



**Buffalo and Erie County Regional Development Corporation
Board of Directors Meeting
February 27, 2019
@ 12:00 p.m.
95 Perry Street
5th Floor - ESD Conference Room
Buffalo, New York 14203**

1.0 Call to Order

2.0 Approval of Minutes

- 2.1 Approval of the November 28, 2018 Minutes of the Board of Directors Meeting (Pages 2-3)

3.0 Reports / Action Items / Information Items:

- 3.1 Financial Report (Informational) (Pages 4-6)
- 3.2 Finance & Audit Committee Update – (Informational)
- 3.3 Governance Committee Update – (Informational) (Page 7)
- 3.4 Legal RFP (Action Item) (Pages 8-11)
- 3.5 2018/2019 - RDC Loan Status Report/RDC Closing Schedule – (Informational) (Pages 12-14)

4.0 Adjournment - Next Meeting March 27, 2019 @ 12:00 P.M.

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

- DATE AND PLACE:** November 28, 2018, at the Erie County Industrial Development Agency, 95 Perry Street, 5th Floor ESD Conference Room, Buffalo, New York 14203
- PRESENT:** Hon. Bryon W. Brown, Dottie Gallagher, Hon. Brian J. Kulpa, Richard Lipsitz, Jr., Brenda W. McDuffie, John J. Mudie, Hon. Mark C. Poloncarz, Hon. Darius G. Pridgen, Kenneth A. Schoetz, and Art Wingerter
- EXCUSED:** Hon. Diane Benczkowski, Rev. Mark E. Blue, Hon. Patrick B. Burke, James F. Doherty, Hon. Joseph H. Emminger, Tyra Johnson, Hon. Glenn R. Nellis, Sister Denise Roche and Charles F. Specht
- OTHERS PRESENT:** Steve Weathers, Chief Executive Officer; John Cappellino, Executive Vice President; Karen M. Fiala, Assistant Treasurer; Mollie Profic, Chief Financial Officer; and Robert G. Murray, Secretary
- GUESTS:** Christopher Pawenski, Coordinator, Industrial Assistance Program, of the Erie County Environment & Planning Department

There being a quorum present at 9:46 a.m., the meeting of the RDC Board of Directors was called to order by its Chair, Ms. McDuffie.

MINUTES

The Minutes of the October 24, 2018, meeting of the Board of Directors of the RDC were presented. Mr. Brown moved, and Mr. Kulpa seconded, to approve of the minutes. Ms. McDuffie called for the vote and the minutes were unanimously approved.

REPORTS/ACTION ITEMS/INFORMATION ITEMS

Approval of Amendments to the By-Laws. Mr. Manhard provided members with an update of the proposed amendments to the RDC By-Laws. Mr. Manhard specifically noted that the Federal Economic Development Administration on October 1, 2018, approved of the RDC's amended loan administration plan which specifically, amongst other items, authorized the RDC Loan Committee to increase its maximum loan approval limit from \$350,000 to \$500,000. As

such, to implement this proposed change, Mr. Manhard noted it is necessary to amend the RDC's By-Laws to account for this change. Mr. Manhard then noted the specific changes being made to Article VI and Article XII of the By-Laws.

Ms. Gallagher moved and Mr. Poloncarz seconded to approve of the proposed amendments to the RDC By-Laws. Ms. McDuffie called for the vote and the following resolution was unanimously approved:

RESOLUTION AMENDING AND RESTATING THE BY-LAWS OF THE
BUFFALO AND ERIE COUNTY REGIONAL DEVELOPMENT
CORPORATION

At this point in time, Mr. Pridgen and Ms. McDuffie left the meeting.

Financial Report. Ms. Profic reviewed the financial statements, noting the RDC finished the month of October with total assets of \$18.5 million and net assets of \$18.2 million. The monthly income statement reflects net income of \$13,500. Operating revenue of \$46,000 was behind budget by \$1,000, and total expenses were below budget by \$3,500. The year to date income statement shows revenue of \$414,000, being \$53,000 below budget for the year, along with expenses of \$428,000, being \$89,000 under budget. The result is a net loss of \$14,000 through October. Mr. Lipsitz, acting in the absence of the Chair, directed that the report be received and filed.

2018 Loan Status Report/ 2018 Closing Schedule. Mr. Manhard presented this report. Mr. Poloncarz then queried as to the name of the company associated with the 2018 delinquency. Mr. Manhard noted it is ASI, Inc. and also noted that the loan is in workout status. Mr. Lipsitz directed that the report be received and filed.

Mr. Lipsitz then adjourned the meeting at 9:53 a.m.

Dated: November 28, 2018

Robert G. Murray, Secretary

Regional Development Corporation

Financial Statements

As of January 31, 2019

REGIONAL DEVELOPMENT CORPORATION ("RDC")

Balance Sheet
January 31, 2019

	January 2019	December 2018
ASSETS:		
Restricted Cash**	\$ 5,845,433	\$ 5,963,260
Direct Loans *	13,115,342	12,927,117
50/50 Bank Participation Loans *	231,684	235,971
Reserve for Loan losses	(449,810)	(449,810)
Total Loan Assets, net	<u>12,897,216</u>	<u>12,713,278</u>
TOTAL ASSETS	<u><u>\$ 18,742,649</u></u>	<u><u>\$ 18,676,538</u></u>
 LIABILITIES & NET ASSETS		
Accounts Payable	\$ 440	\$ 315
Due to ECIDA	<u>384,627</u>	<u>352,232</u>
Total Liabilities	<u>385,067</u>	<u>352,547</u>
Restricted Fund Balance	<u>18,357,582</u>	<u>18,323,991</u>
TOTAL LIABILITIES & NET ASSETS	<u><u>\$ 18,742,649</u></u>	<u><u>\$ 18,676,538</u></u>

* Loan Portfolio Summary:	January 2019	December 2018
# of Direct Loans	43	44
# of 50/50 Bank Participation Loans	3	3
	<u>46</u>	<u>47</u>

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

REGIONAL DEVELOPMENT CORPORATION ("RDC")

Income Statement

Year to Date: January 31, 2019

	Actual vs. Budget			Actual vs. Prior Year		
	Actual	Budget	Variance	Actual	Prior Year	Variance
REVENUES:						
Interest Income - Loans	\$ 42,996	\$ 43,333	\$ (337)	\$ 42,996	\$ 33,156	\$ 9,840
Interest Income - Cash & Inv.	3,528	833	2,695	3,528	422	3,106
Administrative Fees	700	833	(133)	700	-	700
Other Income	18,963	1,667	17,296	18,963	175	18,788
Total Revenues	66,186	46,667	19,520	66,186	33,753	32,433
EXPENSES:						
Management Fee - ECIDA*	29,200	29,167	33	29,200	29,750	(550)
Rent & Facilities Expenses	1,900	1,917	(17)	1,900	1,500	400
Professional Services	200	2,250	(2,050)	200	200	-
General Office Expenses	-	283	(283)	-	-	-
Other Expenses	-	1,340	(1,340)	-	75	(75)
Total Expenses	31,300	34,956	(3,656)	31,300	31,525	(225)
NET INCOME/(LOSS):	\$ 34,886	\$ 11,710	\$ 23,176	\$ 34,886	\$ 2,228	\$ 32,659

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



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

	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



Loan Status Report November 28, 2018 – February 26, 2019

<u>RDC Loans Approved Since Last Meeting</u>	<u>Municipality</u>	<u>Amount</u>
(None)		

<u>RDC Loans Closed Since Last Meeting</u>	<u>Municipality</u>	<u>Amount</u>
Herb 'N Garden (Agriculture)	Grand Island	\$ 140,000

<u>Loans in Closing Process</u>	<u>Municipality</u>	<u>Amount</u>
(None)		

<u>Loans in the Pipeline</u>	<u>Municipality</u>	<u>Amount</u>
Lily Belle Meads, Inc. (Honey based products)	Lancaster	\$ 50,000
HLM Landscaping & Snow Removal (Contractor)	Buffalo	\$ 30,000
Park Edge Company Corp. (Chocolate manufacturing)	Buffalo	\$ 40,000
WNY Beer Club (Brewery)	Buffalo	<u>\$ 150,000</u>
		<u>\$ 270,000</u>

<u>2019 Delinquency</u>	<u>Loan Balance Outstanding</u>	<u>Delinquency Rate</u>
2 Accounts	\$434,095	3.3%

<u>2018 - Loans Closed</u>	<u>YTD Loan Total YTD</u>	<u>Total New Jobs Projected</u>	<u>Retained Jobs</u>	<u>Private Investment</u>
6	\$5,133,500	66	68	\$10,544,450

<u>2019 - Loans Closed</u>	<u>YTD Loan Total YTD</u>	<u>Total New Jobs Projected</u>	<u>Retained Jobs</u>	<u>Private Investment</u>
1	\$140,000	16	0	\$230,000

RDC Loan Closings 2018

Project Name	Loan Amount	Jobs at App	Projected Year 3 Jobs	Project City	Closing Date	Project Product
Harker Bio	\$ 500,000	14	24	Buffalo	3/7/2018	RDC Loan
EcoVerde Organics, LLC	\$ 180,000	0	6	Buffalo	3/8/2018	RDC Loan
USTraffic Controls	\$ 236,500	17	22	Tonawanda	3/23/2018	RDC Loan
Buffalo Brewery Leasing	\$ 1,700,000	2	13	Buffalo	6/22/2018	RDC Loan
Viridi Parente, Inc.	\$ 1,400,000	10	38	Buffalo	8/15/2018	RDC Loan
Tomric Systems, Inc.	\$ 1,117,000	25	31	Buffalo	9/20/2018	RDC Loan

6 Projects Closed
 66 Jobs Projected \$ 5,133,500 68 134

Total:

RDC Loan Closings 2019

Project Name	Loan Amount	Jobs at App	Projected Year 3 Jobs	Project City	Closing Date	Project Product
Herb'N Garden	\$ 140,000	4	20	Buffalo	1/14/2019	RDC Loan

1 Project Closed
16 Jobs Projected \$ 140,000 4 20

Total: