	
<b>Use of Funds:</b>		
Evans Bank	\$2,800,000	Leasehold improvements and recast of M&T loan
RDC Term Loan	\$1,400,000	Equipment and working capital
Equity	\$300,000	Leasehold improvements
<b>Total Funding</b>	<b>\$4,500,000</b>	

**COLLATERAL**

<b>Business Asset:</b>	1 <sup>st</sup> lien on purchase money assets; 2 <sup>nd</sup> lien on all business assets of WNY Medical Management, LLC behind Evans Bank
<b>Personal Guarantors:</b>	Unlimited personal guarantees of Dr. Bansal, Dr. Capicotto, Dr. Huckell, Dr. Mascaro, Dr. Serghany, and Dr. Waghmarae
<b>Recommended By:</b>	Gerald Manhard and Daryl Spulecki

**Concurrence:**

**I. Background:**

In 2007, the partners of WNY Medical Management, LLC conceived of a Center dedicated to excellence in providing Pain Management surgical services to the WNY New York Community. The company submitted a Certificate of Need Application to the New York State Department of Health for approval of a freestanding Single Specialty Ambulatory Surgery Center (ASC). The project was approved in December of 2011 for a 5-year limited life by the Public Health and Health Planning Council (PHHPC) deeming it an "Article 28 Facility" under the New York State Public Health Law. For the Center to have that designation for an indefinite life it must provide care to a percentage of the underserved community. Through the initial 5 years, approximately 10% of its patients must be Medicaid and charitable care patients.

The Pain Management Surgery Center originally leased 3,400 sq. ft. of space at 700 Michigan Avenue. This is The WNY Medical Arts Center located in Downtown Buffalo adjacent to the Buffalo Niagara Medical Corridor. The Center opened in in May of 2013 after the completion of renovations. The Center has grown steadily under the guidance of the ownership group and management and was approved as an indefinite life "Article 28 Facility" in 2018. It is the only Center of its kind in Western New York dedicated to Pain Management exclusively.

Shortly after the opening of the Pain Management Surgery Center the Partners began discussing opening a second phase, a multispecialty ambulatory surgery center (ASC). As the partners, which are all physicians, discussed the project with their colleagues it became clear that many surgeons in Western New York were interested in the opportunity to have an ownership position in a freestanding ambulatory surgery facility at which they perform procedures.

The Pain Management Surgery Center success the last 6 years has now put the Partners in the position to carry out their plan to open a multi-specialty ambulatory surgery center to further serve the Western New York Community. After various plans and iterations, the Partners made the decision to lease, renovate and refurbish a former ambulatory surgery site, at 3112 Sheridan Drive in Amherst, New York. The space was recently occupied by the Ambulatory Surgery Center of Western New York, a group that was very successful at the location but needing additional space moved, leaving the easily accessible facility on Sheridan Drive available.

The Certificate of Need Application for the new location at 3112 Sheridan Drive, Amherst, New York, was approved by the DOH in early June and was approved as an "Article 28 Facility" with a 3-year limited life.

**II. Project Description:**

WNY Medical Management, LLC has signed a 12-year lease with Benderson Development and has just completed the renovations of a former ambulatory surgery site, at 3112 Sheridan Drive in Amherst, New York. Total project costs amount to \$4,500,000 and will be comprised of \$2,800,000 from Evans Bank, \$300,000 in equity contributions from the borrower and a proposed \$1,400,000 RDC loan. The business and Evans Bank requested RDC participation in the project because there was a \$1,400,00 financing shortfall. Evans Bank was unable to provide the entire funding for the project due to their credit policies and risk tolerances. The bank has provided a declination letter to the RDC.

The building is a 16,379 sq. ft. single story structure that required renovations. Systems such as air conditioning and air handling as well as humidity control critical for the operating room environment will be brought up to current code. The surgical gases and the nurse call systems will also be substantially updated considering current life safety and quality care standards under ASC code requirements.

This location will be a state-of-the-art multispecialty ASC under the WNY licensure. It will include procedures in ENT, orthopedic, general surgery, breast surgery, podiatry, neurosurgery, vascular and GI. There will also be an emphasis in pediatric ENT and pediatric dental surgery. Management will be working with the surgeons in these various disciplines to secure state of the art equipment and technology for the performance of these

various modalities.

The new Center will have four (4) operating rooms in which procedures requiring full sedation will be performed. There will be preoperative and postoperative accommodations supporting the operating rooms in compliance with the latest code for life safety and patient care quality. The Center will have a state-of-the-art Electronic Medical Record (EMR) system (as the downtown location now has).

In addition to the 4 operating rooms there will be two (2) large procedure rooms in another section of the building wherein physician will perform procedures under conscious sedation such as vascular, GI and Pain Management procedures. This section has a separate entrance which will accommodate patient flow in this section of the Center.

Location of the new Ambulatory Center is near the Boulevard Mall and in a Opportunity Zone. This area of Amherst has been targeted for redevelopment by the town's officials as the Mall and surrounding area and building stock has become antiquated. The center will bring specialized outpatient care to a busy corridor that links Buffalo, Amherst, Tonawanda and Niagara County and is located on a bus line.

**SOURCES & USES OF FUNDS**

Name of Project: WNY Medical Management, LLC

<b>Sources</b>	<b>Amount</b>	<b>% of Project</b>
Evans Bank	2,800,000	62%
Equity	300,000	7%
RDC Term Loan	1,400,000	31%
<b>Total Sources</b>	<b>4,500,000</b>	<b>100%</b>
<b>Uses</b>		
<b>Uses</b>	<b>Amount</b>	
Evans Bank		
Leasehold Improvements	\$2,100,000	47%
Recast M&T T/L	\$200,000	4%
LOC	\$500,000	11%
Equity		
Leasehold Improvements	\$300,000	7%
RDC		
Equipment	\$900,000	20%
Working Capital	\$500,000	11%
<b>Total Uses</b>	<b>\$4,500,000</b>	<b>100%</b>

### **III. Company Management:**

The company, WNY Medical Management is a limited liability company. The operating agreement currently has six signers/owners each owning 16.66% of the company. Each of the six physician owners are in the prime of their careers conducting successful medical practices in their respective disciplines. The owners are listed as follows:

Dr. Serghany, President, Radiologist  
Dr. Mascaro, Radiologist  
Dr. Huckell, Orthopedic Surgeon  
Dr. Waghmarae, Anesthesiologist  
Dr. Bansal, Anesthesiologist  
Dr. Capicotto, Orthopedic Surgeon

The partners above comprise the Board of Managers which meets regularly to conduct business and is responsible for the company's success. The LLC will be the operator of both locations. The new location was approved by the DOH as an extension clinic to the existing site. The owners are prepared to add partners as the new Center comes online. Each new member will be required to be vetted by the DOH for financial stability and character and competence.

Dr. Serghany, M.D., the President of the Board of Managers has participated in and directed numerous successful Joint Ventures. Among which is the formation of an LLC which successfully built, owned and operated the Medical Arts Building at 700 Michigan Avenue. Dr. Mascaro is also a partner in that project and Dr. Huckell continues to be a partner in that venture. Under Dr. Serghany's leadership WNY Medical Management has stayed the course though the protracted project approval process start-up period and now successful operation over the last 5 years.

Romanth Waghmarae, MD, DABA, FACIP, FIPP, is a member of the Board of Managers and the Center's Medical Director. Dr. Waghmarae is an Anesthesiologist and Pain Management Specialist at the Advanced Pain & Wellness Institute in Williamsville, New York. Additionally, he is also an assistant clinical professor in anesthesia and pain management at McMaster University in Hamilton, Ontario, Canada. Dr. Waghmarae earned his medical degree from the University of the Witwatersrand in Johannesburg, South Africa. He completed his internship at the University of the Witwatersrand teaching hospitals. Dr. Waghmarae completed his residency in anesthesiology at New York Medical College in Valhalla, New York. He served as chief resident in pain management and pediatric anesthesia. Dr. Waghmarae is a diplomat of the American Board of Anesthesiology and American Academy of Pain Management. He is a member of the American Society of Anesthesiologists, American Academy of Pain Management, International Association for the Study of Pain, and World Institute of Pain. Dr. Waghmarae serves on the editorial board for the American Journal of Pain Management, Pain Physician, and Neuromodulation. He gives numerous lectures on the topic of pain management throughout the world.

### **Key Employees:**

Mr. C Anthony Lyons, MBA, CPA, the Chief Executive Officer, has a background in Healthcare Finance and Administration. He was the Vice President and Chief Financial Officer at Our Lady of Victory Hospital (OLV) in Lackawanna, New York for 13 years. He transitioned to the position of Senior Vice President for Compliance and Administrative Services at the Catholic Health System (CHS) in Buffalo, New York when OLV and the other Eire County, New York Catholic Hospitals merged in 1998.

Mr. John Goehle, MBA, CASC™, CPA, is WNY's consultant on the project for the approval process and the start-up and operation of the new Center. He is the Chief Operating Officer and partner with Ambulatory Healthcare Strategic, LLC - a Rochester, New York-based ASC management and consulting services company. He has a master's Degree in business administration from Heriot-Watt University in Edinburgh Scotland, and a Bachelor of Science Degree in Accounting from Ithaca College in Upstate New York. He holds the prestigious Certified Administrator Surgery Center (CASC) credential. He is a Certified Public

Accountant in the State of New York. Mr. Goehle is also an accreditation surveyor with the Accreditation Association for Ambulatory Healthcare (AAAHC).

#### **IV. Market Analysis:**

Free-standing ASCs have been in the United States for 50 years. The first free-standing ASCs in Western New York opened about 30 years ago. Their popularity has grown and will continue to grow due to their convenience and lower operational cost. Quality patient care is paramount in an ASC. They are regulated by the state and federal governments and subject to strict accreditation standards and surveys.

During the last 50 years technology related to surgical procedures has continually yielded more procedures that can be performed on an outpatient basis. The trend will continue into the foreseeable future. It is well documented that the less invasive a procedure, and the less time spent recovering in a hospital bed the better the surgical results.

There are currently six (6) multispecialty ASC's in the Buffalo, New York area. Two of them are joint ventures between hospitals and physicians. The other 4 are physician owned. The physician owned ASC's in Western New York have been successful. As noted, more procedures are qualifying for free-standing ASC reimbursement every year due to the continual advancement in technology and technique. Most of the outpatient procedures are still performed at hospital settings but due the technological advancements will be pushed toward the less expensive ASC environment. The primary market forces pushing surgeries to ASC'S are as follows:

- Patient and physician convenience: While hospitals provide quality service, they must prioritize their resources to manage a broad array of services. This conflicts with elective cases, scheduled outpatient surgical procedures, often causing them to be delayed or canceled due to operating room usage, shifting of personnel or other resource allocation considerations
- Physician Ownership: Federal Fraud and Abuse Laws permit physicians to own an ASC at which they perform at least 33.3% of their procedures. This is an added incentive for surgeons to move their practice out of the hospital environment.
- Lower cost: The non-hospital-based ASC's are lower cost to operate due to the focus on the limited scope of practice compared to hospitals. In fact, the payment rates by Medicare and all other payers to an ASC is substantially lower than payments to hospitals for the same procedures.

#### **V. Job Creation:**

- WNY Medical Management, LLC will create 7 full time and 35 part-time positions (24.5 FTE's) upon completion of the project which will exceed the RDC's job requirement of one job per \$75,000 lent ( $\$1,400,000/\$75,000$ ) = 18.7 FTE jobs.
- Presently there are 5 full time and 14 part time positions at their Pain Management Surgery Center.
- Salaries of new positions at new location will range from \$40k to \$100k+ annually depending on position
- City location will hire 6 people at salaries in the \$17-\$20/hr. range

#### **VI. Strengths and Weaknesses:**

##### **Strengths:**

- Excellent personal credit of the guarantors.
- Positive personal cash flow of the guarantors.
- Management experience and proven track record of providing quality healthcare care services and successful financial operations.
- Ambulatory Center is located in an Amherst Opportunity Zone.



- The borrower has already received approvals from Public Health and Health Planning Council.
- Projections appear to be reasonable and attainable.
- The project will make health care more accessible to the community and patient costs are less than traditional hospitals.
- Creation of 24.5 FTE jobs at the ASC and 5-7 additional back office positions at 700 Michigan.

**Weaknesses:**

- Initially the ASC will have a 3-year limited life as a designated Article 28 facility.
- Classified as a start-up.

**VII. Sub Fund Criteria:**

- Woman Owned  Yes or No
- Minority  Yes or No
- Target Industry  Yes or No
- Target Area  Yes or No
- Job Creation  Yes or No

**VIII. Recommendation:**

Based on the above case analysis and creation of 24.5 full-time equivalent jobs over the next three years, it is recommended the \$1,400,000 RDC Term loan be approved with the following terms:

- Loan Amount:** \$1,400,000  
**Interest Rate:** 5.25%  
**Loan Amortization:** 84 months  
**Loan Term:** 90 months (6-month interest only period)  
**Monthly P & I payment:** \$19,952.35

**Security/Collateral:**

- 1<sup>st</sup> lien on all business assets purchased with RDC funds
- 2<sup>nd</sup> lien on all the business assets of WNY Medical Management, LLC
- Unlimited personal guarantees of Dr. Serghany, Dr. Mascaro, Dr. Huckell, Dr. Waghmarae, Dr. Bansal, and Dr. Capicotto

**Loan Conditions:**

- Subordination of all shareholder debts.
- Annually, receipt of audited financial statements and/or Federal Tax Returns containing all schedules within 120 days of Year End.
- Annually, receipt of personal Federal Tax Returns with all schedules for each guarantor(s) within 120 days of Year End.
- Receipt of annual Personal Financial Statements for all guarantor(s).
- Receipt of Commitment Fee ½ % of the approved loan amount.
- Annual receipt of employment survey.
- Annual site visit by RDC staff.

**Loan Disbursement Procedure:**

Six (6) month grid note with interest only draw period that will begin to amortize in month seven (7) with principal and interest payments based on a seven (7) year amortization period.

**SUPPLEMENTAL INFORMATION**

**RDC Eligibility:**

- The company is an eligible NAICS sector 621493 under the RDC Loan Administration Plan.
- The company will create twenty-four and a half (24.5) full time equivalent positions which exceeds the RDC's job requirement of one job per \$75,000 lent ( $\$1,400,000 \div \$75,000/\text{job} = 18.7$  jobs).
- Non-substitution: RDC debt is not being substituted for bank financing, Evans Bank has issued a declination letter.