

**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

Wednesday

October 5, 2016 – 3:00 p.m.

**AGENDA**

**I. CORPORATE ACTION**

- A. Approval of Minutes of the August 23, 2016 Directors' Meeting

**II. FOR CONSIDERATION**

- A. Niagara Falls (Niagara County) – 310 Rainbow Boulevard Industrial/Small and Medium-Sized Business Assistance Project Affirmation of the August 23, 2016 Modified General Project Plan (“MGPP”); Re-Authorization to Make a Grant and to Take Related Actions

**USA NIAGARA DEVELOPMENT CORPORATION**

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

and

Empire State Development  
633 Third Avenue  
New York, New York 10017

August 23, 2016

**MINUTES**

**In Attendance Directors:**

Francine DelMonte – Chair  
Paul Nanula (via telephone)  
Gary Smith  
Michael Williamson

**Present for USA Niagara:**

Chris Schoepflin, President  
Rose-Marie Mahase, Acting Secretary  
Rob Sozanski, Project Associate  
Paul Tronolone, Senior Project Manager  
John Risio, Project Manager  
Jocelyn Viola, Office Manager

**Present for ESD  
(Downstate):**

Elaine Kloss, Chief Financial Officer  
Kathleen Mize, Deputy Chief Financial Officer & Controller  
Maxwell Padden, Director – Subsidiary Finance

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

Stephen Gawlik, VP – Capital Projects and Senior Counsel –  
Strategic Initiatives

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

Mayor Paul Dyster

**Also Present:** Michael Lewis – Power City Eatery  
Maddy Genevose – Senator Ortt’s Office  
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 3:00 p.m. by Chair DelMonte.

The Chair went on to note for the record the guidelines by which the public is allowed to comment on items on the Agenda.

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. Further, she noted that if any potential conflicts exist, the Directors would be reminded at the appropriate time to recuse themselves from the vote on any such item.

Hearing none, the Chair then called for the approval of the Minutes of the January 15, 2016 and March 23, 2016 Directors’ meetings. Noting no corrections and upon motion duly made and seconded, the following resolution was unanimously adopted:

APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE JANUARY 15, 2016 AND MARCH 23, 2016 MEETINGS OF THE DIRECTORS OF THE USA NIAGARA DEVELOPMENT CORPORATION

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RESOLVED, that the Minutes of the meetings of the Corporation held on January 15, 2016 and

March 23, 2016 as presented to this meeting, are hereby approved and all actions taken by the Directors present at such meetings as set forth in such Minutes, are hereby in all respect ratified and approved as actions of the Corporation.

\* \* \*

Chair DelMonte then asked Steve Gawlik to present the Revised Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Guidelines for the Directors' consideration.

Mr. Gawlik stated that the Public Authorities Law requires ESD and its subsidiaries to adopt procurement guidelines annually, which ESD adopted in the spring. He also noted that there have been no changes in the laws, rules and regulations that govern the guidelines and that they have been reformatted to be more user friendly.

Mr. Gawlik further noted that there was only one substantive change in the guidelines, noting that the ESD Board adopted a change in the contract amount, increasing it from \$50,000 to \$250,000.

Mr. Gawlik further noted that ESD deals with much bigger contracts and feels that USA Niagara's contract approval should be also increased from \$50,000 to \$100,000 and that the Procurement Guidelines be adopted with the one exception that the amount for board approval be increased to \$100,000.

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

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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 2016 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, with the exception that any contracts entered into by the Corporation that exceed a contract amount of \$100,000 shall require approval by the Corporation's directors; 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.

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Next, the Chair asked Christopher Schoepflin, President of USA Niagara Development Corporation, to present the next item on the Agenda which related to the 310 Rainbow Boulevard Industrial/Small and Medium-Sized Business Assistance project (the "Project").

Mr. Schoepflin stated that this Project is in the same location as the Hamister Project and that it is a \$34.4 million dollar mixed-use development that will involve a 112,000 square-foot building containing a 120-room Hyatt Palace Hotel, meeting and banquet space as well as ground level retail and/or food and beverage operations.

Mr. Schoepflin further noted that the Directors are being asked to adopt a second Modified General Project Plan (“MGPP”) in addition to the previously committed \$3.85 million dollars in USA Niagara and Buffalo Billion assistance towards the Project.

Mr. Schoepflin further noted that an additional \$1 million in State funds is proposed by USA Niagara staff and ESD senior management to be provided to the developer. He stated the public investment is now proposed to total \$4.85 million, which is approximately 14% of the Project, combined with additional financial requirements of Mr. Hamister and Goldman Sachs.

Mr. Schoepflin advised that USA Niagara corporate funds would not be used for any portion of the \$4.85 million and that based on the foregoing, the Directors were being asked to adopt the August 16, 2016 MGPP and authorize a public hearing on the amendment; and to authorize the commitment of funds in the total amount of \$4,850,000 for the Project.

Following Mr. Schoepflin’s 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 -- 310 Rainbow Boulevard Proposed Industrial/Small and Medium-Sized Business Assistance Project – Adoption of Amendment to the General Project Plan; Authorization to Hold a Public Hearing, Authorization to Make a Grant and to Take Related Actions

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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 310 Rainbow Boulevard

Proposed Industrial/Small and Medium-Sized Business Assistance Project (the "Project"), the Corporation hereby adopts the proposed Modified 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 \$4,850,000 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 provision of USAN financial assistance is expressly contingent upon: (1) the approval of the Public Authorities Control Board, if applicable, (2) receipt of all other necessary approvals, and (3) availability of funds; 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.

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Mr. Schoepflin then presented the next item on the Agenda which related to the 444 Third Street Retail Renovation project (the "Project").

This Project, Mr. Schoepflin stated, is a \$500,325 renovation to what was a vacant 3,840 square-foot one-story building on Third Street in downtown Niagara Falls, that once housed a State parole operation. He advised that the proposed Niagara Economic Development Fund investment is a \$100,000 grant that would be used to reimburse a portion of the interior renovation. He noted that none of the funds would be used for FF&E or contingency or any

other soft costs.

Mr. Schoepflin further noted that the renovations will create retail space for a locally-owned Power City Eatery in downtown Niagara Falls which is an area that currently does not have any non-franchise locally owned independent coffee shops. He explained that Power City Eatery hopes to combine the need for a local independent shop, small market and deli and sandwich shop into one location.

Mr. Schoepflin noted that the real estate company Cataract Real Estate, Inc. accepted an incentive proposal from USA Niagara in March 2016 and Power City Eatery recently opened for business and expects to complete all components of the Project by October 2016. He stated that currently there are zero employees with six full-time and three part-time positions projected in the first year of completion of the Project.

Mr. Schoepflin then introduced and thanked Mr. Michael Lewis, the owner of Cataract Real Estate, for his investment of downtown Niagara Falls.

Lastly, Mr. Schoepflin noted that there is a lot of background on the grant program which has been administered for a little over a decade and that the most important point is that no USA Niagara funds will be utilized for the grant program and USA Niagara will retain no interest in the various projects and will provide no financing for the projects.

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 – Authorization to Approve a Grant; Make a Determination of No Significant Effect on the Environment; and Authorization to Take 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 Directors hereby approve and recommend for funding by the Niagara County Development Corporation a grant in an amount not to exceed \$100,000 to Cataract Real Estate Inc., 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 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 Directors authorize the President, or his designee to take all actions that he deems necessary or appropriate in connection with the foregoing resolution.

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Chair DelMonte then asked Mr. Schoepflin to present the last item on the Agenda, which related to 223 Ferry Avenue Retail Renovation project (the "Project").

Mr. Schoepflin explained that 223 Ferry Avenue Partners LLC located at 223 Ferry Avenue is a \$660,000 renovation to a formally vacant two-story building on the corner of Ferry and Third Street in downtown Niagara Falls that will create retail space for a locally owned craft-beer themed restaurant and retail space for two additional storefronts.

Mr. Schoepflin also noted that 223 Ferry Avenue Partners accepted an incentive proposal from USA Niagara in March 2016 for \$100,000 and that the Project is currently under construction and expected to be completed in September 2016. The Project at this time has zero employees but is expected to have 5 full-time employees within one year of completion of the Project.

Lastly, Mr. Schoepflin noted that the proposed NEDS investment of \$100,000 is a grant for reimbursement for portions of the interior and exterior renovation costs and no USA Niagara funds will be utilized for the grant program and USA Niagara retains no interest and provides no financing for the Project.

Following the full presentation, the Chair called for questions or comments. Director Smith asked what the policy was regarding projected employment if it doesn't materialize on these projects. Mr. Schoepflin advised that the Corporation's role is to make recommendations on the IDA investment and not track the projected employment, Mr. Risio confirmed that the jobs are projected by the grantee and the Corporation holds to the investment amount.

Upon motion duly made and seconded, the following resolution was unanimously adopted:

USA Niagara Development Corporation – Authorization to Approve a Grant; Make a Determination of No Significant Effect on the Environment; and Authorization to Take 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 Directors hereby approve and recommend for funding by the Niagara County Development Corporation a grant in an amount not to exceed \$100,000 to 223 Ferry Ave Partners LLC, 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 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 Directors authorize the President, or his designee to take all actions that he deems necessary or appropriate in connection with the foregoing resolution.

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There being no further business, the meeting was adjourned at 3:15 p.m.

Respectfully submitted,

Debbie Royce  
Acting Corporate Secretary



**FOR CONSIDERATION**

**October 5, 2016**

**TO:** The Directors

**FROM:** Christopher Schoepflin

**SUBJECT:** Niagara Falls (Niagara County) – 310 Rainbow Boulevard Industrial/Small and Medium-Sized Business Assistance Project

**REQUEST FOR:** Affirmation of the August 23, 2016 Modified General Project Plan (“MGPP”); Re-Authorization to Make a Grant and to Take Related Actions

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**I. Background:**

The 310 Rainbow Boulevard Industrial/Small and Medium Sized Business Assistance Project (the “Project”) involves providing State assistance to Hamister Group (“Hamister” or the “Developer”) to facilitate a \$34.4 million mixed-use development on a highly-visible, 0.88-acre land parcel along Old Falls Street. It would result in the development of a ±111,629 square-foot building containing a hotel, ballroom and ground-level food and beverage and/or retail operations open to the general public.

On July 8, 2013, the USA Niagara Development Corporation (“USAN”) Board of Directors adopted a General Project Plan for the Project and authorized \$2.75 million in funding committed for the Project. On May 22, 2015, the USAN Board adopted a Modified Project Plan and authorized an additional \$1.1 million for the Project. Further on August 23, 2016, the USAN Board adopted a revised Modified Project Plan (the “MGPP”), authorized an additional \$1 million for the Project (for a total commitment of \$4.85 million) and authorized the holding of a public hearing.

**II. Public Hearing Testimony and USAN Response:**

A public hearing for the Project was held at Niagara Falls City Hall on September 14, 2016, from 3:00 p.m. to 4:00 p.m. to consider the MGPP. USAN arranged the public hearing in accordance with all statutory requirements and any applicable Empire State Development (“ESD”) policy. Specifically, a legal notice was published in the Niagara Gazette on September 3, 2016. The MGPP was available at the office of the City of Niagara Falls City Clerk, the Niagara County Clerk and the USAN corporate office. A transcript of the hearing is attached herewith.

The public hearing was reported by the media prior to the hearing and approximately 8 people attended all or a portion of the hearing. Four speakers made oral presentations at the hearing, with two speakers against the Project. In addition, USAN staff has summarized the comments of each speaker with USAN staff responses below.

**First Speaker:**

The first speaker stated he was in favor of the Project under conditional performance criteria including more training for the local tourism workforce. The speaker also commented on other issues in the city he had concerns with including conditions at an alleged illegal boarding house.

**USAN Response:**

Other ESD training programs and policies have addressed workforce development. The Culinary Institute Niagara Falls is an example of ESD's support for developing the hospitality workforce in Niagara Falls. As the tourism industry in Niagara Falls expands, more hospitality workforce training programs have also been addressed by the Niagara Global Tourism Institute and the Niagara Tourism & Convention Corporation. The other issues commented on are outside of USAN's jurisdiction.

**Second Speaker:**

Speaker spoke in opposition to the Project and commented on how she and her husband had built the Best Western Scenic Inn at Prospect Street in 1964 with no assistance from the state. She noted that Urban Renewal was a disaster for the city and that it was too expensive for them to rebuild their hotel. Speaker also commented on the increased cost of the Project and objected to \$1.1 million in additional funding for the Project.

**USAN Response:**

As noted in the MGPP, the cost estimates and program of the Project have been refined by the developer requiring a modification of the Project. The correct amount of the additional funding is \$1 million (for a total public investment of \$4.85 million or approximately 14% of the total Project cost), which will enable the developer to advance a total investment estimated at \$34.4 million. Together with the developer's equity of over \$5 million, (approximately 16% of the total Project cost), significant financing for the Project includes \$24 million, (approximately 70% of the total Project cost and fully guaranteed by Mr. Mark Hamister), from Goldman Sachs Bank, which is that company's first investment in the downtown Niagara Falls market. The source of the additional funding is Buffalo Regional Innovation Cluster and will come at no cost to the City of Niagara Falls. Regardless of the Urban Renewal policies that occurred over forty years ago, ESD considers incentive proposals only for projects which advance its stated public policy goals.

**Third Speaker: (City of Niagara Falls Mayor Paul Dyster)**

Mayor Dyster spoke in favor of the Project. The mayor noted that Governor Andrew Cuomo attended the Project's ground breaking, declaring that the Project was another indication of the new Niagara Falls. Mayor Dyster indicated that the Project has received its share of media attention and that the Project in some cases has been the subject of misguided rhetoric. The mayor commented that the additional \$1 million in state funding was critical in allowing the

Hamister Group to bridge a funding gap and to successfully guarantee \$24 million in debt to Goldman Sachs in order to finance the Project. The mayor also noted that the additional state funding will come to no cost to the City of Niagara Falls. Mayor Dyster further commented that work at the Project site is well underway and thanked Governor Cuomo, USAN and developer Mark Hamister for their leadership and perseverance for seeing the Project through.

**USAN Response:**

Comment acknowledged.

**Forth Speaker:**

Speaker spoke in opposition to the Project and commented that she opposes \$1.1 million in additional funding for the Project because the process and the Project have been badly managed and that the taxpayers have contributed enough funding for the Project.

**USAN Response:**

The correct amount of the additional funding is \$1 million. As previously noted, this funding will enable the developer to advance a total investment estimated at \$34.4 million. The total public investment of \$4.85 million is approximately 14% of the total Project cost. Project grant funds will be disbursed in arrears in three installments: a) 50% of the grant (\$2,425,000) will be disbursed upon verification of Project expenditures of \$5,100,000; b) 25% of the grant (\$1,212,500) will be disbursed upon documentation of 50% of the developer's \$20,000,000 loan being expended for Project costs; and c) 25% of the grant (\$1,212,500) will be disbursed upon Project completion which includes documentation of employment goals (at least 35 Full-time Equivalent Permanent Employees), total Project costs of \$34.4 million, and a Certificate of Occupancy and other documentation as USAN may require.

**III. Summary:**

After review and consideration of comments received at the public hearing, USAN staff believes that the concerns raised at the hearing have been adequately addressed and that the Project is expected to have a positive impact on the community.

**IV. Requested Actions:**

The Directors are requested to a) affirm the August 23, 2016 MGPP, b) re-authorize the commitment of funds in the total amount of \$4,850,000 for the Project and c) authorize the taking of all actions related to the foregoing.

**V. Attachments:**

Resolution

Board Materials dated August 23, 2016 and Modified General Project Plan

Public Hearing Transcript

October 5, 2016

USA Niagara Development Corporation -- 310 Rainbow Boulevard Proposed Industrial/Small and Medium-Sized Business Assistance Project – Affirmation of the Modified General Project Plan; Re-authorization to Make a Grant and to Take Related Actions

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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 310 Rainbow Boulevard Proposed Industrial/Small and Medium-Sized Business Assistance Project (the “Project”), the Corporation hereby affirms the proposed Modified 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, on the basis of the materials presented to this meeting relating to the Project, 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 Four Million Eight Hundred Fifty Thousand Dollars (\$4,850,000) 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 provision of USAN financial assistance is expressly contingent upon: (1) the approval of the Public Authorities Control Board, if applicable, (2) receipt of all other necessary approvals, and (3) availability of funds; 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.

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**FOR CONSIDERATION**

**August 23, 2016**

**TO:** The Directors

**FROM:** Christopher Schoepflin

**SUBJECT:** Niagara Falls (Niagara County) – 310 Rainbow Boulevard Industrial/Small and Medium-Sized Business Assistance Project

**REQUEST FOR:** Adoption of Modified General Project Plan (“MGPP”); Authorization to Hold a Public Hearing, Authorization to Make a Grant and to Take Related Actions

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**I. Project Description:**

The 310 Rainbow Boulevard Industrial/Small and Medium Sized Business Assistance Project (the “Project”) involves providing State assistance to Hamister Group (“Hamister” or the “Developer”) to facilitate a \$34.4 million mixed-use development on a highly-visible, 0.88-acre land parcel along Old Falls Street. It would result in the development of a ±111,629-square-foot (“SF”) building containing a hotel, ballroom and ground-level food-and-beverage and/or retail operations open to the general public.

**II. Project Location:**

The Project site is located on an approximately 0.88-acre parcel at 310 Rainbow Boulevard in Niagara Falls, New York. The Project site is bounded by: Michael J. O’Laughlin Way on the north; Rainbow Boulevard on the east; Old Falls Street on the south; and a private parking lot for the Hard Rock Café on the west.

The Project site is a major 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. Project Background:**

On July 8, 2013, the USA Niagara Development Corporation (“USAN”) Board of Directors, among other things: i) adopted a General Project Plan (“GPP”) for the Project and (ii) authorized

the commitment of funds in the total amount of \$2,750,000 for the Project. A copy of the July 8, 2013 Board materials and GPP are attached hereto as Attachment A. On May 22, 2015, the USAN Board among other things: i) adopted a Modified Project Plan ("MGPP") for the Project and (ii) authorized an additional \$1.1 million for the Project. A copy of the May 22, 2015 Board materials and MGPP are attached hereto as Attachment B. The MGPP and all findings and determinations made by the Board shall remain in full force and effect except as modified below to reflect changes to the proposed Project.

#### **IV. The Proposed MGPP (Revised):**

Since the MGPP was approved by the Board, the cost estimates and program of the Project have been refined by the developer requiring a modification of the Project. As such, USAN staff recommends an amendment to the MGPP. The proposed amendment is attached hereto as Attachment C and is described as follows:

- (a) In addition to the previously committed \$3.85 million in USAN assistance toward the Project, an additional \$1 million in State Funds have been proposed by USAN staff and Empire State Development senior management to be provided to the developer. This public investment, now proposed to total \$4.85 million, (approximately 14% of the total Project cost), would enable the developer to avoid additional financing costs and advance a total investment estimated at \$34.4 million. Together with the developer's equity of over \$5 million, (approximately 16% of the total Project cost), significant financing for the Project includes \$24 million, (approximately 70% of the total Project cost and fully guaranteed by Mr. Mark Hamister), from Goldman Sachs Bank, which is that company's first investment in the downtown Niagara Falls market. The \$4.85 million public investment would result in the developer achieving an operating performance producing an acceptable Internal Rate of Return ("IRR") necessary for the developer to undertake the Project. The source of the additional funding is Buffalo Regional Innovation Cluster appropriation authorized pursuant to the 2016-17 State budget. USAN Corporate funds will not be used for any portion of the project.

#### **V. Environmental Review:**

The Directors made a Determination of No Significant Effect on the Environment for the proposed Project at their meeting of July 8, 2013. This determination addressed all aspects of the 310 Rainbow Boulevard Industrial/Small and Medium-Sized Business Assistance Project, inclusive of anticipated refinements under this MGPP. Therefore, no further environmental review is required in connection with this action.

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

Empire State Development/USAN's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this Project. Hamister 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 30% related to the total value of the State's funding. The aforementioned goal includes a Minority Business Enterprise ("MBE") Participation Goal of 18% and a Women Business Enterprise ("WBE") Participation Goal of 12%, related to the total value of USAN's funding.

**VII. Requested Actions:**

The Directors are requested to: a) adopt the August 2016 MGPP; b) authorize a public hearing on the August 2016 amendment; c) authorize the commitment of funds in the total amount of \$4,850,000 for the Project; and d) authorize the taking of all actions related to the foregoing.

**VIII. Attachments:**

Resolution

Attachment A – Board Materials dated July 8, 2013 and General Project Plan

Attachment B – Board Materials dated May 22, 2015 and Modified General Project Plan

Attachment C – August 2016 Modified General Project Plan

August 23, 2016

USA Niagara Development Corporation -- 310 Rainbow Boulevard Proposed Industrial/Small and Medium-Sized Business Assistance Project – Adoption of Amendment to the General Project Plan; Authorization to Hold a Public Hearing, Authorization to Make a Grant and to Take Related Actions

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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 310 Rainbow Boulevard Proposed Industrial/Small and Medium-Sized Business Assistance Project (the "Project"), the Corporation hereby adopts the proposed Modified 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 \$4,850,000 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 provision of USAN financial assistance is expressly contingent upon: (1) the approval of the Public Authorities Control Board, if applicable, (2) receipt of all other necessary approvals, and (3) availability of funds; 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.

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**Attachment C**

**USA Niagara Development Corporation**

**310 Rainbow Boulevard  
Industrial/Small and Medium-Sized Business Assistance Project  
Niagara Falls, New York**

**Modified General Project Plan (Revised)**

**(Original General Project Plan adopted July 8, 2013)  
(Modified General Project Plan adopted May 22, 2015)**

The USA Niagara Development Corporation (“USAN”), a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development (“ESD”), adopted a General Project Plan (“GPP”) on July 8, 2013 to undertake the 310 Rainbow Boulevard Industrial/Small and Medium-Sized Business Assistance Project (the “Project”) in the City of Niagara Falls, Niagara County, New York. On May 22, 2015, USAN adopted a Modified Project Plan (“MGPP”) for the Project and authorized an additional \$1.1 million for the Project.

Except as noted below, the MGPP remains unmodified and in full force and effect. The amendment is as follows:

1. In Section I Introduction of the GPP, delete the second paragraph beginning with “The Project involves...” and replace with:

The Project involves providing \$4.85 million in assistance to a private company to facilitate a \$34.4 million mixed-use development on a highly-visible, 0.88-acre land parcel along Old Falls Street. It would result in the development of a ±111,629-square-foot (“SF”), building containing hotel, ballroom and ground-level food-and-beverage and or retail operations open to the general public.

2. In Section V Project Description, update the following sections with the following:

**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 \$4.85 million in State assistance toward the \$34.4 million investment would result in Hamister achieving an operating performance producing an acceptable Internal Rate of Return (“IRR”) necessary for Hamister to undertake the Project and ensure its continued success.

D. Project Timeline

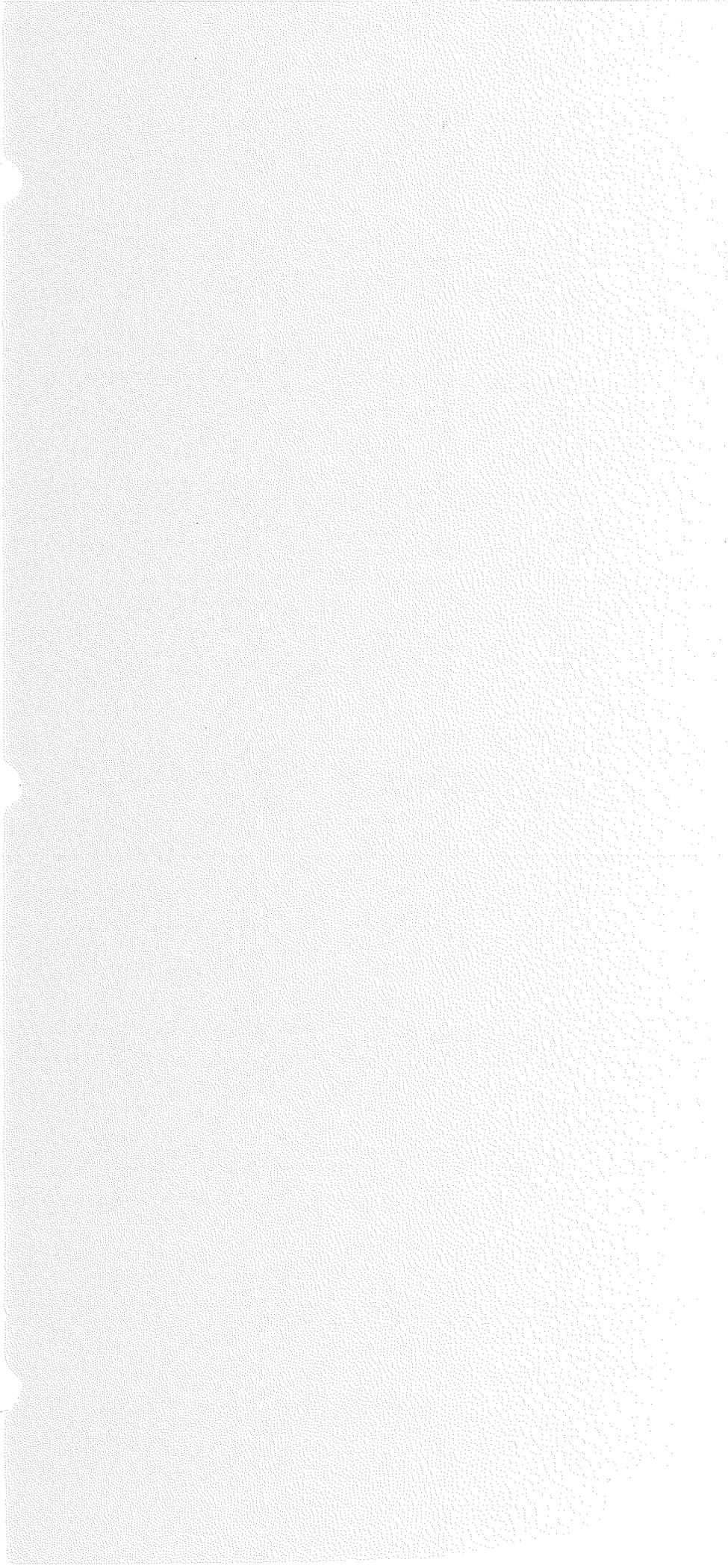
- Public Hearing on MGPP (Revised) September 2016
- MGPP (Revised) Review by Public Authorities Control Board October 2016
- Building permits issued for Project June 2016
- Start of Construction June 2016
- Completion of Construction September 2017
- Certificate of Occupancy October 2017

3. Project Funding

**Table 1** outlines the proposed uses of funds programmed for the project and the sources of these funds. The source of funds is USAN/City of Niagara Falls 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, and Buffalo Regional Innovation Cluster appropriation authorized pursuant to the 2015 and 2017 FY State Budgets. USAN Corporate funds will not be used for any portion of the project.

**Table 1  
Uses & Sources of Funds**

<b>Funding Uses</b>	
Land Costs	\$100,000
Other land costs (legal, insurance, etc.)	\$75,000
Construction Costs	\$26,860,881
Furniture, Fixtures & Equipment Costs	\$2,654,061
Soft Costs / Other Costs	\$4,756,259
<b>GRAND TOTAL</b>	<b>\$34,446,201</b>
<b>Anticipated Funding Sources</b>	
Owner’s Private Financing and Equity (Hamister)	\$29,596,201
USAN Initial Grants (approved 2013, 2015)	\$3,850,000
Supplemental Grant	\$1,000,000
<b>GRAND TOTAL</b>	<b>\$34,446,201</b>



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**310 RAINBOW BOULEVARD INDUSTRIAL/SMALL  
AND MEDIUM-SIZED BUSINESS ASSISTANCE PROJECT  
AUGUST 2016 MODIFIED GENERAL PROJECT PLAN**

**REQUEST FOR FINDING AND DETERMINATION PURSUANT TO SECTION  
16 - M AND 10 (g) OF THE ACT; AUTHORIZATION TO ADOPT THE  
PROPOSED GENERAL PROJECT PLAN; AUTHORIZATION TO TAKE  
RELATED ACTIONS.**

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Public Hearing Minutes taken pursuant to Notice, held  
before Erika McCann Rettig, Registered Professional  
Reporter, Notary Public at Niagara Falls City Hall, 745  
Main Street, Room 117, Niagara Falls, New York 14302 on  
Wednesday, September 14, 2016 at 3:00 P.M.

EXHIBITS

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<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
1	Public Notice that appeared in The Niagara Gazette on Friday, September 3, 2016.	6
2	Affidavit of Publication in the Niagara Gazette	6
3	Document entitled: "USA Niagara Development Corporation 310 Rainbow Boulevard Industrial/Small and Medium-Sized Business Assistance Project" Modified General Project Plan dated August 23, 2016	6

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**APPEARANCES:**

**RICHARD STARK, ESQ.**  
6490 Main Street  
Williamsville, New York 14221  
(716) 345-9089  
Appearing on behalf of the  
New York State Urban Development  
Corporation.

**JOHN RISIO**  
**PROJECT MANAGER,**  
222 1st Street  
#7  
Niagara Falls, New York 14303  
(716) 284-2556  
Appearing on behalf of USA Niagara  
Development Corporation.

PROCEEDINGS

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MR. STARK: Good afternoon, Ladies and Gentlemen. My name is Richard Stark and I am an attorney duly admitted to practice law in the State of New York. I have been asked by New York State Urban Development Corporation doing business as the Empire State Development Corporation ("ESD") to conduct today's public hearing, pursuant to Section 16 of the New York State Urban Development Corporation Act. This hearing is being held pursuant to a public notice, published in accordance with UDC Act, in the Saturday, September 3, 2016 edition of The Niagara Gazette.

The purpose of this hearing is to afford the general public an opportunity to make statements and comments about ESD's Modified General Project Plan for the proposed 310 Rainbow Boulevard Industrial/Small and Medium-Sized Business Assistance Project. The hearing will remain for a period of not less than one hour or until all members of the public who are present at the hearing have been given an opportunity to make statements or comments on the proposed Project. This is not a question and answer session. A stenographic transcript of this hearing is being made. Comments presented at this hearing will be

1 taken into consideration by ESD as part of the final  
2 approval of the proposed Project.

3 First, John Risio will present information about the  
4 Project on behalf of ESD. Then I will recognize anyone  
5 else who wishes to make comment about the Project. If you  
6 wish to speak at today's hearing, please sign the register.  
7 Copies of ESD's Modified General Project Plan for the  
8 proposed Project are available for your information and  
9 convenience.

10 In order to give everyone an ample opportunity to  
11 speak, I request that speakers keep their oral  
12 presentations to no more than five (5) minutes. Speakers  
13 representing organizations with a substantial number of  
14 members are asked to register and identify themselves as  
15 such and, depending on the number of speakers wishing to be  
16 heard, may be afforded up to ten (10) minutes for their  
17 presentation.

18 In order to ensure accurate transcript and enable  
19 all assembled to hear your remarks, I ask each speaker,  
20 when called, to come to the front of the room. Please  
21 state your name and address. If you are appearing as a  
22 representative of an organization or governmental entity,  
23 please identify the organization or entity and state its

1 address.

2 Finally I want to remind the purpose of this hearing  
3 is to afford you an opportunity to make comments about the  
4 ESD Modified General Project Plan for the proposed Project.  
5 This is not a question and answer session.

6 Now, I'd like to take care of some administrative  
7 matters by asking the stenographer to mark the following  
8 documents as Exhibits to the hearing transcript.

9

10 (Whereupon, a Public Notice that  
11 appeared in The Niagara Gazette on  
12 Saturday, September 3, 2016 was then  
13 marked Exhibit 1 for identification.  
14 Affidavit of Publication in the  
15 Niagara Gazette was then marked  
16 Exhibit 2. Document entitled "Empire  
17 State Development Praxair Liquid  
18 Hydrogen Facility Capital Project"  
19 General Project Plan dated July 21,  
20 2016 was then marked Exhibit 3 for  
21 identification.)

22

23 MR. STARK: Exhibit 1 is Public Notice that appeared in The

1 Niagara Gazette on Saturday, September 3, 2016. Exhibit 2  
2 Affidavit of Publication in the Niagara Gazette. Exhibit 3  
3 document entitled "USA Niagara Development Corporation 310  
4 Rainbow Boulevard Industrial/Small and Medium-Sized  
5 Business Assistance Project" Modified General Project Plan  
6 dated August 23, 2016. Thank you, John?

7

8 MR. RISIO: Good afternoon. My name is John Risio, Project  
9 Manager at USA Niagara Development Corporation, USAN, a  
10 subsidiary of the New York State Urban Development  
11 Corporation d/b/a Empire State Development, ESD, and I am  
12 here today to present a brief summary of the 310 Rainbow  
13 Boulevard Industrial Small and Medium-Sized Business  
14 Assistance Project, the Project, in the City of Niagara  
15 Falls, Niagara County, New York.

16 The Project involves the development of a \$34.4  
17 million mixed-use development on a highly-visible 0.88 acre  
18 land parcel along Old Falls Street. It would result in the  
19 development of a 111,629 square-foot building containing an  
20 upscale grade, 128 room Hyatt Place Hotel, a 16,797 square  
21 foot ballroom meeting facility on the upper floors of the  
22 building and a street level retail food and beverage  
23 establishments totaling 6,810 square foot of space open to

1 the general public. The applicant for the Project is The  
2 Hamister Group LLC, Hamister or the developer, a New York  
3 State based hotel and health care management company. The  
4 company has completed a mixed-use hotel, office, apartment  
5 project, i.e. a major rehab of an existing downtown office  
6 tower, in Buffalo, NY and has other hotel holdings in  
7 Pittsburgh, Louisville, Knoxville, and Nashville. The  
8 Project, which is consistent with the 2009 City of Niagara  
9 Falls Comprehensive Plan and USAN policies for upgrading  
10 the City's inventory of lodging products to support its  
11 tourism base, would include actions in furtherance of  
12 Industrial Small and Medium-Sized Business Assistance  
13 goals.

14 On July 8, 2013, the USAN Board of Directors,  
15 adopted a General Project plan, GPP, for the Project and  
16 authorized the commitment of funds in the total amount of  
17 \$2.75 million for the Project. On May 22, 2015, the USAN  
18 Directors adopted a Modified General Project Plan, MGPP,  
19 for the Project due to modified cost estimates and approved  
20 \$1.1 million in additional funds for the Project. The MGPP  
21 and all findings and determinations made by the USAN Board  
22 remain in full force and effect except as modified below to  
23 reflect changes to the proposed Project.

1           Since the MGPP was approved by the Board, the cost  
2 estimates and program of the Project have been refined by  
3 the developer requiring a modification of the Project. As  
4 such, the USAN Board on August 23, 2016, adopted a revised  
5 MGPP. The proposed amendment to the MGPP is described as  
6 follows.

7           A. In addition to the previously committed \$3.85  
8 million in USAN assistance towards the Project, and  
9 additional \$1 million in State Funds have been proposed by  
10 USAN and ESD to be provided to the developer. This public  
11 investment, now proposed to total \$4.85 million,  
12 approximately 14% of the total Project cost, would enable  
13 the developer to avoid additional financing costs and  
14 advance a total investment estimated at \$34.4 million.  
15 Together with the developer's equity of over \$5 million,  
16 approximately 16% of the total Project cost, significant  
17 financing for the Project includes \$24 million,  
18 approximately 70% of the total Project cost and fully  
19 guaranteed by Mark Hamister, from Goldman Sachs Bank, which  
20 is that company's first investment in the downtown Niagara  
21 Falls market. The \$4.85 million public investment would  
22 result in the developer achieving an operating performance  
23 producing an acceptable Internal Rate of Return, IRR,

1 necessary for the developer to undertake the Project. The  
2 source of the additional funding is Buffalo Regional  
3 Innovation Cluster appropriation authorized pursuant to the  
4 2016-17 State Budget. USAN corporate funds will not be  
5 used for any portion of the project.

6           The Project would be developed in accordance with  
7 USAN's Urban Design Standards, which involve a series of  
8 guidelines involving incorporation of active,  
9 publicly-accessible ground level uses, e.g., retail, food  
10 and beverage facilities, etc., and architectural components  
11 that facilitate visual interest, e.g, quality materials,  
12 articulation of facade elements, signage, etc., while still  
13 permitting a wide range of architectural expressions,  
14 styles.

15           Since its inception, USAN had been advancing a  
16 policy direction of facilitate investment in improving the  
17 hotel inventory in Downtown Niagara Falls, with notable  
18 projects including the Giacomo Hotel and Residence, the  
19 former Crowne Plaza, now the Sheraton At The Falls, and the  
20 Wingate by Wyndham Hotel, as well as ongoing efforts at  
21 several other downtown properties. The lack of a large  
22 block of quality hotel rooms has limited growth and has  
23 served as an impediment for the USAN owned Conference and

1 Event Center Niagara Falls from attracting larger meetings  
2 and conventions.

3           The Project would serve a strong public need and  
4 result in economic benefits to the local community, by  
5 expanding the downtown Niagara Falls inventory of quality  
6 lodging products; complement the operations and marketing  
7 potential of the Conference and Event Center Niagara Falls;  
8 and contribute to the City capturing a greater percentage  
9 of overnight patrons with relatively higher disposable  
10 income, thus increasing the potential for expanded economic  
11 activity downtown.

12           A benefit to the community, the Project will result  
13 in major new fill development along Old Falls Street in  
14 downtown Niagara Falls; help raise the quality of lodging;  
15 create new jobs; increase bed tax revenue; complement  
16 meeting convention facilities; and support the overall  
17 tourism base. The Project is currently under construction  
18 and estimated Project completion is October 2017.

19

20 MR. STARK: I would now like to ask the first speaker to  
21 approach the front of the room and to also state your name  
22 and address for the record?

23

1 MR. SKRLIN: Gerald Skrlin, S-k-r-l-i-n. I live at the  
2 Lavinia E. Porter House, proposed Historic Museum, 162  
3 Niagara New York 14303.

4 Social anthropologists state our culture is a  
5 socially constructed reality composed of beliefs, myths,  
6 values, practices, and rituals. From a political  
7 scientist's point of view I wish to speak to you. We're  
8 talking about the Hamister Group receiving a million  
9 dollars. I'm in favor of it. I'm in favor under  
10 conditional performance criteria. Just as all the other  
11 hotels, businesses, and everybody have to give back to the  
12 community, we're looking at \$24,000 a year jobs. That's  
13 hardly a step out of the underclass. We need a local  
14 workforce, we need training for the underclass, we need  
15 education for the underclass. We cannot rely on a foreign  
16 student worker program J-1 Visa exchange to fill in the  
17 gaps of the needed manpower we obviously shall need more  
18 and more because of the increasing tourism. We have a  
19 phenomena of opulence and poverty and it exists in a  
20 striking contrast. From the underclass there is of course  
21 a bias towards the rich. They are voters also. But there  
22 has been habitual treatment received through the policies  
23 and actions of the City that have hurt others. We get no

1 funding whatsoever for the Buffalo Heritage Zone, NFC,  
2 Niagara Falls Corporation, does not offer us one penny when  
3 we are very, very, very, fortunate to be in a high density  
4 tourist zone where we can actually help those people, give  
5 them a free chocolate in the wintertime. But because of  
6 hotel interests, they put piles of mulch next to the Indian  
7 restaurant for two weeks, two months, two and a half  
8 months, and dumpsters in front of my house next door when  
9 I'm trying to make a business. So how do you think the  
10 underclass are going to look at those illustrations? And  
11 isn't it imaginable that they are going to think there is  
12 no more hope in this life for me. But we are all educated  
13 and I am the least, and I speak to you as friends, Craig,  
14 Paul, John, Amy, the J-1 students were exploited three  
15 years in a row in an illegal boarding house that everyone  
16 here knew about it, but did nothing to close, the health  
17 department closed it. There was no working sewer system,  
18 eight women living over a cesspool, the door to the  
19 basement closed, Marrani Holdings, and look at the dumpster  
20 and the garage, the filthy grease that I just reported to  
21 the health department before I came here in their dumpster  
22 area. If we are to consider ourselves political activists,  
23 some may consider themselves elite, and some others may

1 consider themselves absolutely worthless. We are accustomed  
2 to poor treatment. You have to give back to the community,  
3 \$24,000 job a year working -- what happened at Hotel  
4 Niagara, one tourist tried to rape one of the women. Are  
5 there any training programs that these people can go  
6 through to help them avoid those kind of situations? Is  
7 that what Lyndon Johnson's great society was all about -- I  
8 think so. Thank you.

9

10 MR. STARK: Thank you.

11

12 MS. MORDEN: Laura Morden, M-o-r-d-e-n, my address is  
13 301 Prospect Street. I have been against this project. In  
14 2013 the total was \$25,000, today it's up to \$38,000. I  
15 don't think you increased the size. I go way back. In  
16 1964 my husband and I built a Best Western Scenic Inn Hotel  
17 at Prospect Street, 63 units. We borrowed the money from  
18 the bank. We got no help from anybody. It was taken down  
19 by Urban Renewal which was a big disaster and we didn't  
20 rebuild because it was too expensive. We did rebuild the  
21 Niagara Wax Museum which is located at 301 Prospect Street.  
22 We did not feel that we had enough money at that time and  
23 no one else was there, so we did not build it. I'm just

1 against -- I thought there would be far more people here to  
2 be objecting. I don't see it. I see now it's a million  
3 and a hundred thousand they're asking for now. It's almost  
4 seems like we are buying the property for them now. All  
5 I'm here is to say with all the experience Hamister's  
6 suppose to be having, he has had three other hotels I  
7 understand just recently, I don't know when he bought them,  
8 but I just object to another million and hundred thousand  
9 dollars going from USA Niagara which we support as a City,  
10 we donate to USA Niagara, so it's really the City money, I  
11 feel fine helping Hamister, and I feel he's had plenty of  
12 help. That's all I have to say.

13

14 MR. STARK: Thank you.

15

16 MR. DYSTER: My name is Paul Dyster. I'm the mayor of  
17 the City of Niagara Falls. Earlier this year Governor  
18 Andrew Cuomo broke ground on the new Hyatt Place Hotel at  
19 310 Rainbow Boulevard and declared the project another  
20 indication of the new Niagara Falls. If you've followed  
21 the news the past several months, or simply taken a look  
22 around our city, he couldn't have been more accurate.

23 Not without its obstacles, the \$35 million project

1 currently underway at 310 Rainbow Boulevard has received  
2 it's share of media attention, and in some cases, been the  
3 subject of misguided rhetoric. At a time when our city is  
4 undergoing such investment, I feel that it is important to  
5 clear up any confusion with regards to the project's  
6 current status.

7           Recently USA Niagara Development Corporation  
8 recommended an additional \$1 million in state funding in  
9 order to cover the remaining cost of the Project. This  
10 critical funding will allow the Hamister Group to bridge a  
11 funding gap created during a significant 2014 redesign by  
12 allowing them to successfully guarantee \$24 million in debt  
13 to Goldman Sachs, the firm financing the project. As a  
14 result, residents and visitors alike will be left with  
15 banquet and meeting facilities much larger than the  
16 original design, and more and larger hotel rooms. This  
17 additional state funding will come at no cost to the City  
18 of Niagara Falls.

19           Work at the site is well underway. Take a drive  
20 down Rainbow Boulevard during the week and the clatter of  
21 the construction equipment and the movement of men and  
22 women at the site make that abundantly clear. Thanks to  
23 the leadership and perseverance of Governor Cuomo, USA

1 Niagara, and developer Mark Hamister, we are in the final  
2 stretch of the Hyatt Place Project.

3 Our City is currently experiencing a new energy not  
4 seen in many years. In the past year we have seen the  
5 announcement and completion of several new hotel projects  
6 in our downtown corridor more currently underway, more in  
7 the pipeline. In the spring we saw removal of the Robert  
8 Moses Parkway South, that for too many years acted as a  
9 barrier between our city and the beauty of the upper  
10 Niagara River. In just past this week alone, Hotel Niagara  
11 received unprecedented interest from nationally and  
12 internationally known developers looking to restore it to  
13 its former grandeur, just days after Fitch Ratings upgraded  
14 the City's credit ratings and declared it to be financially  
15 stable.

16 Our City has much to look forward to with these and  
17 many more exciting developments on the horizon. Let's  
18 continue moving in the right direction together and show  
19 the world what the new Niagara Falls is made of.

20

21 MR. STARK: Thank you.

22

23 MS. TATTERSALL: Diane Tattersall, and I reside at 1424

1 Fort Avenue. I'm opposed to giving an additional 1.1  
2 million dollars to the Hamister Group. I am opposed to the  
3 1.1 million based on how badly managed this process and  
4 this project has been thus far. The taxpayers of New York  
5 State have contributed quite enough. If 1.1 million can  
6 make or break this project, then we're in more trouble than  
7 I even thought. Thank you.

8

9 MR. STARK: Is there anyone else present that would like to  
10 make a statement regarding the Project?

11 We will hold the hearing open until 4 P.M. in order  
12 to afford any latecomers an opportunity to make a  
13 statement. At this time I will call for a recess in these  
14 proceedings until such time as someone requests an  
15 opportunity to make a statement. The time is now 3:27  
16 P.M. Again at any time during this recess those assembled  
17 here may request an opportunity to make additional  
18 statements.

19 The time is now 4:00 P.M. This hearing has been  
20 held open since 3 P.M. to allow for public comment on the  
21 proposed Project. Before we close the hearing, is there  
22 anyone here who would like to make a statement regarding  
23 the Project?

1           The time is now 4:01 p.m. This hearing is now  
2 concluded. I thank you all for attending.

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4           (Whereupon, proceedings concluded.)  
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**CERTIFICATE OF REPORTER**

I, **ERIKA McCANN RETTIG**, hereby certify that I did report in machine shorthand the foregoing proceeding had in the above-entitled matter, at the time and place herein before set forth; I do further certify that the transcript consisting of 19 pages, is a true and correct transcript of my said stenographic notes.

---

**ERIKA McCANN RETTIG**

**ERIKA McCANN - COURT REPORTER**