

FOR CONSIDERATION

July 23, 2009

TO: The Directors

FROM: Dennis M. Mullen

SUBJECT: Buffalo (Erie County) – UniQuest Delaware Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant), Empire Opportunity Fund (Capital Grant), and Urban and Community Development Program – Urban and Community Development Assistance (Capital Grant)

REQUEST FOR: Findings and Determinations Pursuant to Sections of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions; Determination of No Significant Effect on the Environment

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General Project Plan

I. Project Summary

Grantee: UniQuest Delaware, LLC (“UniQuest” or the “Company”)

ESD\* Investment: Grants of up to \$11,000,000 to be used as follows:

V784 – A grant of up to \$4,200,000 to be used for a portion of real property development costs associated with the office component of the project.

V806 – A grant of up to \$1,886,000 to be used for a portion of the real property and new building development costs associated with the hotel and restaurant component of the project.

V785 – A grant of up to \$4,914,000 to be used for a portion of building shell removal and renovation and interior building development costs of the hotel component of the project.

\* The New York State Urban Development Corporation doing business as the Empire State Development Corporation (“ESD” or the “Corporation”)

Project Location: 200 Delaware Avenue, Buffalo, Erie County

NYS Empire Zone  
(or equivalent): Buffalo Empire Zone:

Proposed Project: The Company will redevelop the former Thaddeus J. Dulski Federal Office Building, now known as Avant (“Avant” or the “Building”) into Class A office space, condominium units, and a full-service hotel and restaurant.

ESD Incentive Offer Accepted: September 14, 2007 (Initial Offer); January 27, 2009 (Revised Offer)

Project Completion: July 31, 2009

Number of Employees at Project Location:

Initial employment (at time of ESD Incentive Offer):	0
Current employment level:	210 <sup>(a)</sup>
Minimum employment on January 1, 2013:	210 <sup>(b)</sup>

<sup>(a)</sup> 140 employees are employed by Damon & Morey LLP, a tenant of the Grantee, which were transferred from an existing Buffalo facility to the Project Location in July 2009 and 70 employees are employed by UniQuest Hospitality LLC.

<sup>(b)</sup> Employees can be on the Grantee’s or the Grantee’s tenants’ payroll.

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Anticipated  
Appropriation  
Sources:

Empire State Economic Development Fund (“EDF”)   
Empire Opportunity Fund (“EOF”)   
Urban and Community Development Program (“UCDP”)

ESD Project Numbers: V784 - EDF - \$4,200,000  
V806 - EOF - \$1,886,000  
V785 - UCDP - \$4,914,000

Project Team:	Origination	Merideth Bahr-Andreucci
	Project Management	Jean Bly
	Affirmative Action	Helen Daniels
	Finance	Amit Nihalani
	Design & Construction	Michael Fitzner
	Environmental	Soo Kang

## II. Project Cost and Financing Sources

### Financing Uses Amount

#### **Hotel & Restaurant Component**

Construction/Renovation Costs	\$33,222,154
Soft Costs	3,863,354

#### **Office Component**

Construction/Renovation Costs	22,196,804
Soft Costs	2,800,681

#### **Condo Component**

Construction/Renovation Costs	<u>18,215,338</u>
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#### **Total Project Costs** **\$80,298,331**

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>	<u>Rate/Term/Lien</u>
ESD - EDF Grant (V784)	\$ 4,200,000	5.2%	
ESD - EOF Grant (V806)	1,886,000	2.4%	
ESD - UCDP Grant (V785)	4,914,000	6.1%	
Wells Fargo Bank Loan**	50,000,000	62.3%	LIBOR+250/30 mos w/two 12 mos extensions/1 <sup>st</sup> on RE & M&E
NYSERDA Smart Loan	1,000,000	1.2%	5.5%/10 yrs/2nd lien on other*** RE
Company Equity	<u>18,298,331</u>	<u>22.8%</u>	
<b>Total Project Financing</b>	<u><b>\$80,298,331</b></u>	<u>100.0%</u>	

\*\*Recorded mortgage is \$52.5 million. Loan will be reduced by \$2.5 million when grant funds are disbursed.

\*\*\* 2<sup>nd</sup> mortgage in the amount of \$700,000 and assignment of rents and leases at 3356 Walden Avenue, Depew; and 2<sup>nd</sup> mortgage in the amount of \$300,000 and assignment of rents and leases at 6044 Main Street, Williamsville.

## III. Project Description

### A. Background

UniQuest was formed in 2006 as a joint venture partnership between Uniland Development Company (“Uniland”) and Acquest Development Company LLC (“Acquest”) for the sole purpose of acquiring and redeveloping the Building, located in the heart of the City of Buffalo’s (the “City”) downtown government and business district.

Uniland (Amherst, NY), established in 1974, is a commercial real estate development and construction company offering its clients design, construction, leasing and management services, including large scale office complex and business center development. With assets exceeding \$500 million, Uniland has built more than twelve million square feet of commercial property, retaining approximately six million square feet as the largest private owner and property manager of office space in the region. Acquest (Buffalo, NY), established in 1988, is a commercial real estate

development company engaged in the acquisition, development, and management of professional office space, including medical laboratories, warehouse, research and development laboratories, and light industrial facilities. In 2008, Uniland purchased Acquest's interest in the Building.

In January 2006, the City adopted a Comprehensive Plan (the "Plan"), which addressed the revitalization of the City's neighborhoods. The Plan, consisting of five Strategic Investment Areas in the City, includes the demolition and/or redevelopment of blighted properties to enable Buffalo to use these spaces for housing development, commercial development and land banking for future use.

Avant, a fifteen-story, 470,000-square-foot facility, was constructed in 1971 as a federal office building. The Building was initially named after eight-term Western New York Congressman, Thaddeus Joseph Dulski. The Building housed more than 2,000 employees from various federal governmental agencies including the Internal Revenue Service, the U.S. Department of Labor, and the Bureau of Customs and Border Protection, until late 2005 when the Building was closed due to asbestos and PCB contamination. In August 2006, the General Services Administration Property Disposal Division put the vacant building up for auction which was won by UniQuest with a high bid of \$6.1 million. UniQuest subsequently applied for funding through the NYS Department of Environmental Conservation ("DEC") sponsored NYS Brownfield Program (the "Program") in an effort to defray the staggering costs associated with asbestos remediation, a prerequisite to redevelop the Building into a mix of office, residential and hotel space.

In mid-2007, UniQuest notified ESD that it was not accepted into the DEC Program and without a significant investment from NYS to assist with approximately \$18 million for environmental abatement and remediation activities, the redevelopment of the Building would not be economically feasible. In September 2007, ESD provided UniQuest an incentive offer of grants and loans to facilitate the redevelopment project in the Buffalo Empire Zone. (Converting the vacant structure into a 150-room full service hotel, 28 condominium units and 128,000-square-feet of Class A office space.) Following much negotiation between ESD and the Grantee, in January 2009, a revised incentive offer of \$11 million was accepted by UniQuest. As a result of ESD's assistance, 210 new jobs will be created by the Grantee by January 1, 2013. Without ESD funding, UniQuest would not have proceeded with the project and 210 new jobs would not be created.

## B. The Project

The \$80,298,331 project involves the complete renovation of the Building including asbestos and lead abatement and removal; dismantlement of all interior walls and exterior concrete-panel facade to its structural-steel skeleton; installation of a glass and metal exterior façade; installation of state-of-the-art plumbing, electrical, and HVAC elements; and interior reconstruction into hotel, condominium and office space. The lower seven floors will be comprised of a 150-room Embassy Suite hotel (the "Hotel") featuring all-suite and upscale accommodations; 128,000-square-feet of Class A office space on the middle five floors with the Buffalo law firm of Damon & Morey LLP leasing floors eleven and twelve for a 15-year term; and high-end condominiums on the three upper floors, with dwellings prices ranging from \$400,000 to over \$1.5 million. The Building will also feature a restaurant on the ground floor; a two-story atrium/lobby; and terraces on the residential floors. The Hotel will be operated by UniQuest Hospitality LLC, an affiliate of UniQuest.

UniQuest utilized the most efficient and environmentally-friendly materials and systems in the design and reconstruction of the Building. Approximately 6,343 tons of concrete exterior panels, 570 tons of interior concrete and brick, 200 tons of steel and heavy metal, and 10 tons of aluminum were removed from the Building and recycled; low reflectivity glass with high transparency and energy efficiency was utilized; state-of-the-art heating and cooling systems will use less electricity, natural gas and water and are expected to reduce air and waste water system emissions by 35%; and interior features were chosen with “green” goals in mind. Various certifications under LEED™ and Green Globe, among others, are currently under consideration. The project is financed by ESD’s grants, loans from Wells Fargo Bank and New York State Energy Research and Development Authority and Company equity. Damon & Morey LLC took occupancy in June 2009 and the Hotel is expected to open in July 2009. The first condominium is expected to close in October 2009.

C. Financial Terms and Conditions

1. The Company shall pay a commitment fee of 1% of the \$4,200,000 EDF capital grant (\$42,000) upon execution of the associated grant disbursement agreement. In addition, at the time of disbursement, the Company will reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Company will demonstrate no material adverse change in its financial condition prior to disbursement.
3. BTC Block 20 Partnership, L.P will provide a third-party repayment guarantee in the amount of \$7.7 million in the event of an Employment Shortfall or other default, as defined in these materials or the Grant Disbursement Agreement.
4. The Company or the Company’s owners will contribute at least 10% in equity to the project. Equity is defined as any non-debt source of capital, and should be auditable through Company financial statements or Company accounts, if so requested by ESD.
5. Prior to disbursement, the Company must employ at least the number of Full-time Permanent Employees set forth as the Baseline Employment in the table below. A Full-time Permanent Employee shall mean (a) a full-time, permanent, private-sector employee on the Grantee’s or Grantee’s tenants’ payroll, who has worked at the Project Location for a minimum of thirty-five hours per week for not less than four consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties; or (b) two part-time, permanent, private-sector employees on Grantee’s or the Grantee’s tenants’ payroll, who have worked at the Project Location for a combined minimum of thirty-five hours per week for not less than four consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties.

6. a) EDF Grant – V784: Up to \$4,200,000 will be disbursed to Grantee in three installments for the office component as follows:
  - i) an Initial Disbursement of an amount equal to 75% of the grant (\$3,150,000) will be disbursed upon completion of the office component as evidenced by a certification by the project architect; and documentation of office component construction and renovation project costs totaling \$19.3 million; assuming that all project approvals have been completed and funds are available;
  - ii) a Second Disbursement of an amount equal to 15% of the grant (\$630,000) will be disbursed upon documentation of the employment of at least 60 Full-time Permanent Employees at the office component of the Project Location (Employment Increment of 60), provided Grantee is otherwise in compliance with program requirements;
  - iii) a Third Disbursement of an amount equal to 10% of the grant (\$420,000) will be disbursed upon documentation of the employment of at least 140 Full-time Permanent Employees at the office component of the Project Location (Employment Increment of 80), provided Grantee is otherwise in compliance with program requirements
  
- b) EOF Grant – V806: Up to \$1,886,000 will be disbursed to Grantee in three installments for the hotel and restaurant component as follows:
  - i) an Initial Disbursement of an amount equal to 75% of the grant (\$1,414,500) will be disbursed upon completion of the hotel and restaurant component as evidenced by a certification by the project architect; and documentation of hotel and restaurant component construction and renovation project costs totaling \$37 million; assuming that all project approvals have been completed and funds are available;
  - ii) a Second Disbursement of an amount equal to 15% of the grant (\$282,900) will be disbursed upon documentation of the employment of at least 40 Full-time Permanent Employees at the hotel and restaurant component of the Project Location (Employment Increment of 40), provided Grantee is otherwise in compliance with program requirements;
  - iii) a Third Disbursement of an amount equal to 10% of the grant (\$188,600) will be disbursed upon documentation of the employment of at least 70 Full-time Permanent Employees at the hotel and restaurant component of the Project Location (Employment Increment of 30), provided Grantee is otherwise in compliance with program requirements
  
- c) UCDP Grant – V785: Up to \$4,914,000 will be disbursed to Grantee in three installments for the hotel and restaurant component as follows:
  - i) an Initial Disbursement of an amount equal to 75% of the grant (\$3,685,500) will be disbursed upon completion of the hotel and restaurant component as evidenced by a Certification of Occupancy or a Certificate of Compliance for the hotel; and documentation of hotel and restaurant component construction and renovation project costs totaling \$37 million; assuming that all project approvals have been completed and funds are available;
  - ii) a Second Disbursement of an amount equal to 15% of the grant (\$737,100) will be disbursed upon documentation of the employment of at least 40 Full-time Permanent Employees at the hotel and restaurant component of the Project Location

(Employment Increment of 40), provided Grantee is otherwise in compliance with program requirements;

- iii) a Third Disbursement of an amount equal to 10% of the grant (\$491,400) will be disbursed upon documentation of the employment of at least 70 Full-time Permanent Employees at the hotel and restaurant component of the Project Location (Employment Increment of 30), provided Grantee is otherwise in compliance with program requirements

Payment will be made upon presentation to ESDC of an invoice and such other documentation as ESDC may reasonably require. Expenditures must be incurred on or after September 19, 2007 to be considered eligible project costs. Disbursements must be requested by no later than April 1, 2011.

- 6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$11,000,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Company and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.
- 7. In consideration for the making of the Grants, Grantee will achieve the Employment Goals set forth in Column B of the table below. If the Full-time Permanent Employee Count for the year prior to the reporting date set forth in Column A of the table below is less than eighty-five percent (85%) of the Employment Goal set forth in Column B (an "Employment Shortfall"), then upon demand by ESD, Grantee shall be obligated to repay to ESD a portion of each disbursement of the Grant, as follows:

The Recapture Amount is based on the time that has lapsed between when the Grant funds were disbursed and when the Employment Shortfall occurred. The Recapture Amount shall be calculated by aggregating the Recapture Amount for each disbursement of the Grant, which in each instance shall be equal to:

- (i) 100% of the disbursed amount if the Employment Shortfall occurred in the calendar year that the disbursement was made, or in the first full calendar year after the disbursement was made;
- (ii) 80% of the disbursed amount if the Employment Shortfall occurred in the second full calendar year after the disbursement was made;
- (iii) 60% of the disbursed amount if the Employment Shortfall occurred in the third full calendar year after the disbursement was made;
- (iv) 40% of the disbursed amount if the Employment Shortfall occurred in the fourth full calendar year after the disbursement was made;
- (v) 20% of the disbursed amount if the Employment Shortfall occurred in the fifth full calendar year after the disbursement was made.

The Grantee's number of Full-time Permanent Employees shall be deemed to be the greater of the number as of the last payroll date in the month of December for such year or the average employment for the 12 month period computed by quarter.

a) **Office Component: EDF Grant (V784):**

Baseline Employment	0
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A	B
Reporting Date	Employment Goals
February 1, 2010	$0 + X + Y$
February 1, 2011	$0 + X + Y$
February 1, 2012	$0 + X + Y$
February 1, 2013	$0 + X + Y$
February 1, 2014	$0 + X + Y$
February 1, 2015	$0 + X + Y$

X = Grantee's Employment Increment that will be the basis of the Second Disbursement of the Grant as described in section 5(a)(ii) above (i.e. X=60, and Employment Goals shall equal  $[0 + X = 60]$  if the Second Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Second Disbursement has not yet been made then X=0.

Y = Grantee's Employment Increment that will be the basis of the Third Disbursement of the Grant as described in section 5(a)(iii) above (i.e. Y=80, and Employment Goals shall equal  $[0 + X + Y = 140]$  if the Third Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Third Disbursement has not yet been made then Y=0.

b) **Hotel and Restaurant Component: EOF Grant (V806) and UC DP Grant (V785):**

Baseline Employment	0
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A	B
Reporting Date	Employment Goals
February 1, 2010	$0 + X + Y$
February 1, 2011	$0 + X + Y$
February 1, 2012	$0 + X + Y$
February 1, 2013	$0 + X + Y$
February 1, 2014	$0 + X + Y$
February 1, 2015	$0 + X + Y$

X = Grantee's Employment Increment that will be the basis of the Second Disbursement of the Grant as described in section 5(b)(ii) and 5(c)(ii) above (i.e. X=40, and Employment Goals shall equal  $[0 + X = 40]$  if the Second Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Second Disbursement has not yet been made then X=0.

Y = Grantee's Employment Increment that will be the basis of the Third Disbursement of the Grant as described in section 5(b)(iii) and 5(c)(ii) above (i.e. Y=30, and Employment Goals shall equal  $[0 + X + Y = 70]$  if the Third Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Third Disbursement has not yet been made then Y=0.

#### IV. Statutory Basis

##### A. Empire State Economic Development Fund

1. The proposed project would promote the economic health of New York State by facilitating the creation or retention of jobs or would increase activity within a municipality or region of the state or would enhance or help to maintain the economic viability of family farms.

As a result of this project, up to 210 Full-time Permanent Employees are expected to be created at the Project Location by January 1, 2013.

2. The proposed project would be unlikely to take place in New York State without the requested assistance.

ESD's assistance satisfied a funding gap and made the project feasible.

3. The project is reasonably likely to accomplish its stated objectives and the likely benefits of the project exceed costs.

Evaluated over a seven-year period, the following are anticipated project impacts (dollar values are present value):

- Fiscal benefits to NYS government from the project are estimated at \$12,494,148;
- Fiscal cost to NYS government is estimated at \$32,208,682;
- Project cost to NYS government per direct job is \$144,894;
- Project cost to NYS government per job (direct plus indirect ) is estimated at \$94,837;
- Ratio of project fiscal benefits to costs to NYS government is 0.39:1;
- Fiscal benefits to all governments (state and local) are estimated at \$21,372,357;
- Fiscal cost to all governments is \$32,208,682;
- All government cost per direct job is \$144,894;
- All government cost per total job is \$94,837;
- The fiscal benefit to cost ratio for all governments is 0.66:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$111,823,121, or \$329,256 per job (direct and indirect);
- The economic benefit to cost ratio is 3.47:1;
- Project construction cost is \$80,298,331 which is expected to generate 824 direct job years and 557 indirect job years of employment;
- For every permanent direct job generated by this project, an additional 0.50 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is over 7 years.

(See Project Summary Benefit-Cost Evaluation attached for detail and definitions.)

4. The requirements of Section 10(g) of the Act are satisfied.  
No residential relocation is required because there are no families or individuals residing on the site.

**B. Empire Opportunity Fund**

**Section 10 Land Use Improvement Findings:**

1. That the area in which the project is to be located is a substandard or unsanitary area, or is in danger of becoming a substandard or unsanitary area and tends to impair or arrest the sound growth and development of the municipality.

The project site involved a deteriorating and vacant building, which is a substandard use for the property and which impairs the sound growth and development of the core business district of the City. The project will rehabilitate and improve the site and enable it to be utilized as a resource to serve the community, promote increased tourism and stimulate economic revitalization in the area.

2. That the project consists of a plan or undertaking for the clearance, replanning, reconstruction and rehabilitation of such area and for recreational and other facilities incidental or appurtenant thereto.

The Grantee developed a plan for the renovation and upgrading of facility into a Class A office space; a 150-room Embassy Suite hotel; a restaurant; and up to twenty-eight upscale condominiums, consistent with the economic development objectives of the City.

3. That the plan or undertaking affords maximum opportunity for participation by private enterprise, consistent with the sound needs of the municipality as a whole.

The Grantee utilized the private sector for the design, engineering and implementation of the project.

4. That the proposed facilities or project is consistent with any existing local or regional comprehensive plan.

The Project is consistent with the City's comprehensive plan to revitalize vacant, distressed and underperforming properties in the central business district. The proposed project is consistent with the zoning for the site.

5. The requirements of Section 10(g) of the Act are satisfied.

No residential relocation is required because there are no families or individuals residing on the site.

**Empire Opportunity Fund Determinations**

The Project is in compliance with Chapter 84 of the Laws of 2002 and the Corporation's guidelines established there under. Individual project funding does not exceed 25 percent of the total of that project's costs, or if project funding does exceed 25 percent of that project's total costs, the Director of the Division of the Budget has authorized the provision of such amount.

C. Urban and Community Development Program

This project is authorized under Sections 5(4) and 16-d of the New York State Urban Development Corporation Act (the “Act”) and satisfies the eligibility criteria for a Urban and Community Project Development Assistance grant as set forth in the Act and the rules and regulations for the Urban and Community Development Program. No residential relocation is required as there are no families or individuals residing on the site.

V. Environmental Review

The City of Buffalo Planning Board, as lead agency, has completed an environmental review of the proposed project, pursuant to the requirements of the State Environmental Quality Review Act (“SEQRA”) and the implementing regulations of the New York State Department of Environmental Conservation. This review found the project to be a Type I Action, which would not have a significant effect on the environment. The lead agency issued a Negative Declaration on November 10, 2007. ESD staff reviewed the Negative Declaration and supporting materials and concurs. It is recommended that the Directors make a Determination of No Significant Effect on the Environment.

VI. Affirmative Action

ESD’s Non-discrimination and Affirmative Action policy will apply. UniQuest agrees to use its best efforts to include minorities and women in any job opportunities created by the Project and to solicit and utilize Minority and Women-owned Business Enterprises for any contractual opportunities generated in connection with the Project.

VII. ESD Financial Assistance Subject to Availability of Funds and Additional Approval

The provision of ESD financial assistance is contingent upon the availability of funds and the approval of the State Division of the Budget.

VIII. Additional Submissions to Directors

Resolutions  
New York State Map  
Project Finance Memorandum  
Cost-Benefit Analysis

July 23, 2009

Buffalo (Erie County) – UniQuest Delaware Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant), Empire Opportunity Fund (Capital Grant), and Urban and Community Development Program – Urban and Community Development Assistance Program (Capital Grant) – Findings and Determinations Pursuant to Sections of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the UniQuest Delaware Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant), Empire Opportunity Fund (Capital Grant), and Urban and Community Development Assistance Program – Urban and Community Development Assistance Program (Capital Grant) Project (the “Project”), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that there are no families or individuals to be displaced from the project area; and be it further

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the UniQuest Delaware Capital – Empire State Economic Development Fund – General Development Financing Capital Project (the “Project”), the Corporation hereby determines pursuant to Sections 16-m and 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that

1. The proposed project would promote the economic health of New York State by facilitating the creation or retention of jobs or would increase activity within a municipality or region of the state or would enhance or help to maintain the economic viability of family farms;
2. The project would be unlikely to take place in New York State without the requested assistance;
3. The project is reasonably likely to accomplish its stated objectives and that the likely benefits of the project exceed costs;
4. There are no families or individuals to be displaced from the project area; and be it further

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Empire Opportunity Fund Projects (the “Projects”), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that there are no families or individuals to be displaced from the project area;

## Land Use Improvement Projects

- 1) That the area in which the projects are to be located is a substandard or unsanitary area, or is in danger of becoming a substandard or unsanitary area and tends to impair or arrest the sound growth and development of the municipality.
- 2) That the projects consist of a plan or undertaking for the clearance, replanning, reconstruction and rehabilitation of such areas and for recreational and other facilities incidental or appurtenant thereto.
- 3) That the plans or undertaking affords maximum opportunity for participation by private enterprise, consistent with the sound needs of the municipality as a whole.
- 4) That the proposed facilities or projects are consistent with any existing local or regional comprehensive plans.

RESOLVED, the Projects are in compliance with Chapter 84 of the Laws of 2002 and the Corporation's guidelines established thereunder. Individual Project funding does not exceed 25 percent of the total project costs, or if project funding does exceed 25 percent of total project costs, the Director of the Division of the Budget has authorized the provision of such amount. The Projects comply with Section 10(g) of the UDC Act as no residential relocation is required because no families or individuals reside on the site; and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the "Plan") for the Project submitted to this meeting, together with such changes therein as the Chairman and Chief Executive Officer - Designate of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, is hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, that upon written finding of the Chairman and Chief Executive Officer - Designate of the Corporation or his designee(s) that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective at the conclusion of such hearing, and that upon such written finding being made, Chairman and Chief Executive Officer Designate of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to UniQuest Delaware, LLC grants up to Eleven Million Dollars (\$11,000,000) including a grant for a total amount not to exceed Four Million Two Hundred Thousand Dollars (\$4,200,000) from the Empire State Economic Development Fund – General Development Financing; a grant for a total amount not to exceed One Million Eight Hundred Eighty-Six Thousand Dollars (\$1,886,000) from the Empire Opportunity Fund; a grant for a total amount not to exceed Four Million Nine Hundred Fourteen Thousand Dollars (\$4,914,000) from Urban and Community Development Assistance Program – Urban and Community Development Assistance, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the Chairman and Chief Executive Officer - Designate of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

RESOLVED, that the Chairman and Chief Executive Officer - Designate of the Corporation or his designee(s) be, subsequent to the making of the grant, and each of them hereby is, authorized to take such actions and make such modifications to the terms of the grant as he or she may deem necessary or appropriate in the administration of the grant; and be it further

RESOLVED, that the provision of ESD financial assistance is expressly contingent upon: (1) the approval of the Public Authorities Control Board, if applicable, and (2) receipt of all other necessary approvals; and be it further

RESOLVED, that the Chairman and Chief Executive Officer - Designate of the Corporation or his designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to execute and deliver any and all documents and to take all actions as he or she may in his or her sole discretion consider to be necessary or proper to effectuate the foregoing resolutions.

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July 23, 2009

Buffalo (Erie County) – UniQuest Delaware Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant), Empire Opportunity Fund (Capital Grant), and Urban and Community Development Program – Urban and Community Development Assistance Program (Capital Grant) – Determination of No Significant Effect on the Environment

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RESOLVED, that based on the material submitted to the Directors with respect to the UniQuest Delaware Capital Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

\* \* \*

**Project Summary  
Benefit-Cost Evaluation<sup>1</sup>**

**UniQuest Delaware LLC**

**Initial Jobs:** 1  
**Estimated New Jobs:** 210\*

**Construction Job Years (Direct):** 824  
**Construction Job Years (Indirect):** 557

<b>Evaluation Statistics</b>	<b>Project Result NYS Govt.</b>	<b>NYS Govt. Benchmarks for ESD Projects<sup>2</sup></b>	<b>Project Results State &amp; Local Governments</b>	<b>State &amp; Local Government Benchmarks for ESD Projects</b>
<b>Fiscal Costs<sup>3</sup></b>	\$32,208,682	\$ 327,818	\$32,208,682	\$ 327,818
<b>Fiscal Benefits<sup>4</sup></b>	\$12,494,148	\$ 636,783	\$21,372,357	\$ 1,186,300
<b>Fiscal Cost /Direct Job</b>	\$144,894	\$ 14,752	\$144,894	\$ 16,391
<b>Fiscal Cost/Total Jobs</b>	\$94,837	\$ 13,040	\$94,837	\$ 13,040
<b>Fiscal B/C Ratio</b>	0.39	2.18	0.66	3.19
		<b>Benchmarks for ESD Projects</b>		
	<b>Project Results</b>			
<b>Economic Benefits<sup>5</sup></b>	\$111,823,121	\$ 5,851,487		
<b>Econ. Benefits/Total Jobs</b>	\$329,256	\$ 204,663		
<b>Economic B/C Ratio</b>	3.47	16.53		

\*ESD recapture provisions will only be applied to 210 jobs. Estimated project direct employment from permanent operations is 574 jobs, as reflected in this analysis.

<sup>1</sup> Dollar values are present value calculated over a 10-year period. Separate evaluations are made and reported for New York State government assistance alone and for State and Local government.

<sup>2</sup> The current project evaluation results (both fiscal and economic) are compared to the median values (middle values) of the results of a sample of ESD past retail/commercial development projects, and miscellaneous other taxes.

<sup>3</sup> Fiscal cost includes the value of grants, loans and associated default risks, and discretionary subsidies (such as tax exemptions or abatements on sales, property, and interest income).

<sup>4</sup> Fiscal benefits are the loan repayments and tax revenues to New York State and Local governments generated by project activity. This includes estimated taxes on personal incomes from project direct and indirect employment, corporate and business incomes, excise and user taxes, property taxes and miscellaneous other taxes.

<sup>5</sup> Economic benefits are estimated project benefits measuring fiscal flows to government plus net resident disposable income from project direct and indirect employment.