

Erie Canal Harbor Development Corp.

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
September 15, 2014 – 10:30 AM

PROPOSED AGENDA

CORPORATE ACTION

1. Authorization to Enter into a Contract for Ferry Services; and Authorization to Take Related Actions
2. First Buffalo Marina Improvements (Design Phase) – Authorization to Enter into a Memorandum of Understanding/Funding Agreement; and Authorization to Take Related Actions

EXECUTIVE SESSION

3. Procurement of Legal Services – Authorization to Amend a Contract for Environmental, Land Use and Related Litigation Services; and to Take Related Actions

FOR INFORMATION

4. President's Report – Oral Report

Item #1

Erie Canal Harbor Development Corp.

FOR CONSIDERATION

September 15, 2014

TO: The Directors

FROM: Thomas P. Dee

SUBJECT: Queen City Ferry

REQUEST FOR: Authorization to Award a Contract for Ferry Services; and Authorization to Take Related Actions

CONTRACT NEED AND JUSTIFICATION

I. Contract Summary

Contractor: Buffalo Sailing Adventures d/b/a Queen City Ferry Company
24 Grandview Drive
Getzville, New York 14068

Contact Term: Four (4) Years

Contract Amount: \$852,300 (includes \$77,482 Contingency)

Funding Source: New York Power Authority (Relicensing Agreement)

II. Background

On April 12, 2011, the Erie Canal Harbor Development Corporation (ECHDC) Board of Directors' approved a three-year contract with Buffalo Sailing Adventures (the "Contractor") now d/b/a/ Queen City Ferry Company for the Queen City Ferry Company in an amount not to exceed \$96,450. After the approved award, further review by the Empire State Development Contracts Administration Division indicated that additional insurance coverage on the Protection & Indemnity policy was required. The new limits required a total of ten million in liability coverage. On June 13, 2011 the ECHDC Board of Directors' approved a Contract Amendment in an amount not to exceed \$35,844 for the additional insurance coverage. In early 2014, ECHDC provided the Queen City Ferry Company with a one-year contract for \$28,000 to maintain the ferry services through Labor Day 2014.

III. Contractor Selection Process

The Contractor was originally identified as a result of the work of ECHDC's Cultural Advisory Group after seeking proposals from cultural and arts organizations. The Queen City Ferry Company ("QCF") has provided four years of ferry services linking the distinct areas of Buffalo's waterfront; the Inner Harbor, the Buffalo River and the Outer Harbor. The QCF is a local, family-owned and operated company and has been providing waterborne services out of Canalside in Buffalo, New York since 2009. The owners have over 30 years of combined experience in operating passenger and educational vessels on waterfronts nationwide. Currently operating one of the few small businesses at Canalside, the owners have a proven record of success in providing engaging, authentic, and professional public access to Buffalo's waterways.

A Contract Reporter exemption was granted for this new Contract. Soliciting ferry operator services using a NYS Contract Reporter advertisement was an alternative that was considered. However, given the lack of other, similar ferry services in Western New York it seemed unlikely that many other firms existed to provide these services. At this point, having another firm provide a new and enhanced ferry service would require many hours of review of the existing operations, customer needs, involved parties, and regulatory procedures with which the Queen City Ferry Company is already familiar. ECHDC is confident that alternative procurement methods would have increased the costs of the services, would have caused delays to implementing the new service by May 2015, and could have likely resulted in an inferior service.

IV. Scope of Work

The Contract ensures another four (4) years of regular water ferry service (pedestrian and bicycle), with a more efficient, standardized route and schedule. The more efficient route allows an increased number of trips between the Inner and Outer Harbors.

The Queen City Ferry Company has agreed to purchase a new, outfitted vessel that will allow increased bicycle ridership. This change has been necessitated by the increase in bicycle ridership at Canalside and along the Outer Harbor bike path system, and ECHDC's goal to further enhance the Region's waterfront, bike trails network. The vessel is anticipated to cost approximately \$250,000.

With an operating season from Memorial Day to Labor Day, the previous ferry service saw an average annual ridership of over 5,000 passengers. The new Contract includes increased hours during the same time period, as the previous 8-hr/per day for seven days a week service will be revised to include 12-hr/day on the weekends.

The Contract ensures a lower 2015 roundtrip fare for the Queen City Ferry, as next year's fare will be set at \$2 per ride - lower than the previous year's \$8 per ride cost. Roundtrip fares may be adjusted over the 10-year contract at the discretion of ECHDC.

With the increased trips, longer hours, provisions for bicyclists, and a lower cost per ride, the new service is expected to significantly increase ridership in 2015. These factors will ultimately increase the “attraction” nature of the ferry service while providing the most direct link yet between the City’s Inner and Outer Harbor.

V. Contract Term, Price and Funding

The Queen City Ferry Company contract includes a four-year operations and maintenance service contract at a cost not to exceed \$852,300 (including the 10% contingency). The ECHDC funds will be used to fully support all operations and maintenance costs (i.e., fuel, payroll, insurance, storage, marketing, inspections, etc.), and capital costs (i.e., vessel, landside improvements, etc.) associated with the water ferry service.

Expense Category	2015
Operations & Maintenance	\$125,386
Capital	\$24,500
TOTALS	\$149,886

Expenses for years 2016 through 2018 assume a 2% annual increase. The amendment includes two, three-year extensions of the ferry service as described above, as well as a stipulation that ECHDC would purchase the boat at the end of the 4th year or the 7th year if the extensions are not awarded.

Revenue from the sale of roundtrip tickets, sponsorships, and/or other income associated with the operations will be deposited into ECHDC’s account.

The source of funding is the New York State Power Authority (Relicensing Agreement).

VI. Environmental Review

ESDC, as lead agency, completed an environmental review of construction and operation of the Erie Canal Harbor Redevelopment Project, inclusive of marine infrastructure to support uses such as the subject ferry operation, pursuant to the requirements of the State Environmental Quality Review Act (SEQRA) and the implementing regulations of the New York State Department of Environmental Conservation. This review, which was coordinated with the involved agencies due to the Project’s Type I classification, involved the preparation of a draft and final environmental impact statement. The ESDC Board of Directors issued SEQRA findings for the Project in February 2005. Therefore, no further environmental review is required in connection with this action.

VII. Non-Discrimination/Affirmative Action

Erie Canal Harbor Development Corporation's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this Project. The Queen City Ferry Company is encouraged to include minorities and women in any job opportunities created by the Project and to solicit and utilize Minority and Women-owned Business Enterprises for any contractual opportunities generated in connection with the Project.

VIII. Requested Actions

The Directors are requested to: (1) authorize Erie Canal Harbor Development Corporation to award a contract to Buffalo Sailing Adventures d/b/a Queen City Ferry Company in an amount not to exceed \$852,300; and 2) authorize the taking of all actions related to the foregoing.

IX. Recommendations

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

X. Attachments

Resolution

September 15, 2014

ERIE CANAL HARBOR DEVELOPMENT CORPORATION - Queen City Ferry – Authorization to Enter into A Contract for Ferry Services; and Authorization to Take Related Actions

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 Buffalo Sailing Adventures b/d/a Queen City Ferry Company to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to award a contract to Buffalo Sailing Adventures d/b/a Queen City Ferry Company for an amount of Seven Hundred Seventy-Four Thousand Eight Hundred Eighteen Dollars (\$774,818) with a 10% contingency of Seventy-Seven Thousand Four Hundred Eighty-Two Dollars (\$77,482) for a total not to exceed contract amount of Eight Hundred Fifty-Two Thousand Three Hundred Dollars (\$852,300) 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 or his designees be, and the same hereby are authorized to execute and deliver on behalf of the Corporation all documents, instruments and agreements that the President shall deem necessary and appropriate to carry out these resolutions.

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Item #2

Erie Canal Harbor Development Corp.

FOR CONSIDERATION

September 15, 2014

TO: The Directors

FROM: Thomas P. Dee

SUBJECT: First Buffalo Marina Improvements (Design Phase)

REQUEST FOR: Authorization to Enter into a Memorandum of Understanding/Funding Agreement; and Authorization to Take Related Actions

CONTRACT NEED AND JUSTIFICATION

I. Contract Summary

Recipient: New York Power Authority ("NYPA")

Contact: Patricia Lombardi
New York Power Authority
Operations – Support Services
Project Management

Project Location: First Buffalo Marina Property
32 Fuhrmann Boulevard
Buffalo, New York 14203

Proposed Project: Design/Inspection of marine and landside improvements

Proposed Schedule: Eight Months (September 16, 2014 – May 15, 2015)

Funding Amount: Not to Exceed \$142,000

Funding Source: New York Power Authority (Relicensing Agreement)

II. Background

In 2011, the Erie Canal Harbor Development Corporation (ECHDC) Board of Directors' approved a three-year contract with Buffalo Sailing Adventures now d/b/a/ Queen City Ferry Company for the Queen City Ferry to begin operations. Since then the Ferry service has embarked from Canalside with stops at the Erie Basin Marina, the Small Boat Harbor, Wilkeson Pointe and River

Fest Park. While each of these stops allowed the Ferry service to move riders between the Inner and Outer Harbor, the need for a shorter, more direct route has always been desired by the operators, the public, and ECHDC.

ECHDC and NYPA have had on-going discussions regarding a Ferry stop at the First Buffalo Marina for the past few years. However, given the increased focus on developing the Outer Harbor, public comments received during the Blueprint process, and the past several years of experience providing water ferry services, the two agencies have developed a plan to incorporate a water ferry stop at the northern end of the First Buffalo Marina property. This new ferry stop location will provide the most direct and efficient service route between the Inner and Outer Harbor.

With the amendment of the Queen City Ferry service for an additional four (4) years of service beginning in May 2015, the new stop at First Buffalo Marina is expected to complement the upgraded service, including bicycle accommodations.

III. Scope of Work

Task 1 – Kick-off Meeting and Design Criteria:

A kick-off meeting will be held with NYPA, ECHDC, and Queen City Ferry Company. The meeting with would:

1. Review scope of work details, safety requirements, site security, pedestrian routes, and required project schedule.
2. Confirm project goals.
3. Go through logistics and preferences.
4. Confirm site conditions including a visual review of the project site area.
5. Confirm operational requirements for the facility.
6. Obtain any additional information or concepts that ECHDC may have developed for the project.
7. Gain a consensus on the path forward for the ferry dock system including schedule.

Based on the meeting and our understanding of the needs of the ferry dock, the project team will develop design criteria for the facility construction. These criteria will be submitted for the Authority's and stakeholders review and comment. The agreed-upon criteria will be used as a basis for the facility design. It is understood that the criteria may evolve somewhat as the design is developed.

Task 2 – Final Layout/Design:

Based on the design criteria developed under Task 1, final design drawings and specifications will be prepared. These drawings will include two dock locations (a temporary location for 2015, and a permanent location for 2016 and beyond), gangway and walkway layout. The drawings will be submitted with the desire to gain a consensus regarding the appearance, size, and location of the structures. A meeting will be held with NYPA, ECHDC and other stakeholders to review and finalize the proposed design and layout for the facility.

The Consultant will complete the final design package based on the review comments received. All agreed-upon changes will be made, and the drawings and technical specifications will be submitted for incorporation into the ECHDC's bid package.

The final drawings and technical specifications package will be submitted in electronic and hard copy format. NYPA and/or ECHDC will be providing the Commercial Terms, General Conditions, Division 1 Specifications, and Bid Form sections for the bid package.

An engineering estimate of construction costs will be prepared based on the final submitted design package for review by NYPA and ECHDC.

Task 3 – Environmental Permitting and Approvals Review:

Meeting(s) and conference calls will be scheduled with the NYSDEC Region 9, Buffalo District Corps of Engineers, and the NY State Department of State to review the proposed design with respect to:

- Regulatory permitting and approvals required for the project.
- Required regulatory design changes and/or issues.
- Time frame for regulatory reviews and approvals.
- Other specific requirements.

It is anticipated that the following would be required as part of the regulatory approval process:

- A Joint Application submitted to the USACE, NYSDEC, NYSOGS, and NYSDOS.
- SEQRA Compliance (submittal of a Part I Full Environmental Assessment Form pursuant to the State Environmental Quality Review Act Regulations, 6 NYCRR Part 617).
- NYS Office of General Services permitting for docks and moorings (Supplement D-2).
- NYS Department of State Coastal Consistency Concurrence.
- NYSOPRHP Determination of Historical or Archaeological Impact.
- City of Buffalo Approvals.

The Consultant will assist NYPA and ECHDC in preparing and submitting the above applications, forms, and related documents as required by the various agencies. The Consultant will also work closely with the various agencies to expedite the permitting/review process.

This task includes costs for one joint meeting with the NYSDEC and USACE, along with an additional meeting with the Authority and ECHDC prior to the agency meeting.

Task 4 – Bid Assistance:

This task will include:

1. Prepare technical responses to questions submitted by bidders, and assist NYPA and/or ECHDC in preparing information for inclusion in addenda.
2. Attendance at the pre-bid meeting at the site.
3. Assist NYPA and/or ECHDC with the technical review of the bid proposals and in providing observations regarding their technical completeness and costs.
4. Update the drawings and specifications to include addenda. Effort for drawing and specification updates is based on the necessity of making minor revisions to the construction drawings.

Task 5 – Review Contractor Submittals:

Review plans and technical submittals prepared by the Contractor, provide a technical assessment, and send a response back to NYPA/ECHDC.

For the purposes of estimating the budget, assume a single review of each of approximately 15 submittals. The actual effort required will depend upon the quality and quantity of the submittals.

Task 6 – Assistance During Construction:

This task will include:

1. Meetings During Construction. At the beginning of construction, a kickoff meeting will be at the site. Thereafter, progress meetings will be held on a weekly basis, either in person at the site or via conference calls. For the purposes of estimating the budget, assume twelve meetings at the site and the remaining meetings via conference calls, for a construction period duration of 12 weeks.
2. Engineering During Construction. This task includes responding to design clarifications, RFIs, substitution requests, and DCRs, etc..

3. Final Site Visit. At or near the completion of construction, the Consultant will visit the site to visually review the work, meet with NYPA and/or ECHDC and the Contractor, review the redline drawing markups prepared by the Contractor, and develop a punch list for activities to be conducted by Contractor for the project to be considered complete.

Task 7 – Preparation of Record Drawings:

Update the “issued for construction” drawings to record conditions as known to our technical staff. The redlined “as built” drawings will be prepared by the Contractor and hard copies will be delivered to the Consultant at the completion of the project, and these will be relied upon to prepare the record set. The revision block on each drawing will be annotated, accordingly.

The Consultant will also review those mark-ups and discuss matters with the onsite construction representative to determine the Contractor’s compliance with design drawings and specifications. The Consultant will then prepare a code compliance certification, as appropriate.

Task 8 – Optional Full Time Construction Oversight:

Provide a full time junior engineer or technician to observe construction operations and prepare a daily report on progress and issues. Fee is estimated based on requiring 12 weeks or approximately 3 months for construction to be completed.

IV. Contract Term, Price and Funding

The Funding Agreement will reimburse NYPA for the Design Phase service costs directly related to the Project.

NYPA presently has a professional services contract with Hatch Associates Consultants, Inc. (“Hatch”), a firm with the requisite infrastructure expertise to perform the Services required by ECHDC, and NYPA will accommodate ECHDC by using Hatch for the Project.

Hatch was selected by NYPA through an open solicitation process. As described in NYPA's December 18, 2012 Board Minutes “The Authority has used external resources to provide for ‘on-call, as required’ consulting engineering services to support the operation and maintenance of the Authority’s hydroelectric, pumped storage and fossil-fuel generation projects, as well as its transmission and other ancillary facilities throughout New York State, when engineering requirements are beyond the resources of existing Authority engineering staff...Such external engineering services include, but are not limited to: preparation of engineering and design packages, estimating, scheduling, safety assessments, testing activities, equipment and construction specifications, permits, licenses and procedure preparation. Since the need for such services is ongoing, staff developed a Request for Quotations (Q12-5249) to re-bid such

services. Bid documents were downloaded electronically from the Authority's Procurement website by 175 firms, including those that may have responded to a notice in the New York State Contract Reporter. Twenty-five proposals were received and evaluated on primary criteria including, but not limited to: professional qualifications and experience of key personnel and backup staff, experience in specific technical areas of interest to the Authority, size and depth of organization and resources, ability to respond quickly to Authority requests for services, as well as competitive pricing based on a composite hourly rate calculated for each bidder by the evaluation team, as further set forth in the Award Recommendation documents. Based on the foregoing, staff recommended the award of contracts to twelve firms which met the bid requirements and have the depth of knowledge, experience, qualified personnel and resources to best meet the Authority's needs.

NYPA selected Hatch for the scope of work at the First Buffalo Marina due to their extensive experience with state environmental reviews, permitting processes for DEC and Army Corps of Engineers. To date, Hatch has already provided preliminary designs, cost estimates and has researched the required permits for the ferry related improvements. Their knowledge of the project site, existing conditions, and Buffalo River permitting process, as well as their familiarity with the NYPA permitting process provides them with a unique position to move the ferry improvements forward in an efficient and professional manner.

In accordance with the current contract and the purchase order that NYPA will issue to Hatch, Hatch will invoice NYPA for the Services provided to ECHDC under the purchase order. NYPA will pay the Hatch invoices in accordance with the contract. NYPA will provide ECHDC with a copy of each paid invoice for the Services provided to ECHDC. ECHDC shall reimburse the entire invoice amount to NYPA after receipt of the paid invoice by ECHDC.

Services Category	Budget
Design	\$ 47,053
Bid/Award	\$ 37,737
Construction Inspection	\$ 44,220
Contingency at 10%	\$ 12,901
TOTALS	\$141,911

The source of funding is the New York State Power Authority (Relicensing Agreement).

V. Environmental Review

Empire State Development staff has determined that the action, which involves entering into a contract for the purposes of engaging a design consultant team to undertake detailed design, engineering and inspection services of the water ferry stop at First Buffalo Marina project without committing the agency to undertake any future project, constitutes a Type II action as defined by the New York State Environmental Quality Review Act and the implementing

regulations for the New York State Department of Environmental Conservation. No further environmental review is required at this time.

VI. Non-Discrimination/Affirmative Action

Erie Canal Harbor Development Corporation's Non-Discrimination and Contractor & Supplier Diversity policies will not apply to this Project.

VII. Requested Actions

The Directors are requested to: (1) authorize Erie Canal Harbor Development to enter into a Memorandum of Understanding/Funding Agreement with the New York Power Authority in an amount not to exceed \$141,911; and 2) authorize the taking of all actions related to the foregoing.

VIII. Recommendations

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

IX. Attachments

Resolution

September 15, 2014

ERIE CANAL HARBOR DEVELOPMENT CORPORATION – First Buffalo Marina Improvements (Design Phase) – Authorization to Enter into a Memorandum of Understanding/Funding Agreement; and Authorization to Take Related Actions

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 to be responsible; and be it further

BE IT RESOLVED, that the Corporation is hereby authorized to enter into a memorandum of understanding/funding agreement with the New York Power Authority ("NYPA") for an amount not to exceed One Hundred Forty-One Thousand Nine Hundred Eleven Dollars (\$141,911) 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 or his designees be, and the same hereby are authorized to execute and deliver on behalf of the Corporation all documents, instruments and agreements that the President shall deem necessary and appropriate to carry out these resolutions.

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Item #3

Erie Canal Harbor Development Corp.

FOR CONSIDERATION

September 15, 2014

TO: The Directors

FROM: Thomas P. Dee

SUBJECT: Procurement of Legal Services

REQUEST FOR: Authorization to Amend a Contract for Environmental, Land Use and Real Estate Counsel and Related Litigation Services; and to Take Related Actions

CONTRACT AMENDMENT NEED AND JUSTIFICATION

I. Contract Summary

Contractors: Phillips Lytle, LLP (the "Law Firm")

Scope of Services: Represent Erie Canal Harbor Development Corporation ("ECHDC") in litigation as part of the Canalside Project and in environmental, land use, real estate and related litigation matters.

Contract Term: Three years

Contract Amount: Original Contract amount: \$300,000
Amendment No. 1 Increase: \$500,000
Increased Contract Amount: \$900,000
Total Contract Amount Not to Exceed: \$1,700,000

Funding Source: NYPA Relicensing Settlement Agreement

II. Background

In July of 2012, the Directors authorized the retention of Phillips Lytle by ECHDC to provide representation in potential litigation as part of the Canalside Project and to provide outside legal services related to environmental, land use and construction matters and thereafter authorized an initial amendment in September of 2013.

Initially, the work was associated with providing legal assistance and counsel regarding claims for extra work made by DiPizio Construction Company ("DiPizio") with respect to the public spaces and historic canals currently being constructed on the Aud site. In May of 2013, DiPizio was terminated by ECHDC and as a result, DiPizio commenced several lawsuits against the corporation and its officers/employees alleging damages as a result of the termination. While DiPizio was unsuccessful in preventing its termination, its lawsuit which seeks damages continues.

Recently, two of the major claims for extra work/costs made by DiPizio regarding the disposal of excess soil on site and the procurement of granite by the contractor, were conclusively decided in the favor of ECHDC by the NYS Appellate Division, Fourth Department. Per public statements made by DiPizio and/or its representatives, the soil issue alone claimed \$1.5 Million in additional costs against the corporation. Should ECHDC ultimately be successful in the remaining portions of the lawsuit challenging DiPizio's termination, per the construction contract, ECHDC would be entitled to recoup its legal costs.

Considering that the lawsuits are continuing, it is vital that Phillips Lytle remain engaged with the matter and to represent ECHDC in the current litigation.

III. Contractor Selection Process

Pursuant to an advertisement for services in the Contract Reporter, published on April 23, 2102, ESD solicited qualifications for law firms regarding a variety of areas of expertise including real estate.

The responses were evaluated by staff of the legal department, in each case including the General Counsel, on the basis of, among other things: number and experience of attorneys practicing in each area of expertise; demonstrated experience in development projects similar to those in which the Corporation engages; experience in government and public/private initiatives generally; presence and size of office(s) in New York State; and willingness to work within the Corporation's limitation on hourly fees. Staff considered the submissions of each firm, interviews with selected firms and in some cases additional information requested in clarification of an initial submission or interview.

As result of this review, a pre-qualified list of law firms and their area of expertise was formulated and approved by the ESD Board of Directors in September of 2012. That list was adopted by the ECHDC Board in October 2012. The pre-qualified list allows ESD and its subsidiaries to secure outside counsel without further formal procurement requirements. Phillips Lytle was selected and approved on the pre-approved list for matters relating to the requested services.

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

The Law Firm will continue to represent ECHDC and its officers/employees in connection with the claims made by DiPizio regarding the Canalside, including court appearances, conferences, examinations, trial preparation and conduct. In addition, the Law Firm will provide legal assistance for environmental and real estate issues as may be needed by ECHDC.

V. Contract Term, Price and Funding

The term of the contract is expected to be for three years. Funds will be paid at standard ESD rates.

VI. Non-Discrimination and Contractor & Supplier Diversity

ECHDC's Non-Discrimination and Contractor & Supplier Diversity policies will apply. The Law Firm will be required to: (i) solicit and utilize Minority and Women Business Enterprises ("MWBEs") for any contractual opportunities generated in connection with the Project and (ii) use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 20%. The overall goal shall include a Minority Business Enterprise ("MBE") Participation Goal of 12% and a Women Business Enterprise ("WBE") Participation Goal of 8%, related to the total value of the contract, including all expenditures made thereunder.

VII. Environmental Review

ESD staff has determined that the requested authorization constitutes a Type II action as defined by the New York State Environmental Quality Review Act and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with the authorization

VIII. Requested Action

The Directors are requested to (1) make a determination of responsibility with respect to the proposed contractor; (2) authorize ECHDC to enter into an amended retainer agreement with Phillips Lytle, LLP for a total contract amount not to exceed \$1,700,000.

IX. Recommendation

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

X. Attachments
Resolution

September 15, 2014

ERIE CANAL HARBOR DEVELOPMENT CORPORATION – Procurement of Legal Services – Authorization to Amend a Contract for Environmental, Land Use and Real Estate Counsel and Related Litigation Services; and to Take Related Actions

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 Erie Canal Harbor Development Corporation (the “Corporation”), the Corporation hereby finds Phillips Lytle, LLP to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to amend a contract with Phillips Lytle, LLP in an amount not to exceed Nine Hundred Thousand Dollars (\$900,000) For a total contract amount not to exceed One Million Seven Hundred Thousand Dollars (\$1,700,000) 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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