



**Buffalo and Erie County Industrial Land Development Corporation  
Meeting of the Membership  
February 24, 2016**

**95 Perry Street  
4th Floor – Vista Room  
Buffalo, New York 14203**

- 1.0 Call to Order**
- 2.0 Approval of Minutes**
  - 2.1 Approval of the October 21, 2015 Meeting of the Membership
- 3.0 Reports / Action Items / Information Items:**
  - 3.1 Legal RFP (Action Item)
  - 3.2 Financial Report (informational)
  - 3.3 2015 - ILDC Bonds Approved/Closed (Informational)
  - 3.4 Transfer of Property at 4111 River Road (Action Item)
- 4.0 Adjournment - Next Meeting March 30, 2016 at 10:45 a.m.**

**MINUTES OF THE  
BOARD OF DIRECTORS  
OF THE  
BUFFALO AND ERIE COUNTY  
INDUSTRIAL LAND DEVELOPMENT CORPORATION  
(ILDC)**

**DATE AND PLACE:** October 21, 2015, at the Erie County Industrial Development Agency, 95 Perry Street, 5<sup>th</sup> Floor ESD Conference Room, Buffalo, New York 14203

**PRESENT:** Hon. Byron W. Brown, Hon. Mark C. Poloncarz, Hon. Edward A. Rath, III and Maria Whyte

**EXCUSED:** Richard Lipsitz, Jr., John Mills and John Mudie

**OTHERS PRESENT:** John C. Cappellino, Executive Vice President; Mollie Profic, Assistant Treasurer; and Robert G. Murray, Secretary

**GUEST:** Kenneth J. Swanekamp, Director of Business Assistance for the Erie County Department of Environment and Planning,

There being a quorum present at 10:29 a.m., the Meeting of the Board of Directors of the Buffalo and Erie County Industrial Land Development Corporation was called to order by its Chair, Mr. Poloncarz.

**MINUTES**

Upon motion made by Ms. Whyte and seconded by Mr. Rath, the August 18, 2015 minutes of the Board of Directors of the Buffalo and Erie County Industrial Land Development Corporation meeting were unanimously approved.

**REPORTS / ACTION ITEMS / INFORMATION ITEMS**

Financial Report. Ms. Profic reviewed the financial statements, noting that the ILDC had net income of approximately \$3,800 for the month of September, 2015, The ILDC did receive administrative fees of approximately \$445,000 with respect to a recent bond closing, however, those same fees were the provided to the ECIDA as a management fee as required under the ILDC-ECIDA shared services agreement. On a year to date basis, the ILDC has net income of approximately \$7,000. There being no further discussion, Mr. Poloncarz directed that the report be received and filed.

2016 Operating Budget and 3 Year Forecast. Ms. Profic reviewed the ILDC's proposed 2016 budget and three year forecast confirming that no tax exempt bond fee income was projected due to the sporadic nature of such transactions. There being no further discussion, upon motion made by Mr. Rath and seconded by Ms. Whyte, the ILDC proposed 2016 budget and three year forecast was unanimously approved.

Buffalo Academy of Science Charter School. Mr. Cappellino provided background information with respect to the Buffalo Academy of Science Charter School (the "Charter School") application for tax exempt bond financing in the amount of \$3,400,000 for the purpose of permitting the Charter School to acquire the facility in which it undertakes its current operations. Mr. Cappellino confirmed that the Charter School educates students in Buffalo from grades 7-12 and noted that First Niagara Bank will be acquiring the bonds and that the bonds will not be an obligation of the ILDC or the County. Mr. Poloncarz queried as to the size of the ILDC fee with respect to the tax exempt bond issuance. Mr. Cappellino responded that the ILDC will be charging 1% of the size of the issuance or approximately \$34,000.

There being no further discussion, Ms. Whyte moved and Mr. Rath seconded to approve of the project. Mr. Poloncarz called for the vote and the following resolution as unanimously approved:

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF THE ISSUER'S TAX-EXEMPT REVENUE BONDS (BUFFALO ACADEMY OF SCIENCE CHARTER SCHOOL PROJECT) SERIES 2015 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$3,400,000 AND THE EXECUTION OF RELATED DOCUMENTS

ILDC Bonds Approved/Closed. Mr. Cappellino reviewed the 2015 ILDC Bonds/Projects approved and closed. Mr. Poloncarz directed that the report be received and filed.

4111 River Road, INS Scrap Yard. Mr. Swanekamp, Director of Business Assistance for the Erie County Department of Environment and Planning, provided members with background regarding a vacant 29 acre parcel located at 4111 River Road in the Town of Tonawanda upon which the County is contemplating a foreclosure action due to unpaid taxes and then partnering with the ILDC, the ECIDA and the New York State Department of Environmental Conservation and the Town of Tonawanda to remediate the property and place the property on the market for sale, with a portion of the property reserved for a proposed Erie County yard waste composting facility. Mr. Swanekamp confirmed that he is presenting this proposed project for informational purposes only but wanted to make the ILDC aware that the plan calls for the County of Erie to foreclose on the property and convey it to the ILDC for purposes of redevelopment consistent with other properties disposed of in a similar manner, for example, the Polymer Applications property. Mr. Cappellino confirmed that the ILDC may be asked, at its next meeting, to approve of taking title to the property should this plan move forward.

## ADJOURNMENT

There being no further business to discuss, upon motion made by Ms. Whyte and seconded by Mr. Rath, the ILDC meeting was adjourned at 10:40 a.m.

Dated: October 21, 2015

---

Robert G. Murray, Secretary

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

**Legal RFP Timetable**

Anticipated Date		Date Completed
June 17 <sup>th</sup>	Board notified of intent to draft & issue legal RFP	✓ June 17 <sup>th</sup>
Week of July 27 <sup>th</sup>	Draft RFP & scoring sheet distributed to Governance Committee for review & comments	✓ July 29 <sup>th</sup>
Week of Aug 10 <sup>th</sup>	Final RFP distributed to Board for information purposes	✓ Aug 4 <sup>th</sup>
Week of Aug 17 <sup>th</sup>	Legal RFP mailed to top 20 largest Erie County law firms and notice published in various publications and website	✓ Aug 25 <sup>th</sup>
Week of Sept 7 <sup>th</sup>	Due date for questions regarding Legal RFP from bidders	✓ Sept 11 <sup>th</sup>
Week of Sep 14 <sup>th</sup>	Responses to Legal RFP Questions issued to all potential bidders	✓ Sept 18 <sup>th</sup>
Oct 1 <sup>st</sup>	Due date for Legal RFP responses	✓ Oct 1 <sup>st</sup>
Week of Oct 5 <sup>th</sup> /12 <sup>th</sup>	Legal RFP responses reviewed, ranked and discussed by review team	✓ Oct 1 <sup>st</sup>
Weeks of Oct 26 <sup>th</sup> / Nov 2 <sup>nd</sup> / Nov 9 <sup>th</sup> / Nov 16 <sup>th</sup>	Interviews conducted for top-ranked General Counsel, Loan Counsel & Tax-Exempt Bond Counsel firms by review team	✓ Nov 19 <sup>th</sup>
Week of Nov 23 <sup>rd</sup>	References Checked for top-ranked legal firms by review team	✓ Nov 23
Week of Nov 30 <sup>th</sup>	Governance Committee review and recommendation of legal counsel	✓ Nov 30
Jan 6 <sup>th</sup> , Jan 12 <sup>th</sup> & Jan 20 <sup>th</sup>	Board Briefing sessions to review staff & Governance Committee recommendations and review in-house counsel option	✓ Jan 20
Jan 27 <sup>th</sup>	NYS Authority Budget Office (ABO) Audit of ECIDA's prior legal & audit procurement process	✓ Jan 27
Feb 24 <sup>th</sup>	Board Meeting to approve Governance Committee's recommended legal counsel	
Mar 23 <sup>rd</sup>	New Contract finalized with selected legal counsel*	

\* Note: Harris Beach contract expires February 29, 2016, but will be extended to March 31, 2016

**To:** ECIDA Board members  
**From:** Steve Weathers / Andrew Schoeppich  
**Date:** February 24, 2016  
**Re:** Authority Budget Office (ABO) Legal / Audit Procurement

---

On Wednesday January 27<sup>th</sup>, the ECIDA met with three auditors from the Authority Budget Office as part of their audit of the ECIDA's procurement process for legal and auditing professional services. The auditors indicated that they are auditing 15-16 IDAs across New York and expect to issue a "global" report on IDA procurement of legal / audit services, but not an individual report for each IDA. The ECIDA is the 12<sup>th</sup> IDA they have audited and they expect to be finished with their fieldwork by mid-February with a final report by mid-March.

ECIDA staff had an extensive discussion with the ABO auditors and provided the auditors with the following documents:

- A copy of the ECIDA procurement policy and professional services RFP process
- Copies of the Legal RFP issued in 2008 and the Audit RFP issued in 2012
- A listing of the audit & legal firms that bid and their respective quotes
- Bid responses (9 audit responses & 17 legal responses)
- Ranking sheets utilized by the selection committee to evaluate the bids and a summary of the overall results
- Board memos outlining the reason for the recommendations and approving the selection of the applicable audit/legal firm(s)
- Audit & Legal contracts
- Audit & Legal invoices paid in 2014 with a total that agrees to the filed PARIS procurement reports

After our discussions, the ABO auditor indicated that in many ways, our process is a good model for other IDAs for how these services should be procured. They indicated that they liked many things we did including: that we issued an RFP, advertised and promoted the RFP, included in the RFP how the scoring was to be evaluated, had a selection committee that reviewed and scored the bid results based on the RFP criteria and recommended to a Board committee that provided recommendations to the Board.

They indicated that they don't have any substantive comments or recommendations on our procurement process but that their supervisor may subsequently ask them to include something in the report. They mentioned that they could provide us an email in mid/late-February that would address whether or not there are any significant concerns.

# **Erie County Industrial Development Agency & Affiliates**

## **LEGAL REQUEST FOR PROPOSAL**

### **Outline of RFP Process**

#### **RFP Development/Review:**

The 2015 Legal Request for Proposal (RFP) was developed by ECIDA staff based on the prior RFP and feedback from the 2008 RFP process. A draft of the RFP was distributed to the Governance Committee on July 29<sup>th</sup>, 2015 for review and comments. On August 4<sup>th</sup> the RFP was distributed to the ECIDA Board for informational purposes.

#### **RFP Notice/Distribution:**

Copies of the RFP were distributed on August 25<sup>th</sup>, 2015 to the top 20 law firms with corporate-related expertise as listed in the Business First "Book of Lists".

Public notices of the RFP were placed in the Buffalo Law Journal, Buffalo News, The Buffalo Criterion, The Challenger News and the ECIDA website. A copy of the RFP was also sent to the Minority Bar Association of WNY. Based on the public notices, three additional law firms not included in the top 20 list also requested and received a copy of the RFP.

#### **RFP Questions/Responses:**

RFP Questions were due by September 11<sup>th</sup>, 2015. Thirteen questions were received from two law firms requesting further information, primarily related to current counsel fees/hours and conflict of interest matters. The responses were distributed to all 23 law firms and posted on the ECIDA website.

#### **Evaluation of Responses:**

Eight responses were received on October 1<sup>st</sup>, 2015 with firms bidding for the various positions as outlined in Attachment A.

A committee comprised of five ECIDA staff reviewed the legal bids based on the following criteria (as detailed in the RFP):

- 1) Qualifications and experience of the partners and associates to be assigned to the engagement (40% of total score)
- 2) Fees (25% of total score)
- 3) Qualifications and experience of the firm (25% of total score)
- 4) M/WBE Development (10%)

The staff review committee short-listed the firms as outlined in Attachment A and conducted 11 interviews between October 27<sup>th</sup> and November 19<sup>th</sup> (4 for general counsel, 4 for loan counsel and 3 for tax-exempt bond counsel). Governance Committee members were notified of and invited to attend the interviews. The staff review committee then conducted reference checks on November 23<sup>rd</sup>.

**Governance Committee Review:**

The Governance Committee met on November 30<sup>th</sup> and reviewed the RFP process as well as detailed spreadsheets summarizing the ECIDA staff review committee's evaluations and recommendations for legal counsel. The Governance Committee unanimously recommended the following law firms for approval by the ECIDA Board:

**Board Briefing Sessions:**

Three Board briefing sessions were held on January 6, 12 & 20 to explain the RFP process, the recommendations and answer any Board member questions. These sessions were attended by 11 ECIDA/RDC Board members and six ILDC Board members as well as the staff review committee.

## Erie County Industrial Development Agency Analysis of Hiring an In-house Attorney vs. External Counsel

**Background:** In conjunction with the recent legal RFP, ECIDA staff have been asked to consider the cost and benefits of hiring an in-house attorney compared to engaging external counsel.

**Other IDAs<sup>1</sup>:** Based on salary records for other IDAs, only three of the approximately 110 IDAs in NYS have in-house counsel. The three positions were all part time, and had annualized 2014 salaries of \$3,200, \$14,800 & \$55,300 respectively. Overall these IDAs are much smaller than the ECIDA with 3, 15 and 60 active tax incentive projects, respectively (compared to 275 for the ECIDA)

**Cost:**

<u>In-House Attorney</u>		<u>External Attorney</u>			
Estimated Salary (4-9 yrs experience) <sup>2</sup> :	\$120,000		<u>2015 (est.)</u>	<u>2014</u>	<u>2013</u>
+ Estimated Benefits:	<u>50,000</u>	ECIDA	\$100,000	\$119,000	\$109,000
Total	\$170,000	RDC	<u>25,000</u>	<u>48,000</u>	<u>67,000</u>
+ Estimated External Attorney costs <sup>3</sup>	<u>50,000</u>	Total	<b>\$125,000</b>	<b>\$167,000</b>	<b>\$176,000</b>
	<b>\$220,000</b>				

**Other Benefits:**

<u>In-House Attorney</u>	<u>External Attorney</u>
1) Dedicated to the ECIDA	1) Provides independent, firm-backed legal guidance
2) Fixed Cost	2) Have back-up counsel in the event of vacations, sick or separation
	3) Variable cost
	4) Discounted legal rates due to size of account

**Other Salary Information:**

<sup>1</sup> Note: The NYC IDA does not have its own in-house counsel, but utilizes counsel of the NYC Economic Development Corp. which has 400+ employees, including 13 attorneys with salaries ranging from \$99,000 to \$190,000 (average salary of \$137,000).

<sup>2</sup> Per Robert Half Legal Salary Guide for 2016 for in-house attorneys at 'small companies' in the Buffalo market, the salary ranges are as follows: 10+ years of service (\$124,213-\$178,125), 4-9 years of service (\$105,925-\$151,763), 0-3 years of service (\$78,138-\$107,113). Also, per one law firm contacted, first year students at their firm start in the low \$90's.

<sup>3</sup> Depending on experience of in-house attorney, additional external legal assistance may be required for various specialized matters including: defense litigation, venture capital, environmental, employment, construction/real estate & lending/collections. Estimated as: 200 hours @\$250/hour



We also obtained salary information from the National Association for Law Placement. Below is an excerpt from their 2015 survey (adjusted for the Buffalo market):

	<b>Natl Avg Firm Size 50 or Fewer w/Applied Market Variance for Buffalo</b>	<b>Natl Avg Firm Size 51-100 w/Applied Market Variance for Buffalo</b>	<b>Natl Avg Firm Size 101-250 w/Applied Market Variance for Buffalo</b>
<b>First Year</b>	\$115,425	\$105,688	\$109,250
<b>Second Year</b>	\$109,250	\$109,725	\$109,250
<b>Third Year</b>	\$127,704	\$112,433	\$114,000
<b>Fourth Year</b>	\$129,081	\$117,373	\$118,750
<b>Fifth Year</b>	\$137,038	\$122,788	\$127,300
<b>Sixth Year</b>	\$118,275	\$128,250	\$133,000
<b>Seventh Year</b>	\$161,500	\$135,945	\$138,225
<b>Eighth Year</b>	\$120,436	\$137,750	\$139,721

*sources: 2015 NALP Associate Salary Survey; city variances by Office Team*

**Diverse Areas of Legal Expertise:**

Over the last two years, ECIDA general counsel have provided legal guidance on a variety of legal matters from the following 40 areas of law:

Bankruptcy/Receivership	HUD law/regulations	Tax Exempt Bond Law
Corporate Law	Open Meetings Law	Tax Law
Not-for-profit-Law	Public Officers Law	Collections
LLC Law	Ethics Law	MWBE Diversity Compliance
Public Authority Law	Freedom of Information Law	Public Service Commission Law
Local Finance Law	General Municipal Law	Brownfield Cleanup Program
Federal Tax Law – on behalf issuer issues	IDA Law	Empire Zone Program
Insurance Law	Commercial Real Estate	Historic Tax Credit
Employment/labor Law	Easement	New Markets Tax Credit
Employee Discrimination – Pay Equity Law	Litigation - Personal Injury	UCC/Banking
Real Property Tax Foreclosure Law	Litigation - Scaffold Law	SEP/Employee Benefits
UDAG laws/regulations	Litigation - Article 78 Defense	SEQRA Compliance
EDA laws/regulations	Litigation - real property tax law	
CDGB laws/regulations	Venture Capital	

**Board Action:**

The Board is requested to approve the President, Executive Vice-President, Treasurer and/or Assistant Treasurer entering into a contract for legal services with each of the following law firms recommended by the Governance Committee consistent with the ECIDA's Professional Services RFP policy, the legal RFP and applicable law firm's bid documents. The term of the contract will be for a period of up to seven years with the ability to cancel with 90-days notice.

**Primary Counsels:**

- |                            |               |
|----------------------------|---------------|
| 1. General Counsel         | Harris Beach  |
| 2. Tax-Exempt Bond Counsel | Harris Beach  |
| 3. Loan Counsel            | Barclay Damon |

**Conflict Counsels:**

- |                            |                        |
|----------------------------|------------------------|
| 1. General Counsel         | Hodgson Russ           |
| 2. Tax-Exempt Bond Counsel | Barclay Damon          |
| 3. Loan Counsel            | Harter Secrest & Emery |

**Industrial Land Development Corp.**  
**Financial Statements**  
As of January 31, 2016

**INDUSTRIAL LAND DEVELOPMENT CORPORATION ("ILDC")**

**Balance Sheet**

January 31, 2016

	<b>January 2016</b>	December 2015
<b>ASSETS:</b>		
Restricted Cash *	\$ 278,888	\$ 278,808
Loans Receivable, net	8,259	8,453
Less: Reserve for Loan losses	(1,359)	(1,359)
Loan Interest Receivable	25	-
Total Loan Assets	<u>6,924</u>	<u>7,094</u>
Total Assets	<u>\$ 285,813</u>	<u>\$ 285,902</u>
<b>LIABILITIES &amp; NET ASSETS:</b>		
Accounts Payable	\$ -	\$ -
Due to/(from) ECIDA	27,904	27,862
Interest Payable - HUD	32	29
Other Liabilities	-	-
Total Liabilities	<u>27,936</u>	<u>27,891</u>
Restricted Fund Balance	<u>257,876</u>	<u>258,011</u>
Total Liabilities & Net Assets	<u>\$ 285,813</u>	<u>\$ 285,902</u>

	<b>January 2016</b>	December 2015
<b>* Loan Portfolio Summary:</b>		
# of Loans	<u>3</u>	<u>3</u>

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

**INDUSTRIAL LAND DEVELOPMENT CORPORATION ("ILDC")**

**Income Statement**

Year to Date: January 31, 2016

	January 2016 Actual vs. Budget			2015 Year Actual vs. Budget		
	Actual	Budget	Variance	Actual	Prior Yr.	Variance
<b>REVENUES:</b>						
Interest Income - Loans	\$ 36	\$ 8	\$ 27	\$ 500	\$ 3,000	\$ (2,500)
Interest Income - Cash & Inv.	-	3	(3)	1	15	(14)
Administrative Fees	-	-	-	-	-	-
Other Income	445	-	445	1,768,614	-	1,768,614
<b>Total Revenues</b>	<b>481</b>	<b>11</b>	<b>470</b>	<b>1,769,115</b>	<b>3,015</b>	<b>1,766,100</b>
<b>EXPENSES:</b>						
Management Fee - ECIDA	\$ 42	\$ 42	0	\$ 1,764,933	\$ 2,500	\$ 1,762,433
Provision for Loan Losses	-	-	-	(6,632)	750	(7,382)
Professional Services	-	17	(17)	325	2,000	(1,675)
Interest Expense	-	-	-	-	-	-
General Office Expenses	-	-	-	-	-	-
Other Expenses	573	25	548	28,513	300	28,213
<b>Total Expenses</b>	<b>615</b>	<b>83</b>	<b>531</b>	<b>1,787,139</b>	<b>5,550</b>	<b>1,781,589</b>
<b>NET INCOME/(LOSS):</b>	<b>\$ (134)</b>	<b>\$ (73)</b>	<b>\$ (62)</b>	<b>\$ (18,024)</b>	<b>\$ (2,535)</b>	<b>\$ (15,489)</b>

**ILDC Bonds Approved 2015**

<b>Project Name</b>	<b>Project Amount at Closing</b>	<b>Project City</b>	<b>Interest Date</b>
Catholic Health	\$ 93,800,000	Buffalo	1/28/2015
Canisius College	\$ 53,500,000	Buffalo	8/18/2015
Orchard Park CCRC/Fox Run	\$ 44,490,000	Orchard Park	5/20/2015
Buffalo Academy of Science Charter School	\$ 3,400,000	Buffalo	10/21/2015

Total \$ 195,190,000

**ILDC Bond Closings 2015**

<b>Project Name</b>	<b>Project Amount at Closing</b>	<b>Project City</b>	<b>Induced Date</b>
Catholic Health	\$ 93,800,000	Buffalo	1/28/2015
Canisius College	\$ 53,500,000	Buffalo	8/18/2015
Orchard Park CCRC/Fox Run	\$ 44,490,000	Orchard Park	5/20/2015
Buffalo Academy of Science Charter School	\$ 3,250,000	Buffalo	10/21/2015

**Total \$ 195,040,000**

October 26, 2015

Erie County Legislature  
92 Franklin Street, 4<sup>th</sup> Floor  
Buffalo, New York 14202

**Re: Transfer of Property at 4111 River Road to the Buffalo and Erie County  
Industrial Land Development Corporation**

Dear Honorable Members:

Enclosed please find a memorandum and proposed resolution authorizing the execution of a contract to transfer title of a tax delinquent scrapyard at 4111 River Road in the Town of Tonawanda to the Buffalo and Erie County Industrial Land Development Corporation.

We are also requesting the Erie County Legislature schedule and hold a public hearing on the transfer of the property to the Buffalo and Erie County Industrial Land Development Corporation as required by New York State Not for Profit Law section 1411, regarding Local Development Corporations.

Once foreclosed on by Erie County and transferred to the Buffalo and Erie County Industrial Land Development Corporation, the Erie County Industrial Development Agency staff will oversee demolition of remaining structures and clearance of scrap materials on the site.

Should your honorable body require further information, I encourage you to contact Kenneth Swanekamp at the Department of Environment and Planning. Thank you for your consideration on this matter.

Sincerely yours,

Mark C. Poloncarz, Esq.  
Erie County Executive

MCP/cw  
Enclosure  
cc: Thomas J. Dearing, Commissioner



## MEMORANDUM

**To:** Honorable Members of the Erie County Legislature  
**From:** Department of Environment and Planning  
**Re:** Transfer of Property at 4111 River Road to the Buffalo and Erie County Industrial Land Development Corporation  
**Date:** October 26, 2015

---

### **SUMMARY**

It is recommended that the Erie County Legislature hold a public hearing and then authorize the sale and transfer of the property at 4111 River Road in the Town of Tonawanda, SBL 64.08-1-5. This scrapyard has been investigated by Erie County and the ECIDA and been found to be a brownfield and scrapyard/landfill in need of further cleanup and demolition to be suitable for re-use. If Erie County decides to proceed with a composting facility on this site, a portion will be transferred back to Erie County or put under license to allow such composting facility to proceed.

### **FISCAL IMPLICATIONS**

Currently the 4111 River Road parcel is a tax delinquent parcel that has not generated any tax payments to Erie County for over 10 years. The County has continued to guarantee the tax payments to the Town of Tonawanda and the Kenmore Tonawanda School District. This has been a drain on County resources for over 10 years with little chance of having the property become a productive, tax revenue generating parcel.

### **REASONS FOR RECOMMENDATION**

The property has been in use as a scrapyard but not paying taxes over ten years. The remaining buildings are in a dilapidated, blighted state of decay and are also preventing reuse. The transfer to the Buffalo and Erie County Industrial Land Development Corporation and the project management for complete site cleanup by the Erie County Industrial Development Agency will allow the property to be put back into productive reuse.

### **BACKGROUND INFORMATION**

The parcel has over \$1,500,000 in back taxes, interest and penalties due. The Erie County Department of Environment and Planning has provided approximately \$40,000 for environmental investigation of the site. The investigation has indicated that although contaminated as a former industrial site, there have not been confirmations of hazardous materials on site.

### **CONSEQUENCES OF NEGATIVE ACTION**

Failure to adopt this resolution will result in the property sitting in a blighted state indefinitely. Erie County will continue to guarantee the Town and school tax payments with no hope of the property being reused and generating any tax revenue or jobs.

Foreclosure action will not commence until the Erie County Legislature and the Buffalo and Erie County Industrial Land Development Corporation has approved the transfer of this property.

### **STEPS FOLLOWING APPROVAL**

Upon the holding of a public hearing by the Erie County Legislature and approval of the resolution, a contract between Erie County and the Buffalo and Erie County Industrial Land Development Corporation will be executed. Assuming that Erie County forecloses and takes title to the property in 2015, the property will then be transferred to the Buffalo and Erie County Industrial Land Development Corporation. The Erie County Industrial Development Agency will then contract for and oversee the demolition and clearance of the structures on site as funds become available.

A RESOLUTION SUBMITTED BY:  
DEPARTMENT OF ENVIRONMENT AND PLANNING

RE: Transfer of Property at 4111 River Road  
to the Buffalo and Erie County Industrial Land  
Development Corporation

WHEREAS, the County of Erie desires to remediate brownfield properties and clear former industrial sites for productive reuse; and

WHEREAS, the property at 4111 River Road, the former I.N.S. Equipment Company site, has been a scrap yard not paying taxes for over ten years, has been a blighting influence on the area for ten years and has accrued over \$1.5 million in back taxes, interest and penalties; and

WHEREAS, underutilized buildings, auto parts and concrete and construction debris still occupy portions of the site rendering it unusable in its current condition; and

WHEREAS, the Erie County Industrial Development Agency has expertise in the area of construction management and has agreed to manage the demolition and cleanup of the site; and

WHEREAS, the Buffalo and Erie County Industrial Land Development Corporation (ILDC), has as one of its goals and authorities, the ability to hold industrial property for management and improvement; and

WHEREAS, the Erie County Legislature has held a public hearing on the transfer of the 4111 River Road property to the Buffalo and Erie County Industrial Land Development Corporation; and

WHEREAS, it is expected that Erie County will foreclose on the 4111 River Road property; and

WHEREAS, Erie County may be interested in using a portion of this site for a composting facility in the future.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to enter into contracts with the Buffalo and Erie County Industrial Land Development Corporation, selling the 4111 River Road property to the Buffalo and Erie County Industrial Land Development Corporation for the sum of one dollar (\$1.00); and be it further

RESOLVED, that foreclosure proceedings will not commence until approval of the Erie County Legislature and the Buffalo and Erie County Industrial Land Development Corporation has been received; and be it further

RESOLVED, that the County Executive is authorized to execute any deeds necessary to transfer this parcel to the Buffalo and Erie County Industrial Land Development Corporation; and be it further

**RESOLVED**, that in the event that Erie County desires to use a portion of this site for a composting facility, that portion of the site shall be transferred back to Erie County or placed under license allowing such facility to operate; and be it further

**RESOLVED**, that the Clerk of the Legislature be directed to send certified copies of this resolution to the County Executive, the Director of the Division of Budget and Management, the County Comptroller, the Director of Real Property Tax Services, the Commissioner of the Department of Environment and Planning and the County Attorney.

# STATE OF NEW YORK

## LEGISLATURE OF ERIE COUNTY CLERK'S OFFICE

**BUFFALO, N.Y., DECEMBER 17, 2015**

TO WHOM IT MAY CONCERN:

**I HEREBY CERTIFY**, That at the 25th Session of the Legislature of Erie County, held in the Legislative Chambers, in the City of Buffalo, on the seventeenth day of December, 2015 A.D., a Resolution was adopted, of which the following is a true copy:

WHEREAS, the County of Erie desires to remediate brownfield properties and clear former industrial sites for productive reuse; and

WHEREAS, the property at 4111 River Road, the former I.N.S. Equipment Company site, has been a scrap yard not paying taxes for over ten years, has been a blighting influence on the area during this time and has accrued over \$1.5 million in back taxes, interest and penalties; and

WHEREAS, underutilized buildings, auto parts and concrete and construction debris still occupy portions of the site rendering it unusable in its current condition; and

WHEREAS, the Erie County Industrial Development Agency has expertise in the area of construction management and has agreed to manage the demolition and cleanup of the site; and

WHEREAS, the Buffalo and Erie County Industrial Land Development Corporation (ILDC), has as one of its goals and authorities, the ability to hold industrial property for management and improvement; and

WHEREAS, the Erie County Legislature has held a public hearing on the transfer of the 4111 River Road property to the Buffalo and Erie County ILDC; and

WHEREAS, it is expected that Erie County will foreclose on the 4111 River Road property; and

WHEREAS, Erie County may be interested in using a portion of this site for a composting facility in the future.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to enter into contracts with the Buffalo and Erie County IDLC, selling the 4111 River Road property to the Buffalo and Erie County IDLC for the sum of one dollar (\$1.00); and be it further

RESOLVED, that foreclosure proceedings will not commence until approval of the Erie County Legislature and the Buffalo and Erie County IDLC has been received; and be it further

RESOLVED, that the County Executive is authorized to execute any deeds necessary to transfer this parcel to the Buffalo and Erie County IDLC; and be it further

RESOLVED, that in the event that Erie County desires to use a portion of this site for a composting facility, that portion of the site shall be transferred back to Erie County or placed under license allowing such facility to operate; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send certified copies of this resolution to the County Executive; the Director of the Division of Budget and Management; the County Comptroller; the Director of Real Property Tax Services; the Commissioner of the Department of Environment and Planning, and the County Attorney.

REFERENCE:      **COMM. 20E-14 (2015)**

ATTEST



KAREN M. McCARTHY

*Clerk of the Legislature of Erie County*

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

A meeting of the Buffalo and Erie County Industrial Land Development Corporation (the "Corporation") was convened on Wednesday, February 24, 2016, at 10:45 a.m. The following resolution was duly offered and moved for adoption:

**RESOLUTION TO ACCEPT THE TRANSFER OF CERTAIN REAL  
PROPERTY FROM ERIE COUNTY**

WHEREAS, pursuant to Section 1411 of the Not-for-Profit Corporation Law of the State of New York (the "NPCL") the Corporation was created as a Not-for-Profit Local Development Corporation; and

WHEREAS, the County of Erie (the "County") desires to remediate brownfield properties and clear former industrial sites for productive reuse; and

WHEREAS, certain real property located at 4111 River Road, Tonawanda, New York, (the "Real Property") has been determined to be a brownfield and scrapyard/landfill containing blighted and dilapidated buildings and the site is in need of remediation and demolition to be suitable for reuse; and

WHEREAS, the Real Property is delinquent in real property taxes and has not generated any tax payments to Erie County for over 10 years accruing over \$1,500,000 in back taxes, interest, and penalties; and

WHEREAS, the Real Property contains vacant former factory buildings, auto parts and concrete and construction debris, rendering the site unusable unless said buildings can be demolished and removed and cleanup activities can be undertaken; and

WHEREAS, the Erie County Industrial Development Agency (the "Agency"), an affiliate of the Corporation, has expertise in construction management and in undertaking demolition and site clearance activities in an effort to return property to a useful state; and

WHEREAS, the County may, in the future, decide to proceed with constructing a composting facility on a portion of the Real Property; and

WHEREAS, the County may foreclose on the Real Property; and

WHEREAS, to facilitate the demolition of the buildings on the Real Property and to return the Real Property to beneficial use, it is contemplated that the County, once it forecloses upon the Real Property, will transfer the Real Property to the Corporation in accordance with Section 1411(d) of the NPCL; and

WHEREAS, as required by Section 1411(d)(3) and 1411(d)(4) of the NPCL, the Erie County Legislature held a public hearing, upon the proper and timely required publication of the required notice of such hearing, in regard to the conveyance of the Real Property to the Corporation as described herein; and

WHEREAS, on December 17, 2015, the Erie County Legislature authorized the Erie County Executive, upon Erie County's anticipated foreclosure on the Real Property, to convey the Real Property to the Corporation for the sum of \$1.00 provided that, in the event the County desires to use a portion of the Real Property for a composting facility, that said portion of the Real Property be transferred back to the County or placed under license allowing such facility to operate upon the Real Property.

NOW, THEREFORE, BE IT RESOLVED BY THE BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION AS FOLLOWS:

Section 1. The Corporation hereby determines that the transfer of the Real Property from the County to the Corporation will relieve the burdens of government and said transfer is consistent with and in furtherance of the public purposes and powers set forth in Section 1411 of the NPCL.

Section 2. The acquisition of the Real Property by the Corporation involves an "Unlisted Action" as said term is defined pursuant to the State Environmental Quality Review Act ("SEQR") and as codified under 6 N.Y.C.R.R. Section 617.2(ak) of the SEQR regulations. The Corporation has conducted an uncoordinated review of the acquisition of the Real Property pursuant to 6 N.Y.C.R.R. Section 617.6(b)(4)(i) and hereby finds that the acquisition of the Real Property will not have a potential significant adverse environmental impact warranting the preparation of an environmental impact statement. The Corporation thus issues a "negative declaration" as that term is defined pursuant 6 N.Y.C.R.R. Section 617.2(y).

Section 3. The Corporation is hereby authorized to negotiate and execute a purchase contract and to otherwise to take title to the Real Property subject to the terms as contained in the Erie County Legislature's December 17, 2015 resolution authorizing the sale of the Real Property to the Corporation.

Section 4. Subject to the terms of this Resolution, the Chairman, the Vice Chairman, the Chief Executive Officer, the Executive Vice President, the Chief Financial Officer/Treasurer, and/or the Assistant Treasurer, are hereby authorized, on behalf of the Corporation, to negotiate, execute and deliver any documents necessary and incidental to carry out the intentions of this Resolution.

Section 5. The officers, employees and agents of the Corporation are hereby authorized and directed for and in the name and on behalf of the Corporation to do all acts and things required and to negotiate, execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions.

Section 6. This Resolution shall take effect immediately.

Dated: February 24, 2016