



**ERIE CANAL HARBOR DEVELOPMENT CORPORATION**  
at the offices of  
Empire State Development – Buffalo Regional Office  
95 Perry Street, Suite 500  
Buffalo, NY 14203

**Meeting of the Directors**

Monday

May 14, 2018 – 10:30 AM

PROPOSED AGENDA

CORPORATE ACTION

1. Approval of the Minutes of the January 22, 2017 Directors' Meeting
2. Buffalo Waterfront Website and Branding - Authorization to Enter into a Consultant Agreement; and Authorization to Take Related Actions
3. Outer Harbor Public Art - Authorization to Enter into a Contract for the Loan and Exhibition of Public Art; and Authorization to Take Related Actions

FOR INFORMATION

4. President's Report – Oral Report

# Item 1

Erie Canal Harbor Development Corporation  
Meeting of the Directors  
Held at the Offices of Empire State Development  
– Buffalo Regional Office  
95 Perry Street – Suite 500  
Buffalo, New York 14203

January 22, 2018

MINUTES

**In Attendance**

**Directors:**

Robert D. Gioia – Chairman  
Julie Bargnesi  
Michael DiVirgilio  
Constance L. Lydon  
Mayor Byron Brown (Non-Voting Director)  
Mark C. Poloncarz (Non-Voting Director)

**ECHDC Staff:**

(Attending in Buffalo  
unless otherwise noted)

Thomas P. Dee - President  
Chris Catanzaro – Project Manager  
Kaitlin Chmura – Project Manager  
Elizabeth R. Fine - General Counsel  
Debbie Royce - Corporate Secretary (via videoconference)  
Bryan Watson - Executive Assistant

**ESD Staff:**

(Attending via video  
conference unless  
otherwise noted)

Julia Borukhov – Financial Project Manager  
Daniel DaSilva – Director, Subsidiary Finance  
Eugene Kwiatkowski – Senior Director of Budgeting  
Holly Leicht – Executive Vice President, Real Estate  
Chanel Maddigan - Senior Counsel (attending in Buffalo)

**Also Present:**

(Attending in Buffalo)

Zach Anderson – WBFO Radio  
Jim Fink – Business First  
Rebecca Gandour – City of Buffalo  
Paul Marzello – Buffalo Naval Park  
Michael Mroziak – WBFO Radio  
Brian Roche – Buffalo Naval Park

Members of the Media  
Members of the Public

The meeting of the Erie Canal Harbor Development Corporation (the “Corporation”),

was called to order at 10:37 a.m. It was noted for the record that the meeting was being webcast. Chairman Gioia stated that the Directors had received all written material in advance of the meeting and noted for the record the Corporation's policy which welcomes public comments on the items on the current Agenda.

Prior to the substantive portion of the meeting, Chairman Gioia asked the Directors whether anyone had any potential conflict of interest with respect to any of the items on the proposed Agenda. Hearing none, Chairman Gioia then welcomed Elizabeth Fine, General Counsel for Empire State Development, to the meeting who was attending in Buffalo.

Next, Chairman Gioia called upon Thomas Dee, President of the Corporation, to present a request for authorization to enter into a consultant agreement for construction management services.

Mr. Dee stated that the General Project Plan was adopted and that HHL, the architectural team, was hired to design the project the prior month.

Furthermore, Mr. Dee stated that the Corporation is seeking a construction manager to assist with determining how to construct the building, how many phases there should be and how to best execute the Corporation's objectives.

Mr. Dee then explained that the project specifically aims to provide the following: (i.) public uses; (ii.) diverse public spaces; and (iii.) encouraging year-round uses. He added that

these objectives were previously discussed with HHL and subsequently, the General Project Plan was amended.

Next, Mr. Dee stated that the Commercial Slip Pavilion consists of the following: (i.) approximately a 5,000 square foot perimeter footprint; (ii.) 1,000 square feet of enclosed space; (iii.) has lavatories; and (iv.) 2,000 square feet of elevated above outdoor decking. He explained that these features provide the Corporation with the ability to lengthen the programming season.

Furthermore, Mr. Dee stated that the Corporation would like to use the covered area for other programming events and explained the building highlights the interpretation of the Erie Canal.

Mr. Dee discussed the Union Block, stating that the demand for visitor services and public restrooms has been increasing and explained that these features add to the ability for year-round seasonal programming.

Next, Mr. Dee explained the consultant selection process. He stated that the Corporation advertised in the *New York State Contract Reporter* on November 9<sup>th</sup> that resulted in four proposals being received.

Mr. Dee explained that the final rankings led to the Corporation interviewing two firms, LiRo and Gilbane. He then identified LiRo as the firm being recommended to the Board of Directors for approval.

Mr. Dee described LiRo as well-suited for the project and explained that they have completed multiple projects for both ECHDC and ESD. He further stated that nearly all of LiRo's sub-consultants that are on the proposed team have worked on state projects.

Mr. Dee stated that the team will be directed by Robert Kreuzer, a Project Executive, and explained that the team clearly understands the complexity of the project as well as the key stakeholders at issue. He further stated that the Corporation is seeking to deliver the project on time and within budget at the highest quality.

While referencing page four of the materials, Mr. Dee explained that there is a pre-construction phase, a construction phase and a post construction phase as well as a rough schedule.

Mr. Dee then noted that there were corrections to the paragraph of the materials that referenced the contract fees. He requested that the following contract changes be made: (i.) total contract fee will be calculated on time and materials, not to exceed basis; (ii.) payable and releases as the work is completed; and (iii.) where fee is stated in the following sentence, the term should be changed to contract amount.

Mr. Dee apologized for the ambiguity in the writing. He then explained that the contract is a time and material/not to exceed contract and stated that the contract amount is not based on a fee but rather based on the contract.

Mr. Dee stated that the contract amount is \$1,007,000, which consists of \$775,000 plus a \$232,000 contingency fee. He explained that the contingency fee is requested because the Corporation is currently unsure about logistics; and the length of the project cannot be determined until the construction manager is acquired is retained.

Mr. Dee then explained that the Corporation's goal is to commence building in September, at the end of the summer programming, and would last through May with an anticipated open date around June 1<sup>st</sup>.

Mr. Dee stated that once a construction manager is hired, and upon meeting with the Corporation, the construction manager will have approximately three and a half months to determine the estimate, the schedules and the logistics of the project. He further explained that the Corporation would like to have the construction manager complete the following tasks: (i.) secure the bidding with the contracting world; (ii.) comply with the procedures and submittals; and (iii.) get the contracts in place.

Mr. Dee further stated that once the construction commences in September, the construction manager will have an opportunity to meet an eight and a half month construction schedule.

Next, Mr. Dee explained different logistical ways of handling two projects: (i.) bid it to one contractor and have one contractor do both projects; and (ii.) bid it to two contractors and have two contractors do both projects. He further explained that the Corporation needs to get to the market to determine the best way to build the project.

Mr. Dee stated that if there's a decision made that necessitates that the Corporation not finish one of the buildings, the Corporation can complete it the following September. He then stated that the Union Block would most likely be finished first which would be followed by the Union Block building.

Next, Mr. Dee advised that the contractor and the construction manager both assured the Corporation that the construction will be substantially complete by June and requested two months of closeout. He explained that in the event a contractor and the construction manager need a four month extension, the contingency money will be available.

Mr. Dee stated that if there are two different foundation contractors, they may be able to work on a parallel basis and provide a better chance of getting both jobs done at the same time. He explained that in the alternative, if there is one contractor, they have to work on one building first and then the second building, which may result in a loss of time.

Mr. Dee further stated that details need to be worked out with the construction manager and the bidding market. He explained that the Corporation is not currently in a



position to determine a clear path forward and added that there needs to be a contingency in the event that the Corporation decides to go with an extended plan.

Mr. Dee stated that he hopes the contingency does not need to be spent and that the project is completed on time.

Next, Mr. Dee stated that the consulting team has achieved a combined MWBE involvement of 31 percent. He further stated that they used two subcontractors that the Corporation has worked with in the past.

Lastly, Mr. Dee requested that the Directors make a determination of responsibility with respect to the proposed consultant and authorize the Corporation to enter into a contract with LiRo engineers for an amount not to exceed \$775,000 plus the \$232,000 contingency fee, resulting in a total contract amount of \$1,007,000.

In response to a call for questions, Mayor Brown asked why the bids were not done separately. Mr. Dee responded that the Corporation is bidding for a construction manager to manage the two buildings and subsequently, the Corporation can bid them separately as far as the construction.

Mayor Brown then asked if the two buildings will be bid separately. Mr. Dee said yes and stated that the bid was for a management agreement.

Mayor Brown asked if the agreement related to the overall project. Mr. Dee said yes, and explained that the management company will be an agent of the Corporation and will provide practical advice in an advisory role. He further explained that the management company will not hold the contract, will not be bidding the work and will not be doing the work themselves.

Mayor Brown asked when the bidding will take place. Chairman Gioia responded that the advertised construction is in June. Mr. Dee then responded that the design ends in May and explained that June will be the bid date.

Next, Chairman Gioia asked if there were any further questions or comments.

County Executive Poloncarz commented that he does not have any objections to the hiring of LiRo and Robert Kreuzer; however, stated that the design still has not been completed for these projects and there are two proposed buildings that the selected company will need to manage. He then asked for clarification regarding whether there is a final design plan.

Mr. Dee responded that it is typical for the Corporation to hire the construction manager to assist with the design phase. He stated that the design manager and the construction manager are hired to augment the design team.

Mr. Dee further stated that the design team is comprised of architects and engineers that are not necessarily proficient in estimation, constructability and scheduling; therefore, the Architect and Engineer team is augmented with a construction manager. He reiterated that the construction manager is hired before the design is complete and that their services are necessary.

County Executive Poloncarz stated that he may have asked his question incorrectly. He rephrased his question by asking if the Corporation may have to return to the Board to increase the contingency amount because the proposed design may be insufficient to meet the needs of the project.

Mr. Dee responded that the construction manager will be hired as soon as possible and further explained that renderings and ideas were presented; however, the construction manager helps to determine budget, schedule, logistics, how the project is purchased and the status of the market such as supply and demand.

Next, Mr. Dee stated that it is common to hire the construction manager and the architect simultaneously. He explained that the Corporation will hire the construction manager later than anticipated.

County Executive Poloncarz asked if there are any estimates regarding the proposed costs associated with the construction of the two buildings.

Mr. Dee stated no, provided an estimation of \$10 million and stated that an estimate is currently being processed. He further stated that a budget was previously approved for \$12 million, which includes some of the fees.

Mr. Dee explained that if the estimate comes in at a higher amount, through a process of value engineering, the construction of the buildings will have to be less expensive. He reiterated the importance of the need for a construction manager.

Next, Mr. Dee stated that the Corporation is hoping to keep the cost lower than the budgeted amount. He stated that the construction manager has expertise in terms of constructability views and life-cycle cost.

Mr. Dee advised constructability views as a process where the construction manager meets with the engineers to discuss the best and most efficient systems that could be implemented. He also described life-cycle cost as determining what the first cost is as opposed to the operational cost as the project moves forward.

Mr. Dee reiterated that the construction manager provides a significant value to the project and is needed.

Director Lydon asked how the Board will be updated regarding the scope of the work and each of the phases throughout the entire process. Mr. Dee responded that his door is

always open. He then stated that if there is ever a budget issue, the Board would be the first to be notified; however, he added that he did not anticipate an issue.

Mr. Dee further stated that the Corporation will try to keep the project under budget and will be reporting to the Chairman on a regular basis. He explained that the Corporation can collectively find a way to keep the Board updated and apprised as they move forward.

Chairman Gioia asked if there are two buildings and Mr. Dee stated yes there are two buildings.

Chairman Gioia asked if LiRo will determine the construction timing and what is needed in phasing to be less disruptive to the Canalside area. Mr. Dee responded yes, and further stated that he believes LiRo will assist with logistics because the Corporation has a small site, the Union Block, and the corner of the Commercial Slip site. Mr. Dee explained that LiRo has to assist with figuring out how to get equipment into and out of the area.

Moreover, Mr. Dee advised that the Corporation must be conscious of the Naval Military Park. He stated that the Corporation met with the Naval Military Park on multiple occasions and explained that the Corporation wants to ensure that several things are done to assist them with keeping access to the Military Park.

Chairman Gioia asked if there were any further questions from the Directors or comments from the Public.

Brian Roche, the Executive Director of the Buffalo and Erie County Naval and Military Park, introduced himself and greeted the Board. He then stated that he had a letter to provide to the Board which summarized discussions that the Naval Park has held with Mr. Dee and his staff regarding the Union Block and Pavilion building construction.

Mr. Roche added that the Buffalo and Erie County Naval and Military Park's Board and staff are excited about the buildings but also have some concerns which could negatively impact the Park, especially with long-term revenue loss.

Next, Mr. Roche stated that Mr. Dee and his staff have been professional and very receptive to hearing their concerns. He added that he thought it would be best to provide a snapshot of their meetings, by way of the Naval Park's letter, to address their concerns.

Mr. Roche stated that there will be construction commencing in July of this year in the Hangar Building which is located across the street from the Military Park.

Chairman Gioia confirmed that the construction will also commence diagonally from the Park, kitty-corner.

After Mr. Roche distributed the letter to the Board, he had no further comments.

Hearing no further questions or comments from the Directors and no comments from the public, upon motion duly made and seconded, the following resolution was unanimously adopted:

ERIE CANAL HARBOR DEVELOPMENT CORPORATION – Canalside Interpretive Structures Consultant Agreement - Authorization to Enter into a Consultant Agreement for Construction Management Services; and Authorization to Take Related Actions

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BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds LiRo Engineers, Inc. to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into a contract with LiRo Engineers, Inc. for a base contract amount of SEVEN HUNDRED SEVENTY FIVE THOUSAND DOLLARS (\$775,000), plus a contingency in the amount of TWO HUNDRED THIRTY TWO THOUSAND DOLLARS (\$232,000) for a total contract amount not to exceed ONE MILLION SEVEN THOUSAND DOLLARS (\$1,007,000) for the purposes and services, and substantially on the terms and conditions, set forth in the Materials; and be it further and be it further

RESOLVED, that the President of the Corporation or his designee be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.

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Next, Mr. Dee presented his President’s Report.

Mr. Dee stated that the Corporation started off the winter season well and complimented the Naval Military Park regarding the commissioning ceremony of USS Little Rock, which brought thousands of visitors to Canalside from around the world. He commented

that this experience created a once in a lifetime experience for attendees and made the Corporation very proud.

Mr. Dee further stated that the commissioning ceremony was followed by the World Junior's multiple Hockey games, which was highlighted by an outdoor game that was the highest attended World Junior game in history.

Moreover, Mr. Dee stated that ice skating is off to a great start this year because 30,000 skaters have attended since January 15<sup>th</sup>. He then stated that they have a new setup for skating, skate pickup and queuing.

Mr. Dee described the winter lodge as a very friendly and warm environment for customers to enjoy the space. He further stated that that they are doing multiple tournaments and are offering diverse programming such as broom ball and pong hockey.

In regards to design, Mr. Dee stated that they are moving forward with interpretative structures. He explained that there will eventually be public restrooms, covered public space and an opportunity to expand into additional seasons.

Next, Mr. Dee stated that progress is being made on the Explore and More Children's Museum. He explained that temporary closures are now being placed to accommodate pouring the concrete floors and the exterior development.



Mr. Dee further stated that RFP responses were received on January 16<sup>th</sup> regarding the Terminal B Outer Harbor Capital Improvement Project. He explained to the Board that a short list of interviews should be expected and selections will be made in March.

Mr. Dee stated that the First Buffalo Marina RFP is on the street and that proposals are due on February 15<sup>th</sup>.

In regards to the South Aud Block, Mr. Dee stated that the Corporation is continuing discussions and negotiations with the private development company. He added that the Corporation hopes to have some direction to report back in the coming weeks.

Next, Mr. Dee stated that carousel discussions are ongoing with the Memorandum of Understanding terms being negotiated. He added that the site utilities at the D2 block, which is the South Donovan Block, are expected to begin in the spring.

Mr. Dee also stated that the Outer Harbor Buffalo Billion I's site plan was approved by the City of Buffalo and the plan was comprised of Outer Harbor civic improvements, the trails, fields and public areas.

Furthermore, Mr. Dee stated that Buffalo Billion II is in a pre-concept phase. He added that the Corporation is working with several stakeholders and the public to satisfy community needs.

Next, Mr. Dee explained that the Canalside signage contract is near completion and the Corporation can expect to see colorful, interpretive and functional signage for Canalside this summer.

Lastly, Mr. Dee stated that the Board can remain up to date of additional activities on the Canalside Facebook page and on its website at [CanalsideBuffalo.com](http://CanalsideBuffalo.com).

Hearing no further business, the meeting adjourned at 11:02 a.m.

Respectfully submitted,

Debbie Royce  
Corporate Secretary

# Item 2



FOR CONSIDERATION

May 14, 2018

TO: The Directors

FROM: Thomas P. Dee

SUBJECT: Buffalo Waterfront Website and Branding

REQUEST FOR: Authorization to Enter into a Consultant Agreement; and Authorization to Take Related Actions

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CONTRACT NEEDS AND JUSTIFICATION

I. Contract Summary

Consultant: Dixon Schwabl, Inc.  
1595 Moseley Road  
Victor, NY 14564

Scope of Services: Website, Branding, Marketing and PR services

Contract Term: July 1, 2018 through July 1, 2023

Contract Amount: Not to exceed \$480,000 (\$399,920 base plus \$80,080 contingency)

Funding Source(s): New York Power Authority Relicensing Agreement

II. Background

Canalside has, for several years now, been established as a key component of Buffalo's renaissance and one of the City's top destinations for locals and tourists to attend events, partake in recreational activities, learn about the history of the Erie Canal, and more. In recent years the Outer Harbor has emerged as another popular destination for recreational activities as well as events and festivals. As these key locales on Buffalo's Waterfront continue to grow in the coming years with exciting new development and activities, it is important that both destinations can be identified together with a singular, over-arching "Waterfront" brand and visual identity. In addition, we want to develop a single "Waterfront" online presence to better inform the public of events and projects, draw more tourism, and start building more awareness of Buffalo's Waterfront, particularly the Outer Harbor which lags behind Canalside in terms of awareness.

### III. Project Description

The primary deliverables of the Project are:

1. Development of a new website to serve as a “one stop shop” for Canalside and the Outer Harbor, including:
  - a. Events and activities
  - b. Amenities (including rentals, tours, and Queen City Bike Ferry info)
  - c. Directions and parking information
  - d. Interactive maps
  - e. Dining and lodging
  - f. Development and project updates
  - g. Ecommerce
2. Development of a Buffalo “Waterfront” umbrella brand to help support the individual Canalside and Outer Harbor brand identities. The existing brand identities for Canalside and the Outer Harbor will not go away, but will be supported by this new umbrella brand.

Other deliverables of the Project include:

3. Search Engine Optimization to support the website launch
4. Website hosting and security for 5 years, with a 5-year renewal option
5. Website maintenance for 5 years, with a 5-year renewal option
6. Support for existing email marketing platform
7. Social media and PR support for brand and website launch

### IV. Consultant Selection Process

On January 16, 2018 ECHDC advertised for the *Buffalo Waterfront Website and Branding* Project in the New York State Contract Reporter. The Request for Qualifications (RFQ) sought to retain the credentials of professional marketing, web development, branding and/or PR consultant firms and/or teams to provide website development and branding services for the Project. On February 13, 2018, ECHDC received and opened fifteen (15) responses. These responses were reviewed and scored by the Selection Committee consisting of six (6) ECHDC and ESD staff and the top three (3) ranked firms/teams were short-listed to respond to a Request for Proposals.

The final RFQ rankings of the Selection Committee are as follows (*only prime consultant shown*):

1. Dixon Schwabl
2. Eric Mower + Associates
3. Streetsense
4. Fourth Idea
5. Martin Group/19 Ideas
6. BBG&G
7. FARM
8. Helm Experience & Design
9. Black Dog Designs
10. Acuta Digital
11. Bam Connection
12. Brandmint

13. Crystal McKenzie
14. Insight International
15. Visual Brand

The top three (3) consultants were issued an RFP on March 6, 2018 and responses were received on April 10. Interviews with the consultants were conducted on April 18. The Selection Committee scored the respondents based on their approach to the scope of services, interview performance, cost, qualifications/experience of the staff, and project timeline. The final RFP rankings of the short-listed respondents are as follows:

1. Dixon Schwabl
2. Eric Mower + Associates
3. Streetsense

Dixon Schwabl (or the "Consultant") is a full-service women-owned marketing firm with over 30 years of experience in branding, advertising, design, strategy, research, PR, and digital services. Although based in the Rochester area, they have recently expanded into Buffalo and plan to grow here over the next several years, including opening a permanent office. Forbes Magazine named them the #1 Place to Work in Advertising and Marketing in 2017 and the Great Place to Work Institute named them the #1 Best Small Company to Work for in America in both 2008 and 2010. Their team also includes Positive Nation Productions (MBE).

The Dixon Schwabl team is well suited for this project and are familiar working with both regional and national destinations and events. Some of their clients include the Finger Lakes Visitors Connection, Great New York State Fair, Rochester Chamber of Commerce, Kennedy Space Center, the PGA of America, and the Strong National Museum of Play. Their nearly 120 employees are specialists in creative services, technology, social media, planning, PR, events, and more.

The team will be directed by CEO & Owner Lauren Dixon, President & Owner Mike Schwabl, as well as Account Director Cassandra Nickels. The team understands the importance of the Project, the key stakeholders and issues, and the timeline to launch the website in either Spring or Fall 2019 (to avoid peak seasons).

Staff has examined the proposed contractor's "responsibility" as defined in State Finance Law §163, and as provided in ESD's Procurement Guidelines. Based on this analysis of financial and organizational capacity, legal authority to do business in New York, integrity of principals, and past performance on contracts, staff concludes that the proposed contractor is a responsible vendor.

#### V. Scope of Work

The Consultant will provide necessary services including, but not limited to, the scope of work as described in the RFP. The scope of work is as follows:

##### Task 1: Website Development

1. The consultant will be required to create a new, modern, mobile responsive website that replaces the outdated Canalside and Outer Harbor websites
2. The website will be required to have numerous features, including, but not limited to:
  - a. Intuitive content management system

- b. Mobile responsive design
  - c. Integration with event management software for efficiency and accuracy
  - d. Event filtering, sorting, searching
  - e. Interactive map that integrates event details, attractions, nearby venues and amenities (including lodging and dining)
  - f. Social media integration, including social event sharing
  - g. Robust search
  - h. Integration with email marketing system
  - i. Development information/timeline
  - j. E-commerce component for merchandise sales (managed by Be Our Guest)
  - k. Image, video support
  - l. Contact form
  - m. Sponsor recognition
  - n. Customizable footer with agency links
3. The consultant will be required to produce photography for the new website and future marketing initiatives

**Task 2: Search Engine Optimization (“SEO”)**

- 1. The consultant will be required to perform SEO work during website development, launch, and post launch to help mitigate organic search damage from the loss of the existing websites

**Task 3: Website Hosting and Security**

- 1. The consultant will be required to host and maintain the website for 5 years plus a 5-year annual renewal option
- 2. The website is required to follow New York State IT requirements for security

**Task 4: Email Marketing**

- 1. The consultant will be required to develop a newsletter template that complements the new umbrella brand
- 2. The consultant will provide recommendations on expanding the email database as well as optimize tracking and email campaign performance with Google Analytics

**Task 5: Umbrella Brand Development**

- 1. The consultant will be required to develop an over-arching umbrella brand to complement the existing Canalside and Outer Harbor brands. The brand development will include name, logo, and brand guidelines
- 2. The consultant will review existing marketing research, perform a competitive audit, SWOT analysis, and existing communications audit
- 3. In addition, the consultant will assist with and provide recommendations for the brand launch

The estimated project schedule is as follows:

RFQ Advertisement	January 16, 2018
Qualifications Due	February 13, 2018
RFP Issued	March 6, 2018
Proposals Due	April 10, 2018
Interviews	April 18, 2018

ECHDC Board Approval: May 14, 2018

Website/Brand Launch: May 2019

VI. Contract Term, Price and Funding

The Consultant Agreement will cover fees and expenses over an approximate 5-year period (July 2018 – July 2023) with a 5-year annual renewal option for website hosting and maintenance. The Contract amount with the Dixon Schwabl team to complete the above scope of work shall not exceed \$480,000, including a contingency of \$80,080.

The total contract fee will be calculated on a “hourly plus reimbursables” basis, payable in releases as the work is completed. The fee is based on approved manhour estimates and salary schedules, and includes an allowance for incidental out of pocket project expenses (i.e., travel, reproduction costs, postage and delivery charges, permits and miscellaneous fees). Labor and expenses will be reimbursed upon submission of timesheets and acceptable receipted documentation.

The funding source shall be the New York Power Authority Relicensing Agreement.

VII. Non-Discrimination & Contractor and Supplier Diversity

ESD’s Non-Discrimination and Contractor & Supplier Diversity policy will apply to this contract. The Contractor shall be required to solicit and utilize Minority and Women-owned Business Enterprise (“MWBEs”) and are encouraged to utilize Service-Disabled-Veteran-owned Business Enterprises (“SDVOBs”) for any contractual opportunities generated in connection with the Project and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8 and 9 NYCRR § 252.2(m)) to achieve an overall MWBE Participation Goal of 30%. Dixon Schwabl is a New York State certified WBE. Consultants on the team, listed by MWBE percentages, are as follows:

- 95% Dixon Schwabl (WBE)  
*Victor, NY 14564*
  
- 5% Positive Nation Productions (MBE)  
*Buffalo, NY 14208*

Overall, the Consultant team has achieved a combined MWBE involvement of 100%.

VIII. Environmental Review

ESD staff has determined that the action, which involves entering into a contract for continuing administration activities that would not affect the environment (i.e., website development, management, and hosting), constitutes a Type II action as defined by the New York State Environmental Quality Review Act (“SEQRA”) and the implementing regulation for New York State Department of Environmental Conservation. No further environmental review is required.

IX. Requested Action

The Directors are requested to (1) make a determination of responsibility with respect to the proposed consultant; (2) authorize the Corporation to enter into a contract with Dixon Schwabl, Inc for an amount



not to exceed \$399,920 plus a \$80,080 contingency for a total contract amount of \$480,000; and (3) to take all related actions.

X. Recommendation

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

XI. Attachments  
Resolution

May 14, 2018

ERIE CANAL HARBOR DEVELOPMENT CORPORATION – Buffalo Waterfront Website and Branding -  
Authorization to Enter into a Consultant Agreement; and Authorization to Take Related Actions

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BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds Dixon Schwabl, Inc. to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into a contract with Dixon Schwabl, Inc. for a base contract amount of THREE HUNDRED NINETY-NINE THOUSAND NINE HUNDRED TWENTY DOLLARS (\$399,920), plus a contingency in the amount of EIGHTY THOUSAND EIGHTY DOLLARS (\$80,080) for a total contract amount not to exceed FOUR HUNDRED EIGHTY THOUSAND DOLLARS (\$480,000) for the purposes and services, and substantially on the terms and conditions, set forth in the Materials; and be it further

RESOLVED, that the President of the Corporation or his designee be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.

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# Item 3



**FOR CONSIDERATION**

May 14, 2018

TO: The Directors

FROM: Thomas P. Dee

SUBJECT: Outer Harbor Public Art Project

REQUEST FOR: Authorization to Enter into a Contract for Loan and Exhibition of Public Art at the Outer Harbor; and Authorization to Take Related Actions

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**CONTRACT NEEDS AND JUSTIFICATION**

I. **Contract Summary**

Consultant: Albright Knox Art Gallery  
1285 Elmwood Avenue  
Buffalo, New York 14222

Scope of Services: Loan and Exhibition of Public Art at Wilkeson Pointe

Contract Term: May 2018 – October 2019

Contract Amount: Not to exceed \$170,000 (\$148,000 with \$22,000 contingency)

Funding Source(s): New York Power Authority Relicensing Agreement

II. **Background**

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

Historically created through land filling along the Lake Erie shoreline, the NFTA (then the Niagara Frontier Port Authority) had used the northern portion of this property since the late

1950s for outdoor storage of sand, salt, gravel, and other bulk materials, as well as similar industrial port-related activities; these all ceased in the late 1990s. The southern portion of the property has operated as the "NFTA Boat Harbor", a marina for small private boats. In addition, over the last decade, an NFTA-owned inlet south of the marina was progressively improved by NFTA and became known as "Gallagher Beach", which largely facilitated wind surfing and personal watercraft use.

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

The remaining approximately 160 acres of land north of Buffalo Harbor State Park, together with Wilkeson Pointe (acquired by ECHDC in 2008 and 2012) and other nearby public lands, will ultimately be improved and used in accordance with a community-driven Buffalo Outer Harbor Blueprint (the "Blueprint"), a long-term plan that was developed in accordance with ECHDC's guiding principles and significant public input. The Blueprint, which describes future land uses and areas for future development/redevelopment, was accepted by the ECHDC Board of Directors in 2015 and was incorporated into the City of Buffalo's Unified Development Ordinance ("Green Code") in 2017.

The Albright Knox Art Gallery ("AKAG") approached ECHDC with a proposal to have the world-famous artist Robert Indiana's work "ONE through ZERO" (Corten Steel sculptures, see attached images) installed and on temporary exhibit at Wilkeson Pointe (225 Fuhrmann Boulevard). These particular pieces, which the Albright Knox has exclusive access to, will enhance the millions of dollars of investment at the Outer Harbor and the public's appreciation of the newly activated property. Wilkeson Pointe is an ideal location, as it has ample space to accommodate the pieces of art while maintaining public access and allowing for the Outer Harbor Management Group to continue to program the space with fun public events and activities. "ONE through ZERO" will enhance the landscape and serve as an exciting backdrop at Wilkeson Pointe, one of the Outer Harbor's most popular and active public spaces. AKAG is an internationally renowned art institution located in Buffalo, NY that has an established public art initiative in Erie County, including the world-famous Shark Girl at Canalside.

### III. Project Description

AKAG shall loan Robert Indiana's "ONE through ZERO" (Corten Steel sculptures) to ECHDC and provide ECHDC with institutional knowledge and project management services for the installation, exhibition, and deinstallation of the art at Wilkeson Pointe, 225 Fuhrmann Boulevard.

The project costs will be direct expenses related to the installation, maintenance, and deinstallation of the sculptures. ECHDC will be responsible for the costs associated with the

installation, maintenance, and deinstallation while the piece is on loan including, but not limited to, shipping, design/engineering for foundations, concrete, crane, etc. AKAG will coordinate and contract with the individual vendors and contractors responsible for these services. ECHDC will reimburse AKAG for the costs as outlined in the budget. AKAG will not receive a fee associated with the project; nor is there a fee associated with the loan of the artwork.

The sculptures will be on loan from May 2018 to October 2019.

#### IV. Consultant Selection Process

AKAG is an internationally renowned art institution that has an established, distinctive public art initiative in Erie County, as well as extensive resources and unique institutional experience in modern, contemporary, and public art. AKAG is not only the only entity that can offer ECHDC these pieces but is also uniquely positioned to provide the requisite expertise to exhibit them. Therefore, ECHDC received a Contract Reporter Exemption on April 25, 2018 for Albright Knox Art Gallery to begin to perform the services as outlined in these materials.

Staff has examined the proposed contractor's "responsibility" as defined in State Finance Law §163, and as provided in ESD's Procurement Guidelines. Based on this analysis of financial and organizational capacity, legal authority to do business in New York, integrity of principals, and past performance on contracts, staff concludes that the proposed contractor is a responsible vendor.

#### V. Scope of Work

The project consists of placing ten Corten Steel Sculptures at ECHDC's property, Wilkeson Pointe. AKAG will be responsible for the contracting and coordination of all required vendors and contractors for the shipping, installation, conservation/maintenance, deinstallation, and site restoration for the term of the contract.

#### VI. Contract Term, Price and Funding

The total Contract Amount with Albright Knox Art Gallery is to complete the above scope of work shall not exceed \$170,000, including a contingency of \$22,000

The total Contract Amount is based on the direct expenses related to the required work to complete the installation, conservation/maintenance and deinstallation activities. ECHDC shall reimburse AKAG based upon submission of invoices for completed work.

The funding sources shall be \$170,000 from the New York Power Authority Relicensing Agreement.

VII. Non-Discrimination & Contractor and Supplier Diversity

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this Project. The Recipient shall be required to include minorities and women in any job opportunities created, to solicit and utilize Minority and Women Business Enterprise ("MWBEs") for any contractual opportunities generated in connection with the Project and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 30% related to the eligible categories totaling approximately \$52,000. As such, the goal MWBE utilization shall be no less than \$15,600.

VIII. Environmental Review

ESD staff has determined that the project, which involves the installation/construction of an art piece that occupies less than 4,000 square feet of ground area and which is permitted under local land use controls, constitutes a Type II action as defined by the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations for the New York State Department of Environmental Conservation. No further environmental review is required regarding this project.

IX. Requested Action

The Directors are requested to (1) make a determination of responsibility with respect to the proposed consultant; (2) authorize the Corporation to enter into a contract with Albright Knox Art Gallery for an amount not to exceed \$148,000, plus a \$22,000 contingency for a total contract amount, not to exceed, \$170,000; and (3) to take all related actions.

X. Recommendation

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

XI. Attachments

Resolution

Images

May 14, 2018

ERIE CANAL HARBOR DEVELOPMENT CORPORATION – Outer Harbor Public Art - Authorization to Enter into a Contract for the Loan and Exhibition of Public Art; and Authorization to Take Related Actions

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BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds Albright Knox Art Gallery to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into a contract with Albright Knox Art Gallery for a base contract amount of ONE HUNDRED FORTY EIGHT THOUSAND DOLLARS (\$148,000) plus a contingency in the amount of TWENTY TWO THOUSAND DOLLARS (\$22,000) for a total contract amount not to exceed ONE HUNDRED SEVENTY THOUSAND DOLLARS (\$170,000) for the purposes and services, and substantially on the terms and conditions, set forth in the Materials; and be it further

RESOLVED, that the President of the Corporation or his designee be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.

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