

**B. Buffalo-RESTORE III-Commercial & Mixed Use Urban Center-Curtiss Building
(W896)**

February 19, 2010

General Project Plan

- Grantee:** City of Buffalo (“Buffalo” or the “City”)
- Beneficiary:** Baja Beach Club, Inc.
- ESD Investment:** A grant of up to \$1,350,000 to be used for a portion of the cost of demolition, interior construction and rehabilitation to establish a boutique hotel.
- Project Locations:** 204-210 Franklin Street, Buffalo, Erie County (the “Curtiss Building”)
212-216 Franklin Street, Buffalo, Erie County (the “Continental Building”)
- NYS Empire Zone (or equivalent):** Buffalo Empire Zone
- Project Completion:** September 2011
- Grantee Contact:** Sandra A. Miller, Director, Special Projects
Office of Strategic Planning
920 City Hall
Buffalo, NY 14202
Phone: (716) 851-5035 Fax: (716) 842-6942
- Beneficiary Contact:** Mark D. Croce, President
Baja Beach Club, Inc.
257 Franklin Street
Buffalo, NY 14202
Phone: (716) 853-3400
- Project Team:**
- | | |
|--------------------|---------------|
| Project Management | Jean Bly |
| Affirmative Action | Helen Daniels |
| Environmental | Soo Kang |

Project Description:

Background

The City, incorporated in 1832, is located in Erie County in Western New York State. The City is approximately 41 square miles in area and its current population is approximately 280,000. At the turn of the twentieth century, Buffalo was the eighth most populous city and hosted the fifth largest economy in the United States. The City, which is located at the western terminus of the Erie Barge Canal, became known as the “Queen City” of the Great Lakes. It developed as a major transportation hub and contained a vibrant industrial base,

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which produced innovations in energy, chemicals and aeronautics. As a result of shifts in transportation trends and a decline of its industrial base, Buffalo's population has decreased by over 50% since the 1950's. Moreover, Buffalo suffers from high unemployment and poverty levels.

In January 2006, the City adopted a Comprehensive Plan (the "Plan"), which addressed the revitalization of the City's neighborhoods. The Plan, consisting of five Strategic Investment Areas in the City, includes the demolition and/or redevelopment of blighted properties to enable Buffalo to use these spaces for housing development, commercial development and land banking for future use, while simultaneously attempting to "protect and restore Buffalo's historic architecture".

Buffalo identified a need, which was consistent with the Plan, to demolish the vacant Continental Building and renovate the adjacent Curtiss Building, a vacant historic landmark property, into a 57-room high-end boutique hotel, spa, restaurant and banquet facilities. The Curtiss Building, constructed in 1913, is listed on the National Register of Historic Places and is one of only three remaining structures in the City's downtown business district exhibiting a terracotta façade decorated with Art Nouveau styling. The City and the Curtiss Building owner, Baja Beach Club, Inc., advised ESD that they lacked the financial resources to complete the Curtiss Building renovation project. ESD responded with a \$1,350,000 RESTORE III grant and a \$3,150,000 Upstate Regional Blueprint Fund subsidized loan.

Previously, ESD Directors approved a \$3 million RESTORE I grant to Buffalo on March 15, 2007, which assisted the City with the demolition and site clearing of at least 208 single-family homes and one commercial property; a \$5,072,000 RESTORE II grant on April 17, 2008, to assist the City with the demolition and site clearing of up to 725 single-family homes; and a \$4,500,000 grant on July 17, 2008, to assist with interior and exterior building renovations to the former Trico Building on the Buffalo Niagara Medical Campus. The City is in compliance with the terms of all its previous RESTORE NY grants.

In September 2009, Buffalo received a \$14.32 million RESTORE III award, including \$7,635,526 for the demolition and site clearing of up to 472 single-family homes and 5 commercial structures and \$6,684,474 for commercial and mixed-use urban center rehabilitation ("Commercial") projects. This request is for \$1,350,000 of the Commercial allocation for the Curtiss Building renovation. ESD Directors' approved \$2 million for renovations of the Avant Building on December 16, 2009. The remainder of RESTORE III funding will be brought before Directors at later dates.

The Project

The \$18.2 million project involves property acquisition; complete rehabilitation of the 57,560-square-foot Curtiss Building; asbestos abatement and removal, and demolition of the adjacent noncontributing dilapidated 11,615-square foot Continental Building; construction of a 11,000-square foot addition to house the hotel entranceway and banquet facility kitchen;

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and infrastructure improvements necessary to convert the vacant property into a fifty-seven room high-end boutique hotel. The project started in November 2009 and will be completed in September 2011. The Buffalo Development Corporation (“BDC”) will develop the project.

Financing Uses	Amount	Financing Sources	Amount	Percent
Land	\$ 3,000,000	ESD RESTORE Grant (W896)	\$1,350,000	7%
Demolition	295,000	ESD Blueprint Loan (W931)	3,150,000	17%
Renovation	10,430,000	Evans Bank Loan*	9,205,000	51%
Furniture, Fixtures & Equipment	2,130,000	City Equity**	4,500,000	25%
Soft Costs	2,350,000			
Total Project Costs	\$ 18,205,000	Total Project Financing	\$18,205,000	100%

*6.25%/10yrs/1st on RE & assignment of rents

**Source of equity is funds from the buildings’ owner.

Financial Terms and Conditions:

- At the time of disbursement, the City will reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
- The City will be obligated to advise ESD of a materially adverse change in its financial condition prior to disbursement.
- The City will ensure the contribution of at least a 10% match of the grant amount to the Project.
- Up to \$1,350,000 will be disbursed to Grantee no more frequently than quarterly, in proportion to ESD’s funding share, upon compliance with the Governor’s protocol which requires a labor peace agreement be in place, assuming that all project approvals have been completed and funds are available. The final 10% of the grant will be disbursed to the Grantee upon completion of the project. Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. Expenditures must be incurred on or after May 4, 2009 to be considered reimbursable project costs. Previously expended funds may be applied toward match requirements retroactive to June 23, 2006, when the Restore New York Legislation was enacted.
- ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$1,350,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the City and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.

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6. For a period of five years from the date of the initial disbursement of Grant funds, the Grantee shall not transfer, or if the Grantee is not the owner of the Project, permit the owner to transfer, the Project in whole or in part, by sale, lease, or conveyance of any interest in or with respect to the Project except (a) transfers of minor interests in the Project site, such as utility easements and limited rights-of-way, and (b)(i) the arms-length basis sale or lease of individual condominium units in the ordinary course of business for a condominium development and (ii) the arms-length basis residential or commercial leases in the normal course of business for a commercial, residential, or mixed-use rental development. In the event that such a prohibited transfer by the Grantee or such owner occurs within such five-year period, the Grantee shall pay to ESDC, promptly upon ESDC's written demand therefore, the applicable amount indicated below:

The Recapture Amount is based on the time that has lapsed between when the Grant funds were disbursed and when the transfer occurred. The Recapture Amount shall be calculated by aggregating the Recapture Amount for each disbursement of the Grant, which in each instance shall be equal to:

- (i) 100% of the disbursed amount if the transfer occurred in the calendar year that the disbursement was made, or in the first full calendar year after the disbursement was made;
- (ii) 80% of the disbursed amount if the transfer occurred in the second full calendar year after the disbursement was made;
- (iii) 60% of the disbursed amount if the transfer occurred in the third full calendar year after the disbursement was made;
- (iv) 40% of the disbursed amount if the transfer occurred in the fourth full calendar year after the disbursement was made;
- (v) 20% of the disbursed amount if the transfer occurred in the fifth full calendar year after the disbursement was made.

Affirmative Action:

ESD's Non-discrimination and Affirmative Action policy will apply. The City of Buffalo is encouraged to use its best efforts to achieve a Minority Business Enterprise participation goal of 3% and a Women Business Enterprise participation goal of 2% of the total dollar value of work performed pursuant to contracts or purchase orders entered into in connection with the construction work related to the project, and to include minorities and women in any job opportunities created by the project.

Environmental:

The City of Buffalo Planning Board, as lead agency, has completed an environmental review of the proposed project, pursuant to the requirements of the State Environmental Quality Review Act ("SEQRA") and the implementing regulations of the New York State Department of

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Environmental Conservation. This review, which was coordinated with ESD as an involved agency, found the project to be a Type I Action, which would not have a significant effect on the environment. The lead agency issued a Negative Declaration on October 6, 2009. ESD staff reviewed the Negative Declaration and supporting materials and concurs. It is recommended that the Directors make a Determination of No Significant Effect on the Environment.

Due to the building's inclusion in the New York State and National Registers of Historic Places, ESD has confirmed that the project sponsor initiated consultation with the New York State Office of Parks, Recreation and Historic Preservation ("OPRHP") pursuant to Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law. ESD will ensure that consultation is completed with OPRHP in accordance with a Letter of Understanding for the project.

Statutory Basis – Restore NY Communities:

Land Use Improvement Project Findings

1. The area in which the project is to be located is a substandard or insanitary area, or is in danger of becoming a substandard or insanitary area and tends to impair or arrest sound growth and development of the municipality.
The project is located in a blighted neighborhood and involves the demolition of a vacant structure and the renovation of an adjacent vacant commercial structure, which has been deemed by the City to arrest sound growth and development in the area.
2. The project consists of a plan or undertaking for the clearance, replanning, reconstruction and rehabilitation of such area and for recreational and other facilities incidental or appurtenant thereto.
The Plan includes the rehabilitation of commercial areas in the City's neighborhoods for re-use, allowing for a potential increase in the local tax base.
3. The plan or undertaking affords maximum opportunity for participation by private enterprise, consistent with the sound needs of the municipality as a whole.
The City published a property assessment list and held a public hearing on the project at the time of application. Baja Beach Club, Inc. bid the project in accordance with local municipal laws.
4. The requirements of Section 10(g) of the Act are satisfied.
There are no families or individuals displaced from the project area.

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Buffalo (Erie County) – Buffalo – RESTORE III – Commercial and Mixed Use Urban Center – Curtiss Building – Restore NY Communities 09-10 – Determination of No Significant Effect on the Environment

RESOLVED, that based on the material submitted to the Directors with respect to the Buffalo-RESTORE III – Commercial and Mixed Use Urban Center – Curtiss Building Capital Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

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