

Request for Proposals

NORTH AUD BLOCK DEVELOPMENT

Infrastructure Design Services



Issued by:

Erie Canal Harbor Development Corporation

A subsidiary of the New York State Urban Development Corporation
d/b/a Empire State Development
95 Perry Street, Suite 500
Buffalo, NY 14203

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I. INVITATION TO SUBMIT PROPOSALS

The Erie Canal Harbor Development Corporation (“ECHDC”), a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development (“ESD”), is seeking to retain professional engineering, architecture, landscape architecture, and land surveying consultant firms and/or teams (the “Consultant”) to provide design, bid and construction administration services related to the design of street and structured parking infrastructure facilities on the northern portion of the former Memorial Auditorium Block (AKA “North Aud Block”) within the Canalside project in Buffalo, New York (the “Project”).

II. BACKGROUND AND CONTEXT

A. Buffalo Waterfront Urban Renewal Area, Buffalo Inner Harbor Planning & Canalside

In 1963, the City of Buffalo and the Buffalo Urban Renewal Agency, in accordance with state/federal regulations at the time, established the Waterfront Urban Renewal Area (see **Figure 1 and 2**), which encompassed a broad swath of waterfront land from Washington Street to Virginia Street, including the North Aud Block (i.e., the “Project Area”). This Urban Renewal Area was once the core of Buffalo’s Canal District and contained the buried western terminus of the Erie Canal, along with a number of associated slips and other canals. Within 10 years, almost all pre-existing structures of any age, condition, and use were demolished in this Urban Renewal Area. Today, while the Urban Renewal Plan expired in 2013, only the privately-managed Marine Drive Apartments (originally the Dante Place Public Housing Project that opened in 1952) and a small church are structures that survive from before 1963.

Beginning in the late 1980s, the Horizons Waterfront Commission (then a subsidiary of the NYS Urban Development Corporation, which is today known as ESD), and later ESD itself, took on planning and investment efforts to revitalize the Buffalo waterfront. Part of these efforts focused on the area between Main Street, the Buffalo River, and the Marine Drive Apartments (i.e., a portion of the Urban Renewal Area), which contained remnants of the above-noted Erie Canal and feeder slips (specifically the Commercial Slip), a broad network of former streets, and foundations of former buildings dating to the early 19th century.

After roughly a decade of intense community discussion, plans for the initial components of the “Buffalo Inner Harbor” Project (later named “Erie Canal Harbor” after a scholastic naming contest held the local newspaper) were finalized in 2004. ECHDC was established in 2005 to create a locally-focused ESD subsidiary to implement the plan.

ECHDC is currently leading Phase 3 of waterfront redevelopment efforts. Phase 1 involved the relocation of the Buffalo and Erie County Naval & Military Park from the foot of Main Street its current location slightly downstream in Veterans Park, completed in 2003. Phase 2, the Erie Canal Harbor project, involved the restoration and re-watering of the Commercial Slip (the historic western terminus of the Erie Canal) as a navigable water feature, a new interpretation of the Central Wharf, and the reconstruction of a series of Medina Sandstone paved streets that once crossed the area, which was completed in 2008.



Figure 1
1951 Aerial showing Project Area and Former Waterfront Urban Renewal Area



Figure 2
2017 Aerial showing Project Area in Context of Former Waterfront Urban Renewal Area

Phase 3 centers around “Canalside” - a mixed use, urban entertainment destination, which encompasses both the Phase 1 and 2 (i.e., Erie Canal Harbor Block) land areas, along with the following surrounding city blocks:

- The **Aud Block** (the former location of the Memorial Auditorium or “Aud”), upon which a series of historically-aligned, non-navigable, canal water elements were completed in 2014 that host the region’s largest ice skating venue and other winter activities, as well as a host of summer recreational programming and activities.
- The **Donovan Block**, which was once home to the General William Donovan State Office Building and has since been developed as “One Canalside,” a mixed hotel, office, and retail development organized around the “East Canal” water element, with a final mixed-use building planned on a parcel south of the canal fronting on Scott Street;
- The **Webster Block**, which served for several decades as surface parking and has since been redeveloped as “Harborcenter”, a mixed-use facility which houses a series of indoor ice rink facilities that serve as a practice venue for the Buffalo Sabres and a multitude of amateur hockey events, along with hotel, entertainment and retail facilities; and
- The **Commercial Slip Block**, which consists of public property to the northwest of Commercial and Pearl streets, a large portion of which is used as surface parking for the Buffalo Municipal Housing Authority, with the balance used as commercial parking lots.

The overall Canalside project area is bounded 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 the Buffalo River and on the west by Erie Street, Marine Drive, and Pearl and Commercial Streets (see **Figures 4 & 5**). This area enjoys several benefits, including an efficient roadway network that supports regional and international access; convenient access to the NYS Thruway and NFTA’s Metro Rail system; and proximity to a host of local and regional natural, historic, and cultural amenities, including but not limited to Key Bank Center, the Buffalo River Corridor, and the Cobblestone Historic District. Canalside annually hosts over 1.5 million visitors with an array of arts and cultural experiences, recreational activities, regular programming, and concerts/ special events capitalizing on the diversified resources in the region. Ultimately, upon full build out, Canalside will provide various year-round offerings and experiences, including restaurants, entertainment venues, retail, cultural attractions, residential units, and public open space as an integral part of Buffalo’s waterfront.

Development at Canalside is governed by a series of Design Guidelines for various aspects of built features in the designated area (see **Exhibit A**). As part of the Canalside Modified General Project Plan (“MGPP”) adopted by the ESD Board of Directors, local development regulations and processes were overridden in cooperation with the City of Buffalo, and future development must adhere to the Design Guidelines in lieu of municipal zoning and site planning requirements. ECHDC has assembled a Design Review Committee of local design professionals that reviews all proposed development at Canalside. Upon this Committee’s concurrence, proposed developments at Canalside are then presented to the City of Buffalo Planning Board as part of a “courtesy review” in which the Planning Board may make design recommendations, however, does not formally approve the proposed developments.

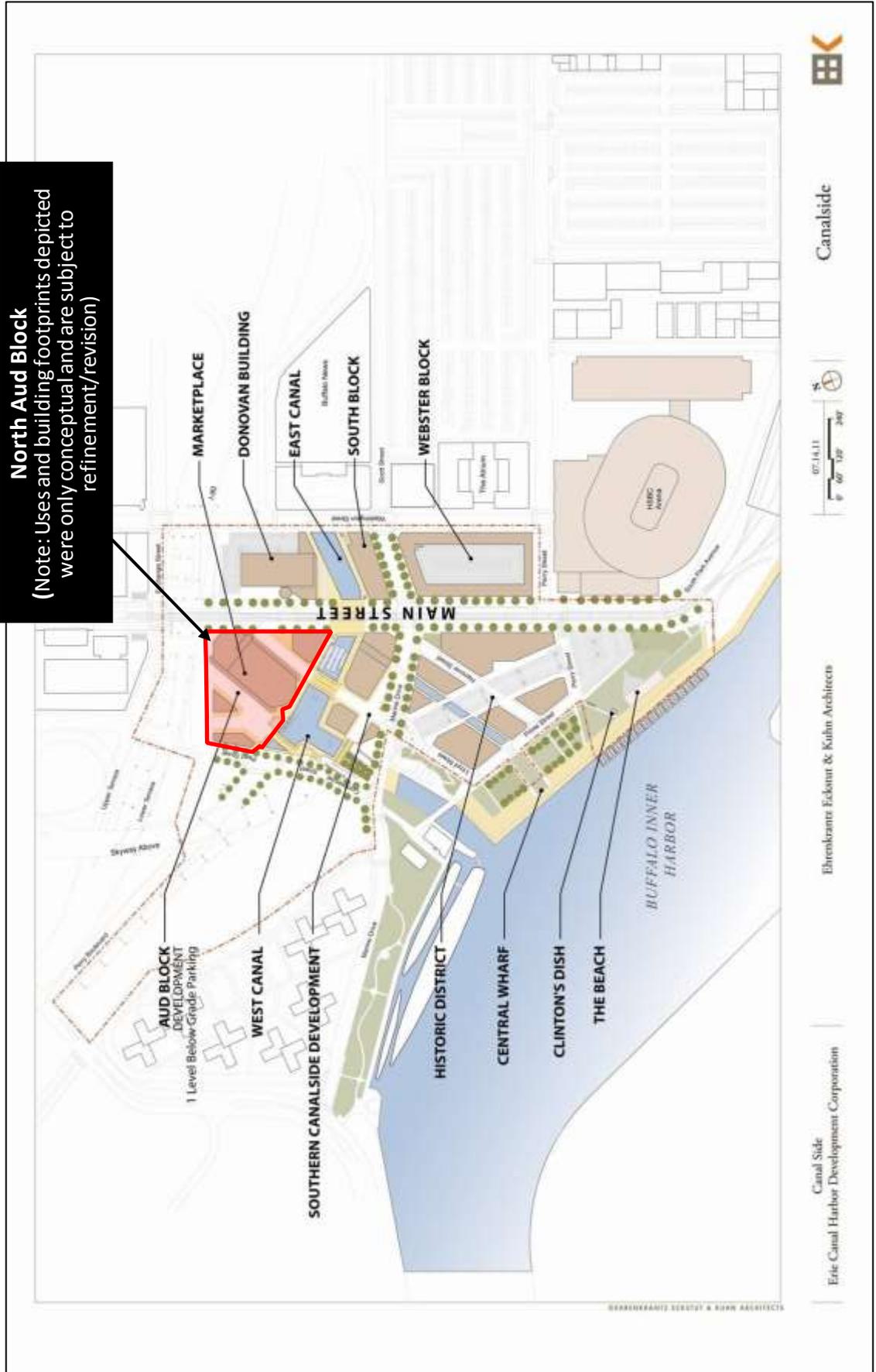


Figure 4
 2013 Modified General Project Plan – Illustrative Site Plan
 Canalside Project

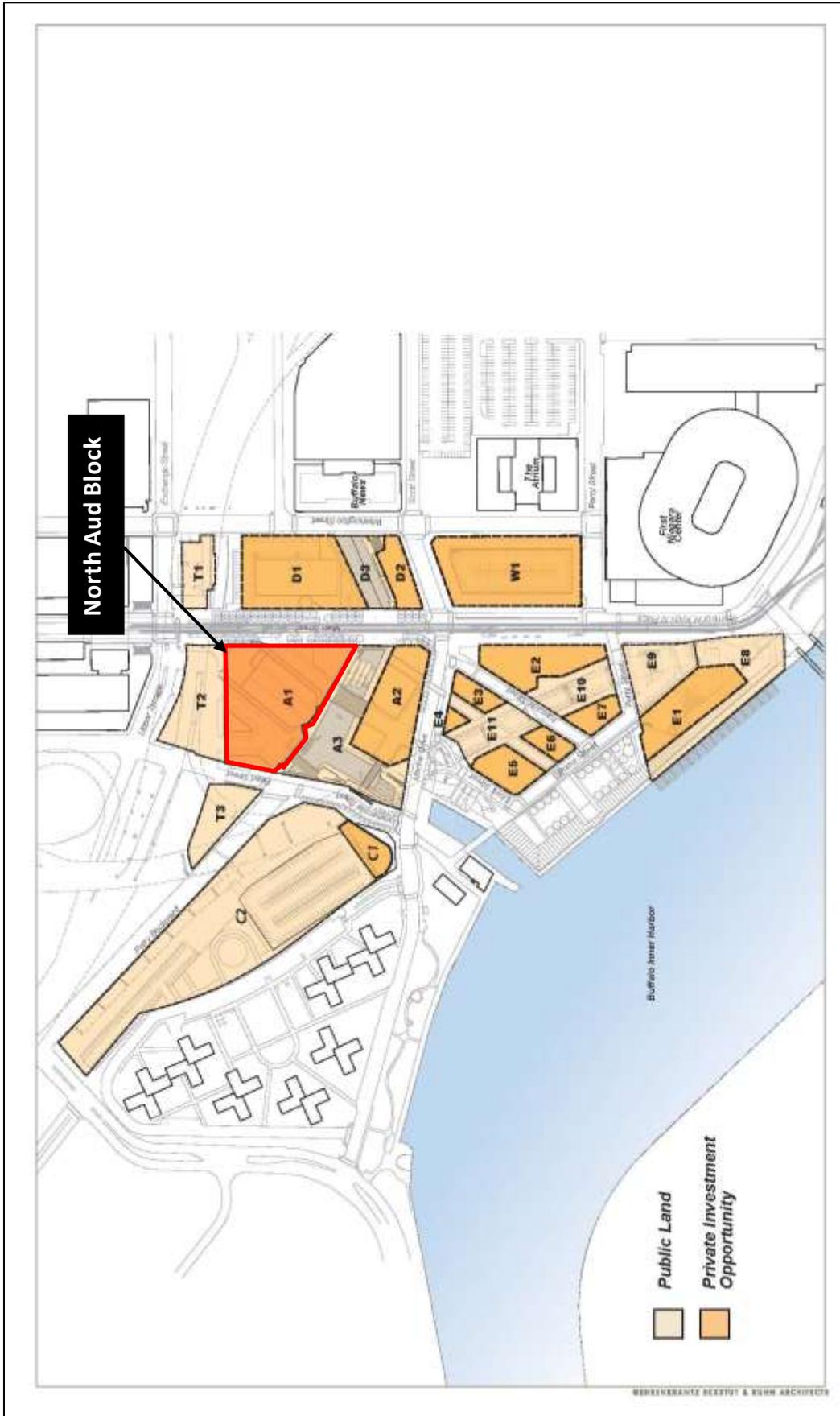


Figure 5
Parcel Plan - Modified General Project Plan Map - Canalside Project

The goals of the Canalside Design Guidelines are to provide high quality, attractive and active spaces that employ contemporary techniques but sensitive and connect to the unique history of the project area and Buffalo as a whole. To this end, the Guidelines are focused on the impact of buildings on the public environment. These Guidelines seek to create spaces, not projects. The goal is to create an everchanging, lively atmosphere and visual appeal throughout. The Guidelines clearly set forth that Canalside is not a traditional business or residential district; the focus is on the pedestrian. The Guidelines set forth standards to ensure that development provides a human scale, engenders a unique sense of place, and an environment that places emphasis on walking as the predominant mode of access. While automobile access is nevertheless considered and sought to be convenient, it is not intended to be the sole determinant on the shape and character of development.

The Canalside Project is further described in the Modified General Project Plan (“MGPP”) adopted in 2012 (and last amended in 2018). The MGPP can be found at: <https://esd.ny.gov/erie-canal-harbor-development-corporation-projects>.

B. The Aud Block

The Aud Block was originally acquired by the ECHDC from the City of Buffalo in 2008 and since that time, ECHDC has invested public funds remediating hazardous waste, lead- and asbestos-containing materials, completing demolition of the Memorial Auditorium, relocating utilities and preparing the site for future development. Through a local planning process, the Aud Block has been divided into multiple parcels reflecting the 19th century streets/building typology of the site.



Rendering – South Aud Block

As part of the Canalside project, ECHDC completed construction of a series of historically-aligned water features on the Aud Block in 2014 evoking the Erie & Hamburg canals and their connection to the Commercial Slip. These canals are relatively shallow and support ice skating facilities in the winter and small paddleboat and other water-based recreation in the summer. This work also included the creation of various public spaces and bridges evoking former Whipple Truss and Schwartz Arch bridges that align with former street rights-of-way (“ROWS”) that once crossed the block. The popularity and attendance to these canal features continues to grow each year.

1. South Aud Block

Since 2014, ECHDC has been focusing its efforts on the redevelopment of the area to the south of the canals (i.e., the “South Aud Block”). The South Aud Block redevelopment is bounded on

the north and west by the new canals, on the east by Main Street and the south by Marine Drive. After an unsuccessful private developer Request for Proposal (“RFP”) for a joint development of the Explore & More Children’s Museum as part of a larger mixed-use development, ECHDC embarked on construction project for the Museum alone on its own site in the South Aud Block area (see **Figure 6**). The Museum is expected to be completed and open to the public in the Spring of 2019.

In August of 2018, following a competitive procurement process, the ECHDC Board of Directors awarded preferred developer status to Sinatra & Company Real Estate LLC (“Sinatra”). Sinatra will invest \$21 million to build “Heritage Point”, a development that involves two mixed-use buildings totaling over 71,000 gross square feet. Each building is anticipated to be five floors, consisting of ground-floor retail and restaurants with Class “A” office space and a total of 41 mixed-income residential units on the upper floors.

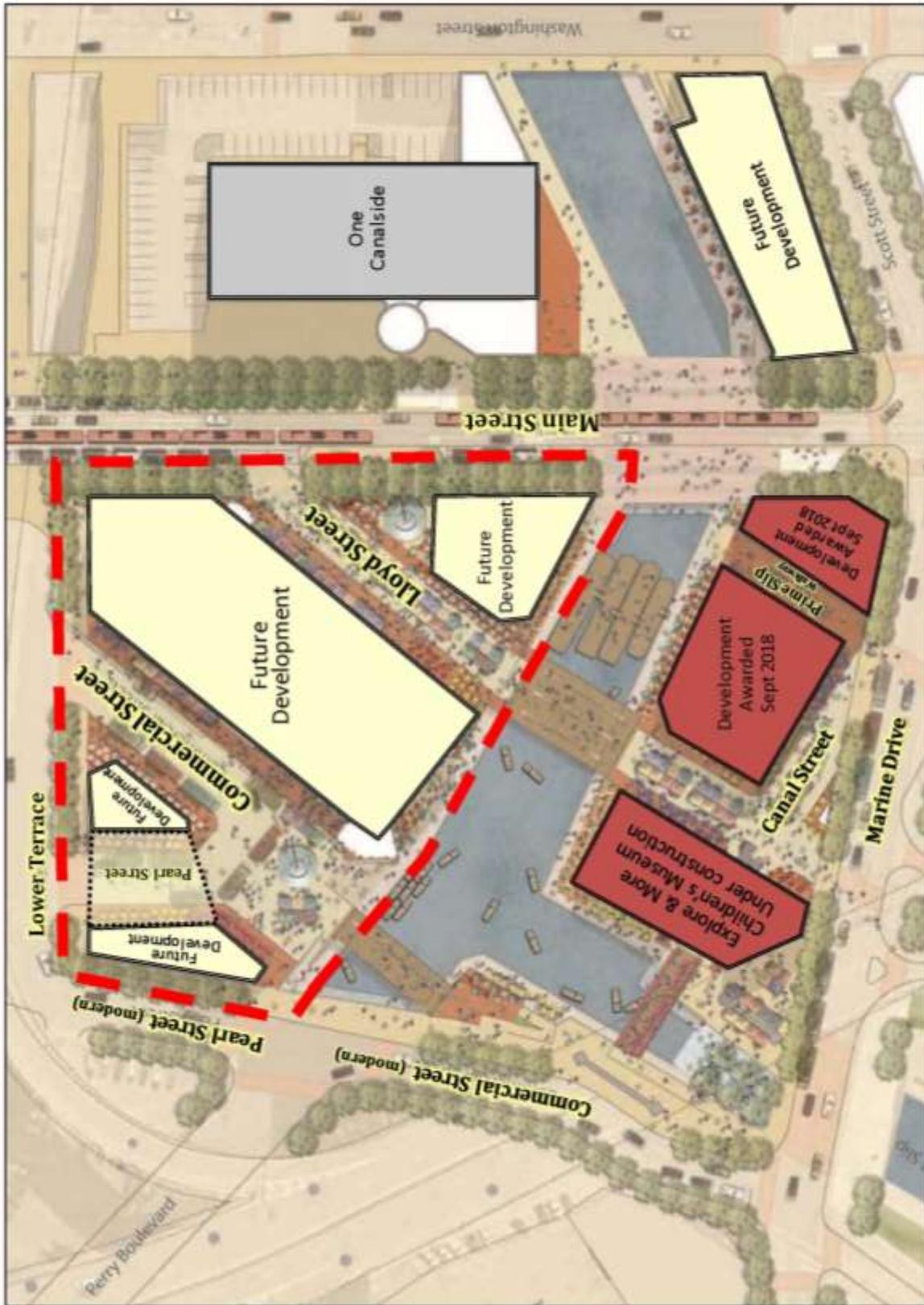


Figure 6
 Aud Block Diagram (Note: all parcel configurations are conceptual only)

2. North Aud Block

The North Aud Block is bounded by Lower terrace on the north, Main Street on the east, the public canals on the south, and Commercial and Pearl streets¹ on the west. Historically, this area contained four city blocks of dense development, including distinctive features like the Spaulding Exchange Building at Main and Lloyd Streets (see **Figures 7 & 8**).

Under the original Canalside General Project Plan and Final Generic Environmental Impact Statement (“FGEIS”), the North Aud Block (see previously-presented **Figure 4 - Parcel A1**) was envisioned to accommodate an over 120,000-SF Bass Pro Outdoor World Store, along with a three-level, partially below-grade parking structure for over 500 vehicles.



Circa 1900 photo of Spaulding Exchange Building at Main and Lloyd Streets.

When Bass Pro determined to end its planning for a store at Canalside in July 2010, ECHDC and community leaders shifted its focus to upon a more organic approach for the actual implementation of Canalside, documented in its MGPP for the project. This approach has involved starting with investments in infrastructure to support an events/programming-driven placemaking strategy, which would ultimately transition to a series of development RFPs on the Canalside various development parcels. This refined approach has led to developments such as One Canalside, Harborcenter, the upcoming Explore and More Children’s Museum, and most recently, the planned Heritage Point development.

In August of 2018, Governor Andrew Cuomo announced \$10 million in funding would be committed to support the design and construction of the beginning of a transformation of the North Aud Block. The North Aud Project aims to reintroduce elements of the historic street pattern that once traversed the block and the Erie Canal.

The intent of the funding is to realize the creation of “walking streets” and underground infrastructure and services (taking advantage of the excavated portion of the site), such as structured subsurface parking. These publicly-funded improvements are intended to help facilitate a series of future development parcels that will later be the subject of one or more competitive solicitation to private development companies. The design process will be structured to allow a period of project planning and stakeholder/public engagement, prior to final engineering and construction of the public improvements.

¹ Portions of Commercial Street and Pearl Street were realigned in the 1930s as a single street to allow for the creation of the site of the Memorial Auditorium.

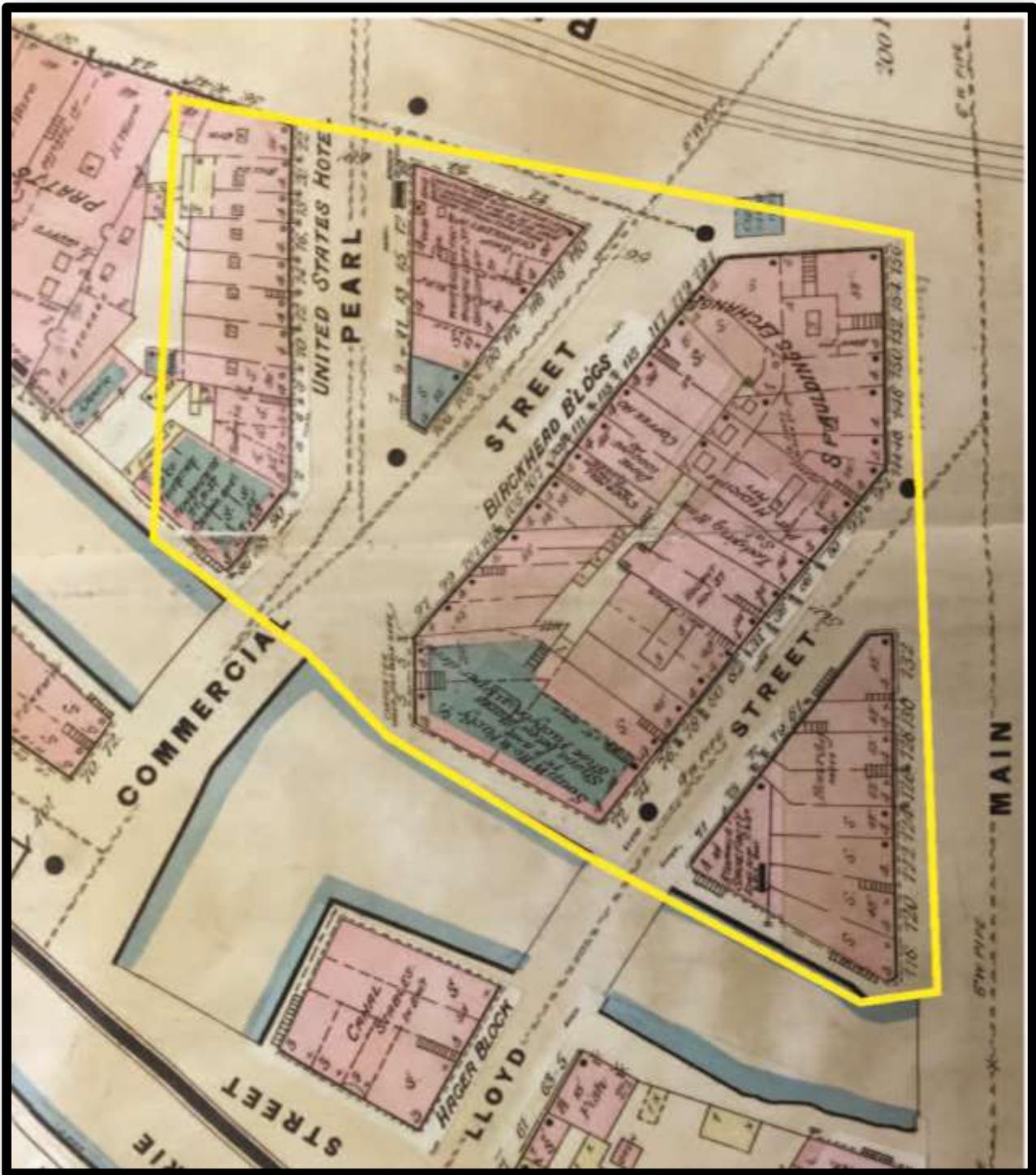


Figure 7
North Aud Block – 1899 Sanborn Map of Historic Development Pattern



Figure 8
1915 Sanborn Map of Historic Development Context of North Aud Block

III. NORTH AUD BLOCK CHARACTERISTICS

The North Aud Block consists of 1.85 acres of space (80,545 SF – **see Figure 9**). Since completion of the public canals in 2014, the North Aud Block has remained as a vacant, partially-excavated area. It has been stabilized and screened from surrounding streets with construction fencing clad with branding/promotional banners on Canalside activities. Selected areas have been used to support interim storage and staging of equipment by ECHDC programming and maintenance contractor, Be Our Guest Ltd.

The grade of the parcel slopes upward from the south to north with a roughly-20-foot change in elevation between the canals and Lower Terrace. There is existing wood sheeting and shoring serving as retaining structures along portions of Pearl Street, Lower Terrace, and Main Street with the majority of the parcel already excavated to an elevation consistent with the south end of the site beside the public canals.

The South side of the parcel is clearly a major edge of the site as it fronts upon the Canalside public spaces. The south side of the site is situated along the Canalside promenades. Two feature bridges over the canals terminate at this side of the site. The design of any buildings fronting on this major public space must be consistent with the unique sense of place that has been achieved thus far.

The east side of the parcel along Main Street is also a prominent public edge, facing One Canalside and visually connected to Harborcenter, the Key Bank Center, and the balance of downtown to the north. Vehicular access on Main Street is currently restricted by the Niagara Frontier Transportation Authority's ("NFTA's") light rail system and its Erie Canal Harbor Station; no other vehicles are permitted. In the future, the street is envisioned to eventually be opened to vehicular traffic; however, the nature of that access along this street face is not yet known.



Figure 9
Aerial View – North Aud Block

IV. NORTH AUD BLOCK— PROJECT OVERVIEW & COMPONENTS

ECHDC is seeking to retain professional engineering, architecture, landscape architecture and land surveying consultant firms and/or teams (the “Consultant”) to provide planning, design, bid and construction administration services related to the planned street and other infrastructure facilities of the North Aud Block within the Canalside project. The North Aud Block redevelopment shall include the following inter-related programmatic elements.

A. Former Street Rights-of-Way

The primary organizing component that will shape this design effort—and future development of the North Aud Block—will be the design for reconstruction of former street ROW segments that once crossed the Block, including:

- Lloyd Street, between the double Schwartz Arch bridge and Main Street
- Commercial Street, between the Whipple Truss bridge and Lower Terrace; and
- A small segment of Pearl Street, between the former alignment of the Commercial Street ROW and Lower Terrace.

While access on these streets are primarily intended for pedestrian traffic, it is expected that they will service access for deliveries, refuse disposal, maintenance vehicles, and emergency vehicles. The streets will also be used for programming, outdoor seating, and special events. The use of historic paving materials is assumed (e.g., Medina Sandstone pavers or similar materials characteristic of the pertinent historic periods), but this will need to be assessed with respect to programming requirements and available funding. Design of other street ROW features, such as sidewalks, curbs, drainage, lighting, service utilities for parcel development, and street furniture should be explored in the context of both anticipated future development consistency with the overall historic interpretation and character of Canalside.

B. Platform Structures/Subsurface Parking

Considering the variations in surface elevations between Lower Terrace and the canal features and that most of the North Aud Block is already excavated, the reintroduction of the historic street pattern would require the establishment of some type of “platform” structures on the blocks formed by these streets. As originally considered as part of the Canalside project, ECHDC wishes this platform to be created by a subsurface parking garage; intended to be largely hidden beneath the streets and future development blocks.

ECHDC commissioned a feasibility study in 2017 of various subsurface and above-grade parking structure alternatives (see **Exhibit B**). Prospective Consultants are encouraged to review this assessment to gain background information on the site’s characteristics and constraints for structured parking.

However, it must be stressed that no conclusions on parking were made based on this prior exercise, nor were other potential sites adjacent ruled out to supply sufficient parking, and ECHDC desires to have a full alternative development/assessment undertaken, in context with

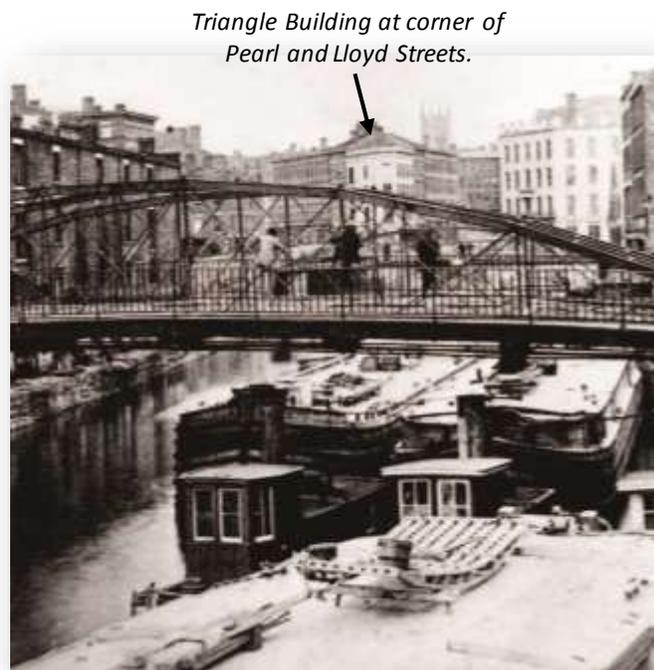
the re-establishment of the street network and further vetting/assumptions on future development on the North Aud Block and the larger context. For example, ECHDC is unlikely to implement configurations which include above-grade parking if it impairs urban design and heritage objectives on the site.

The Consultant team needs to consider a number of key issues in the potential design of subsurface parking on the Project site, including but not limited to following:

- Where the most feasible and appropriate locations would be for access to/from the structured parking, considering pedestrian access and other urban design objectives of Canalside.
- How the foundations for such platforms/structured parking could be designed to accommodate future development or leave open the potential for independent foundation systems for such development.
- How street-level areas of each parcel (i.e. platform surface above structured parking) would be treated to support event and/or “pop-up” style interim uses pending future infill development.
- The operation of the public canals and other Canalside programming features (e.g., ice resurfacing, seasonal structures, etc.) require some type of storage areas to facilitate staging. ECHDC would like to explore creative measures of establishing such storage facilities in subsurface structures to take advantage of grade variations on site.

C. Measures/Systems to Support Future Development

While public and stakeholder opinions vary on the specifics on the scale/character of future development on the North Aud Block, the overall Canalside design guidelines agree on a goal to achieve a densely developed, mixed-use, pedestrian-priority setting to begin to move the area from seasonal event space to a more permanent downtown neighborhood. Historic preservation interests, while stopping short of historic reconstruction, stress the importance of using the historic development parameters of location, setting, feeling, association, workmanship, and materials to evoke the unique historic consequence of this place. Others call for looking at international models of river- and canal-focused development as well,



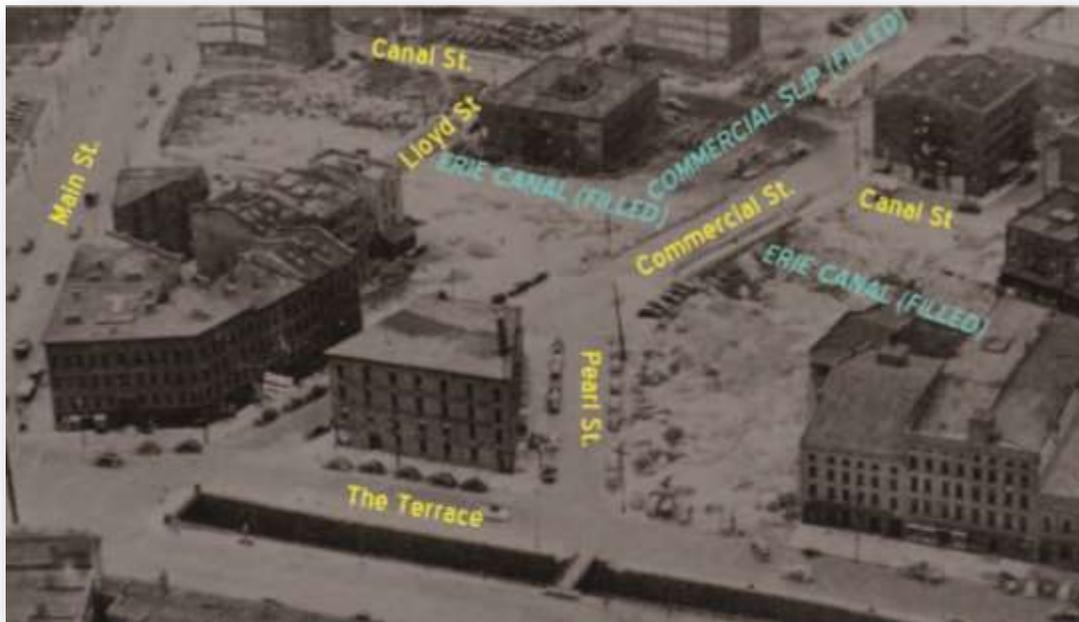
1880s photo of Commercial Slip looking north up into what ultimately became the Aud Block.

where dense pedestrian oriented settings and developments are more commonplace than in automobile-centric American communities.

Nevertheless, ECHDC will need to identify as part of the street and parking structure design, future structural and logistical requirements to facilitate future development, as well as utility services such as water and sanitary sewer service lines and/or conduits for other types of services to be installed later as part of future development. The currently-adopted Canalside MGPP has no build-out or development assumptions for the North Aud Block (i.e., Parcel A1). Therefore, the Consultant shall be required to scope out and define, at least at a conceptual level, the type and scale of future development that would be permitted on the North Aud Block parcels.

It is anticipated that such future development assumptions would be formulated after review and analysis of various precedent communities and/or specific real estate projects, review of factors such as constructability, and market requirements. In turn, it is assumed that such analysis would be developed in consultation with local stakeholder groups and the public. Pertinent issues to consider would include, but not be limited to the following:

- If applicable, the optimum subdivision of North Aud Block parcels that might allow for a progressive infill strategy, rather than relying on one megaproject.
- Minimum and maximum building heights and density permitted on each parcel, based on factors such as urban design/historic interpretation goals, as well the limits of structural systems/site after the streets and subsurface parking facilities are constructed.
- Site-specific decisions such as determining whether reasonable/buildable development parcels can be achieved along the planned reconstruction of Pearl Street (given their size/shape) or whether it is necessary to permit encroachments that do not totally erase the actual and felt sense of history of this former feature/place.



1938 aerial photo of what ultimately became the North Aud Block, looking south, as demolition is underway for the construction of Memorial Auditorium.

D. Canalside Design Standards – Consistency and Refinements

The Consultant will be required to demonstrate an understanding and commitment to the ECHDC's goal of design excellence, as well as an understanding of the Canalside Design Guidelines. The design of the public infrastructure should incorporate a cost-effective design approach fully considering life cycle analysis in selection of materials and systems, sensitivity to stakeholder requirements including evoking the scale/character of prior development of the Buffalo waterfront, a balance of innovative design and traditional operating and maintenance practices including durability and ease of maintenance, layout and systems that provide safety, high performance systems that provide value while protecting the health and environment, and accessibility.

In turn, to help shape future development, the Consultant shall formulate refinements and supplements to the Design Standards specifically for the North Aud Block, both to incorporate maximum building heights/densities that could be supported by the planned structural system(s) associated with the infrastructure design and to incorporate standards to future development that creates a vibrant, walkable, and visually attractive setting.

E. Public/Stakeholder Involvement

The Consultant team shall undertake scoping for the Project in a holistic manner, balancing the related aspects/requirements of the street design, parking structure, and measures to support future development against various formal and informal stakeholder groups and the public. The Consultant will be required to help lead, in conjunction with ECHDC, a stakeholder and public



Views of canal-oriented master-planned communities in the Netherlands offer prototype examples of possible future development patterns that may influence the design of infrastructure components at the North Aud Block.

involvement process associated with the Project. It is anticipated that this process would primarily occur as part of Project Scoping up to Schematic Design Phase.

As part of each Prospective Consultant's Methodological Approach for the Scope of Services in Section V, a recommended public/stakeholder involvement process should be developed that includes one-one-one and group focus meetings on various aspects of the project, and at least two (2) public meetings to introduce alternative and present preferred alternative aspects of the Schematic design. The Approach should suggest key milestones for public/stakeholder involvement activities and techniques/methods to be employed to foster consensus building on a preferred alternative scheme.

V. SCOPE OF SERVICES

ECHDC is seeking a Consultant and/or team to provide necessary services including, but not limited to, the scope of work described generally in the following sections.

Please note: The Proposal requirements for this RFP under Section VI require prospective Consultant teams to submit a full methodological approach and fee estimate for the entire Scope of Services and Project components. However, given that the scope would be determined only when a consensus is reached among Project stakeholders/public on future development assumptions on the North Aud Block and how the Project components would generally address these assumptions, ECHDC will initially only authorize funding through Task 2 listed below (Schematic Design). Upon completion of Schematic Design, ECHDC will re-evaluate the Project scope and design fee and authorize subsequent task accordingly.

It should also be noted that it is anticipated that the ECHDC will select a Construction Manager (CM) for the construction phase of this Project. No CM scope of work is included in this RFP.

A. Task 1: Project Scoping & Concept Design (10% Design)

1. The Consultant will be responsible for working with ECHDC, Be Our Guest Ltd, Stakeholder Focus Groups, and associated agencies (NFTA, City of Buffalo Public Works, etc.) to further expand and define the programming requirements for the street design, structured parking, site features, and future parcel development assumptions.
2. The Consultant will be responsible to update and supplement any ECHDC topographical survey information developed for prior projects on the Aud Block (e.g., public canals).
3. The Consultant will be responsible to develop a concept design for the project (i.e., streets, structured parking, and site plan) **over an eight-week period**. This should include items like conceptual street alignments and cross-sections, parking structure layout alternatives (minimum 3), and massing alternatives for future development (minimum 3).
4. The Consultant shall develop/apply evaluation criteria to rationally assess and weigh the relative advantages and disadvantages of each alternative. This assessment should be developed in manner suitable for public and stakeholder review.

B. Task 2: Schematic Design (30% Design)

1. The Consultant will be responsible for working with ECHDC and the parties listed under the Concept Design phase **over an eight-week period** to make decisions on selecting a preferred overall development layout and the develop a schematic design for the street layout, parking garage and access points, means for supporting future development, and other site work.
2. The Consultant will also be responsible to prepare a concept program for:
 - a) Street Cross Sections and associated features

- b) Plan/design of utility facilities: stormwater drainage, water, sanitary sewer, electrical, communications (and/or conduits for future installation)
 - c) Typical street lighting, street sign features, and street furniture elements
 - d) Location, design and treatment of parking Structure access points
3. The Consultant will be responsible for working with ECHDC to reach an understanding regarding the design requirements and performance requirements of the project for all building systems and sustainability, including NYSERDA and LEED (if applicable).
 4. The Consultant will be responsible for providing an outline specification, identifying specification sections and major building material systems and finishes.
 5. The Consultant will be responsible to provide a schematic design estimate of probable costs. The estimate shall include major components and identify escalation factors.
 6. The Consultant will be responsible to prepare a schedule for the construction period, identify phased work and any long-lead time for specialty items.
 7. The Consultant will supplement the existing geotechnical and environmental reports (**Exhibits C and D**) as necessary.
 8. The Consultant will be responsible for issuing schematic design documents that are in compliance with the program, the budget, and the schedule as set forth by ECHDC.
 9. The Consultant will be responsible to prepare documentation for, and present the information to, the Canalside Design Review Committee.

Schematic Design Deliverables:

Drawings: In general, drawings shall indicate the scale and relationship of project components. All plans have spaces generally defined, with representative area plans generally graphically fixed. Typical building footprint and elevations for assumed future development for each parcel shall be provided. Typical floor plan for parking structure with preliminary sections shall be provided. Preliminary civil and landscape drawings shall be provided. Structural plans with foundations defined, columns sized and located, and lateral design shall be defined. MEP/FP systems shall be defined (as applicable), major mechanical spaces fixed in plans, representative plan area coordinated, and initial riser diagrams.

Other: Design and performance requirements including NYSERDA and LEED (if applicable), outline specification, estimate of probable cost, schedule, and energy report as detailed above. For infrastructure components, the Consultants shall provide Canalside Design Review Committee presentation materials as defined in the Design Guidelines. In addition, the Consultant shall recommend a series of proposed refinements and/or supplements to the Canalside Design Guidelines pertaining to future development on the North Aud Block, arising out of the Project Scoping, Concept Design, and Schematic Design efforts, including input from public/stakeholder involvement.

C. Task 3: Design Development (60% Design)

1. The Consultant will be responsible for working with ECHDC and the parties previously listed **over an eight-week period** to complete design development for the Project.
2. The Consultant shall further develop design for streets, utilities, parking structure, and measures for future development, and all construction fencing/staging.
3. All miscellaneous consultant work shall be sufficiently developed that could impact design, performance and coordination.
4. The Consultant will be responsible for providing a draft of all specification sections and front-end documents.
5. The Consultant will be responsible to update the schematic design estimate of probable costs.
6. The Consultant will be responsible to prepare an update schedule for the construction period.
7. The Consultant will provide an updated energy report.
8. The Consultant will be responsible for issuing design development documents that are in compliance with the program, the budget, and the schedule as set forth by ECHDC.
9. The Consultant will be responsible to prepare documentation for, and present the information to, the Canalside Design Review Committee.

Design Development Deliverables:

Drawings: Site drawings shall have all site elements are defined, with the site plan graphically fixed and site geometry fixed. Landscape plans indicate planting and hardscape, plant schedule complete, irrigation scope determined. Building (parking structure) drawings shall generally be graphically complete except for minor coordination. Exterior envelope modules and primary exterior dimension strings shall be complete. Exterior elevations are graphically complete. All building sections are cut and structure is coordinated with the current structural drawings. MEP/FP (as applicable) horizontal collection and distribution zones addressed in building sections where applicable. Complete typical wall sections at 1/2" or 3/4" scale with notes and dimensions. Representative larger scale partial details at 1 1/2" or 3" scale. Foundation / basement sections complete. Vertical circulation elements, stairs, elevators and elevator cabs, are completely dimensioned and coordinated in plans and sections. Interior and floor material selections are scheduled and/or specified. Finish design of amenities and other finished spaces is initiated.

Other: Design and performance requirements confirmed, draft specification sections, updated estimate of probable cost, updated construction schedule, and updated energy report as detailed above. Canalside Design Review Committee presentation materials as defined in the Design Guidelines.

D. Task 4: Construction Documents (75-100% Design)

1. The Consultant will be responsible for working with ECHDC and the parties previously listed over a twelve-week period to complete all construction documents required for the site work and parking structure design, including construction fencing.
2. The Consultant will be responsible for providing complete specification sections and front-end documents.
3. The Consultant will be responsible to prepare a final estimate of probable cost.
4. The Consultant will be responsible to prepare a final schedule for the construction period.
5. The Consultant will provide a final energy report.
6. The Consultant will be responsible to submit structural, civil, electrical, mechanical, and any other calculations used in the design. Design calculations shall be submitted in hardcopy format and bound.
7. The Consultant will be responsible for issuing construction documents that are in compliance with the program, the budget, and the schedule as set forth by ECHDC.
8. The Consultant will be responsible to confer with all necessary regulatory agencies and incorporate their comments into the Construction Documents.
9. The Consultant will be responsible to secure all necessary permits.
10. The Consultant will be responsible to develop the scope of work for a Request for Proposals for special inspection services required during construction.
11. The Consultant will be responsible to prepare documentation for, and present the information to, the Canalside Design Review Committee.
12. The Consultant will be responsible to prepare documentation for, and present the information to, the City of Buffalo's Planning Board for courtesy review.

Construction Documents Deliverables:

Deliverables will occur in two submissions, (1) 75% Construction Documents, and (2) 100% Construction Documents.

1) 75% Construction Documents:

- Drawings: All required drawings shall be considered 75% complete or greater.
- Other: Design and performance requirements re-confirmed, draft-final specification sections, 75% estimate of probable cost, draft-final construction schedule, draft-final energy report, 75% calculations, draft of special inspections RFP scope of work, and draft permits as detailed above.

2) 100% Construction Documents:

- Drawings: All required drawings shall be considered 100% complete and final.
- Other: Design and performance requirements re-confirmed, final specification sections, final estimate of probable cost, final construction schedule, final energy report, calculations, final special inspections RFP scope of work, and permits as detailed above. Canalside Design Review Committee and City of Buffalo Planning Board Review presentation materials as defined in the Design Guidelines.

E. Task 5: Signature Submittal

1. The Consultant will be responsible, following a review and incorporation of comments from ECHDC, to produce original Contract Documents, stamped and signed by an architect or engineer appropriately licensed to practice in the State of New York, for signature by ECHDC.
2. The Consultant will be responsible to submit to ECHDC all final construction quantities.

Signature Submittal Deliverables:

Drawings: Two sets of original, stamped drawings (vellum copies), electronic CAD files (AutoCAD and pdf).

Other: Two sets of unbound original specifications. Cost estimate and schedule shall be submitted in electronic form (original format and pdf), as well as hardcopy.

F. Task 6: Bidding and Awarding

1. The Consultant will be responsible to provide assistance during the contract(s) advertising and award process, including assistance in pre-qualifying potential bidders, attendance at pre-bid meetings, reviewing and providing responses to bidder inquiries, preparing and issuing addendums as needed, responding to Requests for Information submitted by potential bidders, and assistance in reviewing bids.
2. The Consultant will be responsible to provide a written recommendation as to the low bid submission and contract award.

G. Task 7: Construction Administration

1. The Consultant will be responsible to provide construction contract administration services in conformance with ECHDC's construction schedule.
2. The Consultant Team shall be a representative of, and shall advise and consult with, the ECHDC during the construction phase.
3. The Consultant will be responsible to provide Office Engineering services, including:
 - a. Check detailed construction drawings, shop and erection drawings, and substitutions submitted by the Contractor for compliance with permits and contract documents.

- b. Review specific non-routing laboratory, shop, and mill test reports of materials and equipment as directed by the ECHDC.
 - c. Address Request for Information (RFIs) from the Contractor and Building and Safety inspectors.
 - d. Prepare record (as-built) drawings on original contract documents as per the data supplied by Contractor via the ECHDC's CM.
 - e. Prepare preliminary and final punch lists for substantially completed construction work.
 - f. The Consultant shall review and prepare responses to requests for information from the Contractor or CM.
4. The Consultant will be responsible to provide Field Engineering services, including:
- a. Make periodic visits to the site to observe the work in progress and provide appropriate reports, including attendance at weekly progress meetings. Provide written reports from site visits.
 - b. Observe and report to the ECHDC on any performance test required by contract documents.
 - c. Attend final inspections of Project's completed construction contracts.
 - d. Assist the Owner in commissioning of all systems.
 - e. Assist the Owner in all requirements necessary for filing with respect to certification for LEED and/or other sustainability requirements.

VI. PROPOSAL REQUIREMENTS

Consultants are required to submit one (1) original (marked "ORIGINAL" with signed forms and certifications), nine (9) hard copies, and one (1) electronic pdf copy (flash drive) of the Proposal. Proposals shall be concise and prepared exactly in the order presented herein.

Proposals shall be limited to no more than 100 single-sided or 50 double-sided pages. Three-ring binders will not be accepted. Required Forms do NOT count against the page limit.

The proposal should include a cover letter or statement demonstrating the respondent's understanding of the scope of services and the Project's role as an important development project within Canalside and downtown Buffalo. The cover letter or statement should also describe the Respondent's understanding of ECHDC's goals for Canalside and how the respondent would work with ECHDC to achieve those goals.

Proposals shall be prepared exactly in the order presented below. Sections 1-6 and "Additional Procurement Forms & Requirements" (see Section VII) should be bound in a single volume. Please limit Sections 1 and 2 to a total of twenty-five (25) one-sided pages. Examples of relevant

projects and resumes should be included in Section 3.

Proposals shall contain the following information:

A. Section 1: Experience, Structure, and Personnel

1. Each Respondent shall submit materials that highlight its unique strengths, design talents, design philosophy, sensitivity to the public realm, and approach to creating space, breadth of knowledge and experience, and experience with the similar projects.
2. A history of the Consultant's experience providing engineering and architectural services to economic development organizations, municipalities, other governmental entities, private developers, not-for-profits and civic organizations.
3. A description of the Consultant's organizational structure noting the principals, project manager(s), and professional staff who would work directly with ECHDC for the duration of this Project. Include resumes of key people in Section C.
4. Overall description of the Consultant's relevant work. In Section C, include examples of up to five (5) major projects that the Consultant has completed involving major projects in urban environments.
5. Respondents should provide an overview or synopsis of projects where the Consultant worked as Lead Engineer and/or Architect. Include the client, the name of contact persons who are able to provide references from the client, a description of the nature of the work, the size and complexity of the project, total budget, construction cost, total design cost, the dollar amount of fees for the firm, and the agreed fee arrangements.
6. Provide references. Include the projects worked on and the names of contact persons who are able to provide references.
7. Representation that the Consultant can devote significant and appropriate design staff and support staff to the project for all phases of design and construction.
8. Any other information that you believe would make the Consultant's work on behalf of ECHDC superior to that of other respondent's information.

B. Section 2: Methodological Approach

1. A description of how the Consultant would work with ECHDC, and project stakeholders in the design and construction of planned improvements to the parcel.
2. A statement explaining the Consultant's design philosophy.
3. A description of how the Consultant intends to address the scope of services set forth in Section IV and V of this RFP.
4. A description of how the Consultant intends to maintain schedule and budget, including specific methods that would be employed.

5. A list of subconsultants by respective discipline.
6. A description of how the Consultant's response will meet goals for contracting to Minority and Women-owned business enterprises on this project.

C. Section 3: Additional Information

1. Resumes of key staff (principals, project manager(s) and senior professional staff).
2. Examples of up to five (5) major projects that the firm has completed in its specific discipline(s) involving major projects in urban environments. Include the client, the name of a contact person who is able to provide a reference, a description of the nature of the work, the size and complexity of the project, construction cost, design costs, the dollar amount of the design fee for this firm, and the agreed fee arrangements.

D. Section 4: Proposed Schedule

ECHDC anticipates issuing a notice to proceed in January/February 2019. Prospective Consultants shall detail key tasks using the Scope of Service in Section V as a base and outline a proposed Project schedule of all work and deliverables.

E. Section 5: NYS Licensing Requirements

The Consultant and sub-consultants required to certify documents shall present evidence that they are licensed, as applicable, to practice engineering, architecture, landscape architecture, land surveying in the State of New York.

F. Section 6: Fee Proposal

1. A proposed fee for all Consultant services delineated by task, as outlined in Section V Scope of Services. The proposal must include a detailed staffing plan broken down by task.
2. The hourly rate of each principal and staff member whose resume is provided or whose job category may be required.
3. A list of anticipated reimbursable expenses and the rate charged for each without markup. Please indicate under reimbursables, a detailed list of working models, presentation models, renderings, or other work product to be furnished during each state of services which is not included in basic services covered by the proposed fee schedule and the cost for each.

Although proposed fees will be taken into account, ECHDC reserves the right to negotiate a lower or different fee structure with any Consultant that is selected.

VII. ADDITIONAL PROCUREMENT FORMS & REQUIREMENTS

Additional requirements for this RFP are described below. Relevant forms, where required to be submitted, must be originally signed in the “Original” version of the Proposal, and included in the Proposal in the same order as listed below:

- State Finance Law §§139-j and 139-k forms;
- New York State Vendor Responsibility Questionnaire For-Profit Business Entity;
- Iran Divestment Act Statement;
- Non-Discrimination and Contractor & Supplier Diversity Requirements;
- Encouraging the Use of NYS Businesses in Contract Performance Form;
- Certification Under State Tax Law Section 5-a;
- Schedule A (for review only; no separate form required);
- Project Sunlight (for review only; no separate form required); and
- Executive Order (“EO”) 177 Certification.

Each of the items is discussed in the following sections.

A. State Finance Law Sections 139-j and 139-k forms

State Finance Law Sections 139-j and 139-k (collectively, the “Procurement Requirements”) apply to this RFP. These Procurement Requirements: (1) govern permissible communications between potential respondents and ECHDC or other involved governmental entities with respect to this RFP; (2) provide for increased disclosure in the public procurement process through identification of persons or organizations whose function is to influence procurement contracts, public works agreements and real property transactions; and (3) establish sanctions for knowing and willful violations of the provisions of the Procurement Requirements, including disqualification from eligibility for an award of any contract pursuant to this RFP.

Compliance with the Procurement Requirements requires that all communications regarding this RFP, from the time of its issuance through final award and execution of any resulting contract (the “Restricted Period”), be conducted only with the designated contact person listed below; the completion by Respondents of the Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer’s Affirmation of Understanding and Agreement pursuant to State Finance Law and periodic updating of such forms during the term of any contract resulting from this RFP.

Respondents must submit the Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer’s Affirmation of Understanding and Agreement pursuant to State Finance Law as part of their submittal. Copies of these forms are available at:

http://www.empire.state.ny.us/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf.

The Procurement Requirements also require ESD staff to obtain and report certain information when contacted by prospective respondents during the Restricted Period, make a determination of the responsibility of Respondents and make all such information publicly available in accordance with applicable law. If a prospective respondent is found to have knowingly and willfully violated the State Finance Law provisions, that prospective respondent and its subsidiaries, related or successor entities will be determined to be a non-responsible Respondent and will not be awarded any contract issued pursuant to this solicitation. In addition, two such findings of non-responsibility within a four-year period can result in debarment from obtaining any New York State governmental procurement contract.

The designated contact for this solicitation is:

Paul J. Tronolone, AICP
VP, Policy & Planning - WNY
95 Perry Street, Suite 500
Buffalo, NY 14203
716-846-8200
eriecanalharbor@esd.ny.gov

This is not a complete presentation of the provisions of the Procurement Requirements. A copy of State Finance Law Sections 139-j and 139-k can be found at:

<http://esd.ny.gov/CorporateInformation/RFPs.html>

(under “ESDC Policy Regarding Permissible Contacts under SFL 139”).

All potential Respondents are solely responsible for full compliance with the Procurement Requirements. Both the prime consultant and any sub-consultants complete the forms required above.

B. Vendor Responsibility

All Respondents to this RFP must be “responsible,” which in this context means that they must have the requisite financial ability, organizational capacity and legal authority to carry out its obligations under this RFP, and in addition must demonstrate that both the Respondent and its principals have and will maintain the level of integrity needed to contract with New York State entities such as ESD. Further, the Respondent must show satisfactory performance of all prior government contracts. Accordingly, the contract to be entered into between ECHDC and the Contractor, if any, shall include clauses providing that the Contractor remain “responsible” throughout the term of the contract, that ECHDC may suspend the contract if information is discovered that calls into question the responsibility of the contracting party, and that ECHDC may terminate the contract based on a determination that the contracting party is non-responsible. On request, model language to this effect will be provided to any Respondent to this RFP.

To assist in the determination of responsibility, ECHDC requires that all respondents to this RFP register in the State's Vendor Responsibility System (“VendRep System”). The VendRep System

allows business entities to enter and maintain their Vendor Responsibility Questionnaire information in a secure, centralized database. New York State Procurement Law requires that state agencies award contracts only to responsible vendors. Respondents are to file the required Vendor Responsibility Questionnaire online via the VendRep System or may choose to complete and submit a paper questionnaire. Please include a copy of your VendRep submission receipt with your proposal. If you submit a paper questionnaire, please submit it using certified mail and provide a copy of the return receipt.

To enroll in and use the VendRep System, see the System Instructions available at www.osc.state.ny.us/vendrep or go directly to the VendRep system online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the Office of the State Comptroller's Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at helpdesk@osc.state.ny.us.

Respondents opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website http://www.osc.state.ny.us/vendrep/forms_vendor.htm and execute accordingly pertaining to the company's trade industry. Per the website, respondents are to "Select the questionnaire which best matches the business type (either For-Profit or Not-For-Profit) and business activity (Construction or Other)." For ECHDC's RFPs concerning the purchase and redevelopment of real estate, it is most common for a Respondent to complete the form as a "Non-Construction" company. Unless the Respondent is primarily a Construction firm, the Respondent should thus fill out the Vendor Responsibility Questionnaire as a "Non-Construction" entity, either as a For-Profit or Not-For-Profit entity, depending on the Respondent organization type.

C. Iran Divestment Act

Every Proposal made to ECHDC pursuant to a competitive solicitation must contain the following statement, signed by the Respondent on company letterhead and affirmed as true under penalty of perjury:

"By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law."

The list in question is maintained by the Office of General Services. No Response that fails to certify compliance with this requirement may be accepted as responsive.

D. Non-Discrimination and Contractor & Supplier Diversity Requirements

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

NEW YORK STATE LAW

Pursuant to New York State Executive Law Article 15-A and 5 NYCRR §§140-145 ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority- and women-owned business enterprises and the employment of minority group members and women in the performance of ESD contracts.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, ECHDC hereby establishes **an overall goal of 30% for MWBE participation, 15% for NYS-certified Minority-owned Business Enterprise (“MBE”) participation and 15% for NYS-certified Women-owned Business Enterprise (“WBE”) participation** (based on the current availability of qualified MBEs and WBEs). A contractor (“Contractor”) on the subject contract (“Contract”) must document its good faith efforts to provide meaningful participation by MBEs and WBEs as subcontractors or suppliers in the performance of the Contract and the Contractor agrees that ESD may withhold payment pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how ESD will determine a Contractor’s “good faith efforts,” refer to 5 NYCRR §142.8.

The respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the contract.

In accordance with 5 NYCRR §142.13, the Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and ESD may withhold payment from the Contractor as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a bid or proposal, a bidder on the Contract (“Bidder”) agrees to demonstrate its good faith efforts to achieve its goals for the utilization of MWBEs by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a Bidder may arrange to provide such evidence via a non-electronic method by contacting ESD’s Office of Contractor and Supplier Diversity at OCSD@esd.ny.gov. Please note that the NYSCS is a one stop solution for all of your MWBE and Article 15-A contract requirements. For additional information on the use of the NYSCS to meet Bidder’s MWBE requirements please see the attached MWBE guidance, “Your MWBE Utilization and Reporting Responsibilities Under Article 15-A.”

Additionally, a Bidder will be required to submit the following documents and information as evidence of compliance with the foregoing:

1. An MWBE Utilization Plan, Form OCSD-4, with their bid or proposal. Any modifications or changes to the MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to ESD.

ESD will review the submitted MWBE Utilization Plan and advise the Bidder of ESD's acceptance or issue a notice of deficiency within 30 days of receipt.

2. If a notice of deficiency is issued, the Bidder will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to Empire State Development, Office of Contractor and Supplier Diversity, 633 Third Avenue, New York, NY 10017, OCSD@esd.ny.gov, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify the Bidder and direct the Bidder to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

ESD may disqualify a Bidder as being non-responsive under the following circumstances:

- a) If a Bidder fails to submit a MWBE Utilization Plan;
- b) If a Bidder fails to submit a written remedy to a notice of deficiency;
- c) If a Bidder fails to submit a request for waiver; or
- d) If ESD determines that the Bidder has failed to document good faith efforts.

The Contractor will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to ESD, but must be made no later than prior to the submission of a request for final payment on the Contract.

The Contractor will be required to submit a Contractor's Quarterly MWBE Contractor Compliance & Payment Report to ESD, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A – Standard Clauses for All New York State Contracts including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the Contractor, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or

other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

The Bidder will be required to submit a Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement, **Form OCSD-1**, to OCSD with their bid or proposal.

To ensure compliance with this Section, the Bidder will be required to submit with the bid or proposal an Equal Employment Opportunity Staffing Plan, **Form OCSD-2**, identifying the anticipated work force to be utilized on this Contract. If awarded a Contract, Bidder shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, Form OCSD-3, in such format as shall be required by ESD on a quarterly basis during the term of the contract.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

The required forms can be found at the following web addresses:

- **Form OCSD-1 (required with Proposal):**
http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_1MWBEEEOPolicyStatement.pdf
- **Form OCSD-2 (required with Proposal):**
http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_2StaffingPlan.pdf
- Form OCSD-3 (NOT required with proposal; submitted over the course of the Work, if awarded):
http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_WorkforceUtilizationReport.xlsx
- **Form OCSD-4 (required with Proposal):**
http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_4MWBEUtilizationPlan.pdf

In the event that the above links are unavailable or inactive, the forms may also be requested from OCSD at OCSD@esd.ny.gov.

Diversity Practices

ESD has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practices of Respondents is practical, feasible, and appropriate. Accordingly, respondents shall be required to include as part of their response to this procurement the Diversity Practices Questionnaire (See **Exhibit F**).

<https://cdn.esd.ny.gov/CorporateInformation/Data/RFPs/OCSDDiversityPracticesQuestionnaire.pdf>

PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN OWNED BUSINESSES

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOB”), thereby further integrating such businesses into New York State’s economy. ESD recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of ESD contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

Contract Goals

- A. **ECHDC hereby establishes an overall goal of 3% for SDVOB participation**, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs found at: http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf. Questions regarding compliance with SDVOB participation goals should be directed to the Designated Contacts. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veterans’ Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the Contract.
- B. Contractor must document “good faith efforts” to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract.

SDVOB Utilization Plan

- A. In accordance with 9 NYCRR § 252.2(i), Bidders are required to submit a completed SDVOB Utilization Plan on **Form OCSD-4**.
- B. The Utilization Plan shall list the SDVOBs that the Bidder intends to use to perform the Contract, a description of the work that the Bidder intends the SDVOB to perform to meet

the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Bidder acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to ESD.

- C. ESD will review the submitted SDVOB Utilization Plan and advise the Bidder/Contractor of ESD acceptance or issue a notice of deficiency within 20 days of receipt.
- D. If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to ESD a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five business days of notification by ESD, a request for a partial or total waiver of SDVOB participation goals on OCSD-5. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- E. ESD may disqualify a Bidder's bid or proposal as being non-responsive under the following circumstances:
 - (a) If a Bidder fails to submit an SDVOB Utilization Plan;
 - (b) If a Bidder fails to submit a written remedy to a notice of deficiency;
 - (c) If a Bidder fails to submit a request for waiver; or
 - (d) If ESD determines that the Bidder has failed to document good faith efforts.
- F. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.
- G. Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, ESD shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

Request for Waiver

- A. Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the Designated Contacts at ESD for guidance.
- B. In accordance with 9 NYCRR § 252.2(m), a Bidder/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form OCSD-5, accompanied by supporting

documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by ESD at that time, the provisions of clauses II (C), (D) & (E) will apply. If the documentation included with the Bidder's/Contractor's waiver request is complete, ESD shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.

- C. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made after Contract award may be made at any time during the term of the Contract to ESD but must be made no later than prior to the submission of a request for final payment on the Contract.
- D. If ESD, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (OCSD-6) determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued regarding such non-compliance, ESD may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to OCSD.

Required Good Faith Efforts

In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

- (1) Copies of solicitations to SDVOBs and any responses thereto.
- (2) Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected.
- (3) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by ESD with certified SDVOBs whom ESD determined were capable of fulfilling the SDVOB goals set in the Contract.
- (4) Information describing the specific steps undertaken to reasonably structure the Contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.
- (5) Other information deemed relevant to the waiver request.

Monthly SDVOB Contractor Compliance Report

In accordance with 9 NYCRR § 252.2(q), Contractor is required to report Monthly SDVOB Contractor Compliance to ESD during the term of the Contract for the preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using form OCSD-6 available on the ESD website and should be completed by the

Contractor and submitted to ESD, by the 10th day of each month during the term of the Contract, for the preceding month's activity to: OCSD@esd.ny.gov.

Breach of Contract and Damages

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.

E. Encouraging the Use of NYS Businesses in Contract Performance Form

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, Respondents for this ECHDC contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract.

In order for ECHDC to assess the use of New York State businesses in each Proposal, ECHDC requests that each Respondent complete and included in their Proposal the "Encouraging Use of New York State Businesses in Contract Performance" form, included at:

<https://cdn.esd.ny.gov/CorporateInformation/Data/ENCOURAGINGUSEOFNEWYORKSTATEBUSINESSESINCONTRACTPERFORMANCE.pdf> .

F. Certification Under State Tax Law Section 5-a

Any contract resulting from this solicitation is also subject to the requirements of State Tax Law Section 5-a ("STL 5-a"). STL 5-a prohibits ESD from approving any such contract with any entity if that entity or any of its affiliates, subcontractors or affiliates of any subcontractor makes sales within New York State of tangible personal property or taxable services (Please note: the law specifically having a value over \$300,000 and is not registered for sales and compensating use tax purposes. To comply with STL 5-a, all Respondents to this solicitation must include in their Proposals a properly completed Form ST-220-CA, or an "Affidavit of Non-Applicability of State Tax Law §5-A" that the Respondent is not required to be registered with the State Department of Taxation and Finance.

A copy of the "ST-220-CA" form and the "Affidavit of Non-Applicability of State Tax Law §5-A" are accessible at:

- https://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf
- http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/STL_5A_Affidavit.pdf .

Also, in accordance with the requirements of STL 5-a, any contract resulting from this solicitation will require periodic updating of the certifications contained in Form ST-220-CA. Solicitation responses that do not include a properly completed ST-220-CA will be considered incomplete and non-responsive and will not be considered for contract award.

Only the prime consultant completes Form ST 220-CA, but Schedule A to Form ST 220-CA requires detailed information from the sub-consultants, such as tax ID number, etc., if applicable.

Moreover, if applicable, certificates of authority must be attached by the prime consultant and all the sub-consultants.

G. Schedule A

Following final selection of a Contractor, ECHDC will prepare a contract defining all project terms and conditions and the Contractor's responsibilities in conformance with "Schedule A," which can be found at:

https://esd.ny.gov/sites/default/files/ScheduleA-Services_Materials-3818.pdf

Please note Respondents do not need to complete the entire Schedule A with the submission of their Proposal. However, Respondents should still review these terms, which are standard in all ECHDC contracts, and raise any concerns present prior to submission of their Proposal, as the Contractor will need to accept these terms prior to contract execution.

H. Project Sunlight

This procurement is subject to the Public Integrity Reform Act of 2011. Under the Public Integrity Reform Act of 2011, "appearances" (broadly defined and including any substantive interaction that is meant to have an impact on the decision-making process of a state entity) before a public benefit corporation such as ECHDC by a person (also broadly defined) for the purposes of procuring a state contract for real property (as contemplated in this RFP) must be reported by ECHDC to a database maintained by the State Office of General Services that is available to members of the public. If in doubt as to the applicability of Project Sunlight, Respondents and their advisors should consult the Laws of 2011, Ch. 399 for guidance.

I. Executive Order (EO) 177 Certification

In accordance with Executive Order No. 177 (issued on February 3, 2018, available here: <https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/EO177.pdf>) any entity that provides goods or services to ESD must certify that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the New York State Human Rights Law. Accordingly, all bidders must submit an **EO 177 certification form** with their proposal. The form is available in **Exhibit G**.

VIII. INSURANCE REQUIREMENTS

The selected Consultant must show evidence of the following insurance requirements (at a minimum and to the extent applicable):

- Commercial General Liability insurance - \$1 million per occurrence / \$2 million aggregate;
- Excess Umbrella Liability insurance - \$5 million per occurrence / \$ 5 million aggregate;
- Must show evidence of Worker's Compensation & Employer's Liability insurance at State statutory limits;

- Must show evidence of Disability insurance coverage at State statutory limits;
- Auto Liability insurance - \$1 million per occurrence;
- Professional Liability (Errors + Omissions) - \$1 million; and
- Employer's Liability Insurance at State statutory limits.

NYS Urban Development Corporation d/b/a ESD and ECHDC must be named as additional insured on a primary and non-contributory basis. Waiver of subrogation in favor of NYS UDC d/b/a ESD applies.

IX. STATEMENT OF LIMITATIONS

The RFP, submissions from Respondents to this RFP, and any relationship between ECHDC and Respondents arising from or connected or related to this RFP, are subject to the specific limitations and representations expressed below, as well as the terms contained elsewhere in this RFP.

By responding to this RFP, Respondents are deemed to accept and agree to this Statement of Limitations. By submitting a response to this RFP, the entity acknowledges and accepts ECHDC's rights as set forth in the RFP, including this Statement of Limitations.

The issuance of this RFP and the submission of a Response by any firm or the acceptance of such Response by ECHDC does not obligate ECHDC in any manner whatsoever.

ECHDC, reserves the right: (i) to amend, modify, or withdraw this RFP; (ii) to revise any requirements of this RFP; (iii) to require supplemental statements or information from any responding party; (iv) to accept or reject any or all responses thereto; (v) to extend the deadline for submission of responses thereto; (vi) to negotiate or hold discussions with any respondent and to correct deficient responses which do not completely conform to the instructions contained herein; and (vii) to cancel, in whole or part, this RFP, for any reason or for no reason. ECHDC may exercise the foregoing rights at any time without notice and without liability to any Respondent or any other party for its expenses incurred in the preparation of responses hereto or otherwise. Responses hereto will be prepared at the sole cost and expense of each Respondent.

All information submitted in response to this RFP is subject to the Freedom of Information Law ("FOIL"), which generally mandates the disclosure of documents in the possession of ECHDC upon the request of any person, unless the content of the document falls under a specific exemption to disclosure. If any Respondent wishes to claim that any information submitted in its response to this RFP constitutes a Trade Secret or is otherwise exempt from disclosure under FOIL, such claim must be made at the time of the response and must be in writing supported by relevant and material arguments.

ECHDC reserves the right, in its sole discretion, without liability, to utilize any or all of the RFP Responses, including late Responses, in its planning efforts. ECHDC reserves the right to retain and use all the materials and information, and the ideas, suggestions therein, submitted in response to this RFP (collectively, the "Response Information") for any purpose. Each Respondent

must grant an unconditional and perpetual license without charge to ECHDC to use any copyright or other legally protected rights in and to the Response Information. By submitting a Response, each Respondent waives any and all claims against ECHDC, ESD and the State, relating to the retention or use of the Response Information. All proposals, upon submission to ECHDC, shall become its property for use as deemed appropriate. By submitting a proposal, Respondents covenant not to make any claim for or have any right to damages because of any misinterpretation or misunderstanding of the specification, or because of any misinformation or lack of information.

This RFP shall not be construed in any manner to implement any of the actions contemplated herein, nor to serve as the basis for any claim whatsoever for reimbursement of costs for efforts expended in preparing a Response to the RFP. ECHDC will not be responsible for any costs incurred by Respondents related to preparing and submitting a Response to this RFP, attending oral presentations, or for any other associated costs.

Should ECHDC determine that negotiations with the selected Respondent will not result in an executable agreement, ECHDC may begin negotiations with the next-best-value Respondent without again requesting proposals.

X. TIME AND PLACE OF SUBMISSIONS

Respondents will not receive compensation or reimbursement of any expenses associated with preparing and/or submitting the proposal.

Respondents are required to submit proposals prior to **3:00 PM on Thursday, January 17, 2019**. Responses shall be firmly sealed in an envelope or box and contain the Respondent's name and return address.

Please be advised that under no circumstances will ECHDC obligate itself to consider a response which is received after the deadline or does not include the basic items described above.

Responses shall be delivered to:

Steven Ranalli
Vice President for Development
Erie Canal Harbor Development Corporation
Attn: Proposal for North Aud Block
95 Perry Street, Suite 500
Buffalo, New York 14203

ECHDC reserves the right to reject a submittal if any document or item listed in this RFP is incomplete, improperly executed, indefinite, ambiguous, and/or is missing. Additionally, factors such as, but not limited to the following may also disqualify a respondent without further consideration:

- Evidence of collusion among Respondents;
- Any attempt to improperly influence any member of the evaluation panel or Committees;

- Discovery that a Respondent purposely misled or knowingly provided false or inaccurate information in a submittal;
- A Respondent's default under any type of agreement, which resulted in the termination of that agreement;
- Existence of any unresolved litigation or legal dispute between the Respondents and ECHDC, ESD, and/or the State of New York.

ECHDC reserves the right to reject any and all submittals and to waive any informalities or irregularities in procedure.

ECHDC reserves the right to create a “short-list” of the highest-graded submittals and interview such short-listed firms/teams to reach a recommended Consultant.

XI. SELECTION PROCESS & EVALUATION CRITERIA

ECHDC reserves the right to make any and all decisions regarding the selection of proposals submitted, as well as the capacity to consider proposals received after the deadline.

A. Skills Required

The selected Consultant team should be proficient and have demonstrated experience in projects of a similar nature. The following minimum qualifications of the Consultant (prime) submitting proposals to be considered for evaluation include:

- Ten years’ experience providing engineering and architectural services for projects of similar scope, complexity and visibility;
- Experience on five projects of a high profile including at least one with a total construction cost over \$10 million;
- Experience on three projects of a similar nature (i.e., roads, parking structures, mixed-use projects);
- Experience in planning and designing dense, very walkable developments, in terms of arrangement of land uses and other features to minimize the needs for vehicular access and parking, and
- Experience managing large sub-consultant teams.

B. Evaluation Criteria

In evaluating proposals submitted pursuant to this request; the ECHDC places high value on the following factors, not necessarily in order of importance:

- Approach in methodology with respect to the scope of services that demonstrates maximum comprehension of and ability to provide such services;

- Commitment of principals to lead the team and devote time to the project;
- Experience of Consultant and staff being assigned to the project in general, and in particular, providing consulting services to municipalities, economic development agencies, and/or other governmental agencies.
- Quality of work product as demonstrated in submitted work samples of past architecture projects;
- Quality of work product including client satisfaction and problems that may have arisen during construction reflecting on the constructability of the design drawings;
- Efforts representing outstanding principals of design quality, including “inspiration” (creating buildings, districts and public spaces that are extraordinary in their ability to elevate visitor’s everyday experience), “understanding” (synthesizing disparate or contradictory information in an energetic way so that the whole is greater than the sum of the parts), and “creative problem-solving” (by starting with fundamentals and vetting multiple potential designs with involved stakeholders);
- Ability of the prime Consultant to identify subconsultants with the necessary qualifications for a project of this significance and complexity.
- Ability of the Consultant to complete projects with fast-track design schedules and to maintain budget.
- Conformity with or exceeding applicable ECHDC policies noted herein, including specific policies relating to non-discrimination and affirmative action subcontracting goals.
- Cost of services.

C. Selection Process

Final selection will be based on the Proposal score (100 points total) and the interview performance score (100 points total).

ECHDC reserves the right to:

- Seek clarification and revisions of proposals
- Seek a final and best offer from those firms short-listed.
- Make an award under the RFP in whole or in part.
- Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring full and complete understanding of a proposal and/or to determine a respondent’s compliance with the requirements of the solicitation.

- Make revisions to the scope of work after contract award to ensure that the project goals are met.

It is expected that a maximum of three (3) applicants will be selected, or “short-listed” for interviews. Interviews are tentatively scheduled to be held on **Wednesday, February 6, 2019** at the ECHDC Office; prospective Consultants shall make themselves available on this date to be at ECHDC offices in Buffalo for an interview. “Short-Listed” applicants will be notified by close of business on **January 30, 2019**.

Selection for interviews will be based on an independent evaluation of the submitted proposals using the factors listed below. Selection for interviews shall be based on “best value”, made in accordance with the following evaluation criteria and weights as follows:

- Experience/qualifications of the proposed Consultant team and staff to undertake the Engineering requirements of the Project – 20 points;
- Experience/qualifications of the proposed Consultant team and staff to undertake the Architectural and Planning requirements of the Project – 20 points;
- Experience/qualifications of the proposed Consultant team and staff to undertake the stakeholder/public involvement and consensus-building efforts of the Project – 20 points;
- Quality of work product as demonstrated in submitted work samples of past engineering and architecture projects, including high profile projects and efforts representing outstanding principals of design quality – 10 points;
- Ability of the Consultant to maintain design schedule and budget – 10 Points;
- Cost of Services – 10 Points; and
- Program/ability of the Consultant to meet MWBE contracting goals of the Project, as evidenced in their Diversity Practices Questionnaire and subcontracting plans – 10 points.

ECHDC reserves the right to forego the interview phase in the event of only one qualified response.

XII. PRE-SUBMITTAL CONFERENCE

ECHDC staff will be made available at a non-mandatory, pre-submittal meeting at 2:00 PM Eastern Standard Time (EST) on **December 18, 2018** at 95 Perry Street, Suite 500, Buffalo, NY. Respondents will have the opportunity to ask questions about the Project and/or submittal requirements of this RFP. For room planning purposes, **please contact Loul Rizek at 846-8200 prior to close of business December 14, 2018** to advise of your attendance at the pre-submittal meeting.

XIII. PROJECT COST & PROCUREMENT SCHEDULE

The total project cost will be established by ECHDC after scope negotiations are completed. A cost plus fixed fee compensation payment method will be used.

The major projected milestones on the consultant selection schedule are as follows:

- | | | |
|----|--------------------------|-------------------|
| 1. | RFP Advertised | December 5, 2018 |
| 2. | Pre-Proposal Conference: | December 18, 2018 |
| 3. | Proposals Due: | January 17, 2019 |
| 4. | Interviews: | February 6, 2019 |
| 5. | ECHDC Board Approval: | March 2019 |

The Contract Term is expected to begin in March 2019 and end in March 2022, with final bid documents tentatively scheduled for January 2020.

XIV. ADDITIONAL INFORMATION

Any all questions or requests for additional information or documents will be accepted no later than close of business on **January 4, 2019** and can only be made to:

Paul J. Tronolone, AICP

VP – Policy & Planning - WNY

95 Perry Street, Suite 500

Buffalo, New York 14203

(716) 846-8200

Eriecanalharbor@esd.ny.gov

Questions shall be submitted in written form and sent via e-mail. Written answers to questions will be made available via RFP Addenda posted to the *NYS Contract Reporter* website. Any additional information that may become available at any point in this process will also be made available via RFP Addenda.

XV. ATTACHMENTS (PROVIDED SEPARATELY)

Exhibit A – Canalside Design Guidelines

Exhibit B – Canalside Parking Garage Feasibility Study

Exhibit C – Memorial Auditorium Block Geotechnical Reports

Exhibit D – Memorial Auditorium Block Environmental Reports

Exhibit E – Public Canals Contract (Miscellaneous Drawings for reference)

Exhibit F – Diversity Practices Questionnaire

Exhibit G – Executive Order 177 Certification Form