



**Buffalo and Erie County Industrial Land Development Corporation  
Board of Directors Meeting**

**October 23, 2024  
At 12:30 p.m.**

**ECIDA Offices  
95 Perry Street, 4<sup>th</sup> Floor Conference Room  
Buffalo, New York 14203**

**1.0 Call to Order**

**2.0 Approval of Minutes**

2.1 Approval of the September 25, 2024 Minutes of the Board of Directors (Action Item) (Pages 2-3)

**3.0 Reports / Action Items / Information Items:**

3.1 Financial Report (Informational) (Pages 4-7)

3.2 Finance & Audit Committee Update (Informational)

a) 2025 Budget Timetable (Informational) (Page 8)

b) Approval of 2025 Proposed Budget (Action Item) (Pages 9-12)

3.3 Governance Committee Update – (Informational) (Page 13)

a) Legal RFP (Action Item) (Pages 14-17)

3.4 Loan Status Report (Informational) (Page 18)

**4.0 Management Team Reports:**

4.1

**5.0 Adjournment- Next - Meeting November 20, 2024**

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

**DATE AND PLACE:** September 25, 2024, at the Erie County Industrial Development Agency, 95 Perry Street, 4<sup>th</sup> Floor Conference Room, Buffalo, New York 14203

**PRESENT:** Denise Abbott, Daniel Castle, Hon. John J. Gilmour, Richard Lipsitz, Jr. and Hon. Mark C. Poloncarz

**EXCUSED:** Hon. April Baskin and Hon. Byron Brown

**OTHERS PRESENT:** John Cappellino, President & CEO; Mollie Profic, Chief Financial Officer; Jerry Manhard, Chief Lending Officer; Atiqah Abidi, Accounting Manager; Grant Lesswing, Director of Business Development; Carrie Hocieniec, Operations Assistant/Assistant Secretary; Brian Krygier, Director of Information Technology; Michelle Moore, Compliance Associate; and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC

**GUESTS:** Zachary Evans on behalf of Erie County; Mike Szukala on behalf of Erie County; Yessica Vasquez on behalf of the City of Buffalo; and Jonathan Epstein on behalf of the Buffalo News

There being a quorum present at 1:12 p.m., the Meeting of the Board of Directors of the Buffalo and Erie County Industrial Land Development Corporation was called to order by Mr. Poloncarz.

**MINUTES**

Ms. Abbott moved, and Mr. Gilmour seconded to approve of the June 26, 2024 minutes. Mr. Poloncarz called for the vote and the minutes were unanimously approved.

## REPORTS / ACTION ITEMS / INFORMATION ITEMS

Financial Report. Ms. Profic presented the August financial reports. The balance sheet shows ILDC ended August with total assets of \$14.8M. Restricted cash has been higher the past few months due to replenishment of the Buffalo Billion II imprest account in May. Net assets continue to hold around \$7.6M. The August income statement includes \$339,000 of operating revenue, \$341,000 of expenses and \$2,000 of net special project expenses. There was a tax-exempt bond that closed in August, and under the shared services agreement with ECIDA that fee was passed through from ILDC. Factoring in non-operating income there was a net loss of \$5,309 in August. The year-to-date income statement shows operating revenues of \$379,000 and operating expenses of \$365,000. Net special project grant revenue of \$6,500 and \$1,200 of non-operating revenue leads to net income of \$21,515 so far in 2024. Mr. Poloncarz directed that the report be received and filed.

Finance and Audit Committee Update. Mr. Szukala, Chair of the Finance and Audit Committee, provided a report to the Board and noted that the Finance & Audit Committee unanimously recommended the 2025 budget be approved subject to changes of \$60,000 or more. Ms. Profic reviewed the 2025 proposed budget timeline. Ms. Profic noted the budgets have been reviewed and discussed in detail twice by the Finance & Audit Committee. After today's presentation of the draft budget to the Board, there will be two Budget Q&A sessions for Board members on October 3 and October 8. These are optional sessions, with one in person and one via Zoom. Calendar invitations for both sessions will be sent to board members after today's meeting as placeholders if you wish to attend. The budget will be presented for formal approval at next month's meeting. Budgets must then be submitted to the ABO by November 1. Ms. Profic then presented a PowerPoint of the proposed 2025 budget. Mr. Poloncarz directed that the report be received and filed.

Loan Status Report. Mr. Manhard provided this report to Board members. Mr. Poloncarz directed that the report be received and filed.

## MANAGEMENT TEAM REPORTS

MN8 Long-Term Lease at 3445 River Road. Mr. Cappellino noted that MN8 has closed on its lease option agreement for the ILDC's property at 3445 River Road, Tonawanda, New York.

Renaissance Commerce Park Parcel 4A Update. Mr. Cappellino noted Uniland has terminated its letter of intent for purchase of Parcel 4A due to current economic and market conditions, making consideration of a spec-building too difficult at this time.

There being no further business to discuss, Mr. Poloncarz adjourned the meeting at 1:27 p.m.

Dated: September 25, 2024

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Elizabeth A. O'Keefe, Secretary

**Industrial Land Development Corp.**

**Financial Statements**

As of September 30, 2024

## INDUSTRIAL LAND DEVELOPMENT CORPORATION ("ILDC")

### Balance Sheet September 30, 2024

	September 2024	August 2024	December 2023
<b>ASSETS:</b>			
Restricted Cash *	\$ 3,354,055	\$ 3,346,073	\$ 407,345
Grants Receivable	3,913,558	3,913,558	9,191,178
Loans Receivable, net	411,299	452,884	495,740
Prepaid Expenses	1,197	1,596	-
Prepaid Acquisition Costs	702,402	701,579	697,929
Total Loan Assets	8,382,512	8,415,691	10,792,192
Capital Assets	6,358,995	6,358,672	6,356,268
 Total Assets	<b>\$ 14,741,507</b>	<b>\$ 14,774,362</b>	<b>\$ 17,148,460</b>
<b>LIABILITIES &amp; NET ASSETS:</b>			
Accounts Payable	\$ 3,660	\$ 2,466	\$ 879,715
Due to/(from) ECIDA	3,846,168	3,481,231	4,519,375
Other Liabilities	3,320,721	3,683,595	4,163,816
Total Liabilities	7,170,549	7,167,292	9,562,905
Restricted Fund Balance	7,570,958	7,607,070	7,585,555
Total Liabilities & Net Assets	<b>\$ 14,741,507</b>	<b>\$ 14,774,362</b>	<b>\$ 17,148,460</b>

<b>Loan Portfolio Summary:</b>	<b>September 2024</b>	<b>August 2024</b>	<b>December 2023</b>
# of Loans	<b>41</b>	<b>41</b>	<b>40</b>

\* 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**

Month of September 2024

	<b>Actual vs. Budget</b>		
	<b>Actual</b>	<b>Budget</b>	<b>Variance</b>
<b>REVENUES:</b>			
Interest Income - Loans	\$ 1,747	\$ 1,417	\$ 330
Grant Income - Microloan Program	-	13,667	(13,667)
Proceeds from (Cost of) Land Sales	-	(20,798)	20,798
<b>Total Revenues</b>	<b>1,747</b>	<b>(5,714)</b>	<b>7,461</b>
<b>EXPENSES:</b>			
Management Fee - ECIDA	\$ 2,000	\$ 2,000	\$ -
Professional Services	2,016	5,600	(3,584)
General Office Expenses	-	417	(417)
Other Expenses	-	840	(840)
<b>Total Expenses</b>	<b>35,363</b>	<b>8,856</b>	<b>26,506</b>
<b>SPECIAL PROJECT GRANTS:</b>			
Industrial Land Park - ESD	360,437	241,554	118,883
Industrial Land Park - EDA	-	132,540	(132,540)
Industrial Land Park - ECIDA	-	8,333	(8,333)
Angola Ag Park - ECIDA Grant	-	4,167	(4,167)
Other grant revenue	2,500	22,564	(20,064)
Industrial Land Park grant reimbursement	-	(25,000)	25,000
Industrial Land Park costs	(362,269)	(382,427)	20,158
Angola Ag Park costs	(801)	(4,167)	3,365
Other grant expenses	(2,500)	(22,564)	20,064
<b>Total Special Project Grants</b>	<b>(2,634)</b>	<b>(25,000)</b>	<b>22,366</b>
<b>NET OPERATING INCOME/(LOSS):</b>	<b>(36,250)</b>	<b>(39,571)</b>	<b>3,321</b>
<b>NONOPERATING REVENUE:</b>			
Interest Income	137	167	(29)
<b>Total Nonoperating Revenue</b>	<b>137</b>	<b>167</b>	<b>(29)</b>
<b>NET INCOME/(LOSS):</b>	<b>\$ (36,112)</b>	<b>\$ (39,404)</b>	<b>\$ 3,292</b>

\* Represents an allocation of salary and benefit costs from the ECIDA based on time charged to ILDC. The amount booked is currently based on 2024 budget.

**INDUSTRIAL LAND DEVELOPMENT CORPORATION ("ILDC")**  
**Income Statement**  
Year to Date: September 30, 2024

	Actual vs. Budget			Actual vs. Prior Year		
	Actual	Budget	Variance	Actual	Prior Year	Variance
<b>REVENUES:</b>						
Interest Income - Loans	\$ 15,061	\$ 12,750	\$ 2,311	\$ 15,061	\$ 15,334	\$ (273)
Grant Income - Microloan Program	28,555	123,000	(94,445)	28,555	129,000	(100,445)
Proceeds from (Cost of) Land Sales	-	(187,180)	187,180	-	-	-
Other Income	337,017	-	337,017	337,017	11,200	325,817
<b>Total Revenues</b>	<b>380,633</b>	<b>(51,430)</b>	<b>432,063</b>	<b>380,633</b>	<b>155,534</b>	<b>225,099</b>
<b>EXPENSES:</b>						
Management Fee - ECIDA	\$ 355,013	\$ 18,000	337,013	\$ 355,013	\$ 53,600	\$ 301,413
Provision for Loan Losses	31,347	52,500	(21,153)	31,347	-	31,347
Professional Services	10,609	50,400	(39,791)	10,609	4,893	5,716
General Office Expenses	422	3,750	(3,328)	422	(0)	422
Other Expenses	195	7,556	(7,361)	195	(840)	1,035
<b>Total Expenses</b>	<b>397,586</b>	<b>132,206</b>	<b>265,379</b>	<b>397,586</b>	<b>57,653</b>	<b>339,933</b>
<b>SPECIAL PROJECT GRANTS:</b>						
Industrial Land Park - ESD	763,006	2,173,985	(1,410,978)	763,006	1,843,338	(1,080,332)
Industrial Land Park - EDA	32,267	1,192,862	(1,160,596)	32,267	1,311,448	(1,279,181)
Industrial Land Park - ECIDA	98,064	75,000	23,064	98,064	180,651	(82,587)
Angola Ag Park - ECIDA Grant	12,545	37,500	(24,955)	12,545	29,680	(17,135)
Other grant revenue	47,522	203,072	(155,550)	47,522	163,212	(115,690)
Industrial Land Park grant reimbursement	-	(225,000)	225,000	-	-	-
Industrial Land Park costs	(891,410)	(3,441,847)	2,550,437	(891,410)	(3,240,334)	2,348,924
Angola Ag Park costs	(13,415)	(37,500)	24,086	(13,415)	(13,774)	359
Other grant expenses	(47,522)	(203,072)	155,550	(47,522)	(13,352)	(34,170)
<b>Total Special Project Grants</b>	<b>1,058</b>	<b>(225,000)</b>	<b>226,058</b>	<b>1,058</b>	<b>260,869</b>	<b>(259,811)</b>
<b>NET OPERATING INCOME/(LOSS):</b>	<b>(15,894)</b>	<b>(408,636)</b>	<b>392,742</b>	<b>(15,894)</b>	<b>358,750</b>	<b>(374,644)</b>
<b>NONOPERATING REVENUE:</b>						
Interest Income	1,297	1,500	(202)	1,297	2,985	(1,688)
<b>Total Nonoperating Revenue</b>	<b>1,297</b>	<b>1,500</b>	<b>(202)</b>	<b>1,297</b>	<b>2,985</b>	<b>(1,688)</b>
<b>NET INCOME/(LOSS):</b>	<b>\$ (14,597)</b>	<b>\$ (407,136)</b>	<b>\$ 392,540</b>	<b>\$ (14,597)</b>	<b>\$ 361,735</b>	<b>\$ (376,332)</b>

\* Represents an allocation of salary and benefit costs from the ECIDA based on time charged to ILDC. The amount booked is currently based on 2024 budget.

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

**2025 Budget Process**

<b>Date</b>	<b>Description</b>	
July-August	Review of draft 2025 budgets by ECIDA management. (a) Prioritize any proposed budget requests for initiatives. (b) Formal budget requests compiled.	✓
August 20	Finance & Audit Committee meeting – initial review and discussion of proposed budgets.	✓
September 17	Finance & Audit Committee meeting to discuss any updates/recommend proposed budgets to Boards.	✓
September 25	Review of 2025 proposed budgets at Board meetings.	✓
October 3 10:30 a.m.	Board Q&A budget session #1 <u>in person</u> (voluntary).	✓
October 8 10:00 a.m.	Board Q&A budget session #2 <u>virtual</u> (voluntary).	✓
October	Adjustments to budget based on Board feedback and Finance & Audit Committee recommendation of final budgets ( <i>if necessary</i> ).	✓
October 23	Board meetings – action to approve final 2025 budgets.	
November 1	Deadline for final approved budgets to be submitted to the ABO.	



**Buffalo & Erie County  
Industrial Land Development Corp  
Proposed 2025 Budget**

# *Industrial Land Development Corporation (ILDC)*

## **2025 Budget + 3 Year Forecast**

The Industrial Land Development Corporation (“ILDC”) consists of two sub-funds (Erie County’s Business Development Fund (“BDF”) and a general fund. The ILDC administers the BDF microloan fund on behalf of Erie County for HUD-eligible small businesses that would not otherwise be able to obtain such financing from commercial sources. The ILDC also issues tax-exempt bonds on behalf of various not-for-profit organizations in Erie County.

### **A. Overview of Changes in 2025 Budget:**

A summary of the key changes between the 2025 budget and the projected 2024 results:

- The Erie County BDF microloan fund is a loan/grant program. New loans are funded with grant income from Erie County passed through the ECIDA. The forgivable portion of the loan/grant is added to the provision for loan losses in the year of closing.
- Grant funding for ILDC operations is budgeted for 2025, and would be used for carrying costs associated with ILDC-owned properties and ECIDA staff time.
- The ECIDA Management Fee represents fees charged by ECIDA for services that its employees provide related to projects related to ILDC-owned properties and the Erie County BDF microloan fund. This is expected to increase in 2025 due to operational grant funds.
- Professional services consist of legal, consulting, and auditing costs, and are budgeted to increase by about \$10,000 in 2025. This is due to the legal costs associated with land owned and environmental consulting costs anticipated in 2025.
- The Special Projects section of the budget relates to grants. ILDC expects to recognize \$1.6 million of grant revenue from Empire State Development in 2025 related to infrastructure and engineering work at Renaissance Commerce Park. A total of \$125,000 is budgeted to be used in 2025 for carrying costs related to owned properties, which will be granted by ECIDA’s UDAG fund if operational grant funds received are fully utilized. Other grant revenue consists of \$256,000 for infrastructure at the ILDC’s Evans property.
- There is no land sale revenue or cost of land sales budgeted for 2025, although that is subject to change. A request for proposals for land acquisition and development was issued in 2024, however no contracts or agreements were in place as of the time this budget was prepared.

### **B. Summary of Risk Factors impacting the 2025 Budget:**

The following significant risk factors may influence the 2025 budget:

1. Due to numerous uncertainties, the value of collateral, guarantees, etc., the ILDC may experience loan losses that are currently not included in the budget.
2. In the past, the ILDC has generated fee income from issuing tax-exempt debt. These monies are received directly by ILDC and then paid to ECIDA. However, due to the infrequent nature of these activities, and the uncertainty as to when such transactions will occur, ILDC has not included any bond closings in the 2025 budget. It is possible a tax-exempt bond is issued within the next year and both income and expenses will be recognized, accordingly.

**BUFFALO & ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION ("ILDC")**  
**Proposed Budget for 2025**

	<b>Proposed Budget 2025</b>	<b>Approved Budget 2024</b>	<b>Projected 2024</b>	<b>Actual 2023</b>
<b>REVENUES:</b>				
Interest Income - Loans	\$ 19,000	\$ 17,000	\$ 19,972	\$ 20,025
Grant Income	234,000	164,000	28,555	129,000
Operational Grant	250,000	-	-	-
Proceeds from Land Sales	-	600,000	548,900	-
Less: Cost of Land Sales	-	(849,574)	(423,900)	-
Other Income	23,667	-	344,017	11,200
Interest Income - Cash & Investments	2,000	2,000	1,740	3,695
<b>Total Revenues</b>	<b>528,667</b>	<b>(66,574)</b>	<b>519,283</b>	<b>163,920</b>
<b>EXPENSES:</b>				
ECIDA Management Fee*	174,000	24,000	361,013	(31,547)
Provision for Loan Losses	105,000	105,000	105,000	189,048
Professional Services	45,400	67,200	37,558	7,711
Development & Marketing Expenses	5,000	5,000	650	-
Other Expenses	7,375	10,075	1,580	(1,044)
<b>Total Expenses</b>	<b>336,775</b>	<b>211,275</b>	<b>505,800</b>	<b>164,168</b>
<b>SPECIAL PROJECTS:</b>				
Renaissance Commerce Park - ESD Grant	1,662,058	2,898,646	1,500,000	3,605,234
Renaissance Commerce Park - EDA Grant	-	1,590,483	32,267	2,558,217
Renaissance Commerce Park - ECIDA Grant	100,000	100,000	118,064	180,651
Angola Ag Park - ECIDA Grant	25,000	50,000	12,545	29,680
Other grant revenue	255,896	270,763	182,978	245,174
Renaissance Commerce Park grant reimb.	-	(300,000)	(274,450)	-
Renaissance Commerce Park grant costs	(1,762,058)	(4,589,130)	(1,607,669)	(6,263,520)
Angola Ag Park grant costs	(25,000)	(50,000)	(12,613)	(21,711)
Other grant expenses	(355,896)	(270,763)	(182,978)	(95,314)
<b>Total Special Projects</b>	<b>(100,000)</b>	<b>(300,000)</b>	<b>(231,857)</b>	<b>238,411</b>
<b>NET INCOME/(LOSS) BEFORE DEPRECIATION:</b>	<b>\$ 91,892</b>	<b>\$ (577,849)</b>	<b>\$ (218,374)</b>	<b>\$ 238,164</b>
Depreciation	4,500	4,500	4,500	2,267
<b>NET INCOME/(LOSS):</b>	<b>\$ 87,392</b>	<b>\$ (582,349)</b>	<b>\$ (222,874)</b>	<b>\$ 235,897</b>

\* Represents an allocation of salary and benefit costs from the ECIDA based on staff time charged to the ILDC.

**BUFFALO & ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION ("ILDC")**  
**Proposed Budget and Three Year Forecast 2026-2028**

	<b>Proposed Budget 2025</b>	<b>Forecast 2026</b>	<b>Forecast 2027</b>	<b>Forecast 2028</b>
<b>REVENUES:</b>				
Interest Income - Loans	\$ 19,000	\$ 19,000	\$ 19,950	\$ 18,953
Grant Income	234,000	-	-	-
Operational Grant	250,000	250,000	250,000	250,000
Proceeds from Land Sales	-	300,000	300,000	300,000
Less: Cost of Land Sales	-	(200,000)	(200,000)	(200,000)
Other Income	23,667	-	-	-
Interest Income - Cash & Investments	2,000	500	500	500
<b>Total Revenues</b>	<b>528,667</b>	<b>369,500</b>	<b>370,450</b>	<b>369,453</b>
<b>EXPENSES:</b>				
ECIDA Management Fee*	174,000	-	-	-
Provision for Loan Losses	105,000	-	-	-
Professional Services	45,400	50,000	50,000	50,000
Development & Marketing Expenses	5,000	5,000	5,000	5,000
Other Expenses	7,375	2,500	4,000	5,000
<b>Total Expenses</b>	<b>336,775</b>	<b>57,500</b>	<b>59,000</b>	<b>60,000</b>
<b>SPECIAL PROJECTS:</b>				
Renaissance Commerce Park - ESD Grant	1,662,058	530,000	-	-
Renaissance Commerce Park - EDA Grant	-	-	-	-
Renaissance Commerce Park - ECIDA Grant	100,000	-	-	-
Angola Ag Park - ECIDA Grant	25,000	-	-	-
Other grant revenue	255,896	-	-	-
Renaissance Commerce Park grant reimb.	-	(150,000)	(150,000)	(150,000)
Renaissance Commerce Park grant costs	(1,762,058)	(530,000)	-	-
Angola Ag Park grant costs	(25,000)	-	-	-
Other grant expenses	(355,896)	-	-	-
<b>Total Special Projects</b>	<b>(100,000)</b>	<b>(150,000)</b>	<b>(150,000)</b>	<b>(150,000)</b>
<b>NET INCOME/(LOSS) BEFORE DEPRECIATION:</b>	<b>\$ 91,892</b>	<b>\$ 162,000</b>	<b>\$ 161,450</b>	<b>\$ 159,453</b>
Depreciation	4,500	4,500	4,500	4,500
<b>NET INCOME/(LOSS):</b>	<b>\$ 87,392</b>	<b>\$ 157,500</b>	<b>\$ 156,950</b>	<b>\$ 154,953</b>

\* Represents an allocation of salary and benefit costs from the ECIDA based on staff time charged to the ILDC.



To: ECIDA, RDC, and ILDC Board of Directors  
From: Governance Committee – Brenda McDuffie (Chair)  
Date: October 23, 2024  
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), Thomas Baines, Zachary Evans, Tyra Johnson, Hon. Brian Kulpa, Hon. Christopher Scanlon, Kenneth Schoetz, and David State

The ECIDA, RDC, and ILDC Joint Governance Committee met on October 18, 2024 to review the following item:

Legal RFP Recommendations: The Governance Committee received a comprehensive description of the process undertaken to perform the recent RFP for professional legal services. The Committee was then presented with the summary scoring and 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		Completed
June 17 – June 28	Draft RFP & scoring sheet distributed to review team and Governance Committee for review & comments	✓
July 1 – 16	Finalize RFP with review team & Governance Committee feedback	✓
July 17	Legal RFP sent to top 10 largest Erie County law firms and notice published in various publications and website	✓
July 26	Due date for questions regarding Legal RFP from bidders	✓
August 2	Responses to Legal RFP Questions posted to ECIDA’s website	✓
August 23	Due date for Legal RFP responses	✓
August 26 – September 6	Legal RFP responses reviewed, ranked and discussed by review team	✓
September 25-26	Interviews conducted for top-ranked General Counsel, Loan Counsel & Tax-Exempt Bond Counsel firms by review team	✓
October	References checked (if needed) for top-ranked legal firms by review team	✓
October 18	Governance Committee review and recommendation of legal counsel	✓
October 23	Board Meeting to approve Governance Committee’s recommended legal counsel	
By November 30	New Contract finalized with selected legal counsel*	

\* Note: Current contracts extended to November 30, 2024

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

## **LEGAL REQUEST FOR PROPOSAL**

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

The 2024 Legal Request for Proposal (RFP) process undertaken by ECIDA staff was based on the 2018 RFP process and feedback resulting from that process. A draft of the RFP was distributed to the Governance Committee on June 27, 2024 for review and comment.

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

Copies of the RFP were distributed on July 17, 2024 to the top 10 law firms with corporate-related expertise as referenced in the Business First “Book of Lists”, plus a currently engaged firm outside of that list. 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 Erie County Bar Association, Minority Bar Association of WNY and Women’s Bar Association of WNY for distribution to their membership.

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

RFP questions were due July 26, 2024. One law firm submitted a question related to current counsel hourly rates. The response was posted on the ECIDA website for reference by all bidders.

### **Evaluation of Responses:**

Five responses were received on or before August 23, 2024. A list indicating each firm’s desired positions are outlined in Attachment A.

A committee comprised of five 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 on September 25-26 (2 for general counsel, 3 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 October 18, 2024 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, RDC, and ILDC Boards.

**Board Action:**

The Board is requested to approve entering into contracts 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 contracts will be for a period of three years, with two one-year extensions available. Contracts will also include the ability for either party to cancel 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            | Harris Beach |



## Erie County Industrial Development Agency Legal Proposals Received - 8/23/24

**X = Bid Received**  
**Shaded = Short-listed by Review Committee and interviewed**

	General Counsel		Tax-Exempt Bond Counsel		Loan Counsel	
	Primary	Conflict	Primary	Conflict	Primary	Conflict
Harris Beach	X	X	X	X	X	X
Hawkins Delafield Wood			X	X	X	X
Hodgson Russ			X	X	X	X
Hurwitz Fine	X	X			X	X
Rupp Pfalzgraf	x	x			x	x
Total Number Proposing	3	3	3	3	5	5



## Loan Status Report October 2024

<b><u>ILDC Loans Approved Since Last Meeting</u></b>	<b><u>Municipality</u></b>	<b><u>Amount</u></b>
None		
<b><u>ILDC Loans Closed Since Last Meeting</u></b>	<b><u>Municipality</u></b>	<b><u>Amount</u></b>
None		
<b><u>Loans in Closing Process</u></b>	<b><u>Municipality</u></b>	<b><u>Amount</u></b>
None		
<b><u>Loans in the Pipeline</u></b>	<b><u>Municipality</u></b>	<b><u>Amount</u></b>
Full House Home Renovations	Grand Island	\$35,000

<b><u>2024 - Loans Closed</u></b>	<b><u>YTD Loan Total</u></b>	<b><u>Jobs to be Created</u></b>	<b><u>Retained Jobs</u></b>
1	\$35,000	1	1

### Loan Portfolio Performance

**Past Due Loans:**

<b><u>Loan</u></b>	<b><u>Outstanding Balance</u></b>	<b><u>Amount Past Due</u></b>	<b><u>Days Past Due</u></b>	<b><u>Comments</u></b>
Kevin Thie d/b/a Buffalo Firewood	\$34,723	\$1,679	180+	Borrower filed Chapter 7 bankruptcy. Attorney's monitoring bankruptcy
Wild Discs, LLC	\$32,082	\$1,344	180+	In process of filing judgment against borrower – Attorney monitoring.

**Portfolio Delinquency Rate** (Past Due Outstanding Loan Balance *divided by* Portfolio Balance):

\$66,923 / \$1,108,523 = 6.0% Delinquency Rate (41 Loans)

**ILDC Funds Available to Lend:        \$129,643**