

REQUEST FOR PROPOSALS

Issued By
COMMONWEALTH OF KENTUCKY
FINANCE AND ADMINISTRATION CABINET on
behalf of the Department of Parks
through
Division of Real Properties

FOR LEASE

SOFTBALL COMPLEX
Administered by the Department of Parks
Louisville, Jefferson County, Kentucky 40205

Proposal Number: 03122021
Closing Date & Time: March 12, 2021 @ 4:00 p.m.

IMPORTANT

Submit Proposals To: Division of Real Properties
Third Floor – Bush Building
403 Wapping Street
Frankfort, Kentucky 40601
Attn.: Wendell Harris

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I. Intent

The Commonwealth of Kentucky ("Commonwealth"), through the Finance and Administration Cabinet, on behalf of the Department of Parks desires to issues this RFP on the lease/use of the existing, softball complex which includes three (3) softball fields, concession/restroom/office building and field space between for the operation of adult/youth softball/baseball leagues, tournaments and rentals at E. P. Tom Sawyer State Park.

II. RFP General Procedural Information

A. Pre-Proposal Conference

Offerors are highly recommended to inspect the site where services are to be performed to satisfy themselves as to all general and local conditions that may affect the performance of the Lease; to the extent such information is reasonably obtainable. In no event will failure to inspect the site constitute grounds for a claim after award of the Lease.

NOTE: For further information concerning the softball complex, please contact Wendell Harris, Property Management Program Analyst II, Division of Real Properties, at (502) 203-5051 or wendell.harris@ky.gov.

All questions regarding this solicitation should be submitted no later than March 5, 2021 to allow sufficient time to provide official answers. Participants should understand that the final, official answer or position of the Commonwealth on any material points will be stated in writing and posted to the Commonwealth of Kentucky's eProcurement website (<https://eprocurement.ky.gov>) by addendum prior to the opening. All inquiries should be directed to the Division of Real Properties, Third Floor Bush Building, Frankfort, Kentucky, 40601 or to wendell.harris@ky.gov.

B. RFP Addenda

This RFP may be supplemented or amended at any time by appropriate addenda which will be mailed to all known RFP holders and will be posted to the eProcurement website. It shall be the Offeror's responsibility to verify all addenda prior to submittal of response by viewing at <https://eProcurement.ky.gov>

C. Responsibility for Proposal Submittal

All proposals submitted shall be deemed to have been made with the full knowledge of all of the terms, conditions, provisions, specifications and requirements contained in this RFP and any addenda and enclosures thereto.

Each Offeror has the responsibility of delivering his/her proposal by the time and at the place prescribed in this RFP. Proposals received prior to the closing for receipt of proposals will remain unopened until the time scheduled for opening proposals. Any proposal received after the date and time specified in this RFP may be rejected and returned unopened to the Offeror. The Commonwealth shall not have any liability to an Offeror due to the failure of such proposal to be properly addressed or marked, or the premature opening of such a proposal due to the improper address. Neither the proposals nor their contents will be made available for public information or inspection until a determination of a Successful Offeror has been made and award is final.

Vendors are cautioned that the Restriction on Communications applies to Committee Members, as well as to any other Commonwealth employee except as listed in “D.” below.

D. Inquiries – Restriction on Communication

The Commonwealth Buyer named below shall be the **sole point of contact** throughout the procurement process. All communications, oral and written (regular, express, or electronic mail, or fax), concerning this procurement shall be addressed to:

Wendell Harris
502-203-5051
Fax – 502-564-8108
E-mail – Wendell.harris@ky.gov

From the issue date of this RFP until an Offeror is selected and the selection is announced, Offerors are not allowed to communicate with any Commonwealth Staff concerning this RFP except:

- The Commonwealth Buyer (Wendell Harris) cited in this RFP
- Commonwealth representatives during a scheduled s’ Conference; or
- Via written questions submitted to the Commonwealth Buyer (Wendell Harris)

For violation of this provision, the Commonwealth shall reserve the right to reject their proposal response.

Offerors are cautioned that the Restriction on Communications applies to Commonwealth employees except as listed in “D.”

E. No Prior Commitment or Obligation of the Commonwealth

The issuance of this RFP in no way constitutes an expressed or implied commitment by the Commonwealth to award a Lease or to pay for the costs incurred in the preparation of a response to this RFP.

The Commonwealth unconditionally reserves the right to withdraw or cancel this RFP and to reject any and all offers at any time and for any reason without recourse. Receipt of proposal materials by the Commonwealth or submission of a proposal to the Commonwealth confers no rights upon the Offeror nor obligates the Commonwealth in any manner.

No Lease resulting from this RFP can be deemed valid and/or binding until properly approved and executed by the Secretary of the Finance and Administration Cabinet.

The Commonwealth may waive minor irregularities or technicalities; however, such waiver shall in no way operate to modify the RFP requirements or provisions if the Offeror is awarded the Lease.

F. Issuing Office

This RFP is being issued by the Division of Real Properties, Finance and Administration Cabinet, on behalf of Department of Parks.

The only authority empowered to sign or obligate the Commonwealth is the Secretary, Finance and Administration Cabinet.

III. Lease Terms and Conditions

A. General

At the request of the Department of Parks, the Division of Real Properties issues this RFP on the lease/use of the Department of Parks' existing, softball complex which includes three (3) softball fields, concession/restroom building including the office and field space between parking lot and field #1 for the operation of adult/youth softball/baseball leagues, tournaments and rentals at E. P. Tom Sawyer State Park.

The Purpose of this RFP is to permit the operation of the said softball/baseball fields for organized public recreational leagues, tournaments, and related events. The Offeror is required to run a minimum of one (1) adult slow pitch softball league, and may run other category leagues as the market may support. The Offeror shall specify the softball affiliation with which it is associated.

The annual rental consideration quoted in response to this RFP shall be for a stated monetary sum which the Offeror will pay to the Commonwealth to utilize the property and operate the Softball Complex at E. P. Sawyer State Park

The Lease between the Commonwealth of Kentucky and the Offeror shall consist of (1) the Request for Proposals (RFP and any addenda thereto), (2) the Offeror's proposal submitted in response to the RFP, and (3) a Lease from the Commonwealth to the successful Offeror. In the event of a conflict in language between the documents referenced above, the provisions and requirements set forth and/or referenced in the RFP shall govern. All written addenda and supplements shall take precedence over the documents they modify.

In the event that an issue is addressed in one document that is not addressed in the other document, no conflict in language shall be deemed to occur. However, the Commonwealth reserves the right to clarify any relationship in writing with the concurrence of the Offeror and such written clarification shall govern in case of conflict with the applicable requirements stated in the RFP or the Offeror's proposal. In all other matters not affected by the written clarification, if any, the Request for Proposals shall govern.

No modification or change of any provision in the Lease shall be made, or construed to have been made unless such modification is mutually agreed to in writing by the Offeror and the Finance and Administration Cabinet, and incorporated as a written amendment to the Lease and processed through and approved by the Finance and Administration Cabinet prior to the effective date of such modification or change.

The Lease shall be construed and interpreted according to the laws of the Commonwealth of Kentucky. Any legal proceedings against the Commonwealth regarding this RFP or any resultant Lease agreement shall be brought in Commonwealth of Kentucky administrative or judicial forums. Venue will be in Franklin County, Commonwealth of Kentucky. The following are standard, boilerplate language to be included with a Lease agreement awarded as a result of this solicitation.

B. Lease Period and Rental Payment

The Lease Agreement established from this Request for Proposals (RFP) will be for the period beginning the date of execution of the agreement by the Secretary of the Finance and Administration Cabinet and ending on December 31, 2026. At expiration, the lease has the option to renew for an additional one (1), five (5) year term upon written mutual consent between the parties. Each party must give thirty (30) days written notice prior to the renewal date of January 1 each year in order to propose to any change in terms of the contract.

As rental, the Offeror shall pay to the Commonwealth at the end of each Fall and

Spring session. All payments due shall be made no later than December 1st for Fall session and July 1st for the Spring session in the Park's business office (or by electronic transfer if able).

The Commonwealth of Kentucky reserves the right to renegotiate any terms and/or conditions as may be necessary to meet requirements for the renewal period. The Offeror shall be advised of any proposed revisions prior to the renewal period. In the event proposed revisions cannot be agreed upon, either party shall have the right to withdraw from either exercising the option or continuing the lease in an extended period.

C. Service and Performance

The Offeror shall assume responsibility for all costs involved in the operation and maintenance of the Softball Complex including but not limited to:

- Concession stand operations, including stocking/inventory of concession stand, compliance with health department and obtaining certificates, and revenue
- Organizing, advertising and managing a Spring and Fall adult softball league, sanctioned by a nationally recognized sanctioning body, including but not limited to two (2) evenings of adult slow pitch softball league play and youth baseball/softball league and related practices and tournaments
- Any and all field equipment, supplies, maintenance, repair, and/or improvements, including but not limited to dirt, field conditioner, grading, bases, pitching rubbers, home plates, dugouts, lighting, observation booths, bleachers, foul poles, score boards, and fences
- Mowing and landscaping of all areas within the premises, including those areas outside of the playing fields
- Any and all necessary concession/restroom/office building equipment, supplies, maintenance, repair, and/or improvements
- Litter/trash pickup and control during and after all events, games, and practices
- Dumpster rental for collection and removal of trash generated on the premises
- Restroom and concession cleanliness
- Concession stand operations, equipment, supplies, labor, and cleaning
- Conformance with all applicable local, state, and federal laws and regulations, including but not limited to the Jefferson County Health Department
- Security of building and grounds
- Cleaning, winterizing, and securing the concessions and restrooms prior to the offseason
- Responsible for scheduling and paying for a sufficient number of umpires per game

The Offeror shall not engage nor permit their employees to engage in any offensive, injurious, or abusive use of the park premises. All softball/baseball events and services shall be conducted in the highest professional manner that will be a credit to the park. Offeror shall maintain good order at all times and shall keep the park premises used by the Offeror in a clean and sanitary condition throughout the entire term of this agreement, whether operating or not.

The Offeror agrees and covenants not to engage in any illicit or unlawful business nor to engage in any illicit social relationships with park employees, vendors, performing artists, and park guests or any other entity that would interfere with the business activity contemplated in the resulting agreement or impair the public perception of the good image of “the Nation’s finest” park system of the Commonwealth of Kentucky during the term of the resulting lease. The Offeror’s failure to perform this term or condition is deemed to be a material breach of the resulting agreement.

Inspection: The agents and employees of the Commonwealth shall have the right at all reasonable times during the term of this agreement to inspect the premises, equipment and personnel, owned, used, or employed by the Offeror in its operation at the park.

◆ Routine Maintenance and Park Services and Improvements

The Commonwealth shall be responsible for the following:

- Litter/trash clean up and control during period in between softball seasons
- Maintenance of the adjacent parking lot, including the lights

The Commonwealth will not be liable/responsible for damages to any area of the premises, including the softball complex, playing fields, concession/restroom/office building, and any associated equipment or components.

The Offeror’s use of the premises and operation of the Softball Complex at E.P. Tom Sawyer State Park are subject to, and the Offeror shall comply with all applicable local, state, and federal statutes and regulations.

D. Hours of Operation

Any outdoor, organized program held pursuant to this RFP shall commence no earlier than 7:00 a.m. and end no later than 9:30 p.m. and Offeror shall be responsible for assuring that all visitors and participants have left the premises by 10:00 p.m., the Park closing time. Any deviations from this schedule require prior written approval by the Park Manager.

E. Equipment

Any equipment/fixtures needed by the Offeror for the operation of the Softball complex shall be supplied by the Offeror, at the Offeror's expense. All goods and chattels placed in or upon or attached to the premises shall be so placed or attached at the sole risk of the Offeror and the Commonwealth shall not be liable for injury or damage to property for any cause.

The Offeror shall be responsible for obtaining insurance coverage for all damages, which may be incurred by the operation of the softball complex, including any inventory owned by the Offeror. Said insurance shall be obtained from a reputable insurance company authorized to do business in the Commonwealth of Kentucky. This coverage shall protect all personal property, including but not limited to, supplies, inventory and equipment related to the Offeror's operation of its business. The Offeror shall be responsible for furnishing to the Finance and Administration Cabinet a copy of the certificate of insurance and any renewal thereof.

F. Renovation/Alteration of the Leased Premises

The Offeror may, with prior written consent of the Commonwealth, renovate or alter the Leased premises, erect structures and install equipment in or upon the Leased premises at the Offeror's sole expense. Such improvements, structures and equipment so placed in or upon or attached to said premises shall remain the property of the Commonwealth, unless such improvements, structures, and equipment can be removed without damage to the Commonwealth's property. Upon the removal of said improvements, structures and equipment, or any portion thereof, the Offeror shall promptly repair any damage to the Leased premises resulting from the installation or removal of same and return the Leased premises to its original condition, at the Offeror's sole expense. Structures and equipment not removed from the premises at the termination, cancellation or expiration of the resulting Lease shall become the property of the Commonwealth, which may, at its sole discretion, assess the Offeror the costs of removal or repair incurred by said Commonwealth as a result of the Offeror's failure, howsoever caused, to effect the removal or repair required herein. Prior to Offeror initiating any renovation or alteration to the Leased premises, such renovation or alteration must be approved by the Commonwealth; the Finance and Administration Cabinet, the Division of Engineering/Finance and Administration Cabinet and the Department of Housing, Buildings and Construction/Public Protection and Regulation Cabinet.

The Offeror shall not hang any sign, bunting, or other advertising or decorative materials on the premises without the prior written consent of the Commonwealth. All advertising of any kind by the Offeror shall be subject to the advance approval of the Commonwealth in its sole discretion.

The Offeror agrees that it shall be responsible for paying for the cost of labor, materials and supplies which are expended as the result of any repair work which is done to the Leased premises during the resulting Lease.

The Offeror shall comply with all standards set by the State Fire Marshall's Office, and the Kentucky Occupational Safety and Health Standards Board.

Nothing in this Agreement shall in any way be deemed or construed as constituting an order or request by the Commonwealth, expressed or implied, to any contractor, subcontractor, supplier, materialman or laborer, for the construction of any improvements on, alteration to, or other improvements of the Leased premises; nor as giving the Offeror any right, power or authority to contract for or permit the rendering of any services or furnishing of materials that would give rise to the filing of any mechanic liens against the Commonwealth's property or the Offeror's Leasehold interest in the Leased premises by reason of work supplied to the Offeror. If a mechanic's or materialman's lien shall be filed against the Leased premises at any time, the Offeror shall immediately notify the Commonwealth in writing of such lien, and shall cause the same to be discharged within thirty (30) days after the notice of filing thereof by payment, deposit, bond, or Order of Court of competent jurisdiction or otherwise. If the Offeror, in good faith, disputes the validity or correctness of any lien, then the Offeror shall immediately notify the Commonwealth in writing of such dispute and may refrain from paying or causing the same to be discharged of record, but the Offeror shall diligently proceed to initiate and conduct appropriate proceedings to determine the correctness or validity of such lien. The Offeror shall not be deemed to be in default under resulting Agreement, while such proceedings or litigation are being conducted in good faith by them. However, if the Offeror fails to cause any such lien to be discharged within the period aforesaid or fails to contest the same as provided above, the Offeror shall be deemed to be in default of the resulting Agreement, which shall be a basis for termination of said Agreement.

G. Utilities, Telephone, Maintenance and Garbage Collection

The Commonwealth of Kentucky will only provide the 110 volt outlet through the facilities of the Commonwealth. **Any charges for electrical service, which are incurred by the Offeror as a result of operating the softball complex, shall be paid by the Offeror.** However, the Commonwealth shall be responsible for water and sewer costs required by the Offeror's performance or perpetuation of the activity described in this RFP.

The Offeror shall be responsible for providing at its sole expense a dedicated phone line, if desired by Offeror.

The Offeror shall be solely responsible for paying all costs relating to telephone

service.

The Offeror shall, at its own expense, be responsible for maintaining and making repairs to the Offeror's equipment.

The Commonwealth shall be responsible for maintaining and making structural repairs to the exterior of the demised premises, except in the case of damage arising from the negligent acts of the Offeror and the Offeror's agents, employees, participants, or spectators. Those repairs required as a result of the negligent acts of the Offeror, its agents, participants, or spectators employees, will be made by the Offeror, at the expense of the Offeror. The Commonwealth shall also be responsible for maintaining and repairing all existing internal systems, including but not limited to the existing plumbing, electrical, and HVAC systems. However, the Commonwealth will not be responsible for maintaining or repairing any renovation or alterations which may be agreed upon under Section IX "Renovation/Alteration of Leased Premises". Furthermore, the Commonwealth shall not be responsible for maintaining and repairing those improvements, structures and additions erected and made by the Offeror which relate solely to the operation of the softball complex.

Garbage and trash collection for the premises including, but not limited to, areas immediately surrounding the softball complex, shall be the responsibility of the Offeror. The Offeror shall store all trash, refuse and garbage in leak proof garbage containers, which the Offeror shall install and keep in repair at the Offeror's sole expense. The Offeror shall further be responsible for the general cleanliness or orderliness of the interior of the Leased premises.

H. Taxes

The Successful Offeror shall be responsible for paying all state, federal and local taxes, including but not limited to, ad valorem, taxes assessed against the operation of the softball complex.

I. Cancellation

Either party may terminate the resulting Lease by giving notice to the other party specifying the date of termination, such notice to be given not less than thirty (30) days prior to the date of such termination, time to be computed from date of mailing notice.

J. Termination for Default

If at any time during the period in which the resulting Agreement is in effect the Offeror, in the opinion of the Commonwealth, defaults on any obligation incurred hereunder, including the payment of phone line, then the Agreement shall be subject to termination by the Commonwealth, with no right of recourse remaining

with the Offeror. All rights and benefits conferred with the resulting Lease shall be deemed forfeited and the Offeror shall quietly surrender possession of the Leased property to the Commonwealth, provided however, that before any termination shall occur for default, the Offeror shall be given written notice and be allowed thirty (30) days from receipt of such notice in which to cure such default or noncompliance. If said default or noncompliance is cured within the above time period, then the Agreement shall remain in full force and effect.

K. Indemnify and Release

The Offeror shall defend, indemnify and hold the Commonwealth harmless from any and all claims, demand, damages, actions, costs, and charges to which Commonwealth may be subject or which Commonwealth may have to pay by reason of any injury to any person and the agents, officers, and employees thereof or property or loss of life or property resulting from Offeror's operation of said Softball Complex and conduct of public softball/baseball competition unless such injury or loss arises solely from the negligence of Commonwealth. Offeror shall, at its own expense, assume the defense of such claims and actions for damages arising out of such injuries and losses which may be brought against Commonwealth by third persons, and shall carry public liability insurance (see Section L below) and show proof of such insurance. The Offeror shall pay judgements which may be rendered in any such actions.

L. Liability Insurance

The Offeror shall carry and maintain public liability insurance, during the term of the resulting agreement, in the minimum amounts of \$1,000,000 per person, per accident, and \$2,000,000 per year, and \$100,000.00 property damage. Said insurance shall name the Commonwealth as an additional insured and shall contain a non-cancellation clause notifying the Commonwealth at least thirty (30) days in advance of any proposed cancellation. Copies of all insurance policies shall be submitted to the Commonwealth annually for review and approval.

The Offeror shall be responsible for annually furnishing the Commonwealth with a copy of the certificate of renewal for the insurance policies required.

M. Rules and Regulations

The Offeror shall abide by all municipal, county, state and federal laws, ordinances, rules and regulations in effect from time to time. The Offeror shall also obtain all necessary and required property Leases, permits, authorizations or certificates.

The Offeror shall be held to be an independent contractor and all persons employed by it in the exercise of the rights granted hereunder shall be its employees, servants, and agents only. The Offeror shall be responsible for

complying with the workers compensation statutes, and other applicable statutes and regulations relating to its operation.

The Offeror agrees to conform to all laws and applicable regulations prohibiting discrimination against any employee or applicant for employment because of race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation, or disability.

All ad valorem taxes which may be lawfully imposed by the State of Kentucky and its political subdivisions upon the structures and equipment of the Offeror in or upon the premises shall be paid promptly by the Offeror.

N. Assignment, Sub-Lease

The Offeror shall not voluntarily, involuntarily, or by operation of law assign, sublet, or transfer the resulting agreement or any interest established herein, or mortgage or otherwise encumber all or any part of the premises to any other person, partnership, corporation or other entity without first obtaining in each and every instance the Commonwealth and the Finance and Administration Cabinet's prior written consent, and any attempt to assign, sublet, or transfer the resulting Lease Agreement or any interest established herein, or mortgage or otherwise encumber all or any part of the premises without such consent shall be void. If an assignment of the Lease is made with the consent of the Commonwealth and the Finance and Administration Cabinet, then Offeror shall not be relieved of the performance of all other terms, covenants and conditions of the Lease. If the Offeror is a corporation, then any transfer of this Lease by merger, consolidation or liquidation, or any change in ownership of, or power to vote the majority of its outstanding voting stock shall constitute an assignment. Consent to an assignment shall not relieve the Offeror of the requirement of obtaining Finance's consent to any subsequent assignment or subletting. No assignment will be effective or binding against the Commonwealth until such time as the assignee executes an amendment reflecting such assignment.

O. Accounting

The Offeror shall keep adequate records, books, and accounts covering the business operations conducted upon the premises, in such form as the Commonwealth may prescribe, and shall employ an independent audit agency to perform annual post audits, when at the discretion of the Commonwealth an audit is desirable. Such records and books of account shall be open for inspection or audit by the agents and employees of the Commonwealth at all reasonable times. All records of products, sales, maintenance, and sanitation are to be made available to the Commonwealth for inspection upon request.

P. Responsibility for Repairs or Reconstruction in the Event of Fire, Subsidence or Other Casualty

- (a) If the demised premises shall, without fault of the Offeror, be destroyed by fire, subsidence or other casualty, or damaged as to become wholly or partially untenable, the Commonwealth may, by written notice delivered to the Offeror within thirty (30) days after such destruction or damage, elect to rebuild or repair the premises within a reasonable time after election, returning the premises to a structurally sound and tenantable condition. For that purpose, the Commonwealth may enter the premises, and rent shall abate during the time the premises are untenable. If the Commonwealth does not elect as aforesaid to rebuild or repair, then the Offeror shall have and surrender to the Commonwealth such possession. At that time, the Lease Agreement shall become void and Lease term created shall end. On such delivery and surrender being made, or on the recovery of the premises by the Commonwealth, but not before such time, the obligation of the Lease shall cease.
- (b) The Offeror shall be responsible to the Commonwealth for all damages to the Leased premises caused by fire, subsidence, or other casualty, which is the result of the Offeror's, participant's, or visitor's negligent use of the Leased premises or willful conduct.

Q. Attorney's Fees

In the event that either party takes legal action to enforce any provision of the subsequent Lease agreement, and in the event the Commonwealth prevails, the Offeror agrees to pay all expenses of such action, including attorney's fees and costs at all states of litigation as set by the court or hearing officer.

R. Notices

After award, all notices under the Lease shall be either mailed by registered or certified mail addressed, or hand delivered, to the receiving party. The customary receipt shall be conclusive evidence of such service.

S. Offer of Gratuities

By submission of proposal, the certifies that no member of or delegate of Congress, nor any elected or appointed official or employee of the Commonwealth of Kentucky has or will benefit financially or materially from this procurement. Any Lease arising from this procurement may be terminated by the Commonwealth if it is determined that gratuities of any kind were either offered to or received by any of the aforementioned officials or employees from the Offeror, his agents, or employees.

T. Commonwealth's Property

The Successful Offeror shall be responsible for the proper care and custody of any Commonwealth property furnished for the Successful Offeror's use in connection with the performance of the resulting Lease. This responsibility includes the repair and/or replacement due to loss, damage, or negligence, normal wear and tear excepted.

U. Conflict of Interest

No official or employee of the Commonwealth or no other public official of the Commonwealth of Kentucky who exercises any functions or responsibilities in the review of approval of the undertaking or carrying out of the project shall, prior to the completion of the project, voluntarily acquire any personal interest, direct or indirect, in the Lease.

V. Protection of Work, Property, Employees, and Public

The Offeror shall continuously maintain adequate protection of all his/her work from damage and shall protect the Commonwealth's property from injury or loss arising in connection with this Lease. The Offeror shall make good any such damage, injury, or loss, and shall adequately protect adjacent property as provided by law and the Lease documents.

W. Removal of Personal Property Upon Expiration or Termination for Default

All of the Successful Offeror's equipment (excluding fixtures), supplies, and materials shall be removed from the premises, at its expense, thirty (30) days after the expiration or termination of the agreement. Failure to comply indicates lack of interest; and consequently, the aforementioned articles shall be deemed abandoned by the Offeror and shall automatically become the property of the Commonwealth and to dispose of as determined to be in the best interest of the Commonwealth.

X. Right of Entry

The right is hereby reserved to the Commonwealth, its officers, agents and employees, to inspect the premises, operation and equipment, or for any purposes in connection with work necessary to the benefit of the Commonwealth.

Y. Disclosure of Financial Information

The successful Offeror agrees that the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records or other evidence which are directly pertinent to the resulting Lease for the purpose of financial audit or program review. Furthermore, any

books, documents, papers, records or other evidence provided to the Finance and Administration Cabinet, the Auditor of Public Accounts, or the Legislative Research Commission which are directly pertinent to the contract shall be subject to public disclosure pursuant to *200 KAR 5:314* regardless of the proprietary nature of the information, unless specific information is identified and exempted and agreed to by the Secretary of the Finance and Administration Cabinet as meeting the provisions of KRS 61.878(1)(c) prior to the execution of the Lease agreement. The Secretary of the Finance and Administration Cabinet shall not restrict the public release of any information which would otherwise be subject to public release if a state government agency was providing the service.

Z. Use of Softball Complex

The Offeror's operation of said Softball Complex shall consist of scheduled softball/baseball leagues and events, official practices, maintenance, renovation, and development of the softball fields. **It is understood and agreed that Department of Parks and other organized groups per park approval may use the fields under the conditions as follow:**

- Parks has the option to suspend use of Softball Complex during special events such as scheduled cross country meets, Fall Festival, BMX Nationals, Irish Classic 10k, Goose Creek 5k, Triathlon and other large events that would be negatively impacted by the operation of the Softball Complex. **These events shall be identified in writing by the Department of Parks at least 90 days in advance as to give proper notice to the Offeror.**
- Concession stands are to be equipped by the Offeror. **No alcoholic beverages shall be sold on the premises.**
- The Offeror will be assigned limited indoor storage space for motorized equipment and other large items.
- Parks reserves the right to cancel any event, practice or game due to inclement weather or unsafe conditions.

Each participant shall sign the "Waiver of Liability" to release and discharge the Commonwealth, the E. P. Tom Sawyer State Park and employees and agents of said entities and the organizers/coaches of the Softball/Baseball League of any damages, demands or action in any manner. Copies of all "Waiver of Liability" forms shall be submitted to the Commonwealth.

IV. Proposal

The selection process is being conducted based on Qualifications/Experience as defined below.

The Commonwealth will conduct a comprehensive evaluation of proposals received in response to this Request for Proposals. This evaluation will be

conducted by a committee comprised of representatives from the Department for Facilities and Support Services, the Division of Real Properties and Department of Parks. Items to be given specific attention during the evaluation process are as follows:

- Background and relevant experience, including references
- Financial
- Revenue and annual dollar amount of rent to be paid to the Commonwealth

See page 22 for evaluation score points

The above criteria are explained in more detail in the following segments of this proposal section of the RFP.

THE SUCCESSFUL OFFEROR'S PROPOSAL DOCUMENTS WILL BECOME PART OF ANY FINAL LEASE AGREEMENT. ALL ITEMS LISTED MUST BE THOROUGHLY ADDRESSED IN YOUR WRITTEN PROPOSAL.

Please include six (6) complete copies of proposal document and all attachments.

The Offeror's response shall contain the following:

◆ Transmittal Letter

The transmittal letter shall be in the form of a standard business letter and shall be signed by an individual authorized to legally bind the Offeror. This signed letter will legally bind the Offeror. It should include the name, address, and telephone number of the Offeror and, if applicable, the name, address, and telephone number of a representative authorized to act on behalf of the Offeror during the course of the Project. It shall include:

1. A statement indicating if the Offeror is a corporation, sole proprietorship, or partnership or other legal entity.
2. A statement that the Offeror is registered to do business in Kentucky or will obtain a Kentucky business Lease as well as any other documents required by law and the regulations of the Commonwealth of Kentucky prior to commencement of work.
3. A statement from the Offeror, along with evidence from the Kentucky Secretary of State, that the Offeror is in good standing and duly authorized to transact business in Kentucky, as well as certification from the Offeror that the Offeror has verified from each of its proposed subcontractors and suppliers that each is a viable, ongoing business entity, and is capable of performing its obligations to the prime contractors and its subs, and that each has supplied the Offeror (or

will supply prior to acceptance of a contract) evidence of “good standing” with the Kentucky Secretary of State.

4. A statement that the Offeror’s proposal meets all requirements, provisions, specifications, terms and conditions set forth in the RFP, or in the alternative, an explanation of any deviations from such terms and conditions, specifications, requirements or provisions.
5. A statement that the Offeror’s proposal shall remain valid for one hundred twenty (120) days after the closing date for the receipt of proposals.
6. A signed statement certifying that no personnel currently employed by, under contract with, or in any way associated with the Commonwealth have participated in any activities relating to the preparation of the Offeror’s proposal.
7. A reference to all RFP addenda received from the Commonwealth (by addenda issue date), to ensure that the Offeror is aware of all such addenda in the event that are any; if none have been received by the Respondent, a statement to that effect shall be included.
8. A statement that acknowledges and agrees to all of the rights of the Finance and Administration Cabinet including terms and conditions, and all other rights and terms specified in this RFP.
9. A statement specifying the Offeror’s contract manager, address, phone and fax number.
10. The letter shall be signed by the person with the authority to bind the Offeror.

◆ Background and Experience

The corporate background and experience section shall include from the Offeror: details of the background of the Offeror, date established, ownership (public company, partnership, subsidiary, etc.), company resources, and details of company experience relevant to the proposed softball complex.

In addition, the Offeror shall provide verifiable reports/accounts (from its Commonwealth[s]) for the previous three-year period, which demonstrates the Offeror’s satisfactory performance operating a softball complex facility similar in size and nature to the softball complex located at E.P. Tom Sawyer State Park and under a lease and/or contract arrangement similar in scope to the terms and conditions of the proposed lease resulting from this RFP.

◆ Financial Background

1. An audited financial statement for each of the last three years must be provided for the applicable legal entity submitting a proposal. This statement should, at a minimum, list all assets and liabilities and be certified by a registered certified public accountant who is not an officer of the company or individual submitting the proposal. Offeror should also include a statement of changes of financial position of the business entity within the last three- (3) years. Offeror should also include a statement of changes in financial position of the business entity within the last three (3) years. If the Offeror is a new entity incorporated for the purposes of operation of this softball complex facility, then Offeror must provide individual income tax records and financial statements for all owners and/or general partners with more than twenty percent (20%) interest, for each of the last three (3) years.
2. A current (unaudited) financial statement.
3. Bank references for the company shall be provided including name, address, and current telephone number of the given financial institution. This should include a signed authorization for release of financial information from each bank listed.
4. A description of the proposed financing plan including, but not limited to, source of credit, terms of credit and repayment schedule. Source of credit will identify credit for construction as well as long term financing of structures.

PROPOSALS SHALL BE EITHER MAILED OR DELIVERED BY March 12, 2021 at 4:00 P.M. TO:

Wendell Harris, Division of Real Properties
Finance and Administration Cabinet
3rd Floor – Bush Building
403 Wapping Street
Frankfort, Kentucky 40601

Ownership: The Division of Real Properties, for itself and such others as it deems appropriate, will have unlimited rights to all information and material developed and furnished to the Division of Real Properties. Unlimited rights are rights to use, duplicate, or, disclose, test data, drawings, and information, in whole or in part in any manner and for any purpose whatsoever without compensation to or approval from the Respondent. All text, electronic digital files, data and other products generated shall become the property of the Division of Real Properties.

**THIS SECTION MUST BE FILLED OUT AND RETURNED WITH
PROPOSAL MATERIAL.**

SCHEDULE

For the lease/use of the existing softball/baseball fields, the operation of a Softball Complex for softball/baseball leagues, located within the E.P. Tom Sawyer State Park, I propose to pay the Commonwealth of Kentucky an annual flat fee of \$_____ per year for the first five years.

NOTE: THE MINIMUM ACCEPTABLE AMOUNT IS AN ANNUAL FEE OF \$10,000.

Prices quoted in this Request for Proposal (RFP) shall remain firm for the initial period of the resulting lease. After this time, prices are subject to revision, which may be either increases or decreases. Said revisions may be requested in writing. The requesting party must finish documented evidence substantiating the validity of the request. The party to whom the request is presented must notify the requesting party of his decision within 30 days after receipt of the request of satisfactory supporting documentation whichever occur later. In the event the requested revision is refused, the requesting party shall have the right to withdraw from the lease, without prejudice. Provided, however, that the Offeror must continue service, at the specified price annual rental, until a new lease can be established (usually about 60 days).

V. SCORING AND PROJECT AWARD

Each evaluator will independently score the proposals. The Committee will select a chairman who will provide leadership and manage the activities and process of the Committee.

- The Commonwealth reserves the right to ask any Offeror for clarification, and/or additional information as may be required to carry out the evaluation process.

The evaluation criteria and weight for each is as follows:

- | | |
|-------------------------------------|------------------|
| ◆ Background and Experience (pg 15) | 45 – Max. Points |
| ◆ Financial | 30 – Max. Points |
| ◆ Proposal Amount (pg 19) | 25 – Max Points |

TOTAL MAXIMUM POINTS

100

Each Committee Member will score each criteria and indicate a total score. An average score from the Evaluators will be calculated.

**IMPORTANT - THIS SECTION MUST BE READ, FILLED OUT,
AND RETURNED WITH THE PROPOSAL:**

**AUTHENTICATION OF BID AND AFFIDAVIT OF
NON-COLLUSION AND NON-CONFLICT OF INTEREST**

I hereby swear (or affirm) under the penalty for false swearing as provided by KRS 523.040:

1. That I am the Offeror (if the Offeror is an individual), a partner (if the Offeror is a partnership) or an officer or employee of the bidding corporation having authority to sign on its behalf (if the Offeror is a corporation);
2. That the attached bid covering Kentucky Division of Real Properties Invitation No. 03122021 have been arrived at by the Offeror independently and have been submitted without collusion with, and without any agreement, understanding or planned common course of action with any other Offeror of materials, supplies, equipment or services described in the Invitation to Bid, designed to limit independent bidding or competition;
3. That the contents of the bid or bids have not been communicated by the its employees or agents to any person not an employee or agent of the Offeror its surety on any bond furnished with the bid or bids and will not be communicated to any such person prior to the official opening of the bid or bids;
4. That the is legally entitled to enter into contracts with the Commonwealth of Kentucky and is not in violation of any prohibited conflict of interest, including those prohibited by the provisions of KRS 45A.330 to 45A.340, 45A.990, 45A.164.390 or KRS 11A.040 of the Executive Branch Code of Ethics; and,
5. That I have fully informed myself regarding the accuracy of the statements made above.

NOTICE

1. Any agreement or collusion among Offerors or prospective Offerors which restrains, tends to restrain or is reasonably calculated to restrain competition by agreement to bid at a fixed price, or to refrain from bidding, or otherwise, is prohibited.
2. Any person who violates any provisions of KRS 45A.325 shall be guilty of a felony and shall be punished by a fine not less than five thousand dollars (\$5,000), nor more than ten thousand dollars (\$10,000), imprisonment for not less than one (1) year, nor more than five (5) years, or both such fine and imprisonment. Any firm, corporation or association which violates any of the provisions of KRS 45A.325 shall, upon conviction, be fined not less than ten thousand dollars (\$10,000), nor more than twenty thousand dollars (\$20,000).

ANNUAL AFFADVIT FOR BIDDERS, OFFERORS AND CONTRACTORS

Affidavit Effective Date: _____
Affidavit Expiration Date: _____
Maximum Length One-Year

REQUIRED AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS PAGE 1 OF 2

FOR BIDS AND CONTRACTS IN GENERAL:

- I. Each bidder or offeror swears and affirms under penalty of perjury, that to the best of their knowledge:
- a. In accordance with [KRS 45A.110](#) and [KRS 45A.115](#), neither the bidder or offeror as defined in [KRS 45A.070\(6\)](#), nor the entity which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth of Kentucky; and the award of a contract to the bidder or offeror or the entity which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.
 - b. The bidder or offeror swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and all subcontractors therein, are aware of the requirements and penalties outlined in [KRS 45A.485](#); have properly disclosed all information required by this statute; and will continue to comply with such requirements for the duration of any contract awarded.
 - c. The bidder or offeror swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and its affiliates, are duly registered with the Kentucky Department of Revenue to collect and remit the sales and use tax imposed by [KRS Chapter 139](#), and will remain registered for the duration of any contract awarded.
 - d. The bidder or offeror swears and affirms under penalty of perjury that the entity bidding is not delinquent on any state taxes or fees owed to the Commonwealth of Kentucky and will remain in good standing for the duration of any contract awarded.
 - e. The bidder or offeror swears and affirms under penalty of perjury that the entity bidding, is not currently engaged in, and will not for the duration of the contract engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which Kentucky can enjoy open trade, as defined in [KRS 45A.607](#).
 - f. The bidder or offeror swears and affirms that the entity bidding, and all subcontractors therein, have not violated any of the prohibitions set forth in [KRS 11A.236](#) during the previous ten (10) years, and further pledge to abide by the restrictions set forth in such statute for the duration of the contract awarded.

FOR "NON-BID" CONTRACTS (I.E. SOLE-SOURCE; NOT-PRACTICAL OR FEASIBLE TO BID; OR EMERGENCY CONTRACTS, ETC):

- II. Each contractor further swears and affirms under penalty of perjury, that to the best of their knowledge:
- a. In accordance with [KRS 121.056](#), and if this is a non-bid contract, neither the contractor, nor any member of his/her immediate family having an interest of 10% or more in any business entity involved in the performance of any contract awarded, have contributed more than the amount specified in [KRS 121.150](#) to the campaign of the gubernatorial slate elected in the election last preceding the date of contract award.

Notary Public
(Seal of notary]

Commission expires: _____

END OF RFP