

# 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

Monday

November 24, 2014 – 2:30 p.m.

### AGENDA

#### I. CORPORATE ACTION

- A. Approval of Minutes of the March 27, 2014 Directors' Meeting

#### II. FOR CONSIDERATION

- A. Niagara Falls Convention and Conference Facility Civic Project – Memorandum of Understanding (“Agreement”) with the City of Niagara Falls – Authorization to Enter into Agreement and Take All Related Actions
- B. Proposed Industrial/Small and Medium-Sized Business Assistance Project 330 Rainbow Boulevard, Niagara Falls, NY – Proposed Industrial/Small and Medium-Sized Business Assistance Project Findings Pursuant to Sections 10(b), 10(f) and 10(g) of the UDC Act; Adoption of General Project Plan; Authorization to Hold a Public Hearing Under Section 16 of the UDC Act; Authorization to Make a Determination of No Significant Effect on the Environment; Authorization to Enter into an Agreement with the Plati Niagara Inc. (“Plati”) and Authorization to Take Related Actions
- C. Adaptive Re-Use of Former Rainbow Centre Mall – Preferred Developer – Determination of Responsibility with Respect to Uniland Development Company as the Proposed Preferred Developer; Authorization to Designate Uniland Development Company as the Preferred Developer to Undertake and Adaptive Re-Use of the Former Rainbow Centre Mall; Authorization to Accept a Deposit of \$50,000; Approval to Reimburse Uniland Development Company for an Amount Not to Exceed \$150,000 for Third Party Reports; and Authorization to Take All Related Actions

#### III. FOR INFORMATION

- A. Uniland Development Company (Oral Presentation)

**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

March 27, 2014

**MINUTES**

**In Attendance Directors:**

Francine DelMonte – Chair  
Paul Nanula  
Monica Pellegrino Faix  
Michael Williamson  
Gary Smith

**Present for USA Niagara:**

Chris Schoepflin, President  
Elizabeth R. Fine, General Counsel  
Eileen McEvoy, Secretary  
Holly Ortman  
Paul Tronolone, Senior Project Manager  
John Risio, Project Manager  
Jocelyn Viola, Office Manager

**Present for ESD  
(Downstate):**

Lauren Axelrod, Associate Counsel  
Julia Borukhov, Financial Project Manager  
Tom Brennan, Senior Vice President - Internal Audit  
Maria Cassidy, Deputy General Counsel  
Joseph Chan, Executive Vice President - Real Estate  
Development  
Thomas Conoscenti, Director - Real Estate Development  
and Planning  
Nicole Jordan, Manager – Community Relations  
Charles Imohiosen, Chief Operation Officer  
Carlos Otero, Vice President – Contracts Administration  
and ESD Subsidiary Finance

**DRAFT – SUBJECT TO REVIEW AND REVISION**

**Present for ESD Western  
New York Regional Office:** Sam Hoyt, Regional President – ESD  
Stephen Gawlik, Senior Counsel  
Laura Magee, Deputy Director – Public Affairs

**Present for the City  
of Niagara Falls:** Mayor Paul Dyster

**Present for  
Elected Officials:** Eileen Kosielak and Zack Angorano  
for Assemblyman John Ceretto  
Jim Ward for Senator Maziak

**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 commenced at 3:00 p.m. 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.

Mr. Schoepflin welcomed the new Chair Francine DelMonte to the meeting. He noted that Chair DelMonte is a former member of the New York State Assembly having served five terms representing the City of Niagara Falls and parts of Niagara County in the 138<sup>th</sup> District.

Mr. Schoepflin then introduced the two new Directors – Paul Nanula, the President of Nanco Group and Monica Pellegrino Faix, the Executive Director of the Richardson Center

**DRAFT – SUBJECT TO REVIEW AND REVISION**

Corporation, to those present at the meeting.

Mr. Schoepflin went on to note that Gary Smith and Mike Williamson will continue on the Board and he thanked them for their continued leadership and steady guidance.

Mr. Schoepflin then expressed appreciation to the outgoing members – Joan Aul and Steve Brown - for their long and dedicated service to USA Niagara.

Mr. Schoepflin then turned the meeting over to Chair DelMonte.

Chair DelMonte called the meeting to order and noted her pleasure at serving on the Board. She then welcomed the Directors to the meeting. The Chair went on to note for the record the guidelines by which the public is allowed to comment on items on the Agenda.

Chair DelMonte then introduced Elizabeth R. Fine to those present at the meeting. The Chair noted that Ms. Fine was appointed as ESD's Executive Vice-President, Legal and General Counsel and that as such, Ms. Fine will serve as USA Niagara's General Counsel.

The Chair then asked the Directors if any of them had a potential conflict of interest with regard to any of the items on the Agenda and if so, to make that information known at this time. If any potential conflicts exist, the Chair continued, the Directors would be reminded at the appropriate time to recuse themselves from the vote on any such item. It was noted that

**DRAFT – SUBJECT TO REVIEW AND REVISION**

there were no conflicts of interest.

The Chair then called for the approval of the Minutes of the December 16, 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 DECEMBER 16, 2013 MEETING OF THE DIRECTORS OF THE USA NIAGARA DEVELOPMENT CORPORATION

---

RESOLVED, that the Minutes of the meeting of the Corporation held on December 16, 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.

\* \* \*

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

First, Mr. Schoepflin asked the Directors to approve the appointment of Margaret Tobin to the Office of Chief Financial Officer of USA Niagara.

Mr. Schoepflin explained that Ms. Tobin was appointed as the Chief Financial Officer of ESD on February 20, 2014. He added that the Directors were also asked to appoint the position as Ex-officio with the corresponding position at ESD.

Following the full presentation, the Chair called for questions or comments. Hearing

**DRAFT – SUBJECT TO REVIEW AND REVISION**

none and upon motion duly made and seconded, the following resolution was unanimously adopted:

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

---

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.

\* \* \*

Mr. Schoepflin then asked the Directors to approve the Annual Operating Budget and Annual Capital Expense Authorization for the USA Niagara Development Corporation for Fiscal Year 2014-2015.

Mr. Schoepflin provided the relevant background information with regard to this request.

Mr. Schoepflin noted, in part, that the total operating budget proposes a total of \$689,394 in personnel and non-personnel services. He added that this represents an increase of 3.6 percent over projected 2014 expenses due to unanticipated increases in fringe benefits.

**DRAFT – SUBJECT TO REVIEW AND REVISION**

Mr. Schoepflin further explained that consistent with previous years, the operating budget will continue to be advanced with ESD corporate funds.

Mr. Schoepflin went on to explain that the Corporation’s 2014-2015 total annual capital expense authorization is \$14,576,000. He noted that this includes design and other soft costs of \$1,666,100; property management/maintenance costs of \$1,500,000; construction costs of \$7,489,000 and other miscellaneous capital costs of \$3,900,000.

Mr. Schoepflin explained that individual capital project expenses will be approved by the Directors under separate actions.

Following Mr. Schoepflin’s detailed summary of the foregoing, the Chair called for questions or comments. Hearing none, and upon motion duly made and seconded, the following resolution was unanimously adopted:

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)

---

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

**DRAFT – SUBJECT TO REVIEW AND REVISION**

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.

\* \* \*

The Directors were then asked by Mr. Schoepflin to approve the Niagara Falls Convention and Conference Facility Civic Project and Old Falls Street 2014 Capital Budget.

Mr. Schoepflin provided a detailed synopsis of the foregoing noting, in part, that the Directors were being asked to approve USA Niagara’s proposed 2014 Conference Center and Old Falls Street Capital Budget in an amount not to exceed \$436,000 and to disburse funds in accordance therewith.

Following the full presentation, the Chair called for questions or comments. Director Smith stated that in a recent conversation that he had with Mr. Schoepflin, he learned that it is generally accepted that conference centers do not support themselves. He asked if this is common throughout the State.

Mr. Schoepflin stated that this is common and Mr. Tronolone added that it is common nationwide.

Mr. Schoepflin went on to note that in New York State, the one cashable positive facility that he is aware of is the Javits Center in New York City.

Mr. Schoepflin explained that this is the model that USA Niagara is pursuing. Among other things, Mr. Schoepflin further explained that USA Niagara has come a long way in attempting to get the Old Civic Center to be the second entity in the State that breaks even.

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

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

---

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

**DRAFT – SUBJECT TO REVIEW AND REVISION**

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.

\* \* \*

Next, Mr. Schoepflin asked the Directors to adopt revised Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts.

Mr. Schoepflin provided the relevant background information with regard to the revised guidelines noting, in part, that the guidelines set forth the policies and procedures to be followed by USA Niagara when seeking to contract for goods and services.

Following the full presentation, the Chair called for questions or comments. Hearing none, and upon motion duly made and seconded, the following resolution was unanimously adopted:

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

---

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

**DRAFT – SUBJECT TO REVIEW AND REVISION**

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.

\* \* \*

Mr. Schoepflin then asked the Directors to authorize the Corporation to enter into a Funding Agreement with the New York Power Authority of New York State, and to authorize USA Niagara to provide funds to the New York State Office of Parks, Recreation and Historic Preservation in connection with the Robert Moses Parkway Phase I.

Mr. Schoepflin noted that in 2006, USA Niagara entered into a landmark Memorandum of Understanding (“MOU”) with the City of Niagara Falls, the New York State Department of Transportation and the New York State Office of Parks to jointly solicit funding and oversee planning, engineering and environmental review efforts necessary to reconfigure two key segments of the Robert Moses Parkway, including the North and South sections.

Mr. Schoepflin provided the Directors with an outline of the status of the project thus far and noted, among other things, that on January 28, 2014, the New York Power Authority (“NYPA”) Trustees authorized NYPA to enter into an agreement with USA Niagara to provide up to \$2 million to advance engineering and environmental review activities for the project.

Mr. Schoepflin added that no USA Niagara Corporate Funds will be used to fund the project.

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

Based upon the foregoing, Mr. Schoepflin continued, the Directors are being asked to authorize the Corporation to enter into a Funding Agreement with NYPA for the Robert Moses Parkway North Phase I Project and to provide funds to State Parks on the terms and conditions set forth in the materials.

Following the full presentation, the Chair called for questions or comments. Director Williamson commented favorably with regard to this project. The Chair also provided favorable comment stating that she is very happy to see this project move forward. She added that it is going to be a much better landscape South to North. The Chair went on to compliment USA Niagara and the City for their successful work in making this a reality.

Mayor Dyster then noted that this project has been in the offing for quite some time and that it took massive political effort to achieve a consensus on what the scope of the project should be.

The Mayor went on to thank everyone involved in the process including the Members of the Niagara Falls City Council and those members of the public who attended various input sessions on the project as well as the elected officials who participated start to finish in the process.

Among other things, the Mayor spoke to the timeliness of the project given many of the other positive developments that are occurring within the geographic scope of the project.

**DRAFT – SUBJECT TO REVIEW AND REVISION**

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

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

---

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.

\* \* \*

There being no further business, the meeting was adjourned at 3:21 p.m.

Respectfully submitted,

Eileen McEvoy  
Corporate Secretary



222 First Street, 7<sup>th</sup> Floor  
Niagara Falls, NY 14303  
phone: 716.284.2556  
fax: 716.284.2917  
www.usaniagara.com

**FOR CONSIDERATION**

**November 24, 2014**

**TO:** The Directors

**FROM:** Christopher Schoepflin

**SUBJECT:** Niagara Falls Convention and Conference Facility Civic Project – Memorandum of Understanding (“Agreement”) with the City of Niagara Falls

**REQUEST FOR:** Authorization to Enter into Agreement and Take All Related Actions

---

**I. Background**

In accordance with the Niagara Falls Convention and Conference Facility Civic Project, USA Niagara Development Corporation (“USAN”) undertook an initiative in 2003 to create a \$20 million high-quality hybrid conference and convention center to increase high-impact meetings-related demand to stimulate economic activity in the Niagara Falls area. USAN is the owner and developer of The Conference and Event Center Niagara Falls (“CCNF”) and has competitively procured operators for CCNF; the most recent being Global Spectrum LP in 2013.

Since 2003, USAN and the City of Niagara Falls (the “City”) have entered into a series of agreements to fund the annual operating deficits for CCNF from the City’s share of Seneca Niagara Casino Revenue Funds. Annual payments were initially up to \$1 million. In 2005, the City directed additional annual capital payments of \$2.1 million to USAN in support of economic development projects related to CCNF or located within the USAN Development District. The funding source for these operating and capital payments were funds appropriated to the City in the State budget designated as Emergency Financial Assistance to Eligible Municipalities (“Memorandum of Understanding [MOU] / City Funds”). Annual capital payments continued to USAN through 2009.

In 2009, USAN and the City entered into an agreement which for the first time also funded the operating deficit for the management of Old Falls Street (“OFS”) between Prospect and Third Streets. The 2009 agreement followed USAN’s \$12.5 million investment into the restoration of OFS. This agreement expired on December 31, 2012. USAN funded CCNF and OFS operating and capital budgets for years 2013 and 2014 from remaining balances of MOU/City Funds.

## **II. The Agreement**

It is recommended that USAN and the City enter into a new Agreement (the "Agreement"). The Agreement continues funding for CCNF and OFS for calendar years 2014 through 2018. The City will fund projected operating and capital investment budgets in the aggregate amount not to exceed \$1.5 million for each year of the term of the Agreement.

On or about January 1 for each year during the term of the Agreement, USAN will provide the City with a copy of the projected CCNF and OFS operating budgets for the following calendar year. Available monthly performance and interim financial reports on the operations of CCNF and OFS will be provided to the City Controller. An audited annual financial statement will also be provided to the City Controller immediately upon completion. Based on such audited financial statements, USAN and the City will determine whether the City overpaid USAN for the operating payments for both the Conference Center and Old Falls Street for the prior calendar year. Based upon that determination, the City's obligation for the current year shall be adjusted to reconcile any overpayment for the prior year.

Under the Agreement, the City's obligation to make payments to USAN is expressly contingent upon the City receiving its annual share of casino revenues from the State of New York pursuant to the Gaming Compact entered into by and between the Seneca Nation of Indians and the State of New York in 2002. If, at any time during the term of the Agreement, USAN receives funding from the State of New York or any other entity, to undertake and carry out any or all of the activities contemplated by the MOU, then the City's obligation as described in the MOU shall cease and USAN shall continue to perform the activities described in the MOU without cost to the City.

On September 29, 2014, the Niagara Falls City Council approved the City entering into the Agreement with USAN.

## **III. Statutory Authority**

USAN, as an ESD subsidiary, acting on its own or through its subsidiaries, has the statutory authority to promote, conduct and fund economic development in distressed areas throughout the State of New York and in connection therewith to acquire and dispose of real property.

## **IV. Recommendation**

Staff recommends that the Board authorize USAN to enter into the Agreement with the City on the terms and conditions set forth in these materials.

## **V. Attachments**

Resolution

November 24, 2014

USA Niagara Development Corporation – Niagara Falls Convention and Conference Facility Civic Project – Agreement with the City of Niagara Falls – Authorization to Enter into Agreement and Take All Related Actions.

---

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 Directors authorize the Corporation to enter into an Agreement with the City of Niagara Falls, New York, for the payment of expenses related to the Conference Center Niagara Falls and Old Falls Street and such other matters as described herein, and be it further

RESOLVED, that the President, and his designee(s) be, and each of them hereby is, authorized to take all actions necessary or appropriate in furtherance of the foregoing resolution.

\*\*\*



222 First Street, 7<sup>th</sup> Floor  
Niagara Falls, NY 14303  
phone: 716.284.2556  
fax: 716.284.2917  
www.usaniagara.com

## **FOR CONSIDERATION**

**November 24, 2014**

**TO:** The Directors

**FROM:** Christopher Schoepflin

**SUBJECT:** Proposed Industrial/Small and Medium-Sized Business Assistance Project 330 Rainbow Boulevard, Niagara Falls, NY

**REQUEST FOR:** Proposed Industrial/Small and Medium-Sized Business Assistance Project Findings Pursuant to Sections 10 (b), 10 (f) and 10 (g) of the UDC Act; Adoption of General Project Plan; Authorization to hold a Public Hearing Under Section 16 of the UDC Act; Authorization to make a Determination of No Significant Effect on the Environment; Authorization to Enter into an Agreement with the Plati Niagara Inc. ("Plati") and Authorization to Take Related Actions.

---

### **I. Project Summary**

(Please see the attached General Project Plan ("GPP") for a more detailed description of the Project.)

#### **A. Project Site:**

The Project site is located on an approximately 1.8-acre parcel at 333 Rainbow Boulevard in Niagara Falls, New York. The Project site is bounded by: Rainbow Boulevard on the north; Fourth Street on the east; Buffalo Avenue on the south; and private properties and Third Street on the west.

The Project site is a significant parcel in the heart of the city's downtown tourist district and is located in proximity to Niagara Falls State Park, the Conference & Event Center Niagara Falls, the Seneca Niagara Casino complex, and a number of other downtown hospitality establishments.

#### **B. Project Description:**

The Project involves providing \$980,000 in assistance to facilitate a \$10.16 million mixed-use development on a currently vacant, 1.8-acre land parcel along Rainbow Boulevard in downtown Niagara Falls. It would result in the development of a new 65,000-square-foot ("SF") building containing 110 hotel rooms and ground-level food-and-beverage and or retail operations open to the general public.

The applicant for the Project is Plati Niagara Inc. ("Plati" or "the developer"), a local, Niagara Falls hotel development company. Founded by Antonio Strangio with sons Frank and Anthony of Niagara Falls, they have owned and operated the Quality Inn Hotel and Antonio's Banquet Hall on Niagara Falls Boulevard since 1991. Plati was formed to expand into the downtown Niagara Falls market with a new-build hotel and retail space. The GPP envisions that Plati will be directly responsible for the

development activities under the Project. The USAN funds allocated to the Project, which would reimburse portions of capital cost items under the Project upon completion, will supplement private funds in the Project.

A financial return analysis of the developer’s Pro Forma indicates that the Project would not be financially feasible without assistance from USAN. Based on this analysis, the \$980,000 in USAN assistance toward the \$10.16 million investment would result in Plati achieving an operating performance producing an acceptable Internal Rate of Return (“IRR”) necessary for Plati to undertake the Project and ensure its continued success.

A benefit to the community, the Project would create new jobs and increase bed tax revenues. The Project would serve the public as a recreational support amenity by expanding the City’s inventory of quality hotel rooms and the breadth of choices for food-and-beverage facilities. In addition, these goals would be accomplished by contributing to a dense urban corridor along Rainbow Boulevard. Like other USAN initiatives to expand the lodging, restaurant, and meeting facilities downtown, the Project would directly compliment the State’s investment in the Conference Center Niagara Falls.

C. Funding Uses and Sources:

The table below outlines the proposed uses of funds programmed for the project and the sources of these funds. The budget for the uses of funds was derived from cost/pro-forma estimates submitted by Plati as part of the Project negotiations. The sources of funds include \$980,000 in USAN/City MOU funds pursuant to the 2009 Memorandum of Understanding (“MOU”) between USAN and the City to support economic development projects in the USAN Development District. No USAN corporate funds would be used to fund the Project.

**Table 1 – Uses & Sources of Funds**

<b>Funding Uses</b>	
Land Acquisition	\$ 1,100,000
Site Work Prep	\$ 300,000
Architectural Services	\$ 110,000
Legal, Accounting and other Soft Costs	\$ 700,000
Hard Construction Costs	\$ 7,000,000
Furniture, Fixtures and Equipment	\$ 950,000
<b>GRAND TOTAL</b>	<b>\$10,160,000</b>

<b>Anticipated Funding Sources</b>	
Owner’s Private Financing and Equity (Plati)	\$ 9,180,000
USAN Funds	\$ 980,000
<b>GRAND TOTAL</b>	<b>\$10,160,000</b>

D. Tentative Project Timeline:

- |  |               |
|--|---------------|
| ▪ Public Hearing on GPP                      | December 2014 |
| ▪ Review by Public Authorities Control Board | January 2015  |
| ▪ Start of Construction                      | March 2014    |
| ▪ Completion of Construction                 | April 2015    |
| ▪ Certificate of Occupancy                   | May 2015      |

E. Incentive Proposal:

USAN prepared an Incentive Proposal which Plati accepted on October 30, 2013. The Incentive Proposal outlines the general terms and conditions of USAN's participation in the proposed Project, including terms which require the developer to finance, design, construct and operate a mixed use facility in accordance with Section V(A) referenced above; compliance with the General Project Plan to be approved by the USAN Directors; compliance with all applicable statutes; and compliance with all program requirements.

**II. Statutory Basis**

In accordance with the UDC Act, the Corporation is making Industrial/Small and Medium-Sized Business Assistance Project Findings. Corporation staff has reviewed the required findings and determined that there is an adequate basis for the making of the findings. The specific findings, and the basis for such findings, are set forth in the General Project Plan.

**III. Environmental Review**

The City of Niagara Falls 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 an Unlisted Action that would not have a significant effect on the environment. The Planning Board issued a Negative Declaration on June 13, 2013. ESD staff reviewed the Negative Declaration and supporting materials and concurs with this determination. Therefore, the Directors are recommended to make a Determination of No Significant Effect on the Environment.

**IV. Non-Discrimination and Contractor & Supplier Diversity**

USAN's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this Project. Plati shall be required to: (i) include minorities and women in any job opportunities created, (ii) solicit and utilize Minority and Women Business Enterprises ("MWBEs") for any contractual opportunities generated in connection with the Project and (iii) use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 40% related to the total value of USAN's funding. The aforementioned goal includes a Minority Business Enterprise ("MBE") Participation Goal of 25% and a Women Business Enterprise ("WBE") Participation Goal of 15%, related to the total value of USA Niagara's funding.

**V. Requested Actions**

The Directors are requested to: a) adopt Industrial/Small and Medium-Sized Business Assistance Project findings pursuant to Sections 10 (b), 10 (f) and 10 (g) of the UDC Act; b)

adopt the General Project Plan; c) authorize a public hearing as required under Section 16 of the UDC Act; d) authorize USAN to make a Determination of No Significant Effect on the Environment; e) authorize USAN to enter into an agreement with Plati for the development of the Project; f) authorize the commitment of funds in the total amount of \$980,000 for the Project; and g) authorize the taking of all actions related to the foregoing.

**VI. Attachments**

Resolution

General Project Plan

333 Rainbow Boulevard Proposed Industrial/Small and Medium-Sized Business Assistance Project – Land Use Improvement Project Findings Pursuant to Sections 10 (b), 10( f) and 10 (g) of the UDC Act; Adoption of General Project Plan; Authorization to hold a Public Hearing Under Section 16 of the UDC Act; Authorization to make a Determination of No Significant Effect on the Environment; Authorization to Enter into an Agreement with Plati; and Authorization to Take Related Actions.

---

BE IT RESOLVED, that on the basis of the materials presented to this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the USA Niagara Development Corporation (the “Corporation”), relating to the 333 Rainbow Boulevard Proposed Industrial/Small and Medium-Sized Business Assistance Project (the “Project”), the Corporation hereby makes the requisite findings pursuant to Sections 10 (b) and 10 (f) of the New York State Urban Development Corporation Act, as amended (the “Act”); and be it further

RESOLVED, that on the basis of the Materials which indicate that no families or individuals reside in nor are to be displaced from the Project area, the Corporation hereby finds that the requirements of Section 10 (g) of the Act are satisfied; 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 President or other proper officers of the Corporation 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 President or other proper officers of the Corporation 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, the President or other proper officers of the Corporation be, and each of them hereby is, authorized to enter into an agreement, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, including the commitment of Corporation funding in the total amount of \$980,000 for the Project, with such changes as the President or other proper officers of the Corporation may deem appropriate, and be it further

RESOLVED, that the Directors make a Determination of No Significant Effect on the Environment, 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 provision of USAN 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 President of the Corporation or other proper officers 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 related actions as he may in his sole discretion consider to be necessary or proper to effectuate the foregoing resolutions.

\* \* \*



222 First Street, 7<sup>th</sup> Floor  
Niagara Falls, NY 14303  
phone: 716.284.2556  
fax: 716.284.2917  
www.usaniagara.com

## General Project Plan

333 Rainbow Boulevard  
Niagara Falls, New York

### Industrial/Small and Medium-Sized Business Assistance Project

Adopted: November 24, 2014

#### I. Introduction

The USA Niagara Development Corporation ("USAN"), a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development ("ESD"), proposes the undertaking of the **333 Rainbow Boulevard Industrial/Small and Medium-Sized Business Assistance Project** (the "Project") in the City of Niagara Falls, Niagara County, New York.

The Project involves providing \$980,000 in assistance to a private company to facilitate a \$10.16 million mixed-use development on a currently vacant, 1.8-acre land parcel along Rainbow Boulevard in downtown Niagara Falls. It would result in the development of a new 65,000-square-foot ("SF") building containing 110 hotel rooms and ground-level food-and-beverage and or retail operations open to the general public.

The applicant for the Project is Plati Niagara Inc. ("Plati" or "the developer"), a local, Niagara Falls hotel development company. Founded by Antonio Strangio with sons Frank and Anthony of Niagara Falls, they have owned and operated the Quality Inn Hotel and Antonio's Banquet Hall on Niagara Falls Boulevard since 1991. Plati was formed to expand into the downtown Niagara Falls market with a new-build hotel and retail space.

As the ESD subsidiary with a mission to facilitate revitalization of the tourism industry in downtown Niagara Falls, NY, USAN is adopting this General Project Plan ("GPP") in accordance with the New York State Urban Development Corporation ("UDC") Act, which permits ESD and its subsidiaries to undertake activities in furtherance of "Industrial" and "Small-/Medium-Sized Business Assistance" projects in areas in need of redevelopment, particularly those in danger of becoming substandard or blighted.

The Project, which is consistent with the City of Niagara Falls Comprehensive Plan and USAN policies for new development to support its tourism base, would include actions in furtherance of tourist industry and small-/medium-sized business goals. Support for these findings is discussed herein.

## **II. Project Location**

The Project site is located on an approximately 1.8-acre parcel at 333 Rainbow Boulevard (Section, Block and Lot No. 159.53-1-18) in Niagara Falls, New York (see **Figure 1**). The Project site is bounded by:

- Rainbow Boulevard on the north;
- Fourth Street on the east;
- Buffalo Avenue on the south; and
- Private properties and Third Street on the west.

The Project site is a significant parcel in the heart of the city's downtown tourist district and is located in proximity to Niagara Falls State Park, the Conference & Event Center Niagara Falls, the Seneca Niagara Casino complex, and a number of other downtown hospitality establishments.

## **III. Background**

Since its inception, USAN has been advancing a policy direction to facilitate investment in improving the hotel inventory in downtown Niagara Falls, with notable projects including the Giacomo Hotel and Residences, the Sheraton At The Falls, the Hamister Group Hotel Development Project, and the Red Coach Inn, as well as ongoing efforts at several other downtown properties. A USAN-commissioned assessment by HVS Consulting and Valuation Services ("HVS") found that Niagara Falls still has an inordinate proportion of its hotel inventory in the economy and independent<sup>1</sup> categories, which tended to impose intense price competition to the market. In turn, the lack of a large block of higher quality hotel rooms has served as an impediment for the USAN-owned Conference Center Niagara Falls from attracting larger meetings and conventions, as well as encouraging a greater percentage of visitor overnight stays. HVS's analysis recognizes a series of obstacles here, similar to other like-sized cities, in realizing an upgrading of its lodging inventory, the most significant being access to financing.

To bridge these risks, HVS recommend a series of development incentives that allow for increased leverage in financing new hotel developments—particularly those as part of mixed-use developments that would contribute to increased street activity. HVS stated that this is a particularly feasible public investment method in Niagara Falls, NY, since unlike many other American cities, converting a greater percentage of the city's eight million annual visitors to overnight stays would progressively contribute to a number of positive economic impacts.

## **IV. Project Objective**

The Project aims to realize a new mixed-use infill development on a vacant and underutilized property at 333 Rainbow Boulevard, which would significantly reverse the current substandard

---

<sup>1</sup> The city's independent hotels are also largely in the economy category, with properties like the *Giacomo* and *Red Coach Inn* as key exceptions.

condition of a very visible land parcel along a major downtown thoroughfare. In achieving this objective, the Project would serve a strong public need and result in economic benefits to the local community, by:

- Expanding the downtown Niagara Falls inventory of quality lodging products;
- Adding new street-level retail and/or food-and-beverage offerings in the downtown area;
- Realizing new rooms that would benefit the operations and capture potential of the Conference Center Niagara Falls; and
- Contribute to the City by capturing a greater percentage of overnight patrons with relatively-higher disposable income, thus increasing the potential for expanded economic activity downtown.

## **V. Project Description**

### **A. Overview**

This GPP envisions that Plati will be directly responsible for the development activities under the Project. The State funds allocated to the Project, which would reimburse portions of capital cost items under the Project upon completion, will supplement private funds in the Project.

Specifically, the Project would involve the construction and operation of a new, 65,000-square-foot (SF), mixed-use infill building at the property (See **Figures 2 and 3**). The building would contain a 110-room hotel (preliminarily anticipated to be a Wingate by Wyndham®) with 4,000 SF street-level retail/food-and-beverage uses fronting along Rainbow Boulevard. Sufficient parking for the development is located on the Project site. The Project would be developed in accordance with USAN's Urban Design Standards.

### **B. Incentive Amount**

A financial return analysis of the developer's Pro Forma indicates that the Project would not be financially feasible without assistance from USAN. Based on this analysis, the \$980,000 in USAN assistance toward the \$10.16 million investment would result in Plati achieving an operating performance producing an acceptable Internal Rate of Return ("IRR") necessary for Plati to undertake the Project and ensure its continued success.

### **C. Incentive Proposal**

USAN prepared an Incentive Proposal which Plati accepted on October 30, 2013. The Incentive Proposal outlines the general terms and conditions of USAN's participation in the proposed Project, including terms which require the developer to finance, design, construct and operate a mixed use facility in accordance with Section V(A) referenced above; compliance with the General Project Plan to be approved by the USAN Directors; compliance with all applicable statutes; and compliance with all program requirements.

**D. Tentative Project Timeline**

- Public Hearing on GPP December 2014
- Review by Public Authorities Control Board January 2015
- Start of Construction March 2014
- Completion of Construction April 2015
- Certificate of Occupancy May 2015

**VI. Project Funding**

**Table 1** outlines the proposed uses of funds programmed for the project and the sources of these funds. The budget for the uses of funds was derived from cost/pro-forma estimates submitted by Plati as part of the Project negotiations.

The source of funds is USAN/City MOU funds pursuant to the 2009 Memorandum of Understanding (“MOU”) between USAN and the City of Niagara Falls to support economic development projects in the USAN Development District. No USAN corporate funds would be used to fund the Project.

**Table 1 – Uses & Sources of Funds**

<b>Funding Uses</b>	
Land Acquisition	\$ 1,100,000
Site Work Prep	\$ 300,000
Architectural Services	\$ 110,000
Legal, Accounting and other Soft Costs	\$ 700,000
Hard Construction Costs	\$ 7,000,000
Furniture, Fixtures and Equipment	\$ 950,000
<b>GRAND TOTAL</b>	<b>\$10,160,000</b>

<b>Anticipated Funding Sources</b>	
Owner’s Private Financing and Equity (Plati)	\$ 9,180,000
USAN Funds	\$ 980,000
<b>GRAND TOTAL</b>	<b>\$10,160,000</b>

**VII. Economic Impact**

The Project would serve the public as a recreational support amenity by expanding the City’s inventory of quality hotel rooms and the breadth of choices for food-and-beverage facilities. In addition, these goals would be accomplished by contributing to a dense urban corridor along Rainbow Boulevard. Like other USAN initiatives to expand the lodging, restaurant, and meeting facilities downtown, the Project would also directly compliment the State’s investment in the Conference Center Niagara Falls.

In terms of visitor perceptions, together with the State's recent investments in the former Rainbow Centre Mall/City Parking Ramp, the Niagara Falls Culinary Institute, and the Hamister Group Hotel Project, construction of the Rainbow Boulevard Roundabout and proposed improvements to the Holiday Inn, the Project will improve the visual quality along the Rainbow Boulevard downtown corridor. While not quantifiable, such improvements often shape initial impressions of an urban area and decisions on whether it is viewed as a safe and desirable place to visit.

ESD performed an economic analysis of the Project and has projected that it is estimated that it would have the following beneficial economic impacts over a ten-year period:

- Construction activity will generate an estimated total of 122 person years of employment (direct, indirect, and induced).
- Permanent operations will generate 35 net new on-site jobs with an average salary of \$23,500.
- Based upon ESD's regional economic impact model, economic activity by the 35 employees will also generate an additional 16 jobs in the region over the ten-year evaluation period.
- Direct and indirect fiscal benefits during the ten-year evaluation period (i.e., taxes on personal incomes from project direct/indirect employment, corporate and business incomes, excise and user taxes, property taxes, and other taxes) is estimated to total \$6.2 million.
- Total impact on economic activity related to the Project in the region is estimated to be \$24.0 million (direct, indirect and induced) over the ten-year evaluation period.

## **VIII. Statutory Basis**

### **A. Industrial Project Findings – UDC Act Section 10(b):**

Based on the information set forth in this GPP and other due investigation conducted by USAN, USAN hereby affirms the UDC Act Industrial Project findings as follows:

1. *That the area in which the project is to be located is a substandard or insanitary area, or is in danger of becoming a substandard or insanitary area, wherein there exists a condition of substantial and persistent unemployment or underemployment.*

The Project site is an underutilized parcel that detracts value from surrounding uses on Rainbow Boulevard, and has the potential of becoming further substandard if actions are not taken to facilitate new investment there. In turn, the City as a whole has experienced chronically high jobless rates. Significant new infill development on the Project site has the potential—together with other recent projects—to directly and indirectly create new employment opportunities.

- 2. That the acquisition or construction and operation of such project will prevent, eliminate or reduce unemployment or underemployment in such area.*

The Project would represent a major infill development to continue efforts to grow tourism-related economic activity downtown. It is projected to create 122 direct, indirect, and induced jobs as a result of its construction and 51 direct, indirect, and induced jobs as part of its operations over a ten-year period.

- 3. That such project shall consist of a building or buildings, which are suitable for manufacturing, warehousing or research or other industrial, business or commercial purposes.*

The Project will consist of a mixed-use building consisting of a combination of commercial uses that would further expand the tourism industry in downtown Niagara Falls.

- 4. That adequate provision has been, or will be made for the payment of the cost of the acquisition, construction, operation, maintenance and upkeep of such project.*

The Project developer has submitted a pro-forma and budget for the Project that has been confirmed by ESD/USAN to be sufficient in providing funds to acquire the site from the City, to construct the new development, and to operate/maintain it in a reasonable manner.

- 5. That the acquisition and construction, proposed leasing, operation and use of such project will aid in the development, growth and prosperity of the state and the area in which such project is located.*

The Project will provide a significant contribution to further developing a cluster of tourism-related uses in downtown Niagara Falls and will aid in the revitalization of the tourism industry here.

#### **B. Small and Medium-Sized Business Assistance Project Findings – UDC Act Section 10(f):**

Based on the information set forth in this GPP and other due investigation conducted by USAN, USAN hereby affirms the UDC Act Small and Medium-Sized Business Assistance Project findings as follows:

- 1. That the area in which the project will be located is a substandard or insanitary area, or is in danger of becoming a substandard or insanitary area, wherein there exists a condition of substantial and persistent unemployment or underemployment.*

See Item A. 1 above.

- 2. That the project demonstrates market, management and financial feasibility and has a clear likelihood of success;*

USAN's market research confirms sufficient demand in the local market to support the Project and that Plati has submitted information demonstrating its financial capability to undertake the effort. Plati's pro-forma uses reasonable assumptions confirmed by USAN/ESD to demonstrate a clear likelihood for the Project's success.

3. *That the firm provides at least a ten percent equity contribution and such contribution is not derived from other governmental sources.*

The Project budget includes a minimum of ten percent equity participation by Plati that is not derived from other governmental sources.

4. *That the requested financial assistance is not available from other public or private financing sources on terms compatible with the successful completion of the project.*

The requested amount of financial assistance is reasonable and necessary to support the completion of the Project and as documented in market analyses conducted by USAN, would not be readily available from other public or private financial sources.

5. *That the project will not result in the relocation of any industrial firm from one municipality within the state to another municipality, except under one of the following conditions: (i) when an industrial firm is relocating within a municipality with a population of at least one million where the governing body of such municipality approves such relocation; or (ii) the corporation notifies each municipality from which such industrial firm will be relocated and each municipality agrees to such relocation.*

Insofar as the project is a new—rather than relocated—development, it would not involve the relocation of any firm from another municipality in the state.

6. *That the project is not for the purpose of refinancing any portion of the total project cost or other existing loans or debts of the project sponsor or owner.*

The Project, and particularly USAN assistance for it, does not involve refinancing of any existing loans or debts for this or any other property or holding of the developer.

### **C. Displacement Findings – UDC Act Section 10(g)**

No residential or business relocation is required because no families, individuals, or businesses would be displaced at the Project site.

### **IX. Labor Peace Agreements**

Public Authorities Law Section 2879-b prohibits public authorities from providing financing for any project that includes, as a principal function, a hotel with more than fifteen employees unless a labor peace agreement ("LPA") is entered into with a labor organization representing hotel employees in the state, for a period of at least five years. An LPA is an agreement between the project developer (or its contractors) and a labor organization prohibiting the labor organization and its members from engaging in labor activities that disrupt the hotel's

operations. The statute also provides that LPA requirement can be waived if the authority determines that the project would not be able to go forward with an LPA or the costs of the project to the authority would be substantially increased by such a requirement. Plati will be required to comply with the LPA requirement as a condition to receiving financial assistance from USAN.

**X. Environmental Review**

The City of Niagara Falls 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 an Unlisted Action that would not have a significant effect on the environment. The Planning Board issued a Negative Declaration on June 13, 2013. ESD staff reviewed the Negative Declaration and supporting materials and concurs with this determination. Therefore, the Directors are recommended to make a Determination of No Significant Effect on the Environment.

**XI. Non-Discrimination and Contractor & Supplier Diversity**

USAN's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this Project. Plati shall be required to: (i) include minorities and women in any job opportunities created, (ii) solicit and utilize Minority and Women Business Enterprises ("MWBEs") for any contractual opportunities generated in connection with the Project and (iii) use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 40% related to the total value of USAN's funding. The aforementioned goal includes a Minority Business Enterprise ("MBE") Participation Goal of 25% and a Women Business Enterprise ("WBE") Participation Goal of 15%, related to the total value of USA Niagara's funding.

**XII. Conclusion**

This proposed Industrial/Small and Medium Sized Business Assistance Project will result in new mixed-use infill development along Rainbow Boulevard in downtown Niagara Falls. In doing so, it would contribute to realizing a further expansion of the City's inventory of quality lodging facilities and food and beverage and retail offerings. This will contribute to municipal needs by further supporting revitalization of the downtown district and expanding economic activity in the City's tourism industry.

**Figures**

Figure 1: Site Location Map

Figure 2: Site Plan

Figure 3: Selected Renderings of Proposed Project



**Figure 1:**  
**Project Location**

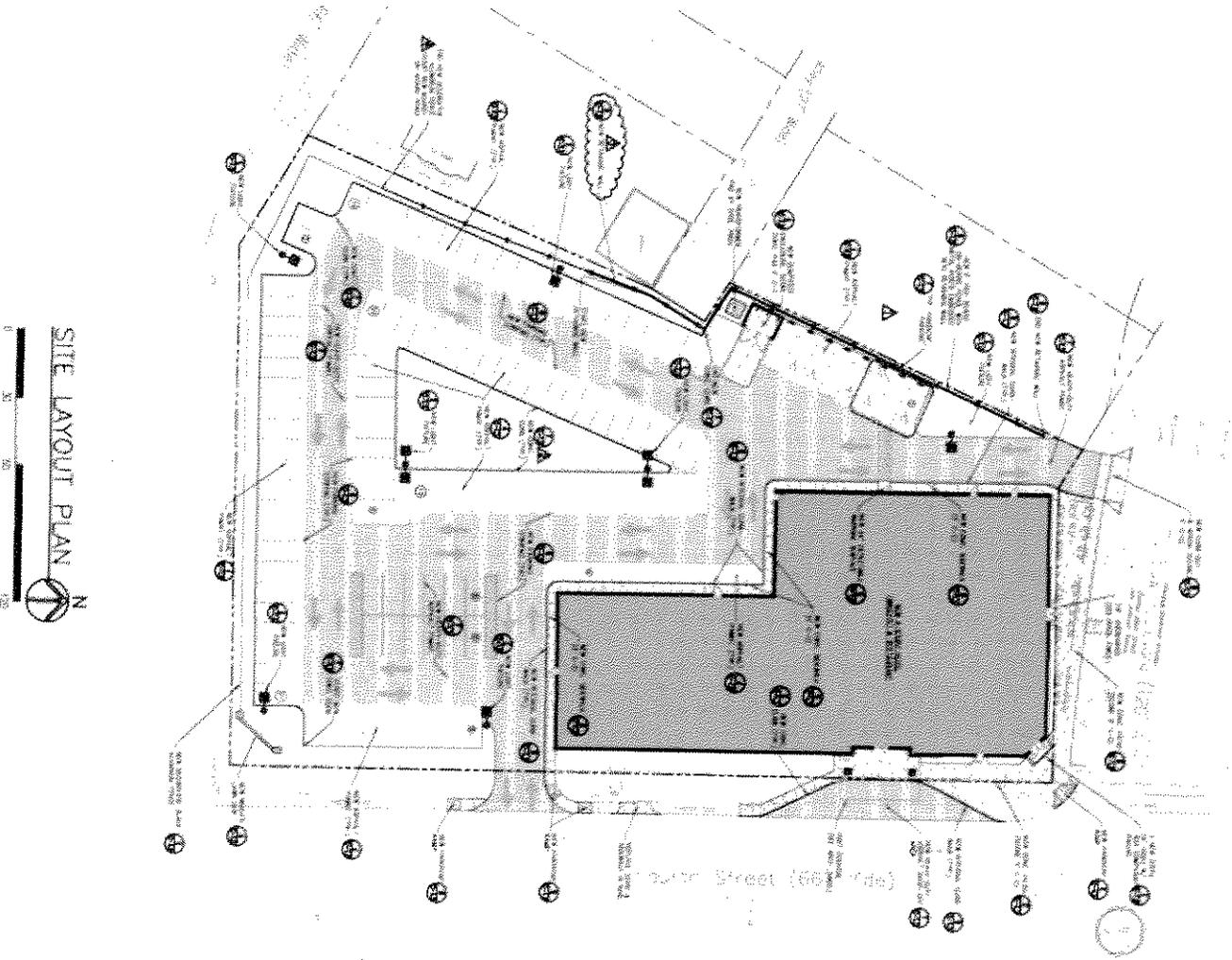
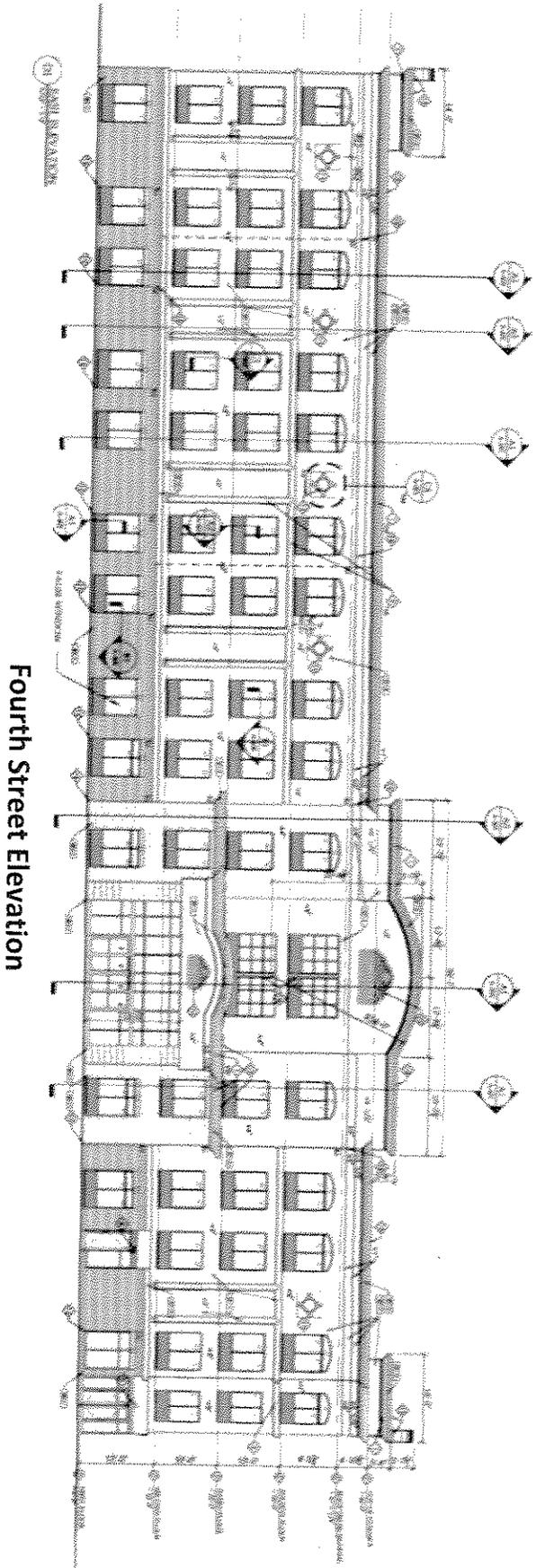
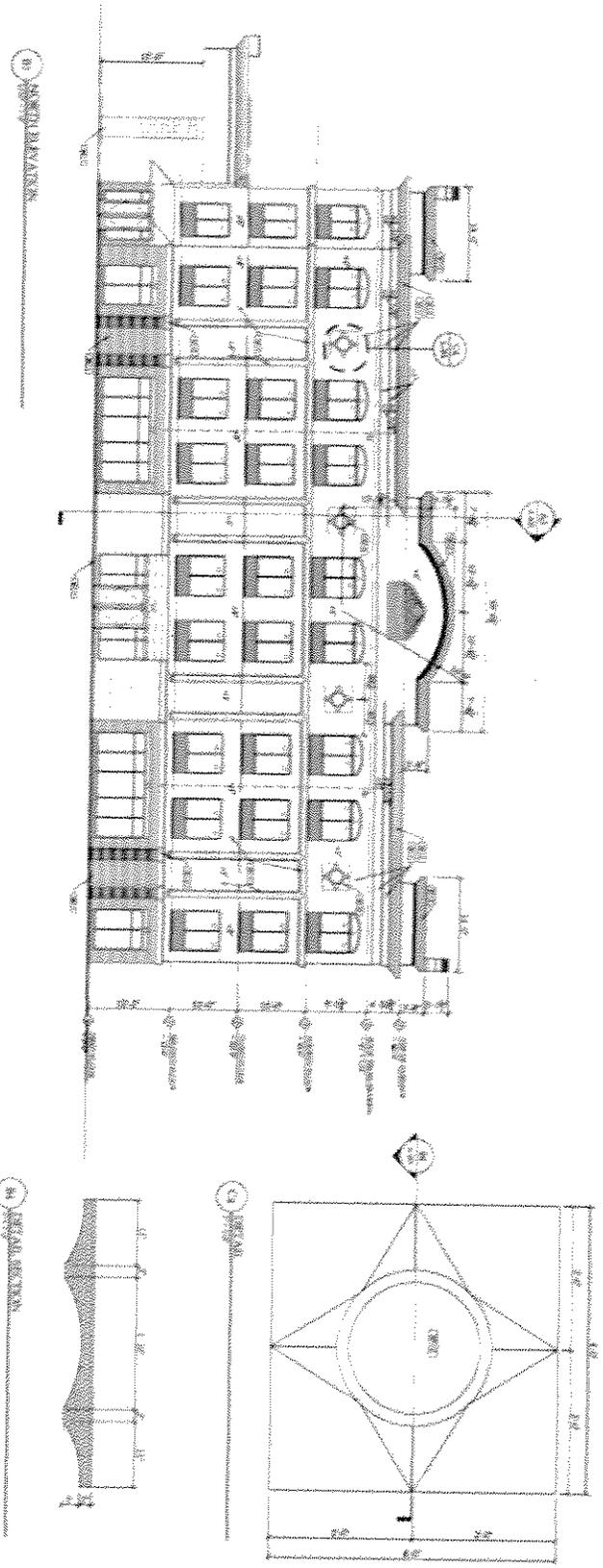


Figure 2:  
Site Plan

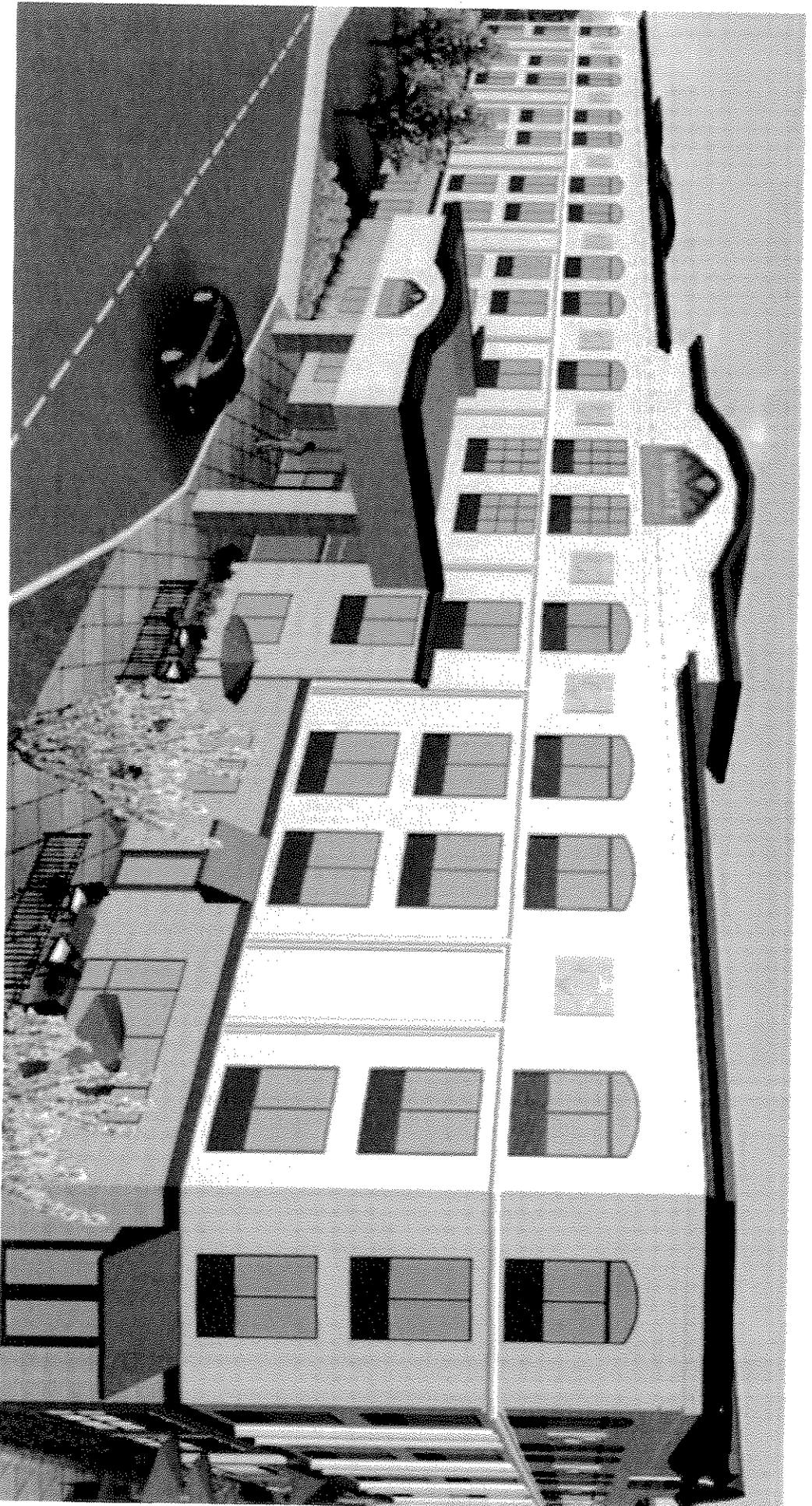


Fourth Street Elevation



Rainbow Blvd. Elevation

Figure 3(a):  
Selected Renderings of the Proposed Project



**Oblique Rendering**

**Looking Southwest at Rainbow Boulevard and Fourth Street**

**Figure 3(b):  
Selected Renderings of the Proposed Project**



222 First Street, 7<sup>th</sup> Floor  
Niagara Falls, NY 14303  
phone: 716.284.2556  
fax: 716.284.2917  
www.usaniagara.com

**FOR CONSIDERATION**

**November 24, 2014**

**TO:** The Directors

**FROM:** Christopher Schoepflin

**SUBJECT:** Adaptive Re-Use of Former Rainbow Centre Mall – Preferred Developer

**REQUEST FOR:** Determination of Responsibility with Respect to Uniland Development Company as the Proposed Preferred Developer; Authorization to Designate Uniland Development Company as the Preferred Developer to Undertake an Adaptive Re-Use of the Former Rainbow Centre Mall; Authorization to Accept a Deposit of \$50,000; Approval to Reimburse Uniland Development Company for an Amount Not to Exceed \$150,000 for Third Party Reports; and Authorization to Take All Related Actions

---

**I. Background**

In November of 2011, USA Niagara Development Corporation (“USAN”), the City of Niagara Falls (the “City”) and Niagara County Community College (“NCCC”) entered a development agreement which transformed one third of the former Rainbow Centre Mall (the “Rainbow Centre”) into the Niagara Falls Culinary Institute operated by NCCC. As part of that agreement, USAN acquired the rights to develop the remaining two-thirds space (~200,000 square feet) of the Rainbow Centre. The property’s strategic location near Niagara Falls State Park, the Seneca Niagara Casino and Old Falls Street makes it a key development parcel that could foster relationships between these areas and future development on adjoining parcels. This City-owned property also includes an attached, recently-renovated, 1,600-space public parking garage. Empire State Development (“ESD”)/USAN invested a total of \$15.4 million toward the Culinary Institute/Parking Ramp projects. Upon the opening of the Culinary Institute, USAN immediately began the process of identifying concepts for potential redevelopment of the Mall, convening a week-long visioning process by experts from the Urban Land Institute (“ULI”).

**II. Preferred Developer Selection Process**

In order to select a preferred developer to undertake an adaptive reuse and redevelopment of the Mall, a two-step competitive selection process was conducted. USAN issued a request for qualifications (“RFQ”) with advertisements placed in the New York State Contract Reporter on April 2, 2013. Eighteen firms/organizations expressed interest in the RFQ and/or

attended a Pre-Proposal meeting on April 18, 2013. Statements of Qualifications were due May 20, 2013 and two qualified respondents were then shortlisted in August 2013: Intertrust Development Inc. ("Intertrust"), one of the largest hospitality business owners and developers in Western New York and Niagara Falls, Ontario; and Uniland Development Company ("Uniland"), a leading builder, developer and manager of commercial real estate in Western New York.

Following the RFQ process, Intertrust and Uniland were invited to respond to a detailed request for proposals ("RFP"). Responses to the RFP were received on January 31, 2014 and interviews were held on February 11, 2014.

A Selection Committee consisting of five (5) USAN, ESD and City staff members reviewed the responses to the RFP against evaluation criteria measuring various aspects of each proposal, included but was not limited to: the extent the proposal met the objectives of the RFP (e.g. facilitating a creative adaptive reuse that contributes to a lively, urbane setting); the extent the proposal yields the highest level of public benefits (e.g. create new jobs, taxable investment, highest return on the land) with the least amount of public investment; and the overall quality of the development plan and financial plan.

The committee determined that Uniland's proposal would best meet the evaluation criteria as stated in the RFP. Uniland proposes to transform the former mall into the "Wonder Falls" Resort, a new complex featuring a hotel tower with world-class amenities, restaurants and entertainment facilities including a waterpark, and various other retail and food and beverage venues. With eight million tourists traveling to Niagara Falls each year, the resort is designed to encourage visitors to extend their stay in the City and view Niagara Falls as more of a year-round destination. The project will create more than 300 permanent jobs and more than 1,500 jobs during construction. Preliminary estimates indicate that the Wonder Falls project will involve a total investment of approximately \$150 million and it is anticipated that the project will receive funding under the "Buffalo Billion" initiative. The level of public investment will be a determined as part of a subsequent approval of a development agreement for the project.

Uniland is an award-winning, full-service developer that offers design, construction, leasing and property management services. Over the past 40 years it has been responsible for creating more than 12 million square feet in new development, becoming the largest developer of office and industrial parks in the Buffalo-Rochester corridor. Uniland has more than one hundred operating properties. Uniland's partners on the project are Cannon Design, an award-winning, full service architecture, engineering and interior design firm with projects in more than 20 countries, and Delaware North Companies Parks & Resorts, which is headquartered in Buffalo and is a leader in the hospitality sector with a portfolio that includes world-renowned hotels and cultural attractions. Delaware North Companies Parks & Resorts is the contracted concessioner for Niagara Falls State Park.

Following the designation of Preferred Developer, USAN, the City and Uniland will promptly negotiate the principal terms and conditions that will subsequently lead to a Development Agreement. No such binding agreement shall be entered into until further approval is received by the Board of USAN and the City Council detailing the terms of the project including any proposed public commitment of funding.

Pursuant to State Finance Law Section 139-j and 139-k and ESD's policy related thereto, staff has (a) considered the ability of Uniland to perform the services as set forth in these materials, and (b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff finds Uniland to be responsible.

### **III. Acceptance of Development Deposit**

As outlined under the General Terms and Conditions contained in the RFP, the Preferred Developer must deliver a deposit ("Deposit") of \$50,000 to USAN, within 30 business days after notification of selection by USAN. The Deposit may be in the form of a cashier's check or an irrevocable standby letter of credit, satisfactory in all respects to USAN and ESD in their sole discretion. The Deposit secures Uniland's obligation for timely submission of all documents and information deemed necessary by USAN in connection with documents such as development plans, construction documents and information related to State Environmental Quality Review Act (SEQRA) documentation, as well as proceeding with construction in a timely manner as set forth in the approved project completion schedule.

### **IV. Third Party Reports**

In order to move the project forward pending negotiation, approval and execution of the necessary binding agreements, Uniland must conduct various testing and assessments of the property as part of their required due diligence. Such reports will include: Environmental Phase 1 and Phase 2 Reports, borings, surveys and a market assessment. USAN will reimburse Uniland for an amount not to exceed \$150,000 for the Third Party Reports described above, only in the event Uniland, USAN and the City determine not to enter into a Development Agreement. If USAN is required to reimburse Uniland, the funding source would be USAN/City MOU funds, pursuant to the 2009 Memorandum of Understanding ("MOU") between USAN and the City.

### **V. Non-Discrimination and Contractor & Supplier Diversity**

Pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority and women-owned businesses (MWBES) in the performance of ESD contracts. Accordingly, ESD's Non-discrimination and Contractor & Supplier Diversity policy will apply to the project. MWBE participation goals will be assigned to this project and will be assessed as project details emerge.

### **VI. Environmental Review**

ESD staff has determined that the action, which involves designating a preferred developer and undertaking a series of planning/engineering studies that do not commit USAN to undertaking a specific project, 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 in connection with the project.

**VII. Requested Action**

The Directors are requested to (1) make a determination of responsibility with respect to the proposed preferred developer; (2) authorization to designate Uniland Development Company as the preferred developer for the adaptive re-use of the former Rainbow Centre Mall; (3) authorization to accept a deposit of \$50,000 from Uniland; (4) approval to reimburse Uniland for an amount not to exceed \$150,000 for Third Party Reports; and (5) take all related actions.

**VIII. Recommendation**

Based on the foregoing, I recommend approval of the requested actions.

**IX. Attachments**

Resolution

USA NIAGARA DEVELOPMENT CORPORATION - Adaptive Re-Use of Former Rainbow Mall – Preferred Developer – Determination of Responsibility with Respect to Uniland Development Company as the Proposed Preferred Developer; Authorization to Designate Uniland Development Company as the Preferred Developer for the Adaptive Re-Use of the Former Rainbow Mall Project; Authorization to Accept a Deposit of \$50,000; Approval to Reimburse Uniland for an Amount Not to Exceed \$150,000 for Third Party Reports; and Authorization to Take All Related Actions

---

BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the "Materials"), a copy of which is hereby ordered filed with the records of the USA Niagara Development Corporation (the "Corporation") , the Corporation hereby finds Uniland Development Company ("Uniland") to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to designate Uniland as the Preferred Developer for the proposed adaptive re-use of the former Rainbow Centre Mall; and be it further

RESOLVED, that the Corporation is hereby authorized to accept a Development Deposit of FIFTY-THOUSAND DOLLARS (\$50,000) from Uniland to secure Uniland's obligation for timely submission of all documents and information deemed necessary by USAN as outlined under the General Terms and Conditions contained in the Adaptive Re-Use of the former Rainbow Centre Mall request for proposals; and be it further

RESOLVED, that the Corporation is hereby authorized to reimburse Uniland for an amount not to exceed ONE-HUNDRED FIFTY THOUSAND DOLLARS (\$150,000) for Third Party Reports, if only in the event Uniland, USAN and the City determine not to enter into a Development Agreement; and be it further

RESOLVED, that the President of the Corporation or his designee be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.

\*\*\*