

**REQUEST FOR STATEMENTS OF INTEREST
AND QUALIFICATIONS (RFQ)**

**TO DEVELOP THE
United Office Building**

In
Niagara Falls, New York

**Submissions must be received prior to 5:00pm, Eastern Standard Time, on
Tuesday, April 30, 2002.**

A. Overview

The USA Niagara Development Corporation (USA Niagara) seeks Statements of Interest and Qualifications from companies or teams with experience in adaptive reuse development projects. The opportunity is redevelopment of the historic United Office Building (UOB) for residential, hotel or mixed use. The UOB is a signature property and the tallest structure in Niagara Falls, New York. Restoration and reuse of this landmark building is an important component of the city's downtown revitalization. USA Niagara seeks a qualified developer/operator with a feasible business plan for the building's restoration and reuse. Submissions must follow the provisions, requirements, terms and conditions of this RFQ.

The United Office Building is located at 222 First Street in the central business district of the City of Niagara Falls. It was built in 1929 and designed in the art deco style of that era. At 20 stories, the building is the tallest structure in the city skyline and an architectural landmark. The upper floors offer commanding views of the Niagara Falls and the gorge, as well as the city and surrounding area.

The building consists of 15 lower stories with floor plates of approximately 4,500 gross square feet each. The upper five stories include two floors of about 3,000 square feet and three top floors of about 1,000 square feet each, which were constructed to house mechanical and elevator equipment. Vacant for over 15 years, the building will require extensive renovation and restoration.

Hunter Interests Inc. (HII), development consultant to USA Niagara, has completed a preliminary economic analysis of the UOB and made recommendations regarding desirable uses. Based on these recommendations and previously received submissions to an USA Niagara Request for Expressions of Interest, USA Niagara has issued this RFQ.

Under this RFQ, USA Niagara requests submissions of Statements of Interest and Qualifications from qualified developers/operators in connection with a planned Request for Proposals (RFP). Upon review of the RFQ submissions, certain qualified developers/operators may be asked to respond to a full RFP and engage in a competitive process to select one or more preferred proposers. Thereafter, USA Niagara may enter into negotiations with one or more developers/operators whose proposal demonstrates the most favorable combination of experience, capacity, creativity, and ability to maximize the economic development potential of the project.

The UOB and the land on which it is located are currently owned by the City of Niagara Falls, New York (the City). USA Niagara has the means to dispose of the UOB property as necessary in order to facilitate its restoration and reuse.

USA Niagara Development Corporation is a subsidiary of New York State Urban Development Corporation doing business as Empire State Development Corporation (ESD). USA Niagara is 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 in the City.

The UOB is located in USA Niagara's development district. The district is approximately 192 acres; bounded on the north by Niagara Street and Main Street, the Niagara Falls Park to the west, along the south by the Riverside Drive residential section, and Quay Street on the east. This area is the principal focus of USA Niagara's development efforts. Additional information on the development district is available on USA Niagara's website: www.usaniagara.com.

B. Market Discussion

The Niagara Falls economy is characterized by a dominant tourism sector that affords significant potential for development, countered by continuing erosion of jobs and population due to various macro and micro economic factors. The prospects for casino gaming in Niagara Falls, New York, coupled with the expansion of gaming in nearby Niagara Falls, Ontario, and the associated development boom, represent a new market dynamic that can influence the potential for successful restoration and reuse of the UOB.

Market support exists for various "gaming neutral" development projects in Niagara Falls, including niche residential and lodging products, small amounts of specialty retail space and restaurants. Less demand for office space, professional services and traditional retail is in evidence. Demand for lodging, retail and restaurants is currently subject to wide swings based on the seasonality of Niagara Falls tourism. However, this economic flow is not being effectively captured, and projects that succeed in tapping it may perform better than current market data would indicate possible.

Estimates of tourism visitation to the greater Niagara Falls area indicate a range of between 10 and 15 million visits annually. Discounting these projections to account for repeat visitations, and/or over estimation, the number of individuals attracted to Niagara Falls each year remains significant. If only 5 million tourists visit Niagara Falls each year, this places it on a par with the Grand Canyon National Park, and well above such regional economic drivers as Virginia Beach (about 2.5 million), Myrtle Beach, South Carolina (about 3 million), and Acadia National Park in Down East Maine (about 3.5 million).

Uses of the UOB that serve both local and regional demand, as well as penetrate the available tourism market, will provide the best balance of support for feasibility and sustainability. As revitalization efforts in the city's downtown take effect, the immediate environment around the UOB will improve, thus providing an added element of support for a project there. If, and when, casino gaming is introduced to Niagara Falls, another layer of market support for various businesses will be created. However, the revitalization and adaptive reuse of the UOB should be based on existing demand and various sectors currently available for capture.

C. Public Improvement Measures

The UOB redevelopment may benefit from various public improvement measures, and certain incentives may be provided. For example:

- USA Niagara is working to ensure that ample parking for tenants and users of the UOB (as well as other new projects in downtown) will be available.
- New York State Empire Zone Credits and other benefits may be available to the developer/operator.
- Historic Tax Credits may be applied to certain elements of the revitalization and redevelopment of the building. The UOB has been determined eligible for listing on the National Register of Historic Places.
- New York State Energy Research Development Authority (NYSERDA) and multi-modal New York State Department of Transportation assistance may also be available.
- The City of Niagara Falls may afford favorable status to a developer with incentives/benefits administered through its Department of Economic Development.
- USA Niagara development district efforts should improve the surrounding area.

D. Submission Requirements

It is the intention of USA Niagara to reach an agreement with a master developer/operator or development/operations team that would undertake all components (i.e., financial, construction, operation, etc.) of a restoration and redevelopment of the

property. The objective of this RFQ is to establish the level of interest in the project, and to identify capable participants for the RFP. We acknowledge the time and expense associated with formulating a response and have therefore kept the requirements for this RFQ to a minimum. After evaluation of the submissions to this RFQ, qualified developers/operators may be invited to submit development proposals. The proposals will be assessed and evaluated in order to determine a preferred developer/operator. USA Niagara is under no obligation to accept the highest proposal or any proposal.

Submissions to this RFQ must include **brief** summary responses to the following in the order listed:

1. Respondent description, including form of organization, address(es) of office(s) and contact information.
2. An outline of your approach to the project, including the types of development, operation, partnerships, financing and public assistance which would be of interest and/or within your team's capacity.
3. Experience and involvement in the restoration and redevelopment of large structures. For each reference noted, please include: a description of the entire project including size and components, location, dates of involvement, specific responsibility and dollar value of contract(s), the total dollar value of the entire project, and a non-affiliated reference contact familiar with your work and a phone number where he or she can be reached.
4. Evidence of financial strength and capacity to secure private capital and financing sufficient to undertake the above noted project.
5. Familiarity with the development, operation, and ownership of mixed use projects.
6. A listing of development projects involving public/private partnerships and your role(s).
7. Examples of projects completed wherein leveraging and/or facilitating economic development-related benefits (i.e., redevelopment, renovation, removal of blight, employment creation, community enhancement, streetscape and other public space improvements, financial return to local community, etc.) and including relevant examples of local revitalization initiatives and public/private financing.
8. Knowledge of the regional and competitive residential, retail, restaurant, hotel and office markets.
9. Information on technical and professional competencies (e.g., engineering, architectural, hospitality, construction, etc.)

E. Selection Process and Evaluation Criteria

Process - Representatives from USA Niagara will conduct the developer/operator selection process. The process through which a developer and/or operator is selected is anticipated to include the following sequence of events:

1. RFQ - Responses to this solicitation will be reviewed and a relatively small number of individuals or teams of developers/operators will be identified using the evaluation criteria noted below.
2. RFP - Upon the completion of step 1, above, USA Niagara may distribute an RFP requesting detailed proposals for development/operation.
3. Interviews - USA Niagara may invite developers/operators to give presentations on their proposals in an oral interview process.
4. Evaluation - Developers/operators will be evaluated using criteria described in the RFP and in order to identify a preferred developer/operator.
5. Memorandum of Understanding (MOU) - An MOU may be executed between USA Niagara and the preferred developer/operator to govern a period of designation. During this time it is expected that the developer/operator will conduct detailed feasibility analysis, perform due diligence along with the preparation of architectural plans, and finalize project financing.
6. Development Agreements - At the end of the designation period, a binding development agreement may be negotiated between USA Niagara and the selected developer/operator. A master developer/operator agreement is envisioned as the key contractual document, followed by subsidiary agreements, which include details on issues such as conveyance, development approvals and other necessary project components.

Criteria - Criteria that will be used to evaluate responses to this RFQ include the following:

- The respondents' written statement of interest and qualifications and its vision of the overall redevelopment and reuse project.
- The respondents' experience and technical competence in implementing successful projects of similar nature and scope.
- The financial capability and commitment and overall capacity of principals and parties included in the development team.
- The extent to which the project envisioned by the respondent demonstrates creativity and the ability to maximize the economic development aspects of the project.

USA Niagara reserves the right to request additional information or clarify submitted information, to alter the procedures for selection, to reject any and all submissions and to waive any aspect or requirement of this process.

F. Inquiries; Inspections; Information Package; Changes to the RFQ

All Inquiries - Please direct all inquiries regarding this project and submission in written format to:

Michael Wilton, President
USA Niagara Development Corporation
345 Third Street, Ste. 505
Niagara Falls, NY 14303
Fax: 716-284-2917
usaniagara@empire.state.ny.us

Site Inspections - Potential respondents wishing to inspect the UOB may arrange a visit through USA Niagara. Neither the State of New York (the State), City of Niagara Falls (the City), ESD nor USA Niagara shall be responsible or liable for any damages or injury to any visitors or their employees, agents, contractors and representatives resulting from any visit to the UOB whether or not scheduled in accordance with this RFQ. Prior to visiting the UOB, the visitor shall execute and deliver to USA Niagara a Hold Harmless Agreement in the form of Exhibit A annexed to this RFQ (without omission, addition, amendment, modification or supplement).

Information Package - As part of the information provided with this RFQ, an information package (the Information Package) containing technical and descriptive information, will be made available for the convenience of respondents for a fee of \$100 to be paid by check made payable to "USA Niagara Development Corporation". The Information Package will include:

1. Regional Map
2. Greater Niagara Falls Area Map
3. Photographs
4. Condition Evaluation of the UOB, Summary of Findings prepared by Olson & Terzian P.C.
5. Metes and Bounds Description
6. Federal Landmark Status Eligibility Report prepared by the New York State Office of Parks and Historic Preservation
7. Description of New York State Empire Zone benefits

These materials and any supplemental materials are provided for informational purposes only, and neither the State, ESD nor USA Niagara make any representation or warranty whatsoever with respect to such materials, including without limiting the foregoing, the

accuracy and completeness of such materials and their suitability for the purposes of a respondent or prospective respondent.

Changes to the RFQ - Supplements, addenda and modifications to this RFQ, if any, will be available on USA Niagara's website: www.usaniagara.com. Interested persons are encouraged to regularly visit the site for updates and changes to this RFQ.

G. Location of Submission

Please provide one original and three copies entitled "United Office Building Adaptive Reuse Project Developer Qualifications" to:

Michael Wilton, President
USA Niagara Development Corporation
345 Third Street, Ste. 505
Niagara Falls, NY 14303

H. General Conditions

Neither the State, USA Niagara nor ESD make any representations or warranties whatsoever with respect to this RFQ or the UOB including, without limiting the foregoing, representations or warranties as to: the accuracy or completeness of any information or assumptions contained in or provided in connection with this RFQ, the Information Package or otherwise furnished to respondents; the use or development, or potential use or development, of the UOB or any portion thereof; the physical condition, environmental condition, layout, configuration, size, boundaries, access, location, systems and utilities for all land and improvements constituting the UOB and for the adjacent properties; the absence or presence of hazardous substances or toxic materials in, under or upon the UOB and the adjacent properties; compliance with environmental laws; and the suitability of the UOB for any specific uses or development.

Each respondent shall make its own analysis and evaluation of the UOB, including, without limiting the foregoing: the physical condition, environmental condition, layout, configuration, size, boundaries, access, location, systems and utilities for all land and improvements constituting the UOB and for all adjacent lands; the absence or presence of hazardous substances or toxic materials in, under, or upon the UOB and adjacent lands; compliance with environmental laws; and the suitability of the UOB for any use or development. Each respondent shall obtain its own independent legal, accounting, engineering and technical advice on all matters relating to the UOB, including, without limiting the foregoing: examination, review and verification of any information provided by or on behalf of the State, USA Niagara or ESD and their advisors; land and improvements constituting the UOB and adjacent to the UOB; all local laws, regulations and conditions that may affect the use and development of the UOB; and all other matters that may be material.

Respondents shall not rely upon any statement or information given to respondents by the State, USA Niagara or ESD, including, without limiting the foregoing, any information contained in this RFQ or made available pursuant to this RFQ, the Information Package or otherwise.

Notwithstanding this RFQ, USA Niagara may, in its sole discretion, invite respondents and others to participate in a further competitive process to determine a selected or preferred respondent.

In addition to those terms and conditions stated elsewhere, this RFQ is subject to the following:

- a. Respondents must comply with all applicable federal, state and local laws and regulations.
- b. The UOB is to be accepted by the selected proposer in “as is, where is” condition on the date of disposition.
- c. Demolition, removal, alteration or conversion of any existing improvement or portions thereof at the UOB are to be performed at the sole cost and expense of selected developer/operator after closing.
- d. USA Niagara will not pay for or refund any costs and expenses incurred by any respondent in responding to this RFQ or by any preferred respondent following selection or designation.
- e. All determinations as to the completeness or compliance of any proposal or as to the eligibility, qualification or capability of any respondent will be within the sole and absolute discretion of USA Niagara.
- f. Selection or designation of any respondent of a proposal pursuant to this RFQ will not create any rights for the respondent including, without limitation, rights of enforcement, equity or reimbursement. USA Niagara shall have no obligation or liability whatsoever to any person or entity whose proposal is selected or designated as a result of this RFQ unless and until a Memorandum of Understanding shall have been fully executed and delivered by all parties thereto and all necessary consents and approvals necessary for USA Niagara’s entry into such agreement have been obtained, and then all such obligations and liabilities shall be solely in accordance with the terms and conditions of such agreement.
- g. If it is deemed in the best interest of USA Niagara or the State to do so, this RFQ, or any subsequent RFP, may be reissued, amended or withdrawn in whole or in part at any time, including without limiting the foregoing, after proposals have been submitted. Issuance of this RFQ does not obligate the State, ESD, or USA Niagara to undertake any action.
- h. A respondent may be rejected if USA Niagara determines, in the exercise of its sole and absolute discretion, that such respondent, any respondent partner, or

member of a respondent team or any principal, partner, officer, director, affiliated person, or principal shareholder of the respondent, of any respondent partner, or of any member of a respondent team, has been convicted of, or pled guilty or nolo contendere to, a felony or crime of moral turpitude, is an “organized crime figure,” under indictment or criminal investigation, or is in arrears or in default on any debt, contract, or obligation to or with USA Niagara, ESD, the State, or any of their respective affiliates, subsidiaries, agencies, departments or instrumentalities. Each respondent, respondent partner, and member of a respondent team and any principal, partner officer director, affiliated person, or principal shareholder of the selected respondent, respondent partner, or member of the respondent team may be required to complete a background questionnaire with respect to the foregoing, or other matters, and may be subject to investigation by USA Niagara, ESD and the State.

- i. By submitting a response for the UOB, the respondent authorizes USA Niagara, or its representatives, to contact the proposer’s banks and credit references and any and all other persons identified by the respondent in any materials submitted in connection with this RFQ or in any investigation conducted by or on behalf of USA Niagara, ESD or the State and obtain release of pertinent financial and other information as well as the verification of the information provided by or on behalf of the respondent.
- j. By submitting a proposal for the UOB, the respondent agrees to be bound by all the terms and conditions of this RFQ.

EXHIBIT A – FORM

This form may be reproduced.

HOLD HARMLESS AGREEMENT

IN CONSIDERATION OF USA Niagara Development Corporation (USA Niagara) granting or obtaining permission for the undersigned (hereinafter called “Grantee”) to visit the site (hereinafter referred to as the “Premises”) described in the Request for Statements of Interest and Qualifications for the purpose of inspecting the Premises, Grantee hereby agrees to defend, indemnify and hold harmless USA Niagara, New York State Urban Development Corporation d/b/a Empire State Development Corporation (“ESD”), the State of New York (the “State”), including without limitation, all agencies, departments and public authorities of the State, the City of Niagara Fall, New York, and their respective officers, members, directors, employees and agents, from and against any and all claims, actions, suits, judgments, causes of action, demands, losses, damages, liabilities, costs, charges and expenses (including without limitation, bodily harm, personal injury, death and damages), whenever asserted and by whomever, resulting from, arising out of, or in any way connected with any site visits, inspections, use of occupancy of the Premises by Grantee or its employees, officers, contractors, subcontractors, invitees and agents howsoever the same may be caused or occasioned.

Dated this _____ day of _____, 2002.

GRANTEE: _____

BY: _____

Title: _____