

USA NIAGARA DEVELOPMENT CORPORATION

Meeting of the Directors

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

Wednesday

March 23, 2016 – 3:00 p.m.

AGENDA

I. FOR CONSIDERATION

- A. USA Niagara Development Corporation – Annual Operating Budget and Annual Capital Expense Authorization – Approval of the Corporation’s Annual Operating Budget and Annual Capital Expense Authorization for Fiscal Year Ending 2017 (April 1, 2016 – March 31, 2017)
- B. Niagara Falls Convention and Conference Facility Civic Project and Old Falls Street – Calendar Year (“CY”) 2016 Operating and Capital Budgets – Approval of the Niagara Falls Convention and Conference Facility and Old Falls Street CY 2016 Operating and Capital Budgets; Approval of First Quarter 2017 Funding; Authorization to Disburse Funds
- C. Proposed Acquisition of the 201 Rainbow Boulevard Property by the USA Niagara Development Corporation – Authorization to Acquire Real Property; Determination of No Significant Effect on the Environment; and Authorization to Take Related Actions
- D. Rainforest Cafe Retail Renovation Project – USAN/City MOU Funds – Capital Grant – Findings and Determinations Pursuant to Section 10(g) of the Urban Development Corporation Act (the “Act”); Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions
- E. 643 Rainbow Boulevard Hotel Project – USA Niagara Development Corporation (“USAN”) Development District Grant Program – Authorization to Approve a Grant; Make a Determination of No Significant Effect on the Environment; and Authorization to Take Related Actions

I. FOR CONSIDERATION - Continued

- F. 900 Buffalo Avenue Adaptive Reuse Hotel Construction Project – USAN/City MOU Funds – Capital Grant – Findings and Determinations Pursuant to Section 10(g) of the Urban Development Corporation Act (the “Act”); Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant; Make a Determination of No Significant Effect on the Environment; and to Take Related Actions

- G. Discover Niagara Shuttle - Funding Agreement – Authorization to Enter into a Funding Agreement; Make a Determination of No Significant Effect on the Environment; and Authorization to Take Related Actions

ITEM I.A.



FOR CONSIDERATION

March 23, 2016

TO: The Directors

FROM: Christopher Schoepflin

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

REQUEST FOR: Approval of the Corporation’s Annual Operating Budget and Annual Capital Expense Authorization for Fiscal Year Ending 2017 (April 1, 2016 – March 31, 2017)

I. Background:

Attached for your review and approval are the proposed Annual Operating Budget (“Operating Budget”) and Annual Capital Expense Authorization for USA Niagara Development Corporation (“USAN” or the “Corporation”) for Fiscal Year Ending (“FYE”) 2017 (April 1, 2016 – March 31, 2017).

The FYE 2017 Operating Budget proposes a total of \$575,574 in personal services (salaries and benefits for 5 employees) and a total of \$102,788 in non-personal services (primarily office occupancy and other administrative expenses). The total budget for all personal and non-personal expenses is \$678,362, which represents a 5% decrease from the FYE 2016 operating budget. Consistent with previous years’ operating budgets, the FYE 2017 Operating Budget will be advanced with New York State Urban Development Corporation d/b/a Empire State Development (“ESD”) corporate funds, with the expectation of reimbursement at a later date.

The Corporation’s FYE 2017 Annual Capital Expense Authorization is \$7,338,728. This includes: construction costs of \$3,745,700; design and other soft costs of \$993,028; legal costs of \$100,000; and property management/maintenance costs of \$1,500,000. It is anticipated that the proposed funding will cover capital costs associated with investments in the Hyatt Place Hotel Project at 310 Rainbow Boulevard and the DoubleTree Hotel Project at 401 Buffalo Avenue.

Funding for the Corporation's Annual Capital Expense Authorization is from USAN/City of Niagara Falls Memorandum of Understanding ("MOU") Funds made available to the Corporation under the 2009 and 2014 Agreements with the City of Niagara Falls in support of the Conference Center Niagara Falls/Old Falls Street and economic development projects located within the Corporation's development district. Individual project expenses will be approved by the Directors under separate actions. No USAN Corporate funds are included in the Annual Capital Expense Authorization.

II. Environmental Review:

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

III. Requested Action:

The Directors are requested to ratify and approve the Corporation's proposed FYE 2017 Annual Operating Budget in the amount of \$678,362 and the Annual Capital Expense Authorization in the amount of \$7,338,728 (subject to individual project approvals), and to authorize the Corporation to undertake tasks and incur expenditures consistent with advancing the scope of work contemplated in the proposed operating budget.

IV. Attachments:

Resolution

The Corporation's proposed FYE 2017 Operating Budget

The Corporation's proposed FYE 2017 Annual Capital Expense Authorization

March 23, 2016

USA Niagara Development Corporation – Approval of the Corporation’s Annual Operating Budget and Annual Capital Expense Authorization for Fiscal Year Ending 2017 (April 1, 2016 – March 31, 2017)

RESOLVED, that based on the materials presented at this meeting and ordered filed with the Corporation (the “Materials”), the Corporation’s proposed FYE 2017 Annual Operating Budget and Annual Capital Expense Authorization are hereby approved and adopted in all respects, substantially in the form set forth in the materials and subject to the availability of funds; and be it further

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

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

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

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

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**Empire State Development
USA Niagara Development Corp
Operating Spending Plan FYE 2017**

	Spending Plan FYE 2016	Spending Plan FYE 2017
<u>PERSONAL SERVICES</u>		
Salaries	434,381	405,334
Fringe Benefits	165,065	170,240
TOTAL PERSONAL SERVICES	599,446	575,574
HEADCOUNT	5.0	5.0
<u>NON-PERSONAL SERVICES</u>		
Professional Fees		
Legal / Accounting Fees	0	0
Consultant Fees	0	0
Total Professional Fees	0	0
Other Non-Personal Services		
Employee Travel & Meals	500	500
On-line Services/ Dues & Subscriptions	2,500	2,500
Office Occupancy Expenses	57,300	57,300
Insurance	17,732	10,238
Repairs/ Maint /Prop Mgmt/ Outside Serv.	7,500	7,500
Telephone/Fax/Internet	16,000	16,000
Office Supplies / Printing / Advertising	3,750	3,750
Computers/Software/Equipment	5,000	5,000
Total Other Non-Personal Services	110,282	102,788
TOTAL NON-PERSONAL SERVICES	110,282	102,788
TOTAL OPERATING BUDGET	709,728	678,362

**Empire State Development
USA Niagara Development Corp
Capital Expense Authorization FYE 2017**

	Spending Plan FYE 2016	Spending Plan FYE 2017
Acquisition Costs	0	0
Design & Other Soft Costs	1,900,000	993,028
Legal Costs	100,000	100,000
Property Management/Maintenance Costs	1,500,000	1,500,000
Insurance	0	0
Demolition & Site Clearance	0	0
Construction Costs	12,085,000	3,745,700
Other Misc. Costs	45,000	1,000,000
TOTAL CAPITAL BUDGET	<u>15,630,000</u>	<u>7,338,728</u>

ITEM I.B.



FOR CONSIDERATION

March 23, 2016

TO: The Directors

FROM: Christopher Schoepflin

SUBJECT: Niagara Falls Convention and Conference Facility Civic Project and Old Falls Street – Calendar Year (“CY”) 2016 Operating and Capital Budgets

REQUEST FOR: Approval of the Niagara Falls Convention and Conference Facility and Old Falls Street CY 2016 Operating and Capital Budgets; Approval of First Quarter 2017 Funding; Authorization to Disburse Funds

I. Background:

Attached for your review and approval are the proposed operating and capital budget requests (the “Budgets”) for the Niagara Falls Convention and Conference Facility, known as The Conference & Event Center Niagara Falls (“CCNF”) and Old Falls Street (“OFS”) for 2016.

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

Per the 2014 Memorandum of Understanding (“MOU”) between USAN and the City of Niagara Falls (the “City”), the City has provided, and will continue to provide up to \$1.5 million annually towards the combined annual operating and capital budgets of CCNF and OFS through 2018. The source of the MOU funds is the City’s 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 (“USAN/City MOU Funds”). These funds are the funding source for the Budgets. No USAN Corporate funds will be used to fund the Budgets.

The proposed CY 2016 Operating Budget for CCNF is \$279,620 (with incentive fees the total is \$345,900). The Operating Budget for OFS is \$706,393 (with incentive fees the total is \$714,825). The total Operating Budget for CCNF and OFS is \$986,013 (with incentive fees the total Operating Budget is \$1,060,725).

The proposed CY 2016 Capital Budget is \$715,238. This amount includes a total of \$335,258 in funding for CCNF and a total of \$379,980 in funding for OFS. Spectra will make the proposed Capital Budget purchases on behalf of USAN through state contracts where cost effective and through competitive bids and comparable pricing where state contracts are not available.

Spectra's 2016 OFS Capital Budget includes a one-year outlay of \$215,480 to engage a planning consultant to assist in designing an expanded palette of activities/facilities along OFS, with a particular emphasis on the public open-space parcel on the Rainbow-to-First Street block across from the Niagara Falls Culinary Institute. In late fall, Spectra solicited proposals/price quotes from qualified firms for event programming and planning/design services related to upcoming phases of operations of OFS, in recognition that it is entering a new phase of operations. While after five years of operations it has proven to be successful at beginning to change the perception of downtown as a safe and attractive setting, there is still significant room for further growth and activity, particularly in growing the number of local residents to rediscover OFS, and by extension downtown Niagara Falls, as a place to visit and enjoy. After reviewing two scopes of work and associated price quotes, Spectra recommends the use of Biederman Redevelopment Ventures ("BRV") to assist in this work. BRV is a nationally-recognized expert in revitalizing and fostering active downtown public places that create value and stimulate economic development. BRV is very well known for its work at Bryant Park and at South Street Seaport in New York City, and locally for various phases of programming at "Canalside" in downtown Buffalo, administered by New York State Urban Development Corporation d/b/a Empire State Development ("ESD") -subsidiary Erie Canal Harbor Development Corporation.

The OFS Capital Budget includes \$46,000 for site improvements, consisting of a game attendant kiosk, planting beds, the "Barrel through Niagara" art project, permanent signage and additional umbrellas. Also included in the OFS Capital Budget is \$74,000 for costs related to a "Winter Market", such as vendor sheds, lighting design and installation of holiday decorations.

The combined Operating and Capital Budgets (with incentive fees) total \$1,775,963. As the proposed budget may exceed the aforementioned \$1,500,000 annual allocation of USAN/City MOU Funds, USAN will fund the remaining \$275,963 from excess funds remaining from prior years' USAN/City MOU allocations if necessary. The proposed Operating and Capital Budgets are attached.

To address the gap in the Corporation's fiscal year (April 1st to March 31st) and Spectra's fiscal year (January 1st to December 31st), the Directors approved on March 26, 2015, an advance of \$250,000 to Spectra in order to fund first quarter operations in 2016. USAN proposes that the Directors approve at this time CCNF and OFS funding for the first quarter of 2017 (calendar quarter) in the amount not to exceed \$250,000. The CCNF and OFS budgets for 2017 will remain subject to approval by the Directors before the start of the Corporation's fiscal year.

II. Environmental Review:

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

III. Requested Action:

The Directors are requested to approve USAN's proposed CY 2016 CCNF and OFS Operating and Capital Budgets in the amount not to exceed \$1,775,963; to approve CCNF and OFS funding for the first quarter of 2017 (calendar quarter) in an amount not to exceed \$250,000; and to disburse funds in accordance with the CY 2016 CCNF and OFS Operating and Capital Budgets attached hereto.

IV. Attachments:

Resolution

Proposed CY 2016 CCNF Operating Budget

Proposed CY 2016 OFS Operating Budget

Proposed CY 2016 CCNF & OFS Capital Budgets

March 23, 2016

USA Niagara Development Corporation – Approval of the CY 2016 Niagara Falls Convention and Conference Facility and Old Falls Street Operating and Capital Budgets; Approval of First Quarter 2017 Funding; 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 CY 2016 Niagara Falls Convention and Conference Facility and Old Falls Street Operating and Capital Budgets in a cumulative amount not to exceed \$1,775,963 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, the Corporation’s proposal for first quarter 2017 (calendar quarter) funding for the Niagara Falls Convention and Conference Facility and Old Falls Street in an amount not to exceed \$250,000 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 actions of the President or his designees relating to the CY 2016 Niagara Falls Convention and Conference Facility and Old Falls Street Operating Capital Budgets be approved and ratified, and the same hereby are, authorized to disburse funds substantially in accordance with the CY 2016 Niagara Falls Convention and Conference Facility and Old Falls Street Operating and Capital Budgets with such changes as the President or his designee deems necessary or appropriate; and be it further

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

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

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**CONFERENCE CENTER NIAGARA FALLS
SPECTRA VENUE MANAGEMENT
FISCAL YEAR 2016 (January 1- December 31)**

OPERATING BUDGET PROPOSAL

**BUDGET
2016**

# OF EVENTS	221
ATTENDANCE	74,876
REVENUE	
DIRECT EVENT REVENUE	547,839
ANCILLARY REVENUE	2,052,661
OTHER REVENUE	32,750
TOTAL ESTIMATED GROSS REVENUE	2,633,250
EXPENSE	
EVENT EXPENSE	926,172
INDIRECT EXPENSE (SALERIES & OVERHEAD)	1,986,698
TOTAL ESTIMATED EXPENSE	2,912,870
NET INCOME / (REQUIRED SUPPORT)	(279,620)
FEES	
F&B INCENTIVE FEE - 25%	59,147
MANAGEMENT INCENTIVE FEE	7,133
TOTAL ESTIMATED FEES	66,280
Net Income/Loss	(345,900)

**OLD FALLS STREET
SPECTRA VENUE MANAGEMENT
FISCAL YEAR 2016 (January 1- December 31)**

OPERATING BUDGET PROPOSAL

**BUDGET
2016**

# OF EVENTS	133
ATTENDANCE	51,230
REVENUE	
DIRECT EVENT REVENUE	47,250
ANCILLARY REVENUE	113,173
OTHER REVENUE	9,550
TOTAL ESTIMATED GROSS REVENUE	169,973
EXPENSE	
EVENT EXPENSE	251,414
INDIRECT EXPENSE (SALIERIES & OVERHEAD)	624,952
TOTAL ESTIMATED EXPENSE	876,366
NET INCOME / (REQUIRED SUPPORT)	(706,393)
FEES	
F&B INCENTIVE FEE - 7.5%	8,432
TOTAL ESTIMATED FEES	8,432
Net Income/Loss	(714,825)

Item #	2016 Conference & Event Center Capital Budget	Cost
	Operational/Janitorial:	
c-1.1	Scissor Lift (rubber tires)	\$16,520.00
c-1.2	Carpet for Event Center	\$20,000.00
c-1.3	Pipe & Drape and Equipment	\$8,000.00
c-1.4	Fire Alarm System CO	\$29,830.00
c-1.5	Large & Small Vacuum Cleaners, Ash Trays & Garbage Containers, Scrubber	\$11,300.00
c-1.6	Vinyl Wall Covering	\$79,980.95
c-1.7	Upgrades on Security System & Cameras	\$8,190.55
c-1.8	System Upgrades (RTU's) / Emergency	\$60,265.50
c-1.9	Balancing HRU units	\$9,500.00
c-1.10	Awnings and Fence & Around Dumpster	\$16,500.00
c-1.11	Seal and Stripe Staff Parking Lot	\$6,000.00
	Audio Visual:	
c-2.1	Podiums	\$17,426.00
c-2.2	UPS/HPC Data Backup & Access Point (Rukus) & Wireless Access Control System	\$35,000.00
c-2.3	2X Large Screens for Presentations	\$9,244.60
	Kitchen:	
c-3.1	Smallwares	\$7,500.00
	CCNF TOTAL	\$335,257.60
Item #	2016 Old Falls Street Capital Budget	Cost
o-1	Grouting	\$25,000.00
o-2	Equipment	\$5,500.00
o-3	Site Improvements	\$46,000.00
o-4	Interactive Activities	\$14,000.00
o-5	Winter Market	\$74,000.00
o-6	Biederman Redevelopment Ventures Planning/Design – Expanded Activity Programming & OFS Parklet (one-year outlay)	\$215,480.00
	OFS TOTAL	\$379,980.00
	CCNF & OFS CAPITAL BUDGETS GRAND TOTAL FOR 2016	\$715,237.60

ITEM I.C.



FOR CONSIDERATION

March 23, 2016

TO: The Directors

FROM: Christopher Schoepflin

SUBJECT: Proposed Acquisition of the 201 Rainbow Boulevard Property by the USA Niagara Development Corporation

REQUEST FOR: Authorization to Acquire Real Property; Determination of No Significant Effect on the Environment; and Authorization to Take Related Actions

I. Background:

The JSK International Corporation (“JSK”) is the owner of property located on 201 Rainbow Boulevard in downtown Niagara Falls, consisting of approximately 0.53 +/- acres with frontage on Rainbow Boulevard and First Street (the “Property”). The Property adjoins property previously acquired by the USA Niagara Development Corporation (“USAN” or the “Corporation”), specifically, the USAN-owned Conference and Event Center Niagara Falls and is located near several hotels and attractions in the USAN Development District including Old Falls Street and the entrance to Niagara Falls State Park.

The Property includes the historic 12-story, 193-room, Hotel Niagara, which built in 1924, has always held a prominent spot in the city’s skyline. A masonry structure with eclectic period detailing of Colonial Revival, the hotel represents early 20th-Century, high-profile architecture with heights made possible by the steel frame and refinement of the elevator. The historic sister building to the former United Office Building (now the Giacomo Hotel & Residences), the building is one of the few remaining structures that predate urban renewal-related demolition activities in downtown Niagara Falls. Hotel Niagara was also known for serving Presidential and Dignitary guests as well as famous entertainers. After decades of deferred maintenance, neglect, and multiple changes in ownership, the Property declined to a low budget, limited service hotel and has been closed since 2007.

Amidee Hotels and Resorts, Inc. (“Amidee”), a Houston-based real estate group, acquired the Property in 2007 and accepted a \$4 million incentive proposal from USAN in 2008 to develop the Property. However, Amidee later declined USAN’s incentive. In 2011, JSK acquired the Property which had been sold through a foreclosure auction that year.

JSK has completed only limited improvements since purchasing the Property. The Property requires complete renovation of the interior and is not useable in its present condition. An independent appraiser and USAN staff have determined that the continued use of the Property as a hotel is considered the highest and best use.

II. Proposed Transaction

USAN proposes to acquire the Property and issue a Request for Proposals (“RFP”) to redevelop Hotel Niagara. The Property offers several benefits to potential developers including eligibility for historic tax credits. USAN does not intend to own the property long-term, but will need to acquire, hold and insure the property for approximately 24 months after closing.

USAN will acquire the Property from JSK for the fair market value of the property, up to \$4.4 million (the “Purchase Price”), to be paid under the conditions as described below. The fair market value of the Property was determined by an independent appraisal conducted by USAN that valued the Property at \$3.9 million to \$4.5 million. Funding for the acquisition costs and related interim holding costs including inspections, insurance and property holding services up to \$5 million will be provided through the Buffalo Regional Innovation Cluster aka the “Buffalo Billion Fund”.

Prior to actually acquiring title to the Property, USAN will have a 90 day due diligence period to conduct any investigative studies including but not limited to, engineering studies, environmental testing and/or physical inspections of the Property.

Once the Property is acquired by USAN, routine maintenance of the Property will be completed by Spectra Venue Management (“Spectra”), the operator of the USAN-owned Conference & Event Center Niagara Falls. Funds for such services will be provided to Spectra pursuant to a separate purchase order processed through USANs standard procurement policies. It is expected that amount shall not exceed \$50,000 over the 24 month holding period.

USAN has entered a contract of sale with JSK in accordance with the terms contained in these materials. The contract is expressly contingent on receipt of USAN Board approval. Once approved, USAN will move forward completing its due diligence on the Property and assuming no significant issues are discovered, will acquire the Property. Thereafter, it is expected that USAN will issue an RFP for development proposals. Any future transfer for development will require additional USAN Board approval.

III. Environmental Review

USAN, as lead agency, completed an environmental review of the proposed acquisition, pursuant to the requirements of the State Environmental Quality Review Act and the implementing regulations of the New York State Department of Environmental Conservation. This review found that the proposed action, which would involve as-is acquisition of the Hotel Niagara property, to be an Unlisted Action that would not result in significant adverse impacts on the environment. Therefore, USAN staff recommends that the Directors make a Determination of No Significant Effect on the Environment. USAN staff also recommends that the Directors find that to the extent the requested authorization may be deemed to be

“segmented” from any future restoration, use, and/or adaptive reuse of the building/property that such “segmentation” is permissible pursuant to 6 NYCRR Part 617.3(g) due to the relevant circumstances of the project, specifically: (i) that it is not possible to consider future uses for the property in the absence of a plan; (ii) that any such future plans will be subject to review under SEQRA; and (iii) that the review of the requested authorization to acquire the property is no less protective of the environment than any present review of any future plan.

Further, given that the property’s inclusion on the State and National Registers of Historic Places, USAN will continue to ensure that consultation is conducted with the NYS Office of Parks, Recreation and Historic Preservation pursuant to the requirements of Section 14.09 of the State Historic Preservation Act.

IV. Requested Action

The Directors are requested to: (1) authorize the Corporation to enter into the necessary agreements to effectuate the transfer of the Property as stated in these materials; (2) acquire the Property in accordance with these materials; (3) make a determination of no significant effect on the environment; and (4) authorize the Corporation to take all related actions.

V. Recommendation

Based on the foregoing, I recommend approval of the attached resolution.

VI. Attachments

Resolution

Figure 1: Property Location Map

Figure 2: Historic and Current Photos

March 23, 2016

USA NIAGARA DEVELOPMENT CORPORATION – Proposed Acquisition of the 201 Rainbow Boulevard Property by the USA Niagara Development Corporation - Authorization to Acquire Real Property; Determination of No Significant Effect on the Environment; and Authorization to Take Related Actions

RESOLVED, that based on the materials presented to this meeting and ordered filed with the records of the USA Niagara Development Corporation (the "Corporation") relating to the 201 Rainbow Boulevard Property, the Corporation is hereby authorized to enter the necessary agreements to effectuate the transfer of the Property and to acquire the Property, as stated in these Board materials; and (ii) take all related actions; and be it further

RESOLVED, that on the basis of the materials submitted to the Directors, the Corporation hereby determines that the proposed action will not have a significant adverse effect on the environment; and be it further

RESOLVED, that on the basis of the materials submitted to the Directors, the Corporation hereby finds that because there are no specific future plans for the subject property, the environmental review of the proposed disposition is not being "segmented" from the review of any such plan and that to the extent the requested authorization may be deemed to be "segmented", that such "segmentation" is permissible pursuant to 6 NYCRR Part 617.3(g) due to the relevant circumstances of the project, specifically: (i) that it is not possible to consider future plans for project site in the absence of a plan; (ii) that any such future plan(s) will be subject to review under SEQRA; and (iii) that the review of the requested authorization to acquire the site is no less protective of the environment than any present review of any future plan, and be it further

RESOLVED, that the President and Chief Executive Officer of the Corporation or his designees 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 resolutions.

* * *

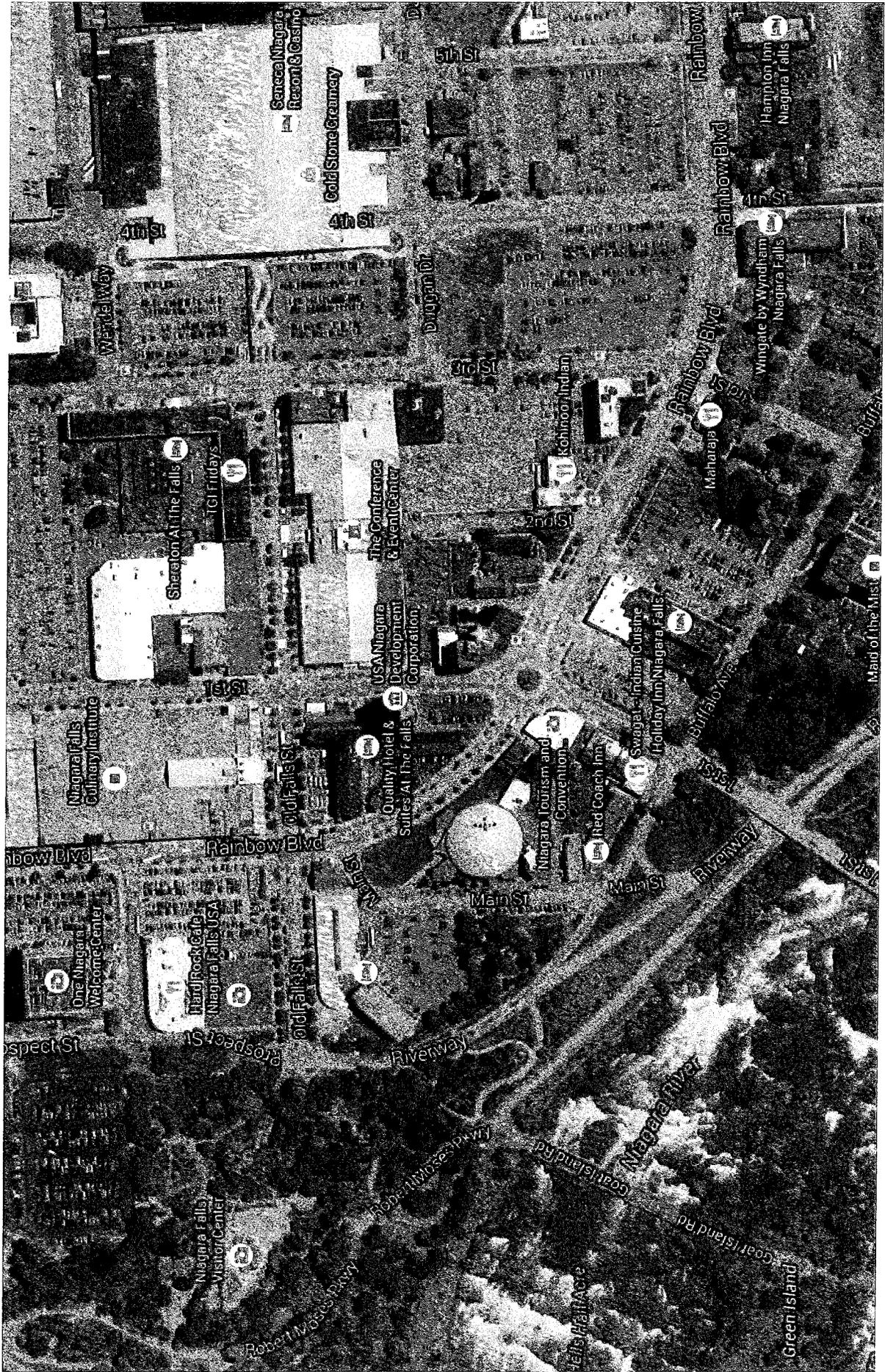
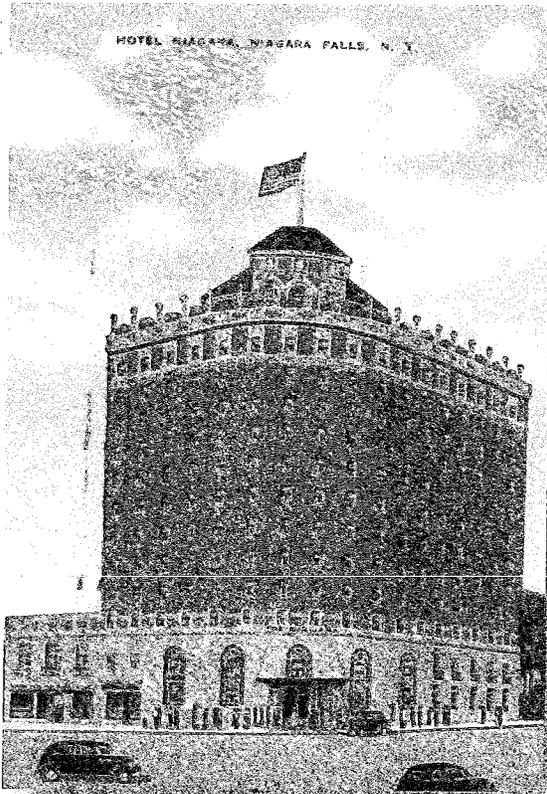
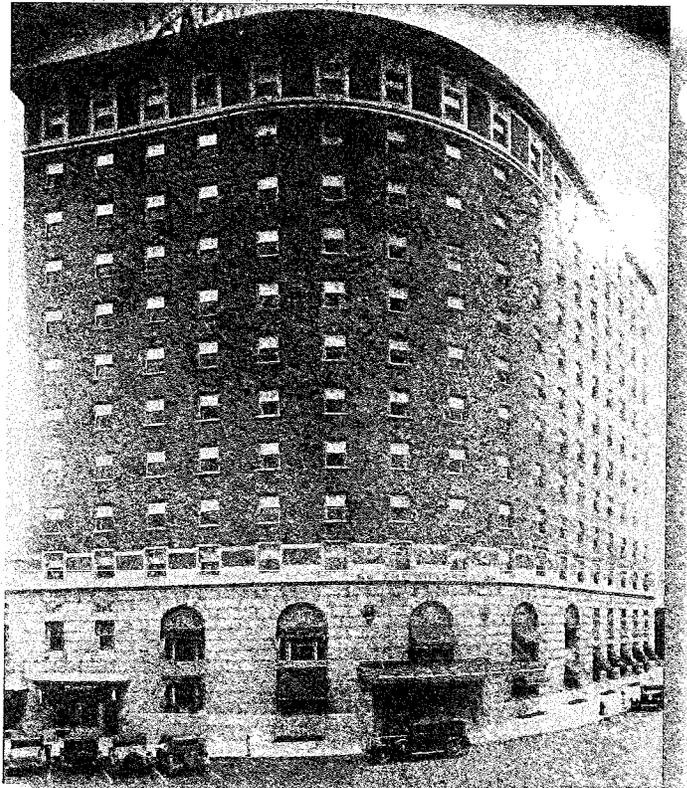


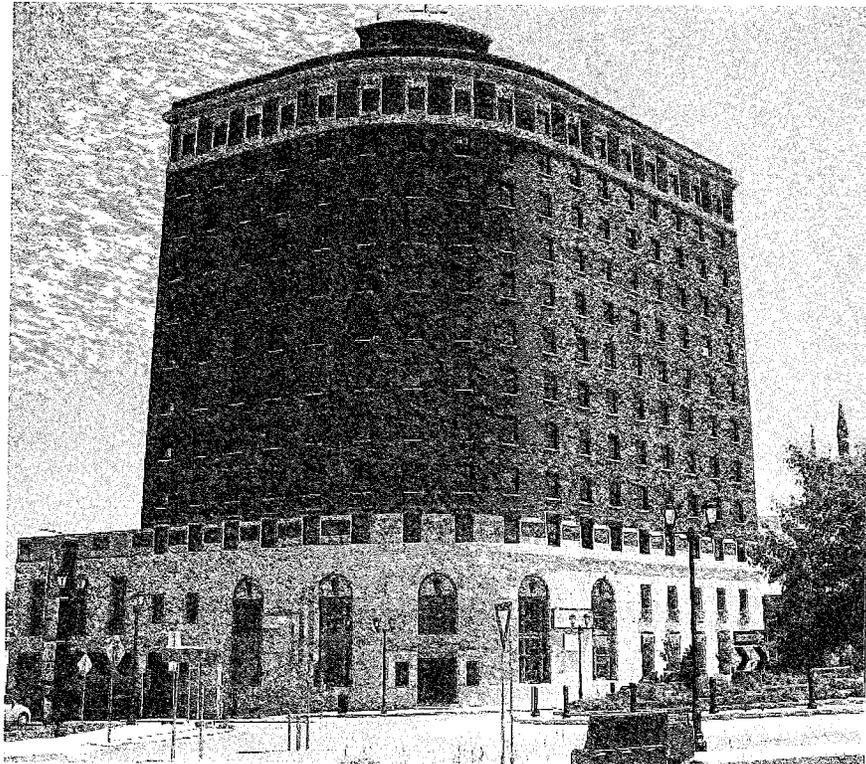
Figure 1: Property Location Map



1920s Postcard Image, including never-built roof feature



1929 Photograph



Current image of Hotel Niagara

Figure 2: Historic and Current Photos

ITEM I.D.



FOR CONSIDERATION

March 23, 2016

TO: The Directors

FROM: Christopher Schoepflin

SUBJECT: Rainforest Cafe Retail Renovation Project – USAN/City MOU Funds – Capital Grant

REQUEST FOR: Findings and Determinations Pursuant to Section 10(g) of the Urban Development Corporation Act (the “Act”); Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

General Project Plan

I. Project Summary

Grantee: NFNy Hotel Management, LLC (“NFNy Hotel”)

USAN* Investment: A \$400,000 grant to be used for the reimbursement of a portion of capital improvement costs to create expanded retail space.

*USA Niagara Development Corporation (“USAN” or the “Corporation”) is a subsidiary of the New York State Urban Development Corporation doing business as Empire State Development (“ESD”).

Project Location: 300 Third Street, Niagara Falls

Proposed Project: A \$3,500,000 capital improvement project to create expanded retail space for a nationally known Rainforest Cafe® Restaurant.

Project Type: Business expansion involving job creation.

Employment: Initial employment at time of USAN Incentive Proposal: 0
Projected: Employ 55 full-time equivalent employees at the time of project completion.

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Leasehold Improvement Costs	\$2,540,000
Furniture, Fixtures & Equipment	\$60,000
Soft Costs	<u>\$900,000</u>
Total Project Costs	<u>\$3,500,000</u>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
USAN – Capital Grant*	\$400,000	11.4%
USAN – (NEDF Grant)	\$125,000	3.6%
NFC Development Grant (City)	\$150,000	4.3%
Owner Equity/Financing	<u>\$2,825,000</u>	<u>80.7%</u>
Total Project Financing	<u>\$3,500,000</u>	<u>100%</u>

*The USAN Capital Grant funding source is \$400,000 in USAN/City MOU Funds pursuant to the 2009 Memorandum of Understanding (“MOU”) between USAN and the City of Niagara Falls that authorizes USAN to make grants to support economic development projects in the USAN Development District. No USAN corporate funds will be used to fund the Project.

III. Project Description

A. Company

Industry: NFNH Hotel’s parent company is Canadian Niagara Hotels, Inc., which is an industry leader in Niagara Falls, Ontario, with over 4,500 guest rooms in six major hotels as well as many entertainment venues including the Hard Rock Café, in Niagara Falls, Canada.

History: NFNH Hotel acquired the Crowne Plaza Hotel in February 2011, converting it to the Sheraton At The Falls Hotel (the “Property”) on March 17, 2011. NFNH Hotel also operates the Day’s Inn At The Falls, TGI Fridays, Starbucks Café, Denny’s Restaurant and Sweet Treats Shop in downtown Niagara Falls, New York.

Ownership: NFNH Hotel is a private, for-profit, limited liability company.

USAN Involvement: NFNH Hotel accepted an Incentive Proposal from USAN on April 15, 2015.

Past USAN Support: As indicated in the financing sources above, USAN provided a \$125,000 NEDF grant to the Grantee as follows:

Program	Amount	USAN Directors' Approval Date	Purpose
Niagara Economic Development Fund (NEDF)	\$125,000	January 15, 2016	Retail Façade Renovation Grant

B. The Project

Completion: June 2015

Activity: The Project involves a \$3,500,000 renovation to the Property creating 14,000 square feet of retail space for a nationally known Rainforest Cafe restaurant, with seating for 238 guests inside and additional seating for 60 guests on an outdoor patio along Old Falls Street, in downtown Niagara Falls.

Results: The Rainforest Cafe provides a new attraction for visitors and residents in the Niagara Falls marketplace, consistent with the tourism development objectives of USAN. Patrons choose from an assortment of dishes in a recreated tropical jungle setting, complete with waterfalls, wildlife and vegetation, offering an entertaining experience for the whole family. The Project is complete; a grand opening celebration was held on June 4, 2015 and the restaurant is currently open for business.

Grantee Contact: Mr. Michael DiCienzo
 Vice President
 NFNH Hotel Management, LLC
 300 Third Street
 Niagara Falls, NY 14303
 Phone: 716-285-3361 / 905-374-4444 Ext. 4000
 Fax: 716-285-3900
 Email: michaeld@niagarafallshotels.com

Project Team:	Origination	Christopher Schoepflin
	Project Management	John Risio
	Contractor & Supplier Diversity	Geraldine Ford
	Finance	Max Padden, John Bozek
	Legal	Stephen Gawlik
	Environmental	Paul Tronolone

C. Financial Terms and Conditions

1. Upon execution of the grant disbursement agreement, the Grantee shall reimburse USAN for all out-of-pocket expenses incurred in connection with the project.
2. The Grantee will demonstrate no materially adverse changes in its financial condition prior to disbursement.
3. The Grantee will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed after the Grantee's acceptance of USAN's Incentive Proposal. Equity is defined as cash injected into the project by the Grantee or by investors, and should be auditable through Grantee financial statements or Grantee accounts, if so requested by USAN. Equity cannot be borrowed money secured by the assets in the project.
4. Prior to disbursement, the Grantee must employ at least the number of Full-time Permanent Employees set forth as the Baseline Employment in the table below. A Full-time Permanent Employee shall mean (a) a full-time, permanent, private-sector employee on the Grantee's payroll, who has worked at the Project Location for a minimum of thirty-five hours per week for not less than four consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties; or (b) two part-time, permanent, private-sector employees on Grantee's payroll, who have worked at the Project Location for a combined minimum of thirty-five hours per week for not less than four consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties.
5. Up to \$400,000 will be disbursed to the Grantee in lump sum upon project completion as evidenced by attainment of a permanent certificate of occupancy and/or other documentation verifying project completion as USAN may require, in USAN's sole discretion. Grantee must operate a full-time, full service restaurant, as described in the Grantee's application, at Project location upon Project completion; and provide documentation verifying project expenditures of at least \$3,500,000. Expenditures reimbursed by USAN's grant must be incurred on or after February 23, 2015, to be considered eligible project costs. All disbursements must be requested by December 31, 2016.
6. In consideration for the making of the Grant, Grantee will achieve the Employment Goals set forth in Column B of the table below. If the Full-time Permanent Employee Count for the year prior to the reporting date set forth in Column A of the table below is less than eighty-five percent (85%) of the Employment Goal set forth in Column B (an "Employment Shortfall"), then upon demand by USAN, Grantee shall be obligated to repay to USAN a portion of each disbursement of the Grant, as follows:

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

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

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

Baseline Employment	0
A	B
Reporting Date	Employment Goals
February 1, 2017	55
February 1, 2018	55
February 1, 2019	55

- 7. Grant funds will be subject to *pro rata* recapture if property at the Project Location is sold within 5 years of disbursement of funds. The recapture rate will be 100% if the property is sold in the same calendar year as the disbursement of USAN funds or the next succeeding calendar year, followed by a 20% reduced rate for each successive year (80% recapture if sold in the second full calendar year after the disbursement of funds, etc.).
- 8. Commencing in Year 2 after project completion and for five years thereafter, USAN shall be entitled to a subordinated preferred return equal to 20% of Net Income of the Rainforest Cafe operation. This is subject to an annual Management Fee cap of 3.5% of total revenue and the subordination of any shareholder loan repayment. This subordinated preferred return will be capped at a cumulative amount not to exceed \$400,000 over the five year period.

USAN's preferred returns shall be paid annually (in arrears) commencing in Year 2 after the project completion date and extending for five years from that date to the extent funds are available from Net Income, as verified by a certified U.S. audit firm approved in advance by ESD, and paid for by the Grantee. The audited financials and verification

will be provided to ESD on an annual basis on a date to be mutually determined and concurrent with the delivery of the check for the subordinated preferred return of the previous year.

IV. Statutory Basis

The project meets the statutory definition of a "small and medium-sized business assistance project" in accordance with Section 6(f) of the Act and its proposed aspects meet the required findings for such a project under Section 10(f) of the Act.

Pursuant to Section 10(g) of the Act regarding displacement, no residential relocation is required as there are no families or individuals residing on the site.

V. Environmental Review

ESD staff has determined that the project, which involves in-kind upgrade / rehabilitation of an existing hotel/retail space with no expansion of such use, 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.

VI. 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 in the performance of ESD projects. For purposes of this project, however, project performance has already been completed, and therefore, MWBE participation goals cannot be established.

VII. USAN Financial Assistance Subject to Availability of Funds

The provision of USAN financial assistance is contingent upon the availability of funds.

VIII. Additional Submissions to Directors

Resolutions

March 23, 2016

Rainforest Cafe Retail Renovation Project – USAN/City MOU Funds – Capital Grant —
Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to
Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take
Related Actions

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Rainforest Cafe Retail Renovation Project – USAN/City MOU Funds – Capital Grant (the “Project”), the Corporation hereby determines pursuant to Section 10(g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that there are no families or individuals to be displaced from the project area; and be it further

RESOLVED, that 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 and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, is hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, that upon written finding of the President and Chief Executive Officer of the Corporation or his designee(s) that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective at the conclusion of such hearing, and that upon such written finding being made, the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to NFNY Hotel Management, LLC a grant for a total amount not to exceed Four Hundred Thousand Dollars (\$400,000) from USAN/City MOU Funds for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds; and be it further

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

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

* * *

ITEM I.E.



FOR CONSIDERATION

March 23, 2016

TO: The Directors

FROM: Christopher Schoepflin

SUBJECT: 643 Rainbow Boulevard Hotel Project – USA Niagara Development Corporation (“USAN”) Development District Grant Program

REQUEST FOR: Authorization to Approve a Grant; Make a Determination of No Significant Effect on the Environment; and Authorization to Take Related Actions

I. Project Background:

A. Project Description

Sai Lodging LLC describes the 643 Rainbow Boulevard Hotel Project (the “Project”) as a new-build, \$6.9 million, 46,000 square-foot, 76-room Marriott franchised Fairfield Inn & Suites® Hotel located on formerly vacant lots at 627-649 Rainbow Boulevard in downtown Niagara Falls, New York.

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.

The Project will create new jobs, increase bed tax revenues and expand the city’s inventory of quality hotel rooms. In addition, the Project will contribute to creating 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 & Event Center Niagara Falls.

Sai Lodging LLC accepted an Incentive Proposal from USAN on May 24, 2013. The Project is nearly complete; the hotel expects to open by April 2016.

B. Project Summary

Grantee: Sai Lodging LLC

Contact: Mr. Ricky Patel
Managing Partner
Sai Lodging LLC
2821 Niagara Falls Boulevard
Niagara Falls, NY 14304
Phone: 716-743-8912 Ext. 307
Fax: 716-695-6161
Email: ricky@nfbdaysinn.com

Project Location: 643 Rainbow Boulevard, Niagara Falls, NY 14303

Employment:
Baseline: None
Projected: Employ 14 new Full-time Permanent Employees at the Project Location

NEDF Investment: The Niagara Economic Development Fund (“NEDF”) investment is a \$125,000 grant for reimbursement of a portion of the capital improvement costs. Funds allocated to the Project would be used toward the building’s \$4.5 million capital construction costs, including site work, concrete, mechanical (HVAC & plumbing), electrical, woods/plastics, finishes and general conditions. Funds will not be used toward furniture, fixtures and equipment (FF&E) or soft costs.

C. Funding Sources and Project Costs

The Project will be entirely funded through the Niagara Economic Development Fund; no USAN Corporate funds will be utilized.

<u>Sources of Funds:</u>	<u>Amount</u>	<u>Percent</u>
Owner Equity/Financing	\$6,828,250	98.2%
USAN Grant Program (NEDF)	\$125,000	1.8%
Total Sources of Funds	\$6,953,250	100%

<u>Use of Funds:</u>	
Site Acquisition	\$ 750,000
Demolition Costs	\$ 198,000
Construction costs	\$ 4,505,294
Furniture, fixtures and equipment (FF&E)	\$ 800,398
Soft costs	\$ 318,634

Construction reserve account	\$ 380,924
TOTAL Estimated Cost	\$6,953,250
TOTAL BUDGET:	\$6,953,250

II. Grant Program Background:

USAN, as a New York State Urban Development Corporation d/b/a Empire State Development (“ESD”) subsidiary, has the statutory authority to promote, conduct and fund economic development projects. USAN’s Development District Grant Program (the “Grant Program”), was established in 2003 between USAN and the NEDF.

A total of \$2 million from the NEDF has been authorized and reserved for the Grant Program, which will leverage private sector investment to facilitate economic development within the USAN Development District. The Grant Program will provide financial assistance to projects that will achieve these objectives and create or retain jobs, and/or catalyze business activity that would not occur without public sector investment.

To be eligible under the Grant Program an applicant must have site control. In addition, the minimum project cost must be \$25,000 and grants will generally be not more than \$100,000 or one-half of eligible project costs, whichever is less. Eligible project costs include site acquisition, demolition/renovations, remediation of existing structures, new construction and build-out, and new equipment purchases. Project costs incurred prior to project approval by USAN will not be reimbursed. Highest priority in project selection will be given to those projects that USAN determines will result in the most long-term private sector job creation and/or retention and/or the creation of tourism and eco-tourism related development. Other selection criteria include whether the project promotes economic reuse through demolition and redevelopment of an available site, the impact of the project on tourism activity within the development district, the likelihood that the project costs reflects accurate market conditions, and the likelihood that the project will actually be undertaken and completed within the timeframe stated by the applicant.

No USAN funds will be utilized for the Grant Program and USAN will retain no interest in the various projects. USAN will provide no financing for the project. USAN’s role in the Grant Program is limited to recommending specific projects for approval to be funded by the Niagara County Development Corporation (NCDC), as trustees of the NEDF.

Today, the Directors are being requested to approve a grant under the Grant Program in accordance with the above terms.

III. Environmental Review:

The Niagara Falls Planning Board, as lead agency, 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. On September 12, 2012, this review found the Project to be a Unlisted Action, which would not have a significant effect on the environment. ESD staff reviewed the Negative Declaration and supporting materials and concurs. It is recommended that the Directors make a Determination of No Significant Effect on the Environment.

IV. 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 projects. The Office of Contractor and Supplier Diversity has reviewed the project and has determined that, due to the unique nature of this project, there exists no potential for MWBE participation. As such, participation goals will not be established or required for this project.

V. Recommendation:

Staff recommends that the Board authorize the NCDC to make a \$125,000 grant through the Grant Program and make a Determination of No Significant Effect on the Environment, on the terms and conditions set forth in these materials.

Attachment
Resolution

March 23, 2016

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

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 \$125,000 to Sai Lodging 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.

ITEM I.F.



FOR CONSIDERATION

March 23, 2016

TO: The Directors

FROM: Christopher Schoepflin

SUBJECT: 900 Buffalo Avenue Adaptive Reuse Hotel Construction Project –
USAN/City MOU Funds – Capital Grant

REQUEST FOR: Findings and Determinations Pursuant to Section 10(g) of the Urban
Development Corporation Act (the “Act”); Authorization to Adopt the
Proposed General Project Plan; Authorization to Make a Grant; Make a
Determination of No Significant Effect on the Environment; and to Take
Related Actions

General Project Plan

I. Project Summary

Grantee: Indian Ocean, LLC (“Indian Ocean”)

USAN* Investment: A \$1,250,000 grant to be used for the reimbursement of a portion of
capital construction costs inclusive of site features and landscaping.

*USA Niagara Development Corporation (“USAN” or the “Corporation”) is
a subsidiary of the New York State Urban Development Corporation
doing business as Empire State Development (“ESD”).

Project Location: 900 Buffalo Avenue, Niagara Falls

Proposed Project: A \$10.8 million adaptive reuse project to create an 82-room, Courtyard
by Marriott® Hotel.

Project Type: Business creation involving job creation.

Employment: Initial employment at time of USAN Incentive Proposal: 0
Projected: Employ 12.25 full-time equivalent employees at the time of project completion.

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Capital Construction Costs	\$6,206,705
Construction Contingency 10%	\$620,670
Furniture, Fixtures & Equipment	\$1,591,308
Soft Costs	<u>\$2,464,700</u>
Total Project Costs	<u>\$10,883,383</u>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
USAN – Capital Grant*	\$1,250,000	11.5%
Owner Equity/Financing	<u>\$9,633,383</u>	<u>88.5%</u>
Total Project Financing	<u>\$10,883,383</u>	<u>100%</u>

*The USAN Capital Grant funding source is \$1,250,000 in USAN/City MOU Funds pursuant to the 2009 Memorandum of Understanding (“MOU”) between USAN and the City of Niagara Falls that authorizes USAN to make grants to support economic development projects in the USAN Development District. No USAN corporate funds will be used to fund the Project.

III. Project Description

A. Company

Industry: Hotel, Hospitality & Real Estate Development.

History: Indian Ocean was founded in 2010 and purchased the former Moore Business Forms building that same year. Indian Ocean’s co-owner and President is BF Patel, who has been a hotelier in Niagara Falls since relocating to the city in 1996. He is also the owner and operator of the Red Maple Inn at 200 Rainbow Boulevard and the Niagara Club at 24 Buffalo Avenue. He has over 30 years experience in the hospitality industry, having owned lodging establishments in Warren and Berwick, PA, and owning several restaurants in various locations.

Ownership: Indian Ocean is a private, for-profit, limited liability company.

USAN Involvement: Indian Ocean accepted an Incentive Proposal from USAN on January 20, 2015.

B. The Project

Completion: Estimated July 2016

Activity: The 65,700 total sq. ft. Project involves an adaptive reuse of the former Moore Business Forms office building and converting it to an 82-room, \$10.8 million Courtyard by Marriott® Hotel. The Project also includes over 3,500 sq. ft. of retail space to include a Home Theatre Lounge, a 24/7 Grab-n-go Market, a Marriott Bistro with Limited Starbucks® Service and a public Outdoor Lounge and Dining Area.

Results: The Project will provide new quality lodging for visitors in the Niagara Falls marketplace, consistent with the tourism development objectives of USAN. The Project will create 12.25 full-time equivalent employees and an estimated 150 construction related jobs will be generated during the Project.

Grantee Contact: Mr. Babubhai F. Patel
Pragnakumari Patel
Co-Owners
Indian Ocean LLC
200 Rainbow Boulevard
Niagara Falls, NY 14303
Phone: (716) 285-7316
Cell: (716) 998-2623
Email: econolodgeny034@yahoo.com

Project Team:	Origination	Christopher Schoepflin
	Project Management	John Risio
	Contractor & Supplier Diversity	Geraldine Ford
	Finance	Max Padden, John Bozek
	Legal	Stephen Gawlik
	Environmental	Paul Tronolone

C. Financial Terms and Conditions

1. Upon execution of the grant disbursement agreement, the Grantee shall reimburse USAN for all out-of-pocket expenses incurred in connection with the project.
2. The Grantee will demonstrate no materially adverse changes in its financial condition prior to disbursement.
3. The Grantee will be required to contribute a minimum of 10% of the total project cost in the form of equity. Equity is defined as cash injected into the project by the Grantee or by investors, and should be auditable through Grantee financial statements or Grantee accounts, if so requested by USAN. Equity cannot be borrowed money secured by the assets in the project.
4. Prior to disbursement, the Grantee must employ at least the number of Full-time Permanent Employees set forth as the Baseline Employment in the table below. A Full-time Permanent Employee shall mean (a) a full-time, permanent, private-sector employee on the Grantee's payroll, who has worked at the Project Location for a minimum of thirty-five hours per week for not less than four consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties; or (b) two part-time, permanent, private-sector employees on Grantee's payroll, who have worked at the Project Location for a combined minimum of thirty-five hours per week for not less than four consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties.
5. Up to \$1,250,000 will be disbursed to the Grantee in lump sum upon project completion as evidenced by attainment of a permanent certificate of occupancy and/or other documentation verifying project completion as USAN may require, in USAN's sole discretion. Grantee must operate a hotel as described in the Grantee's application, at Project location upon Project completion; and provide documentation verifying project expenditures of at least \$10,883,383. Expenditures reimbursed by USAN's grant must be incurred on or after January 20, 2015, to be considered eligible project costs. All disbursements must be requested by January 1, 2018.
6. In consideration for the making of the Grant, Grantee will achieve the Employment Goals set forth in Column B of the table below. If the Full-time Permanent Employee Count for the year prior to the reporting date set forth in Column A of the table below is less than eighty-five percent (85%) of the Employment Goal set forth in Column B (an "Employment Shortfall"), then upon demand by USAN, Grantee shall be obligated to repay to USAN a portion of each disbursement of the Grant, as follows:

The Recapture Amount is based on the time that has lapsed between when the Grant funds were disbursed and when the Employment Shortfall occurred. The Recapture

Amount shall be calculated by aggregating the Recapture Amount for each disbursement of the Grant, which in each instance shall be equal to:

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

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

Baseline Employment	0
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A	B
Reporting Date	Employment Goals
February 1, 2017	12.25
February 1, 2018	12.25
February 1, 2019	12.25

- 7. Grant funds will be subject to *pro rata* recapture if property at the Project Location is sold within 5 years of disbursement of funds. The recapture rate will be 100% if the property is sold in the same calendar year as the disbursement of USAN funds or the next succeeding calendar year, followed by a 20% reduced rate for each successive year (80% recapture if sold in the second full calendar year after the disbursement of funds, etc.).

D. Labor Peace Agreement

Public Authorities Law Section 2879-b prohibits public authorities from providing financing for any project that includes, as one of the principal functions, a hotel with more than fifteen employees unless a labor peace agreement (“LPA”) is entered into with a labor organization representing hotel or convention center 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. It shall be a material condition of the Grant that the Grantee, or its contractor or subcontractor, enter into a labor peace agreement with respect to the project, if the annual average of employees exceeds more than fifteen employees, prior to the execution or during the term of the Grant Disbursement Agreement.

IV. Statutory Basis

The project meets the statutory definition of a "small and medium-sized business assistance project" in accordance with Section 6(f) of the Act and its proposed aspects meet the required findings for such a project under Section 10(f) of the Act.

Pursuant to Section 10(g) of the Act regarding displacement, no residential relocation is required as there are no families or individuals residing on the site.

V. Environmental Review

The Niagara Falls Planning Board, as lead agency, 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. On February 2, 2013, this review found the Project to be an Unlisted Action, which would not have a significant effect on the environment. ESD staff reviewed the Negative Declaration and supporting materials and concurs. It is recommended that the Directors make a Determination of No Significant Effect on the Environment.

In addition, due to the building's eligibility for inclusion on the State and National Registers of Historic Places, USAN will ensure that the applicant complies with the stipulations outlined in the March 16, 2015 letter of resolution that arose out of consultation with the NYS Office of Parks, Recreation and Historic Preservation pursuant to the requirements of Section 14.09 of the State Historic Preservation Act.

VI. Non-Discrimination and Contractor & Supplier Diversity

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this Project. The Recipient shall be required to include minorities and women in any job opportunities created, to solicit and utilize Minority and Women Business Enterprise (MWBEs) for any contractual opportunities generated in connection with the Project and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 50% related to the total value of ESD's funding.

VII. USAN Financial Assistance Subject to Availability of Funds

The provision of USAN financial assistance is contingent upon the availability of funds.

VIII. Additional Submissions to Directors

Resolutions

March 23, 2016

USA NIAGARA DEVELOPMENT CORPORATION – 900 Buffalo Avenue Adaptive Reuse Hotel Construction Project – USAN/City MOU Funds – Capital Grant — Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant; Make a Determination of No Significant Effect on the Environment; and to Take Related Actions

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the 900 Buffalo Avenue Adaptive Reuse Hotel Construction Project – USAN/City MOU Funds – Capital Grant (the “Project”), the Corporation hereby determines pursuant to Section 10(g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that there are no families or individuals to be displaced from the project area; and be it further

RESOLVED, that 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 and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, is hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, that upon written finding of the President and Chief Executive Officer of the Corporation or his designee(s) that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective at the conclusion of such hearing, and that upon such written finding being made, the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Indian Ocean, LLC a grant for a total amount not to exceed One Million Two Hundred Fifty Thousand Dollars (\$1,250,000) from USAN/City MOU Funds for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds; and be it further

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

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

* * *

ITEM I.G.



FOR CONSIDERATION

March 23, 2016

TO: The Directors

FROM: Christopher Schoepflin

SUBJECT: Discover Niagara Shuttle - Funding Agreement

REQUEST FOR: Authorization to Enter into a Funding Agreement; Make a Determination of No Significant Effect on the Environment; and Authorization to Take Related Actions

I. Project Background

USA Niagara Development Corporation's ("USAN's") mission has always included improving transportation and physical access to downtown Niagara Falls in order to improve the overall setting for economic development related to the tourism industry in Niagara Falls, New York. While this has included road infrastructure projects, such as removing segments of the Robert Moses Parkway, it has also included transit investments. For example, in 2002 shortly after its establishment, USAN spearheaded the securing of a grant from the NYS Energy Research and Development Authority ("NYSERDA") to purchase two fleets of natural-gas-powered, rubber-wheeled trolleys, one to serve a new "USA Niagara Link" people-mover service in downtown Niagara Falls operated by the Niagara Frontier Transportation Authority ("NFTA"), and one to replace the former "View Mobile" shuttle bus system in Niagara Falls State Park, now known as the "Niagara Scenic Trolley," operated by State Parks. The former NFTA service later evolved into what is now a very successful seasonal tourist service (the Route "55T trolley") that connects downtown Niagara Falls with the US Route 62 corridor, while State Parks recently rolled out its second generation of trolley vehicles within the State Park.

Over the last decade various feasibility studies have noted the importance of creating a reliable and efficient tourist-oriented shuttle to enable visitors to best explore the full pallet of resources along the entire Niagara Gorge corridor, most recently in the approved management plan for the federally-designated Niagara Falls National Heritage Area ("NFNHA"). Significant portions of this corridor are not serviced by NFTA bus routes, and those that are have primary service during morning/evening weekday commuting periods, as opposed to when tourist demand is highest. Further, standard criteria for expanding NFTA bus service (i.e., commuting demand) would not readily support the addition of service to these areas.

In late 2015, the New York Power Authority (“NYPA”), as part of a major expansion and upgrade to its “Power Vista” facility at the Niagara Power Project in Lewiston, sought to establish a shuttle connection between this facility and Niagara Falls State Park (the most-visited individual attraction along the corridor). Given this opportunity, NFNHA, Inc., the not-for-profit corporation that administers the National Heritage Area, proposed that the funds NYPA intended to program for the shuttle could be leveraged with other agencies to establish a two-year pilot program for shuttle service along the entire corridor. NFNHA, Inc. and NYPA teamed with State Parks, USAN, the City of Niagara Falls, Niagara Tourism and Convention Corp., and the office of Assemblyman John Ceretto to establish the program to test whether a tourist-oriented shuttle would be used, under what service/fare conditions, and to help develop a sustainable business model for long-term operations. A similar process was employed for the establishment of the NFTA’s 55T trolley service, which is now funded through a dedicated portion of the County’s hotel occupancy tax.

II. Niagara Falls National Heritage Area, Inc.

The NFNHA was created by Congress (Public Law 110-229; subtitle B, section 421-432, May 8, 2008) as one of forty-nine such areas under the National Park Service. In 2012, after Congress approved the management plan, NFNHA, Inc. was formed in accordance with federal guidance as a 501(c)(3) organization, whose mission is to preserve, protect, and promote the cultural, natural, and historic resources in National Heritage Area communities along the Niagara River from Niagara Falls to Youngstown. The organization is committed to working to extend the communication, coordination, and cooperation among governments, communities, and organizations that are essential to regional success in heritage tourism. By strengthening regional collaboration, NFNHA, Inc. is working to extend visitation, increase visitor spending and encourage repeat visitation.

III. Proposed “Discover Niagara Shuttle” Pilot Program

NFNHA, Inc. will implement a two-year pilot program for a hop-on/hop-off shuttle service connecting visitors to Niagara Falls State Park to multiple heritage destinations within the National Heritage Area. The pilot program—to be known as the “Discover Niagara Shuttle”—would operate daily from May-October each year and provide service with ~20 minute headways from 9:00 AM to 7:00 PM each day.

This route of the shuttle would intersect at various points to complement the NFTA’s 55T trolley service. Vehicles would be fully Americans with Disabilities Act compliant and would include amenities such as Wi-Fi hot spots, bike racks for outdoor enthusiasts and tracking service/routes via a free, downloadable smart phone application.

The pilot program is intended to provide information that would include, but not be limited to:

- Anticipated ridership and tempo of ridership in terms of patron levels across a typical service day during peak/off-peak periods;
- Fares that tourists would reasonably pay for such service, and level of interest for partnerships with operators of attractions/services along the shuttle route; and

- Insight and issues that that would contribute to defining a long-term, financially-sustainable business model for the shuttle service in this corridor.

NFNHA, Inc. has developed the following table of anticipated sources of funds to operate the Pilot Program, which was refined after the organization solicited an operator for the service. Slight escalations in the cost of shuttle services, plus some refinements in the realized level of agency support that would allow for a commitment to operate beginning in May 2016 prompted the need for a one-year expenditure of \$120,000. It is anticipated that this amount would be funded through a combination of sources for the second year of the Pilot Program.

Anticipated Sources and Uses of Funds

SOURCES			
Agency	2016	2017	Total
NYPA	\$ 250,000.00	\$ 250,000.00	\$ 500,000.00
NFNHA, Inc.	\$ 50,000.00	\$ 50,000.00	\$ 100,000.00
State Parks	\$ 200,000.00	\$ 200,000.00	\$ 400,000.00
NTCC	\$ 50,000.00	\$ 50,000.00	\$ 100,000.00
Assembly John Ceretto (Member Item)	\$ 50,000.00	\$ 50,000.00	\$ 100,000.00
WNY Power Proceeds Allocation Board	\$ 100,000.00	\$ 100,000.00	\$ 200,000.00
USAN	\$ 120,000.00	--	\$ 120,000.00
Combination of: - Yahoo! Community Betterment Funds - Niagara University - Lewiston Village - Youngstown Village - Private Sponsors - Fare Box Revenue	--	\$ 120,000.00	\$ 120,000.00
TOTAL	\$ 820,000.00	\$ 820,000.00	\$1,640,000.00
USES (Rounded)			
Shuttle Operations	\$ 595,000.00	\$ 595,000.00	\$1,190,000.00
Graphic Design & Technology (e.g., bus graphic wraps, route signage, mobile app, fare/market data collection technology, etc.)	\$ 120,000.00	\$ 120,000.00	\$ 240,000.00
NFNHA Inc. Program Administration/Marketing (part-time salaried positions/consultant)	\$ 105,000.00	\$ 105,000.00	\$ 210,000.00
TOTAL	\$ 820,000.00	\$ 820,000.00	\$1,640,000.00

IV. The Funding Agreement

Once NFNHA, Inc. has procured and entered into a contract with a Private Operator for the Pilot Program shuttle service, USAN and NFNHA, Inc. will enter into a funding agreement (the "Agreement") which will provide a grant in the amount of \$120,000 from USAN to NFNHA, Inc.

Under the Agreement, NFNHA, Inc. will submit to USAN two requisitions of \$60,000 each for payment for services associated with the Pilot Program. The first requisition will occur when NFNHA, Inc. executes the funding agreement with USAN and the second in July 2016 (mid-season). Requisitions will include all supporting documentation required to be submitted by vendors/operators for invoicing under its contract with NFNHA, Inc. Prior to the submission of the first requisition, the NFNHA, Inc. will coordinate with USAN on the required form and content of such requisitions and invoices. NFNHA, Inc. will be primarily responsible for leading the administration of the Pilot Program.

The Agreement will also require the NFNHA, Inc. to maintain accurate books and records concerning the Pilot Program. USAN will each have the right to audit such books and records of the other with respect to any aspect of the Initiative, for a period extending three (3) years from the time of completion or termination of the Pilot Program.

IV. Funding Source

The source involves \$120,000 in 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 will be used to fund the Pilot Program.

V. Environmental Review

ESD staff performed a review of the 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 determined the project to be an Unlisted Action which would not have a significant effect on the environment. It is recommended that the Directors make a Determination of No Significant Effect on the Environment.

VI. Non-Discrimination and Contractor & Supplier Diversity

ESD's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this Project. The Recipient shall be required to include minorities and women in any job opportunities created, to solicit and utilize Minority and Women Business Enterprise (MWBEs) for any contractual opportunities generated in connection with the Project and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an overall MWBE Participation Goal of 30% related to the total value of ESD's funding.

VII. Recommendation

Staff recommends that the Board authorize USAN to enter into a funding agreement with NFNHA, Inc. to provide a \$120,000 grant toward the first year operation of the Discover Niagara Shuttle Bus pilot program, make a Determination of No Significant Effect on the Environment, and take all related actions on the terms and conditions set forth in these materials.

VIII. Attachments

Resolution

March 23, 2016

USA Niagara Development Corporation – Authorization to Enter into a Funding Agreement with Niagara Falls National Heritage Area, Inc.; Make a Determination of No Significant Effect on the Environment; and Authorization to Take 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 (the "Agreement") with Niagara Falls National Heritage Area, Inc. for the purposes of providing funding for first-year operations of the Discover Niagara Shuttle Pilot Program, 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 \$120,000.00, 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 Agreement; 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.
