

**ERIE CANAL HARBOR DEVELOPMENT CORPORATION**

at the offices of  
Empire State Development – Buffalo Regional Office  
95 Perry Street, Suite 500  
Buffalo, NY 14203

**Meeting of the Directors**

Monday  
March 12, 2012 - 10:30 AM

AGENDA

FOR CONSIDERATION

1. Designation of Interim Chairman - Authorization to Designate Interim Chairman
2. Central Wharf Extension, Phase 1 - Authorization to Enter into a Contract for Construction of the Seasonal Dock Extension Along the Buffalo River; Authorization to Enter into any Agreements Necessary with the City of Buffalo for Seasonal Placement and Removal of the Docks; and Authorization to Take Related Actions
3. Canal Side Public Canal Environments Phase 3a - Authorization to Enter Into a Contract to Perform the Special Inspections with Respect to the Construction of the Historically Aligned Canals and Associated Infrastructure; and Authorization to Take Related Actions
4. Grain Elevator & Bridges Project - Lighting and Engineering Design Services – Authorization to Enter into a Contract for Design and Engineering Services; and to Take Related Actions
5. Buffalo River Programming Coordinator - Authorization to Enter into a Contract for Programming Coordination Services; and to Take Related Actions
6. ECHDC FY 2012/2013 Operating and Capital Budget Proposal - Ratification and Approval of the Corporation's Operating and Capital Budgets for Fiscal Year 2012/2013 (April 1, 2012 – March 31, 2013)

FOR INFORMATION

7. 2012 Assisted Programming, Round 2 – Oral Report
8. President's Report – Oral Report

FOR CONSIDERATION

March 12, 2012

TO: The Directors

FROM: Thomas P. Dee

SUBJECT: Designation of Interim Chairman

REQUEST FOR: Authorization to Designate Interim Chairman

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Background

In accordance with the Erie Canal Harbor Development Corporation's (the "Corporation" or "ECHDC") by-laws, all Directors of ECHDC are appointed by the New York State Urban Development Corporation d/b/a Empire State Development ("ESD"), as sole shareholder, based on the recommendation of the Governor. On March 7, 2012 the Governor recommended Sam Hoyt as a member of the ECHDC Board. Accordingly, on March 7, 2012, ESD formally appointed Mr. Hoyt to the Corporation's Board.

Pursuant to the by-laws of the Corporation, the chairman of the Corporation is designated by the Directors. It is proposed that Sam Hoyt be designated as Interim Chairman of the Corporation temporarily replacing Jordan Levy, who previously served as Chairman and recently tendered his resignation from the Board, until such time as a permanent Chairman can be named.

Requested Action

The Directors are requested to designate Sam Hoyt as Interim Chairman of ECHDC, effective immediately.

Attachment

Resolution

March 12, 2012

ERIE CANAL HARBOR DEVELOPMENT CORPORATION – Designation of Interim Chairman -  
Authorization to Designate Interim Chairman

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RESOLVED, that in accordance with the by-laws of the Corporation, Sam Hoyt is hereby designated as Interim Chairman of the Corporation.

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## FOR CONSIDERATION

March 12, 2012

TO: The Directors

FROM: Thomas P. Dee

SUBJECT: Central Wharf Extension, Phase 1 – Seasonal Dock Extension

REQUEST FOR: Authorization to Enter into a Contract with Herbert F. Darling, Inc. for Construction of the Seasonal Dock Extension Along the Buffalo River; Authorization to Enter into any Agreements Necessary with the City of Buffalo for Seasonal Placement and Removal of the Docks; and Authorization to Take Related Actions

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### I. Contract Summary

Contractor: Herbert F. Darling, Inc.  
131 California Drive  
Williamsville, New York 14221

Contract Term: Through September 1, 2012

Contract Amount: Not to exceed \$ 998,089.00 plus \$ 199,600.00 (20% contingency) for a total contract amount of \$ 1,197,689.00.

Funding Source(s): New York Power Authority funds, balance of the Inner Harbor State funds, and anticipated NYS Senate member item funds

### II. Background

The Erie Canal Harbor Development Corporation (“ECHDC”) seeks authorization to enter into a Contract with Herbert F. Darling, Inc. with offices at 131 California Drive Williamsville, New York to provide Construction Services for the construction of the Central Wharf Extension, Phase 1 – Seasonal Dock Extension. As Phase 1 of the Central Wharf Extension, this project will provide an additional 520 linear feet of dock along the Buffalo River. In April 2011 the ECHDC retained C. Destro Development Co. for construction of temporary extension of the boardwalk and the Central Wharf. To further the goal of a permanent boardwalk extension and related amenities, ECHDC issued a Request for Proposals for Architectural and Engineering Services to complete the design necessary for ECHDC to solicit proposals from Contractors. Parsons Brinckerhoff, Inc. was awarded the Design Contract in October of 2011. Through the design phase, Parsons Brinckerhoff, Inc. had numerous meetings with the City of Buffalo, Buffalo Sewer Authority, New York State Department of Transportation, and United State Army Corps of Engineers.

Currently, the Central Wharf provides 400 linear feet of dock along the Buffalo River which was constructed by Empire State Development as part of the Erie Canal Harbor Project. Seasonal placement and removal of the docks is handled by the City of Buffalo Public Works Department at no cost to ESD or ECHDC. It is expected the arrangement with the City will continue for the dock extension and that ECHDC and the City will enter into any required agreements to formalize the arrangement.

III. Contractor Selection Process

On January 25, 2012 ECHDC advertised for the Central Wharf Extension, Phase 1 – Seasonal Dock Extension in the New York State Contract Reporter. A total of three (3) bids were received on February 16, 2012 and read publically. ECHDC and Parsons Brinckerhoff (consultants) interviewed the lowest bidder on February 23<sup>rd</sup> and it was the recommendation of Parsons Brinckerhoff, Inc. to award the Contract to Herbert F. Darling, Inc. who was found to be the lowest responsible bidder. The following are the results:

<b>Contractor</b>	<b>Total Contract Amount</b>
BIDCO Marine Group, Inc.	\$1,072,168.00
Herbert F. Darling, Inc.	\$ 998,089.00
Man O’ Trees, Inc.	\$1,023,000.00
Engineers Estimate	\$1,250,000.00

Pursuant to State Finance Law Section 139-j and 139-k and the Corporation’s policy related thereto, staff has; a) considered proposed contractor’s ability to perform the services provided for in the proposed contract; and b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff considers the proposed contractor to be responsible.

IV. Scope of Work

This project is intended to enhance seasonal, recreational use of the Buffalo River and Canalside, as well as enhance the trail system along the River. The Phase 1 work will consist of the construction of an additional 520 linear feet of seasonal dock, extended from the existing 400 linear feet installed by the Empire State Development Corporation in 2008. The majority of the docks will have a 30” freeboard, similar to the existing docks, to be used by recreational boats. However, the last 40 feet at the southern end will have a freeboard of 12” to allow easier access for kayaks, canoes and other non-motorized watercraft. A platform and gangway at the southern end, as well as an additional gangway at the northern end will allow increased access to the docks. In addition to the seasonal docks, ECHDC will purchase 160 linear feet of floating platform to allow for safe and easy access to visiting tall ships. The floating platform will have an adjustable platform and two gangways to add in circulation to and from these ships. Minor adjustments to the temporary fence and bikepath at the southern end will be made as well. All work will be completed in conformance with the bid documents prepared by Parsons Brinckerhoff, Inc. dated January 2012. This Project was bid out as a single prime contract which included a base bid.

V. Contract Term, Price and Funding

This contract is a lump sum contract inclusive of all work as called out in the projects plans and specifications dated January 2012 along with two (2) addendums that were provided during the bidding period. The project is slated to begin in April, 2012 and be complete by June 29, 2012.

VI. Non-Discrimination/Affirmative Action

The Corporation's non-discrimination and affirmative action policy will apply to this contract. Erie Canal Harbor Development Corporation (ECHDC), as part of its responsibility, recognizes the need to promote the employment of minority group members and women and to ensure that certified minority and women-owned business enterprises have opportunities for maximum feasible participation in the performance of ECHDC contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("the Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority and women-owned business enterprises in state procurement contracting versus the number of minority and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority and women-owned business enterprises program. ECHDC's Affirmative Action program is established pursuant to this policy, the provisions of the New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144.

For purposes of this procurement and any subsequent contracts resulting from the Contract solicitation, ECHDC hereby establishes an overall goal of 25% for Minority and Women-Owned Business Enterprises (MWBE) participation, 20% for Minority-Owned Business Enterprises ("MBE") participation and 5% for Women-Owned Business Enterprises ("WBE") participation. In addition, ECHDC here by establishes a Minority and Women workforce participation goal of 30%. The Contractor must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of this Contract and any future contracting opportunities resulting from the Contract solicitation.

VII. Environmental Review

As Lead Agency, the ESD Directors issued a Findings Statement pursuant to SEQRA and its implementing regulations of the New York State Department of Environmental Conservation for the project at their meeting of March 26, 2010. This Findings Statement was based upon the Draft and Final Generic Environmental Impact Statement (DGEIS and FGEIS) for the Canalside Land Use Improvement project. The DGEIS, FGEIS, and Finding Statement specifically evaluated and addressed the installation of seasonal floating docks in the proposed location along the Buffalo River. Therefore, no further environmental review is required in connection with this action.

VIII. Requested Action

The Directors are requested to (1) make a determination of responsibility with respect to the proposed contractor; (2) authorize the Corporation to enter into a contract with Herbert F. Darling, Inc. for an

amount not to exceed \$ 998,089.00 plus a 20% construction contingency for a total contract amount of \$ 1,197,689.00; (3) authorize the Corporation to enter into any agreements necessary with the City of Buffalo for seasonal placement and removal of the docks; and (3) to take all related actions.

IX. Recommendation

Based on the foregoing, I recommend approval of the requested actions.

X. Attachments  
Resolution

March 12, 2012

ERIE CANAL HARBOR DEVELOPMENT CORPORATION – Central Wharf Extension, Phase 1 - Authorization to Enter into a Contract with Herbert F. Darling, Inc. for Construction of the Seasonal Dock Extension Along the Buffalo River; Authorization to Enter into any Agreements Necessary with the City of Buffalo for Seasonal Placement and Removal of the Docks; and Authorization to Take Related Actions

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BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds Herbert F. Darling, Inc. to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into a contract with Herbert F. Darling, Inc. for a base contract amount of NINE HUNDRED NINETY-EIGHT THOUSAND EIGHTY-NINE DOLLARS (\$998,089,000.00), plus a 20% contingency in the amount of ONE HUNDRED NINETY-NINE THOUSAND SIX HUNDRED DOLLARS (\$199,600.00) for a total contract amount not to exceed ONE MILLION ONE HUNDRED NINETY-SEVEN THOUSAND SIX HUNDRED EIGHTY-NINE DOLLARS (\$1,197,689.00) for the purposes and services, and substantially on the terms and conditions, set forth in the Materials; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into any agreement with the City of Buffalo for the purposes, and substantially on the terms and conditions, set forth in the Materials; and be it further

RESOLVED, that the President of the Corporation or his designee be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.

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# Erie Canal Harbor Development Corp.

## FOR CONSIDERATION

March 12, 2012

TO: The Directors

FROM: Thomas P. Dee

SUBJECT: Canal Side Public Canal Environments Phase 3a

REQUEST FOR: Authorization to Enter Into a Contract with Quality Inspection Services, Inc., to Perform the Special Inspections with Respect to the Construction of the Historically Aligned Canals and Associated Infrastructure; and Authorization to Take Related Actions

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### I. Contract Summary

Contractor: Quality Inspection Services, Inc.  
37 Franklin Street, suite 400  
Buffalo, New York 14202

Contract Term: 300 Calendar Days from Notice to Proceed

Contract Amount: Not to exceed \$ 200,000.00 and a additional \$40,000.00 ( 20% contingency to cover unknowns and additional deep pile foundations in the event the existing piles are not capable to carry the designed load) for a total of \$240,000.00. Cost of Inspections are a cost plus basis depending on the type of test required.

Funding Source(s): NYPA

### II. Background

The Erie Canal Harbor Development Corporation ("ECHDC") seeks authorization to enter into a Contract with Quality Inspection Services, Inc. with offices at 37 Franklin Street, suite 400 Buffalo, New York to provide Special Inspection Services with respect to the construction of the historically aligned canals and associated environments. This project will provide the alignment of the Erie Canal, Towpaths and Bridges as they were on the Aud Block in Buffalo New York per survey information from 1915. EEK (Project Master Architect) provided ECHDC with a conceptual design. ECHDC took that conceptual design in March of 2011 and asked for Request for Proposals

from Architectural and Engineering firms in order to complete the design necessary so ECHDC so solicit proposals from Contractors. C&S Engineers was awarded that Contract from ECHDC for Design Service in April of 2011. C&S Engineers researched documentation at the City of Buffalo and located a survey of the block as it was in 1915. Through the design phase C&S had numerous meetings with the City of Buffalo, Buffalo Sewer Authority, New York State Department of Transportation, and Niagara Frontier Transit Authority. In November of 2011 C&S presented the plans and specifications to the ECHDC design Review Committee who made a recommendation to accept the design for meeting the projects design guidelines. Also in November 2011 C&S took the drawings, specifications and the design review committee's approval and made a presentation to the Buffalo Site Plan Approval board in which the project was accepted under the terms of the ECHDC's Environmental Impact Study for Canal Side. In December 2011 ECHDC put out a request for proposals for the construction of the Historically Aligned Canals and the ECHDC Board of Directors awarded the Contract to DiPizio Construction in January of 2012. Within the plans and specifications developed by C&S Engineers, Inc. C&S outlined the requirements necessary for the owner to send out a request for proposals for the Special Inspections necessary for this project. NYS Law mandates that the owner must contract for these services.

### III. Contractor Selection Process

On December 19 2011 ECHDC advertised for Request for Proposal for the Construction of Public Canal Environments in the December 19, 2011 issue of the New York State Contract Reporter. A total of three (3) submissions were received on January 12, 2012. ECHDC and LiRo reviewed the submissions and interviewed the lowest responsible proposal on January 23, 2012 to assure that they meet the qualifications. Based on the interview it was recommended by both ECHDC staff and LiRo to award the special inspections to Quality Inspection Services, Inc.

Beside the proposal received from Quality Inspection Service, Inc a comparison was made along with other proposals that were received from SJB Services, Inc and CME Associates. The services requested consisted of concrete testing, structural steel testing, load testing of deep foundations, compaction testing along with visual testing of rebar and masonry among others.

From review of the submitted proposals cost per day to perform the specified special inspections is basically a cost- plus analysis making up a large proportion of the value of the contract. The cost per day ranged from \$176.00 to \$337.00 per day with Quality Inspection Services, Inc. submitting the lowest cost per day.

Pursuant to State Finance Law Section 139-j and 139-k and the Corporation's policy related thereto, staff has; a) considered proposed contractor's ability to perform the services provided for in the proposed contract; and b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff considers the proposed contractor to be responsible.

#### IV. Scope of Work

This project is intended to undertake an initial phase of development at the site able to accommodate year round use. The work will consist of the construction of the Historically Aligned Canals, Towpaths, and Bridges on the site of the former Buffalo Memorial Auditorium, known as the Aud Block. The central focus consists of constructing public canals and adjacent pathways reflecting the alignment of the Erie Canal, Hamburg Canal and Commercial Slip as these segments once existed within the Aud site. The Canals are approximately 37,000 square feet. The Canals are to be constructed to allow for seasonal ice surface uses. The construction of the Canals will include all the necessary equipment to maintain ice during the winter. The Canals will be lined with approximately 22,000 square feet of Towpaths. The Canals are a level below the existing street and intended Bridges. These towpaths will allow public to access Canals from the Three (3) Bridges and the street level of the Aud Block. Bridges are to be fabricated and installed reflecting the condition and location of Three Bridges that at one time transected the referenced Canal segments. Associated and adjacent features and/or appurtenances will be constructed to complete initial canal environments..

The Contract with Quality Inspection Services, Inc. will be to provide all the necessary inspection services as outlined in the project documents that are currently called out to be provided by the owner.

#### V. Contract Term, Price and Funding

This contract is a cost plus contract inclusive of all work as called out in the projects plans and specifications dated November 2011 along with (5) addendums that were provided during the bidding period. The project is slated to begin immediately and be complete 300 calendar days from the Notice to Proceed date.

#### VI. Non-Discrimination/Affirmative Action

ECHDC requires contractors to use good faith effort to achieve a Minority Owned Business Enterprise participation goal of 20% and a Women Owned Business Enterprise participation goal of 5%. The above-mentioned contract goals shall be a percentage of total expenditures made pursuant to this contract, including but not limited to, purchase orders, invoices and other payments made in the performance of this contract.

#### VII. Environmental Review

As Lead Agency, the ESD Directors issued a Findings Statement pursuant to SEQRA and its implementing regulations of the New York State Department of Environmental Conservation for the project at their meeting of March 26, 2010. This Findings Statement was based upon the Draft and Final Generic Environmental Impact Statement (DGEIS and FGEIS) for the Canalside Land Use Improvement project. The DGEIS, FGEIS, and Findings Statement specifically evaluated and addressed the construction of canal features, towpaths, and bridges on the site of the former Buffalo Memorial Auditorium. Therefore, no further environmental review is required in connection with this action.

VIII. Requested Action

The Directors are requested to (1) make a determination of responsibility with respect to the proposed contractor; (2) authorize the Corporation to enter into a contract with Quality Inspection Services, Inc. for an amount not to exceed \$ 200,000.00 plus a 20% construction contingency (\$40,000.00); and take all related actions.

IX. Recommendation

Based on the foregoing, I recommend approval of the requested actions.

XI. Attachments

Resolution

March 12, 2012

ERIE CANAL HARBOR DEVELOPMENT CORPORATION – Canal Side Public Canal Environments Phase 3a – Authorization to Enter Into a Contract with Quality Inspection Services, Inc., to Perform the Special Inspections with Respect to the Construction of the Historically Aligned Canals and Associated Infrastructure; and Authorization to Take Related Actions

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BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds Quality Inspection Services, Inc. to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into a contract with Quality Inspection Services, Inc. in an amount not to exceed two hundred thousand DOLLARS (\$200,000.00) plus a 20% construction contingency of forty thousand DOLLARS (\$40,000.00) for a total contract price not to exceed two hundred forty thousand DOLLARS (\$240,000.00) for the purposes and services, and substantially on the terms and conditions, set forth in the Materials; and be it further

RESOLVED, that the President of the Corporation or his designee be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.

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# Erie Canal Harbor Development Corp.

## FOR CONSIDERATION

March 12, 2012

TO: The Directors

FROM: Thomas P. Dee

SUBJECT: Grain Elevator & Bridges Project - Lighting and Engineering Design Services

REQUEST FOR: Authorization to Enter into a Contract with Foit-Albert Associates for Design and Engineering Services; and to Take Related Actions

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### I. Contract Summary

Contractor: Foit-Albert Associates (the "Contractor")

Scope of Services: Lighting and Engineering Design Services

Contract Term: Approximately eight (8) months

Contract Amount: Not to exceed \$305,011 (\$225,226 fee + \$40,000 demonstration allowance + \$39,785 15% contingency)

Funding Source(s): The funding source for the proposed contract is proceeds payable to ECHDC pursuant to the NYPA Relicensing Agreement.

### II. Background

In 1842, Joseph Dart invented the first grain elevator at the foot of Main Street in downtown Buffalo, New York. The invention of grain elevators revolutionized the distribution and production of grain and other goods. Grain elevators began to dominate the skyline of Buffalo's Waterfront and Buffalo became the largest grain supplier in the world. This was a time when Buffalo was one of the top respected and growing cities of the nation. The grain elevators along the Buffalo River serve as a symbol and a reminder of Buffalo's industrial and commercial importance, and a proud time of economic development. Buffalo is the home of one of the greatest standing collections of Grain Elevators in the country. For decades many of these monolithic structures have sat idle, though there are a few that are still in working condition. Due to the immense size and grandeur, the collection of elevators can be seen from miles away. Many efforts have been made to redevelop and remediate the Buffalo River and restore its once lived vibrancy. As a result, each year the boat, kayak, canoe, and rowing traffic increases as well as the introduction of more public access points along the Buffalo River. The elevators and bridges form a significant part of the landscape and character of the Buffalo River. The goal of this project is to maintain these monstrous historic structures in their current state while showcasing their

significant beauty, size, and historic architectural allure. Each elevator has its own story and identity, which include their locations and surroundings. The design of this Project will identify the collection as whole while exhibiting the significant locations and clusters of the elevators within. This Project follows along with the redevelopment efforts, and will bring the elevators back to life once again without impacting their graceful aging.

The collection of Grain Elevators stretches for miles along the Buffalo River and includes 15 individual elevators that are both publically and privately owned (See Attachment A of RFP for List of Elevators). Two significant bridges cross the Buffalo River, Michigan Street and Ohio Street Bridges, within the collection of elevators (See Attachments A and B of RFP for maps and images). The final number of Grain Elevators and Bridges to be involved in this project will be up to owners of the structures. The owners have no obligation to participate in the project, though they are encouraged and ECHDC plans to work with the owners to devise a plan that will be successful for all parties. Any and all access to the Grain Elevators and Bridges must be coordinated with the owners of the structures. Public access will not be permitted without prior approval and coordination with owners of the properties. The design team will be responsible for all coordination with the property owners to gain site access.

### III. Contractor Selection Process

On January 18, 2012, ECHDC issued a Request for Qualifications and Proposals (“RFP”) seeking to retain a Design Team to design and implement the Lighting of the Grain Elevators and Bridges Project (“Project”) along the Buffalo River in the City of Buffalo, New York. The Design Team shall have specific experience in the following capabilities, but not limited to; Lighting Design Services; Engineering (MEP/Site/Utilities/Structural); Cost Estimating; Code Review; SEQRA Review; Sustainability; obtaining permits and/or easements and associated efforts to meet requirements of all authorities and property owners having jurisdiction; and Construction Administration.

A total of eight (8) qualifications and cost proposals were received by February 21, 2012. The teams and costs are listed below:

	Name	Hours	Total Cost	Cost/Hour
1	Foit-Albert Associates	2301	\$ 265,226	\$ 115
2	Chaintreuil/Jenson/Stark Architects, LLP	758	\$ 122,194	\$ 161
3	Nussbaumer & Clarke, Inc.	801	\$ 128,928	\$ 161
4	Stantec Consulting Services, Inc.	1758	\$ 285,528	\$ 162
5	Bergmann Associates	1205	\$ 210,581	\$ 175
6	JHL Tecture AE, PC	1446	\$ 257,050	\$ 178
7	Wendel	290	\$ 80,620	\$ 278
8	M/E Engineering, P.C.	N/A	\$ 183,000	

A technical review committee consisting of members of Buffalo’s arts and preservation society plus various stakeholders; and a selection committee consisting of ECHDC employees reviewed the proposals. Based on the review, three teams were shortlisted for interviews based on the quality of the proposal and the experience with similar projects. The submitted proposals were reviewed based on the following criteria;

- Experience/Qualifications to undertake the specific requirements
- Approach of the design team on technical aspects of the Project
- Project management methodology and flexibility with the team
- Ability to successfully complete projects of this type on schedule and within budget
- Logistics and familiarity with the Project Site
- Cost

Based on the review of the above criteria as well as interview performance, the ECHDC selection committee believes the Contractor is best qualified to complete the work and provides the best value for the project due to their significant experience in similar projects. While the total cost of the bid submitted by the Contractor was not the lowest, the hourly rate was the lowest at \$115. As such, considering the hourly rate and the hours that will need to be devoted to the project and experience with similar projects, the ECHDC selection committee believes the Contractor provides the best value to ECHDC and this exciting project.

Pursuant to State Finance Law Section 139-j and 139-k and the Corporation’s policy related thereto, staff has; a) considered proposed contractor’s ability to perform the services provided for in the proposed contract; and b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff considers the proposed contractor to be responsible.

#### IV. Scope of Work

Pursuant to its contract with ECHDC, the Contractor will be required to complete the following tasks with respect to the Lighting & Engineering Design Services for the Grain Elevators and Bridges Project;

##### 1. General

- All certifications, permits, easements and other requirements necessary to meet ECHDC, ESDC, and other involved agencies’ and owner’s requirements for completing the Project.
- Meetings with property owners to present progression of the Project and, to obtain permissions, easements, and agreements for implementation of the Project will be as necessary throughout the Project.
- Public and Stakeholder Meetings to gain public comments and input on the project.

##### 2. Concept Phase (*COST PROPOSAL*)

###### 1) Implementation Plan for the Project

- a) Up to five (5) alternatives for the Implementation Plan
- b) Schedule for each phased implementation alternatives
- c) Cost estimates for each alternative
  - i) Design
  - ii) Construction
  - iii) Operations & Maintenance
  - iv) Project Administration (coordination with agencies and owners)
- d) Environmental Review for Preferred Alternative

2) Allow for one (1) project Demonstration in June of 2012. Demonstration budget is \$15,000

3) Allow for as many as two (2) owner meetings to present the Implementation Plan alternatives for the Project, and respond to comments

- 4) Allow for as many as two (2) meetings with ECHDC's Buffalo River Committee to present Implementation Plan alternatives for the Project, and respond to comments
- 5) Allow for as many as two (2) public workshop meeting to gain public input on the Implementation Plan

3. Schematic Phase

- Allow for as many as two (2) owner meetings to present the design development of the project, and respond comments
- Allow for as many as two (2) meetings with ECHDC's Buffalo River Committee to present schematic drawings, and respond to comments
- Prepare preliminary estimate of cost for the construction of the Project

4. Design Development Phase

- Allow for as many as one (1) owner meeting to present the design development of the project, and respond comments
- Allow for as many as one (1) meeting with ECHDC's Buffalo River Committee to present schematic drawings, and respond to comments.
- Prepare cost estimate of cost for the construction of the Project

5. Construction Document Phase

- 75% Construction Documents (drawings, specifications and cost estimate)
- 100% or Bid Construction Documents (Final Drawing Set, Specification Book and final Cost Estimate)
- LEED tracking
- Hardcopy and electronic files of each submission to ECHDC and owners

6. Construction Phase

- Complete construction of all project components; including, but not limited to, RFIs, approved submittal, and attendance at project meetings;
- Final as-built drawings;
- All testing and controlled inspections required for all project components;
- A complete Operations and Maintenance Manual for all project components;
- All work required to attain a minimum of LEED certification for all project components.

V. Contract Term, Price and Funding

The contract term is to be approximately eight (8) months for a total contract amount not to exceed \$305,011. This contract amount includes a contingency in the amount of \$39,785, or 15%.

VI. Non-Discrimination/Affirmative Action

ECHDC requires contractors to use good faith effort to achieve a Minority Owned Business Enterprise participation goal of 20% and a Women Owned Business Enterprise participation goal of 5%. The above-mentioned contract goals shall be a percentage of total expenditures made pursuant to this contract, including but not limited to, purchase orders, invoices and other payments made in the performance of this contract.

VII. Environmental Review

ESD staff has determined that the action, which involves engineering design that does not commit the Corporation to undertake any project, constitutes a Type II action as defined by the New York State Environmental Quality Review Act (“SEQRA”) and the implementing regulation for New York State Department of Environmental Conservation. No further environmental review is required in connection with the project.

VIII. Requested Action

The Directors are requested to (1) make a determination of responsibility with respect to the proposed contractor; (2) authorize the Corporation to enter into a contract with Foit-Albert Associates for an amount not to exceed \$305,011.

IX. Recommendation

Based on the foregoing, I recommend approval of the requested actions.

XI. Attachments

Resolution

March 12, 2012

ERIE CANAL HARBOR DEVELOPMENT CORPORATION – Grain Elevator & Bridges Project - Lighting and Engineering Design Services – Authorization to Enter into a Contract with Foit-Albert Associates for Design and Engineering Services; and to Take Related Actions

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BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds Foit-Albert Associates to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into a contract Foit-Albert Associates for a base contract amount of TWO HUNDRED SIXTY-FIVE THOUSAND AND TWO HUNDRED TWENTY SIX DOLLARS (\$265,226.00), plus a 15% contingency in the amount of THIRTY NINE THOUSAND SEVEN HUNDRED AND EIGHTY-FIVE DOLLARS (\$39,785.00) for a total contract amount not to exceed not to exceed THREE HUNDRED FIVE THOUSAND ELEVEN DOLLARS (\$305,011) for the purposes and services, and substantially on the terms and conditions, set forth in the Materials; and be it further

RESOLVED, that no permanent work for lighting of the grain elevators shall be completed by the Corporation without further approval by the Corporation’s Board of Directors; and be it further

RESOLVED, that the President of the Corporation or his designee be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.

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## FOR CONSIDERATION

March 12, 2012

TO: The Directors

FROM: Thomas P. Dee

SUBJECT: Buffalo River Programming Coordinator

REQUEST FOR: Authorization to Enter into a Contract with Arts Services Initiative of Western New York for Programming Coordination Services; and to Take Related Actions

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### I. Contract Summary

Contractor: Arts Services Initiative of Western New York (“ASI”)

Scope of Services: Buffalo River Programming Coordinator

Contract Term: Approximately March – November 2012

Contract Amount: Not to exceed \$ 120,000 = \$12,480 fee + \$5,000 insurance + \$82,520 programming funds + 20% contingency

Funding Source(s): The funding source for the proposed contract is proceeds payable to ECHDC pursuant to the NYPA Relicensing Agreement.

### II. Background

The Erie Canal Harbor Development Corporation (ECHDC), created in 2005 to spearhead the waterfront development effort with a mission to revitalize Western New York’s waterfront and restore economic growth to Buffalo based on the region’s legacy of pride, urban significance and natural beauty, is currently leading the redevelopment effort of the Inner Harbor, Outer Harbor, and the Buffalo River. ECHDC feels it is important to enhance and create interesting and appealing components along the Buffalo River and Waterfront that will attract visitors, but will also make the citizens of Buffalo proud of the rich history and the redevelopment of their Waterfront. Many efforts have been made to redevelop and remediate the Buffalo River and restore its once lived vibrancy. As a result, each year the boat, kayak, canoe, and rowing traffic increases as well as the introduction of more public gathering and access points along the Buffalo River. It is ECHDC’s goal of this project to capitalize on the current efforts and expand the attraction of the Buffalo River by offering more “things to do”.

### III. Contractor Selection Process

On February 2, 2012, ECHDC issued a Request for Proposals (“RFP”) seeking to retain a qualified organization to solicit and coordinate events and programming along the Buffalo River. The successful proposer will essentially acts as ECHDC’ agent and solicit proposals from organizations and groups interested in holding an event or series of events along the Buffalo River. It will be the responsibility of the successful proposer to execute an effective outreach plan and present the results of the solicitation with recommendations to ECHDC to be implemented beginning in May. The purpose of the events and programming is to provide entertainment and educational experiences along the Buffalo River in Buffalo, New York between May and November.

One bid was received by February 23, 2012.

A selection committing consisting of ECHDC employees reviewed the proposal and interviewed the proposer. The ECHDC selection committee reviewed the proposal based on the following factors;

- Effective outreach
- Event Coordination
- Knowledge of Buffalo’s market for:
  - Urban and outdoor programming;
  - Waterfront and/or waterside programming;
  - Attracting audiences;
- Working with pertinent rules/regulations of Local and State agencies.

Based on the above criteria as well as the interview performance, the ECHDC selection committee believes Arts Services Initiative of Western New York is qualified, and demonstrates the skills required and past experience to complete the work.

Pursuant to State Finance Law Section 139-j and 139-k and the Corporation’s policy related thereto, staff has; a) considered proposed contractor’s ability to perform the services provided for in the proposed contract; and b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff considers the proposed contractor to be responsible.

### IV. Scope of Work

Pursuant to the contract with ECHDC, ASI will be required to complete the following tasks as described below:

The purpose of the *ECHDC Buffalo River Assisted Programming* will be to assist and expand the calendar of events that will activate the existing features, public spaces and water along the Buffalo River. The successful Programming Coordinator (“Coordinator”) will essentially act as ECHDC’s agent and solicit proposals from organizations and groups interested in holding an event or series of events along the Buffalo River. It will be the responsibility of the Coordinator to execute an effective outreach plan and present the results of the solicitation with recommendations to ECHDC to be implemented from May 1<sup>st</sup> to November 1<sup>st</sup>. ECHDC and the Buffalo River Committee will review the proposals with the Coordinator’s recommendations and approve the final list of programming and financial commitments. Based on the approved final list, the Coordinator will be responsible for communicating and

coordinating with the program sponsors to effectively implement the programming. The Coordinator will administer the release of funds to the program sponsors based on ECHDC payment guidelines and ensure the funds are spent correctly and the event is a success. The Coordinator will also be responsible for reporting back the ECHDC with the programming details and a review of the programming for future reference.

Programming, defined as any onetime or regularly-scheduled activity or event, performance, concert, festival or social gathering, will be limited to Buffalo River as indicated in Attachment A – Map of Buffalo River of the RFP. ECHDC will provide up to \$82,520 for the *ECHDC Buffalo River Assisted Programming*. Individual events will receive a maximum of \$10,000. A match (cash ~~or in kind~~) of 50% or more is encouraged.

The Coordinator must insure ECHDC that the programming sponsors have the correct permissions to hold the events on or at the programming sponsors preferred sites.

Access to public space and right-of-way will be the responsibility of the programming sponsor and is subject to review by the City of Buffalo.

V. Contract Term, Price and Funding

The contract term is to be from March to November of 2012 for a total contract amount not to exceed \$120,000, includes \$12,480 fee + \$5,000 insurance + \$82,530 programming funds + 20% contingency. The funding source for the proposed contract is proceeds payable to ECHDC pursuant to the NYPA Relicensing Agreement.

VI. Non-Discrimination/Affirmative Action

ECHDC requires contractors to use good faith effort to achieve a Minority Owned Business Enterprise participation goal of 20% and a Women Owned Business Enterprise participation goal of 5%. The above-mentioned contract goals shall be a percentage of total expenditures made pursuant to this contract, including but not limited to, purchase orders, invoices and other payments made in the performance of this contract.

VII. Environmental Review

ESD staff has determined that the action, which involves engineering design that does not commit the Corporation to undertake any project, constitutes a Type II action as defined by the New York State Environmental Quality Review Act (“SEQRA”) and the implementing regulation for New York State Department of Environmental Conservation. No further environmental review is required in connection with the project.

VIII. Requested Action

The Directors are requested to (1) make a determination of responsibility with respect to the proposed contractor; (2) authorize the Corporation to enter into a contract with Arts Services Initiative of Western New York for an amount not to exceed \$120,000; (3) and to take all related actions.

IX. Recommendation

Based on the foregoing, I recommend approval of the requested actions.

XI. Attachments

Resolution

March 12, 2012

ERIE CANAL HARBOR DEVELOPMENT CORPORATION – Buffalo River Programming Coordinator – Authorization to Enter into a Contract with Arts Services Initiative of Western New York for Programming Coordination Services; and to Take Related Actions

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BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds Arts Services Initiative of Western New York to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into a contract with Art Services Initiative of Western New York for a base contract amount of ONE HUNDRED THOUSAND DOLLARS (\$100,000), plus a 20% contingency in the amount TWENTY THOUSAND DOLLARS (\$20,000) for a total contract amount not to exceed ONE HUNDRED TWENTY THOUSAND DOLLARS (\$120,000) for the purposes and services, and substantially on the terms and conditions, set forth in the Materials; and be it further

RESOLVED, that the President of the Corporation or his designee be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.

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**Empire State Development  
Erie Canal Harbor Development Corp  
Operating Budget FY 2012-13**

	Actual Expense FYE 2011	Spending Plan FYE 2012	Projected Expense FYE 2012	Spending Plan FYE 2013
<b><u>PERSONAL SERVICES (PS)</u></b>				
Salaries	572,125	562,455	515,000	572,125
Fringe Benefits	147,075	191,235	175,100	194,523
<b>TOTAL PERSONAL SERVICES</b>	<b>719,201</b>	<b>753,690</b>	<b>690,100</b>	<b>766,648</b>
<b>HEADCOUNT</b>	<b>6</b>	<b>6</b>	<b>6</b>	<b>7</b>
<b>POST EMPLOYMENT COST</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b><u>NON-PERSONAL SERVICES (PS)</u></b>				
<b>Professional Fees</b>				
Legal Fees	475	0	0	0
Consultant Fees	0	0	0	0
Accounting / Audit Fees	0	0	0	0
<b>Total Professional Fees</b>	<b>475</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Other Non-Personal Services</b>				
Employee Travel & Meals	839	4,000	0	4,000
Seminars & Conferences	145	500	500	1,000
Dues & Memberships	0	500	500	500
Subscriptions & On-Line Services	1,764	1,000	500	2,000
Office Occupancy Expenses	49,351	47,000	60,000	50,000
Insurance	5,887	9,000	17,000	24,500
Agency Temps	16,694	16,000	19,000	75,000
Telephone/Fax/Internet	9,130	12,000	8,500	12,000
Postage/Express Mail/Messenger	3,684	7,000	2,000	7,000
Office Supplies	4,165	5,000	3,500	5,000
Advertising/Promotion	426	7,000	0	7,000
Printing & Reproduction	2,770	7,000	2,500	7,000
Computers/Software/Equipment	0	2,000	0	2,000
Other Outside Service	0	1,000	500	1,000
Property Management Expense	0	7,000	500	3,000
Repairs & Maintenance	0	0	1,500	0
Other Expenses	9,871	5,000	5,500	10,000
<b>Total Other Non Personal Services</b>	<b>104,725</b>	<b>131,000</b>	<b>122,000</b>	<b>211,000</b>
<b>TOTAL NON-PERSONAL SERVICES (NPS)</b>	<b>105,200</b>	<b>131,000</b>	<b>122,000</b>	<b>211,000</b>
<b>TOTAL PS &amp; NPS</b>	<b>824,401</b>	<b>884,690</b>	<b>812,100</b>	<b>977,648</b>

**Empire State Development  
Erie Canal Harbor Development Corp  
Capital Budget FY 2012-13**

	Actual Expense FYE 2011	Spending Plan FYE 2012	Projected Expense FYE 2012	Spending Plan FYE 2013
Acquistion Costs	0	0	0	10,000,000
Design & Other Soft Costs	1,644,350	3,200,000	3,200,000	7,600,000
Legal Costs	362,359	600,000	50,000	450,000
Property Management/Maintenance Costs	355	9,000,000	0	2,300,000
Insurance	20,030	50,000	45,000	70,000
Demolition & Site Clearance	1,976,220	1,000,000	150,000	1,200,000
Construction Costs	373	48,500,000	500,000	34,000,000
Other Misc. Costs	328,363	400,000	975,000	500,000
<b>Total Capital</b>	<b><u>4,332,051</u></b>	<b><u>62,750,000</u></b>	<b><u>4,920,000</u></b>	<b><u>56,120,000</u></b>

## FOR CONSIDERATION

March 12, 2012

TO: The Directors

FROM: Thomas P. Dee

SUBJECT: ECHDC FY 2012/2013 Operating and Capital Budget Proposal

REQUEST FOR: Ratification and Approval of the Corporation's Operating and Capital Budgets for Fiscal Year 2012/2013 (April 1, 2012 – March 31, 2012)

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### I. Background

Attached for your review and approval are the proposed operating and capital requests (the "Budgets") for the Erie Canal Harbor Development Corporation (the "Corporation") for Fiscal Year 2012/2013 (April 1, 2012 – March 31, 2013).

### II. ECHDC 2012/2013 Operating Budget Summary

The operating Budget proposes a total of \$766,648 in personal services (salaries and fringe benefits for seven employees) and a total of \$211,000 in non-personal services (primarily professional fees, office occupancy and other administrative expenses). The total of all personal and non-personal amounts for Fiscal Year Budget 2012/2013 is \$977,648. Consistent with previous years' operating budget, the FY 2012/2013 operating budget will continue to be advanced with Empire State Development Corporation Corporate funds, with the expectation of reimbursement at a later date.

### III. ECHDC 2012/2013 Capital Budget Summary

Separate from the Corporation's operating budget is the Corporation's capital project expenses spending plan. Capital projects are approved by the Corporation's Board of Directors under separate actions. The Corporation's FY 2012/2013 capital project expenses is \$56,120,000 for the commencement of the historically aligned canals, towpaths, and bridges, as well as, but not limited to, the extensive programming at the Central Wharf and along the Buffalo River; additional signage and site furnishings at the Central Wharf; the construction of the bistro at the Naval & Military Museum; operations of the Queen City Ferry Company; the extension of the public floating docks.

ECHDC will be funding various projects at the Outer Harbor including, but not limited to the completion of the design and construction of Parcel OH for public access, and a feasibility study for the additional sand at Gallagher Beach. ECHDC will also be working with Community Stakeholders, to help fund various projects along the Buffalo River including, but not limited to ECHDC's Buffalo River Programming funding and the Grain Elevator & Bridges Lighting Project.

Funding for the Corporation's capital spending plan will be consistent with existing Board actions and primarily will consist of both existing and anticipated funds from the New York Power Authority, New York State, the County of Erie, Federal Highway Administration, Federal Transit Administration, and Private Funding.

IV. Environmental Review

Ratification and approval of the Corporation's Operating and Capital Budgets for Fiscal Year 2012/2013 constitute a ministerial action as defined by the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations for the New York State Department of Environmental Conservation. No further environmental review is required in connection with this request. Capital projects are approved by the Corporation's Board of Directors under separate actions and, as necessary, will be subject to environmental review prior to such Board approval.

V. Recommendation

Based upon the foregoing, the Director's are requested to ratify and approve the Corporation's proposed FY 2012/2013 operating budget in the amount of \$977,648 and the capital budget in the amount of \$56,120,000.

VI. Attachments

Resolutions

ECHDC – FY 2012/2013 Spending Plan – OPERATING

ECHDC – FY 2012/2013 Spending Plan – CAPITAL

March 12, 2012

ERIE CANAL HAROBR DEVELOPMENT CORPORATION – ECHDC FY 2012/2013 Operating and Capital Budget Proposal – Ratification and Approval of the Corporation’s Operating and Capital Budgets for Fiscal Year 2012/2013 (April 1, 2012 – March 31, 2013)

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RESOLVED, based on the materials at this meeting and ordered filed with the Corporation (the “Materials”), the Corporation’s proposed FY 2012/2013 operating and capital budgets are hereby ratified, approved, and adopted in all respects, substantially in the form set forth in the materials and subject to the availability of funds; and be it further

RESOLVED, that the officers of the Corporation and/or appropriate designees, and each of them, hereby authorized and directed to take all actions and execute all documents in connection with the establishment and implementation of the Corporation’s budget, and be it further

RESOLVED, that the President of the Corporation or his designee be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.

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