**Buffalo Urban Development Corporation**
95 Perry Street • Suite 404
Buffalo, New York 14203

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Buffalo Urban Development Corporation

# Real Estate Committee Meeting
## Tuesday, January 20, 2015 at Noon
## BUDC-ECIDA Vista Room
## 95 Perry Street, 4th Floor, Buffalo, NY 14203

## *Agenda*

1) Approval of Minutes – Meeting of 12/8/2014 *(Action) (Enclosure)*

2) Northland Avenue Belt Line Corridor

   a) Redevelopment Plan Consultant Selection *(Action) (Enclosure)*
   b) GZA Phase I & II Site Assessments *(Action) (Enclosure)*
   c) 537 Delavan Purchase, Insurance, Environmental Update *(Information)*
   d) Sweeney Property Purchase Agreement Update *(Information)*
   e) 767 Northland Purchase Agreement Update *(Information)*
   f) ESD Grant Disbursement Agreement Update *(Information)*
   g) Third Party Property Management RFQ Update *(Information)*

3) Buffalo Lakeside Commerce Park

   a) 193 Ship Canal Parkway RIWP Request for Proposals *(Action) (Enclosure)*
   b) 80 Ship Canal Parkway Purchase Offer *(Information) (Enclosure)*
   c) Parcel 3 Contract Close-Out Update *(Information)*
   d) Property Owners Association Declaration of Covenants Update *(Information)*
   e) Parcel 4 NYSDEC Superfund Site Update *(Information)*
   f) Snowvember Damage *(Information)*
   g) Development Prospects Update *(Information)*

4) South Buffalo BOA Project Update *(Information)*

   a) Contractual Services Update *(Enclosure)*
   b) Recreational Needs Assessment
   c) BOA Designation
   d) Tifft Nature Preserve Site Plan & Green Infrastructure Design
   e) Golf Course Project Update

5) General Items *(Information)*

   a) 2015 Insurance Coverage *(Enclosure)*
   b) Brownfield Cleanup Program
   c) Other Brownfield Property Inquiries

6) Adjournment *(Action)*

Hon. Byron W. Brown, Chairman of the Board • Dennis Penman, Vice Chairman • Peter M. Cammarata, President
David A. Stebbins, Vice President • Andrew Schoeppich, Treasurer • Theresa Carpenter, Assistant Treasurer • Kevin J. Zanner, Secretary

# Minutes of the Real Estate Committee Meeting
## Buffalo Urban Development Corporation
**95 Perry Street**
**Buffalo, New York 14203**
**December 8, 2014**
**12:00 p.m.**

## Call to Order

Committee Members Present:

Thomas A. Kucharski
Kimberley A. Minkel
Christina P. Orsi
Dennis M. Penman
Craig A. Slater (Chair)
Richard M. Tobe

Committee Members Absent:

Brendan R. Mehaffy

Officers Present:

Peter M. Cammarata, President
David A. Stebbins, Vice President
Andrew Schoeppich, Treasurer
Kevin J. Zanner, Esq., Secretary
Theresa Carpenter, Assistant Treasurer

Others Present: Dawn Boudreau, ECIDA Compliance Officer; Brandye Merriweather, BUDC Project Coordinator; and Dennis Sutton, City of Buffalo.

**Roll Call** – The Secretary called the roll at 12:10 p.m. and reported that a quorum of the Committee was present.

**1.0 Approval of Meeting Minutes** – The minutes of the November 14, 2014 meeting of the Real Estate Committee were presented. Upon motion made by Mr. Penman, seconded by Mr. Tobe and unanimously carried, the minutes of the November 14, 2014 meeting of the Real Estate Committee were approved.

**2.0 Northland Avenue Belt Line Corridor**

(a) **ESD Grant Disbursement Agreement Update** – Mr. Cammarata informed the Committee that the grant disbursement agreement between Empire State Development (ESD) and BUDC has been executed by both parties. BUDC is working on securing the liability and property insurance coverages for the Northland properties that are required under the grant disbursement agreement. Mr. Cammarata noted that the total annual premium cost is estimated at $90,000, and that this cost would be eligible to be paid with funds from the Buffalo Brownfield Redevelopment Fund.

(b) **537 East Delavan Purchase Agreement Update** – Mr. Cammarata reported that the parties are targeting a late December closing for BUDC's acquisition of the 537 East Delavan Avenue property. Title work is nearly complete, and a closing statement has been prepared. Mr. Cammarata noted that the seller is contractually obligated to remove a large pile of construction debris from the property, and that the seller has indicated that approximately one-half of the debris pile has been removed to date.

(c) **Sweeney Property Purchase Agreement Update** – Mr. Cammarata reported that BUDC

has retained GZA Environmental to conduct Phase I environmental assessments for the vacant properties that were not included as part of the work performed by ESD's consultant, Fisher Associates. A copy of GZA's proposal and scope of services was circulated to the Committee members in advance of the meeting. Mr. Cammarata noted that no Phase II testing will be performed, as the seller was unwilling to grant BUDC a contractual right to conduct pre-closing Phase II testing as part of BUDC's due diligence. Mr. Cammarata then reviewed with the Committee the proposed item to approve the Northland properties acquisition, which will be presented to the Board of Directors at the December 16th meeting.

(d) **767 Northland Purchase Agreement Update** – Mr. Cammarata presented a brief update regarding the acquisition of 767 Northland Avenue from HARD Manufacturing Co., Inc. Board authorization to acquire this property will be requested at the December 16th meeting of the Board of Directors.

(e) **Redevelopment Plan & SEQRA RFQ Update** – Mr. Stebbins reported that twelve submissions were received in response to BUDC's request for qualifications for the Northland Corridor redevelopment plan and SEQRA work. A list of the twelve firms that submitted responses was circulated to the Committee members. Mr. Stebbins indicated that the goal is to shortlist to three firms by the end of this week and then move forward with a request for proposals from the three firms. The Committee then discussed the SEQRA requirements for the project.

(f) **Third Party Property Management RFQ** – Mr. Stebbins reported that BUDC will issue a request for qualifications for property management services for the Northland Corridor properties in early January. The services will include building and property management and maintenance services. Mr. Stebbins noted that hiring a third party firm to provide these services is an alternative to hiring a new employee to perform the work. In response to a question from Mr. Tobe, Mr. Cammarata indicated that BUDC will have interim maintenance arrangements in place to take care of the snowplowing of any properties that are acquired this winter.

## 3.0 Buffalo Lakeside Commerce Park Updates

(a) **80 Ship Canal Parkway Purchase Offer** – Mr. Stebbins informed the Committee that BUDC has received an offer from Ivy Lea Construction, Inc. to purchase a 2.2+/- parcel of real property located at 80 Ship Canal Parkway. The proposed purchase price for the property is $35,000 per acre. Mr. Stebbins stated that the purchaser is also requesting a ten year right of first refusal on the adjacent parcel as part of the transaction. The Committee discussed the offer in detail. At the conclusion of the discussion, Mr. Penman made a motion to submit a counterproposal to the purchaser accepting the proposed purchase price, but rejecting the right of first refusal on the adjacent property in favor of a two year option on the adjacent parcel at a cost of $7000 per year. The motion was seconded by Mr. Kucharski and unanimously carried.

(b) **193 Ship Canal Parkway RIWP/Arcadis Proposals** – Mr. Cammarata reviewed with the Committee the progress to date on the Brownfield Cleanup Program (BCP) project for the 193 Ship Canal Parkway property. He noted that Malcolm Pirnie (now Arcadis) was initially retained by Krog to start the BCP project for this property, and that when Krog withdrew from the project, BUDC subsequently retained Arcadis on a limited basis to transfer the BCP application to BUDC and complete additional steps in the BCP process. Mr. Cammarata noted that the next step in the BCP project is the preparation of a remedial investigation work plan (RIWP), which will require significant assistance from the project consultant. He then reviewed two separate proposals from Arcadis to complete the RIWP. The Committee discussed the Arcadis proposals, along with BUDC's procurement policy as it relates to professional services. At the conclusion of the discussion, the consensus of the Committee was that a request for proposals should be



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issued for the preparation of the RIWP.

(c) **Parcel 3 Contract Close-Out Update** – Mr. Zanner presented an update regarding negotiations with The Hanover Insurance Company and Man O' Trees, Inc. to close out the construction contracts for Ship Canal Commons.

(d) **Property Owners Association Declaration of Covenants Update** – Mr. Zanner reported that the CPS-7 application has been submitted to the Office of the New York State Attorney General (NYAG), and that the NYAG has requested additional information from BUDC concerning the budget of the property owners association.

(e) **Parcel 4 NYSDEC Superfund Site Update** – Mr. Cammarata indicated that there is nothing new to report to the Committee regarding the NYSDEC Superfund project for Parcel 4 at Buffalo Lakeside Commerce Park.

(f) **Development Prospects Update** – Mr. Stebbins reported that discussions continue with certain development prospects for Buffalo Lakeside Commerce Park.

## 4.0 RiverBend

(a) **FSMC/RiverBend LLC Phase II Sale and Transition Items Update** – Mr. Cammarata reviewed with the Committee a list of the transition items that were completed with respect to the sale of the remaining acreage at RiverBend to Fort Schuyler Management Corporation (FSMC).

(b) **IC/EC Certification Form and Revised Periodic Review Report** – Mr. Cammarata reported that the IC/EC certification Form and Revised Periodic Review Report have been completed by TurnKey Environmental Restoration, LLC (TurnKey) and submitted in accordance with NYSDEC requirements.

(c) **PS-2 Corrective Measures Report** – Mr. Cammarata reported that the PS-2 Corrective Measures Report has been completed by TurnKey and submitted in accordance with NYSDEC requirements.

(d) **Property Owners Association Update** – Mr. Cammarata indicated that FSMC may elect to rescind the Declaration of Covenants for RiverBend now that FSMC is the sole owner of the entire RiverBend property.

## 5.0 South Buffalo BOA Project Updates

(a) **Recreational Needs Assessment** – Mr. Stebbins informed the Committee that representatives from Paradigm Economics and Wendel will make a presentation regarding the recreational needs assessment at the December 16th meeting of the Board of Directors.

(b) **BOA Designation** – Mr. Stebbins reported that work continues on obtaining the formal BOA designation for the South Buffalo BOA project area.

(c) **Tifft Nature Preserve Site Plan & Green Infrastructure Design** – Mr. Stebbins reported that Tifft Farm has begun work on the design for its green infrastructure and sustainability project.

## 6.0 General Items

(a) **Other Brownfield Property Inquiries** – Mr. Cammarata indicated that there is nothing new to report to the Committee regarding this item at this time.

**7.0** **Adjournment** – There being no further business to come before the Real Estate Committee, upon motion made by Mr. Penman, seconded by Mr. Kucharski and unanimously carried, the December 8, 2014 meeting of the Real Estate Committee was adjourned at 1:20 p.m.

Respectfully submitted,

Kevin J. Zanner, Secretary



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# Northland Beltline Corridor Redevelopment Plan & SEQRA Proposals
# Short-listed Teams

## LiRo Engineers

CB Richard Ellis
Foit Albert Associates (MBE)
Phillips Lytle LLP
Panamerican Consultants, Inc.
WWS Planning (WBE)
ANPRA-Architecture, PLLC (W/MBE)

## Fisher Associates (WBE)

HR&A Advisors
Architectural Resources
Panamerican Consultants, Inc.
Watts (MBE)
Benchmark/Turnkey
Highland Planning

## URS

Foit Albert Associates (MBE)
Casilio Companies
CB Richard Ellis
On Target Geoenvironmental
Watts (MBE)
WWS Planning (WBE)
ANPRA-Architecture, PLLC (W/MBE)

## Wendel

CB Richard Ellis
GZA Geoenvironmental
Harter Secrest & Emery
Watts (MBE)
Kta Preservation (WBE)
Mustard Seed World Consulting Group (WBE)
Baer & Associates LLC

# PHASE I ENVIRONMENTAL SITE ASSESSMENT VACANT LAND 126 AND 128 DUTTON AVENUE BUFFALO, NEW YORK

**PREPARED FOR:**
NorDel II, LLC
In care of Buffalo Urban Development Corporation
Buffalo, New York 14203

**PREPARED BY:**
GZA GeoEnvironmental of New York
Buffalo, New York

December 2014
31.0180059.00

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## 9.00 INTERVIEWS

GZA interviewed the following people as part of this assessment:

- Mr. Peter Cammarata, Buffalo Urban Development Corporation
- Desk Clerk, City of Buffalo Building Department
- Desk Clerk, City of Buffalo Assessor's Office
- Desk Clerk, City of Buffalo Office of Fire Prevention

GZA attempted to conduct a telephone interview with the Site owner, Mr. Michael Sweeney. Mr. Sweeney indicated he was unavailable for an interview until the week of January 5, 2014. GZA will attempt to interview Mr. Sweeney at that time. Information received that change the conclusions of this report will be forwarded to the Client upon receipt.

The information provided by each is discussed and referenced in the text or provided below.

## 10.00 USER RESPONSIBILITIES

GZA requested information from the User regarding title information, environmental liens, Activity and Use Limitations (AUL), and specialized knowledge or commonly known information regarding the Site and a reason for significantly lower purchase price (if applicable). The user responsibility request was completed by Mr. Peter Cammarata, Buffalo Urban Development Corporation. Mr. Cammarata provided the following information.

- No environmental liens or AULs were identified for the Site.
- The purchase price being paid reasonably reflects the fair market value.

A copy of our user responsibility request and response is included in Appendix E.

## 11.00 FINDINGS AND CONCLUSIONS

A Phase I Environmental Site Assessment following the general guidance of the ASTM Phase I Standard Practice 1527-13 has been conducted at the vacant land located at 126 and 128 Dutton Avenue in Buffalo, New York (Site). The study included a site reconnaissance, a review of Site history, a review of selected local, state and federal regulatory records, a review of information provided by the User, and interviews with persons and agencies familiar with environmental conditions at the Site. No subsurface explorations or chemical testing of soil or groundwater was conducted and no assessment for the presence of lead hazards, mold, radon or asbestos was completed.

## 11.10 FINDINGS

The findings below are based on the work conducted as part of this assessment:

- The Site is addressed as 126 and 128 Dutton Avenue in Buffalo, New York and is identified by the City of Buffalo Assessor's Office as SBL numbers 101.29-1-17 and 101.21-5-11. The properties total approximately 0.64 acres in size.

- Based on a review of the U.S. Geologic Survey Map for Buffalo Northeast quadrangle, NY dated 1965 the Site's mean elevation is approximately 650 feet above mean sea level. The surrounding area has a topographic gradient that is relatively flat which slopes gradually downward to the southwest.

- Based on review of the USGS topographic map, Buffalo Northeast quadrangle and knowledge of the Site area, the estimated depth to groundwater is likely less than 20 feet below ground surface. Based on local topography and surface water features, regional and site groundwater flow is assumed to be from the northeast to the southwest. However, localized flow direction in the area of the Site may vary as a result of underground utilities, septic systems, or heterogeneous subsurface conditions.

- Based on information provided by Environmental Data Resources (EDR), national and state wetlands are not present on the Site. 100 and 500 year floodplains were not indicated as being present on the Site.

- The Site was generally vacant land from at least 1901 until the present time. A structure occupied 126 Dutton Avenue from at least 1958 until at least 1978. A historical Sanborn map dated 1950 identified the building as a poultry slaughterhouse. The area surrounding the Site has generally been utilized by residences, railroads, and manufacturing facilities.

- Seventeen inactive ASTs were observed on the southern portion of 128 Dutton Avenue. The ASTs may be former industrial process tanks that were taken out of service and stored on the Site. An inventory of the ASTs is as follows:

    - Four open top fiberglass ASTs;
    - Six large enclosed steel ASTs;
    - Four small enclosed steel ASTs; and
    - Three 300 gallon plastic totes.

  No surficial contamination or staining was observed to be associated with the ASTs. The open-topped fiberglass ASTs and the plastic totes appeared to be empty. Observations for contents within the enclosed steel ASTs were not feasible.

- Miscellaneous solid waste including metal-rack materials, wood, and cinder blocks were observed on the southern portion of 128 Dutton Avenue in the vicinity of the inactive ASTs.

- Adjoining and nearby facilities were listed on the state and federal databases reviewed. However, based upon the distance/direction from the Site and the facilities' regulatory status, these listings are not expected to have significantly impacted the environment at the Site.

- Mr. Cammarata did not identify environmental liens or AULs for the Site and indicated the purchase price being paid reasonably reflects the fair market value.

- GZA identified the following data gap during this assessment.

    - The usage of the Site prior to 1901 is unknown. GZA does not consider this a significant data gap.

    - GZA attempted to conduct a telephone interview with the Site owner, Mr. Michael Sweeney. Mr. Sweeney indicated he was unavailable for an interview until the week of January 5, 2014. GZA will attempt to interview Mr. Sweeney at that time. GZA does not consider this a significant data gap at this time, as information provided by Mr. Sweeney is unlikely to change the conclusions of this report. Information received that change the conclusions of this report will be forwarded to the Client upon receipt.

## 11.20 CONCLUSIONS AND OPINIONS

Based on the findings presented above, it is GZA's opinion that we have performed a Phase I Environmental Site Assessment in conformance with the scope and limitations of ASTM Practice E 1527-13 at the property located at 126 and 128 Dutton Avenue in Buffalo, New York (Site). Any exceptions to, or deletions from, this practice are described in Section 1.00 of this report.

This assessment has revealed the following evidence of a Recognized Environmental Conditions in connection with the property.

- Railroad lines/spurs were located along the southern and western boundaries of the Site since at least the early 1900s. Semi-volatile organic compounds (SVOCs), heavy metals, and polychlorinated biphenyls (PCBs) are often associated with railroad ballast. The potential exists for soil and/or groundwater contamination to have resulted from the historical railroad usage and ballast.

- Seventeen inactive ASTs were observed on the southern portion of 128 Dutton Avenue. It is unknown if the observed steel ASTs contain product or are empty. Potential releases from these ASTs may have impacted the Site soil and/or groundwater.

- The area surrounding the subject Site has been historically used for industrial purposes for over 100 years. Potential releases from the surrounding area may have impacted the Site soil and/or groundwater.

It is GZA's opinion that a subsurface investigation to include soil and groundwater sampling and analyses would be necessary to evaluate the potential presence of contaminated materials in the environment associated with the identified Recognized Environmental Conditions.

We point out that 11 facilities were identified on the EDR US Hist Cleaners database and 11 facilities were identified on the EDR US Hist Auto Stations database within ¼-mile of the Site. The historical usage, storage, and disposal of potentially hazardous substances and/or petroleum products are unknown. These listings do not meet the definition of a REC, but we want to make you aware of these findings. Given the dense urban setting and age of the neighborhood, it is not unreasonable to expect that a typical search area around a given property in a similar setting would likely result in similar findings.

## 12.00 ENVIRONMENTAL PROFESSIONAL STATEMENT

GZA declares that, to the best of our professional knowledge and belief, we meet the definition of Environmental Professional as defined in §312.10 of 40 CFR 12." We have the specific qualifications based on education, training, and experience to assess a property of the nature, history and setting of the subject property. We have developed and performed the all appropriate inquiries in conformance with the standards and practices set forth in 40 CFR 312." The signature of the Environmental Professional is contained on the cover page of this report.

**PHASE I ENVIRONMENTAL SITE ASSESSMENT**
**VACANT LAND**
**644, 664, 688, AND 690**
**NORTHLAND AVENUE**
**BUFFALO, NEW YORK**

**PREPARED FOR:**
NorDel II, LLC
In care of Buffalo Urban Development Corporation
Buffalo, New York 14203

**PREPARED BY:**
GZA GeoEnvironmental of New York
Buffalo, New York

December 2014
31.0180059.00

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## 9.00 INTERVIEWS

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The information provided by each is discussed and referenced in the text or provided below.

## 10.00 USER RESPONSIBILITIES

GZA requested information from the User regarding title information, environmental liens, Activity and Use Limitations (AUL), and specialized knowledge or commonly known information regarding the Site and a reason for significantly lower purchase price (if applicable). The user responsibility request was completed by Mr. Peter Cammarata, Buffalo Urban Development Corporation. Mr. Cammarata provided the following information.

- No environmental liens or AULs were identified for the Site.
- The purchase price being paid reasonably reflects the fair market value.

A copy of our user responsibility request and response is included in Appendix E.

## 11.00 FINDINGS AND CONCLUSIONS

A Phase I Environmental Site Assessment following the general guidance of the ASTM Phase I Standard Practice 1527-13 has been conducted at the vacant land located at 644, 664, 688, and 690 Northland Avenue in Buffalo, New York (Site). The study included a site reconnaissance, a review of Site history, a review of selected local, state and federal regulatory records, a review of information provided by the User, and interviews with persons and agencies familiar with environmental conditions at the Site. No subsurface explorations or chemical testing of soil or groundwater was conducted and no assessment for the presence of lead hazards, mold, radon or asbestos was completed.

## 11.10 FINDINGS

The findings below are based on the work conducted as part of this assessment:

- The Site is addressed as 644, 664, 688, and 690 Northland Avenue in Buffalo, New York and is identified by the City of Buffalo Assessor's Office as SBL numbers 101.21-1-1.1, 101.21-1-13.11, 101.21-2-12.11, and 101.21-2-16. The properties total approximately 2.9 acres in size.

- Based on a review of the U.S. Geologic Survey Map for Buffalo Northeast quadrangle, NY dated 1965 the Site's mean elevation is approximately 650 feet above mean sea level. The surrounding area has a topographic gradient that is relatively flat which slopes gradually downward to the southwest.

- Based on review of the USGS topographic map, Buffalo Northeast quadrangle and knowledge of the Site area, the estimated depth to groundwater is likely less than 20 feet below ground surface. Based on local topography and surface water features, regional and site groundwater flow is assumed to be from the northeast to the southwest. However, localized flow direction in the area of the Site may vary as a result of underground utilities, septic systems, or heterogeneous subsurface conditions.

- Based on information provided by Environmental Data Resources (EDR), national and state wetlands are not present on the Site. The 100- and 500-year floodplains were not indicated as being present on the Site.

- The Site was historically occupied by residential structures from at least 1917 until sometime between 1966 and 1978, when the structures were demolished. The Site has generally been vacant land since that time.

- Two pad-mounted transformers were observed within a fenced-in yard at 644 Northland Avenue. No markings concerning the presence or absence of PCBs were observed to be associated with the transformers. Each transformer was equipped with a drain valve at the lower level of the transformer body. No staining was observed to be associated with the drains. Multiple areas of apparent cut asphalt were observed in the vicinity of the transformer yard fence. These areas of apparent cut asphalt may be indicative of past excavation activities. These transformers are assumed to be owned and maintained by National Grid.

- A fenced area is located on part of 688 Northland Avenue. An apparent soil pile was observed inside the southeast corner of the fenced area. The soil pile appeared to be on top of the paved asphalt surface and was heavily vegetated. GZA was unable to make up-close observations of the soil pile, as it was located within the fenced area.

- A new utility pole had recently been installed near the southeast corner of 644 Northland Avenue. An oily sheen was observed running-off of the soil auger cuttings that were mounded up around the base of the pole. It is unknown if the oily material originated in the soil or the equipment that was used to install the new utility pole.

- The paved areas of the Site show several depressions in the surface grade. The majority of the Site was formerly occupied by residences. GZA assumes that many, if not all, of these residences had basements. The origin or type of fill material that was used to backfill the former basements is unknown.

- Small areas of staining typical of parking lots were observed on some of the paved asphalt surfaces. This is considered to be a *de minimis* condition as the asphalt was observed to be in good condition with no significant areas of open cracking observed.

- Adjoining and nearby facilities were listed on the state and federal databases reviewed. However, based upon the distance/direction from the Site, and the facilities' regulatory status, these listings are not expected to have significantly impacted the environment at the Site.

- Mr. Cammarata did not identify environmental liens or AULs for the Site and indicated the purchase price being paid reasonably reflects the fair market value.

- GZA identified the following data gap during this assessment.

    - The usage of the Site prior to 1901 is unknown. GZA does not consider this a significant data gap.

    - GZA attempted to conduct a telephone interview with the Site owner, Mr. Michael Sweeney. Mr. Sweeney indicated he was unavailable for an interview until the week of January 5, 2014. GZA will attempt to interview Mr. Sweeney at that time. GZA does not consider this a significant data gap at this time, as information provided by Mr. Sweeney is unlikely to change the conclusions of this report. Information received that change the conclusions of this report will be forwarded to the Client upon receipt.

## 11.20 CONCLUSIONS AND OPINIONS

Based on the findings presented above, it is GZA's opinion that we have performed a Phase I Environmental Site Assessment in conformance with the scope and limitations of ASTM Practice E 1527-13 at the property located at 644, 664, 688, and 690 Northland Avenue in Buffalo, New York (Site). Any exceptions to, or deletions from, this practice are described in Section 1.00 of this report.

This assessment has revealed the following evidence of a Recognized Environmental Conditions in connection with the property.

- Two pad-mounted transformers were observed within a fenced-in yard at 644 Northland Avenue. No markings concerning the presence or absence of PCBs were observed to be associated with the transformers. Multiple areas of apparent cut asphalt were observed in the vicinity of the transformer yard fence. These areas of apparent cut asphalt may be indicative of past excavation activities. Potential releases from the transformers may have impacted the Site soil and/or groundwater.

- A new utility pole had recently been installed near the southeast corner of 644 Northland Avenue. An oily sheen was observed running-off of the auger cuttings that were mounded up around the base of the pole. It is unknown if the oily material originated in the soil or the equipment that was used to install the new utility pole. Potential releases from the utility pole installation may have impacted the Site soil and/or groundwater.

- A fenced area is located on part of 688 Northland Avenue. An apparent soil pile was observed inside the southeast corner of the fenced area. The pile appeared to be on top of the paved asphalt surface and was heavily vegetated. GZA was unable to make up-close observations of the soil pile, as it was located within the fenced area. The origin and contents of the observed soil pile is unknown. This potential dumping activity has the potential to impact the Site soil and/or groundwater.

- The paved areas of the Site show several depressions in the surface grade. The uneven surface grade may be indicative of variable fill materials. The majority of the Site was formerly occupied by residences. GZA assumes that many, if not all, of these residences had basements. The origin or type of fill material that was used to backfill the former basements is unknown. This unknown fill material has the potential to impact the Site soil and/or groundwater.

- The area surrounding the subject Site has been historically used for industrial purposes for more than 100 years. Potential releases from the surrounding area may have impacted the Site soil and/or groundwater.

It is GZA's opinion that a subsurface investigation to include soil and groundwater sampling and analyses would be necessary to evaluate the potential presence of contaminated materials in the environment associated with the identified Recognized Environmental Conditions.

We point out that 10 facilities were identified on the EDR US Hist Cleaners database and 39 facilities were identified on the EDR US Hist Auto Stations database within ¼-mile of the Site. The historical usage, storage, and disposal of potentially hazardous substances and/or petroleum products are unknown. These listings do not meet the definition of a REC, but we want to make you aware of these findings. Given the dense urban setting and age of the neighborhood, it is not unreasonable to expect that a typical search area around a given property in a similar setting would likely result in similar findings.

GZA
GeoEnvironmental
of New York

*Engineers and Scientists*

January 9, 2015
File No. 31.P000192.15

Mr. Peter Cammarata
NorDel II, LLC
In care of Buffalo Urban Development Corp.
95 Perry Street, Suite 404
Buffalo, New York 14203

Re: Proposal
Phase II Environmental Site Assessment
Vacant Land
644, 664, 688, and 690 Northland Avenue; and
126 Dutton Avenue
Buffalo, New York

535 Washington Street
11th Floor
Buffalo, New York
14203
716-685-2300
Fax: 716-685-3629
www.gza.com

Dear Mr. Cammarata:

GZA GeoEnvironmental of New York (GZA) appreciates the opportunity to submit this proposal to NorDel II, LLC (NorDel) to complete a Phase II Environmental Site Assessment (ESA) of the properties at 644, 664, 688 and 690 Northland Avenue and 126 Dutton Avenue in Buffalo, New York (Site).

As was the case for the previous work that GZA performed for BUDC and NorDel II, LLC for the Site, the project will be managed by Jim Richert, written deliverables to NorDel II will be reviewed by David Palmerton, and field work will be conducted by or overseen by Thomas Bohlen.

## BACKGROUND

GZA completed two Phase I Environmental Site Assessments[1] for the Site that identified the following recognized environmental conditions (RECs).

### 644, 664, 688, and 690 Northland Avenue

- Two pad-mounted transformers were observed within a fenced-in yard at 644 Northland Avenue. No markings concerning the presence or absence of PCBs were observed to be associated with the transformers. Multiple areas of apparent cut asphalt were observed in the vicinity of the transformer yard fence. These areas of apparent cut asphalt may be indicative of past excavation activities. Potential releases from the transformers may have impacted the Site soil and/or groundwater.

[1] "Phase I Environmental Site Assessment, Vacant Land, 644, 664, 688, and 690 Northland Avenue, Buffalo New York", and "Phase I Environmental Site Assessment, Vacant Land, 126 and 128 Dutton Avenue, Buffalo New York"; dated December 2014. Prepared for NorDel II, LLC by GZA GeoEnvironmental of New York.

An Equal Opportunity Employer M/F/V/H

- A new utility pole had recently been installed near the southeast corner of 644 Northland Avenue. An oily sheen was observed running-off of the auger cuttings that were mounded up around the base of the pole. It is unknown if the oily material originated in the soil or the equipment that was used to install the new utility pole. Potential releases from the utility pole installation may have impacted the Site soil and/or groundwater.

- A fenced area is located on part of 688 Northland Avenue. An apparent soil pile was observed inside the southeast corner of the fenced area. The pile appeared to be on top of the paved asphalt surface and was heavily vegetated. GZA was unable to make up-close observations of the soil pile, as it was located within the fenced area. The origin and contents of the observed soil pile is unknown. This potential dumping activity has the potential to impact the Site soil and/or groundwater.

- The paved areas of the Site show several depressions in the surface grade. The uneven surface grade may be indicative of variable fill materials. The majority of the Site was formerly occupied by residences. GZA assumes that many, if not all, of these residences had basements. The origin or type of fill material that was used to backfill the former basements is unknown. This unknown fill material has the potential to impact the Site soil and/or groundwater.

- The area surrounding the subject Site has been historically used for industrial purposes for more than 100 years. Potential releases from the surrounding area may have impacted the Site soil and/or groundwater.

**126 and 128 Dutton Avenue**

- Railroad lines/spurs were located along the southern and western boundaries of the Site since at least the early 1900s. Semi-volatile organic compounds (SVOCs), heavy metals, and polychlorinated biphenyls (PCBs) are often associated with railroad ballast. The potential exists for soil and/or groundwater contamination to have resulted from the historical railroad usage and ballast.

- Seventeen inactive ASTs were observed on the southern portion of 128 Dutton Avenue. It is unknown if the observed steel ASTs contain product or are empty. Potential releases from these ASTs may have impacted the Site soil and/or groundwater.

- The area surrounding the subject Site has been historically used for industrial purposes for over 100 years. Potential releases from the surrounding area may have impacted the Site soil and/or groundwater.

It was GZA's opinion that a subsurface investigation to include soil and groundwater sampling and analyses would be necessary to evaluate the potential presence of contaminated materials in the environment associated with the identified Recognized Environmental Conditions.

## OBJECTIVE

The objective of the Phase II ESA would be to assess for the presence or absence of contaminated materials in the environment associated with the identified RECs. During telephone conversations on January 7, 2014, NorDel indicated that 128 Dutton Avenue will not be accessible and is not subject to this proposed Phase II ESA.

### Task 1: Project Preparation

GZA will contract and coordinate with our subcontractors (drilling and analytical laboratory) to initiate project activities. GZA's soil probe subcontractor will obtain the appropriate permits and arrange for the mark-out of the utilities located in the public rights-of-way. GZA will also inquire about utility information for intrusive point sample locations (i.e., probe borings, temporary microwells) from the property owner who will be asked to approve probe locations prior to the start of work. GZA will mark out proposed locations for soil probes to be completed at the Site at the time of the investigation.

GZA will prepare a Site-specific health and safety plan for protection of GZA workers prior to the commencement of field activities.

### Task 2: Soil Probes and Analytical Testing

GZA will subcontract with a drilling company to complete three days of soil probes to perform the investigation. For budgetary purposes, we anticipate completing 18 to 24 soil probes at the Site. GZA assumes the Site will be fully accessible (i.e., no parked cars, inaccessible areas, no significant snow, etc.) at the time the investigation is performed.

Soil samples will be collected continuously to the bottom of each soil probe. The soil probes will be extended to approximately 12 to 16 feet below ground surface (bgs), five feet into the upper most water bearing zone, or refusal, whichever is encountered first.

The probe locations may change based upon locations of underground utilities and refusal encountered. The recovered samples will be field screened by GZA for the presence of total organic compounds using an organic vapor meter (OVM) equipped with a photoionization detector (PID). GZA personnel will observe and document the soil probe explorations and collect environmental samples.

For budgetary purposes, GZA anticipates collecting and submitting up to 15 soil samples (includes one composite soil sample from a known soil pile; discussed below) and up to four groundwater samples for the following analyses.

- Volatile organic compounds (VOCs) via EPA Method 8260 (target compound list (TCL list);
- Semi-volatile organic compounds (SVOCs) via EPA Method 8270 (Base

Neutrals);
- Resource Conservation and Recovery Act (RCRA) 8 Metals via EPA Method 6010B/7471A; (up to 15 soil samples only) and
- Polychlorinated Biphenyls (PCBs) via EPA Method 8082. (up to 8 soil samples only)

If groundwater is encountered at sufficient volume to collect a sample, a 1-inch temporary microwell will be installed at up to four probe locations for the collection of a groundwater sample(s). Groundwater samples, if collected, will be analyzed for VOCs and SVOCs only. Sample selection will be based upon availability of groundwater, engineering judgment, visual observations, and OVM screening. If groundwater is not encountered, then up to 19 soil samples will be submitted for analytical testing. Additionally, GZA observed a soil pile of unknown origin on the southeastern portion of 688 Northland Avenue. GZA will collect one composite sample of the soil pile (included in the soil sample totals above). GZA assumes that a five business-day turn-around time for the analytical results will be acceptable.

Upon completion of the collection of soil and/or groundwater samples, remaining soil spoils will be placed back in each respective soil probe location and patched with asphalt as appropriate.

**Task 3: Data Analysis/Report Preparation**

GZA will prepare a letter report containing observations and conclusions relating to the apparent physical and environmental conditions at the Site and summarizing the work conducted. The report will also present the analytical data generated, and provide an opinion regarding the presence of soil and groundwater contamination at the Site. The report and opinion will be based solely upon the services described herein, and will not be based on scientific tasks or procedures beyond the scope of described services or the time and budgetary constraints imposed.

## SCHEDULE

GZA is prepared to start work immediately upon written authorization/notice-to-proceed. A minimum of three days will be needed in order to properly call in the required utility mark outs. Therefore, GZA anticipates that a final report can be issued within four to five weeks from notice to proceed assuming a 5-business day turn-around time for laboratory analysis of the samples.

## BASIS OF BILLINGS

Billing for GZA's professional services associated with the Phase II ESA will be on a lump sum basis as follows:

| | | |
|---|---|---|
| Task 1: | Project Preparation and Coordination: | $ 500 |
| Task 2: | Soil probe Investigation and | |

| | | |
|---|---|---|
| | Analytical Analysis: | $16,200 |
| Task 3: | Report Preparation: | $ 2,800 |
| Total Estimated Cost for Phase II ESA: | | **$19,500*** |

* Lump Sum Price is inclusive of all related expenses for the Phase II ESA as proposed.

Our lump sum fee includes submission of an electronic report and four bound hard copies.

This estimate is based on the anticipated scope of work outlined above, which represents our present judgment as to the level of effort requested. You will be notified of any conditions requiring an increase in the budget estimate if such conditions become evident.

## CONDITIONS OF ENGAGEMENT

Conditions of engagement are described in the attached standard Terms and Conditions for Professional Services.

## ACCEPTANCE

This proposal may be accepted by signing in the appropriate spaces and returning one complete copy to us. This Proposal for Services and attached Terms and Conditions shall constitute the entire agreement between the parties.

GZA appreciates the opportunity to provide you with our proposal and we look forward to working with you on this project. If you require any additional information or would like to discuss our qualifications please contact Jim Richert at (716) 844-7048.

Sincerely,

GZA GEOENVIRONMENTAL OF NEW YORK

Thomas Bohlen
Assistant Project Manager

James J. Richert, P.G.
Senior Project Manager

David L. Palmerton, Jr., C.P.G.
Senior Vice President

Attachments Terms and Conditions for Professional Services
Figure 1 – Northland Avenue Proposed Soil Probe Locations

Figure 2 – Dutton Avenue Proposed Soil Probe Locations

The Proposal for Services and the Terms and Conditions for Engineering and Consulting are hereby accepted and executed by a duly authorized signatory, who by execution warrants that he/she has full authority to act for, in the name of, and on behalf of Buffalo Urban Development Corporation.

**NorDel II, LLC**

By:_____ Title:_____

Printed Name:_____ Date:_____

# Buffalo Urban Development Corporation (BUDC)
## REQUEST FOR PROPOSALS
to
**Perform Remedial Investigation and Prepare Data Summary Report**
**Prepare Remedial Investigation Report and Remedial Action Work Plan**

DRAFT

## OVERVIEW

Proposals are being solicited from consulting firms to perform a remedial investigation at **193 Ship Canal Parkway** (DEC Site # C915240) at Buffalo Lakeside Commerce Park (the "Site"); and prepare a Data Summary Report, Remedial Investigation Report (RI Report), and a Remedial Action Work Plan (RAWP). The 9.6 acre site is currently vacant and is considered one of the prime sites for Buffalo Urban Development Corporation's marketing efforts at Buffalo Lakeside Commerce Park (BLCP). A draft Remedial Investigation Work Plan (RI Work Plan) (ARCADIS, 2012) for the Site was submitted to the New York State Department of Environmental Conservation (NYSDEC) in 2014, under New York's Brownfield Cleanup Program (BCP). After a public comment period in August of 2014, NYSDEC approved the RI Work Plan and has requested that BUDC move forward with the remedial investigation in 2015. The RI Work Plan can be made available upon request, but is not essential in order to be able to respond to this Request for Proposals. A detailed Scope of Services follows later in this document.

## SITE BACKGROUND

The Site is located at the southeast corner of Ship Canal Parkway and Hanna Drive at BLCP (see **Exhibit A**). BLCP is at the southernmost part of the City of Buffalo, adjacent to the City of Lackawanna, off of Route 5and surrounding the Union Ship Canal.

The Site includes numerous piles of construction and demolition debris. There is also a dry pond that was excavated in 2004 to accept groundwater pumped from the excavations dug to install the sewers and other utilities for BLCP. Previous investigations found fill material up to twelve (12) feet thick covering the entire Site. The fill material consisted of silty sand, gravel, and slag. A layer of peat, 0.5 to 1 foot thick was found beneath the fill. A dark gray clay and silt was located beneath the native peat layer. Investigation of other sites in the commerce park encountered weathered shale bedrock at depths ranging from 22 to 46 feet below ground. There are no groundwater monitoring wells installed within the boundaries of the Site, but other investigations nearby suggest that groundwater in the soil and fill flows towards the north and northwest.

Two nearby parcels at BLCP were redeveloped under the BCP and are occupied by manufacturing facilities (CertainTeed, DEC Site #C915185 and Cobey, DEC Site # C915202). A third parcel, the Hanna Furnace Subparcel 3 site (#B00164) was remediated under the Environmental Restoration Program and is now a public park known as Ship Canal Commons.

Until 1980, the Site was part of the rail yard that serviced the Hanna Furnace iron foundry, and was the area in which pig iron was often stored. The foundry and rail yard were constructed on what was previously marsh land that had been backfilled with steel and iron slag. This backfill material, combined with the use of the Site as a railroad yard, appear to have led to the Site contamination.

## GENERAL QUALIFICATION STATEMENT REQUIREMENTS

### A. Experience of Firm/Project Team

Consultants responding to this RFP should demonstrate their experience in similar projects or projects with elements that can be applied to this project (see **A. Scope of Services** below). Qualification statements should include an organizational chart, identifying the project manager and team members, with their titles. All proposed sub-consultants must also be identified, along with their project managers and key personnel.

### B. Experience, Depth, and Breadth of Personnel

The project team should have a full-range of relevant expertise in environmental assessments, investigations and remedial action work plans, especially in brownfield remediation projects.

## GENERAL PROPOSAL REQUIREMENTS

### A. Scope of Services

**Work Task #1 – Site Investigation**

The consultant will complete the site investigation activities described in Section 3 (Investigation Scope of Work) of the RI Work Plan.

Activities associated with this task include the following:

- A site-specific Health and Safety Plan (HASP) consistent with Occupational Safety and Health Administration (OSHA) requirements, and as presented in

  Section 6 (Health and Safety) of the RI Work Plan, will be prepared prior to site mobilization to be used by field personnel during all field work associated with the RI Work Plan.

- Installation of 18 soil borings using rotary hollow-stem auger and continuous split-spoon drilling methods to depths of 14 feet below ground surface (bgs) in accordance with the RI Work Plan.

- Collection and analysis of 10 surface soil and 18 sub-surface soil samples in accordance with the RI Work Plan. Samples will be sent to an ELAP-certified laboratory for analysis in accordance with Table 3-1 (Analytical Program Summary) included in the RI Work Plan.

- Installation of 6 temporary groundwater monitoring wells as described in Section 3.2.2 (Monitoring Well Installation) of the RI Work Plan.

- Well development and low-flow sampling of the 6 temporary groundwater monitoring wells. The consultant will collect groundwater samples from each temporary monitoring well for laboratory analysis in accordance with Table 3-1 (Analytical Program Summary) included in the RI Work Plan. Groundwater field parameters (pH, specific conductivity, temperature, turbidity, and dissolved oxygen) will be monitored during well purging prior to sample collection.

- Quality Assurance/Quality Control (QA/QC) requirements for laboratory certifications, analytical methods, and data reporting will be in accordance with the provisions defined in Section 5 (Quality Assurance/Quality Control) of the RI Work Plan. Based on the quantity of samples to be analyzed and duration required to collect the samples, samples will be sent to the laboratory in 4 sample data groups (SDGs); therefore, 4 Data Usability Summary Reports will be prepared.

- Development of a topographic base map of the Site at a scale of 1-inch equals 50-feet, with a 1-foot contour interval by a NYS licensed surveyor subcontracted by the consultant. Digital mapping will be supplied on an AutoCADD drawing. Surface, sub-surface, and temporary groundwater monitoring well locations will be surveyed and an ALTA survey completed as described in Section 3.3 (Site Survey) of the RI Work Plan.

Community air monitoring (dust and perimeter VOC monitoring) and noise monitoring are not required, and; therefore, not included in the SOW.

**Work Task #2 – Data Summary Report**

Following receipt of the validated analytical results, the consultant will prepare a Data Summary Report for submittal to BUDC.

The Data Summary Report will be in letter format and include the following:

- Brief (2 page) summary of the field activities completed

- Tables summarizing the analytical results for surface soil, subsurface soil, and groundwater sampling performed in accordance with the RI Work Plan

- Site Map showing soil boring/monitoring well locations

**Work Task #3 – RI Report**

Following BUDC approval of the draft Data Summary Report, the consultant will prepare a RI Report. As described in Section 8 (Reporting) of the RI Work Plan, the RI Report will include:

- Summaries of fieldwork performed and data collected, along with appropriate summary data tables, soil boring and well construction logs, and site photographs. Data included in the summary tables will be compared to Track 1 (unrestricted) soil cleanup criteria.

- Detailed interpretations of the data along with conclusions appropriate to the Site.

- Nine (9) figures illustrating the Site's physical and chemical characteristics based on the remedial investigation results.

- Recommendations for further characterization of the Site, if required.

If no additional characterization is required, the RI Report will also include:

- Qualitative Human Health Exposure Assessment (HHEA) (described in more detail in Work Task 004, below). If additional investigation is required, the HHEA will be completed following additional characterization effort(s).

Per Section 3.13 of the Draft Brownfield Cleanup Program Guide, based on the information presented in the RI Report, the NYSDEC will determine if the remedial investigation is complete and the RI Report is ready for approval, if complete, the NYSDEC will send a remedial investigation approval letter that contains:

- a list of preliminary Remedial Action Objectives (RAOs)
- a significant threat determination for the Site.

To support citizen participation, a draft Fact Sheet will be submitted with the proposed final RI Report. Once the Fact Sheet is approved by the NYSDEC, the BUDC will transmit the Fact Sheet to the parties on the Brownfield Site Contact List and place a copy of the Fact Sheet along with the RAWP (described below) in the document repository.

**Work Task #4 – Qualitative Human Health Exposure Assessment**

The consultant will assist BUDC with the development of an on- and off-Site Qualitative HHEA consistent with the requirements of the Draft Brownfield Cleanup Program Guide (Section 3.6), DER-10, and the RI Work Plan. The primary objectives of the HHEA are to:

- Present a conceptual Site model that describes environmental media that contain COCs, potential exposure routes, potential points of exposure, and potential human receptors.
- Characterize the exposure setting and identify exposure pathways based on current Site conditions and anticipated future use of the Site and surrounding area.
- Quantitatively evaluate if the presence and concentrations of COCs in the environmental media at the Site pose potential exposure to humans.

Per the description included in the RI Work Plan, a Fish and Wildlife exposure assessment is not required and; therefore, will not be prepared.

**Work Task #5 – Remedial Action Work Plan (RAWP)**

The consultant will assist BUDC with the development of a Remedial Action Work Plan. Per Section 3.10 of the Draft Brownfield Cleanup Program Guide, applicants may submit an Alternatives Analysis Report (AAR) and a RAWP simultaneously with the RI Report to streamline and provide an integrated approach to the NYSDEC review and citizen participation. Per the RI Work Plan, both the evaluation of remedial alternatives and RAWP will be submitted with the RI Report.

The alternatives analysis will be conducted consistent with Section 4 (Remedy Selection) of the draft Brownfield Cleanup Program Guidance and the RI Work Plan. The goal of the remedy selection process is to select a remedy for the Site that is protective of public health and the environment, taking into account the intended and reasonably anticipated future use of the Site. Because it is anticipated that institutional controls and/or engineering controls will be a component of the final Site remedy, a Track 1 (unrestricted use scenario) and a Track 4 (site-specific use based cleanup scenario) remedial alternative will be evaluated. A "no action" alternative will also be included as a baseline against which other remedial measures, if necessary, can be compared.

Because the potential remedy anticipated to be completed under the BCP is not considered complex, a formal design will not be required. The RAWP will provide sufficient control and documentation for the remedy, and will serve as a conceptual plan providing requirements for the Contractor implementing the remedy. The RAWP will also include a Soil/Fill Management Plan, which will describe a plan for characterization and handling of excavated soil/fill based on the NYSDEC Soil Cleanup Objectives as specified in 6 NYCRR Subpart 375-6 requirements and for placement of cover in the form of soil (vegetated).

This Scope of Services has been prepared as a proposal guideline. It is the respondent's responsibility to add any other services and tasks that the consultant feels are necessary to complete the project. The consultant should also assume that they will need to be available for consultation with the NYSDEC regarding their work products.

## B. Approach and Methodology

Respondents to this RFP should include a brief narrative explaining their approach. The narrative should outline the products and tasks to be provided in response to the recommended Scope of Services outlined above.

## C. Work Schedule

Proposals should include a schedule for each major component of the work and a detailed breakdown of man hours for assigned personnel for each proposed task included in the Scope of Services.

## D. Cost and Budget

The consultant contract will be a fixed-price or lump sum cost contract. Therefore, all proposals must contain a Lump Sum Cost Proposal for the scope of services delineated by task, inclusive of all expenses (there will be no reimbursables). Proposals must include a breakdown by the categories outlined.

## E. Hourly Personnel Rates

As a supplement, a schedule of billable rates for all key personnel (Principal-in-Charge, Project Manager, primary personnel for each design discipline, etc.) must be included in the proposal. Proposals must also include the ranges of billable rates for technical staff and support personnel.

## MINORITY & WOMEN-OWNED BUSINESS ENTERPRISE UTILIZATION

Buffalo Urban Development Corporation strongly encourages participation by Minority and Women-Owned Business Enterprises. All proposals must submit a statement indicating that the firm submitting the proposal will work toward a business utilization goal for minority business enterprise of twenty percent (20%) and women business enterprise of ten percent (10%).

## RESTRICTIONS ON BIDDER COMMUNICATIONS W/ BUDC (Exhibit B)

Pursuant to State Finance Law §§139-j and 139-k, this Request for Proposals imposes certain restrictions on communications between Bidders and BUDC during the procurement process. Bidders are prohibited from making contacts (whether oral, written or electronic) with any BUDC personnel or BUDC Board member other than the designated BUDC staff member (unless the contact is otherwise permitted under State Finance Law §139-j(3)(a)). In addition, Bidders are hereby notified that any contact with any BUDC personnel, BUDC Board member or the designated BUDC staff member which a reasonable person would infer is intended to influence the award of the contract under this Request for Proposals is prohibited. These prohibitions apply from the Bidder's earliest notice of BUDC's intent to solicit proposals through the final award and approval of the procurement contract ("Restricted Period"). *For the purposes of this Request for Proposals, the designated BUDC staff member is Peter M. Cammarata.* ***pcammarata@buffalourbandevelopment.com.***

***BUDC RESERVES THE RIGHT TO REJECT ANY OR ALL PROPOSALS, AND THE RIGHT TO WAIVE ANY INFORMALITIES THEREIN. BUDC ALSO RESERVES THE RIGHT TO REQUEST REVISED PROPOSALS AND/OR BEST AND FINAL OFFERS FROM RESPONSIBLE BIDDERS IN THE COMPETITIVE RANGE.***

## SUBMISSION OF PROPOSALS

There is no restriction on the length of a proposal; however, respondents are encouraged to be as concise as possible.

Five (5) hard copies plus one (1) electronic copy of the proposal must be submitted, no later than **4:00 PM, January 30, 2015** to:

Peter M. Cammarata
President
Buffalo Urban Development Corporation
95 Perry Street, Suite 404
Buffalo, NY 14203
**pcammarata@buffalourbandevelopment.com**

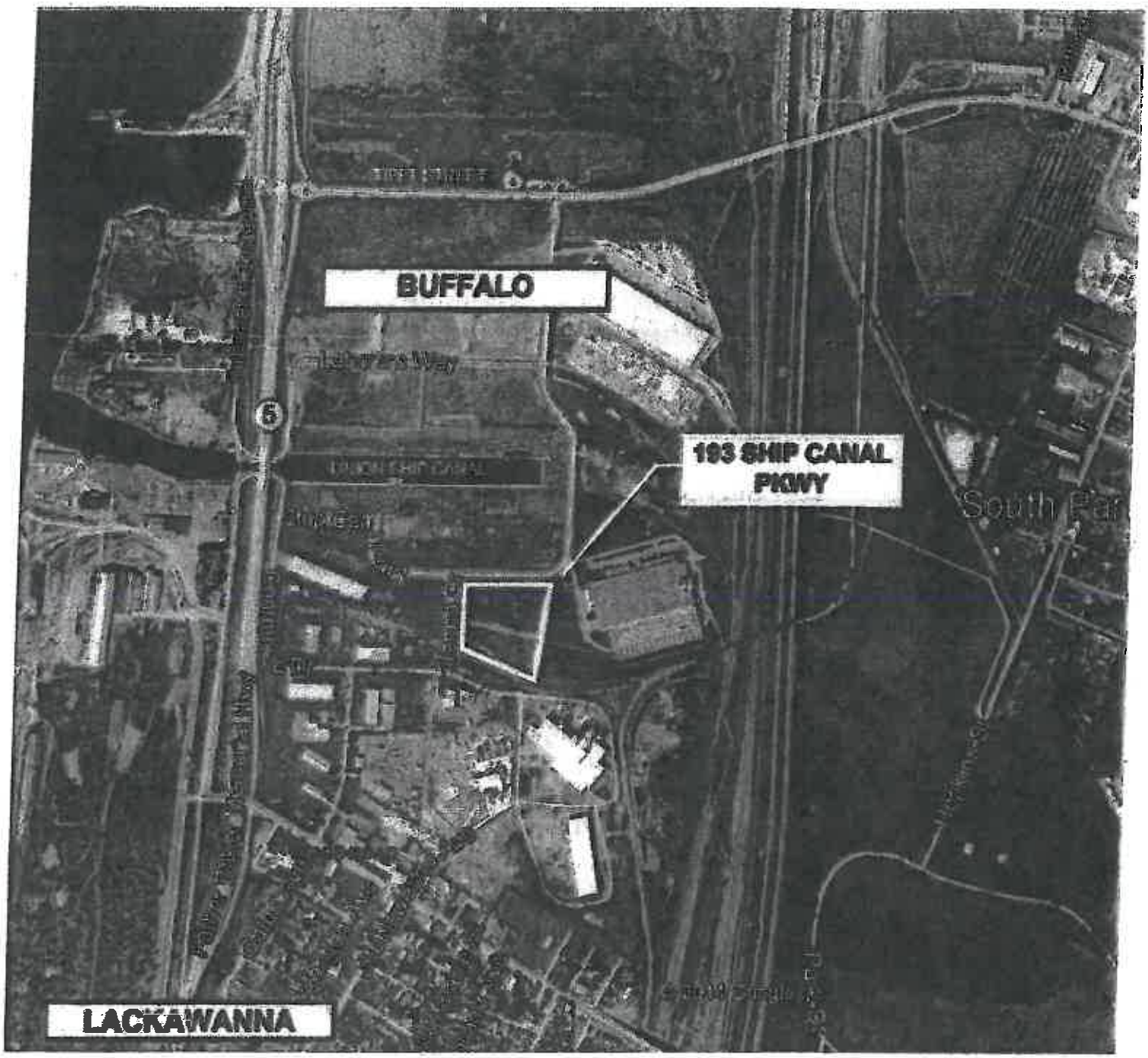
Timeline

RFP Deadline: January 30, 2015 by 4:00 PM
BUDC Board Approval: February 24, 2015
Award Notification: February 25, 2015

## FORM OF AGREEMENT

A draft Services Agreement is available upon request.

Site Location Exhibit A



## Exhibit B

## PROCUREMENT LOBBYING RESTRICTIONS

### 1. Restrictions on Bidder Communications with BUDC

Pursuant to State Finance Law §§139-j and 139-k, this Request for Proposals imposes certain restrictions on communications between Bidders and BUDC during the procurement process. Bidders are prohibited from making contacts (whether oral, written or electronic) with any BUDC personnel or BUDC Board member other than the designated BUDC staff member (unless the contact is otherwise permitted under State Finance Law §139-j(3)(a)). In addition, Bidders are hereby notified that any contact with any BUDC personnel, BUDC Board member or the designated BUDC staff member which a reasonable person would infer is intended to influence the award of the contract under this Request for Proposals is prohibited. These prohibitions apply from the Bidder's earliest notice of BUDC's intent to solicit proposals through the final award and approval of the procurement contract ("Restricted Period"). For purposes of this Request for Proposals, the designated BUDC staff member is Peter Cammarata (pcammarata@buffalourbandevelopment.com).

Bidders are hereby notified that BUDC is required to collect certain information when contacted by a Bidder during the Restricted Period and make a determination of the responsibility of the Bidder pursuant to State Finance Law §§139-j and 139-k. Certain findings of non-responsibility can result in rejection of a contract award, and in the event of two findings within a four (4) year period, the Bidder may be barred from obtaining governmental procurement contracts.

### 2. Bidder's Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6)(b)

BUDC is required to obtain written affirmations from all Bidders as to the Bidder's understanding of and agreement to comply with BUDC's procedures relating to permissible contacts (described in paragraph 1 above). The affirmation must be provided to BUDC when the Bidder submits its proposal. The form of affirmation to be completed and submitted by the Bidder is included herein as Attachment A.

### 3. Bidder's Certification of Compliance with State Finance Law §139-k(5)

State Finance Law §139-k(5) requires Bidders to provide written certification that all information provided to BUDC with respect to State Finance Law §139-k is complete, true and accurate. The certification must be provided to BUDC when Bidder submits its proposal. The form of certification to be completed and submitted by the Bidder is included herein as Attachment B.

### 4. Bidder Disclosure of Prior Non-Responsibility Determinations

State Finance Law §139-k(2) obligates BUDC to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. In accordance

with State Finance Law §139-k, each Bidder must disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity. State Finance Law §139-j sets forth detailed requirements about the restrictions on contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible contact during the Restricted Period (for example, contacting a person or entity other than the designated contact person, when such contact does not fall within one of the exemptions).

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether a Bidder fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with the law, no procurement contract shall be awarded to any Bidder that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the procurement contract to the Bidder is necessary to protect public property or public health and safety, and that the Bidder is the only source capable of supplying the required article of procurement within the necessary timeframe. Attachment C entitled "Offerer Disclosure of Prior Non-Responsibility Determinations" must be completed by the Bidder and submitted to BUDC at the time of Bidder's submission of its proposal.

## 5. Contract Termination Provision

New York State Finance Law §139-k (5) provides that every procurement contract award subject to the provisions of State Finance Law §§139-k and 139-j shall contain a provision authorizing termination of the contract in the event that the certification provided by the Bidder that is awarded the contract is found to be intentionally false or intentionally incomplete. The following provision is hereby incorporated by reference and included in the contract that is awarded (if one is awarded) pursuant to this Request for Proposals:

**BUDC Termination Provision**

Pursuant to New York State Finance Law §139-k(5), BUDC reserves the right to terminate this contract in the event it is found that the certification filed by the Contractor in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, BUDC may exercise its termination rights by providing written notification to the Contractor in accordance with the written notification terms of this contract.

## Exhibit B

## PROCUREMENT LOBBYING RESTRICTIONS

### ATTACHMENT A

**Affirmation of Understanding & Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)**

I affirm that I understand and agree to comply with the procedures of BUDC relative to permissible contacts as required by State Finance Law §139-j (3) and §139-j (6) (b).

By: _____ Date: _____

Name: _____ Title: _____

Contractor Name: _____

Contractor Address: _____

_____

_____

## Exhibit B

## PROCUREMENT LOBBYING RESTRICTIONS

### ATTACHMENT B

**Offerer/Bidder Certification:**

I certify that all information provided to BUDC with respect to State Finance Law §139-k is complete, true and accurate.

By: _____ Date: _____

Name: _____ Title: _____

Contractor Name: _____

Contractor Address: _____

_____

_____

## Exhibit B

## PROCUREMENT LOBBYING RESTRICTIONS

### ATTACHMENT C

**Offerer Disclosure of Prior Non-Responsibility Determinations**

Name of Individual or Entity Seeking to Enter into the Procurement Contract:

_____

Address: _____

_____

Name and Title of Person Submitting this Form: _____

_____

Contract Procurement Number: _____

Date: _____

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):

No Yes

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please circle):

No Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle):

No Yes

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility:

_____

_____

_____

_____

_____

_____

(Add additional pages as necessary)

## Exhibit B

## PROCUREMENT LOBBYING RESTRICTIONS

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):

No Yes

6. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding: _____

_____

_____

_____

_____

_____

_____

_____

(Add additional pages as necessary)

Offerer certifies that all information provided to BUDC with respect to State Finance Law §139-k is complete, true and accurate.

By:_____ Date:_____
Signature

Name:_____ Title: _____

**Buffalo Urban Development Corporation**
95 Perry Street • Suite 404
Buffalo, New York 14203

**phone:** 716-856-6525
**fax:** 716-856-6754
**web:** *buffalourbandevelopment.com*

ITEM 3b

Buffalo Urban Development Corporation

December 9, 2014

Mr. Michael Washington, President
Ivy Lea Construction, Inc.
440 Northwood Avenue
Tonawanda, NY 14223

RE: Buffalo Lakeside Commerce Park
80 Ship Canal Parkway Purchase Offer

Dear Mr. Washington:

We reviewed Ivy Lea Construction Inc.'s purchase offer for 80 Ship Canal Parkway with the Real Estate Committee of the BUDC Board of Directors on Monday, December 8, 2014. The Committee offers the following in response:

1. The Committee is willing to recommend that the BUDC Board accept $35,000 per acre, or $70,350 total for 80 Ship Canal Parkway (SBL#132.19-2-3) with the understanding that you will purchase the property in "as-is" condition.

2. In lieu of a 10-year Right-of-First-Refusal for 134 Ship Canal Parkway, the Committee is suggesting a 2-year Purchase Option at an option price of $7,000 per year. The purchase option payments would be applied towards the purchase and a purchase price of $35,000 per acre would be acceptable ($77,700 total for 2.22 acres).

3. A property owners association is being formed for the maintenance of the park (Ship Canal Commons) and some common areas for the business park. Membership in the property owners association will be a requirement of the land sale.

4. You will be asked to participate in the Buffalo Brownfield Redevelopment Fund through an "As-If-Owned Payment-in-Lieu-of-Tax (PILOT)" arranged by the Erie County Industrial Development Agency. This program has been established to provide dedicated funding for brownfield development in the City of Buffalo and will not result in any additional tax payments.

5. The Committee also wanted to make sure that you were aware of restrictions on outside storage contained with the Urban Renewal Plan and Design Guidelines that I previously sent you.

If these terms are acceptable to you, we will have our legal counsel (Kevin J. Zanner, Esq., Hurwitz & Fine) prepare a letter of intent for the transaction. At that time, we will also provide you with any additional documentation regarding the proposed purchase, such as the Declaration of Covenants and the Buffalo Brownfield Redevelopment Fund

Hon. Byron W. Brown, Chairman of the Board • Dennis Penman, Vice Chairman • Peter M. Cammarata, President
David A. Stebbins, Vice President • Andrew Schoeppich, Treasurer • Teresa Carpenter, Assistant Treasurer • Kevin J. Zanner, Secretary

Program. We will also work with you regarding potential financial incentives that may be available for the project, such as the Brownfield Cleanup Program Tax Credits, and to obtain approvals from the City of Buffalo Planning Board.

Please feel free to give me a call if you would like to discuss this response in more detail and if you have any questions.

Sincerely,

**DAVID A. STEBBINS, AICP**
**Vice President**

Cc: Kevin J. Zanner, Esq., Hurwitz & Fine, P.C.
Peter M. Cammarata, President

**South Buffalo Brownfield Opportunity Area**
**C096021**
**Contracted Services**

Contracted Budget (NYSDOS): $1,462,130.00

| Subcontractor | Purpose | Budget Amount | Requested/Paid 6/30/2014 | Balance |
|---|---|---|---|---|
| Sasaki Associates | RiverBend Master Plan | $683,790.00 | $683,790.00 | $0.00 |
| Wendel | Golf Course Feasibility Study | $301,436.00 | $297,191.00 | $4,245.00 |
| Architectural Resources | Step 3 Coordinator & Designation Document | $288,000.00 | $281,921.31 | $6,078.69 |
| Architectural Resources | Riverbend Stormwater Management | $19,000.00 | $19,000.00 | $0.00 |
| Architectural Resources | Step 3 Cost Estimates | $15,000.00 | $0.00 | $15,000.00 |
| Paradigm Economics | Recreational Needs | $50,000.00 | $32,407.00 | $17,593.00 |
| Buffalo Museum of Science | Sustainability Center Implementation - environmental assessments | $20,000.00 | $0.00 | $20,000.00 |
| Empire Geotechnical Services | RiverBend Implementation - Geotechnical Studies | $19,174.40 | $19,174.40 | $0.00 |
| GEI | RiverBend Implementation - Vibration Testing | $14,400.00 | $14,400.00 | $0.00 |
| Fisher Associates | Step 3 SEQRA documentation | $14,264.00 | $14,264.00 | $0.00 |
| C. Farrel | Step 3 Project Management | $8,232.00 | $8,232.00 | $0.00 |
| Buffalo Olmsted Parks Conservancy /Jaeckel Fleischmann | Golf Course Implementation - Legal | $6,920.60 | $6,920.60 | $0.00 |
| LaBella | Sustainability Center Implementation - design | $4,500.00 | $4,500.00 | $0.00 |
| Hurwitz & Fine | Step 3 Coordination - General Legal | $1,116.00 | $1,116.00 | $0.00 |
| TBD | Final Step 3 Designation document preparation/revisions | $16,297.00 | $0.00 | $16,297.00 |
| | | **$1,462,130.00** | **$1,382,916.31** | **$79,213.69** |

# BUDC INSURANCE COVERAGE

## 2015

***BUDC – Buffalo Lakeside Commerce Park Property (117 acres of real estate development property)***
- ***Ship Canal Commons (22 acres of public park)***
- ***BUDC 95 Perry St. Offices (957 sq. ft)***

| Type | Insurance Co. | Expiry | Limits | Premium |
|---|---|---|---|---|
| Commercial Package (Property, Auto & Liability) | The Hartford | 12/31/2015 | ***Liability:*** $1,000,000 /Occurrence $2,000,000 Aggregate ***Auto:*** $1,000,000 | $7,508 |
| Umbrella | The Hartford | 12/31/2015 | $10,000,000 | $6,364 |
| Directors & Officers | Philadelphia | 12/31/2015 | $5,000,000 | $9,656 |
| Directors & Officers-Umbrella | Landmark American Ins. | 12/31/2015 | $5,000,000 | $8,035 |

***NorDel I – 537 East Delavan Property (302,000 sq. ft vacant building)***

| Type | Insurance Co. | Expiry | Limits | Premium |
|---|---|---|---|---|
| Commercial Package (Property & Liability) | Scottsdale Insurance Co. | 12/23/2015 | ***Liability:*** $1,000,000/Occurrence $2,000,000 Aggregate ***Property:*** $500,000 | $25,966 |
| Umbrella | Scottsdale Insurance Co. | 12/23/2015 | $3,000,000 | $6,694 |

***NorDel II – 631+683+741+777 Northland Properties (4 vacant buildings)***
***644+664+688+690 Northland Properties + 126+128 Dutton Properties (5.46 acres land)***

| Type | Insurance Co. | Expiry | Limits | Premium |
|---|---|---|---|---|
| Property | ACE via All Risks (all except 777 Northland)<br><br>Scottsdale Insurance Co. – 777 Northland only | 12/31/2015 | ***Property:*** $940,000 (631) $2,940,000 (683) $1,056,000 (741) $50,000 (777) | $27,790 |
| Liability | Kinsale via All Risks | 12/31/2015 | ***Liability:*** $1,000,000/Occurrence $2,000,000 Aggregate | $20,647 |
| Umbrella | Kinsale via All Risks | 12/31/2015 | $3,000,000 | $8,097 |