

Request for Proposals
Operation, Maintenance, Management, & Programming of:
Conference & Event Center Niagara Falls
&
Old Falls Street, USA
Niagara Falls, New York



Solicitation Issue Date: March 18, 2013
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Issued by:
USA Niagara Development Corporation

A subsidiary of
New York State Urban Development Corporation d/b/a Empire State Development
222 First Street, 7th Floor, Niagara Falls, New York 14303

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I. INTRODUCTION

Pursuant to this Request for Proposals (this “RFP” or “Request”), USA Niagara Development Corporation (“USAN”) is soliciting proposals from qualified management companies, organizations, and/or teams to enter into an agreement (the “Operating Agreement”) to operate the Conference & Event Center Niagara Falls (“CCNF”) and to maintain/manage and program activities on Old Falls Street in downtown Niagara Falls, New York.

Although ultimately managed under separate contracts and as separate cost centers, there is a range of economies of scale related to having the same contractor operate both the CCNF and Old Falls Street. Therefore prospective respondents are not permitted to submit proposals for only one of the two operations/management efforts which are the subject of this RFP. In other words, companies/teams **may not** submit a proposal for operations/management of the CCNF and not Old Falls Street, or vice versa.

A. USA Niagara Development Corporation

A New York State-chartered public benefit corporation, USA Niagara Development Corporation was established in 2001 as a subsidiary of the State’s primary economic development agency, Empire State Development (“ESD”). Formed in response to the decline of downtown Niagara Falls, the agency’s mission is “solely dedicated to the support and promotion of economic development initiatives in Niagara Falls by leveraging private investment and encouraging growth and renewal of the tourism industry”. The agency is focusing on efforts intended to progressively and collectively help the City reverse the scars of urban renewal and revitalize downtown Niagara Falls as a sustainable, globally-recognized place to visit, as well as a place in which to live and work (see www.usaniagara.com).

Notable projects funded/completed by USAN have included the state-owned CCNF, the Sheraton Hotel at the Falls, the Giacomo Hotel and Residences, the restoration of Old Falls Street and its programming/operation, streetscape projects on Third Street and Rainbow Boulevard, and most recently, the Niagara Falls Culinary Institute and upcoming mixed-use redevelopment of 310 Rainbow Boulevard.

B. Background

1. Conference & Event Center Niagara Falls

In accordance with its mission for revitalization of downtown Niagara Falls, USAN developed and opened CCNF in 2004, to replace the functions of the former Niagara Falls Convention & Civic Conference Center, which had been converted to house the Seneca Niagara Casino. Moreover, CCNF was designed to be more “right-sized” for the market, comprised of facilities for professional meetings and conferences, large banquets and events, as well as traditional flat space for convention and trade show operations.

Through acquisition and adaptive reuse of a long-vacant structure downtown, USAN developed a state-of-the-art, award-winning facility. Designed by Cannon Design of Grand Island, New York, the CCNF is fully certified by the International Association of Conference Centers (IACC). It

was awarded first place in a 2007 design competition for adaptive reuse sponsored by the Western New York chapter of the American Institute of Architects. The primary mission of CCNF is to stimulate downtown economic activity by:

- Expanding visitation to Niagara Falls, NY;
- Generating lodging demand from attendees at professional meetings, conferences, seminars, and conventions held at CCNF; and
- Through increases in overnight visitation, facilitating expenditures at local commercial establishments.

In 2012, CCNF hosted over 229 events and attracted 36,796 in attendance. This equated to \$3,980,232 in combined hotel room and conference center revenues and generated nearly 13,998 hotel room nights. Through 2015, over 56,236 room nights and sales of \$7.85 million are projected for CCNF.

As is the case for most public convention facilities—including the former Niagara Falls Convention & Civic Conference Center—the CCNF has required public subsidies to offset its total operational costs. However, unlike its predecessor (which required a substantially higher annual subsidy than the CCNF), the CCNF has been progressively reducing the amount of operational subsidy required since it began operations in 2004 (see **Table 1**). Since its opening, annual operating subsidies have been reduced by over 67%, with the annual subsidy reduced to just over \$333,000 in 2011.

Year	Net Loss (Subsidy Amount)	Operating Revenues
2004	\$ (1,022,141)	\$ 665,288
2005	\$ (1,034,791)	\$ 1,336,151
2006	\$ (1,029,037)	\$ 718,213
2007	\$ (819,368)	\$ 952,748
2008	\$ (834,318)	\$ 2,286,099
2009	\$ (364,536)	\$ 2,391,258
2010	\$ (409,541)	\$ 2,142,370
2011	\$ (333,233)	\$ 2,429,376

CCNF is currently managed on a day-to-day basis by a private operating firm which, after its selection through a competitive procurement in 2008, entered into an operating contract with USAN/ESD that expires on December 31, 2013.

In addition, the Niagara Tourism and Convention Corporation (“NTCC”), the designated not-for-

profit tourism promotion agency for Niagara County, provides assistance to the private operator in a collaborative role to market and solicit groups that undertake larger regional, super-regional, and statewide/national events at the CCFN.

2. Old Falls Street

Encompassing three city blocks, Old Falls Street extends from Prospect Street to Third Street in downtown Niagara Falls; the CCFN frontage extends along almost an entire block of this street between First and Third Streets. Historically it was the City's main downtown commercial thoroughfare, but was eliminated in the early 1970s as part of a massive downtown urban renewal project that replaced it with a pedestrian mall (i.e., first referred to as the "Rainbow Mall" and later as the "Old Falls Street Mall"). By 2000, most of the storefronts along the mall had either closed or were tenanted with marginal activities and while it exhibited some limited activity in summer months, was largely dark and vacant the balance of the year.

From 2005-2009, USAN and the City of Niagara Falls undertook a two-phase project that fully restored Old Falls Street as a functioning vehicular street. The Old Falls Street project aimed to restore full multi-modal access on the street (particularly in off-season periods) and also to revitalize the street into an active public space. The project provided—through various design features—the flexibility and ability to function like any city street in accommodating daily activities like storefronts, curbside parking, street vending, occasional street performers/buskers, etc. (i.e., that could coincide with full automobile access), as well as allow for periodic closure for large public concerts, festivals, and other large venues. In addition to investments in the full-depth reconstruction of the street, other components included:

- Full replacement and/or updating of utilities and services along the corridor, including electrical services to facilitate outdoor vending, holiday lighting and public events; and
- Incorporation of street amenities, seating and landscaping to encourage pedestrian-oriented access and create an environment that promotes the establishment of mixed-use development (hotel, retail, entertainment, etc.) on adjoining properties.

The Old Falls Street project included a number of features to facilitate environmental sustainability. These included a system of "bio-swales" and a large "rain garden" to handle natural stormwater management, utilization of native plant species, use of sustainable materials in the construction of the street and amenities and facilities to encourage recycling and other sustainable practices. When completed in 2009, Old Falls Street received the unofficial moniker from local media outlets as Western New York's "Greenest Street".

Old Falls Street now serves as the front door to a number of downtown institutions, including the CCFN; the 1885 entrance to Niagara Falls State Park (a National Historic Landmark); the Seneca Niagara Casino complex; and most recently the Niagara Falls Culinary Institute (see Section II. C. below).

In 2009, USAN entered into a memorandum of understanding ("MOU") with the City of Niagara Falls to allow state aid funds provided to the City for convention center/tourism-related uses

(referred to as “MOU Funds”) to be used by USAN to maintain all non-conventional street facilities along Old Falls Street through its CCFN operator. USAN has provided ±\$600,000 per year to its Old Falls Street operator to help fund the maintenance and programming of events on the street.

The goal of having a specific “operator” of Old Falls Street is inspired by emerging purposeful actions to create great public spaces in locations across the nation, ranging from Bryant Park in New York City and “The Porch” in Philadelphia, to local examples like Buffalo Place or Erie Canal Harbor. The intent is to first protect/maintain significant public investments (i.e., in the street and the CCFN), but also to leverage that investment to create a “place” that attracts people, driven by uses, events, and activities in the “public realm” space. The placemaking aspects of the effort are meant—progressively over a substantial period—to encourage development of permanent uses along the street to ultimately supplant most of these public realm activities.

In 2012, Old Falls Street hosted over 350 activities/events; attracted over 62,000 in major event attendance; and generated revenues totaling \$218,982. These have included, but are not limited to:

- Smaller daily activities such as morning aerobics/Pilates classes, daily bicycle rental, and daily “Kids Camp” activities in the summer months;
- Daily food vendors—some operated by Old Falls Street USA and some private—selling everything from hot dogs and gyros to salads and locally-made soft drinks;
- Large street parties or events spearheaded by the Old Falls Street operator, such as the City’s annual Cinco de Mayo Party and Oktoberfest celebration; and
- A summer concert series and a New Years’ Eve outdoor “Guitar Drop” party sponsored by the Hard Rock Café®.

The street is forecasting 458 activities/events in 2013, over 51,500 in attendance, and is projected to generate about \$228,000 in revenues.

II. DESCRIPTION & CONTEXT OF FACILITIES

A. Conference & Events Center Niagara Falls

Located at 101 Old Falls Street, the CCFN is comprised of 116,000 square-feet of space with the following features (see Attachment A and www.ccnfny.com).

- A 32,200-square-foot event/exhibit hall with superior acoustical design and capacity for up to 4,000 persons;
- The Cascades Room, a 10,500-square-foot ballroom facility, one of the largest in Western New York;
- The Cataracts Room, a new 5,000-square-foot, multi-purpose conference dining room fronting on Old Falls Street;
- A 5,000-square-foot Grand Foyer, designed in an inspiring two-story space that provides extensive natural light, and equipped with permanent bar, reception, coat-check, and registration desk facilities to meet all event staging requirements;
- A full-service learning center that includes 15 conference/meeting rooms with built-in multi-media equipment; including wireless internet access throughout the facility; a fully-equipped business center; a theater-style presentation space; and fully appointed executive boardroom facilities;
- A large, landscaped outdoor veranda along Old Falls Street, suitable for receptions, banquets and special events, equipped with built-in power; and
- A 5,000-square-foot, fully appointed kitchen facility with space, staging areas, and all necessary equipment to easily cater up to 2,000 meals in a single seating.

B. Old Falls Street

With regard to the maintenance and programming of Old Falls Street, under the Agreement with the City of Niagara Falls retains responsibility for activities such as major capital repair projects and maintaining the curb-to-curb width of the street (e.g., street cleaning and snowplowing). The Old Falls Street operator is responsible for cleaning and maintenance of the “pedestrian zone” (sidewalks, trash receptacles, hanging plants, etc.).

The MOU also authorizes the operator to facilitate scheduling and programming of all events and operations along Old Falls Street. The operator serves as the City’s single point-of-contact to:

- Undertake and sponsor special events (e.g., street parties, festivals, music, etc.);

- Facilitate and/or undertake special events by “others” approved by the City, USAN, and/or the Old Falls Street/CCNF operator (e.g., City-sponsored concert events, concert series by Hard Rock Café, Annual Blues Festival, etc.);
- Undertaking Old Falls Street/CCNF-operated daily food-and-beverage vendor operations; and
- Assist in managing (on behalf of the City) the permit programs for private street vendor operations.

The Old Falls Street operator confers with the City and other outside organizations to develop an annual events calendar and maintains it on its Old Falls Street website (www.fallsstreet.com); the calendar is also disseminated in print and electronic form to local hoteliers and the NTCC media operations.

From a capital facilities perspective, since the signing of the 2009 MOU, the operator has conferred with and been approved by USAN to expend funds to acquire and maintain an inventory of equipment to facilitate maintenance and programming of the street. These remain the property of USAN and include, but are not limited to:

- A series of transport/maintenance vehicles and equipment, including electric golf carts, a multi-purpose tractor/sidewalk plow, commercial grade snow blowers, and a Segway® scooter for oversight activities;
- A series of custom-fabricated street vending carts of various sizes equipped with full cooking equipment and refrigeration;
- An outdoor stage facility, which is owned by the City of Niagara Falls and stored/used by the operator; and
- An extensive collection of holiday lights and pole-mounted displays.

From a financial perspective, the maintenance and operations of Old Falls Street are contracted under a separate agreement with USAN and managed as an independent cost center for accounting purposes under the name “Old Falls Street, USA”. The operator develops an annual capital/operating budget, financial statements, and annual reports for the operation of the street that are independent from that of the CCNF.

C. Context – Downtown Niagara Falls, New York

Niagara Falls attracts up to eight million visitors per year. Both CCNF and Old Falls Street are the equivalent of a few city blocks from the brink of the American Falls within Niagara Falls State Park and within an easy walk to all hotels, restaurants, retail, and entertainment facilities (see Attachment B). Among the State Park’s offerings is the world-famous *Maid of the Mist*® boat tour, the Cave of the Winds, and Goat Island, where visitors are provided with close-up views of both the American and Horseshoe Falls. They are also located a few blocks from

trailheads leading to the base of the Niagara Gorge, offering activities such as fishing, hiking, bicycling and bird watching.

The CCNF is directly adjacent to the Seneca Niagara Casino “compact area” (i.e., sovereign Indian land created as part of a compact agreement with the State of New York), which contains a 100,000-square-foot Las Vegas style casino, a 600-room hotel, spa facilities, and live entertainment facilities. The complex is expected to expand over the next five years to include additional lodging and entertainment venues. A number of other lodging facilities are located nearby; many of these have recently completed or are in the process of upgrading and/or expanding their operations. Among these are the Sheraton Hotel, a 400-room facility next to CCNF, several other national hotel flags, as well as some emerging boutique products.

CCNF and Old Falls Street also benefit from a number of recently completed economic development initiatives fostered by USAN and the City, including the adaptive reuse of the United Office Building into the *Giacomo Hotel & Residences*; the addition of a new Starbucks® Café and TGI Fridays® Restaurant at the Sheraton Hotel on Old Falls Street; and most recently, the opening of the Niagara County Community College’s Niagara Falls Culinary Institute on Old Falls Street in a 90,000-square-foot portion of the former Rainbow Centre Mall. In addition to instructional space, the Institute includes new student-run restaurants and pastry shop, a New York State Wine Boutique, and a Barnes & Noble® College Bookstore.

There is more to come; a new mixed use development at Old Falls Street and Rainbow Boulevard is expected to break ground in 2013, anchored by a 100-room upscale hotel, together with ballroom, apartment, and street-level retail/restaurant uses. Also, a project to fully renovate and upgrade the current Days Inn on First Street to an upscale brand is expected to start this year. Plans are also in the works for:

- Adaptive reuse of the remaining 200,000 SF of the former Rainbow Centre Mall for mixed retail, entertainment, and institutional uses;
- A full restoration of the historic Hotel Niagara to rejoin the ranks of the City’s best lodging choices; and
- A gut renovation and redevelopment of the former Fallside Hotel along the Upper Niagara River.

All told, as many as 400 new or upgraded rooms could be available by 2016, together with new restaurant and retail offerings.

III. THE INVITATION

USAN invites professional, financially sound organizations and/or teams to submit proposals to operate and manage the CCNF and Old Falls Street, each under contract with USAN.

Please note: The current operator and staff members of CCNF and Old Falls Street are aware that this RFP process has been initiated. However, in accordance with State procurement law, no CCNF or Old Falls Street staff member may be contacted by prospective contractors at any time during the procurement period. All communications and questions must be directed to the official contact for this procurement, noted in Section VIII of this RFP.

A. Contract Term

The term of each of the contracts will begin on January 1, 2014 and extend five (5) years, ending on December 31, 2018.

At the sole discretion of USAN, the selected contractor may also be awarded up to two (2), one-year extensions to each contract.

B. Goals and Objectives

USAN's primary goals for CCNF and Old Falls Street, and thus influencing its selection criteria in evaluating proposals, are listed in the following sections:

1. Conference & Events Center Niagara Falls

To operate **a first-class venue** for private, non-profit, and governmental entities to host meetings, performances and events, including maintaining/enhancing the quality of CCNF's physical infrastructure, amenities, and systems; providing top quality food/beverage services; and providing a superior level of service and management.

To **maximize new and/or expanded visitation** to the City of Niagara Falls, NY, as evidenced by new hotel room nights (i.e., particularly in off-peak periods in the spring, fall, and winter) and other economic activity.

To maximize revenue generated by CCNF, with a goal of **minimizing and/or eliminating annual operational subsidies**, through both well-managed operations and methods for the most effective/efficient marketing of the facility.

2. Old Falls Street, USA

To maintain Old Falls Street as a **safe, attractive, pedestrian-oriented street**, both as an extension of the CCNF and as a centerpiece for downtown activities.

To program, administer, and operate activities on Old Falls Street **that contribute to "placemaking"**, including both daily activities and formally-sponsored events to add to the

list of “things to do” by visitors and residents.

3. Overall Goals (i.e., both contracts):

In consideration of the extensive initial and on-going public investment CCNF, Old Falls Street, and other recent projects including the Niagara Falls Culinary Institute, **maximize the community betterment potential** of these investments to contribute to the larger economic sustainability of the tourism industry and the well-being of the Niagara Falls community in general, inclusive of, but not limited to **maximizing opportunities for certified Minority and Women-Owned Business Establishments (M/WBEs)**.

To operate CCNF and Old Falls Street in the **most environmentally sustainable and responsible manner as feasible**, through operational decisions including, but not limited to materials/products used, management of waste streams, energy use, and the design and installation of future improvements to the facility to minimize negative effects to the environment.

C. Pre-Requisites Regarding the Management & Programming of Old Falls Street, USA

It should be noted that the term of USAN’s initial MOU with the City of Niagara Falls regarding the operation of Old Falls Street expired on December 31, 2012. As a result of a City budget crisis¹ in the fall of 2012, the Niagara Falls City Council elected to withhold MOU funds from being used for CCNF or Old Falls Street for the 2013 budget year. In January 2013, they modified this decision by entering into a one-year agreement to allow USAN (through its operator) to continue to manage Old Falls Street, funded through USAN’s own resources and/or unexpended MOU funds from prior budget years.

It is expected that once the City’s budgetary issues are resolved in 2013, the City Council will elect to resume its agreement with USAN for the management/programming of Old Falls Street, given that it has widely been perceived as a positive and successful approach to safeguard an important public investment in the street. Thus, USAN has elected to procure for an operator to undertake these activities once the one-year agreement expires on December 31, 2013.

However, the issuance of a management contract by USAN with a private operator for Old Falls Street will ultimately be pre-conditioned upon the Niagara Falls City Council renewing its MOU with USAN for this effort.

¹ The City’s 2012 budget crisis was largely caused by a three-year dispute between the State of New York and the Seneca Nation of Indians regarding revenues due to the State related to the operation of the Seneca Nation’s three Western New York casinos. A portion of these funds had been programmed to revert to the City, which now total over \$60 million. The matter is currently in binding arbitration and is expected to be resolved in 2013; once resolved, it is anticipated that USAN will enter into a new MOU with the City with regard to the CCNF and Old Falls Street.

IV. SCOPE OF SERVICES

The selected company or team shall manage all operations and grounds of CCNF, maintain the “pedestrian zone” space of Old Falls Street, and program/manage activities that occur in the street both when open for traffic and closed for special events. Specific services and expectations of the managing firm will include, but are not limited to the following:

A. Conference & Event Center Niagara Falls

1. Sales and Marketing

The operator shall provide all sales and marketing efforts for the CCNF; cooperating and coordinating with NTCC where applicable for marketing leads for organizations/entities hosting larger, super-regional, statewide, and/or national conferences, conventions, and meetings.

The operator shall provide all customer services for all activities at the CCNF.

2. Operating and Maintenance Services/Responsibilities

Ordinary Repairs and Maintenance. The operator shall maintain CCNF in good order and condition consistent with International Association of Conference Centers (IACC) and any other applicable standards, and shall make all necessary ordinary maintenance and repairs. For the purposes of this section, the term “ordinary maintenance and repairs” means that work which is required to keep CCNF in a safe, clean and sanitary condition and which is made necessary due to the day-to-day operations.

Exterior Grounds. The operator shall be responsible for maintenance of all exterior grounds of CCNF, including maintenance of landscape, snow plowing of loading/parking areas, and general policing.

Capital Repairs and Replacements. USAN shall be responsible for the costs of all major capital repairs or replacements to the facilities, in consultation with the operator, including all major improvements, equipment and systems. Upon USAN approval for funding of such improvements, unless otherwise directed by USAN, it will be the responsibility of the operator to procure for and oversee the construction of such improvements.

The selected operator will be responsible for all operational cost items (subject to annual operating subsidy contribution made by USAN), including all routine and minor repairs, equipment servicing, building maintenance and preventative maintenance.

The selected operator will need to formulate a five-year Preventative Maintenance Plan and identify/program various types of annual maintenance and monitoring of all aspects of the CCNF physical plant. The plan will be reviewed/updated annually as necessary and implemented over the term of the agreement.

3. Administrative Services

The operator shall provide the following administrative services required in the operation of CCNF:

Either directly undertaking or administering contracts required in the ordinary course of business for services, events, food and beverage services, concessions, catering, novelties/merchandise, advertising, equipment, etc.

Insure that insurance requirements of USAN/ESD are met by rental clients, and manage claims as required to contain risk to USAN/ESD.

Annually developing prices, rates and rate schedules for any commitments that the operator will be responsible for negotiating.

Preparing an annual operating budget for CCNF in the format and by scheduled due dates specified by USAN. Comply with the spending limitations imposed by such budget, including supplements as authorized.

Submitting and maintaining annual booking policies approved by USAN and tracking utilization rates.

Providing all security services for facilities and events.

Collecting revenues generated through the operation of CCNF.

Managing all financial aspects (i.e., banking, payables, receivables, etc.) in accordance with strong internal/external audit guidelines with proper procedure, processes, and safeguards in place.

4. Reporting/Audit/Financial Requirements & Responsibilities

Preparing monthly reports regarding the use and operations of CCNF.

On an annual basis, the operator will be required to provide to USAN/ESD a financial audit conducted by an independent Certified Public Accounting firm approved by USAN/ESD within ninety (90) days after the end of each operating year of the Agreement. The audited financial statements shall be prepared in accordance with Generally Accepted Accounting Principles. USAN/ESD shall reserve the right to audit all financial statements.

B. Old Falls Street, USA

1. Operating and Maintenance Services/Responsibilities

The operator of Old Falls Street will be responsible for performing, or otherwise engaging a third party to perform, in either case as an Operating Expense, the following with respect to various pedestrian facilities on the street:

Solid waste removal and recycling management (note: trash receptacles along Old Falls Street are equipped with recycling containers for plastic bottles and cans).

General daily cleaning and monitoring (as well as periodic power washing during the summer season) of all sidewalk areas. Operator is not obligated to maintain or repair any sidewalk or street damage, but must report any such damage to USAN/City upon becoming aware of it.

Seasonal mulching, weeding of all tree pits, planting areas, and surface cleaning of drainage/"bio-swales".

In the summer season, installation and maintenance of hanging flower pot displays on light poles and decorative planters, which are also periodically used as street blockades along Old Falls Street.

Regular cleaning of all street furnishings (i.e., benches, trash receptacles, map display stations). Operator is not obligated to repair any such furnishing, but shall report any damage to such furnishings to the City/USAN upon becoming aware of it.

Seasonal start-up/shut-down of mechanical irrigation system for various street trees/planter beds.

Removal of leaves from sidewalks in autumn season and surface cleaning out of sidewalk drainage facilities.

Undertaking a program of tree-lighting and displays for the holiday season.

Winter snow clearance of all sidewalk areas.

Monitoring and, upon becoming aware of any damage, promptly reporting, damage to capital facilities in pedestrian portions of the right-of-way to Owner/City of Niagara Falls and taking reasonable temporary provisions to maintain safety pending repair (e.g. cordoning off, removal of damaged equipment, etc.).

Maintenance, operations, and management of two variable message signs at Old Falls Street and Third Street and Third Street and Niagara Street in conjunction with the NTCC.

2. Programming Responsibilities

The Old Falls Street Operator shall have the exclusive right and the obligation to facilitate programming of events and operations along Old Falls Street. This shall include serving as the City's single point-of-contact to facilitate public events along Old Falls Street (e.g., festivals, concert series, art shows, etc. – either by CCFN/Old Falls Street Operator, the City of Niagara Falls, and/or other approved entities). These responsibilities will include:

Coordinating planned festivals and associated street closures with affected agencies, property owners, and businesses along Old Falls Street to prevent conflicting activities, including regular participation with the City's established Special Event Task Group.

Facilitating and administering all requests for closure of all or portions of Old Falls Street to traffic (note: planter street blockades are designed to be accommodated by CCNF forklifts and are stored at the CCNF).

Providing event coordination support (staging equipment, utility requirements, marketing support, etc.) for concerts, festivals, and other similar events on Old Falls Street.

Maintaining an annual event calendar (released before March 31 of each year) and an Old Falls Street website, in both conventional and mobile/hand-held (and/or App) versions.

3. Administrative Services

The Old Falls Street operator shall provide the following administrative services:

Applying for and holding beer/liquor sales licenses from the State Liquor Authority for events.

Administering the permit application process and conducting enforcement for both event and daily vending operations on behalf of the City of Niagara Falls, subject to the City providing the procedures and application materials to enable the Old Falls Street Operator to accomplish this task.

Either directly undertaking or administering contracts required in the ordinary course of business for services, events, food and beverage services, concessions, catering, novelties/merchandise, advertising, equipment, etc.

Insure that insurance requirements of USAN/ESD are met by rental clients, and manage claims as required to contain risk to USAN/ESD.

Preparing an annual operating budget for Old Falls Street USA in the format and by scheduled due dates specified by USAN. Comply with the spending limitations imposed by such budget, including supplements as authorized.

Providing and/or arranging for all security services for facilities and events.

Collecting revenues generated through the operation of Old Falls Street.

4. Reporting/Audit/Financial Requirements & Responsibilities

Similar to that required for CCNF.

V. SELECTION PROCESS & PROPOSAL REQUIREMENTS

A. Process Timetable

The following target dates are intended as a guide for the proposal process:

March 18, 2013	RFP Issue Date
April 3, 2013	Non-Mandatory Pre-Proposal Meeting
May 3, 2013	Due Date for Proposal Submissions
May 29 – 31, 2013	Interviews of Teams
September 24, 2013	Designation of Preferred Team

B. Proposal Organization

Proposals should demonstrate an understanding of the requirements and present the following information in the same format as presented below, clearly divided by numbered sections. All required completed certifications, forms, affidavits, etc. should be attached as appendices to the proposal in the order presented in this RFP.

Respondents should provide the following information:

1. Cover Letter and/or Executive Summary

- a) Summarize your organization's or team's ability to undertake the services being solicited for in this RFP.
- b) Present the major themes of your proposed approach to the effort — how you will meet the challenge. Present the main strengths of how you propose to keep regular business we have already secured, take full advantage of opportunities for growth, and still maintain or improve our current standards for quality.
- c) Present key abilities of your proposed management team and discuss any critical “distinguishers”— why your organization should be selected over others.

2. Organization Information

- a) Full legal company name, organization structure (e.g., corporation, partnership, joint venture) of respondent(s), and complete contact information including mailing address, phone and fax numbers, and email address for the prime contractor, and if applicable, subcontracting companies/firms.
- b) Describe the proposed entity's organization and team as it relates to the management, operations, and marketing of CCNF and maintenance/programming of Old Falls Street. Include an organization chart of key players, organizations, and personnel that would be

involved in the management effort—ensuring to distinguish the operations and management of the CCFN from that of Old Falls Street. Include resumes of key personnel members (2-page maximum for each resume) that are proposed for staffing this effort, listing relevant experience at venues/facilities (preferably matching company experience listed in item B. 3. a. below).

- c) The respondent should indicate if the company has been a party in any legal suit, action or contractual event of default in the last five (5) years. If so, please explain.
- d) Where applicable, include published and publicly-available financial data for respondent, and its partners and participants, including assets in the United States (e.g., annual report, including latest quarterly report, 10K reporting, and recent securities offerings).

3. Experience and References

- a) Provide no more than ten (10), one (1)-page experience sheets summarizing current/past management contracts held by the company and/or members of the team that have involved:
 - (1) Operation of large public assembly facilities, conference centers, private meeting center venues in either the United States or Canada, and/or other similar attractions/venues of a similar scale, function, and/or market as the CCFN;
 - (2) Outdoor facility maintenance, operation and/or programming of events/activities involving a public street (such as through a Business Improvement District [BID]), park, civic square, or other similar outdoor area or venue.

Include contact person/reference information (name, title, phone number, and email address) and narrative description of responsibilities and major accomplishments for each facility.

- b) In describing your public assembly facility experience, list any discreet strategies that your company or team have implemented at similar facilities that have resulted in increased utilization, room night generation, and/or economic impact.
- c) In describing your experience, highlight aspects of any past assignments, if any, in operating meeting/convention facilities:
 - (1) In a destination with casino gaming and the impact that has had on the appeal of this destination as a convention/meeting venue and how your company or team best capitalized on this availability.
 - (2) In a destination near a major National/State Park, heritage area, and/or natural/outdoor recreation area and the impact that has had on the appeal of this destination as a convention/meeting venue and how your company or team best capitalized on the proximity of these resources.
- d) List any management contracts that have been terminated or have not been renewed in the United States and Canada within the last five (5) years, and include the name of a

contact person. Contacts provided should be individuals who are capable of speaking to the management entity's performance on the contract cited.

4. CCFN Management Approach

Provide a detailed description of your proposed approach in undertaking the management and operation of CCFN that includes:

- a) Marketing and Promotional Ideas. Provide a preliminary marketing/business plan that describes how your organization will market and position CCFN including the influence of the surrounding area, business demand generators, competitive properties and your view of the ideal mix of business in CCFN to achieve the optimum financial results and economic development objectives. **A primary element of this plan should include proposed goals, strategies, techniques, and milestones to approach/achieve break-even operations at the CCFN (i.e., elimination of the need for annual public operations subsidies).**
- b) Food & Beverage Services. Provide an overall approach to food and beverage services. This shall include your management approach and abilities in providing top-quality food/service for a variety of venues—large dinner events in the Cascades and Cataract Rooms; meeting “break” services in various public spaces in the conference/meeting rooms; and services major show or conventions in the events/convention space.
- c) Staffing. Provide an estimate of proposed administrative, marketing, and operational staffing levels, individually for CCFN and Old Falls Street.

5. Old Falls Street Approach

Provide a detailed description of your proposed approach in undertaking the maintenance and programming of Old Falls Street. With regard to programming, respondents are encouraged to visit www.fallsstreet.com to review the types and tempo of activities that are currently administered on the street. While the tempo of event activity obviously peaks in the summer months of June, July, and August, each respondent must include ideas/concept proposals for **at least one winter or holiday event.**

It should be noted that the programming of Old Falls Street should not be entirely devoted to large festivals or concerts. A properly scaled program of passive “non-event” activities—geared toward a daytime family-oriented market of park users or passers-by—should be a critical component of the proposed programming approach. In addition to morning exercise sessions, other locations have successfully programmed activities including, but not limited to streetside portrait/caricature artists, storytelling hours for children, book/magazine lending libraries, etc.

In formulating their Old Falls Street approach, respondents are urged to consider:

- New ideas that have been successfully implemented in other urban locations, and why they have been successful;

- Opportunities for corporate partnerships related to events, passive activities, and/or seasonal facilities (e.g., *ABC Company Stage*), particularly possibilities with components of the travel industry (e.g., airlines, ground transport, hotel corporations, etc.) or particular product lines that could be tied to this setting (e.g., outdoor gear).

6. Preliminary Business Terms

- a) Draft Term Sheets. Provide preliminary term sheets for CCNF and Old Falls Street that outline and describe your proposed business relationship with USAN, including recommended fee terms, conditions, costs, profit-sharing, and private investment, if applicable. It should be noted that such terms will not be considered final, but rather shall ultimately be the subject of negotiations between USAN and the highest-rated respondent.
- b) Transition Plan. Provide a preliminary transition plan (if applicable) from the current operator for CCNF and Old Falls Street, including major tasks, considerations and a rough estimate of transition costs associated with USAN entering into a contractual relationship with your organization to manage CCNF and Old Falls Street.

7. Preliminary Community Betterment Strategy

- a) Between the operations of the CCNF, Old Falls Street, and most recently the Niagara Falls Culinary Institute, there is a considerable amount of public buying power in a small geographic area. It is the objective of USAN to seek to maximize the ability of these activities in leveraging benefits to the local community. For example, in entering into a development agreement to provide \$11 million in State funding for the Culinary Institute, USAN stipulated that the College would work with other local/county/state entities (including CCNF) and tasked them with:

...investigating and identifying applicable policies, actions, joint programs, and/or other coordination activities associated with the long-term operations of the College's hospitality and tourism institute and other large local institutions, that could create maximum public benefit by proactively addressing selected structural community economic and social issues inhibiting progress within the City of Niagara Falls and Niagara County. Such issues would include, but not be limited to: food issues/systems, education/training in the culinary and hospitality fields, and further neighborhood redevelopment in the vicinity of the Project.

Respondents must submit a description of its proposed approach to maximizing the operation of CCNF and Old Falls Street to overall community betterment. Respondents are encouraged to “think out of the box” in their approach to this requirement; there are numerous possible methods to position aspects of CCNF/Old Falls Street operations to help advance a variety of community, educational, economic, or social objectives, ways to make the market better (thus attracting more visitors and economic advancement), and/or to provide new opportunities for residents of the local community that otherwise would not occur. If applicable, describe any strategic partnerships with organizations that could help advance such goals. Such methods/programs might include, but would not be

limited to: opportunities for training/employment development for local residents; strategic partnerships with local schools, colleges, universities, and/or not-for-profit organizations; programs to enhance the quality of hospitality offerings throughout the community, etc.

- b) As part of such a proposed Community Betterment Strategy, respondents may also submit a concept(s) as to how they might leverage their organizational strengths or competencies (e.g., relationships with other organizational units, companies, subsidiaries, and/or associated entities) to promote growth and success of not only the CCNF and Old Falls Street, but even to more broadly play a role in revitalizing and fostering renewal in the overall tourism and meeting industry in Niagara Falls.

8. Preliminary Environmentally-Sustainable Operations Approach

Respondents must submit a description of their overall approach to minimizing adverse environmental impacts of CCNF and Old Falls Street operations. This could include, but not be limited to a proposed program to maximize the use of post-consumer recycled materials, recycling and waste management techniques, energy management, maximizing the use of locally produced goods in food/beverage operations, etc.

9. Supplemental Information

Any other recommendations and attributes of the respondent's approach that will strengthen the operations of CCNF and Old Falls Street and contribute to USAN's primary mission and objectives of generating lodging demand and economic activity related to tourism in Niagara Falls.

C. Certifications & Requirements

1. Proposer Certification

The respondent shall include with its submission a duly executed Certification using the form included as Attachment C to the RFP, without modifications or supplement, sworn before a notary public.

2. Non-Discrimination and Contractor/Supplier Diversity Goals

Pursuant to New York State Executive Law Article 15-A, ESD/USAN recognizes its obligation under the law to promote opportunities for maximum amount of meaningful participation by certified minority- and women-owned business enterprises (M/WBEs) and the employment of minority group members and women in the performance of ESD contracts.

It is the policy of the State of New York and ESD/USAN to comply with all federal, State and local laws, policy, orders, rules and regulations which prohibit unlawful discrimination based on race, creed, color, national origin, sex, sexual orientation, age, disability or marital status, and to take affirmative action in working with contracting parties to ensure that New York State Business Enterprises, M/WBEs, minority group members and women share in the economic opportunities generated by ESD's/USAN's participation in projects or initiatives, and/or the use

of ESD/USAN funds. ESD's Non-Discrimination and Contractor & Supplier Diversity goals will apply to this initiative.

Respondents are required to provide an overall written description of their anticipated plan/approach to achieving below-listed goals for NYS-certified M/WBE contracting as part of operations of the CCNF and Old Falls Street. The approach should include anticipated skill areas where M/WBE participation will be sought, identification of companies/firms planned to be used, and profiles of such companies/firms and their principals. ESD/USAN reserves the right to approve contractors or subcontractors for either the CCNF or Old Falls Street contracts. A copy of the respondent's completed M/WBE Participation/Equal Employment Opportunity Policy Statement (Form OCSD-1), anticipated Staffing Plan (Form OCSD-2) and M/WBE Utilization Plan (Form OCSD-3) shall also be included as part of the response to this RFP. These forms can be downloaded at the following links:

OCSD-1:

www.empire.state.ny.us/CorporateInformation/Data/RFPs/OCSD_1MWBEEOPolicyStatement.pdf

OCSD-2:

www.empire.state.ny.us/CorporateInformation/Data/RFPs/OCSD_2StaffingPlan.pdf

OCSD-3:

www.empire.state.ny.us/CorporateInformation/Data/RFPs/OCSD_3MWBEUtilizationPlan.pdf

If you have other questions relating to M/WBE requirements herein, please contact the OCSD with your inquiries and comments at OCSD@ESD.NY.GOV. Be sure to include all relevant contact information for your company and details pertaining to this project.

3. State Tax Law Section 5-a.

Any contract resulting from this solicitation is also subject to the requirements of State Tax Law Section 5-a ("STL 5-a"). STL 5-a prohibits USAN or ESD from approving any such contract with any entity if that entity or any of its affiliates, subcontractors or affiliates of any subcontractor makes sales within New York State of tangible personal property or taxable services having a value over \$300,000 and is not registered for sales and compensating use tax purposes.

Also in accordance with the requirements of STL 5-a, any contract resulting from this solicitation will require periodic updating of the certifications contained in Form ST-220-CA. Solicitation responses that do not include a properly completed ST-220-CA will be considered incomplete and non-responsive and will not be considered for contract award. For "team" submittals, only the prospective prime contractor must complete Form ST 220-CA, but Schedule A of Form ST 220-CA requires detailed information from the sub-consultants, such as tax ID

² "Good faith efforts are defined on ESD Form OCSD-4 and can be reviewed at:

www.empire.state.ny.us/CorporateInformation/Data/RFPs/OCSD_4GoodFaithEfforts.pdf

number, etc., if applicable. Moreover, if applicable, certificates of authority must be attached by the prime consultant and all the sub-consultants.

To comply with STL 5-a, all respondents to this RFP must include in their proposals a properly completed Form ST-220-CA or, if they believe appropriate, a completed and sworn affidavit of the non-applicability of STL 5-a. Forms may be downloaded at the following links:

ST-220-CA Form:

www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf

Affidavit of Non-Applicability of State Tax Law § 5-A:

www.empire.state.ny.us/CorporateInformation/Data/RFPs/RequiredForms/STL_5A_Affidavit.pdf

knowing and willful violations of the provisions of the Procurement Requirements, including disqualification from eligibility for an award of any contract pursuant to this RFP.

Compliance with the Procurement Requirements requires that (1) all communications regarding this RFP, from the time of its issuance through final award and execution of any resulting contract (the “Restricted Period”), be conducted only with the designated contact persons listed below; (2) the completion by respondents of the Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law; and (3) periodic updating of such forms during the term of any contract resulting from this RFP.

The Procurement Requirements also require ESD staff to obtain and report certain information when contacted by prospective bidders during the restricted period, make a determination of the responsibility of bidders and make all such information publicly available in accordance with applicable law. If a prospective bidder is found to have knowingly and willfully violated the State Finance Law provisions, that prospective bidder and its subsidiaries, related or successor entities will be determined to be a non-responsible bidder and will not be awarded any contract issued pursuant to this solicitation. In addition, two such findings of non-responsibility within a four-year period can result in debarment from obtaining any New York State governmental procurement contract. For the purpose of compliance with State Finance Law Sections 139-j, contact with **John Risio of USAN** is considered permissible. Mr. Risio’s contact information is listed in Section VIII.

This is not a complete presentation of the provisions of the Procurement Requirements. A copy of the ESD Policy Regarding Permissible Contacts under SFL 139 can be found at:

http://www.empire.state.ny.us/CorporateInformation/Data/RFPs/RequiredForms/PermissibleContactsPolicy_Jan2007.pdf

Respondents must submit the Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer's Affirmation of Understanding of and Agreement pursuant to State Finance Law as part of their proposal. Copies of these forms may be downloaded at the following link:

www.empire.state.ny.us/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf

Under New York State procurement policies, a "responsible vendor" is one that has the capacity to fully perform its contractual obligations, and the integrity to justify the award of public dollars. New York State Finance Law dictates that state agencies take reasonable steps to ensure that public contracts are awarded to bidders that are responsive and responsible, including the capability to meet bid requirements and fully perform contractual obligations, and possessing the integrity to justify the award of public dollars. In short, businesses must demonstrate their vendor responsibility prior to the award of the contract. Prior to entering into contracts, New York State agencies must formally make a "responsibility determination" that is based upon a financial, legal, integrity, and past performance ("FLIP") review of a prospective vendor. The FLIP review involves assessments of a company's:

- Financial and organizational capacity;
- Legal authority to do business with the State of New York;
- Integrity of the owners/officers/principals/members and contract managers; and
- Past performance of the bidder on prior government contracts.

The selected company under this RFP must demonstrate its responsibility as a vendor and must maintain responsibility throughout the term of the agreement. For more information, visit the New York State Office of the Comptroller's Vendor Responsibility website at: www.osc.state.ny.us/vendrep/index.htm.

Proposals must be responsive to all the RFP requirements included herein and include a completed and notarized copy of a "Responsibility Questionnaire". The Questionnaire may be downloaded at the following Links:

For-Profit Entities:

www.esd.ny.gov/CorporateInformation/Data/RFPs/111511_VendorForprofit.pdf

Not-for-Profit Entities:

www.esd.ny.gov/CorporateInformation/Data/RFPs/111511_VendorNotforprofit.pdf

6. Labor Peace Agreement

Under Title 4 of the New York Public Authorities Law, §2879-B, ESD/USAN may not enter into any agreement or contract for operation of a hotel or convention center under which it has a substantial proprietary interest unless the agreement or contract requires that the selected contractor enter into a labor peace agreement with a labor organization that represents hotel employees in the state, for a period of at least five years.

The selected operator for CCNF will be required to incorporate the terms of the labor peace agreement in any contract, subcontract, lease, sublease, operating agreement, concessionaire agreement, franchise agreement or other agreement or instrument giving a right to any person or entity to operate the CCNF.

This requirement may only be waived if ESD/USAN determines that the project would not be able to go forward if a labor peace agreement was required, or the costs of the project would be substantially increased by such requirement. Such a determination must be supported by a written finding by ESD/USAN setting forth the specific basis for such determination, which may include experience with similar projects, earlier requests for proposal for the same project, or a detailed evaluation of potential bidders.

Proposals must include a statement that respondent has reviewed, fully understands, and intends to comply with State laws requiring Labor Peace Agreements as it pertains to this procurement.

7. Insurance Requirements

Prospective respondents to this RFP are advised that the selected operator of CCNF and Old Falls Street will be required to submit proof and maintain the following insurance with insurers licensed to provide insurance in the State of New York:

- Commercial General Liability insurance of \$1 million per occurrence and \$2 million in the aggregate;
- Commercial Automobile Liability with a limit of \$5 million;
- Excess/Umbrella Liability of \$19 million;
- Commercial Property Insurance for the full insurable value of the Premises;
- Employee Dishonesty coverage of \$1 million;
- Boiler and Machinery Insurance for damages up to the full insurable value of the Premises; and
- Evidence of Workers Compensation/Employers' Liability insurance.

Such policies of insurance shall be in a form acceptable to, and shall include any conditions reasonably required by USAN and/or ESD and shall name the State of New York, USAN and ESD as additional insureds.

8. New York State Iran Divestment Act of 2012

On January 13, 2012, Chapter 1 of the Laws of New York for 2012 was signed into law by Governor Andrew M. Cuomo. The law is known as the "Iran Divestment Act of 2012" (the "Act") and can be found at § 165-a of the NY State Finance Law. The Act became effective on April 12, 2012. The Act imposes limitations on "persons" that are determined to be engaged in investment activities in the Iranian energy sector, as defined in the Act. The Act is available at the link below.

According to the Act, the Commissioner of General Services is required to develop and maintain a list of persons determined to be engaged in investment activities in Iran. Once an entity appears on the list, it will be considered a non-responsive bidder/offerer and prohibited from entering into contracts with New York State or local governments. That list is available at the link below.

On July 17, 2012, Governor Cuomo signed into law Chapter 106 of the laws of 2012, which extended the Iran Divestment Act to State and local public authorities, the State University of New York, and the City University of New York. The link to that law is available below.

To comply with the New York State Iran Divestment Act of 2012, proposals must include the statement below. It should be on company letterhead and signed by the respondent.

"By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the state finance law."

Iran Divestment Act:

<http://www.ogs.ny.gov/about/regs/docs/ida2012.pdf>

List of Entities:

<http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

Chapter 106 of 2012:

<http://www.ogs.ny.gov/about/regs/docs/chapter106.pdf>

VI. PRE-PROPOSAL MEETING AND FACILITY TOUR

A non-mandatory Pre-Proposal meeting for prospective Proposers will be held at **2:00 p.m. on Wednesday, April 3, 2013** at the Conference and Event Center Niagara Falls, 101 Old Falls Street, Niagara Falls, NY.

To participate, please contact USAN at 716-284-2556 prior to the **close of business on Monday, April 1, 2013**.

At this meeting, respondents will have the opportunity to:

- Ask questions about submittal requirements of the RFP;
- Tour the CCNF and Old Falls Street and ask questions about current operational considerations; and
- Ask questions about the history and condition of the facility—its systems, furniture, fixtures and equipment so that respondents have necessary initial information regarding maintenance demands and submission of the required Preventative Maintenance Plan (if selected as the operator).

VII. PROPOSAL SUBMISSIONS, SHORTLIST, & INTERVIEWS

A. Time and Place for Submissions

Respondents will not receive compensation or reimbursement of any expenses associated with preparing and/or submitting the proposal.

Respondents are required to submit seven (7) bound originals and one electronic (CD) copy of their proposal prior to **3:00 P.M. local time on Friday, May 3, 2013**. Proposal packages shall be firmly sealed in an envelope or box, and contain the Respondent's name and return address. Any proposal that arrives after the deadline date and time will be time stamped and returned, unopened to the Respondent.

At the discretion of USAN, requests for deadline extensions will be considered prior to the deadline and, if granted, announced on our website: www.usaniagara.com.

Proposals shall be delivered to:

**Mr. Christopher Schoepflin, President
USA Niagara Development Corporation
222 First Street, 7th Floor
Niagara Falls, NY 14303
716-284-2556**

B. Evaluation Criteria

Proposals will be evaluated for "best value" based on the following, equally-weighted criteria listed below:

1. Demonstrated ability to successfully maintain and operate CCNF as a high-quality meeting/convention/event venue and Old Falls Street as safe, attractive, pedestrian-oriented street and space for various types of public events/activities.
 - Ability of the company/team to operate CCNF and Old Falls Street, demonstrated by current/past performance and references at similarly-scaled venues and facilities.
 - Ability of specific individuals identified for the effort, demonstrated through current/past performance and references outlined in resumes/experience.
2. Demonstrated ability and most feasible approach to maximize economic benefits of CCNF and Old Falls Street
 - Quality, feasibility, and creativity in preliminary marketing/business plan for CCNF, including but not limited to measures proposed for achieving break-even operations at the CCNF; measures to expand the number of activities resulting in overnight stays in Niagara Falls, NY; and approach to food and beverage services at the CCNF.

- Quality, feasibility, and creativity proposed approach in undertaking the maintenance and programming of Old Falls Street in a manner that contributes to “placemaking” and expanding visitor/community itineraries of “things to do”; including but not limited to approach to food/beverage services and vending on Old Falls Street.
3. Demonstrated understanding/commitment to maximize betterment to the City of Niagara Falls and the State of New York and to operating in the most responsible manner.
 - Quality, feasibility, and creativity in achieving various types of community benefits through the operation of CCNF and Old Falls Street (as demonstrated in preliminary community betterment strategy).
 - Quality, feasibility and creativity in achieving environmental sustainability for operations of CCNF and Old Falls Street (as demonstrated in preliminary environmental sustainability program).
 - Quality/feasibility of proposed plan to provide meaningful participation by certified Minority and Women-Owned Business Establishments (M/WBEs).
 - Extent that the prospective contractor meets State criteria for “Responsible Vendors” in terms of their financial ability to conduct the work, legal authority, integrity, and past performance on State contracts, as well as compliance with other similar State requirements (State Finance Law Sections 139-j and 139-k, State Tax Law 5a, etc.).
 - Plan/commitment for compliance with Title 4 of the New York Public Authorities Law, §2879-B regarding Labor Peace Agreements.
 4. Quality and reasonableness of proposed business terms and costs, in light of other evaluative criteria above.
 5. Overall quality of the proposal and compliance with all requirements of the RFP.

USAN reserves the right to reject a proposal if any document or item listed in this RFP is incomplete, improperly executed, indefinite, ambiguous, and/or is missing. Additionally, factors such as, but not limited to the following may also disqualify a respondent without further consideration:

- Evidence of collusion among Respondents;
- Any attempt to improperly influence any member of the evaluation panel;
- Discovery that a Respondent purposely misled or knowingly provided false or inaccurate information in a proposal;
- A Respondent’s default under any type of agreement, which resulted in the termination of that agreement;
- Information leading to a determination that a Respondent would not be certified as a

“Responsible Vendor” as defined by the State Comptroller.

- Existence of any unresolved litigation or legal dispute between the Respondents and the City of Niagara Falls, USAN, ESD, or the State of New York.

USAN reserves the right to reject any and all proposals and to waive any informalities or irregularities in procedure.

C. Shortlist and Interviews

USAN reserves the right to establish a “Shortlist” of respondents to interview for further consideration in this solicitation process as part of the “best and final” second stage evaluation process.

If determined to be necessary, interviews are tentatively scheduled to be conducted for candidates selected during the **week of May 29 – 31, 2013**. Respondents should tentatively reserve time in this week to be interviewed in Niagara Falls, NY.

VIII. ADDITIONAL INFORMATION

Additional information may be made available from time to time on our website at www.usaniagara.com . Any all questions or requests for additional information or documents will be accepted no later than **close of business on April 12, 2013** before the proposal due date to:

Mr. John Risio, Project Manager

USA Niagara Development Corporation
222 First Street, 7th Floor
Niagara Falls, NY 14303
716-284-2556
Email: irisio@esd.ny.gov

Except as otherwise noted in this RFP, all questions shall be submitted in written form and answers will be posted on the USAN website at www.usaniagara.com on **April 19, 2013**. Additional information may become available and, along with the responses to all requests for deadline extensions, substantive questions and document requests may be made available on our website at any point during this process.

As noted in Section V. C. 4, in accordance with NYS procurement law, no member of the staffs of USAN, ESD, CCNF, Old Falls Street USA, or City of Niagara Falls, or any elected official, or any associated person other than the officially-designated representative for this procurement shall be contacted pertaining to this RFP during the procurement process. Respondents failing to comply with this requirement risk disqualification by USAN.

IX. GENERAL TERMS AND CONDITIONS

In addition to the terms and conditions stated elsewhere in this RFP, it is subject to the terms and conditions set forth in Attachment D.

Upon selection, the winning company/team will be required to enter into a contract(s) with USAN/ESD. As part of these contracts, the selected company/team would be subject to the "Conditions Applicable to the Corporation Agreements for Materials/Services" (last revised November 2009), which will be included as part of the contracts(s) as "Schedule A".

A copy of the terms and conditions included under Schedule A may be downloaded/reviewed at this link:

http://www.esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/ScheduleA_November2009.pdf

X. CHECKLIST OF ITEMS TO BE INCLUDED IN PROPOSAL

- Qualifications & Proposal per requirements of Section V. B. of this RFP:
 1. Cover Letter and/or Executive Summary
 2. Organization Information
 3. Experience and References
 4. CCFN Management Approach
 5. OFS Approach
 6. Preliminary Business Terms
 7. Preliminary Community Betterment Plan
 8. Preliminary Environmentally-Conscious Operations Approach
 9. Supplemental Information (if applicable)
- Appendices:
 - A. Proposer Certification:
 - Completed, signed and notarized certification (form included under Attachment C).
 - B. Non-Discrimination and Contractor/Supplier Diversity Goals:
 - Overall Approach
 - Completed Form OCSD-1: M/WBE Participation/Equal Employment Opportunity Policy Statement
 - Completed Form OCSD-2: Staffing Plan
 - Completed Form OCSD-3: M/WBE Utilization Plan
 - C. Compliance with State Tax Law Section 5-a:
 - EITHER completed Form ST-220-CA; OR
 - Completed "Affidavit of Non-Applicability of State Tax Law § 5-A"
 - D. Compliance with State Finance Law Sections 139-j and 139-k:
 - Completed Form "Disclosure of Prior Non-Responsibility Determinations"
 - Completed Form "Affirmation of Understanding and Agreement Pursuant to State Finance Law"
 - E. Compliance with New York State Comptroller Requirements for Responsible Vendors:
 - Depending on Structure of the Respondents Organization, EITHER completed and notarized "Responsibility Questionnaire" – For-Profit Entities; OR
 - Completed and notarized "Responsibility Questionnaire" – Not-For-Profit Entities.
 - F. Statement by Respondent indicating review, understanding, and intended compliance with State requirements on Labor Peace Agreements.
 - G. Statement by Respondent indicating compliance with the New York State Iran Divestment Act of 2012.

XI. ATTACHMENTS

Attachment A – CCNF Floor Plan

Attachment B – CCNF/Old Falls Street Context Map

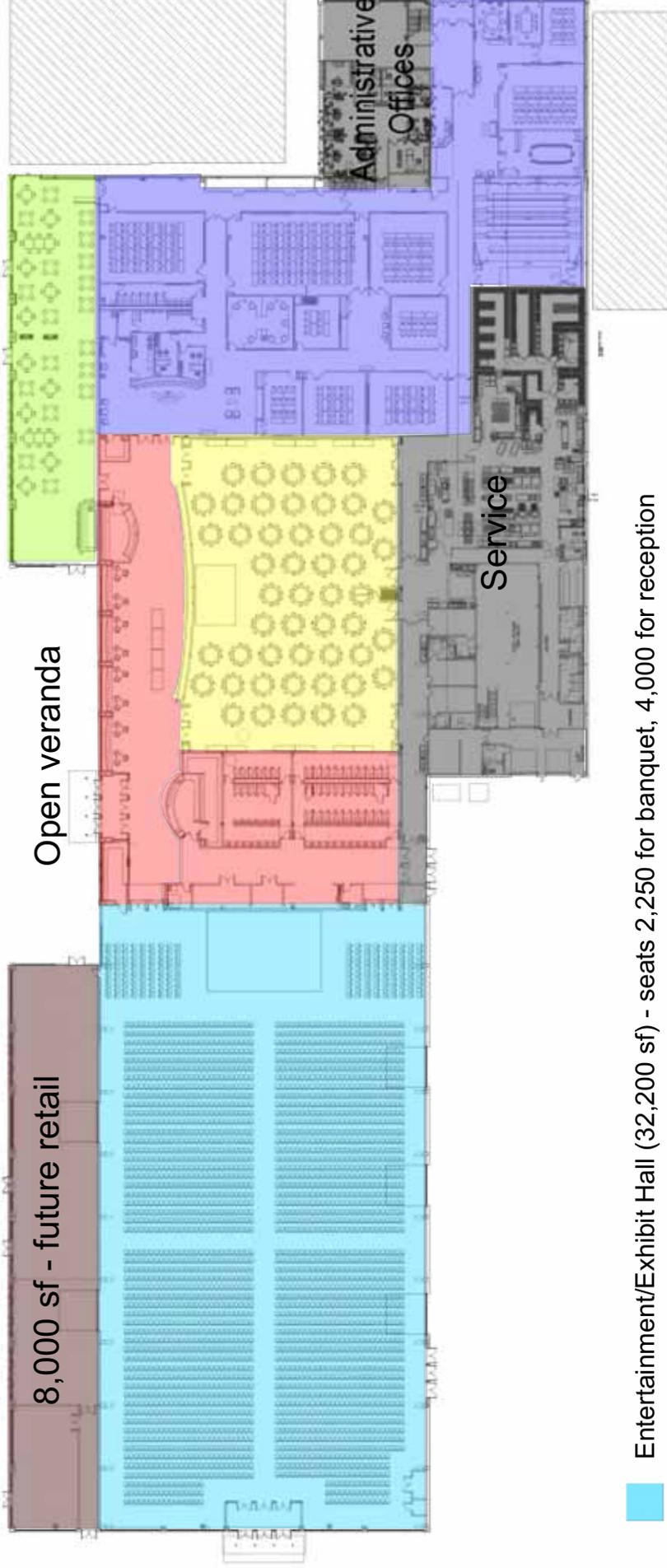
Attachment C – Certification

Attachment D – General Terms and Conditions

Attachment E – 2012 CCNF & OFS Operating Results

Attachment A – CCNF Floor Plan

OLD FALLS STREET



Entertainment/Exhibit Hall (32,200 sf) - seats 2,250 for banquet, 4,000 for reception

Grand Foyer (5,000 sf)

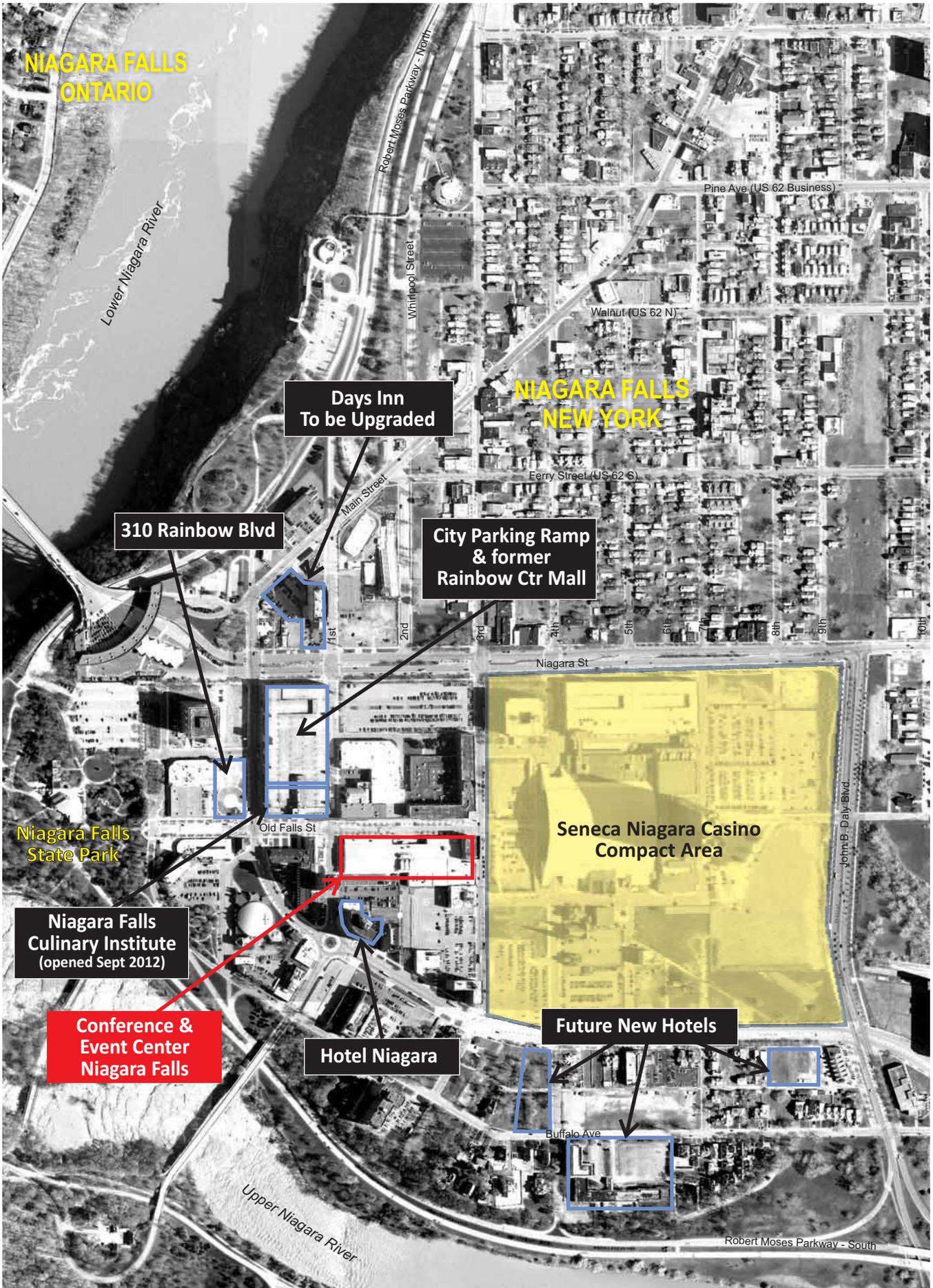
Cascades Ballroom (10,500 sf) - seats 650 for banquet, 1,500 for reception

Cataract Room (5,000 sf) - seats 200 for banquet, 350 for reception

Learning Center - 15 conference rooms seat between 10 and 150 guests

Conference Center Niagara Falls

Attachment B – CCFN/Old Falls Street Context Map



**NIAGARA FALLS
ONTARIO**

**NIAGARA FALLS
NEW YORK**

**Days Inn
To be Upgraded**

310 Rainbow Blvd

**City Parking Ramp
& former
Rainbow Ctr Mall**

**Niagara Falls
State Park**

**Seneca Niagara Casino
Compact Area**

**Niagara Falls
Culinary Institute
(opened Sept 2012)**

**Conference &
Event Center
Niagara Falls**

Hotel Niagara

Future New Hotels

Attachment B: Downtown Context
Operation of Conference & Event Center Niagara Falls



Attachment C – Proposer Certification

CERTIFICATION

The undersigned: recognizes that all information and material provided all information and material submitted by the undersigned proposer in connection with its proposal and the Request for Proposals are submitted for the express purpose of inducing USA Niagara Development Corporation ("USAN"), a subsidiary of New York State Urban Development Corporation d/b/a Empire State Development ("ESD"), a corporate governmental agency of the State of New York (the "State"), constituting a political subdivision and public benefit corporation, to award a contract to the undersigned; acknowledges that each of USAN, the State and the State's agencies and instrumentalities may, each in its sole and absolute discretion, by any means which it may choose, determine the truth and accuracy of all statements made therein; acknowledges that intentional submission of false or misleading information may constitute a felony under Penal Law §210.40 or a misdemeanor under Penal Law §210.35 or §210.45, and may also be punishable by a fine of up to \$10,000 or imprisonment of up to five years under 18 U.S.C. §1001; and states that the information submitted is true, accurate and complete.

By submission of this proposal, the proposer and each person signing on behalf of the proposer certifies, and in the case of a joint proposal each party thereto certifies as to his or her own organization under penalty of perjury, that to the best of his or her knowledge and belief:

(1) The prices, amounts and material in this proposal have been arrived at independently, without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices, amounts and materials with any other proposer or with any competitor;

(2) Unless otherwise required by law, the prices, amounts and material that have been quoted in this proposal have not been knowingly disclosed by the proposer and will not knowingly be disclosed by the proposer prior to award, directly or indirectly, to any other proposer or to any competitor, and

(3) No attempt has been made or will be made by the proposer to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition.

The proposer hereby authorizes USAN, ESD, the State and their agents and instrumentalities to contact the proposer's bank(s) and credit references and any other persons identified in its submission, including without limiting the foregoing, all persons and entities identified in its Information Regarding Qualifications and Financial Capability form and any financial information, in connection with the proposal, and any and all other persons identified in any investigation conducted by or on behalf of USAN, ESD or the State, and obtain release of pertinent financial and other information, as well as to obtain verification of information provided by or on behalf of the proposer.

Name of Proposer

Signature of Officer

Title

Sworn to before me this

_____ day of _____, 2013.

Notary Public

Attachment D – General Terms & Conditions

GENERAL TERMS AND CONDITIONS

The acceptance of any Proposal shall be subject to, and contingent upon, the execution and delivery by USAN and/or ESD of a contract for the services described herein, in form provided by USAN and/or ESD.

- A. The contract shall contain, among other terms, certain provisions required by law or policies of the City and State, including, without limitation:

Provisions providing that the successful respondent:

1. Is an independent contractor;
 2. Shall defend, indemnify and hold harmless the State, USAN, ESD, and their respective officers, directors, employees and agents from and against any claims or damages relating to the respondent's acts and omissions;
 3. Shall maintain financial and other records relating to the contract and make such records available for inspection and audit;
 4. Has no conflicts of interest with, or outstanding financial obligations owing to, the State, USAN, or ESD.
 5. Maintains and provides the following insurance with insurers licensed to provide insurance in the State of New York: Commercial General Liability insurance of \$1 million per occurrence and \$2 million in the aggregate; Commercial Automobile Liability with a limit of \$5 million; Excess/Umbrella Liability of \$19 million; Commercial Property Insurance for the full insurable value of the Premises; Employee Dishonesty coverage of \$1 million; Boiler and Machinery Insurance for damages up to the full insurable value of the Premises; and evidence of Workers Compensation/Employers' Liability insurance. Such policies of insurance shall be in a form acceptable to, and shall include any conditions reasonably required by USAN and/or ESD and shall name the State, USAN and ESD as additional insureds;
 6. Is authorized and qualified to do business in the State of New York and is in receipt of all licenses, if any, required by applicable governmental entities; and
 7. Shall represent and warrant that neither it nor any of its directors, officers, members, or employees has any interest, nor shall they acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the services as set forth in the Contract. The successful respondent must further agree that in the performance of the services no person having such a conflict of interest shall be employed by it.
- B. News Release – Recipients of this RFP shall make no news/press release pertaining to this RFP or anything contained or referenced herein without prior written approval from USAN

and/or ESD. Any news release pertaining to this RFP may only be made in coordination with USAN and/or ESD.

- C. Prohibited Persons – No respondent to this RFP will be selected if an individual who is an owner, shareholder, member, partner, officer or director, or otherwise a principal and/or its management team is determined, in USAN's and/or ESD's sole discretion, to have been convicted of a felony or a crime involving moral turpitude, to be an organized crime figure, to be under indictment or criminal investigation, to be in arrears or in default of any debt, contract or obligation to or with the City or State of New York, or any other of their instrumentalities or otherwise to be a prohibited person as defined by USAN and/or ESD. The selected respondent and all principals thereof, if applicable, and/or owners, shareholders, members, partners, officers or directors of the respondent's team are subject to investigation by USAN and/or ESD. The selection of a respondent may be revoked in the event that any derogatory information is revealed by such investigations.
- D. Proposal Costs – USAN and/or ESD shall not be liable for any cost incurred by the respondent in the preparation of its proposal to this RFP or, with respect to the respondent, for any work performed prior to the execution and delivery of the contract.
- E. USAN and/or ESD shall be the sole judge of each respondent's conformity with the requirements of this RFP and the merits of the proposal. USAN and/or ESD reserves the right, in its sole discretion to: amend, modify or withdraw this RFP; waive any requirements or conditions or modify any provisions of this RFP with respect to one or more respondents; require supplemental statements and information from any respondents to this RFP; to award a contract to as many or as few or none of the respondents as USAN and/or ESD may select; award a contract to entities who have not responded to this RFP; accept or reject any or all proposals received in response to this RFP; extend the deadline for submission of proposals; negotiate or hold discussion with one or more of the respondents; correct deficient proposals that do not completely conform with this RFP; reject any and all proposals and to cancel this RFP, in whole or in part, for any reason or no reason. USAN and/or ESD may exercise any such rights at any time, without notice or liability to any respondent or other parties for their costs, expenses or other obligations incurred in the preparation of a proposal or otherwise.
- F. This RFP and any contract or agreements resulting herein are subject to all applicable Federal, State and local laws, rules, regulations and executive orders.
- G. Any modifications to this RFP shall be issued in writing by USAN and/or ESD and posted on the USAN website. Nothing stated at any time by any representative of USAN, ESD, the State, or of any other entity shall effect a change in, or constitute a modification to this RFP unless confirmed in writing by USAN and/or ESD. Respondents may request clarification from USAN prior to the submission deadline. Any such clarification from USAN must be in writing in order to be binding on USAN or ESD.

- H. USAN and/or ESD are not obligated to pay any costs, expenses, damages or losses incurred by any respondent at any time unless USAN and/or ESD has expressly agreed to do so in writing.
- I. USAN and/or ESD shall not be obligated to pay any fee, cost or expense for brokerage commissions or finder's fees with respect to the execution of the contract. It shall be a condition of any contract that the respondent agree to pay the commission or other compensation due to any broker or finder in connection with the transaction, and to indemnify and hold harmless the State, the City, USAN and/or ESD from any obligation, liability, cost or expense incurred by it as a result of any claim for commission or compensation brought by any broker or finder by reason of the transaction.
- J. USAN and ESD reserve the right to modify the requirements set forth herein and to expand, limit or otherwise alter the scope of requested services.

Attachment E – 2012 CCNF & OFS Operating Results

Conference Center Niagara Falls

2012 YE Unaudited Operating Results

Operating Revenues:

Ancillary Revenue	\$	1,892,688
Rental Revenue		247,145
Service Revenue		209,721
Other Operating Revenue		38,537
Total Operating Revenues		<u>2,388,091</u>

Operating Expenses:

Personnel Expense		1,088,682
Ancillary Expense		687,274
General and Administrative Expense		660,332
Service Expense		194,866
Total Operating Expenses		<u>2,631,154</u>

***Operating Loss** (243,063)

*Management incentive fees not included.

Old Falls Street

2012 YE Unaudited Operating Results

Operating Revenues:

Ancillary Revenue	\$	165,802
Service Revenue		9,441
Rental Revenue		21,538
Total Operating Revenues		<u>196,781</u>

Operating Expenses:

Personnel Expense	435,228
Service Expense	212,025
General and Administrative Expense	165,663
Ancillary Expense	49,848
Total Operating Expenses	<u>862,764</u>

***Operating Loss** (665,983)

*Management incentive fees not included.