

**PLEASE NOTE - We welcome public comment on the items on the following agenda. To ensure maximum opportunity for participation, speakers representing themselves may speak for up to 2 minutes each, and those representing groups may speak for up to 4 minutes (1 speaker per group). Speakers' comments may address only items considered at today's meeting. Materials relating to matters that are scheduled for discussion in open session will be available at the meeting and will be posted on ESD's website prior to the meeting in accordance with the Public Officers Law**

## **USA NIAGARA DEVELOPMENT CORPORATION**

### **Meeting of the Directors**

At the offices of the  
USA Niagara Development Corporation  
222 First Street, 7<sup>th</sup> Floor  
Niagara Falls, N.Y. 14303

Thursday  
March 27, 2014 – 3:00 p.m.

### **PROPOSED AGENDA**

#### **I. CORPORATE ACTIONS**

- A. Approval of Minutes of the December 16, 2013 Directors' Meeting
- B. Officer of the Corporation – Appointment of Officer – Chief Financial Officer

#### **II. ADMINISTRATIVE ACTIONS**

- A. USA Niagara Development Corporation – Annual Operating Budget and Annual Capital Expenses Authorization – Approval of the Corporation's Annual Operating Budget and Annual Capital Expenses for Fiscal Year 2014-2015 (April 1, 2014 – March 31, 2015)
- B. Niagara Falls Convention and Conference Facility Civic Project and Old Falls Street – 2014 Capital Budget – Approval of the Niagara Falls Convention and Conference Facility and Old Falls Street 2014 Capital Budget; Authorization to Disburse Funds
- C. USA Niagara Development Corporation Procurements Guidelines – Adoption of Revised Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts

#### **III. FOR CONSIDERATION**

- A. Robert Moses Parkway – North Phase I – Preliminary Engineering and Environmental Review – Funding Agreement with the New York Power Authority – Authorization to Enter into a Funding Agreement with the Power Authority of the State of New York; Authorization to Provide Funds to the New York State Office of Parks, Recreation and Historic Preservation; and Take All Related Actions

**DRAFT - SUBJECT TO REVIEW AND REVISION**

**USA NIAGARA DEVELOPMENT CORPORATION  
d/b/a Empire State Development Corporation**

Meeting of the Directors  
held at the USA Niagara Offices  
222 First Street – 7<sup>th</sup> Floor  
Niagara Falls, New York 14303

and

ESD New York City Regional Office  
633 Third Avenue  
New York, New York 10017

December 16, 2013

**MINUTES**

**In Attendance Directors:**

Joan Aul, Acting Chair  
Steve Brown  
Michael Williamson

**Present for USA Niagara:**

Chris Schoepflin, President  
Eileen McEvoy, Secretary  
Holly Ortman  
Paul Tronolone, Senior Project Manager  
John Risio, Project Manager  
Jocelyn Viola, Office Manager

**Present for ESD  
(Downstate):**

Julia Borukhov, Financial Project Manager  
Maria Cassidy, Deputy General Counsel  
Jason Cornwall, Senior Press Officer  
Andrew Grossman, Senior Director  
Ingrid Barbosa-Santiago, Director of Subsidiary Finance  
Kay Sarlin Wright, Executive Vice President – Public Affairs

**Present for ESD Western  
New York Regional Office:**

Stephen Gawlik, Senior Counsel  
Laura Magee, Deputy Director – Public Affairs

**DRAFT – SUBJECT TOR REVIEW AND REVISION**

**Present for the City  
of Niagara Falls:**

Mayor Paul Dyster

**Elected Officials:**

Assemblyman John Ceretto

**Also Present:**

The Press – Aaron Besecker – Buffalo News  
The Public

The meeting of the USA Niagara Development Corporation, a wholly-owned subsidiary of the New York State Urban Development Corporation d/b/a the Empire State Development (“ESD”), was called to order at 3:07 p.m. by Acting Chair Aul. It was noted for the record that notices to the public and news media of the time and place of the meeting had been given in compliance with the New York State Open Meetings Law.

First, Acting Chair Aul welcomed Assemblyman John Ceretto and Mayor Paul Dyster to the meeting.

Acting Chair Aul then noted for the record the guidelines by which the public is allowed to comment on items on the Agenda.

The Acting Chair then called for the approval of the Minutes of the July 8, 2013 Directors’ meeting. Upon motion duly made and seconded, the following resolution was unanimously adopted:

APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE JULY 8, 2013  
MEETING OF THE DIRECTORS OF THE USA NIAGARA DEVELOPMENT CORPORATION

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RESOLVED, that the Minutes of the meeting of the Corporation held on July 8, 2013 as presented to this meeting, are hereby approved and all actions taken by the Directors present at such meeting as set forth in such Minutes, are hereby in all respect ratified and approved as actions of the Corporation.

\* \* \*

Acting Chair Aul then asked Christopher Schoepflin to present the remainder of the items on the Agenda.

First, Mr. Schoepflin asked the Directors to approve a Pre-Qualified list of Real Estate Development and Planning Consultants.

Mr. Schoepflin explained that ESD and its subsidiaries, including USA Niagara, continue to implement or facilitate a number of large and complex economic development projects and initiatives. The size, nature, complexity and timing of these projects, he continued, typically require ESD and its subsidiaries to call upon assistance from outside consultants in various disciplines.

Mr. Schoepflin continued and explained that to permit ESD and its subsidiaries to respond to the needs of these projects expeditiously while having available the benefits of a broad solicitation of qualified outside real estate and development firms, staff recommended

## **DRAFT – SUBJECT TOR REVIEW AND REVISION**

the creation of a list of pre-qualified firms. This action, Mr. Schoepflin stated, seeks adoption of the ESD approved pre-qualified list which would make these firms available for future recommendations to the Directors of USA Niagara as the need may arise without the need to conduct a further solicitation.

Mr. Schoepflin further explained that no individual firm is being recommended at this time for retention in connection with any particular matter and no funding is being authorized with regard to this item.

Mr. Schoepflin then provided an outline of the solicitation process utilized in preparing this list.

Following the full presentation, the Acting Chair called for questions and comments. Director Williamson asked if this was the condensed list and Mr. Schoepflin stated that this was the full list. Mr. Schoepflin added that Mr. Tronolone was one of the eight professionals across the State who participated in the process of reviewing and selecting the firms.

Acting Chair Aul asked if this was wider than USA Niagara and Mr. Schoepflin stated that it was ESD-wide and covered all regional offices and subsidiaries State-wide.

Acting Aul then asked if the firms are mostly located in New York State and Mr. Schoepflin stated that many of them were national firms.

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Mr. Tronolone stated that one firm is based in New Jersey and the remainder of the firms have offices in New York State.

Acting Chair Aul then called for any further questions or comments. Director Williamson noted that some of the firms are listed more than once. Mr. Schoepflin explained that some of the national and multinational firms qualify and have expertise in more than one discipline. He further noted that there are nine or ten different disciplines.

There being no further questions or comments, and upon motion duly made and seconded, the following resolution was unanimously adopted:

USA NIAGARA DEVELOPMENT CORPORATION – Establishment of Pre-Qualified Real Estate and Planning Related Consultants List – Approval of Pre-Qualified Real Estate Development and Planning Related Consultants (Land Use and Zoning Analysis; Market and Financial Feasibility Studies; Urban Design and Master Planning; Historic Preservation and Adaptive Reuse; Transportation Planning and Traffic Analysis; Community Outreach and Engagement; Environmental Assessments under the State Environmental Quality Review Act; Phase 1 Environmental Site Assessments; Construction Cost Estimation; and Civil, Mechanical and Structural Engineering).

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BE IT RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered to be filed with the records of the Corporation, the real estate and planning firms listed in Attachments A and B to these materials, be and each hereby is, approved as a pre-qualified firm in the area(s) of expertise indicated on Attachments A and B, such approval to remain in effect until the meeting of the Directors first occurring after September 30, 2017.

\* \* \*

**Attachment A:**  
**Pre-Qualified Real Estate and Planning Firms**  
**Adopted by ESD Board on August 22, 2013**

Adopted by USAN Board December 16, 2013

**Practice Area: Land Use and Zoning Analysis**

AECOM

AKRF

Behan Planning and Design

Bergmann Associates, Inc.

BFJ Planning, Urbanomics, 4Ward Planning Inc, GEI Consultants, PACO, Page Ayres Cowley Architects, LLC, and RSG, a joint venture

Cameron Engineering & Associates, LLC

Clough Harbour & Associates (CHA)

Environmental Design and Research, Landscape Architecture and Engineering, P.C. (EDR)

Elan Planning, Design & Landscape Architecture, PLLC, and Nagle, Tatich, Cranston, LLC d/b/a/ Elan.3 Consulting, a joint venture

Fisher Associates, and Ram-Tech Engineering, a joint venture

Holzmacher, McLendon and Murell, P.C. (H2M)

HKS Urban Design Studio

Ismael Leyva Architects, PC

LaBella Associates, PC

LHP Architects, LLC, dba Lee Harris Pomeroy Architects (LHPA)

Perkins & Will

Peter J. Smith & Company, Inc.

Planning 4 Places, LLC

rePlace Urban Studio and Majora Carter Group, a joint venture

STV Incorporated (STV)

Tim Miller Associates, Inc.

VHB Engineering, Surveying and Landscape Architecture, PC

Audubon Architecture, Engineering, Surveying and Landscape Architecture, PC (Wendel)

**Practice Area: Market and Financial Feasibility Studies**

AECOM

AKRF

Alvarez & Marsal Real Estate Advisory Services, LLC

BFJ Planning, Urbanomics, 4Ward Planning Inc, GEI Consultants, PACO, Page Ayres Cowley Architects, LLC, and RSG, a joint venture

BJH Advisors, LLC, James Lima Planning + Development, LLC, Encher Consulting, LLC, a joint venture

Camoin Associates Economic Development and Maverick and Boutique, a joint venture

C.J. Law & Associates, LLC

Clough Harbour & Associates (CHA)

Crawford and Associates Engineering and Land Surveying, PC, The Hudson Group, LLC,

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Landmark Consulting, Inc. and T.R. Johnson Engineering, PLLC, a joint venture  
Nagle, Tatich, Cranston, LLC d/b/a Elan.3 Consulting and Elan Planning, Design and Landscape  
Architecture, PLLC, a joint venture  
Ernst & Young LLP  
Fairweather Consulting  
HR&A Advisors  
HVS Consulting & Valuation and Carolyn J. Law & Associates, a joint venture  
Jones Lang LaSalle Americas, Inc.  
LaBella Associates, PC  
Newmark Grubb Knight Frank  
Peter J. Smith & Company, Inc.  
The Louis Berger Group, Inc.  
The Weitzman Group, Inc.  
Urban Partners  
Urban Strategies Inc, Watts A/E, Foit Albert Associates, C.J Law and Associates, and Singleton  
Consultants, a joint venture  
Urbanomics, Inc.  
Washington Square Partners

### **Practice Area: Urban Design and Master Planning**

AECOM  
AKRF  
Ove Arup & Partners, PC (Arup)  
Behan Planning and Design  
Bergmann Associates, Inc.  
BFJ Planning, Urbanomics, 4Ward Planning Inc, GEI Consultants, PACO, Page Ayres Cowley  
Architects, LLC, and RSG, a joint venture  
Cameron Engineering & Associates, LLC  
Clough Harbour & Associates (CHA)  
Cooper, Robertson & Partners  
Davis Brody Bond Architects and Planners, LLC  
Environmental Design and Research, Landscape Architecture and Engineering, P.C. (EDR)  
Elan Planning, Design & Landscape Architecture, PLLC, and Nagle, Tatich, Cranston, LLC d/b/a/  
Elan.3 Consulting, a joint venture  
Fisher Associates, and Ram-Tech Engineering, a joint venture  
Flynn/Battaglia Architects, PC  
FX Fowle Architects, LLP  
Grimshaw Architects LLP  
H3 Hardy Collaboration Architecture  
HKS Urban Design Studio  
Kohn Pedersen Fox Associates (KPF)

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LaBella Associates, PC  
LHP Architects, LLC, dba Lee Harris Pomeroy Architects (LHPA)  
Perez Architecture, Inc.  
Perkins & Will  
Peter J. Smith & Company, Inc.  
Planning 4 Places, LLC  
rePlace Urban Studio and Majora Carter Group, a joint venture  
Rogers Marvel Architects, PLLC  
Stantec Consulting Services, Inc.  
Starr Whitehouse Landscape Architects and Planners, PLLC  
Tim Miller Associates, Inc.  
Trautman Associates  
Trowbridge Wolf Michaels Landscape Architects (TWMLA)  
Turner Miller Group  
Urban Matrix Architecture & Planning, PC  
Urban Strategies Inc, Watts A/E, Foit Albert Associates, C.J Law and Associates, and Singleton  
Consultants, a joint venture  
Audubon Architecture, Engineering, Surveying and Landscape Architecture, PC (Wendel)

**Attachment B:**  
**Pre-Qualified Real Estate and Planning Firms**  
**Adopted by ESD Board on September 19, 2013**  
**Adopted by USAN Board December 16, 2013**

### **Practice Area: Historic Preservation and Adaptive Reuse**

AKRF, Inc.  
Audubon Architecture, Engineering, Surveying and Landscape Architecture, PC (Wendel)  
Bergmann Associates, Inc.  
BFJ Planning, Urbanomics, 4Ward Planning Inc, GEI Consultants, PACO, Page Ayres Cowley  
Architects, LLC, and RSG, a joint venture  
Building Conservation Associates, Inc. (BCA)  
Clough Harbour & Associates (CHA)  
Crawford and Associates Engineering and Land Surveying, PC, The Hudson Group, LLC,  
Landmark Consulting, Inc. and T.R. Johnson Engineering, PLLC, a joint venture  
Clinton Brown Company Architecture, PC  
Davis Brody Bond Architects and Planners, LLC  
Environmental Design and Research, Landscape Architecture and Engineering, PC (EDR)  
Flynn/Battaglia Architects, PC  
FX Fowle Architects, LLP  
H3 Hardy Collaboration Architecture

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Ismael Leyva Architects, PC  
Li/Saltzman Architects, PC  
LHP Architects, LLC, dba Lee Harris Pomeroy Architects (LHPA)  
The Louis Berger Group, Inc.  
Panamerican Consultants, Inc.  
Perez Architecture, Inc.  
Rogers Marvel Architects, PLLC  
Spring Line Design  
Stephen B Jacobs Group, PC  
STV Incorporated (STV)  
Studios Architecture  
Urban Matrix Architecture & Planning, PC  
Urban Partners  
Urban Strategies Inc, Watts A/E, Foit Albert Associates, C.J Law and Associates, and Singleton  
Consultants, a joint venture  
Trautman Associates  
Trowbridge Wolf Michaels Landscape Architects (TWMLA)  
Urban Architectural Initiatives, RA, PC  
WSP

### **Practice Area: Transportation Planning and Traffic Analysis**

AECOM  
AKRF, Inc.  
Audubon Architecture, Engineering, Surveying and Landscape Architecture, PC (Wendel)  
Bergmann Associates, Inc.  
BFJ Planning, Urbanomics, 4Ward Planning Inc, GEI Consultants, PACO, Page Ayres Cowley  
Architects, LLC, and RSG, a joint venture  
Cameron Engineering & Associates, LLC  
Clough Harbour & Associates (CHA)  
Creighton Manning Engineering, LLP  
Fisher Associates, and Ram-Tech Engineering, a joint venture  
Labella Associates P.C  
LiRo Engineers, Inc. (LiRo)  
The Louis Berger Group, Inc.  
Ove Arup & Partners, PC (Arup)  
Parsons Brinckerhoff, Inc.  
STV Incorporated (STV)  
Tim Miller Associates, Inc.  
TVGA Consultants  
URS Corporation – New York (URS)

### **Practice Area: Community Outreach and Engagement**

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Arch Street Communications (ASC)

BJH Advisors, LLC, James Lima Planning + Development, LLC, Encher Consulting, LLC, a joint venture

Cameron Engineering & Associates, LLC

Ecology and Environment, Inc.

Elan Planning, Design & Landscape Architecture, PLLC, and Nagle, Tatich, Cranston, LLC d/b/a/ Elan.3 Consulting, a joint venture

InGroup, Inc.

Parsons Brinckerhoff, Inc.

Peter J. Smith & Company, Inc.

Starr Whitehouse

Washington Square Partners

### **Practice Area: Environmental Assessment under SEQRA**

AECOM

AKRF, Inc.

Audubon Architecture, Engineering, Surveying and Landscape Architecture, PC (Wendel)

Bergmann Associates, Inc.

BFJ Planning, Urbanomics, 4Ward Planning Inc, GEI Consultants, PACO, Page Ayres Cowley Architects, LLC, and RSG, a joint venture

Cameron Engineering & Associates, LLC

Clough Harbour & Associates (CHA)

Crawford and Associates Engineering and Land Surveying, PC, The Hudson Group, LLC, Landmark Consulting, Inc. and T.R. Johnson Engineering, PLLC, a joint venture

D&B Engineers & Architects, P.C. (D & B)

Environmental Design and Research, Landscape Architecture and Engineering, PC (EDR)

Fisher Associates, and Ram-Tech Engineering, a joint venture

Holzmacher, McLendon and Murell, PC (H2M)

Labella Associates P.C

The Louis Berger Group, Inc.

Parsons Brinckerhoff, Inc.

Peter J. Smith & Company, Inc.

STV Incorporated (STV)

Tim Miller Associates, Inc.

TVGA Consultants

URS Corporation – New York (URS)

VHB Engineering, Surveying and Landscape Architecture, PC

### **Practice Area: Phase 1 Environmental Site Assessment**

AECOM

AKRF, Inc.

Bergmann Associates, Inc. 4

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BFJ Planning, Urbanomics, 4Ward Planning Inc, GEI Consultants, PACO, Page Ayres Cowley Architects, LLC, and RSG, a joint venture  
Brinkerhoff Environmental Services, Inc.  
C.T. Male & Associates Engineering, Surveying, Architecture and Landscaping Architecture, P.C.  
Clough Harbour & Associates (CHA)  
Crawford and Associates Engineering and Land Surveying, PC, The Hudson Group, LLC, Landmark Consulting, Inc. and T.R. Johnson Engineering, PLLC, a joint venture  
D&B Engineers & Architects, P.C. (D & B)  
Dewberry Engineers, Inc.  
Environmental Design and Research, Landscape Architecture and Engineering, PC (EDR)  
Fisher Associates, and Ram-Tech Engineering, a joint venture  
Greenman-Pedersen, Inc. (GPI)  
Grimshaw Architects LLP  
Holzmacher, McLendon and Murell, PC (H2M)  
Labella Associates P.C.  
Langan Engineering, Environmental, Surveying and Landscape Architecture, D.P.C (Langan)  
LiRo Engineers, Inc. (LiRo)  
Nussbaumer & Clarke, Inc.  
Panamerican Environmental, Inc.  
Strategic Environmental, LLC  
STV Incorporated (STV)  
The Louis Berger Group, Inc.  
Tim Miller Associates, Inc.  
Urban Strategies Inc, Watts A/E, Foit Albert Associates, C.J Law and Associates, and Singleton Consultants, a joint venture  
URS Corporation – New York (URS)  
Washington Square Partners  
Woodard & Curran Engineering PA, PC  
WSP

### **Practice Area: Construction Cost Estimation**

AECOM  
Alvarez & Marsal Real Estate Advisory Services, LLC  
BFJ Planning, Urbanomics, 4Ward Planning Inc, GEI Consultants, PACO, Page Ayres Cowley Architects, LLC, and RSG, a joint venture  
Cameron Engineering & Associates, LLC  
C.T. Male & Associates Engineering, Surveying, Architecture and Landscaping Architecture, P.C.  
Clough Harbour & Associates (CHA)  
Economic Project Solutions, Inc.  
Holzmacher, McLendon and Murell, P.C. (H2M)  
Labella Associates P.C  
LBK Construction Management LLC  
Nussbaumer & Clarke, Inc.

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SourceOne, Inc.  
STV Incorporated (STV) 5  
Tectonic Engineering & Surveying Consultants, P.C.  
LiRo Engineers, Inc. (LiRo)  
The Louis Berger Group, Inc.  
Urban Strategies Inc, Watts A/E, Foit Albert Associates, C.J Law and Associates, and Singleton  
Consultants, a joint venture  
URS Corporation – New York (URS)  
Washington Square Partners

### **Practice Area: Civil, Mechanical and Structural Engineering**

AECOM  
AKRF, Inc.  
Audubon Architecture, Engineering, Surveying and Landscape Architecture, PC (Wendel)  
Bergmann Associates Inc.  
Cameron Engineering & Associates, LLC  
C.T. Male & Associates Engineering, Surveying, Architecture and Landscaping Architecture, P.C.  
Clough Harbour & Associates (CHA)  
Crawford and Associates Engineering and Land Surveying, PC, The Hudson Group, LLC,  
Landmark Consulting, Inc. and T.R. Johnson Engineering, PLLC, a joint venture  
Creighton Manning Engineering, LLP  
D&B Engineers & Architects P.C. (D & B)  
Dewberry Engineers, Inc.  
Environmental Design and Research, Landscape Architecture and Engineering, P.C. (EDR)  
Fisher Associates, and Ram-Tech Engineering, a joint venture  
Greenman-Pedersen, Inc. (GPI)  
Holzmacher, McLendon and Murell, P.C. (H2M)  
Labella Associates P.C.  
Langan Engineering, Environmental, Surveying and Landscape Architecture, D.P.C (Langan)  
LiRo Engineers, Inc. (LiRo)  
M.J. Engineering and Land Surveying, PC  
Nussbaumer & Clarke, Inc.  
Ove Arup & Partners, PC (Arup)  
Parsons Brinckerhoff, Inc.  
SourceOne, Inc.  
Spring Line Design Architecture + Engineering, LLP (SLD)  
STV Incorporated (STV)  
Tectonic Engineering & Surveying Consultants, PC  
Trautman Associates  
TVGA Consultants  
Urban Strategies Inc, Watts A/E, Foit Albert Associates, C.J Law and Associates, and Singleton  
Consultants, a joint venture  
URS Corporation – New York (URS)

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Woodard & Curran Engineering PA, PC  
WSP

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Next, Mr. Schoepflin asked the Directors to authorize the Corporation to enter into Management Agreements with Global Spectrum for management services for the Conference Center Niagara Falls and Old Falls Street.

Mr. Schoepflin noted that USA Niagara entered into an agreement with Global Spectrum for management services for the Niagara Falls Convention and Conference Facility Civic Project on September 24, 2008.

Mr. Schoepflin further noted that USA Niagara also entered into an agreement with Global Spectrum for services related to the maintenance and programming of Old Falls Street on October 19, 2009. Management services for both the Conference Center and Old Falls Street, he added, were contracted for a term ending December 31, 2013.

Mr. Schoepflin went on to state that Global Spectrum has earned high ratings for their service and performance over the past five years and have been a superb partner of the Corporation.

Among other things, Mr. Schoepflin noted that from a financial performance perspective, Global's improvement over the last five years averages over \$500,000 of annual

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operating improvements totaling \$2,500,000 of increased efficiency and operating improvements.

Mr. Schoepflin went on to note that in order for USA Niagara to procure management services for both the Conference Center and Old Falls Street, a competitive procurement process was conducted with advertisements for a Request for Proposals for the Conference Center and Old Falls Street Operator/Manager being placed in the New York State Contract Reporter on March 18, 2013.

Mr. Schoepflin then outlined the process involved in selecting Global Spectrum to perform these services.

Mr. Schoepflin also provided an outline of the terms of the proposed contracts for both the Conference Center and Old Falls Street.

Following the full presentation, the Acting Chair called for questions or comments. Director Williamson asked for clarification with regard to the actions to be taken.

Mr. Schoepflin explained that USA Niagara is asking the Directors to make a determination of responsibility with regard to the contractor. He added that staff has reviewed contractor information and is prepared to make this recommendation. Mr. Schoepflin further stated that the Directors are also being asked to authorize USA Niagara to enter into two

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contracts because each contract is handled under a separate source of money. He then outlined the two contracts.

Director Williamson then asked how Global measured up compared to the benchmarks from the previous contract five years ago.

Among other things, Mr. Schoepflin explained that there has been improvement in operating and revenue performance.

Acting Chair Aul then asked how the customer satisfaction rates were determined and Mr. Schoepflin explained that every group that comes in to use the facility is provided with a ratings chart which the meeting planner returns in confidence to the facility. Mr. Schoepflin further noted that the facility audits the charts as does USA Niagara.

In answer to a further question by Acting Chair Aul, Mr. Schoepflin provided background information with regard to Old Falls Street expenses.

Assemblyman Ceretto then stated that it sounds as though all is moving in the right direction but the job is not yet done.

Mr. Schoepflin stated that USA Niagara is pleased to have a national partner in Global Spectrum.

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There being no further questions or comments, and upon motion duly made and seconded, the following resolution was unanimously adopted:

Niagara Falls Conference and Convention Facility Civic Project and Old Falls Street – Management Agreements – Authorization to Enter into Management Agreements with Global Spectrum, LP for Management Services of the Conference Center Niagara Falls and Old Falls Street; and Authorization to Take All Related Actions.

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RESOLVED, that in accordance with the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds Global Spectrum, LP to be responsible; and be it further

RESOLVED, the Directors approve the recommendation of the Corporation’s President that the Corporation enter into Management Agreements (“the Agreements”) with Global Spectrum, LP, for Management Services of the Conference Center Niagara Falls and Old Falls Street, in accordance with the terms and conditions set forth in the materials presented to the Directors at this meeting; and be it further

RESOLVED, that the Directors authorize the President, or any staff member of the Corporation designated by the President, to take all actions, in accordance with the materials presented to the Directors, related to the Agreement; and be it further

RESOLVED, that the President, or his designee, may delegate to one or more officers or employees of the Corporation such authority with respect to carrying out the purposes of these resolutions as the President, or his designee, each in the exercise his or her sole discretion shall deem necessary or appropriate.

\* \* \*

Mr. Schoepflin then provided a detailed outline of USA Niagara’s activities for 2013.

Among other things, Mr. Schoepflin stressed the positive effects of the Governor’s creation of the Regional Economic Development Councils (“REDC”). The framework of the REDC, he noted, has established a region-wide operating model that focuses on three key

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sectors – manufacturing, health sciences and tourism.

Mr. Schoepflin noted that having tourism recognized as an economic engine in Western New York has really been empowering to people in Niagara Falls.

Mr. Schoepflin then provided the status of the various projects that USA Niagara is involved in including the Rainbow Mall, plans for outdoor recreation along the Niagara River Gorge, and the Aquarium.

Director Williamson asked if the aquarium is happy with the state of affairs.

Mr. Schoepflin stated that the aquarium is very happy as it has for a long time been trying to figure out the best way for it to fit into the future of the tourism industry and City and State assistance has outlined a path forward about how to raise money and evolve upward and to play to the strength of what this unique place has to offer.

Director Williamson stated that it represents a nice cooperative effort of the City, private sector and the State.

Assemblyman Ceretto spoke positively with regard to the expansion of the aquarium and the other projects that USA Niagara is involved in.

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Mayor Dyster also expressed his concurrence with Mr. Schoeplin’s statement regarding the positive efforts of the Regional Council on the development of the Niagara Falls area.

There being no further business, the meeting was adjourned at 3:45 p.m.

Respectfully submitted,

Eileen McEvoy  
Corporate Secretary



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fax: 716.284.2917  
[www.usaniagara.com](http://www.usaniagara.com)

## **FOR CONSIDERATION**

March 27, 2014

**TO:** The Directors

**FROM:** Chris Schoepflin

**SUBJECT:** Officer of the Corporation

**REQUEST FOR:** Appointment of Officer – Chief Financial Officer

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### **I. BACKGROUND**

The office of Chief Financial Officer to the USA Niagara Development Corporation (the "Corporation") is currently vacant due to the departure of Ms. Frances A. Walton in January 2014. Ms. Walton was the Chief Financial and Administrative Officer to the Corporation's parent corporation, the New York State Urban Development Corporation d/b/a Empire State Development ("ESD") and served as USA Niagara's Chief Financial Officer since March of 2001.

Margaret Tobin was appointed to the position of Chief Financial Officer to ESD at a meeting of the directors of ESD on February 20, 2014. It is proposed that Ms. Tobin be Chief Financial Officer of the Corporation. In addition, it is recommended that the position be appointed ex-officio with the corresponding position at ESD. In this way, future staff changes will not result in the need for additional board actions to fill the position of Chief Financial Officer.

Most recently, Ms. Tobin served as Executive Director of the NY Works Task Force, a Task Force created by Governor Cuomo and legislative leaders in early 2012 to more effectively and strategically allocate New York's capital investment funding to grow the State's economy, create jobs, and ensure a sound, long-term infrastructure system. Prior to that, she served at the NYC Mayor's Office of Finance and Economic Development where she oversaw major redevelopment projects including the Brooklyn Navy Yard, Staten Island Homeport, and Renaissance Marriott Hotel. She was also EVP & CFO for the Hudson River Park Conservancy where she led the successful development of Hudson River Park, and was a senior real estate executive at Vornado Realty Trust and Thor Equities where she developed more than 60 projects in office, hotel, retail, and mixed use developments.

### **II. REQUESTED ACTION**

The Directors are requested to approve the appointment of Ms. Margaret Tobin to the office of the Chief Financial Officer of the Corporation ex-officio with corresponding position at ESD, effective immediately, and to confirm that she is an officer of the Corporation within the meaning of the

New York State Urban Development Corporation Act and the provisions of the Corporation's by-laws, including the indemnification provisions thereof.

**III. RECOMMENDATION**

Based on the foregoing, I recommend approval of the above-requested action.

**ATTACHMENT**

Resolution

March 27, 2014

USA Niagara Development Corporation - Appointment of Officer – Chief Financial Officer

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BE IT RESOLVED, that Ms. Margaret Tobin be, and she hereby is, appointed to the office of Chief Financial Officer to the USA Niagara Development Corporation (the “Corporation”), ex-officio with the corresponding position with the New York State Urban Development Corporation d/b/a Empire State Development; and be it further,

RESOLVED, that in accordance with and for all the purposes of the New York State Urban Development Corporation Act and the bylaws of the Corporation, including but not limited to the indemnification provisions thereof, the foregoing individual is an “officer” of the Corporation.

\* \* \*



**FOR CONSIDERATION**

**March 27, 2014**

**TO:** The Directors

**FROM:** Christopher Schoepflin

**SUBJECT:** USA Niagara Development Corporation – Annual Operating Budget and Annual Capital Expense Authorization

**REQUEST FOR:** Approval of the Corporation’s Annual Operating Budget and Annual Capital Expense Authorization for Fiscal Year 2014-15 (April 1, 2014 – March 31, 2015)

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**I. Background:**

Attached for your review and approval are the proposed Annual Operating Budget (“operating budget”) and Annual Capital Expense Authorization for USA Niagara Development Corporation (the “Corporation”) for Fiscal Year 2014-15 (April 1, 2014 – March 31, 2015).

The operating budget proposes a total of \$561,373 in personal services (salaries and benefits for 5 employees) and a total of \$128,021 in non-personal services (primarily office occupancy and other administrative expenses). The total of all personal and non-personal amounts for Fiscal Year Budget 2014-15 is \$689,394, an increase of 3.6 percent over projected 2014 expenses. Consistent with previous years’ operating budgets, the FY 2014-15 operating budget will continue to be advanced with ESD corporate funds, with the expectation of reimbursement at a later date.

For Fiscal Year 2013-14 the approved Corporation operating budget was \$650,737 (\$522,414 in personal services and \$128,323 in non-personal services). The projected actual operating cost for Fiscal Year 2013-14 is \$665,317 (\$546,933 in personal services and \$118,384 for non-personal services). The projected actual operating costs for Fiscal Year 2013-14 exceeds by \$14,580 or an increase of 2.2 percent, the Fiscal Year 2013-14 spending plan due to unanticipated increases in fringe benefits costs.

The Corporation’s 2014-15 total Annual Capital Expense Authorization is \$14,576,000. This includes design and other soft costs of \$1,666,100; property management/maintenance costs of \$1,500,000; construction costs of \$7,489,900 and other capital miscellaneous costs of \$3,900,000. Funding for the Corporation’s Annual Capital Expense Authorization is from New York State Division of Budget funds and USAN/City MOU funds made available to

the Corporation under the 2009 Agreement with the City of Niagara Falls in support of the Conference Center Niagara Falls/Old Falls Street and economic development projects located within the Corporation's development district. Individual project expenses will be approved by the Directors under separate actions.

**II. Environmental Review:**

ESD staff had determined that the action, which involves the adoption of an annual budget in which expenditure items would be presented to the USAN Directors for review, approval and environmental determination as necessary and applicable, would constitute a Type II ministerial action as defined by the New York State Environmental Quality Review Act and implementing regulations of the New York State Department of Environmental Conservation. No further review is required.

**III. Requested Action:**

The Directors are requested to ratify and approve the Corporation's proposed FY 2014-15 Annual Operating Budget in the amount of \$689,394 and the Annual Capital Expense Authorization in the amount of \$14,576,000 (subject to individual project approvals), and to authorize the Corporation to undertake tasks and incur expenditures consistent with advancing the scope of work contemplated in the proposed operating budget.

**IV. Attachments:**

Resolution

The Corporation's proposed FY 2014-15 Operating Budget

The Corporation's proposed FY 2014-15 Annual Capital Expense Authorization

Contract Summary/Contract Status Report

USA Niagara Development Corporation -- Approval of the Corporation's Annual Operating Budget and Annual Capital Expense Authorization for Fiscal Year 2014-15 (April 1, 2014 – March 31, 2015)

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RESOLVED, that based on the materials presented at this meeting and ordered filed with the Corporation (the "Materials"), the Corporation's proposed FY 2014-15 Annual Operating Budget and Annual Capital Expense Authorization are hereby approved and adopted in all respects, substantially in the form set forth in the materials and subject to the availability of funds; and be it further

RESOLVED, that the Corporation is hereby authorized to undertake tasks and incur expenditures consistent with advancing the scope of work contemplated in the proposed operating budget, subject to the availability of funds; and be it further

RESOLVED, that the Directors shall make individual approvals and authorizations for items under the Annual Capital Expense Authorization; and be it further

RESOLVED, that the President or his designees be, and the same hereby are authorized to execute and deliver on behalf of the Corporation all documents, instruments and agreements that the President shall deem necessary and appropriate to carry out these resolutions; and be it further

RESOLVED, that the President or his designees be, and the same hereby are authorized to take any action necessary and appropriate to carry out the foregoing.

\* \* \*



**Empire State Development  
USA Niagara Development Corp  
Operating Budgets FY 2014-15**

	<u>Actual Expense FYE 2013</u>	<u>Spending Plan FYE 2014</u>	<u>Projected Expense FYE 2014</u>	<u>Spending Plan FYE 2015</u>
<b><u>PERSONAL SERVICES (PS)</u></b>				
Salaries	380,349	386,973	392,073	402,989
Fringe Benefits	156,788	135,441	154,860	158,384
<b>TOTAL PERSONAL SERVICES</b>	<b>537,137</b>	<b>522,414</b>	<b>546,933</b>	<b>561,373</b>
<b>HEADCOUNT</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>5</b>
<b><u>NON-PERSONAL SERVICES (PS)</u></b>				
<b>Professional Fees</b>				
Legal Fees	343	0	587	0
Consultant Fees	0	0	0	0
Accounting / Audit Fees	0	0	0	0
<b>Total Professional Fees</b>	<b>343</b>	<b>0</b>	<b>587</b>	<b>0</b>
<b>Other Non-Personal Services</b>				
Employee Travel & Meals	143	700	38	500
Seminars & Conferences	0	750	0	500
Dues & Memberships	978	1,500	1,163	1,200
Subscriptions & On-Line Services	947	1,000	687	1,000
Office Occupancy Expenses	52,525	65,895	65,895	65,895
Insurance	39,432	24,478	24,478	26,926
Agency Temps	0	0	0	0
Telephone/Fax/Internet	15,305	16,000	15,839	16,000
Postage/Express Mail/Messenger	475	1,850	363	1,350
Office Supplies	1,241	2,750	964	2,250
Advertising/Promotion	100	1,000	600	500
Printing & Reproduction	84	1,500	501	1,000
Computers/Software/Equipment	5,220	5,000	4,849	5,000
Other Outside Service	1,098	1,200	707	1,200
Property Management Expense	0	0	0	0
Repairs & Maintenance	2,235	3,200	745	3,200
Other Expenses	4,432	1,500	968	1,500
<b>Total Other Non Personal Services</b>	<b>124,215</b>	<b>128,323</b>	<b>117,797</b>	<b>128,021</b>
<b>TOTAL NON-PERSONAL SERVICES (NPS)</b>	<b>124,558</b>	<b>128,323</b>	<b>118,384</b>	<b>128,021</b>
<b>TOTAL PS &amp; NPS</b>	<b>661,695</b>	<b>650,737</b>	<b>665,317</b>	<b>689,394</b>

**Empire State Development  
USA Niagara Development Corp  
Annual Capital Expense Authorization FY 2014-15**

	Actual Expense FYE 2013	Spending Plan FYE 2014	Projected Expense FYE 2014	Spending Plan FYE 2015
Acquisition Costs	0	0	0	0
Design & Other Soft Costs	161,185	88,000	18,497	1,666,100
Legal Costs	396	0	2,790	20,000
Property Management/Maintenance Costs	1,250,790	1,450,000	1,450,000	1,500,000
Insurance	0	0	0	0
Demolition & Site Clearance	0	0	0	0
Construction Costs	8,099,969	5,194,529	205,578	7,489,900
Other Misc. Costs	0	3,900,000	0	3,900,000
<b>Total Capital</b>	<b><u>9,512,339</u></b>	<b><u>10,632,529</u></b>	<b><u>1,676,865</u></b>	<b><u>14,576,000</u></b>



**FOR CONSIDERATION**

**March 27, 2014**

**TO:** The Directors

**FROM:** Christopher Schoepflin

**SUBJECT:** Niagara Falls Convention and Conference Facility  
Civic Project and Old Falls Street – 2014 Capital  
Budget

**REQUEST FOR:** Approval of the Niagara Falls Convention and  
Conference Facility and Old Falls Street 2014 Capital  
Budget; Authorization to Disburse Funds

---

**I. Background:**

Attached for your review and approval is the proposed capital request (the “Capital Budget”) for the Niagara Falls Convention and Conference Facility, known as The Conference & Event Center Niagara Falls (“CCNF”) and Old Falls Street (“OFS”) for 2014.

USA Niagara Development Corporation (“USAN”) is the owner and developer of CCNF. USAN first contracted with Global Spectrum, LP (“Global Spectrum”) in January 2009 to operate CCNF for a five-year term. USAN also approved an agreement with Global Spectrum to provide management services for OFS in October 2009. After a competitive procurement process was conducted, the USAN Board of Directors on December 16, 2013, authorized USAN to enter into new five-year agreements with Global Spectrum to operate and manage both CCNF and OFS.

Per the 2009 Memorandum of Understanding (“MOU”) between USAN and the City of Niagara Falls (the “City”), the City provided up to \$1 million annually towards the combined annual operating deficits of CCNF and OFS through 2012. The MOU also provided funds to USAN in support of economic development projects related to CCNF or located within the USAN Development District. USAN intends to negotiate a new MOU with the City this year, extending the MOU terms through at least 2018. The source of the MOU funds is Emergency Eligible Financial Assistance to Eligible Municipalities (“USAN/City MOU Funds”). These funds are the funding source for the Capital Budget. No USAN Corporate funds will be used to fund the Capital Budget.

The proposed 2014 Capital Budget is \$436,000. This amount includes a total of \$373,000 in funding for CCNF and a total of \$63,000 in funding for OFS. Global Spectrum will make the proposed Capital Budget purchases on behalf of USAN through state contracts where cost effective and through competitive bids and comparable

pricing where state contracts are not available. The proposed Capital Budget with complete cost breakdown and reference information is attached.

**II. Environmental Review:**

ESD staff had determined that the action, which involves the adoption of an annual budget consisting of capital expenditure items all involving regular maintenance and operational items with no expansion of the CCNF or Old Falls Street, would constitute a Type II action as defined by the New York State Environmental Quality Review Act and implementing regulations of the New York State Department of Environmental Conservation. No further review is required.

**III. Requested Action:**

The Directors are requested to approve USAN's proposed 2014 CCNF and OFS Capital Budget in the amount not to exceed \$436,000 and to disburse funds in accordance with the 2014 CCNF and OFS Capital Budget attached hereto.

**IV. Attachments:**

Resolution  
Proposed 2014 CCNF & OFS Capital Budget

March 27, 2014

USA Niagara Development Corporation -- Approval of the 2014 Niagara Falls Convention and Conference Facility and Old Falls Street Capital Budget; Authorization to Disburse Funds

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RESOLVED, that based on the materials presented at this meeting and ordered filed with the Corporation (the "Materials"), the Corporation's proposed 2014 Niagara Falls Convention and Conference Facility and Old Falls Street Capital Budget in the amount not to exceed \$436,000 is hereby approved, and adopted in all respects, substantially in the form set forth in the materials and subject to the availability of funds; and be it further

RESOLVED, that the President or his designees be, and the same hereby are, authorized to disburse funds substantially in accordance with the 2014 Niagara Falls Convention and Conference Facility and Old Falls Street Capital Budget with such changes as the President or his designee deems necessary or appropriate; and be it further

RESOLVED, that the President or his designees be, and the same hereby are authorized to execute and deliver on behalf of the Corporation all documents, instruments and agreements that the President shall deem necessary and appropriate to carry out these resolutions; and be it further

RESOLVED, that the President or his designees be, and the same hereby are authorized to take any action necessary and appropriate to carry out the foregoing.

\* \* \*

<b>2014 Conference Center NF Items</b>	<b>Quantity</b>	<b>Price</b>	<b>Purpose</b>
Carpet Squares/ New Wall Vinyl for Ballroom	1	\$170,000.00	Replacement carpeting for ballroom, hallways, Learning Foyer and Cataract Room
New Buffet & Concessions Equipment	1	\$25,000.00	Induction burners, new heat lamps, Dutch ovens, flat iron skillets, abstract shaped hammered trays, concession deli case, new cutting boards, utensils and elevations, farmers style tables, stainless steel toppers
Third Street Window Replacement	1	\$8,000.00	Windows on Third Street have a film where the seals have been broken on the second floor of the building.
Sico Stages	2	\$115,000.00	New large 54' x 40' deep x 6' high stage for dance productions, concerts & special event in the event center and a 16' wide x 8' deep x 18" high riser for press conferences
New Floor in Castellani Gallery	1	\$15,000.00	High end wood cork floor for the art gallery, will replace commercial vinyl tile
Emergency Fund For HVAC, Plumbing, Mechanical and other unforeseen building repairs	1	\$40,000.00	Unexpected breakdown of HVAC , plumbing, mechanical and other unforeseen building repairs
<b>CCNF TOTAL</b>		<b>\$373,000.00</b>	
<b>2013 Old Falls Street Items</b>			
Radio Repeater		\$8,000.00	Installation of a radio repeater on Old Falls Street for concessions and operations team to communicate
Tree Replacement		\$30,000.00	Replace three dead elm trees on Old Falls Street
Interactive Activities		\$15,000.00	Equipment for games, activities and programming along Old Falls Street.
Flags/ Banners along OFS		\$10,000.00	Larger banners on lampposts with OFS log and branding along OFS
<b>OFS TOTAL</b>		<b>\$63,000.00</b>	
<b>2014 GRAND TOTAL CCNF &amp; OFS</b>		<b>\$436,000.00</b>	



**FOR CONSIDERATION**

**March 27, 2014**

**TO:** The Directors

**FROM:** Christopher Schoepflin

**SUBJECT:** USA Niagara Development Corporation Procurements Guidelines

**REQUEST FOR:** Adoption of Revised Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts

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**I. BACKGROUND**

At its March 18, 2011 meeting, the USA Niagara Development Corporation Board of Directors (“USAN”) adopted updated and revised Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts, as mandated by §2879 of the Public Authorities Law (the “Guidelines”). There have since been a number of changes to relevant laws and regulations. Accordingly, Empire State Development (“ESD”) Procurements Manager and staff from the Legal Department, supported by representatives of the Contracts Administration and Finance Departments, have engaged in a revision of the Guidelines. A copy of the revised Guidelines is attached.

On March 28, 2014, the ESD Board will be asked to adopt the revised Guidelines (the “2014 Guidelines”), which are designed to govern procurements by ESD subsidiaries such as USAN. Because the ESD Board meeting will this year be held after the USAN Board meeting, the Directors are asked to approve the 2014 Guidelines in their current form, subject to any amendments that the ESD Board may require, which amendments would be added to the 2014 Guidelines as if adopted nunc pro tunc by the USAN Board. No amendments are anticipated, because the 2014 Guidelines have not changed in any substantial manner from those adopted in 2013, and the main changes proposed are to the structure and flow of the document, with the aim of making it more user-friendly. Accordingly, approval is sought for the adoption of the 2014 Guidelines by the Board as and if amended by the ESD Board.

**II. PROCUREMENT CONTRACTS GUIDELINES SUMMARY**

The 2014 Guidelines attached to this memorandum set forth the policies and procedures to be followed by USAN when seeking to contract for goods or services. It should be noted that these Guidelines do not have the force of law, and are intended as a statement of best practices and procedures. No contract is invalid merely because the guidelines have not been followed.

The 2014 Guidelines define the universe of procurement transactions which are subject to the policies and procedures. Generally, all procurements by USAN must be competitive, except where State law provides for non-competitive sourcing (e.g., goods purchased from approved non-profit agencies for the blind, and procurements from the Office of General Services Centralized Contracts List). Based on the expected cost of procured goods and/or services, procurement contracts must be obtained after advertisement in the NYS Contract Reporter, except in limited instances where an exemption is obtained, generally for sole or single source procurements when only one vendor offers the desired goods or services or when a single vendor has unique qualities or experience that obviate a competitive process. The proposed Guidelines explain the various means of obtaining goods and services in an open, accountable and transparent manner, including incorporation of the ESD Bid Opening Guidelines and the compilation of a Procurements Record for every covered Procurement Contract.

The 2014 Guidelines comply with the applicable provisions of the Public Authorities Law, the State Finance Law and the State Tax Law. They are consistent with the State Procurement Council's Guidelines and with the Governor's directive that all state agencies and public authorities make responsible spending decisions, and that they be accountable for sufficient monitoring of their spending to ensure the highest level of fairness, non-discrimination, openness and transparency.

The 2014 Guidelines are intended to be user-friendly and are set forth in a logical and coherent fashion that will assist staff in understanding the procedures to be followed and the substantive rules that govern procurements. Many sources of help and information are included as clickable links, and virtually all required forms and ESD policy and procedure documents can also be accessed from within the document by hyperlinks. For obvious reasons, the hard copy of the proposed Guidelines presented to the Directors for approval cannot contain these links, but they are shown in highlight form.

Proposed substantive and procedural changes to the 2013 Guidelines are as follows:

1. Following a recent directive from the Secretary to the Governor, all vendors of goods and services shall be encouraged to use New York suppliers and sub-contractors to the maximum extent possible. It should be noted that this is not a contractual requirement, and is not intended to discriminate against other states, but is rather a matter of encouragement to vendors to make use of New York's vibrant and first-class businesses.
2. In connection with certain real estate re-purposing projects, ESD subsidiaries such as USAN may undertake a form of procurement advertising not specifically authorized in the 2013 Guidelines, the Request for Expressions of Interest ("RFEI"). This solicitation is intended to provide interested parties to propose options for development or re-development

of (generally but not exclusively) real estate projects. After the responses are received, ESD and its subsidiaries may proceed with an RFP for one or a number of the visions submitted for the project in question. It is unlikely that this change would apply to USAN, since all development parcels are leased.

3. Significant changes have been made to the section on lobbying during the procurement period, to make the section easier to understand and to highlight the most important elements of the lobbying law (State Finance law s. 139).
4. Public bid openings are required for construction contracts, in accordance with State Finance Law s. 144.
5. Vendors are required to be “responsible” (i.e., to demonstrate integrity and continuing financial and other ability to carry out the contract) throughout the term of the contract.
6. The proposed Guidelines incorporate by reference a schedule of the officers whose approval is needed for various procurement actions. This schedule can readily be updated to reflect changes in management structure.
7. Service contracts that last for more than one year do not automatically require Board approval. For example, equipment warranty and product maintenance/support/lease contracts (including but not limited to auto leases) that last for more than one year do not require approval by the Board unless the amount of such contract is over \$100,000 in aggregate through the life of the contract. This change is unlikely to impact USAN.
8. Submission of the State Controller’s Vendrep vendor responsibility form is required for all contracts to be approved by the Board, and encouraged for all contracts.

### **III. RECOMMENDATION AND REQUESTED ACTION**

The Directors are requested to adopt the 2014 Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts, effective as of the date of approval, subject to amendments, if any, of the corresponding Guidelines by the ESD Board.

#### Attachments

Resolution

Proposed Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts

March 27, 2014

USA NIAGARA DEVELOPMENT CORPORATION – USAN Procurements Guidelines  
– Adoption of Revised Guidelines for the Use, Awarding, Monitoring and  
Reporting of Procurement Contracts

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BE IT RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered to be filed with the records of the Corporation, the proposed 2014 Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts, a copy of which is attached to the materials, be and hereby is approved and adopted as of the date hereof, and the President or her designee is authorized to promulgate the said Guidelines in electronic form and other media for the use of the staff of the Corporation, and to take such other and further action as may be deemed necessary or appropriate to effectuate the foregoing Resolution:

and be it further

RESOLVED, that in the event that the proposed 2014 Guidelines are amended by the ESD Board at its meeting to be held on March 28, 2014, the Guidelines so amended shall be substituted nunc pro tunc for the adopted 2014 Guidelines attached to the attached Board materials, a copy of which is hereby ordered to be filed with the records of the Corporation.

\* \* \*



**FOR CONSIDERATION**

**March 27, 2014**

**TO:** The Directors

**FROM:** Christopher Schoepflin

**SUBJECT:** Robert Moses Parkway – North Phase I – Preliminary Engineering and Environmental Review – Funding Agreement with the New York Power Authority

**RE:** Authorization to Enter into a Funding Agreement with the Power Authority of the State of New York; Authorization to Provide Funds to the New York State Office of Parks, Recreation, and Historic Preservation; and Take All Related Actions

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**I. Background:**

In 2006, the USA Niagara Development Corporation (“USAN”), a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development (“ESD”), entered into a landmark Memorandum of Understanding (“MOU”), with the City of Niagara Falls (“the City”), the New York State Office of Parks, Recreation, and Historic Preservation (“OPRHP”), and the New York State Department of Transportation (“NYSDOT”), to jointly solicit state/federal funding and oversee planning, engineering, and environmental review efforts necessary to reconfigure two key segments of the Robert Moses Parkway (“RMP”), including the North (“RMP-N”) and South (“RMP-S”) sections. The expressway characteristics/features of the RMP have continued to be cited as a factor impeding the full enjoyment of the world-class natural resources along the Niagara River and the associated tourism/visitation potential of these resources, along the RMP-S near the Upper Niagara River in Niagara Falls State Park and on the RMP-N along the rim of the Niagara Gorge.

USAN helped secure \$2 million state/federal transportation funds in 2006 for OPRHP’s preliminary engineering efforts for a one-mile segment of the RMP-S in Niagara Falls State Park and a Public Scoping Process (i.e., initial planning process) for a segment of the RMP-N ultimately referred to as the “Niagara Gorge Corridor” from Niagara Falls to Lewiston, both of which were supported by non-federal matching funds from USAN, NYSDOT, the City and OPRHP.

In accordance with the MOU, OPRHP in 2008 competitively procured and retained the services of a design team led by Parsons Engineering (the “Design Consultant”) to provide services related to the Public Scoping Process for the Niagara Gorge Corridor. After analyses were conducted by the Design Consultant, public involvement sessions held with stakeholders in 2011-2012, and a public meeting on the draft report in February 2013, OPRHP issued a Final Public Scoping Report for the Niagara Gorge Corridor Project in October 2013.

The Final Public Scoping Report documented a broad public consensus and consistency with federal requirements for a “Phase I” project, which would reconfigure road access from Main Street in downtown Niagara Falls to Findlay Drive near DeVeaux Woods State Park and would include removal of the RMP-N and reconstruction of an adjoining segment of Whirlpool Street (“RMP-N Phase I Project” or the “Project”).

In conjunction with the historic construction of the Niagara Power Project, the Power Authority of the State of New York (“NYPA”) built and opened the RMP. Lands upon which the RMP was built are owned by NYPA and OPRHP, with NYPA owning approximately 71 percent of the land upon which contains the current RMP-N right of way between Main Street and Findlay Drive. NYPA recognizes the importance of reconfiguring road access to Niagara Falls’ future and partially funded the public scoping process with a grant to support these efforts. NYPA has recently furthered their support by recently agreeing to provide up to \$2 million to USAN to advance engineering and environmental review activities for the Project.

In its role of overseeing broad infrastructure/economic development efforts in the region inclusive of the RMP, USAN seeks to advance the Project in a similar fashion to USAN’s oversight/funding role for the RMP-S final design/construction effort with OPRHP. In that effort, USAN/ESD is currently overseeing and administering an \$11.5 million grant to OPRHP for final engineering, contract documents, and construction for reconfiguration of the RMP-S section.

In cooperation with USAN, OPRHP accepted a draft scope of work and cost estimate from the Design Consultant for a supplementary agreement for the Contract Sum of \$1.5 million to undertake preliminary engineering and environmental review for the Project. The scope of work for the Project will include undertaking all necessary engineering efforts; planning studies/assessments of anticipated social, economic, and environmental effects; and conducting federal/state environmental review processes including:

- Demolition and removal of the segment of the current RMP-N from Main Street (NYS Route 104) to Findlay Drive in the City of Niagara Falls;
- Full-depth reconstruction of Whirlpool Street (which now immediately abuts the Parkway to its east) as an at-grade, landscaped conventional roadway to provide all north-south road access along this portion of the Niagara Gorge and to permit visual/physical access between City neighborhoods and the Niagara Gorge rim; and
- Landscape and habitat restoration along the Niagara Gorge rim on lands reclaimed from removal of the RMP-N segment, as well as incorporation of other design features including, but not limited to: sustainability components (e.g., passive storm water retention, bio-swales, etc.), and a comprehensive trail network providing access along the Gorge rim and connecting to/from adjoining City neighborhoods.

The Preliminary Project Schedule tentatively sets a Project kick-off date of May 2014. Issuance of a Final Design Report/Environmental Assessment (DR/EA) is projected to occur in the fall of 2015.

## II. Funding Source

On January 28, 2014, NYPA Trustees authorized entering into an agreement with USAN and to provide up to \$2 million to advance engineering and environmental review activities for the Project.

No USAN Corporate funds will be used to fund the Project.

## III. Project Budget

The budget for the Project is as follows:

Preliminary Engineering/Environmental Review Contract Amount (Contract Sum)	\$1,500,000
Contingency	\$ 500,000
<b>TOTAL PROJECT BUDGET</b>	<b>\$2,000,000</b>

The Project Budget expressly excludes any and all in-kind services that may be performed by USAN/ESD, OPRHP, NYSDOT and/or NYPA. Contingency funds may be applied only to contract amendments entered into by OPRHP and the Design Consultant (and the Design Consultant's approved sub-consultants), provided such contract amendments have been previously approved in writing by USAN and NYPA.

## IV. Supplemental Agreement between OPRHP and the Design Consultant:

In accordance with New York State procurement policies and OPRHP's current professional services agreement with the Design Consultant for Public Scoping, OPRHP will enter into a supplemental agreement with the Design Consultant to undertake preliminary engineering and environmental review of the Project (the "Supplemental Agreement"). It is anticipated that OPRHP will enter into the Supplemental Agreement with the Design Consultant by May 2014.

USAN, with funding provided by NYPA, will directly reimburse OPRHP for their Design Consultant costs, and accordingly, in consultation with NYSDOT (which administers federal transportation funding/regulations in New York State on behalf of Federal Highway Administration ("FHWA")), will also oversee and provide technical/administrative guidance to OPRHP and their Design Consultant to ensure work performed to advance the Project is completed in accordance with the results of the Public Scoping Process and agree-upon schedules; all applicable state and federal transportation guidelines and procedures; federal/state environmental review laws/regulations; and other requirements related to state/federally-funded transportation projects.

## V. Funding Agreement with NYPA:

Upon receipt of the executed Supplemental Agreement, NYPA will remit to USAN funds equal to the Contract Sum of \$1,500,000 as provided in the Project Budget. USAN shall hold such funds in escrow and periodically release, as needed, to directly reimburse OPRHP for its payments made to the Design Consultant for bona fide Project-related costs pursuant to the

Supplemental Agreement. At NYPA's request, USAN will provide NYPA the accounting of reimbursements made to OPRHP and associated documentation for Project work.

If necessary and upon written request by USAN, NYPA will remit to USAN a sum equal to the sum of the approved contract amendment and/or Supplemental Agreement for contingencies related to the Project. USAN shall directly reimburse OPRHP for costs incurred for contingencies.

If upon completion of the scope of work for the Project, there remains any unexpended funds from the Project Budget, such remaining funds may be reprogrammed for use in subsequent engineering stages of the Phase I Project (e.g., final design work and associated documents), subject to a new or amended written agreement.

NYPA will have no obligation under the funding agreement to provide any funds to USAN to the extent the same exceeds the sum of the Contract Sum and the Contingency Sum.

**VI. Environmental Review:**

ESD staff has determined that the action, which would involve entering into a funding agreement to undertake preliminary engineering and environmental review, constitutes a Type II action as defined by the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations for the New York State Department of Environmental Conservation. No further environmental review is required.

**VII. Non-Discrimination and Contractor & Supplier Diversity:**

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this Project. The Recipient shall be required to include minorities and women in any job opportunities created, to solicit and utilize Minority and Women Business Enterprise ("MWBEs") for any contractual opportunities generated in connection with the Project and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 20% related to the total value of ESD's funding.

**VIII. Requested Action:**

Based on the foregoing, the Directors are requested to authorize the Corporation to enter into a Funding Agreement with NYPA for the RMP-N Phase I Project and to provide funds to OPRHP, on the terms and conditions set forth in these materials.

**Attachments:**

Resolution

March 27, 2014

USA NIAGARA DEVELOPMENT CORPORATION – Authorization to Enter into a Funding Agreement with the Power Authority of the State of New York; Authorization to Provide Funds to the New York State Office of Parks, Recreation, and Historic Preservation; and Take All Related Actions

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RESOLVED, that the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to enter into a Funding Agreement with the Power Authority of the State of New York, and to provide funds to the New York State Office of Parks, Recreation, and Historic Preservation for the purposes of advancing activities under the Robert Moses Parkway - North Phase I Project, substantially on the terms and conditions set forth in the materials presented to this meeting, with such changes as the President and the Chief Executive Officer of the Corporation or his designee(s) may deem appropriate; including the funding of an amount not to exceed \$2,000,000 and be it further

RESOLVED, that the President and Chief Executive Officer 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 in his or her discretion consider to be necessary to effectuate the foregoing resolutions.

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