



Go Outside

In Niagara Falls, New York

Pre-Proposal Meeting/Conference Call: August 3, 2017
Proposals Due: September 15, 2017

Request for Proposals

Outdoor Recreation Programming & Associated Real Estate Development

Upper and Lower Niagara River, Niagara Falls, NY

June 30, 2017

Cover photo courtesy of Niagara Tourism & Convention Corporation





TABLE OF CONTENTS

- 4** **Expanding the Breadth and Depth of Experiences at Niagara Falls**
- 6** **What Outdoor Recreation Could Look Like**
- 12** **The Creation of a Green Necklace along the Niagara River**
- 14** **Increasing Use of the Waterfront through “Activity Nodes”**
- 36** **A Phased Approach**
- 38** **Proposal Submittal Requirements**
- 48** **Proposal Review/Selection Process**
- 52** **General Terms & Conditions**
- 55** **Proposal Completion Checklist**

Expanding the Breadth and Depth of Experiences at Niagara Falls

OPPORTUNITY

In accordance with tourism initiatives being advanced by Governor Andrew M. Cuomo, USA Niagara Development Corporation (USA Niagara), in partnership with New York State Power Authority (NYPA), and New York State Office of Parks, Recreation, & Historic Preservation (OPRHP), seeks a qualified master licensee to establish, operate, and maintain a program of outdoor recreation activities and associated capital/real estate facilities on New York State-owned open space land along roughly 11 miles of waterfront on the Upper and Lower Niagara River in Niagara Falls, New York. The intent of the effort is to expand the amount and types of activities and experiences available to tourists and local residents in order to assist in growing visitorship and extending stays in the City of Niagara Falls, as well as to enhance the quality of life here. Respondents to this RFP will present feasible concepts to establish an expanded program of outdoor recreational activities and associated real estate facilities, and identify themselves as a well-qualified team to work with the State to realize these concepts.

PUBLIC-PRIVATE PARTNERSHIP

The State recognizes that to fully enable a host of outdoor recreational activities in the project area—as well as to realize a well-developed outdoor recreation economy in Niagara Falls— it would likely include a partnership in investment between the government and the private sector. For example, public investments in capital infrastructure may be necessary to realize a particular outdoor recreation activity and/or adaptive reuse of real estate facilities to support such activities. USA Niagara is prepared to make funds available, as appropriate, under the Governor's "Buffalo Billion" Investment Strategy—the Governor's bold initiative to jump-start the region's economy. The amount of any actual assistance will ultimately be related to the scope of a specific proposal. In turn, detailed work in site selection, feasibility, engineering, and environmental review would need to be undertaken before a final determination could be made on moving forward on

some activities, say for example, the introduction of zip-line or a tree canopy tour facility.

Upon selection of a preferred team, OPRHP and USA Niagara would enter into a Letter of Intent with the company/team to establish parameters for any required design/feasibility, due diligence and environmental reviews that would be conducted to lead to OPRHP's issuance of a Concession License, and any other appropriate State Agency agreements/approvals, for the subject recreational activities and associated real estate facilities. The term of any Concession License would not commence until all design, due diligence, environmental reviews and any other terms of the letter of intent are completed and the license is approved by the Office of the State Comptroller (OSC).

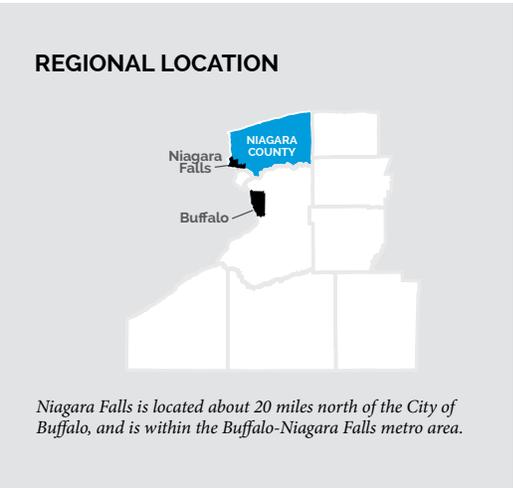
WE WANT A COMPREHENSIVE APPROACH

USA Niagara seeks a synergistic approach to expand the entire outdoor recreational economy at Niagara. The intent is NOT to merely monetize a few of the most potentially profitable activities as discreet, individual concession agreements. It is fully understood that some of the desired outdoor recreation activities—for example, activities to support bird watching, orienteering, and/or interpretation of historic or ecological features—may not present extensive promise for profit-making, while other activities would represent distinct opportunities (such as through concessions for food/beverage, bicycle/outfitting rental, etc.). For this reason, USA Niagara seeks a master licensee for this procurement. Such an approach seeks to allow more profitable activities to help offset those with less economic potential that would nevertheless add to the experience at Niagara. **Accordingly, respondents are expected—and will be scored more highly—for proposals submitted that seek to activate as much of the Niagara waterfront as reasonable and involving the greatest number of sustainable activities.**

CITY OF NIAGARA FALLS, NY



Niagara Falls is located on the westernmost edge of New York State, and borders Canada with two international bridge crossings.



Niagara Falls is located about 20 miles north of the City of Buffalo, and is within the Buffalo-Niagara Falls metro area.

ADDING OUTDOOR USES, WHILE MAINTAINING THE RESOURCE FOR THE FUTURE

It is important to note that when working to establish the original plan/vision for Niagara Falls, famed landscape architect Frederick Law Olmsted called for a “reserve” rather than an active urban “park” – more akin to Yosemite than Central Park. At Niagara Falls, given its proximity to larger urban/population centers, this concept has historically, up to the current day, continued to present a tension on “how much is too much?” when considering new activities that could affect the natural setting at the Falls or anywhere along the Upper and Lower Niagara River. Thus, USA Niagara will require the ultimately-selected licensee to demonstrate and practice protocols and methods (i.e., in activity/site selection, construction, installation, and operations) that seek to achieve ecological sustainability of these important resources. This would include, where applicable, proactive assessment/compliance with state/federal environmental review requirements, including robust public/stakeholder involvement. In turn, overall, new facilities should be designed to best fit into—and/or where appropriate be generally camouflaged into—the natural landscape components and features at Niagara.

INVOLVED AGENCIES AND LAND OWNERSHIP

A New York State-chartered public benefit corporation, **USA Niagara** is a subsidiary of the State's primary economic development agency, the New York State Urban Development Corporation d/b/a Empire State Development (ESD). Formed in 2001, USA Niagara'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.

OPRHP operates all of New York's State parks, historic sites, recreational areas, campsites, and other outdoor recreational facilities across the state. The agency owns and operates four State Parks within the targeted project area—Niagara Falls State Park, Whirlpool State Park, DeVeaux Woods State Park, and Devil's Hole State Park. State Parks also owns the Niagara Scenic Parkway (formerly the Robert Moses Parkway). The agency also maintains trail systems leading into the Niagara Gorge.

NYPA owns a series of land areas along the Upper and Lower Niagara River associated with the original development of the Niagara Power Project, completed in the early 1960s. In accordance with its federal license to operate the Niagara Power Project, NYPA adopted a land management plan and recreation plan that encourage the use of waterfront lands for various types of outdoor recreation activities such as hiking, fishing, bicycling, etc.



What Outdoor Recreation Could Look Like in Niagara Falls



The following outdoor activities are desired to be facilitated, programmed, and/or supported as a result of engaging a master licensee. This list is not intended to be exclusive; respondents are free to suggest other types of outdoor recreation activities provided they document how such activities are consistent with the objectives of this RFP and could be implemented in a way consistent with OPRHP's and NYPA's mission as steward of these land resources.

HIKING/TREKKING, ORIENTEERING, AND BIRDING

Given the investments made over the last two decades and planned in the next several years, in the development and improvement of trail facilities on both the Upper and Lower River, activities involving hiking/trekking would not likely involve any new trail construction. However, what is desired are components to help facilitate these activities, provided they are incorporated in a manner sensitive to this unique landscape.

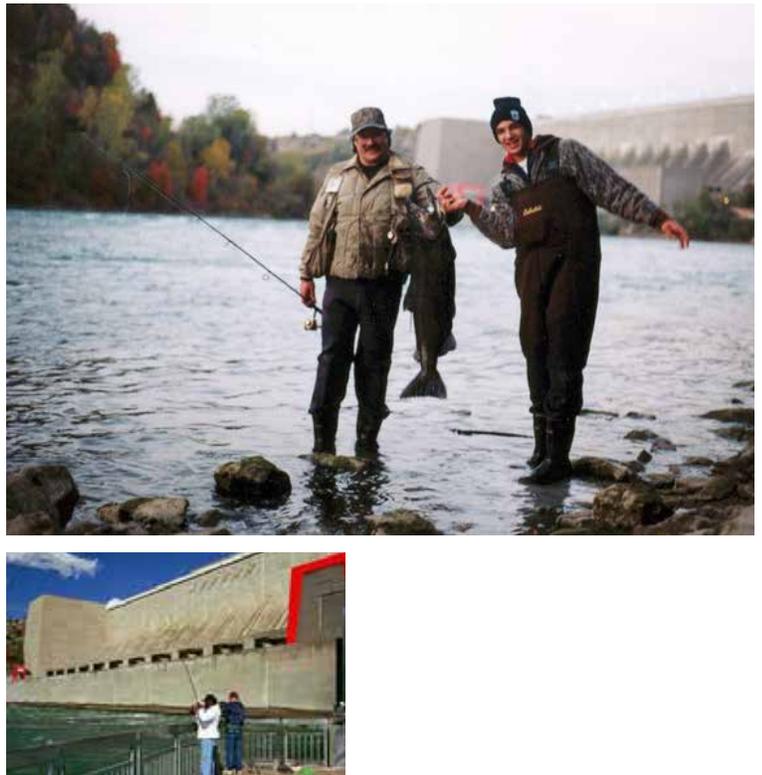
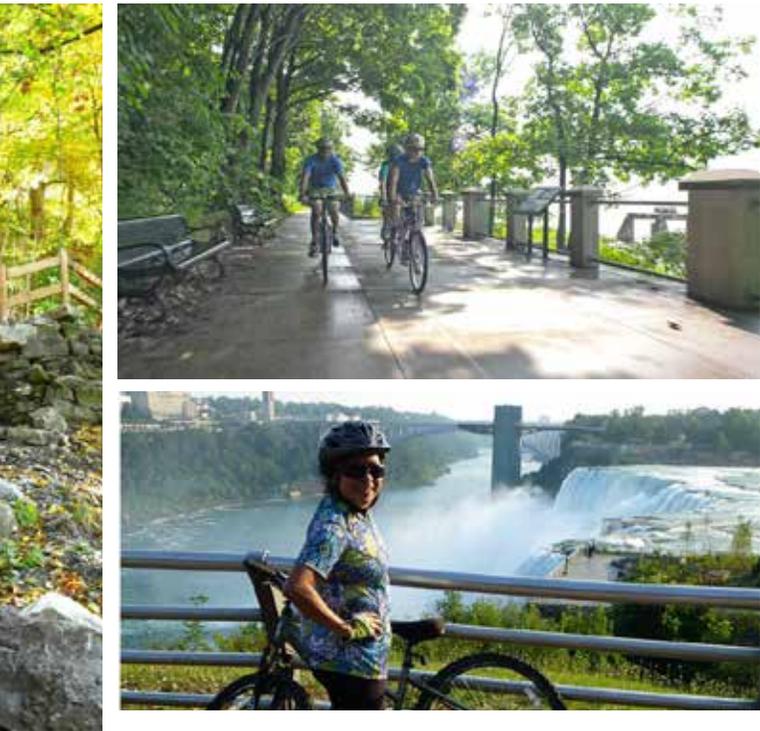
Such components could include, but would not be limited to the following:

Establishment of various scales of "outfitting" facilities, perhaps at existing comfort stations or as part of other developed facilities, where in addition to restrooms, hikers or birders might rent gear, purchase food for a picnic, obtain guidebooks, engage with experts, etc.

Installation of equipment to facilitate hiking by unfamiliar visitors, such as wildlife "blinds" with interpretative panels, trail marking with distances, etc.

Experiential programs in orienteering or bird watching, where participants are taught outdoor skills as part of their hike.

Children's programs akin to "Junior Ranger" activities in National Parks, where kids can be tasked with a series of efforts and awarded a collectible patch or medal.



BICYCLING

Like hiking, investments in multi-purpose and on-road trails have facilitated a marked growth in recreational bicycling in the area, primarily from regional residents; however, there has been an observable uptick in visitors traveling here with bicycles. Nevertheless, desired activities would involve implementing activities to facilitate cycling by visitors, the most basic involving bicycle rental concessions. One of the first bicycle rental concessions began modestly in 2011 in conjunction with USA Niagara's management of Old Falls Street and has become quite popular even with limited promotion. With better programming and education of trail networks, bicycling will surely become a mainstay method to view the project area.

Other possible activities might involve:

- Creation of additional bicycle rental facilities, perhaps some with facilities to service bicycles.

- Development or promotion of existing smart phone applications for wayfinding and/or exploring the Upper and Lower River.

- Promotion of the area for bicycling activities in the context of a larger corridor such as the Niagara Greenway and package long bicycle treks with lodging and other activities.

FISHING

Sport fishing on the Lower Niagara River has been significantly promoted and facilitated here over the last 20 years. For example, NYPA built and operates a fishing

platform at the outfall of the Niagara Power Project, complete with restrooms, parking and a fish cleaning station. The NYS Department of Environmental Conservation (NYSDEC) also publishes fishing access maps of the Lower River and maintains a website on current tips, regulations, and how to obtain fishing licenses of various durations. In turn, several private excursion sport fishing boats operate in Niagara County, including harbors in the Villages of Lewiston and Youngstown, just north of the project area.

However like hiking, knowledge of fishing resources and systems is largely geared toward regional residents and/or visitors coming solely as part of "fishing trips." Current programs do not focus on visitors that might include fishing as a single-day activity that is part of a larger visit. In addition, although recent shore access projects like that around the NYPA water intake area have become known by locals, few if any outlets promote shore fishing along the Upper Niagara River to tourists.

Thus a master licensee might consider:

- Incorporating day-rental of fishing gear as a part of an outfitting operation.

- Establish partnerships with NYSDEC to create one or more in-person locations to obtain one-day fishing licenses (currently license locations are limited to town/city halls well inland from the waterfront).

- Create facilitated teaching programs at, and transportation to/from, key shore fishing locations along the Upper and Lower River.



RAPPELLING AND ROCK CLIMBING

Given the physical and geological nature of the Niagara Gorge, identifying locations for various types of rappelling and rock climbing along the gorge face seems to be a logical activity to facilitate. Such activities have significantly grown in popularity across the world; in fact rock climbing—or “bouldering”—was first introduced on the Canadian side of the gorge in 2011.

The introduction of a new winter storage facility at the former Schoellkopf Power Station site might enable a location for a fixed rappelling operation down the face of the former plant’s foundation wall into the gorge. There are other rock face areas of the gorge where, after investigation, climbing and/or non-fixed rappelling may be feasible in a manner that would not adversely impair the resource.

ZIP LINE/CANOPY TOURS

Zip line or canopy tours—where riders are harnessed to a cable and travel by gravity between platforms of different elevations—have been developed around the world as recreation or ecotourism features over the last decade. Although zip line facilities between towers are sometimes built in more developed areas or in theme parks, canopy tours are more distinguished by routes through heavily wooded and sometimes mountainous landscapes with cables running between platforms built in trees or on timber-fabricated towers installed amongst the trees.

The Niagara Park Commission on the Canadian side of the gorge recently opened a new zip line route , called the “MistRider,” located immediately adjacent to Horseshoe Falls.

While such facilities would not be permitted near or over any of the falls on the American side, there are various areas north of Niagara Falls State Park along the Niagara Gorge, particularly around Devil’s Hole State Park and Whirlpool State Park, where the dense tree canopy would suggest a possible location where one or more canopy/zip line tour facilities might be sensitively incorporated into the landscape. Like rock climbing and rappelling, further engineering and environmental investigation will need to be undertaken before selecting the best locations for such facilities.

HORSEBACK RIDING

Horseback riding along the gorge could be an interesting and financial feasible activity provided a suitable place could be identified to stable and maintain horses. Given the amount of open land at DeVeaux Woods State Park, it could possibly be the location for such a facility, as part of a larger adaptive reuse of the campus.

WINTER SPORTS

Although global visitation to Niagara Falls wanes in the deep winter months, most local residents understand and take full advantage of seeing the unique beauty



of the falls during this period. Mist emanating from the falls freezes on all trees, foliage, and other surfaces to create an almost magical setting, particularly on clear sunny days.

It seems fitting to undertake some conservative steps to begin to capitalize on this winter setting—most likely geared to a more local/regional market sector. Cross-country skiing and snow shoeing are both popular sports in the region; they could serve as a winter equivalent for bicycling to explore these resources. Given that Goat Island already has loop road/trails that could extend from existing concession buildings where equipment rental could be located, it might serve as a logical starting point for such a facilitated activity. Existing trails or trolley routes (if not in full use in the winter months) could be groomed to accommodate cross-country skiing or snow shoeing.

Thus a master licensee might consider:

Incorporating day-rental of cross-country skis or snow shoes as a part of an outfitting operation;

Establishing/grooming one or more trails to support skiing or snow shoe treks.

Strategically establishing/locating winter warming huts/areas (either through temporary structures or use of existing comfort stations) to create "places" along the trails as gathering spots or food/beverage areas.

LODGING USES TO FACILITATE OUTDOOR RECREATION

Lodges and Heritage Inns

Since the late 19th and early 20th century, state and national parks in the U.S. and Canada began to host rustic lodging and camping facilities to host visitors and serve as center points to become immersed in these great North American wild spaces. The most iconic of these facilities were the great "lodges" or heritage inns that mix conventional overnight hotel facilities with grand timber and stone architecture specifically designed to best fit in these natural settings. Originally termed "Adirondack Architecture" after the rustic design of private millionaire camps in New York's North Country and later "Parkitecture," examples of these facilities include the Ahwahnee Hotel at Yosemite or the Banff Park Lodge in Alberta's Canadian Rockies. Nearer historic examples in New York State include the Bear Mountain Inn at Bear Mountain State Park and the Glen Iris Inn at Letchworth State Park. However, the use of lodges and inns continues today to be a mainstay of promoting destinations with broad outdoor recreation resources. It would seem reasonable that the natural setting and outdoor resources at Niagara could be enhanced through the incorporation of such a multi-purpose facility.

The intent of requesting proposals for a lodge or heritage inn in the context of a larger outdoor recreational program is two-fold. First, such a facility could serve as an "activity node" along the waterfront (see p. 14)—the place where visitors' outdoor experience might begin



Bear Mountain Inn, Bear Mountain State Park, Tomkins Cove, NY

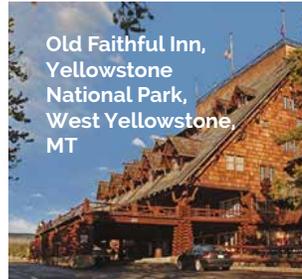


Base Lodge at Haystack Mountain, Wilmington, VT



Denali Princess Wilderness Lodge, Denali National Park, AK

Proposed new-build “lodge” or “heritage inn” facilities should evoke the best practices of the great “Parkitecture” movement in national and state parks across the U.S. and Canada. Use of native, natural materials and rustic and sustainable design features should be characteristics in any proposed facility.



Old Faithful Inn, Yellowstone National Park, West Yellowstone, MT



Glacier Park Lodge, Glacier National Park, MT

At a proposed lodge or heritage inn, overnight rooms would be accessible only to patrons, while public spaces—a grand fireplace hall, great porch, food and beverage facilities, etc.—MUST be open to all park visitors.

with the rental of gear or booking a guide to, say, facilitate a day of shore fishing; or to provide a seat by the grand fireplace or on a great porch for a terrific “end of the day” after a day of hiking. Secondly, given that lodging venues that immerse visitors into a natural setting typically are in high demand, the revenues that might be realized by such a facility could help finance the facilitation/enhancement of less lucrative outdoor activities.

Thus, respondents are encouraged to consider including a concept for a lodge or heritage inn as part of their overall outdoor recreation proposals. Respondents are open to suggest any particular site on State Park or NYPA land within the project area for such a facility, provided it is not within Niagara Falls State Park. The following locations have been previously considered:

- Through adaptive reuse of Schoellkopf Hall, a historic former dormitory building at DeVeaux Woods State Park (see p. 33), or through new lodge construction at that State Park for “public” lodge components (e.g., grand hall, porch, food and beverage facilities, etc.), and adaptive reuse of Schoellkopf Hall for only guest room facilities; and/or
- New construction on the 1.3-acre surface parking lot at Whirlpool State Park (see p. 34), which is immediately adjacent a small seasonal comfort station in the park.

Respondents are also open to suggest any site immediately adjacent to any state park or NYPA

open space land in the project area, provided the respondent has full site control and can document that the proposed location can demonstrably contribute to or support outdoor recreation activities in the project area. Regardless of its proposed location, respondents shall ensure that their plans for a lodge or a heritage inn include the following components and characteristics:

- Lodges or inns must incorporate design features, materials, and styles that are consistent with the look and feel of the nation’s great lodge facilities, including the use of native materials, meeting standards of ecological sustainability, and including endemic components like great halls, grand fireplace, and great public porch features.
- Such uses shall generally involve a scale of 75-100 total guest rooms.
- The facility must serve as a centerpiece of facilitating outdoor recreation by including ancillary features such as outfitting/gear rental facility, retail, and food and beverage facilities in support of outdoor activities.
- All major components of the facility—other than guest room wings—shall be open to the public (i.e., whether or not they are overnight patrons).

Respondents are advised that the complexity in realizing such a lodge or heritage inn would vary depending upon its proposed location, scale, and major features. For example, public concerns have been expressed related to siting lodging facilities in any part of Niagara Falls State Park, (thus we are not considering sites there), whereas

A proposed lodge or heritage inn should not merely be a “hotel in a park” but act as an inclusive “activity node” (see page 14) which serves as a “first stop” for any park visitors. A lodge should include public facilities and services for outfitting, rental, retail, and guide services.



Schoellkopf Hall
circa 1950s

Schoellkopf Hall at DeVeaux Woods State Park is listed on the National Register of Historic Places. Reuse of this former dormitory as a Heritage Inn—or combined with a new-build lodge—may be eligible for federal and/or state historic tax credits.



Uncontrolled campsite areas or vehicular-oriented facilities, such as RV parking and staging areas, are strongly discouraged, but proposals for limited, seasonally prescribed areas for facilities involving tent cabins or yurt facilities will be considered.



few concerns have been publicly expressed at DeVeaux Woods or Whirlpool State Parks. In turn, depending upon location, the past use of federal park improvement funds in certain State Parks present the potential need for in-kind replacement of any state park land used for a lodge facility. Similarly, regardless of location, the development of such a facility within a state park would likely trigger the need for a substantial public review process, such as a full environmental impact statement, along with thorough alternative site analyses and public involvement processes.

Camp Sites

Similarly, the incorporation of camp facilities at State Parks along the Niagara River presents both administrative and public perception issues. Given the scale of the subject project area, traditional tent camping is not permitted in any State Park in the area. In turn, given demands for support facilities, vehicular-oriented facilities such as RV parking areas are also not considered desirable. Nevertheless, if properly scaled and administered, limited seasonal “tent cabin” or “yurt” style camping facilities may be reasonable in selected locations in the project area, including:

- Within the meadow areas of DeVeaux Woods State Park (i.e., outside Old Growth Forest areas of that park);
- In the upper Gorge rim portions of Whirlpool State Park; and
- In selected areas on the Gorge rim and selective level locations within the Gorge in Devil's Hole State Park.

Lodging Facilities in Financial Plans

As discussed in the Proposal Submittal Requirements (see p. 38), given the complexity, review and time requirements associated with realizing lodging components into respective outdoor recreation proposals, respondents are asked to provide alternate pro-forma scenarios in their financial plans that present the financial/economic implications of a proposed program “with” and “without” the subject lodging component(s).

The Creation of a Green Necklace along the Niagara River

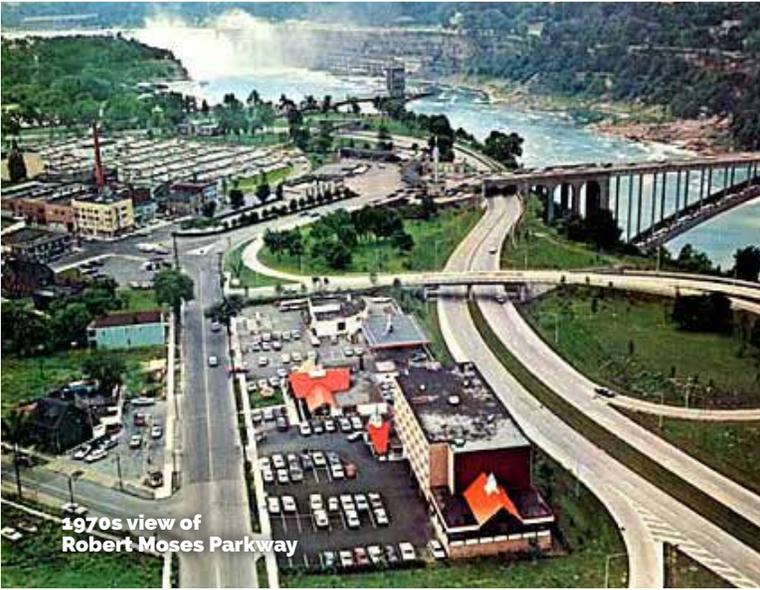


Largely a result of the efforts of the "Free Niagara" movement led by America's first landscape architect, Frederick Law Olmsted, the State of New York took action in 1885 to acquire over 400 acres of land around the three waterfalls at Niagara to create the Niagara Reservation (now Niagara Falls State Park), New York's first and currently the oldest state park in the United States. In 1887, Olmsted and his then former partner, architect Calvert Vaux, collaborated on a master plan and design for the park at Niagara that focused on reclaiming land from prior industrial development, restoring its landscape, and enhancing it with scenic roads, walks, promenades, seating, and managed views at key points to maximize the public's enjoyment while protecting the natural character of the area. The Olmsted and Vaux plan and vision for Niagara was essentially for a reserve rather than an active urban park—more akin to Yosemite than Central Park.

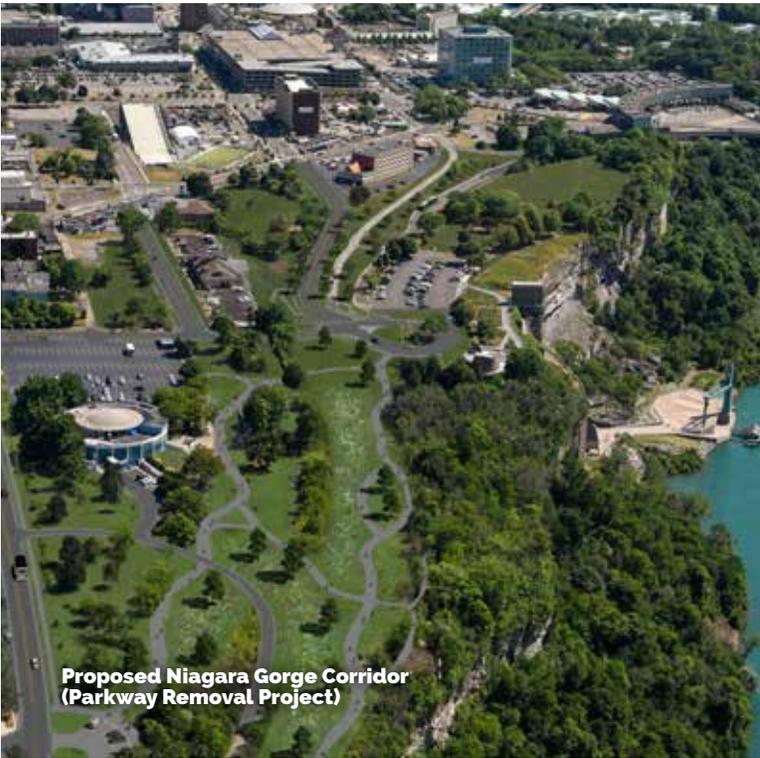
The State continued its practice of taking control and preserving open space lands along the Niagara River after the creation of Niagara Falls State Park. One of the largest of these open space expansions came with NYPA's development of the Niagara Power Project and the Robert Moses Parkway (a limited-access expressway

for non-truck traffic now known as the Niagara Scenic Parkway) between 1958 and 1962. New open space areas were created as a result linking the Falls with a necklace of sister parks on the gorge along a "green ribbon." A vision considered outdated by many today, this chain of parks linked by a limited-access expressway was successful in assembling and preserving a continuous band of open space along the Upper and Lower River; but still today the highway severely limits non-vehicular access to the Niagara Gorge and the Upper River.

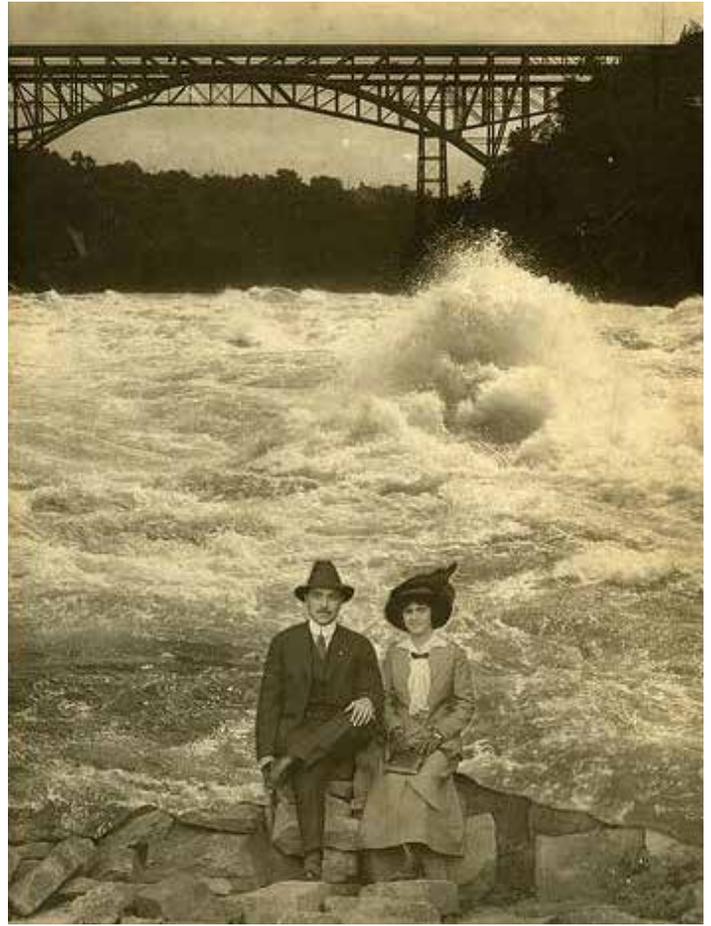
Understanding these impacts, beginning in 1983, State Parks acted to remove an approximately one-mile section of the Parkway. After restoring the landscape and adding a new Visitor Center in this area, it is a heavily used section of the park by pedestrians. The practice of removing segments of the limited-access expressways to increase access to the Niagara Falls, Gorge and River and expand green space continues today. A mile of expressway has already been removed along the Upper Niagara River, to be replaced by the "Riverway" and Olmsted inspired landscape with a winding park road, trails, and a new pond feature that will support fishing. Similarly, north of downtown, two miles of expressway will be removed starting in 2018 to create a 140-acre unbroken ribbon of green space along the Niagara Gorge rim between three state parks.



1970s view of Robert Moses Parkway



Proposed Niagara Gorge Corridor (Parkway Removal Project)



Increasing Use of the Waterfront through “Activity Nodes”



UNDERSTANDING THE ASSETS

The following pages provide an overview of the NYS-owned open space lands and facilities that are either available, or could potentially be made available, to support outdoor recreation and/or associated uses. It presents the full breadth of lands and facilities that might be used by a licensee, with the understanding that future use of some of these assets may require the relocation of a current function prior to adapting for a new use. Where applicable, ideas that have previously or are currently being considered for selected facilities or lands are presented. These are presented to inform, but in no way restrict, ideas by responders in advancing the overall recreation objectives. Potential respondents are strongly urged to actually visit facilities along the entire corridor to become familiar with the breadth and scale of these resources.

A VISION FOR THE AREA

So what are we hoping for? Ideally, we want to achieve a natural, accessible, and ecologically-sustainable waterfront corridor—extending south along the Niagara Gorge from Devil’s Hole State Park south to Niagara Falls State Park and continuing east along the Upper Niagara River to the Grand Island Bridges—dotted with sensitively implemented “activity nodes” involving outdoor recreation or to facilitate outdoor recreation. Such centers of activity would be intended to bridge the linear makeup of the corridor and could vary substantially in use and character depending on the topography of the area.

GEOGRAPHY DEFINES THE ACTIVITY

Because the areas around the Niagara River vary so greatly in their topography, natural and man-made assets, and historical development, for the purposes of this RFP, they have been split into four general areas – each with their own unique character. Proposed outdoor recreational assets should align with the character of the area, while at the same time be strongly connected to adjacent assets and areas, providing tourists with a seamless and well-rounded outdoor recreational experience.

For example, at the most developed end of the spectrum, the collection of historic structures at DeVeaux Woods State Park could be fully re-purposed as an active “heritage campus” situated at mid-point of the gorge between Niagara Falls and the Power Plant. The campus could be a launching

off or ending point for waterfront recreation with support facilities such as bicycle or trekking gear rental, or even food and beverage uses, all in the context of a larger use such as a heritage inn or perhaps even an urban winery focusing on local vineyard resources. Conversely, other areas, such as the more tranquil Upper River could involve as little as better outfitting existing open spaces along to support new activities, perhaps through the installation of a limited number of fish cleaning stations in key fishing areas or perhaps “blind” structures and interpretative stations in the best viewing locations for waterfowl.

The Four Areas of Niagara's Waterfront

Each area is unique in geography,



UPPER NIAGARA RIVER
John B. Daly Boulevard to
Grand Island Bridges



NIAGARA FALLS STATE PARK/GOAT ISLAND
Niagara Falls State
Park to Rainbow
Bridge



GORGE GATEWAY
Niagara Gorge
Discovery Center to
Findlay Drive



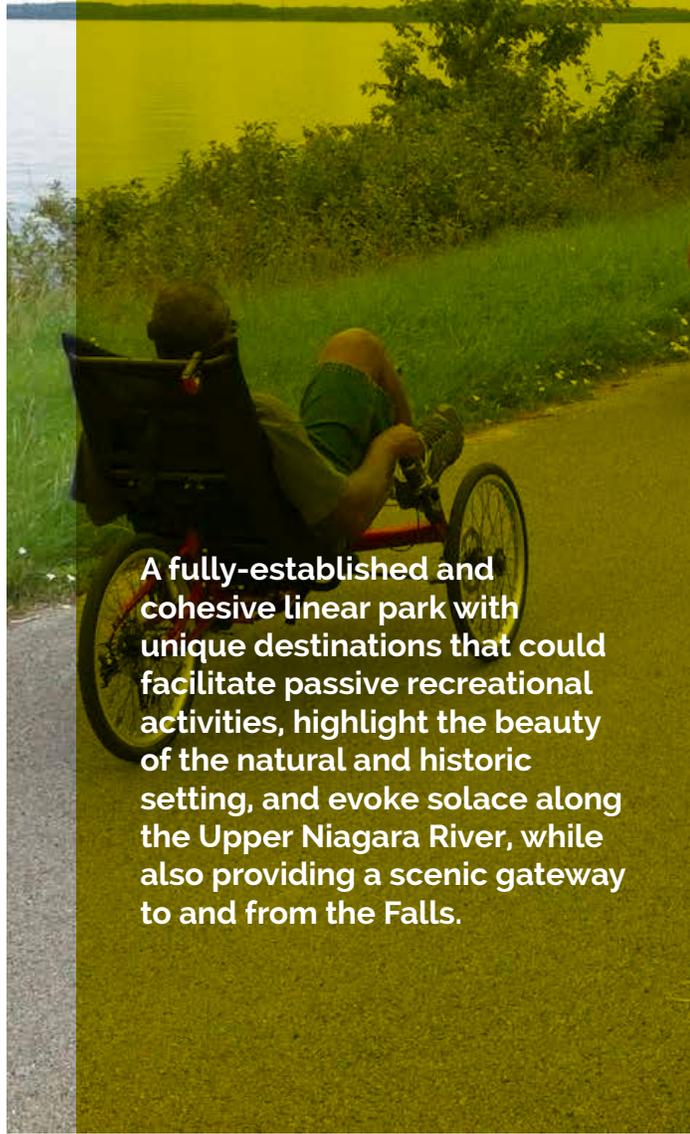
DEVEAUX WOODS, WHIRLPOOL & DEVIL'S HOLE STATE PARKS
Whirlpool /DeVeaux
Woods State Parks to
Devils Hole State Park



UPPER NIAGARA RIVER
John B. Daly Boulevard to
Grand Island Bridges

A tranquil gateway to the thunderous Falls.

A fully-established and cohesive linear park with unique destinations that could facilitate passive recreational activities, highlight the beauty of the natural and historic setting, and evoke solace along the Upper Niagara River, while also providing a scenic gateway to and from the Falls.

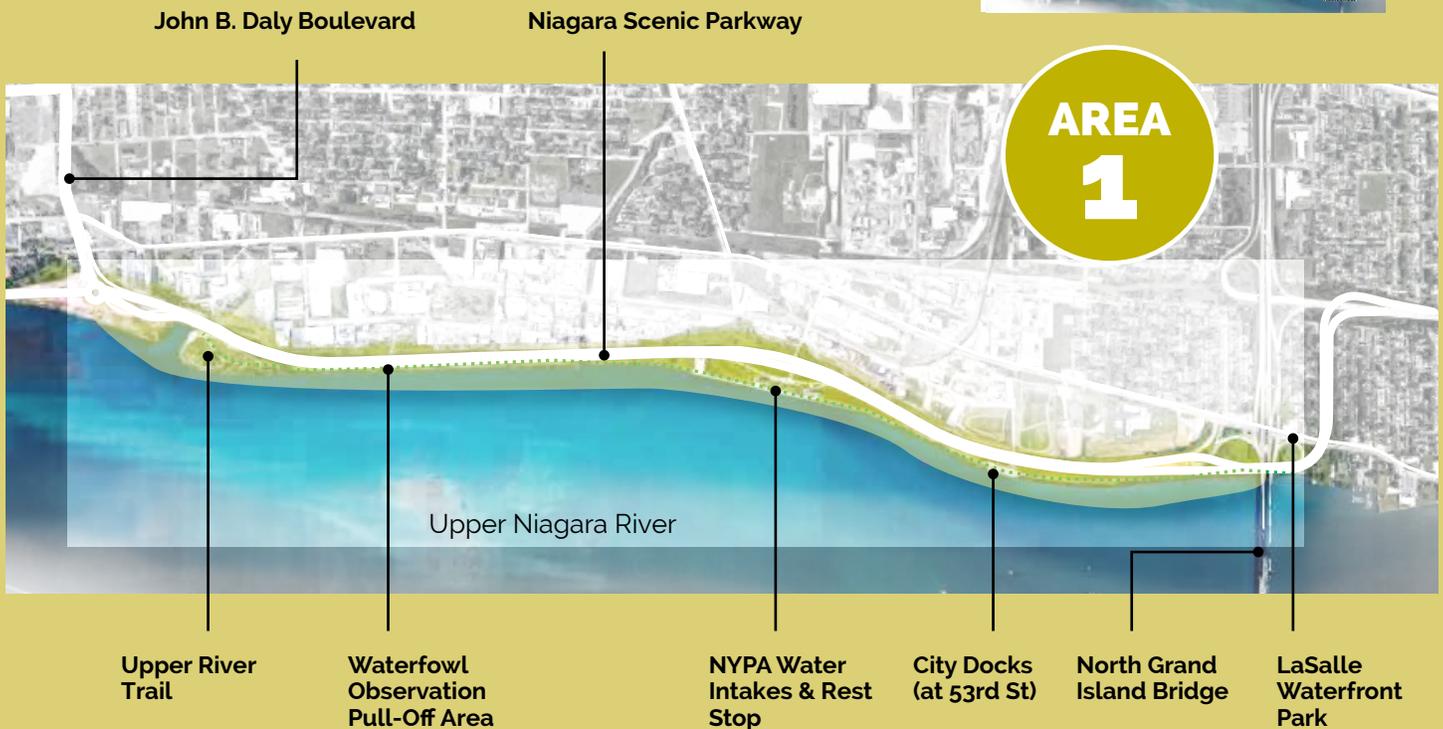


OVERVIEW

Running adjacent to the Niagara Scenic Parkway to the north and the banks of the Niagara River to the south, the Upper Niagara River area is a four-mile stretch of open space bisected by a multi-purpose trail that was created in the late-1990s by the City of Niagara Falls. The Upper Niagara River has become more accessible in recent years due to a number of major infrastructure improvements at each end of the area, but there is a challenge along the upper river to further define a buffer between the water's edge and the Parkway through improvements like additional plantings, grade changes, etc. The Upper Niagara River is accessible through LaSalle Waterfront Park, which opened in 2012. The City restored the former Century Club site as a public waterfront park with stunning views of the Grand Island Bridge and Niagara River. Visitors can also access the Upper Niagara River from Niagara Falls State Park via the newly redesigned Riverway. \$18.8M in infrastructure improvements facilitated the removal of elevated expressway features and replaced them with an at-grade, low-speed park road that emulates the Frederick Law Olmsted-designed road that once existed there.

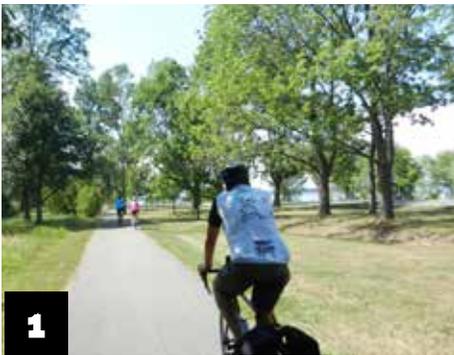
OPPORTUNITY

Increased access to the Upper River is beginning to draw residents and facilitate hiking, biking, and fishing; but it is largely an unknown to visitors to the area. The area lacks any defined progression of experiences along its length. It also lacks any basic services such as restrooms. Incorporating a limited number of such services or perhaps even seasonal food and beverage at the NYPA Intake Area; making available ways to explore the area (e.g., bicycle and fishing gear rental, establishing/grooming winter cross-country trails, etc.); and promotion of the assets could significantly expand the area as an outdoor resource for visitors going to and coming from Niagara Falls State Park.





5 Assets to Activate



1 Upper River Trail

Your guide to the beauty of the Niagara River.

This 4-mile, paved, multi-purpose trail for walking and biking begins at Lasalle Waterfront Park, passes through the NYPA Water Intake Area, and continues into Niagara Falls State Park. The trail physically connects a number of unique open space assets and provides residents and visitors with increased access to the waterfront. The trail is ideal for passive recreation allowing users to view the scenic Niagara River, enjoy bird watching, and provides ample opportunity for fishing.



2 NYPA Spoils Pile Area and Historic Chimney

Topographic high point provides beauty and a place for historic interpretation.

Located just east of the remnants of the former hydraulic canal that once fed early hydroelectric plants, the Spoils Pile is a large, unprogrammed open space, largely inaccessible except by foot or bicycle. The Spoils Pile provides a pleasant stopping point and a beautiful panoramic view of the Niagara River including the upper rapids, Goat Island, Grand Island and Canada. The area could easily accommodate passive recreational activities such as fishing, bird-watching and picnicking. The area also provides an opportunity for historic interpretation kick-started with the recent \$1.5 million relocation and restoration of the 1750 Old Stone Chimney—the second-oldest piece of masonry existing in NYS. Originally built as part of a barracks at "Fort du Portage," or "Little Fort Niagara", The

Old Stone Chimney was located at the southern terminus of the Niagara Portage, a critical trade route that pre-dated the region's first European settlers.



3 Waterfowl Observation Pull-Off Area

The presence of wintering waterfowl provides a unique natural attraction.

A waterfowl observation area is situated along the southbound side of the Niagara Scenic Parkway. This 2003 effort, that included a parking area and vehicular access, was part of a wetland mitigation to offset impacts from a project elsewhere in the watershed. The waterfowl that periodically congregate in this area, sometimes numbering in the tens of thousands, include diving ducks such as canvasbacks, redheads and mergansers. Interpretative features or user amenities in this area could boost the user experience.



NYPA Water Intake Area & Rest Stop

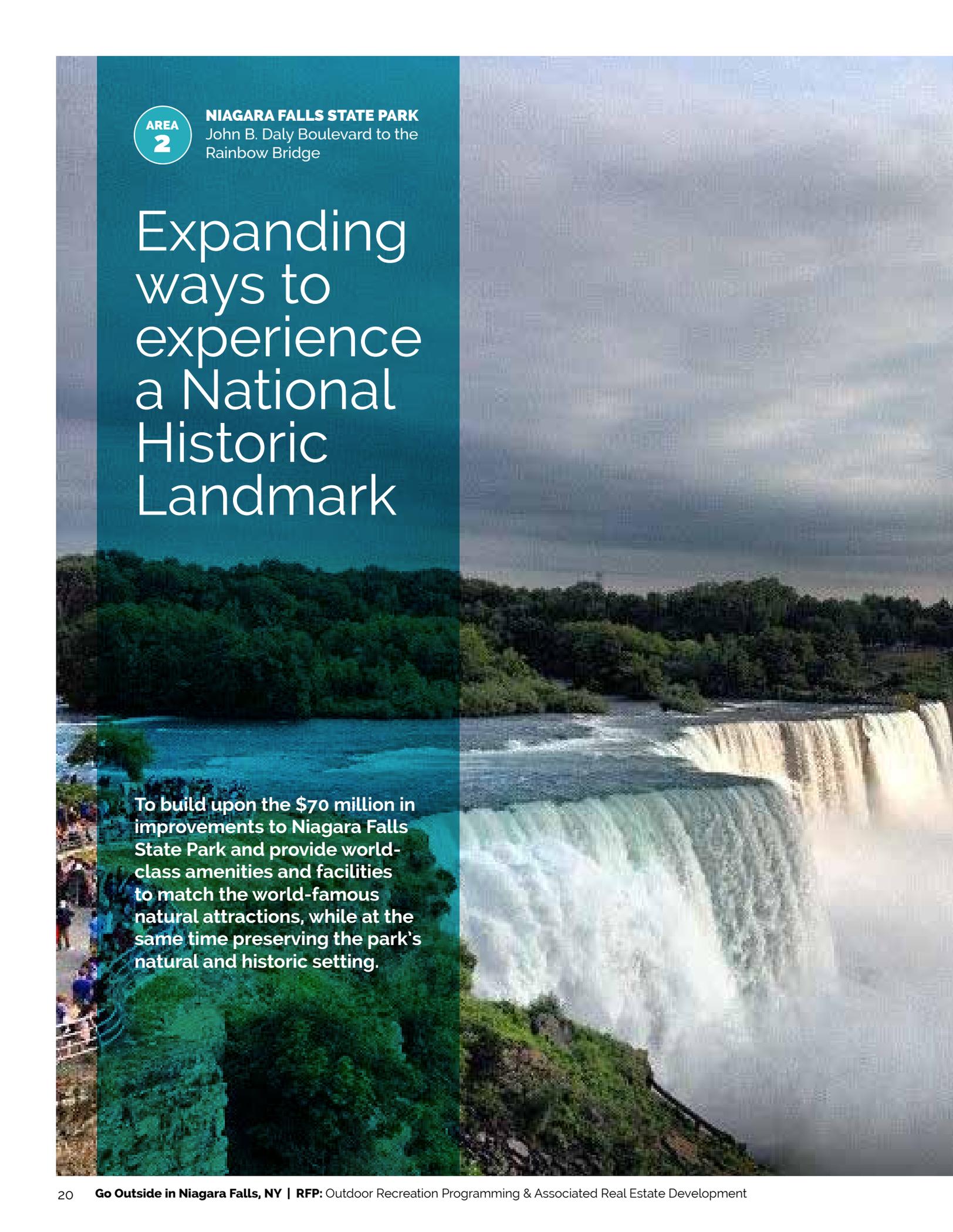
Panoramic views and unbeatable shoreline fishing.

This 10-acre section of open space contains the Niagara Power Project's two 90-foot tall intake structures, which allow water to be drawn into the plant from the Niagara River. \$1.3 million in recent improvements have created an attractive park with an arresting view and unparalleled access to shoreline fishing. An existing concrete bulkhead for fishing and 40-space parking area were enhanced with fishing shelters, picnic areas, bicycle racks, and signage, as well as extensive landscaping. Support facilities such as fish cleaning stations, and food and beverage offerings could greatly benefit the area.

City Docks

Unexpected tranquility along the riverfront.

An active but infrequent access point for industrial shipping, the City Docks lie at the foot of 53rd Street and are a popular fishing spot. There is a desire to better connect this facility to the Upper River Trail—further promoting public access to the Niagara River waterfront; and better support active and passive recreational activities such as boating, fishing, hiking, bicycling, wildlife and scenic viewing and picnicking.



AREA
2

NIAGARA FALLS STATE PARK
John B. Daly Boulevard to the
Rainbow Bridge

Expanding ways to experience a National Historic Landmark

To build upon the \$70 million in improvements to Niagara Falls State Park and provide world-class amenities and facilities to match the world-famous natural attractions, while at the same time preserving the park's natural and historic setting.

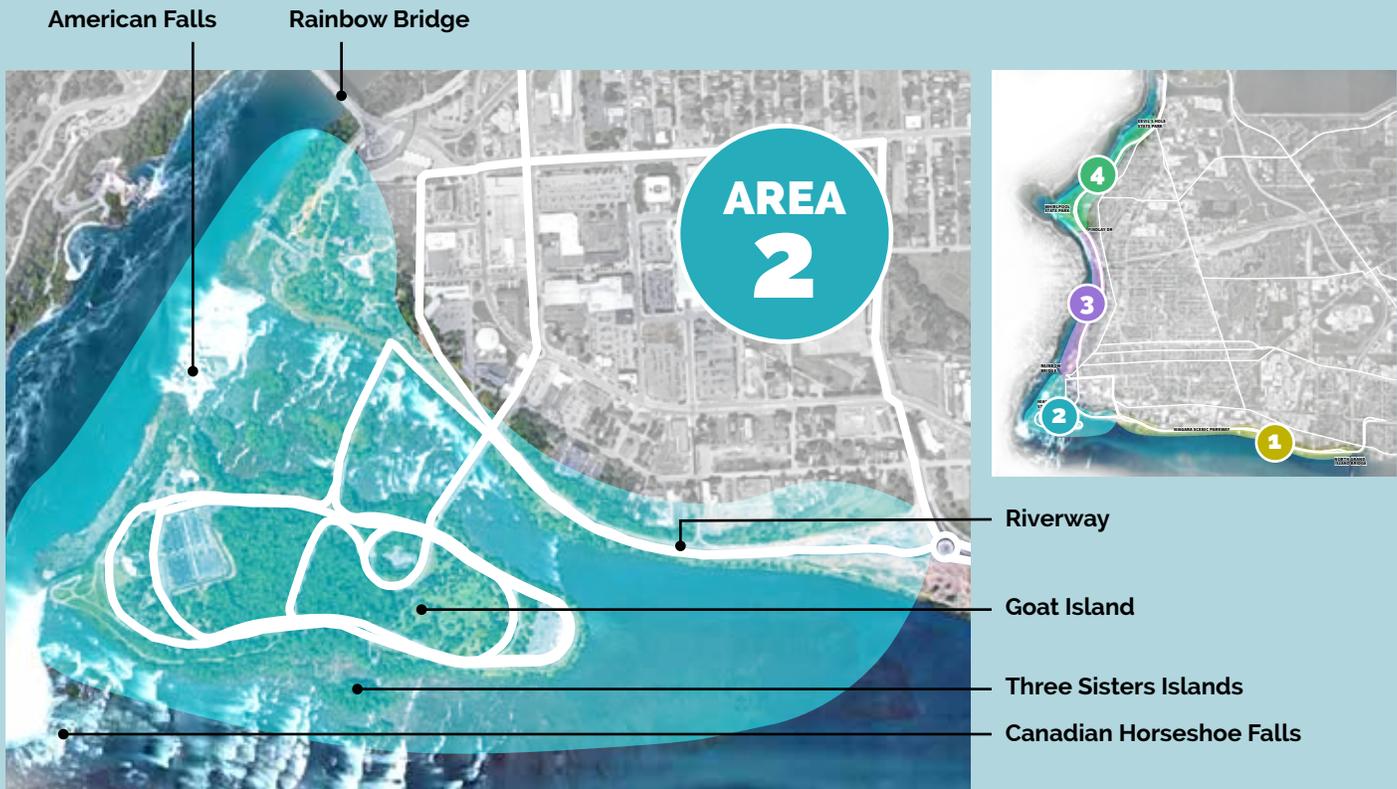
OVERVIEW

The Falls—and associated facilities such as the Maid of the Mist excursion boats and the Cave of the Winds— attract more than eight million visitors annually—more than most U.S. national parks. The park is listed on the State and National Registers of Historic Places as well as being classified as a National Historic Landmark. It contains a number of vantage points that provide tremendous views of the three waterfalls—American, Bridal Veil, and Horseshoe Falls. Several prime natural areas in the park namely on Goat Island, Green Island, Three Sisters Island, and unnamed islands above the Falls support productive habitats for plants and animals.

To better accommodate its annual visitors, OPRHP has completed or is in development of \$70 million in capital improvements in line with the 2012 Niagara Falls State Park Landscape Improvement Plan—developed to maintain important historic principles reflected in the 1887 Olmsted/Vaux plan for the park, while also accommodating contemporary uses, needs and demands. Improvements have been made to key areas

of the Park such as Luna Island, Three Sisters Island, Prospect Point, and Terrapin Point, including restoration of viewing areas, removal of invasive species, and the addition of historically-appropriate landscape features, amenities and lighting. New elevator facilities have been added to the Cave of the Winds to improve visitor movement, with a redesigned tunnel leading to the Niagara Gorge. Under construction are The Cave of the Winds Pedestrian Plaza and The Cave of the Winds Experience Building, and enhancements to Stedman's Bluff overlooking Bridal Veil and American falls.

Niagara Falls State Park has a number of structures (the observation tower/elevators to the Maid of the Mist boats, concessions buildings, Visitor Center, and others) related to the two primary concessionaires in the park. No changes are anticipated in the nature of these structures associated with these contracts and activities in the foreseeable future.



\$70 million in improvements to Niagara Falls State Park is improving the visitor experience.





OPPORTUNITY

Niagara Falls State Park is far and away the most visited location in the project area. There is an opportunity to capitalize on the concentration of tourists who visit Niagara Falls State Park daily with the addition of context sensitive, outdoor recreational offerings and amenities in underutilized areas of the Park. This will provide tourists with value-added entertainment to entice them to stay longer, increase spending and make return visits.

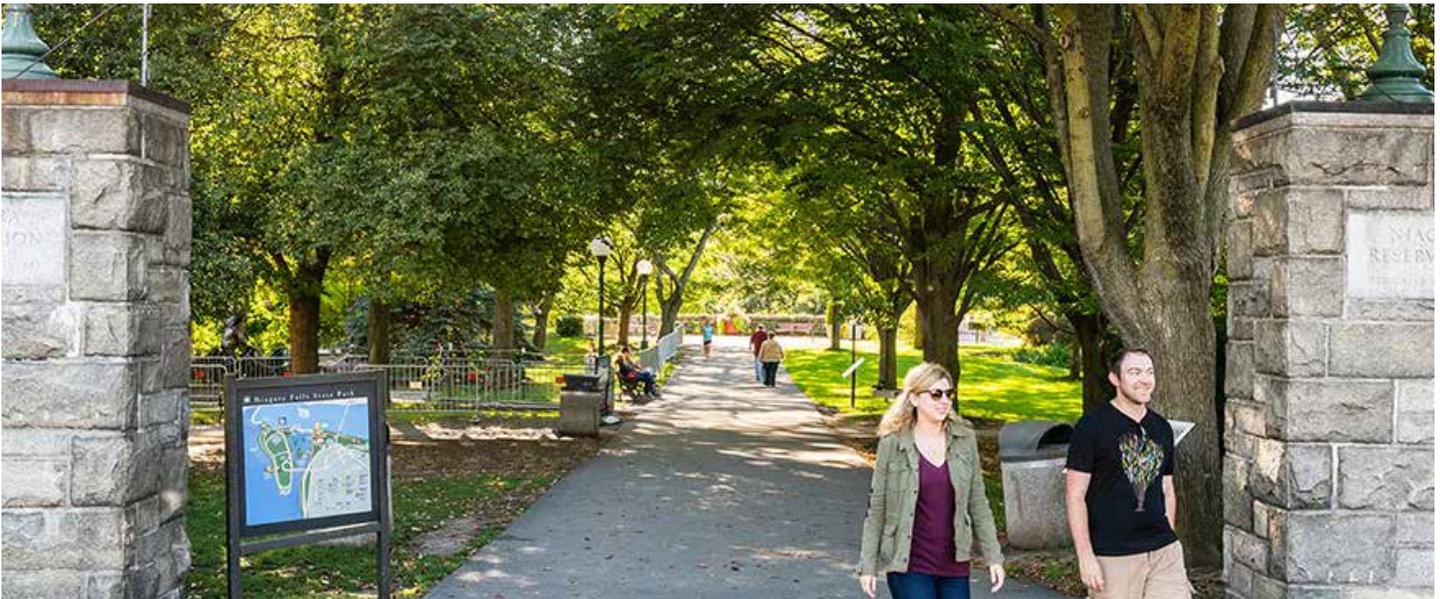


Riverway Area

Increased access to the Upper Niagara River and the American Rapids.

An \$18.8M investment facilitated the removal of a one mile segment of the limited-access expressway along the Upper Niagara River that passed through Niagara Falls State Park and cut off access to downtown Niagara Falls. It has been replaced with the "Riverway," an at-grade, low-speed park road that emulates the Frederick Law Olmsted-designed road that once existed there. As part of the project, an elevated interchange at John B. Daly Boulevard was removed at the entrance to the State Park—along with the earthen berm on which it sits—and replaced with a modern roundabout and signature entry feature. Other enhancements currently under construction include a full path system and nature areas, as well as a new water feature evoking the former Port Day Pond, a favorite local fishing and gathering spot for residents until it was filled in 1960 to make way for the Parkway. The restored setting will facilitate hiking, biking, fishing, cross-country skiing, all accessible from city streets for the first time in more than 50 years. Establishing and maintaining outdoor recreational programming/facilities is needed to fully realize the potential of this investment.





Calvert Vaux Carriage House (Goat Island)

A character-defining feature of Goat Island.

Located in the center of Goat Island, this 3,000 square foot structure was built in the early 1900s. It was one of the original operational support structures for the park designed by Calvert Vaux as part of the original Olmsted-Vaux plan for the Niagara Reservation. Several additions to the building have been made, but its prime location coupled with its limestone masonry construction distinguish it as a character-defining feature of Goat Island. It is currently used by OPRHP as a management and support building for the park. Possible adaptive reuses considered have included a signature dining facility or an outdoor recreation outfitting facility.



Parking Lot 3 (Goat Island)

Reusing a surface parking lot to facilitate outdoor recreation.

Formerly a helicopter pad used for taking tourists over the Falls, Parking Lot 3 on the east end of Goat Island is currently a 1.7-acre surface parking lot. New uses that have been considered at this site have included a sensitively-design "natural" water element (i.e., that could provide summer respite and potentially a location for ice skating in the winter months).



Ring Road Trail (Goat Island)

One-of-a-kind views draw thousands daily.

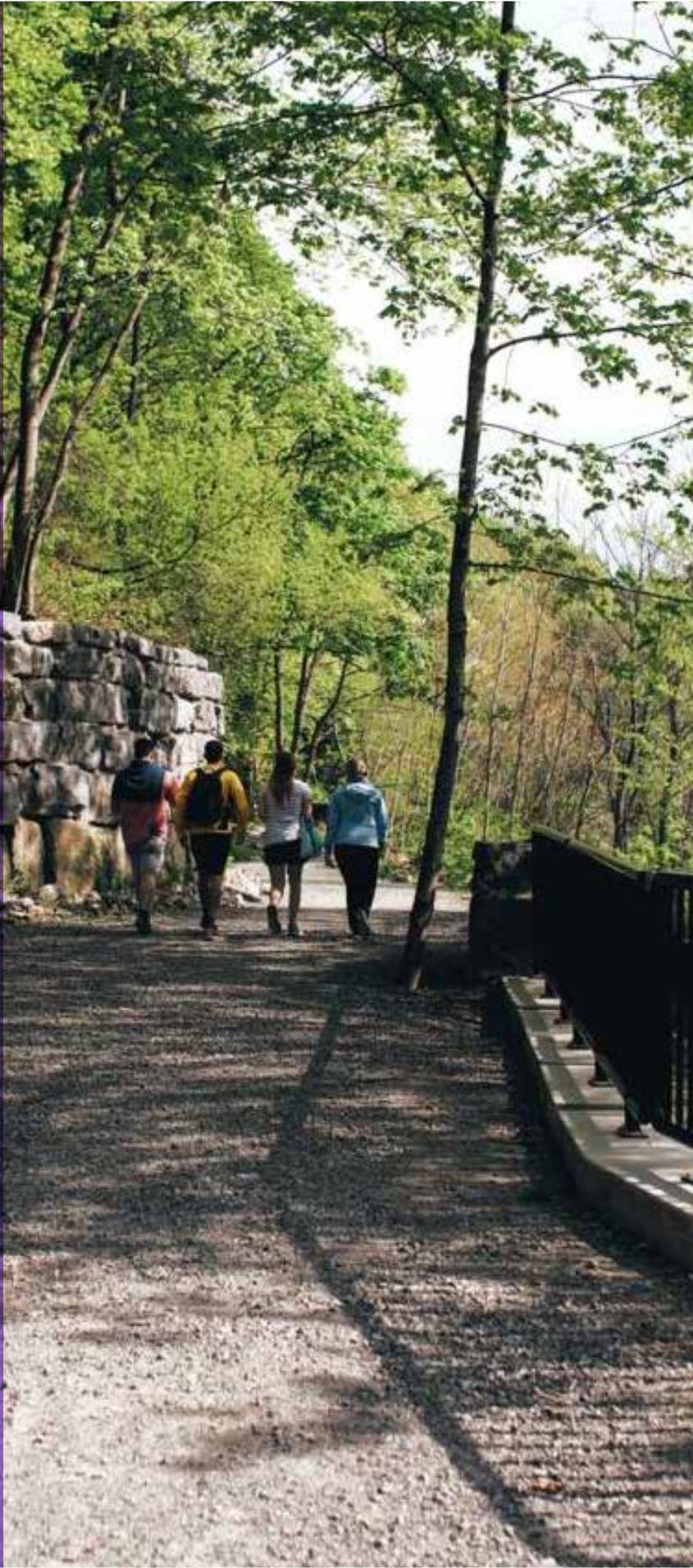
Accessible from the mainland via pedestrian bridge, Goat Island offers the most spectacular, up-close views of the Horseshoe, American and Bridal Veil Falls as well as other natural attractions. Goat Island can be navigated easily by foot along the paved landscaped Ring Road Trail that loops the island with access to Three Sisters Island and Luna Island. Goat Island can also be reached by car and the Niagara Scenic Trolley provides tours of the island. The Ring Road Trail is widely used from April through November, but most support facilities are closed during winter months. In the winter months, the trail could be used for cross-country skiing, snow shoeing, or even the establishment of a Nordic Skating track, but would need basic services (rental, warming areas, etc.) requiring forethought and a coherent plan for winter operations.

AREA
3

GORGE GATEWAY
Niagara Gorge Discovery
Center to Findlay Drive

The Door to Niagara's Wilder Side

To capitalize on the unique natural environment that the Niagara Gorge presents for active recreation, and create a full range of interpretation, activities, and services to achieve an all-inclusive visitor experience.

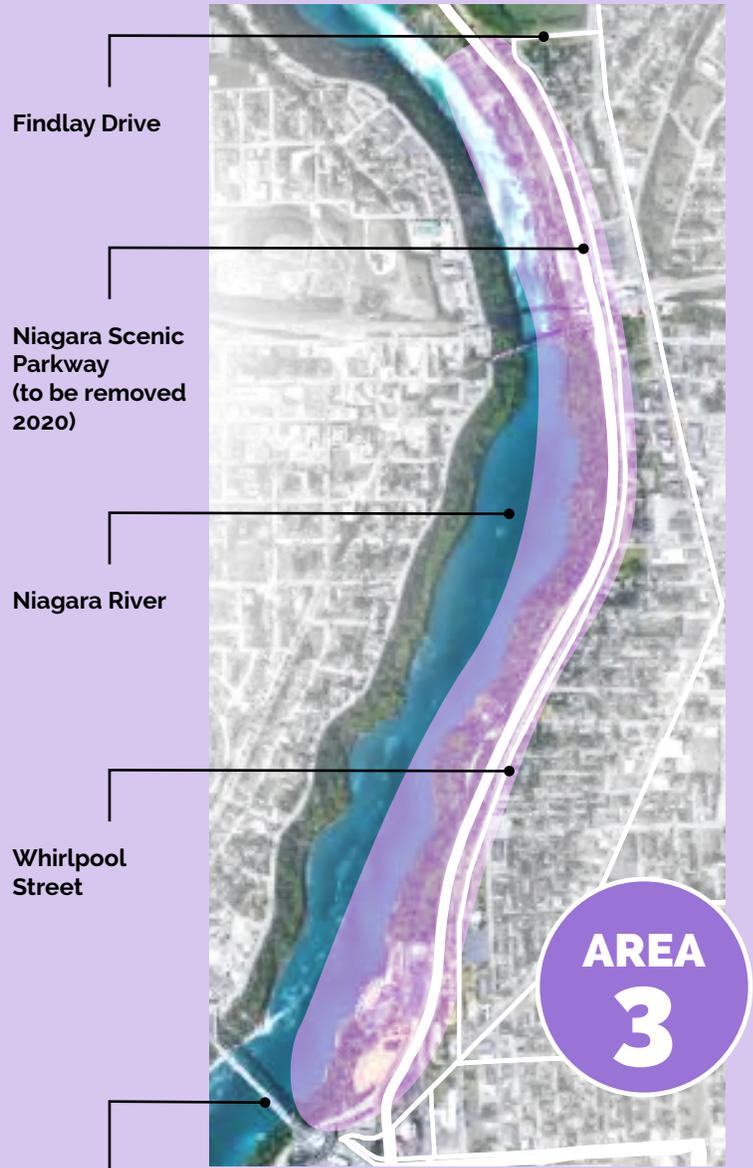


OVERVIEW

Area 3 begins north of the Rainbow Bridge at the area in and around the Gorge Discovery Center where major infrastructure improvements to the Gorge Discovery Center, the former Schoellkopf Power Station, and the addition of a new trailhead facility have begun to create a nexus of educational and recreational activity. These facilities also create a departure point for which to explore a more accessible Niagara Gorge through the Niagara Gorge Trail system which largely begins here and extends through Whirlpool, Deveaux Woods, and Devil's Hole State Parks and beyond.

OPPORTUNITY

The rugged and picturesque landscape of the Niagara Gorge evokes adventure and provides the perfect opportunity to attract tourists to participate in a range of active recreation activities. While hikers of all skills levels can currently enjoy an exceptional experience, additional recreational and educational activities will provide a more robust experience and attract additional explorers; while amenities and facilities will provide visitors with the supplies, supports and comforts needed to extend stay and support active recreation.





Discovery Center

Preface your adventure by learning about the Gorge.

The 4,000 square-foot Niagara Gorge Discovery Center, currently operated by OPRHP, offers exhibits on the geological and natural history of Niagara Falls and the Niagara Gorge. The building was last renovated in 2002-03, which included updates to the interior exhibits and the installation of a 26-foot high artificial rock-climbing wall (currently not in use). Near the Center, the remains of the Schoellkopf Power Station, including the 150-foot masonry foundation wall, can be seen along the gorge face. There are also picnic tables and shelters available in this section of the park. In conjunction with improvements to the former Schoellkopf Power Station, the Gorge Discovery Center offers potential promise to evolve into a multi-purpose facility where you prepare, learn about and begin your actual experience into the gorge. A phased effort could be further developed upon the removal of the parkway in this location, which will visually link the Discovery Center area with the area around the Aquarium of Niagara immediately to the east. Potential ideas have included: 1.) further redefining the center as an interpretative, learning, and outfitting center for discovering gorge ecology and history (i.e., one where visitors first learn about it then "gear up" and "do it"); 2.) further upgrades/expansion to the Center to create a must-see first stop to your journey down into the gorge, possibly with ties with the State University of New York to interpret the gorge's unique ecosystem.



Former Schoellkopf Power Station

A unique area to explore provides new access to the Gorge.

As a result of a multilateral agreement between NYPA and OPRHP spearheaded by Governor Cuomo, the Maid of the Mist tour company recently invested \$32 million in the former Schoellkopf Power Station site at the Niagara Gorge to make it suitable for the winter storage and maintenance of its tour boats. Newly created public amenities such as an elevator and a platform to allow access at the water's edge have improved recreational use of the site and are a catalyst for advancing key, first-step recreational programming. Recreational activities in the area could include, but would not be limited to:

- 1.) an observation deck – in season the staging area is largely unoccupied by boats, creating opportunities for new photo and viewing perspectives of the Falls and the gorge;
- 2.) fishing at the platform base of the gorge;
- 3.) rappelling - access to the gorge base could create a one-of-a-kind experience of rappelling the former Power Station foundation wall—one of the largest masonry walls in the world.
- 4.) historic and industrial interpretation - the Schoellkopf Station was part of Nikola Tesla's first use of alternating current technology and could open unlimited opportunities for education and interpretation.



Trailhead Facility and Gorge Trails

Experiencing the Gorge up-close.

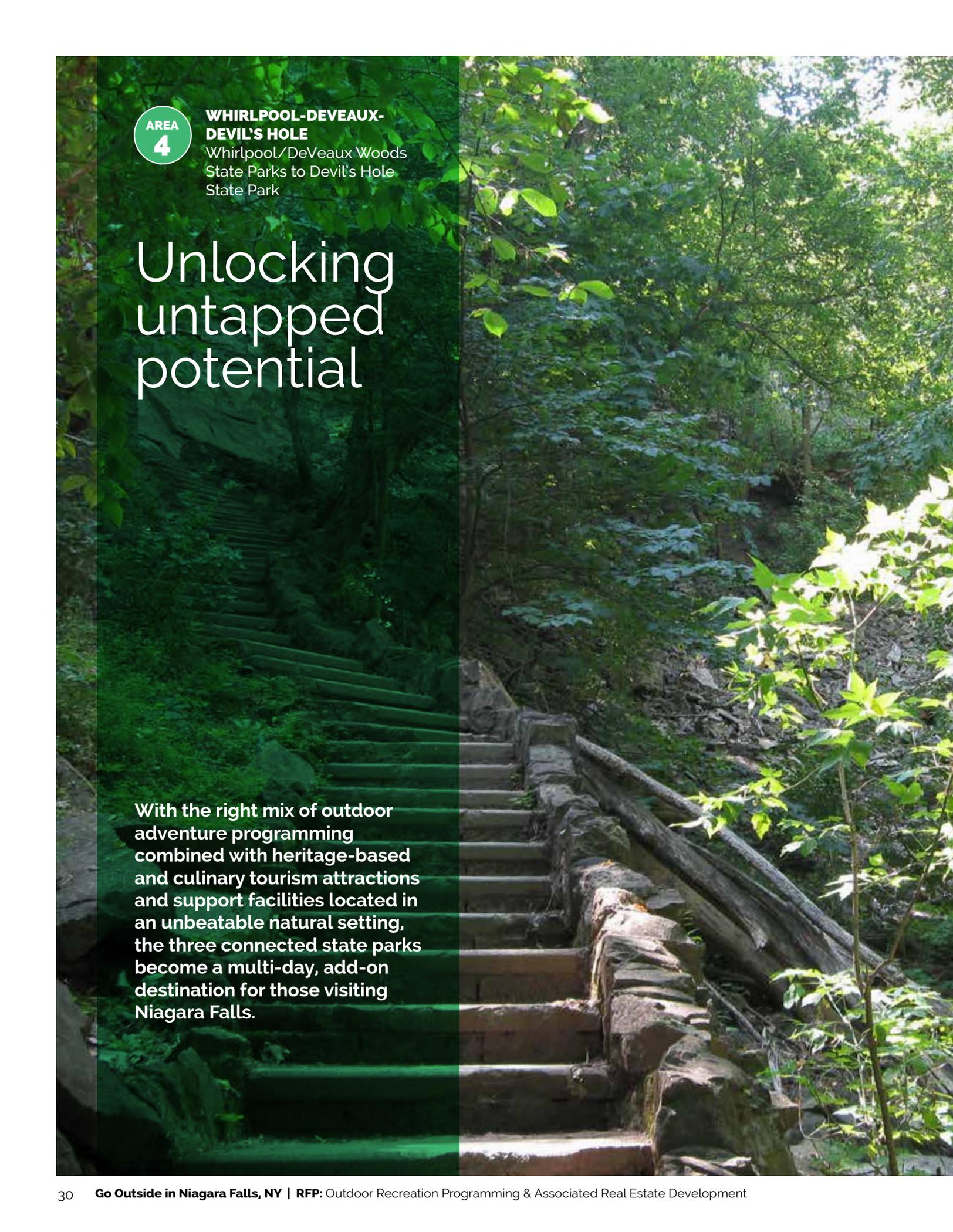
The Gorge Trail system is made up of a series of small trail sections that run parallel to the Niagara River Gorge and showcase the area's geologic beauty. The trails offer different degrees of difficulty ranging from well-developed footways to more rugged paths. As the Gorge Trails have begun to grow in popularity, additional improvements have been made in recent years including a new trailhead facility at Niagara Gorge Discovery Center to provide information on trail networks leading down into the gorge and along the gorge rim, and trail improvements in the gorge such as new stone steps in hard-to-traverse areas. However, the system has not yet benefited from a coordinated strategy to build awareness or incorporate amenities to facilitate use, such as the availability of bicycle and trail gear rental for visitors to better explore these areas, or linkages to other activities along the waterfront. Potential ideas have included: 1.) an additional hiking trailhead at the new platform base of the gorge at the former Schoellkopf Power Station - all current trails are largely cut off from this area except for the most adventurous souls. Creating easy access to the down river trails and a staging area at the base of the gorge could fully re-define hiking opportunities; 2.) building upon the trailhead facilities to include trekking, bicycle and fishing gear rental for visitors.



Future Gorge Rim Area

The largest expansion of green space since the Niagara Reservation was established in 1885.

While there is ample room to begin new outdoor activities right now, the Niagara Gorge rim will experience a significant expansion of open space over the next few years. This will involve the removal of an underutilized two-mile stretch of the Niagara Scenic Parkway (formerly the Robert Moses Parkway) from Main Street in downtown Niagara Falls to Findlay Drive. The \$42M project will also include reconstruction of Whirlpool Street and a portion of Third Street— now immediately next to the parkway—to provide north-south access to this portion of the Niagara Gorge corridor. The Parkway will be replaced with native landscaping, scenic overlooks and recreational trails to make the waterfront more accessible to all. The project would realize a fully accessible gorge, which will further enable new outdoor recreational opportunities beginning in 2020. Thus, both today and into the future, the Gorge rim offers an extensive array of possible outdoor activities if they are properly supported/facilitated, potentially ranging from cycling, to horseback riding, and to snowshoeing and cross-country skiing in the winter months.



AREA
4

**WHIRLPOOL-DEVEAUX-
DEVIL'S HOLE**

Whirlpool/DeVeaux Woods
State Parks to Devil's Hole
State Park

Unlocking untapped potential

With the right mix of outdoor adventure programming combined with heritage-based and culinary tourism attractions and support facilities located in an unbeatable natural setting, the three connected state parks become a multi-day, add-on destination for those visiting Niagara Falls.

OVERVIEW

Whirlpool, DeVeaux Woods, and Devil's Hole State Parks together represent 200 acres of seamless open space along the Niagara River connected through several hiking trails. The parks' vast size and location (situated at almost the midpoint between Niagara Falls State Park and the Power Vista Visitor Center at the Niagara Power Project) sufficiently separate them from the most visited destinations along the gorge, allowing them to develop their own identity; but close enough to serve as a main activity center to anchor major outdoor recreational activities. DeVeaux Woods' "campus area" with a number of underutilized vacant buildings becomes the focus for outdoor recreational, heritage-based and culinary programming. Whirlpool and Devil's Hole have few structures and recreational activities should build off the unique 2-level landscape that characterizes them.

DeVeaux Woods State Park is located along Lewiston Road and the Niagara Scenic Parkway, immediately east of Whirlpool State Park and the Niagara Gorge. The site was deeded by Judge Samuel DeVeaux in 1853 and developed as the DeVeaux College for Orphans and Destitute Children and later was used by Niagara University as an auxiliary campus before being transferred to State Parks in 2001. The park contains a number of historic buildings, conventional buildings, and open space resources. An old-growth forest of approximately ten acres is present in the park, located along the Parkway, while a 15+-acre meadow area of the park fronts on Lewiston Road. The former campus portion of the park is listed on the State and National Register of Historic Places.

Located just north of Niagara Falls along the Niagara Gorge, Whirlpool State Park essentially has two levels: an upper level at the top of the gorge rim and a lower level within the gorge itself. The upper level contains a large picnic grove area and conventional playground facilities. In the park's lower portion there are trails leading down almost 300 feet to the edge of the Lower Niagara River, where visitors can view Class 6 (i.e., largely non-navigable) rapids and the Niagara Whirlpool. Areas for fishing are available along the river.

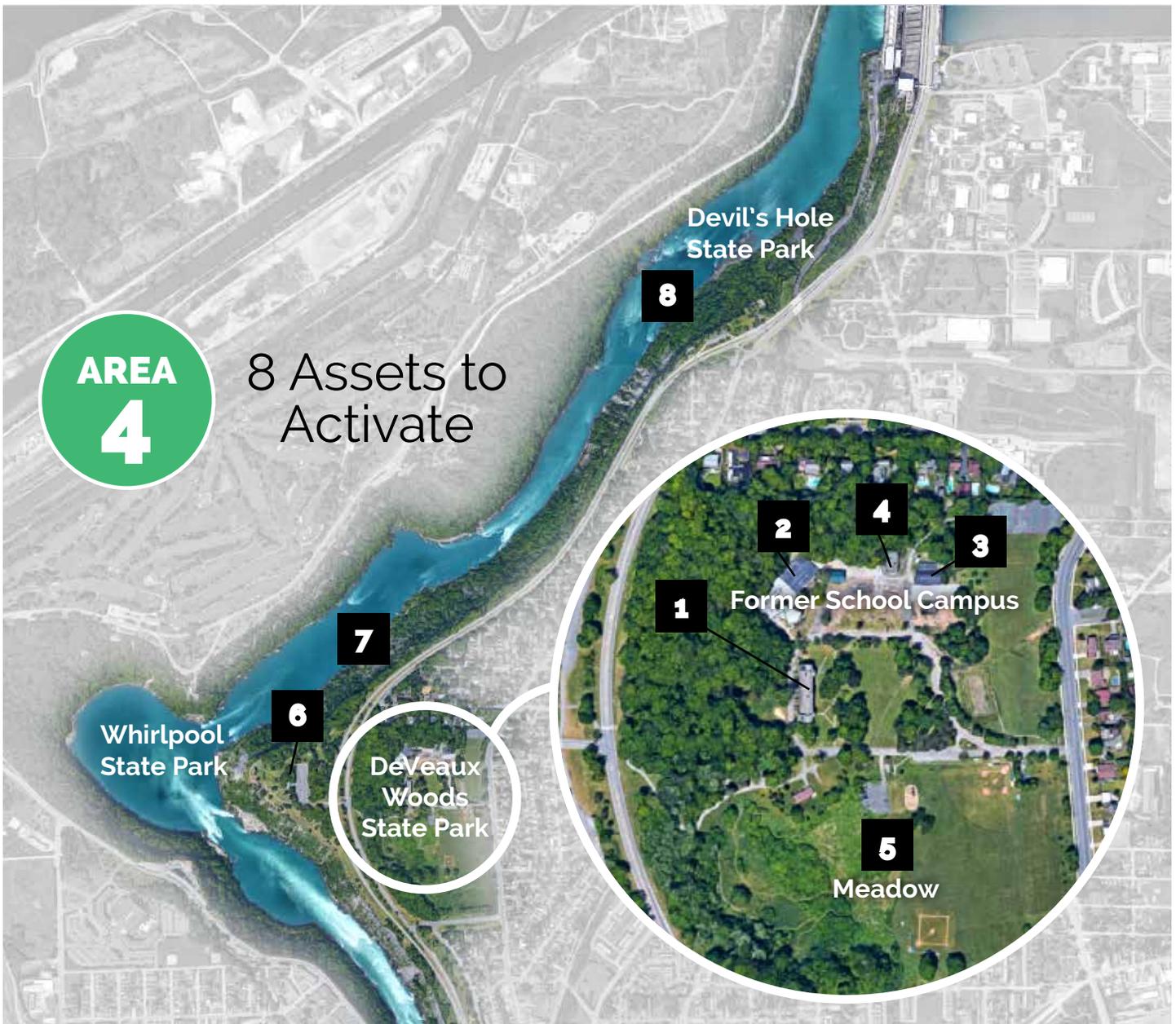
Devil's Hole State Park derives its name from Devil's Hole Rapids which lie 300 feet below the gorge rim in this park. The area encompassing the park has a rich history and was the site of the Devil's Hole Massacre of 1763 during the French and Indian War. The park consists of a considerable section of the Niagara Gorge accessed by hiking trails. The unique landscape provides a marvelous place for hiking and general



nature observation. Other features include a dense tree canopy that shelters the park's distinctive stone steps, a cave, and visible standing waves in the rapids. The park is located at the northern tip of the Lower Niagara River Rapids Significant Coastal Fish and Wildlife Habitat, which was designated for its trout and salmon fishing opportunities, as well as its gull and waterfowl concentration.

OPPORTUNITY

DeVeaux Woods, Whirlpool, and Devil's Hole State Parks are currently a best kept secret by local residents; but additional programming could open a world of opportunity for these open spaces. Continuing along the Gorge, these three State Parks present unlimited potential for outdoor recreation and other tourist attractions—from a full campus of historic buildings to support tourists' needs, to exploration of the unique face of the gorge through a variety of thrill-seeking activities.



DeVeaux Woods State Park



Schoellkopf Hall

Grand stone building is the anchor of the DeVeaux Campus.

A three-story stone masonry building built in 1926, Schoellkopf Hall was historically the dormitory building for the former DeVeaux College. It has a gross floor area of 21,000 square feet and contains 48 rooms. Carved stonework and woodwork are found throughout the structure. Possible reuses that have been considered for the building include a heritage-based lodging facility, conference facility, or urban winery.



1863 Carriage House

Dating prior to the Civil War, the Carriage House is the oldest building in DeVeaux Woods State Park.

Originally used for stables and carriage facilities, the Carriage House has a gross floor area of 1,500 square feet. As part of a comprehensive recreation strategy, restoring and re-using the structure as a centerpiece of a riding or stable operation to serve the entire gorge corridor could be considered, provided it were adequately designed to avoid impacts to adjoining neighborhoods. Other possible uses could include a sensitive adaptive reuse of the structure to house auxiliary uses associated with reuse of Schoellkopf Hall (e.g., spa or restaurant facility as part of a lodging use, barrel room/ tasting room as part of an urban winery, etc.)



Gymnasium

The former gymnasium could be repurposed for its original use.

Currently used for maintenance and storage, this 5,000 square foot structure dates back to 1869 and was originally used as the gymnasium facility for the former DeVeaux College. Possible adaptive reuses that have been considered for the facility have included a maintenance shop for a restored campus or a conventional storage space. Restoring the facility's original use as a gymnasium as part of a heritage lodging facility also is a possibility.



Power House

Restoration of this building could support other buildings or activities.

This two-story, 11,000 square foot building was constructed in the 1930s as the main boiler plant for the campus. It could be retrofitted to serve a similar use on a restored campus or adapted as an interpretive or ceremonial structure.



Meadow

A natural setting to support campus uses or become a destination itself.

Located just south of the DeVeaux campus, the meadow area currently includes local ballfields and a small neighborhood ice rink. Past ideas considered have involved active agriculture/viticulture uses in support of a winery/local-sourced food themes on the campus to supporting upscale camping through pre-positioned "yurts" or other types of modular cabins designed to fit in the landscape.

Whirlpool State Park



Comfort Station

The sole comfort station provides visitors with basic amenities.

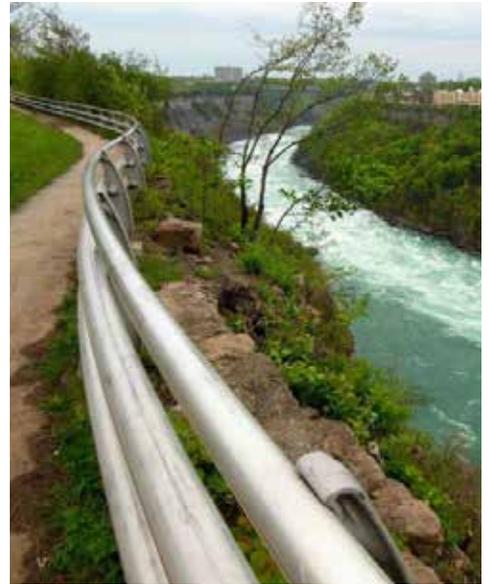
The park contains a single 2,000 square foot wood and masonry comfort station building located along the gorge rim and an adjoining surface parking lot. The building contains seasonally-open restroom facilities and contains some underutilized space. Either through adapted reuse and/or expansion onto the adjoining parking lot, the building could serve as a year-round facility that supports outfitting, food and beverage, and interpretive/orientation uses.



Trailhead, Gorge Rim & Gorge Face

One-of-a-kind opportunities for the most adventurous travelers.

Whirlpool State Park's unique topography with its upper (Gorge Rim) and lower (Gorge) areas offer opportunities for programming the most ambitious adventure activities. The upper level could accommodate recreational uses such as stable areas for gorge-wide horseback riding. A trailhead leads to the lower level and could be a point of access to zip lining courses, rock climbing or fishing amenities.



Devil's Hole State Park

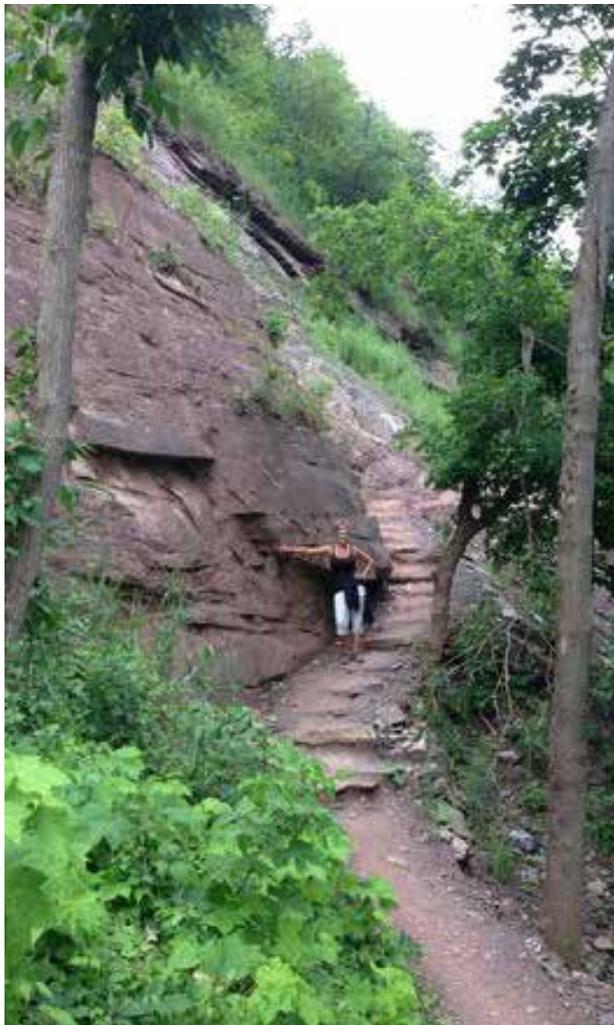


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Trailhead

Your adventure begins at the gorge overlook, then head down the stone steps.

Like Whirlpool State Park, Devil's Hole also consists of two levels. A small upper level on the gorge rim has a trailhead, parking and a single 600 square foot restroom facility and provides opportunity for outdoor recreational programming. The scenic but treacherous 410 stone steps lead down from this area from the gorge rim to its base. Fishing is a popular pastime at Devil's Hole that could be built upon. An access driveway leading to NYPA's public fishing platform is connected to one of the park's trails.



A Phased Approach

OVERVIEW

Considering the breadth of the project area and the variety of activities to be addressed, it is assumed that implementation of a comprehensive outdoor recreation program would occur progressively in phases. Ideally, planning and the roll-out of new activities would occur in regular intervals to maintain public momentum and interest, with participation and patronage building upon each successive event.

The following timeline presents one progression plan for a phased approach, presenting the general characterization of assumed complexity and time period necessary to realize various components of a program. **This is not exhaustive and is intended to only illustrate general principals regarding the State's desires in prioritizing various components of this effort.** Respondents can suggest other phasing strategies that align with their proposed activities, provided they present a plan for ALL four segments of the project area.

Assumed Complexity

- None
- Somewhat-Moderate
- Moderate-High

Level of Capital Investment

- None
- Minor
- Moderate-High

Activity and/or State Park Facility	2017	2018	2019	2020	2021
<input type="radio"/> <input checked="" type="radio"/> Bicycle Programming <ul style="list-style-type: none"> • Bicycle/cycling gear rental. • Bicycle-oriented food/beverage. • Trail marking/smart phone applications. • Introducing way stations and/or amenities along Upper River Trail. 		▶			
<input type="radio"/> <input checked="" type="radio"/> Trail Sports Programming <ul style="list-style-type: none"> • Gear rental. • Hiking-oriented food/beverage. • Trail marking/smart phone apps/Upper River Trail amenities. • Facilitated education/tour programs. 		▶			
<input type="radio"/> <input checked="" type="radio"/> Winter Sports Programming <ul style="list-style-type: none"> • X-country ski/snow shoe rental. • Trail marking/grooming of ski trails. • Activity-oriented food/beverage. 			▶		
<input type="radio"/> <input checked="" type="radio"/> Fishing Programming <ul style="list-style-type: none"> • Fishing gear rental. • Incorporation of selected fish cleaning stations. • Trail marking/smart phone applications. • Facilitated education/tour programs. 			▶		
<input type="radio"/> <input checked="" type="radio"/> Adaptive Reuse of Niagara Gorge Discovery Center/ Schoellkopf Area <ul style="list-style-type: none"> • Retrofitting/augmenting center for combination interpretative and active recreation outfitting center. • Additional elements of historic interpretation program of former power station. 				▶	
<input type="radio"/> <input checked="" type="radio"/> Rappelling and Rock Climbing Activities <ul style="list-style-type: none"> • Installation of permanent rappelling system at former Schoellkopf power station wall and/or other locations north of the Gorge Discovery Center. • Engineering/environmental feasibility and implementation of rock climbing in selected gorge locations. 				▶	

Activity and/or State Park Facility	2017	2018	2019	2020	2021
<p>  Adaptive Reuse and/or New Construction at DeVeaux Woods State Park</p> <ul style="list-style-type: none"> • Rehab and adaptive reuse of historic structures for uses that would support outdoor recreation. • Incorporation of possible new outdoor uses (e.g., vineyards, limited camping) in non-old growth forest areas. • Environmental documentation and public review of new uses. 					
<p>  Zip Line/Canopy Tour (i.e., only in Niagara Gorge areas north of Niagara Falls State Park)</p> <ul style="list-style-type: none"> • Identification and feasibility of tower or canopy platform locations. • Environmental documentation and public review of route locations. • One or more possible tour routes. 					
<p>  Adaptive Reuse at Niagara Falls State Park</p> <ul style="list-style-type: none"> • Identification of replacement space for various park functions occupying current structures. • State Historic Preservation Office consultation on proper adaptive reuse of historic structures for uses that would support outdoor recreation. 					
<p>  New Lodge/Inn Construction at Whirlpool State Park or DeVeaux Woods State Park</p> <ul style="list-style-type: none"> • Development of multi-use lodging and outdoor recreation facility. • Depending on location, in kind provision of outdoor park land to replace land used for inn/lodge. • Environmental documentation and public review of lodge/inn alternative locations. 					

Proposal Submittal Requirements



REQUIRED ELEMENTS OF PROPOSALS

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

Prospective proposers are advised to review the evaluation criteria to assure that the information provided is responsive to those criteria.

Respondents should provide the following information:

COVER LETTER AND/OR EXECUTIVE SUMMARY

- Summarize your organization's or team's ability to undertake the work being solicited for in this RFP.
- Present the major themes of your proposed approach to the effort — how you will meet the challenge. Present the main strengths of your skill sets and experience to sensitively program/operate outdoor recreation activities and associated real estate uses in natural reserve areas.
- Present key abilities of your proposed team and discuss any critical "distinguishers"— why your organization should be selected over others.

ORGANIZATION INFORMATION

- Provide an overall description of the proposed entity's organization and team and its capabilities. Include an organization chart of key players, firms, and personnel that would be involved in the effort, including lead companies, design firms, etc.
- Include resumes of key personnel members (2-page maximum for each resume) that are proposed for staffing this effort.
- Experience in working with public/private partnerships and with applicable federal, state, and local governments and/or public corporations or development authorities.
- Financial capacity, including published and publicly-available financial data for proposer, 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).

EXPERIENCE AND REFERENCES

Provide no more than ten, one-page experience sheets (Note: additional materials will not be considered) summarizing the best examples of the teams current/past projects undertaken by the company and/or members of the team that include:

- Operating facilities and/or outdoor programming at large National, State, or Provincial Parks, wildlife reserves, nature areas, or similar lands/facilities in the United States or Canada, and/or other projects of a similar scale as described in this RFP.
- Information with respect to location, size, uses, approximate contract value, and dates of engagement.
- Graphic material/photographs illustrating such other efforts.
- Contact information (i.e., name, phone, and email) for applicable reference for each representative contract.

OVERALL VISION

Proposals should discuss/present:

- **Project Understanding.** Based upon information in this RFP and from individual research, set forth your team's overall understanding of the effort, the key objectives, and overarching issues associated with realizing these objectives.
- **Vision Statement.** An overall vision for ALL segments of the project area, including:
 - What outdoor activities are best to facilitate in each area? What facilities would you need to be developed to best reach the targeted user groups of each activity?
 - How would such activities generally be located geographically in each segment of the project area? How would the plan/vision of one segment relate or complement the others
 - What are the major challenges you might foresee in implementing elements of the Program or to realize the necessary facilities and what would be your approach to dealing with those issues?



- **Ecological Sustainability.** Demonstrate, through discussion of protocols and procedures undertaken at other similar parks or reserves, the team's experience and commitment of ecological sustainability and preservation principles associated with development and operations in sensitive natural areas.

PRELIMINARY ACTIVITY/USE PLAN

- **Recreational Program and Building Use Plan.** Provide a conceptual-level plan for proposed improvements and programs for ALL segments of the project area that the Proposer would implement under a Master Concessions License.
 - Provide outdoor recreation activities that would be advanced and what capital facilities are proposed to support the actual recreational activity (e.g., zip-line or challenge course facilities, skating rinks, X-country skiing runs, etc.)
 - Present what associated uses are proposed to best facilitate such uses (e.g. equipment rental, comfort/food & beverage facilities, etc.)
 - Present any associated real estate facilities/development(s) that are proposed for new construction or adaptive reuse to support or facilitate the outdoor recreation plan (e.g., previously-presented buildings/grounds in Niagara Falls State Park, Whirlpool State Park, DeVeaux Woods State Park, and Devil's Hole State Park).
 - An explanation of how the proposed uses/development would advance overall economic development objectives outlined in this RFP, yet would still be in keeping with the ecological sustainability objectives.
- **Illustrations.** Proposals should include appropriate concept-level images, diagrams, site/floor plans, maps, and/or renderings that the respondent feels is necessary to best communicate aspects of the proposed program and real estate uses.
- **Preliminary Phasing.** What aspects of the program could be implemented relatively quickly? What would require more time and effort? How would you preliminarily suggest possible phasing?

PRELIMINARY FINANCIAL PLAN

- **Financial Model.** Describe the anticipated operating financial structure for the proposal, by venue, including a detailed description of all revenue sources, operating expenses including staffing, and estimated return on investment ("ROI"). Include a preliminary pro forma for the term of the proposed license (at least 10-years; 20-year preferred).
- Proposers must include to operating pro-forma scenarios for proposals involving proposed lodging facilities, given the anticipated time/complexity associated with ultimately realizing such facilities. This would involve development of a pro-forma scenario that includes development/operating costs and associated revenues with proposed lodging facilities and an alternate pro-forma "without" the inclusion of such facilities. In presenting their preliminary financial plan, Proposers must include a summary description of the financial/economic implications of a proposed program "with" and "without" propose lodging facilities.
- Proposers shall not assume any form of State, ESD/USA Niagara, and/or other agency funding assistance in the pro forma. However, the financial plan may identify funding "gaps" if aspects of the proposal fail to achieve a reasonable rate of return for the Proposer. In the event of a projected "gap", the Financial Plan may suggest potential options to address such gap for consideration by the State and/or ESD/USA Niagara.
- **Capital Investment and License Fee.** Each proposal is required to include a commitment to capital expenditures invested in the licensed premises, and a license fee paid to State Parks.
- Capital improvements shall generally mean additions to or costs incurred that increase the useful life of the real property, fixtures or facilities of the Licensed Premises, and shall not include normal or routine operating expenses, maintenance and upkeep of the Licensed Premises, or purchase of small equipment and supplies. The qualification of an item as a capital improvement shall be subject to the prior written approval of State Parks, as determined in its sole discretion.
- Recognizing that this opportunity is a "start up", USA Niagara would consider a license fee structure that begins not more than five years after the beginning of the license term. License fees should be expressed

as a guaranteed annual minimum, by venue, which escalates annually by the Consumer Price Index ("CPI").

- **Advertising, marketing and promotion.** Describe media, methods, programs and strategies that will be used to promote the venues and activities included in the proposal. Include examples of previous promotion campaigns for comparable projects and describe how they will be translated to this project. The costs of these efforts should be identified as separate line in the pro forma.

ADDITIONAL INFORMATION

Proposals should include any additional information and/or issues that should be considered by USA Niagara that may bear upon the proposer's operations. Please note that conditioned proposals may be rejected without further consideration.

REQUIRED FORMS AND PROCEDURES

INFORMATION FORM

To enable USA Niagara to assess a respondent's qualifications and financial capability, the respondent must complete and submit with its response the Information Regarding Qualifications and Financial Capability form included in **Attachment A** (the "Information Form") completed and signed by the respondent with the attestation of a notary public.

REQUIREMENTS FOR MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES.

New York State Law

Pursuant to New York State Executive Law Article 15-A and 5 NYCRR §§140-145 ESD/USA Niagara recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority- and women-owned business enterprises and the employment of minority group members and women in the performance of ESD/USA Niagara contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the

study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority- and women-owned business enterprises in state procurement contracting versus the number of minority- and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that ESD establishes goals for maximum feasible participation of New York State Certified minority- and women - owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State contracts.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, ESD/USA Niagara hereby establishes an overall goal of **30%** for MWBE participation, **15%** for New York State certified Minority-owned Business Enterprises ("MBE") participation and **15%** for New York State certified Women-owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). A contractor ("Contractor") on the subject contract ("Contract") must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and the Contractor agrees that USA Niagara may withhold payment pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how ESD/USA Niagara will determine a Contractor's "good faith efforts," refer to 5 NYCRR §142.8.

In accordance with 5 NYCRR §142.13, the Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and USA Niagara may withhold payment from the Contractor as liquidated damages.

Such liquidated damages shall be calculated as an

amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a bid or proposal, a bidder on the Contract ("Bidder") agrees to demonstrate its good faith efforts to achieve its goals for the utilization of MWBEs by submitting evidence thereof through the New York State Contract System ("NYSCS"), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a Bidder may arrange to provide such evidence via a non-electronic method by contacting ESD's Office of Contractor and Supplier Diversity (OCSD) at ocsd@esd.ny.gov. Please note that the NYSCS is a one stop solution for all of your MWBE and Article 15-A contract requirements.

Additionally, a Bidder will be required to submit the following documents and information as evidence of compliance with the foregoing:

A. An MWBE Utilization Plan (Form OCSD-4) with their bid or proposal. Any modifications or changes to the MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to ESD.

ESD will review the submitted MWBE Utilization Plan and advise the Bidder of ESD's acceptance or issue a notice of deficiency within 30 days of receipt.

B. If a notice of deficiency is issued, the Bidder will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to ESD/USA Niagara, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD/USA Niagara to be inadequate, ESD/USA Niagara shall notify the Bidder and direct the Bidder to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

USA Niagara may disqualify a Bidder as being non-responsive under the following circumstances:

- a) If a Bidder fails to submit a MWBE Utilization Plan;
- b) If a Bidder fails to submit a written remedy to a notice of deficiency;

- c) If a Bidder fails to submit a request for waiver; or
- d) If ESD/USA Niagara determines that the Bidder has failed to document good faith efforts.

The Contractor will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to ESD/USA Niagara, but must be made no later than prior to the submission of a request for final payment on the Contract.

The Contractor will be required to submit a Contractor's Quarterly M/WBE Contractor Compliance & Payment Report to ESD/USA Niagara, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of "Appendix X" – Standard Clauses for All New York State Contracts including Clause 12 – Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the Contractor, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

The Bidder will be required to submit a Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement (**Form OCSD-1**) to ESD with their bid or proposal.

To ensure compliance with this Section, the Bidder will be required to submit with the bid or proposal an Equal Employment Opportunity Staffing Plan (**Form OCSD-2**) identifying the anticipated work force to be utilized on the Contract.

If awarded a Contract, Bidder shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by ESD on a quarterly basis during the term of the contract.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

Form OCSD-1:

https://cdn.esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_1MWBEEOPolicyStatement.pdf

Form OCSD-2:

https://cdn.esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_2StaffingPlan.pdf

Form OCSD-4:

https://cdn.esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_4MWBEUtilizationPlan.pdf

In the event that the above links are unavailable or inactive, the forms may also be requested from ESD's Office of Contractor & Supplier Diversity ("OCSD") at ocsd@esd.ny.gov.

Diversity Practices Questionnaire

ESD has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practices of respondents is practical, feasible, and appropriate. Accordingly, respondents shall be required to include as part of their response to this procurement the Diversity Practices Questionnaire. A copy of the Questionnaire may be downloaded at:

<https://cdn.esd.ny.gov/CorporateInformation/Data/RFPs/OCSDDiversityPracticesQuestionnaire.pdf>

PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN OWNED BUSINESSES

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOB"), thereby further integrating such businesses into New York State's economy. ESD recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of ESD contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

Contract Goals

ESD hereby establishes an overall goal of 3% for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs found at: http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf. Questions regarding compliance with SDVOB participation goals should be directed to the Designated Contacts. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veterans' Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to

discuss additional methods of maximizing participation by SDVOBs on the Contract.

Contractor must document "good faith efforts" to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract.

SDVOB Utilization Plan

In accordance with g NYCRR § 252.2(i), Bidders are required to submit a completed SDVOB Utilization Plan on Form SDVOB 100 with their bid: https://esd.ny.gov/sites/default/files/SDVOB_100_Utilization_Plan.pdf

The Utilization Plan shall list the SDVOBs that the Bidder intends to use to perform the Contract, a description of the work that the Bidder intends the SDVOB to perform to meet the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Bidder acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to ESD.

ESD will review the submitted SDVOB Utilization Plan and advise the Bidder/Contractor of ESD acceptance or issue a notice of deficiency within 20 days of receipt.

If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to ESD a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five business days of notification by ESD, a request for a partial or total waiver of SDVOB participation goals on SDVOB 200. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

ESD may disqualify a Bidder's bid or proposal as being non-responsive under the following circumstances:

- (a) If a Bidder fails to submit an SDVOB Utilization Plan;
- (b) If a Bidder fails to submit a written remedy to a notice of deficiency;
- (c) If a Bidder fails to submit a request for waiver; or
- (d) If ESD determines that the Bidder has failed to document good faith efforts.

If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.

Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, ESD shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

Request for Waiver

Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the Designated Contacts at ESD for guidance.

In accordance with g NYCRR § 252.2(m), a Bidder/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form SDVOB 200, accompanied by supporting documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by ESD at that time, the provisions of clauses II (C), (D) & (E) will apply. If the documentation included with the Bidder's/Contractor's waiver request is complete, ESD shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.

Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to ESD, but must be made no later than prior to the submission of a

request for final payment on the Contract.

If ESD, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (SDVOB 101) determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, ESD may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to ESD.

Required Good Faith Efforts

In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

- (1) Copies of solicitations to SDVOBs and any responses thereto.
- (2) Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected.
- (3) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by ESD with certified SDVOBs whom ESD determined were capable of fulfilling the SDVOB goals set in the Contract.
- (4) Information describing the specific steps undertaken to reasonably structure the Contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.
- (5) Other information deemed relevant to the waiver request.

Monthly SDVOB Contractor Compliance Report

In accordance with 9 NYCRR § 252.2(q), Contractor is required to report Monthly SDVOB Contractor Compliance to ESD during the term of the Contract for the preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using form SDVOB 101 available on the ESD website and should be completed

by the Contractor and submitted to ESD, by the 10th day of each month during the term of the Contract, for the preceding month's activity to: OCSD@esd.ny.gov.

Breach of Contract and Damages

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.

ALL FORMS ARE AVAILABLE AT: <http://ogs.ny.gov/Core/SDVOBA.asp>

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 ESD or its subsidiaries from approving a 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.

To comply with STL 5-a, all respondents to this solicitation must include in their responses a properly completed Form ST-220-CA, a copy of which is accessible at the Required Forms for Vendors link at the ESD web site:

<https://esd.ny.gov/sites/default/files/ST220CA.pdf>

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. Only the prime consultant completes Form ST 220-CA, but Schedule A to Form ST 220-CA requires detailed information from the sub-consultants, such as tax ID number, etc., if applicable. Moreover, if applicable, certificates of authority must be attached by the prime consultant and all the sub-consultants.

STATE FINANCE LAW SECTIONS 139-J AND 139-K

State Finance Law Sections 139-j and 139-k (collectively, the "Procurement Requirements") apply to this RFP. These Procurement Requirements (1) govern permissible communications between potential respondents and ESD, USA Niagara or other involved governmental entities with respect to this RFP; (2) provide for increased disclosure in the public procurement process through identification of persons or organizations whose function is to influence procurement contracts, public works agreements and real property transactions; and (3) establish sanctions for 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 (x) 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; (y) 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 (each form is accessible at the Required Forms for Vendors link at the ESD web site under "RFPs/RFQs"); and (z) periodic updating of such forms during the term of any contract resulting from this RFP.

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 submittal. These forms may be downloaded at:

https://cdn.esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf

The Procurement Requirements also require ESD and USA Niagara 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, contacts with the following persons are considered permissible:

- a) Christopher Schoepflin, President
USA Niagara Development Corporation
222 First Street, 7th Floor
Niagara Falls, NY 14303
716.284.2556; 716.284.2917
usaniagara@esd.ny.gov; or
- b) Robert Sozanski, Project Manager
USA Niagara Development Corporation
222 First Street, 7th Floor
Niagara Falls, NY 14303
716.284.2556; 716.284.2917
usaniagara@esd.ny.gov

This is not a complete presentation of the provisions of the Procurement Requirements. A copy of State Finance Law Sections 139-j and 139-k can be found at:

https://cdn.esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf

All potential respondents are solely responsible for full compliance with the Procurement Requirements. Both the prime consultant and the sub-consultants complete the forms required above.

INSURANCE COVERAGE

Please note that upon selection, the Licensee will be required to demonstrate/provide the following insurance coverage:

- Commercial General Liability insurance - \$1 million per occurrence / \$2 million aggregate
- Auto Liability insurance - \$1 million each accident
- Umbrella Liability insurance - \$5 million per occurrence / \$ 5 million aggregate

- Must show evidence of Workers' Compensation insurance and Disability Benefits insurance in compliance with the laws of the State of New York and Employers Liability insurance with limits of \$1 million Bodily Injury each Accident, \$1 million Bodily Injury by Disease - Policy Limit and \$1 million Bodily Injury - Each Employee
- The USA Niagara Development Corporation ("USA Niagara"), the NYS Urban Development Corporation ("UDC") d/b/a Empire State Development ("ESD"), NYS Office of Parks Recreation & Historic Preservation ("OPRHP"), and the Power Authority of the State of New York ("NYPA") must be named as additional insureds on a primary and non-contributory basis on all of the following policies: Commercial General Liability, Auto Liability, and Excess Liability policies
- As respects General Liability, the additional insured endorsements shall be on forms at least as broad as ISO Forms CG 20 10 07 04 & CG 20 37 07 04 combined and shall not include any exclusions that limit the scope of coverage beyond that provided to the named insured. All policies listed above should include a waiver of subrogation in favor of USA Niagara, UDC d/b/a ESD, OPRHP, and NYPA.
- Professional Liability Insurance of \$2 million each claim / \$2,000,000 policy term aggregate.

An individual certificate (including hold harmless) must be provided to each of the following organizations: USA Niagara, UDC d/b/a ESD, OPRHP, and NYPA.

VENDOR RESPONSIBILITY

Respondents are asked to register in the State's Vendor Responsibility System (VendRep System). The VendRep System allows business entities to enter and maintain their Vendor Responsibility Questionnaire information in a secure, centralized database.

New York State Procurement Law requires that state agencies award contracts only to "responsible vendors". Vendors are asked to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System or may choose to complete and submit a paper questionnaire.

To enroll in and use the New York State VendRep System, see the VendRep System Instructions

available at www.osc.state.ny.us/vendrep or go directly to the VendRep system online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at helpdesk@osc.state.ny.us.

Respondents opting to file a paper questionnaire can obtain the appropriate questionnaire from the New York State VendRep website at:

http://www.osc.state.ny.us/vendrep/forms_vendor.htm

Respondents should select and execute the proper form (e.g., Non-construction, for-profit) matching the respondent company's trade industry.

PROJECT SUNLIGHT

Under the Public Integrity Reform Act of 2011, "appearances" (broadly defined and including any substantive interaction that is meant to have an impact on the decision-making process of a state entity) before a public benefit corporation such as ESD (or its subsidiaries) by a person (also broadly defined) for the purposes of procuring a state contract for services as contemplated in this RFP, must be reported by ESD/ USA Niagara to a database maintained by the State Office of General Services that is available to members of the public. If in doubt as to the applicability of Project Sunlight, Proposers and their advisors should consult the Laws of 2011, Ch. 399 for guidance.

IRAN DIVESTMENT ACT

As part of ESD/USA Niagara procurement guidelines, upon submission of proposal, the respondent (i.e., the "lead" or "prime" contractor only) shall comply with the Iran Divestment Act. The following language shall be submitted on company letterhead and signed by the Consultant;

"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."

ENCOURAGING USE OF NEW YORK STATE BUSINESSES IN CONTRACT PERFORMANCE

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for ESD or subsidiary contracts for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as sub-contractors, suppliers, protégés or other supporting roles (herein collectively called "Subcontractors").

Respondents to this RFP need to be aware that, if selected through this ESD/USA Niagara solicitation, they will strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in performing the contract, including without limitation: (i) purchasing commodities that are of equal quality and functionality; and (ii) in utilizing services and technology. Furthermore, bidders/proposers are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

Utilizing New York State businesses in State contracts will help create more private sector jobs, rebuild New York's infrastructure, and maximize economic activity to the mutual benefit of the contractor and its New York State business partners. New York State businesses will promote the contractor's optimal performance under the contract, thereby fully benefiting public sector programs that are supported by associated procurements.

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its contractors. The State therefore expects bidders/proposers to provide maximum assistance to New York businesses in their use of the contract. The potential participation by all kinds of New York businesses will deliver great value to the State and its taxpayers.

Respondents to this RFP can demonstrate their commitment to the use of New York State businesses by including (on their company letterhead) a completed version of the following questionnaire in their proposal:

Encouraging the Use of New York State Business in Contract Performance

(A) Do you anticipate the need for Subcontractors fulfilling the requirements of this ESD contract?

Yes No

(B) Will New York State businesses be used in the performance of this ESD contract as Subcontractors?

Yes No

NOTE: IF THE ANSWER TO QUESTION (B) IS "YES", PLEASE IDENTIFY NEW YORK STATE BUSINESSES THAT WILL BE USED AND ATTACH IDENTIFYING INFORMATION (E.G., NAME, ADDRESS, CONTACT INFORMATION, NATURE OF BUSINESS).

Proposal Review/ Selection Process

SELECTION PROCESS

The License will be awarded to the Entity that submits the most responsive proposal that best demonstrates relevant experience and expertise; and which, upon evaluation of all proposals received, best demonstrates its ability to achieve the objectives of this RFP; which offers the best value to the State; and which in the judgment of USA Niagara, would best serve the public interest.

USA Niagara reserves the right to reject any and all proposals, and to waive technicalities, irregularities and omissions or solicit new proposals if, in USA Niagara's sole judgment, the best interests of the State will be served thereby.

EVALUATION CRITERIA

Respondents should carefully review the goals and requirements of this RFP, including all License Documents, Attachments and Addenda.

All proposals will be evaluated on criteria that will include the following, provided that the relative value of all financial offers will be evaluated based on a standard term.

Category: Background and Experience - 40 Points

- A. Demonstrated ability to establish, start up, and maintain a multifaceted tourism/outdoor recreation business **(15 points)**. Elements to be evaluated include but are not limited to:
- a) Size, scale, complexity and long-term viability of previous projects that are comparable to the proposed project;
 - b) Economic performance of previous and current projects with which the proposer has been involved, including jobs created and economic benefits to the host community; and,
 - c) Examples of public and private partnerships in projects comparable to the proposed project.
- B. Personnel qualifications and experience (10 points). Elements to be evaluated include but are not limited to:
- a) Managerial capacity and organizational structure;
 - b) Background, experience and ability of specific individuals identified for the effort, as

demonstrated through current/past performance and references outlined in resumes; and,

- c) Availability of management resources in consideration of other business commitments of the proposer.
- C. Demonstrated financial capacity to realize the proposed project (15 points). Elements to be evaluated include but are not limited to:
- a) Expressions of interest from lenders, letters of credit, and/or performance bonding capacity;
 - b) Assets, liabilities, recent bankruptcies, equipment, facilities, personnel resources and expertise; and,
 - c) Availability of financial resources in consideration of other business commitments of the proposer.

Category: Response to the RFP - 60 Points

- D. Proposal for the development, improvement and operation of the proposed project (20 points). Elements to be evaluated include but are not limited to:
- a) The overall quality—and comprehensiveness across the entire project area (such as the level/extent of sustainable activities across the waterfront)—of the Overall Vision and the Preliminary Activity/Use Plan, its proposed timetables, the projected quality of the patron experience and the extent that the plan would complement and enhance local community development/tourism objectives and other existing/planned assets and/or development projects;
 - b) Operations plans, including, management, staffing, operating schedule, capacity for ongoing maintenance and repair of project venues, and patron hospitality and safety; and,
 - c) Public image, marketing and promotion plans including plans for creating/expanding an outdoor recreation market among a range of demographics, and maintaining customer interest.
- E. The quality of the overall financial plan and impact of the proposal (25 points). Elements to be evaluated include but are not limited to:
- a) The use of reasonable and attributable assumptions;

- b) Projected short and long-term economic benefits to the local community (e.g. amount of new or extended length of visitation across the year, sales and bed tax revenues, new job creation, etc.).
- c) Extent that the proposed Project yields the highest level of public benefits with the least amount of public investment and/or subsidy.
- d) Appropriateness of the proposal to the city, park, and waterfront setting (15 points). Elements to be evaluated include but are not limited to:
- e) Impact of the proposal on park/open space resources, including historic features;
- f) Visitor use patterns including motorized and non-motorized transportation, parking, and demands for services such as public safety; and,
- g) Environmental sustainability and "footprint" of the proposed project both during development and during ongoing operations.

Category: Return to the State - 50 Points

G. License fee. Respondents are required to respond with an annual License fee offer for term of the License as expressed on the Proposal Form.

The first six areas listed above (Items A-F) shall be evaluated by Proposal Review Panel. Proposer responses to item shall constitute the total Return to the State (RTS). The proposal offering the highest RTS shall be awarded the full 50 points allocated to this portion of the evaluation of proposals. The points to be awarded to the proposal with the next and succeeding RTS will be calculated by computing each proposal's RTS percentage of the highest RTS and multiplying that percentage by 50 (the total points available in this category). No decimal values will be considered. For evaluative purposes, decimal points are rounded down to whole numbers.

PROCESS TIMETABLE

The following table outlines target dates are intended as a guide for the procurement process:

Preliminary Procurement Schedule	
Target Date/	
Time Period	Item
JUNE 30, 2017	RFP Issue Date
JULY 27, 2017	Site Tours
AUGUST 3, 2017	Pre-Proposal Meeting/Conference Call
SEPTEMBER 15, 2017	Due Date for Proposals
SEPTEMBER 26-28, 2017	Oral Presentations
TBD	Licensee Recommendation

TOUR OF AREAS/PRE-PROPOSAL CONFERENCE CALL

Inspection of the areas/premises discussed in this RFP is recommended but not mandatory. Interested parties are encouraged to visit the parks and facilities during their normal operating hours. Tours to include available structures and park areas not open to public access will be conducted by advance reservation only.

A formal tour will be conducted on July 27, 2017 at 11:00 AM. Attendees must schedule their participation by contacting USA Niagara at 716.284.2556 before close of business on July 21, 2017. Additional tours may be scheduled as needed.

A non-mandatory Pre-Proposal Conference Call will be held on August 3, 2017 at 2:00 PM. To participate, please contact USA Niagara at 716.284.2556 prior to the close of business on July 28, 2017. During this call, prospective proposers will have the opportunity to ask questions about submittal requirements of the RFP and steps in the procurement process.

QUESTIONS/INQUIRIES

Prospective respondents have the opportunity to ask questions about submittal requirements of the RFP and subsequent steps in the procurement process.

All inquiries regarding this RFP must be addressed in writing to:

Robert Sozanski, Project Manager

USA Niagara Development Corporation

222 First Street, 7th Floor

Niagara Falls, New York 14303

or via e-mail to: usaniagara@esd.ny.gov ;

Written responses to inquiries, as appropriate, will be issued to all interested proposers in the form of addenda to the RFP.

ORAL PRESENTATIONS

All respondents who submit a conforming written proposal shall be required to make an oral presentation of their qualifications and experience, and elaborating on the substance and assumptions of the proposal. Oral presentations will be scheduled between September 26 and 28, 2017. Respondents should be prepared to make in-person presentations in this time period in Niagara Falls, NY.

DEADLINE FOR SUBMISSIONS

Respondents are required to submit ten (10) copies of their proposals prior to **2:00 P.M. local time on September 15, 2017**. Packages shall be firmly sealed in an envelope or box, clearly marked: "**Proposal for Outdoor Recreation Programming and Associated Real Estate Development, Upper & Lower Niagara River, Niagara Falls, New York; Proposal Submitted by [Proposer's Name]**"

Any proposal that arrives after the deadline date and time will be time stamped and returned, unopened to the respondent. Proposals shall be delivered to:

Christopher Schoepflin, President

USA Niagara Development Corporation

222 First Street, 7th Floor

Niagara Falls, NY 14303

USA Niagara, ESD, OPRHP and NYPA reserve 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, USA Niagara, UDC d/b/a ESD, NYPA, OPRHP, or the State of New York.

NOTES TO PROSPECTIVE RESPONDENTS

Addenda

Written addenda issued by USA Niagara shall be the only authorized method for communicating a clarification or modification of the timeline or terms of this RFP.

Proposers may contact the agency, as referenced above, prior to submission of a proposal to verify receipt of the RFP and any issued addenda.

Public Officers Restrictions

Prospective proposers are advised that Section 73(8) of the New York Public Officers Law prohibits OPRHP, ESD, USA Niagara, or NYPA employees from undertaking a service contract or concessionaire license associated with this RFP for a period of two years following departure from State employment. The provisions of this section apply equally to all New York State employees, regardless of whether the employee was full time, seasonal or part time.

Office of State Comptroller Review

Respondents are advised that the license ultimately issued as a result of this RFP is likely to be subject to review and approval by the Office of the State Comptroller ("OSC"). If this license is subject to OSC review and approval, then it shall not be valid and enforceable, nor shall OPRHP, ESD, USA Niagara or NYPA have any liability of any kind arising from or in connection with this contract, unless and until OSC approval has been received.

Food Products and Other Commodities from New York Vendors

Respondents are strongly encouraged and expected to utilize New York state businesses, and suppliers sourcing products from New York state businesses, for foods, food products, supplies and materials purchased pursuant to this license. The ultimate licensee is expected to participate in the Taste NY program and to utilize New York State businesses, and suppliers sourcing products from New York State businesses, for foods, food products, supplies and materials purchased pursuant to this license.

Use of Healthy Food Options

The ultimate licensee is expected to include a variety of healthy food choices on the menus at venues that offer food and beverages to park patrons. Healthy foods will be fresh, low in sugars and fats, and contain no artificial preservatives or artificial additives. Fried foods should be kept to a minimum. Locally sourced foods and food products are to be incorporated to the greatest extent possible. Menus must include healthy beverage options other than soft drinks, including water and juices.

The Letter of Intent and Concession License

As suggested in previous sections of the RFP, it is fully understood that a comprehensive program of outdoor recreation and associated real estate development at certain State Parks buildings/lands could not be fully realized without additional planning, feasibility, engineering, and environmental review prior to the issuance of an actual Concessions License for these activities.

Therefore, upon the recommendation of a preferred licensee, USA Niagara and OPRHP will negotiate a Letter of Intent ("LOI") that shall set out the principal terms and conditions that shall subsequently be entered into in the OPRHP Concessions License and outline a process for advancing specific due diligence items. During this period prior to issuance of Concessions License, all parties will agree to be governed by the LOI, including but not limited to responsibilities for the completion of:

- More detailed feasibility and engineering evaluation of certain components of a proposed recreation program;
- Environmental and historic documentation under the State Environmental Quality Review Act (SEQRA);
- Provision for insurance coverage and liabilities;
- Development/approval of any construction plans and timetables, budgets, and any necessary State capital assistance; and
- Arrangements for appropriate site safety and security during the LOI period.

OPRHP would ultimately enter into a concession license with the selected team for those properties and facilities selected for use and/or development. The licensed premises will extend to the structures and surrounding grounds. The term of any Concession License would not commence until all design, due diligence, environmental reviews and any other terms of the letter of intent are completed and the license is approved by the OSC. The license also cannot be subordinate to any developer financing.

The Parks, Recreation & Historic Preservation Law ("PRHPL"), Law provides that the base term of the License shall be for up to ten (10) years. However, with a capital investment of one million dollars (\$1,000,000) or more the term may be issued for an extended period of time up to and including twenty (20) years, the maximum allowable under State law, provided that the proposed length of the term bears a direct relationship to the time necessary to amortize lessee's capital investment in the project.

The pro forma submitted with a proposal must demonstrate this relationship. Consistent with PRHPL Article 3, §3.09(2-d) State Parks may consider requesting special legislation to authorize an extended term of up to a maximum of 40 years for an appropriate project that

General Terms & Conditions

is selected under this RFP. However, State Parks cannot guarantee the enactment of any such legislation and respondents are encouraged to submit proposals that comport with State Parks' existing contracting authority.

Freedom of Information Law

USA Niagara, ESD, OPRHP, and NYPA are subject to the Freedom of Information Law, which governs the process for the public disclosure of certain records maintained by the State (Public Officers Law, Sections 87 and 89).

Individuals or firms that submit proposals in response to this RFP may request that the State except all or part of such proposals from public disclosure, pursuant to Section 87(2)(d) of the Public Officers Law, on the grounds that the proposal contains trade secrets, proprietary information, or that the information, if disclosed, would cause substantial injury to the competitive position of the individual or firm submitting the information. Such exception may extend to information contained in the request itself, if public disclosure would defeat the purpose for which the exception is sought.

The request for an exception must be in writing and state, in detail, the specific reasons for the requested exception. It must also specify the proposal or portions thereof, for which the exception is requested. If USA Niagara and OPRHP grant the request for exception from disclosure, the subject proposal or portion thereof shall be kept in a secure place.

Modification or Withdrawal of Proposals

Proposals shall be firm and not revocable for a period of sixty (60) days unless withdrawn as provided herein. Modification or withdrawal of a proposal must be in writing, dated and signed by the signatory to the original proposal submission.

The modification or withdrawal must be submitted in a sealed envelope clearly marked: **"Modification [or Withdrawal] of Proposal for Outdoor Recreation Programming & Associated Real Estate Development, Upper & Lower Niagara River, Niagara Falls, New York, Proposal Submitted by [Proposer's Name]"** and will not be considered unless actually received by USA Niagara prior to the time of the scheduled opening of proposals.

GENERAL TERMS AND CONDITIONS

Neither the State, ESD, nor USA Niagara make any representations or warranties whatsoever with respect to this RFP and subsequent stages 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 RFP or otherwise furnished to respondents; the use or development, or potential use or development, of the Project 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 Project and for the adjacent properties; the absence or presence of hazardous substances or toxic materials in, under or upon the Project and the adjacent properties; compliance with environmental laws; and the suitability of the Project for any specific uses or development.

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

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

In addition to any other terms and conditions stated elsewhere, this RFP is subject to the following:

- a) The licensee must comply with all applicable federal, state and local laws and regulations.
- b) The licensee must accept the Project area in its "as is, where is" condition.
- c) Authorization by USA Niagara and/or OPRHP to undertake any programming activity or development shall be governed by a Concession License.
- d) Demolition, removal, alteration or conversion of any existing improvement or portions thereof at the Project site are to be performed at the sole cost and expense of licensee after closing under the Concession License.
- e) The State, ESD, USA Niagara, OPRHP, or NYPA will not pay for or refund any costs and expenses incurred by any respondent in responding to this RFP or subsequent selection stages or by any licensee following selection and/or designation.
- f) All determinations as to the completeness or compliance of any response/proposal or as to the eligibility, qualification or capability of any respondent will be within the sole and absolute discretion of OPRHP, based on advice of USA Niagara.
- g) Selection or designation of any respondent pursuant to this RFP or subsequent selection stages will not create any rights for the respondent including, without limitation, rights of enforcement, equity or reimbursement. The State, ESD, USA Niagara, OPRHP, or NYPA shall have no obligation or liability whatsoever to any person or entity whose response/proposal is selected or designated as a result of this RFP unless and until a Concession License with OPRHP shall have been fully executed and delivered by all parties thereto and all necessary consents and approvals necessary the applicable agencies' 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 Concession License.
- h) A respondent may be rejected if ESD/USA Niagara in their exercise of 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 the State, ESD, USA Niagara, OPRHP, and/or NYPA, 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 the State, ESD, or USA Niagara. USA Niagara is not under any legal obligation to dispose of the Project through a competitive bid process. This request does not constitute an offer of any nature and does not obligate USA Niagara to undertake any action or to proceed with the Project.

- i) USA Niagara will review all responses for completeness and compliance with the terms and conditions of this RFP, and may request from any and all of the respondents, at any time during the selection process, additional information, material, clarification, confirmation, or modification of any submitted response and/or proposal. USA Niagara may also, but is not obligated, to make requests for additional material or for clarification or modification of any submitted response and/or proposal which is incomplete or non-conforming as submitted. Submission of a proposal shall constitute the respondent's permission to USA Niagara to make such inquiries concerning the respondent and members of the respondent's team as the agencies, in their sole discretion, deem useful or appropriate including, without limitation, authorization to contact the respondent's bank(s) and credit references, and any other persons identified in the proposal and to obtain pertinent financial and other information.
- j) Under no circumstances will the State, ESD, USA Niagara and/or OPRHP pay or be liable for any costs incurred by a firm/team in responding to this RFP or subsequent stage submittals, or in connection with the transfer of rights to the Project site(s).

k) Responses and/or proposals shall be accepted from principals only. No brokerage fees, finder's fees, commissions or other compensation will be payable by the State, ESD, USA Niagara, OPRHP, or NYPA in connection with the selection of a respondent. Submission of a statement of interest and/or proposal in response to this RFP or subsequent stage constitutes an undertaking by the respondent to hold harmless and indemnify and defend the State, ESD, USA Niagara, OPRHP, and NYPA from and against any and all expenses, damages or liability (including, without limiting the foregoing, attorneys' fees and disbursements) arising out of any claim for such fees, commissions or other compensation made in connection with such respondent's response to this RFP, selection (or non-selection) thereunder or execution (or non-execution) of a Concession License.

l) Public access to material submitted by respondents to this RFP or subsequent stage shall be governed by the relevant provisions of the Freedom of Information Law, which constitutes Article 6 of the New York State Public Officers Law ("FOIL"), and regulations adopted pursuant thereto.

If any respondent submits information which it believes to be a trade secret or otherwise exempt from disclosure under FOIL, it must specifically identify such information and state in writing the reasons why the information should be exempt from disclosure. Notwithstanding the foregoing, the State, ESD, or USA Niagara shall not be liable if the State, ESD, or USA Niagara releases information, whether or not pursuant to FOIL which the respondent believes to be a trade secret or detrimental to its business.

m) In the event that USA Niagara becomes aware of any material misrepresentation in the information supplied by a respondent, USA Niagara shall have the right to reject at any time the response and/or proposal of the respondent, to refuse to negotiate or continue negotiations with the respondent and to take any other action, including retaining any deposit made by the respondent, as shall be deemed appropriate by USA Niagara, in each entity's sole discretion.

n) The ultimate selected licensee will be required to comply with ESD's/USA Niagara's Non-Discrimination and Contractor & Supplier Diversity policies will apply to this Project. The preferred developer/operator shall be required to: (i) include minorities and women in any job opportunities created, (ii) solicit and utilize Minority and Women Business Enterprise ("MWBE") for any contractual opportunities generated in connection with the Project and (iii) use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an to be determined MWBE Participation Goals.

o) The selection of a preferred developer/operator will create no legal or equitable rights in favor of the selected developer/operator, including rights of enforcement or reimbursement. A respondent's response and/or proposal for the Project is not assignable and only the party identified as the developer/ operator/principal in the selected respondent's submission will be permitted to execute the Concession License.

p) By submitting a response to this RFP or subsequent RFP(s), the respondent agrees to be bound by all the terms and condition of this RFP.

Proposal Completion Checklist

Check-off Section

- _____ 1. Cover Letter and/or Executive Summary
- _____ 2. Organization Information
- _____ 3. Experience and References
- _____ 4. Overall Vision
- _____ 5. Preliminary Activity/Use Plan and Associated Real Estate Development
- _____ 6. Preliminary Financial Plan (including pro-forma scenarios "with" and "without" lodging component)

Appendices:

Information Form:

_____ Completed, signed, and notarized form and certification
(model form included under Attachment A – may be recreated)

Non-Discrimination and Contractor/Supplier Diversity Goals:

_____ MWBE Participation/Equal Employment Opportunity Policy Statement (Completed Form OCSD-1)
EEO Staffing Plan (Completed Form OCSD-2)
MWBE Utilization Form (Completed Form OCSD-4)
SDVOB Contract Performance Use
Diversity Practices Questionnaire

Compliance with State Tax Law Section 5-a:

_____ Completed Form ST-220-CA

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"

Compliance with Vendor Responsibility System Registration:

_____ Copy of VendRep receipt

Compliance with Iran Divestment Act:

_____ Compliance Statement on Company letterhead

Compliance with Use of NYS Businesses in Contract Performance:

_____ Completed Questionnaire on Company letterhead

Attachment A

Respondent Questionnaire & Certification

(Must be Completed and Included in Proposal - may be reproduced)

Respondent Questionnaire & Certification

INFORMATION REGARDING QUALIFICATIONS AND FINANCIAL CAPABILITY

This form may be reproduced or recreated, provided it supplies the information requested.

Name of Respondent:

Address of Respondent:

Telephone Number of Respondent:

Address of Authorized Representative

Telephone Number of Authorized Representative:

1. If the Respondent is not an individual doing business in his or her own name, describe the Respondent's organization (whether a corporation, partnership or business association) and indicate the jurisdiction under whose laws the organization is organized and operated.

2. Provide the identification of, and current, and, if existing, certified public account-prepared or audited, financial statements for the Respondent and all relevant principals, shareholders, partners, or co-ventures of the Respondent, the nature and the extent of each participant's interest in the Respondent and the proposed proposal and any other information which will enable USA Niagara to assess the Respondent's financial capability should also be provided.

3. Indicate the names, addresses and phone numbers of law firm(s) that will represent the Respondent in connection with the ultimate proposal and the Development Agreement.

Name of Law Firm:

Address:

Telephone:

4. Indicate the names, addresses, and telephone numbers of accounting firm(s) representing the Respondent in connection with the ultimate proposal and Development Agreement.

Name of Accounting Firm:

Address:

Telephone:

5. Indicate the name, address, and telephone number of design firm(s) (architecture, engineering, etc.) representing the Respondent in connection with the ultimate proposal and associated Agreement.

Name of Architecture Firm::

Address:

Telephone:

Name of Engineering Firm::

Address:

Telephone:

6. Indicate the names, addresses, and telephone numbers of at least three (3) commercial or institutional credit references.

Name of Reference 1:

Address:

Telephone:

Name of Reference 2:

Address:

Telephone:

Name of Reference 3:

Address:

Telephone:

7. Identify any affiliation or relationship between the Respondent and any other development company, parent company, lending institution, or other entity that the Respondent believes will enable the USA Niagara to assess the Respondent's financial capability.

Request for Proposals

Outdoor Recreation Programming & Associated Real Estate Development

Upper and Lower Niagara River, Niagara Falls, NY

June 30, 2017

