

F. Rensselaer - RESTORE II - Riverfront Redevelopment (W079)

June 24, 2010

General Project Plan

- Grantee:** City of Rensselaer (the “City” or “Rensselaer”)
- ESD Investment:** A grant of up to \$1,400,000, pending passage of the New York State budget, to be used for a portion of the cost of demolition and construction.
- Project Location:** 555 Broadway, Rensselaer, Rensselaer County
- NYS Empire Zone:** N/A
- Project Completion:** December 2011
- Grantee Contact:** Marybeth Pettit, Planning Director
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- Project Team:**
- | | |
|-------------------------|---------------|
| Project Management | Susan Shaffer |
| Affirmative Action | Laverne Poole |
| Environmental | Soo Kang |
| Design and Construction | Barbara Helm |

Project Description:

Background

The City of Rensselaer is located on the east bank of the Hudson River directly across from Albany. Rensselaer, one of the oldest settlements in the United States, was settled by the Dutch who established grain and timber mills. In the nineteenth century, Rensselaer became a local transportation center, with bridges and ferries traversing the Hudson River to Albany and the Erie Canal, and grew as an industrial city.

Over the past thirty years, Rensselaer's industrial base has eroded as the region moved from manufacturing to information- and service-based sectors. While the 8,000-person city retains its role as a shipping and distribution center, only a few employers remain in the city. The loss of jobs and population has led to a severely eroded tax base that places a heavy burden on the remaining population. Today, Rensselaer seeks to develop vacant and underutilized riverfront property and to realize its potential as a premiere waterfront community that capitalizes on its proximity to Albany and the transportation infrastructure.

Redevelopment of the riverfront is a specific goal of the adopted Local Waterfront Redevelopment Plan and the adopted Comprehensive Plan. Consistent with this goal, local developer Marx Properties and contractor U.W. Marx Inc. (collectively “Marx”) presented

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the City with a plan to develop a strategically located 25-acre waterfront parcel, the only riverfront site large enough to support a mixed-use waterfront development. The site previously housed the local high school, which had relocated, leaving the building vacant. Marx undertook the project with private resources but requested the City's assistance to accelerate development and help overcome any delays in the extensive redevelopment needs of the site. This is the most significant new project proposed for the City in many years, but the City lacked financial resources to contribute to its development. ESD awarded a \$1,400,000 Restore II grant to support the project, which is expected to increase employment, housing options and waterfront access and to bring numerous community and economic development benefits.

The Project

The Project Location is the site of the City's former high school. Marx acquired the site and demolished the vacant high school building in 2008 prior to undergoing environmental review and rezoning in 2009 that is now complete. The project, known as De Laet's Landing, is a two-phase mixed-use development on the Hudson River waterfront that will create housing and retail space. Restore funds will be used for Phase I, which includes construction of roads and sewer and water infrastructure, 40,000 square feet of retail space and over 50 residential units. Ehrenkrantz, Eckstut & Kuhn of New York City was selected to provide architectural services, and U.W. Marx Inc. of Troy will manage construction. Construction of sewer and water infrastructure began in March 2010, and construction of retail and residential properties is scheduled to occur from June 2010 through June 2011. Phase II construction, which will include a public access promenade and some type of dock or marina facility, does not involve Restore funds and will be completed in 2011, with review by the New York State Department of Environmental Conservation and the Army Corps of Engineers.

Financing Uses	Amount	Financing Sources	Amount	Percent
Demolition	\$910,724	ESD Grant	\$1,400,000	12%
Reconstruction	\$11,060,476	City Equity*	10,571,200	88%
Total Project Costs	\$11,971,200	Total Project Financing	\$11,971,200	100%

*Source of equity is Marx Properties.

Financial Terms and Conditions:

1. At the time of disbursement, the City will reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The City will be obligated to advise ESD of a materially adverse change in its financial condition prior to disbursement.

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3. The City will ensure the contribution of at least a 10% match of the grant amount to the Project.
4. Up to \$1,400,000 will be disbursed to Grantee in two disbursements as follows:
 - a) an Initial Disbursement of \$602,000 will be disbursed upon completion of demolition and documentation of project costs totaling \$910,724, assuming that all project approvals have been completed and funds are available;
 - b) a Second Disbursement of \$798,000 will be disbursed upon completion of construction as evidenced by a certificate of occupancy and documentation of additional project costs of \$11,060,476 (cumulative project costs of \$11,971,200), assuming that all project approvals have been completed and funds are available.

Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. Expenses must be incurred on or after January 15, 2008, to be considered reimbursable project costs. Previously expended funds may be applied toward match requirements retroactive to June 23, 2006, when the Restore New York Legislation was enacted.

5. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$1,400,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the City and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.

Design and Construction

Design & Construction staff will review project plans, scope, budget and schedule. D&C will visit the site at its option, review requisitions and recommend payment when its requirements have been 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 July 28, 2009 by the Rensselaer City Planning Commission, as lead agency, in connection with the proposed Rensselaer Waterfront Redevelopment Project (the "proposed action").

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;
- 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.

Affirmative Action

ESD's Non-discrimination and Affirmative Action policy will apply. The grantee is encouraged to use its best efforts to achieve a Minority Business Enterprise participation goal of 7% and a Women Business Enterprise participation goal of 3% of the total dollar value of work performed pursuant to contracts or purchase orders entered into in connection with the construction work related to the project, and to include minorities and women in any job opportunities created by the project.

Statutory Basis – Restore NY Communities:

Land Use Improvement Project Findings

1. The area in which the project is to be located is a substandard or insanitary area, or is in danger of becoming a substandard or insanitary area and tends to impair or arrest sound growth and development of the municipality.

The project involves the demolition of a vacant school building, which has been deemed by the City to arrest sound growth and development in the area.

2. The project consists of a plan or undertaking for the clearance, replanning, reconstruction and rehabilitation of such area and for recreational and other facilities incidental or appurtenant thereto.

The project involves the demolition and reconstruction of a site that the City has included in its overall master development plan, The City of Rensselaer Comprehensive Plan adopted by the Common Council in May of 2007, and the Local Waterfront Revitalization Plan (LWRP),

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adopted in 1987. The Comprehensive Plan describes permitted uses along the waterfront as public recreation, marinas, residential, retail, office, accommodations, and professional services and emphasizes the importance of improved public access to the waterfront and a mandated one hundred foot setback from the river to permit adequate space for public trails and other recreational opportunities.

3. The plan or undertaking affords maximum opportunity for participation by private enterprise, consistent with the sound needs of the municipality as a whole.

The City published a property assessment list and held a public hearing on the project at the time of application. The City will ensure compliance with all applicable local laws and regulations.

4. The requirements of Section 10(g) of the Act are satisfied.

There are no families or individuals displaced from the Project area.

Exhibit A

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

Rensselaer Waterfront Redevelopment Project

INVOLVED AGENCY FINDINGS STATEMENT State Environmental Quality Review Act

June 24, 2010

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 (FGEIS) certified as complete on July 28, 2009.

Lead Agency: Rensselaer City Planning Commission

Name of Action: Rensselaer Waterfront Redevelopment Project (the “project”)

SEQRA Classification: Type I Action

Location: 555-575 Broadway, Rensselaer, New York

Description of Action:

The project involves rezoning of the affected area under the City of Rensselaer Planned Development District law to permit a proposal for a mixed use development along the City of Rensselaer waterfront with reconfigured bulkhead shorelines. The development will include approximately 515 residential units; 165,000 square feet of retail space; 250,000 square feet of office space; a 300 room hotel; 1,830 parking spaces; a harbor with a pier; dockage; a public car – top boat launch; and a public promenade along the Hudson River and harbor. Inasmuch as the Applicant (Marx Properties) has indicated that it wishes the flexibility to vary the extent of each type of proposed use by up to 30%, the GEIS, for each type of impact, evaluates that relative apportionment of uses that would result in the greatest impact. The maximum potential development thus identified for the project is the basis for all data, impacts and mitigations identified in the GEIS. The 30% variation will occur within the building footprints. The Applicant has stated its intention to attract other developers to execute all or part of the proposed action. Therefore, all responsibilities of the Applicant identified in the FGEIS and this Findings Statement are also responsibilities of successors and assigns of the Applicant. Full build-out of the proposed action is estimated to have duration of between 10 and 15 years. Street rights-of-way and public sanitary, water and storm water management facilities will be dedicated in fee to the City of Rensselaer. Sanitary, water and storm water services to adjacent buildings will be public utilities within street rights-of-way, and privately owned outside street rights-of-way. A

right-of-way for public access from the end of New Broadway to and along the Hudson River and harbor shores will be dedicated in fee to the City of Rensselaer.

ESDC's action involves the provision of funding under the Restore NY program to the City of Rensselaer for a portion of the cost of demolition and construction for the project.

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

SEQRA Process

The Rensselaer City Planning Commission (the "Planning Commission"), the lead agency for the proposed project, conducted a coordinated review pursuant to SEQRA. A positive declaration was issued on February 13, 2008 and a formal scoping session was held on May 15, 2008. A Draft Generic Environmental Impact Statement ("DGEIS") was accepted by the Planning Commission and a Notice of Completion issued on January 12, 2009. 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 February 24, 2009. The public comment period was held open until March 16, 2009. A Final Generic Environmental Impact Statement ("FGEIS") was accepted and a Notice of Completion issued on July 28, 2009. The FGEIS was properly filed with all involved and interested agencies and made available for public review. The Planning Commission filed a SEQRA Statement of Findings on August 31, 2009.

PROBABLE IMPACTS OF THE PROPOSED ACTION

The DGEIS/FGEIS identified environmental issues as fully described in the DGEIS and FGEIS and summarized below.

Topography, Soils and Geology

Construction impacts include disturbance and loss of soils during construction; potential for erosion; and potential large quantity and unknown constituents of dredge soils can be considered large, important, significant, and potentially adverse. Post-construction impacts include reduction in permeable surface area resulting in a reduction in infiltration and an increase in surface water flow volumes and velocity. These effects could result in soil erosion and the carrying of pollutants to the receiving waters. Seismic impacts to manmade lands, especially with respect to potential for liquefaction, are discussed in the GEIS.

No adverse impacts related to topography, soils and geology will be produced, since disturbance of soils and potential erosion will be mitigated and seismic impacts such as liquefaction have been demonstrated as not being likely. The dredge "spoils" will be used as fill on the site and must first receive a Beneficial Use Determination from the New York State Department of Environmental Conservation (DEC) prior to receiving local approval of the phase involving dredging. If dredging is required at the north end of the project in connection with proposed docks, a Beneficial Use Determination must also be obtained from DEC. The dry land cuts and dredge spoils generated during construction of the harbor are sufficient to provide fill for the remainder of the project and large amounts of general fill needed to raise on-site grades will not need to be imported to the site.

Hydrogeology

The proposed project will substantially increase the percentage of impervious surface covering the site and will negatively impact infiltration of surface water.

No adverse hydrologic impacts will be produced, as potential adverse impacts will be mitigated by implementation of Storm Water Pollution Prevention Plans (SWPPP) for construction phases and for operational phases of the project. The City of Rensselaer Local Law 4-2007 (codified as Erosion and Sediment Control Ordinance, §145 and following; and in the Zoning Ordinance, under Stormwater Control, §179-24 and following) has been interpreted by the Zoning Board of Appeals to allow a SWPPP to be prepared for each phase of development as opposed to a full SWPPP for the entire project. This finding is conditioned on the Applicant and its successors and assigns demonstrating in each SWPPP that its measures are not dependant on measures to be implemented in later phases, and will be effective in light of site conditions. Treatment measures will be built to established standards for permanent practices. The Applicant has agreed to install the water quality filter practice proposed in the FGEIS Section 3.3.3.2 before the initiation of any waterfront phase or before transferring their ownership interest. Should permitting or approvals not be in place for construction of the harbor then the water quality filter practice proposed in Section 3.3.3.2 will be installed. FGEIS Section 1.2.3 provides the anticipated project phasing which indicates construction of New Broadway with utilities to the proposed roundabout (Phase I), and construction of town homes along New Broadway (Phase II), prior to construction of the marina (Phase III). The SPDES permit typically requires that all necessary DEC permits subject to the Uniform Procedures Act (UPA) have been obtained before coverage can begin, unless otherwise notified by DEC pursuant to 6 NYCRR Part 621.3(a)4. This section of law states that if a project requires more than one DEC permit, the Applicant, its successors and assigns must simultaneously submit all necessary applications, or demonstrate to the satisfaction of DEC that there is good cause not to do so. In order to demonstrate good cause to allow construction of Phases I and II to proceed prior to obtaining the permit for dredging the river, the Applicant, its successors and assigns must show that the construction of Phase I and II is entirely independent of the harbor, and compliance with the SPDES General permit for Stormwater associated with Construction Activities can be achieved within the limits of disturbance of Phase I and II. Upon showing good cause, the Applicant, its successors and assigns may obtain SPDES permit coverage as a phased project and begin construction of Phases I and II prior to issuance of the UPA permits for the harbor. The NOI should identify that this is a phased project and that other permits are needed for the other phases and subsequent NOIs will be submitted for the harbor. If subsequent phases propose displacement of a practice from an earlier phase then a phasing plan in the SWPPP will indicate how continuous treatment will be provided.

Surface Water Resources and Stormwater Management

The proposed site is adjacent to the Hudson River and the Quackenderry Creek, both designated Class C water bodies by DEC. The proposed action proposes reshaping and engineering the Hudson River shoreline. Due to the scale and expected duration of construction there is potential for siltation into both the Hudson River and Quackenderry Creek. Due to the reconfiguration of the existing shoreline, ecologically significant wetlands and submerged aquatic vegetation beds will be impacted or lost. There is potential for disturbance of contaminants due to the dredging of river sediment. The proposed action is located in a flood fringe area along the Hudson River. The site is partially within the 100-year flood zone. Most of the site has a base flood elevation of 21 feet. About half the site is located within Zone A12 and half within Zone B of the National Flood

Insurance Program maps. The proposed action will cover a significantly larger portion of the site with structures than currently exist.

No adverse impacts on surface water resources are expected as project runoff will not adversely affect the levels of the Hudson River and Quackenderry Creek, and built elements that project into the Hudson River will be piers, through which water may flow.

No adverse impacts from flooding will result with the implementation of mitigating measures as described below.

Flora and Fauna

The proposed action proposes reshaping and engineering of Hudson River shoreline adjacent to the project site. Habitat areas for sturgeon, mussels and other aquatic species have been indicated in the Albany waterfront area. Additionally, there are submerged aquatic vegetation beds with potential ecological significance that would be negatively impacted by reconfiguration and engineering the shoreline. DEC Environmental Resource maps indicated that the project is located within the vicinity of one or more rare animals. A site-specific habitat study, however, confirmed that no rare or endangered animal species were present.

The loss of some submerged aquatic vegetation will occur, resulting from reshaping the Hudson River shoreline, especially related to the construction of the harbor. No such impacts are expected to result from the construction of the docks at the north end of the project shoreline, as these docks are to be cantilevered over SAV beds and is not expected to require dredging.

No adverse impacts the Hudson River and Quackenderry Creek will result from siltation during both construction and operational phases of the proposed action with the implementation of mitigating measures as described below.

Potential adverse impacts to aquatic fauna may occur, resulting from reshaping the Hudson River shoreline, especially related to the construction of the harbor and also potentially related to construction of the docks at the north end of the project shoreline if dredging is required. Additional studies of aquatic fauna are needed to determine impacts and mitigations; such studies should be designed and implemented with the advice and approval of DEC during the permitting process.

Cultural Resources

No structures currently listed on, nominated to or determined eligible for inclusion on the State or National Register of Historic Places are located within view of the proposed construction. The New York State Office of Parks, Recreation and Historic Preservation (OPRHP) however, has indicated that the site has potential to contain significant archeological resources. A Phase IA site assessment study was performed between March and July 2008, which identified a potential for cultural resources pertaining to both the Native and the European American eras of occupation to be present within the area to be affected by proposed development. Based upon the recommendations of the Phase IA work, a subsurface sampling plan was developed after consultation with OPRHP. A Phase IB site identification survey of the proposed project area was carried out in May and June 2008.

Sampling of each subarea of the proposed development parcel where sampling was feasible failed to encounter any pre-nineteenth century items or evidence of pre-railroad era soils within the area of potential effect. If early soils exist, and there is no reason to suspect they do not, they would be located well below the deepest extent of project impact except potentially within the proposed location of the excavation for the marina. In addition, the area beneath the basement of the former high school building was recommended for further investigation. Additional Archaeological Field Reconnaissance report was completed in November 2009 which concluded that the surface most likely to contain contact period (Mohican) and pre-1850's historic artifacts has been removed. The potential still exists for more deeply buried older Holocene surfaces below the island and below the current water table.

OPRHP in a letter dated December 2, 2009 indicated that "it is our understanding that the marina basin is no longer being considered and other project impacts would not be extending to the depths tested. Therefore, it is the opinion of the SHPO that the project will have No Effect on historic properties in or eligible for inclusion in the State and National Registers of Historic Places. If at any time the construction of the marina is reconsidered, the SHPO recommends that a Monitoring Plan be developed for review so it would be implemented for the removal of soil at the depth where the earlier Holocene deposits may be encountered."

ESDC has confirmed that the originally proposed marina is being redesigned. The Applicant shall consult with OPRHP on the redesigned marina and provide any necessary Monitoring Plan or other documentation for OPRHP's review and approval prior to its implementation. With the incorporation of this measure, the project will avoid or mitigate potential adverse impacts to cultural resources.

Visual Character

The proposed action proposes significant mixed use development with substantially greater building heights (tallest is 25 stories), higher residential and structural density than currently found on the site, adjacent properties and throughout the rest of Rensselaer. A significant portion of the shoreline will be converted from a natural appearance to a more landscaped and engineered state that may impact current views of the Hudson River and Albany skyline from sites and properties within the City of Rensselaer. View of the Rensselaer shoreline from the Albany riverfront will be significantly changed with a new mass of large buildings as well as a change from a non-managed, natural shoreline to a clearly man-made design and landscape. The proposed action will produce visual impacts as viewed from Albany, the Hudson River and from within the City of Rensselaer.

No adverse visual impacts will be produced by the proposed action as the proposed plan is consistent with the City of Rensselaer Local Waterfront Revitalization Program and Comprehensive Plan, and compatible with the densely urbanized environment of Albany, directly across the Hudson River from the proposed action. Furthermore, implementation of design guidelines for the entire proposed action will ensure positive visual impacts.

Noise

The proposed action's scale will require considerable work by heavy construction equipment over an extended period, including the driving of piles for high-rise buildings. Extensive use of powered hand tools and small generators will continue over the years of the project's phases.

No adverse noise impacts will result from either the construction or operation of the proposed action, as all project-generated noise will be below existing ambient noise levels.

No adverse impacts resulting from pile driving will affect neighboring residences, as the distance between those residences and the high rise buildings at which piles will be driven is sufficient to reduce impacts to an insignificant level.

Air Quality, Traffic and Public Transportation

All program elements of the proposed action are estimated to generate a traffic level of roughly 13,500 additional trips per day. There is potential for occasional peaks of 1,000 vehicle trips. The project will permanently amend and extend the local street network and create a large number of new trip generators. The scale of the project will affect local traffic patterns both during construction and upon completion. The potential for adverse air quality impacts related to construction activities and increased traffic exists. Additional public transportation ridership will be generated by the proposed action. As impacts will grow incrementally as development progresses, those impacts will be experienced incrementally as project phases are completed.

Vehicle trips generated by the proposed action will increase over existing conditions; however, no adverse traffic or traffic-related air quality impacts are projected from construction and most operational activities, with three potential exceptions. First, is the projection identified in the FGEIS, Appendix H, Traffic Impact Study, Table IV, "Queuing Analysis." This analysis demonstrates that four intersection legs will experience traffic queues which exceed the available queuing lengths, thus causing traffic to "back up" across the adjacent intersections. Although this projection is consistent with an urban environment, there are concerns related to impacts on emergency services and air quality during these events.

Second is the projected degradation in levels of service to substandard values at key intersections. Public interest will be served by providing for future public road rights-of-way to adjacent lands to the north and south of the proposed action, and the Applicant agrees to provide irrevocable offers of cession to the City for the City to exercise in the future at its discretion should it choose to construct such roads.

No adverse impacts on public transportation is anticipated and beneficial impacts will result by encouraging the use of public transportation to project residents and businesses.

Water Supply

The proposed project will increase the number of households in the community by about 15% and increase the amount of commercial and retail ground floor area by a similar percentage, all of which will require municipal water in excess of previous site uses. Impacts will grow incrementally as development progresses. All water mains, hydrants, and laterals to the "curb stop" at street rights-of-way will be dedicated to the City of Rensselaer.

No adverse impacts to public water supply will result, as the City infrastructure is adequate to provide most project needs. Booster pumps will be required to provide adequate pressure for fire protection of high rise buildings and that booster pumps shall be equipped with emergency generators to ensure operation during power outages.

A second connection to the City water system will provide assurance of a continued supply of water that would be absent if a single supply became inoperable. Such a second connection should be provided at the earliest practicable opportunity. The logical point of a second connection at the northeast quadrant of the proposed action is located on adjacent property. Should the City of Rensselaer obtain rights to make such a connection on the adjacent property during the project construction phase, the Applicant and its successors and assigns has agreed to install tees on the water mains within the proposed action to extend mains to the boundaries of the project site, and to provide a survey for water line connection off site. Easements for these extensions on the project site will be dedicated to the City of Rensselaer unless extensions are to be located with "paper street" rights-of-way extending to north and south property lines. Construction of water main extensions from such tees will be the responsibility of the owners of adjacent lands.

Wastewater Disposal

The proposed project will increase the number of households in the community by about 15% and increase the amount of commercial and retail ground floor area by a similar percentage, all of which will increase the volume of sanitary sewage in excess of previous site uses. Impacts will grow incrementally as development progresses. The City of Rensselaer has several Combined Sewer Overflows (CSOs), one of which runs to the Hudson River through the site of the proposed action. Potential impacts on this CSO resulting from the proposed action are identified. Uses that would require pre-treatment under the requirements of Rensselaer County Sewer District No. 1 will not be located within the proposed action. All sanitary sewers, manholes, appurtenances and building laterals to street rights-of-way will be dedicated to the City of Rensselaer.

The Planning Commission has determined that existing conveyance and treatment facilities are adequate to provide for the proposed action. Therefore, no adverse impacts to waste water systems will result from the proposed action.

The Combined Sewer Overflow (CSO) will be adversely impacted by construction of a project building in the northeast corner of the site, whose footprint requires relocation of the CSO. The Applicant and its successors and assigns shall provide plans for this relocation at the time it seeks approval of the relevant phase of development. The costs of this relocation will be borne by the Applicant, its successors and assigns.

No adverse impacts related to CSO will result because the proposed action will separate storm water and sanitary effluent. Project stormwater will be discharged to the Hudson River subject to any permit requirements from DEC. Project sanitary sewage will be conveyed via sewer connecting to an existing 18-inch stub at manhole J9D that was provided by Rensselaer County Sewer District No. 1 so that effluent may enter the County system downstream of the CSO control structure J9R, thus not exacerbating conditions at CSO 006.

The existing 18-inch stub at manhole J9D was provided to encourage future growth in Rensselaer and therefore, the proposed action shall make provision for future connection to this facility through the proposed development.

Community Services, Community Character and Fiscal Impacts

The proposed project will increase the number of households in the community by about 15 percent and increase the amount of commercial and retail ground floor area by a similar percentage. It is reasonable to expect that this will affect the demand for municipal services as well as wear and tear of public infrastructure. The site would contain a mixed-use neighborhood and district closer in density and building height to portions of downtown Albany than with existing neighborhoods anywhere in Rensselaer. This is considered desirable by the community as a means to create a critical mass of higher income residents, retail traffic and office workers such that it will draw further investment into local sites and create more jobs. Though the greatest market for potential residents would be among single professionals or active adults, there would be some increased demand for school services from the residential units. It is reasonable to expect increased demand on police, fire and waste services from the programmed residential, retail, office and hotel uses. Public safety may be impacted due to a constrained point of access from Broadway. Consultation with police, fire and EMS agencies was documented. Tax revenues for the proposed action at full build-out are estimated to be: City of Rensselaer, \$3,000,000; Rensselaer County, \$1,500,000; City Schools, \$4,000,000 (estimates do not anticipate abatements).

While the proposed action will require increased municipal services, the tax revenues to be generated by the proposed action will exceed the cost of those additional services. In addition, the proposed action will affect community character in a positive manner, as it will be consistent with the City of Rensselaer Local Waterfront Revitalization Program and Comprehensive Plan. The Applicant will create a not-for-profit organization for the purpose of executing specified operation and maintenance of certain parts of the proposed action that are not dedicated to the City of Rensselaer. Road rights-of-way, utility easements, and the promenade along the Hudson River and harbor will be dedicated to the City of Rensselaer as public lands. Therefore, no significant adverse community services, community character or fiscal impacts will result from the proposed action.

Energy and Sustainable Development

The proposed project will increase the number of households in the community by about 15 percent and increase the amount of commercial and retail ground floor areas by a similar percentage, all of which will increase the energy consumption at the site of the proposed action in excess of previous site uses. This increase in load may require additional improvements such as upgrades to transformers or conductors or gas system line or appurtenances to handle the increased load on the system; however, potential improvements by the utility providers will not be known until such time as specific phases of the development come forward. The existing infrastructure is expected to be capable of handling increased load on the system; however, project is expected to minimize any increased load to the system through early coordination with energy utility providers, use of energy star products and fixtures, use of Leadership in Energy and Environmental Design (LEED) rating system, and use of renewable energy standards, green roofs and innovative stormwater management systems.

With the incorporation of mitigation measures as noted below and the implementation of the principles of sustainable growth embodied in the LEED rating system, the proposed action is not expected to result in significant adverse impacts on the use and conservation of energy.

Solid Waste Management

Solid waste will be generated during construction and during the on-going operation of the proposed project. However, no significant adverse solid waste management impacts will result from the proposed action, as adequate collection services and disposal facilities are available in the region.

ALTERNATIVES

The GEIS examined a No-Action and Alternate Site Plan alternatives for the proposed action. Under the No-Action alternative, the site would remain in its present condition as a vacant lot. In its present condition, the project site is not compatible with the goals and objective expressed in the Local Waterfront Revitalization Plan (LWRP) related to the restoration, revitalization and redevelopment of underutilized areas. As such, the benefits to be gained by the redevelopment of the site in accordance with the LWRP would not be realized.

Alternate site plans for the following scenarios were examined:

- Elimination or redesign of the marina and waterfront improvements to avoid disturbance to the identified Submerged Aquatic Vegetation (SAV) in the near-shore areas of the project;
- Reduction in building heights; and
- Alternative means of vehicular access from the north or south.

The GEIS concludes that with the elimination of the marina and waterfront improvements, the City will not be able to take advantage of the economic activity that is generated with direct access to the Hudson River, and long term quality tenants will be difficult to obtain without direct access to the waterfront. Mitigation measures to minimize and/or avoid impacts to the SAV may include the use of piers, cantilevered waterfront structures, and soft shoreline treatments. Additional avoidance/minimization measures may be developed during the USACE permit process and may result in the evaluation and implementation of additional alternative configurations of the waterfront features of the proposed site plan. It is anticipated that should the project not be able to secure a permit for construction of the marina then the Applicant would seek approval for the alternate site plan noted in the FGEIS, replacing the marina from the project with a large reflecting pool.

A reduction in building heights would result in an overall reduction in the number of residential units, hotel, commercial and the quality of retail uses along the waterfront making the high-quality development, as envisioned, financially infeasible for the Applicant. Reducing the number of units and concurrent reduction in quality of amenities will negatively affect the overall viability of the neighborhood. In addition, mortgage tax receipts to the county and the assessed taxation to the City and school district will be reduced on the highest value units disproportionately. The reduction in units will also affect the availability and quality of the service retail, restaurants, and some of the hotel services and amenities.

The GEIS examined an alternate vehicular access site plan. Although an additional access from either the north or south may be possible, it would involve the construction and maintenance of a public right-of-way on privately owned property that is not owned or controlled by the project sponsor. Recognizing the limited options for vehicular access to the proposed project site, the entrance at Broadway Square and New Broadway have been configured in a boulevard style to provide two means of emergency ingress and egress. The conceptual site plan with alternate vehicular access has been developed so as to not preclude the connection to an additional entrance should this option be available in the future.

PROJECT MITIGATION

The proposed action has the potential to result in adverse impacts if mitigations are not implemented. Mitigations must be incorporated into the proposed action so that impacts will be reduced to the “not significant” level as identified in 6 NYCRR 617.7(c). The following mitigations will reduce potentially adverse impacts to a “not significant” level.

1. Applicant and its successors and assigns will obtain a Beneficial Use Determination for use of dredge “spoils” and any other potentially contaminated soil as on-site fill prior to receiving City approval of the phase in which such action is proposed.
2. Applicant and its successors and assigns will prepare a Storm Water Pollution Prevention Plan (SWPPP) for each phase of development that will comply with both the City Local Law 4-2007 and NYS DEC Storm Water Management Design Manual and DEC Uniform Procedures Act requirements for phased projects. Each SWPPP will demonstrate that the measures proposed for the instant phase are not dependant on a future phase, or will not be displaced or replaced by another future phase. Each SWPPP will further demonstrate the efficacy of the measures proposed therein.
3. Since project runoff will not affect elevations of the Hudson River and Quackenderry Creek, mitigation is not required. Built elements that project into the Hudson River will either be cantilevered from the shore or be piers through which river flow may pass.
4. Disturbance of submerged aquatic vegetation (SAV) and aquatic fauna (AF) will require permits from the NYS Department of Environmental Conservation (DEC) and the US Army Corps of Engineers (ACOE) as well as concurrence from the NYS Office of Parks, Recreation, and Historic Preservation (OPRHP). As part of these efforts, the Applicant has agreed to perform additional studies of SAV and AF as such may be approved by DEC and ACOE to be initiated prior to the Planning Commission’s review of plans for Phase II, and no waterfront elements will be considered for approval prior to the conclusion of such studies. The Applicant shall keep the Planning Commission apprised of the progress of these activities. If permits / approvals for disturbance of SAV and AF are not issued, the plan generally illustrated in Figure 29 of the FGEIS will be implemented. This alternative plan will be reviewed to ensure its consistency with the LWRP’s and Comprehensive Plan’s goals of promoting public access to the Hudson River with attractive water-related features as well as with SEQR, prior to final site plan approval.
5. Mitigations identified in No. 2 above will address potential siltation impacts.

6. The Applicant and its successors and assigns will follow all requirements of the City of Rensselaer Flood Damage Control Law. First floor elevations of all habitable building spaces will be set no lower than 23.5 feet above mean sea level. The Applicant and its successors and assigns must inform residents and businesses located in the 100-year floodplain within the proposed action that vehicles and other real property stored below this elevation will be subject to a 1% chance of flooding each year.
7. Mitigations identified in No. 4 above will address potential impacts to aquatic fauna.
8. The Applicant shall consult with OPRHP on the redesigned marina and provide any necessary Monitoring Plan or other documentation for OPRHP's review and approval prior to its implementation.
9. Prior to final site plan approval of the each phase of development, the Applicant and its successors and assigns will submit acceptable design guidelines for buildings or site elements, as applicable to be incorporated into the proposed action. These guidelines must be specific and measurable so that future City officials can understand their intent and administer that intent objectively.
10. The NYS Department of Transportation (DOT) is expected to provide comments related to queuing lengths at four (4) intersection legs (Broadway northbound at Columbia, Broadway southbound at Columbia, Broadway southbound at Herrick Street, and Broadway northbound at Herrick Street) and level of service projections for the below intersections, and provide recommendations to alleviate projected conditions for possible implementation in the Broadway Improvement Project and by Applicant and its successors and assigns. Also, the recommendation of the FGEIS, Appendix H, Traffic Impact Study, for mitigating measures to address projected traffic volumes must be implemented as follows. The Applicant and its successors and assigns will provide such data to the Planning Commission prior to built-out of 40% of the project's proposed square footage of buildings.

Columbia Street / Broadway Intersection: Signal timing adjustments / optimization to maintain level of service (LOS) to background conditions on all approaches.

Third Avenue / Broadway Intersection: Adjust signal timing and phasing to effect a LOS "C" for the southbound leg, especially targeted at left turning movements.

Route 9 & 20 Off-Ramp / Broadway Intersection: Signal timing optimization for all legs.

Herrick Street / Broadway Intersection: Install a traffic signal.

Partition Street / Broadway Intersection: Signal timing adjustments / optimization to maintain LOS "B" or better on all approaches.

Broadway / New Broadway Intersection: Add a 250-foot long right turn lane for southbound traffic to enter the site of the proposed action. Incorporate a 200-foot long left turn lane with 50-foot taper for eastbound traffic on New Broadway. The Applicant and its successors and assigns will upgrade and utilize the existing access drive to the former Junior / Senior High School campus as the principal vehicular access to the site of the proposed action until

completion of the Broadway Improvement Project. This improved driveway may be used for construction access following completion of the Broadway Improvement Project.

Connections to Adjacent Sites: Provisions have been made for potential future connections to the north and south at locations illustrated in Figure 2 of the FGEIS. Those mitigating measures cited above which are not implemented as part of the Broadway Improvement Project will be implemented by the Applicant, its successors and assigns.

11. Booster pumps with emergency generators will be provided for all habitable buildings exceeding four (4) stories. Demonstration that these facilities are to be provided or are not required, as demonstrated by a hydraulic analysis, will be required prior to receiving City approval of phases containing buildings in excess of four (4) stories.
12. The Applicant will provide a second point of connection to the existing City water main adjacent to the proposed action at the northern end of its property should the City of Rensselaer obtain the right to make this connection from the adjoining property owner. The cost of this connection, to the project boundary would be borne by the Applicant, its successors and assigns.
13. The Applicant and its successors and assigns will submit a plan for relocation of CSO 006 in the northern part of the site with its request to the City for approval of the phase in which such relocation is required. Demonstration of approval of this relocation by all authorities with jurisdiction will be required prior to City approval of that phase.
14. No adverse impacts from combined sewer overflow will result from on-site separation of storm water and sanitary effluent. Connection of sanitary effluent from the proposed action downstream of the CSO control structure J9R to the 18-inch stub at Manhole J9D is required.
15. All sanitary sewage will be conveyed via on-site sewerage to the 18-inch stub at Manhole J9D. As this stub was provided by Rensselaer County to promote future growth in Rensselaer, and as the proposed action will contribute effluent to it that will reduce its capacity to receive effluent from sources outside the proposed action, the Applicant and its successors and assigns will construct a sanitary sewer with a diameter no less than 8 inches to the southern quadrant of the Broadway/New Broadway intersection and terminate that sewer at a manhole in order to facilitate future contributions by other developments.
- 16a. Given that emergency service providers in Rensselaer are equipped and trained to protect existing buildings in the City, which do not exceed four (4) stories, it is reasonable to conclude that equipment and training currently not at the disposal of these providers will be needed relative to buildings in excess of four (4) stories. Therefore, the Planning Commission will notify fire, police and EMS providers when development phases proposing buildings in excess of four (4) stories are presented for approval and request consideration of what additional equipment and training will be appropriate. It is noted that projected tax revenues are adequate to cover the cost of such equipment and / or training. The Applicant, its successors and assigns will make buildings exceeding four (4) stories available to emergency service providers for training once a year at times mutually agreeable to all parties.

- 16b. To assist the City in its responsibilities for operation and maintenance of roads and infrastructure dedicated to the City within the proposed action, the Applicant and its successors and assigns will agree with the City that the City will provide its normal level of maintenance of public lands and infrastructure (water mains, water services within street rights-of-way, hydrants, other appurtenances required for operation of water distribution system, sanitary and storm sewerage, sanitary and storm laterals within street rights-of-way, storm water pollution prevention measures, street pavements and curbs, traffic control devices in public streets) and that the Applicant, its successors and assigns, will be permitted to provide increased levels of maintenance that are either desirable to the Applicant, its successors and assigns, or required by system maintenance complexity that is beyond the abilities of the City. The Applicant, on behalf of itself, its successors and assigns, will enter into a written agreement with the City of Rensselaer Common Council to record this agreement.
- 16c. Prior to the City's approval of the first phase of the proposed action that includes building construction, the Applicant, its successors and assigns will submit to the Planning Commission for its approval documents setting forth the organizational type, source of revenue, governance, assurances of organization's permanence, and responsibilities of the not-for-profit organization to be established for operation and maintenance of portions of that phase that will not be dedicated as public lands to the City of Rensselaer. This requirement does not apply if a phase does not involve building construction, i.e., a phase including only site preparation work, utility installations, road construction, etc.
17. Prior to the City's approval of each phase of the proposed action, the Applicant and its successors and assigns will utilize the principles of sustainable growth embodied in the Leadership in Energy and Environmental Design (LEED), Neighborhood Development (ND) and LEED New Construction 2009 (or later) rating systems and that Energy Star rated products and fixtures. It is noted that the Applicant and its successors and assigns need not apply for LEED certification but that the LEED criteria are to be implemented in construction and operation of facilities in the proposed action. The Applicant and its successors and assigns will also submit, prior to the Planning Commission's approval, documentation that available electric and gas facilities are adequate to supply the needs of the instant phase.
18. As no adverse impacts relative to solid waste management are projected, mitigations are not required. However, prior to receiving approval of each phase of the proposed action that proposes multi-residential and commercial buildings, the Applicant and its successors and assigns will submit demonstration of the means by which source separation will be accomplished in those buildings.

FUTURE SEQR ACTIONS

1. No further SEQR compliance is required if a subsequent proposed action will be carried out in conformance with the conditions, thresholds and mitigations established for such actions in the FGEIS or this Findings Statement, § 617.10 (d)(1);
2. An amended Findings Statement must be prepared if the subsequent proposed action was adequately addressed in the FGEIS but was not addressed or was not adequately addressed in this Findings Statement for the FGEIS, § 617.10(d)(2);

3. A Negative Declaration must be prepared if a subsequent proposed action was not addressed or was not adequately addressed in the FGEIS and the subsequent action will not result in any significant environmental impacts, § 617.10(d)(3);
4. A supplement to the FGEIS must be prepared if the subsequent proposed action was not addressed or was not adequately addressed in the FGEIS and the subsequent action may have one or more significant adverse environmental impacts, § 617.10(d)(4). Site-specific analysis of potential significant adverse environmental impact(s) is needed for actions following a generic EIS. The Planning Commission., as lead agency, will require that the Applicant submit materials required for future permits in order to assist the Planning Commission's evaluation of the need for a Supplemental EIS. The project applicant may voluntarily submit a draft supplement with project application materials. A Supplemental EIS should be prepared by the project sponsor, and will be subject to the same acceptance and review procedures as other EISs.
 - a. When a supplemental EIS is required the procedures for preparation and review of EISs established in § 617 shall be followed.

A supplemental EIS shall:

1. only be required for environmentally significant adverse impacts and mitigation not adequately addressed in the FGEIS,
 2. reference the FGEIS, summarize its relevant sections and state where a copy of the FGEIS is available,
 3. incorporate mitigation and alternatives recommended in the FGEIS as requirements for the supplemental action, in addition to any new mitigation measures or alternatives developed within the supplemental EIS,
 4. be cognizant of, and consistent with conditions, and thresholds established in the FGEIS and this Findings Statement.
5. Specifically, a supplemental EIS will be necessary under the following circumstances:
 - a. If mitigating measures are not executed as established in the FGEIS and this Findings Statement,
 - b. If additional expansion is proposed by the Applicant, its successors and assigns, which is directly interrelated to the proposed action and was not addressed in the FGEIS and if that expansion will result in any significant adverse impacts. Direct interrelationship is defined as physical improvements near or adjacent to the elements of the proposed action which would cause a significant adverse change in cumulative impact(s).

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: June 24, 2010

June 24, 2010

Rensselaer (Rensselaer County) – Rensselaer - RESTORE II – Riverfront Redevelopment – Restore NY Communities 07-08 (Capital Grant) – Adoption of Findings Pursuant to the State Environmental Quality Review Act

RESOLVED, that with respect to the Rensselaer Waterfront Redevelopment Project (the “Project”), 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 Rensselaer Waterfront Redevelopment 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 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.
