

A Public Statement of Principles For High Road Development of Buffalo's Waterfront

Consensus Document Developed by
Erie Canal Harbor Development Corporation and Canalside Community Alliance
11 July 2013

BACKGROUND

- a. The Canalside Community Alliance (CSCA) is a broad coalition of 60 community groups including block clubs, community developers, minority-owned contractors, environmental groups, locally-owned businesses, faith groups and many others with diverse skills, experiences, and knowledge, all committed to successful Canalside and waterfront development.
- b. Erie Canal Harbor Development Corporation (ECHDC) has demonstrated a willingness to listen to public concerns and to involve the greater community in the development process. Now, working with diverse constituents and stakeholders, ECHDC is committed to high road development principles and a community-oriented approach which increases access to the waterfront and invests in the long-term economic vitality of the city and the region.
- c. ECHDC and CSCA have jointly developed these principles in a spirit of cooperation and good faith, and are mutually committed to constructive collaboration in reaching these goals.

1. QUALITY JOBS

ECHDC recognizes the need for family-sustaining employment in the City of Buffalo and is committed to quality jobs for local residents. ECHDC will continue to provide for the following:

- a. ECHDC employees are paid a living wage as defined by City living wage ordinance.
- b. Construction contracts held by ECHDC require prevailing wage.
- c. A living wage is paid to non-seasonal employees ("seasonal" employees work four (4) months or less per year) who engage in the maintenance and operation at Canalside, for the following:
 - i. employees of ECHDC, and
 - ii. contractors of ECHDC that employ more than 30 persons at Canalside and where the annual contract with ECHDC exceeds \$50,000;
 - iii. contracts for legal, architectural and like professional services are legally excluded, but contractors will be encouraged to pay living wages.

- d. In an effort to provide quality services and maximize the benefit of public dollars, subcontractors and tenants who receive a direct subsidy from or through the ECHDC and who employ more than 30 non-seasonal employees at Canalside will pay all employees age 21 and over, except for food service workers as defined by NYS Minimum Wage Act, a living wage, as defined by the ordinance of the City of Buffalo. A subsidy shall be defined as any grants, loans, inducements, or any financial assistance for which the ECHDC provides to the subcontractor or tenant without receiving full market value in exchange.

2. LOCAL WORKER OPPORTUNITIES

ECHDC is committed to the goal of encouraging the participation of contractors, subcontractors, and workers from all segments of the community in work at Canalside. ECHDC will provide for the following:

- a. Tenants at Canalside excluding the Donovan and Webster Blocks:
 - i. All tenants receiving ECHDC subsidy and employing 30 or more full-time non-seasonal employees at Canalside will utilize a First Source Agreement with the NYS Department of Labor for job posting and employment referral for City residents (except for management confidential positions or emergency employment). Employers have a 10 day “freeze” before hiring non-listed applicants.
 - ii. Tenants not receiving direct subsidy will utilize the NYS DOL First Source Agreement concurrently with other employee recruitment.
- b. Construction Contracts held By ECHDC:
 - i. ECHDC has a goal of increasing minority general contractors but is constrained from hard goals based on the lowest responsible bidder requirements. ECHDC will work to publish the RFPs and to do outreach to MWBE contractors.
 - ii. ECHDC shall comply with New York State Executive Law 15A and evaluate the potential MWBE participation based on the scope of work for each individual project. ECHDC shall require all contractors to use good faith efforts to achieve meaningful participation of minority and women business enterprises based on the scope of work and goals.
 - iii. A representative from ECHDC shall be available to work with the contractors to actualize good faith efforts to achieve meaningful MWBE firm participation.
- c. ECHDC will encourage developer proposals to include MWBE participation goals and workforce participation goals for construction.
- d. ECHDC will employ a person or contractor specifically for promoting and monitoring local hiring, local construction opportunities and MWBE goals. Person/consultant will perform outreach with local and MWBE firms in bidding

directly on ECHDC work and assisting developers and contractors to meet ECHDC goals, and will work closely with the NYS Department of Labor for First Source hiring, as well as provide status updates regarding progress to the ECHDC, the City of Buffalo and the CSCA. CSCA will provide assistance through the RFP process in identifying qualified persons/contractors for this affirmative outreach position.

- e. This ECHDC employee or contractor will hold regularly scheduled public meetings with owners and professional associations of women and minority-owned businesses to encourage and ensure their involvement and participation in ECHDC projects.

3. LOCAL BUSINESS OPPORTUNITIES

ECHDC is committed to opportunities for locally owned independent companies and new businesses in the creation of a unique, economically and culturally vibrant Canalside. In order to advance these opportunities, ECHDC commits to:

- a. A goal of 50% for locally owned businesses at Canalside, with priority for independent local entrepreneurs. ECHDC will continue to work to encourage development with a large percentage of locally owned independent businesses.
- b. Employment of a person or contract specifically for promoting and monitoring local business development. The person/consultant will perform outreach with locally owned independent businesses including women and minority-owned businesses for business development opportunities at Canalside. That person/consultant will also track and publicly provide to the community updates regarding progress in reaching these goals.

4. ENVIRONMENTAL IMPACT AND INNOVATION

ECHDC is committed to environmental sustainability and innovation, resource conservation and restoration, renewable energy and multimodal transportation in Canalside development. To achieve those goals, ECHDC agrees to:

- a. Obtain LEED Certification in all design and construction, with LEED Silver as a preferred goal, and diligent, good faith efforts to investigate the feasibility of construction of a building within the project that achieves Gold or Platinum LEED level, including the use of solar or other sustainable onsite energy sources.
- b. Create a plan that delineates how all tenants and users on the project can reduce their waste and storm water run-off with a goal of minimizing storm water entering the combined sewer system from the project and maximizing the use of permeable paving.
- c. Support the full complement of transportation choices by providing infrastructure to take advantage of the train terminal, metrorail, bus lines, walking and biking paths, Niagara River Greenway, and water transportation to

make the site truly multi-modal; make a good faith effort to pursue federal and state funding opportunities for multi-modal transit and transit-oriented development.

- d. Prioritize the planting of trees and other hardy, native vegetation.
- e. Strive to design all streets to include traffic calming and other bicycle and pedestrian-friendly features and to have all buildings meet or exceed the City's bicycle parking requirements.
- f. Explore including one or more landmark renewable projects to educate the public as to the possibilities of renewable energy: examples include a net-zero building, a solar-powered carousel, solar-powered boats, and the use of solar power to illuminate the grain elevators.
- g. According to ECHDC's guiding principles, work to ensure the public's ability to access the waterfront and land adjacent to the edge of the Buffalo River or any other body of water under its control.

5. COMMUNITY BUILDING, URBAN DEVELOPMENT AND AFFORDABLE HOUSING

ECHDC is committed to creating a vibrant and economically diverse neighborhood at Canalside, and agrees to:

- a. For general solicitations, include preferences for mixed income, workforce and affordable housing proposals.
- b. Work to increase the access, use and enjoyment of Canalside for all current and future residents of downtown neighborhoods and housing communities surrounding Canalside.

6. COLLABORATIVE PROCESS AND IMPLEMENTATION

- a. ECHDC will provide annual public progress reports on these principles.
- b. CSCA will provide information and assistance as needed in implementation of these principles, and ECHDC and CSCA will meet annually to review progress toward meeting the goals of this statement of principles.

APPENDICES

APPENDIX A: Supplemental Legal and Historical Information

1. Quality Jobs

The DGEIS for Canalside includes, among the project's objectives listed in part 5.2, "create locally owned retail businesses with living wage jobs," As the DGEIS notes at Part 6-18, Erie County's poverty rate of 12% in 1999 was average for the United States and low for New York State; it was only the City of Buffalo's poverty rate that reached an astounding 27%. The City's situation has only grown worse; in 2010, the City's poverty rate was 29.6%, compared to the County's rate of 14.3% and the State rate of 14.9%.

Public dollars should not be spent on projects that pay poverty-level wages. Poverty-level jobs do not benefit the worker or the community; rather, they shift costs away from the employer onto the worker and the community. The public ends up paying for public assistance (food stamps, Medicaid, heating assistance, etc.) to fill the gap between what the employer pays and what the worker needs to survive.

The City of Buffalo has a living wage ordinance which applies to city workers and workers at certain employers who contract with the City. The ordinance sets the living wage at a level designed to keep a family of three just out of poverty. The level is adjusted each year based on inflation. For 2012, the rate is \$10.71 for workers with health insurance, and \$12.02 for those without, and for 2013, the rate is \$11.05 for workers with health insurance and \$12.40 for those without. .

Adopting the living wage principles as outlined in the Statement of Principles is a direct way to address ECHDC's own stated goals and improve the local economy through economic development.

2. Local Worker Opportunities

Making Development Work for Local Residents, a 2008 report, finds that local hire provisions are successful and necessary to ensure that local workers are hired for construction and permanent jobs. The most relevant findings are that developers and employers initially participate in first source referral systems because they have to, but realize that the system is actually beneficial to finding dedicated employees and that in order to connect residents with the jobs, policies must be in place that require all developers and all eventual employers to participate.

First Source hiring policies have been implemented throughout the country including Milwaukee, Los Angeles, East Palo Alto, Oakland, and Boston.

Locally, the NYS Department of Labor has expressed interest in working with ECHDC to implement a First Source Hiring system. The DOL has utilized this system for projects funded by BURA. The implementation would be more widespread and successful with full commitment from all parties.

The Statement of Principles provides priority notice and first refusal to city of Buffalo residents to work at Canalside jobs. This system will bring the benefits of Canalside directly to city workers, provide inclusivity and ensure the success of the project.

3. Local Business Opportunities

The DGEIS for Canalside includes, among the project's objectives listed in part 5.2, "create locally owned retail businesses with living wage jobs." Some studies estimate that a dollar spent locally has "three times the economic impact as shopping at a national business."¹ The local business owner purchases more local products and services, supports more local charities and civic institutions, pays more local taxes (as an individual, not just a business), and has a more vested interest in seeing the community succeed and its residents prosper. Local businesses also help the environment by reducing transportation needs.

The Statement of Principles strives for goal of 50% locally owned businesses with a priority for independent local entrepreneurs. In adopting these principles, ECHDC would be in conformance with its own goals, and assist the small business community and community at large.

4. Environmental Impact and Innovation

The DGEIS for Canalside includes, among the project's objectives listed in part 5.2, "utilize green design principles." The MGPP calls for all buildings to be LEED certified as sustainable, with a goal of achieving LEED Silver status. Building green, particularly in the area of energy efficiency, can require a small additional investment upfront, but that investment is quickly repaid by energy savings. Buffalo's HealthNow building, which is LEED Silver, incurred 1 to 2% extra in initial costs, but it is saving its owners some \$166,000 per year in energy costs.²

Given its location and theme, Canalside should also be a leader in water conservation and the management of storm water. Like other old cities, Buffalo has a combined storm and sanitary sewer system, with the result that, when it rains, the amount of water in the system overwhelms the limited capacity of the treatment plants, and raw sewage and other pollutants flow directly into our waterways through various outflow points, including a number of points in and around Canalside. For example, some 306 million gallons of untreated sewage follow into the Erie Canal Commercial Slip each year through Outfall Number 17, and another 93.5 million gallons flow into the Erie Basin Marina.³

The Statement of Principles reinforces ECHDC's commitment to more sustainable buildings and infrastructure on Canalside.

¹ <http://buffalofirst.org/aboutus>. Buffalo First is a coalition of Buffalo Independent Local Businesses and a member of the CSCA.

² James Heaney, "Developers here slow to adapt," *Buffalo News*, 4/13/08.

³ Michael Beebe, "Erie Canal Commercial Slip" and "Erie Basin Marina," *Buffalo News*, 9/24/06.

5. Community Building, Urban Development and Affordable Housing

The Buffalo metro region ranks ninth worst in the nation for housing affordability, as measured by the number of households paying more than 30% of their income toward housing. In the city of Buffalo, 2000 Census data show 48.5% of renters paying more than 30% of their income for their housing.

The ECHDC is a public authority and as such is an instrument of the State created by the Legislature to further public interests and “give primary consideration to local needs and desire, and are to foster local initiative and participation in connection with the planning and development of its projects” as defined by the Urban Development Corporation Act.

The Statement of Principles strives to respond to and address the unique needs of the Buffalo region. The Statement of Principles is a product of years of open dialogue and cross sector commitment to a development model that promotes a vibrant, diverse, and sustainable waterfront.

NOTE on HIGH ROAD ECONOMIC DEVELOPMENT

The term “high road economic development,” which originated in the research and policy initiatives of the Center on Wisconsin Strategies at the University of Wisconsin, refers to economic development approaches that advance economic vitality, sustainability, and equitable economic opportunity through innovation, productivity improvement, high skill-high wage jobs, environmental responsibility, efficient resource utilization, productive investment, and strong communities. It is characterized by democratic and transparent policy development, public-private partnerships, effective workforce development, labor-management cooperation, and a focus on investments in the public good.

APPENDIX B:
Timeline Highlights of Assuring Community Benefits for Canalside
As of January 2012

November – December 2008

- Partnership for the Public Good (PPG) Partners vote to adopt Community Agenda 2009 Plank: ***Require a Community Benefits Agreement for Erie Canal Redevelopment***

April 2009

- PPG forum on Community Benefits Agreements and Erie Canal Redevelopment

November – December 2009

- PPG Partners again adopt Community Agenda 2010 Plank: ***Require a Community Benefits Agreement for Erie Canal Redevelopment***

January 2010

- PPG writes to Paul Tronolone, Empire State Development Corporation with proposal for Community Benefits Agreement

March 2010

- Canal Side Community Alliance (CSCA) has 37 organizational members
- Community Benefits Agreement for Canal Side Drafted
- Buffalo Common Council unanimously adopts resolution supporting CBA for Canal Side and makes a CBA a condition of any transfer of 13 acres of City land to the project

April 2010

- Dr. Emma Lucas-Darby, Carlow University, Pittsburgh, addresses PPG forum on CBAs
- PPG issues Report: ***The Erie Canal Harbor Development: Building on Community Assets for a Sustainable Futureⁱ***
- PPG issues Policy Brief: ***Canal Side: How Will the Community Benefit?ⁱⁱ***

June 2010

- Paul Hogan of Oishei Foundation convened meetings with Sean Ryan, Lou Jean Fleron, Jordan Levy and Thomas Dee.

August 2010

- CSCA presented concise negotiating terms for CBA to ECHDC's Jordan Levy and Thomas Deeⁱⁱⁱ
- ECHDC released proposed Community Development Agreement (CDA) with the City of Buffalo

September 2010

- CSCA, Mark Goldman, Bruce Fisher et.al, initiate series of community input meetings

October 2010

- CSCA prepares interest-based negotiations framework for CSCA – ECHDC talks

November 2010

- PPG submits to ESDC formal comment on MGPP, reiterating need for CBA

November – December 2010

- Three negotiations and CSCA public meeting cancelled by ECHDC
- PPG Partners again adopt Community Agenda 2011 Plank: ***Require a Community Benefits Agreement for Erie Canal Redevelopment***

January – February 2011

- ECHDC – CSCA negotiations resume; at ECHDC’s request, CSCA submits proposed revisions to CDA as means of incorporating CBA terms into CDA agreement^{iv}
- Duane Diggs joins CSCA negotiations team

March 2011

- ECHDC provides written responses to proposed CDA terms as negotiations continue

April 2011

- CSCA submits negotiations status report to more productively focus negotiations

May 2011

- Steve Gawlik for ECHDC submits condensed draft terms for agreement

July 2011

- CSCA submits draft agreement in resolution form, incorporating ECHDC condensed draft terms

August 2011

- CSCA submits draft community benefits consensus agreement
- ECHDC and CSCA agree on consensus agreement terms with minor amendments at negotiations meeting August 3 (with Oishei)^v
- CSCA prepares final consensus agreement document and circulates to Oishei Foundation representatives and to ECHDC for implementation action

October 2011

- CSCA submitted consensus agreement, agreement highlights and background information timeline to ESDC

November – December 2011

- PPG Partners adopt Community Agenda 2012 Plank: ***Assure Implementation of Community Benefits Provisions in Erie Canal Harbor Redevelopment***

January 2012

- CSCA releases terms of consensus agreement^{vi}, consensus agreement highlights^{vii}, and background information timeline^{viii}

ⁱ Available on PPG Website: <http://www.ppgbuffalo.org/wp-content/uploads/2010/07/ECHD-report.pdf>

ⁱⁱ Available on PPG Website: <http://www.ppgbuffalo.org/wp-content/uploads/2010/07/Canal-Side.pdf>

ⁱⁱⁱ Canal Side Community Alliance, Community Benefits Agreement, Draft Terms, 17 August 2010

^{iv} Waterfront Community Development Agreement, with CSCA amendments, 19 January 2011

^v Waterfront Community Benefits Agreement, August 2011

^{vi} Waterfront Consensus Agreement, 3 August 2011

^{vii} ECHDC – CSCA Consensus Agreement Highlights, 26 September 2011

^{viii} Background Information Timeline, January 2012