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## COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

March 30, 2012

Sam Hoyt, Regional Director  
Empire State Development Corporation  
95 Perry Street, Suite 500  
Buffalo, NY 14203

**RE: Application for Buffalo Erie Niagara Land Improvement Corporation**

Dear Mr. Hoyt:

We are pleased to enclose our joint application to establish the Buffalo Erie Niagara Land Improvement Corporation (BENLIC). The attached application not only includes a well-reasoned approach to how BENLIC will function, but it also includes resolutions of support passed by numerous Towns and Villages, and a fully executed Intermunicipal Agreement (IMA) between Erie County and the Cities of Buffalo, Tonawanda, and Lackawanna. **The attached IMA between Erie County and the three Cities is truly historic.** A shared concern to creatively and aggressively address the region-wide problem of distressed properties has brought the parties together in an exciting level of regional cooperation.

Fundamentally, this competitive application was made possible by three important factors: a solid foundation, hard work, and excellent leadership. A solid foundation on the issue of distressed properties has been laid over the course of the last decade with both elected officials and local agencies becoming students of the vacant property crisis. All the while, the City of Buffalo has been deeply engaged in developing strategies that address vacancy, and while the problem is still significant in Buffalo, since Mayor Brown took office in 2006, Buffalo has actually decreased its vacancy rate by seven percent. **Without a doubt, Buffalo's experience and participation in BENLIC will serve to benefit municipalities throughout the County.**

This application was also made possible by the hard work of many individuals laboring to meet a tight time-line. Because the previous County Executive did not prioritize this issue, Mayor Brown directed the Mayor's Office of Strategic Planning to begin drafting an application last year. Work on a joint application was not possible until Erie County had new leadership and when Mark Poloncarz became County Executive in January 2012, he immediately prioritized this issue. A "working group" composed of the County and the three Cities, representatives from the most affected Towns and Villages, as well as representatives from the Association of Erie County Governments and local experts from LISC and the WNY Law Center, was first convened on February 2, 2012.

In the past eight weeks, the working group conducted 12 meetings, hosted nation-wide expert Dan Kildee, attended two state-wide conferences, and presented at two meetings of the County Legislature's Government Affairs Committee. This is in addition to the countless hours spent by the employees in the County's Department of Environment and Planning and the City of Buffalo's Office of Strategic Planning to draft and assemble the attached application. **This level of dedication to the task at hand is remarkable and it is also what makes our application so competitive.**

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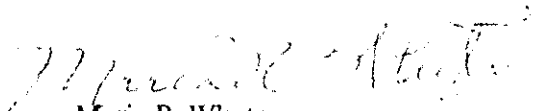
Sam Hoyt  
March 30, 2012

Finally, this application was also made possible by excellent leadership. The leadership of Mayor Howard M. Frawley (Village of Angola), Mayor Geoffrey M. Szymanski (Lackawanna), Mayor William J. Krebs (Village of Springville), Mayor Ronald J. Pillozzi (Tonawanda), City Treasurer Joseph Hogankamp (Tonawanda), Supervisor Mary Holtz (Cheektowaga), Supervisor Barry A. Weinstein (Amherst), and Supervisor Leonard K. Pero (Brant), as well as the Erie County Legislature and the Councilmembers in each of the three Cities, is remarkable. The leadership of County Executive Mark C. Poloncarz and City of Buffalo Mayor Byron Brown is exemplary. **Without the understanding of the vacant property crisis that plagues our community on the part of each of these elected officials and their shared vision for a regional solution, this application would not have been possible.**

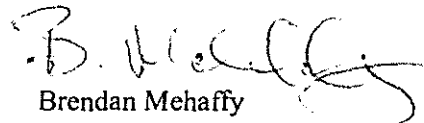
There is one additional point worth making. Our IMA leaves open the possibility of other parties joining the BENLIC. Exciting dialogue with the City of Niagara Falls has begun. However, because the Board must be limited to only 11 members, we were not able to accommodate them at this time. We acknowledge the good work of Mayor Paul Dyster and others to address the vacant property crisis plaguing this neighboring community and look forward to additional dialogue with the City of Niagara Falls.

**As previously indicated, we believe our application is highly competitive and the attached IMA truly historic.** A solid foundation, hard work, and excellent leadership made it possible. The success of the Western New York Regional Economic Development Council has shown that we can work together and that when we do so, we are far stronger. We thank you in advance for your consideration and we wish to thank Governor Cuomo for all that he has done for our area. We look forward to continued cooperation between our region and the state as we address these very difficult issues that have languished for so long.

Very truly yours,



Maria R. Whyte  
Commissioner  
Erie County Department of Environment and Planning



Brendan Mehaffy  
Executive Director  
Buffalo Office of Strategic Planning

Cc: Erie County Legislature  
City of Buffalo Common Council  
City of Lackawanna Common Council  
City of Tonawanda Common Council  
Hon. Geoffrey M. Szymanski  
Hon. Ronald J. Polizzi  
Hon. Howard M. Frawley  
Hon. William J. Krebs  
Hon. Leonard K. Pero  
Joseph Maciejewski

Hon. Mary Holtz  
Hon. Barry A. Weinstein  
Hon. Paul Dyster  
James Magavern  
Joseph Kelemen  
Lauren Breen  
Joseph A. Hogenkamp  
Michael Clarke  
Anthony Armstrong

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**Applicant Name:** Erie County, New York

## **Round 1**

# **NEW YORK STATE LAND BANK PROGRAM**

**Empire State Development (ESD)**

## **APPLICATION**

**Application Due Date:  
3:00 p.m. – Friday, March 30, 2012**

## Land Bank Program Information

New York State's Land Bank Program was established with enactment of Article 16 of the New York State Not-for-Profit Corporation Law (the "Act"). Pursuant to the provisions of the Act, governmental entities that possess the power to foreclose on tax liens are permitted to create a not-for-profit corporation whose purpose is to facilitate the return of vacant, abandoned and tax delinquent properties to productive use. Pursuant to Section 1603 of the Act, the creation of a land bank is conditioned upon approval of the New York State Urban Development Corporation d/b/a Empire State Development ("ESD"). The Act further limits the number of land banks permitted to be created in the state to ten.

The application and review process for ESD approval of land bank applications can be found in the ESD Land Bank Approval Guidelines which can be accessed on ESD's website at:  
<http://www.esd.ny.gov/BusinessPrograms/Data/LandBankProgram/112111LandBankProgramGuidelines.pdf>

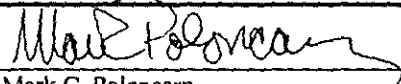
Prior to completion and submission of this application, applicants are strongly encouraged to review the Program Guidelines and the provisions of the Act which can be found on the New York State Legislature's website at:  
<http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=@SLNPC0A16+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=15473598+&TARGET=VIEW>

Applications must be submitted to the appropriate ESD Regional Office as identified in the Guidelines by **3 p.m. on March 30, 2012** in order to be considered. ESD shall also accept applications electronically submitted in .PDF format that are emailed to [NYLandBank@esd.ny.gov](mailto:NYLandBank@esd.ny.gov) and received prior to the deadline.

## Part 1 – Application Checklist and Certification

|   |                       |           |            |  |
|---|-----------------------|-----------|------------|--|
| <b>Applicant Name</b>   | Erie County, New York |           |            |  |
| <b>Requirements</b>   | <b>Yes</b>            | <b>No</b> | <b>N/A</b> |  |
| 1) Certification signed by municipal official?  | X                     |           | X          |  |
| 2) Applicant is a Foreclosing Government Unit ("FGU") as defined pursuant to Section 1602(c) of the NYS Not-for-Profit Corporation Law?           | X                     |           | X          |  |
| 3) Applicant has adopted a local law, ordinance or resolution for creation of a land bank?  | X                     |           | X          |  |
| 4) The local law, ordinance or resolution includes the following:   |                       |           | X          |  |
| a) the name of the land bank?   | X                     |           | X          |  |
| b) the number of members of the Board of Directors?   | X                     |           | X          |  |
| c) the initial individuals to serve as members of the board of directors and the length of terms for which they are to serve?                     | X                     |           | X          |  |
| d) if two or more FGUs and/or municipalities agree to the creation of a single land bank, authorizes execution of an intergovernmental agreement? | X                     |           | X          |  |
| 5) Required attachments are included:   |                       |           | X          |  |
| a) copies of the local law(s), ordinance(s) and/or resolution(s)  | X                     |           | X          |  |
| b) copies of all intergovernmental agreements   | X                     |           | X          |  |
| c) copy of the proposed certificate of incorporation and proposed by-laws of the land bank  | X                     |           | X          |  |
| d) copy of the proposed non-discrimination and affirmative action policy of the land bank   | X                     |           | X          |  |

**Certification:** The undersigned solemnly affirms that to the best of my knowledge, information and belief, the application is complete and that all statements and information submitted in connection herewith are true and accurate.

|                                     |   |  |                            |
|-------------------------------------|---|--|----------------------------|
| <b>Municipal Official Signature</b> |  |  |                            |
| <b>Type Name</b>                    | Mark C. Poloncarz   |  |                            |
| <b>Title</b>                        | County Executive  |  | <b>Date</b> March 30, 2012 |

## Part 2 – Applicant Information

### Part 2 – A. Municipal Information - Complete for each FGU, municipality and school district

|   |  |  |
|---|--|--|
| Applicant Name  | Erie County, New York  |  |
| Street Address (not PO Box)   | SEE APPENDIX A, PAGE A-1: Part 2A for all FGUs   |  |
| City, State, Zip  |  |  |
| County  |  |  |
| Contact Name  |  |  |
| Title   |  |  |
| Phone Number  |  |  |
| E-Mail Address  |  |  |
| Type of Municipality or School District   | County <input checked="" type="checkbox"/> City <input type="checkbox"/> Town <input type="checkbox"/> Village <input type="checkbox"/> School District <input type="checkbox"/> |  |
| Senate District(s) # and Name(s)<br>(If multiple, list all. Attach additional page if necessary.)   | #  |  |
| Assembly District(s) # and Name(s)<br>(If multiple, list all. Attach additional page if necessary.) | #  |  |

### Part 2 – B. Land Bank Information

|   |   |  |
|---|---|--|
| Name of Land Bank   | Buffalo Erie Niagara Land Improvement Corporation   |  |
| Geographic area the Land Bank will operate  | Within Erie County, specifically the cities of Buffalo, Lackawanna, and Tonawanda   |  |
| Does the land bank consist or more than one FGU, municipality and/or school districts (if yes, attach copies of the intergovernmental cooperation agreements governing operation of the land bank and complete the above section, Part 2-A, for each FGU, municipality and/or school district). | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>   |  |
| List the name of each FGU, municipality and/or school district participating  | Erie County (FGU)<br>Cities of Buffalo, Lackawanna and Tonawanda (FGUs)<br>By resolution of support (Appendix F) the towns of Amherst and Cheektowaga, and villages of Angola and Springville agreed to participate in the land bank. |  |
| Number of Directors (must consist of odd number, and shall not be less than five or more than eleven).  | 11  |  |
| List the name and title of the individuals to serve as initial members of the board of directors.   | SEE APPENDIX A, PAGE A-3: Part 2B   |  |
|   |   |  |
|   |   |  |
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|   |   |  |
|   |   |  |
|   |   |  |
|   |   |  |
|   |   |  |

**Part 3 – General Information - Use additional pages if necessary**

Applicant Name | Erie County, New York

**Part 3 –A: General information**

1. Describe the overall goals, mission and focus of the land bank.

SEE APPENDIX A, PAGE A-4: PART 3-A: #1

2. Describe the nature and extent of the intergovernmental cooperation for the proposed land bank.

SEE APPENDIX A, PAGE A-4: PART 3-A: #2



3. Explain why a land bank is needed in the jurisdictions in which the land bank will operate?

SEE APPENDIX A, PAGE A-5: PART 3-A: #3

4. Describe the measurable results and economic impact the applicant expects to achieve through the operation of the land bank.

SEE APPENDIX A, PAGE A-7: PART 3-A: #4

5. When is the land bank expected to begin operating? Include in this response the expected time line for when the land bank is expected to be created, when it is expected to begin operating, when it is expected it will acquire its first property and any other expected milestones.

SEE APPENDIX A, PAGE A-8: PART 3-A: #5

**Part 3 – General Information - Use additional pages if necessary**

Applicant Name Erie County, New York

**Part 3 –B: Property information**

1. Describe the nature and extent of the inventory of vacant, abandoned and tax delinquent properties in the geographic area in which the land bank will operate.

SEE APPENDIX A, PAGE A-9: PART 3-B: #1

2. Describe how the land bank will acquire property?

SEE APPENDIX A, PAGE A-9: PART 3-B: #2

3. Describe the expected inventory of property that will be acquired by the land bank.

SEE APPENDIX A, PAGE A-10: PART 3-B: #3

4. Describe how the land bank will dispose of property. Include any priorities for use of real property disposed of by the land bank.

SEE APPENDIX A, PAGE A-10: PART 3-B: #4

5. Describe the geographic area in which the land bank will operate. Include whether the area is primarily urban, suburban or rural.

SEE APPENDIX A, PAGE A-11: PART 3-B: #5

**Part 3 – General Information - Use additional pages if necessary**

Applicant Name | Erie County, New York

**Part 3 –C: Land bank organization and financing**

1. Describe in detail how the land bank's activities will be funded. Include a description of all financial resources to be made available to the land bank, including any in-kind contributions.

SEE APPENDIX A, PAGE A-12: PART 3-C: #1

2. Explain how the land bank will be staffed.

SEE APPENDIX A, PAGE A-12: PART 3-C: #2

3. Describe the nature and extent of the authorization for sharing of future property tax revenues?

SEE APPENDIX A, PAGE A-13: PART 3-C: #3

#### **Part 4 – Required Attachments**

Attach copies of the documents listed below.

1. Copies of the local law(s), ordinance(s) and/or resolution(s) for creation of the land bank.
2. Copies of all intergovernmental agreements, if applicable.
3. A copy of the proposed certificate of incorporation and proposed by-laws of the land bank.\*
4. A copy of the proposed non-discrimination and affirmative action policy of the land bank that at a minimum, shall state that the land bank shall not discriminate upon the basis of race, creed, color, sex or national origin and that any transferee or purchaser of land bank property and every successor in interest in such property shall not discriminate upon the basis of race, creed, color, sex or national origin in the sale, lease or rental, or in the use or occupancy of the property or improvements erected or to be erected thereon or any part thereof. \*

*\* As the Act prohibits land banks from being formed until approval of ESD, copies of these items are to be supplied in draft form. ESD understands that the proposed documents that are adopted by the land bank may differ from what is provided with this application.*

**All documents MUST be included with the application.**

ESD, at its sole discretion, reserves the right to accept minor amendments and additions to this application.

**Address all questions to**

**Stephen Gawlik – Senior Counsel**  
**(716) 846-8257**  
[sgawlik@esd.ny.gov](mailto:sgawlik@esd.ny.gov)

**Or contact the ESD Regional Office in your area.**  
**Phone numbers can be found in the Guidelines Section VII.**

Appendix A:  
Land Bank Application  
Sections

**Part 2 — A: Municipal Information —**  
**Complete for each FGU, municipality and school district**

|   |  |                     |
|---|--|---------------------|
| <b>Applicant Name</b>                   | <b>Erie County</b>                                   |                     |
| Street Address (not PO Box)             | 95 Franklin Street, 10th Floor                       |                     |
| City, State, Zip                        | Buffalo, New York 14202                              |                     |
| County                                  | Erie   |                     |
| Contact Name                            | Maria Whyte  |                     |
| Title                                   | Commissioner, Department of Environment and Planning |                     |
| Phone Number                            | 716-858-8390   |                     |
| E-Mail Address                          | Maria.Whyte@erie.gov                                 |                     |
| Type of Municipality or School District | County   |                     |
| Senate District(s) # and Name(s)        | # 58   | Timothy Kennedy     |
|   | # 59   | Patrick Gallivan    |
|   | # 60   | Mark Grisanti       |
|   | # 61   | Mike Ranzenhofer    |
| Assembly District(s) # and Name(s)      | # 141  | Crystal D. Peoples  |
|   | # 143  | Dennis H. Gabryszak |
|   | # 144  | Sean Ryan           |
|   | # 145  | Michael Kearns      |
|   | # 146  | Kevin S. Smardz     |
|   | # 148  | Raymond W. Walter   |

|   |  |                    |
|---|--|--------------------|
| <b>Applicant Name</b>                   | <b>City of Buffalo</b>                           |                    |
| Street Address (not PO Box)             | 901 City Hall                                    |                    |
| City, State, Zip                        | Buffalo, New York 14202                          |                    |
| County                                  | Erie   |                    |
| Contact Name                            | Brendan R. Mehaffy                               |                    |
| Title                                   | Executive Director, Office of Strategic Planning |                    |
| Phone Number                            | 716-851-4769                                     |                    |
| E-Mail Address                          | bmehaffy@city-buffalo.com                        |                    |
| Type of Municipality or School District | City   |                    |
| Senate District(s) # and Name(s)        | # 58   | Timothy Kennedy    |
|   | # 60   | Mark Grisanti      |
| Assembly District(s) # and Name(s)      | # 141  | Crystal D. Peoples |
|   | # 144  | Sean Ryan          |
|   | # 145  | Michael Kearns     |

|   |                                  |                 |
|---|----------------------------------|-----------------|
| <b>Applicant Name</b>                   | <b>City of Lackawanna</b>        |                 |
| Street Address (not PO Box)             | 714 Ridge Road                   |                 |
| City, State, Zip                        | Lackawanna, New York 14218       |                 |
| County                                  | Erie                             |                 |
| Contact Name                            | Frank E. Krakowski               |                 |
| Title                                   | City Assessor                    |                 |
| Phone Number                            | 716-827-6473                     |                 |
| E-Mail Address                          | cityassessor@ci.lackawanna.ny.us |                 |
| Type of Municipality or School District | City                             |                 |
| Senate District(s) # and Name(s)        | # 58                             | Timothy Kennedy |
| Assembly District(s) # and Name(s)      | # 145                            | Michael Kearns  |
|   | # 146                            | Kevin S. Smardz |

|   |                           |                   |
|---|---------------------------|-------------------|
| <b>Applicant Name</b>                   | <b>City of Tonawanda</b>  |                   |
| Street Address (not PO Box)             | 150 Niagara Street        |                   |
| City, State, Zip                        | Tonawanda, New York 14150 |                   |
| County                                  | Erie                      |                   |
| Contact Name                            | Ronald J. Pilozi          |                   |
| Title                                   | Mayor                     |                   |
| Phone Number                            | 716-695-8645              |                   |
| E-Mail Address                          | mayor@ci.tonawanda.ny.us  |                   |
| Type of Municipality or School District | City                      |                   |
| Senate District(s) # and Name(s)        | # 60                      | Mike Ranzenhofer  |
|   | # 61                      | Mark Gristanti    |
| Assembly District(s) # and Name(s)      | # 140                     | Robin Schimminger |



**Part 2 — B: Land Bank Information**

1. Brendan R. Mehaffy, Executive Director of Office of Strategic Planning, City of Buffalo
2. Timothy A. Ball, Corporation Counsel, City of Buffalo
3. James Comerford, Jr., Commissioner of Permit and Inspection Services, City of Buffalo
4. Janet Penksa, Commissioner, Administration, Finance, Policy and Urban Affairs, City of Buffalo
5. David P. Comerford, General Manager, Buffalo Sewer Authority
6. Maria R. Whyte, Commissioner of Erie County Department of Environment and Planning
7. Joseph L. Maciejewski, Director, Erie County Department of Real Property Tax Services
8. Michael A. Siragusa, County Attorney, Erie County Department of Law
9. Frank E. Krakowski, City Assessor, City of Lackawanna
10. Joseph Hogenkamp, Treasurer, City of Tonawanda
11. Christina Orsi, Western New York Regional Director, Empire State Development

### **Part 3 — A: General information**

#### ***1. Describe the overall goals, mission and focus of the land bank.***

##### **Buffalo Erie Niagara Land Improvement Corporation Mission Statement:**

*"The mission of the Buffalo Erie Niagara Land Improvement Corporation is to support municipal and regional stabilization and revitalization efforts by strategically acquiring, improving, assembling, and selling vacant and abandoned property."*

The objective of the Buffalo Erie Niagara Land Improvement Corporation (BENLIC) is to proactively address distressed properties and stop the cycle of blight that threatens an increasing number of urban, suburban, and rural communities throughout the region. At its foundation, BENLIC's goals will be to:

- Support neighborhood stabilization and revitalization;
- Increase homeownership and affordable housing opportunities;
- Return property to productive tax-paying status; and
- Strategically assemble and bank land for economic development.

The land bank will serve as a critical tool for municipalities working toward neighborhood stabilization and revitalization in areas that have suffered from growing and persistent vacancy and abandonment. By coordinating an efficient process for quicker turnover of vacant and abandoned properties to responsible owners, the land bank will work toward the removal of slum and blight and improve the quality of life in the region's neighborhoods.

In the short term, the land bank will focus its efforts within the cities of Buffalo, Lackawanna, and Tonawanda, as well as towns and villages having older housing stocks, shared border problems with neighboring communities, and emerging patterns of disinvestment within their residential and commercial areas. The long-term focus of the land bank is to expand its geographic reach to other municipalities while also evolving into a financially stable and self-funding operation.

#### ***2. Describe the nature and extent of the intergovernmental cooperation for the proposed land bank.***

An intermunicipal agreement for the creation of Buffalo Erie Niagara Land Improvement Corporation (BENLIC) was signed between Erie County and the cities of Buffalo, Lackawanna, and Tonawanda. This agreement represents significant regional cooperation between all four foreclosing governmental units (FGUs) in Erie County.

This application is the result of extensive collaboration by a working group of high level representation from Erie County; the cities of Buffalo, Lackawanna, and Tonawanda; the towns of Amherst and Cheektowaga; and the villages of Angola and Springville. This cooperative approach to developing the land bank resulted in a unanimously supported resolution by the Association of Erie County Governments (AECG) in favor of the formation of a land bank and the development of this application.

In addition to the current intermunicipal agreement between the four FGUs and the resolution of support from the AECG, resolutions supporting the formation of BENLIC and development of this application were passed by the Village of Springville; Town of Orchard Park; Village of

Hamburg; Town of Cheektowaga; and Town of Eden. A letter of support was also received from Erie County Clerk Christopher L. Jacobs.

Also, during the latter stages of the development of the land bank, the City of Niagara Falls inquired about entering into BENLIC. As BENLIC had already selected its 11-member Board of Directors and FGUs are required to have at least one seat on the Board, it was not feasible to bring Niagara Falls on board given the time constraints of submitting this application. However, Mayor Paul Dyster stated in his State of the City Address on March 15<sup>th</sup> that Niagara Falls "...stand(s) ready to participate in a regional land bank" and it is anticipated that one of the first actions of BENLIC will be to expand its Board of Directors to provide a membership in BENLIC to Niagara Falls, thereby creating a land bank that crosses county borders.

### ***3. Explain why a land bank is needed in the jurisdictions in which the land bank will operate?***

The need for a land bank in Erie County can be summarized through four needs: the growing vacant, abandoned, foreclosed, and tax-delinquent property issue; the County's role as foreclosing governmental unit (FGU); the specific powers of the land bank legislation; and regional cooperation and knowledge transfer.

#### **Property Problem**

Vacant and abandoned properties are a growing problem in Erie County and the City of Buffalo. The issue is no longer restricted to the urban core and has become a substantial struggle in our urban and rural communities as well. Yet despite the regional scope of the problem, the hardest hit communities remain within the urban core. According to the 2010 Census, 8.8% of all housing units in Erie County were vacant. The issue is particularly problematic in the City of Buffalo, where 56.8% of the countywide inventory of vacant units is located.

Significant percentages of vacancies are located in other land bank partner communities, including the towns of Cheektowaga (7.0%) and Amherst (6.2%) and the cities of Lackawanna (2.3%) and Tonawanda (1.1%). All told, these five land bank communities account for nearly 3 of every 4 vacant housing units in the county. In addition to vacant housing units, there are also more than 16,000 vacant parcels in the City of Buffalo, 40% of which the City owns.

#### **County as Foreclosing Governmental Unit**

From the County's perspective, the need for a land bank is based upon its role as the FGU for the 26 towns and 15 villages throughout the county. Under the Erie County Tax Act, the County makes the towns whole for delinquent taxes each year, thereby guaranteeing the tax levies established by the individual municipal budgets will be realized. However, this not only burdens the County with absorbing, and where possible, collecting on all of these lost taxes, but also with dealing with the ensuing liens it takes ownership of. Erie County is then responsible for foreclosure and title clearance when necessary as the towns and villages are left without financial claim to these properties.

Erie County, though pursuing a selective *in rem* auction on an as needed basis, holds many liens that are essentially uncollectable and, practically speaking, valueless. The inability for these properties to be developed is often due to advanced deterioration and weak market conditions. However, this is often compounded by the mounting tax liens which raise the financial outlay and risk for any

prospective redeveloper. Erie County, whether because of restrictive regulations or by past policy, has not previously made it a practice to strike property to itself at these auctions, and thus rather than becoming the owner and responsible party for these distressed properties, their status remains in limbo. However, these distressed, unmarketable properties that are beyond the point of private sector return require public sector intervention to relieve the blight on local communities and reestablish a market-driven use to once again become contributing tax-paying properties and community assets.

#### Land Bank Power

In addition to the obvious need for a land bank given what the data indicates, there is also a need for a land bank based on how it helps address these issues, specifically by the:

1. Powers granted in the New York land bank legislation;
2. Ability to grasp the scale of the problem;
3. Benefits of having a single entity working countywide on vacant and abandoned property.

Given the scale of the problem in the County, the City but generally all the municipalities, would benefit from the land bank's ability to bid on properties at tax foreclosure auctions for the amount of the tax liens. This significant power would allow BENLIC to cost effectively acquire property to achieve the goals within each municipality's respective land use, neighborhood, and economic development plans. More specifically, this power will assist with:

1. Land assembly;
2. Acquiring structures for historic preservation purposes, particularly in the City of Buffalo to support its soon-to-be-adopted Preservation Plan;
3. Neighborhood stabilization through the acquisition of destabilizing property for rehabilitation or demolition; and
4. Generating a new revenue source for the land bank and activities related to vacant and abandoned property more generally.

Given the well-defined mission and clear strategic plan of BENLIC, the City and County anticipate receiving additional financial assistance and other resources from Federal and State government, as well as foundations and the not-for-profit community. This will help to alleviate part of the burden on City and County resources and work towards a financially self-sufficient land bank.

#### Regional Knowledge Transfer

Beginning in 2007, the Erie County Association of Governments and, subsequently, the Erie County Legislature began hosting cross-sector Distressed Property Task Force meetings with representatives from county, city, town and village governments; state and federal elected officials; private sector organization; non-profits; and academia. This group overwhelmingly supported the establishment of a regional land bank as a central clearinghouse to combat the rise of vacant properties throughout the region. Quite simply, the regional scale of the issue requires a regional solution.

By its own right, the City of Buffalo has enough of a substantial problem that it could operate a land bank for itself. The City has been addressing these issues for years through various agencies, departments, and programs and has the most tools at its disposal for dealing with these issues. It currently devotes significant financial and staff resources to tackle vacant and distressed properties.

Therefore, a countywide land bank is the optimal solution because it recognizes the interconnections all municipalities have and the scope of the issue but more importantly, it provides the opportunity

to transfer skills and knowledge between and among all parties, in particular the extensive organizational capacity of the City of Buffalo.

For example, the land bank can develop skills, knowledge, and best practices through collaboration with the activities of the Buffalo Urban Renewal Agency (BURA) and Buffalo Urban Development Corporation (BUDC). This experience and organizational capacity can be passed down to municipalities, many of which lack their own organizational capacity to address vacant, abandoned, foreclosed, and tax-delinquent properties. The regional dialog via the land bank has the potential to be an important and valuable outcome of BENLIC's work.

A specific example is the City of Buffalo's Urban Homesteading Program which allows first-time homebuyers to purchase City-owned properties in designated areas for one dollar. This program also allows homeowners to purchase a City-owned vacant lot adjacent to their home in designated areas for one dollar. With a land bank in place, this strategy of disposing of properties can be extended to the rest of the county as well as expanded in other areas of the City where appropriate. This will not only increase the rate of homeownership but also decrease the amount of vacant properties.

This knowledge transfer and regional dialog can also take place through Erie County's extensive expertise in community development. In addition to providing technical support and assistance to municipal planning and community development departments to the cities, towns, and villages, the Erie County Department of Environment and Planning also provides direct program administration for the Community Development Block Grant consortium of 34 county municipalities.

***4. Describe the measurable results and economic impact the applicant expects to achieve through the operation of the land bank.***

The measurable results of BENLIC stem from the needs expressed above and its ability to purchase properties at auction for the amount of taxes owed. Therefore, the land bank's success will be measured by how many properties it was able to acquire for the various programs expected to be in operation within the land bank.

Success of the land bank will also be measured by its ability to secure additional resources from Federal and State governments, as well as, foundations and not-for-profits. The ability of the land bank to be self-supporting will be a significant measure of success. In addition to increasing resources, success will be measured by more effective and efficient use of resources and knowledge within and between cities, towns, and villages on vacant and abandoned property issues. Even if no additional resources are acquired, the land bank should be able to maximize the benefit of expenditures on a per parcel and/or neighborhood basis. The benefit should also be seen in the minimization of duplication of services amongst municipalities as well as increased staff preparedness based upon knowledge sharing.

As the land bank evolves, measurable results could include the number of properties rehabilitated or demolished. However, at this early stage in the development of the land bank, these types of activities should remain the responsibility of the municipality or its development agencies. While the land bank can facilitate these activities, the land bank should only undertake these activities when it receives specific funding for these activities or has developed a more secure financial position through its own efforts.

The economic impact of the land bank arises from the removal of the blighting influence of vacant and abandoned property and the transformation of that property into productive reuse. With a land bank in place, vacant and abandoned structures and land will no longer deter people and businesses considering locating and investing in the area. Surrounding property values will no longer be negatively affected in blighted areas and homeowners insurance will be more reasonable and easier to obtain. Putting these properties back into productive use will also get properties back on the tax rolls and increase the value of surrounding properties. Converting properties into productive reuse will allow the municipalities to reallocate existing revenues and resources from blight removal to maintenance and development activities.

***5. When is the land bank expected to begin operating? Include in this response the expected time line for when the land bank is expected to be created, when it is expected to begin operating, when it is expected it will acquire its first property and any other expected milestones.***

Upon approval by the State in June 2012, the following is a preliminary timeframe for specific BENLIC milestones.

| Milestone                           | Timeframe             |
|-------------------------------------|-----------------------|
| Incorporation                       | July 2012             |
| Seek External Funding               | August 2012           |
| Initial Operation and Board Meeting | September 2012        |
| Hire Executive Director             | October 2012          |
| Issue Requests for Foreclosure      | October 2012          |
| Acquire First Property              | October 2012          |
| Awarded Financial Assistance        | December 2012-ongoing |
| First Sale/Rehab/Disposal           | December 2013         |

The Board of Directors of BENLIC will immediately incorporate the organization and submit for non-profit status, while partner communities and their staff will immediately seek external funding through grants, foundations, and other funding sources.

BENLIC anticipates being in operation by September 2012 under the direction of an acting Executive Director, who will be a current employee of one of the FGUs. Under the direction of the acting Executive Director and through the utilization of existing staff and resources from the Erie County Department of Environment and Planning and City of Buffalo Office of Strategic Planning, BENLIC will operate and meet short term goals.

Initial short term property goals include the acquisition of properties to begin building a property inventory for the organization. Properties to be acquired will come from the list of candidate properties discussed further in Section 3B(3) below. Staffing and budgeting in the short and long terms are discussed below in Section 3C(1) and 3C(2) below.

### **3B — Property Information**

#### ***1. Describe the nature and extent of the inventory of vacant, abandoned and tax delinquent properties in the geographic area in which the land bank will operate.***

The Buffalo-Niagara region experienced significant suburban sprawl between 1950 and 2010, resulting in substantial population decline in the City of Buffalo and older, inner-ring suburbs such as Lackawanna, Cheektowaga, and the City of Tonawanda. This combination of exurban development and urban and suburban population decline has resulted in significant increases in vacant, abandoned, foreclosed, and tax-delinquent properties.

According to 2010 Census Data, there were 20,908 vacant housing units in the City of Buffalo and 15,902 vacant housing units in the remainder of the County. The table below indicates that nearly 3 out of every 4 vacant housing units are located in just five communities, with the vast majority being in the City of Buffalo.

| <b>Municipality</b> | <b>% Of Erie County's Vacant Housing Units</b> |
|---------------------|--|
| City of Buffalo     | 56.80%   |
| Town of Cheektowaga | 7.00%  |
| Town of Amherst     | 6.20%  |
| City of Lackawanna  | 2.30%  |
| City of Tonawanda   | 1.10%  |
| <b>TOTAL</b>        | <b>73.4%</b>                                   |

Currently, the County has more than 73,000 tax liens worth in excess of \$53,000,000. Appendix B provides a countywide map indicating the spatial extent of these properties. Although the properties are indicated as tax delinquent, it is important to recognize the relationship between delinquency and abandonment in so much as delinquency is a significant predictor of future vacancy and abandonment. Therefore, many of the properties indicated as tax delinquent are likely vacant and abandoned or represent future abandonments. Once formed and through consultation with municipalities, BENLIC will be able to adequately distinguish between tax lien properties and vacant and abandoned properties.

Vacant housing is not the only issue, as vacant parcels of land are also troublesome, particularly in the City of Buffalo which has 16,391 vacant parcels, representing 17.28% of the total parcels in the City. The City currently owns 6,570 (40%) of those vacant land parcels. The following presents a breakdown of 6,923 vacant and abandoned properties owned by the City of Buffalo:

- 6,570 vacant land parcels
- 283 structures slated for demolition
- 56 structures listed for sale
- 14 vacant capital assets (closed schools, fire houses, libraries, etc.)

#### ***2. Describe how the land bank will acquire property?***

The following describes the primary methods BENLIC will employ to acquire property:

- A. Via tax foreclosure using the powers granted in the New York land bank legislation. For structures, the land bank will use a lien to value ratio to determine which properties will be

fiscally suitable for the land bank to acquire. For vacant land, the land bank will determine land assemblage areas and acquire land for uses such as economic development.

- B. BENLIC will acquire property twice a year through a Request for Foreclosures (RFF) process. The RFF process will allow municipalities to request BENLIC to acquire specific tax lien properties. BENLIC will acquire the properties or the tax liens. In the case of properties, BENLIC will undertake the foreclosure process by clearing title and paving way for reuse.

These processes are intended to avoid having the land bank become inundated with hundreds of properties that have little or no value and the municipalities want to dispose of. Rather, they will allow BENLIC, in the short term, to strategically take title to properties that can result in positive financial return in order to provide much needed operating funds. It is important to note that the land bank will not be engaged in foreclosures on properties that are inhabited.

### ***3. Describe the expected inventory of property that will be acquired by the land bank.***

Through development of this application and required land bank documentation, a list of potential candidate properties was developed. The list was developed after careful consideration and analysis and based upon four primary criteria:

1. Properties were selected that had marketable value and could provide needed revenue to the land bank and/or required limited capital investment and ongoing costs to the land bank.
2. Properties were chosen from among the four FGUs, as well from the municipalities that have been engaged in this process and passed resolutions of support, specifically the towns of Amherst and Cheektowaga and the villages of Angola and Springville.
3. Individual municipalities identified important, urgent, or otherwise necessary properties for inclusion on the list.
4. That the list of properties includes various property types with different problems and potential based on what are expected to be specific programs within the land bank. The land bank envisions having land assembly; side lot; clean and green; demolition, rehab, and sales as major programs and therefore properties were selected based on meeting the needs of these types of programs.

BENLIC expects to choose initial properties to be acquired based upon a list of target candidates developed during this application process, as well as a Request for Foreclosure solicitation directed toward all municipalities within BENLIC's service area. Currently, the candidate list includes more properties located in the cities of Buffalo, Lackawanna, and Tonawanda; the towns of Amherst and Cheektowaga; and the villages of Angola and Springville. Appendix C provides maps of the location of candidate properties in each of these communities. The properties indicated, except in the case of Buffalo, were chosen through the steps outlined above. The City of Buffalo properties identified are properties to be auctioned at the City's upcoming in rem auction and shown as an example of the number of potential properties for sale at tax auctions and representative of potential land bank properties.

### ***4. Describe how the land bank will dispose of property. Include any priorities for use of real property disposed of by the land bank.***

The land bank intends to develop numerous programs to dispose of real property, following best practices from other land banks and the City of Buffalo's experience and knowledge. As stated



above, the land bank has identified candidate properties within the land bank communities and the following table presents the potential uses of properties based on proposed land bank programs.

The land bank will dispose of property in accordance with the goals identified in existing municipal, county, and regional plans. For example, the land bank will hold and facilitate the transfer of vacant lots for appropriate uses as identified in the City of Buffalo's Comprehensive Plan.

***5. Describe the geographic area in which the land bank will operate. Include whether the area is primarily urban, suburban or rural.***

Erie County covers an expansive area of 1,044 square miles of land. This contains communities of all types: urban, suburban, and rural. Geographic location, however, is irrelevant to the pervasive nature of chronically vacant houses, abandonments, foreclosures, and tax-delinquencies. The County, as an FGU, has partnered with three other FGUs, the cities of Buffalo, Lackawanna and Tonawanda, as well as other municipalities within Erie County.

The urban, suburban, and rural nature of properties aligns well with the 2006 *Framework for Regional Growth*, a bi-county plan between Erie and Niagara counties developed to address issues of regional importance and establish basic policies and principles to guide future growth and development within the region. Although not specifically called for or envisioned at the time, it is clear that a land bank represents a significant tool to achieve the goals of the *Framework*. Within the *Framework*, the counties have identified a three-tiered development pattern and formed Planning Policy Areas built around the following typology:

- ***Developed:*** The areas extending outward from Buffalo that form the contiguous area of urban and suburban development and are serviced with existing public sewer, water, and transportation infrastructure.
- ***Developing:*** The areas of newer development and sparse settlement that are under development pressure and demand for sewer, water, and transportation infrastructure.
- ***Rural:*** The County's least developed areas with large contiguous blocks of agricultural land and forest and small incorporated rural villages.

The foreclosed, vacant, abandoned, and tax-delinquent property crisis knows no bounds within Erie County and has impacted all communities in the Developed, Developing, and Rural Planning Policy Areas. Although the problem is most pronounced in the Developed, high density, urbanized areas, it has grown within traditionally secure suburban areas and rural villages. The land bank, through the RFF process, will operate in communities that fall within the Developed, Developing, and Rural policy areas and support the goals and recommendation of the *Framework*.

### **Part 3 — C: Land bank organization and financing**

#### **1. Describe in detail how the land bank's activities will be funded. Include a description of all financial resources to be made available to the land bank, including any in-kind contributions.**

The long-term requirement is that BENLIC is successful in its mission and achieves a state of financial independence. To this end, municipalities will be expected to continue many activities associated with vacant and abandoned properties. Shifting full responsibility to the land bank for vacant and abandoned property in Erie County would financially overburden the land bank.

During its early operation, BENLIC will be funded through receipt of a portion of County tax payments on properties sold by the land bank; cash contributions from Erie County; public and private grant foundation monies; in-kind services from participating municipalities, indirect use of federal HOME Investment Partnership and Community Development Block Grant monies, and revenue from property sales. Appendix D to this application includes a Revenue/Expenditure Budget for the Corporation.

The primary focus of the land bank will be the strategic acquisition of property at tax foreclosure. With this mission, the land bank is expected to incur the following costs:

1. Property acquisition at tax foreclosure;
2. Property maintenance (e.g., insurance, cutting, boarding); and
3. Property disposition (e.g., broker fees, closing costs)

#### **2. Explain how the land bank will be staffed.**

During the initial start-up of the land bank, an acting Executive Director will be chosen from among the highly qualified staffs of the FGUs to assist in necessary start-up activities. Technical support and administrative staff will be provided through in-kind services from participating jurisdictions. Staff from the Erie County Department of Environment and Planning and the City of Buffalo Office of Strategic Planning will work closely with the Erie County Department of Real Property Tax Services and the City of Buffalo Department of Assessment and Taxation on planning for the specific tax-delinquent properties that will be acquired by the land bank from the initial list of candidate properties.

A permanent Executive Director will be hired by October 2012. Once employed, the FGUs will begin the process transferring liens/properties to the Land Bank for immediate maintenance efforts or quick disposition. Properties can also be obtained through the various FGUs foreclosure processes and RFF system noted above.

A property manager and additional operational staffing will be considered once the land bank acquires property in order to effectively coordinate and oversee the acquisition, maintenance, improvements, and disposition of vacant and abandoned properties. This is not expected to occur until year two or three of BENLIC's operation.

**3. Describe the nature and extent of the authorization for sharing of future property tax revenues?**

As outlined in Section 9.02 of the Intermunicipal Agreement provided in Appendix E, the sharing of property tax revenue with the land bank is not a requirement. It will be the intent of BENLIC to initiate immediate discussions with partner municipalities that would result in the transfer of future tax revenue to BENLIC within the limitations of the NYS land bank law. This is necessary to insure that short term public subsidies are gradually phased out within three years.

**Part 4 — Required Appendices Attach copies of the documents listed below.**

**1. Copies of the local law(s), ordinance(s) and/or resolution(s) for creation of the land bank.**

Copies of resolutions from the Erie County Legislature and cities of Buffalo, Lackawanna, and Tonawanda are provided in Appendix F. Also included are resolutions of support from the Association of Erie County Governments; Village of Springville; Town of Orchard Park; Village of Hamburg; Town of Cheektowaga; and Town of Eden. A letter of support is also provided from Erie County Clerk Christopher L. Jacobs.

**2. Copies of all intergovernmental agreements, if applicable.**

The Intermunicipal Agreement among the cities of Buffalo, Lackawanna, and Tonawanda and Erie County is provided in Appendix E.

**3. A copy of the proposed certificate of incorporation and proposed by-laws of the land bank.\***

The proposed Certificate of Incorporation for the Buffalo Erie Niagara Land Improvement Corporation is provided in Appendix G. A copy of the proposed By-Laws is provided in Appendix H.

**4. A copy of the proposed non-discrimination and affirmative action policy of the land bank that at a minimum, shall state that the land bank shall not discriminate upon the basis of race, creed, color, sex or national origin and that any transferee or purchaser of land bank property and every successor in interest in such property shall not discriminate upon the basis of race, creed, color, sex or national origin in the sale, lease or rental, or in the use or occupancy of the property or improvements erected or to be erected thereon or any part thereof. \***

A copy of the proposed non-discrimination and affirmative action police of BENLIC is provided in Appendix I.

*\* As the Act prohibits land banks from being formed until approval of ESD, copies of these items are to be supplied in draft form. ESD understands that the proposed documents that are adopted by the land bank may differ from what is provided with this application.*

Appendix B:  
Maps of Tax-Delinquent, Vacant,  
Abandoned, and Foreclosed  
Properties

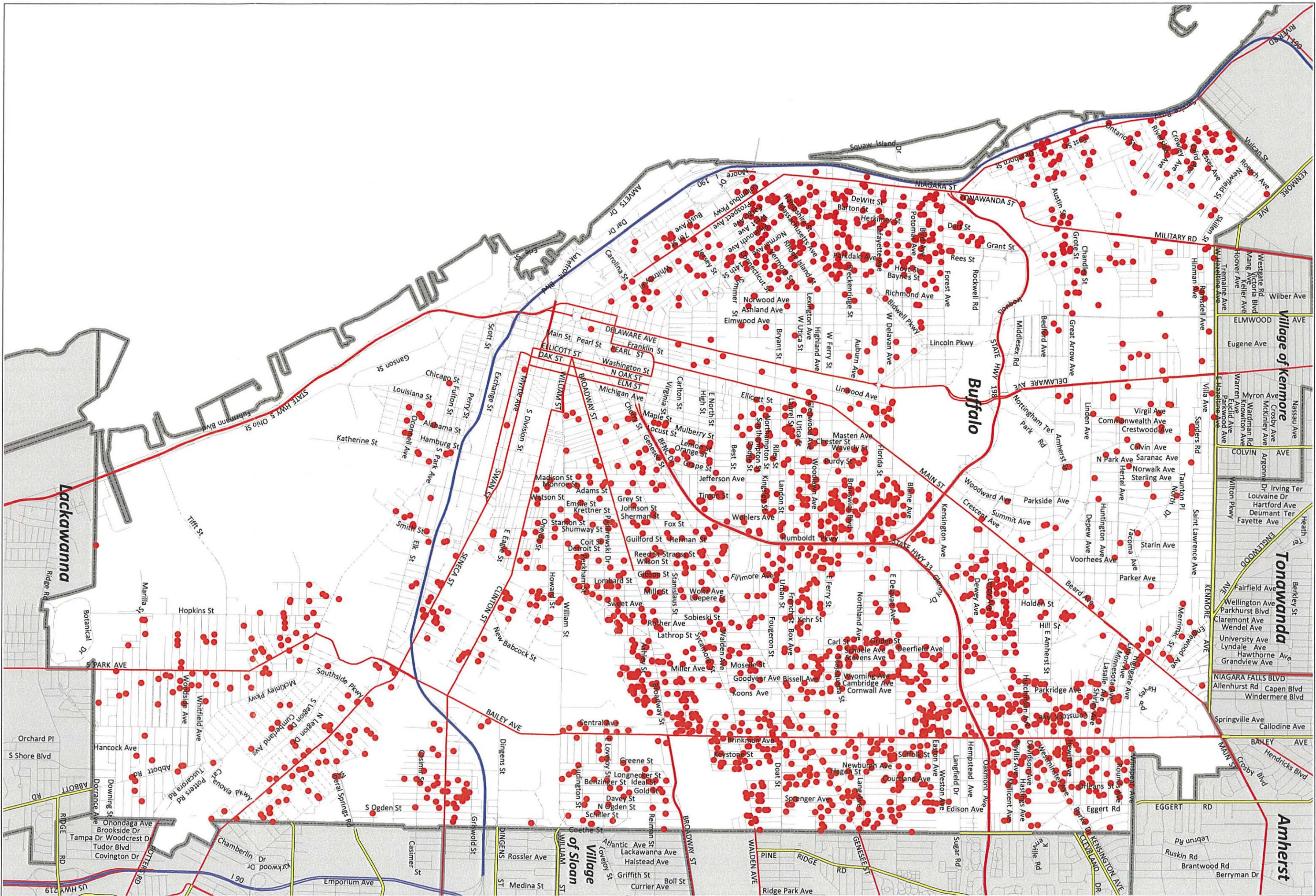






Appendix C:  
Maps of Candidate Properties for  
Land Bank Acquisition





Map Prepared by the Erie County  
Department of Environment & Planning  
Division of Planning  
Office of Geographic Information Services  
March, 2012



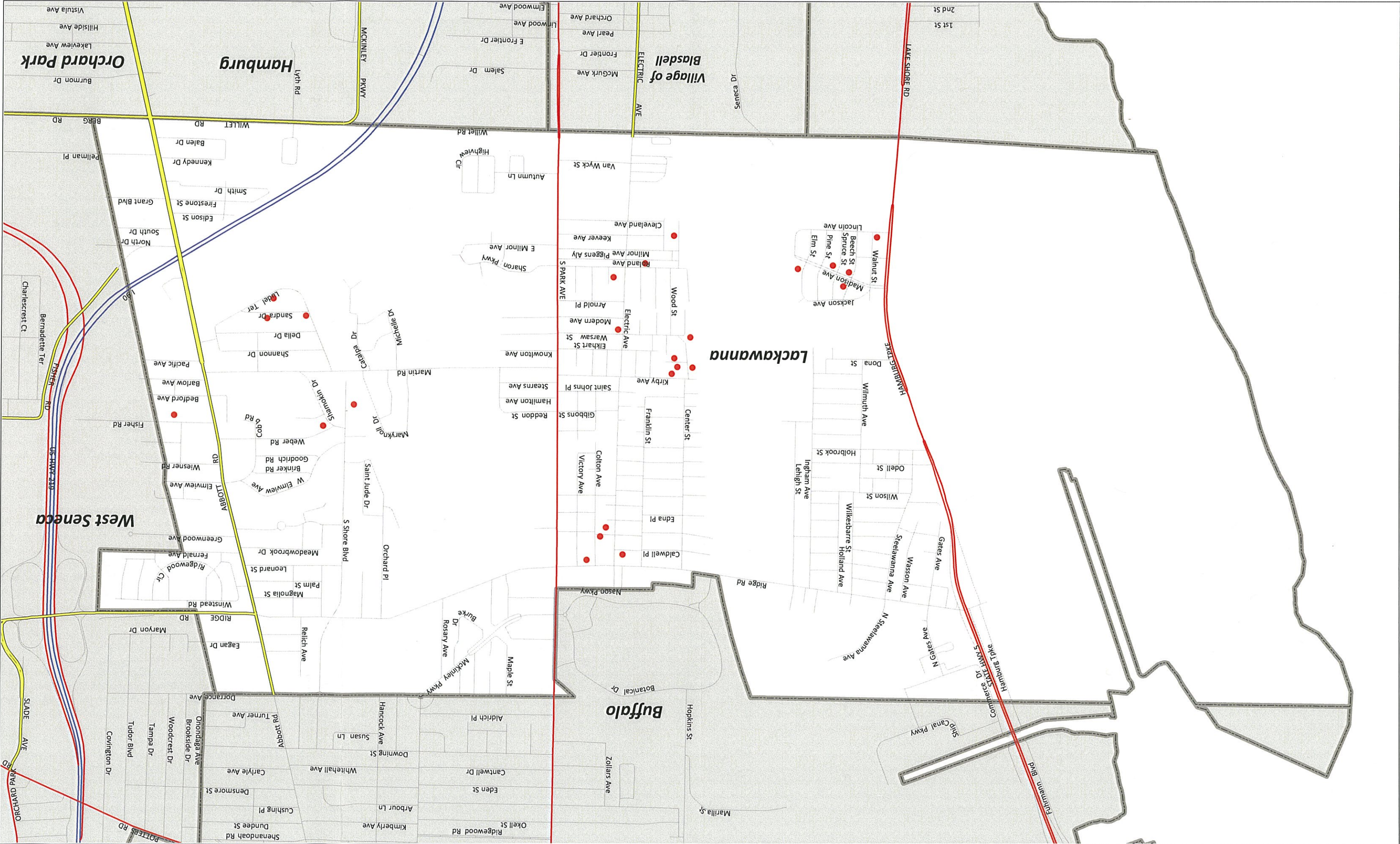
# City of Buffalo

## Land Bank Property Candidates

● Candidate Properties



**City of Lackawanna**  
**Land Bank Property Candidates**



● Candidate Properties

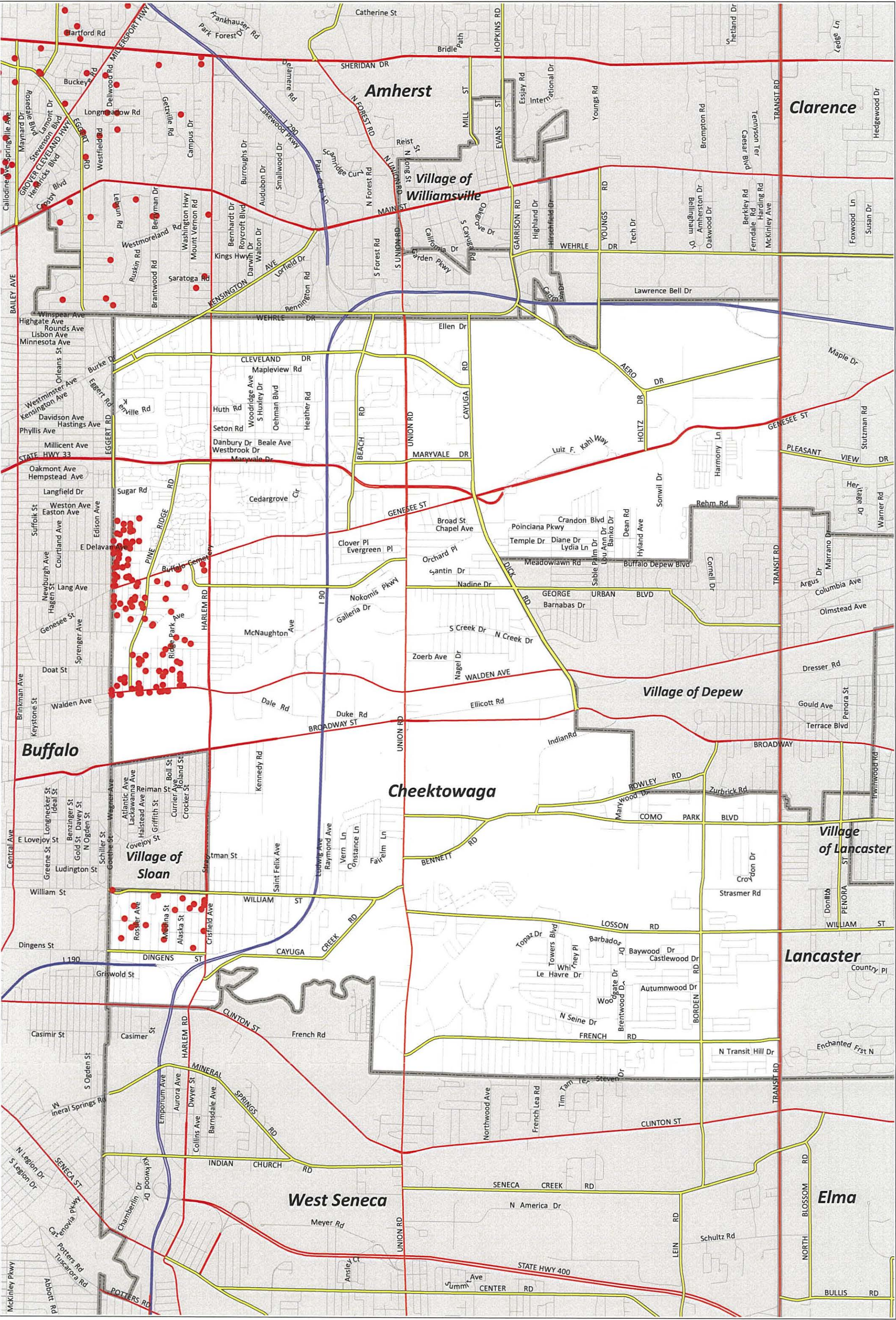




# City of Tonawanda Land Bank Property Candidates





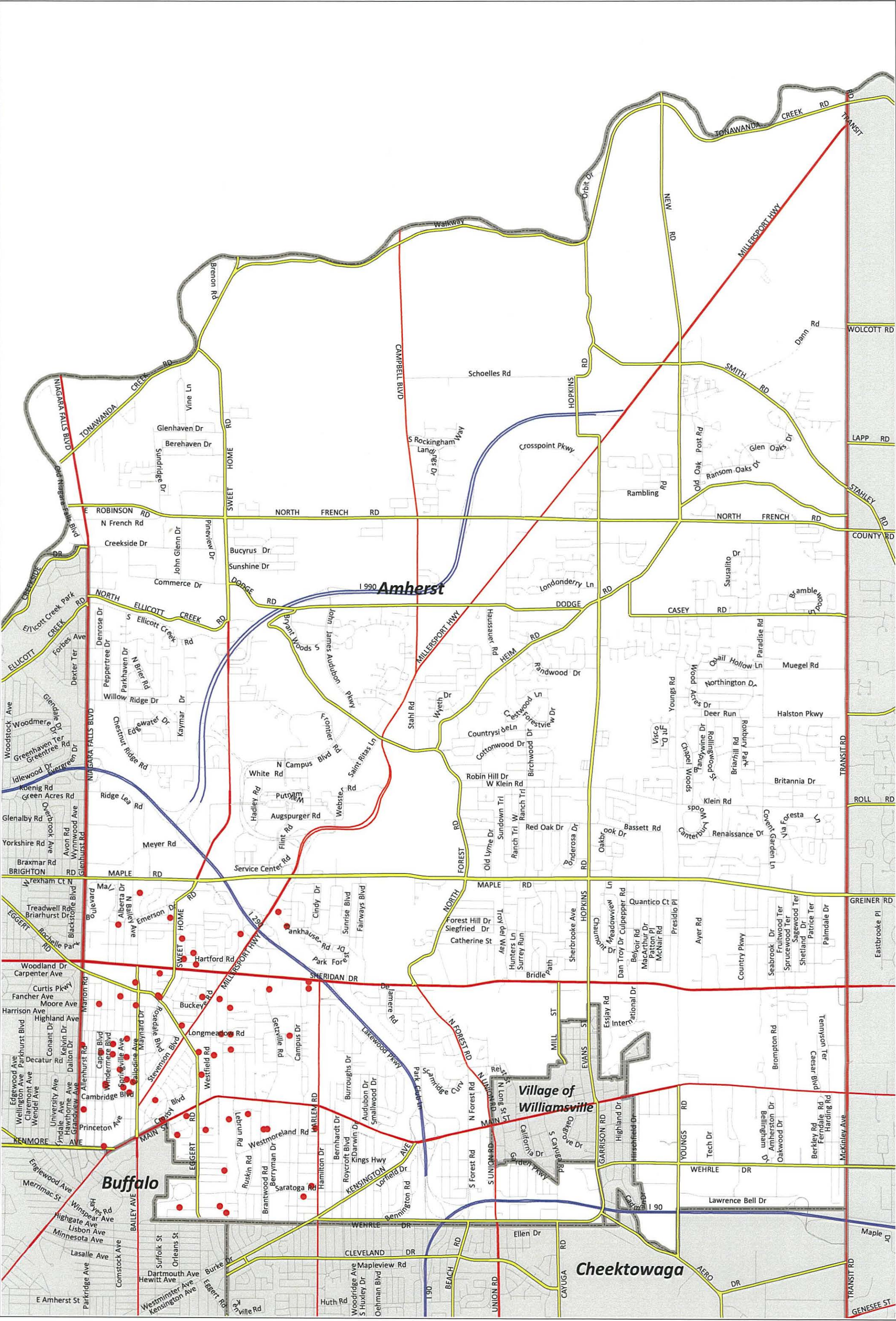


# Town of Cheektowaga

## Land Bank Property Candidates

● Candidate Properties





Map Prepared by the Erie County  
Department of Environment & Planning  
Division of Planning  
Office of Geographic Information Services  
March, 2012

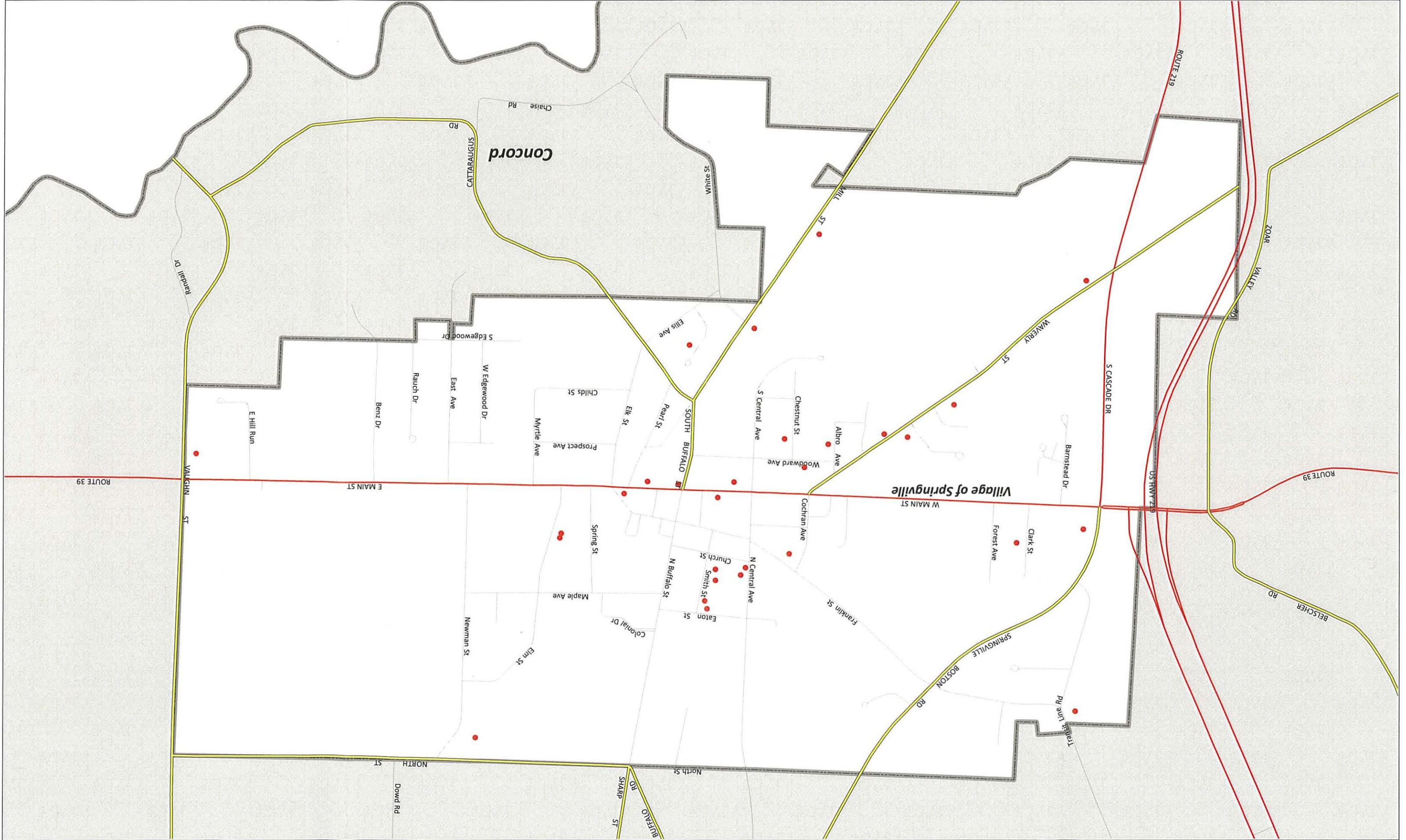


# Town of Amherst

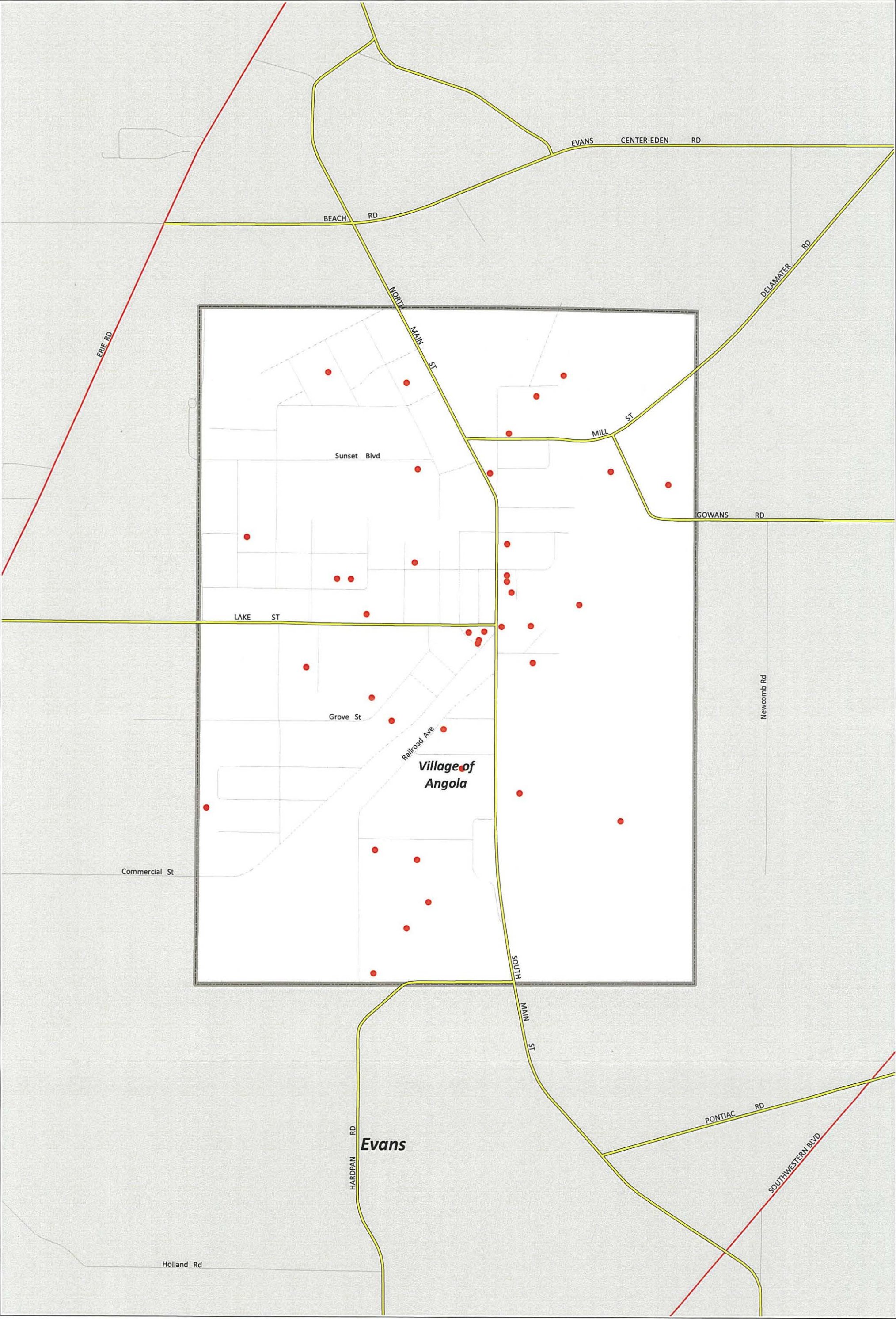
## Land Bank Property Candidates

● Candidate Properties









**Village of Angola**  
***Land Bank Property Candidates***

● Candidate Properties



# Appendix D: Revenue and Expenditure Budget

DRAFT-FOR DISCUSSION PURPOSES ONLY  
**BUDGET REPORT FOR BUFFALO ERIE NIAGARA LAND IMPROVEMENT CORPORATION**  
**SOURCES/USES**  
**2013 FISCAL YEAR**

**Revenues:**

|                               |               |                        |
|-------------------------------|---------------|------------------------|
| Erie County                   | \$ 100,000.00 |                        |
| Sales                         | \$ 250,000.00 | 10 at \$25,000         |
| Property Tax Transfer (5/50)  | \$ 4,000.00   | County only-Others TBD |
| Erie County In Kind Staff     | \$ 128,574.00 |                        |
| C. Buffalo In Kind Staff      | \$ 200,000.00 |                        |
| Other Municipal In Kind Staff | \$ 3,125.00   | Insp Time              |
| State/Federal Grants          | \$ 250,000.00 | Projected              |
| <b>Total Revenues</b>         |               | <b>\$ 935,699.00</b>   |

**Expenditures:**

|                                  |               |                   |
|----------------------------------|---------------|-------------------|
| Salary & Fringes- In Kind        | \$ 331,699.00 |                   |
| Salary and Fringes- New Exec Dir | \$ 80,171.00  |                   |
| Contractual                      | \$ 35,000.00  |                   |
| Reserve for future acquisitions  | \$488,829.00  |                   |
| <b>Total Expenditures</b>        |               | <b>935,699.00</b> |
| <b>Balance</b>                   |               | <b>\$0</b>        |

# Appendix E: Intermunicipal Agreement

**INTERMUNICIPAL AGREEMENT**

BETWEEN

ERIE COUNTY,

THE CITY OF BUFFALO,

THE CITY OF LACKAWANNA

AND

THE CITY OF TONAWANDA

FOR THE CREATION OF THE

**BUFFALO ERIE NIAGARA LAND IMPROVEMENT CORPORATION**

(a New York Land Bank)



This Intermunicipal Agreement made and entered into this 29<sup>th</sup> day of March, 2012("Agreement") under the New York Land Bank Act, Article 16 of the New York Not-for-Profit Corporation Law, between **ERIE COUNTY** (hereinafter the "County") and the **CITY OF BUFFALO**, (hereinafter "Buffalo"), the **CITY OF LACKAWANNA** (hereinafter "Lackawanna"), the **CITY OF TONAWANDA**, (hereinafter "Tonawanda") (hereinafter collectively referred to as the "Parties") for the purpose of establishing and creating the **BUFFALO ERIE NIAGARA LAND IMPROVEMENT CORPORATION**, a type C not-for-profit corporation to administer and implement the purposes and objectives of this Agreement.

### **RECITALS**

WHEREAS, in enacting the New York Land Bank Act as Article 16 of the New York Not-for-Profit Corporation Law (hereinafter the "Land Bank Act"), the Legislature found that there exists in the state of New York a continuing need to strengthen and revitalize the economy of the state of New York and communities in this state and that it is in the best interests of the state of New York and communities in this state to confront the problems caused by vacant, abandoned and tax delinquent properties through the creation of land banks in a coordinated manner to foster the development of that property and to promote economic growth; and

WHEREAS, Section 1603 of the Land Bank Act permits any or any two or more foreclosing governmental units to enter into an intergovernmental cooperation agreement to establish a land bank; and

WHEREAS, the Parties herein agree that the establishment of a land bank would be beneficial to the Parties and to the citizens of the City of Buffalo, the City of Lackawanna, the City of Tonawanda and the County of Erie; and

WHEREAS, the Parties desire to create the Buffalo Erie Niagara Land Improvement Corporation as a type c not-for-profit corporation to operate as a land bank in accordance with the Land Bank Act and to exercise the powers, duties, functions, and responsibilities of a land bank under the Land Bank Act.

Accordingly, the Parties agree to the following:

### **ARTICLE I** **DEFINITIONS**

As used in this Agreement the following terms shall have the meanings provided in this Article.

**Section 1.01. "Board of Directors" or "Board"** means the Board of Directors of the Land Bank.

**Section 1.02. "Agreement"** means this intermunicipal agreement between the Parties.

**Section 1.03. "Effective Date"** means the date upon which all of the following are satisfied:

- (a) the Agreement is approved by resolution of the Erie County Legislature and signed by the County Executive;
- (b) the Agreement is approved by Ordinance of the Common Council of the City of Buffalo and signed by the Mayor; and
- (c) the Agreement is approved by Ordinance of the Common Council of the City of Lackawanna and signed by the Mayor; and
- (d) the Agreement is approved by Ordinance of the Common Council of the City of Lackawanna and signed by the Mayor; and
- (e) the creation of the Buffalo Erie Niagara Land Improvement Corporation is approved by the Empire State Development Corporation in accordance with Section 1603(g) of the Land Bank Act.

**Section 1.04. "Fiscal Year"** means the fiscal year of the Land Bank, which shall begin on January 1st of each year and end on the following December 31st.

**Section 1.05. "Land Bank Act"** means Article 16 of the New York Not-for-Profit Corporation Law and as it may be hereafter amended or replaced, subject to the provisions of Section 11.11 of this Agreement.

**Section 1.06. "Land Bank"** means the type c not-for-profit corporation established pursuant to and in accordance with the provisions of this Agreement and known as the Buffalo Erie Niagara Land Improvement Corporation.

**Section 1.07. "Party" or "Parties"** means either individually or collectively, as applicable, the County of Erie, City of Buffalo, City of Lackawanna and/or the City of Tonawanda.

**Section 1.08. "Person"** means an individual, authority, limited liability company, partnership, firm, corporation, organization, association, joint venture, trust, governmental entity, or other legal entity.

**Section 1.09. "Quorum"** means a majority of the members of the Board, not including vacancies.

**Section 1.10. "Real Property"** means all lands and the buildings thereon, all things permanently attached to land or to the buildings thereon, and any interest existing in, issuing out of, or dependent upon land or the buildings thereon.

**Section 1.11. "Tax Delinquent Property"** means real property encumbered by an outstanding tax lien for a delinquent tax as defined in Section 1102 of the New York Real Property Tax Law, the Erie County Tax Act, or such other general, special or local laws as may be applicable to the property tax enforcement procedures of the Parties.

**Section 1.12. "State"** means the state of New York.

## **ARTICLE II**

### **PURPOSE**

**Section 2.01. Purpose.** The purpose of this Agreement is to create the Buffalo Erie Niagara Land Improvement Corporation to help address the Parties' problems regarding vacant and abandoned property in a coordinated manner and to further foster the development of such property and promote economic growth through the return of vacant, abandoned, and tax-delinquent properties to productive use.

**Section 2.02. Powers and Functions.** The Buffalo Erie Niagara Land Improvement Corporation shall have all of those powers, duties, functions, and responsibilities authorized pursuant to the Land Bank Act.

## **ARTICLE III**

### **CREATION OF LAND BANK**

**Section 3.01. Creation and Legal Status of Land Bank.** The Land Bank is established pursuant to the Land Bank Act as a type c not-for-profit corporation to be known as the "Buffalo Erie Niagara Land Improvement Corporation".

**Section 3.02. By-Laws, and Policies and Procedures.** The Board shall adopt by-laws consistent with the provisions of this Agreement and the Land Bank Act within forty-five (45) days of the Effective Date. The Board shall adopt policies and procedures consistent with the provisions of this Agreement and the Land Bank Act within ninety (90) days of the Effective Date.

**Section 3.03. Principal Office.** The principal office of the Land Bank shall be determined by the Board but shall always be in a location within the geographical boundaries of Erie County.

**Section 3.04. Title to Land Bank Assets.** All Real Property held in fee by the Land Bank shall be held in its own name.

**Section 3.05. Tax-Exempt Status.** The Parties intend the activities of the Land Bank to be governmental functions carried out by an instrumentality or political subdivision of the State as described in section 115 of Title 26 of the United States Internal Revenue Code, or any corresponding provisions of any future tax code. The Real Property of the Land Bank and all of



the Land Bank's income and operations shall be exempt from all taxation by the State of New York or any of its political subdivisions.

**Section 3.06. Extinguishment of Taxes and Assessments.** Upon the request of the Land Bank and for the purposes of fostering the goals and objectives of the Land Bank, any Party, at its option and in its discretion and subject to any necessary legal approvals, may extinguish any Real Property Taxes or special assessments levied by that Party against Real Property owned by the Land Bank.

**Section 3.07. Compliance with Law.** The Land Bank shall comply with all federal, State, and local laws, ordinances, rules, regulations, and orders applicable to this Agreement.

**Section 3.08. Relationship of Parties.** The Parties agree that the County shall not be responsible, in whole or in part, for the acts of the employees, agents, and servants of Buffalo, Lackawanna or Tonawanda, whether acting separately or in conjunction with the implementation of this Agreement, and that Buffalo, Lackawanna or Tonawanda shall not be responsible, in whole or in part, for the acts of the employees, agents, and servants of the County, whether acting separately or in conjunction with the implementation of this Agreement. The Parties shall only be bound and obligated under this Agreement as expressly agreed to by each Party. The Land Bank shall not obligate Buffalo, Lackawanna or Tonawanda or the County nor shall any obligation of the Land Bank constitute an obligation of Buffalo, Lackawanna or Tonawanda or the County.

**Section 3.09. No Third-Party Beneficiaries.** Except as otherwise specifically provided, this Agreement does not create, is not intended to create in any non-Party, by implication or otherwise, any direct or indirect benefit, obligation, duty, promise, right to be indemnified (such as contractually, legally, equitably, or by implication), right to be subrogated to any Party's rights under this Agreement, and/or any other right or benefit.

**Section 3.10. Additional Parties to Agreement.** At any time subsequent to the Effective Date, the County of Niagara or an additional foreclosing governmental unit located in whole or in part within Erie or Niagara County may become a Party to this Agreement by completing the following requirements:

- (a) approval of the Board as it exists before the addition of the applicable foreclosing governmental unit and execution by the Board chairperson of a signature page annexed hereto;
- (b) approval from Erie County, the City of Buffalo, the City of Lackawanna, and the City of Tonawanda, and other foreclosing governmental units that are signatories to this Agreement before the addition of the additional foreclosing governmental unit;
- (c) adoption of a local law, ordinance, or resolution as appropriate to the applicable foreclosing governmental unit; and
- (d) execution by an authorized representative of the applicable foreclosing governmental unit of a signature page annexed hereto.

**ARTICLE IV**  
**BOARD, EXECUTIVE DIRECTOR AND STAFF**

**Section 4.01. Board Composition.** The Land Bank shall be governed by a Board of Directors as described in the Certificate of Incorporation. Each member shall serve without compensation. Each member shall continue to serve until the appointment and qualification of his or her successor. Vacancies in the Board occurring otherwise than by expiration of term shall be filled for the unexpired term.

**Section 4.02. Initial Members.** The first term of the first Board members shall commence on the date of the first Board meeting. The initial Members of the Board of the Land Bank shall be:

- |  |   |
|--|---|
| 1. Brendan R. Mehaffy, Executive<br>Director of Strategic Planning of the<br>City of Buffalo                       | 920 City Hall<br>Buffalo, New York 14202  |
| 2. Timothy A. Ball<br>Corporation Counsel of the City of<br>Buffalo  | 1100 City Hall<br>Buffalo, NY 14202   |
| 3. James Comerford, Jr.<br>Commissioner of Permit and Inspection<br>Services of the City of Buffalo                | 324 City Hall<br>Buffalo, NY 14202  |
| 4. Janet Penksa<br>Commissioner of Administration,<br>Finance, Policy and Urban Affairs for<br>the City of Buffalo | 203 City Hall<br>Buffalo, NY 14202  |
| 5. David P. Comerford<br>General Manager, Buffalo Sewer<br>Authority   | 1038 City Hall<br>Buffalo, NY 14202   |
| 6. Marie R. Whyte<br>Commissioner of Erie County<br>Department of Environment and<br>Planning                      | Edward A. Rath Building<br>95 Franklin Street, 10th Floor<br>Buffalo, New York 14202          |
| 7. Joseph L. Maciejewski<br>Director, Erie County Department of<br>Real Property Tax Services                      | Edward A. Rath Building<br>95 Franklin Street, 1st floor, Room 100<br>Buffalo, New York 14202 |
| 8. Michael A. Siragusa<br>Erie County Attorney<br>Department of Law  | Edward A. Rath Building<br>95 Franklin Street, Suite 1634<br>Buffalo, New York 14202          |
| 9. Frank E. Krakowski, City Assessor-<br>City of Lackawanna  | Lackawanna City Hall<br>714 Ridge Road<br>Lackawanna, New York 14218                          |

- |  |  |
|--|--|
| 10. Joseph M. Hogenkamp<br>City Treasurer<br>City of Tonawanda                         | City of Tonawanda<br>200 Niagara Street<br>Tonawanda, New York 14150 |
| 11. Christina Orsi<br>Empire State Development – Western<br>New York Regional Director | 95 Perry Street<br>Suite 500<br>Buffalo, New York 14203              |

The qualifications, manner of appointment, and terms of members of the Board of Directors, after the initial terms, shall be as follows:

1. The Executive Director of Strategic Planning of the City of Buffalo;
2. The Corporation Counsel of the City of Buffalo;
3. The Commissioner of Permit and Inspection Services of the City of Buffalo
4. Commissioner of Administration, Finance, Policy and Urban Affairs for the City of Buffalo;
5. General Manager, Buffalo Sewer Authority;
6. Commissioner of Erie County Department of Environment and Planning;
7. Director, Erie County Department of Real Property Tax Services;
8. The Erie County Attorney (Erie County Department of Law);
9. The City Assessor of the City of Lackawanna;
10. The City Treasurer of the City of Tonawanda
11. Western New York Regional Director, Empire State Development Corporation

**Section 4.03 Term of Office.** Members of the Board of Directors shall serve by virtue of office and they shall serve so long as he or she shall hold the office.

**Section 4.04. Qualifications.** All members of the Board of the Land Bank shall be residents of the County of Erie, except such member who serves as an officer of a foreclosing governmental units located outside of Erie County shall be residents of the County in which the foreclosing governmental unit is located.

**Section 4.05. Removal.** The Board shall establish rules and requirements relative to the attendance and participation of members in its meetings, regular or special. Such rules and regulations may prescribe a procedure whereby, should any member fail to comply with such



rules and regulations, such member may be disqualified and removed automatically from office by no less than a majority vote of the remaining members of the Board, and that member's position shall be vacant as of the first day of the next calendar month. Any person removed under the provisions of this paragraph shall be ineligible for reappointment to the Board, unless such reappointment is confirmed unanimously by the Board.

**Section 4.06. Vacancies.** A vacancy among the members of the Board appointed under section 4.01, whether caused by the death, resignation, or removal of a Board member, shall be filled in the same manner as the original appointment for the balance of the unexpired term. Such vacancy shall be filled as soon as practicable.

**Section 4.07. Meetings.** The Board shall conduct its first meeting no later than thirty (30) calendar days after the Effective Date. The Board shall meet at least annually and hold such other meetings at the place, date, and time as the Board shall determine.

**Section 4.08. Records of Meetings.** The Board shall maintain a written record of each meeting. All meetings of the Board shall comply with the provisions of Section 1612(a) of the Land Bank Act and be subject to the New York Open Meetings Law and the New York Freedom of Information Law.

**Section 4.09. Quorum and Voting.** Presence for both quorum and voting at a Board meeting may include electronic communication by which such member of the Board is both seen and heard by the members of the Board and any members of the public at the meeting. All actions of the Board shall be approved by the affirmative vote of a majority of the members of the Board present and voting; provided, however, no action of the Board shall be authorized on the following matters unless approved by a majority of the total Board membership:

- (a) Adoption of by-laws and other rules and regulations for conduct of the Land Bank's business;
- (b) Hiring or firing of any employee or contractor of the Land Bank. This function may, by a majority vote of the total Board membership, be delegated to a specific officer or committee of the Land Bank, under such terms and condition, and to the extent, that the Board may specify;
- (c) The incurring of debt;
- (d) Adoption or amendment of the annual budget; and
- (e) Acquisition, sale, lease, encumbrance, or alienation of real property, improvements, or personal property.

**Section 4.10. Board Responsibilities.** The Board shall have all powers necessary to carry out and effectuate the purposes and provisions of this Agreement and the Land Bank Act, including all of those powers set forth in Section 1607 of the Land Bank Act.

**Section 4.11. Fiduciary Duty.** The members of the Board are under a fiduciary duty to conduct the activities and affairs of the Land Bank in the best interests of the Land Bank,

including the safekeeping and use of all Land Bank monies and assets. The members of the Board shall discharge their duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

**Section 4.12. Compensation.** The members of the Board shall serve without compensation. The Board may reimburse any member for expenses actually incurred in the performance of duties on behalf of the Land Bank.

**Section 4.13. Executive Director.** The Board may select and retain an executive director. An executive director selected and retained by the Board shall administer the Land Bank in accordance with the operating budget adopted by the Board, general policy guidelines established by the Board, other applicable governmental procedures and policies, and this Agreement. The executive director shall be responsible for the day-to-day operations of the Land Bank, the control, management, and oversight of the Land Bank's functions, and supervision of all Land Bank employees. All terms and conditions of the executive director's length of service shall be specified in a written contract between the executive director and the Land Bank. The executive director shall serve at the pleasure of the Board. The Board may delegate to the executive director any powers or duties it considers proper, subject to the constraints of Land Bank Act, and under such terms, conditions and extent that the Board may specify.

**Section 4.14. Employees.** The Land Bank may employ or otherwise contract for the services of any staff deemed necessary to carry out the duties and responsibilities of the Land Bank. Such staff may be employed as employees of the Land Bank, or the services of such staff may be retained pursuant to contracts with any Party or other public or private entities.

**Section 4.15. Conflicts of Interest.** Subject to the provisions of section 1614 of the Land Bank Act, no Member of the Board, or employee of the Land Bank shall acquire any interest, direct or indirect, in Real Property of the Land Bank, in any Real Property to be acquired by the Land Bank, or in any Real Property to be acquired from the Land Bank. No Member of the Board, or employee of the Land Bank shall have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used by the Land Bank. The Board shall establish policies and procedures requiring the disclosure of relationships that may give rise to a conflict of interest and may adopt ethical guidelines for Members of the Board and employees of the Land Bank. The Board shall require that any member of the Board with a direct or indirect interest in any matter before the Board disclose the member's interest to the Board before the Board takes any action on the matter.

## **ARTICLE V**

### **POWERS OF LAND BANK**

**Section 5.01. General Powers Under Land Bank Act.** The Land Bank shall have all those powers necessary to carry out and effectuate the purposes and provisions of the Land Bank Act including, but not limited to, all those powers specified under Section 1607 of the Land Bank Act, and all those other powers granted to Land Banks pursuant to the Land Bank Act or other statutory authority.

**Section 5.02. Purchase of Tax Liens.** The Land Bank may acquire liens relative to Tax Delinquent Property in accordance with Section 1616 of the Land Bank Act.

**Section 5.03. Execution of Legal Documents Relating to Real Property.** The terms of any contract or agreement concerning the sale, lease license, easement, encumbrance, or other alienation of any interest in Real Property, or improvements thereto, or personal property of the Land Bank, shall be approved by the Board. All contracts of the Land Bank shall be executed in the name of the Land Bank.

**Section 5.04. Civil Action to Protect Land Bank Real Property.** The Land Bank may institute a civil action to prevent, restrain, or enjoin the waste of or unlawful removal of any Real Property held by the Land Bank. The Land Bank may also institute any civil action to protect, clear title to, determine the rights of parties to, remove liens from, or that are otherwise related to the Real Property of the Land Bank.

**Section 5.05. Transfer of Interests in Real Property by Land Bank.** On terms and conditions, in a manner, and for an amount of consideration the Land Bank considers proper, fair, and reasonable, including for no monetary consideration, the Land Bank may convey, sell, transfer, exchange, lease as lessor, or otherwise dispose of Real Property or rights or interests in Real Property in which the Land Bank holds a legal interest to any public or private Person subject to the Public Authorities Law, and any other statutory requirements.

**Section 5.06. Structure of Conveyances.** Transactions shall be structured in a manner that permits the Land Bank to enforce contractual agreements, real covenants, and the provisions of any subordinate financing held by the Land Bank pertaining to development and use of the Real Property.

**Section 5.07. Disposition of Proceeds.** Any proceeds from the sale or transfer of Real Property by the Land Bank shall be retained, expended, or transferred by the Land Bank as determined by the Board in the best interests of the Land Bank and in accordance with the Land Bank Act.

## **ARTICLE VI**

### **RESTRICTIONS ON POWERS**

**Section 6.01. Eminent Domain Prohibited.** The Land Bank shall neither possess nor exercise the power of eminent domain.

**Section 6.04. Limitation on Political Activities.** The Land Bank shall not spend any public funds on political activities. Subject to the foregoing, this section is not intended to prohibit the Land Bank from engaging in activities authorized by applicable law.

**Section 6.05. No Waiver of Governmental Immunity.** The Parties agree that no provision of the Agreement is intended, nor shall it be construed, as a waiver by any Party of any governmental immunity provided under any applicable law.

**Section 6.06. Non-Discrimination.** The Land Bank shall comply with all applicable laws prohibiting discrimination.



**Section 6.07. Building and Housing Codes.** The Land Bank shall maintain all Real Property held by the Land Bank in accordance with applicable State laws and local codes.

**ARTICLE VII**  
**POLICIES FOR ACQUISITION, USE AND**  
**DISPOSITION OF PROPERTY**

**Section 7.01. Compliance with Land Bank Act.** In its acquisition and disposition of property, the Land Bank shall be subject to the Land Bank Act.

**Section 7.02. Compliance with Municipal Building Codes, Zoning Laws, and Land Use Controls.** The Land Bank shall be subject to all applicable city, town and village building codes, zoning laws and land use controls in its use and disposition of real property owned by the Land Bank. The Mayor and the Executive Director of Strategic Planning for the City of Buffalo shall be responsible for confirming that any proposed land banking activity within the City of Buffalo is in accordance with said codes, zoning laws, and land use controls of the City of Buffalo and shall provide written confirmation of such accordance prior to any land banking activity taking place within the City of Buffalo.

**Section 7.03. Consultation with Municipalities.** The Land Bank shall actively consult with Erie County and the cities, towns and villages of Erie County in respect to the selection of properties to be acquired and policies, plans and procedures to the disposition of such properties.

**Section 7.04. Consent of Cities.** Recognizing that the Cities of Buffalo, Lackawanna and Tonawanda, as well as the County, possess their own tax liens on real property within their respective territories, the Land Bank will not foreclose on County tax liens or more generally exercise the powers granted by the Land Bank Act for acquisition of property at tax foreclosure sale within foreclosing governmental unit over the written objection of the Mayor of such City.

**Section 7.05. Requests for Foreclosure.** Any town or village in Erie County may request that (a) the County transfer to the Land Bank the County's tax lien on any tax delinquent real property within such town's or village's territory and (b) the Land Bank foreclose on such lien, provided that the Land Bank may require as a precondition to such foreclosure that the requesting town or village agree to submit a bid for the property at the foreclosure sale. The Land Bank may accept a deed in lieu of foreclosure on such property; and it may convey the property to the requesting town or village in exchange for payment of the amount of the lien, including interest, costs and penalties.

**Section 7.06. Redevelopment Plans.** Subject to Sections 7.02 and 7.03 above, and after consultation with the specific municipalities affected, the Board of Directors may adopt redevelopment plans for properties held or to be disposed of by the Land Bank within the respective territories of such municipalities.

**Section 7.07. Identification of Funds.** Prior to Board action by the Land Bank to acquire property or any property interest, the Land Bank Executive Director shall produce for board review information identifying the funds of the Land Bank or any other funding source

that will cover for the carrying and disposition costs associated with the property or property interested proposed for acquisition.

## **ARTICLE VIII**

### **BOOKS, RECORDS, AND FINANCES**

**Section 8.01. Land Bank Records.** The Land Bank shall keep and maintain at the principal office of the Land Bank all documents and records of the Land Bank. All records of the Land Bank subject to any claimed privilege shall be made available to either Party, including the Erie County Comptroller. The records and documents shall be maintained until the termination of this Agreement and shall be delivered to any successor entity.

**Section 8.02. Financial Statements and Reports.** The Land Bank shall cause to be prepared, at the Land Bank's expense, audited financial statements (balance sheet, statement of revenue and expense, statement of cash flows, and changes in fund balance) on an annual basis. Such financial statements shall be prepared in accordance with generally accepted accounting principles and accompanied by a written opinion of an independent certified public accounting firm. The Land Bank shall be subject to audit by the office of the state comptroller in accordance with Section 1603(h) of the Land Bank Act.

**Section 8.03. Annual Budget.** The executive director, or other individual designated by the Board, shall prepare annually a budget for the Land Bank. The Board shall review and approve a budget for the Land Bank immediately preceding each Fiscal Year.

**Section 8.04. Deposits and Investments.** The Land Bank shall deposit and invest funds of the Land Bank, not otherwise employed in carrying out the purposes of the Land Bank, in accordance with an investment policy established by the Board consistent with laws and regulations regarding investment of Land Bank funds.

**Section 8.05. Disbursements.** Disbursements of funds shall be in accordance with guidelines established by the Board.

**Section 8.06. Performance Objectives.** Each Fiscal Year, the executive director, or other individual designated by the Board, shall prepare, for review and approval by the Board, objectives for the Land Bank's performance.

**Section 8.07. Real Property Inventory Records.** The Land Bank shall inventory all Real property owned, held, or disposed of by the Land Bank. The inventory shall be maintained as a public record and shall be available in accordance with Sections 1608(h) and (i), and Sections 1609(b) of the Land Bank Act.

## **ARTICLE IX**

### **FUNDING AND EXPENDITURES**

**Section 9.01. Budget Contributions.** While under no obligation, the Parties may contribute to the annual Land Bank budget in such manner as approved by the Party or Parties

**Section 9.02. Issuance of Bonds.** The Land bank may issue, sell, and deliver bonds in accordance with the provisions of Section 1611 of the Land Bank Act.

**Section 9.02. Tax Allocation.** Upon the adoption of a resolution by the County Legislature and / or the adoption of an ordinance by the Common Council of a City which is a party hereto, either party, or both parties collectively may provide for Fifty (50) percent of that Party's real property taxes collected on any specific parcel of real property identified in such resolution or ordinance (or both) to be remitted to the Land Bank for a period of five (5) years in accordance with the provisions of Section 1610(c) of the land Bank Act.

**Section 9.03. Management of Funds.** The Land Bank, shall designate a fiscal agent of the Land Bank to manage sales proceeds, monetary contributions made by the Parties', and other Land Bank funds. Standard accounting procedures shall be used in the management of Land Bank accounts.

**Section 9.04. Authorized Expenditures.** The Land Bank shall in its sole discretion and within its budget expend such funds as necessary to carry out the powers, duties, functions, and responsibilities of a land bank under the Land Bank Act consistent with this Agreement, and State law.

## **ARTICLE X**

### **DURATION OF AGREEMENT**

**Section 10.01. Duration.** This Agreement shall commence on the Effective date and shall remain in full force and effect for a period of five years. This Agreement shall thereafter be automatically renewed for successive five year periods until withdrawal of one of the parties in accordance with section 10.02 or dissolution of the Land Bank in accordance with the provisions of Section 10.03.

**Section 10.02. Withdrawal by Party.** Either Party may withdraw from this Agreement upon six (6) months notice to the other Party, and to the Land Bank. The withdrawing Party shall have no rights to funds or other assets of the Land Bank. If at the time of withdrawal the requirements of the Land Bank Act provide that some Real Property of the Land Bank be liquidated, any sums received from the sale of such properties shall remain the funds of the Land Bank. Upon the withdrawal of any Party to this Agreement, the provisions of this Agreement shall remain in force for any remaining Parties to the Agreement.

**Section 10.03. Dissolution.** The Land Bank may only be dissolved pursuant to the requirements of Section 1613 of the Land Bank Act.

## **ARTICLE XI**

### **MISCELLANEOUS**

**Section 11.01. Notices.** Any and all correspondence or notices required, permitted, or provided for under this Agreement to be delivered to any Party shall be sent to that Party via certified mail, return receipt requested, and by regular US mail. All correspondence shall be



considered delivered to a Party as of the date that such notice is deposited with sufficient postage with the United States Postal Service. All such written notices, including any notice of withdrawal under Article IX, shall be sent to the Parties the addresses below, or any subsequent address provided by either Party:

To: Erie County

Office of the County Executive  
Attn: County Executive  
Edward A. Rath County Office Building  
95 Franklin Street, 16th Floor  
Buffalo, New York 14202

With a copy to:

County Attorney  
Erie County Department of Law  
95 Franklin Street, Suite 1634  
Buffalo, New York 14202

To: City of Buffalo

Office of the Mayor  
Attn: Mayor  
201 City Hall  
Buffalo, New York 14202

With a copy to:

Corporation Counsel  
1100 City Hall  
Buffalo, New York 14202

City of Buffalo  
Office of City Clerk  
1308 City Hall  
Buffalo, New York 14202

To: City of Lackawanna

Office of the Mayor  
Attn: Mayor  
714 Ridge Road  
Lackawanna, New York 14218

With a copy to:

Lackawanna City Attorney  
714 Ridge Road  
Lackawanna, New York, 14218

To: City of Tonawanda

Office of the Mayor  
Attn: Mayor  
200 Niagara Street  
Tonawanda, New York 14150

With a copy to:

Tonawanda City Attorney  
200 Niagara Street  
Tonawanda, New York 14150

**Section 11.02. Entire Agreement.** This Agreement sets forth the entire Agreement between the Parties and supersedes any and all prior agreements or understandings between them in any way related to the subject matter of this Agreement. It is further understood and agreed that the terms and conditions of this Agreement are contractual and are not a mere recital and that there are no other contracts, understandings, or representations between the Parties in any way related to the subject matter of this Agreement, except as expressly stated in this Agreement.

**Section 11.03. Interpretation of Agreement.** The Parties intend that this Agreement shall be construed liberally to effectuate the intent and purposes of this Agreement and the

legislative intent and purposes of the Land Bank Act as complete and independent authorization for the performance of each and every act and thing authorized by this Agreement and the Land Bank Act. All powers granted to the Land Bank under this Agreement and the Land Bank Act shall be broadly interpreted to effectuate the intent and purposes and not as a limitation of powers.

**Section 11.04. Severability of Provisions.** If any provision of this Agreement, or its application to any Person, Party, or circumstance, is invalid or unenforceable, the remainder of this Agreement and the application of that provision to other Persons, Parties, or circumstances is not affected but will be enforced to the extent permitted by law.

**Section 11.05. Governing Law.** This Agreement is made and entered into in the State of New York and shall in all respects be interpreted, enforced, and governed under the laws of the State of New York without regard to the doctrines of conflict of laws. The language of all parts of this Agreement shall in all cases be construed as a whole according to its plain and fair meaning, and not construed strictly for or against any Party.

**Section 11.06. Captions and Headings.** The captions, headings, and titles in this Agreement are intended for the convenience of the reader and are not intended to have any substantive meaning or to be interpreted as part of this Agreement.

**Section 11.07. Terminology.** All terms and words used in this Agreement, regardless of the number or gender in which they are used, are deemed to include any other number and any other gender as the context may require.

**Section 11.08. Cross-References.** References in this Agreement to any article include all sections, subsections, and paragraphs in the article, unless specifically noted otherwise. References in this Agreement to any section include all subsections and paragraphs in the section.

**Section 11.09. Jurisdiction and Venue.** In the event of any disputes between the Parties over the meaning, interpretation, or implementation of the terms, covenants, or conditions of this Agreement, the matter under dispute, unless resolved between the Parties, shall be submitted to the courts of Erie County.

**Section 11.10. Amendments to Agreement.** This Agreement may be amended or an alternative form of this Agreement adopted only upon written amendment approved by all Parties.

**Section 11.11. Amendments to Land Bank Act.** The Land Bank shall have any powers authorized pursuant to any amendments, replacements, or substitutions to the Land Bank Act, unless the Agreement is amended by the Parties to provide otherwise.

**Section 11.12. Certificate of Incorporation.** The Certificate of Incorporation of the BUFFALO ERIE NIAGARA LAND IMPROVEMENT CORPORATION are attached to this Agreement as Exhibit "A" and incorporated herein by reference.

**Section 11.13. Effective Date.** This Agreement shall become effective as of the Effective Date as that term is defined in Section 1.03. of this Agreement.

*[The remainder of this page is intentionally left blank, with  
the signature pages immediately following on the next page.]*



IN WITNESS WHEREOF the County of Erie, the City of Buffalo, the City of Lackawanna and the City of Tonawanda have caused this Agreement to be executed by their authorized representatives on the date indicated, to be effective upon the Effective Date as that term is described within this Agreement.

ERIE COUNTY

Dated: \_\_\_\_\_

By: Mark C. Poloncarz  
Mark C. Poloncarz  
Erie County Executive

Approved as to form

[Signature]  
Assistant County Attorney  
Doc No. 18-85-EP

Dated: \_\_\_\_\_

CITY OF BUFFALO

By: Byron W. Brown  
Byron W. Brown  
Mayor

**APPROVED  
AS TO FORM ONLY**

*Corporation Counsel*  
By: [Signature]

ATTEST:

By: [Signature]  
Gerald Chwalinski  
Buffalo City Clerk

Dated: \_\_\_\_\_

CITY OF LACKAWANNA

By: \_\_\_\_\_  
Geoffrey M. Szymanski  
Mayor

Dated: \_\_\_\_\_

CITY OF TONAWANDA

By: \_\_\_\_\_  
Ronald Pilozzi  
Mayor

IN WITNESS WHEREOF the County of Erie, the City of Buffalo, the City of Lackawanna and the City of Tonawanda have caused this Agreement to be executed by their authorized representatives on the date indicated, to be effective upon the Effective Date as that term is described within this Agreement.

ERIE COUNTY

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Mark C. Poloncarz  
Erie County Executive

Approved as to form

\_\_\_\_\_  
Assistant County Attorney  
Doc No. \_\_\_\_\_

Dated: \_\_\_\_\_

CITY OF BUFFALO

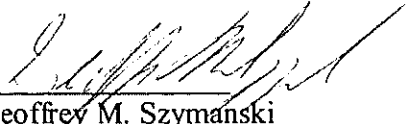
By: \_\_\_\_\_  
Byron W. Brown  
Mayor

ATTEST:

By: \_\_\_\_\_  
Gerald Chwalinski  
Buffalo City Clerk

Dated: 29/MAR/12

CITY OF LACKAWANNA

By:   
Geoffrey M. Szymanski  
Mayor

Dated: \_\_\_\_\_

CITY OF TONAWANDA

By: \_\_\_\_\_  
Ronald Pilozzi  
Mayor

IN WITNESS WHEREOF the County of Erie, the City of Buffalo, the City of Lackawanna and the City of Tonawanda have caused this Agreement to be executed by their authorized representatives on the date indicated, to be effective upon the Effective Date as that term is described within this Agreement.

ERIE COUNTY

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Mark C. Poloncarz  
Erie County Executive

Approved as to form

\_\_\_\_\_  
Assistant County Attorney  
Doc No. \_\_\_\_\_

Dated: \_\_\_\_\_

CITY OF BUFFALO

By: \_\_\_\_\_  
Byron W. Brown  
Mayor

ATTEST:

By: \_\_\_\_\_  
Gerald Chwalinski  
Buffalo City Clerk

Dated: \_\_\_\_\_

CITY OF LACKAWANNA

By: \_\_\_\_\_  
Geoffrey M. Szymanski  
Mayor

Dated: 3.27.12

CITY OF TONAWANDA

By: Ronald J. Pilozzi  
Ronald Pilozzi  
Mayor



Appendix F:  
Local Laws, Ordinances, and/or  
Resolutions

# STATE OF NEW YORK

## LEGISLATURE OF ERIE COUNTY CLERK'S OFFICE

BUFFALO, N.Y., March 29, 2012

TO WHOM IT MAY CONCERN:

**I HEREBY CERTIFY**, That at the 6th Session of the Legislature of Erie County, held in the Legislative Chambers, in the City of Buffalo, on the **Twenty-Ninth day of March, 2012 A.D.**, a Resolution was adopted, of which the following is a true copy:

WHEREAS, Erie County, and other municipalities have recognized the need to address the growing region-wide issue of tax delinquent, vacant, abandoned, and foreclosed properties; and

WHEREAS, the Erie County Executive, the Department of Environment and Planning, and the Department of Real Property Tax Services are working collaboratively with the City of Buffalo and other Municipalities to address this issue; and

WHEREAS, in July 2011 in recognition of the growing vacant property problem, New York State passed the Land Bank Act, as Article 16 of the New York State Not-for-Profit Corporation Law, which authorizes any foreclosing governmental unit (FGU) to create a land bank to return tax delinquent, vacant, abandoned, and foreclosed properties to productive use; and

WHEREAS, the Land Bank Act allows FGUs and municipalities to enter into a partnership to create a land bank; and

WHEREAS, pursuant to the Land Bank Act, it is necessary to adopt a resolution authorizing the County Executive of the County of Erie to execute an Intergovernmental Cooperation Agreement with other foreclosing government units within Erie and Niagara Counties for the creation and operation of a Land Bank.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive of the County of Erie is hereby authorized to execute an Intergovernmental Cooperation Agreement with other foreclosing government units within Erie and Niagara Counties for the creation and operation of a Land Bank, known as the Buffalo Erie Niagara Land Improvement Corporation, and to execute and file such other documents necessary to establish said Land Bank; and be it further

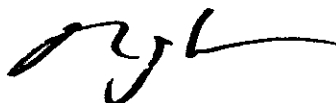
RESOLVED, that the Articles of Incorporation for said Land Bank are attached to this resolution and that said Articles shall be filed with the Secretary of State in accordance with the New York State Land Bank Act; and be it further

RESOLVED, that the initial Board of Directors shall consist of eleven (11) members; and be it further

RESOLVED, that the initial individuals to serve as members of the board of directors are as follows:

1. Brendan R. Mehaffy, Executive Director of Strategic Planning of the City of Buffalo 920 City Hall  
Buffalo, New York 14202
2. Timothy A. Ball Corporation Counsel of the City of Buffalo 1100 City Hall  
Buffalo, NY 14202
3. James Comerford, Jr. Commissioner of Permit and Inspection 324 City Hall  
Buffalo, NY 14202

ATTEST



ROBERT M. GRABER  
Clerk of the Legislature of Erie County

# STATE OF NEW YORK

## LEGISLATURE OF ERIE COUNTY CLERK'S OFFICE

BUFFALO, N.Y., March 29, 2012

TO WHOM IT MAY CONCERN:

**I HEREBY CERTIFY**, That at the 6th Session of the Legislature of Erie County, held in the Legislative Chambers, in the City of Buffalo, on the *Twenty-Ninth day of March, 2012 A.D.*, a Resolution was adopted, of which the following is a true copy:

### Services of the City of Buffalo

- |  |   |
|--|---|
| 4. Janet Penksa<br>Commissioner of Administration,<br>Finance, Policy and Urban Affairs for<br>the City of Buffalo | 203 City Hall<br>Buffalo, NY 14202  |
| 5. David P. Comerford<br>General Manager, Buffalo Sewer<br>Authority   | 1038 City Hall<br>Buffalo, NY 14202   |
| 6. Maria R. Whyte<br>Commissioner of Erie County<br>Department of Environment and<br>Planning                      | Edward A. Rath Building<br>95 Franklin Street, 10th Floor<br>Buffalo, New York 14202          |
| 7. Joseph L. Maciejewski<br>Director, Erie County Department of<br>Real Property Tax Services                      | Edward A. Rath Building<br>95 Franklin Street, 1st floor, Room 100<br>Buffalo, New York 14202 |
| 8. Michael A. Siragusa, County Attorney<br>Erie County Department of Law   | Edward A. Rath Building<br>95 Franklin Street, Suite 1634<br>Buffalo, New York 14202          |
| 9. Frank E. Krakowski, City Assessor-<br>City of Lackawanna  | Lackawanna City Hall<br>714 Ridge Road<br>Lackawanna, New York 14218                          |
| 10. Joseph M. Hogenkamp<br>City Treasurer<br>City of Tonawanda   | City of Tonawanda<br>200 Niagara Street<br>Tonawanda, New York 14150                          |
| 11. Christina Orsi<br>Empire State Development – Western<br>New York Regional Director                             | 95 Perry Street<br>Suite 500<br>Buffalo, New York 14203                                       |

and be it further

RESOLVED, that as indicated in the Certificate of Incorporation and the NY Land Bank Act, the board may consist of eleven directors. The qualification and manner of appointment of the Board of Directors shall be as follows:

1. The Executive Director of Strategic Planning of the City of Buffalo;
2. The Corporation Counsel of the City of Buffalo;
3. The Commissioner of Permit and Inspection Services of the City of Buffalo
4. The Commissioner of Administration, Finance, Policy and Urban Affairs for the City of Buffalo;
5. General Manager, Buffalo Sewer Authority;

ATTEST



ROBERT M. GRABER  
*Clerk of the Legislature of Erie County*



# STATE OF NEW YORK

## LEGISLATURE OF ERIE COUNTY CLERK'S OFFICE

BUFFALO, N.Y., March 29, 2012

TO WHOM IT MAY CONCERN:

**I HEREBY CERTIFY**, That at the 6th Session of the Legislature of Erie County, held in the Legislative Chambers, in the City of Buffalo, on the *Twenty-Ninth* day of *March*, 2012 A.D., a Resolution was adopted, of which the following is a true copy:

6. The Commissioner of Erie County Department of Environment and Planning;
7. Director, Erie County Department of Real Property Tax Services;
8. The Erie County Attorney (Erie County Department of Law);
9. The City Assessor of the City of Lackawanna;
10. The City Treasurer of the City of Tonawanda;
11. Western New York Regional Director, Empire State Development Corporation.

and be it further

RESOLVED, that members of the Board of Directors shall serve by virtue of office and they shall serve so long as he or she shall hold the office. For those members of the Board of Directors appointed by the Members of the Corporation, they will serve until the conclusion of the next annual meeting of the Members of the Corporation, or until his or her successor shall have been duly appointed and qualified; and be it further

RESOLVED, that all members of the Board of the Land Bank shall be residents of the County of Erie except such member who serves as an officer of foreclosing governmental units located outside of Erie County shall be residents of the County in which the foreclosing governmental unit is located; and be it further

RESOLVED, that the intergovernmental agreement shall include provisions for dissolution of such land bank; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the Erie County Executive; the Commissioner of the Erie County Department of Environment and Planning; and the Erie County Director of the Department of Real Property Tax Services.

### CERTIFICATE OF INCORPORATION OF

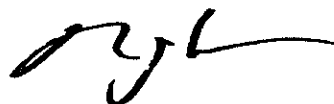
#### BUFFALO ERIE NIAGARA LAND IMPROVEMENT CORPORATION

Under Section 402 of the Not-for-Profit Corporation Law

The undersigned incorporator, being over the age of eighteen years, for the purpose of forming a corporation pursuant to Section 402 of the Not-for-Profit Corporation Law of New York, does hereby certify:

1. The name of the Corporation is Buffalo Erie Niagara Land Improvement Corporation.
2. The Corporation is a corporation as defined in subparagraph (a) (5) of Section 102 of the Not-for-Profit Corporation Law.
3. The Corporation shall be a Type C corporation under Sections 201 and 1603 (f) of the Not-for-Profit Corporation Law.

ATTEST



ROBERT M. GRABER  
Clerk of the Legislature of Erie County

# STATE OF NEW YORK

## LEGISLATURE OF ERIE COUNTY CLERK'S OFFICE

BUFFALO, N.Y., March 29, 2012

TO WHOM IT MAY CONCERN:

**I HEREBY CERTIFY**, That at the 6th Session of the Legislature of Erie County, held in the Legislative Chambers, in the City of Buffalo, on the *Twenty-Ninth* day of *March, 2012 A.D.*, a Resolution was adopted, of which the following is a true copy:

4. The purposes for which the Corporation is formed are exclusively charitable, scientific or educational within the meaning of Section 501 (c) (3) of the United States Internal Revenue Code, as it may be amended from time to time (the "Code"). Subject to that limitation and the limitations stated in subsequent paragraphs of this Certificate, its purposes shall include the following:

(a) To confront and alleviate the problems caused by vacant, abandoned, tax-delinquent, and tax foreclosed properties and to turn vacant spaces into vibrant places in Erie County and Western New York.

(b) To lessen the burdens on the governments of Erie County and Western New York of acquiring and maintaining vacant, abandoned, tax-delinquent, and tax-foreclosed properties.

(c) To combat community deterioration and urban decay caused by vacant, abandoned, tax-delinquent, and tax foreclosed properties by taking remedial action to eliminate the physical, economic, and social causes of such deterioration.

(d) To serve as a land bank pursuant to Article 16 (the Land Bank Act) of the Not-for-Profit Corporation Law.

(e) To demonstrate the feasibility of a land bank and to encourage both other foreclosing governmental units and non-foreclosing municipalities and school districts to enter into intergovernmental cooperative agreements with the foreclosing governmental units in Erie County and/or the Corporation when they determine it to be in the interest of their residents to do so.

(f) To pursue and to cooperate with and assist other organizations to pursue any one or more of the above-mentioned purposes.

(g) Any other purpose which shall assist the Corporation in the furtherance of the above-stated purposes which can be performed by a corporation as defined by subparagraph (a) (5) of Section 102 of the Not-for-Profit Corporation Law.

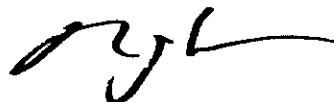
5. The lawful public objectives which each purpose of the Corporation will serve are to lessen the burdens of government and combat community deterioration by performing those functions permissible under the New York Land Bank Act.

6. Notwithstanding any other provision of this Certificate, the purposes of the Corporation do not extend to or include any of the purposes mentioned in Section 404 of the Not-for-Profit Corporation Law.

7. Notwithstanding any other provision of this Certificate, the purpose and powers of the Corporation shall be limited as follows:

(a) The Corporation shall not engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes within the meaning of Section 501 (c) (3) of the Code.

ATTEST



ROBERT M. GRABER  
Clerk of the Legislature of Erie County

# STATE OF NEW YORK

## LEGISLATURE OF ERIE COUNTY CLERK'S OFFICE

BUFFALO, N.Y., March 29, 2012

TO WHOM IT MAY CONCERN:

**I HEREBY CERTIFY**, That at the 6th Session of the Legislature of Erie County, held in the Legislative Chambers, in the City of Buffalo, on the **Twenty-Ninth day of March, 2012 A.D.**, a Resolution was adopted, of which the following is a true copy:

- (b) The Corporation shall not devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise.
- (c) The Corporation shall not directly or indirectly participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office.
- (d) Upon dissolution of the Corporation, its assets shall be distributed for one or more exempt purposes within the meaning of Section 501 (c) (3) of the Code, and none of the assets shall be distributed to any non-exempt person or organization.
- (e) No part of the net earnings of the corporation shall inure to the benefit of any member, trustee, director, officer of the corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the corporation) and no member, director, officer of the corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation.
- (f) The Corporation shall not carry on any other activities not permitted to be carried on (i) by a corporation exempt from federal income tax under Section 501 (c) (3) of the Code or (ii) by a corporation, contributions to which are deductible under Section 170 (c) (2) of the Code.
- (g) If at any time or times the corporation is a private foundation within the meaning of Section 509 of the Code, then during such time or times:
  - (1) The corporation shall distribute its income for each taxable year at such time and in such manner as not to subject the corporation to tax under Section 4842 of the Code;
  - (2) The corporation shall not engage in any act of self-dealing, as defined in Section 4941 (d) of the Code;
  - (3) The corporation shall not retain any excess business holdings, as defined in Section 4943 (c) of the Code;
  - (4) The corporation shall not make any investments in such manner as to subject the corporation to tax under Section 4944 of the Code; and
  - (5) The corporation shall not make any taxable expenditures as defined in Section 4945 (d) of the Code.

8. The duration of the Corporation is perpetual.

ATTEST



ROBERT M. GRABER  
Clerk of the Legislature of Erie County

# STATE OF NEW YORK

## LEGISLATURE OF ERIE COUNTY CLERK'S OFFICE

BUFFALO, N.Y., March 29, 2012

TO WHOM IT MAY CONCERN:

**I HEREBY CERTIFY**, That at the 6th Session of the Legislature of Erie County, held in the Legislative Chambers, in the City of Buffalo, on the *Twenty-Ninth* day of *March, 2012 A.D.*, a Resolution was adopted, of which the following is a true copy:

9. The office of the Corporation is to be located in Erie County, New York.

10. The Corporation may be authorized by resolution of the Board of Directors to accept subventions from members or non-members on terms and conditions not inconsistent with the Not-for-Profit Corporation Law, and to issue certificates therefor.

11. The names and addresses of the persons constituting the initial Board of Directors of the Corporation are:

- |  |   |
|--|---|
| 1. Brendan R. Mehaffy, Executive<br>Director of Strategic Planning of the<br>City of Buffalo                       | 920 City Hall<br>Buffalo, New York 14202  |
| 2. Timothy A. Ball<br>Corporation Counsel of the City of<br>Buffalo  | 1100 City Hall<br>Buffalo, NY 14202   |
| 3. James Comerford, Jr.<br>Commissioner of Permit and Inspection<br>Services of the City of Buffalo                | 324 City Hall<br>Buffalo, NY 14202  |
| 4. Janet Penksa<br>Commissioner of Administration,<br>Finance, Policy and Urban Affairs for<br>the City of Buffalo | 203 City Hall<br>Buffalo, NY 14202  |
| 5. David P. Comerford<br>General Manager, Buffalo Sewer<br>Authority   | 1038 City Hall<br>Buffalo, NY 14202   |
| 6. Maria R. Whyte<br>Commissioner of Erie County<br>Department of Environment and<br>Planning                      | Edward A. Rath Building<br>95 Franklin Street, 10th Floor<br>Buffalo, New York 14202          |
| 7. Joseph L. Maciejewski<br>Director, Erie County Department of<br>Real Property Tax Services                      | Edward A. Rath Building<br>95 Franklin Street, 1st floor, Room 100<br>Buffalo, New York 14202 |
| 8. Michael A. Siragusa, County Attorney<br>Erie County Department of Law   | Edward A. Rath Building<br>95 Franklin Street, Suite 1634<br>Buffalo, New York 14202          |
| 9. Frank E. Krakowski – City Assessor<br>City of Lackawanna  | Lackawanna City Hall<br>714 Ridge Road<br>Lackawanna, New York 14218                          |
| 10. Joseph M. Hogenkamp  | City of Tonawanda   |

ATTEST



ROBERT M. GRABER  
Clerk of the Legislature of Erie County



# STATE OF NEW YORK

## LEGISLATURE OF ERIE COUNTY CLERK'S OFFICE

BUFFALO, N.Y., March 29, 2012

TO WHOM IT MAY CONCERN:

**I HEREBY CERTIFY**, That at the 6th Session of the Legislature of Erie County, held in the Legislative Chambers, in the City of Buffalo, on the *Twenty-Ninth* day of *March, 2012 A.D.*, a Resolution was adopted, of which the following is a true copy:

City Treasurer  
City of Tonawanda

200 Niagara Street  
Tonawanda, New York 14150

11. Christina Orsi  
Empire State Development – Western  
New York Regional Director

95 Perry Street, Suite 500  
Buffalo, New York 14203

12. The Secretary of State of the State of New York is designated as agent of the Corporation upon whom process against the Corporation may be served. The post office address to which the Secretary shall mail a copy of any process against it served upon him or her is:

The County Executive of Erie County  
Edward A. Rath Building  
95 Franklin Street  
Buffalo, New York 14202

IN WITNESS WHEREOF, I have signed this Certificate this \_\_\_\_day of March, 2012.

\_\_\_\_\_  
Mark C. Poloncarz, County Executive  
County of Erie  
Edward A. Rath Building  
95 Franklin Street  
Buffalo, New York 14202

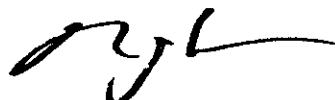
STATE OF NEW YORK    )  
                                  ) ss.: COUNTY  
OF ERIE                    )

On this \_\_\_\_\_day of March, 2012, before me personally came MARK C. POLONCARZ, to me known and known to me to be the person described in and who executed the foregoing Certificate of Incorporation, and he duly acknowledged to me that he executed the same.

Notary Public

REFERENCE:    COMM. 3E-23 (2012)    AS AMENDED

ATTEST



ROBERT M. GRABER  
*Clerk of the Legislature of Erie County*

**CERTIFICATION OF ACTION TAKEN AT COUNCIL MEETING**

**TO: Mayor Szymanski**

**RE: Land Act – Resolution #7, 2012**

**I, Jacqueline A. Caferro, City Clerk of the City of Lackawanna, New York, County of Erie do hereby certify the following action was taken at the City Council meeting of March 19, 2012 and is incorporated in the original minutes of said meeting. I do hereby certify that this is a true and correct transcript of such.**

---

**Moved by Council Member Pirowski, seconded by Council Member Lewis adopt resolution as written.**

---

**Yeas: Noman, Kulczyk, Lewis, Pirowski**

**Nays: 0**

**Carried: 4-0**

**Dated: Lackawanna, New York  
March 19, 2012**

**Office of the City Clerk**

  
**Jacqueline A. Caferro  
City Clerk**

**Cc: City Atty.  
Erie County Executive  
Comm. of EC Envir. & Planning  
E.C. Director Real Property Tax Services  
file**

RESOLUTION # 7, 2012

RE: AUTHORIZING THE CREATION OF THE BUFFALO  
ERIE NIAGARA LAND IMPROVEMENT CORPORATION AND EXECUTION OF AN  
INTERGOVERNMENTAL COOPERATION AGREEMENT(S)  
WITH ERIE COUNTY AND OTHER FORECLOSING GOVERNMENT UNITS  
IN ERIE AND NIAGARA COUNTIES

WHEREAS, the Erie County Department of Real Property Tax Services has determined that there are in excess of 73,360 tax liens within Erie County worth more than \$53,529,325 in taxes owed to Erie County; and

WHEREAS, the Erie County Department of Real Property Tax Services has determined that Erie County owns unpaid tax liens in the City of Lackawanna; and

WHEREAS, the City of Lackawanna, Erie County, and other municipalities have recognized the need to address the growing region-wide issue of tax delinquent, vacant, abandoned, and foreclosed properties; and

WHEREAS, the Erie County Executive, the Department of Environment and Planning, and the Department of Real Property Tax Services are working collaboratively with the City of Lackawanna and other Municipalities to address this issue; and

WHEREAS, in July 2011 in recognition of the growing vacant property problem, New York State passed the Land Bank Act, as Article 16 of the New York State Not-for-Profit Corporation Law, which authorizes any foreclosing governmental unit (FGU) to create a land bank to return tax delinquent, vacant, abandoned, and foreclosed properties to productive use; and

WHEREAS, the Land Bank Act allows FGUs and municipalities to enter into a partnership to create a land bank; and

WHEREAS, pursuant to the Land Bank Act, it is necessary to adopt a resolution authorizing the Mayor of the City of Lackawanna to execute an Intergovernmental Cooperation Agreement with Erie County and other foreclosing government units within Erie and Niagara Counties for the creation and operation of a Land Bank.

NOW, THEREFORE BE IT

RESOLVED, that the Mayor of the City of Lackawanna is hereby authorized to execute an Intergovernmental Cooperation Agreement with Erie County and other foreclosing government units within Erie and Niagara Counties for the creation and operation of a Land Bank, known as the Buffalo Erie Niagara Land Improvement Corporation, and to execute and file such other documents necessary to establish said Land Bank; and be it further

RESOLVED that the Articles of Incorporation for said Land Bank are attached to this resolution and that said Articles shall be filed with the Secretary of State in accordance with the New York State Land Bank Act; and be it further

RESOLVED, that the initial Board of Directors shall consist of eleven (11) members; and be it further

RESOLVED, that the initial individuals to serve as members of the board of directors, and the length of terms for which they are to serve are as follows:

|    | <u>Name</u>   | <u>Address</u>  |
|----|---|---|
| 1. | Brendan R. Mehaffy<br>Executive Director of Strategic<br>Planning of the City of Buffalo                        | 920 City Hall<br>Buffalo, New York 14202  |
| 2. | Timothy A. Ball<br>Corporation Counsel of the<br>City of Buffalo  | 1100 City Hall<br>Buffalo, New York 14202   |
| 3. | James Comerford, Jr.<br>Commissioner of Permit and<br>Inspection Services of the<br>City of Buffalo             | 324 City Hall<br>Buffalo, New York 14202  |
| 4. | Janet Penksa<br>Commissioner of Administration,<br>Finance, Policy and Urban Affairs<br>for the City of Buffalo | 203 City Hall<br>Buffalo, New York 14202  |
| 5. | David P. Comerford<br>General Manager, Buffalo Sewer<br>Authority   | 1038 City Hall<br>Buffalo, New York 14202   |
| 6. | Maria R. Whyte<br>Commissioner of Erie County<br>Department of Environment and<br>Planning                      | Edward A. Rath Building<br>95 Franklin Street, 10 <sup>th</sup> Floor<br>Buffalo, New York 14202          |
| 7. | Joseph L. Maciejewski<br>Director, Erie County Department<br>of Real Property Tax Services                      | Edward A. Rath Building<br>95 Franklin Street, 1 <sup>st</sup> Floor, Room 100<br>Buffalo, New York 14202 |
| 8. | Michael A. Siragusa, County<br>Attorney<br>Erie County Department of Law  | Edward A. Rath Building<br>95 Franklin Street, Suite 1634<br>Buffalo, New York 14202                      |



- |     |   |  |
|-----|---|--|
| 9.  | Frank E. Krakowski – City<br>Assessor<br>City of Lackawanna                           | Lackawanna City Hall<br>714 Ridge Road<br>Lackawanna, New York 14218 |
| 10. | Joseph M. Hogenkamp<br>City Treasurer<br>City of Tonawanda                            | City of Tonawanda<br>200 Niagara Street<br>Tonawanda, New York 14150 |
| 11. | Christina Orsi<br>Empire State Development –<br>Western New York Regional<br>Director | 95 Perry Street<br>Suite 500<br>Buffalo, New York 14203              |

and be it further

RESOLVED, that as indicated in the Certificate of Incorporation and the NY Land Bank Act, the board may consist of eleven directors. The qualifications, manner of appointment, and terms of members of the Board of Directors, after the initial terms, shall be as follows:

1. The Executive Director of Strategic Planning of the City of Buffalo;
2. The Corporation Counsel of the City of Buffalo;
3. The Commissioner of Permit and Inspection Services of the City of Buffalo;
4. The Commissioner of Administration, Finance, Policy and Urban Affairs for the City of Buffalo;
5. General Manager, Buffalo Sewer Authority;
6. The Commissioner of Erie County Department of Environment and Planning;
7. Director, Erie County Department of Real Property Tax Services;
8. The Erie County Attorney (Erie County Department of Law);
9. The City Assessor of the City of Lackawanna;
10. The City Treasurer of the City of Tonawanda;
11. Western New York Regional Director, Empire State Development Corporation.

and be it further

RESOLVED, that members of the Board of Directors shall serve by virtue of office and they shall serve so long as he or she shall hold the office. For those members of the Board of Directors appointed by the Members of the Corporation, they will serve until the conclusion of the next annual meeting of the Members of the Corporation, or until his or her successor shall have been duly appointed and qualified; and be it further

RESOLVED, that all members of the Board of the Land Bank shall be residents of the County of Erie except such member who serves as an officer of foreclosing governmental units located outside of Erie County shall be residents of the County in which the foreclosing governmental unit is located; and be it further

RESOLVED, that the intergovernmental agreement shall include provisions for dissolution of such land bank; and be it further

3/16/12

RESOLVED, that certified copies of this resolution shall be forwarded to the Erie County Executive; the Commissioner of the Erie County Department of Environment and Planning; and the Erie County Director of the Department of Real Property Tax Services.

THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY.

Dated: March 19, 2012  
Lackawanna, New York

APPROVED:

Henry R. Pirowski  
Henry R. Pirowski, Council President

APPROVED  
ASTOFORM AND SUFFICIENCY  
Norman H. LeBlanc, Jr.  
City Attorney

STATE OF NEW YORK  
County of Erie, City of Tonawanda, N.Y.

{ ss

I, Janice R. Bodie, Clerk of the City of Tonawanda, do hereby certify that I have compared the annexed copy of.....RESOLUTION..... duly offered and adopted by the .....COMMON COUNCIL..... of said City at a .....REGULAR..... meeting thereof held on the.....20TH.....day of.....MARCH, 2012.....with the original record on file in my office and the annexed.....RESOLUTION..... is a true correct copy thereof and the whole thereof.

***In Testimony Thereof,*** I have hereunto set my hand and affixed the seal of said City this .....23RD.....day of.....MARCH, 2012.....

*Janice R. Bodie*  
....., Clerk

67. By Council President Zeisz seconded by Councilmember Boyle

WHEREAS, the City of Tonawanda, Erie County, and other municipalities have recognized the need to address the growing region-wide issue of tax delinquent, vacant, abandoned, and foreclosed properties; and

WHEREAS, the Erie County Executive, the Department of Environment and Planning, and the Department of Real Property Tax Services are working collaboratively with the City of Buffalo and other Municipalities to address this issue; and

WHEREAS, in July 2011 in recognition of the growing vacant property problem, New York State passed the Land Bank Act, as Article 16 of the New York State Not-for-Profit Corporation Law, which authorizes any foreclosing governmental unit (FGU) to create a land bank to return tax delinquent, vacant, abandoned, and foreclosed properties to productive use; and

WHEREAS, the Land Bank Act allows FGUs and municipalities to enter into a partnership to create a land bank; and

WHEREAS, pursuant to the Land Bank Act, it is necessary to adopt a resolution authorizing the Mayor of the City of Tonawanda to execute an Intergovernmental Cooperation Agreement with Erie County and other foreclosing government units within Erie and Niagara Counties for the creation and operation of a Land Bank.

NOW, THEREFORE BE IT

RESOLVED, that the Mayor of the City of Tonawanda is hereby authorized to execute an Intergovernmental Cooperation Agreement with Erie County and other foreclosing government units within Erie and Niagara Counties for the creation and operation of a Land Bank, known as the Buffalo Erie Niagara Land Improvement Corporation, and to execute and file such other documents necessary to establish said Land Bank; and be it further

RESOLVED that the Articles of Incorporation for said Land Bank are attached to this resolution and that said Articles shall be filed with the Secretary of State in accordance with the New York State Land Bank Act; and be it further

RESOLVED, that the initial Board of Directors shall consist of eleven (11) members; and be it further 3/16/12

RESOLVED, that the initial individuals to serve as member of the board of directors are as follows:

1. Brendan R. Mehaffy, Executive 920 City Hall Buffalo, New York 14202  
Director of Strategic Planning of the City  
of Buffalo

2. Timothy A. Ball Corporation Counsel 1100 City Hall Buffalo, NY 14202  
of the City of Buffalo

3. James Comerford, Jr. Commissioner of 324 City Hall Buffalo, NY 14202  
Permit and Inspection Services of the City  
of Buffalo

2012 MAR 26 AM 11:41  
CITY OF BUFFALO  
PLANNING DIV.



- |   |   |
|---|---|
| 4. Janet Penksa Commissioner of Administration, Finance, Policy and Urban Affairs for the City of Buffalo | 203 City Hall Buffalo, NY 14202   |
| 5. David P. Comerford General Manager, Buffalo Sewer Authority  | 1038 City Hall Buffalo, NY 14202  |
| 6. Maria R. Whyte Commissioner of Erie County Department of Environment and Planning                      | Edward A. Rath Building 95 Franklin Street, 10th Floor Buffalo, New York 14202          |
| 7. Joseph L. Maciejewski Director, Erie County Department of Real Property Tax Services                   | Edward A. Rath Building 95 Franklin Street, 1st floor, Room 100 Buffalo, New York 14202 |
| 8. Michael A. Siragusa, County Attorney Erie County Department of Law                                     | Edward A. Rath Building 95 Franklin Street, Suite 1634 Buffalo, New York 14202          |
| 9. Frank E. Krakowski, City Assessor-City of Lackawanna   | Lackawanna City Hall<br>714 Ridge Road<br>Lackawanna, New York 14218                    |
| 10. Joseph M. Hogenkamp<br>City Treasurer<br>City of Tonawanda  | City of Tonawanda<br>200 Niagara Street<br>Tonawanda, New York 14150                    |
| 11. Christina Orsi<br>Empire State Development – Western<br>New York Regional Director                    | 95 Perry Street<br>Suite 500<br>Buffalo, New York 14203                                 |

.....

## CERTIFICATE OF INCORPORATION OF

### BUFFALO ERIE NIAGARA LAND IMPROVEMENT CORPORATION

Under Section 402 of the Not-for-Profit Corporation Law

The undersigned incorporator, being over the age of eighteen years, for the purpose of forming a corporation pursuant to Section 402 of the Not-for-Profit Corporation Law of New York, does hereby certify:

1. The name of the Corporation is Buffalo Erie Niagara Land Improvement

Corporation.

2. The Corporation is a corporation as defined in subparagraph (a) (5) of Section 102 of the Not-for-Profit Corporation Law.

3. The Corporation shall be a Type C corporation under Sections 201 and 1603 (f) of the Not-for-Profit Corporation Law.

4. The purposes for which the Corporation is formed are exclusively charitable, scientific or educational within the meaning of Section 501 (c) (3) of the United States Internal Revenue Code, as it may be amended from time to time (the "Code"). Subject to that limitation and the limitations stated in subsequent paragraphs of this Certificate, its purposes shall include the following:

(a) To confront and alleviate the problems caused by vacant, abandoned, tax-delinquent, and tax foreclosed properties and to turn vacant spaces into vibrant places in Erie County and Western New York.

(b) To lessen the burdens on the governments of Erie County and Western New York of acquiring and maintaining vacant, abandoned, tax-delinquent , and tax-foreclosed properties.

c) To combat community deterioration and urban decay caused by vacant, abandoned, tax-delinquent, and tax foreclosed properties by taking remedial action to eliminate the physical, economic, and social causes of such deterioration.

(d) To serve as a land bank pursuant to Article 16 (the Land Bank Act) of the Not-for-Profit Corporation Law.

(e) To demonstrate the feasibility of a land bank and to encourage both other foreclosing governmental units and non-foreclosing municipalities and school districts to

enter into intergovernmental cooperative agreements with the foreclosing governmental units in Erie County and/or the Corporation when they determine it to be in the interest of their residents to do so.

(f) To pursue and to cooperate with and assist other organizations to pursue any one or more of the above-mentioned purposes.

(g) Any other purpose which shall assist the Corporation in the furtherance of the above-stated purposes which can be performed by a corporation as defined by subparagraph (a) (5) of Section 102 of the Not-for-Profit Corporation Law.

5. The lawful public objectives which each purpose of the Corporation will serve are to lessen the burdens of government and combat community deterioration by performing those functions permissible under the New York Land Bank Act.

6. Notwithstanding any other provision of this Certificate, the purposes of the Corporation do not extend to or include any of the purposes mentioned in Section 404 of the Not-for-Profit Corporation Law.

7. Notwithstanding any other provision of this Certificate, the purpose and powers of the Corporation shall be limited as follows:

(a) The Corporation shall not engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes within the meaning of Section 501 (c) (3) of the Code.

(b) The Corporation shall not devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise.

(c) The Corporation shall not directly or indirectly participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office.

(d) Upon dissolution of the Corporation, its assets shall be distributed for one or more exempt purposes within the meaning of Section 501 (c) (3) of the Code, and none of the assets shall be distributed to any non-exempt person or organization.

(e) No part of the net earnings of the corporation shall inure to the benefit of any member, trustee, director, officer of the corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the corporation) and no member, director, officer of the corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation.

(f) The Corporation shall not carry on any other activities not permitted to be carried on (i) by a corporation exempt from federal income tax under Section 501 (c) (3) of the Code or (ii) by a corporation, contributions to which are deductible under Section 170 (c) (2) of the Code.

(g) If at any time or times the corporation is a private foundation within the meaning of Section 509 of the Code, then during such time or times:

(1) The corporation shall distribute its income for each taxable year at such time and in such manner as not to subject the corporation to tax under Section 4842 of the Code;

(2) The corporation shall not engage in any act of self-dealing, as defined in Section 4941 (d) of the Code;

(3) The corporation shall not retain any excess business holdings, as defined in Section 4943 (c) of the Code;

(4) The corporation shall not make any investments in such manner as to subject the corporation to tax under Section 4944 of the Code; and

(5) The corporation shall not make any taxable expenditures as defined in Section 4945 (d) of the Code.

8. The duration of the Corporation is perpetual.

9. The office of the Corporation is to be located in Erie County, New York.

10. The Corporation may be authorized by resolution of the Board of Directors to accept subventions from members or non-members on terms and conditions not inconsistent with the Not-for-Profit Corporation Law, and to issue certificates therefor.

11. The names and addresses of the persons constituting the initial Board of Directors

of the Corporation are:

- |   |                                       |
|---|---------------------------------------|
| 1. Brendan R. Mehaffy, Executive Director of Strategic Planning of the City of Buffalo                    | 920 City Hall Buffalo, New York 14202 |
| 2. Timothy A. Ball Corporation Counsel of the City of Buffalo   | 1100 City Hall Buffalo, NY 14202      |
| 3. James Comerford, Jr. Commissioner of Permit and Inspection Services of the City of Buffalo             | 324 City Hall Buffalo, NY 14202       |
| 4. Janet Penksa Commissioner of Administration, Finance, Policy and Urban Affairs for the City of Buffalo | 203 City Hall Buffalo, NY 14202       |
| 5. David P. Comerford General Manager, Buffalo Sewer Authority  | 1038 City Hall Buffalo, NY 14202      |



6. Maria R. Whyte Commissioner of     Edward A. Rath Building 95  
Erie County Department of             Franklin Street, 10th Floor Buffalo,  
Environment and Planning             New York 14202

Ayes: Little, Boyle, Slisz, Kossow, Zeisz  
Nays: None

Resolution declared adopted

68.

**CITY CLERK'S OFFICE  
CITY HALL  
BUFFALO**

March 28, 2012

To Whom It May Concern:

I hereby Certify, That at a Session of the Common Council of the City of Buffalo, held in the City Hall, on the 20th day of March 2012, The following Resolution was Passed which the following is a true copy.

NO. 109

**RE: AUTHORIZING THE CREATION OF THE BUFFALO ERIE NIAGARA LAND IMPROVEMENT CORPORATION  
AND EXECUTION OF AN INTERGOVERNMENTAL COOPERATION AGREEMENT(S) WITH ERIE COUNTY  
AND OTHER FORECLOSING GOVERNMENT UNITS IN ERIE AND NIAGARA COUNTIES**

WHEREAS, the City of Buffalo, Erie County, and other municipalities have recognized the need to address the growing region-wide issue of tax delinquent, vacant, abandoned, and foreclosed properties; and

WHEREAS, the Erie County Executive, the Department of Environment and Planning, and the Department of Real Property Tax Services are working collaboratively with the Mayor, the City of Buffalo, the Office of Strategic Planning, the Department of Taxation and Assessment, the Department of Permits and Inspections Services, the Buffalo Sewer Authority and other Municipalities to address this issue; and

WHEREAS, in July 2011 in recognition of the growing vacant property problem, New York State passed the Land Bank Act, as Article 16 of the New York State Not-for-Profit Corporation Law, which authorizes any foreclosing governmental unit (FGU) to create a land bank to return tax delinquent, vacant, abandoned, and foreclosed properties to productive use; and

WHEREAS, the Land Bank Act allows FGUs and municipalities to enter into a partnership to create a land bank; and

WHEREAS, pursuant to the Land Bank Act, it is necessary to adopt a resolution authorizing the Mayor of the City of Buffalo to execute an Intergovernmental Cooperation Agreement with Erie County and other foreclosing government units within Erie and Niagara Counties for the creation and operation of a Land Bank.

NOW, THEREFORE BE IT

RESOLVED, that the Mayor of the City of Buffalo is hereby authorized to execute an Intergovernmental Cooperation Agreement with Erie County and other foreclosing government units within Erie and Niagara Counties for the creation and operation of a Land Bank, known as the Buffalo Erie Niagara Land Improvement Corporation, and to execute and file such other documents necessary to establish said Land Bank; and be it further

RESOLVED that the articles of Incorporation for said Land Bank are attached to this resolution and that said Articles shall be filed with the Secretary of State in accordance with the New York State Land Bank Act; and be it further

RESOLVED, that the initial Board of Directors shall consist of eleven (11) members; and be it further

RESOLVED, that the initial individuals to serve as members of the board of directors are as follows:

|   |  |
|---|--|
| Brendan R. Mehaffy, Executive<br>Director of Strategic Planning of the<br>City of Buffalo | 920 City Hall<br>Buffalo, New York 14202 |
|---|--|

|   |                                     |
|---|-------------------------------------|
| Timothy A. Ball<br>Corporation Counsel of the City of Buffalo | 1100 City Hall<br>Buffalo, NY 14202 |
|---|-------------------------------------|

|  |                                    |
|--|------------------------------------|
| James Comerford, Jr.<br>Commissioner of Permit and Inspection<br>Services of the City of Buffalo | 324 City Hall<br>Buffalo, NY 14202 |
|--|------------------------------------|

|   |                                    |
|---|------------------------------------|
| Janet Penksa<br>Commissioner of Administration,<br>Finance, Policy and Urban Affairs<br>for the City of Buffalo | 203 City Hall<br>Buffalo, NY 14202 |
|---|------------------------------------|

|  |                                     |
|--|-------------------------------------|
| David P. Comerford<br>General Manager, Buffalo Sewer Authority | 1038 City Hall<br>Buffalo, NY 14202 |
|--|-------------------------------------|

|   |   |
|---|---|
| Maria R. Whyte<br>Commissioner of Erie County<br>Department of Environment and Planning | Edward A. Rath Building<br>95 Franklin St 10 <sup>th</sup> floor<br>Buffalo, NY 14202 |
|---|---|

|  |   |
|--|---|
| Joseph L. Maciejewski<br>Director, Erie County Department of<br>Real Property Tax Services | Edward A. Rath Building<br>95 Franklin St 1 <sup>st</sup> floor room 100<br>Buffalo, NY 14202 |
|--|---|

|   |   |
|---|---|
| Michael A. Siragusa, County Attorney<br>Erie County Department of Law | Edward A. Rath Building<br>95 Franklin Street Suite 1634<br>Buffalo, NY 14202 |
|---|---|

Frank E. Krakowski, City Assessor-  
City of Lackawanna

Lackawanna City Hall  
714 Ridge Road  
Lackawanna NY 14218

Joseph M. Hogenkamp  
City Treasurer  
City of Tonawanda

City of Tonawanda  
200 Niagara St  
Tonawanda, NY 14150

Christina Orsi  
Empire State Development - Western

95 Perry Street  
Suite 500

New York Regional Director

Buffalo, New York 14203

and be it further

RESOLVED, that as indicated in the Certificate of Incorporation and the NY Land Bank Act. the board may consist of eleven directors. The qualification and manner of appointment of the Board of Directors shall be as follows:

1. The Executive Director of Strategic Planning of the City of Buffalo;
2. The Corporation Counsel of the City of Buffalo;
3. The Commissioner of Permit and Inspection Services of the City of Buffalo
4. The Commissioner of Administration, Finance, Policy and Urban Affairs for the City of Buffalo;
5. General Manager, Buffalo Sewer Authority;
6. The Commissioner of Erie County Department of Environment and Planning;
7. Director, Erie County Department of Real Property Tax Services;
8. The Erie County Attorney (Erie County Department of Law);
9. The City Assessor of the City of Lackawanna;
10. The City Treasurer of the City of Tonawanda;
11. Western New York Regional Director, Empire State Development Corporation.

and be it further

RESOLVED, that members of the Board of Directors shall serve by virtue of office and they shall serve so long as he or she shall hold the office. For those members of the Board of Directors appointed by the Members of the Corporation, they will serve until the conclusion of the next annual meeting of the Members of the Corporation, or until his or her successor shall have been duly appointed and qualified; and be it further

RESOLVED, that all members of the Board of the Land Bank shall be residents of the County of Erie except such member who serves as an officer of foreclosing governmental units located outside of Erie County shall be residents of the County in which the foreclosing governmental unit is located; and be it further

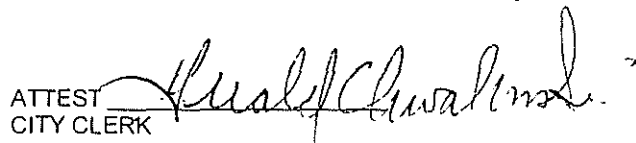
RESOLVED, that the intergovernmental agreement shall include provisions for dissolution of such land bank; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the Erie County Executive; the Commissioner of the Erie County Department of Environment and Planning; and the Erie County Director of the Department of Real Property Tax Services.

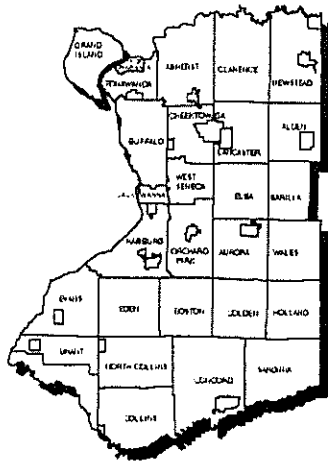
PASSED

AYES - 9 NOES - 0

ATTEST  
CITY CLERK



The above item was signed by the Mayor on March 28, 2012 and returned to the City Clerk on March 28, 2012



OFFICE OF  
THE COUNTY EXECUTIVE  
DEPT. OF ENV. & PLAN.  
PLANNING DIV.

2012 HR - 1 PM 1:18

## Association of Erie County Governments

9771 Partridge Rd.  
Colden, New York 14033  
(716) 941-3647 Phone & Fax  
assocofecgov@roadrunner.com

### CERTIFIED RESOLUTION

At our monthly meeting of the Association of Erie County Governments held in the Town of Orchard Park on February 23, 2012, the following resolution was moved by Town of Cheektowaga Supervisor Mary Holtz and seconded by Village of Angola –Mayor Howard Frawley and unanimously approved by all,

WHEREAS, the Erie County Department of Real Property Tax Services has determined that there are in excess of 73,360 tax liens within Erie County with more than \$53,529,325 in taxes owed to Erie County; and

WHEREAS, this situation is particularly troublesome in the Cities of Buffalo, Lackawanna, and Tonawanda as well as in the Towns of Amherst, Cheektowaga; and

WHEREAS, other towns and villages are also struggling with vacant and abandoned properties such as Tonawanda, West Seneca, and the Villages of Depew, Angola and Springville; and

WHEREAS, Erie County and its member municipalities have recognized the need to address the growing county-wide issue of tax delinquent, vacant, abandoned, and foreclosed properties; and

WHEREAS similar problems exist in many areas of New York State; and

WHEREAS, in July 2011 in recognition of this growing problem, New York State passed the Land Bank Act, as Article 16 of the New York State Not-for-Profit Corporation Law, which authorizes any foreclosing governmental unit (FGU) to create a land bank to return tax delinquent, vacant, abandoned, and foreclosed properties to productive use; and

WHEREAS, county-wide land banks have proven highly successful in Michigan, Ohio, and other regions experiencing growing numbers of problem properties by successfully returning properties to productive use; and

WHEREAS, the founder of the nationally-renowned model and award-winning Genesee County, Michigan Land Bank, Dan Kildee, has urged Erie County to form a land bank and offered his assistance and expertise to Erie County; and

WHEREAS, the County Executive, the Department of Environment and Planning, and Department of Real Property Tax Services are seeking ways to work collaboratively with Erie County Municipalities to address this issue; and

WHEREAS, the newly adopted state law establishes a competitive process to allow municipalities to create land banks but will only permit the formation of 10 land banks throughout New York State, with no more than five land banks being approved with the first round of applications due to Empire State Development (ESD) on March 30, 2012; and

WHEREAS, at the January 2012 meeting of the Association of Erie County Governments the issue of establishing an Erie County landbank to address the growing problem of vacant properties was raised and discussed at great length; and

WHEREAS, County Executive Mark Poloncarz tasked the County's Department of Environment and Planning and the County's Real Property Tax Department to establish a Landbank working group with representatives from any interested municipality, along with representatives from the Association, to work collaboratively on an application to ESD by the March 30.

NOW, THEREFORE, BE IT RESOLVED, that the Erie County Association of Governments recognizes the dire need to address the growing vacant and abandoned housing crisis in Erie County; and be it further

RESOLVED, that the Association of Erie County Governments supports the creation of a Landbank as an essential strategy in dealing with the vacant property crisis as Erie County; and be it further

RESOLVED, that the Association of Erie County Governments supports the creation of a Landbank by Erie County as Erie County is the Foreclosing Governmental Unit for most of the municipalities; and be it further

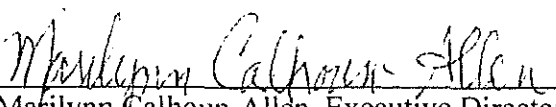
RESOLVED, that the Association of Erie County Governments goes on record as fully supportive of Erie County's application to Empire State Development to create a land bank; and be it further

RESOLVED, that the Association of Erie County Governments strongly urges Empire State Development to approve Erie County's application as Western New York desperately needs creative, new strategies to address the crippling problem of vacant and abandoned properties; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the Erie County Executive; the Commissioner of the Department of Environment and Planning; the Erie County Director of the Department of Real Property Tax Services; the County Comptroller; the County Attorney; the Director of the Division of Budget and Management; and the Erie County Legislature.

I, Marilynn Calhoun-Allen, Executive Director of the Association of Erie County Governments, do hereby certify that the foregoing is a full and true transcript of the resolution passed at the meeting of the Associations of Erie County Governments, as held in the Town of Orchard Park on the February 23, 2012, and that said meeting was duly called and duly constituted and that a quorum was present.

WITNESS my hand and the seal of the Association of Erie County Governments this February 29, 2012

  
Marilynn Calhoun-Allen, Executive Director

MEMBERS: CITIES/ Buffalo\* Lackawanna\* Tonawanda \*COUNTY of Erie \* TOWNS/ Alden\* Amherst\* Aurora\* Boston\* Brant\* Cheektowaga\* Clarence\* Colden\* Collins\* Concord\* Eden\* Elma\* Evans\* Grand Island\* Hamburg\* Holland\* Lancaster\* Marilla\* Newstead\* North Collins\* Orchard Park\* Sardinia\* Tonawanda\* Wales\* West Seneca \* VILLAGES/ Akron\* Alden\* Angola\* Blasdell\* Depew\* East Aurora\* Farnham\* Gowanda\* Hamburg\* Kenmore\* Lancaster\* North Collins\* Orchard Park\* Sloan\* Springville\* Williamsville\*



# VILLAGE OF SPRINGVILLE

Mayor:

*William J. Krebs*

Trustees:

*James A. Bentley  
Gerald E. Lohrey  
Jean E. Moncreiff  
Terry W. Skelton*

Attorney:

*Audrey A. Seeley*

*Erie County, New York*

*Incorporated April 11, 1834*

*5 W. Main St. / P. O. Box 17, Springville, NY 14141  
(716) 592-4986 / Fax (716) 592-7088 / TDD (800) 662-1220*

Administrator/Clerk, Treasurer:

*Timothy L. Horner*

Superintendent of Public Works:

*Karl R. Lux*

Electric Superintendent:

*Norbert McCarthy*

Police:

*John F. Fox*

Building Inspector/CEO:

*Michael R. Kaleta*

## A RESOLUTION SUBMITTED BY THE VILLAGE OF SPRINGVILLE

WHEREAS, the Erie County Department of Real Property Tax Services has determined that there are in excess of 73,360 tax liens within Erie County with more than \$53,529,325 in taxes owed to Erie County; and

WHEREAS, the Erie County Department of Real Property Tax Services has determined that the County of Erie County owns 58 unpaid tax liens in the Village of Springville, worth \$984,200.58; and

WHEREAS, The Village of Springville, Erie County, and other municipalities have recognized the need to address the growing county-wide issue of tax delinquent, vacant, abandoned, and foreclosed properties; and

WHEREAS, the Erie County Executive, the Department of Environment and Planning, and the Department of Real Property Tax Services are working collaboratively with the Village of Springville and other county municipalities to address this issue; and

WHEREAS; in July 2011, in recognition of the growing vacant property problem, New York State passed the Land Bank Act, as Article 16 of the New York State Not-for-Profit Corporation Law, which authorizes any foreclosing government unit (FGU) to create a land bank to return tax delinquent, vacant, abandoned, and foreclosed properties to productive use; and

WHEREAS; the Land Bank Act allows FGUs and municipalities to enter into a partnership to create a land bank; and

WHEREAS, the newly adopted state law establishes a competitive application process to allow FGUs to create land banks but will only permit the formation of 10 land banks throughout New York State, with no more than five land banks being approved with the first round of applications due March 30, 2012; and

*Historic Springville  
Home Of Glenn {Pop} Warner, Architect of Modern Day Football*

*The Village of Springville is an Equal Opportunity Employer  
Complaints of Discrimination should be sent to:  
Office of Civil Rights, Washington, D.C. 20260-9410*

2012 HR 14 AM 10:40  
CLERK OF BOARD  
PLANNING DIV.

WHEREAS, it is likely that applications that combine the major municipalities with the largest amount of delinquent properties in a county into a single land bank will have a more competitive application; and

WHEREAS, the Village of Springville is interested in partnering with Erie County and other municipalities in submitting and application.


NOW, THEREFORE, BE IT

RESOLVED, that the Village of Springville seeks to adequately address the issue of tax delinquent, foreclosed, vacant, and abandoned properties by participating in an Erie County Land bank; and be it further

RESOLVED, that the Village of Springville goes on record as fully supportive of Erie County's application to Empire State Development to create a land bank; and be it further

RESOLVED, that the Village of Springville strongly urges Empire State Development to approve Erie County's application as Erie County is the FGU for the Village and the Village desperately needs creative, new strategies to address the crippling problem of vacant and abandoned properties; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the Erie County Executive; the Commissioner of the Department of Environment and Planning; the Erie County Director of the Department of Real Property Tax Services; the County Comptroller, the County Attorney; the Director of the Division of Budget and Management; Legal Counsel for the Village of Springville; and the Village of Springville Assessor.

  
\_\_\_\_\_  
William J. Krebs  
Mayor



# TOWN OF ORCHARD PARK

S 4295 South Buffalo Street Orchard Park, New York 14127-2609

## Town Board supports "Land Bank Act"

THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR COLARUSSO, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:

**WHEREAS**, the Erie County Department of Real Property Tax Services has determined that there are in excess of 73,360 tax liens within Erie County with more than \$53,529,325 in taxes owed to Erie County, and

**WHEREAS**, this situation is particularly troublesome in the Cities of Buffalo, Lackawanna, and Tonawanda as well as in the Towns of Amherst, Cheektowaga, and other towns and villages are also struggling with vacant and abandoned properties and

**WHEREAS**, Erie County and its member municipalities have recognized the need to address the growing county-wide issue of tax delinquent, vacant, abandoned, and foreclosed properties, and

**WHEREAS**, similar problems exist in many areas of New York State, and

**WHEREAS**, in July 2011 in recognition of this growing problem, New York State passed the Land Bank Act, as Article 16 of the New York State Not-for-Profit Corporation Law, which authorizes any foreclosing governmental unit (FGU) to create a land bank to return tax delinquent, vacant, abandoned, and foreclosed properties to productive use, and

**WHEREAS**, county-wide land banks have proven highly successful in Michigan, Ohio, and other regions experiencing growing numbers of problem properties by successfully returning properties to productive use, and

**WHEREAS**, the founder of the nationally-renowned model and award-winning Genesee County, Michigan Land Bank, Dan Kildee, has urged Erie County to form a land bank and offered his assistance and expertise to Erie County, and

**WHEREAS**, the County Executive, the Department of Environment and Planning, and Department of Real Property Tax Services are seeking ways to work collaboratively with Erie County Municipalities to address this issue, and

**WHEREAS**, the newly adopted state law establishes a competitive process to allow municipalities to create land banks but will only permit the formation of 10 land banks throughout New York State, with no more than five land banks being approved with the first round of applications due to Empire State Development (ESD) on March 30, 2012, and

2012 APR 11 AM 11:11  
SUPERVISOR  
JANIS M. COLARUSSO  
COUNCILMEMBERS  
DAVID R. KACZOR  
EUGENE MAJCHRZAK  
TOWN CLERK  
CAROL R. HUTTON  
TOWN ATTORNEY  
JOHN C. BAILEY  
TOWN JUSTICES  
EDWARD A. PACE  
LYNN W. KEANE  
SUPT. OF HIGHWAYS  
FREDERICK J. PIASECKI, JR.  
CHIEF OF POLICE  
ANDREW D. BENZ  
BUILDING INSPECTOR  
ANDREW GEIST  
TOWN ASSESSOR  
MILTON BRADSHAW  
SCAA  
TOWN ENGINEER  
WAYNE L. BIELER, P.E.  
RECREATION DIRECTOR  
EDWARD J. LEAK, CPRP  
PLANNING COORDINATOR  
REMY C. ORFFEO  
ANIMAL CONTROL OFFICER  
DENNIS BUCZKOWSKI  
SENIOR CENTER DIRECTOR  
ANNA WILLEMS

**RESOLVED**, the Town of Orchard Park Town Board recognizes the dire need to address the growing vacant and abandoned housing crisis in Erie County, and be it further

**RESOLVED**, that this Town Board supports the creation of a Land Bank as an essential strategy in dealing with the vacant property crisis as Erie County, and be it further

**RESOLVED**, the Town Board supports the creation of a Land Bank by Erie County as Erie County is the Foreclosing Governmental Unit for most of the municipalities, and be it further

**RESOLVED**, the Town Board goes on record as fully supportive of Erie County's application to Empire State Development to create a Land Bank, and be it further

**RESOLVED**, the Town Board strongly urges Empire State Development to approve Erie County's application as Western New York desperately needs creative, new strategies to address the crippling problem of vacant and abandoned properties, and be it further


**RESOLVED**, that certified copies of this resolution shall be forwarded to the Erie County Executive, the Commissioner of the Department of Environment and Planning, the Erie County Director of the Department of Real Property Tax Services, the County Comptroller, the County Attorney, the Director of the Division of Budget and Management, and the Erie County Legislature.

**The resolution was unanimously adopted.**

STATE OF NEW YORK                    )  
COUNTY OF ERIE                    ) ss  
TOWN OF ORCHARD PARK            )

*This is to certify that I, Carol R. Hutton, Clerk of the Town of Orchard Park, in said County of Erie, have compared the foregoing copy with the original resolution now on file in this office, and which was passed by the Town Board of the Town of Orchard Park, on the 7<sup>th</sup> day of March, 2012 and that the same is a correct and true transcript of such original resolution and the whole thereof.*

*IN WITNESS WHEREOF, I have set my hand affixed the seal of said Town this 12<sup>th</sup> day of March, 2012.*

  
\_\_\_\_\_  
Carol R. Hutton  
Town Clerk

**MARCH 5, 2012**

6. **MOTION** by Trustee Hackathorn, seconded by Deputy Mayor Tallman,

**WHEREAS**, Erie County and its member municipalities have recognized the need to address the growing county-wide issue of tax delinquent, vacant, abandoned and foreclosed properties, and

**WHEREAS**, New York State recently passed the Land Bank Act as Article 16 of the New York State Not-For-Profit Corporation Law, which authorizes any foreclosing governmental unit to create a Land Bank to return delinquent, vacant, abandoned, and foreclosed properties to productive use.

**NOW THEREFORE**, Be It Resolved that the Village of Hamburg supports the creation of a Land Bank by Erie County as Erie County is the foreclosing governmental unit for most of the municipalities in the county, and further be it

**RESOLVED**, that the Village of Hamburg supports Erie County's application to Empire State Development to create a Land Bank.

AYES: Five

NAYS: None

CARRIED




STATE OF NEW YORK :

COUNTY OF ERIE : SS.:

VILLAGE OF HAMBURG :

I, Donald P. Witkowski, do hereby certify that I am the Administrator/Clerk-Treasurer of the Village of Hamburg, County of Erie and State of New York; that the attached resolution was duly adopted by the Board of Trustees of the said Village of Hamburg, at a regular Board Meeting held on the 5<sup>th</sup> day of March, 2012, and duly entered in the Minutes of said Board on said day. Whereby I have compared the foregoing copy with the original thereof so entered in the Minutes of said Board and the same is a full, true and complete copy of said original and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the Village of Hamburg, this 12<sup>th</sup> day of March, 2012.



Donald P. Witkowski  
Administrator/Clerk-Treasurer  
Village of Hamburg

(SEAL)



Town Clerk  
ADOPTED

**RESOLUTION 2012-105**  
DOC ID: 5817

---

## **Support of Erie County Land Bank**

WHEREAS, the Erie County Department of Real Property Tax Services has determined that there are in excess of 73,360 tax liens within Erie County worth more than \$53,529,325 in taxes owed to Erie County; and

WHEREAS, the Erie County Department of Real Property Tax Services has determined that the County of Erie owns 3,879 unpaid tax liens in the Town of Cheektowaga, worth \$7,041,906; and

WHEREAS, the Town of Cheektowaga, Erie County, and other municipalities have recognized the need to address the growing county-wide issue of tax delinquent, vacant, abandoned, and foreclosed properties; and

WHEREAS, the Erie County Executive, the Department of Environment and Planning, and the Department of Real Property Tax Services are working collaboratively with the Town of Cheektowaga and other county municipalities to address this issue; and

WHEREAS, in July 2011, in recognition of the growing vacant property problem, New York State passed the Land Bank Act, as Article 16 of the New York State Not-for-Profit Corporation Law, which authorizes any foreclosing governmental unit (FGU) to create a land bank to return tax delinquent, vacant, abandoned, and foreclosed properties to productive use; and

WHEREAS; the Land Bank Act allows FGUs and municipalities to enter into a partnership to create a land bank; and

WHEREAS, the newly adopted State law establishes a competitive application process to allow FGUs to create land banks but will only permit the formation of 10 land banks throughout New York State, with no more than five land banks being approved with the first round of applications due March 30, 2012; and

WHEREAS, it is likely that applications that combine the major municipalities with the largest amount of delinquent properties in a county into a single land bank will have a more competitive application; and

WHEREAS, the Town of Cheektowaga is interested in partnering with Erie County and other municipalities in submitting an application.

NOW, THEREFORE, BE IT

RESOLVED, that the Town of Cheektowaga seeks to adequately address the issue of tax delinquent, foreclosed, vacant, and abandoned properties by participating in an Erie County Land bank; and BE IT FURTHER

RESOLVED, that the Town of Cheektowaga goes on record as fully supportive of Erie County's application to Empire State Development to create a land bank; and BE IT FURTHER

RESOLVED, that the Town of Cheektowaga strongly urges Empire State Development to approve Erie County's application as Erie County is the FGU for the Town and the Town desperately needs creative, new strategies to address the crippling problem of vacant and abandoned properties; and BE IT FURTHER

RESOLVED, that certified copies of this resolution shall be forwarded to the Erie County Executive; the Commissioner of the Department of Environment and Planning; the Erie County Director of the Department of Real Property Tax Services; the County Comptroller; the County Attorney; the Director of the Division of Budget and Management; the Town Attorney for the Town of Cheektowaga; and the Town of Cheektowaga Assessor.

**RESULT: ADOPTED [UNANIMOUS]**

**MOVER:** Mary Holtz, Supervisor

**SECONDER:** Stanley Kaznowski, Councilmember

**AYES:** Holtz, Jaworowicz, Rogowski, Markel, Kaznowski, Kaminski, Wozniak

State Of New York  
Erie County  
Office Of The Clerk Of The  
Town of Cheektowaga

ss:

This is to certify that I, *Alice Magierski*, Clerk of the *Town of Cheektowaga*, in the said *County of Erie*, have compared the foregoing copy of resolution with the original resolution now on file at this office, and which was passed by the Town Board of the *Town of Cheektowaga*

in said *County of Erie*, on Wednesday, February, 22, 2012, and that the same is a correct and true transcript of such original resolution and the whole thereof.

(Seal)

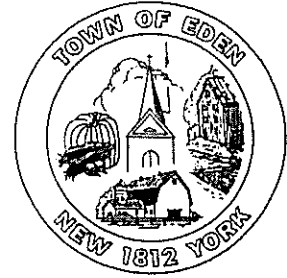
*In Witness Whereof*, I have hereunto set my hand and affixed the seal of said Town on Thursday, February, 23, 2012.



CLERK OF THE TOWN BOARD, TOWN OF CHEEKTOWAGA, NY

# **town of eden**

Resolution No. 6-2012



STATE OF NEW YORK :  
COUNTY OF ERIE : ss:  
TOWN OF EDEN :

I, Mary Jo Hultquist, Town Clerk of the Town of Eden, Erie County, New York, do hereby certify that a Regular Meeting of the Town Board of the aforesaid town, held on the 14<sup>th</sup> day of March, 2012 at the Eden Town Hall, 2795 East Church Street, Eden, New York, the following resolution was adopted,

**MOTION** was made by Supervisor Nellis to approve the adoption of the following resolution:

## **RESOLUTION IN SUPPORT OF A LAND BANK IN ERIE COUNTY**

**WHEREAS**, the Erie County Department of Real Property Tax Services has determined that there are in excess of 73,360 tax liens within Erie County with more than \$53,529,325 in taxes owed to Erie County; and

**WHEREAS**, this situation is particularly troublesome in the Cities of Buffalo, Lackawanna and Tonawanda as well as in the Towns of Amherst and Cheektowaga; and

**WHEREAS**, other towns and villages are also struggling with vacant and abandoned properties; and

**WHEREAS**, Erie county and its member municipalities have recognized the need to address the growing county-wide issue of tax delinquent, vacant, abandoned, and foreclosed properties; and

**WHEREAS**, similar problems exist in many areas of New York State; and

**WHEREAS**, in July 2011 in recognition of this growing problem, New York State passed the Land Bank Act, as Article 16 of the New York State Not-for-Profit Corporation Law, which authorizes any foreclosing governmental unit (FGU) to create a land bank to return tax delinquent, vacant, abandoned and foreclosed properties to productive use; and

**WHEREAS**, county-wide land banks have proven highly successful in Michigan, Ohio and other regions experiencing growing numbers of problem properties by successfully returning properties to productive use; and

**WHEREAS**, the County Executive, the Department of Environment and Planning and Department of Real Property Tax Services are seeking ways to work collaboratively with Erie County Municipalities to address this issue; and

**WHEREAS**, the newly adopted state law establishes a competitive process to allow municipalities to create land banks but will only permit the formation of 10 land banks throughout New York State, with no more than five land banks being approved with the first round of applications due to Empire State Development (ESD) on March 30, 2012; and

**WHEREAS**, at the January and February 2012 meetings of the Association of Erie County Governments the issue of establishing an Erie County land bank to address the growing problem of vacant properties was raised and discussed at great length and appropriate resolution was unanimously passed by the municipalities in attendance to create such a land bank; and

**WHEREAS,** County Executive mark Poloncarz tasked the County's Department of Environment and Planning and the County's Real Property Tax Department to establish a land bank working group with representatives from any interested municipality, along with representatives from the Association to work collaboratively on an application to ESD by March 30.

**NOW, THEREFORE BE IT RESOLVED** that the Town of Eden joins Erie County and the Association of Erie County Governments in recognizing the dire need to address the growing vacant and abandoned housing crises in Erie County; and be it further

**RESOLVED** that the Town of Eden supports the creation of a land bank as an essential strategy in dealing with the vacant property crisis in Erie County; and be it further

**RESOLVED** that the Town of Eden supports the creation of a land bank by Erie County as Erie County is the Foreclosing Government Unit for most of the municipalities; and be it further

**RESOLVED** that certified copies of this resolution shall be forwarded to the Erie County Executive; the Commissioner of the Department of Environment and Planning; the Erie County Director of the Department of Real Property Tax Services; and County Comptroller; the County Attorney; the Director of the Division of Budget and Management; and the Erie County Legislature.

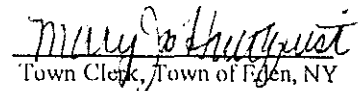
Seconded by Councilwoman Pew; All "Ayes"; Motion carried.

I do further certify that I have compared the foregoing with the original Minutes of the Town Board Meeting of the Town Board of the said Town held on the 14<sup>th</sup> day of March, 2012 and that the foregoing is a true and correct transcript from said original Minutes and the whole thereof, and that the resolutions duly adopted by the said Town Board are on file in my office.

I do further certify that the members of the Eden Town Board on March 14, 2012 were as follows: Supervisor: Glenn R. Nellis; Councilwoman: Mary Lou Pew; Councilman: Edward Krycia, Jr.; Councilman: Fran McLaughlin; and Councilman: Richard S. Ventry.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the said Town of Eden, Erie County, New York, the 20<sup>th</sup> day of March, 2012.

Seal

  
Town Clerk, Town of Eden, NY





DOC ID: 8477

**Town of Amherst**  
5583 Main Street  
Williamsville, NY 14221  
[www.amherst.ny.us](http://www.amherst.ny.us)

Marjory Jaeger  
Town Clerk

Meeting: 03/05/12 07:00 PM  
Department: Supervisor  
Initiated by: **Barry A. Weinstein**  
**SCHEDULED**

**RESOLUTION 2012-253**

## **Support for an Erie County Land Bank**

**WHEREAS**, the Erie County Department of Real Property Tax Services has determined that Erie County owns unpaid tax liens in the Town of Amherst worth \$4,205,500; and

**WHEREAS**, the Town of Amherst has recognized the need to address the growing issue of tax delinquent, vacant, abandoned, and foreclosed properties; and

**WHEREAS**, the Erie County Executive, the Department of Environment and Planning, and the Department of Real Property Tax Services are working collaboratively with the county's municipalities to address this issue; and

**WHEREAS**, in July 2011, in recognition of the growing vacant property problem, New York State passed the Land Bank Act, as Article 16 of the New York State Not-for-Profit Corporation Law, which authorizes any foreclosing governmental unit (FGU) to create a land bank to return tax delinquent, vacant, abandoned, and foreclosed properties to productive use; and

**WHEREAS**, the Land Bank Act allows FGUs and municipalities to enter into a partnership to create a land bank; and

**WHEREAS**, the newly adopted state law establishes a competitive application process to allow FGUs to create land banks but will only permit the formation of 10 land banks throughout New York State, with no more than five land banks being approved with the first round of applications due March 30, 2012; and

**WHEREAS**, it is likely that applications that combine the major municipalities with the largest amount of delinquent properties in a county into a single land bank will have a more competitive application; and

**WHEREAS**, the Town of Amherst is interested in exploring an intergovernmental cooperation agreement with Erie County and other municipalities in submitting an application;

**NOW, THEREFORE, BE IT RESOLVED** that the Town of Amherst seeks to adequately address the issue of tax delinquent, foreclosed, vacant, and abandoned properties by participating in an Erie County Land Bank; and

**BE IT FURTHER RESOLVED** that the Town Board goes on record as supportive of Erie County's application to Empire State Development to create a land bank that includes the full participation of constituent town governments; and

**BE IT FURTHER RESOLVED** that the Town Board urges Empire State Development to approve Erie County's application as the FGU for the town with the understanding that Amherst will play an active role in the planning and implementation of new strategies to address the problem of vacant and abandoned properties; and

**BE IT FURTHER RESOLVED** that certified copies of this resolution shall be forwarded to the Erie County Executive; the Commissioner of the Department of Environment and Planning; the Erie County Director of the Department of Real Property Tax Services; the County Comptroller; the County Attorney; and the Director of the Division of Budget and Management.

**3/05/2012**  
Consent



# TOWN OF AMHERST

## TOWN CLERK'S OFFICE

5583 MAIN STREET  
WILLIAMSVILLE, NEW YORK 14221  
(716) 631-7021  
FAX (716) 631-7152  
[www.amherst.ny.us](http://www.amherst.ny.us)

**Marjory Jaeger**  
Town Clerk

**Kathleen Cooper**  
Deputy Town Clerk

**Timothy Koller**  
Asst. Deputy Town  
Clerk

### CERTIFICATE OF TOWN CLERK

I, Marjory Jaeger, Town Clerk of the Town of Amherst, in the County of Erie, State of New York, HEREBY CERTIFY, as follows:

That the attached Resolution 2012-253 "Support for an Erie County Land Bank" is a true and exact copy of the Resolution enacted by the Town Board at its meeting on March 5, 2012.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town of Amherst this 6th day of March, 2012.

Marjory Jaeger  
Town Clerk  
Town of Amherst, Erie County, NY

Sworn to before me  
This 6<sup>th</sup> day of March, 2012

  
Notary Public

**KATHLEEN M. COOPER**  
No. 01CO6003555  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires June 30, 2014

2012 MR -8 PM 1:17  
COUNTY OF ERIE  
ENV. & PLAN.  
PLANNING DIV.



## COUNTY OF ERIE

CHRISTOPHER L. JACOBS

COUNTY CLERK

March 7, 2012

Honorable Mark C. Polancarz  
County Executive  
County of Erie  
95 Franklin Street  
Buffalo, NY 14202

RE: Creation of an Erie County Land Bank

Dear County Executive:

I am aware that your administration is considering applying for one of the 10 Land Bank designations from the State of New York.

I write to express my support for such an application. As a lifelong resident of the City of Buffalo and someone involved in urban development for years, I believe a Land Bank can be a powerful instrument to combat blight in distressed neighborhoods throughout our County while being a catalyst for true and sustained reinvestment. As you are aware, the problems of vacant homes and the neglect of property are no longer solely relegated to the City of Buffalo or even first ring suburbs. To be truly successful I believe such an effort needs to be regional and inter-municipal in scope and truly collaborative in its implementation.

I support your efforts in this regard and my office, which plays a major role in all real estate transactions throughout the County of Erie, stands ready and willing to partner with you in this effort.

Sincerely yours,

  
Christopher L. Jacobs  
County Clerk

CC: See Attached List

Appendix G:  
Certificate of Incorporation

CERTIFICATE OF  
INCORPORATION OF  
BUFFALO ERIE NIAGARA LAND IMPROVEMENT CORPORATION

Under Section 402 of the Not-for-Profit Corporation Law

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The undersigned incorporator, being over the age of eighteen years, for the purpose of forming a corporation pursuant to Section 402 of the Not-for-Profit Corporation Law of New York, does hereby certify:

1. The name of the Corporation is Buffalo Erie Niagara Land Improvement Corporation.
2. The Corporation is a corporation as defined in subparagraph (a) (5) of Section 102 of the Not-for-Profit Corporation Law.
3. The Corporation shall be a Type C corporation under Sections 201 and 1603 (f) of the Not-for-Profit Corporation Law.
4. The purposes for which the Corporation is formed are exclusively charitable, scientific or educational within the meaning of Section 501 (c) (3) of the United States Internal Revenue Code, as it may be amended from time to time (the "Code"). Subject to that limitation and the limitations stated in subsequent paragraphs of this Certificate, its purposes shall include the following:
  - (a) To confront and alleviate the problems caused by vacant, abandoned, tax-delinquent, and tax foreclosed properties and to turn vacant spaces into vibrant places in Erie County and Western New York.
  - (b) To lessen the burdens on the governments of Erie County and Western New York of acquiring and maintaining vacant, abandoned, tax-delinquent , and tax- foreclosed properties.



(c) To combat community deterioration and urban decay caused by vacant, abandoned, tax-delinquent, and tax foreclosed properties by taking remedial action to eliminate the physical, economic, and social causes of such deterioration.

(d) To serve as a land bank pursuant to Article 16 (the Land Bank Act) of the Not-for-Profit Corporation Law.

(e) To demonstrate the feasibility of a land bank and to encourage both other foreclosing governmental units and non-foreclosing municipalities and school districts to enter into intergovernmental cooperative agreements with the foreclosing governmental units in Erie County and/or the Corporation when they determine it to be in the interest of their residents to do so.

(f) To pursue and to cooperate with and assist other organizations to pursue any one or more of the above-mentioned purposes.

(g) Any other purpose which shall assist the Corporation in the furtherance of the above-stated purposes which can be performed by a corporation as defined by subparagraph (a) (5) of Section 102 of the Not-for-Profit Corporation Law.

5. The lawful public objectives which each purpose of the Corporation will serve are to lessen the burdens of government and combat community deterioration by performing those functions permissible under the New York Land Bank Act.

6. Notwithstanding any other provision of this Certificate, the purposes of the Corporation do not extend to or include any of the purposes mentioned in Section 404 of the Not-for-Profit Corporation Law.

7. Notwithstanding any other provision of this Certificate, the purpose and powers of the Corporation shall be limited as follows:

(a) The Corporation shall not engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes

within the meaning of Section 501 (c) (3) of the Code.

(b) The Corporation shall not devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise.

(c) The Corporation shall not directly or indirectly participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office.

(d) Upon dissolution of the Corporation, its assets shall be distributed for one or more exempt purposes within the meaning of Section 501 (c) (3) of the Code, and none of the assets shall be distributed to any non-exempt person or organization.

(e) No part of the net earnings of the corporation shall inure to the benefit of any member, trustee, director, officer of the corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the corporation) and no member, director, officer of the corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation.

(f) The Corporation shall not carry on any other activities not permitted to be carried on (i) by a corporation exempt from federal income tax under Section 501 (c) (3) of the Code or (ii) by a corporation, contributions to which are deductible under Section 170 (c) (2) of the Code.

(g) If at any time or times the corporation is a private foundation within the meaning of Section 509 of the Code, then during such time or times:

(1) The corporation shall distribute its income for each taxable year at such time and in such manner as not to subject the corporation to tax under Section 4842 of the Code;

(2) The corporation shall not engage in any act of self-dealing, as defined in Section 4941 (d) of the Code;

(3) The corporation shall not retain any excess business holdings, as defined in Section 4943 (c) of the Code;

(4) The corporation shall not make any

investments in such manner as to subject the corporation to tax under Section 4944 of the Code; and

(5) The corporation shall not make any taxable expenditures as defined in Section 4945 (d) of the Code.

8. The duration of the Corporation is perpetual.

9. The office of the Corporation is to be located in Erie County, New York.

10. The Corporation may be authorized by resolution of the Board of Directors to accept subventions from members or non-members on terms and conditions not inconsistent with the Not-for-Profit Corporation Law, and to issue certificates therefor.

11. The names and addresses of the persons constituting the initial Board of Directors of the Corporation are:

- |  |  |
|--|--|
| 1. Brendan R. Mehaffy, Executive<br>Director of Strategic Planning of the<br>City of Buffalo                       | 920 City Hall<br>Buffalo, New York 14202   |
| 2. Timothy A. Ball<br>Corporation Counsel of the City of<br>Buffalo  | 1100 City Hall<br>Buffalo, NY 14202  |
| 3. James Comerford, Jr.<br>Commissioner of Permit and<br>Inspection Services of the City of<br>Buffalo             | 324 City Hall<br>Buffalo, NY 14202   |
| 4. Janet Penksa<br>Commissioner of Administration,<br>Finance, Policy and Urban Affairs for<br>the City of Buffalo | 203 City Hall<br>Buffalo, NY 14202   |
| 5. David P. Comerford<br>General Manager, Buffalo Sewer<br>Authority   | 1038 City Hall<br>Buffalo, NY 14202  |
| 6. Maria R. Whyte<br>Commissioner of Erie County<br>Department of Environment and<br>Planning                      | Edward A. Rath Building<br>95 Franklin Street, 10th Floor<br>Buffalo, New York 14202 |

- |   |   |
|---|---|
| 7. Joseph L. Maciejewski<br>Director, Erie County Department of<br>Real Property Tax Services | Edward A. Rath Building<br>95 Franklin Street, 1st floor, Room 100<br>Buffalo, New York 14202 |
| 8. Michael A. Siragusa, County Attorney<br>Erie County Department of Law                      | Edward A. Rath Building<br>95 Franklin Street, Suite 1634<br>Buffalo, New York 14202          |
| 9. Frank E. Krakowski – City Assessor<br>City of Lackawanna                                   | Lackawanna City Hall<br>714 Ridge Road<br>Lackawanna, New York 14218                          |
| 10. Joseph M. Hogenkamp<br>City Treasurer<br>City of Tonawanda                                | City of Tonawanda<br>200 Niagara Street<br>Tonawanda, New York 14150                          |
| 11. Christina Orsi<br>Empire State Development – Western<br>New York Regional Director        | 95 Perry Street, Suite 500<br>Buffalo, New York 14203   |

12. The Secretary of State of the State of New York is designated as agent of the Corporation upon whom process against the Corporation may be served. The post office address to which the Secretary shall mail a copy of any process against it served upon him or her is:

The County Executive of Erie County  
Edward A. Rath Building  
95 Franklin Street  
Buffalo, New York 14202

IN WITNESS WHEREOF, I have signed this Certificate this \_\_\_\_\_ day of March, 2012.

---

Mark C. Poloncarz, County Executive  
County of Erie  
Edward A. Rath Building  
95 Franklin Street  
Buffalo, New York 14202

STATE OF NEW YORK     )  
  ) ss.:  
COUNTY OF ERIE         )

On this         day of March, 2012, before me personally came MARK C. POLONCARZ, to me known and known to me to be the person described in and who executed the foregoing Certificate of Incorporation, and he duly acknowledged to me that he executed the same.

---

Notary Public

# Appendix H: By-Laws



BY-LAWS  
OF  
BUFFALO ERIE NIAGARA LAND IMPROVEMENT  
CORPORATION

ARTICLE I – PURPOSES AND POWERS

The purposes of the Corporation shall be as set forth in the Certificate of Incorporation. The Corporation shall have all of the powers and shall be subject to all of the duties provided by the Land Bank Act (Article 16 of the Not-for-Profit Corporation Law) and all other applicable laws and to the terms and conditions of any applicable Intergovernmental Cooperative Agreement.

ARTICLE II – OFFICES

The principal office of the Corporation shall be at the Edward A. Rath Building, 95 Franklin Street, Buffalo, New York 14202.

ARTICLE III – MEMBERS

Section 1.      Members.

The Members of the Corporation shall be the County Executive of Erie County and the Mayor of the City of Buffalo.

Section 2.      Meetings of Members.

Meetings of the Members may be called as provided in the Not-for-Profit Corporation Law or upon agreement by the Members.

Section 3.      Quorum and Action by Members.

Except as otherwise expressly provided by these By-Laws in respect to

the appointment of Directors, both Members must be present in person or by proxy to constitute a quorum for the transaction of any business, and the affirmative vote of both Members, in person, by proxy, or by written consent, shall be required to take any action under this chapter. Action may be taken by the Members without a meeting on written consent, setting forth the action so taken, signed by all of the members entitled to vote thereon. Each such consent shall be filed with the Clerk of the Erie County Legislature and the Clerks of the Cities of Buffalo, Lackawanna and Tonawanda, as well as with the minutes of the Corporation.

Section 4. Proxies.

Each member entitled to vote at a meeting of Members or to the express consent or dissent without a meeting may authorize another person or persons to act for him by proxy.

ARTICLE IV – DIRECTORS

Section 1. Management of the Corporation.

The Corporation shall be managed by the Board of Directors, which shall consist of an odd number of not less than five or more than eleven directors.

[§1603(a)(2)]

Section 2. No Compensation, Reimbursement for Expenses.

Board members shall serve without compensation. The Board may reimburse any member for expenses actually incurred in the performance of duties on behalf of the Corporation. [§1605(g)]

Section 3. Appointment of Directors.

The Board of Directors shall be constituted of eleven directors, as

follows:

1. The Commissioner of Administration and Finance, Policy and Urban Affairs for the City of Buffalo
2. The Executive Director of Strategic Planning of the City of Buffalo
3. The Commissioner of Permit and Inspection Services of the City of Buffalo
4. The Corporation Counsel of the City of Buffalo
5. The General Manager of the Buffalo Sewer Authority
6. The Commissioner of Environment and Planning of the County of Erie
7. The Director of Real Property Services of the County of Erie
8. The County Attorney of Erie County
9. The City Assessor of the City of Lackawanna
10. The City Treasurer of the City of Tonawanda
11. The Western New York Regional Director of the Empire State Development Corporation

Section 4. Service by Public Officers and Employees as Directors.

Any public officer shall be eligible to serve as a Director and the acceptance of the appointment shall neither terminate nor impair such public office.

Any municipal employee or appointed officer shall be eligible to serve as a Director.

[§1605(c)]

Section 5. Removal of Directors.

The Board shall establish rules and requirements relative to the attendance and participation of members in its meetings, regular or special. Such rules and

regulations may prescribe a procedure whereby, should any member fail to comply with such rules and regulations, such member may be disqualified and removed automatically from office by no less than a majority vote of the remaining members of the Board, and that member's position shall be vacant as of the first day of the next calendar month. Any person removed under the provisions of this paragraph shall be ineligible for reappointment to the Board, unless such reappointment is confirmed unanimously by the Board. [§1605(e)]

Section 6.     Vacancies.

A vacancy on the Board shall be filled in the same manner as the original appointment. [§1605(f)]

Section 7.     Action of the Board.

(a) A majority of the members of the Board, not including vacancies, shall constitute a quorum for the conduct of business. All actions of the Board shall be approved by the affirmative vote of a majority of the members of that Board present and voting; provided, however, no action of the Board shall be authorized on the following matters unless approved by a majority of the total Board membership:

- (1) adoption of by-laws and other rules and regulations for conduct of the Corporation's business;
- (2) hiring or firing of any employee or contractor of the Corporation. This function may, by majority vote of the total Board membership, be delegated to a specified officer or committee of the Corporation, under such terms and conditions, and to the extent, that the Board may specify;
- (3) the incurring of debt;
- (4) adoption or amendment of the annual budget; and
- (5) acquisition, sale, lease, encumbrance, or alienation of real property, improvements, or personal property.

[§1605(i)]

(b) Any one or more members of the Board or any committee thereof may participate in a meeting of such Board or committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting. [§708(c)]

(c) Any action required or permitted to be taken by the Board of Directors or any committee thereof may be taken without a meeting if all members of the Board or the committee consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consent thereto by the members of the Board or committee shall be filed with the minutes of the proceedings of the Board or committee. [§708(b)]

#### Section 8. Meetings.

The Board shall meet in regular session according to a schedule adopted by the Board, and also shall meet in special session as conveyed by the Chairman or upon written notice signed by a majority of the Members. [§1605(h)]

Section 9. Compliance with Open Meetings Law and Freedom of Information Law. The Board and the Corporation shall comply with the provisions of the New York Open Meetings Law and the New York Freedom of Information Law.

### ARTICLE V – OFFICERS AND STAFF

#### Section 1. Officers.

The members of the Board of Directors shall select annually from among themselves a Chairman, a Vice-Chairman, a Treasurer, and such other officers as the Board may determine, and shall establish their duties as may be regulated by rules adopted by the Board. [§1605(c)]

Section 2. Administrative Organization.

The Board may organize and reorganize the executive, administrative, clerical, and other departments of the Corporation and to fix the duties, powers, and compensation of all employees, agents, and consultants of the Corporation. [§1605(g)]

Section 3. Counsel and Staff.

The County Attorney shall serve as Counsel to the Corporation and may assign deputies or assistants to advise and represent the Corporation. The Corporation may employ a secretary, an executive director, and such technical experts, and such other agents and employees, permanent or temporary, as it may require, and may determine the qualifications and fix the compensation and benefits of such persons. The Corporation may also enter into contracts and agreements with municipalities for staffing services to be provided to the Corporation by municipalities or agencies or departments thereof, or for the Corporation to provide such staffing services to municipalities or agencies or departments thereof. [§1606]

Section 4. Signing of Checks.

For example, the Executive Director, Chair and Treasurer are authorized to issue and sign (two (2) signatures required) checks to pay corporate obligations. The Board of Directors may adopt such resolutions as may be appropriate to authorize one or more officers to sign, without requiring any other signature, payroll checks and checks in amounts up to \$500.00 to pay corporate obligations incurred in the ordinary course of business, and to authorize the officers to open checking accounts and to issue and sign checks without reference in such resolutions to the purposes of such accounts and checks.



## ARTICLE VI

### POLICIES FOR ACQUISITION, USE AND DISPOSITION OF PROPERTY

#### Section 1. Compliance with Land Bank Act.

In its acquisition and disposition of property, the Corporation shall be subject to Article 16 of the Not-for-Profit Corporation Law (the Land Bank Act).

#### Section 2. Compliance with Municipal Building Codes, Zoning Laws, and Land Use Controls and Intergovernmental Agreements.

The Corporation shall be subject to all applicable city, town and village building codes, zoning laws and land use controls in its use and disposition of real property owned by the Corporation, and to the terms and conditions of any applicable Intergovernmental Cooperative Agreement. The Mayor and the Executive Director of Strategic Planning for the City of Buffalo shall be responsible for confirming that any proposed land banking activity within the City of Buffalo is in accordance with said codes, zoning laws, and land use controls of the City of Buffalo and shall provide written confirmation of such accordance prior to any land banking activity taking place.

#### Section 3. Consultation with Municipalities.

The Corporation shall actively consult with Erie County and the cities, towns and villages of Erie County in respect to the selection of properties to be acquired and policies, plans and procedures to the disposition of such properties.

#### Section 4. Consent of Cities.

Recognizing that the Cities of Buffalo, Lackawanna and Tonawanda, as well as the County, possess their own tax liens on real property within their respective territories, the Corporation will not foreclosure on County tax liens or more generally

exercise the powers granted by the Land Bank Act for acquisition of property at tax foreclosure sale within a City over the written objection of the Mayor of such City.

Section 5. Requests for Foreclosure.

Any town or village in Erie County may request that (a) the County transfer to the Corporation the County's tax lien on any tax delinquent real property within such town's or village's territory and (b) the Corporation foreclose on such lien, provided that the Corporation may require as a precondition to such foreclosure that the requesting town or village agree to submit a bid for the property at the foreclosure sale. The Corporation may accept a deed in lieu of foreclosure on such property; and it may convey the property to the requesting town or village in exchange for payment of the amount of the lien, including interest, costs and penalties.

Section 6. Redevelopment Plans.

Subject to Sections 2 and 3 above, and after consultation with the specific municipalities affected, the Board of Directors may adopt redevelopment plans for properties held or to be disposed of by the Corporation within the respective territories of such municipalities.

ARTICLE VII – INDEMNIFICATION

The Corporation shall indemnify any person made, or threatened to be made, a party to an action or proceeding by reason of the fact that such person or his testator or intestate is or was a director or officer of the Corporation, or (to the extent not indemnified thereby) served any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise at the request of the Corporation in the capacity of officer or director in the case of actions in the right of the Corporation and in any capacity in the case of all other actions, against judgments, fines, amounts paid in settlement, and reasonable expenses, including

attorneys' fees, in the manner and to the full extent allowed by the Not-for-Profit Corporation Law, provided that no such indemnification shall be required with respect to any settlement or other non-adjudicated disposition of any threatened or pending action or proceeding unless the Corporation has given its prior consent to such settlement or other disposition. The Corporation is authorized to the full extent allowed by the Not-for-Profit Corporation Law to purchase and maintain insurance to indemnify the Corporation for any obligation which it incurs as a result of the indemnification of directors and officers under the provisions of the Not-for-Profit Corporation Law, to indemnify directors and officers in instances in which they may be indemnified by the Corporation under the provisions of the Not-for-Profit Corporation Law, and to indemnify the directors and officers in instances in which they may not otherwise be indemnified under the provisions of the Not-for-Profit Corporation Law. [§§722, 723]

#### ARTICLE VIII – FISCAL YEAR

The fiscal year of the Corporation shall start January 1 and expire December 31.

#### ARTICLE IX – CONSTRUCTION

If there be any conflict between the provisions of the Certificate of Incorporation and these By-Laws, the provisions of the Certificate of Incorporation shall govern. Except for Article VI, §4, nothing in these By-Laws shall be construed to limit the powers or duties conferred upon the Corporation by the Land Bank Act (Article 16 of the New York Not-for-Profit Corporation Law) or any other applicable provision of law.

#### ARTICLE X – AMENDMENT

These By-Laws may be amended by the affirmative vote of at least a majority of the

entire Board of Directors.

Appendix I:  
Non-discrimination and  
Affirmative Action Policies

# **BUFFALO ERIE NIAGARA LAND IMPROVEMENT CORPORATION**

## **DRAFT**

### **NON-DISCRIMINATION AND AFFIRMATIVE ACTION POLICY**

It is the policy of the Buffalo Erie Niagara Land Improvement Corporation ("the Corporation") to comply with all federal, State and local law, policy, orders, rules and regulations which prohibit unlawful discrimination because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status, and to take affirmative action to ensure that Minority and Women-Owned Business Enterprises (M/WBEs), Minority Group Members and women share in the economic opportunities generated by the Corporation's participation in projects or initiatives, and/or the use of Corporation funds. The Corporation represents that its equal employment opportunity policy statement incorporates, at a minimum, the policies and practices set forth below:

- 1) The Corporation shall (i) not unlawfully discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status, and (ii) undertake or continue existing programs of affirmative action to ensure that Minority Group Members and women are afforded equal employment opportunities. Such action shall be taken with reference to, but not limited to, solicitations or advertisements for employment, recruitment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.
- 2) The Corporation represents and warrants that, for the duration of the Agreement, it shall furnish all information and reports required by the Empire State Development Corporation (ESD) Affirmative Action Unit and shall permit access to its books and records by the ESD, or its designee, for the purpose of ascertaining compliance with provisions hereof.
- 3) Any transferee or purchaser of Corporation property and every successor in interest in such property shall not discriminate upon the basis of race, creed, color, sex or national origin in the sale, lease or rental, or in the use or occupancy of the property or improvements erected or to be erected thereon or any part thereof.

### **NON-DISCRIMINATION AND AFFIRMATIVE ACTION DEFINITIONS**

#### **Affirmative Action**

Shall mean the actions to be undertaken by the Borrower, Grantee and any Contracting Party in connection with any project or initiative to ensure non-discrimination and Minority/Women-owned Business Enterprise and minority/female workforce participation.



**Minority Business Enterprise (“MBE”)**

Shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (i) at least fifty-one percent (51%) owned by one or more Minority Group Members; (ii) an enterprise in which such minority ownership is real, substantial and continuing; (iii) an enterprise in which such minority ownership has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; (iv) an enterprise authorized to do business in the State of New York and is independently owned and operated; and (v) an enterprise certified by New York State as a minority business.

**Minority Group Member**

Shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups: (i) Black persons having origins in any of the Black African racial groups; (ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin, regardless of race; (iii) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands; and (iv) Native American or Alaskan native persons having origins in any of the original peoples of North America.

**Women-owned Business Enterprise (“WBE”)**

Shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (i) at least fifty-one percent (51%) owned by one or more citizens or permanent resident aliens who are women; (ii) an enterprise in which the ownership interest of such women is real, substantial and continuing; (iii) an enterprise in which such women ownership has and exercises the authority to control and operate independently, the day-to-day business decisions of the enterprise; (iv) an enterprise authorized to do business in the State of New York and is independently owned and operated; and (v) an enterprise certified by New York State as woman-owned.