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FOR CONSIDERATION
November 9, 2015

TO:	The Directors
FROM:	Thomas P. Dee
SUBJECT:	Buffalo Outer Harbor Access & Activation Civic Project
REQUEST FOR:	Civic Project Findings Pursuant to Sections 10 (d) and (g) of the UDC Act; Adoption of a General Project Plan; Authorization to Hold a Public Hearing Under Section 16 of the UDC Act; A Determination of No Significant Effect on the Environment; and Authorization to Take Related Actions

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GENERAL PROJECT PLAN

I. Project Summary

Project Sponsor:	The Erie Canal Harbor Development Corporation ("ECHDC" or the "Corporation"), a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development ("ESD")
Project Location:	ECHDC-owned Buffalo Outer Harbor Lands 175, 225, 235, 275, 461, 525, 575, and 901 Fuhrmann Boulevard Buffalo, New York 14023 "Times Beach Nature Preserve" 69 Fuhrmann Boulevard, Buffalo, New York 14023
Proposed Project:	The Project will consist of several capital improvements and investments which would facilitate increased access and activation of the City of Buffalo's Outer Harbor area (together the "Project").
Project Completion:	December 2018
Estimate Project Cost:	$5,000,000
Anticipated Funding Source:	Buffalo Regional Innovation Cluster

II. Project Cost and Financing Sources

Financing Uses	Estimated Cost
- Planning/Design/Inspection Costs	$1,200,000
- Environmental Remediation	$900,000
- Construction	$2,900,000
Totals	$5,000,000

Financing Sources	Costs	Percent
Buffalo Regional Innovation Cluster Grant	$5,000,000	100%

III. Project Description

A. Background

In September 2013, Governor Andrew Cuomo presented his vision for a dramatic transformation of the City of Buffalo's largely vacant Outer Harbor waterfront. This has included the transfer of approximately 350 acres of waterfront land from the Niagara Frontier Transportation Authority ("NFTA") to ECHDC, whose mission and resources will better enable it to support and expedite the land's redevelopment.

Created through land filling along the Lake Erie shoreline, the NFTA (then the Niagara Frontier Port Authority) had used the northern portion of this property since the late 1950s for outdoor storage of sand, salt, gravel, and other bulk materials, as well as similar industrial port-related activities; these all ceased in the late 1990s. The southern portion of the land has operated as the "NFTA Boat Harbor", a marina for small private boats. In addition, over the last decade, an NFTA-owned inlet south of the marina was progressively improved by NFTA and became known as "Gallagher Beach", which largely facilitated wind surfing and personal watercraft use.

Approximately 190 acres of the transferred Outer Harbor lands, including the NFTA Boat Harbor and Gallagher Beach, is now being operated by the NYS Office of Parks, Recreation and Historic Preservation (OPRHP) and has been designated the "Buffalo Harbor State Park". OPRHP is currently advancing a series of efforts to enhance services and activities in this the first state park ever established within the City of Buffalo.

The remaining approximately 160 acres of land north of Buffalo Harbor State Park, together with Wilkeson Point (acquired by ECHDC in 2008 and 2012) and other nearby public lands, would ultimately be improved and used in accordance with a community-driven Buffalo Outer Harbor Blueprint (the "Blueprint"), a long-term plan that was developed in accordance with ECHDC's guiding principles and significant public input. The Blueprint, which describes future land uses and areas for future development/redevelopment, has recently been accepted by the

ECHDC Board of Directors and is being incorporated into the City of Buffalo's Unified Development Ordinance ("Green Code").

In the interim, there are a number of relatively low-disturbance activities that could enhance access and facilitate greater public use/enjoyment of the Outer Harbor pending the implementation of the Blueprint land uses and its subsequent environmental review process by the City of Buffalo. The subject lands have already undergone a number of incremental trail access, clean-up/remediation, and recreational improvements over the last decade while under NFTA ownership, including shore stabilization, new trail systems along the water's edge and along public roads in the area, remediation of former disposal sites, clearance of blighted structures, and periodic programming of activities such as concerts.

The actions under this proposed Civic Project intend to build upon these prior incremental improvements using a "Lighter, Quicker, Cheaper" or "LQC" approach. They would fill in existing access gaps, expand public usage of this great resource, and provide for additional activities that while transient/seasonal, would open public awareness of this seldom-visited part of the City.

B. <u>The Project</u>

The Project will consist of several capital improvements and investments which allow for increased public access and activation of ECHDC-owned Outer Harbor lands (see **Figure 1**):

Improvement 1: Create Visitor Center/Hub at Bell Slip with a modular installation, including pedestrian and bicycle amenities (i.e., bike racks, benches, trash cans, Adirondack chairs, etc.) to take advantage of the existing parking lot and views.

Improvement 2: Complete bike path, including pedestrian and bicycle amenities (i.e., bike racks, benches, trash cans, Adirondack chairs, etc.) along Terminals A & B property, thereby completing the southern end of the Greenbelt loop. The northern end of the Greenbelt loop was completed in July 2015.

Improvement 3: Redevelop the Michigan Pier into a multi-use flex space and build on the success of Wilkeson Pointe. Clear, cap, and re-grade the approximate 8-acre site to accommodate an Adult Playground, Workout Area, Ropes Course, foot/bicycle paths (doubling as x-country ski trails), cantilevered trail section (doubling as fishing pier), installed railing and a perimeter walkway along the entire edge (doubling as setback), deck, beach, beer garden area, and adult games zone (i.e., horse shoes, bocce courts, pétanque, shuffleboard, volleyball, etc.). This will also include seasonal kiosks or other structures/facilities, recreational fields, pollinator fields, seasonal floating docks, safety ladders and life rings.

Improvement 4: Develop two "overlook" locations adjacent the Bell Slip. Design shall be such that birding, painting, photography, and astronomy (publicly desired activities) could

occur at these locations.

Improvement 5: Install comprehensive signage package from Gallagher Beach to Lighthouse based on the Erie County Shoreline Standards, including ancillary pedestrian and bicycle amenities (i.e., bike racks, benches, etc.) and landscaping features. Highlight key public locations as well as distances thereto.

Improvement 6: Install an Osprey nesting platform in Times Beach Nature Preserve.

Improvement 7: Develop a mountain bike course(s) within a 6-acre area bounded by the Bell Slip, Lake Erie, and Fuhrman Blvd. Given the site's features and proximity to existing paved pathways, a series of unpaved trails (each less than 5 miles in length) and a pump track would be constructed to take advantage of the mature trees and small gently-rolling hills.

The goals/objectives of the Project are directly connected with ECHDC's guiding principles, including:

- Improving seasonal, recreational and tourist access, use and enjoyment of the Outer Harbor;
- Enhancing pedestrian and bicycle access along the Outer Harbor, as well as connecting segments of the existing regional trails network along the Lake Erie waterfront;
- Minimize adverse impacts on communities and the environment by avoiding an inequitable distribution of impacts and maintaining neighborhood and community cohesion.

Upon adoption of this GPP, a public hearing will be held in accordance with the provisions of the UDC Act.

IV. Statutory Basis

Based on the information set forth in this GPP and other due investigation conducted by ECHDC, ECDHC hereby makes the following UDC Act Findings:

A. Civic Project Findings – UDC Act Section 10 (d)

1. *There exists in the area in which the Project is to be located, a need for the educational, cultural, recreational, community, municipal, public service or other civic facility to be included in the Project.*

   Except for recent trail/event access, once NFTA discontinued port activities, this portion of the Lake Erie waterfront has been largely inaccessible to the public for decades. With the recent transfer of Outer Harbor lands from NFTA to ECHDC, this Project would increase the

public's awareness of the space and enhance access to the water's edge, while providing opportunities for educational, cultural and recreational experiences.

The Project also enhances the overall downtown setting for residents and visitors, and therefore provides public benefits to the local community, the City, Erie County and the State.

2. *The Project consists of a building or buildings or other facilities which are suitable for educational, cultural, recreational, community, municipal, public service or other civic purpose.*

   The Project site, already State-owned or City-owned property, has been determined suitable to accommodate the various improvement projects. The Project will provide for various improvements necessary to support public access, connectivity and programming.

3. *The Project will be leased to or owned by the state or an agency or instrumentality thereof, a municipality or an agency or instrumentality thereof, a public corporation, or any other entity which is carrying out a community, municipal, public service or other civic purpose, and adequate provision has been, or will be, made for the payment of the cost of the acquisition, construction, operation, maintenance and upkeep of the Project.*

   It is expected that upon the completion of the Project, ECHDC would retain ownership/title to the improvements, and ECHDC would maintain the Project as part of its overall capital facilities management program.

4. *The plans and specifications assure or will assure adequate light, air, sanitation and fire protection.*

   The plans and specifications will assure that adequate light, air, sanitation and fire protection are provided in the Project. The construction of the Project will conform to all applicable laws, codes, and standards.

B. <u>UDC Act Section 10(g)</u>

No residential or business relocation is required as a result of the Project.

V. <u>Environmental Review</u>

ECHDC, as lead agency, has completed a coordinated environmental review of the Buffalo Outer Harbor Access & Activation Civic Project, pursuant to the requirements of SEQRA and the implementing regulations of the New York State Department of Environmental Conservation. This review found that the proposed project was a Type I Action that would not result in significant adverse impacts on the environment. Therefore, ESD staff recommends that the Directors make a Determination of No Significant Effect on the Environment.

VI. Non-Discrimination and Contractor & Supplier Diversity

ECHDC's Non-Discrimination & Contractor and Supplier Diversity policies will apply to this Project. The selected Consultant(s) and/or Contractor(s) shall be required to include minorities and women in any job opportunities created, to solicit and utilize certified Minority and Women Business Enterprises ("MWBEs") for any contractual opportunities generated in connection with the Project and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 30%. The overall goal shall include a Minority Business Enterprise ("MBE") Participation Goal of 20% and a Women Business Enterprise ("WBE") Participation Goal of 10% related to the total value of ECHDC's funding.

VII. Requested Action

The Directors are requested to (1) make findings and determinations Pursuant to Section 10(d) and 10(g) of the New York State Urban Development Corporation Act of 1968; (2) adopt the Buffalo Outer Harbor Access & Activation General Project Plan; (3) authorize a Public Hearing to be held; (4) make a Determination of No Significant Effect; and (5) take all related actions.

Attachments
Resolutions
Figure 1 - Project Location

ERIE CANAL HARBOR DEVELOPMENT CORPORATION - Buffalo Outer Harbor Access & Activation Civic Project - Civic Project Findings; Adoption of a General Project Plan; Authorization to Hold a Public Hearing; Make a Determination of No Significant Effect; and Authorization to Take Related Actions

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Buffalo Outer Harbor Access & Activation Civic Project (the "Project"), the Corporation hereby finds pursuant to Section 10 of the New York State Urban Development Corporation Act of 1968, as amended (the "Act"):

(1) that there exists in the area in which the Project is to be located a need for the educational, cultural, recreational, community, municipal, public service or other civic facility to be included in the project;

(2) that such Project shall consist of a building or buildings which are suitable for educational, cultural, recreational, community, municipal, public service or other civic purposes;

(3) that such Project will be leased to or owned by the State or an agency or instrumentality thereof, a municipality or an agency or instrumentality thereof, a public corporation, or any other entity which is carrying out a community, municipal, public service or other civic purpose, and that adequate provision has been, or will be made for the payment of the cost of acquisition, construction, operation, maintenance and upkeep of this project;

(4) that the plans and specifications assure adequate light, air, sanitation and fire protection; and be it further

RESOLVED, that on the basis of the materials presented to this meeting relating to the Project indicating that there are no families or individuals to be displaced from the Project area, the Corporation hereby finds that the requirements of Section 10(g) of the Act are satisfied; and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the "Plan") for the Project submitted to this meeting, together with such changes therein as the President of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, is hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, that upon written finding of the President that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective

at the conclusion of such hearing; and be it further

RESOLVED, that the Directors make a Determination of No Significant Effect on the Environment, in accordance with the terms and conditions set forth in the materials presented to the Directors at this meeting;

RESOLVED, that the President of the Corporation or his designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to execute and deliver any and all documents and to take all actions as he or she may in his or her sole discretion consider to be necessary or proper to effectuate the foregoing resolutions.

* * *

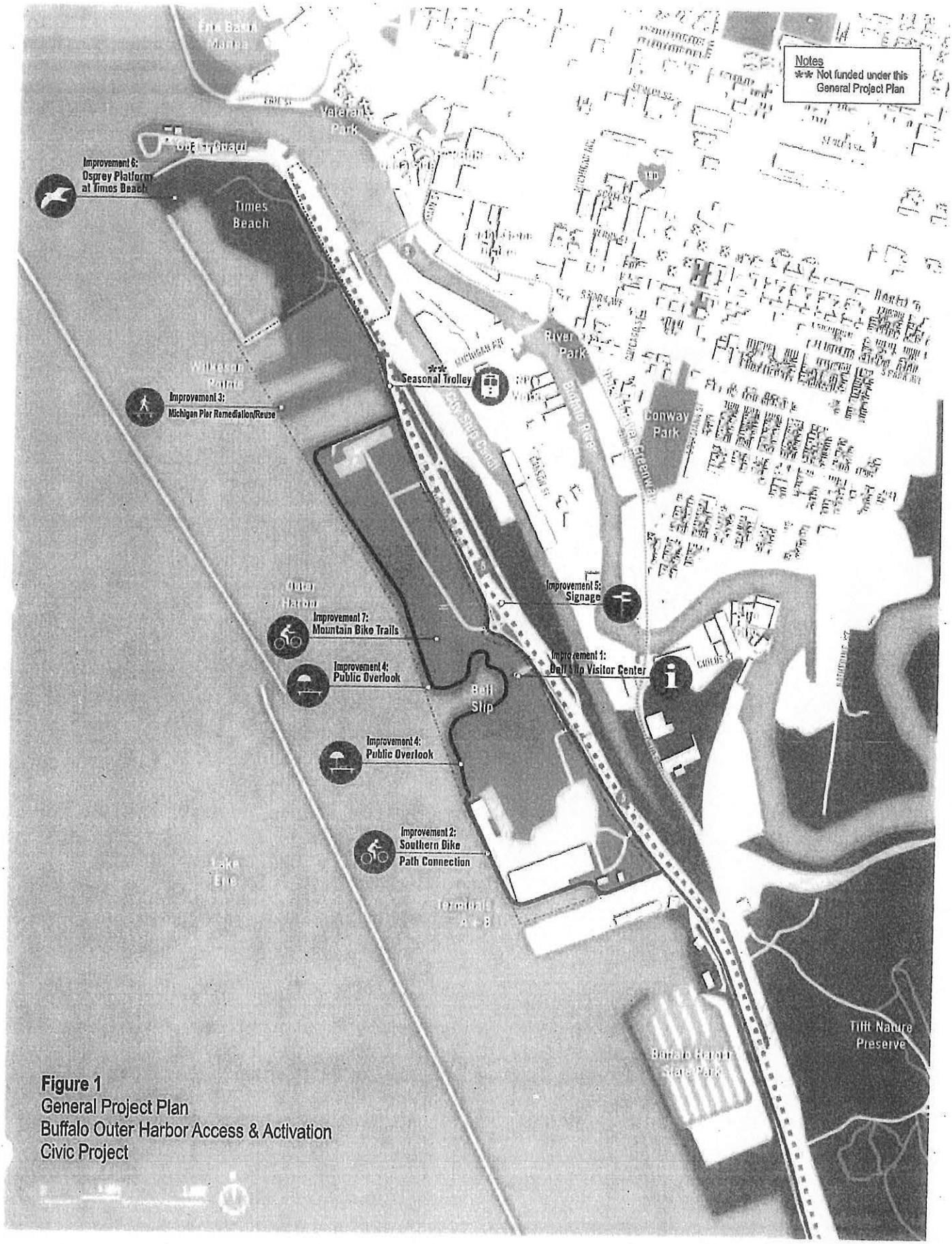
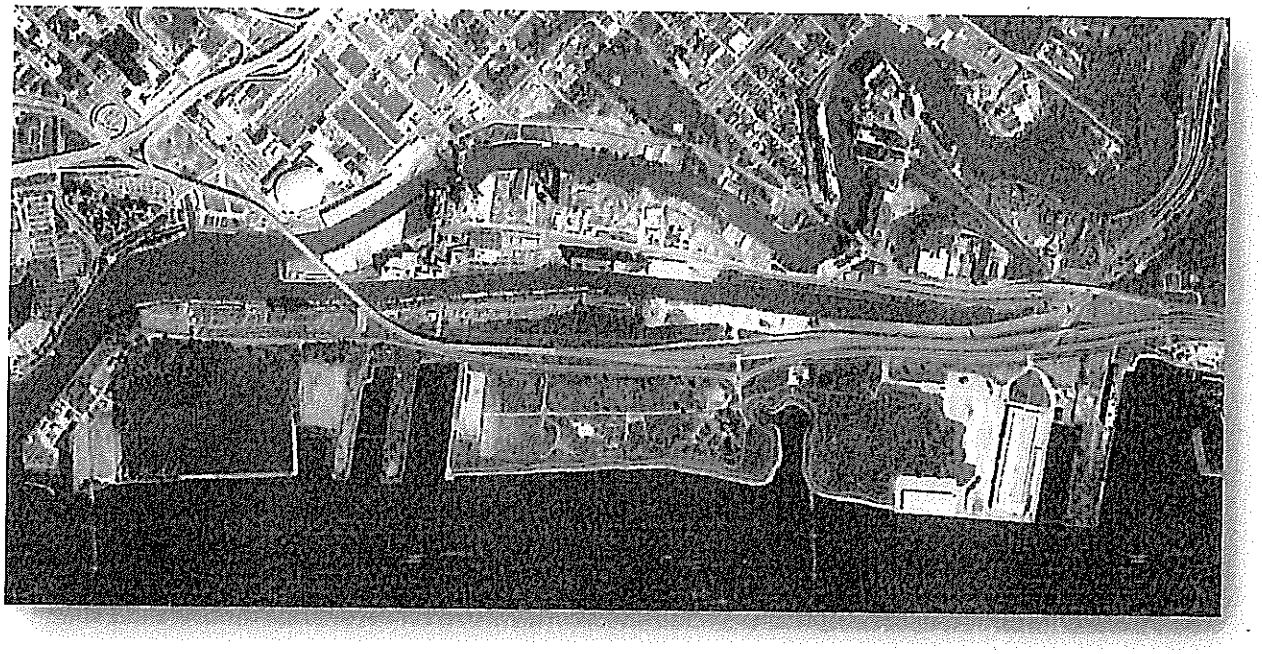


Figure 1
General Project Plan
Buffalo Outer Harbor Access & Activation
Civic Project

Buffalo Outer Harbor Access & Activation
Civic Project
Buffalo, New York



State Environmental Quality Review Act
Full Environmental Assessment Form and Supporting Documentation

November 2015

Lead Agency
Erie Canal Harbor Development Corporation
Subsidiary of NYS Urban Development Corporation d/b/a Empire State Development
95 Perry Street, 5th Floor
Buffalo, NY 14203

Contact
Steven Ranalli, Senior Project Manager
716-846-8200

Buffalo Outer Harbor Access & Activation Civic Project

State Environmental Quality Review Act

Full Environmental Assessment Form and Supporting Documentation

CONTENTS

Full Environmental Assessment Form, Parts 1-3

NYS Dept. of State Coastal Assessment Form

Addendum: **Addendum**
Other Project Information **Page**

1. Project Description 1
   1.1 Project Background/Location 1
   1.2 Proposed Action 3
   1.3 Limits of the Proposed Action 6
2. Environmental Considerations 8
   2.1 Impact on Land 8
      2.1.1 Existing Conditions 8
      2.1.2 Impacts of the Proposed Action 10
   2.2 Impact on Geological Features 10
   2.3 Impacts on Surface Water 11
      2.3.1 Existing Conditions 11
      2.3.2 Impacts of the Proposed Action 11
   2.4 Impact on Groundwater 12
      2.4.1 Existing Conditions 12
      2.4.2 Impacts of the Proposed Action 12
   2.5 Impact on Flooding 13
      2.5.1 Existing Conditions 13
      2.5.2 Impacts of the Proposed Action 13
   2.6 Impacts on Air 15
      2.6.1 Existing Conditions 15
      2.6.2 Impacts of the Proposed Action 15
   2.7 Impact on Plants and Animals 15
      2.7.1 Existing Conditions 15
      2.7.2 Impacts of the Proposed Action 16
   2.8 Impact on Agricultural Resources 16
   2.9 Impact on Aesthetic Resources 17
      2.9.1 Existing Conditions 17
      2.9.2 Impacts of the Proposed Action 17
   2.10 Impact on Historic and Archaeological Resources 17
      2.10.1 Existing Conditions 17
      2.10.2 Impacts of the Proposed Action 19
   2.11 Impact on Open Space and Recreation 19
      2.11.1 Existing Conditions 19
      2.11.2 Impacts of the Proposed Action 19
   2.12 Impact on Critical Environmental Areas 20
   2.13 Impact on Transportation 20
      2.13.1 Existing Conditions 20

2.13.2 Impacts of the Proposed Action 21
2.14 Impact on Energy 22
2.15 Impact on Noise, Odor, and Light 22
2.15.1 Existing Conditions 22
2.15.2 Impacts of the Proposed Action 22
2.16 Impact on Human Health 22
2.16.1 Existing Conditions 22
2.16.2 Impacts of the Proposed Action 30
2.17 Consistency with Community Plans 32
2.18 Consistency with Community Character 32
2.19 Secondary, Indirect, and Cumulative Effects of the Proposed Action 32
3. References and Sources 32

Figures

Figure 1: Project Location Map 2
Figure 2: General Project Plan 4
Figure 3: Floodplain Map 14
Figure 4: Project Area Overlaid on 1901 & 1947 USGS Buffalo SW Quadrangle Maps 18
Figure 5: Potentially Usable Areas Using "Restricted Residential" Clean-up Objectives 28
Figure 6: Potentially Usable Areas Using "Commercial" Clean-up Objectives 29

Full Environmental Assessment Form, Parts 1-3

NYS Dept. of State Coastal Assessment Form

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the project sponsor to verify that the information contained in Part 1is accurate and complete.

A. Project and Sponsor Information.

Name of Action or Project: Buffalo Outer Harbor Access & Activation Civic Project		
Project Location (describe, and attach a general location map): 175, 225, 235, 275, 461, 525, 575, and 901 Fuhrmann Blvd & Times Beach Nature Preserve (69 Fuhrmann Blvd), Buffalo, NY		
Brief Description of Proposed Action (include purpose or need): The Project would involve the transfer of property at 901 Fuhrmann Blvd in the City of Buffalo Outer Harbor area, including two former port terminal buildings, from the Niagara Frontier Transportation Authority ("NFTA") to the Erie Canal Harbor Development Corporation ("ECHDC") to add to property previously acquired by ECHDC on Lake Erie. It also would involve development of a series of capital improvements by ECHDC to allow for further activation and public event programming of these waterfront lands, including: filling in selected gaps in the existing pedestrian/bicycle access network; expanding public knowledge of this great resource through signage systems and orientation points; and providing new outdoor recreation facilities thorough the remediation/reuse of existing open space lands for programming of outdoor activities. These efforts are collectively intended to support public access and appreciation of this increasingly-discovered part of the City's Lake Erie waterfront. (See full description in Section F. Additional Information)		
Name of Applicant/Sponsor: Erie Canal Harbor Development Corporation (ECHDC)	Telephone: 716-846-8200 E-Mail:	
Address: 95 Perry Street, 5th Floor		
City/PO: Buffalo	State: NY	Zip Code: 14203
Project Contact (if not same as sponsor; give name and title/role): Steven Ranalli, PE, AICP, ECHDC Senior Project Manager	Telephone: 716-846-8200 E-Mail: steven.ranalli@esd.ny.gov	
Address: 95 Perry Street, 5th Floor		
City/PO: Buffalo	State: NY	Zip Code: 14303
Property Owner (if not same as sponsor): Niagara Frontier Transportation Authority (current owner of 901 Fuhrmann Blvd ONLY)	Telephone: 716-855-7398 E-Mail: Rick_Russo@nfta.com	
Address: 181 Ellicott Street		
City/PO: Buffalo	State: NY	Zip Code: 14203

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)		
Government Entity	**If Yes: Identify Agency and Approval(s) Required**	**Application Date (Actual or projected)**
a. City Council, Town Board, or Village Board of Trustees ☑Yes☐No	Common Council Review - Waterfront Overlay (or courtesy review)	TBD
b. City, Town or Village Planning Board or Commission ☑Yes☐No	Buffalo Planning Board - Site Plan Review (or courtesy review)	TBD
c. City Council, Town or Village Zoning Board of Appeals ☐Yes☑No		
d. Other local agencies ☑Yes☐No	Building Code Review (if applicable)	TBD
e. County agencies ☐Yes☑No		
f. Regional agencies ☑Yes☐No	NFTA - Approval of Transfer of 901 Fuhrmann	TBD
g. State agencies ☑Yes☐No	ECHDC; ESD Boards; PACB - Funding; NYSDEC - 401/404/Wetlands ; NYSDOS - Coastal Zone	Nov. 2015; Dec 2015; Jan 2016; TBD; TBD
h. Federal agencies ☑Yes☐No	US Army Corps of Engineers - Section 10, Section 401/404	TBD

i. Coastal Resources.

i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? ☑Yes☐No

ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program? ☐Yes☑No

iii. Is the project site within a Coastal Erosion Hazard Area? ☐Yes☑No

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☐Yes☑No

- **If Yes,** complete sections C, F and G.
- **If No,** proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☑Yes☐No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☑Yes☐No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☑Yes☐No

If Yes, identify the plan(s):

Buffalo Harbor Brownfield Opportunity Area
Erie Canalway National Heritage Area

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☐Yes☑No

If Yes, identify the plan(s):

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☑ Yes ☐ No
If Yes, what is the zoning classification(s) including any applicable overlay district?
M-2: General Industrial and M-3: Heavy Industrial

b. Is the use permitted or allowed by a special or conditional use permit? ☑ Yes ☐ No

c. Is a zoning change requested as part of the proposed action? ☐ Yes ☑ No
If Yes,
i. What is the proposed new zoning for the site? _____

C.4. Existing community services.

a. In what school district is the project site located? Buffalo School District

b. What police or other public protection forces serve the project site?
Buffalo Police Department

c. Which fire protection and emergency medical services serve the project site?
Buffalo Fire Department

d. What parks serve the project site?
Buffalo Harbor State Park, Times Beach Nature Preserve, Tifft Nature Preserve

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? Recreation and pedestrian/bicycle enhancements

b. a. Total acreage of the site of the proposed action? 215.9 acres
b. Total acreage to be physically disturbed? ~9 acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 405.9 acres

c. Is the proposed action an expansion of an existing project or use? ☐ Yes ☑ No
i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☑ No
If Yes,
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)
ii. Is a cluster/conservation layout proposed? ☐ Yes ☐ No
iii. Number of lots proposed? _____
iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

e. Will proposed action be constructed in multiple phases? ☐ Yes ☑ No
i. If No, anticipated period of construction: _____ months
ii. If Yes:
- Total number of phases anticipated _____
- Anticipated commencement date of phase 1 (including demolition) _____ month _____ year
- Anticipated completion date of final phase _____ month _____ year
- Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

f. Does the project include new residential uses? ☐Yes ☑No
If Yes, show numbers of units proposed.

	One Family	Two Family	Three Family	Multiple Family (four or more)
Initial Phase	_____	_____	_____	_____
At completion of all phases	_____	_____	_____	_____

g. Does the proposed action include new non-residential construction (including expansions)? ☐Yes ☑No
If Yes,
i. Total number of structures _____
ii. Dimensions (in feet) of largest proposed structure: _____height; _____width; and _____ length
iii. Approximate extent of building space to be heated or cooled: _____ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? ☐Yes ☑No
If Yes,
i. Purpose of the impoundment: _____
ii. If a water impoundment, the principal source of the water: ☐ Ground water ☐ Surface water streams ☐ Other specify:
_____
iii. If other than water, identify the type of impounded/contained liquids and their source.
_____
iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres
v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length
vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete):
_____

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? ☐Yes ☑No
(Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)
If Yes:
i. What is the purpose of the excavation or dredging? _____
ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?
- Volume (specify tons or cubic yards): _____
- Over what duration of time? _____

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them.
_____
iv. Will there be onsite dewatering or processing of excavated materials? ☐Yes ☐No
If yes, describe. _____
v. What is the total area to be dredged or excavated? _____ acres
vi. What is the maximum area to be worked at any one time? _____ acres
vii. What would be the maximum depth of excavation or dredging? _____ feet
viii. Will the excavation require blasting? ☐Yes ☐No
ix. Summarize site reclamation goals and plan: _____

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? ☑Yes ☐No
If Yes:
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): Lake Erie/Buffalo Harbor Inlets around the Michigan Pier (AKA Seaway Pier; which would be remediated/reused) and Times Beach Nature Preserve (BU-3, where osprey platform would be installed).

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:
Proposed action would involve soil movement activities on ~8-acre Michigan Pier (AKA Seaway Pier) to cap/remediate site (if necessary) and create multi-purpose outdoor recreational fields/facilities.

iii. Will proposed action cause or result in disturbance to bottom sediments? ☐ Yes ☑ No
If Yes, describe: _____

iv. Will proposed action cause or result in the destruction or removal of aquatic vegetation? ☐ Yes ☑ No
If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____
- proposed method of plant removal: _____
- if chemical/herbicide treatment will be used, specify product(s): _____

v. Describe any proposed reclamation/mitigation following disturbance: _____

c. Will the proposed action use, or create a new demand for water? ☑ Yes ☐ No
If Yes:

i. Total anticipated water usage/demand per day: TBD (min-landscape maintainance) gallons/day

ii. Will the proposed action obtain water from an existing public water supply? ☐ Yes ☐ No
If Yes:

- Name of district or service area: City of Buffalo Water Board
- Does the existing public water supply have capacity to serve the proposal? ☑ Yes ☐ No
- Is the project site in the existing district? ☑ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☑ No
- Do existing lines serve the project site? ☑ Yes ☐ No

iii. Will line extension within an existing district be necessary to supply the project? ☐ Yes ☑ No
If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____
- Source(s) of supply for the district: _____

iv. Is a new water supply district or service area proposed to be formed to serve the project site? ☐ Yes ☑ No
If, Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

vi. If water supply will be from wells (public or private), maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? ☐ Yes ☑ No
If Yes:

i. Total anticipated liquid waste generation per day: _____ gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____

iii. Will the proposed action use any existing public wastewater treatment facilities? ☐ Yes ☑ No
If Yes:

- Name of wastewater treatment plant to be used: _____
- Name of district: _____
- Does the existing wastewater treatment plant have capacity to serve the project? ☐ Yes ☐ No
- Is the project site in the existing district? ☐ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☐ No

- Do existing sewer lines serve the project site? ☑ Yes ☐ No
- Will line extension within an existing district be necessary to serve the project? ☐ Yes ☑ No

  If Yes:
  - Describe extensions or capacity expansions proposed to serve this project: _____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? ☐ Yes ☑ No

If Yes:
- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- What is the receiving water for the wastewater discharge? _____

v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge, or describe subsurface disposal plans):

_____

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? ☑ Yes ☐ No

If Yes:

i. How much impervious surface will the project create in relation to total size of project parcel?

_____ Square feet or ~1 acres (impervious surface)

_____ Square feet or 216 acres (parcel size)

ii. Describe types of new point sources. No new point sources.

iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

TBD - only incidental new impervious areas created as part of trail extensions, outdoor field facilities, and small-footprint structures (e.g., visitor orientation center modular shelter); anticipated to be directed to existing on-site drainge facilities.

- If to surface waters, identify receiving water bodies or wetlands: _____

  Lake Erie receives all runoff from on-site drainage
- Will stormwater runoff flow to adjacent properties? ☐ Yes ☑ No

iv. Does proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? ☑ Yes ☐ No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? ☐ Yes ☑ No

If Yes, identify:

i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)

ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)

iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? ☐ Yes ☑ No

If Yes:

i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) ☐ Yes ☑ No

ii. In addition to emissions as calculated in the application, the project will generate:
- _____ Tons/year (short tons) of Carbon Dioxide (CO_2)
- _____ Tons/year (short tons) of Nitrous Oxide (N_2O)
- _____ Tons/year (short tons) of Perfluorocarbons (PFCs)
- _____ Tons/year (short tons) of Sulfur Hexafluoride (SF_6)
- _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydroflourocarbons (HFCs)
- _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? ☐Yes ☑No

If Yes:

i. Estimate methane generation in tons/year (metric): _____

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? ☐Yes ☑No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust):

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? ☐Yes ☑No

If Yes:

i. When is the peak traffic expected (Check all that apply): ☐Morning ☐Evening ☑Weekend ☐Randomly between hours of _____ to _____.

ii. For commercial activities only, projected number of semi-trailer truck trips/day: _____

iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____

iv. Does the proposed action include any shared use parking? ☐Yes ☑No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe:

The action includes extending and linking existing waterfront multi-modal trails

vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? ☐Yes ☑No

vii Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? ☐Yes ☑No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? ☑Yes ☐No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? ☐Yes ☑No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: _____

N/A

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other):

N/A

iii. Will the proposed action require a new, or an upgrade to, an existing substation? ☐Yes ☑No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: 7:00 AM - 4:00 PM
- Saturday: N/A
- Sunday: N/A
- Holidays: N/A

ii. During Operations:

- Monday - Friday: Accessible 24 hours
- Saturday: Accessible 24 hours
- Sunday: Accessible 24 hours
- Holidays: Accessible 24 hours

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? ☐ Yes ☑ No

If yes:

i. Provide details including sources, time of day and duration:

ii. Will proposed action remove existing natural barriers that could act as a noise barrier or screen? ☐ Yes ☑ No

Describe:

n.. Will the proposed action have outdoor lighting? ☑ Yes ☐ No

If yes:

i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:

As necessary to facilitate safety, outdoor lighting will be installed in newly established gathering areas. The specific aspects of such lighting would be developed during the design phase to ensure that it would not adversely affect neighboring uses.

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? ☐ Yes ☑ No

Describe:

o. Does the proposed action have the potential to produce odors for more than one hour per day? ☐ Yes ☑ No

If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures:

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? ☐ Yes ☑ No

If Yes:

i. Product(s) to be stored

ii. Volume(s) _____ per unit time _____ (e.g., month, year)

iii. Generally describe proposed storage facilities:

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? ☐ Yes ☑ No

If Yes:

i. Describe proposed treatment(s):

ii. Will the proposed action use Integrated Pest Management Practices? ☐ Yes ☑ No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? ☐ Yes ☑ No

If Yes:

i. Describe any solid waste(s) to be generated during construction or operation of the facility:

- Construction: _____ tons per _____ (unit of time)
- Operation : _____ tons per _____ (unit of time)

ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:

- Construction:
- Operation:

iii. Proposed disposal methods/facilities for solid waste generated on-site:

- Construction:
- Operation:

s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☑ No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☑ Yes ☐ No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☑ No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: _____

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

☑ Urban ☑ Industrial ☑ Commercial ☐ Residential (suburban) ☐ Rural (non-farm)
☐ Forest ☐ Agriculture ☐ Aquatic ☑ Other (specify): Park/Recreational/Nature Preserve lands

ii. If mix of uses, generally describe:

Former industrial port lands slowly reverting to vacant meadows used seasonly for passive recreation (hiking/waking and periodic concert events) or remediated as nature preserve land; some limited heavy commercial and industrial uses (bulk storage, marina/boat repair) remain near site.

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
○ Roads, buildings, and other paved or impervious surfaces	36	~36.25	~0.25
○ Forested	0	0	0
○ Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	104	~103	~-1
○ Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
○ Surface water features (lakes, ponds, streams, rivers, etc.)	37.1	37.1	0
○ Wetlands (freshwater or tidal)	0	0	0
○ Non-vegetated (bare rock, earth or fill)	0	0	0
○ Other Describe: _____	0	0	0

c. Is the project site presently used by members of the community for public recreation? ☑ Yes ☐ No

i. If Yes: explain: Portions of the site have active trails and the site contains a seasonal outdoor concert area

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? ☐ Yes ☑ No

If Yes,

i. Identify Facilities:

e. Does the project site contain an existing dam? ☐ Yes ☑ No

If Yes:

i. Dimensions of the dam and impoundment:

- Dam height: _____ feet
- Dam length: _____ feet
- Surface area: _____ acres
- Volume impounded: _____ gallons OR acre-feet

ii. Dam's existing hazard classification: _____

iii. Provide date and summarize results of last inspection:

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? ☑ Yes ☐ No

If Yes:

i. Has the facility been formally closed? ☑ Yes ☐ No

- If yes, cite sources/documentation: 1999 ROD: BOH/Radio Tower Site & 2002 ROD: BOH Brownfields Site

ii. Describe the location of the project site relative to the boundaries of the solid waste management facility:

iii. Describe any development constraints due to the prior solid waste activities: _____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? ☐ Yes ☐ No

If Yes:

i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred:

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? ☐ Yes ☑ No

If Yes:

i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: ☐ Yes ☑ No

☑ Yes – Spills Incidents database — Provide DEC ID number(s): 0909082; 9903733

☑ Yes – Environmental Site Remediation database — Provide DEC ID number(s): 915026; B00149

☐ Neither database

ii. If site has been subject of RCRA corrective activities, describe control measures: _____

iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? ☐ Yes ☑ No

If yes, provide DEC ID number(s): 915026 - BOH Radio Tower Site; B00149 BOH Brownfield Site

iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):

Spill incidents closed in 1999 and 2010, respectively. Radio Tower State Superfund Program Site remedy completed in 2005; undergoes annual inspection of integrity of remedy. BOH Brownfield Site remedy completed in 2010 involving shoreline stabilization/greenbelt to prevent erosion, institutional controls, and use-based recommendations regarding treatments for future land use.

v. Is the project site subject to an institutional control limiting property uses? ☑ Yes ☐ No

- If yes, DEC site ID number: 915026 - Radio Tower Site
- Describe the type of institutional control (e.g., deed restriction or easement): Deed restriction
- Describe any use limitations: Maintain integrity of soil cap through annual inspection; control land uses.
- Describe any engineering controls:
- Will the project affect the institutional or engineering controls in place? ☐ Yes ☑ No
- Explain:

None of the project components would be in the vicinity of the Radio Tower Site.

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? ~20-25 feet

b. Are there bedrock outcroppings on the project site? ☐ Yes ☑ No
If Yes, what proportion of the site is comprised of bedrock outcroppings? 0 %

c. Predominant soil type(s) present on project site:

UD - Urban Land	100 %
	%
	%

d. What is the average depth to the water table on the project site? Average: ~10 feet

e. Drainage status of project site soils:
- ☐ Well Drained: % of site
- ☑ Moderately Well Drained: 100 % of site
- ☐ Poorly Drained % of site

f. Approximate proportion of proposed action site with slopes:
- ☑ 0-10%: 98 % of site
- ☐ 10-15%: % of site
- ☑ 15% or greater: 2 % of site

g. Are there any unique geologic features on the project site? ☐ Yes ☑ No
If Yes, describe:

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? ☑ Yes ☐ No

ii. Do any wetlands or other waterbodies adjoin the project site? ☑ Yes ☐ No

If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? ☑ Yes ☐ No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name Classification
- Lakes or Ponds: Name Lake Erie (Niagara River/Lake Erie Basin) Classification Class B
- Wetlands: Name Times Beach Nature Preserve Approximate Size 45.9 acres
- Wetland No. (if regulated by DEC) BU-3

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? ☑ Yes ☐ No

If yes, name of impaired water body/bodies and basis for listing as impaired:
Mostly associated with past/current industrial activities and remedial actions in urban centers in the watershed.

i. Is the project site in a designated Floodway? ☐ Yes ☑ No

j. Is the project site in the 100 year Floodplain? ☑ Yes ☐ No

k. Is the project site in the 500 year Floodplain? ☑ Yes ☐ No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? ☐ Yes ☑ No
If Yes:

i. Name of aquifer:

m. Identify the predominant wildlife species that occupy or use the project site:
Shore birds
Small mammals

n. Does the project site contain a designated significant natural community? ☑ Yes ☐ No
If Yes:
i. Describe the habitat/community (composition, function, and basis for designation): Muskellunge spawning area - waters near project site.
ii. Source(s) of description or evaluation: NYSDEC
iii. Extent of community/habitat:
- Currently: N/A acres
- Following completion of project as proposed: same as current acres
- Gain or loss (indicate + or -): 0 acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? ☐ Yes ☑ No

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? ☐ Yes ☑ No

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? ☑ Yes ☐ No
If yes, give a brief description of how the proposed action may affect that use: Generally improvements for access to fishing and measures to prevent soil erosion on the Michigan Pier site.

E.3. Designated Public Resources On or Near Project Site

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐ Yes ☑ No
If Yes, provide county plus district name/number:

b. Are agricultural lands consisting of highly productive soils present? ☐ Yes ☑ No
i. If Yes: acreage(s) on project site?
ii. Source(s) of soil rating(s):

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? ☐ Yes ☑ No
If Yes:
i. Nature of the natural landmark: ☐ Biological Community ☐ Geological Feature
ii. Provide brief description of landmark, including values behind designation and approximate size/extent:

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? ☐ Yes ☑ No
If Yes:
i. CEA name:
ii. Basis for designation:
iii. Designating agency and date:

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on, or has been nominated by the NYS Board of Historic Preservation for inclusion on, the State or National Register of Historic Places? ☐ Yes ☑ No

If Yes:

i. Nature of historic/archaeological resource: ☐ Archaeological Site ☐ Historic Building or District

ii. Name: _____

iii. Brief description of attributes on which listing is based: _____

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? ☐ Yes ☑ No

g. Have additional archaeological or historic site(s) or resources been identified on the project site? ☑ Yes ☐ No

If Yes:

i. Describe possible resource(s): Port Terminal Building A

ii. Basis for identification: S/NRHP Eligibility assessment as part of 2006 Southtowns Connector/Buffalo Outer Harbor Project Final DR/FEIS

h. Is the project site within fives miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? ☑ Yes ☐ No

If Yes:

i. Identify resource: Buffalo Harbor State Park and Great Lakes Seaway Trail

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): State Park and Federal Scenic Byway

iii. Distance between project and resource: <1 miles.

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? ☐ Yes ☑ No

If Yes:

i. Identify the name of the river and its designation: _____

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? ☐ Yes ☐ No

F. Additional Information

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Steven Ranalli, P.E., AICP Date 6 NOV 2015

Signature _____ Title Senior Project Manager

PRINT FORM

Agency Use Only [If applicable]
Project: BOH Access & Activation Civic Project
Date: 6 NOV 2015

Part 2 is to be completed by the lead agency. Part 2 is designed to help the lead agency inventory all potential resources that could be affected by a proposed project or action. We recognize that the lead agency's reviewer(s) will not necessarily be environmental professionals. So, the questions are designed to walk a reviewer through the assessment process by providing a series of questions that can be answered using the information found in Part 1. To further assist the lead agency in completing Part 2, the form identifies the most relevant questions in Part 1 that will provide the information needed to answer the Part 2 question. When Part 2 is completed, the lead agency will have identified the relevant environmental areas that may be impacted by the proposed activity.

If the lead agency is a state agency **and** the action is in any Coastal Area, complete the Coastal Assessment Form before proceeding with this assessment.

Tips for completing Part 2:

- Review all of the information provided in Part 1.
- Review any application, maps, supporting materials and the Full EAF Workbook.
- Answer each of the 18 questions in Part 2.
- If you answer "**Yes**" to a numbered question, please complete all the questions that follow in that section.
- If you answer "**No**" to a numbered question, move on to the next numbered question.
- Check appropriate column to indicate the anticipated size of the impact.
- Proposed projects that would exceed a numeric threshold contained in a question should result in the reviewing agency checking the box "Moderate to large impact may occur."
- The reviewer is not expected to be an expert in environmental analysis.
- If you are not sure or undecided about the size of an impact, it may help to review the sub-questions for the general question and consult the workbook.
- When answering a question consider all components of the proposed activity, that is, the "whole action".
- Consider the possibility for long-term and cumulative impacts as well as direct impacts.
- Answer the question in a reasonable manner considering the scale and context of the project.

1. Impact on Land
Proposed action may involve construction on, or physical alteration of, the land surface of the proposed site. (See Part 1. D.1) ☐ NO ☑ YES
If "Yes", answer questions a - j. If "No", move on to Section 2.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may involve construction on land where depth to water table is less than 3 feet.	E2d	☑	☐
b. The proposed action may involve construction on slopes of 15% or greater.	E2f	☑	☐
c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface.	E2a	☑	☐
d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material.	D2a	☑	☐
e. The proposed action may involve construction that continues for more than one year or in multiple phases.	D1e	☑	☐
f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).	D2e, D2q	☑	☐
g. The proposed action is, or may be, located within a Coastal Erosion hazard area.	B1i	☑	☐
h. Other impacts: Beneficial land use impacts including brownfield remediation and expansion of pubic access and recreation facilities.		☐	☑

2. **Impact on Geological Features** The proposed action may result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site (e.g., cliffs, dunes, minerals, fossils, caves). (See Part 1. E.2.g) *If "Yes", answer questions a - c. If "No", move on to Section 3.*	☑ NO	☐ YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Identify the specific land form(s) attached: _____	E2g	☐	☐
b. The proposed action may affect or is adjacent to a geological feature listed as a registered National Natural Landmark. Specific feature: _____	E3c	☐	☐
c. Other impacts: _____		☐	☐

3. **Impacts on Surface Water** The proposed action may affect one or more wetlands or other surface water bodies (e.g., streams, rivers, ponds or lakes). (See Part 1. D.2, E.2.h). *If "Yes", answer questions a - l. If "No", move on to Section 4.*	☐ NO	☑ YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may create a new water body.	D2b, D1h	☑	☐
b. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water.	D2b	☑	☐
c. The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body.	D2a	☑	☐
d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body.	E2h	☑	☐
e. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.	D2a, D2h	☑	☐
f. The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water.	D2c	☑	☐
g. The proposed action may include construction of one or more outfall(s) for discharge of wastewater to surface water(s).	D2d	☑	☐
h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies.	D2e	☑	☐
i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.	E2h	☑	☐
j. The proposed action may involve the application of pesticides or herbicides in or around any water body.	D2q, E2h	☑	☐
k. The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities.	D1a, D2d	☑	☐

l. Other impacts: _____		☐	☐

4. Impact on groundwater

The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer. (See Part 1. D.2.a, D.2.c, D.2.d, D.2.p, D.2.q, D.2.t) ☑ NO ☐ YES

If "Yes", answer questions a - h. If "No", move on to Section 5.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells.	D2c	☐	☐
b. Water supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer. Cite Source: _____	D2c	☐	☐
c. The proposed action may allow or result in residential uses in areas without water and sewer services.	D1a, D2c	☐	☐
d. The proposed action may include or require wastewater discharged to groundwater.	D2d, E2l	☐	☐
e. The proposed action may result in the construction of water supply wells in locations where groundwater is, or is suspected to be, contaminated.	D2c, E1f, E1g, E1h	☐	☐
f. The proposed action may require the bulk storage of petroleum or chemical products over ground water or an aquifer.	D2p, E2l	☐	☐
g. The proposed action may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources.	E2h, D2q, E2l, D2c	☐	☐
h. Other impacts: _____		☐	☐

5. Impact on Flooding

The proposed action may result in development on lands subject to flooding. (See Part 1. E.2) ☑ NO ☐ YES

If "Yes", answer questions a - g. If "No", move on to Section 6.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in development in a designated floodway.	E2i	☐	☐
b. The proposed action may result in development within a 100 year floodplain.	E2j	☐	☐
c. The proposed action may result in development within a 500 year floodplain.	E2k	☐	☐
d. The proposed action may result in, or require, modification of existing drainage patterns.	D2b, D2e	☐	☐
e. The proposed action may change flood water flows that contribute to flooding.	D2b, E2i, E2j, E2k	☐	☐
f. If there is a dam located on the site of the proposed action, is the dam in need of repair, or upgrade?	E1e	☐	☐

g. Other impacts: _____		☐	☐

6. Impacts on Air

The proposed action may include a state regulated air emission source. (See Part 1. D.2.f., D,2,h, D.2.g) ☑ NO ☐ YES

If "Yes", answer questions a - f. If "No", move on to Section 7.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. If the proposed action requires federal or state air emission permits, the action may also emit one or more greenhouse gases at or above the following levels:			
i. More than 1000 tons/year of carbon dioxide (CO_2)	D2g	☐	☐
ii. More than 3.5 tons/year of nitrous oxide (N_2O)	D2g	☐	☐
iii. More than 1000 tons/year of carbon equivalent of perfluorocarbons (PFCs)	D2g	☐	☐
iv. More than .045 tons/year of sulfur hexafluoride (SF_6)	D2g	☐	☐
v. More than 1000 tons/year of carbon dioxide equivalent of hydrochloroflourocarbons (HFCs) emissions	D2g	☐	☐
vi. 43 tons/year or more of methane	D2h	☐	☐
b. The proposed action may generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants.	D2g	☐	☐
c. The proposed action may require a state air registration, or may produce an emissions rate of total contaminants that may exceed 5 lbs. per hour, or may include a heat source capable of producing more than 10 million BTU's per hour.	D2f, D2g	☐	☐
d. The proposed action may reach 50% of any of the thresholds in "a" through "c", above.	D2g	☐	☐
e. The proposed action may result in the combustion or thermal treatment of more than 1 ton of refuse per hour.	D2s	☐	☐
f. Other impacts: _____		☐	☐

7. Impact on Plants and Animals

The proposed action may result in a loss of flora or fauna. (See Part 1. E.2. m.-q.) ☑ NO ☐ YES

If "Yes", answer questions a - j. If "No", move on to Section 8.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2o	☐	☐
b. The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the federal government.	E2o	☐	☐
c. The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2p	☐	☐
d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal government.	E2p	☐	☐

e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect.	E3c	☐	☐
f. The proposed action may result in the removal of, or ground disturbance in, any portion of a designated significant natural community.. Source: _____	E2n	☐	☐
g. The proposed action may substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site.	E2m	☐	☐
h. The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat. Habitat type & information source: _____	E1b	☐	☐
i. Proposed action (commercial, industrial or recreational projects, only) involves use of herbicides or pesticides.	D2q	☐	☐
j. Other impacts: _____		☐	☐

8. Impact on Agricultural Resources

The proposed action may impact agricultural resources. (See Part 1. E.3.a. and b.) ☑ NO ☐ YES

If "Yes", answer questions a - h. If "No", move on to Section 9.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System.	E2c, E3b	☐	☐
b. The proposed action may sever, cross or otherwise limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc).	E1a, E1b	☐	☐
c. The proposed action may result in the excavation or compaction of the soil profile of active agricultural land.	E3b	☐	☐
d. The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District.	E1b, E3a	☐	☐
e. The proposed action may disrupt or prevent installation of an agricultural land management system.	E1 a, E1b	☐	☐
f. The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.	C2c, C3, D2c, D2d	☐	☐
g. The proposed project is not consistent with the adopted municipal Farmland Protection Plan.	C2c	☐	☐
h. Other impacts: _____		☐	☐

9. Impact on Aesthetic Resources

The land use of the proposed action are obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. (Part 1. E.1.a, E.1.b, E.3.h.) ☑ NO ☐ YES

If "Yes", answer questions a - g. If "No", go to Section 10.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Proposed action may be visible from any officially designated federal, state, or local scenic or aesthetic resource.	E3h	☐	☐
b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views.	E3h, C2b	☐	☐
c. The proposed action may be visible from publicly accessible vantage points: i. Seasonally (e.g., screened by summer foliage, but visible during other seasons) ii. Year round	E3h	☐ ☐	☐ ☐
d. The situation or activity in which viewers are engaged while viewing the proposed action is: i. Routine travel by residents, including travel to and from work ii. Recreational or tourism based activities	E3h E2q, E1c	☐ ☐	☐ ☐
e. The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource.	E3h	☐	☐
f. There are similar projects visible within the following distance of the proposed project: 0-1/2 mile ½ -3 mile 3-5 mile 5+ mile	D1a, E1a, D1f, D1g	☐	☐
g. Other impacts: _____		☐	☐

10. Impact on Historic and Archeological Resources

The proposed action may occur in or adjacent to a historic or archaeological resource. (Part 1. E.3.e, f. and g.) ☑ NO ☐ YES

If "Yes", answer questions a - e. If "No", go to Section 11.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on or has been nominated by the NYS Board of Historic Preservation for inclusion on the State or National Register of Historic Places.	E3e	☐	☐
b. The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory.	E3f	☐	☐
c. The proposed action may occur wholly or partially within, or substantially contiguous to, an archaeological site not included on the NY SHPO inventory. Source: _____	E3g	☐	☐

d. Other impacts: _____		☐	☐
e. If any of the above (a-d) are answered "Yes", continue with the following questions to help support conclusions in Part 3:			
i. The proposed action may result in the destruction or alteration of all or part of the site or property.	E3e, E3g, E3f	☐	☐
ii. The proposed action may result in the alteration of the property's setting or integrity.	E3e, E3f, E3g, E1a, E1b	☐	☐
iii. The proposed action may result in the introduction of visual elements which are out of character with the site or property, or may alter its setting.	E3e, E3f, E3g, E3h, C2, C3	☐	☐

11. Impact on Open Space and Recreation

The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan.
(See Part 1. C.2.c, E.1.c., E.2.q.)
If "Yes", answer questions a - e. If "No", go to Section 12.

☑ NO ☐ YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in an impairment of natural functions, or "ecosystem services", provided by an undeveloped area, including but not limited to stormwater storage, nutrient cycling, wildlife habitat.	D2e, E1b E2h, E2m, E2o, E2n, E2p	☐	☐
b. The proposed action may result in the loss of a current or future recreational resource.	C2a, E1c, C2c, E2q	☐	☐
c. The proposed action may eliminate open space or recreational resource in an area with few such resources.	C2a, C2c E1c, E2q	☐	☐
d. The proposed action may result in loss of an area now used informally by the community as an open space resource.	C2c, E1c	☐	☐
e. Other impacts: _____		☐	☐

12. Impact on Critical Environmental Areas

The proposed action may be located within or adjacent to a critical environmental area (CEA). (See Part 1. E.3.d)
If "Yes", answer questions a - c. If "No", go to Section 13.

☑ NO ☐ YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in a reduction in the quantity of the resource or characteristic which was the basis for designation of the CEA.	E3d	☐	☐
b. The proposed action may result in a reduction in the quality of the resource or characteristic which was the basis for designation of the CEA.	E3d	☐	☐
c. Other impacts: _____		☐	☐

13. Impact on Transportation
The proposed action may result in a change to existing transportation systems. ☑ NO ☐ YES
(See Part 1. D.2.j)
If "Yes", answer questions a - g. If "No", go to Section 14.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Projected traffic increase may exceed capacity of existing road network.	D2j	☐	☐
b. The proposed action may result in the construction of paved parking area for 500 or more vehicles.	D2j	☐	☐
c. The proposed action will degrade existing transit access.	D2j	☐	☐
d. The proposed action will degrade existing pedestrian or bicycle accommodations.	D2j	☐	☐
e. The proposed action may alter the present pattern of movement of people or goods.	D2j	☐	☐
f. Other impacts: _____		☐	☐

14. Impact on Energy
The proposed action may cause an increase in the use of any form of energy. ☑ NO ☐ YES
(See Part 1. D.2.k)
If "Yes", answer questions a - e. If "No", go to Section 15.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action will require a new, or an upgrade to an existing, substation.	D2k	☐	☐
b. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use.	D1f, D1q, D2k	☐	☐
c. The proposed action may utilize more than 2,500 MWhrs per year of electricity.	D2k	☐	☐
d. The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed.	D1g	☐	☐
e. Other Impacts: _____			

15. Impact on Noise, Odor, and Light
The proposed action may result in an increase in noise, odors, or outdoor lighting. ☐ NO ☑ YES
(See Part 1. D.2.m., n., and o.)
If "Yes", answer questions a - f. If "No", go to Section 16.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may produce sound above noise levels established by local regulation.	D2m	☑	☐
b. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home.	D2m, E1d	☑	☐
c. The proposed action may result in routine odors for more than one hour per day.	D2o	☑	☐

d. The proposed action may result in light shining onto adjoining properties.	D2n	☑	☐
e. The proposed action may result in lighting creating sky-glow brighter than existing area conditions.	D2n, E1a	☑	☐
f. Other impacts: Slight increase in site light levels associated with lighting required for security and safety purposes.		☑	☐

16. Impact on Human Health

The proposed action may have an impact on human health from exposure to new or existing sources of contaminants. (See Part 1.D.2.q., E.1. d. f. g. and h.) ☐ NO ☑ YES

If "Yes", answer questions a - m. If "No", go to Section 17.

	Relevant Part I Question(s)	No,or small impact may cccur	Moderate to large impact may occur
a. The proposed action is located within 1500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community.	E1d	☑	☐
b. The site of the proposed action is currently undergoing remediation.	E1g, E1h	☑	☐
c. There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action.	E1g, E1h	☑	☐
d. The site of the action is subject to an institutional control limiting the use of the property (e.g., easement or deed restriction).	E1g, E1h	☑	☐
e. The proposed action may affect institutional control measures that were put in place to ensure that the site remains protective of the environment and human health.	E1g, E1h	☑	☐
f. The proposed action has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous wastes will be protective of the environment and human health.	D2t	☑	☐
g. The proposed action involves construction or modification of a solid waste management facility.	D2q, E1f	☑	☐
h. The proposed action may result in the unearthing of solid or hazardous waste.	D2q, E1f	☑	☐
i. The proposed action may result in an increase in the rate of disposal, or processing, of solid waste.	D2r, D2s	☑	☐
j. The proposed action may result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste.	E1f, E1g E1h	☑	☐
k. The proposed action may result in the migration of explosive gases from a landfill site to adjacent off site structures.	E1f, E1g	☑	☐
l. The proposed action may result in the release of contaminated leachate from the project site.	D2s, E1f, D2r	☑	☐
m. Other impacts: Portions of site subject to prior brownfield/haz waste remedies; the integrity of each would be maintained and proper protocols established for future uses.		☑	☐

17. Consistency with Community Plans

The proposed action is not consistent with adopted land use plans. (See Part 1. C.1, C.2. and C.3.) ☑ NO ☐ YES

If "Yes", answer questions a - h. If "No", go to Section 18.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action's land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).	C2, C3, D1a E1a, E1b	☐	☐
b. The proposed action will cause the permanent population of the city, town or village in which the project is located to grow by more than 5%.	C2	☐	☐
c. The proposed action is inconsistent with local land use plans or zoning regulations.	C2, C2, C3	☐	☐
d. The proposed action is inconsistent with any County plans, or other regional land use plans.	C2, C2	☐	☐
e. The proposed action may cause a change in the density of development that is not supported by existing infrastructure or is distant from existing infrastructure.	C3, D1c, D1d, D1f, D1d, Elb	☐	☐
f. The proposed action is located in an area characterized by low density development that will require new or expanded public infrastructure.	C4, D2c, D2d D2j	☐	☐
g. The proposed action may induce secondary development impacts (e.g., residential or commercial development not included in the proposed action)	C2a	☐	☐
h. Other: _____		☐	☐

18. Consistency with Community Character

The proposed project is inconsistent with the existing community character. (See Part 1. C.2, C.3, D.2, E.3) ☑ NO ☐ YES

If "Yes", answer questions a - g. If "No", proceed to Part 3.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may replace or eliminate existing facilities, structures, or areas of historic importance to the community.	E3e, E3f, E3g	☐	☐
b. The proposed action may create a demand for additional community services (e.g. schools, police and fire)	C4	☐	☐
c. The proposed action may displace affordable or low-income housing in an area where there is a shortage of such housing.	C2, C3, D1f D1g, E1a	☐	☐
d. The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources.	C2, E3	☐	☐
e. The proposed action is inconsistent with the predominant architectural scale and character.	C2, C3	☐	☐
f. Proposed action is inconsistent with the character of the existing natural landscape.	C2, C3 E1a, E1b E2g, E2h	☐	☐
g. Other impacts: _____		☐	☐

PRINT FULL FORM

Full Environmental Assessment Form
Part 3 - Evaluation of the Magnitude and Importance of Project Impacts and Determination of Significance

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

Reasons Supporting This Determination:
To complete this section:

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

See EAF Addendum.

Determination of Significance - Type 1 and Unlisted Actions

SEQR Status: ☑ Type 1 ☐ Unlisted

Identify portions of EAF completed for this Project: ☑ Part 1 ☑ Part 2 ☑ Part 3

Upon review of the information recorded on this EAF, as noted, plus this additional support information in the EAF Addendum

and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the Erie Canal Harbor Development Corporation as lead agency that:

☑ A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

☐ B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency:

There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.d).

☐ C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

Name of Action: Buffalo Outer Harbor Access & Activation Civic Project

Name of Lead Agency: Erie Canal Harbor Development Corporation

Name of Responsible Officer in Lead Agency: Thomas Dee

Title of Responsible Officer: President

Signature of Responsible Officer in Lead Agency: X _____ Date: 9 NOV 2015

Signature of Preparer (if different from Responsible Officer) X _____ Date: 9 NOV 2015

For Further Information:

Contact Person: Erie Canal Harbor Development Corporation

Address: 95 Perry Street, 5th Floor, Buffalo, NY 14203

Telephone Number: 716.846.8200

E-mail: steven.ranalli@esd.ny.gov

For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)
Other involved agencies (if any)
Applicant (if any)
Environmental Notice Bulletin: http://www.dec.ny.gov/enb/enb.html

PRINT FULL FORM

NEW YORK STATE DEPARTMENT OF STATE
COASTAL MANAGEMENT PROGRAM

Coastal Assessment Form

A. INSTRUCTIONS (Please print or type all answers)

1. State agencies shall complete this CAF for proposed actions which are subject to Part 600 of Title 19 of the NYCRR. This assessment is intended to supplement other information used by a state agency in making a determination of significance pursuant to the State Environmental Quality Review Act (see 6 NYCRR, Part 617). If it is determined that a proposed action will not have a significant effect on the environment, this assessment is intended to assist a state agency in complying with the certification requirements of 19 NYCRR Section 600.4.

2. If any question in Section C on this form is answered "yes", then the proposed action may affect the achievement of the coastal policies contained in Article 42 of the Executive Law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to either (a) making a certification of consistency pursuant to 19 NYCRR Part 600 or, (b) making the findings required under SEQR, 6 NYCRR, Section 617.11, if the action is one for which an environmental impact statement is being prepared. If an action cannot be certified as consistent with the coastal policies, it shall not be undertaken.

3. Before answering the questions in Section C, the preparer of this form should review the coastal policies contained in 19 NYCRR Section 600.5. A proposed action should be evaluated as to its significant beneficial and adverse effects upon the coastal area.

B. DESCRIPTION OF PROPOSED ACTION

1. Type of state agency action (check appropriate response):

(a) Directly undertaken (e.g. capital construction, planning activity, agency regulation, land transaction) ✓
(b) Financial assistance (e.g. grant, loan, subsidy) ____
(c) Permit, license, certification ____

2. Describe nature and extent of action: Acquisition of 901 Fuhrmann Blvd by Erie Canal Harbor Development Corporation ("ECHDC"), to add to other waterfront land holdings, and design and remediation/development of a series of public access and recreational improvements along the Lake Erie Outer Harbor in Buffalo, NY.

3. Location of action:

County	City, Town or Village	Street or Site Description
X	Buffalo, NY	175, 225, 235, 275, 461, 525, 575, and 901 Fuhrmann Blvd. & Times Beach Nature Preserve (69 Fuhrmann Blvd, Buffalo, NY)

4. If an application for the proposed action has been filed with the state agency, the following information shall be provided:

(a) Name of applicant: Erie Canal Harbor Development Corporation

(b) Mailing address: 95 Perry Street, 5th Floor

(c) Telephone Number: Area Code (716) 846-8200

(d) State agency application number: N/A

5. Will the action be directly undertaken, require funding, or approval by a federal agency?

Yes ✓ No ____ If yes, which federal agency? U.S. Army Corps of Engineers

C. COASTAL ASSESSMENT (Check either "YES" or "NO" for each of the following questions)

	YES	NO
1. Will the proposed activity be located in, or contiguous to, or have a significant effect upon any of the resource areas identified on the coastal area map:		
(a) Significant fish or wildlife habitats?		✓
(b) Scenic resources of statewide significance?		✓
(c) Important agricultural lands?		✓
2. Will the proposed activity have a significant effect upon:		
(a) Commercial or recreational use of fish and wildlife resources?		✓
(b) Scenic quality of the coastal environment?		✓
(c) Development of future, or existing water dependent uses?		✓
(d) Operation of the State's major ports?		✓
(e) Land and water uses within the State's small harbors?		✓
(f) Existing or potential public recreation opportunities?		✓
(g) Structures, sites or districts of historic, archeological or cultural significance to the State or nation?		✓

3. Will the proposed activity involve or result in any of the following:

(a) Physical alteration of two (2) acres or more of land along the shoreline, land under water or coastal waters?		✓
(b) Physical alteration of five (5) acres or more of land located elsewhere in the coastal area?	✓	
(c) Expansion of existing public services of infrastructure in undeveloped or low density areas of the coastal area?		✓
(d) Energy facility not subject to Article VII or VIII of the Public Service Law?		✓
(e) Mining, excavation, filling or dredging in coastal waters?		✓
(f) Reduction of existing or potential public access to or along the shore?		✓
(g) Sale or change in use of state-owned lands located on the shoreline or under water?		
(h) Development within a designated flood or erosion hazard area?		✓
(i) Development on a beach, dune, barrier island or other natural feature that provides protection against flooding or erosion?		✓

4. Will the proposed action be located in or have a significant effect upon an area included in an approved Local Waterfront Revitalization Program? ... ✓

D. SUBMISSION REQUIREMENTS

If any question in Section C is answered "Yes", AND either of the following two conditions is met:

Section B.1(a) or B.1(b) is checked; or
Section B.1(c) is checked AND B.5 is answered "Yes",

THEN a copy of this completed Coastal Assessment Form shall be submitted to:

New York State Department of State
Office of Coastal, Local Government and Community Sustainability
One Commerce Plaza
99 Washington Avenue, Suite 1010
Albany, New York 12231-0001

If assistance or further information is needed to complete this form, please call the Department of State at (518) 474-6000.

E. REMARKS OR ADDITIONAL INFORMATION

The Proposed Action (i.e., the "Project") would involve ECHDC adopting a General Project Plan ("GPP") to undertake the following activities:

- Transferring ownership of 901 Fuhrmann Boulevard (including all lands and the Terminal A and B buildings) from the Niagara Frontier Transportation Authority to ECHDC, but excluding any specific activities for reuse, redevelopment, or new development on the property (other than trail access improvements noted below); and

- Programming $5 million in funds under Empire State Development's Buffalo Billion economic development initiative planning, remedial action, final design and construction of a series of improvements to facilitate active/passive recreational uses and future recreational programming, including: filling in selected gaps in the existing pedestrian/bicycle access network; expanding public knowledge of this great resource through signage systems and orientation points; and providing new outdoor recreation facilities thorough the remediation/reuse of existing open space lands for programming of outdoor activities. These efforts are collectively intended to support public access and appreciation of this increasingly-discovered part of the City's Lake Erie waterfront.

Preparer's Name: Steven Ranalli, P.E., AICP
(Please print)

Title: Senior Project Manager Agency: Erie Canal Harbor Development Corporation

Telephone Number: (716) 846-8200 Date: 6 NOV 2015

Full Environmental Assessment Form
Addendum

1. PROJECT DESCRIPTION

1.1 Project Background/Location

The Erie Canal Harbor Development Corporation (ECHDC), a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development (ESD), is proposing to acquire additional property and make public investments on the Lake Erie waterfront in the City of Buffalo (the "City") to realize a series of near-term and relatively low-disturbance improvements to enhance access and facilitate greater public use and enjoyment of the waterfront.

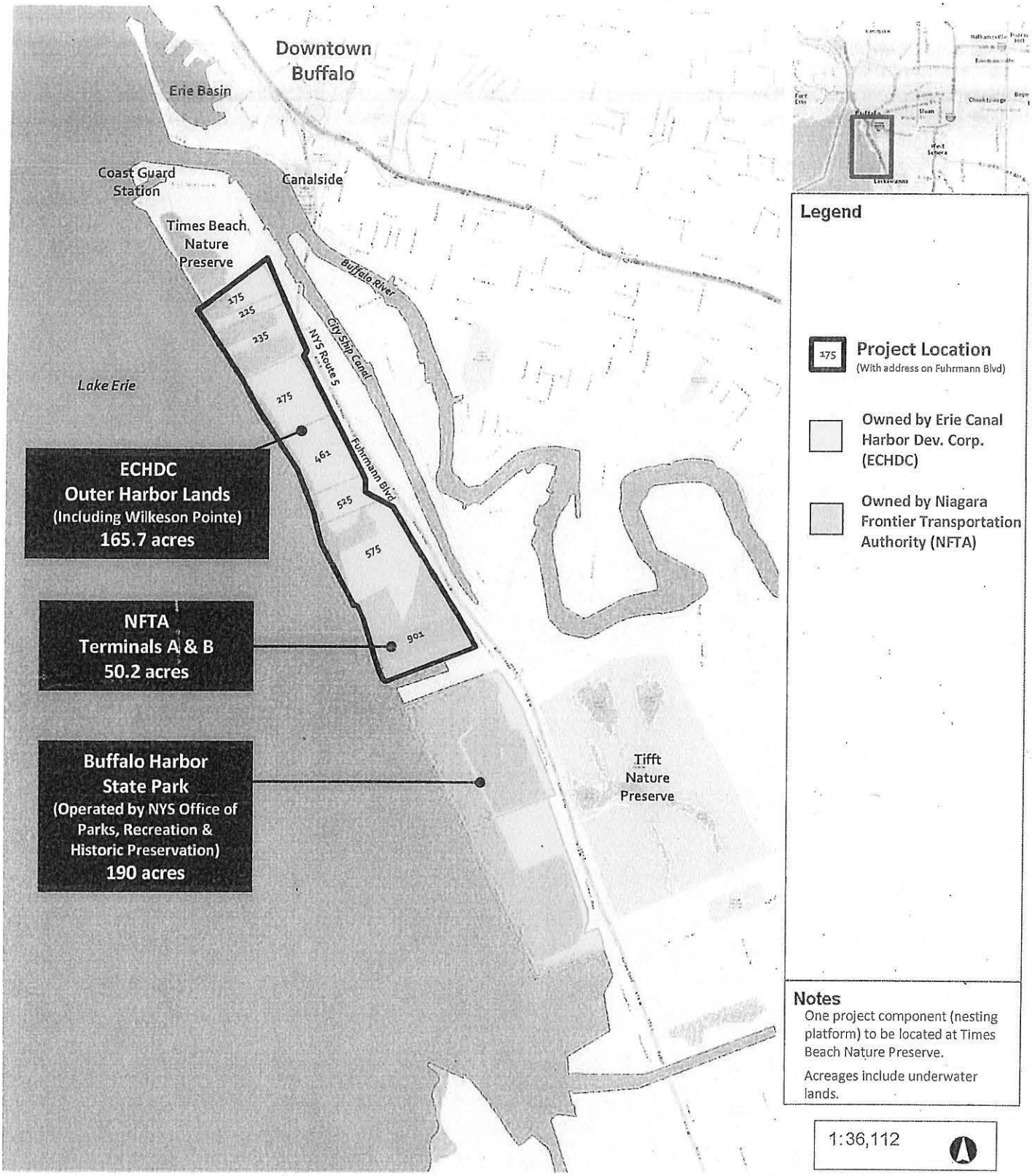
Project components would be largely located[1] on almost 216 acres of land bounded by (see **Figure 1**):

- The Times Beach Nature Preserve on the north;
- Fuhrmann Boulevard on the east;
- The former Freezer Queen production plant (now being considered for adaptive reuse) on the south; and
- Lake Erie on the west.

The Project site is composed of eight City lots of record, known as 175, 225, 235, 275, 461, 525, 575, and 901 Fuhrmann Boulevard. The first two of these lots, 175 and 225 Fuhrmann Boulevard, were previously acquired and improved by ECHDC and are now known as "Wilkeson Pointe". Five of the lots (235, 275, 461, 525, and 575 Fuhrmann Boulevard) were transferred to ECHDC in late 2014 from the Niagara Frontier Transportation Authority (NFTA). The remaining lot, 901 Fuhrmann Blvd, remains in NFTA ownership and contains the vacant NFTA Terminals A and B; ECHDC is in final discussions with NFTA regarding the transfer of this remaining property to ECHDC.

The Project site is located in the Buffalo "Outer Harbor" section of the City's waterfront, referring to the properties along the Lake Erie shoreline within a protected harbor formed by an outer breakwall built in the 1920s (contrasting with the "Inner Harbor" that encompasses lands along the Buffalo River). Historically, the Outer Harbor provided deep water port facilities and associated landside transportation and industrial uses. Over the last four decades as the local economy restructured away from predominance on heavy manufacturing, this pattern of use has been progressively evolving to one relying more on proximity/access to the water for recreational uses and enhancement of less intensive waterfront uses.

[1] One Project component, which would involve a new Osprey nesting platform, would be located on the Times Beach Nature Preserve, immediately north of the Project site at 69 Fuhrmann Boulevard.



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WGS_1984_Web_Mercator_Auxiliary_Sphere
MIS Department, City of Buffalo

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Figure 1
Project Location Map
Buffalo Outer Harbor Access & Activation Civic Project

The Buffalo Outer Harbor area has already undergone a number of incremental trail access, clean-up/remediation, and recreational improvements over the last decade by NFTA, the NYS Department of Transportation (NYSDOT), NYS Department of Environmental Conservation (NYSDEC), Erie County, the City of Buffalo, the U.S. Army Corps of Engineers (USACE), and ECHDC, including shore stabilization; new trail systems along the water's edge and along public roads in the area; remediation of former disposal sites to create recreational areas and nature preserves; clearance of blighting structures; and periodic programming of activities such as concerts. Further, as part of the 2014 transfer to ECHDC, the ~190-acre NFTA Boat Harbor was converted to "Buffalo Harbor State Park", the first New York State Park in the City, which is now operated by the NYS Office of Parks, Recreation, and Historic Preservation (OPRHP).

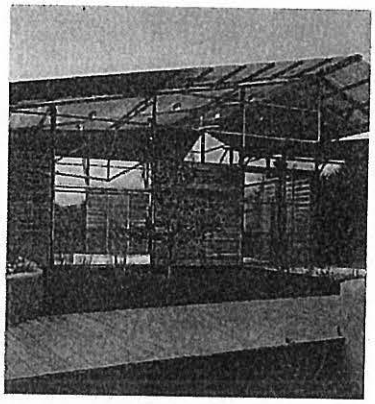
1.2 Proposed Action

The Proposed Action (i.e., the "Project") would involve ECHDC adopting a General Project Plan (GPP) to undertake the following activities:

- Transferring ownership of 901 Fuhrmann Boulevard (including all lands and the Port Terminal A and B buildings) from the NFTA to ECHDC, but excluding any specific activities for reuse, redevelopment, or new development on the property (other than trail access improvements noted below); and

Port Terminal Buildings A & B at 901 Fuhrmann Blvd

- Programming $5 million in funds under ESD's Buffalo Billion economic development initiative for planning, remedial action, final design and construction of a series of improvements (see **Figure 2**) to facilitate active/passive recreational uses and future recreational and event programming, including the following:
  - **Improvement 1: Visitor Center/Hub**. This would involve creation of a Visitor Center/Hub at the Bell Slip with a modular installation, including pedestrian and bicycle amenities (e.g., bike racks, benches, trash cans, Adirondack chairs, etc.) to take advantage of the existing parking lot and views. It would also include installation of electric service and/or a renewable energy source for power requirements. It is assumed that such a facility would be roughly ~1,500 SF and generally be located near existing trailhead parking facilities on the Bell Slip.



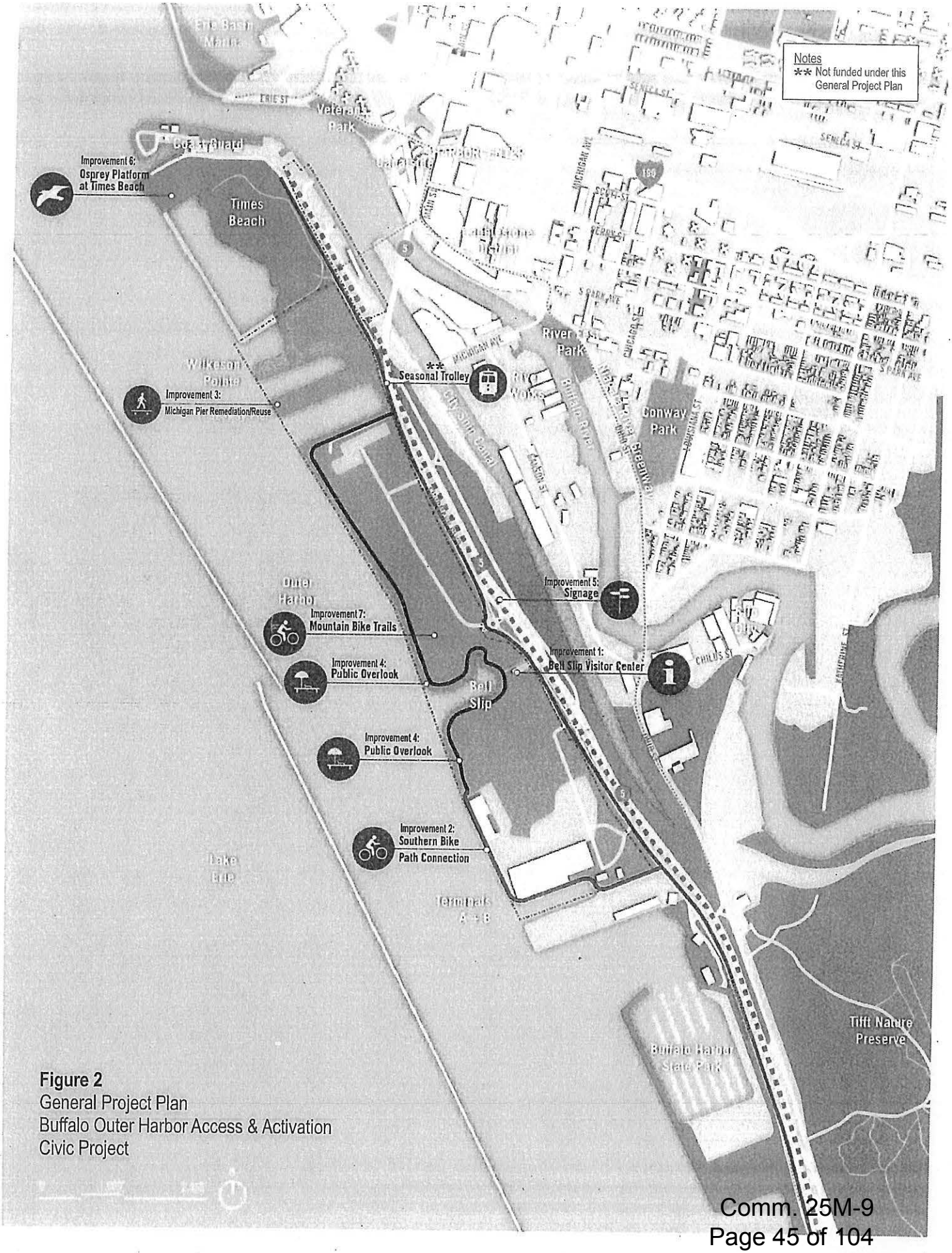
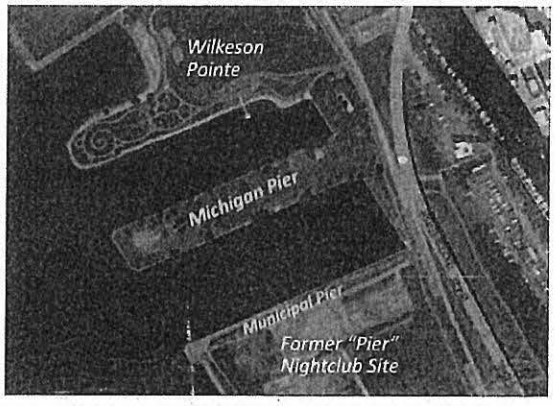


Figure 2
General Project Plan
Buffalo Outer Harbor Access & Activation
Civic Project

- **Improvement 2: Southern Greenbelt Extension**. This component would involve construction of a multi-purpose trail extension along the water's edge near Terminals A & B to complete the southern end of the current "Greenbelt" loop, including pedestrian and bicycle amenities (i.e., bike racks, benches, trash cans, Adirondack chairs, etc.). The trail would extend ~3,500 feet in length and result in ~0.8 acres of new pavement over a previously-paved/disturbed area on the shoreline.

- **Improvement 3: Michigan Pier Remediation/Reuse.** This component would involve redeveloping the Michigan Pier (AKA Seaway Pier) into a flexible, multi-use outdoor recreational space, building on the success of nearby Wilkeson Pointe. It would include clearing, capping, and re-grading the vacant eight-acre pier to accommodate facilities such as: adult playground, workout area, ropes course, foot/bicycle paths (doubling as x-country ski trails), a cantilevered trail section (doubling as fishing pier), railings/perimeter walkway along entire edge (doubling as setback), deck, beach, beer garden area, and adult games zone (e.g., horseshoes, bocce courts, petanq, shuffleboard, volleyball, etc.). This component would also involve installation of electric service and/or a renewable energy source for power requirements. The design would also include recreational fields or pollinator fields, seasonal floating docks, safety ladders and life rings.



- **Improvement 4: Overlooks.** This would involve developing two "overlook" locations adjacent to the Bell Slip along the existing Greenbelt loop. The design would facilitate birding, painting, photography, and astronomy (i.e., publicly-desired activities) to occur at these locations.

- **Improvement 5: Signage System**. This component would involve the design and installation of a comprehensive signage system from Gallagher Beach to the Buffalo Main Light historic lighthouse facility at the mouth of Buffalo River, conforming to standards for the Erie County/Niagara River Greenway "Shoreline Trail" sign system, including ancillary pedestrian and bicycle amenities (i.e., bike racks, benches, etc.). The system would

highlight key public locations as well as distances. This component has the potential for also including additional interpretive signs and for "physical fitness" (e.g., 10,000 Steps). The system would require an agreement/permitting with NYSDOT for signs that are positioned within a NYSDOT-owned right-of-way (e.g., NYS Route 5).

- **Improvement 6: Osprey Nesting Structure**. This component would involve installation of an Osprey nesting platform at a location within the Times Beach Nature Preserve. This component would require an agreement with Erie County, Friends of Times Beach, and/or Buffalo Museum of Science to cover operations and maintenance.

- **Improvement 7: Mountain Bike Facilities**. This component would involve the design and establishment of a mountain bike course(s) within a six-acre area bounded by the Bell Slip, Lake Erie, and Fuhrman Boulevard. Given the site's features and proximity to existing paved pathways, a series of unpaved trails (each less than five miles in length) and a pump track would be established to take advantage of the mature trees and small gently-rolling hills.

1.3 Limits of the Proposed Action

It should be noted that while the Proposed Action is limited to activities noted above, it is acknowledged that these improvements are a near-term action to facilitate public access and enjoyment of the Project site now, with a vision to realize some form of additional development on portions of the Buffalo Outer Harbor lands in the future, such as possible future adaptive reuse or new mixed-use infill development in the vicinity of NFTA Terminals A and B.

However, any future redevelopment (i.e., for uses not now permitted under current industrial zoning) would require a number of future discretionary approvals, including but not limited to adoption of new zoning/development regulations by the City (as part of the adoption of the "Buffalo Green Code"), City site plan review, and assessment in accordance with the New York State Environmental Quality Review Act (SEQRA).

It is fully reasonable to assess the impacts of near-term improvements under the Proposed Action (as presented above in Section 1.2) separate from the SEQRA review of any potential future development(s), in consideration of the following:

- **Timing.** Undertaking planning, design/remedial activities, and construction of public access/recreational improvements on the site would further enhance public

enjoyment of the Buffalo Outer Harbor in a manner fully permitted under current local development regulations and policies. Implementing these improvements now would not in any way commit ECHDC, ESD, the City, or any other agency to implement and/or approve any particular redevelopment or infill development project(s) on the Buffalo Outer Harbor in the future, if and when local regulations are adopted that permit new uses other than industrial establishments. Further, in recognition that there are currently no specific proposals—defined in terms of location, type (residential, office, institutional, etc.), and scale (i.e., number of units, total area of new development, etc.)—under consideration for approval by ECHDC, ESD, the City, or any other agency, it would be premature to attempt to speculate on aspects of any such future development.

- **Lack of Significant Impacts.** The specific components of the Proposed Action (i.e., property transfer, design, remedial activities, and construction of public access/recreation improvements) are not likely anticipated to result in any significant negative direct/indirect effects to social, economic, or environmental resources. Because any future development on the Project site would also be subject to its own SEQRA documentation and all associated public reviews/approvals, advancing the Proposed Action now before any future development is conceptualized, marketed and/or solicited would in no way affect the appearance or impression of information that would be reported in future SEQRA documentation (i.e., it would not make the separated actions appear to have "fewer" impacts); nor would it in any way be less protective of the environment.

- **Other Ongoing Public Reviews.** Any future development on the Project site would largely be shaped by the ultimate adoption process for the Buffalo Green Code (i.e., to permit uses other than general industry on the site). The Green Code has been and will continue to be subject to extensive public involvement efforts, including SEQRA generic environmental impact statement prior to adoption. In turn, any new development(s) on the Project site in the future would be subject to public site plan review by the City of Buffalo. Thus, there would be ample opportunity for public review and comment if any future development on the Project site is considered.

- **Independent Utility.** The specific components of the Proposed Action would have independent utility (i.e., would permit public enjoyment of the waterfront) from that of any possible future development on some portion of the Project site. While such uses may well be related and complementary, the ultimate success of the Proposed Action is in no way directly predicated upon any such future development.

2. ENVIRONMENTAL CONSIDERATIONS

The following sections outline various environmental considerations in accordance with SEQRA. These sections are organized according to the sections listed in Part 2 of the SEQRA Full Environmental Assessment Form.

2.1 Impact on Land

2.1.1 Existing Conditions

The Project site is situated on 215.9 acres of filled land on Fuhrmann Boulevard, and is composed of eight tax parcels in the City of Buffalo. The northernmost two parcels (175 and 225 Fuhrmann Boulevard), formerly owned by Cargill and the New York Power Authority (NYPA) were most recently used (1968-2000) for bulk storage of road salt and for summer storage of the NYPA Lake Erie – Niagara River ice boom, although these lands were also historically used for a variety of industrial purposes, most notably as a shipbuilding yard. These parcels were remediated by ECHDC in 2013 and converted to a recreation area known as Wilkeson Pointe.

The southernmost portion of the Project site (235-901 Fuhrmann Boulevard) comprises the former "Port of Buffalo" operated by the NFTA and its predecessor agency since 1960, and prior to that by the City of Buffalo. This area includes the Buffalo Port Terminal Building A (which historically was a Ford Motor Company plant) and Terminal Building B at 901 Fuhrmann Boulevard, open storage areas formerly used to store salt, sand, and other bulk commodities, and slips (water inlets) for marine shipping including the Bell Slip, the Seaway (or Municipal Slip), and the Michigan Slip.

In the 1980s, NFTA leased a portion of these lands for a private waterfront restaurant/nightclub called "Shooters" (and later known as "Breakers", and finally "The Pier"); this establishment closed in 2004 and was demolished by NFTA in 2010 as part of implementation of a clean-up remedy for contaminated soils in the fill materials that in part formed the land in this area. This same clean-up effort yielded the first phase of the "Greenbelt" trail network along the Lake Erie shoreline.

Since this time, portions of the Project site in the vicinity of the former location of "The Pier" have been periodically used for concert events and festivals. These activities were conducted under contracts between event promoters and the NFTA, and have involved several large events. Upon the transfer of lands to ECHDC, these agreements were assumed by ECHDC for the summer of 2015.

Surrounding land uses include a mix of conservation and marine uses. While Lake Erie is immediately west of the Project site, immediately north of the site is the Times Beach Nature Preserve, located in an area formerly used as a confined disposal facility (CDF) for USACE, intended for the depositing of dredge spoils from the Buffalo Harbor. North of Times Beach is the U.S. Coast Guard Station. To the south of the Project site is the former Freezer Queen food processing plant (currently being planned for a private

adaptive reuse project) and Buffalo Harbor State Park. Lands to the east of the Project site include two private marina facilities.

In 2004, the City of Buffalo adopted a new Comprehensive Plan. The Comprehensive Plan sets forth broad policy statements for future development, specifically calling out efforts and regulatory policies for the City to *"reconnect to its waterfront, improve public access to the lake, rivers and creeks, link neighborhoods to the water's edge, leverage waterfront assets for appropriate economic development, and improve water quality, waterfront lands and habitats in the process."* (City of Buffalo 2004).

Under the City's current Zoning Ordinance provisions, the Project site is located within the M-2 General Industrial and M-3 Heavy Industrial zoning districts. These districts permit a range of general manufacturing, storage, and other industrial uses, plus any uses permitted in more restrictive zoning districts (i.e., "R" and "C" districts), with the exception of residential, hospital, and school uses. Passive recreational uses (like those under the Proposed Action) are permitted in the R-2 district, thus these uses would also be permitted in M-2 and M-3 districts. The site is also within the limits of the Buffalo Coastal Special Review District, an overlay district requiring review/approval of new development in the zone by the Buffalo Common Council, as well as special yard/setback provisions for new structures along the waterfront.

The City is currently in the process of drafting/approving the Buffalo Green Code, a complete reissuance of all zoning and other land development regulations into a unified development ordinance, intended to effectuate the broad policies of the Comprehensive Plan, as well as to incorporate performance standards and regulations to help achieve other land use policy documents such as Brownfield Opportunity Areas (BOAs) and the Local Waterfront Revitalization Program (LWRP)—both administered by the New York State Department of State—as well as urban renewal plans, which would be largely replaced by standards in the Green Code. The draft Land Use Plan in the Buffalo Green Code shows the Project site largely devoted to open space and recreational uses (i.e., designated as "D-OG Open Space"), with future development and redevelopment concentrated around the southern portion of the Project site around Port Terminal Buildings A and B (designated as "N-1S Secondary Employment").

The Project site is also within the State of New York-designated Coastal Zone established under Executive Law Article 42, Waterfront Revitalization of Coastal Areas and Inland Waterways, New York State's law to implement the federal Coastal Zone Management Act. New York State establishes 44 policies for development in the coastal zone regarding: encouraging the development in existing ports where infrastructure and public services are adequate; encouraging facilitation of public access for recreational purposes; protecting and revitalizing natural and man-made resources as fish and wildlife habitats, agricultural lands, open space areas, and scenic and historic resources; and protecting natural and man-made features from damage caused by flooding and erosion. The law also establishes a procedure for localities to adopt LWRPs to provide specific guidance in a particular municipality; as noted above, the City of Buffalo has

prepared a draft LWRP as part of the ongoing Green Code process, but it has not yet been formally adopted or approved by the State.

2.1.2 Impacts of the Proposed Action

The Proposed Action would result in positive land use impacts associated with further improving waterfront lands for public access. The Project would represent a natural extension of open space facilities and recreational access provided at Wilkeson Pointe and Times Beach Nature Preserve, as well as serve as a node of activity along the emerging network of waterfront trails and access ways stretching north from Buffalo Harbor State Park to the US Coast Guard Station.

The Proposed Action would be fully consistent with the policies of the City of Buffalo Comprehensive Plan and is permitted under current zoning provisions. Given that the action has been coordinated with the City of Buffalo's ongoing efforts to issue new development regulations, the Project components are consistent with land use recommendations in the current draft of the Buffalo Green Code.

The Proposed Action would also represent the best principles of "smart growth" through its proposed reuse of brownfield property in an urbanized area and would contribute to an emerging pattern of recreational and mixed-use development/redevelopment along the waterfront. In order to avoid any long-term health and safety issues related to past contamination and to preserve the integrity of any past remedial actions on the Project site, ECHDC shall employ protocols or cause protocols to be employed as part of the design of future improvements and/or programming of future activities to ensure the workers, visitors, or users are not subject to any harmful exposure to contaminated materials in on-site soils (see also Section 2.16).

Finally, in advancing further improvements for public access for recreational enjoyment of a former port facility, the Proposed Action would be fully consistent with the State's Coastal Policies. This EAF includes a NYS Coastal Assessment Form indicating that the Project would not exceed all but one threshold triggering a coastal review by the NYS Department of State, specifically a project involving more than five acres of land disturbance within the Coastal Area. The considerations and assessments in this EAF indicate that this land disturbance would not result in adverse impacts to coastal resources and would not impair/infringe upon achievement of any coastal land use policy.

2.2 Impact on Geological Features

The Project site was created through periodic filling events over the last century and contains no unique geological features. A discussion of the implications of the Project related to surface and subsurface soil contamination from these filling events is included under Section 2.16.

2.3 Impacts on Surface Water

2.3.1 Existing Conditions

The proposed Project site is located adjacent to Lake Erie in the Buffalo Outer Harbor. The Niagara River/Lake Erie Basin Waterbody Inventory/Priority Waterbodies List Report was issued in September 2010. In this report the site is considered to be in the North Outer Harbor. The report classifies this area of Lake Erie as a Class B waterbody and the water quality as "impaired". Water quality issues in the Niagara River/Lake Erie Watershed are for the most part associated with past and current industrial activities and remedial actions in the Great Lakes and urban centers in the watershed.

The Project site lands already owned or to be acquired by ECHDC do not contain any state- or federally-regulated wetlands. However, a major state wetland complex (BU-3) exists immediately north of the Project site on the Times Beach Nature Preserve, the planned location for one Project component, a planned Osprey nesting platform.

2.3.2 Impacts of the Proposed Action

The Proposed Action is not anticipated to result in any significant impacts to surface water resources. The potential for water quality issues will be investigated and addressed under the design process for each Project construction component, particularly but not limited to largest anticipated construction effort, the remediation/reuse of the Michigan Pier. These issues would be addressed in State/Federal review process under Sections 401 and 404 of the U.S. Clean Water Act. In addition, if applicable, permits under Section 10 of the Rivers and Harbors Act will also be obtained as determined by USACE and NYSDEC review of a Joint Application submitted for components of this Project.

Since the Project would disturb more than one acre of soil, a State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity, GP-0-10-001 would also need to be obtained from NYSDEC. This permit regulates the discharge of stormwater during construction activities in order to help avoid any significant impacts to water quality. As part of this permit, a Stormwater Pollution Prevention Plan (SWPPP) will be developed that is in conformance with New York State requirements for discharge of stormwater from the site during construction.

In addition, the proposed Osprey platform at the Times Beach Nature Preserve would require a State Wetland Permit, together with Section 401 Water Quality Certification, given that nearly the entire preserve is either within a state-regulated wetland complex and its buffer area. ECHDC would work closely with NYSDEC and agencies/institutions that oversee the preserve during the design and permitting process to ensure that the platform is properly sited and that proper protection provisions are incorporated in the specifications for its installation.

2.4 Impact on Groundwater

2.4.1 Existing Conditions

Phase II investigations have been previously performed on properties comprising the Project site. The investigation of the Wilkeson Pointe in 2004 detected no volatile organic compounds (VOCs) or semi-volatile organic compounds (SVOCs) in the groundwater samples above NYSDEC Groundwater Quality Standards. Metals concentrations that were elevated relative to NYSDEC Groundwater Quality Standards were observed to be ubiquitous in the groundwater and were considered likely attributable to the metals concentrations in the fill material used to create the Project site (LiRo Engineers 2012).

Similar results were found on most of the property at 235-901 Fuhrmann Boulevard, which underwent Phase II investigations from 1991-1996, setting the basis for a 2002 Record of Decision (ROD) by NYSDEC. While these investigations indicated that groundwater samples exhibited low-to-moderate levels of metals including barium and lead, and very low levels of pesticides, all were below NYSDEC Groundwater Quality Standards. These contaminants were attributable to fill materials that were used to create the site over its history and were comparable to general groundwater quality exhibited in the area. They were determined not to be significantly contributing to contaminant loading of Lake Erie (NYSDEC 2002).

The exception to this was at the NFTA "Radio Tower Site" located just north of 901 Fuhrmann Boulevard (see also Section 2.16). Elevated levels of VOCs and SVOCs were found in groundwater wells surrounding the site, with compounds measuring over NYSDEC thresholds at the time including 4-chloroaniline, dichlorobenzene, and naphthalene (NYSDEC 1999). However, NYSDEC's Record of Decision ("ROD") for the remediation of this site indicated that this contamination is localized and that groundwater flow is limited and not readily migrating away from the site or to Lake Erie. Thus, the ultimate remedy that was implemented at the Radio Tower Site was considered fully protective of groundwater resources.

2.4.2 Impacts of the Proposed Action

It is not anticipated that the Project will result in any significant impacts to groundwater resources, nor would it result in any new pathways for migration of contaminated groundwater. Anticipated earth-moving activities are expected to be minor with the exception of remediation activities to be conducted at the Michigan Pier, which is expected to focus primarily on capping the site with clean fill where required. As part of the design process for any Project component involving substantial excavation (e.g., deeper than 10 feet) or involving remediation of soil contamination shall include a full assessment of potential effects to groundwater resources (see also Section 2.16).

2.5 Impact on Flooding

2.5.1 Existing Conditions

Figure 3 depicts 100-year floodplain areas on the Project site, included in Erie County's geographic information system database. These data are derived from the Flood Insurance Study conducted for the City of Buffalo by the Federal Emergency Management Agency (FEMA). The 100-year flood is the established under the National Flood Insurance Program (NFIP) as the standard for flood protection. It represents a magnitude/frequency that has a 1% chance of being equaled or exceeded in any given year. Stated alternatively, the 100-year flood has roughly a 1-in-4 chance of occurring over the life of a typical 30-year home mortgage (FEMA 2015).

As shown, all of the lands comprising the Times Beach Nature Preserve are in the 100-year floodplain (i.e., Zone AE). On ECHDC-owned lands, the floodplain includes significant portions of:

- Wilkeson Pointe;
- The Michigan and Municipal Piers; and
- Areas around the Bell Slip and a large portion of the lands immediately south of it, including part of the land containing the former NFTA Terminal B.

However, the large majority of the lands to be acquired by ECHDC at 901 Fuhrman Boulevard are located outside the projected 100-year floodplain. No portion of the Project site is within the "floodway", which is defined as the most dangerous flood area corresponding to the channel of a river or stream and the parts of the floodplain adjoining a channel that carries and discharges the flood water or flood flow.

Development in floodplains is regulated under Article 31 of the City of Buffalo Charter. This ordinance is drafted based on a federal model local ordinance for flood damage prevention that meets the required standards and content under the NFIP. New construction or substantial rehabilitation in land areas within Zone AE is not permitted unless it can be demonstrated that it will not cumulatively increase water surface elevation of the base flood more than one foot at any location.

2.5.2 Impacts of the Proposed Action

The Project would not result in any significant short or long term impacts with regard to development within a floodplain. Existing and anticipated uses that would be located in the floodplain would be limited to trails and outdoor recreation areas, which are acceptable uses within a flood-prone area. No new habitable space would be developed in a floodplain as a result of the Proposed Action.

Source: Erie County 2015

Figure 3
Floodplain Map
Buffalo Outer Harbor Access & Activation Civic Project

2.6 Impacts on Air

2.6.1 Existing Conditions

Under the provisions of the Clean Air Act, the US Environmental Protection Agency (EPA) has established standards/criteria for six air contaminants: carbon monoxide, nitrogen oxide, ozone, particulate matter, lead, and sulfur dioxide. The Buffalo-Niagara Falls metropolitan area is classified as an "attainment" area for all standards related to these criteria pollutants. Nevertheless, given that Buffalo is an urbanized setting, air emissions analyses for new development typically assess impacts from both regulated stationary sources (i.e., fixed stacks for boilers, venting for equipment involving primary combustion, etc.) and mobile sources (i.e., induced traffic), for emissions that contribute to elevated ground-level concentrations of carbon monoxide.

2.6.2 Impacts of the Proposed Action

The Project would not result in any significant short- or long-term air quality impacts. It would not involve the establishment of any new regulated stationary sources of air pollutants. In turn, air emissions from site-induced traffic would also not result in any significant changes in concentrations of ground-level carbon monoxide. NYSDOT screening criteria for air quality analyses set forth in its *Environmental Procedures Manual* require detailed analyses only when projected peak-hour intersection levels of service deteriorate from level of service (LOS) "A" or "B" to a level of service "D" or less. Anticipated traffic as a direct result of the Proposed Action would create no peak-hour deterioration in levels of service at intersections surrounding the Project site.

2.7 Impact on Plants and Animals

2.7.1 Existing Conditions

The ECHDC-owned portion of the Project site is a formerly supported industrial uses and does not contain any significant plant or animal resources/habitat. The dominant vegetative communities of the former industrial areas on the Project site consist of a combination of old fields, scrub/shrub lands, and limited early successional deciduous woodland (NYSDOT 2006). Species using the Project area tend to be more tolerant of highly-disturbed urban areas that have relatively high levels of human activities, require small habitats for their life requisites, and/or are highly mobile. Some limited areas on the Project site that have been upgraded to support recreation also serve to support plant/wildlife habitat. For example, the Bell Slip provides habitat for fish, amphibians, and invertebrates, with additional aquatic plantings undertaken as part of the original establishment of the Greenbelt trail. Similarly, establishment of recreational areas at Wilkeson Pointe now contributes to small animal and visiting shore/migratory bird habitat.

According to the US Fish & Wildlife Service's Inventory of Threatened and Endangered Species, no federally-listed species are currently found on the Project site. Non-

endangered wildlife typically found in and around the Project area includes amphibians, snakes, and small mammals.

Lake Erie also provides ample opportunity for fish habitat. Over 40 native species of fish have been observed and inlet areas near the Project site have been identified as important spawning areas for certain fish species including muskellunge.

In addition, at least two areas near the Project site contain significant wildlife resources. Tifft Nature Preserve, located southeast of the Project site, contains a 75-acre cattail marsh, woodlands, and grasslands and is home to a large, growing herd of white tail deer; songbirds, waterfowl and marsh birds; as well as beaver and muskrat. The Times Beach Nature Preserve, located north of the Project site, contains a large, diverse coastal wetland habitat zones: silt flat, marsh, woodlands, and uplands, with 219 species of birds recorded there. In addition, Times Beach and the Outer Harbor overall are considered locally as "gateway features" to the Niagara River Important Bird Area—a "global priority" corridor recognized by the New York Chapter of the Audubon Society—because it hosts a remarkable diversity and abundance of waterfowl and migratory bird species (Audubon Society 2013).

2.7.2 Impacts of the Proposed Action

Overall, the Project is not anticipated to have any significant impacts to plants and animals. Construction of trails, overlooks, signage and visitor hub components are all located on largely disturbed and/or already-paved areas, thus they would result in very limited effects to plant/animal habitat. The largest Project component, the remediation and reuse of the Michigan Pier, would result in temporary displacement of small mammal and bird habitat during the construction period. However, any effects would be temporary, and other sources of habitat and food are available nearby. It can be surmised that species would migrate to Wilkeson Point and Times Beach Nature Preserve where ample space and compatible communities exist.

Soil moving operations at the Michigan Pier would also pose the potential for siltation and sedimentation impacts associated with capping of the area with clean fill. As noted in Section 2.3.2, during the design and permitting of the Michigan Pier remediation/reuse, specifications shall be included regarding the use of best practices to prevent soil erosion and sedimentation of nearby surface waterbodies, and thus fishery resources. These would be regulated through the SPDES permitting process.

Upon completion of this Project component, the Michigan Pier would largely be landscaped and re-vegetated. This would stabilize the site from future erosion and allow for birds and small animal species to re-inhabit the Project site.

2.8 Impact on Agricultural Resources

The Project site does not contain any agricultural resources.

2.9 Impact on Aesthetic Resources

2.9.1 Existing Conditions

There are no unique visual resources on the Project site itself. The Project site could largely be characterized as a former industrial site reverting to a more naturalized site through overgrowth of scrub areas. However, the site provides positive views of Lake Erie to the west, is located amongst several emerging positive visual features along the Lake Erie waterfront (e.g., Times Beach and Tifft Nature Preserves and Buffalo Harbor State Park), and is along the "Great Lakes Seaway Trail", a federally-designated National Scenic Byway.

2.9.2 Impacts of the Proposed Action

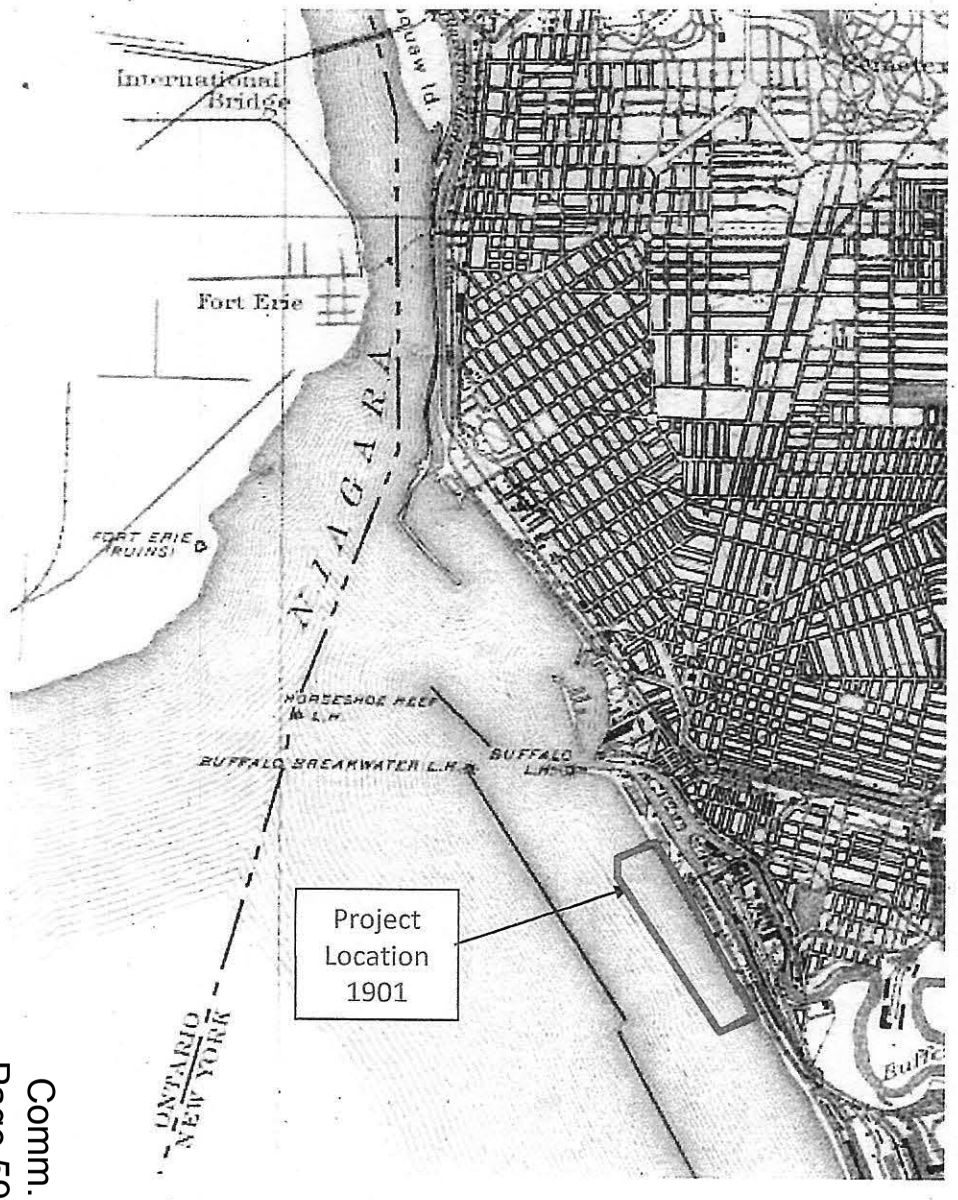
The Project would result in positive visual impacts on the Project site and its surrounding area. Proposed improvements to site access, the addition of recreational facilities, and the enhancement of site landscaping features would all positively contribute to the character of the Project site and the waterfront environment in general, as well as further enhancing visual resources along the Great Lakes Seaway Trail.

2.10 Impact on Historic and Archaeological Resources

2.10.1 Existing Conditions

The Project site does not contain any resources listed on the State and/or National Registers of Historic Places (S/NRHP), nor is within locally-designated historic district or resource. Structures on the Project site include former Port Terminal Buildings A and B. Terminal Building A was determined to be potentially eligible for inclusion on the S/NRHP as part of the *Design Report/Environmental Impact Statement for the Southtowns Connector/Buffalo Outer Harbor Project* undertaken by NYSDOT.

The Project site is also not located in an area that has been identified as being a source of significant archaeological resources. Review of historic maps of the area indicate that the land comprising the Project site was created through progressive filling operations occurring in the early to mid-20th century; the 1901 USGS map of the area shows the Project site as open water, while the 1947 USGS map shows the Project site partially filled (see **Figure 4**). Thus, it is highly unlikely that the site contains any significant archaeological resources.



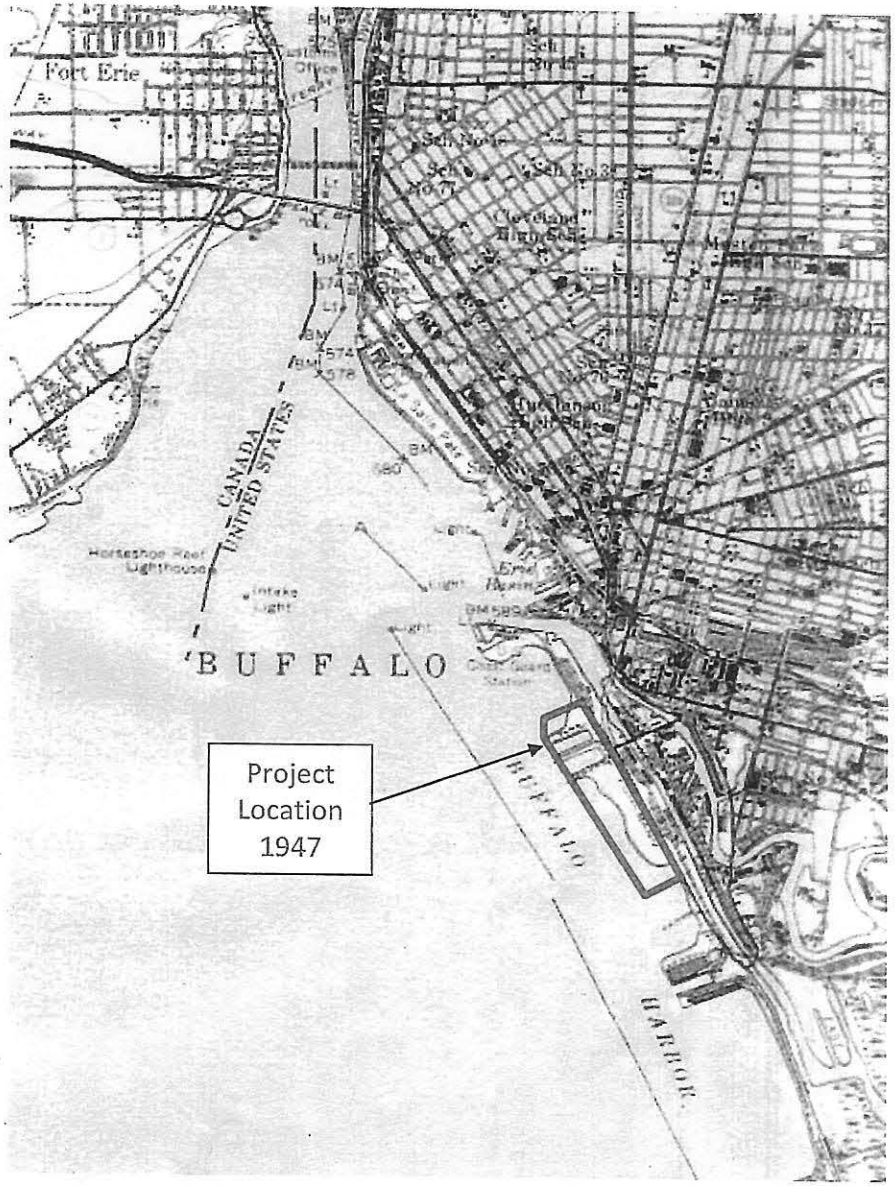


Figure 4
175, 225, 235, 275, 461, 525, 575, and 901 Fuhrmann Boulevard
Project Location Overlaid on
1901 & 1947 USGS Buffalo SW Quadrangle Maps

2.10.2 Impacts of the Proposed Action

The Project would result in no significant impacts to historic and archaeological resources. Anticipated recreational/public access improvements would pose no threat to S/NRHP-eligible resources on the Project site, but rather may improve appreciation of these resources. In accordance with Section 14.09 of the New York State Historic Preservation Act, ESD/ECHDC is consulting with the New York State Office of Parks, Recreation, and Historic Preservation on its conclusions regarding the lack of such impacts.

2.11 Impact on Open Space and Recreation

2.11.1 Existing Conditions

The Project site currently contains formal recreational facilities in the form of the on-site Greenbelt trail and recently completed Wilkeson Pointe facilities. It is also located near a number of emerging recreational and open space features along the Outer Harbor waterfront including (from north to south):

- Times Beach Nature Preserve, operated by the Buffalo Museum of Science, created as part of a closed/remediated CDF for dredge spoils once operated by the USACE;
- The recently-established Buffalo Harbor State Park, consisting of boat marina, windsurfing beach, picnic, and fishing pier facilities (formerly operated by the NFTA);
- Several small privately-owned marinas;
- Tifft Nature Preserve, also operated by the Buffalo Museum of Science; and
- Park and recreation improvements around the Union Ship Canal, as part of the redevelopment of the Buffalo Lakeside Commerce Park.

In addition, as part of the Southtowns Connector/Buffalo Outer Harbor Project (completed in 2010 by NYSDOT) Fuhrmann Boulevard was completely reconfigured and reconstructed from a series of one-way expressway frontage roads to a single, two-way waterfront parkway. As part of this reconstruction, an extensive system of multi-purpose trails was constructed on land reclaimed from former frontage road rights-of-way, stretching from the Union Ship Canal to the US Coast Guard Station.

2.11.2 Impacts of the Proposed Action

The Project would not remove and/or impair any open space or recreational facility in the vicinity of the Project site, but rather, would represent a further expansion of waterfront access and recreational facilities along the Buffalo Outer Harbor.

2.12 Impact on Critical Environmental Areas

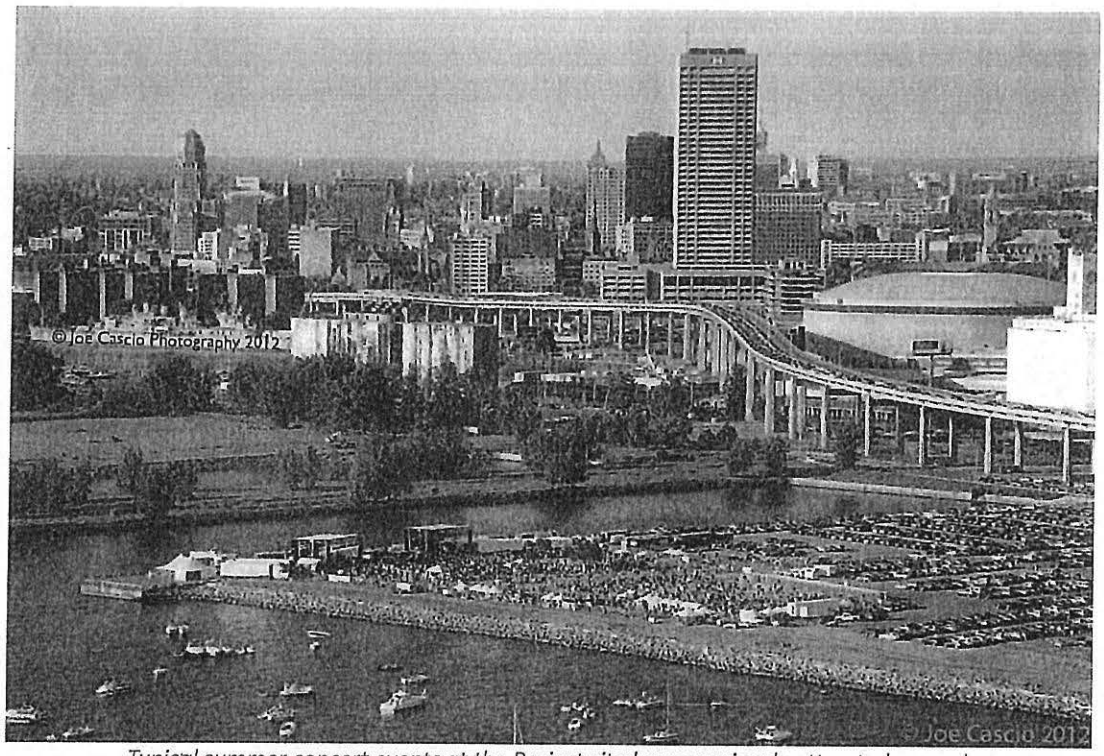
The Project site contains no designated critical environmental areas.

2.13 Impact on Transportation

2.13.1 Existing Conditions

Local road access to the Project site is provided exclusively by Fuhrmann Boulevard; access to the nearest highway facility from Fuhrmann Boulevard is provided to NYS Rte 5 at an interchange just south of Michigan Avenue. Rte 5 provides high-speed access north and south and connects to the interstate system. Traffic is limited along Fuhrmann Boulevard insofar as it terminates north of the Project site at the US Coast Guard Station. Average Annual Daily Traffic (AADT) counts for Fuhrmann Boulevard were last recorded by the Greater Buffalo Niagara Regional Transportation Council (GBNRTC) in 2011, indicating AADTs ranging from only 925 to 1,225 total vehicles across an entire 24-hour-period (compared to an AADT of over 38,000 along the expressway section of NYS Rte 5). In fact, there are no signalized intersections in the vicinity of the Project site given these low traffic levels and these intersections all operate at acceptable levels of service (i.e., LOS "A" to "C").

Under prior NFTA ownership, the Project site has supported a number of large summer concert events, often attracting many thousand attendees. Given that the local roads surrounding the Project are not heavily used nor are major commuting routes, staging of traffic access before and after such events has proven to be very manageable.



Typical summer concert events at the Project site have previously attracted several thousand attendees without significant traffic effects (Photo by Joe Cascio 2012).

A detailed analysis of the traffic and intersection operations along Fuhrmann Boulevard and other local and regional roadways network along the Outer Harbor was conducted as part of the *Final Design Report/Final Environmental Impact Statement for the Southtowns Connector/Buffalo Outer Harbor Project* (NYSDOT 2006). This traffic analysis assumed a 2030 design year (i.e. 20 years after the completion year of 2010) and involved a modeling exercise using the GBNRTC regional traffic forecasting model. Projected traffic impacts were developed for a future scenario involving a significant level of new development along the Outer Harbor by the 2030 Design Year. Selected alignments for Fuhrmann Boulevard were designed to accommodate projected 2030 traffic levels at acceptable levels of service.

2.13.2 Impacts of the Proposed Action

The Project would result in no significant impacts to traffic operations in and around the Buffalo Outer Harbor. As noted above, the reconstruction of Fuhrmann Boulevard in 2010 as part of the Southtowns Connector/Buffalo Outer Harbor Project was projected to result in no significant traffic impacts through 2030 under a future development scenario involving significant levels of new development along the Outer Harbor waterfront. These development thresholds and associated traffic levels have not yet been realized, nor would they be realized as a result of activities under the Proposed Action.

Further, traffic associated with event programming and other activities on the Project site are not anticipated to generate any significant traffic impacts. Prior large concert events have demonstrated the local road and parking areas have sufficient capacity to stage such periodic activities. In turn, traffic generated by daily/weekend recreational programing tends to be much less than periodic large concert events, is more distributed across an entire day, and tends to occur in off-peak periods.

2.14 Impact on Energy

The Project would have no significant impacts to the use and management of energy resources.

2.15 Impact on Noise, Odor, and Light

2.15.1 Existing Conditions

The Project site does not contain any major sources of noise, odors, or light.

2.15.2 Impacts of the Proposed Action

The Project would not result in any significant impacts with regard to noise, odors, or glare, such as that associated with landfills, selected agricultural uses, or heavy manufacturing facilities. With regard to lighting, the Project would involve the installation of limited electrical power and site lighting facilities to serve security and public safety needs. These additional light sources are not anticipated to result in any adverse impacts to on-site or adjoining areas. During the design phase of the various Project components, site designers will employ best practices to avoid any adverse effects, including implementing operational practices related to the Governor's "Lights Out New York" Initiative, which limits non-essential outdoor lighting from 11:00 PM to dawn from April 15 through May 31, and August 15 through November 15, the spring and autumn seasonal periods of peak bird migration (Palus 2015).

2.16 Impact on Human Health

This section relates to soil contamination issues and remedies that have occurred at the Project site, its implications on the Proposed Action, and future measures to continue to prevent any long-term exposure by visitors and users of the Project site.

2.16.1 Existing Conditions

2.16.1.1 History of Filling Events and Site Uses

As late as the turn of the 20th century, a great deal of the Lake Erie shoreline in the Project area was actually located east of Fuhrmann Boulevard, aligning with the present-day location of NYS Route 5 (where a seawall was located) and the Project site consisted of underwater lands. Beginning in the late 19th century, when the Outer Harbor breakwall was completed (located in the lake several hundred yards west of the

Project area) a succession of filling events occurred to progressively create the subject land area that is there today. These fill events included, but were not limited to (NYSDOT 2006):

- Construction of various rail line and sidings, 1890-1925;
- Landfilling and construction of shipbuilding facilities in current location of Wilkeson Pointe, 1925;
- Construction of the Michigan Avenue Pier and Municipal Pier (AKA "Seaway Piers") in 1926-1927;
- Construction of the NFTA Buffalo Port Terminal Building A and pier (first occupied by as a Ford Motor Company assembly plant) in 1931;
- Landfilling at the foot of Michigan Avenue 1927-1935;
- General municipal landfilling (incinerator ash and unconsolidated debris), 1935-1960;
- Construction of Buffalo Skyway complex (NYS Route 5), 1957; and
- Dredge filling and along the northern portion of the Project area and at Times Beach, 1960-1975.

These filling events over the history of the Project area were predominantly undertaken to facilitate heavy industrial uses like auto assembly/parts manufacture and port uses such as bulk storage/shipping of materials used in local steelmaking and coke operations. With the closing of the region's two largest steel plants in the early 1980s, bulk tonnage stored at the Port of Buffalo significantly declined and by the 1990s the Port was relocated to facilities two miles south at the former Bethlehem Steel complex in Lackawanna.

2.16.1.2 Past Site Investigations and Remedies

Given its extensive industrial legacy, various areas of the Outer Harbor have been the subject of past environmental investigations and analyses of contamination directly and indirectly created by these uses. Summaries of the conclusions and implications of these past studies are presented in the following sections.

Times Beach

After binational regulations were adopted that prohibited disposing of Buffalo River sediments in the open waters of Lake Erie (i.e., because of contamination in such sediments), in 1971 the USACE constructed the Times Beach CDF for disposing of spoils from periodic dredging of the Buffalo River shipping channel. Continual deposition of dredge spoils there created 46 acres of both aquatic and terrestrial habitat. At the request of the Buffalo Ornithological Society, in 1976 USACE closed the Times Beach CDF; in 1991, it was designated as a nature preserve.

Although polychlorinated biphenyls (PCBs) and elevated concentrations of polycyclic aromatic hydrocarbons (PAHs) and metals have been found in sediments disposed at

Times Beach, the environment created there proved attractive and supportive to many wetland plant and wildlife species and migratory birds. In fact, because the habitat at the now-designated nature preserve is so well developed, it has been used as a laboratory for long-term studies of bioaccumulation of contaminants by aquatic and terrestrial plants/animals and effects on such organisms (USACE 2003; Industrial Economics, Inc. 2011).

Wilkeson Pointe (175 & 225 Fuhrmann Boulevard)

After acquiring the parcels comprising Wilkeson Pointe, ECHDC commissioned Phase I/II Environmental Site Assessments in 2008 and 2011 to fully ascertain possible contamination in that area (ECHDC 2012). Soil sampling results showed widespread contamination with SVOCs and metals. No VOCs, pesticides, herbicides and PCBs were detected above NYSDEC-established thresholds. Further, there was no evidence of any underground storage tanks (USTs) or soil contamination typical of leaking USTs. Based on these observations, the contamination was determined to be attributable to the characteristics of the fill material used to create the site. These studies indicated that while the site exhibited contamination, they did not indicate substances or levels that would render the site to be classified as "hazardous" under state or federal regulations.

The site was remediated in 2012 through a capping of the site using approved capping material and a geotextile fabric to provide a physical separation between the existing site material and the cap material. The cap extends to the shoreline where stone was used to protect the site from erosion and provide a barrier to contact by users of the shoreline (ECHDC 2008; 2012).

Michigan Pier

The Michigan Avenue Pier was constructed in 1926-1927, occupying approximately eight acres. The site is reportedly filled with dredge material from Lake Erie, demolition debris and miscellaneous refuse. Phase I and Phase II Environmental Site Assessment (ESAs) were conducted by NYSDEC in 1987 and an additional Phase II ESA was performed by NFTA. Supplemental studies were also conducted in 1991. These studies indicated that certain soil samples on the site exhibited elevated concentrations of metals (cadmium, copper, lead, and mercury) and VOCs (URS 2012). Similar to Wilkeson Pointe, the Michigan Pier's soils are classified as contaminated, but not hazardous under state/federal guidance and laws.

NFTA Port of Buffalo Lands

Beginning in 1987, state/local agencies have worked to investigate and address soil conditions on this portion of the Project site; for example, NFTA has conducted a host of site assessments, soils testing/borings, and remedial investigations/feasibility (RI/FS) studies to develop options for site clean-up of its former Port of Buffalo lands. The most extensive and comprehensive investigation was an RI/FS conducted in 1995 by Dvirka and Bartilucci, which involved collection of a total of 122 surface soil samples[2] on a

[2] Insofar as the types of proposed construction and future programming activities would generally require limited excavation, for purposes of length the information presented focuses upon surface soils.

roughly 100-by-100-foot grid. The results of these surface soil samples were compared against NYSDEC-established thresholds. Patterns of site contamination are summarized as follows (URS 2012):

- North of Bell Slip – 14 of 78 samples contain SVOCs at elevated concentrations. The SVOCs consist of carcinogenic PAHs (cPAHs), primarily Benzo(a)pyrene alone, and occasionally Dibenz(a,h)anthracene. The majority of the exceedances are concentrated in about a 400-600-foot wide band extending from the southeast corner of the parking lot of the former Pier Restaurant to the midpoint of the Greenbelt along the shoreline. Three of the 78 samples contain one or more elevated concentrations of metals, including arsenic, copper, cyanide, and mercury. These exceedances occur generally in the same band as the SVOCs. Typically, there are only one or two elevated levels of metals at a particular sampling location.

- South of Bell Slip – 18 of 58 surface soil samples contain SVOCs at elevated concentrations. The SVOCs consist primarily of cPAHs including Benzo(a)anthracene, Benzo(a)pyrene, Benzo(b)fluoranthene, Dibenz(a,h)anthracene, and Indeno(1,2,3-cd)pyrene.

Two Records of Decision (RODs) were issued by NYSDEC in 1999 and 2002 regarding this portion of the Project site:

- A 1999 ROD for the Buffalo Outer Harbor "Radio Tower Site" (i.e., NYSDEC Site No. 915026 located in a small portion of the "South of the Bell Slip" area immediately north of the paved portions of 901 Fuhrmann Boulevard), which had stipulations for a full clean-up and de-listing of this NYS-listed Inactive Hazardous Waste Site (AKA State Superfund Site), which is now fully completed (NYSDEC 1999); and

- A 2002 ROD for the "Buffalo Outer Harbor Brownfield Site" (i.e. NYSDEC Site No. B00149, comprising all former NFTA Port of Buffalo lands other than the "Radio Tower Site"), at which soils would be classified as contaminated, but not hazardous. This ROD involved a remedy consisting of installing a soil/geotextile cap and riprap stabilization along the Outer Harbor shoreline (i.e., in the area used to create the current "Greenbelt" trail loop) to prevent migration of soils into Lake Erie. This was completed in 2010. The 2002 ROD also called for implementation of a "use-based" strategy for the balance of the area, citing necessary future remedial actions coinciding with various types of future land development (e.g., residential, commercial) to prevent/block possible exposure pathways to site contaminants. For example, land uses associated periodic visitation to the site (e.g., commercial and institutional development) could require a soil cap of one foot of clean fill; whereas detached single-family housing might require a deeper soil cap or removal of soils for off-site disposal (NYSDEC 2002).

Extensive analyses of subsurface soils has also been conducted and indicated similar characterizations of soils exhibiting contamination, but not to level classified as hazardous under State/Federal regulations.

2.16.1.3 Recent Human Health Assessments

In 2012, NFTA and ECHDC commissioned URS Corporation (URS) to conduct a Limited Human Health Exposure Assessment to determine what level of risk recreational visitors and users of Buffalo Outer Harbor lands (i.e., the Project site, as well as lands now comprising Buffalo Harbor State Park). At the time of the assessment, access to portions of the Project site was restricted and it was largely not utilized for any form of passive recreational uses. Understanding that past contamination of the Project site did not pose any acute (i.e., immediate/short-term) risk to human health, NFTA and ECHDC wished the assessment to ascertain the level of risk associated with long-term exposure associated with programming and recreational activities from contamination known to be present in soil/fill materials used to create these properties (URS 2012).

URS compiled and comprehensively assessed all past reports and data collected at Outer Harbor properties and assessed the human health implications of using the Project site for a variety of passive recreational uses including, but are not limited to:

- Bicycling and hiking
- Beach activities
- Outdoor events (movies, concerts, etc.)
- Art displays
- Rental concessions for boats, canoes, etc.

In conducting their assessment, URS used the most-recent soil cleanup objectives (SCOs), promulgated by NYSDEC in 2006 for soil remediation projects. These SCOs were developed to protect long-term public health based on the intended future use of a site. The intended use categories include "unrestricted", "residential", "restricted residential", "commercial", and "industrial" use. The proposed use of the site for passive recreational purposes would generally fall in the "restricted residential" and/or "commercial" use categories. In accordance with regulations governing SCOs at 6NYCRRPart 375 1.8(g)(2), recreational uses assessed as part of this assessment correlated with SCO categories as follows:

- Those activities that potentially involve a reasonable potential for contact with onsite soils (e.g., beach activities, picnicking, soccer, baseball, etc.) would fall under the "restricted residential" use category; and

- Those passive recreational uses that only involve limited potential for contact with onsite soils (e.g., walking, hiking, concerts, etc.) would fall under the "commercial use" category.

URS stated that typical "exposure pathways"—the typical ways a person can come into contact with contaminated soils—for the anticipated recreation users groups at the Project site would include the following (URS 2012):

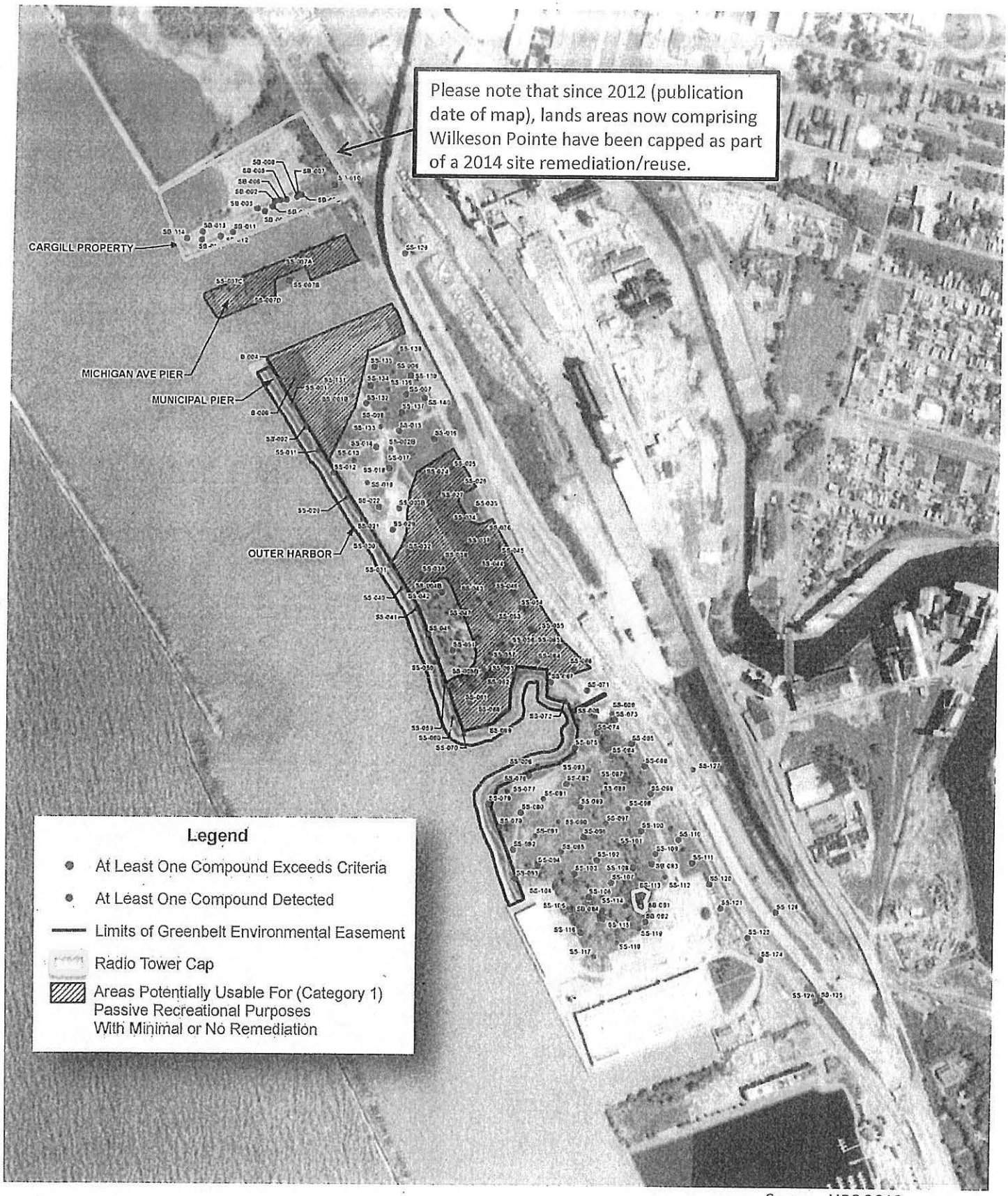
- Exposure via dermal contact is considered a potentially complete exposure pathway for recreational site users and site redevelopment and/or maintenance workers.

- Exposure via ingestion is considered a potentially complete exposure pathway for recreational site users and site redevelopment/maintenance workers.

- Exposure via inhalation of fugitive dust is considered a potentially complete exposure pathway for recreational site users, and site redevelopment/maintenance workers. Nearby workers and users of the Greenbelt also could potentially be exposed; however, URS stated that this potential pathway is extremely limited in that the majority of the site is covered with vegetation which will limit dust formation. Also, the relatively short time of exposure and low contaminant concentration for any offsite exposure scenarios would likely be very low.

URS noted that the type and concentrations of contaminants on the Project site varies from area to area and with location within the soil column. URS stated that these contaminants present a potential risk of long-term exposure to recreational users, primarily from dermal contact, ingestion and inhalation of the surface soil/fill materials. **Figures 5 and 6** summarize URS's findings with regard to exposure risk for recreational uses classified as "restrictive residential" use SCOs and "commercial" use SCOs, respectively. Those portions of the Project site that show exceedances of the SCOs (i.e. represented by the red dots) would represent potential exposure risk areas as identified and would need to be further evaluated and/or mitigated accordingly prior to land redevelopment and/or reuse for passive recreational purposes (URS 2012). As noted on these figures, the URS assessment pre-dated the remediation actions that created Wilkeson Pointe; thus, exposure risks in this area have since been addressed.

URS noted that some rather large portions of the Project site do not show any exceedances of SCOs (i.e. represented by the blue dots) for either "restricted residential" and/or "commercial" uses. As such, URS stated that these areas should be suitable "as-is" for passive recreational uses without implementation of any specific mitigation measures (URS 2012).

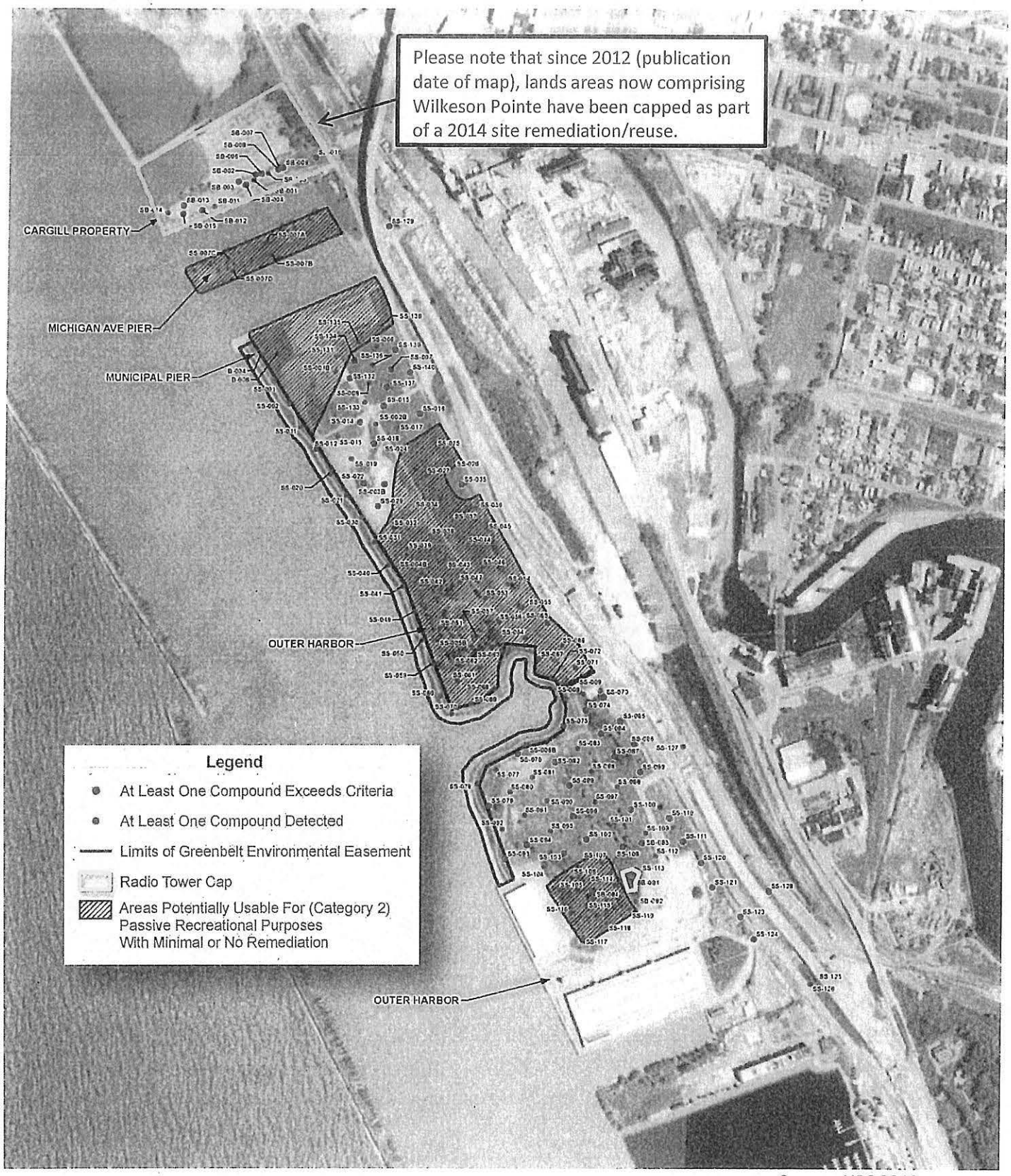


Source: URS 2012

Figure 5

Potentially Usable Areas Using "Restricted Residential" Soil Cleanup Objectives

(i.e., As Criteria for Permitting Future Activities with a Greater Potential for Contact with On-site Soils [beach activities, picnicking, soccer, baseball, etc.])



Source: URS 2012

Figure 6

Potentially Usable Areas Using "Commercial" Soil Cleanup Objectives

(i.e., As Criteria for Permitting Future Activities with a Limited Potential for Contact with On-site Soils [walking, hiking, concerts, etc.])

2.16.2 Impacts of the Proposed Action

The Project would not result in any significant impacts with regard to adverse effects to human health related to exposure to on-site soils, in consideration of the amount of information garnered thus far regarding on-site risks and the fact that ECHDC shall employ future protocols to ensure that users/workers associated with various Project components and programming activities are properly protected. These would include the following:

- ECHDC shall undertake evaluations/documentation of any proposed construction and/or programming activities not already being conducted in areas deemed to be low-risk under the 2012 URS report (e.g., on-site concerts, hiking/activities along Greenbelt cap, etc.) to confirm that the design of the facility and/or the conduct of the programming activity would not inordinately expose future users/workers from contaminated soils via dermal contact, ingestion and inhalation. Such evaluations shall be conducted by a qualified environmental engineer or environmental scientist specializing in site remediation and/or human health risk assessment.

- ECHDC shall ensure that the remediation/reuse design of the Michigan Pier includes a full environmental engineering evaluation regarding soil contamination and any necessary capping to prevent long-term exposure, preventing any groundwater contamination/migration issues, and measures to prevent soil erosion and sedimentation (both during construction and in long-term operation), as well as incorporate any necessary health/safety protocols into the contract specifications to ensure construction workers are not inordinately exposed to soil contaminants. Given the scale of the effort, ECHDC shall conduct a public session(s) during the design process to outline findings of any soil testing/evaluations and proposed remediation measures, as well as plans for other site improvements.

- With regard to on-going operations, ECHDC shall ensure that maintenance/operations workers on the Project site employ proper work protocols to ensure health/safety, including (as warranted) use of personal protection equipment (PPE), dust control measures, and are provided proper worker training on good hygiene and work practices.

2.16.2.1 Evaluation of Specific Project Components

In specifically applying these overall protocols to components of the Proposed Action, anticipated effects and considerations related to human health are summarized in the following sections.

<u>Transfer of 901 Fuhrmann Boulevard to ECHDC</u>

This Project component would have no human health implications. The transfer of the property would be done in "as is" condition and the Proposed Action would not involve any reuse of the Port Terminal Buildings A and B. It is anticipated that prior any proposed reuse that ECHDC would commission appropriate building condition

assessments, asbestos surveys, and/or Phase I ESAs, as warranted, ascertaining any issues regarding contamination, abatement needs, and/or public safety.

Visitor Center/Hub

Given that this Project component would involve the installation of a modular frame shelter and other surface amenities likely to be sited near existing paved parking in an area where soils do not exceed SCOs, it is not anticipated that any significant human health issues would arise. Environmental evaluations during design would likely center upon any necessary subsurface trenching to provide electrical power, and thus any potential exposure issues for site workers.

Southern Greenbelt Extension

This Project component would largely involve shallow excavation of already paved areas to install an extension of the Greenbelt trail along the water's edge at 901 Fuhrmann Boulevard, thus it is not anticipated to result in any significant exposure to contaminated soils. Nevertheless, as part of the design process, ECHDC will ensure that site borings will include soil samples/evaluation for contamination, and take any appropriate measures in the construction specifications.

Michigan Pier Remediation/Reuse

By its definition, this Project component involves a site cleanup and capping, as necessary, to permit improvements for recreational facilities. Thus it would proceed through a design process similar to that employed for the Wilkeson Pointe site and involve soil testing/evaluation, remedial design, and public disclosure activities noted above.

Overlooks

In consideration that this Project component would involve surface improvements along the already-capped Greenbelt, it is not anticipated to result in any adverse human health effects. During design, particular attention will be made to ensure that any improvements will not impact the integrity of the Greenbelt remedy.

Signage System

Installation of the proposed signage system would largely be located along public rights of way outside of contaminated areas and involve very limited site disturbance. Thus it is not expected to result in any human health issues.

Osprey Nesting Structure

In consideration that the Times Beach Nature Preserve contains contaminated sediments and that this Project component would require state/federal wetlands and water quality permitting, it is anticipated that issues regarding contamination during the design/installation process would center on employing proper siting and installation measures to ensure worker safety and to prevent any impacts regarding siltation or sediment impacts to existing wetland complexes.

Mountain Bike Facilities

Given that it is anticipated that this Project component would be sited in areas where soils samples indicate that they do not exceed SCOs, it is not anticipated that it will result in any significant human health impacts. However, given the limitations on soil data cited in the 2012 Limited Human Health Risk Assessment and that this would involve a new activity, ECHDC will undertake an evaluation of soil contamination issues of the proposed trail route once it is finalized, take any appropriate measures to ensure human health and safety, and make any findings available for public review.

2.17 Consistency with Community Plans

As noted in Section 2.1.2, the Proposed Action would be fully consistent with Community Plan policies including the Buffalo Comprehensive Plan, Buffalo Zoning Ordinance, and Draft Buffalo Green Code, as well as New York State policies for uses with the coastal zone.

2.18 Consistency with Community Character

The Project would positively contribute to the growth and character of the neighborhood and the community as a whole, by further rehabilitating and re-purposing a brownfield area, add to the growing network of public access and amenities along the Outer Harbor waterfront, and serve to help bridge/link already completed improvements.

2.19 Secondary, Indirect, and Cumulative Effects of the Proposed Action

The Project may indirectly result in positive impacts related to encouraging new waterfront development in the future. The Proposed Action however, does not specifically commit ECHDC, ESD, the City of Buffalo, or any other agency to any future project in the vicinity of the Project site. Any subsequent development activities would be subject to SEQRA review.

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NEW YORK POWER AUTHORITY

EMPIRE STATE DEVELOPMENT

FRAMEWORK AGREEMENT

AMONGST

POWER AUTHORITY OF THE STATE OF NEW YORK,

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

AND

ALCOA INC.

NEW YORK POWER AUTHORITY
30 South Pearl Street, 10th Floor
Albany, New York 12207-3425

THE NEW YORK STATE URBAN DEVELOPMENT CORPORATION
d/b/a EMPIRE STATE DEVELOPMENT
633 Third Avenue
New York, NY 10017

ALCOA INC.
390 Park Avenue
New York, NY 10022-4608

FRAMEWORK AGREEMENT AMONGST POWER AUTHORITY OF THE STATE OF NEW YORK, EMPIRE STATE DEVELOPMENT AND ALCOA INC.

Alcoa Inc. hereby enters into this Framework Agreement (this "Framework Agreement") with the New York Power Authority (the "Authority" or "NYPA") and the New York State Urban Development Corporation d/b/a Empire State Development ("ESD," and collectively with Alcoa and NYPA, the "Parties"), pursuant to which Alcoa will continue operations at its Park Avenue East Plant (the "West Plant"), Massena, New York, 13622, in exchange for operating expense and capital support to be provided by ESD and for electric power and energy supply discounts to be provided by the Authority, as follows:

WHEREAS, the Authority and Alcoa, in or around February 2009, entered into a contract entitled "Agreement for the sale of Firm and Interruptible Hydroelectric Power and Energy From the St. Lawrence-FDR Power Project to Alcoa Inc." (the "2009 Agreement");

WHEREAS, the Authority and Alcoa, in or around January 2011, entered into an amendment entitled "First Supplemental Agreement Modifying Certain Agreements and Understandings Between the Parties Regarding the Sale of Hydroelectric Power and Energy" (the "2011 Supplemental Agreement") which, among other things, modified the 2009 Agreement;

WHEREAS, the Authority and Alcoa, in or around March 2014, entered into an amendment entitled "Supplemental Agreement Further Modifying the 2009 Agreement Between the Parties Regarding the Sale of Hydroelectric Power and Energy" (the "2014 Supplemental Agreement") which, among other things, further modified the 2009 Agreement;

WHEREAS, Alcoa announced on September 28, 2015 that its board of directors had approved a plan to separate into two independent, publicly-traded companies (the "Separation") consisting of: (1) a company that will consist of the five business units that today make up Global Primary Products (the "Upstream Company"), and (2) a company that will include Global Rolled Products, Engineered Products and Solutions, and Transportation and Construction Solutions (the "Value-Add Company");

WHEREAS, the Parties agree herein to the transfer, novation and/or assignment of Alcoa's rights and obligations under this Framework Agreement to the Upstream Company or its affiliates in connection with or in anticipation of the Separation, and, notwithstanding anything to the contrary, further agree that following the Separation, all Upstream Company and Value-Add Company employees located at Massena, New York will continue to be counted toward the employment commitment of Alcoa set forth in this Framework Agreement;

WHEREAS, the Parties intend that this Framework Agreement provides a framework for the entire understandings of the Parties entered into simultaneously with this Framework Agreement that collectively form the transactions contemplated herein, including an "Agreement for the Sale of Firm Hydroelectric Power and Energy from the St. Lawrence-FDR Power Project to Alcoa Inc.", the form of which is set forth on Schedule 1 (the "Agreement" or the "Power Supply Agreement") and new Service Tariff No. AL-1, the form of which is set forth on Schedule 2 with the Authority concerning the provision of electric capacity and energy and a separate grant disbursement agreement with ESD concerning the provision of operating expense and capital support, which is attached hereto and incorporated herein as Schedule 3 (the "ESD Grant Agreement"), all of which Power Supply Agreement and ESD Grant Agreement and transactions contemplated therein are incorporated in this Framework Agreement as if set forth in full herein;

WHEREAS, in exchange for the support of the Authority and ESD, as provided for herein and in the transactions contemplated, Alcoa desires and hereby pledges to continue smelter operations at the West Plant and to maintain at least six hundred (600) Full-Time Employees at the West Plant, as set forth more fully herein;

NOW THEREFORE, for and in consideration of the premises, mutual promises and agreements set forth herein and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the Parties, each intending to be legally bound, agree as follows:

I. (A). Definitions

In addition to the initially capitalized terms and phrases defined in the preamble and recitals of this Framework Agreement, the following initially capitalized terms and phrases as and when used in this Framework Agreement shall have the respective meanings set forth below:

"2009 Agreement" has the meaning ascribed to it in the first "Whereas" clause.

"2011 Supplemental Agreement" has the meaning ascribed to it in the second "Whereas" clause.

"2014 Supplemental Agreement" has the meaning ascribed to it in the third "Whereas" clause.

"Additional Grant" has the meaning ascribed to it in Section IV.

"Agreement" means the Agreement for the Sale of Firm Hydroelectric Power and Energy from the St. Lawrence-FDR Power Project to Alcoa Inc.

"Alcoa" means Alcoa Inc. or its successors and assigns, including but not limited to the Upstream Company and the Value-Add Company.

"Allocation" has the meaning ascribed to it in the Power Supply Agreement.

"Authority" means the New York Power Authority.

"Base Employment Level" has the meaning ascribed to it in Section III.

"Base Employment Level Breach" has the meaning ascribed to it in Section VII.

"Business Day" means any day other than a Saturday, Sunday or any other day on which national banks in New York, New York are not open for business.

"Confidential Curtailment Information" has the meaning ascribed to it in Section VIII.

"Curtailed Locations" has the meaning ascribed to it in Section III.

"Effective Date" has the meaning set forth in Section II.

"Electric Service" is Power and Energy sold to Alcoa in accordance with this Framework Agreement, the Power Supply Agreement and applicable Service Tariffs and Rules.

"ESD" means the Urban Development Corporation d/b/a Empire State Development.

"ESD Grant Agreement" has the meaning ascribed to it in the sixth "Whereas" clause.

"Additional Grants" has the meaning ascribed to it in Section IV.

"Event of Default" has the meaning ascribed to it in Section VI.

"Firm Power and Energy" has the meaning ascribed to it in the Power Supply Agreement.

"FERC" means the Federal Energy Regulatory Commission (or any successor organization).

"FERC License" means the license issued by FERC to the Authority for the continued operation and maintenance of the Project, pursuant to Section 15 of the Federal Power Act.

"Framework Agreement" has the meaning ascribed to it in the Recitals.

"Full-Time Employee" means (i) a full-time, permanent, private-sector employee on Alcoa's payroll, who has worked at the West Plant for a minimum of thirty-five hours per week for not less than four consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by Alcoa to other employees with comparable rank and duties; or (ii) two part-

time, permanent, private-sector employees on Alcoa's payroll, who have worked at the West Plant location for a combined minimum of thirty-five hours per week for not less than four consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by Alcoa to other employees with comparable rank and duties. As used herein, only Full-Time Employees are counted toward Alcoa's employment covenants set forth in Section III.

"Involuntary Separation Package" has the meaning ascribed to it in Section III.

"NYPA" means the New York Power Authority.

"NY PAL" means the New York Public Authorities Law, Chapter 43A, of the Consolidated Laws of New York.

"Operative Documents" means this Framework Agreement, the Power Supply Agreement, the ESD Grant Agreement and the Service Tariffs.

"Parties" has the meaning ascribed to it in the Recitals.

"Power Supply Agreement" means the Agreement for the Sale of Firm Hydroelectric Power and Energy from the St. Lawrence-FDR Power Project to Alcoa Inc.

"Project" means the Authority's St. Lawrence-FDR Project, FERC Project No. 2000.

"Rules" are the applicable provisions of the Authority's Rules and Regulations for Power Service (Part 454 of Chapter X of Title 21 of the Official Compilation of Codes, Rules and Regulations of the State of New York) as they are modified from time to time.

"Section 1009 Approval" has the meaning ascribed to it in Section V.

"Separation" has the meaning ascribed to it in the fourth "Whereas" clause.

"Separation Packages" has the meaning ascribed to it in Section III.

"Service Tariffs" are schedules or tariffs of the Authority establishing rates, terms and other conditions for sale of Electric Service to Alcoa, including Service Tariff No. AL-1 as it may be modified from time to time, except as noted herein.

"Term" has the meaning ascribed to it in Section II.

"Term Sheet" means the Term Sheet For Agreement Among the Power Authority of the State of New York, Empire State Development and Alcoa Inc. dated November 24, 2015.

"Upstream Company" has the meaning ascribed to it in the fourth "Whereas" clause.

"Value-Add Company" has the meaning ascribed to it in the fourth "Whereas" clause.

"Voluntary Separation Package" has the meaning ascribed to it in Section III.

"West Plant" has the meaning ascribed to it in the Recitals.

(B). Rules of Construction

Unless otherwise indicated, (i) defined terms include the plural as well as the singular; (ii) any agreement defined or referred to herein includes each amendment, modification and supplement thereto and waiver, approval and consent in respect thereof as may become effective from time to time and includes references to all Appendices, Exhibits, Schedules and other attachments thereto and instruments, agreements or other documents incorporated therein; (iii) any term defined by reference to any instrument, agreement or other document has such meaning set forth in such document as of the date hereof and unless expressly amended, such meaning shall remain in effect whether or not such document is subsequently amended, modified or terminated; (iv) a reference to any law, Rules or legal requirements includes any amendment, modification or successor thereto; (v) a reference to any Party or person includes its permitted successors and assigns; (vi) the words "include," "includes" and "including" are not limiting and shall be deemed to be followed by the words "without limitation" whether or not in fact followed by such words or words of like import; and (vii) the terms "hereof," "herein," "hereunder" and comparable terms refer to this entire Agreement with respect to which such terms are used and not to any particular Article, Section or subdivision hereof; and (viii) the word "day" means a "Day" as defined herein and includes each calendar day including Saturdays, Sundays and holidays.

II. Term

Upon final approvals and due execution of this Framework Agreement by each of the Parties pursuant to applicable law, this Framework Agreement and the transactions contemplated shall have effect from October 1, 2015 and end on March 31, 2019 (the "Term").

This Framework Agreement will become effective upon execution by each of the Parties in accordance with applicable law (the "Effective Date").

III. Alcoa Covenants[1]

A. West Plant: During the Term, Alcoa will continue operations at the West Plant in Massena, New York.

B. Alcoa Employment Commitments: During the Term, Alcoa will employ and maintain a minimum of six hundred (600) Full-Time Employees at the West Plant (the "Base Employment Level"), notwithstanding any existing or future severance, early retirement or other voluntary separation programs that may be offered to employees in connection with the Separation or otherwise.

The Authority and ESD acknowledge and consent to Alcoa's right to transfer, novate and/or assign Alcoa's rights and obligations under this Framework Agreement to the Upstream Company or its affiliates in connection with or in anticipation of the Separation and that following the Separation, all Upstream Company and Value-Add Company employees located at

[1] H&K: Note, this subject to further comment to ensure consistency with Power Supply Agreement and ESD Grant Agreement.

any Alcoa facility in Massena, New York will continue to be counted toward the Base Employment Level commitment of Alcoa set forth in this Framework Agreement.

C. Alcoa Employee Separation:

1. Voluntary Separation. Alcoa expects that approximately eighty (80) to one hundred (100) employees will receive severance or early retirement benefits ("Employee Separation") at the West Plant and Alcoa agrees to implement this Employee Separation by first offering a voluntary separation package to all employees, pursuant to the plan attached hereto as Appendix A ("Voluntary Separation Package").

2. Involuntary Separation. Alcoa will not use the involuntary separation methods described in Appendix A ("Involuntary Separation Package", and together with the Voluntary Separation Package, the "Separation Packages") until employees have been given a reasonable period of time, and in no event less than ninety (90) days, to elect Voluntary Separation, provided that Alcoa will not allow the resultant employment at the West Plant to fall below the Base Employment Level at any time during the Term of this Framework Agreement, subject to Section III (D) below.

D. Maintenance of Base Employment Level. In the event that Alcoa employment at the West Plant falls below the Base Employment Level at any time due to termination of employees for cause, Alcoa promptly, and in any event in not more than [_____] Business Days, will fill such Full-Time Employee vacancies with qualified persons of a seniority level equivalent to other positions at similar facilities following Alcoa's usual practice, by new hires or transfers of employees (provided such transfers are not from facilities located in New York State) having wages and benefits equivalent to existing workers at the West Plant of equivalent seniority.

E. Curtailed Locations. The Parties acknowledge that, on November 2, 2015, Alcoa announced that it would curtail its Intalco and Wenachee primary aluminum smelters in Washington State and would partially curtail alumina refining capacity at its Pt. Comfort, Texas facility (the "Curtailed Locations"). Alcoa agrees that the Separation Packages to be offered to employees of the West Plant will be no less favorable to the employees than the voluntary and involuntary separation packages to be offered by Alcoa to employees of the Curtailed Locations. During the Term of this Framework Agreement, should Alcoa offer voluntary or involuntary separation packages to employees of any of the Curtailed Locations which are more favorable to the employees than the Separation Packages described in Appendix A, Alcoa will amend the Separation Packages offered to the West Plant employees so that the resulting Separation Packages are equivalent to the separation packages offered to the employees of such Curtailed Locations.

F. Alcoa Re-Training and Job Placement Services: Alcoa agrees to work with the New York State Department of Labor to ensure that all re-employment and training services and programs available through New York State and/or through New York State-sponsored programs will be provided to Alcoa employees affected by the Employee Separation. Such services will

include job referral and career counseling services and résumé preparation as well as any job re-training programs which may be made available through New York State or the federal government.

G. Enhanced Voluntary Separation Benefit for Hourly Employees: Alcoa agrees that the Voluntary Separation Package to be offered to hourly employees of the West Plant will contain enhanced financial benefits and broader retirement eligibility when compared to the standard benefits to which the hourly employees of the West Plant would otherwise be entitled to had Alcoa not offered the Voluntary Separation Package.

IV. ESD Covenants

ESD shall provide Alcoa a working capital grant of up to twenty million six hundred thousand dollars ($20,600,000) in accordance with ESD's standard terms and conditions contained in the ESD Grant Agreement. In addition, ESD agrees to process another grant of twenty-three million dollars ($23,000,000) to fund capital upgrades to the West Plant (the "Additional Grant" and together with the ESD Grant Agreement, the "ESD Grants") in accordance with ESD's standard grant application, approval and disbursement procedures, provided such funds are made available to ESD in the New York State 2016-2017 budget. In the event ESD is unable to provide Alcoa the Additional Grant in accordance with the terms contained in the Term Sheet, each Party shall have the right to terminate this Framework Agreement and no Party shall have any additional rights or obligations as against the other Parties including any rights or obligations contained in this Framework Agreement or the ESD Grant Agreement.

V. Authority Covenants: Firm Power and Energy

During the Term of this Framework Agreement, and subject to the Section 1009 Approval, the Authority will sell and deliver to Alcoa Firm Power and Energy from the Project pursuant to the Power Supply Agreement and the Service Tariffs, which are incorporated herein by reference. The Rules and the Service Tariffs are hereby incorporated into this Framework Agreement with the same force and effect as if herein set forth at length. Except as may be provided in this Framework Agreement, the Authority shall provide at least sixty (60) days' prior written notice to Alcoa of any proposed change in the Rules or Service Tariffs, but in no event shall the Authority provide less notice than that provided to similarly affected customers within New York State.

The Parties acknowledge that the Power Supply Agreement shall not become effective and binding upon the Authority and Alcoa until completion of all processes and procedures required for effectiveness pursuant to Section 1009 of the NY PAL and the subsequent execution of the Power Supply Agreement by the chairman and secretary of the Authority (the "Section 1009 Approval"). In the event the Power Supply Agreement does not receive the Section 1009 Approval, each Party shall have the right to terminate this Framework Agreement and no Party shall have any additional rights or obligations as against the other Parties including any rights or obligations contained in this Framework Agreement or the Power Supply Agreement.

VI. Events of Default

A. Events of Default: Each of the following shall constitute an event of default hereunder (an "Event of Default"):

1. if Alcoa fails to maintain the Base Employment Level;

2. if Alcoa breaches any covenant contained in Section III or commits a breach as set forth in Section VII;

3. if Alcoa commits a material breach under this Framework Agreement or any of the Operative Documents;

4. if any representation or warranty made by Alcoa herein or in any of the Operative Documents, or in any report, certificate, financial statement or other instrument, agreement or document Alcoa furnished to the Authority and/or ESD shall have been false or misleading in any material respect as of the date the representation or warranty was made;

5. if Alcoa attempts to assign its rights under this Framework Agreement or any of the Operative Documents or any interest herein or therein in contravention of this Framework Agreement or any of the Operative Documents, as the case may be;

6. if Alcoa suspends or ceases or threatens to suspend or cease to carry on its business at the West Plant;

7. if Alcoa fails to make payments invoiced pursuant to this Framework Agreement when due;

8. if Alcoa fails to make payments of Liquidated Damages pursuant to Section VII when due; or

9. if a receiver, liquidator or trustee shall be appointed for Alcoa, or Alcoa shall be adjudicated a bankrupt or insolvent, or if any petition for bankruptcy, reorganization or arrangement pursuant to federal bankruptcy law, or any similar federal or state law, shall be filed by or against, consented to, or acquiesced in by, Alcoa or if any proceeding for the dissolution or liquidation of Alcoa shall be instituted.

B. Cure Period: Upon the occurrence of an Event of Default pursuant to paragraphs VI(A)(1) or (6) of this Framework Agreement, Alcoa shall send notice to the Authority and ESD of such default and Alcoa shall have thirty (30) days to cure such default before the Authority and ESD become entitled to seek the remedies set forth in subsection C below, provided however, if such default is susceptible of cure but cannot reasonably be cured within such thirty (30) day period and provided further that Alcoa shall have commenced to cure such default within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, then the Authority and ESD, [as they agree] in their sole discretion, may extend such thirty (30) day period for such time as is reasonably necessary for Alcoa in the exercise of due diligence to cure such default.

Upon the occurrence of an Event of Default pursuant to paragraphs VI(A)(2), (3), (4), (5), (7), (8) or (9) of this Framework Agreement, the Authority and/or ESD shall send notice to Alcoa of such default and Alcoa shall have thirty (30) days to cure such default before the Authority and ESD become entitled to seek the remedies set forth in subsection C below, provided however, if such default is susceptible of cure but cannot reasonably be cured within such thirty (30) day period and provided further that Alcoa shall have commenced to cure such default within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, then the Authority and ESD, [as they agree] in their sole discretion, may extend such thirty (30) day period for such time as is reasonably necessary for Alcoa in the exercise of due diligence to cure such default.

C. Remedies: If an Event of Default extends beyond any cure periods provided in subsection B, in addition to any other rights or remedies available to them pursuant to this Framework Agreement or the other Operative Documents, the Authority and ESD may take any action that they deem advisable to protect and enforce their rights against Alcoa under this Framework Agreement, including without limitation, pursuing any remedies available under this Framework Agreement or under applicable law or in equity.

VII. Termination; Liquidated Damages

A. Liquidated Damages Upon Breach: In the event that the Authority and ESD determine, [as they agree] in their sole discretion, that Alcoa has breached this Framework Agreement, prior to March 31, 2019, by: (i) curtailing smelter operations at the West Plant or making an announcement or other communication prior to December 31, 2018 in violation of Section VIII below; (ii) failing to comply with the Base Employment Level [by at least [•] Full-Time Employees] or any other requirement of the Alcoa Covenants in Section III; or (iii) terminates the Agreement for reasons other than breach by the Authority or ESD (each, a "Material Breach"), then the Authority and ESD may declare that this Framework Agreement be terminated and Alcoa shall pay, promptly upon demand, Liquidated Damages in Part I of Appendix B.

B. Liquidated Damages Upon Breach of Base Employment Level: In the event that Alcoa fails to maintain the Base Employment Level [by [•] Full-Time Employees or less] (a "Base Employment Level Breach"), then the Authority and ESD, [as they agree] in their sole discretion,, may declare that this Framework Agreement be terminated and that Alcoa shall pay Liquidated Damages to the Authority per each Full-Time Employee short of the Base Employment Level, as set forth in Part II of Appendix B. Such shortfall Liquidated Damages shall be due and payable monthly until Alcoa cures the Minimum Full-Tine Employment Level Breach, but this Framework Agreement may continue to remain in full force and effect unless terminated. The Authority's and ESD's election to accept Liquidated Damages in lieu of termination is without prejudice to their right to terminate under Section VII (A) above if such breach continues for succeeding months.

The Authority shall invoice Alcoa for any Liquidated Damages amount(s) due in the manner set forth in this Section VII within ten (10) Business Days following the end of the calendar month in which such Liquidated Damages become due, and Alcoa will promptly pay

such Liquidated Damages to the Authority. The Authority shall forward on to ESD such portion of Liquidated Damages paid by Alcoa as agreed between the Authority and ESD.

A portion of any payment of Liquidated Damages paid to the Authority shall be payable by the Authority to ESD in an amount as the Authority and ESD may hereinafter agree.

VIII. Communications

The Parties agree to coordinate the timing and content of any public communications regarding this Framework Agreement and the transactions contemplated hereby and Alcoa agrees that, prior to December 31, 2018, it will not make any announcements or other communications to the public, investors, or employees regarding any planned curtailment or employment reduction at the West Plant (except the Employee Separations described in Section III (C) above).

Alcoa will use its best efforts to maintain the confidentiality of any action it takes with respect to any planned curtailment or employment reduction at the West Plant prior to December 31, 2018 (the "Confidential Curtailment Information") and will not disclose to any person such Confidential Curtailment Information except (a) as required by any applicable law, governmental regulations, subpoena or other written demand made in accordance with applicable law or as required in connection with any legal proceedings arising from or in connection with this Framework Agreement; or (b) to any legal advisor, accountant or auditor having a need to know the Confidential Curtailment Information and provided that, in either case, Alcoa provides advance written notice to the Authority and ESD of its intention to disclose the Confidential Curtailment Information (but labelled "CONFIDENTIAL" if appropriate with any applicable claim of exemption from public disclosure pursuant to the New York Freedom of Information Law).

IX. Limitations on Damages

THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS FRAMEWORK AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. UNLESS EXPRESSLY HEREIN PROVIDED, A PARTY SHALL NOT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE LIQUIDATED DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS, AND NOT A PENALTY.

X. Notice

All notices, consents, approvals and requests required or permitted under this Framework Agreement shall be given in writing and shall be effective for all purposes if hand delivered or sent by (a) certified or registered United States mail, postage prepaid, return receipt requested or (b) expedited prepaid delivery service, either commercial or United States Postal Service, with proof of attempted delivery, and by telecopier (with answer back acknowledged), addressed as follows (or at such other address and person as shall be designated from time to time by any Party hereto, as the case may be, in a written notice to the other Parties hereto in the manner provided for in this Section X):

To: The Authority

Vice President -- Marketing
New York Power Authority
123 Main Street
White Plains, NY 10601

To: ESD

Attention: Regional President
317 Washington Avenue, 2nd Floor
Watertown, New York 13601

With a copy to:
Attention: General Counsel
633 Third Avenue, 36th Floor
New York, NY 10017

To: Alcoa

Alcoa Inc.
Attention: Vice President -- Energy
390 Park Avenue
New York, NY 10022-4608

XI. Miscellaneous

A. Applicable Law: THIS FRAMEWORK AGREEMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REFERENCE TO PRINCIPLES OR CONFLICTS OF LAW OTHER THAN SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW AND TO THE EXTENT THAT SUCH LAWS ARE NOT INCONSISTENT WITH THE FERC LICENSE.

B. Successors and Assigns: This Framework Agreement shall be binding upon, shall inure to the benefit of, and may be performed by, the legal successors and assigns of either Party

hereto; provided, however, that (i) no Party may assign, transfer or convey, directly or indirectly, their rights in and under this Framework Agreement except as expressly permitted herein and not otherwise prohibited by the other Operative Documents; and (ii) this Framework Agreement may not be assigned or transferred by any receiver, liquidator or bankruptcy trustee in the event of the bankruptcy or insolvency of any Party.

C. Previous Agreements: This Framework Agreement and the other Operative Documents shall constitute the sole and complete agreement of the Parties hereto with respect to the transactions contemplated hereby and thereby, and all prior agreements and all prior agreements among or between the Parties, whether oral or written, are superseded by the terms of this Framework Agreement and the other Operative Documents. No modifications of this Framework Agreement shall be binding upon the Parties hereto or unless such modification is in writing and is signed by a duly authorized officer of each of them.

D. Conflict. The Parties agree and acknowledge that this Framework Agreement provides the overall framework for the understandings of the Parties that collectively form the transactions contemplated herein and by the other Operative Documents. In the event of any conflict between the provisions of this Framework Agreement and any of the other Operative Documents, the provisions of this Framework Agreement shall control. Notwithstanding the foregoing, in the event of any conflict between the provisions of this Framework Agreement and (i) the provisions of the Power Supply Agreement that govern the delivery of Allocation; or (ii) the provisions of the ESD Grant Agreement that govern the delivery of ESD Grants, then the provisions of the Power Supply Agreement or the ESD Grant Agreement, as the case may be, shall control.

E. Severability: If any term or provision of this Framework Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remaining terms and provisions of this Framework Agreement, or the application of such terms or provisions to the person or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Framework Agreement shall be valid and be enforced to the fullest extent permitted by law, provided, however, that in the event enforcement of this Framework Agreement in the absence of such invalid or unenforceable provision would deprive a party of a material element of its original bargain, the parties will negotiate in good faith a reformation of this Framework Agreement to reflect as nearly as possible the original intent of the parties in the absence of such provision.

F. No Third Party Beneficiaries: The terms of this Framework Agreement may only be enforced by the Parties hereto and are not intended to create rights in any third party not a party hereto. This Framework Agreement may be amended without the consent of any third party.

G. Headings: The Section headings of this Framework Agreement are included herein for convenience of reference only and shall not constitute a part of this Framework Agreement for any other purpose.

H. No Joint Venture, Partnership or Agency. Nothing herein shall constitute any Party the agent, partner or joint venturer of any other Party, and no Party is authorized to make or accept any offer or incur any obligation on behalf of another Party.

XII. Further Assurances.

Alcoa agrees from time to time to promptly do and perform such other and further acts and promptly execute and deliver any and all such other instruments as may be required by law, or reasonably requested by the Authority or ESD to establish, maintain and protect the rights and remedies of the Authority and ESD under this Framework Agreement and to carry out and effect the intent and purpose of this Framework Agreement and the other Operative Documents.

AGREED:

ALCOA INC.

BY:_____

Title:_____

Date:_____

(Seal)
Attest by:_____

AGREED:

NEW YORK POWER AUTHORITY

BY:_____

Title:_____

Date:_____

(Seal)
Attest by:_____

AGREED:

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

BY:_____

Title:_____

Date:_____

(Seal)
Attest by:_____

APPENDIX A
Separation Packages
(to be attached)

APPENDIX B

I. Liquidated Damages for termination resulting from a Material Breach

Year	Quarter	Total LDs $ (m)	NYPA share LDs $ (m)	ESD share LDs $ (m)
2016	1	40	20	20
	2	37	18.5	18.5
	3	34	17	17
	4	31	15.5	15.5
2017	1	28	14	14
	2	25	12.5	12.5
	3	22	11	11
	4	19	9.5	9.5
2018	1	16	8	8
	2	13	6.5	6.5
	3	10	5	5
	4	7	3.5	3.5
2019	1	4	2	2

II. Liquidated Damages per month resulting from a Base Employment Level Breach.

Year	$ (m) per employee short
2016	.067
	.062
	.057
	.052
2017	.047
	.042
	.037
	.032
2018	.027
	.022
	.017
	.012
2019	.007

SCHEDULE 1

Form of Power Supply Agreement

SCHEDULE 2

Form of Service Tariff No. AL-1

SCHEDULE 3

Form of ESD Grant Disbursement Agreement

November 25, 2015

State Environmental Quality Review

Negative Declaration
Notice of Determination of No Significant Effect on the Environment

ERIE CANAL HARBOR DEVELOPMENT CORPORATION
A Subsidiary of the New York State Urban Development Corporation
d/b/a Empire State Development

Buffalo Outer Harbor Access & Activation Civic Project
175, 225, 235, 275, 461, 525, 575, 901 Fuhrmann Boulevard and
the Times Beach Nature Preserve
Buffalo, Erie County, New York

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 of the Environmental Conservation Law.

The Erie Canal Harbor Development Corporation ("ECHDC"), a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development ("ESD"), as lead agency, has determined that the Buffalo Outer Harbor Access & Activation Civic Project (the "Project" or the "Proposed Action") described below will not have a significant adverse effect on the environment.

ECHDC has classified the Proposed Action as a Type I Action under the New York State Environmental Quality Review Act ("SEQRA").

DESCRIPTION AND LOCATION OF ACTION:

Background

ECHDC is tasked with revitalizing and restoring economic growth to Buffalo's waterfront. It is proposing to acquire additional property and make public investments on the Lake Erie waterfront in the City of Buffalo to realize a series of near-term and relatively low-disturbance improvements to enhance access and facilitate greater public use and enjoyment of the waterfront.

The Project site is composed of eight City lots of record, known as 175, 225, 235, 275, 461, 525, 575, and 901 Fuhrmann Boulevard and the Times Beach Nature Preserve at 69 Fuhrmann Boulevard. The first two of these lots, 175 and 225 Fuhrmann Boulevard, were previously acquired and improved by ECHDC and are now known as "Wilkeson Pointe". Five of the lots (235, 275, 461, 525, and 575 Fuhrmann Boulevard) were transferred to ECHDC in late 2014 from the Niagara Frontier Transportation Authority ("NFTA"). The remaining lot, 901 Fuhrmann Blvd, remains in NFTA ownership and contains the vacant NFTA Port Terminal Buildings A and B;

ECHDC is in final discussions with NFTA regarding the transfer of this remaining property to ECHDC. The Times Beach Nature Preserve, created at a former U.S. Army Corps of Engineers confined disposal facility for dredge spoils, is owned by the City of Buffalo, and managed under an agreement with Erie County, although state/federal agencies have continuing active interests in the site.

The Project site is located in the Buffalo "Outer Harbor" section of the City's waterfront, referring to the properties along the Lake Erie shoreline within a protected harbor formed by an outer breakwall built in the 1920s. Historically, the Outer Harbor provided deep water port facilities and associated landside transportation and industrial uses. Over the last four decades as the local economy restructured away from predominance on heavy manufacturing, the pattern of use on the Outer Harbor has been progressively evolving to one relying more on proximity/access to the water for recreational uses and enhancement of less intensive waterfront uses.

Proposed Action

The Proposed Action (i.e., the "Project") would involve ECHDC adopting a General Project Plan ("GPP") to undertake the following activities:

- Transferring ownership of 901 Fuhrmann Boulevard (including all lands and the Terminal A and B buildings) from the NFTA to ECHDC, but excluding any specific activities for reuse, redevelopment, or new development on the property (other than trail access improvements noted below); and

- Programming $5 million in funds under ESD's Buffalo Billion economic development initiative for planning, remedial action, final design and construction of a series of improvements to facilitate active/passive recreational uses and future recreational and event programming, including the following:

  - **Improvement 1: Visitor Center/Hub.** This would involve creation of a Visitor Center/Hub at the Bell Slip with a modular installation, including pedestrian and bicycle amenities (e.g., bike racks, benches, trash cans, Adirondack chairs, etc.) to take advantage of the existing parking lot and views. It would also include installation of electric service and/or a renewable energy source for power requirements. It is assumed that such a facility would be roughly ~1,500 SF and generally be located near existing trailhead parking facilities on the Bell Slip.

  - **Improvement 2: Southern Greenbelt Extension.** This component would involve construction of a multi-purpose trail extension along the water's edge near Terminals A & B to complete the southern end of the current "Greenbelt" loop, including pedestrian and bicycle amenities (i.e., bike racks, benches, trash cans, Adirondack chairs, etc.). The trail would extend ~3,500 feet in length and result in ~0.8 acres of new pavement over a previously-paved/disturbed area on the shoreline.

- **Improvement 3: Michigan Pier Remediation/Reuse.** This component would involve redeveloping the Michigan Pier (AKA Seaway Pier) into a flexible, multi-use outdoor recreational space, building on the success of nearby Wilkeson Pointe. It would include clearing, capping, and re-grading the vacant eight-acre pier to accommodate facilities such as: adult playground, workout area, ropes course, foot/bicycle paths (doubling as x-country ski trails), a cantilevered trail section (doubling as fishing pier), railings/perimeter walkway along entire edge (doubling as setback), deck, beach, beer garden area, and adult games zone (e.g., horseshoes, bocce courts, petanq, shuffleboard, volleyball, etc.). This component would also involve installation of electric service and/or a renewable energy source for power requirements. The design would also include recreational fields or pollinator fields, seasonal floating docks, safety ladders and life rings.

- **Improvement 4: Overlooks.** This would involve developing two "overlook" locations adjacent to the Bell Slip along the existing Greenbelt loop. The design would facilitate birding, painting, photography, and astronomy (i.e., publicly-desired activities) to occur at these locations.

- **Improvement 5: Signage System.** This component would involve the design and installation of a comprehensive signage system from Gallagher Beach to the Buffalo Main Light historic lighthouse facility at the mouth of Buffalo River, conforming to standards for the Erie County/Niagara River Greenway "Shoreline Trail" sign system, including ancillary pedestrian and bicycle amenities (i.e., bike racks, benches, etc.). The system would highlight key public locations as well as distances. This component has the potential for also including additional interpretive signs and for "physical fitness" (e.g., 10,000 Steps). The system would require an agreement/permitting with the NYS Department of Transportation ("NYSDOT") for signs that are positioned within a NYSDOT-owned right-of-way (e.g., NYS Route 5).

- **Improvement 6: Osprey Nesting Structure.** This component would involve installation of an Osprey platform at a location within the Times Beach Nature Preserve. This component would require an agreement with Erie County, Friends of Times Beach, and/or Buffalo Museum of Science to cover operations and maintenance.

- **Improvement 7: Mountain Bike Facilities.** This component would involve the design and establishment of a mountain bike course(s) within a six-acre area bounded by the Bell Slip, Lake Erie, and Fuhrman Boulevard. Given the site's features and proximity to existing paved pathways, a series of unpaved trails (each less than five miles in length) and a pump track would be established to take advantage of the mature trees and small gently-rolling hills.

It should be noted that while the Proposed Action is limited to activities noted above, it is anticipated that these improvements are a near-term action to facilitate public access and

enjoyment of the Project site now, with a vision to realize some form of development on the a portion of the site in the future, such as adapted reuse and/or redevelopment of buildings/lands at 901 Fuhrmann Boulevard.

REASONS SUPPORTING THE DETERMINATION OF NO SIGNIFICANT IMPACT:

ECHDC has reviewed the SEQRA Full Environmental Assessment Form ("EAF") and Supporting Analyses and the criteria contained in Part 617.7(c) of the SEQRA Regulations in making this Determination. Summaries of the reasons supporting the determination of no significant effect are presented in the following sections.

- **Land Use.** The Project would result in positive land use impacts associated with freeing up waterfront lands for public access and would represent a natural extension of open space and recreational access provided at the Times Beach Nature Preserve, as well as serve as a node of activity along the emerging network of waterfront trails stretching north from Gallagher Beach to the US Coast Guard Station. The Project would also be fully consistent with the policies of the City of Buffalo Comprehensive Plan and Zoning Ordinance, as well as draft provisions of the soon-to-be-adopted Buffalo Green Code. It would also represent the best principles of "smart growth" through its proposed reuse of brownfield property in an urbanized area and would contribute to an emerging pattern of recreational and mixed-use development and redevelopment along the waterfront. In order to avoid any long-term health and safety issues related to past contamination and to preserve the integrity of any past remedial actions on the Project site, ECHDC shall employ protocols or cause protocols to be employed as part of the design of future improvements and/or programming of future activities to ensure the workers, visitors, or users are not subject to any harmful exposure to contaminated materials in on-site soils. Finally, the proposed action would be consistent with State coastal policies.

- **Geological Features.** The Project site was created through periodic filling events over the last century and contains no unique geological features.

- **Surface Water.** The Proposed Action is not anticipated to result in any significant impacts to surface water resources, including wetlands. The potential for water quality issues will be investigated under the design process for each Project construction component and would be addressed in conjunction with State/Federal review process under Sections 401 and 404 of the U.S. Clean Water Act, and Section 10 of the Rivers and Harbors Act, if applicable. These would be regulated in accordance with a Joint Permit Application to the US Army Corps of Engineers ("USACE") and the NYS Department of Conservation ("NYSDEC"). The Project would also be subject to a State Pollutant Discharge Elimination System ("SPDES") General Permit for Stormwater Discharges from Construction Activity, which requires the implementation of a Storm Water Pollution Prevention Plan ("SWPPP"). In addition, the one Project component that would not be on ECHDC-owned lands, the proposed Osprey platform at the Times Beach Nature Preserve, would require a State

Wetland Permit, together with Section 401 Water Quality Certification. ECHDC would work closely with NYSDEC and agencies/institutions that oversee the preserve during the design and permitting process to ensure that the platform is properly sited and that appropriate protection provisions are incorporated in the specifications for its installation.

- **Groundwater.** It is not anticipated that the Project will result in any significant impacts to groundwater resources, nor would it result in any new pathways for migration of contaminated groundwater. Anticipated earth-moving activities are expected to minor with the exception remediation activities to be conducted at the Michigan Pier, which is expected to focus primarily on capping the site with clean fill where required. As part of the design process for any Project component involved any substantial excavation or involving remediation shall include a full assessment of potential effects to groundwater resources.

- **Flooding.** While portions of the Project site are within the 100-year floodplain, the Project would not result in any significant short- or long-term impacts with regard to flooding. Existing and anticipated uses that would be located in the floodplain would be limited to trails and outdoor recreation areas, which are acceptable uses within a flood-prone area. No new habitable space would be developed in a floodplain as a result of the Proposed Action.

- **Air Quality.** The Project would not result in any significant short or long-term air quality impacts. It would not involve the establishment of any new regulated stationary sources of air pollutants and air emissions from mobile sources would not result in any significant changes in concentrations of ground-level carbon monoxide during peak traffic periods.

- **Plants and Animals**. Overall, the Project is not anticipated to have any significant impacts to plants and animals. The construction of trails, overlooks, signage and visitor hub components are all located on largely disturbed and/or already-paved areas, and thus they would result in very limited effects to plant/animal habitat. The largest Project component, the remediation and reuse of the Michigan Pier, would result in temporary displacement of small mammal and bird habitat during the construction period; upon re-vegetation of the site after completion, these species are expected to re-inhabit the Michigan Pier. The potential for siltation and sedimentation impacts to fishery resources associated with capping of the Michigan Pier shall be prevented through the use of best practices and regulated through the SPDES permitting process.

- **Agricultural Resources.** The Project site was formerly used for port-related industrial purposes and does not contain nor is adjacent to any agricultural resources.

- **Aesthetic Resources.** The Project would result in positive visual impacts on the Project site and its surrounding area. Proposed improvements to site access, the addition of recreational and open space facilities, and the enhancement of site programming would all positively contribute to the character of the Project site and the waterfront environment in general.

- **Historic and Archaeological Resources.** The Project would result in no significant impacts to historic and archaeological resources. Anticipated recreational and public access improvements would pose no threat to such resources on/near the Project site, but rather may improve appreciation of these resources. In accordance with Section 14.09 of the New York State Historic Preservation Act, ECHDC consulted with State Historic Preservation Office ("SHPO") of the New York State Office of Parks, Recreation, and Historic Preservation on its conclusions regarding the lack of such impacts. In a letter on October 28, 2015, SHPO indicated that the proposed Project will have No Adverse Impact upon any resources that are listed on or eligible for listing on the State or National Registers of Historic Places.

- **Open Space and Recreation.** The Project would not remove and/or impair any open space or recreational facility in the vicinity of the Project site, but rather, would represent a further expansion of waterfront access and recreational facilities along the Buffalo Outer Harbor.

- **Critical Environmental Areas.** The Project site contains no designated critical environmental areas.

- **Transportation.** The Project would result in no significant impacts to traffic operations in and around the Outer Harbor. Reconstruction of Fuhrmann Boulevard, completed in 2012 as part of the *Southtowns Connector/Buffalo Outer Harbor Project* was projected to be fully capable of absorbing traffic generated in the area through 2030 under a future development scenario involving significant levels of new development along the Outer Harbor waterfront. The road system surrounding the Project site has previously demonstrated the ability to handle large public concerts and other public gatherings with no significant impacts.

- **Energy.** The Proposed Action would have no significant impacts to the use and management of energy resources.

- **Noise, Odor, and Light**. The Project would not result in any significant impacts with regard to noise, odors, or glare. With regard to lighting, the Project would involve the installation of limited electrical power and site lighting facilities to serve security and public safety needs. These additional light sources are not anticipated to result in any adverse impacts to on-site or adjoining areas. During the design phase of the various Project components, site designers will employ best practices to avoid any adverse effects, including implementing operational practices related to the Governor's "Lights Out New York" Initiative, as warranted.

- **Human Health**. The Project would not result in any significant impacts with regard to adverse effects to human health related to exposure to contamination in on-site soils, in consideration of amount of information garnered thus far regarding on-site risks and the fact that ECHDC shall employ future protocols to ensure that users/workers associated with various Project components and programming activities are properly protected. These

would include: 1) Undertaking additional soil exposure evaluations/documentation by qualified environmental engineers or environmental scientists for any proposed construction and/or programming activities not already being conducted in low-risk areas; 2) Ensuring that the remediation/reuse design of the Michigan Pier includes a full environmental engineering evaluation and a public session(s) during the design process to outline findings related to site remediation; and 3) Ensuring that maintenance/operations workers on the Project site employ proper work protocols to ensure health/safety.

- **Consistency with Community Plans.** The Proposed Action would be fully consistent with community planning policies including the Buffalo Comprehensive Plan, Buffalo Zoning Ordinance, and draft Buffalo Green Code, as well as New York State policies for uses with the coastal zone.

- **Consistency with Community Character.** The Project would positively contribute to the growth and character of the neighborhood and the community as a whole, by further rehabilitating and re-purposing a brownfield area, add to the growing network of public access and amenities along the Outer Harbor waterfront, and serve to help bridge/link already completed improvements.

- **Secondary, Indirect, and/or Cumulative Effects of the Proposed Action.** The Proposed Action may indirectly or cumulatively result in positive impacts related encouraging future mixed-use development along the Buffalo Outer Harbor waterfront. The Proposed Action however, does not specifically commit ECHDC, ESD, the City of Buffalo, or any other agency to any future project in the vicinity of the Project site. Any subsequent development activities would be subject to SEQRA review.

REASONS FURTHER SUPPORTING DETERMINATION OF NO SIGNIFICANT IMPACT:

ECHDC finds that to the extent the near-term activities to facilitate public access and enjoyment of the Project site under the Proposed Action may be deemed to be "segmented" from efforts to realize more permanent future development there, that such segmentation is proper pursuant to 6 NYCRR Part 617.3(g) in consideration of the following relevant circumstances:

- **Timing.** Undertaking planning, design/remedial activities, and construction of public access/recreational improvements on the site would further enhance public enjoyment of the Buffalo Outer Harbor in a manner fully permitted under current local development regulations and policies. Implementing these improvements now would not in any way commit ECHDC, ESD, the City, or any other agency to implement and/or approve any particular redevelopment or infill development project(s) on the Buffalo Outer Harbor in the future, if and when local regulations are adopted that permit new uses other than industrial establishments. Further, in recognition that there are currently no specific proposals—defined in terms of location, type (residential, office, institutional, etc.), and scale (i.e., number of units, total area of new development, etc.)—under consideration for approval by

ECHDC, ESD, the City, or any other agency, it would be premature to attempt to speculate on aspects of any such future development.

- **Lack of Significant Impacts**. The specific components of the Proposed Action (i.e., property transfer, design, remedial activities, and construction of public access/recreation improvements) are not likely anticipated to result in any significant negative direct/indirect effects to social, economic, or environmental resources. Because any future development on the Project site would also be subject to its own SEQRA documentation and all associated public reviews/approvals, advancing the Proposed Action now before any future development is conceptualized, marketed and/or solicited would in no way affect the appearance or impression of information that would be reported in future SEQRA documentation (i.e., it would not make the separated actions appear to have "fewer" impacts); nor would it in any way be less protective of the environment.

- **Other Ongoing Public Reviews**. Any future development on the Project site would largely be shaped by the ultimate adoption process for the Buffalo Green Code (i.e., to permit uses other than general industry on the site). The Green Code has been and will continue to be subject to extensive public involvement efforts, including SEQRA generic environmental impact statement prior to adoption. In turn, any new development(s) on the Project site in the future would be subject to public site plan review by the City of Buffalo. Thus, there would be ample opportunity for public review and comment if any future development on the Project site is considered.

- **Independent Utility**. The specific components of the Proposed Action would have independent utility (i.e., would permit public enjoyment of the waterfront) from that of any possible future development on some portion of the Project site. While such uses may well be related and complementary, the ultimate success of the Proposed Action is in no way directly predicated upon any such future development.

SUMMARY:

ECHDC has determined, based on the foregoing analysis, that approval of the proposed Buffalo Outer Harbor Access & Activation Civic Project:

- Would not result in a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; or a substantial increase in potential for erosion, flooding, leaching or drainage problems;

- Would not result in the removal or destruction of large quantities of vegetation or fauna; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered specific of animal or plant; or other significant adverse impacts to natural resources;

- Would not result in the creation of a material conflict with a community's current plans or goals as officially approved or adopted;
- Would not result in the impairment of the character or quality of important historical, archaeological, architectural, or aesthetic resources or of existing community or neighborhood character;
- Would not result in a major change in the use of either the quantity or type of energy;
- Would not result in the creation of a hazard to human health;
- Would not result in a substantial change in the use or intensity of use of land, open space or recreational resources, or in its capacity to support existing uses;
- Would not encourage or attract a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;
- Would not result in the creation of a material demand for other actions that would result in one of the above consequences;
- Would not result in changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment;
- Would not result in two or more related actions undertaken funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in this subdivision; and
- To the extent the requested authorization may be considered to be "segmented" from future development or redevelopment at Outer Harbor locations, that such "segmentation" is permissible pursuant to 6 NYCRR Part 617.3(g) due to the relevant circumstances of the Proposed Action, specifically: (i) that it is not possible to consider the environmental implications of such future activity in the absence of a proposal(s) for new development; (ii) that any such future development will be subject to review under SEQRA as well as any/all other applicable reviews/approvals; and (iii) that the review of the Proposed Action as described is no less protective of the environment than review together with any speculation of potential future development.

Based on the EAF and the Supporting Analyses, and consideration of the criteria for determining significance contained in Part 617.7(c) above, ECHDC has determined that the Proposed Action would not result in any significant adverse effects on the environment.

FOR FURTHER INFORMATION:

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A Full Environmental Assessment Form, a NYS Coastal Assessment Form, supporting documentation, and a copy of this notice have been sent to:

- City of Buffalo Common Council (c/o City Clerk);
- City of Buffalo Planning Board;
- City of Buffalo Preservation Board;
- City of Buffalo Department of Permit & Inspection Services;
- City of Buffalo Office of Strategic Planning;
- City of Buffalo Department of Public Works, Streets and Parks;
- Buffalo Fiscal Stability Authority;
- Erie County Legislature;
- Erie County Department of Planning & Environment;
- Niagara Frontier Transportation Authority, Executive Director;
- New York State Department of Environmental Conservation, Region 9 Director;
- New York State Department of Environmental Conservation, Region 9 Permits Administrator;
- New York State Department of Transportation, Region 5 Director;
- New York State Office of Parks, Recreation, and Historic Preservation, Western District Director;
- New York State Office of Parks, Recreation, and Historic Preservation – State Historic Preservation Office;
- Empire State Development, Design & Construction Department, Environmental Planning Division;
- New York State Department of State, Division of Coastal Resources;
- U.S. Army Corps of Engineers (for informational purposes only); and
- U.S. Coast Guard – Buffalo Complex (for informational purposes only).