

STATE ENVIRONMENTAL QUALITY REVIEW

Canal Side Project Buffalo, New York

Erie Canal Harbor Development Corporation, a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development Corporation

FINDINGS STATEMENT

Pursuant to Article 8 of the Environmental Conservation Law (State Environmental Quality Review Act [SEQRA]) and 6 NYCRR Part 617, the Erie Canal Harbor Development Corporation (ECHDC), as involved agency under SEQRA, makes the following findings.

Name of Action: Canal Side Project

Project Location: The Project is located on approximately 20 acres of vacant, substandard, or underutilized land in the downtown section of the City of Buffalo, Erie County, New York (the “Project Area”), in an area generally bounded by the following streets:

- On the north by Upper Terrace and Exchange Streets and Perry Boulevard;
- On the east by Washington Street and Seymour H. Knox III Plaza;
- On the south by Perry Street and Buffalo River; and
- On the west by Erie Street, Marine Drive, and Pearl and Commercial Streets.

I. DESCRIPTION OF ACTIONS

The Canal Side Project preferred alternative (the “Project” or “Preferred Alternative”) would comprise approximately \$294 million in public/private investment consisting of 1,104,800 square feet of commercial (retail, lodging, and office), cultural, and residential space in the Project Area. The proposed Project is being sponsored and undertaken by the ECHDC, a subsidiary of the New York State Urban Development Corporation, d/b/a as the Empire State Development Corporation (“ESDC”).

More specifically, the Project would involve up to 480,800 square feet of retail and restaurant space; up to 120,000 square feet of hotel/lodging space; up to 190,400 square feet of residential space and up to 20,000 of cultural space within the Project Area (Specific types of uses on each development parcel are designed to be flexible as Project planning proceeds). Anchored by a Bass Pro Outdoor World Store (“Bass Pro”), the Preferred Alternative would provide various year-round offerings and experiences, including restaurants, entertainment venues, retail outlets, cultural attractions, vast public spaces, and increased access to the Buffalo River, appealing to a wide demographic of visitors and residents.

Parking in the Project Area would be consolidated within strategically located parking garages, with a few small surface lots and a limited number of on-street parking options also available. Off-street structured parking would include the Commercial Slip Parking Garage, to be constructed on the current Marine Drive Apartment Complex surface parking lot, with six levels and approximately 1,200 spaces. Beneath the Bass Pro store, a three-level, 537-space garage would provide convenient parking. An approximately two-level, 100-space parking deck would be built on the north and east sides of the existing Donovan Building to provide on-site parking to Parcel D1. A four-level Webster Block Parking Garage, on the east side of the block, would provide approximately 400 spaces. Finally, 35 spaces would be provided in a single-level, at-grade parking facility within the waterfront boutique hotel at the terminus of Prime Street. A total of 79 spaces would be provided within the Project Area for off-street surface parking. Fourteen spaces (including 6 RV spaces) would be provided on Parcel T3 which is under the Skyway access ramps at Pearl Street and Perry Boulevard. Another 22 spaces would be provided on Parcel T1 under the Thruway. Both of these areas currently serve as gravel surface parking lots. Also, 25 spaces would be provided on Parcel T2 and 18 spaces would be provided on Parcel E9.

The proposed Project was classified as a Type I action under SEQRA.

Additionally, among the reviews, permits and/or approvals required to facilitate the proposed project are the following:

- U.S. Army Corps of Engineers –Permit for structures and work in navigable waters of the United States under Section 10 of the Rivers and Harbors Act –Clean Water Act 404 Permit for discharging of dredged or fill material in waters of the United States
 - New York State Department of Environmental Conservation (“NYSDEC”)
 - SPDES General Permit for Construction Activities
 - Floodplain Development Permit, 6 NYCRR 500
 - Section 401 Water Quality Certification
 - New York State Department of State (“NYSDOS”) –Coastal Zone Consistency Certification, 19 NYCRR 600
- New York State Office of General Services (“NYSOGS”) –Grant of an easement, lease, permit or lesser interest for structures such as docks and piers located in navigable waters in accordance with 9 NYCRR 270

- New York State Department of Transportation (“NYSDOT”) –Highway Work Permit authorizing work within NYS highway right-of-way, Highway Law, Article 3, Section 52 –Transfer of Real Property interests to ECHDC or other Project participant
- New York State Thruway Authority (“NYSTA”) –Highway Work Permit authorizing work within NYS highway right-of-way, Highway Law, Article 3, Section 52 –Transfer of Real Property interests to ECHDC or other Project participant
 - New York State Office of Parks, Recreation, and Historic Preservation (“OPRHP”) –Consultation in compliance with Section 14.09 of State Historic Preservation Law
 - New York State Public Authorities Control Board –Approval of Project financing and construction, Public Authorities Law Section 51
 - Erie County Health Department –Approval of all water and sewer installations and connections
 - City of Buffalo Common Council –Transfer of Real Property interests to ECHDC or other Project participant –Approval of right-of-way encroachments
- City of Buffalo Planning Board –Review and Recommendation of the General Project Plan (“GPP”) and subsequent phases for consistency with the GPP
 - City of Buffalo Sewer Authority –Approvals for design of sewer lines and connections
 - City of Buffalo Department of Public Works, Streets and Parks –Approval of street modifications, utility, sidewalks, curb cuts, etc.
 - City of Buffalo Water Board –Approvals for design of water lines and connections
 - City of Buffalo Control Board –Consent to transfer of City-owned property to ECHDC
 - Buffalo Urban Renewal Agency –Approval for use of land for temporary parking at Waterfront Village
 - Buffalo Municipal Housing Authority –Transfer of Real Property interests to ECHDC or other Project participant

II. FACTS AND CONCLUSIONS IN THE SEQRA PROCESS RELIED UPON TO SUPPORT THE DECISION

1. ESDC, as lead agency, conducted a coordinated review pursuant to SEQRA.
2. ESDC commenced the SEQRA process for the Project in July of 2007 by circulating a notice of intent to act as lead agency along with a Full Environmental Assessment Form to all then-known interested or involved agencies:
 - ECHDC NYSDEC NYSDOT OPRHP NYSDOS NYSTA Niagara Frontier Transportation Authority New York State Canal Corporation NYSOGS New York Power Authority Erie County Legislature Erie County Department of Planning & Environment Erie County Department of Health Erie County Fiscal Stability Authority Hon. Mayor Byron W. Brown Buffalo Common Council Buffalo Planning Board City of Buffalo Department of Economic Development, City of Buffalo Department of Public Works, Streets and Parks Buffalo Preservation Board Buffalo Fiscal Stability Authority Buffalo Urban Renewal Agency Buffalo Water Board Buffalo Sewer Authority Buffalo Municipal Housing Authority (“BMHA”)
3. None of the interested or involved agencies objected to the ESDC acting as lead agency pursuant to SEQRA and the ESDC was properly established as the SEQRA Lead Agency for the Project in August of 2007.
4. Following a detailed sketch planning process with extensive public outreach and involvement, ECHDC unveiled a detailed concept plan for Canal Side in late 2008.
5. In February of 2009, ESDC issued a positive declaration for the Project requiring the preparation of the Draft Generic Environmental Impact Statement (“DGEIS”).
6. Following issuance of the positive declaration, a Draft Scoping Report was issued. A Public Scoping Meeting to solicit comments on the draft scope was held on February 25, 2009 and a Final Scoping Document was issued in April of 2009.
7. Following issuance of the Final Scoping Document, the DGEIS was prepared pursuant to the requirements of SEQRA. On September 17, 2009, ESDC determined that the DGEIS was complete and adequate and accepted it for public review and scheduled a public hearing.
8. Copies of the DGEIS were made available for public review at ESDC offices and the Buffalo and Erie County Public Library – Central Branch. A copy of the DGEIS was also posted on the ECHDC website.
9. A Notice of Completion of the DGEIS and Notice of Public Hearing appeared in The Buffalo News on September 27, 2009 and the Environmental Notice Bulletin (“ENB”) on October 7, 2009.
10. A Public Hearing was held on October 20, 2009 at the Albright-Knox Art Gallery. Due to extensive public interest in the Project and several requests made during the DGEIS public hearing, the public comment period, originally scheduled to expire on November 2, 2009, was extended until November 17, 2009.
11. Following publication of the DGEIS, a number of commenters expressed opposition to the proposed Commercial Slip Parking Garage component of the Project and/or expressed deep concerns about the impacts of the proposed Commercial Slip Parking Garage on the residents of the Marine Drive Apartment Complex (“Complex”). In order to address the Complex residents’ concerns, ECHDC developed and implemented an engagement plan specifically for residents of the Complex. Pursuant to that plan, in early December, 2009, ESDC mailed to all residents of the Complex a Project Fact Sheet, Project Description of the Commercial Slip Parking Garage and preliminary renderings of the proposed Commercial Slip Parking Garage. Also, a meeting with Complex residents was held on December 17, 2009, where their concerns were heard.
12. In order to address the concerns and issues raised, and to ensure that any adverse environmental impacts associated with the Parking Garage were thoroughly and comprehensively addressed in the GEIS

for the Project, ECHDC directed its Project Design and Environmental Teams to prepare a Supplemental Analysis Report (“SAR”) to specifically assess the need for and the environmental impacts from the Commercial Slip Parking Garage to the Complex. The SAR and its content were included in the FGEIS.

13. An additional meeting was held with Complex residents on March 1, 2010, to review the results of the SAR and open a dialogue on remaining issues of concern. Additional meetings with Complex residents are anticipated.

14. The Final Generic Environmental Impact Statement (“FGEIS”) was issued by ESDC on January 21, 2010 and a notice of completion of the FGEIS appeared in the ENB on February 10, 2010.

15. The FGEIS was mailed to the interested and involved agencies and copies of the FGEIS were made available for public review at ESDC offices and the Buffalo and Erie County Public Library – Central Branch. A copy of the FGEIS has also been posted on the ECHDC website. Pursuant to SEQRA, the FGEIS was held open and available for more than 10 calendar days in order to afford agencies and the public a reasonable time period in which to consider the FGEIS before ESDC issued its written findings statement.

16. ECHDC has carefully and thoroughly reviewed the information contained in the DGEIS, including all appendices and the comments to the DGEIS, and the FGEIS including all appendices (collectively referred to as the “GEIS”). ECHDC finds that the GEIS provides a thorough examination of all of the important potential impacts that would result from undertaking the Project. ECHDC has carefully reviewed, questioned and analyzed the various impacts of, alternatives to, and potential mitigative measures for the Preferred Alternative and weighed these issues against the social and economic benefits of the Preferred Alternative and other essential considerations.

17. ECHDC recognizes that qualified experts on any topic may differ in their conclusions and, in particular, may differ in the judgments employed during analysis. Nevertheless, ECHDC has carefully reviewed many hundreds of pages of documentation on the various issues that have been submitted by government agencies, experts, interested stakeholders and the general public that reflect hundreds of hours of examination of the Project during a SEQRA process that has taken more than two years. On balance, and after careful consideration of all relevant documentation and comments, ECHDC believes it has more than adequate information to evaluate all of the benefits and potential impacts of the Project as a basis for considering whether to undertake the Project.

III. PURPOSE, NEED AND BENEFITS

1. The goal of the Project is to foster economic growth and expand public use and enjoyment of the Erie Canal Harbor area through the implementation of a 20-acre mixed-use real estate development project, anchored by a major destination retailer. The following Project objectives have been developed to achieve this goal:
 - Developing a setting for year-round, family-oriented uses, including sports, entertainment, cultural, residential, commercial and recreational uses on long vacant or underutilized lands in this area of downtown Buffalo.
 - Implementing strategic public investments to leverage private investment that contributes to expanded economic growth, employment and a broadened local tax base.
 - Utilizing and building upon the public development framework established through recent and committed public infrastructure investments such as the Erie Canal Harbor, enhancements to Naval Park, and reestablishment of portions of the former street grid (e.g., Prime, Lloyd, Hanover Streets).
 - Providing ample, visually interesting, and diverse public spaces encouraging year-round use.

- Maximizing area development potential by consolidating surface parking spaces into structured parking.
 - Creating an urban, visually appealing, mixed-use setting that builds upon and complements the Erie Canal Harbor Master Plan (“2004 ECHMP”) urban design guidelines set forth in the City’s Waterfront Urban Renewal Plan, as amended.
 - Promoting and incorporating architectural elements that celebrate and interpret the historical significance of the Erie Canal and its terminus on the 12.5-acre Project Area.
 - Enhancing public access and use of the downtown waterfront, including multimodal connections to transit, bicycle, pedestrian and waterborne networks.
 - Strengthening and/or establishing the visual and physical connection between adjacent downtown destinations (e.g., Buffalo River, HSBC Arena, Waterfront Village, and Naval Park).
 - Creating tenant spaces suitable for a mix of uses by a variety of prospective tenants.
 - Phasing implementation in response to available funding and market realities.
2. The Project would serve a strong public need and would result in noticeable benefits to the local community, including enhanced services, facilities and opportunities. More specifically, the Project would create diverse uses, including commercial, community, residential, recreational, cultural and office uses on parcels that are currently vacant or underutilized. Key benefits to the public would be realized by:
- Improving public access to the waterfront through active uses and improved linkages to existing pathways and destinations.
 - Achieving further implementation of and development consistent with the 2004 ECHMP.
 - Interpreting local canal history at the Project Area by adhering to urban design guidelines for new private development consistent with the 2004 Erie Canal Harbor amendment to the Waterfront Urban Renewal Plan.
 - Reinforcing urban form and physical character of the remaining portion of the Project Area through appropriate architectural design, scale, and massing, resulting in an overall Project design consistent with the desired character for the Project Area.
 - Generating local tax revenue (either directly or through Payments in Lieu of Taxes (“PILOTS”) derived from additional commercial and residential uses within the Project Area and increasing property values in surrounding areas.
 - Improving the quality of life resulting from additional year-round cultural, recreational and commercial opportunities as well as public events.

- Creating additional temporary construction work and additional permanent employment opportunities that would expand the local economy.
- Attracting people to the downtown waterfront as the destination of choice to live, work and play.
- Returning significantly underutilized land in the City of Buffalo (“City”) to productive use in the urban core.
- Increasing public transit ridership potential by and concentrating development along the Metro Rail.
- Creating a critical mass of destination retail that would provide additional shopping opportunities for Western New Yorkers and tourists from outside the area.

IV. PROJECT ALTERNATIVES CONSIDERED

1. Preferred Alternative

The Preferred Alternative has evolved during a lengthy planning process which included extensive public and stakeholder outreach. Throughout the development process, several major principles have guided efforts including: enhancing the connection between downtown and the waterfront, creating a flexible mixed-use development plan with the majority of ground level spaces being retail or restaurant uses, with office, residential and retail uses above, attracting cultural facilities; building upon two anchors, Bass Pro and the HSBC Arena; and using the development to shape a network of world class “places” to create a variety of experiences.

2. Alternatives to the Preferred Alternative

Reasonable alternatives to the Preferred Alternative were developed during the scoping process for comparison of impacts to the Preferred Alternative in the GEIS. The alternatives, which were developed based on their ability to achieve the Project’s goal and objectives, include a Low-Density Alternative, a High-Density Alternative and a No-Build Alternative.

Low-Density Alternative

The Low-Density Alternative, which would cost approximately \$162.8 million, and would be based on the same general site layout as the Preferred Alternative. The Bass Pro store and Canal Side Hall would remain the same as would the water elements and the Donovan Building renovation. However, the overall density of the development would be substantially reduced to roughly 603,200 square feet of commercial (retail, lodging, and office), cultural, and residential space. In addition, the proposed development on parcel E1 in the Preferred Alternative (on the south end of the Riverfront District) would not be included in the Low-Density Alternative.

Under the Low-Density Alternative, parking in the Project Area would be consolidated into three parking garages, with a few support surface lots and a limited number of on-street parking options also available. The Commercial Slip Parking Garage, to be constructed over the current Marine Drive Apartments’ surface lot, would be four levels with approximately 800 spaces. Beneath the Bass Pro store, a three-level, 532-space garage would provide convenient parking for visitors to Bass Pro and Canal Side Hall. A two-level, Webster Block Parking Garage, on the east side of the block, would provide approximately 175 spaces. In terms of surface parking, a total of 142 spaces would be provided within the Project Area. Similar to the Preferred Alternative, the Low-Density Alternative would include 24 RV parking spaces along Perry Boulevard, with another six RV parking spaces adjacent to the north side of the Bass Pro

store.

High-Density Alternative

Another alternative that was considered was the High-Density Alternative, which would cost approximately \$450.7 million, and would be based on the same general site layout as the Preferred Alternative. The Bass Pro store and Canal Side Hall would remain the same as would the water elements and the Donovan Building renovation. However, the overall density of the development would be substantially increased to roughly 1.7 million square feet of commercial (retail, lodging, and office), cultural, and residential space.

Under the High-Density Alternative, parking in the Project Area would be consolidated within five parking garages, with a few support surface lots and a limited number of on-street parking options also available. The Commercial Slip Parking Garage, to be constructed over the current Marine Drive Apartments' surface lot, would be six levels and approximately 1,280 spaces. Beneath the Bass Pro store, a three-level, 532-space garage would provide convenient parking for visitors to Bass Pro and Canal Side Hall. A five-level, 400-space parking garage would be built on the Donovan Block, accessible from Washington Street. This structure would require the demolition of the existing Donovan Building. The six-level Webster Block Parking Garage, on the east side of the block, would provide approximately 500 spaces. Similar to the Preferred Alternative, the High-Density Alternative would include 24 RV parking spaces along Perry Boulevard, with another six RV parking spaces adjacent to the north side of the Bass Pro store. In terms of surface parking, a total of 121 spaces would be provided within the Project Area.

No-Build Alternative

The No-Build Alternative is defined as the future condition without the proposed Project. SEQRA requires that the GEIS consider a no-build alternative in order to establish a base line to help qualitatively and quantitatively assess the benefits and impacts associated with identified build alternatives. The No-Build Alternative assumes the following:

- Completion of pre-development activities for the Aud and Donovan Blocks. Asbestos is abated in both the Auditorium and the Donovan Building. The Donovan Building is then secured and mothballed or demolished for future development. The Aud is demolished with the site being filled, graded and seeded, and is a shovel-ready development site.

- Erie Canal Harbor public infrastructure is built out as described in the Re-Evaluation Reports for Project Refinements, Erie Canal Harbor Project, Empire State Development Corporation, December 2006 and March 2009. Development parcels as per this Erie Canal

Harbor Project plan are established, but no specific development occurs.

- Beyond these activities, the No-Build Alternative assumes that no other components of the Project would be implemented. With the No-Build Alternative, the Bass Pro store would not be built, nor would the Donovan Building be reused. Similarly, the Webster Block would remain a surface parking lot and the Under-Thruway Blocks and the development parcels under the Skyway would remain in their current state.

V. CONSTRUCTION SCHEDULE

ECHDC has commenced or completed certain remediation and demolition work within the Project Area, specifically the remediation of asbestos in the Donovan Building and the remediation and demolition of the Memorial Auditorium on the Aud Block. In addition, substantial design work has been undertaken in furtherance of the Project. Subject to necessary approvals, it is expected that Project commencement will occur in late 2010 and portions of the first phase of the Project (consisting of the Bass Pro Store, Aud Block improvements, and Commercial Slip Garage) will be completed in 2012. The entire Project is expected to be built out by 2018.

VI. PROBABLE ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACTS OF THE PROPOSED ACTION

The FGEIS (which incorporates the DGEIS by reference) provides a thorough and comprehensive analysis of the environmental, social and economic impacts associated with the Preferred Alternative, the Low-Density Alternative, the High-Density Alternative and the No-Build Alternative. The FGEIS identified environmental issues as described below.

1. Cultural Resources

The FGEIS evaluated the potential impacts on Cultural Resources listed on or eligible for listing on the State or National Register of Historic Places (“S/NRHP”) in and in the vicinity of the Project Area. This included evaluating potential effects to architectural and archaeological resources.

Architectural Resources

No Build Alternative. The No-Build Alternative would not result in any impacts to S/NRHP-listed/eligible architectural resources within or near the Project Area.

Build Alternatives. In order to assess potential indirect effects of the Build Alternatives on architectural resources in the vicinity of the Project Area, architectural resources within a ¼ mile radius of the Project Area were identified. The architectural resources located within a ¼ mile of the Project Area include the USS The Sullivans, the USS Croaker submarine, the Edward M. Cotter fireboat and slip, and the Phoenix Die Casting Building (located within the Cobblestone District, a locally designated historic district). None of the Build Alternatives would have an effect upon the USS The Sullivans, the USS Croaker and the Edward M. Cotter fireboat and slip because the Build Alternatives would not affect the qualities that contribute to their historical significance. Their current setting on the Buffalo River does not contribute to the USS The Sullivans and USS Croaker eligibility for S/NRHP-listing. Therefore, the Build Alternatives would not have an adverse effect on the historical significance of these resources.

The Phoenix Die Casting Building, located at the corner of South Park Avenue and Illinois Street, would not be impacted by the Build Alternatives, as views to and from the Project Area are obstructed by the HSBC Arena and its parking garage. Only the High-Density Alternative may be partially visible from this resource. Indirect impacts to the Cobblestone District, a locally designated historic district, are expected to be minimal as the Preferred and Low-Density Alternatives would only be visible from buildings fronting Perry and Illinois Streets. The HSBC Atrium and HSBC Arena would obstruct views of these Alternatives with the exception of the proposed Webster Block street wall along Perry Street between Washington Street and Seymour H. Knox III Plaza. The High-Density Alternative would potentially be more visible, as development on the Webster Block would likely be visible above the HSBC Atrium roof line. However, the HSBC Arena would still obstruct views to the Project Area from properties at the south end of Illinois Street.

Archaeological Resources

No Build Alternative. The No-Build Alternative would not result in any impacts to S/NRHP-listed/eligible archaeological resources within the Project Area.

Build Alternatives. In terms of impacts to archaeological resources, a Phase IA Cultural Resources Investigation Report was performed and found that all of the focus areas, except for the Aud Block, are sensitive for the presence of prehistoric and historic period archaeological remains. Therefore, the report recommended that additional Phase IB and Phase II archaeological testing programs be conducted within these areas to verify the presence or absence of potential archaeological resources (Phase IB Investigation) and, if resources are found to be present, determine their eligibility for inclusion in the S/NRHP (Phase II Investigation).

Concurrent with the release of the FGEIS, A Phase 1B field investigation was undertaken on the Donovan Block Focus Area between October 12, 2009 and October 30, 2009. While a more complete draft Phase 1B report is expected to be completed in Spring 2010, an End of Field Letter describing preliminary findings of the investigation was issued on December 30, 2009. In general, it is apparent that the Donovan Block has been extensively disturbed by historic demolition/construction activities. There is also a significant amount of fill on the site, including up to eleven feet of slag. No intact stratum that may contain prehistoric deposits was identified, and no prehistoric artifacts were observed. Therefore, no further archaeological work will be recommended in this focus area.

In addition, a Phase II field investigation was conducted between August 24 and September 23, 2009 at the Marine Drive Parking Lot Focus Area, which included four 25' x 35' excavation blocks distributed across the Marine Drive parking lot. Preliminary findings suggest that while intact natural soil sequences similar to those in the Erie Canal Harbor Prehistoric site were encountered in each of the four blocks, no prehistoric artifacts of any kind were encountered. The draft Phase II report, which is expected to be completed in Spring 2010, will likely conclude that no further investigations for Prehistoric resources are warranted. Conversely, the draft Phase II report will likely recommend the completion of a Phase III data recovery program at the proposed Davenport Alley excavation block to mitigate the effects of proposed construction to historic-period resources, as a result of identification of intact mid-19th century historical deposits (pre-Civil War era) during Phase II field investigation.

Pending the results of archaeological investigations in other focus areas, construction of the Build Alternatives may occur in areas where significant archaeological resources are present and may result in the disturbance of those resources. Therefore, the Build Alternatives would potentially result in significant adverse impacts to archaeological resources, and appropriate mitigation measures would be required.

2. Visual Resources

Impacts to visual resources occur when there is a detrimental effect on the perceived beauty of a place or structure. Significant aesthetic impacts are those that may cause a diminishment of the public enjoyment and an appreciation of an inventoried resource. The existing and potential aesthetic resources of the Project Area were evaluated and compared to assess the aesthetic impacts of the Project alternatives.

No Build Alternative

The No-Build Alternative would result in no significant change to the visual character of the Project Area or its surrounds. The existing poor visual character of the Project Area would remain, and Project infrastructure in context with the surrounding urban environment would not be developed to provide visual interest or enhance the City's waterfront setting.

Build Alternatives

All of the Build Alternatives would result in a positive impact to the visual setting of the Project Area by creating memorable streets, open spaces and water features. The Build Alternatives would create a public environment that changes from one place to the next, offers different orientations, provides for a variety of uses and, to varying degrees, would reduce the visual dominance of the Skyway. The primary distinctive elements for the Low-Density Alternative include a number of lower-rise structures as compared to Preferred Alternative and no hotel on the Central Wharf Green. The lower scale of these structures would be out of context with the surrounding development and would not mask the elevated Skyway, which detracts from the overall aesthetic quality of the Project Area. The High-Density Alternative model shows structures with additional height that would better screen the Skyway and offers a more urbane environment.

A description of the manner in which each of the Build Alternatives would improve specific Project Area viewsheds is discussed below. The analysis focuses on pedestrian-level views of the Project and on the various elements that would be visible from the following locations: Pearl Street looking south from Lower Terrace; Main Street looking south from south of Exchange Street; Scott Street looking west from Washington Street; Main Street looking north from Perry Street; Prime Street looking northwest from west of Perry Street; Fuhrmann Boulevard looking northeast across the Buffalo River; and Marine Drive looking east from Marine Drive Apartments.

The Low-Density Alternative would primarily affect the west (right) side of the Pearl Street looking south from Lower Terrace viewshed. Here the Commercial Slip Building and Commercial Slip Parking Garage, while covering the same lot area, would be shorter in height. Both structures would be shorter than the Skyway thereby retaining some of the visual dominance of the Skyway. Under the High-Density Alternative, the Commercial Slip Parking Garage would remain the same in both height and build footprint as the in the Preferred Alternative. However, the Commercial Slip Building could be up to twice the height of the Preferred Alternative – rising well above the adjacent Skyway, and a pedestrian bridge would cross over Commercial Street connection the Commercial Slip Garage with Bass Pro.

The viewshed for the Main Street looking south from south of Exchange Street view under the Low-Density Alternative would result in a similar design of structures and streetscape environment. However, the North Donovan Block development would not extend to the Main Street lot line thereby reducing the building footprint. Development along both sides of Main Street and Seymour H. Knox III Plaza would have reduced building heights, with the exception of the Bass Pro building. The reduced height of the structures would do less to minimize the visual dominance of the HSBC Arena and Skyway within this viewshed. Under the High Density Alternative, lot coverage would remain the same as in the Preferred Alternative. However, all buildings would be measurably taller, with the exception of the Aud Block development (Bass Pro and Winter Garden), which would remain the same as the Preferred Alternative. The South Donovan Block and Webster Block developments on the east (left) would reduce the visual dominance of the HSBC Arena; while the Prime Slip Parcel developments on the west (right) of Seymour H. Knox III Plaza would obscure a greater portion of the Skyway.

Under the Low-Density Alternative, building footprints would remain as in the Preferred Alternative, however, the scale and height of the buildings would be reduced in the Scott Street looking west from Washington Street view shed. This would increase the visibility of the Skyway as a dominant feature. The High-Density Alternative would be generally consistent with the Preferred Alternative with the Winter Garden and buildings south (left) of Marine Drive remaining similar in terms of scale and height.

The viewshed of Main Street looking north from Perry Street for the Low-Density Alternative would provide a slight difference to the Preferred Alternative with the height of structures being at a reduced height on both the west and east sides of Main Street. The High-Density Alternative would differ with increases in both height and scale of the structures on the east side of Main Street.

The Preferred and High-Density Alternatives would include development on Parcel E1 along the Buffalo River that would reduce the Skyway's prominence over the Project Area as well as enhance the vitality of this key viewshed along Prime Street looking northwest from west of Perry Street. Conversely, the Low-Density Alternative would not include development of this parcel, and would therefore not have as positive an impact to this portion of the Project Area, by not generating as much activity and pedestrian traffic.

The viewshed, which includes Prime Street looking northwest from west of Perry Street under the Preferred Alternative would have the Riverfront District buildings in the foreground. The Buffalo River and Central Wharf Green, with pedestrian treatments, would be evident to the right (west). The reconstructed Prime Street would provide vehicular circulation to the waterfront along with opportunities for on-street parking. The Prime Slip buildings that would front Prime Street would help create, through scale and design, the context of the Project Area's historic waterfront, and would frame views that would extend beyond the Whipple Truss Bridge and the Commercial Slip. A small portion of the Prime Slip, which would bisect a large swath of green space, would be visible as well. The Marine Drive Apartments would be apparent in the background looking north. The Skyway would be still prominent, but the Prime Slip buildings would provide an urban context to diminish the overpowering nature of the Skyway and its piers.

The primary feature in the view from Marine Drive looking east from the Complex would be the mid-rise Commercial Slip building, which would obscure portions of the Skyway. The Canal Side Hall and Winter Garden would be visible behind the Skyway piers on the north (left) side of Marine Drive. Also visible is a water feature that would create a visual extension of the Commercial Slip north into the Aud block. The Marine Drive/Scott Street vista would terminate at the new building constructed on the South Donovan Block creating a point of visual interest. New low rise buildings would be visible south of Marine Drive along with Prime Street and the Commercial Slip. The Low-Density Alternative would reduce the height of the Commercial Slip Building; however its footprint would remain as in the Preferred Alternative. The height of developments on the Aud Block, South Donovan Block and buildings fronting Lloyd and Marine Drive would also be reduced increasing the visibility of Skyway piers. Also, the terminus of the Marine Drive/Scott Street vista would be less impressive. The High-Density Alternative would see the Commercial Slip Building increase substantially in height. The Canal Side Hall and Winter Garden would appear as in the Preferred Alternative, as would the buildings constructed along Lloyd, Hanover and Prime Streets. However, buildings east (behind) the Skyway on the Donovan (north and south) and Webster Blocks would be substantially taller establishing a new skyline above the Skyway. Thus the visual dominance of the Skyway would be further diminished. In addition, a more interesting vista along Marine Drive/Scott Street would be retained.

Overall, all of the Build Alternatives would result in a positive impact on the visual quality of the Buffalo waterfront, with a configuration, scale and design that would place it in context with surrounding urban development and infrastructure, providing a more continuous skyline and welcoming landscape. Thus, no mitigation measures are required. Nonetheless, the Project's cohesive visual character, consistent with surrounding development and Project Area heritage, would be achieved through consistency with Design Guidelines.

3. Land Use; Local Development Policies and Regulations

The FGEIS examined the Project's consistency with existing land use controls and local development plans and policies to evaluate the Project components alongside the visions for this area of the City.

Local development Plans and Policies

No Build Alternative. The No-Build Alternative would not support the primary goals and objectives of the various downtown waterfront plans that call for the creation of an active, 24hour, mixed-use neighborhood with public access and recreational opportunities along the waterfront.

Preferred Alternative. The Preferred Alternative would be largely consistent with, and would achieve many of the goals and objectives set forth in the plans and policies that influence development within the Project Area. The Preferred Alternative would construct a destination with multiple uses and activities along the waterfront that would create a vibrant urban setting for local residents and regional visitors. In addition to its proposed mix of land uses, the Preferred Alternative's proposed form and scale of development would conform to visions set forth in the aforementioned plans and policies. The development would be comprised of structures that range in heights, including lower structures (i.e., maximum of 60 feet) on the Erie Canal Harbor Parcels, and taller structures (i.e., maximum of 160 feet) placed on parcels that would abut existing, tall and mid-rise structures such as the Marine Drive Complex, HSBC Atrium, and HSBC Arena as well as the Skyway. Such variation in building heights would blend with existing buildings heights, would contribute to a visually interesting skyline, and would reduce the perceived dominance of the Skyway. More specifically, the Preferred Alternative would be consistent with the 2004 ECHMP and 2004 Urban Renewal Plan Amendment; the Buffalo Comprehensive Plan; the Buffalo Waterfront Corridor Initiative; and the Niagara River Greenway Plan.

Low-Density Alternative. Similar to the Preferred Alternative, the proposed programming of the Low-Density Alternative would be largely consistent with the vision and goals of current policies, plans and programs. However, the Low-Density Alternative would not be likely to fully achieve the desired goal of creating a vibrant waterfront destination, due to its reduced amount of square footage compared to the Preferred Alternative (603,200 and 1,104,800 respectively). Consequently, the smaller form and scale of structures in the Low-Density Alternative would not blend as well into the existing urban fabric, as compared to the Preferred Alternative. In addition, a key component that differs between these two alternatives is the development of Parcel E1, which would be excluded from the Low-Density Alternative. The elimination of the development of Parcel E1 would be more consistent with the 2004 ECHMP and the 2004 Urban Renewal Plan Amendment as this area would remain public open space.

High-Density Alternative. Similar to the Preferred Alternative, the proposed programming of the High-Density Alternative would be largely consistent with the vision and goals of current policies, plans and programs. However, the High-Density Alternative would put so much square footage on the local real estate market that it could adversely impact activity elsewhere in the downtown market by drawing tenants from other districts and/or over saturating the marketplace resulting in deflated lease/rent prices. Key components that differ between the Preferred and High-Density Alternatives include taller developments under the High-Density Alternative on the Commercial Slip Block (300 feet versus 150 feet), Donovan North Block (200 feet versus 150 feet), and Webster Block (200 feet versus 150 feet). Consequently, the form and scale of structures in the High-Density Alternative would not blend as well into the existing urban fabric, as compared to the Preferred Alternative.

Consistency with Adopted Land Use and Regulatory Documents

No Build Alternative. The No-Build Alternative would result in the continuation of existing land use trends within the Project Area and its surrounds, and would not maximize these lands' highest and best use that is eligible under current zoning.

Preferred Alternative. The Preferred Alternative would be generally consistent with adopted land use regulatory documents, including the zoning provisions of the City Charter and Code and the Waterfront Urban Renewal Plan. The greater part of the Project Area is currently zoned as II-Institutional Light Industrial with a small portion in the northeast corner of the Project Area zoned as DO-Downtown Opportunity. No buildings are proposed for parcels covered by the DO-Downtown Opportunity District, therefore, the focus of analysis in the FGEIS is on the requirements of the II District. This zoning district allows for the Preferred Alternative's proposed residential, various retail and restaurant-service uses, but does not explicitly permit office or hotel uses. In this regard, the Preferred Alternative would be inconsistent with the zoning provisions. The II District regulations indicate that there is no height limit or minimum, and does not address setbacks. Thus, the Preferred Alternative is consistent with applicable bulk requirements.

With regard to the Urban Renewal Plan, it is important to distinguish the area comprising the Erie Canal Harbor Project parcels from the larger area covered by the Urban Renewal Plan. An amendment to the plan was adopted in 2004 to better match visions for future development in this area. The Preferred Alternative would largely adhere to the regulations in this amendment. Conversely, the areas beyond the Erie Canal Harbor, but still within the Waterfront Urban Renewal Area, are regulated by the base Urban Renewal Plan, which has not been amended to reflect updated visions for these areas and recent activities, such as the vacating of the Donovan Building and the clearing of the Aud Block. Consequently, the Preferred Alternative's proposed improvements to these areas would not be permitted under the Urban Renewal Plan.

The Preferred Alternative would create a significant increase in the demand for parking. The City's recent Parking Assessment (November 2008) concluded that with most of the Project Area undeveloped, there is a peak hour surplus of 2,181 parking spaces within the HSBC Arena Parking District which includes the Project Area (with the exception of the Marine Drive surface lot), the HSBC Arena structured parking ramp and all of the surface lots to the east of the Arena and the HSBC Atrium.

Following the completion of build-out of the Preferred Alternative, the Project Area would contain approximately 298,650 square feet of retail space; approximately 182,150 square feet of restaurant space; approximately 293,600 square feet of office space; approximately 190,400 square feet of residential space; approximately 120,000 square feet of hotel/lodging space and approximately 20,000 square feet of cultural space. The proposed parking plan associated with the Preferred Alternative, would provide 2,471 off-street parking spaces. This would be slightly more than the number of off-street parking spaces that would be required under the City's zoning requirements. In order to minimize adverse impacts to land, parking would be concentrated within five parking garages spread across the Project Area. In addition, new surface lots would be generally limited to areas under the elevated portions of the Skyway and Thruway, areas which are generally not suitable to other uses. This approach would minimize the amount of land dedicated to parking and would avoid a proliferation of visually unattractive surface parking lots. Also, with the wide-spread availability of mass transit to the Project Area and the existing parking surplus in the HSBC Arena Parking District, providing slightly more than the minimum number of parking spaces required under the City's zoning regulations would be a reasonable approach, balancing parking demands with the effective utilization of land.

Low Density Alternative. Under the Low Density Alternative the proposed programming of land uses would be largely the same and because existing land use controls do not contain minimum or maximum development thresholds, the Low-Density Alternative would have similar conflicts with land use regulations as would the Preferred Alternative. The one exception would be the exclusion of the waterfront hotel from the Low-Density Alternative, (an unauthorized use in the II District) which would therefore be slightly less inconsistent with existing zoning provisions.

As with the Preferred Alternative, the Low-Density Alternative would create a significant increase in the demand for parking. Following the completion of build-out of the Low-Density Alternative, the Project Area would contain approximately 229,625 square feet of retail space; approximately 96,825 square feet of restaurant space; approximately 187,750 square feet of office space; approximately 39,000 square feet of residential space; approximately 30,000 square feet of hotel/lodging space and approximately 20,000 square feet of cultural space. Based on this build-out, current zoning regulations would require a minimum of 1,387 off-street parking spaces for the Project.

The proposed programming of land uses for the High Density Alternative would be largely the same and because existing land use controls do not contain minimum or maximum development thresholds, the High-Density Alternative would have similar conflicts with land use regulations as would the Preferred Alternative (office and hotel uses), although it is noted that the High-Density Alternative would provide more of these prohibited uses (almost 500,000 square feet of office and 280,000 square feet of hotel space).

High-Density Alternative. The High-Density Alternative would create a dramatic increase in the demand for parking within and around the Project Area. Following the completion of build-out of the High-Density Alternative, the Project Area would contain approximately 287,250 square feet of retail space; approximately 184,750 square feet of restaurant space; approximately 493,600 square feet of office space; approximately 469,000 square feet of residential space; approximately 215,000 square feet of hotel/lodging space and approximately 20,000 square feet of cultural space. Based on this build-out, current zoning regulations would require a minimum of 2,933 off-street parking spaces for the Project.

The proposed parking plan associated with the High-Density Alternative, would provide 2,871 off-street parking spaces. This would be slightly less than the 2,933 that would be required under the City's zoning requirements. As with the Preferred Alternative, in order to minimize adverse impacts to land, the parking would be concentrated within four parking garages spread across the Project Area. In addition, new surface lots would be generally limited to areas under the elevated portions of the Skyway and Thruway, areas, which are generally not suitable to other uses.

Mitigation measures are not required because the Build Alternatives would not result in adverse impacts on land use because they largely adhere to the goals and objectives of local land plans and policies.

4. Community Character

No Build Alternative

The No-Build Alternative would result in no significant changes to the character of the Project Area or its surrounds. The existing underutilized parcels and surface parking lots would remain the dominant feature in an inactive urban setting.

Build Alternatives

Each of the Build Alternatives would result in positive impacts to the community character and the Project Area by establishing an active urban district with a variety of uses, places and experiences all connected to the downtown and waterfront. Pedestrian activity and mobility would be enhanced significantly by the construction of new walkways and improved sidewalks and crosswalks. Ground-level retail shops, restaurants, and outdoor kiosks in addition to the destination retailer, Bass Pro, would draw residents and visitors to the Project Area creating a significant level of street level activity that does not currently exist. The introduction of residential development further strengthens the Project Area as a 24/7 environment. Proposed uses, both public and private, also expand year-round use of Project Area attractions. The construction of low- and mid-rise buildings associated with all of the Build Alternatives would be at a scale appropriate with the surrounding area, including the Skyway and buildings surrounding the Project Area. Importantly, the Build Alternatives would reduce the physical and psychological barriers separating the Project Area from the downtown and waterfront through streetscape, lighting and other improvement under and adjacent to elevated highways (i.e., Skyway and Thruway).

The Low- and High-Density Alternatives would result in the same level of public access improvements as the Preferred Alternative, including water features and connections to the waterfront and downtown attractions. These Alternatives would also improve upon the existing community character along the waterfront by providing a regional destination. However, the Low- and High-Density Alternatives would provide somewhat different outcomes in the overall community character.

The Low-Density Alternative would result in lower scale buildings and less development in terms of residential and commercial uses. Thus, there would likely be less activity primarily due to fewer people living in or visiting the Project Area and less street-level activity during the commercial off-hours. In addition, this Alternative would not include the boutique hotel along the Central Wharf Green. As a result a larger, continuous open space would be created west of Prime Street.

Conversely, the High-Density Alternative would provide greater development densities than the Preferred Alternative thereby increasing the number of people living, working and visiting the Project Area. This Alternative would likely result in higher levels of street-level activity during the commercial off-hours. However, the increased density, primarily in the number of residential units, would result in added vehicular traffic and noise.

5. Social and Economic Issues

The FGEIS included an analysis using the Regional Economic Model, Inc. to evaluate economic impacts. The model is a 10-region structural, dynamic economic forecasting model used to forecast the economic and fiscal impacts of a project on the regional and statewide economy. The FGEIS evaluated the potential impacts that each alternative would have on population and housing and potential employment and fiscal impacts.

No Build Alternative

The No-Build Alternative would cause no changes in the population, racial and ethnic distribution, household numbers or size, housing characteristics, or income of the Project Area or the region. No new development would occur in the Project Area. Similarly, no change is anticipated in labor force size or characteristics, or unemployment rates or trends, as there would be no change in on-site uses nor additional on-site development. Finally, the No-Build Alternative would provide no increase in the value of the Project Area or in tax revenues accrued from the Project Area.

Preferred Alternative

The Preferred Alternative would not have an impact on the region's population and housing characteristics. The Preferred Alternative would add 190,400 square feet of residential space (150 units) to the waterfront where it previously did not exist. However, this minor addition of housing is unlikely to result in a noticeable change in the City and Erie County populations, housing characteristics, or trends. The Preferred Alternative would not have a disproportionate impact on minority populations, because, as described in the DGEIS, the Census block groups surrounding the Project Area are less diverse, and thus contain proportionally fewer minority residents, than the City of Buffalo and Erie County as a whole. However, the Preferred Alternative would have impacts to the residents of the Marine Drive Complex, a Buffalo Municipal Housing Authority-owned development. The approximately 375 on-site surface parking spaces currently used by Marine Drive residents would be temporarily displaced during construction. Also, construction noise resulting from construction equipment and construction-related vehicles traveling to and from the Project Area may be audible at these residences, which can affect the character of the neighborhood. Lastly, construction-related impacts on air quality may result from short-term increases in fugitive dust and mobile source emissions from construction equipment and traffic. Appropriate mitigation measures would be required.

Implementation of the Preferred Alternative would result in direct and indirect employment and fiscal impacts as well as accrual of tax revenues due to changes in land use at the Project Area. Direct impacts are consequences of economic activities carried out by users of the Project, including employment of labor and purchase of locally produced goods and services. Indirect impacts occur as a result of direct spending and employment which induces additional cycles of spending throughout the local economy. Based on the proposed program, estimated construction cost would be approximately \$300 million. Total employment (direct, indirect, and induced) resulting from construction-related activity is estimated to be 3,020 in the Western New York region and 3,182 jobs in New York State (inclusive of Western New York). Total personal income earned by direct, indirect, and induced construction-related wage earners is estimated to be \$136.8 million in the region and \$149.5 million in New York State (inclusive of Western New York).

Tax revenue collected by localities, primarily the City and Erie County as a result of construction-related activity and employment is estimated to be \$11.8 million and \$12.8 million would be collected by New York State. Tax revenues include sales tax on construction materials used in the private development portions of the Preferred Alternative. In addition, tax revenues include estimated personal income tax, corporate income tax, and mortgage recording tax on the private portions of the Project, and miscellaneous other taxes. Included in the fiscal total for New York State is the anticipated rent collection (annual payments) paid by Bass Pro of \$600,000 annually. Over 30 years, this yields an estimated \$8.7 million.

Total employment (direct, indirect, and induced) resulting from full build-out of the Preferred Alternative is estimated to be 2,560 in Western New York and 2,631 jobs statewide, including the region. Total personal income earned by direct, indirect, and induced full and part-time wage earners is estimated to be over \$2.5 billion in the region and \$2.7 billion statewide, including Western New York, over the 30-year period of analysis. Estimated tax revenue for local governments resulting from the full build-out of the Preferred Alternative is estimated to be \$155.7 million. New York State estimated tax revenues generated are \$184.6 million over the 30-year period of analysis.

Low Density Alternative

The Low-Density Alternative would have similar impacts to population and housing compared to the Preferred Alternative. However, impacts to the Marine Drive Complex due to traffic generation would be less because of the lower level of traffic generation associated with the Low-Density Alternative. In general, the mitigation measures for impacts from the Low-Density Alternative would be identical to those discussed above for the Preferred Alternative. Based on the proposed program, estimated construction cost would be approximately \$162.8 million.

The Low-Density Alternative would result in total of 2,160 regional construction-related jobs and 2,280 jobs statewide, including Western New York. The Low-Density Alternative would also result in an estimated \$98.6 million in construction-related personal income in Western New York and \$107.8 million statewide, including Western New York. This growth in construction employment and personal income is a 40% reduction from job and personal income growth due to the Preferred Alternative. The Low-Density Alternative would generate an estimated \$8.2 million in taxes for local government from construction-related activity and \$8.9 million in New York State taxes. These revenues are also a reduction in revenues compared to the Preferred Alternative. Therefore, while the Low-Density Alternative would positively impact job growth and tax revenues, that impact would not be as significant as that due to the Preferred Alternative.

Total employment (direct, indirect, and induced) resulting from full build-out of the Low-Density Alternative is estimated to be 1,736 in Western New York and 1,786 jobs statewide, including the region. Total personal income earned by direct, indirect, and induced full and part-time wage earners is estimated to be over \$1.7 billion in the region and \$1.8 billion statewide, including Western New York, over the 30-year period of analysis. Estimated tax revenue resulting from the full build-out of the Low-Density Alternative that would go to local governments is estimated to be \$86.4 million, including approximately \$10.3 million in property tax collections by City of Buffalo and Erie County. New York State estimated tax revenues generated are \$128.6 million over the 30-year period of analysis.

Total personal income for the Low-Density Alternative earned by direct, indirect, and induced full and part-time wage earners is estimated to be over \$1.7 billion in the region and \$1.8 billion statewide, including Western New York, over the 30-year period of analysis. Estimated tax revenue resulting from the full build-out of the Low-Density Alternative that would go to local governments is estimated to be \$86.4 million, including approximately \$10.3 million in property tax collections by the City and Erie County. New York State estimated tax revenues generated are \$128.563 million over the 30-year period of analysis.

High Density Alternative

The impacts of the High-Density Alternative on population and housing would be similar to the impacts created by the Preferred Alternative. However, those impacts to the Marine Drive Complex due to traffic generation would be greater because of the higher level of activity that would result from the High-Density Alternative. The mitigation measures for impacts from the High-Density Alternative would be identical to those discussed above for the Preferred Alternative. Based on the proposed program, estimated construction cost would be approximately \$450.7 million. The High-Density Alternative would result in total of 5,085 regional construction-related jobs and 5,356 jobs statewide, including Western New York. The High-Density Alternative would also result in an estimated \$231 million in construction-related personal income in Western New York and \$252 million statewide, including Western New York. This growth in construction employment and personal income is a 40% increase from job and personal income growth due to the Preferred Alternative. The High-Density Alternative would generate an estimated \$20.9 million in taxes for local government from construction-related activity and \$22.0 million in New York State taxes. These revenues are also an increase in revenues compared to the Preferred Alternative. Therefore, the High-Density Alternative would have a more positive impact on job growth and tax revenues than the Preferred Alternative.

Total personal income for the High-Density Alternative earned by direct, indirect, and induced full and part-time wage earners is estimated to be over \$3.7 billion in the region and \$3.9 billion statewide, including Western New York, over the 30-year period of analysis. Estimated tax revenue resulting from the full build-out of the High-Density Alternative that would go to local governments is estimated to be \$214.2 million, including approximately \$36.4 million in property tax collections by City of Buffalo and Erie County. New York State estimated tax revenues generated are \$264.7 million over the 30-year period of analysis.

6. Water Resources

The FGEIS analyzed the impacts to water resources that would be associated with each of the alternatives. In particular, the FGEIS analyzed the potential impacts associated with flood plain management, navigation, storm water management, and groundwater.

Floodplains

No Build Alternative. Under the No-Build Alternative, there would be no change to the existing site features, including bulkhead along the Buffalo River. Therefore, there would be no impact to floodplains in the vicinity of the Project Area. In addition, the No-Build Alternative would not impact the nearby floodway (i.e., Buffalo River), as the proposed seasonal floating dock system (up to 30 slips) along the Buffalo River's edge would not be installed.

Build Alternatives. Under the Build Alternatives, a narrow portion of the Project Area along the edge of the Buffalo River is within the 100-year floodplain. However, all Build site buildings and structures are outside of the floodplain area. Improvements within floodplain areas include passive recreational uses consisting of walkways, street furniture and lighting along the Central Wharf Green. It should be noted that both the Preferred Alternative and the High-Density Alternative proposed development of Parcel E1 near the river's edge, which would require additional study prior to its construction to confirm it is outside of the mapped floodplain. A survey of floodplain boundaries would be performed concurrently with design for the development of Parcel E1 to delineate the 100-year floodplain for final design purposes. If located within the floodplain, the development of this parcel would be undertaken in accordance with applicable City floodplain regulations. Thus, the Build Alternatives are not anticipated to adversely affect area floodplains.

All Build Alternatives would include the construction of a seasonal floating dock system (up to 30 slips) within the Buffalo River floodway. The floating dock system, adjacent to the east edge of the river, is located in an area where the USS The Sullivans had been permanently moored for many years. Given the previous occupation of this area by the USS The Sullivans and the seasonal nature of the floating dock system, the Project is not anticipated to result in a significant adverse impact to the floodway.

All Build Alternatives would include the construction of a seasonal floating dock system (up to 30 slips) within the Buffalo River floodway. The floating dock system, adjacent to the east edge of the river, is located in an area where the USS The Sullivans had been permanently moored for many years. Given the previous occupation of this area by the USS The Sullivans and the seasonal nature of the floating dock system, the Project is not anticipated to result in a significant adverse impact to the floodway.

Navigation

No Build Alternative. Under the No-Build Alternative, there would be no change to the navigation features along the Buffalo River.

Build Alternatives. Under the Build Alternatives, a floating dock system, adjacent to the east edge of the Buffalo River, is proposed to be located in an area near where the USS The Sullivans is permanently moored. Given the previous use of this area by the USS The Sullivans and the seasonal nature of the dock system, the Project would not result in a significant adverse impact to river navigation. The dock system also would not have an adverse impact on surface water quality due to fueling or boat maintenance activities, because the Project would not include fueling facilities at the waterfront, and any boat maintenance activities would be conducted within the Bass Pro store, not at the docks.

Stormwater

No Build Alternative. The No-Build Alternative would have no impact on Project Area storm water management, which would remain as is.

Build Alternatives. All Build Alternatives would result in the redevelopment of underutilized lots within the Project Area and a general improvement in storm water management from No-Build conditions. The Project design under each Build Alternative offers several benefits over the current stormwater management system. While the Project Area currently consists largely of impervious, unplanted and paved surfaces, the Project, would include many areas that would function to decrease runoff. Street trees and plantings would be included where possible, the canals would have a drainage system, and public spaces, such as the Canal Side Common, would help to decrease and slow runoff.

Storm water management would not greatly differ between all Build Alternatives. Building lot coverage would be similar under each Build Alternative. Also, Project open space designs are consistent for all Build Alternatives in providing water features (i.e., canals) and plantings that would capture rainfall and snowmelt. However, the Low-Density Alternative would not include the development of Parcel E1 along the Buffalo River. As a result, this Alternative would provide slightly less impervious surface within the Project Area and storm water infiltration would be slightly improved along the Central Wharf Green.

As a result of comments on the DGEIS, the ECHDC initiated additional analyses in the FGEIS to further assess potential stormwater impacts of the Preferred Alternative. ECHDC commissioned C&S Engineers to prepare a study to examine stormwater runoff resulting from the build out of the Preferred Alternative on the existing Hamburg Drain and the combined sewer (CS) system. The scope of the study included an assessment of the watershed area and projection of the volume and peak rate and runoff for the 1-, 10-, and 100-year storm events.

Under the Preferred Alternative, stormwater would be treated by various methods. A portion of the stormwater sewers and roof drains would directly connect to the Hamburg Drain; some stormwater runoff would be directed into the proposed canals bisecting the Aud Block site. The canal pools would act as sedimentation basins, allowing suspended solids to settle out and floatable debris to be removed. The water within the pools would also be filtered. During rain events, the canal pools would discharge excess water directly to the Hamburg Drain. This system would effectively treat site runoff to comply with NYSDEC requirements. Additional stormwater would be treated by using hydrodynamic separation, filtration, reuse, infiltration or a combination of these measures. In order to ensure mitigation of stormwater to the CS system, specific treatment methods would be determined during final design of each development parcel in accordance with the programmatic approach specified in the GEIS.

In summary, the Build Alternatives would improve current storm water handling within the Project Area and reduce stress on the City's combined sewer system. As compared to the Preferred Alternative and the High-Density Alternative, the Low-Density Alternative would further improve Project Area storm water runoff conditions by reducing impervious surfaces with the elimination of the boutique hotel along the Central Wharf Green.

Groundwater

No Build Alternative. A majority of the Project Area is comprised of impervious surfaces and there are limited opportunities for storm water runoff to enter the groundwater system. In addition, groundwater is not used as a source of potable water. Therefore, the No-Build Alternative would not impact groundwater in the Project Area.

Build Alternatives. No adverse impacts to groundwater resources would result from the construction and operation of the Build Alternatives. However, experiences from other development projects in the area indicate a potential need to consider the impact of the water table on building design. Depending on the type of construction techniques employed, development site excavations may require dewatering during construction. In such situations, water removed from the excavation area would be discharged to a combined sewer in accordance with the requirements of the Buffalo Sewer Authority.

7. Coastal Zone Management

The FGEIS analyzed the potential impacts to the area that is within the New York State Coastal Zone Management Program ("CZMP") area. The GEIS identified all 44 CZMP policies, and evaluated the consistency of the Build Alternatives with these policies. (NYS Department of State, 2001).

No Build Alternative

The No-Build Alternative would not result in any changes to existing land or water uses within the CZMP boundary. Therefore, under the No Build Alternative, several important CZMP development policies would fail to be implemented in the Project Area. These include: Policy 1, because the Project Area would remain undeveloped and underutilized; Policy 2, because water-dependent uses and facilities would not be sited along the shoreline of the Project Area; Policy 4, because maritime uses and activities would not be developed within the Project Area to strengthen the economic base of the Erie Canal Harbor; Policy 5, because there would be no development in the Project Area which has available public services and infrastructure; Policy 21, because water-dependent and water-enhanced recreation would not be encouraged in the Project Area; and, Policy 25, because the scenic quality of the Project Area would remain low.

Build Alternatives

The Build Alternatives would reconfigure a portion of the waterfront area designated in the approved New York State CZMP. However, implementation of any of the Build Alternatives would be consistent with the applicable policies embodied in New York State's CZMP, as documented in the GEIS. The Build Alternatives would:

- Restore and revitalize deteriorated and underutilized waterfront areas for commercial, industrial and recreational uses;
- Develop a multi-use recreational opportunities as part of other projects;
- Encourage use of public owned recreational facilities in waterfront areas; and

- Retain public ownership/access to lands on the foreshore and immediately adjacent to the foreshore.

8. Transportation

The FGEIS analyzed the potential impacts related to the local transportation network. The Level of Service (“LOS”) for the intersections near the Project Area were evaluated for initial build-out and at full build-out under event and non-event conditions.

No Build Alternative

The Traffic Impact Study found that under the No-Build Alternative for the year 2011, the overall LOSs would be in the acceptable range from A to C at all Project Area intersections during both the weekday PM peak hour and Saturday afternoon peak hour non-event analysis periods in the year 2011. Overall LOSs following initial build-out would be in the acceptable range from A to C at all Project Area intersections during both the No-Build weekday PM peak hour and Saturday afternoon peak hour with event analysis periods. Overall intersection LOSs are all found in the acceptable range from A to C during both the weekday PM peak hour and Saturday afternoon peak hour non-event analysis periods for the year 2031. During the Saturday afternoon peak, overall LOSs would be in the acceptable range from A to C at all Project Area intersections during the Saturday afternoon peak hour analysis periods under both the non-event and event conditions for 2011. In addition, all approaches to signalized and unsignalized intersections within the Project Area also would operate at an acceptable LOS range between A to C.

Preferred Alternative

For the Preferred Alternative, the Traffic Impact Study found that following initial build-out, during the weekday PM peak hour overall LOSs would be in the acceptable range from A to D at all Project Area intersections with the exception of the Washington Street with Scott Street intersection. The heavy turning movement traffic at the Washington Street with Scott Street intersection would result in an overall LOS E during non-event conditions and a LOS F during event conditions. At the Washington Street intersection with the Thruway entrance, the heavy traffic northbound along Washington Street would reduce the number of gaps for southbound traffic desiring to turn onto the ramp. The southbound movement at this intersection would operate at a LOS F during both the non-event and event conditions. After full build-out, intersection operating conditions would be at or over capacity at the signalized Washington Street/Scott Street intersection and the Bingham Street approach to Church Street. Intersection operating conditions would be at or over-capacity at the unsignalized intersections of Washington Street/Thruway entrance ramp, Michigan Avenue/Scott Street; Erie Street intersections with Bingham Street and Perry Boulevard; Pearl Street/Perry Boulevard; and Pearl Street/Exchange Street during the peak analysis periods. Operational improvements at these locations would be investigated to mitigate the traffic impacts at these intersections. Appropriate mitigation would be required.

High Density Alternative

For the High Density Alternative, the Traffic Impact Study found that while overall delays and a few LOS values would be increased, these operating conditions would be similar to those anticipated following initial build-out of the Preferred Alternative. During the Saturday afternoon peak, overall LOSs would be in the acceptable range from A to D at most Project Area intersections during the Saturday afternoon peak hour analysis periods under both the non-event and event conditions after full build-out. The unsignalized intersection of Pearl Street/Perry Boulevard would also operate at over-capacity conditions during both the event and non-event conditions during the Saturday peak period. During the weekday PM peak hour overall levels of service most Project Area intersections would operate in an acceptable range from A to D. However, several intersections would operate at a LOS E or worse. The intersection of Washington

Street/Scott Street would operate at a LOS F during both the event and non-event conditions. The Church Street intersection with Bingham Street, the heavy Bingham Street approach would operate at a LOS F during the weekday peak hour period during event conditions and a LOS E during non-event conditions. The Washington Street intersection with the Thruway entrance ramp, the heavy traffic northbound along Washington Street would reduce the number of gaps for southbound traffic desiring to turn onto the ramp. The southbound movement at this intersection would operate at a LOS F during both the nonevent and event conditions. The Michigan Avenue intersection with Scott Street would operate at a LOS E during event conditions and a LOS D during non-event conditions. At the unsignalized intersections of Erie Street with Bingham Street and Erie Street with Perry Boulevard, LOS of E and F would occur under both the event and non-event conditions. The unsignalized intersection of Pearl Street with Perry Boulevard also would operate at overcapacity conditions during both the event and non-event conditions during the weekday PM peak period.

Low Density Alternative

For the Low Density Alternative the Traffic Impact Study found overall delays would be less, and LOS values would be similar or improved as compared to those following initial build-out of the Preferred Alternative. Under the Low-Density Alternative, overall delays would be less, and LOS values would be similar or improved compared to the operating conditions anticipated after full build-out of the Preferred Alternative.

9. Hazardous Waste / Contaminated Materials

No Build Alternative

The No-Build Alternative would not result in any adverse impacts to the Project Area, as soil and fill conditions within the Project Area would not change.

Build Alternatives

Construction and operation of Project components for each of the Build Alternatives would not expose workers, residents, and visitors to significant levels of hazardous materials. Notwithstanding this, the relevant pathways for exposure of humans and aquatic organisms to potential Project Area contamination were identified and analyzed in the FGEIS. This analysis included a review of existing publicly-available studies within the Project Area to determine what contaminants may have been released into the environment through historic uses. An evaluation of the mechanisms for exposure to contaminants by humans and organisms was also conducted as part of the analysis.

A review of past activities within the Project Area suggests that soils and groundwater may have been impacted with petroleum substances, chlorinated solvents, heavy metals, and polychlorinated biphenyls ("PCB"s). Due to the widespread use and possible co-mingling of these chemicals, it may be difficult to identify any specific contaminant sources. Each of the Build Alternatives would involve activities, which, if not conducted properly, could release contaminants and affect the environment. The Build Alternatives would result in the removal of structures including utility infrastructure, parking lots, streets and other paved areas. These activities would expose previously covered soil, and increase the potential for storm water infiltration in the exposed areas. Environmental impacts created by pavement removal could include the following: individuals could come in direct contact with contaminated soil during and after the removal of structures, contaminated soil could be washed from piles during storm events and enter storm sewers and waterways, thereby impacting aquatic species, contaminated soil could become airborne and inhaled by workers and visitors on the exposed site and in the surrounding area and the infiltration of surface waters through soil could transport contaminants into underlying water bearing zones, where they would be transported into surrounding water bodies. The infiltration of surface water could raise the water table locally and affect the movement of groundwater both below the Project Area and in surrounding areas. Depending on the location where the water table is affected, this could accelerate or hinder the movement of possible contaminants into surface water bodies.

When soils are excavated from within the Project Area they must either be relocated, or transported off-site for disposal. If the excavated soils are contaminated, these actions could change the environmental conditions of not only the location excavated, but also the location where the soils are ultimately placed.

The Build Alternatives would involve extensive landscaping. Although some soil with higher fertility would likely be brought into the area and placed above existing soil, it is anticipated that many of the larger trees and plants would be planted in the deeper existing soils within the Project Area. It is also anticipated that landscaping would include the installation and operation of irrigation systems. The preparation of soils for planting or the stockpiling of soils could generate dust which could contain contaminants. Workers installing and maintaining landscaping may come in direct contact with potentially contaminated soils and visitors in the area could be exposed to contaminants while walking, sitting or laying on contaminated surficial soils.

Plans for the Build Alternatives call for the construction of both shallow water features, and potentially a fish aquarium with a depth as much as 20 feet. In addition, the construction of specific structures in each of the Build Alternatives may require substantial amounts of excavation. Digging and excavating activities create dust and could create environmental risks beyond those associated with the surrounding landscaping. While creating the water features contaminated soil could be encountered which workers could be directly exposed to and by exposing the soil it could increase the transport of contaminants from soil into underlying groundwater, which ultimately flows into nearby surface water bodies. In addition, occupants, workers, or visitors in an adequately vented below grade structures could be exposed to contaminants able to volatilize and enter through cracks in concrete walls and floors and mix with indoor air (vapor intrusion). The above described potential environmental risks can be readily managed through the development of soil management plans that would mitigate the risks associated with potentially contaminated soils.

10. Public Safety

No Build Alternative

The No-Build Alternative would not result in any changes to the Project Area, thus there would not be any impact to public safety and the current safety conditions and issues would remain with regard to the elevated highways, transit facilities and surface parking lots.

Build Alternatives

The Build Alternatives would not result in any significant public safety impacts due to its location on the waterfront. Aside from the floating dock system, the Build Alternatives would not include any water-dependent uses or encroachment into the waterway.

The Build Alternatives would not result in any adverse public health or safety impacts due to traffic generation. The air quality analysis for the proposed Project determined that predicted carbon monoxide concentrations due to Project-generated traffic would not exceed applicable air quality standards.

In addition, the Build Alternatives would improve existing safety and security conditions for those parcels located under the elevated highway structures within the Project Area through the addition of increased lighting, pavement, and non-permanent small structures. Also, the Build Alternatives would generate substantial activity and foot traffic in these areas on a regular basis. However, there are public safety implications associated with using those portions of the Project Area underneath the Skyway particularly during winter months when the Skyway is regularly plowed for snow removal. ECHDC consulted with both NYSDOT and the City of Buffalo and neither had knowledge of any documented problems associated with snowplowing/debris falling from the Skyway above. Thus, this is not anticipated to be a significant issue. Nonetheless, ECHDC would work with NYSDOT and the City of Buffalo to reevaluate and update snow plowing procedures in the event future experience shows that a revised approach would be appropriate.

11. Community Services

No Build Alternative

The No-Build Alternative would have no impact on existing community services.

Build Alternatives.

The Build Alternatives would not have an adverse impact on police protection services because project related events are generally regulated through the City's existing event permitting process. All new buildings associated with the Build Alternatives would be designed with appropriate fire suppression equipment and fire-rated construction materials, in accordance with the Building Code of New York State requirements. Thus, the Build Alternatives would not adversely impact fire protection services. Emergency medical services in the vicinity of the Project Area would be adequate to support proposed uses and activities of the Build Alternatives.

The primary volumes of waste generated would occur during the construction phase of the Build Alternatives, and would involve construction debris and excavated soils. During Project operations, solid waste would most likely be handled by private contractors, which is the method typically used for waste management by commercial development in the City. Therefore, City responsibility for Project-related solid waste would be limited primarily to the Project's residential components and public areas. These waste streams could be sufficiently handled with existing City resources. Therefore, the Build Alternatives would not create significant adverse impacts on solid waste management.

12. Open Space and Recreation

No Build Alternative

The No-Build Alternative would not adversely impact open space and/or recreational opportunities in or adjacent to the Project Area, such as the Central Wharf Green, Transit Plaza and the Naval Park and/or the Erie Basin Marina, although the portions of the Project Area that are visible to these recreational areas would continue to detract from the recreational experience.

Build Alternatives

The Build Alternatives would expand, link and enhance open space and recreational opportunities in and adjacent to the Project Area. Such expanded and enhanced open space and recreational opportunities would create beneficial impacts to open space and recreation resources which would include: (i) the Canal Side Common, located on top of Canal Side Hall, would be used to provide unique outdoor recreational opportunities such as educational classes and outdoor skills workshops; (ii) the water features (e.g., canals) would providing year-round water uses; (iii) an extended Central Wharf Green would stretch to South Park Avenue connecting the Project Area to the Buffalo River trail system. Lands committed to the Central Wharf Green would be slightly reduced under the Preferred and High-Density Alternatives due to the construction of a hotel along the Wharf, however continuous access along the river edge would be provided; (iv) the Prime Slip canal, as an interpretive water feature, would link the Central Wharf Green with the Winter Garden expanding pedestrian opportunities for exploring the Project Area; (v) the Skyway Plaza would provide space underneath the Skyway dedicated to seasonal events, artistic expression and seasonal retail kiosks; (vi) sidewalks and bicycle lanes would connect into existing systems linking the Project Area to other city- and region-wide resources; (vii) additional seasonal floating dock space would be provided adjacent to the Central Wharf Green for Bass Pro boat sales and demonstrations. In addition to the expansion and enhancement of public open space and recreational opportunities, the Build Alternatives would draw additional new and repeat visitors to the area to make use of the existing recreational facilities and area offerings.

13. Utilities

No Build Alternative

The No-Build Alternative would not have any impact upon utilities in the vicinity of the Project Area.

Build Alternatives

The Build Alternatives would result in increased demands on the City's water supply system, but would not adversely impact the water supply system's overall capacity of 160 million gallons per day ("MGD"). The City currently utilizes roughly 75 MGD. Therefore, the water supply system has approximately 85 MGD excess capacity available. The water consumption demands for the Build Alternatives are as follows: (i) the Preferred Alternative is 137,000 gallons per day; (ii) the Low-Density Alternative is 75,000 gallons per day; and, (iii) the High-Density Alternative is 193,000 gallons per day.

The Build Alternatives would result in increased demands on the City's sanitary sewer system, but would not adversely impact the BSA's overall system capacity. The BSA's sewer system has a capacity of 180 MGD, but currently utilizes roughly 160 MGD. Therefore, the BSA's sewer system has approximately 20 MGD excess capacity available. Project sanitary sewer demand estimates assume that sanitary flows would be generally equal to daily water usage estimates. Therefore, sufficient capacity exists in the BSA system to accept Project sanitary sewer flows.

The Project would result in increased demands on natural gas service, but would not adversely impact National Fuel's (the local natural gas service provider) ability to deliver this service to the Project Area or to other areas of the City, as adequate capacity and access to natural gas service mains are available in the Project Area.

The Project may result in increased demands on fiber optic infrastructure, but would not adversely impact the various fiber optic providers' ability to deliver this service to the Project Area or to other areas of the City, as adequate capacity and access to fiber optic mains/hubs are available near the Project Area.

14. Air Quality

No Build Alternative

The No-Build Alternative would not result in any impacts to air quality in the Project Area.

Build Alternatives

Fundamentally, the Project is a real estate development project to establish a mix of residential, retail, office and cultural uses within the Project Area. None of these uses or any activities that would take place at the Project would result in the emission of any significant quantities of air pollutants that could harm human health or the environment. Therefore, the Build Alternatives would also not result in significant adverse impacts to air quality in the Project Area or its surrounds. However, the Project would generate greater levels of traffic in the Project Area. Increases in traffic would result in an increase of air pollutants from vehicles. To examine the potential impacts to air quality due to Project-generated traffic under the Build Alternatives, a microscale modeling analysis was conducted to estimate the levels of the most significant air pollutant thus results from vehicle emissions, carbon monoxide ("CO"), in the Project Area that would be anticipated from increased traffic. Evaluations were conducted for existing conditions and predicted future conditions with and without the Project in years 2011 (after initial build-out) and 2031 (after full build-out).

The maximum predicted future CO concentrations from traffic generation at selected analysis sites for the future No-Build and Build Alternatives in 2011 and 2031 which were based on future No-Build and future Build traffic conditions, would not exceed the applicable 1-hour or 8-hour CO standards. Therefore, no significant CO impacts would occur, and mitigation measures would not be required.

15. Noise

No Build Alternative

The No-Build Alternative would not result in any impacts to noise levels in the Project Area.

Build Alternatives

The Build Alternatives would potentially result in impacts to noise levels within the Project Area because of the introduction of new development and activity to the Project Area. Generally, the Build Alternatives would not result in activities taking place at the Project Area that would generate noise out of character with the existing urban environment, which experiences background noise due to traffic on the Skyway and Thruway. However, adverse noise impacts could result from an influx of Project-related traffic to the Project Area as well as construction activities. Such adverse impacts due to traffic would be relatively minor and easily mitigated. The following is a description of anticipated higher noise levels due to traffic generation and construction activities.

Predicted future 2031 (after full build-out) noise levels under the Build Alternatives are projected to increase by 1 to 5 dBA over equivalent peak hour existing levels. Noise level increases of 5 dBA are considered readily noticeable resulting in sporadic complaints. However, all predicted noise level increases over comparable existing peak hour levels would be below the NYSDOT and NYSDEC 6 dBA impact threshold requiring closer inspection and analysis. The noise impact analysis findings showed that the maximum exterior noise level increase under the Build Alternatives would remain below the NYSDEC and NYSDOT 6 dBA increase threshold, thereby would result in no significant adverse noise impact within the Project Area.

An additional noise analysis was completed to determine exterior noise levels at upper-story building facades. The analysis consisted of determining noise levels in the vertical profile along each of the proposed building facades of all proposed building under the High-Density Build Alternative. The noise analysis findings indicate that exterior noise levels at 4th floor or higher building facades of all proposed buildings facing the Skyway would be exposed to noise ranging from 70 to 76 dBA depending on the distance between the building façade and the Skyway. Appropriate mitigation would be required.

Increased noise from construction activities can be expected to be most audible typically during the first year when excavation and heavy daily truck traffic would occur. Therefore construction operations for some limited time periods would result in increased noise levels that may result in a perceptible increase ambient noise levels – especially at the nearest noise sensitive properties nearest the construction site boundary. However, because of its limited duration, these potential impacts would not constitute a significant impact.

16. Physical and Ecological Resources

No Build Alternative

The No-Build Alternative would have no new short or long-term impacts to physical and ecological resources.

Build Alternatives

None of the Build Alternatives would result in any significant long-term impacts to topography, geology, or soils of the Project Area. The Build Alternatives would result in no significant impacts to ecological resources terrestrial wildlife habitat within the Project Area. The creation of new open space/landscaped areas and street trees would result in a net increase of vegetation within the Project Area and would provide potential habitat for various bird species acclimated to urban environments. A NYSDEC Natural Heritage Report on Rare Species and Ecological Communities (Salerno, 2009) reported the Peregrine Falcon (*Falco pergrinnus*) and the Four-flowered Loosestrife (*Lysimachia quadriflora*) as “Endangered” species in New York State within one mile of the Project Area. Consultation with NYSDEC regarding the potential for adverse impacts to the Peregrine Falcon found that while Peregrin Falcons currently forage on the Lake Erie shoreline, they have not been reported in the immediate vicinity of the Project Area. Therefore, the Build alternatives would not have a negative impact on the Peregrin Falcon to forage or raise their young in the area. In addition, given the existing Project Area site conditions the likelihood of the presence of the Four-Flowered Loosestrife is remote.

Direct impacts to the Buffalo River would be very limited and none of the Build Alternatives would have a significant adverse impact on aquatic resources. The NYSDEC Natural Heritage Report on Rare Species and Ecological Communities (Salerno, 2009) has indicated the Lake Sturgeon (*Acipenser fulvescens*), listed as a “Threatened” species in New York, to inhabit Lake Erie and Niagara River waters within one mile of the Project Area.

17. Construction-Related Impacts

No Build Alternative

The No-Build Alternative would not create any construction-related impacts.

Build Alternatives

In response to Marine Drive Apartment Complex resident concerns received during the public comment period, ECHDC directed its project design and environmental teams to prepare the SAR to assess the potential for significant adverse environmental impacts in the area of the Complex. Potential construction-related impacts associated with the Build Alternatives would include site preparation (e.g., grading), which may increase sediment loadings in site runoff; disposal of contaminated soils/fill materials, and potential exposure to on-site workers; and temporary impacts to air quality and ambient noise levels. In addition, construction workers may also be exposed to hazardous situations typically

associated with construction activities. However, as described below, the Build Alternatives would not result in any significant impacts during construction phases with the application of appropriate construction techniques, compliance with local and federal regulations, inspection and monitoring associated with permitting processes. Construction-related impacts from the Build Alternatives on air quality would be limited to short-term increases in fugitive dust and mobile source emissions. Short-term elevated mobile source emissions (e.g., CO from motor vehicles) may result from the disruption of traffic during peak travel periods.

Construction-related activities would have short-term noise impacts within and immediately adjacent to the Project Area. Impacts to community noise levels during construction would result from noise associated with construction equipment, and construction-related vehicles traveling to and from the Project Area. Increases in noise levels from delivery trucks and other construction vehicles would not be significant.

18. Irreversible and Irretrievable Commitments of Resources

As part of the impact analysis SEQRA requires that the FGEIS identify the irreversible and irretrievable commitment of resources, if any. The FGEIS identified several irreversible and irretrievable commitments of resources required for construction and operation of the Build Alternatives, which would include construction materials, energy (construction and operation phases), labor, capital, and land. ECHDC would undertake efforts to minimize impacts of resources, as feasible and practical, through the implementation of a Project-specific Sustainability Program and compliance with New York State Executive Order 111 (“EO 111”).

19. Unavoidable Adverse Impacts

SEQRA also requires an analysis of unavoidable adverse impacts. The FGEIS found that the Build Alternatives are generally consistent with local and regional plans and policies for redeveloping the downtown Buffalo waterfront, and would result in significant short- and long-term benefits. However, some unavoidable adverse impacts would result from implementation the Build Alternatives. The unavoidable adverse impacts are similar for each Build Alternative, but may vary in degree of impact. Construction-phase impacts would include localized and temporary impacts to sound levels, air quality, traffic, on- and off-street parking, pedestrian and bicycle facilities, and access to attractions and event venues (e.g., Naval Park, Commercial Slip, HSBC Arena). Short-term noise impacts associated with construction-related vehicles would be regulated by local and State regulations and standards. Air quality impacts would be limited to short-term increases in fugitive dust and mobile source emissions from construction equipment.

Overall, the Build Alternatives would have significant, positive long-term impacts. However, with just about any form of sizable urban development would come minor long-term impacts, such as increased vehicular traffic, noise and air quality resulting from denser development patterns. In particular, the anticipated increase of vehicular traffic in the Project Area would potentially have increase traffic volumes and elevate air quality impacts at key intersections associated with ground-level concentrations of CO related to vehicular exhaust. Some existing viewsheds would also be obstructed due to the placement of new structures in the Project Area. In addition, there would be impacts to the following utilities which were previously described: gas, electric, fiber optics, public water, sanitary/storm sewers and energy use. Impacts of the Project to utilities would also be associated with the relationship of new underground facilities to existing infrastructure on the Project site, particularly the Skyway and the Thruway.

20. Growth Inducing Aspects

Under SEQRA the FGEIS must also analyze potential growth-inducing aspects of the Project. The FGEIS identified the following growth-inducing aspects: The Project would provide significant investment and potential growth within the City through the revitalization of an underutilized area along the downtown waterfront. In particular, the Project would include the construction of a substantial mixed use neighborhood including residential, office, lodging, cultural and recreational opportunities. This, in turn, would expand the City's employment base. Thus, investment within the Project Area could also stimulate some additional private investment and economic growth outside the Project Area in the surrounding downtown area, in the Cobblestone District to the east and possibly across the Buffalo River. Thus, even though the Project would create new employment opportunities and may lead to additional investment outside of the Project Area, any resulting increase in population within the City would be more than offset by recent population losses in the City and would not result in adverse impacts that the City's existing infrastructure cannot support.

21. Effects on Solid Waste Management

Under SEQRA, the FGEIS must also analyze potential effects on solid waste management associated with the Project. The FGEIS found that the Project Area is largely comprised of vacant parcels of land, and, therefore, would have little impact on solid waste. Primary waste associated with the Build Alternatives would be construction and demolition debris resulting from the construction of the various elements that comprise the Build Alternatives.

22. Effects on the use and Conservation of Energy Resources

The construction and operation of the Build Alternatives would have both short-term and long-term impacts on the use and conservation of energy resources. In the short-term, construction of all Build Alternatives would require the use of nonrenewable energy resources including: gasoline, diesel fuel, and electricity. In addition to construction-related energy use by equipment, the indirect use of energy would also occur as a result of construction workers commuting to and from the construction site. The long-term impacts of each Build Alternative on energy resources would differ in magnitude for each of the Build Alternatives with the Low-Density Alternative having the least impact and the High-Density Alternative having the greatest impact. In general terms, Project size is directly proportional to energy consumption. Impacts on the use and conservation of energy would result from traffic generated by the Project, consumption of energy from day-to-day Project operations, such as building heating, cooling, and lighting, and energy consumption for the operation of unique Project components such as the canals and aquarium. The traffic generation differs between each Build Alternative.

After initial build-out, total development would range from 409,600 square feet to 1,046,100 square feet and total vehicle trips would range from 1,080 to 2,503 during the weekday PM peak period and range from 1,559 to 2,657 during the Saturday afternoon peak. After full build-out, total development would range from 603,600 square feet to 1,669,600 square feet and total vehicle trips would range from 2,525 to 4,468 during the weekday PM peak and range from 2,900 to 4,830 during the Saturday afternoon peak. Accordingly, the High-Density Alternative would result in the greatest use of energy.

Each Build Alternative would also include water features, which would be used year-round for activities such as boating, fishing and ice skating. As people may be in contact with the water, the design intent would be to treat the water to swimming pool quality standards, therefore energy would be consumed in the process of filtering and disinfecting the water. Also, electricity would be consumed for underwater lighting and the use of a chiller system to create ice rinks lining the canals. Lastly, the 20 foot deep aquarium would consume energy because the water would be filtered, ozonated, aerated and passed through biofiltration to ensure a healthy environment for the fish.

23. Cumulative Impacts

SEQRA requires an assessment of cumulative impacts associated with a Project, which is an impact on the environment that could result from incremental impacts of a proposed action when added to other past, present, or reasonably foreseeable future actions by other entities separate from the proposed action. The proposed Project, in addition to the collective independent actions in the vicinity of the Project Area, would help achieve the goal of revitalizing the downtown waterfront. Several independent actions/projects are currently in various stages of planning and implementation is expected in the reasonably foreseeable future, including:

Cars on Main Street Project; Removal of the Skyway; Michigan Avenue Bridge Replacement Project; Erie Canal Harbor Master Plan Historic Streets; and BSA's Floatables Control Facility.

Other projects located in the near vicinity of the Project Area that may contribute to incremental consequences with the construction of the Canal Side Project include the following:

City of Buffalo's Re-alignment of Erie; Extension/connection of Marine Drive to the Erie Street-Lakefront Boulevard intersection; The conversion of Pearl Street to two-way traffic; Erie Basin Marina/Waterfront Village area; The Cobblestone Historic District; The Seneca Buffalo Creek Casino; and Adaptive reuse of the NFTA's Delaware Lackawanna & Western terminal building.

Minor to moderately adverse impacts typically occur in mature urban areas as a result of the combined impacts from new development and future projects. These impacts include

intermittent land use and traffic issues (i.e., proximity of adjoining uses, scale of development, incompatibilities of new and old/existing land uses, intersection traffic, parking demand, urban design/visual impacts, etc.), dislocation of persons or existing businesses, and potential conflicts between operators of new establishments and current residents/businesses. There is a potential for adverse cumulative impacts resulting from development that is visually incompatible with the overall historic elements and pedestrian scale of structures and facilities already in the area, however these types of impacts would be mitigated through the use of design standards to regulate development.

Although these types of cumulative impacts are often unavoidable, the anticipated slow to moderate pace of development of these future projects (given significant actions necessary to fund and implement them) would allow for a concerted effort to mitigate potential future adverse impacts. No significant impacts would result from the addition of the Project to previous documented and recently planned development projects.

Cumulatively, it is reasonable to anticipate that the implementation of these projects along with the Project would result in an overall positive long-term impact on the redevelopment of downtown Buffalo. The combined impact of these projects will ultimately change the character of the currently underutilized waterfront to a vibrant urban mix of uses and streetscape consistent with the economic development goals of the City and the region. Public access, including automobile, public transit, and pedestrian circulation along the waterfront would be greatly enhanced through new economic activity and the creation of public space within the Project Area and other downtown waterfront projects.

VII. MITIGATION

1. Design Guidelines—Land Use, Visual, Community Character Mitigation

A set of site-specific Design Guidelines, presented in the FGEIS, would govern development on all parcels within Canal Side and must be adhered to in all phases of Canal Side. The goals of the Design Guidelines are to provide high quality, attractive and active spaces that employ contemporary techniques but reference and evoke Buffalo's historic waterfront and the Erie Canal.

To maintain the integrity of previous planning efforts such as the 2004 ECHMP and to undertake development consistent with its vision, the Design Guidelines for the Project have incorporated, in their entirety, the design guidelines (Sections 3.3 and 3.5) from the 2005 Erie Canal Harbor Amendment to the Urban Renewal Plan for the Waterfront Redevelopment Project which were developed specifically to implement the vision of the 2004 Erie Canal Harbor Master Plan.

As a final measure to help ensure that the development is consistent with the vision for the waterfront laid out in land use regulations and policies, ECHDC would appoint an Architectural Design Review Committee to review final designs for the Project. The Committee would be charged with evaluating designs and consistency with the Design Guidelines. Also, final designs for the Project would similarly be reviewed by the City of Buffalo Planning Board for consistency with the Design Guidelines.

2. Cultural Resources Mitigation

To mitigate any adverse impacts to archeological resources from the Project, a Cultural Resource Management Program has been established in accordance with Section 14.09 of the State Historic Preservation Act, memorialized in a Letter of Resolution among ECHDC, ESDC, and OPRHP. This agreement sets forth subsequent procedures for investigating and undertaking data recovery and other mitigation measures with regard to archaeological resources, as Project designs are finalized and development is progressed. A draft of the Letter of Resolution was included in the DGEIS and made available for public comment. Since the release of the FGEIS, the Letter of Resolution has been fully executed for signature by the above agencies.

3. Transportation Mitigation

Identified roadway network and operation improvements included as part of the Project to assist traffic operations within the Project Area and mitigate any potential impacts associated with the presence of the additional Project-generated traffic onto the roadway network would include the following items:

- Conversion of a portion of the Marine Drive loop roadway to two-way operation allowing direct access from the Commercial Slip Parking Garage driveway to Marine Drive. This modification would allow the parking garage traffic to access the site without impacting the residential loop roadway traffic around the apartment complex. This modification is recommended regardless of the Marine Drive loop roadway traffic direction on the residential loop;
- Develop and install a directional signing program that efficiently directs motorists to and from the Canal Side attractions and the parking garage driveway locations. The program should be designed to route traffic around residential areas near the Project Area; especially to and from the Commercial Slip Parking Garage driveways;
- Conduct a traffic study to confirm the adequacy of the proposed mitigation measures. The study could be conducted by the ECHDC in consultation with the City of Buffalo and Canal Side stakeholders;
- Police oversight of Donovan Parking Garage driveways during event conditions to allow traffic to exit onto Washington Street from the garage driveway;
- Inclusion of an eastbound left turn advance signal phase for Scott Street and incorporation of a second northbound through lane along Washington Street by banning parking along 100' of the curb to improve the operating condition of the Washington Street with Scott Street intersection;
- Conversion of the second northbound lane along Washington Street into a channeled right turn lane at the Thruway Southbound entrance ramp intersection to improve the operating condition of the Washington Street with Thruway Southbound Ramp intersection;
- The installation of a traffic signal at the Michigan Avenue with Scott Street intersection to reduce delay and improve the operating levels of service at this intersection;

- The installation of a traffic signal at the Pearl Street Extension with Perry Boulevard intersection to reduce delay and improve the operating levels of service at this intersection; and
- The reconfiguration of the intersections of Erie Street with Perry Boulevard and Erie Street with Bingham Street and the installation of a traffic signal to improve overall operations.

4. Environmental Sustainability Measures

The Project would be designed and constructed to benchmark with the Leadership in Energy and Environmental Design (“LEED®”) green building rating system, which has been developed by the U.S. Green Building Council (“USGBC”). The Project would achieve at a minimum LEED® for Building Design and Construction for Core and Shell (“LEED® BD&CCS”) version 2009 Certified Levels (40 to 49 points), with a goal of attaining Silver Level (50 to 59 points). LEED® certification provides independent, third-party verification that a building project meets the highest green building and performance measures. LEED®certified buildings are designed to lower operating costs, reduce waste sent to landfills, conserve energy and water, be healthier and safer for occupants and reduce harmful greenhouse gas emissions. These benefits are achieved by incorporating certain design, mechanical, and structural features into a building. These features are quantified as credits, and the more credits a project has, the higher the LEED® rating. For this particular Project, all minimum program requirements and prerequisites would be met, with additional points, for example, being sought by improving stormwater drainage and management within the Project Area.

5. Water Resources Mitigation

Floodplains

A survey of floodplain boundaries will be performed concurrently with the design of any development of parcel E1 to delineate the 100-year floodplain for final design purposes. If located within the floodplain, hotel development would be undertaken in accordance with applicable City of Buffalo floodplain regulations. This would minimize the potential for increased flood risks, and would likely include:

- Establishing grading plans and building elevations that are above floodplain elevations;
- Prohibiting of any habitable areas of buildings/structures at floodplain elevations;
- Implementing flood proofing measures for non-habitable portions of buildings/structures (i.e., commercial uses) within the floodplain, if necessary;
- Best practices in developing “green marinas” would be implemented, as feasible, to further protect contaminants from entering the Buffalo River. These could include:
 - Developing and implementing spill prevention programs;

- Using environmentally preferred materials in dock system design;
- Installing trash and recycling receptacles; and
- Training staff to management the facility in keeping with adopted green marina standards.

Stormwater

To ensure appropriate mitigation of stormwater impacts, for each parcel to be developed at Canal Side, the parcel developer would be required to evaluate the following:

- Capture and Reuse: This option essentially involves capturing and storing stormwater for non-potable reuse such as toilet flushing and landscape irrigation.
- Reduction of Runoff Rate & Volumes: This option consists of reducing impervious surface to allow rainwater to percolate into the ground naturally. This can be accomplished by increasing landscaped areas; using green roofs; infiltration trenches, drywells or a combination of these measures.
- Direct stormwater discharges directly to a CSO or the Buffalo River. This would require appropriate treatment of the required water quality volume (0.9 inches of rain) prior to discharge. Treatment options include (developer should pick a minimum of one):
 - Sedimentation & Screening-The removal of suspended solids by settling and screening of larger floatable solids & oils.
 - Hydrodynamic Separation-Removal of suspended solids and floatables by proprietary processes consisting of creating vortices to enhance sediment removal rates.
 - Infiltration-Capture and percolation of runoff on site into subsoils.
 - Filtration-The removal of fine suspended solid using sand filters or commercially available proprietary filter media.
 - Bioretention-A combination of infiltration and filtration using special soil media and vegetation for nutrient and water uptake.
- In the event it is determined to be impractical to convey stormwater directly to the CSO, stormwater discharges would be directed to the CS system. However, appropriate measures must be developed and implemented at each development parcel to ensure that post-development stormwater discharges to the CSO are reduced during storm events. Options available to achieve such reductions are designed to be flexible and tailored to the specific conditions of each development parcel. At a minimum, the BSA's policy for stormwater runoff management must be followed. This requires that stormwater detention be provided on sites where the existing storm and/or combined sewers do not have the capacity to accept the existing flow, and/or there is any increase in impervious area. Also, it is noted that each of the development parcels would be required to be LEED certified.

Points contributing towards LEED certification can be obtained for stormwater management in two ways, by reducing the rate and quantity of stormwater runoff by 25% from its previous condition through retention, or by implementing active stormwater filtration to remove 80% of total suspended solids. Obtaining stormwater related LEED points would be considered for each development parcel.

Navigation and Aquatic Resources

ECHDC would consult with the United States Army Corps of Engineers, United States Coast Guard and City of Buffalo Department of Public Works, Street and Parks regarding design, placement, and operation and maintenance of the seasonal dock system. In addition, ECHDC would consult with the NYSDEC to identify possible aquatic habitat enhancements that could be included as part of the design for the floating dock system.

6. Hazardous Waste / Contaminated Materials Mitigation

A soil management plan would be created for each development parcel prior to implementation of soil disturbance activities to control risks associated with disturbing potentially contaminated soils. These soils management plans may include the following general and area-specific measures:

- A new database report would be prepared to discover whether additional environmental conditions on the site or in the surrounding area exist.
- NYSDEC, the City, and other available original documentation would be reviewed to more specifically identify the known and potential contaminants in the area.
- Soil and groundwater samples from other potential sources of contamination and several regional groundwater samples would be collected and analyzed.
- Using water levels measured in temporary monitoring wells, the direction of groundwater flow in the area would be identified.
- Using the analytic data from soil and groundwater samples, a report describing the more regional environmental impact and hydrogeology of the Canal Side Project area would be prepared. As detailed plans for the Project are prepared, potential environmental impacts related to the Project would be assessed if thresholds established in existing reports are exceeded. Health and safety protocols would be developed for all likely construction and maintenance activities within the boundaries of the Project Area.

7. Noise Mitigation

The noise analysis in the FGEIS indicate that exterior noise levels at 4th floor or higher building facades of all proposed buildings facing the Skyway would be exposed to noise ranging from 70 to 76 dBA depending on the distance between the building façade and the Skyway. Therefore, to mitigate any potential noise impacts associated with placement of buildings in such proximity to the Skyway, ECHDC will require that all windows of proposed building facades with a direct line-of-sight to the Skyway Bridge be manufacturer-rated to provide a minimum noise reduction of 25 dBA. This would ensure that interior noise levels at the nearest points to Skyway would not exceed 51 dBA with windows closed. Additionally, building facades not facing the Skyway would be required to manufacturer-rated to provide a minimum noise reduction of 20 dBA.

8. Construction Impact Mitigation

ECHDC will employ a series of “best practices” and other mitigation measures related specifically to the construction impacts of the Project. These are discussed in the following sections.

Construction Impacts to Hazardous Waste / Contaminated Materials/ Soils

See description of Soils Management Plans and procedures under Section VII, 6.

Site Runoff/Soil Erosion and Sedimentation Control

ECHDC will ensure that all construction contractors be required to address erosion and sediment control procedures to prevent runoff from contaminated areas into adjacent non-contaminated areas. A Storm Water Pollution Prevention Plan (SWPPP), including soil erosion and sediment controls, consistent with the most recent State Pollutant Discharge Elimination System (SPDES) guidance would also be developed, and may include:

- Use of sedimentation/erosion control measures, such as silt curtains and hay bales;
- Measures for surface protection of exposed soils; and
- Plans for re-vegetation of disturbed areas.

Likewise, all contractors would be required to develop a Site Safety and Health Plan in accordance with EPA, Occupational Safety and Health Administration (OSHA), National Institute of Occupational Safety and Health (NIOSH), and American Council of Government Industrial Hygienists (ACGIH) standards. All requirements would be adhered to during construction of the Project.

Air Quality Mitigation during Construction

The following are typical mitigation measures that would be taken to minimize the potential negative effects of construction activities may have on air quality, as appropriate:

- During Site Preparation:
 - Cover unpaved construction roads with crushed stone;
 - Limit vehicular paths and stabilize temporary roads;
 - Use watering trucks to minimize dust;
 - Minimize land disturbance;
 - Cover trucks when hauling soil;
 - Use windbreaks to prevent any accidental dust pollution; and
 - Stabilize dirt piles that are not removed immediately.

- During Construction:
 - Minimize unnecessary vehicular activities;
 - Cover haul trucks when transferring materials; and
 - Use dust suppressants on non-paved travel paths.
- Post-Construction:
 - Remove unused material; and
 - Re-vegetate disturbed land which remains undeveloped.

Noise Mitigation during Construction

ECHDC, through contract documents/specifications, will ensure that all contractors comply with Chapter 293-4(1) of the City of Buffalo Noise Code, and EPA emission standards for construction equipment. These regulations require:

- Construction material be handled and transported in such a manner as not to create unnecessary noise;
- Except under very special circumstances, construction activities be limited to weekdays, between the hours of 7 am and 9 pm; and
- Certain classifications of construction equipment and motor vehicles meet specified noise emission standards.

Construction Coordination with Buffalo Skyway/Thruway Maintenance/Operations

ECHDC, through contract documents/specifications, will ensure that all construction activities would be coordinated with NYSDOT and NYSTA to ensure the continued integrity and access to Skyway and Thruway piers. All NYSDOT and NYSTA Temporary Occupancy/Use and Highway Work Permits would be secured, as required, in advance of any occupancy of NYSDOT or NYSTA lands and start of construction activities.

Utilities

ECHDC, through contract documents/specifications and on-going construction management activities, will ensure that all necessary utilities to buildings in and adjacent to the Project Area would be maintained during construction. In the event of planned temporary disruptions, ECHDC will require contractors to provide advance notification to building owners and tenants of the date and duration of planned service disruptions.

Worker/Site Safety

ECHDC, through contract documents/specifications and on-going construction management activities, will minimize risk to construction personnel by requiring the development and compliance with established Site Safety and Health Plans as applicable, and fully complying with required Occupational, Safety and Health Administration, NYSDOT, New York State Labor Law and City of Buffalo regulations. The public will be protected from exposure to such dangers through the use of secure construction sites with authorized access only.

Marine Drive Apartment Residents: Construction Period Parking and Other Measures

Parking for the residents of the Marine Drive apartment complex on the Commercial Slip Parking Garage site would be temporarily displaced during garage construction. ECHDC will consult with both the Marine Drive apartment complex residents and BMHA management to identify temporary solutions for the provision of convenient, safe parking. It is expected that temporary parking at one or several locations would be chosen. Short-term temporary parking for residents has been identified across Erie Street at the Waterfront Village Complex parking lots, owned by the City of Buffalo Urban Renewal Agency. This location is being reviewed given the adjacency of the lot as well as the off-peak availability. Other locations would be in privately-owned lots along Perry Boulevard, Pearl Street, and possibly along the reconstructed Cobblestone Streets under the Skyway. Special provisions for disabled/handicapped parkers would also be identified.

In addition, to mitigate the impacts of the construction of the Commercial Slip Garage upon residents of Marine Drive and surrounding areas, ECHDC would establish a “hot line” for the receipt of complaints regarding construction activities. Hot line information would be distributed to area property owners and tenants in advance of Initial Build Phase I construction and would also be available on the ECHDC website. Complaints received would be investigated and corrective actions devised and implemented, as necessary. A monthly summary of complaints and corrective actions would be filed as information item for the ECHDC Board. In addition, ECHDC would develop regular public information releases regarding planned construction activities/schedule for the purpose of informing the public about anticipated short-term Project Area disruptions. This information would also be made available on the ECHDC website. This information may be conveyed by ECHDC staff through regularly scheduled community meetings.

VIII. THRESHOLDS FOR FUTURE ACTIONS

Pursuant to SEQRA, agencies may prepare a GEIS when there is a need to assess a wide variety of impacts at a more conceptual level on a larger geographic area, often including cumulative impacts, rather than project-specific or site-specific EISs. As Project plans move forward, Project changes may occur as the conceptual development plan is developed into final design proposals for the well defined elements, but more likely, for the less defined components. Such changes may specifically include proposed changes to the contemplated development program.

The Project was evaluated utilizing a GEIS to analyze site specific impacts associated with various aspects of the Preferred Alternative as well as more long-term and/or cumulative impacts associated with future phases of Project development. Final designs for less-defined Project components as well as any proposed changes to the more well-defined elements (hereinafter referred to as “Future Project Plans.”) would require further evaluation pursuant to SEQRA. ESDC, as Lead Agency, would be responsible for performing an environmental review on Future Project Plans and must consider Future Project Plans proposed in relation to the FGEIS and ESDC’s Final Findings Statement. Upon development of Future Project Plans, ECHDC would work with ESDC to determine if the environmental impacts associated with such Future Project Plans have been adequately addressed in the FGEIS and SEQRA Findings Statement, taking into account whether the proposal exceeds any of the thresholds outlined below. Such a determination must be made before any Future Project Plans are approved.

In the event that ESDC determines that: (i) the Future Project Plans would be carried out in conformance with the conditions and thresholds established in below, then no further SEQRA compliance would be required; (ii) the Future Project Plans would be carried out in conformance with the conditions and thresholds established below, but are not addressed or are not adequately addressed in this Statement of Findings, then an amended findings statement must be prepared; (iii) the Future Project Plans are not addressed or are not adequately addressed in the FGEIS for the Project, but the proposal does not exceed any of the thresholds established below, or the proposal does exceed a threshold(s) established in below, but would not result in any significant adverse environmental impacts, then a negative declaration must be prepared; or, (iv) the Future Project Plans are not addressed or are not adequately addressed in the FGEIS for the Project and/or the proposal would exceed one of the thresholds established in below and may have one or more significant adverse environmental impacts, then a supplement to the FGEIS must be prepared.

Future Project Plans that exceed any one of the following conditions or thresholds shall not be considered to have been addressed by the FGEIS/Findings Statement and must be evaluated by ECHDC and ESDC to determine whether additional environmental review (e.g., a Supplemental Generic Environmental Impact Statement) would be necessary:

- Project programming changes establishing development patterns exceeding the upper limits defined by the High-Density Alternative (e.g., square footages by use, increases in residential units or hotel rooms and/or increases in number of parking spaces);
- Introduction of land uses into the Project Area that were not identified in Project programming and assessed in this GEIS;
- Modification to or revision the Design Guidelines and/or review procedures (e.g., building materials, required design features);
- Permanent modification/alterations to Buffalo River shoreline protection (i.e., sheet piles); Installation of permanent features in the Buffalo River;
- Installation of marine support facilities (e.g., fuel storage/pumps, pump out stations); Accelerated construction schedules requiring 24/7 and/or weekend construction;
- Street network modifications that would permanently reduce lane capacity within the Project Area;
- Modifications to Project programming that would increase impervious surfaces and the potential for storm water runoff;
- Project programming that would directly impact architectural and archaeological resources listed on the S/NRHP that cannot be adequately mitigated;
- Modification/alteration to the former street pattern constructed as part of the Erie Canal Harbor Development Project (i.e., Hanover, Prime, and Lloyd Streets) from that approved in 2009;

- Improvements in the vicinity of the Skyway and the Thruway structures that have the potential to impact the structural integrity of either structure; and
- Significant changes to Project phasing that create the potential for significant adverse impacts not previously evaluated.

IX. ONGOING COORDINATION REQUIREMENTS

Pursuant to its goal of promoting transparency and public participation in Project development, ECHDC has conducted extensive public coordination activities with project stakeholders, interest groups, other involved and interested agencies, and members of the general public. In particular, following publication of the DGEIS, ECHDC conducted additional meetings with residents of the Marine Drive Apartment Complex (the “Complex”) on anticipated effects of the proposed Commercial Slip Parking Garage component of the Project.

As the project advances toward final design and construction activities, ECHDC and ESDC will maintain ongoing coordination activities with groups/agencies including but not limited to:

- Complex residents, on measures to mitigate effects during construction and operation of the Commercial Slip Parking Garage;
- City of Buffalo agencies (Mayor, Common Council, Planning Board, etc.), on components of the General Project Plan and land transfer/disposition activities;
- NYSDOT and the NYSTA, on issues related to coordination of activities in the vicinity of the Buffalo Skyway and I-190; and
- Local, State, and Federal regulatory agencies, including, but not limited to City of Buffalo, Erie County, NYSDOT, NYSTA, NYSDEC, OPRHP, U.S. Army Corps of Engineers, etc.), on various permitting and approvals necessary to engage in Project construction activities.

X. CERTIFICATION OF FINDINGS

Having considered the DGEIS and the FGEIS, including the comments received on the DGEIS and the FGEIS, and having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 NYCRR 617.9, ECHDC finds and certifies that:

1. The requirements of Article 8 of the New York State Conservation Law and the implementing regulations of the New York State Department of Environmental Conservation, 6 NYCRR Part 617, have been met;
2. Consistent with the social, economic and other essential considerations from among the reasonable alternatives thereto, the proposed action will minimize or avoid, to the maximum extent practicable, the adverse environmental effects including the effects disclosed in the FGEIS and set forth in this Findings Statement;
3. Consistent with the social, economic and other essential considerations described above, the incorporation in the development of this facility of the mitigation measures described in the FGEIS and in this Findings Statement, will minimize or avoid the adverse environmental impacts associated with the development of the project which were identified in the FGEIS and in this Findings Statement;
4. The project is consistent with applicable coastal policies set forth in 19 NYCRR 600.5; and
5. The project is in compliance with Section 14.09 of the State Historic Preservation Act.

**Development Corporation, a subsidiary of the NYS Urban Development Corporation d/b/a Empire State
Development Corporation**

Signature of Responsible Officer:

Name/Title of Responsible Officer:

Date:

COPIES OF THIS STATEMENT FORWARDED TO:

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Niagara Frontier Transportation Authority 181 Ellicott Street Buffalo, NY 14203 New York State

Department of Environmental Conservation 270 Michigan Avenue Buffalo, NY 14203 New York State

Department of Transportation 100 Seneca Street Buffalo, NY 14203

New York State Office of Parks, Recreation, and Historic Preservation State Historic Preservation Office
Pebbles Island – PO Box 189 Waterfront, NY 12188-1089 New York State

Department of State Division of Coastal Resources 41 State Street Albany, NY 12231-0001

New York State Thruway Authority Buffalo Division 455 Cayuga Road, Suite 800 Cheektowaga, NY
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New York State Canal Corporation 455 Cayuga Road, Suite 800
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Buffalo Common Council City Hall 65 Niagara Square Buffalo, NY 14202

Buffalo Planning Board 901 City Hall 65 Niagara Square Buffalo, NY 14202

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