



**Buffalo and Erie County Industrial Land Development Corporation
Board of Directors Meeting
February 27, 2019
@ 1:00 p.m. (New Time)
95 Perry Street
5th Floor – Conference Room
Buffalo, New York 14203**

1.0 Call to Order

2.0 Approval of Minutes

2.1 Approval of the November 28, 2018 Meeting of the Membership – (Action Item) (Pages 2-6)

3.0 Reports / Action Items / Information Items:

3.1 Financial Report - (Informational) (Pages 7-9)

3.2 Finance & Audit Committee Update – (Informational)

3.3 ESD Grant Disbursement Agreement of Buffalo Billion II for Bethlehem Steel
(Informational)

3.4 Governance Committee Update – (Informational) (Page 10)

3.5 Legal RFP - (Action Item) (Pages 11-14)

4.0 Management Team Report:

5.0 Adjournment - Next Meeting March 27, 2019 @ 1:00 p.m.

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

- DATE AND PLACE:** November 28, 2018, at the Erie County Industrial Development Agency, 95 Perry Street, 4th Floor Conference Room, Buffalo, New York 14203
- PRESENT:** Hon. Byron W. Brown, Richard Lipsitz, Jr., John J. Mudie, Hon. Mark C. Poloncarz, Hon. Peter J. Savage, III and Maria Whyte
- EXCUSED:** Hon. Patrick Burke
- OTHERS PRESENT:** Steve Weathers, Chief Executive Officer; John Cappellino, Executive Vice President; Mollie Profic, Chief Financial Officer; Karen M. Fiala, Assistant Treasurer and Robert G. Murray, Secretary
- GUESTS:** Christopher Pawenski, Coordinator, Industrial Assistance Program, of the Erie County Environment & Planning Department; Mark Roundtree of the Erie County Environment & Planning Department

There being a quorum present at 8:46 a.m., the Meeting of the Board of Directors of the Buffalo and Erie County Industrial Land Development Corporation was called to order by Mr. Lipsitz who presided over the meeting in the absence of Chair Poloncarz.

MINUTES

Upon motion made by Mr. Mudie, and seconded by Ms. Whyte, the October 24, 2018 minutes of the Board of Directors of the Buffalo and Erie County Industrial Land Development Corporation (“ILDC”) meeting were unanimously approved.

REPORTS / ACTION ITEMS / INFORMATION ITEMS

Financial Report. Ms. Profic reviewed the financial statements, noting that the ILDC ended the month with total assets of \$7.1 million and net assets of \$6.7 million. During October, the ILDC had a slight decrease in cash along with an increase in amounts due to ECIDA and an offsetting decrease in other liabilities. Approximately \$109,000 was drawn from the ECIDA’s UDAG Fund Grant by the ILDC as approved by the ILDC Board in August, which will be repaid upon receipt of grant reimbursement. The monthly income statement reflects minimal interest revenue, expenses of \$9,900, and offsetting special project grant income and expenses of \$109,000, for a net loss of \$9,900 during the month. The year to date income statement displays operating revenues of \$49,000, expenses of \$135,000, plus net grant income of \$80,000, for a net loss of \$6,300 so far. Mr. Lipsitz directed that the report be received and filed.

At this point in time, Mr. Poloncarz joined the meeting.

Canisius College 2015A Series Bond Amendment. Mr. Cappellino reviewed the ILDC's 2015 tax-exempt bond issuance which was used by Canisius College to refund the outstanding principal balance of its 2004 Dormitory Authority of New York State Bonds and refund outstanding principal balance of 2010 bonds issued by the ILDC. Mr. Cappellino explained that the 2015 bond documents must adjust for interest rate changes on the bonds due to certain changes to the Federal Tax Code made by the 2017 Tax Cuts and Jobs Act. As such, the action today is to authorize an amendment to the indenture, to permit the adjustment of the interest rate on the bonds.

Ms. Whyte moved and Mr. Savage seconded to approve of the amendments. Mr. Poloncarz called for the vote and the following resolution was unanimously approved:

RESOLUTION AUTHORIZING THE FIRST AMENDMENT TO THE TRUST INDENTURE RELATING TO THE BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION TAX-EXEMPT REVENUE REFUNDING BONDS (THE CANISIUS COLLEGE OF BUFFALO, NEW YORK PROJECT), SERIES 2015A AND 2015B, AND THE EXECUTION THEREOF AND OF RELATED DOCUMENTS.

Resolution to Convey Permanent Easement for Dona Street. Mr. Cappellino updated members on construction activities related to Erie County's construction of the Dona Street extension. As currently designed, a 100 foot right of way has been redesigned and as such, the southerly border of the ILDC's land is affected. As such, Erie County requires a permanent easement on this newly affected land, being approximately 0.712 acres in size. The action today is to convey a permanent easement for the Dona Street extension to Erie County.

Mr. Lipsitz moved and Ms. Whyte seconded to authorize the conveyance of the permanent easement. Mr. Poloncarz called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION (i) AUTHORIZING THE EXECUTION AND DELIVERY OF A PERMANENT EASEMENT AGREEMENT RELATING TO CONSTRUCTION AND OPERATION OF AN EXTENSION TO A PUBLIC ROADWAY TO BE KNOWN AS "DONA STREET" TO BE UNDERTAKEN BY THE COUNTY OF ERIE (AS MORE PARTICULARLY DESCRIBED HEREIN); (ii) ADOPTING FINDINGS WITH RESPECT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT ("SEQR"); (iii) TO CONFIRM THAT THERE IS NO REASONABLE ALTERNATIVE TO A BELOW FAIR MARKET VALUE TRANSFER OF THE PERMANENT EASEMENT TO THE COUNTY OF ERIE; AND (iv) AUTHORIZING THE EXECUTION OF RELATED DOCUMENTS WITH RESPECT TO THE FOREGOING.

At this point in time, Mr. Brown joined the meeting.

Bethlehem Steel Land Purchase. Mr. Cappellino updated members on the ILDC's proposed acquisition of an additional 93 acres of real property at the former Bethlehem Steel site located to the south of the real property acquired by the ILDC in 2017. This new acquisition will allow the ILDC to expand its overall property holdings to roughly 240 acres by purchasing the remainder of the property in Business Park II. This will allow for the continued redevelopment of the frontage of the site along Route 5, extension of the bike path, and incorporates the main road and utility corridors as proposed in the master planning efforts. As such, staff is seeking the ILDC Board approval to enter into a funding agreement in the form of a partially refundable grant from the ECIDA to provide the ILDC with up to \$1,750,000 of UDAG funds for the acquisition, carrying and miscellaneous costs for approximately 93 acres of real property and adoption of a negative declaration in accordance with the State Environmental Quality Review Act.

Mr. Cappellino also commented that as a condition of the funding agreement, approximately \$1.5 million would be returned to the ECIDA UDAG from the ILDC upon the ILDC's receipt of grant funding from New York State Empire State Development for property acquisition. In addition, the ILDC will return 50% of any future land sale proceeds to the ECIDA UDAG Fund up to an amount of \$250,000.

General discussion ensued. Ms. Whyte noted that Erie County Executive Poloncarz continues to drive the successful acquisition of real property at the Bethlehem Steel site, commented that the 150 acre acquisition closed in 2017, and now, within one year, the ILDC is initiating closing on the next 90 acre purchase. Ms. Whyte commented that this acquisition is consistent with the vision described to the ILDC Board members at prior meetings.

Mr. Savage asked for the amount of the UDAG Fund balance. Mr. Weathers responded that the fund balance will have approximately \$6 million dollars after this purchase and acquisition is completed.

Mr. Lipsitz moved and Ms. Whyte seconded to approve of the purchase of real property as described herein. Mr. Poloncarz called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION (THE "ILDC") AUTHORIZING THE ILDC TO: (i) ENTER INTO A FUNDING AGREEMENT FOR ECONOMIC DEVELOPMENT PURPOSES WITH THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") TO RECEIVE \$1,750,000.00 IN THE FORM OF A PARTIALLY REFUNDABLE GRANT FROM THE AGENCY'S U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT URBAN DEVELOPMENT ACTION GRANT ("UDAG") REFLOW FUND; (ii) MAKE A DETERMINATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; (iii) AUTHORIZE THE NEGOTIATION AND EXECUTION AND DELIVERY OF AN AGREEMENT OF PURCHASE AND SALE TO BE ENTERED INTO WITH TECUMSEH REDEVELOPMENT INC. ("TECUMSEH") WITH RESPECT TO

A CERTAIN PROJECT (AS MORE FULLY DEFINED BELOW); AND (iv) AUTHORIZE THE EXECUTION AND DELIVERY OF BROWNFIELD SITE CLEANUP AGREEMENT(S) WITH RESPECT TO THE PROJECT (AS MORE FULLY DESCRIBED BELOW)

Angola Agri-Business Park Acquisition. Mr. Poloncarz introduced this item noting that since 2012, his administration has identified the need to help local agricultural producers to develop new market opportunities. In 2014, Erie County commissioned a feasibility study to identify a site suitable for the development of an agri-business park. In addition, the Poloncarz administration identified the purchase and development of an agri-business focused industrial park at the former Angola airport as a priority in the County's Initiatives for a Smart Economy 2.0.

Mr. Cappellino then noted that the ILDC has been working with property owners of the Angola airport site and the owner of an adjacent parcel to allow the ILDC to acquire approximately 240 acres of land for the development of an agri-business park. The ILDC has executed letters of interest with the two property owners and is seeking approval and funding for the acquisition of the property.

Mr. Cappellino noted that the total purchase price of the properties would be \$980,000 for the 240 acres of property. As part of the proposed acquisition, Erie County has agreed to provide \$155,000 of funding required for the purchase deposit.

As such, staff is seeking ILDC Board approval for the ILDC to enter into a partially refundable grant with the ECIDA whereby the ECIDA would provide up to \$1,200,000 of UDAG funds for the acquisition, carrying and miscellaneous costs associated with the acquisition of 240 acres of real property as described herein. Mr. Cappellino noted that as a condition of the funding agreement, the ILDC will return 50% of any future land sale proceeds to the ECIDA UDAG fund up to \$1,200,000. The ILDC is currently seeking additional grant funding sources for the acquisition of the property and if successful, Mr. Cappellino noted the ILDC would return to the ECIDA UDAG fund any such future proceeds received.

Ms. Whyte moved and Mr. Mudie seconded to approve of the proposed acquisition.

Mr. Poloncarz thanked Erie County and ILDC staff for their efforts and spoke in favor of the proposed acquisition to support investment and employment opportunities in southern Erie County. Mr. Poloncarz then called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION (THE "ILDC") AUTHORIZING THE ILDC TO: (i) ENTER INTO A FUNDING AGREEMENT FOR ECONOMIC DEVELOPMENT PURPOSES WITH THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") TO RECEIVE \$1,200,000 IN THE FORM OF A PARTIALLY REFUNDABLE GRANT FROM THE AGENCY'S U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT URBAN DEVELOPMENT ACTION GRANT ("UDAG") REFLOW FUND; (ii) MAKE A DETERMINATION PURSUANT TO THE

STATE ENVIRONMENTAL QUALITY REVIEW ACT; (iii) AUTHORIZE THE NEGOTIATION AND EXECUTION AND DELIVERY OF AN AGREEMENT OF PURCHASE AND SALE TO BE ENTERED INTO WITH RICHARD W. TOCHA FOR REAL PROPERTY LOCATED AT 1526 EDEN EVANS CENTER ROAD, EVANS, NY (THE "TOCHA PARCEL"); AND (iv) AUTHORIZE THE NEGOTIATION AND EXECUTION AND DELIVERY OF AN AGREEMENT OF PURCHASE AND SALE TO BE ENTERED INTO WITH E&R HORIZONS, LLC FOR REAL PROPERTY LOCATED AT 0 EDEN EVANS CENTER ROAD, EVANS, NY (THE "HORIZONS PARCEL")

There being no further business to discuss, the meeting was adjourned at 9:07 a.m.

Dated: November 28, 2018

Robert G. Murray, Secretary

Industrial Land Development Corp.
Financial Statements
As of January 31, 2019

INDUSTRIAL LAND DEVELOPMENT CORPORATION ("ILDC")

Balance Sheet

January 31, 2019

	January 2019	December 2018
ASSETS:		
Restricted Cash *	\$ 207,569	\$ 227,963
Grants Receivable	1,670,776	1,670,776
Loans Receivable	18,725	19,294
Loan Interest Receivable	30	30
Total Loan Assets	18,755	19,324
Fixed Assets	6,530,672	6,530,672
Total Assets	\$ 8,427,772	\$ 8,448,735
LIABILITIES & NET ASSETS:		
Accounts Payable	\$ 1,397,392	\$ 1,413,748
Due to/(from) ECIDA	211,147	208,747
Other Liabilities	161,534	161,529
Total Liabilities	1,770,072	1,784,024
Restricted Fund Balance	6,657,700	6,664,711
Total Liabilities & Net Assets	\$ 8,427,772	\$ 8,448,735

	January 2019	December 2018
* Loan Portfolio Summary:		
# of Loans	1	1

* 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.

INDUSTRIAL LAND DEVELOPMENT CORPORATION ("ILDC")

Income Statement

Year to Date: January 31, 2019

	Actual vs. Budget			Actual vs. Prior Year		
	Actual	Budget	Variance	Actual	Prior Year	Variance
REVENUES:						
Interest Income - Loans	\$ 33	\$ 29	\$ 4	\$ 33	\$ 45	\$ (12)
Interest Income - Cash & Inv.	1	1	(0)	1	-	1
Total Revenues	34	30	4	34	45	(11)
EXPENSES:						
Management Fee - ECIDA	\$ 2,400	\$ 2,333	67	\$ 2,400	\$ 167	\$ 2,233
Professional Services	2,500	1,917	583	2,500	3,000	(500)
Other Expenses	-	219	(219)	-	531	(531)
Total Expenses	4,900	4,469	431	4,900	3,698	1,202
SPECIAL PROJECT GRANTS:						
Industrial Land Park - ESD	-	-	-	-	-	-
Industrial Land Park - ECIDA	-	-	-	-	-	-
Industrial Land Park grant reimbursement	-	-	-	-	-	-
Other grant revenue	-	-	-	-	-	-
Other grant expenses	-	-	-	-	-	-
	-	-	-	-	-	-
NET INCOME/(LOSS):	\$ (4,866)	\$ (4,439)	\$ (427)	\$ (4,866)	\$ (3,653)	\$ (1,213)

* Represents an allocation of salary and benefit costs from the ECIDA based on time charged to ILDC. The amount booked is currently based on budget.



To: ECIDA, RDC, and ILDC Board of Directors
From: Governance Committee – Brenda McDuffie (Chair)
Date: February 27, 2019
Re: Governance Committee Report

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

Committee members in attendance: Brenda McDuffie (Chair), Hon. Diane Benczkowski, Hon. Brian Kulpa, David State, Maria Whyte

The ECIDA, RDC, and ILDC Governance Committees met on January 23, 2019 to review the following item:

Legal RFP Recommendations: The Governance Committee received a thorough description of the process undertaken to perform the recent RFP for professional legal services. The Committee was then presented with the staff committee’s recommendations for General Counsel, Loan Counsel, and Tax-Exempt Bond Counsel positions, with primary and conflict recommendations for each. After thorough discussion of the staff committee’s recommendations, the Governance Committee voted in the affirmative to recommend the slate as presented to the Board.

**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
July 25 th	Board notified of intent to draft & issue legal RFP	✓ July 25 th
August 20 th – 24 th	Draft RFP & scoring sheet distributed to Governance Committee for review & comments	✓ August 24 th
September 3 rd – 7 th	Final RFP distributed to Board for information purposes	✓ September 7 th
September 17 th	Legal RFP mailed to top 20 largest Erie County law firms and notice published in various publications and website	✓ September 17 th
September 24 th	Due date for questions regarding Legal RFP from bidders	✓ September 24 th
September 28 th	Responses to Legal RFP Questions issued to all potential bidders	✓ September 28 th
October 19 th	Due date for Legal RFP responses	✓ October 19 th
October 22 nd – mid-November	Legal RFP responses reviewed, ranked and discussed by review team	✓ November 20 th
November – December 2018	Interviews conducted for top-ranked General Counsel, Loan Counsel & Tax-Exempt Bond Counsel firms by review team	✓ December 18 th
December 2018	References checked (as needed) for top-ranked legal firms by review team	✓ December 2018
January 2019	Governance Committee review and recommendation of legal counsel	✓ January 23 rd
February 2019	Board Meeting to approve Governance Committee's recommended legal counsel	February 27 th
By April 30 th	New Contract finalized with selected legal counsel*	

* Note: Current contracts expire May 1, 2019

Erie County Industrial Development Agency & Affiliates
LEGAL REQUEST FOR PROPOSAL
Outline of RFP Process

RFP Development/Review:

The 2018 Legal Request for Proposal (RFP) process undertaken by ECIDA staff was based on the 2015 RFP process and feedback resulting from that process. A draft of the RFP was distributed to the Governance Committee on August 24, 2018 for its review and comment. On September 7, 2018 the RFP was distributed to the ECIDA Board for informational purposes.

RFP Notice/Distribution:

Copies of the RFP were distributed on September 17, 2018 to the top 20 law firms with corporate-related expertise as referenced in the Business First “Book of Lists”. Public notices of the RFP were placed in The Buffalo News, The Buffalo Criterion, The Challenger News and posted on the ECIDA website. Copies of the RFP were also sent to the Minority Bar Association of WNY and Women’s Bar Association of WNY. Due to the public notices, two additional law firms that were not included in the top 20 list also inquired as to our RFP process.

RFP Questions/Responses:

RFP questions were due by September 24, 2018. One law firm submitted two questions related to current counsel fees/hours and conflict of interest matters. The responses were distributed to all law firms and posted on the ECIDA website.

Evaluation of Responses:

Seven responses were received on or before October 19, 2018. A list indicating each firm’s desired positions are outlined in Attachment A.

A committee comprised of seven ECIDA staff members reviewed the legal proposals based on the following criteria (also 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 ECIDA staff review committee short-listed the firms (outlined in Attachment A) and conducted interviews between December 4, 2018 and January 9, 2019 (3 for general counsel, 4 for loan counsel and 2 for tax-exempt bond counsel. ECIDA staff conducted reference checks as necessary.

Governance Committee Review:

The Governance Committee met on January 23, 2019 and reviewed the RFP process as well as detailed information summarizing the ECIDA staff review committee’s evaluations and recommendations for legal counsel. The Governance Committee unanimously recommended the law firms listed below for approval by the ECIDA Board.

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 three years, with two one-year extensions available. Contracts will also include the ability to cancel by either party with 90-days' notice.

Primary Counsels:

- | | |
|----------------------------|----------------|
| 1. General Counsel | Harris Beach |
| 2. Tax-Exempt Bond Counsel | Hodgson Russ |
| 3. Loan Counsel | Hurwitz & Fine |

Conflict Counsels:

- | | |
|----------------------------|----------------|
| 1. General Counsel | Hurwitz & Fine |
| 2. Tax-Exempt Bond Counsel | Harris Beach |
| 3. Loan Counsel | Hodgson Russ |

Erie County Industrial Development Agency
Legal Proposals Received - 10/19/18

✓ = Bid Received S = Short-listed by Review Committee and interviewed
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	General Counsel		Tax-Exempt Bond Counsel		Loan Counsel	
	Primary	Conflict	Primary	Conflict	Primary	Conflict
Barclay Damon			✓	✓		
Ballard Spahr	✓	✓	✓	✓	✓	✓
Harris Beach	✓S		✓S		✓S	
Harter Secrest & Emery					✓S	
Hodgson Russ	✓S	✓S	✓S	✓S	✓S	✓S
Hurwitz & Fine	✓S	✓S			✓S	✓S
Lippes Mathias Wexler Friedman	✓	✓			✓	✓
Total Number Proposing	5	4	4	3	6	4