



**RENAISSANCE  
COMMERCE PARK**

**REQUEST FOR PROPOSALS:  
Development of Light Manufacturing Facility**

**Submitted no later than Friday, September 6<sup>th</sup> at 1:00pm to:**  
ECIDA-ILDC, 95 Perry Street, Suite 403, Buffalo, New York 14203

**Buffalo and Erie County Industrial Land Development Corporation  
Erie County**

**REQUEST FOR PROPOSALS**

**DEVELOPMENT SERVICES**

**for the construction of a light manufacturing facility at  
Renaissance Commerce Park (former Bethlehem Steel Site) in Lackawanna, NY**

**I. INTRODUCTION**

The Buffalo and Erie County Industrial Land Development Corporation (ILDC), a fully owned subsidiary of the Erie County Industrial Development Agency (ECIDA), is seeking proposals for the purchase of an 11.5-acre parcel (parcel #2) and a 12.23-acre (parcel #3) for the development of a light manufacturing facility at a minimum size of 200,000 sq. ft. to be located adjacent to the Dona Street Road extension at Renaissance Commerce Park (RCP), the former Bethlehem Steel site in Lackawanna, New York.

The ILDC is seeking proposals from qualified and experienced, developers, including experience in developing on brownfields, that are prepared to act as a designated developer to develop and construct a light manufacturing facility on behalf of a light manufacturing company or companies produced by the developer themselves. Additionally, the ILDC will accept proposals from light manufacturing companies that are interested in purchasing land and constructing a facility by choosing their own developer through their own process.

**II. PROJECT SUMMARY**

As noted above, the ILDC is seeking proposals from developers and light manufacturing businesses for the purchase of parcels #2 and #3 (see Attachment A) on RCP, roughly 23 acres, for the development of a light manufacturing facility of at least 200,000 sq. ft. Developers submitting proposals would serve as a designated developer for the property and have a predetermined timeline (outlined below in section III) to find a light manufacturing company to build for, start the project and finish the facility. If a light manufacturing company's proposal is chosen, there will be a predetermined timeline for starting and completing the project.

Due to the unique nature of site infrastructure and incentives, special priority will be given to projects that propose significant capital investment in facilities and equipment, show meaningful job creation and growth potential, manufacture or utilize renewable energy and green technologies, and where appropriate can take advantage of the site's proximity to the Canadian border.

Additionally, special consideration will be given to projects that need or plan to utilize special site infrastructure in their business operations, including, rail, port water-based transportation, process cooling or untreated water users, Renewable Energy District or Micro Grid Formation.

**III. DEVELOPMENT OBJECTIVES**

The ILDC is committed to developing the Renaissance Commerce Park as a premier industrial park to attract investment, create employment, and leverage the site's unique infrastructure assets and proximity to international markets to boost exports for the economic benefit of the region.

Development should encourage reasonably intensive building coverage and job density requirements:

- **Required**
  - Light manufacturing company or companies as end user
  - Facility at least 200,000 sq. ft.
  - At least 150 jobs in the facility at time of opening and throughout the life of the facility
  - MWBE participation rate of 30% on construction of facility
  
- **Encouraged/Special Consideration**
  - Development with a minimum building lot coverage of 20% or greater
  - Strong preference for projects that partner with local workforce organizations to promote employment opportunities to residents of the City of Lackawanna and Erie County
  - Higher quality architectural façade on public facing portions of the project, including exterior materials, landscaping, etc.
  
- **Land speculation projects will not be considered!**

#### **IV. PROJECT TIMELINE**

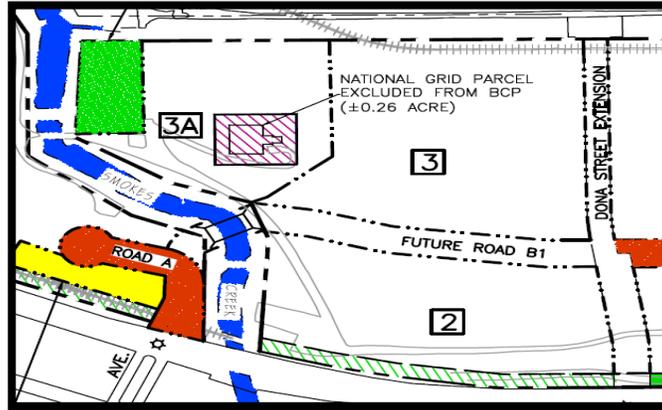
The designated developer will have up to 12 months from the date of an executed contract (or closing of the property if ILDC chooses to sell the parcels at the beginning of the process) with the ILDC to secure a company for whom the light manufacturing facility will be constructed. Subsequently, the developer will have an additional 18 months from the date of closing to commence and complete construction of the project, obtaining the necessary approvals and a certificate of occupancy.

In the case that a light manufacturing company's proposal is chosen, the company will have within 12 months from of the closing date to commence construction of the project and an additional 18 months from commencement to finish the project, obtaining the necessary approvals and a certificate of occupancy.

#### **V. PROJECT LOCATION**

The Project is located at the former Bethlehem Steel site, now known as Renaissance Commerce Park, in the City of Lackawanna, which borders the City of Buffalo. The address for the park is **2303 Hamburg Turnpike, Lackawanna, NY 14218**. The commerce park is located just off Route 5 in the City of Lackawanna. The parcels for the project, parcels #2 and #3 on the park's masterplan (Attachment X), are located just south of the Dona St. extension on the property.

## Parcels #2 and #3 from the RCP Masterplan Map



**NOTE:** “Future Road B1” as illustrated on the masterplan map running through parcels #2 and #3 is no longer in the ILDC development plans

## VI. BACKGROUND

The former **Bethlehem Steel site, now known as Renaissance Commerce Park**, is located in the City of Lackawanna bordering the City of Buffalo. The property is one of the largest brownfield sites in upstate NY encompassing over 1,000 acres, of which 240 acres are available for near-term development owned by the ILDC. It is the only site in Erie County with rail, port, and easy highway access. The 240 acres owned by the ILDC and ready for near-term use are in the NYSDEC Brownfield Cleanup Program (BCP) and are eligible for tax credits.

The ILDC, in conjunction with Erie County, New York State, the City of Lackawanna and other regional stakeholders, are working to redevelop RCP into a 21<sup>st</sup> Century industrial commerce park. As part of that effort, the ILDC acquired approximately 150 acres at the site in 2017 and acquired an additional roughly 90 acres in 2021 for industrial development.

RCP in its entirety, including Parcels #2 and #3, is subject to a Masterplan ([see Attachment A](#)) and a Generic Environmental Impact Statement ([see Attachment C](#)) that considers the redevelopment of RCP and the construction and installation of public streets and utility corridors. As part of the overall site redevelopment through the funding and leadership of Erie County, the ILDC has been collaborating with its regional partners to redevelop the property, including the installation of a new water and sewer infrastructure; roads; removal and relocation of rail tracks; as well as construction of a public multi-use trail, the Shoreline Trail extension.

**Figure 1: RCP Redevelopment History**

2012-2017	2018-2019	2020-2021
<ul style="list-style-type: none"> <li>• Erie County raises funds</li> <li>• Funds Transferred to ILDC</li> <li>• ECIDA Board vote to approve acquisition funding</li> </ul>	<ul style="list-style-type: none"> <li>• Master Plan/DGEIS</li> <li>• Phase I relocation of rail tracks (NYSDOT)</li> <li>• Dona St. extension</li> </ul>	<ul style="list-style-type: none"> <li>• Phase 2 shoreline trail environ. study</li> <li>• Dona Street open to public</li> <li>• Public meeting DGEIS</li> </ul>

- 148-acres purchased
- NYSDEC 88 acres capped - brownfield COC issued
- Shoreline Bike Path Phase I
- Site is certified a federal OZ
- Public meeting – Master Plan
- Additional acreage purchase
- Public meeting – scoping document
- 1<sup>st</sup> manufacturing tenant breaks ground on ILDC land
- Branding/ industrial park
- Phase 2 shoreline trail environmental study complete
- Phase 2 purchase – negotiations for additional 90-acres

2021	2022	2023-2024 Projections
<ul style="list-style-type: none"> <li>• Design &amp; engineering water and sewer extension Odell and Dona Streets</li> <li>• Complete Bethlehem Steel Shoreline study</li> <li>• Construction of new mainline railroad track</li> </ul>	<ul style="list-style-type: none"> <li>• TMP Technologies opens 290,000 sq. ft. manufacturing facility</li> <li>• Uniland begins construction on 1<sup>st</sup> 150,000 sq. ft. spec warehouse along Dona St.</li> <li>• Uniland announces purchase of adjacent parcel to first spec warehouse site for second bldg</li> <li>• ECIDA/ILDC negotiate with Tecumseh and G&amp;W Railroad to move railyard from Phase 2 Purchase area, paving the way for the shoreline trail extension and development of public access greenspace along the waterfront</li> </ul>	<ul style="list-style-type: none"> <li>• Construction of sewer &amp; water infrastructure</li> <li>• Begin project development activities (NEPA, design, easement, etc.) for final rail relocation on Phase 2b Purchase</li> <li>• Uniland completes second spec building</li> <li>• Shoreline Trail extension design</li> <li>• Grant Awards (FAST NY)</li> <li>• New road construction Odell Street and Ridge Road corridors</li> </ul>

The above-referenced investments have helped prepare the site for private development to address the regional need for vacant industrial-zoned property and attract new and growing manufacturing companies. Currently, TMP Technologies, Welded Tube, Uniland Development, Sucro Sourcing, Total Quality Assurance International, Max Advanced Breaks and KPM Exceptional all operate at RCP as a tenant, developer, or owner/operator. ***Since 2013, there has been over \$130,000,000 in private investment on the site and over 400 jobs created. New York State, Erie County, the ECIDA, City of Lackawanna and the Federal government have partnered and invested nearly \$40,000,000 to create and manage public infrastructure on RCP.***

**Figure 2: Public & Private Investment at RCP**

Funding Source	Description
<i>NYS Department of Transportation</i>	Relocation of railroad infrastructure Phase I
<i>Erie County</i>	Dona Street Extension Construction
<i>NYS Buffalo Billion</i>	Steelworkers Way Road Construction
<i>Erie County</i>	Construction of Entry Sign
<i>NYS Buffalo Billion, U.S. Economic Development Administration, Erie County</i>	Odell and Ridge Rd Water and Sewer Design and Construction
<i>NYS DOT Passenger Freight Rail Assistance Program (2016, 2018, 2021)</i>	Various Industrial and Short- line rail improvement projects
<i>U.S. Economic Development Administration</i>	Develop Utility Master Plan & GEIS for Bethlehem Steel Redevelopment Site
<i>National Grid Brownfield Redevelopment Grant</i>	Pre-development activities, survey, market study, branding/sign design, etc.
<i>NYS Buffalo Billion - ILDC/ECIDA Land Acquisition</i>	Phase 1 & 2a Purchase Area
<i>New York State FASTNY Grant &amp; Erie County</i>	WYE Yard Rail Relocation Project
<i>Erie County</i>	Design and Construction of Shoreline Trail Phase I
<i>Erie County</i>	New Public Waterline on South End
Business/Developer	Description
TMP	Constructed 280,000 sq. ft. manufacturing building, creating at least 168 jobs.
Sucro Sourcing	Acquisition and development of former Bethlehem Steel site structures for manufacturing, creating at least 100 jobs.

Sucro Sourcing	Coming in 2024-2025: Constructing 126,000 sq. ft. warehouse on parcel #8 that will create at least 25 jobs.
Uniland Development	Constructed two (2) 150,000 sq. ft. spec manufacturing buildings. 8 Dona is complete and 100% occupied, creating at least 41 jobs; 2 Steelworkers Way is almost complete with one tenant signed already, creating at least a total of 41 jobs when fully operational.
Welded Tube	Constructed 160,000 sq. ft. manufacturing facility, creating at least 93 jobs.

(NOTE: Please see **Attachment B** for Projects Map of the site that shows where developments and infrastructure projects are located.)

**VII. SITE INFORMATION/INCENTIVES**

The ILDC is seeking to sell RCP Parcels #2 and #3, as depicted on the parcel surveys (see **Attachments D and E**), for the construction of a new light manufacturing facility at a minimum size of 200,000 sq. ft., located immediately south of the Dona Street extension road, attracting new and/or growing companies to the site. Parcels #2 and #3 have significant advantages making it ideal for redevelopment, including Brownfield Tax Credits, access to public utilities, Opportunity Zone designation, New Market Tax Credits, intermodal transportation assets and adjacent to a new public road among other advantages.

The site has several unique features providing significant advantages for development overall. Renaissance Commerce Park is the only site in Erie County with rail, port, and easy highway access. The site is an intermodal transportation center and international manufacturing site, with the Port of Buffalo, interstate access on the I-90 corridor, and international bridge crossings located nearby (Canadian border). South Buffalo Railway has direct rail connections with four major rail carriers at the site, including CSX, Norfolk Southern, and international carriers Canadian Pacific and Canadian National.

Both parcels have been accepted into the **New York State Brownfield Cleanup Program** (BCP). Parcel #2 has been given BCP Site Number C915198F and is alternatively referred to as Renaissance Commerce Park BCP Site II-6. Parcel #3 has been given a BCP Site Number of C915198G and is alternatively referred to as Renaissance Commerce Park Site II-7. The property has been remediated and is in cover ready condition, meaning it requires only fill placement as the last activity necessary to be undertaken to permit the BCP Certificate of Completion (COC) to be issued. Upon COC issuance, Parcel#2 will be eligible for significant BCP tax credits. As part of the BCP designation the site is subject to an environmental easement and a Soils Management Plan (SMP) which outlines the requirements for managing the soils on the property. A copy of the SMP is included for your review and information (see **Attachment F**).

The property is eligible for various incentives through the BCP program upon completion of a final remedy “cover” for the site. The cover can include any impervious facilities, buildings, roadways, parking lots, etc., and/or one foot of clean fill material. Upon completion of the proposed facility and cover system the project would be eligible for substantial benefits under Generation 3 of the BCP program (Certificate of Completion needed by December 31, 2036). For more details on the BCP program and benefits visit the NYS DEC website at: <https://www.dec.ny.gov/chemical/101350.html>.

The project would be eligible to apply for the incentives through the Erie County Industrial Development Agency's (ECIDA) tax incentive program. ECIDA incentives are generally available to encourage investment and job creation on the site. Incentives can help lower the costs associated with the construction and financing of the building and help lower operating costs through various tax abatements. Information on ECIDA benefits and requirements are available at: [www.ecidany.com](http://www.ecidany.com).

The site is in a **Qualified Opportunity Zone** (Census Tract 174), established by Congress in the Tax Cuts and Jobs Act of 2017 to encourage long-term investments in low-income communities. The Opportunity Zones program offers investors tax incentives in exchange for putting investment capital to work in low-income areas. More information on Opportunity Zones can be found at: <https://www.irs.gov/credits-deductions/businesses/opportunity-zones>.

The development of the site is part of the overall Masterplan and GEIS the ILDC finalized in 2021 for the development of the 240-acre commerce park. A copy of the Masterplan map is included for your review and information (see **Attachment A**).

The City of Lackawanna has adopted a special zoning overlay district, the **Bethlehem Redevelopment Area (BRA)**, for the property and the site is presently zoned **Light Industrial**. A copy of the BRA zoning regulations is included for your review and information (see **Attachment G**).

A 16-inch water line and an 8-inch sanitary sewer line are available along the frontage of the Dona Street corridor. Additionally, electric, communication and other utilities are generally available along Route 5. In regard to the electric, voltages up to 115kv can be accommodated.

## **VIII. PROJECT DEVELOPMENT**

The intent of the project will be to seek a purchaser to acquire Parcels #2 and #3 from the ILDC and construct a new minimum 200,000 sq. ft. light manufacturing facility on the site. To encourage further redevelopment of the site, meet time restrictions regarding the New York State Brownfield Cleanup Program, and to avoid land speculation, the project would need to be constructed within a specific time window as outlined above in section III.

Project proposals should demonstrate willingness and ability to promptly proceed with the tenant search, land acquisition, construction initiation, and construction completion. Proposals shall include the anticipated approach to project financing and time frame for securing site plan approval, financing commitments, construction commencement, and construction completion. The proposal must also include the methodology and approach for the tenant search, including a timeline and description of resources being used. The selected RFP respondent will be granted preferred developer status subject to negotiation and execution of a purchase and sale agreement (PSA) by the preferred developer/company and the ILDC. The PSA will govern the transfer of Parcels #2 and #3 and clearly define the scope of the project and the development term based on the terms and conditions of sale as approved by the ILDC.

Parcels #2 and #3 are enrolled in and subject to the NYS BCP program and as such, come with the ability to claim significant BCP tax credits along with BCP environmental liability relief and easements. The developer/purchaser must be willing to become a party to the BCP agreement,

must obtain the BCP COC by December 31, 2036, and must agree to the ILDC specific environmental indemnity and releases ([See Attachments H-J](#)).

In the event that respondent is designated to enter into negotiations with the ILDC for the potential purchase and development of Parcels #2 and #3, respondent agrees to pay the reasonable out-of-pocket fees, costs, and expenses (including, without limiting the foregoing, fees, costs, and expenses of legal counsel, consultants, architects, engineers, appraisers, surveyors, and others) that may be incurred by the ILDC in connection with respondent's submission, and any negotiations and transactions that may result from such submission, including all costs related to negotiating all agreements, documents and instruments regarding or related to the purchase, sale, and development of Parcels #2 and #3, required BCP compliance, preparation of materials for compliance with the New York State Public Authority Law, and preparation of materials for ILDC board of directors meetings and board of directors approval of required actions.

### **Site Acquisition**

Proposals shall include a purchase price for the parcels and proposals will be evaluated on a competitive basis evaluating several factors, including purchase price, job creation commitment, methodology and approach for the tenant search and timing. Proposals should include a lump sum acquisition price and a per acre price, a minimum bid of \$50,000 per acre.

### **Reservation of Rights**

At the time of conveyance, ILDC will reserve rights for the future extension of the Shoreline Trail bike path running adjacent to Route 5 and being approximately 50 feet wide along the easterly boundary of Parcel #2. ILDC will further reserve the right to define access points from Hamburg Turnpike over the bike path. The Parcel is further subject to easements and restrictions of record, including but not limited to the New York State Department of Environmental Conservation, Niagara Mohawk Power Corporation, Buffalo Southern Railroad, and U.S. Army Corps of Engineers.

### **Building Development**

Project proposals must include construction of a minimum 200,000 sq. ft. light manufacturing facility. Building design should include office space (if applicable), parking, truck docks and ceiling heights appropriate for typical manufacturing uses. Proposals shall include a rough site and floor plan of the proposed facility. Standards for visual quality and aesthetics will be applied to proposed buildings and landscaping given the viewshed from NYS Route 5.

Developer would be responsible for timely complying with all applicable zoning, BCP requirements and securing all required permits and approvals for site development and building construction.

## **IX. PROPOSALS**

### **Proposals shall include:**

1. Lump sum and per acre purchase price for the 11.5-acre parcel (parcel #2) and a 12.23-acre (parcel #3) (minimum bid \$50,000/acre).
2. Draft site and floor plan showing proposed development of a minimum 200,000 sq. ft. light manufacturing facility with appropriate amenities, including potential office areas, parking, truck docks, etc.
3. Proposed schedule/timeline showing key benchmark activities from property acquisition, tenant search to project completion, including acknowledgement of specific ILDC project schedule requirements and penalties.
4. Financial information indicating ability or plan to finance the project.
5. Background information on the project team highlighting relevant experience and expertise in developing similar projects.
7. Cost estimates indicating project development and construction costs.
8. Brief narrative explaining the approach and methodology the developer plans to implement, including resources, to achieve finding a light manufacturing company to build for.

### **Submission of Proposals**

Firms are required to complete Forms 1-4 and include them in their proposal. Eight (8) copies, and a PDF of the Proposal must be submitted with the proposer's name, due date, and proposal name "**Renaissance Commerce Park Light Manufacturing Facility**", no later than 1:00 pm on Friday, **September 6<sup>th</sup>** to:

ECIDA/ILDC, Attn: Andrew Federick  
95 Perry Street, Suite 403, Buffalo, New York 14203

**If you are planning on dropping off proposals, please call the office at 716-856-6525 to make arrangements. An electronic copy should be emailed to Andrew Federick at: [afederick@ecidany.com](mailto:afederick@ecidany.com). ECIDA's email server does have a limit of 10Mb, so documents larger than 10Mb will not be able to be received via email but can be received via Dropbox or ShareFile. The ECIDA is not responsible for ensuring receipt of your proposal, please call or email to confirm receipt. You may contact the ECIDA/ILDC offices at 716-856-6525 or Andrew Federick via email at [afederick@ecidany.com](mailto:afederick@ecidany.com).**

### **Selection Process**

ILDC will either select a developer/company or a list of developers/companies will be developed to be interviewed based on the review committee scoring of each proposal.

ILDC does not assume the responsibility or liability for costs incurred by firms responding to this RFP or to any subsequent requests for proposals, interviews, additional information, submissions, etc. prior to issuance of a contract.

ILDC reserves the right to pre-qualify applicants as part of the selection process.

After selection, the ILDC will negotiate a contract with the highest ranked developer/company, considering additional contractual requirements, including but not limited ability to meet schedule, breakdown of person-hours for assigned personnel for proposed tasks, and MWBE participation plan.

### **Clarifications**

Any requests for RFP clarifications or interpretations should be made in writing to ILDC no later than the close of business on Monday, **July 15<sup>th</sup>** attn. Andrew Federick; or e-mail to [afederick@ecidany.com](mailto:afederick@ecidany.com)). No requests for oral clarification or interpretations via telephone will be accepted.

### **Informational Meeting**

A virtual informational meeting will be held on **Monday, July 15<sup>th</sup> at 2:00pm** to address any general questions that potential respondents may have regarding this RFP. Potential respondents should contact the agency via email ([afederick@ecidany.com](mailto:afederick@ecidany.com)) to receive log-in information to the virtual meeting.

Documents supporting this RFP will be posted to the website listed below via a ShareFile link, including the attachments noted above in the RFP.

[https://www.ecidany.com/requests\\_for\\_proposals](https://www.ecidany.com/requests_for_proposals)

**NOTE: THE ILDC RESERVES THE RIGHT TO REJECT ANY OR ALL PROPOSALS AND TO WAIVE ANY INFORMALITIES THEREIN.**

## **X. NEW YORK STATE FINANCE LAW REQUIREMENTS**

### **Designated Individual – Procurement Lobbying Law**

Andrew Federick, Property and Business Development Officer  
Phone: 716-362-8364; Email: [afederick@ecidany.com](mailto:afederick@ecidany.com)

Pursuant to State Finance Law §§139-j and 139-k, this Request for Proposal includes and imposes certain restrictions on communications between ILDC members (including employees and Board members) and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest notice of intent to solicit Request for Proposals through final award and approval of the procurement contract by the ILDC (“restricted period”) to other than the above Designated Individuals unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). ILDC members (including employees and Board members) are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the 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 4-year period; the bidder is debarred from obtaining

governmental procurement contracts, and reported to the Authorities Budget Office (ABO), the ILDC's regulatory authority.

Bidders are required to complete Form in Attachment B regarding their understanding and agreement to comply with procedures on procurement lobbying restrictions regarding permissible contacts in the restricted period in accordance with State Finance Law §§139-j and 139-k.

### **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 ILDC 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 ILDC 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. ILDC 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 ILDC seek written affirmations from all Offerers/bidders as to the Offerer's/bidder's understanding of and agreement to comply with the ILDC'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 ILDC 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 ILDC with respect to State Finance Law §139-k is complete, true and accurate. It is recommended that the certification be provided to the ILDC 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 ILDC 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).

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 ILDC 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 ILDC.

### **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 ILDC 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 ILDC is required to include a statement in the procurement record describing the basis for any action taken under the termination provision.

#### **ECIDA Termination Provision**

Pursuant to New York State Finance Law §139-k(5), the ECIDA 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 may exercise its termination rights by providing written notification to the Offerer/bidder in accordance with the written notification terms of this contract.

## **Form 1 - Offerer/Bidder Certification**

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

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

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

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

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

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

## **Form 2: Non-Collusive Proposal Certification**

By submission of this proposal, each Bidder and each person signing on behalf of any Bidder certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:

- a) The prices in this proposal have been arrived at independently, without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;
- b) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and
- c) No attempt has been made or will be made by the Bidder to induce any other person, partnership, or corporation to submit or not to submit a proposal for the purpose of restricting competition.

### SUBMITTAL OF PROPOSAL

The undersigned submits the following proposal, which is in conformity with the intent of the RFP. The Bidder agrees that should it be awarded a contract on the proposal through the issuance of a contract from the Erie County Industrial Development Agency, it will provide the services in strict compliance with the contract documents for the compensation stipulated herein. The Bidder agrees that its proposal shall remain effective for a period of 90 days from the formal proposal receipt date.

\_\_\_\_\_  
Bidder

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

### **Form 3 – Permissible Contacts**

Bidder affirms that it understands and agrees to comply with the procedures of the ECIDA relative to permissible Contacts as required by State Finance Law §139-j (3) and §139-j (6) (b) – see page 1 & 2 for further information.

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

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

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

Bidder: \_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

**Form 4 - Disclosure of Prior Non-Responsibility Determinations**

Name of Bidder: \_\_\_\_\_

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

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

1. Has any Governmental Entity made a finding of non-responsibility regarding the Bidder 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: \_\_\_\_\_

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(Add additional pages as necessary)

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

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

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

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



# ATTACHMENT B – RCP Projects Map



PREPARED BY ERIE COUNTY DEPARTMENT OF ENVIRONMENT & PLANNING, OFFICE OF GEOGRAPHIC INFORMATION SERVICES, 11/30/2023

