

NOTICE TO BIDDERS

Bids: Sealed bids will be received and publicly read aloud at the Office of USA Niagara Development Corporation, 222 First Street, 7th Floor, Niagara Falls, NY 14303 for the following contract for the Cataract Commons, on **Friday, March 8, 2019, at 2:00 p.m.** Each bid must be identified, on the outside of the envelope, with name and address of the bidder and designated as bid for the project titled above.

Project Description: This project consists of the development of a park including miscellaneous site/landscape improvements located at the southeast corner of Rainbow Boulevard and Old Falls Street, Niagara Falls, NY. The scope of work includes earthwork, metal shade structures, metal planters, fabricated wood and metal marquee signage, concrete flatwork, concrete amphitheater, landscaping, and lighting.

Pre-Bid Meeting: A mandatory pre-bid meeting will be held on **Friday, February 22, 2019, at 11:00 a.m.** at The Conference and Events Center of Niagara Falls, 101 Old Falls Street, Niagara Falls, NY 14303.

Questions: Questions on this solicitation (including Requests For additional Information) must be submitted in writing and provided to the Owner no later than **Friday, March 1, 2019, at 5:00 p.m.** Requests received thereafter will not be addressed. Any questions or comments regarding this solicitation may be directed to Robert Sozanski via email at Robert.Sozanski@esd.ny.gov. Contact with any other person at USA Niagara or ESDC or the State regarding this solicitation is prohibited by law.

Contracts: The following contract will be bid at this time:

CATARACT COMMONS CIVIC IMPROVEMENTS PROJECT

Contract Documents: Contract documents will be available for examination at the locations indicated below:

Contract documents may be examined at the following locations:

Trowbridge Wolf Michaels Landscape
Architects LLP
1001 W. Seneca Street
Ithaca, NY 14850

Construction Exchange of Buffalo &
Western NY
2660 William St.
Cheektowaga, NY 14227

USA Niagara Development Corporation
222 First Street - 7th Floor
Niagara Falls, NY 14303

Contract documents may be viewed and ordered through the Avalon Plan Room, at: www.avalonbuff-planroom.com in the "Public Bid" section. If internet access is not available or if there are questions on ordering from the site, please contact Avalon Document Services at (716) 995-7777.

A non-refundable payment of \$30.00, payable to Avalon Document Services, will be required to obtain the Proposal Booklet and a CD with an electronic version of the Contract Documents. Cash payments will not be accepted. The payment includes shipping of the Proposal Booklet and CD to anywhere in the Continental United States. By submission of the \$30.00 non-refundable payment, Bidder will be registered as an official Planholder. **Only official Planholders are eligible to bid on the project.** Subcontractors, supplies,

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equipment vendors, etc. will also be required to submit the non-refundable payment in order to receive the Proposal Booklet and CD with electronic version of the Contract Documents.

If bidders wish to purchase printed copies of the Contract Documents (beyond the Proposal Booklet), they may be obtained through Avalon. Bidders acknowledge that they are responsible for review of all components of the Contract Documents, including all specification sections and drawings, regardless of how many drawings they print and in which format/size they are printed. Full-size drawings are on 24-inch by 36-inch paper.

Form of Bid: Bids must be submitted upon the proposal form(s) furnished in the Proposal Booklet, and must not be detached from the booklet. Addendum pages, if issued, shall be stapled to the original pages and submitted as required attached to the original bid form.

Bid Guarantee: Each bid shall be accompanied by an acceptable form of bid guarantee in an amount equal to ten percent (10%) of the amount of the base bid payable to USA Niagara Development Corporation as a guarantee that if the bid is accepted, the bidder will execute the Contract within ten (10) days after the notice to proceed. Failure to submit a bid bond or certified check with bid will result in automatic disqualification of bid. Failure to submit a bid on the proposal form(s) furnished in the Proposal Booklet, or submittal of form(s) detached from the Proposal Booklet will result in automatic disqualification of bid.

Definitions: The Owner shall be defined as USA Niagara Development Corporation (USA Niagara), a subsidiary of the New York State Urban Development Corporation, d/b/a Empire State Development Corporation (ESDC), 633 Third Ave, New York, NY 10017. The Construction Manager shall be defined as USA Niagara Development Corporation. The design consultant and Owner's Representative is defined as Trowbridge Wolf Michaels Landscape Architects LLP, 1001 West Seneca Street Suite 201, Ithaca, New York 14850.

Opening of Bids: At the date and time noted for receipt of proposals, the proposals will be publicly opened and read aloud. Only those bids in the hands of the USA Niagara Development Corporation, available to be read at the time and date designated above will be considered.

Owner's Rights: The USA Niagara Development Corporation reserves the right to waive any informalities, or reject any or all bids, or to make any contract which it deems to be in the best interest of the USA Niagara Development Corporation or the project sponsors.

Bid Withdrawal: No bidder may withdraw his bid within ninety (90) days after actual opening thereof.

Non-Discrimination and Contractor & Supplier Diversity: Empire State Development's Non-Discrimination and Contractor & Supplier Diversity policy will apply. The contractor shall be required to use Good Faith Efforts to achieve Minority and Women-owned Business Enterprise ("MWBE") participation of no less than 30% combined MBE/WBE related to the total value of ESD's funding. MWBE contractors are encouraged to apply. The contractor shall also be required to use Good Faith Efforts to achieve Service-Disabled Veteran-Owned Business (SDVOB) participation of no less than 3% related to the total value of ESD's funding. Additional requirements and required form can be found in the Bid Forms section of the bid package.

Prevailing Wages: Prevailing wage provisions will apply.

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Project Duration:

Contract duration is approximately **410** calendar days from **tentative award date, April 1, 2019** to Final Completion Date, **May 15, 2020**.

USA Niagara expects **substantial completion** to be **December 31, 2019**. The Contractor shall undertake project efforts and required correspondence in earnest and with diligence to meet the schedule and maintain progress despite adverse seasonal weather conditions.

Qualifications: All bidders must complete all sections of the Contractor Qualifications Statement for a bid to be declared responsive (See **Bid Forms, Attachment #1 – Contractor Qualifications Statement**). The contract will be awarded to the lowest responsible bidder that meets the minimum qualifications.

The low bidder shall demonstrate its responsibility to perform and complete all required work by submitting a statement of its experience and of any subcontractors which the low bidder intends to use to perform the work. The low bidder shall include his plan or program for providing sufficient labor and equipment to perform the project as detailed by the project documents, within the allotted time frame and sequencing for the project. Low bidder is encouraged to employ local labor.

The low bidder must demonstrate a minimum of five (5) years of experience and the completion of five (5) projects of similar scope and value. The work history shall also demonstrate project experience under accelerated work schedules, completion of work under critical deadlines and projects where site work was performed in adverse winter weather conditions. Additional qualification requirements and certifications as required by the individual technical specifications must be met by either the Prime Contractor or a qualified Subcontractor.

The prime Contractor shall obtain bid and performance bonds directly from a Surety Company with a minimum rating by A.M. Best of (A-) in the “Best’s Key Rating Guide”. The surety firm must be licensed to bond construction projects in the state of New York. The Prime Contractor and/or subcontractor(s) must demonstrate the experience level for the various work elements as listed below:

Empire State Development may require the low bidder to further demonstrate its responsibility to perform and complete the work by submitting additional information regarding the low bidder’s experience, obtaining labor/work force and financial resources. The prime Contractor shall demonstrate that they have the financial resources to perform the work. If requested by Empire State Development, additional information must be submitted by the low bidder within seven (7) calendar days of the request. All information pertaining to the bidder’s financial resources shall be submitted by a Certified Public Accountant.

Other:

Request for additional information pertaining to the bid must be submitted in writing and provided to the Owner no later than **5:00 p.m. on Friday, March 1, 2019**. Requests received thereafter will not be addressed. Any questions or comments regarding this solicitation may be directed to Robert Sozanski via email at Robert.Sozanski@esd.ny.gov. Contact with any other person at USA Niagara or ESDC or the State regarding this solicitation is prohibited by law.

Contractors performing project work must be duly licensed in the City of Niagara Falls and by other entities governing the work. Contractor’s bid is to include an acknowledgment that the Contractor (and their subcontractors and suppliers) possesses the necessary licenses (or have filed licensing applications) with the City of Niagara Falls. Contractor’s bid is to also include an acknowledgment that the Contractor (and their subcontractors and suppliers), are licensed by governing agencies of jurisdiction as required to

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complete the work and possess the requisite capabilities required by the Contract Documents including specific qualifications identified therein.

Contractor is responsible to ascertain, obtain and pay all costs for any additional licensing and permits needed to perform the work. Permits needed to complete the work, and to be obtained by the contractor are expected to include (but not necessarily limited to) City of Niagara Falls Construction Permits.

All respondents to this procurement will be required to comply with ESDC's form of agreement and insurance requirements.

Permissible Contacts: State Finance Law Sections 139-j and 139-k (collectively, the "Procurement Requirements") apply to this procurement. These Procurement Requirements: (1) govern permissible communications between potential respondents and ESD 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: (1) all communications regarding this RFP, from the time of its issuance through final award and execution of any resulting contract (the "Restricted Period"), be conducted only with the designated contact persons listed below; (2) the completion by respondents of the Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer's Affirmation of Understanding of and Agreement pursuant to State Finance Law (each form is accessible at the Required Forms for Vendors link at the ESD web site under "RFPs/RFPs" and included in the Bid Forms); and (3) 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.**

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

For the purpose of compliance with State Finance Law Sections 139-j, contact with Robert Sozanski, USA Niagara, is considered permissible. Contact information is provided above.

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: <http://esd.ny.gov/CorporateInformation/RFPs.html> (under "ESD Policy Regarding Permissible Contacts under SFL 139"). 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.

Respondents will be required to comply with State Tax Law Section 5-a and State Finance Law Section 139j-k. ESDC's policy regarding Permissible Contacts State Finance Law under Sections 139j and 139k will also apply. Respondents must complete and submit Offerer Disclosure of Prior Non-Responsibility and the Offerer's Affirmation of Understanding and Agreement to the State Finance Law. Copies of that

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policy and the forms are available at <http://www.esd.ny.gov/CorporateInformation/RFPs.html> by going to the link on that page “vendors download required forms here”.

ESD reserves the right to:

1. Amend, modify or withdraw this solicitation;
2. Revise any requirement of this solicitation;
3. Require supplemental statements or information from any responsible party;
4. Accept or reject any or all responses hereto;
5. Extend the deadline for submission of responses hereto;
6. Negotiate or hold discussions with any firm and to correct deficient responses which do not conform to the instructions contained herein;
7. Cancel, or reissue in whole or in part, this solicitation, if ESD determines in its sole discretion that it is its best interest to do so; and
8. Extend the term of any agreement on terms consistent with this procurement.

Other requirements applicable to the contract(s) are described in detail in the bid documents.

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