

Buffalo and Erie County Greenway Fund Standing Committee

Grant Guidelines & Application

I. Introduction

These Eligibility Requirements, Guidelines, Priorities, Schedule and Application will be used by the Buffalo and Erie County Greenway Fund Standing Committee (“Standing Committee”) to make grants from the Buffalo and Erie County Greenway Fund (Fund) that will be made available to it from the New York Power Authority (NYPA) pursuant to the Settlement Agreement entered into between the NYPA, the County of Erie (the County), the City of Buffalo (the City) and the Buffalo Olmsted Parks Conservancy (BOPC) as part of the relicensing of the Niagara Power Project.

The NYPA will pay a Trustee to be selected by the Standing Committee the sum of \$2 million per year for each of the next fifty years or until 2057. The Fund is to be used to improve and enhance the Niagara River Greenway as more fully described in the Settlement Agreement, the Greenway Plan that was approved by the Niagara River Greenway Commission, and in accordance with these Eligibility Requirements, Guidelines, Priorities, Schedule and Application.

The Mayor of the City of Buffalo, the County Executive of the County of Erie, the NYPA, and the BOPC shall each appoint a Standing Committee representative and an alternate representative. The Standing Committee Chairmanship shall be rotating.

The four standing committees formed by the Niagara Power Project Relicensing Settlement Agreements considered the adoption of “Standing Committee Protocols” that establishes a common approach for the operation of each Standing Committee. The Standing Committee has, by consensus, adopted the Standing Committee Protocols dated October 17, 2007 and these Eligibility Requirements, Guidelines, Priorities, Schedule and Application. These Eligibility Requirements, Guidelines, Priorities, Schedule and Application are deemed to be in compliance with the Standing Committee Protocols. The Standing Committee will establish priorities for the funds in support of projects that are consistent with the adopted Niagara River Greenway Plan.

II. Funding Priorities & Uses

Priority shall be given to the projects that achieve the most favorable balance of grant priorities from among eligible projects. It is not expected or required that any one project achieve all priorities. The Standing Committee will determine which project or projects have the most positive impacts. The Standing Committee reserves the right to not fund any or all projects in a grant cycle if it determines that the projects do not have sufficient positive impact to merit an award. Each approved project shall have 10% of the approved funding held back until such time as the project proponent submits all necessary paperwork to the CFGB.

1. **Public Access to the Waterfront**- Priority will be given to capital projects that connect existing park and greenway resources through the development of way finding, new trails, paths or other amenities;

2. Improving and Sustaining Existing Resources- Priority will be given to capital projects that open up or improve inaccessible or underutilized existing parks, park facilities or natural features in the Niagara River Greenway area of Erie County;
3. Maximization of Impact- Priority will be given to projects that bring resources such as grant funds, private philanthropy, or corporate partnerships;
4. Consistency with Master Plans- Implementation of the Committee member's adopted Master Plan(s);
5. Accepted Use of Funds- Funds may be used for the following costs of approved projects:
 - a. Capital improvements;
 - b. Environmental improvements including legal, architecture, planning investigation or remediation;
 - c. Operating expenses including staff costs, supplies and services;
 - d. Professional consultant services;
 - e. Promotional services related to approved projects to promote public awareness of the Greenway and its resources, and;
 - f. Land acquisition.
6. Prohibited Uses of Funds-
 - a. Funds may not be used to conduct any lobbying activities as such term is defined in the Internal Revenue Code;
 - b. Funds may not be used to support or oppose any candidate for public office;
 - c. Funds may not be used to support, oppose or participate in litigation;
 - d. Funds may not be used to support any fund raising activity of any organization;
 - e. Funds may not be used to create or enhance an endowment for any organization;
 - f. Funds may not be used to pay prior debts, to satisfy any bankruptcy order, to satisfy a claim for damages made by an employee, vendor or other third party or to pay a settlement or judgment related to litigation;
 - g. Funds may not be used to pay the personal expenses of any person;
 - h. Funds may not be used to pay for, or reimburse any person for travel related expenses, for expenses associated with attendance at a conference, trade show or exhibition or for the costs associated with educational activities;
 - i. Funds may not be used to pay the salary or benefits of any employee of any city, town, village or county, except as outlined in 5(c);

- j. Funds may not be used to carry out, support or advance or to oppose any religious activity or purpose.
- 7. Payment Arrangements- The Standing Committee reserves the right to pay awards in draws, to make partial payments, and to fund projects in whole or in part. Grant payments may be withheld and the grant may be cancelled if conditions or requirements associated with the grant are not achieved.
- 8. Multi-Year Projects- An applicant may request funds for a single project that will be spent over a number of years, however, the Standing Committee will not fund a single project or single phase of a project that cannot be completed over a five-year period or that seeks more than five years of funding from the Standing Committee.

The Standing Committee may make a contingent future year award that depends upon the applicant achieving certain milestones such as obtaining additional funding from sources other than the Standing Committee. If the milestones are not achieved the award may be cancelled, or extended if the Standing Committee determines that such an extension with new milestones is in the best interest of the Greenway.

Future and multi-year commitments will be limited to no more, in the aggregate, than 20% of a future year's fund. Debt service, including principal and interest, is an eligible use of funds if part of a multi-year commitment.

III. Eligibility Requirements

- 1. Applicant Legal Status- Applications may be submitted by Standing Committee members, individuals or organizations with an interest in the Erie County section of the Greenway. Applicants must be or be partnered with at the time of the submission:
 - a. A non-for-profit corporation that has received a determination letter from the Internal Revenue Service stating that it is a 501(c)(3) entity;
 - b. A city, town, village or county located in Erie County;
 - c. A public benefit corporation organized under the laws of New York State;
 - d. The City of Buffalo, the County of Erie and the Buffalo Olmsted Parks Conservancy can apply for funding and are not precluded from participating in the decision making by reason of such application.
- 2. Project Location- Projects must be located within the boundaries established by the Niagara River Greenway Commission Plan, which includes but is not limited to the Olmsted Park and Parkway system in the City of Buffalo.
- 3. Ability to Proceed with Project
 - a. Applicant must demonstrate that they have or will have the ability to proceed with the project within the time frame described in the application;

- b. Ability to proceed can be demonstrated by site control, an option to obtain site control, a letter(s) of commitment from other funders, a well conceived, realistic plan to obtain funds, approval from governmental agencies and support from neighborhood and community groups who will be impacted by the project;
- c. Ability to proceed in most instances will involve more than one of the above factors and may involve other factors. The application must demonstrate that the project will not be prevented from moving forward as planned.

IV. Pre-Application Consultation

- A. Prior to submission to the Standing Committee, applicants are required to submit their proposal for consultation to:
 - (1) The Niagara River Greenway Commission;
 - (2) The chief elected officer, or a designated representative, of any municipal, county and Indian nation affected by the proposed project; and
 - (3) Appropriate State and Federal agencies, (It is recognized that it may be difficult to identify the appropriate state and federal agencies for purposes of consultation. The standing committees will be flexible in administering this requirement and will provide guidance to the extent they can on state and federal agencies to be consulted).
 - (4) The BOPC if the proposed project is located on or will impact any Olmsted Park or Parkway System.
- B. Information to be supplied to Consulting Parties is expected to include, at a minimum:
 - 1.) A description of the project including any necessary maps and drawings as well as any past or subsequent phases;
 - 2.) A description of how the proposed project is consistent with the Niagara River Greenway Plan (NRGP) and;
 - 3.) A description of how the proposed project is consistent with other applicable legal requirements.

Project proponents shall submit to the Consulting Parties information as outlined in the above paragraph. The consultation period will officially end 90 days after the project proponent initiates consultation unless comments are received sooner.

It is strongly encouraged that applicants notify the Standing Committee when they begin the consultation process with the Greenway Commission and other Consulting Parties.

V. APPLICATION REQUIREMENTS

Funding requests may be proposed by standing committee members or by individuals and organizations with an interest in the Greenway. Funds will be awarded to eligible applicants who submit a written application. The application must be complete and submitted on or before the established deadline.

- 1. Applicants will provide:
 - (a) Organization name and mailing address;
 - (b) Federal ID number and/or Charities Registration number;
 - (c) Point of contact for the project.

The Standing Committee requires Greenway project funding requests to include written documentation of the following:

2. Evidence of consultation with: (a) the Niagara River Greenway Commission regarding a project's consistency with the NRGP; (b) the chief elected officer, or a designated representative, of any municipal, county and Indian nation affected by the proposed project; and (c) appropriate State and Federal agencies (collectively, Consulting Parties as provided for in Article V).

For purposes of this section, evidence of consultation will include:

(a) A list of all materials submitted to the Consulting Parties by the project proponent including a copy of the Application submitted to the Niagara River Greenway Commission;

(b) Copies of written comments provided by Consulting Parties to the project proponent; and

(c) Documentation describing the manner in which the project proponent addressed the Consulting Parties' comments. In "addressing" comments from a consulted party, the project proponent should demonstrate that it has an understanding of the comments and should indicate whether the proponent agrees or disagrees with the comments and why. It is not required that the proponent agree with the consulted party. However, if the proponent has changed its proposal to accommodate a comment, this accommodation should be noted.

3. An operation and maintenance plan for the proposed project or an explanation as to why an operation and maintenance plan is not needed for the proposed project;

4. A description of the project's consistency with the NRGP, including a discussion of the project's relationship to the principles, goals, and criteria established by the NRGP;

5. A description of the project's consistency with other State and Federal laws or regulations where applicable;

6. A description of the project proponent's efforts and/or opportunities to obtain matching funds;

7. A statement that the Greenway funds requested will not be used to defray: (1) any obligation existing as of August 31, 2007 or (2) operation and maintenance costs associated with any project existing as of August 31, 2007;

8. A description of current and proposed land ownership associated with the project; and

9. An overall project budget and cash flow summary identifying each phase of work for which relicensing greenway funds would be sought, including desired disbursement timing and amounts.

10. Applications should be submitted to:

Robert Daly
New York Power Authority
5777 Lewiston Road
Lewiston, NY 14092
(716)286-6912

VI. Standing Committee Approval Required

Funds will only be awarded to applicants who are approved for funding by the Standing Committee as provided for in Part III, IV and V.

VII. Procedures to Determine Funding Approval

Project funding will be determined by the Standing Committee as provided for in this section and based on a projects consistency with the Greenway Plan, meeting Eligibility Requirements in Section III and Funding Priorities in Section II.

1. The Standing Committee shall seek to make all funding decisions by consensus of its four members as the term consensus is defined in the Standing Committee Protocol.
2. If there is not a consensus of the members the following procedure shall be used;
 - a. If one or more members do not support the project because they do not believe the project is consistent with the Greenway Plan, the project shall not be considered for funding until at least thirty days have passed. At the next meeting after the thirty day period, a project may be re-considered by the Standing Committee and deemed to be consistent with the Greenway Plan if it either:
 - i. Receives a consensus of support for consistency by all members of the Standing Committee, or;
 - ii. Three Standing Committee members support the project as consistent and the Greenway Commission indicates the project is consistent with the Greenway Plan.
 - b. If a project is not determined to be consistent with the Greenway Plan as outlined above, the project shall be considered not consistent with the Greenway plan and thus not eligible for funding;
 - c. From the projects that have been determined consistent with the Greenway Plan, the standing committee will:
 - (1) Identify projects that will receive funding; and
 - (2) Determine the appropriate level of funding for each selected project.

The standing committee will strive to reach consensus on such decisions. If, after attempts at two standing committee meetings, separated by a period of not less than 30 days, a consensus of the members can not be reached, then a majority vote of the standing committee will be required to identify projects for funding and establish associated funding levels. The standing committee will advise the project proponents of the decision of the standing committees on the consistency of each proposal and if the project will be funded.

3. The Standing Committee will make every effort to ensure that the projects supported by this Fund represent the priorities, mission and geography of the City, the County and BOPC with respect to the definition of the boundary of the Niagara River

Greenway Plan and the Principles, Goals and Criteria contained therein, as determined by the Committee. A review of the effort will be undertaken after every three years of the standing committee operations if requested by either the City, the County, or BOPC. The basis on which further funding decisions are made will be unanimously agreed upon by these three parties and these protocols will be amended as necessary.

VIII. Grant Schedule 2013

January 18, 2013	Deadline for submission of applications.
February 19, 2013	Meeting for public presentations of submitted projects
March 12, 2013	Announcements of Awards.

Applications should be submitted to:

Robert Daly
New York Power Authority
5777 Lewiston Road
Lewiston, NY 14092
(716)286-6912
Rob.daly@nypa.gov

Standing Committee Members:

New York Power Authority
Robert Daly
5777 Lewiston Road
Lewiston, NY 14092
(716) 286-6912
Rob.daly@nypa.gov

County of Erie
Maria Whyte, Commissioner
Department of Environment and Planning
Edward A. Rath Building
95 Franklin Street
Buffalo NY 14202
(716) 858-6716

Buffalo Olmsted Parks Conservancy
84 Parkside Avenue
Buffalo, NY 14214
Attn: Gary Mucci
gmucci@hblaw.com
716-838-1249 ext 10 for Joanne Marzullo
www.buffaloolmstedparks.org

City of Buffalo
Peter Savage
65 Niagara Square
Buffalo, NY 14202
petersavage@ch.ci.buffalo.ny.us