

A. County of Erie - Buffalo and Erie County Botanical Gardens Restoration Capital (R482)

November 19, 2009

Authorization to Amend the General Project Plan, Project Scope and Budget

Grantee: County of Erie (the "County")

ESD Investment: \$1,000,000 approved on March 24, 2004 (Empire Opportunity Fund)

Project Location: Buffalo, Erie County

NYS Empire

Zone: N/A

Project

Completion: October 2010

Background/Project Status:

These materials refer to and include, in their entirety, the attached materials presented to and approved by the ESD Directors on March 24, 2004 (the "Materials"). Any substantive changes to the project or terms and conditions are noted below.

The Buffalo and Erie County Botanical Gardens (the "Gardens") have been a part of the County's park system since 1981, when it was purchased from the City of Buffalo (the "City"). The County planned to make infrastructure improvements to the Gardens' plumbing, heating, irrigation, and sprinkler systems, and the parking lot; building renovations to the Conservatory's walkways and parking areas; landscaping plantings and building renovations to the Main Dome and adjoining Exhibit Houses 11 and 12; and related soft costs. The original work was completed; however, a portion of the soft costs and infrastructure activities were subsequently funded by in-kind services, leaving a balance of grant funds. The County is now requesting a modification to include the construction of a new Growing House, which is consistent with the Botanical Gardens' ten-year master plan which includes restoration, rehabilitation and construction and/or reconstruction of the Botanical Gardens complex and grounds. The Growing House construction is currently underway and is scheduled for completion in October 2010.

To date, ESD has disbursed \$705,274 of the grant, leaving a balance of \$294,726 available to fund the Growing House expenditures.

Revised Project Scope and Budget:

This request is to amend the project scope and budget to include the construction of a new Growing House.

The revised budget is as follows:

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Financing Uses	Amount	Financing Sources	Amount	Percent
Building Renovations - Conservatory's Main Dome & South Exhibit Houses 11 & 12	\$ 2,638,609	ESD Grant	\$ 1,000,000	22.9%
Plantings - Main Dome Hardscape & Houses 11 & 12	406,193	County Equity	3,366,812	77.1%
Soft Costs	34,998			
Construction of New Growing House	1,287,012			
Total Project Costs	\$ 4,366,812	Total Project Financing	\$ 4,366,812	100.0%

Design & Construction:

The project consists of renovations and alterations to the Main Dome and adjacent Exhibit Houses 11 and 12, which are completed, and the additional construction of a new Growing House. The project scope also includes mechanical, electrical, plumbing, and irrigation systems. The construction budget is \$4,366,812, including contingency and fees, which is reasonable for this type of construction.

Foit-Albert Associates (Buffalo, NY) is the architect-of-record and has completed the design documents. The County bid and awarded the Growing House work in September 2009. D&C will continue to review the monthly requisitions and make bi-weekly site visits and recommend payment when its requirements are met.

Environmental Review:

ESD (the "Corporation"), pursuant to the State Environmental Quality Review Act ("SEQRA"), Article 8 of the Environmental Conservation Law, and its implementing regulations (6 NYCRR Part 617), ratifies and makes the following findings based on the Final Generic Environmental Impact Statement ("FGEIS") certified as complete on April 18, 2007 by the Erie County Department of Public Works, as lead agency, in connection with the proposed Buffalo and Erie County Botanical Gardens Master Plan Implementation (the "proposed action"), which includes the construction of a new Growing House.

SEQRA requires the adoption of written findings, supported by a statement of relevant facts and conclusions considered, prior to agency decisions on actions that have been the subject of an FGEIS. The Findings Statement, attached as Exhibit A, contains the facts and conclusions in the Draft Generic Environmental Impact Statement ("DGEIS") and FGEIS relied upon to support the Corporation's decision on the action that is the subject of the requested authorization.

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The findings that the Corporation hereby ratify and make are that:

- The Corporation has given consideration to the DGEIS and FGEIS;
- The requirements of the SEQRA process, including the implementing regulations of the New York State Department of Environmental Conservation, have been met;
- Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the proposed action is one that avoids or minimizes significant adverse environmental effects to the maximum extent practicable, including the effects disclosed in the relevant environmental impact statement;
- Consistent with social, economic and other essential considerations to the maximum extent practicable, any significant adverse environmental effects revealed in the environmental impact statement process as a result of the proposed action will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures which were identified as practicable; and
- The proposed action is in compliance with Section 14.09 of the State Historic Preservation Act.

Therefore it is recommended that the Corporation ratify and adopt the SEQRA Findings Statement attached as Exhibit A.

Attachments: Resolution
Exhibit A
ESD Directors' Materials dated March 24, 2004

November 19, 2009

Buffalo (Erie County) – County of Erie - Buffalo and Erie County Botanical Gardens Restoration Capital; Adoption of Findings Pursuant to the State Environmental Quality Review Act

RESOLVED, that with respect to the County of Erie - Buffalo and Erie County Botanical Gardens Master Plan Implementation project (the “Project”), which includes the construction of a new Growing House, the Corporation hereby makes and adopts pursuant to the State Environmental Quality Review Act (“SEQRA”) the following findings and determinations, which findings and determinations are made after full consideration of the Findings Statement attached as Exhibit A hereto, which Exhibit A is hereby adopted by the Corporation and copies of which document are hereby filed with the records of the Corporation.

- The Corporation has given consideration to the Draft and Final Generic Environmental Impact Statement (“DGEIS” and “FGEIS”, respectively) prepared for the proposed County of Erie - Buffalo and Erie County Botanical Gardens Master Plan Implementation project;
- The requirements of the SEQRA process, including the implementing regulations of the New York State Department of Environmental Conservation, have been met;
- Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the Project is one that avoids or minimizes adverse environmental effects to the maximum extent practicable, including the effects disclosed in the FGEIS and the Findings Statement;
- Consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigation measures described in the FGEIS and the Findings Statement; and
- The Project is in compliance with Section 14.09 of the State Historic Preservation Act;

and be it further

RESOLVED, that the Chairman and Chief Executive Officer-Designate of the Corporation or his designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to take all actions as he or she may in his or her sole discretion consider to be necessary or proper to comply with the requirements of SEQRA in connection with the Project.

* * *

Exhibit A

**NEW YORK STATE URBAN DEVELOPMENT CORPORATION d/b/a EMPIRE
STATE DEVELOPMENT CORPORATION**

Buffalo and Erie County Botanical Gardens Master Plan

**INVOLVED AGENCY FINDINGS STATEMENT
State Environmental Quality Review Act**

November 19, 2009

The New York State Urban Development Corporation, doing business as the Empire State Development Corporation (“ESDC”), as an involved agency in the environmental review conducted pursuant to the State Environmental Quality Review Act (“SEQRA”), Article 8 of the Environmental Conservation Law, and its implementing regulations (6 NYCRR Part 617), makes the following findings based on the Final Generic Environmental Impact Statement certified as complete on April 18, 2007.

Lead Agency: Erie County Department of Public Works

Name of Action: Buffalo and Erie County Botanical Gardens Master Plan
Implementation (the “Master Plan”)

SEQRA Classification: Type I Action

Description of Action and Location:

The proposed action involves the implementation of a ten-year Master Plan, which includes the restoration, rehabilitation, construction and/or reconstruction of the Buffalo and Erie County Botanical Gardens (the “Botanical Gardens”) complex and grounds located at 2655 South Park Avenue within the historic South Park at the intersection of South Park Avenue and McKinley Parkway in the City of Buffalo, Erie County, New York.

The Botanical Gardens, placed on the National Register of Historic Place in 1982, is located within the Frederick Law Olmsted-designed South Park, which was also placed on the National Register in 1982 along with all of the Olmsted-designed parks and parkways in the City of Buffalo. The ten-year Master Plan includes:

- Restoration, rehabilitation and/or reconstruction of the original conservatory buildings constructed in 1895-1899;

Empire State Development Corporation

633 Third Avenue New York New York 10017 Tel 212 803 3100

Web Site: www.empire.state.ny.us

- Removal of the inner glass propagation houses (Houses 5, 6A, 6B, 7, 8, and 9) to accommodate construction of a garden café and eating terrace on the south end of this area and library and classroom space on the north end within newly landscaped courtyards;
- Construction of an “Orangerie”, designed as a multi-purpose space to provide a venue for private, public and special events and banquets and special collections. The Orangerie will be located on the west center of the building connected by an east-west open corridor extending to the Palm Dome and a north-south corridor connecting House 10 with House 4;
- Demolition of the 1965 Greenhouse Addition (Head House and growing houses on the west) to accommodate a radial perennial garden based on the original Olmsted design;
- Construction of a new Head House, greenhouses and shop area to the north of the existing conservatory to replace the 1965 Greenhouse Addition and the inner glass propagation houses;
- Redesign of the east (front) lawn area incorporating elements consistent with Olmsted’s original design; and
- Infrastructure upgrades.

ESDC’s action involves the provision of funding for a portion of the cost to construct a new Growing House.

FACTS AND CONCLUSIONS IN THE FGEIS RELIED UPON TO SUPPORT THE DECISION

SEQRA Process

The Erie County Department of Public Works (“ECDPW”), the lead agency for the proposed project, conducted a coordinated review pursuant to SEQRA. A Draft Generic Environmental Impact Statement (“DGEIS”) was accepted by ECDPW on June 7, 2006 and a Notice of Completion issued. The DGEIS was properly filed with all involved and interested agencies and made available for public review. A public hearing for the receipt of public comments on the DGEIS was held on July 6, 2006. The public comment period was held open until July 17, 2006. A Final Generic Environmental Impact Statement (“FGEIS”) was accepted by ECDPW on April 18, 2007 and a Notice of Completion issued. The FGEIS was properly filed with all involved and interested agencies and made available for public review. ECDPW issued a SEQRA Statement of Findings on August 16, 2007.

Background and Public Need

As described in the DGEIS and the FGEIS, the purpose of the Master Plan is to rehabilitate, reconstruct and restore the National Register-listed Botanical Gardens conservatory and grounds to their former stature, to prevent further deterioration and to provide new and modern facilities and exhibits to accommodate and educate visitors and improve the visitor experience. Implementation of the Master Plan will preserve and protect the original conservatory structure, provide new, historically compatible facilities to improve the visitor experience and enhance access, enhance the aesthetics of the conservatory and surrounding grounds, enhance educational programs, and provide new exhibits for display to the public.

Implementation of the Master Plan will have numerous benefits including:

- Restoration of a culturally and historically significant facility listed on the National Register of Historic Places;
- Serve as a catalyst for ongoing restoration of South Park, listed on the National Register of Historic Places;
- Creation of a world-class tourist attraction on par with other major cultural attractions in the Buffalo-Niagara region;
- Advancement of conservation through education, research and physical restoration;
- Maintenance and expansion of opportunities for public education through exhibits, guided tours, festivals, flower shows, and printed materials;
- Expansion of educational programs for school children based on New York State science standards helping children connect classroom lessons to real world experience;
- Creation of a new computerized library, archives and data center, helping provide an outstanding resource for training and practice in horticulture;
- Exploration of research opportunities with the Brooklyn Botanical Garden regarding non-native invasive plants and collaborative ventures with Cornell University, the USDA Soil and Water Conservation District and the NYS Invasive Plants Council, helping to strengthen the educational capacity of the Botanical Gardens;
- Expansion and nurturing of the Botanical Gardens' relationship with the "green industry" and horticultural groups, helping to cement the Botanical Gardens' place as a source of horticulture knowledge and expertise;
- Serve as an anchor for the South Buffalo community, providing positive economic influence to benefit local businesses and nearby attractions; and
- Provide new construction-related jobs and other jobs related to operation of the Botanical Gardens, which will have a positive impact on the local economy.

PROBABLE IMPACTS OF THE PROPOSED ACTION

The DGEIS/FGEIS identified environmental issues as described below.

Land Use and Zoning

The project is not in material conflict with the community's plans or goals as officially approved or adopted and will not result in a significant change in the density of land use. The Botanical Gardens site is zoned R-2 residential, which permits uses such as cultural institutions and parkland. Implementation of the Master Plan will ensure that the Botanical Gardens will continue to occupy and thrive at the existing site, and will enhance community and neighborhood character by preserving the historically significant, National Register listed site.

The project is also consistent and not in material conflict with the long-range plans and goals developed for the area. The Buffalo Olmsted Parks Conservancy has identified the project as a priority project as it finalizes and implements its *Twenty-Year Restoration and Management Plan* for South Park. The City of Buffalo and Erie County, in their *Comprehensive Plan and Parks System Master Plan*, respectively have recognized the importance of preserving the Botanical

Gardens for future generations as well as the Garden's important role in cultural tourism. Moreover, development of waterfront areas to the west including South Buffalo Brownfield Opportunity Area and Outer Harbor and the continued restoration of Olmsted parks and parkways (i.e., South Park and McKinley Parkway and circles) reinforces the Botanical Gardens' role in setting a positive standard and precedent for future land use decisions surrounding the project site.

Historic and Archeological Resources

The proposed project is anticipated to have a beneficial impact on the historically significant Botanical Gardens as well as the Olmsted-designed South Park, and McKinley Parkway to the east. The primary purpose of the proposed project is to restore, rehabilitate and reconstruct the Botanical Gardens conservatory and grounds consistent with Olmsted's intended vision.

While the permanent removal of the inner glass propagation houses has the potential to impair the character or quality of the Botanical Gardens conservatory, the New York State Office of Parks, Recreation and Historic Preservation ("OPRHP") preliminarily stated in its April 10, 2003 correspondence that "the proposed demolition of the inner glass propagation houses and the replacement with a new café, library and classroom may be an appropriate area of development for this facility." Subsequent to additional submissions, OPRHP stated in its January 4, 2007 correspondence that the project "will have No Adverse Impact on historic resources either listed in or considered eligible for listing in the National Register of Historic Places" and that the project "is well designed to rehabilitate the existing complex and expand services and spaces while avoiding major and significant historic materials and spaces that define the historic greenhouse complex and South Park."

While the proposed restoration, rehabilitation and reconstruction work will have no adverse impact on historic resources as indicated in OPRHP's January 2007 correspondence, the County will consult with and obtain written certification from OPRHP for each component of the project. OPRHP will continue to provide input, guidance and direction on the project in accordance with the Preservation Covenants established through the State grants awarded to the County and the New York State Parks, Recreation and Historic Preservation Law (Article 14, Section 14.09). Therefore, the proposed project will have no adverse impact on historic and archeological resources.

Water Resources

As indicated in the DGEIS/FGEIS, construction activities associated with implementation of the phased Master Plan may increase the potential for erosion, sedimentation and runoff of contaminated storm water to South Park Lake and Bog area and the storm sewer system. However, coverage under the New York Storm Water General Permit Program from Construction Activities will be sought by the County to ensure that the potential impact on surface waters from erosion and sedimentation will be minimized. The County will prepare and implement a Storm Water Pollution Prevention Plan ("SWPPP"), which will incorporate best management practices to minimize the potential for impacts to South Park Lake from erosion, sedimentation and pollutants. Best management practices in accordance with the County's

SPDES General Permit for Municipal Separate Storm Sewer Systems will also be implemented to minimize impacts to surface water resources.

The proposed project is not anticipated to have a substantial adverse change in existing groundwater quality or quantity. The project site does not overlay any Primary Water Supply Aquifers or Principal Aquifers, which could be impacted by construction activities or operations at the facility. Moreover, the Botanical Gardens facility does not use under groundwater for potable water purposes or any other purposes, as the site is served by the City of Buffalo public water supply.

The project site is also served by the Erie County Sewer District #6's underground wastewater collection system, which conveys wastewater off-site to the Wastewater Treatment Plant on Lehigh Avenue in Lackawanna for treatment prior to discharge to Smokes Creek. Continued use of this system as opposed to a large septic system will minimize the potential for impact to groundwater and surface water resources. The Erie County Department of Public Works will consult with and/or obtain authorization from ECSD #6 regarding any sewer connections or improvements that may be necessary to implement the Master Plan.

The proposed project will involve some alteration of natural drainage patterns due to the conversion of natural areas to impervious surfaces. However, these areas are relatively small compared to the overall project site and would not significantly increase the potential for flooding or siltation of South Park Lake. Soils comprising the majority of the project site are classified as somewhat poorly drained according to the Soil Survey of Erie County; however, much of the project site is located at a higher elevation than the remainder of South Park resulting in a well-drained site that does not typically experience flooding or drainage problems. The project site is not located within or substantially contiguous to a 100-year floodplain. Overall, with the approval of a SPDES General Permit and implementation of a SWPPP and best management practices, the project will not have a significant adverse impact on surface water or groundwater resources.

Transportation

On-Site Traffic

Possible increase in the number of events at the Botanical Gardens during and upon implementation of the Master Plan may result in vehicle congestion and thus an impact on traffic flow. Therefore, some on-site road improvements and additional measures to improve traffic flow may be warranted. Improvements may include the following if conditions warrant:

- There is a potential to provide a third access point to the Botanical Gardens on South Park Avenue, which is currently barricaded approximately 0.15 miles to the north of the parking area; and

- The Botanical Gardens will continue to rely on the use of curbside parking to handle periodic overflow conditions, as the new parking area will not be able to accommodate parking needs during high volume events. Additional measures may be needed when the parking lot reaches capacity and visitors are required to park on the Loop Road. Along with re-opening of the aforementioned access road to South Park Avenue to allow visitors access to alternative parking facilities, consideration will need to be given to providing additional signage and attendants to assist visitors with parking on the Loop Road.

The proposed project may also include minor reconfiguration of the main entrance off South Park Avenue and minor improvements to the Loop Road, some of which may require work within the right-of-way on South Park Avenue and within South Park. A Highway Work Permit from NYSDOT and approval from the City of Buffalo Department of Public Works will be obtained prior to undertaking any proposed improvements. Moreover, the County will consult with both OPRHP and Buffalo Olmsted Parks Conservancy during design development and prior to bidding any improvements to ensure that such work results in no impact to the historic South Park.

Off-Site Traffic

It is anticipated that implementation of the Master Plan will not generate significant increase in traffic volumes that would warrant a quantifiable traffic impact study. While the number of non-event visitors may increase slightly, the slight increase in traffic resulting from the Botanical Gardens improvements during and upon completion of the Master Plan is not anticipated to cause a significant change in intersection or arterial Level of Service (“LOS”) immediately adjacent to the project site.

The number of visitors to the Botanical Gardens varies widely by season and by the type of events being sponsored by the facility. Due to the nature of the facility, events with large numbers of visitors typically occur periodically and during non-peak hour travel periods. The existing roadways are designed for high volume of traffic flow and are capable of handling traffic generated by events at the Botanical Gardens during off-peak hours and would not have a significant impact on intersection LOS or arterial LOS of the adjacent streets.

Public Transportation

The proposed project is not anticipated to have a significant adverse impact on public transportation services. Bus services and routes are expected to continue to operate throughout implementation of the Master Plan, and Nason Loop has been relocated from South Park to an existing parking lot across South Park Avenue. This relocation and future restoration of the former Nason Loop to greenspace will have a beneficial effect on South Park and the Botanical Gardens, as it will remove a non-contributing feature from South Park consistent with Olmsted’s original design.

Pedestrian Environment

The proposed project is anticipated to have a beneficial effect on the pedestrian environment. A reconfigured on-site pedestrian circulation system, which includes new pathways and sidewalks, will improve pedestrian safety and circulation. In addition, these improvements along with the addition of attractive landscaping and gardens will improve the overall pedestrian experience. The County will consult with OPRHP and the Buffalo Olmsted Parks Conservancy during design development and prior to bidding any work associated with the pedestrian circulation system to ensure that the original Olmsted pathway configuration is followed to the greatest extent practicable.

Terrestrial and Aquatic Ecology

Vegetation, Fish and Wildlife

The proposed project will not involve the removal or destruction of large quantities of vegetation. The largest area to be cleared will be a portion of the wooded area of the proposed Head House and greenhouses to the north of the conservatory, where new structure will replace the existing 1965 Greenhouse addition. The construction of these new structures is not anticipated to involve the removal of mature forest or other locally important vegetation.

The proposed project is not expected to have a significant adverse impact on significant habitat, threatened or endangered plant, fish or wildlife species. The United States Fish and Wildlife Service indicated in a letter dated January 13, 2005 that “there are no Federally listed or proposed endangered or threatened species known to exist within the project impact areas with the exception of the occasional transient individual.” In addition, the NYSDEC stated in a letter dated June 9, 2005 that “there are no records of known occurrences of rare or state-listed animals or plants, significant natural communities, or other significant habitats on or in the vicinity of the project site.”

The Buffalo Olmsted Parks Conservancy has completed an inventory of all existing trees and their location within South Park, including the Botanical Gardens site. Prior to determining the precise location of the new Head House and greenhouses and preconstruction clearing activities, the inventory will be reviewed to determine whether any impacts to the original Olmsted tree species can be avoided or minimized to the greatest extent practicable. Moreover, as part of the cultural resources review that will be required for the design of the new Head House and greenhouses, OPRHP will review this portion of the project to ensure substantial conformance with the Secretary of Interior’s Standards.

Wildlife on and in the vicinity of the project site is typical of wildlife found in urban areas and will not be significantly affected by the project. Some fish species are located in South Park Lake and waterfowl periodically occupy the nearby Bog Area to the north of the facility. It is expected that these indigenous species will continue to thrive on and in the vicinity of the Botanical Gardens site throughout implementation and upon completion of the Master Plan.

Storm water discharges associated with construction activities have the potential to impact the fish and waterfowl within South Park Lake and the adjacent Bog Area, but with the implementation of a SWPPP, which will incorporate best management practices for erosion and sediment control, potential impacts to fish and waterfowl will be minimized.

Wetlands

The proposed project will not impact any state or federal jurisdictional wetlands or buffer areas. As indicated in the DGEIS/FGEIS, the project site does not contain any mapped New York State Freshwater wetlands or mapped National Wetland Inventory federal jurisdictional wetlands. State wetland BU01 is located to the northwest of the project site within South Park; however, construction activities will not impact this wetland or its 100-foot buffer area. The Bog Area, which is part of the original Olmsted design, is located to the northeast of the Botanical Gardens site within South Park, and is in the process of being restored by the Buffalo Olmsted Parks Conservancy. The Bog Area will not be impacted by the project and the current restoration project is expected to have a beneficial effect on the bog's water quality and habitat.

Infrastructure

The proposed project will not have a significant adverse impact on utilities, including natural gas, electric, telephone or cable services, public water supply, sewage and storm water disposal, or solid waste disposal services. Minimal increase in utilities and water usage and wastewater and solid waste generation may result from the implementation of the Master Plan and operation of the on-site café and high-volume events, but the increase is not expected to be significant and sufficient capacity exists to serve the project. While implementation of the Master Plan will require some re-routing and/or new connections associated with the renovation work and new construction, these activities are not expected to adversely affect utility providers or their ability to provide services. Any trenching activities from routing or re-routing of infrastructure that may disturb the Botanical Gardens grounds or South Park will be restored to their original condition.

Health and Safety

Insecticides and Fungicides

Insecticides and Fungicides are periodically applied to protect and preserve the indoor plant collection at the Botanical Gardens. The facility uses approximately eight to ten different insecticides and 4 to 5 different fungicides to control plant damaging insects and fungi. The insecticides and fungicides used at the facility are stored in a locked, vented storage room located within the Greenhouse addition. A drain is located outside the storage room, which leads to and terminates at the lawn area outside the facility.

While it is anticipated that the Botanical Gardens will continue to apply insecticides and fungicides to the plant collection throughout and upon completion of the Master Plan, it is not anticipated that these applications will cause a hazard to human health or public safety. Only staff members trained and certified in Ornamental and Turf Pest Control per State regulations

apply insecticides and fungicides at the facility and strict adherence to State regulations is maintained. Such regulations include requirements such as posting proper notices and warning placards, use of personal protective equipment, and proper storage and handling of pesticide materials, which minimizes human exposure. Moreover, the facility applies insecticides and fungicides after hours and uses materials that have a twelve-hour Restricted Entry Interval as specified by the pesticide label, which significantly minimizes the potential for exposure.

The Society is also in the process of implementing an Integrated Pest Management (“IPM”) Program to further reduce the use of indoor application of insecticides and fungicides. Use of predatory insects in Houses 2 and 3 have been effective in controlling insect damage and use of this technique and other IPM techniques will continue to be pursued for other areas within the facility. Insecticides and fungicides are not currently and will not be applied in the future to exterior plantings and lawn areas. Household-grade herbicide is applied periodically around building foundations to control weeds, but is not anticipated to have a significant impact on the health and safety of employees or visitors to the Botanical Gardens.

Overall, through strict adherence to state pesticide applicator requirements and best management practices, the use of insecticides and fungicides at the facility is not anticipated to have a significant adverse impact on the health and safety of the human or natural environment.

Asbestos-Containing Materials and Lead-Based Paint

Building surveys for asbestos-containing materials (“ACM”) and lead-based paint (“LBP”) were conducted in 2004 as part of the Botanical Gardens renovation work and included surveys of the Fruit House (House 11), Show House (House 12), the basement and lobby, and adjoining rooms behind the Main Dome (House 1). Additional surveys of other structure within the complex will be necessary prior to conducting renovation and/or demolition activities as part of the Master Plan implementation. Erie County will ensure that abatement of any ACM or LBP will be carried out in compliance with all applicable federal, state and local regulations and guideline, and in accordance the recommendations of the surveys.

Air Resources

The proposed project will not result in a substantial adverse change in existing air quality. During construction, dust and exhaust will be generated by construction activities and equipment. However, these impacts will be temporary in nature and will not occur over prolonged periods of time. Following completion of each construction phase, slight increase in visitor attendance may result in an increase in vehicular traffic and associated exhaust emissions. However, any slight increase in traffic is not expected to have a significant adverse impact on air quality or contravene state or federal air quality standards as the minimal increase in vehicle emissions is small compared to the number of vehicles already operating in the vicinity of the project.

Noise

The proposed project is not anticipated to have a substantial adverse change on existing noise levels at or in the vicinity of the project site. Construction activities will result in temporary noise impacts, primarily due to the operation of construction-related equipment including trucks and heavy equipment. However, construction will be limited to “normal business” hours to minimize potential effects to noise sensitive receptors. Event-related traffic and outdoor events may have a minimal affect on noise levels, but these activities typically do not create nuisance noise conditions, and surrounding South Park provides a natural buffer to noise sensitive receptors. The Society also limits after hours events to the hours between 5:30 p.m. and 9:30 p.m.

ALTERNATIVES

As part of the alternatives analysis, a No Action Alternative and Alternative Designs were considered.

The No Action Alternative would mean that the Botanical Gardens would be left in its current condition, which would result in further deterioration of the National Register-listed, Olmstead-designed conservatory. The deterioration is evident and without intervention threatens the Botanical Gardens’ integrity and existence. The No Action Alternative is contrary to the goals of the State Historic Preservation Law and the National Historic Preservation Act, which seek to protect and preserve historic resources. The No Action Alternative would also limit the significant beneficial impacts of implementing the Master Plan as described in the DGEIS/FGEIS and above in the *Background and Public Need* section. Therefore, the No Action Alternative was determined not to be the preferred alternative.

Alternative Designs were considered as the current Master Plan evolved over time beginning with the 1982 *Concept and Redevelopment Plan*. Numerous design options were explored as part of this plan and alternative design concepts were explored in the subsequent Flynn Battaglia plan in 2001 and the Portico plan in 2002. Development of these plans included alternative designs and public input on the design of the facilities, exterior grounds and exhibits. This process along with input from OPRHP has resulted in the current revised and refined Master Plan. Additional revisions may be warranted as future phases develop; however, these revisions are expected to be minor and would be subject to review and written certification from OPRHP. The proposed design was and will continue to be appropriately considered by OPRHP and represents a balance between historic preservation and sustainability through restored facilities, enhanced exhibits and gardens, and education programs and events. The proposed Master Plan represents a combination of several designs that best meet the goals of the County and Society.

CERTIFICATION OF FINDINGS

Having considered the Draft and Final Generic Environmental Impact Statements, including the comments received on the DGEIS and the FGEIS, and having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 NYCRR 617.9, ESDC finds and certifies that:

1. The requirements of Article 8 of the New York State Conservation Law and the implementing regulations of the New York State Department of Environmental Conservation, 6 NYCRR Part 617, have been met;
2. Consistent with the social, economic and other essential considerations from among the reasonable alternatives thereto, the proposed action will minimize or avoid, to the maximum extent practicable, the adverse environmental effects including the effects disclosed in the FGEIS and set forth in this Findings Statement;
3. Consistent with the social, economic and other essential considerations described above, the incorporation in the development of this facility of the mitigation measures described in the DGEIS, FGEIS and in this Findings Statement, will minimize or avoid the adverse environmental impacts associated with the development of the project which were identified in the DGEIS, FGEIS and in this Findings Statement; and
4. The project is in compliance with Section 14.09 of the State Historic Preservation Act.

Agency: NYS Urban Development Corporation d/b/a
Empire State Development Corporation

Signature of Responsible Officer: _____

Name of Responsible Officer: Rachel Shatz

Title of Responsible Officer: **Vice President, Planning & Environmental Review**

Date: November 19, 2009