



**Erie County Industrial Development Agency and Affiliates  
Buffalo Urban Development Corporation and Affiliates  
Western Region Corporation**

*Joint Request for Qualifications  
for Insurance Brokerage Services*

*Issued: August 31, 2017  
Questions/Pre-submittal Protests Due: September 15, 2017  
Required Submission: Five (5) Copies of Response (including  
Attachments A – C and at least 3 references)  
Amended Due Date: October 6, 2017, 12:00 pm (EDT)*

## I. INTRODUCTION

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### A. Request for Qualifications (RFQ)

The Erie County Industrial Development Agency and its affiliates (“ECIDA Group”), the Buffalo Urban Development Corporation and its affiliates (“BUDC Group”) and Western Region Corporation (“WRC”) are jointly requesting qualifications from insurance brokers as the basis of selecting:

- 1) Property & Casualty broker, and
- 2) Health & Benefits broker

In accordance with ECIDA’s professional services RFP process, insurance brokerage services are to be solicited at least every seven (7) years. Interested parties are invited to submit responses for consideration for any one or both of the above positions and should clearly indicate the position(s) of interest in their response. In the event that insurance brokers propose on more than one position, or brokers propose on a joint basis, the ECIDA reserves the right to evaluate and select responses independently. Responses submitted by a joint venture shall not be considered unless the contractual responsibilities of the parties to the joint venture are clearly and specifically identified.

### B. Current Brokers

The above insurance brokerage services are currently performed by Lawley (Property & Casualty broker) and Walsh Duffield Companies, Inc. (Health & Benefits broker).

### C. Designated Individuals - Procurement Lobbying Law

Karen Fiala	Manager of Tax Incentives/Asst Treasurer	kfiala@ecidany.com
Mollie Profic	Controller/HR Officer	mprofic@ecidany.com

### D. Questions

Any questions, objections or requests for revisions to this RFQ must be submitted in writing via email to the Designated Staff identified in Section C above and received no later than September 15, 2017. All questions will be answered in writing within three (3) business days and copies of the questions and answers will be distributed to all RFQ recipients simultaneously.

### E. Protests

#### *Pre-Submittal Protest*

If a broker can demonstrate that the RFQ issued by the ECIDA Group, BUDC Group and WRC is unduly exclusionary and restrictive or that federal, state or local laws or regulations have been violated during the course of the procurement, then the insurance broker may seek a review by the Chair of the ECIDA Governance Committee at 95 Perry Street, Suite #403, Buffalo, NY 14203. Protests shall be clearly identified as Protests and submitted in writing as early as possible but no later than September 15, 2017.

#### *Post-Submittal Protest*

A protest regarding the acceptance or rejection of any or of all responses for a contract, or to the award thereof, or to any such action proposed or intended by the ECIDA Group, BUDC Group and WRC must

be received in writing by the Chair of the ECIDA Governance Committee no later than five (5) business days after the protesting party first learned, or reasonably ought to have learned, of the action or the proposed or intended action to which he/she protests.

*Protest Procedure*

In the event of a Protest, the Chair of the ECIDA Governance Committee will make a determination regarding the Protest and communicate a response in writing to the Protester and if applicable, other interested parties. If an amendment to the RFQ is deemed necessary, all RFQ recipients will be provided the amended RFQ simultaneously.

In the event of an absence or vacancy in the ECIDA Governance Committee Chair position, the pre-submittal and/or post-submittal protest responses will be conducted by the Chair or Vice-Chair of the ECIDA Board of Directors.

## II. DESCRIPTION OF THE ORGANIZATIONS

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### A. Background Information

The Erie County Industrial Development Agency (“ECIDA”) is a public benefit corporation created in 1970 by an act of the New York State Legislature. The mission of the ECIDA is to provide the resources that encourage investment, innovation, and international trade - creating a successful business climate that improves the quality of life for the residents of the region.

The ECIDA has a related party relationship with the Buffalo and Erie County Regional Development Corporation (“RDC”) and the Buffalo and Erie County Industrial Land Development Corporation (“ILDC”). The same personnel manage all three entities. The ECIDA and RDC share the same board of directors as their oversight body while ILDC has a subset of these directors in addition to non-board members as its board of directors.

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”) 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 has also created special purpose LLCs in conjunction with a tax credit transaction for the Western New York Workforce Training Center, for which BUDC is acting as the developer.

The ECIDA provides financial management services to BUDC, the Buffalo Brownfield Restoration Corporation (“BBRC”) and the Western Region Corporation (“WRC”) which operate independently of the ECIDA.

See Exhibit A for Corporate Charts for the ECIDA and BUDC’s affiliated and unrelated entities and their relationship.

The Board of Directors of the ECIDA is set forth by the New York State Legislature to include senior representatives from the local political, business, minority, union and school communities. A schedule listing the ECIDA and BUDC Board of Directors is included in Exhibit B.

<b>Company</b>	<b>Type of Company</b>	<b>Nature of Company</b>
1) ECIDA	Government (Public Benefit Corporation and a political subdivision of the State of New York)	Takes leasehold interest in properties to provide various tax abatement incentives.
2) RDC	Not-for-profit 501(c)(3)	Operates a revolving loan program.
3) ILDC	Not-for-profit 501(c)(3)	Participates in acquisition and development of industrial sites, operates a revolving loan program, issuer of tax-exempt bonds, operates rail lines on behalf of Erie County.
4) BUDC	Not-for-profit 501(c)(4)	Brownfield redevelopment corporation, owns and operates Buffalo Lakeside Commerce Park, constructing WNY Workforce Training Center on

		behalf of New York State.
5) BBRC	Not-for-profit 501(c)(3)	Real estate holding company.
6) WRC	Not-for-profit 501(c)(3)	Operates a revolving loan program.
7) 683 WTC, LLC and 683 Northland LLC	LLCs	BUDC special purpose LLCs. 683 Northland LLC owns site of future WNY Workforce Training Center.
8) NorDel I LLC and NorDel II LLC	LLCs	Land owning LLCs of BUDC.

**B. Insurance Exposures**

The ECIDA Group, BUDC Group and WRC have insurance exposures that arise through their various activities which include:

- Brownfield remediation and other infrastructure development projects
- Ownership of brownfields and buildings with environmental exposures
- Property Management
- Operation & maintenance of two County railway lines
- Lending
- Issuance of tax-exempt bonds
- Ownership of a Port Terminal facility
- Construction oversight

The ECIDA has a leasehold interest in over 300 properties in Erie County to facilitate the provision of various tax incentives. As a result, the ECIDA requires the property owners to provide proof of liability insurance that names the ECIDA as an additional insured, together with evidence of Workers' Compensation insurance and disability insurance. Also, the ECIDA requires project owners to indemnify the ECIDA against environmental and other claims. ECIDA looks to their current broker to review the accuracy of insurance certificates.

The ECIDA has eighteen (18) employees and BUDC has three (3) employees. None of the other companies listed in Section A have any employees.

**C. Insurance Policies**

A listing of current insurance coverage for the ECIDA Group, BUDC Group and WRC is included in Exhibit C.

### III. NATURE OF SERVICES REQUIRED

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A qualified insurance professional and back-up shall be designated to perform and manage a team of experts to coordinate all activities associated with servicing the ECIDA Group, BUDC Group and WRC including the following:

#### A. Property & Casualty Brokerage Services

The successful bidder will have the responsibility of acting as the ECIDA Group, BUDC Group and WRC's representative to the world insurance market and providing the entities with risk management advice. On an annual basis, the following activities are expected to be performed:

- Review of insurance market conditions in terms of capacity, pricing and limitations or extensions of coverages.
- Conduct a financial review of present or proposed insurance companies to confirm that they meet an A.M. Best rating of at least A- with a financial size category rating of VIII.
- Conduct an exposure analysis and prepare reports of all exposures which can be covered by insurance.
- Review all identified risks to determine if risks have increased or decreased.
- Review and document all placed policies, cover notes and binders to make sure they contain the correct information on pricing, terms, conditions and other relevant information.
- Policies are to be received by the entities within 45 days of the date they are obtained from underwriters by the successful bidder.

If any of the above poses a problem it should be addressed within the firm's response.

#### B. Health & Benefits Brokerage Services

The successful bidder will have the responsibility of acting as the ECIDA and BUDC's representative to the Health & Benefits insurance market. On an annual basis, the following activities are expected to be performed:

- Advise and assist the ECIDA and BUDC in evaluating and selecting among coverage alternatives such as plan coverage, deductibles, co-payments, out-of-pocket payments, etc.
- On behalf of the ECIDA and BUDC, negotiate with the carrier for the most cost-effective plan (for non-community rated benefits).
- Assist the ECIDA and BUDC with employee communication and enrollment services.
- Assist employees of the ECIDA and BUDC with questions or concerns that may arise during the year.

If any of the above poses a problem it should be addressed within the firm's response.

## IV. TIME REQUIREMENTS

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### A. Calendar

The following is a list of key dates up to and including the date responses are due to be submitted;

Requests for Qualifications issued	August 31, 2017
Due date for Questions/Pre-Submittal Protests	September 15, 2017
Due date for response to RFQ	October 6, 2017 (12:00 pm EDT)

### B. Notification Dates (approximate dates)

Short list of brokers notified & additional information requested (oral presentations scheduled and/or references checked)	October 17, 2017
Due date for oral presentations (if any)	November 3, 2017
Approximate award date for Property & Casualty Broker and Health & Benefits Broker	November 29, 2017

## V. RESPONSE REQUIREMENTS

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### A. Response Requirements

Each response should be concise and include the following:

#### 1. Insurance Program

**Note: Your firm is not to contact any underwriters or markets. Any contact with underwriters or markets will result in your firm being disqualified from the RFQ process.**

- Indicate which principal markets you would contact (property & casualty insurance companies must have an A.M. Best rating of at least A- with a financial size category rating of VIII and be licensed to do business in New York State).
- Indicate what recommendations you would propose to obtain premium savings or increase the breadth of coverage.
- Explain what type of insurance summary you would prepare to assist the entities in understanding their various insurance policies and the exposures to liability.
- Describe your proposed form of compensation (e.g. commission, annual retainer, fee-for-service) and applicable rates and/or fees.
- If you charge fees for consulting, please indicate the basis of your charges (hourly, by project, etc.) and applicable rates and/or fees.
- Explain what assistance you would provide if claims were to occur.
- Explain any other ancillary services that you could provide that may be beneficial to the entities. Indicate the costs of these services (if any).

#### Property & Casualty Brokers Only:

- Explain what assistance you could provide in evaluating insurance certificates and insurance requirements in contracts. Indicate the costs of this assistance (if any).
- Indicate the level and types of risk management, safety and environmental training offered by the broker. Indicate the costs of these services (if any).

#### Health & Benefits Brokers Only:

- Explain how you would assist with open enrollment meetings and employee communication material.
- Explain how you would advise and assist the ECIDA and BUDC in evaluating and selecting among coverage alternatives such as plan coverage, deductibles, co-payments, out-of-pocket payments, etc.



**2. Qualifications and experience of the individuals to be assigned to the engagement**

- Identify the individuals who will be assigned to this engagement and highlight those individuals who would be considered “key” to the engagement either based on the number of hours they would devote to the entities or based on other considerations.
- Provide brief biographies of key individuals which outline relevant education, qualifications, professional designations and affiliations and prior work experience. Identify what services each individual would provide to the entities.
- Provide the names and contact information for other similar clients of key individuals that will be assigned to this engagement for reference purposes (at least three references).

**3. Qualifications and experience of the insurance agency**

- Describe the broker’s ownership, headquarters, branch or affiliate offices, number of agents / employees and length of time in business.
- List the broker’s most significant clients serviced within the last five (5) years that are similar to the ECIDA and BUDC (i.e. similar size, similar exposures, similar activities & similar quasi-public/not-for-profit entities).
- Indicate the breadth and depth of the broker’s specialized resources to handle unique insurance matters and include illustrative examples.
- Indicate whether the broker has alliances or affiliations with other brokers or organizations to procure insurance, share knowledge or obtain additional resources.

**4. Local & Women/Minority-Owned Business Enterprises/Employees**

ECIDA’s and BUDC’s current procurement policies indicate the following:

“It is the goal of the organization 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, the organization shall use its best efforts to solicit bids and proposals from such businesses by notifying them of opportunities to submit proposals and/or bids for goods or services when practical.”

Brokers should include in their response the total number of employees and the total number of women & minorities employed. Brokers should also describe any programs or arrangements they sponsor or support that further the development of women or minority-owned business enterprises in the region.

Brokers should provide a statement that they do not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, marital status, sexual orientation, citizenship status or any other status protected by New York State and Federal laws.

**5. Conflict of Interest**

Provide a description of (i) any material arrangements, relationships or other employment that the broker or any broker employee has with any persons or entities that may create a conflict of interest or the appearance of a conflict of interest in acting on behalf of the entities, (ii) any family relationship that any employee of the broker has with any entity staff or Board member that may create a conflict of interest or the appearance of a conflict of interest in acting on behalf of the entities, and (iii) any other matter that the broker believes may create a conflict of interest or the appearance of a conflict of interest in acting on behalf of the entities. Please describe any procedures the broker either has, or would adopt, to assure the entities that a conflict of interest would not exist for the broker.

**6. Identification of anticipated problems (if any)**

The response should identify and describe any anticipated problems the broker may encounter in acting as an insurance broker, and the broker's approach to resolving these problems.

**7. Completion of Procurement Forms**

Respondents are required to complete Attachments A-C and include them in their response.

**8. Submission of Response**

Five (5) copies of the completed response must be received at the following address before noon (EDT) on September 29, 2017 in order to be considered:

Erie County Industrial Development Agency  
Attn: Mollie Profic, Controller  
95 Perry Street, Suite #403, Buffalo, New York 14203

Responses submitted under this Request for Qualifications are subject to public disclosure under the New York State Freedom of Information Law. If the broker does not want certain data disclosed for any purpose other than for evaluating the response, the broker must prominently identify the sections or pages of the response which they wish to have restricted, if allowed by law.

## VI. STATEMENT OF RIGHTS

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By submitting a response, the broker understands and agrees that the ECIDA Group, BUDC Group and WRC reserve the following rights and options with respect to this RFQ:

- To reject any or all responses;
- To issue amendments to this RFQ;
- To issue additional solicitations for qualifications;
- To waive any irregularities in responses received;
- To select any response as the basis for negotiations of a contract, and to negotiate with one or more of the proposers for amendments or other modifications to their responses;
- To conduct investigations with respect to the qualifications of each responder;
- To exercise discretion and apply judgment with respect to any aspect of this RFQ, the evaluation of responses, and the negotiations and award of any contract;
- To enter into an agreement for only portions (or not to enter into an agreement for any) of the services contemplated by the responses with one or more of the respondents;
- To select the response that best satisfies the interests of the entities and not necessarily on the basis of price or any other single factor;
- To request or obtain additional information the entities deem necessary to determine the ability of the respondent;
- To retain all responses submitted and use any idea in a response, whether oral or written, regardless of whether that response is selected;
- Submission of a response indicates acceptance by the respondent of the conditions contained in this RFQ, unless clearly and specifically noted in the response submitted and confirmed in a contract between the entities and the broker selected; and
- This RFQ does not commit the entities to negotiate a contract, nor does it obligate any of the entities to pay for any costs incurred in preparation and submission of responses or costs incurred prior to entering into a formal contract.

## VII. MANDATORY CONTRACT TERMS

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The successful broker(s) will be required to execute contracts in a form acceptable to the ECIDA Group, BUDC Group and WRC and that include language in substantially the following form:

### A. Term

The term of the contract will be up to seven (7) years but shall provide that the entities, at their sole discretion, may terminate the contract at any time.

### B. Insurance

The successful broker(s) agrees to procure and maintain, for the term of the contract, insurance of the kinds and in the amounts hereafter required, with insurance companies authorized to do business in New York State, covering all operations under the contract whether performed by it or its sub-contractors. The insurance companies affording coverage must be deemed acceptable to the entities throughout the term of the contract. If any insurance company is deemed unacceptable to the entities the broker agrees to procure and maintain, at its expense, coverage with an acceptable insurer as soon as notified by the entities. The policies shall provide for a 30-day notice to the entities prior to termination, cancellation or change.

Prior to the execution of a contract, the successful broker(s) shall supply the ECIDA and BUDC with a certificate(s) of insurance providing evidence of insurance coverage for the broker for the following coverage:

- General Liability Insurance in a comprehensive form including coverage for property damage, bodily injury, personal injury and completed operations with a single limit of at least \$1,000,000 per occurrence with a \$2,000,000 aggregate. The certificate shall name the ECIDA and BUDC as an additional insured.
- If any motor vehicle is used in the work, Auto Liability Insurance covering bodily injury and property damage with minimum combined single limit of \$1,000,000.
- Workers' Compensation and Employer's Liability in accordance with the applicable laws of the State of New York.
- Professional Liability Insurance, in the amount of \$2,000,000.

Each insurance policy shall be kept in force until the receipt of final payment to the successful broker(s) except for professional liability insurance, which shall be kept in force until at least one year after final payment to broker.

Copies of any required policies shall be provided to the ECIDA or BUDC upon request.

### C. Indemnification

The broker agrees that except for the amount, if any, of damage contributed to, caused by or resulting from the negligence of the entities, the broker shall indemnify and hold harmless the entities, their

directors, officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss arising directly or indirectly out of the acts or omissions hereunder by the broker or third parties under the direction or control of the broker; and to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this contract and to bear all other costs and expenses related thereto.

## VIII. EVALUATION PROCEDURES

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### A. Initial Review of Responses

A Selection Committee comprised of ECIDA and BUDC staff members will initially evaluate each broker's response. Responses that do not meet the following minimum requirements and those which are not responsive or not responsible (which includes, but is not limited to, the broker's qualifications, financial stability, integrity and performance) will not be given further consideration.

#### Minimum Requirements:

1. Submission of complete response by due date/time.
2. Completion of Forms 1-2.
3. References provided (minimum of three).

The Selection Committee will then select the responses which are most advantageous to the ECIDA Group, BUDC Group and WRC, based on the following scoring criteria:

1. Insurance Program (40% of total score)
2. Qualifications and experience of the individuals to be assigned (30% of total score)
3. Qualifications and experience of the Broker (25% of total score)
4. Development of Women & Minority-Owned Business Enterprises/development of women & minority employees (5% of total score)

### B. Oral Presentations / Reference Checks

Based on the results of the initial review, the Selection Committee, at their discretion, may request a short list of brokers to make oral presentations and/or may contact broker references. Presentations will provide brokers with an opportunity to answer any questions that the Selection Committee may have on a broker's response. When discussions and negotiations are concluded, the Selection Committee may request revised responses and/or best and final offers from the short-list of brokers.

### C. Final Review of Responses

The Selection Committee will then re-evaluate and re-score the short list of brokers, with the oral presentations/reference checks representing 20% of the new total score.

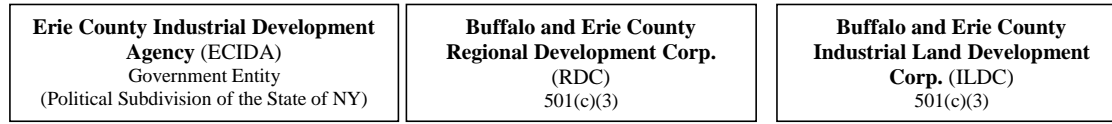
### D. Final Selection

The Selection Committee will recommend that the broker(s) with the highest overall scores be awarded the applicable contract(s). The recommendations must be approved by the ECIDA & BUDC Governance Committees and the Boards of Directors for ECIDA, BUDC and WRC prior to the execution of a contract. Please note that the ECIDA Group and BUDC Group may elect to select different Property & Casualty Brokers. It is anticipated that the successful insurance Brokers will be selected and notified by November 29, 2017.

## Exhibit A – Corporate Charts

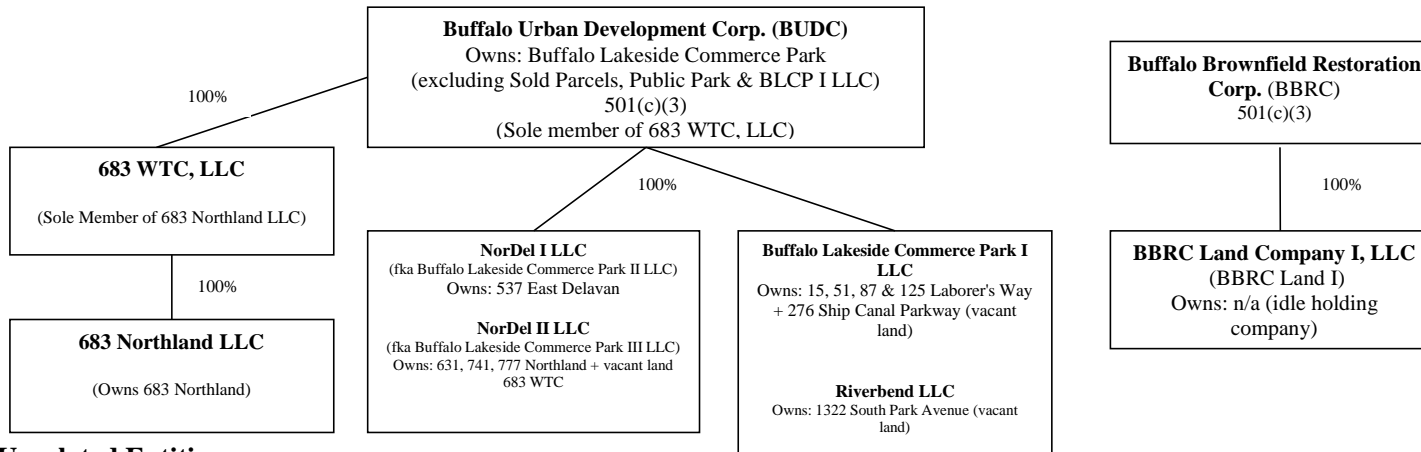
### ECIDA Group

Relationship: ECIDA and RDC share the same Board. The Erie County Executive, Deputy County Executive, Chair of the Erie County Legislature, Mayor of the City of Buffalo, Chair of the Erie County Legislature Economic Development Committee, Vice Chairman of the Agency, and the President of the Buffalo Central Labor Council act as the oversight body for ILDC.

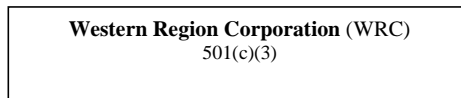


### BUDC Group

Relationship: BUDC's Real Estate Committee is the Board of BBRC.



### Unrelated Entities



## Exhibit B – 2017 ECIDA Board of Directors

Name	Title	Organization
Brenda McDuffie (Chair)	President & CEO	Buffalo Urban League
Richard Lipsitz (Vice-Chair)	President	Western New York Area Labor Federation
Hon. Diane Benczkowski	Supervisor	Town of Cheektowaga
Rev. Mark Blue	President	NAACP
Hon. Byron Brown	Mayor	City of Buffalo
James Doherty		
Hon. Joseph Emminger	Supervisor	Town of Tonawanda
Dottie Gallagher-Cohen	President & CEO	Buffalo Niagara Partnership
Tyra Johnson-Hux	President	Blue Sky Design
Hon. Joseph Lorigo	Chair, Economic Development Committee	Erie County Legislature
David Lowrey	President	Erie County Association of School Boards
John Mudie	President	Buffalo Central Labor Council
Glenn Nellis		
Louis Panzica	President & CEO	Power Drives
Hon. Mark Poloncarz	County Executive	County of Erie
Hon. Darius Pridgen	President	Buffalo Common Council
Sr. Denise Roche	Chair	NFTA
Paul Vukelic	President & COO	Try-It Distribution
Hon. Barry Weinstein	Supervisor	Town of Amherst



## Exhibit B – 2017 BUDC Board of Directors

Name	Title	Organization
Hon. Byron Brown (Chair)	Mayor	City of Buffalo
Dennis Penman (Vice-Chair)	Executive Vice President	Ciminelli Real Estate
Thomas Beauford, Jr.	Vice President	M&T Bank
James Comerford, Jr.	Commissioner	City of Buffalo - Permit & Inspection Services
Janique Curry	M/WBE Compliance Coordinator	ECMC
Dennis Elsenbeck	Head of Energy & Sustainability	Phillips Lytle
Darby Fishkin	CEO	CBRE
Dottie Gallagher-Cohen	President & CEO	Buffalo Niagara Partnership
Thomas Hersey	Commissioner	Erie County Dept. of Environment & Planning
Thomas Kucharski	Executive Director	Invest Buffalo Niagara
Brendan Mehaffy	Executive Director	City of Buffalo – Office of Strategic Planning
Kimberley Minkel	Executive Director	NFTA
David Nasca	President & CEO	Evans Bank
Hon. Darius Pridgen	President	Buffalo Common Council
Christopher Schoepflin	Regional Director	Empire State Development Corp.
Craig Slater	Principal	The Slater Law Firm
Stephen Stepniak	Commissioner	City of Buffalo – Dept. of Public Works
Maria Whyte	Deputy County Executive	County of Erie

## Exhibit C – Insurance Coverage

### *ECIDA – 95 Perry St., Oak/Genesee Property, Port Terminal, Grain Mill, Camp Rd & Corporate*

Type	Insurance Co.	Expiry	Limits	Premium
Municipal Package (Property, Auto)	Philadelphia Insurance / Tokio Marine Specialty	12/31/17	<b>Auto:</b> \$1,000,000	\$6,073
Liability	Philadelphia Insurance / Tokio Marine Specialty	12/31/17	<b>Liability:</b> \$1,000,000 /Occ. \$2,000,000 Aggregate	\$17,731
First Excess Liability	Fireman's Fund	12/31/2017	\$10,000,000	\$11,226
Second Excess Liability	Chubb	12/31/2017	\$10,000,000	\$12,373
Directors & Officers	Philadelphia Indemnity Ins. Co.	1/1/2018	\$5,000,000	\$19,112
Crime	Travelers Casualty & Surety	12/29/2017	\$3,000,000	\$3,888
Crime (excess)	Federal Insurance Company	12/29/2017	\$3,000,000	\$3,191

### *ECIDA Employee Health & Benefits*

Type	Insurance Co.	Expiry
Health Insurance	Blue Cross/Blue Shield	11/30/2017
Health Insurance (Medicare plans)	Blue Cross/Blue Shield	11/30/2017
Dental Insurance	Sun Life Insurance	3/31/2018
Life Insurance / AD&D	Lincoln Financial Group	3/31/2018
LTD Insurance	Lincoln Financial Group	3/31/2018
NYS Short-Term Disability	Guardian Insurance	n/a
Workers Compensation	New York State Insurance Fund	12/29/2017

### *ILDC – 2303 Hamburg Turnpike*

Type	Insurance Co.	Expiry	Limits	Premium
Liability	Tokio Marine Specialty	12/31/17	\$1,000,000 /Occ. \$2,000,000 Aggregate	\$1,685

**Exhibit C – Insurance Coverage (Cont’d)**

**BUDC – Buffalo Lakeside Commerce Park Property (115 acres of real estate development property)**  
 – Ship Canal Commons (22 acres of public park)  
 – BUDC 95 Perry St. Offices (957 sq. ft)

Type	Insurance Co.	Expiry	Limits	Premium
Commercial Package (Property, Auto & Liability)	The Hartford	12/31/2017	<b>Liability:</b> \$1,000,000 /Occurrence \$2,000,000 Aggregate <b>Auto:</b> \$1,000,000	\$8,818
Umbrella	The Hartford	12/31/2017	\$10,000,000	\$7,552
Directors & Officers	Philadelphia	12/31/2017	\$5,000,000	\$12,210
Directors & Officers-Umbrella	RSUI Indemnity Company	12/31/2017	\$5,000,000	\$9,400

**NorDel I – 537 East Delavan Property (302,000 sq. ft vacant building)**

Type	Insurance Co.	Expiry	Limits	Premium
Commercial Package (Property & Liability)	LoVullo Associates	1/1/2018	<b>Liability:</b> \$1,000,000/Occurrence \$2,000,000 Aggregate <b>Property:</b> \$500,000	\$28,003
Umbrella	LoVullo Associates	1/1/2018	\$3,000,000	\$7,244

**NorDel II – 631+683+741+777 Northland Properties (4 vacant buildings)**  
**644+664+688+690 Northland Properties + 126+128 Dutton Properties (5.46 acres land)**  
**683 Northland, LLC & 683 WTC, LLC**

Type	Insurance Co.	Expiry	Limits	Premium
Property	ACE via All Risks (all except 777 Northland)	4/6/2018	\$940,000 (631) \$1,056,000 (741)	\$17,916
Liability	Scottsdale Insurance Co.	1/1/2018	\$1,000,000/Occurrence \$2,000,000 Aggregate	\$20,776
	Maxum (683 only)	3/31/2019		\$129,753
Builders Risk	Allianz	3/31/2019	\$45,000,000 reno value	\$91,250
Umbrella	Kinsale via All Risks	1/1/2018	\$3,000,000	\$8,175

## Exhibit C – Insurance Coverage (Cont'd)

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### ***BUDC Employee Health & Benefits***

Type	Insurance Co.	Expiry
Health Insurance	BlueCross BlueShield	11/30/2017
Dental Insurance	Lincoln Financial Group	12/31/2017
Life Insurance / AD&D	Lincoln Financial Group	12/31/2017
LTD Insurance	Lincoln Financial Group	12/31/2017
Workers Compensation	The Hartford	12/31/2017
NYS Short-Term Disability	National Benefit Life	n/a

### ***WRC***

Type	Insurance Co.	Expiry	Limits	Premium
Directors & Officers	Philadelphia	12/31/2017	\$1,000,000	\$1,473

## NEW YORK STATE FINANCE LAW REQUIREMENTS

### **Permissible Contacts**

Pursuant to State Finance Law §§139-j and 139-k, this Solicitation/Request for Proposal includes and imposes certain restrictions on communications between the ECIDA/BUDC and an Offerer/bidder during the procurement process. An Offerer/bidder is restricted from making contacts from the earliest notice of intent to solicit Request for Proposals through the final award and approval of the Procurement Contract by the ECIDA/BUDC and, if applicable, Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). Designated staff, as of the date hereof, are identified on page 1 of this solicitation. ECIDA/BUDC employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four (4) year period, the Offerer/bidder is barred from obtaining governmental Procurement Contracts. Further information about these requirements can be found at <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>.

### **Offerer/Bidder’s Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j(6)(b)**

State Finance Law §139-j(6)(b) requires that the ECIDA/BUDC seek written affirmations from all Offerers/bidders as to the Offerer’s/bidder’s understanding of and agreement to comply with the ECIDA/BUDC’s procedures relating to permissible contacts (described above) during a Governmental Procurement pursuant to subdivision three of this section. It is recommended that this affirmation be provided to the ECIDA/BUDC as early as possible in the procurement process, such as when the Offerer/bidder submits its proposal or bid. Attachment A may be used to satisfy this requirement.

### **Offerer’s/Bidder’s Certification of Compliance with State Finance Law §139-k(5)**

New York State Finance Law §139-k(5) requires that every Procurement Contract award subject to the provisions of State Finance Law §§139-k or 139-j shall contain a certification by the Offerer/bidder that all information provided to the ECIDA/BUDC with respect to State Finance Law §139-k is complete, true and accurate. It is recommended that the certification be provided to the ECIDA as early as possible in the process, such as when an Offerer/Bidder submits its proposal, bid or other form of offer. Attachment B may be used to satisfy this requirement.

### **Offerer/Bidder Disclosure of Prior Non-Responsibility Determinations**

New York State Finance Law §139-k(2) obligates the ECIDA/BUDC to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Offerer/bidder must disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity. The terms “Offerer” and “Governmental Entity” are defined in State Finance Law §139-k(1). State Finance Law §139-j sets forth detailed requirements about the restrictions on Contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible Contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such Contact does not fall within one of the exemptions).

## NEW YORK STATE FINANCE LAW REQUIREMENTS

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offerer/bidder fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with the law, no Procurement Contract shall be awarded to any Offerer/bidder that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the Procurement Contract to the Offerer/bidder is necessary to protect public property or public health safety, and that the Offerer/bidder is the only source capable of supplying the required Article of Procurement within the necessary timeframe. See State Finance Law §§139-j (10)(b) and 139-k(3).

The ECIDA/BUDC must include a disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or contract documents, as applicable, for procurement contracts. Attachment C entitled “Offerer Disclosure of Prior Non-Responsibility Determinations” must be completed by the Offer/bidder and submitted to the ECIDA/BUDC.

### **Public Disclosure**

Responses submitted under this Request for Qualifications are subject to public disclosure under the New York State Freedom of Information Law. If the respondent does not want certain data disclosed for any purpose other than for the evaluation of the submitted proposal, the respondent must prominently identify sections or pages of the response which they wish to have restricted. Such sections shall be restricted from disclosure, if allowed by law.

### **Contract Termination Provision**

New York State Finance Law §139-k (5) provides that every procurement contract award subject to the provisions of State Finance Law §§139-k and 139-j contain a provision authorizing the ECIDA/BUDC to terminate the contract in the event that the certification is found to be intentionally false or intentionally incomplete. This statutory contract language authorizes, but does not mandate, termination. “Governmental Entity” and “procurement contract” are defined in State Finance Law §139-k(1). If a contract is terminated in accordance with State Finance Law §139-k (5), the ECIDA is required to include a statement in the procurement record describing the basis for any action taken under the termination provision.

#### **ECIDA/BUDC Termination Provision**

Pursuant to New York State Finance Law §139-k(5), the ECIDA/BUDC reserve the right to terminate any contract in the event it is found that the certification filed by the Offerer in accordance with New York State Finance Law §139k was intentionally false or intentionally incomplete. Upon such finding, the ECIDA/BUDC may exercise its termination rights by providing written notification to the Offerer/bidder in accordance with the written notification terms of this contract.

# NEW YORK STATE FINANCE LAW REQUIREMENTS

## ATTACHMENT A

### **Affirmation of Understanding & Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)**

I affirm that I understand and agree to comply with the procedures of the ECIDA/BUDC relative to permissible contacts as required by State Finance Law §139-j (3) and §139-j (6) (b).

By: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Contractor Name: \_\_\_\_\_

Contractor Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

# NEW YORK STATE FINANCE LAW REQUIREMENTS

## ATTACHMENT B

### Offerer/Bidder Certification:

I certify that all information provided to the ECIDA/BUDC with respect to State Finance Law §139-k is complete, true and accurate.

By: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Contractor Name: \_\_\_\_\_

Contractor Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



**NEW YORK STATE FINANCE LAW REQUIREMENTS**

**ATTACHMENT C**

**Offerer Disclosure of Prior Non-Responsibility Determinations**

Name of Individual or Entity Seeking to Enter into the Procurement Contract:

\_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Name and Title of Person Submitting this Form: \_\_\_\_\_

\_\_\_\_\_

Contract Procurement Number: \_\_\_\_\_

Date: \_\_\_\_\_

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):

No Yes

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please circle):

No Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle):

No Yes

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity: \_\_\_\_\_

Date of Finding of Non-responsibility: \_\_\_\_\_

Basis of Finding of Non-responsibility:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Add additional pages as necessary)

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):

No

Yes

6. If yes, please provide details below.

Governmental Entity: \_\_\_\_\_

Date of Termination or Withholding of Contract: \_\_\_\_\_

Basis of Termination or Withholding: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Add additional pages as necessary)

Offerer certifies that all information provided to the ECIDA with respect to State Finance Law §139-k is complete, true and accurate.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature

Name: \_\_\_\_\_ Title: \_\_\_\_\_