

FOR LEASE

STATE-OWNED REAL PROPERTY

Dog Park License Located at E.P. "Tom" Sawyer State Park Louisville, Jefferson County, Kentucky

Invitation No: 04152020

Bid Opens: Wednesday, April 15, 2020 at 3 p.m. ET

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1. Bids must be submitted on the "From of Proposal" included within and made part of this Invitation and received at the Division of Real Properties, Department of Facilities Management, Finance and Administration Cabinet, 3rd Floor, Bush Building, 403 Wapping Street, Frankfort, Kentucky 40601-2607, not later than the specified "bid opening" time and date.
 2. The Commonwealth of Kentucky reserves the unqualified right to reject any or all bids.
 3. For further information contact Wendell Harris, State Properties Branch, Division of Real Properties, 3rd Floor, Bush Building, 403 Wapping Street, Frankfort, Kentucky 40601-2607, at (502) 564-9831 or wendell.harris@ky.gov or Nick Price, Park Manager, at (502) 429-3280, nick.price@ky.gov. M-F 8 a.m. to 4:30 p.m. ET.
 4. Anyone interested in the results of this bid opening may participate at the date and time listed above in a conference call by dialing 502-782-2663, then entering the participation code 42014.

INVITATION TO BID

GENERAL TERMS AND CONDITIONS

Section I SCOPE OF LICENSE

At the request of the Department of Parks (hereinafter referred to as Licensor), the Division of Real Properties issues this Invitation to Bid on the license of:

A portion of E.P. "Tom" Sawyer State Park in Louisville, Kentucky for the operation and maintenance of a Dog Park.

Section II LICENSE PERIOD

The license established from this Sealed Bid will begin on date of execution of a license agreement with the Commonwealth and will terminate five (5) years thereafter with an option to automatically renew for an additional five (5) one (1) year periods. The Licensee's occupancy and use of the licensed premises are subject to, and the Licensee shall comply with, all applicable state and federal statutes, rules, and regulations, and all local zoning ordinances relating to the Licensee's operation.

The license resulting from this Invitation provides for an optional renewal period and the Commonwealth of Kentucky reserves the right to renegotiate the terms and/or conditions as may be necessary to meet requirements for the extended period. Each party must give thirty (30) days written notice prior to the automatic renewal date each year in order to change any terms of the contract. In the event proposed revision cannot be agreed upon, either party shall have the right to withdraw from either exercising the option or continuing the license in an extended period.

Section III MINIMUM BID

The minimum bid that will be accepted, is \$5.00 per year per dog registered by a participating owner in addition to all monies over a working capital of \$5,000.00 which are in the Licensee's general fund (excluding monies retained in special funds for major purchases or capitalization projects such as mower replacement, field improvements, etc.) at the end of each business year. Monies or fees collected for advance registration will not be considered working capital for the current fiscal year.

Section IV USE OF THE PREMISES

The premises shall solely be used for the operation of a Dog Park. Licensee shall provide adequate information to assure that participants and visitors of Licensee-sponsored events shall park in

designated parking lots and in an organized fashion. No parking is allowed in the fields or along side of the road.

The Licensee shall not permit or suffer any offensive use of the premises, shall not permit or suffer the commission of waste upon the premises, and shall refrain from acts which have a tendency to cause undue soil erosion thereof. The Licensee shall keep the premises in good order and in clean and sanitary condition during normal use.

The Licensor does not warrant or represent the licensed premises, or any means of ingress thereto, or egress therefrom are safe, healthful, or suitable for the purpose of which they are permitted to be used under the terms of the license established from this bid. Periodic inspections by the Licensor may be conducted without notification.

The employees, servants, and agents of the Licensor shall have the right to enter upon the licensed premises at all reasonable times during the term of each license.

The Licensee shall be held to be an independent contractor and all persons employed by the exercise of the rights granted by the license shall be deemed employees, servants, and agents of the Licensee only.

Section V
CANCELLATION CLAUSE

Either party to the resulting License Agreement may cancel said License by giving written notice to the other party, specifying the date of cancellation; such notice to be given not less than thirty (30) days prior to the date of cancellation.

Section VI
TERMINATION OF LICENSE FOR DEFAULT OR BANKRUPTCY

- (a) If at any time during the period in which the license is in effect the Licensee, in the opinion of the Licensor, defaults on any obligation incurred hereunder, including the payment of rent, then the license shall be subject to termination by the Licensor with no right of recourse remaining in the license. All rights and benefits herein confirmed shall be deemed forfeited, and the Licensee shall terminate its use of the subject property, provided however, that before any termination shall occur under this section, the Licensee shall be given prior 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 license shall remain in full force and effect.
- (b) The procedure for termination of the license under this section shall be as follows:
 - (1) The Licensor shall deliver, by certified mail, to the Licensee “Notice of Termination” which shall specify (a) the nature of termination; (b) the extent to which performance

under this license is to be terminated; and (c) the date upon which such termination becomes effective.

- (2) The Licensee shall stop all operations permitted under the license on the date indicated and to the extent of specified in said “Notice of Termination”.
- (c) In the event of a termination of default, the Licensee shall be responsible for paying to the Licensor any monetary sums due the Licensor, up to and including the effective date of termination.
- (d) The rights and remedies of the Commonwealth provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.

Section VII SITE VISIT

Bidders are urged and expected to inspect the site to be licensed, and to satisfy themselves as to all general and local conditions that may affect the use of the licensed premises, to the extent such information is reasonably obtainable. In no event will a failure to inspect the site constitute grounds for a claim after award of license.

NOTE: FOR FURTHER INFORMATION CONCERNING EXACT LOCATION AND ACCESS TO SITE, PLEASE CONTACT **NICK PRICE**, PARK MANAGER, E. P. “TOM” SAWYER STATE PARK, LOUISVILLE, KENTUCKY, PHONE (502) 429-3280.

Section VIII RENOVATIONS AND IMPROVEMENTS

The Licensee may, with the prior written consent of the Licensor, renovate or erect structures and install equipment in or upon the licensed premises at the Licensee’s sole expense. Such improvements, structures, and equipment so placed in or upon or attached to said premises will remain the property of each Licensee, which may remove such improvements, structures, and equipment at any time prior to any termination, cancellation or expiration of the license. Upon the removal of said improvements, structures, and equipment or any portion thereof, the Licensee shall promptly repair any damage to the licensed premises resulting from the installation or removal of same. Structures and equipment not removed from the licensed premises within thirty (30) days at the termination, cancellation or expiration of the license shall become the property of the Licensor, which may at its sole discretion, assess the Licensee the costs of removal or repair incurred by said Licensor as a result of the Licensee’s failure, howsoever caused to effect the removal or repair required herein. All structures and equipment of the Licensee placed in or upon or attached to the premises shall be so placed or attached at the sole risk of the Licensee.

Section IX
LIABILITY INSURANCE

The Licensee shall indemnify and save the Licensor harmless from any and all claims, demands, damages, actions, costs, including attorneys fees, and charges to which said Licensor may have to pay by reason of injury to any person or property, or loss of life or property resulting from or in any way connected with the character, condition, or use of the structures, premises, or any means of ingress thereto or egress therefrom unless such injury or loss arises directly from the negligence of the Commonwealth, any of its departments or any of its officers, agents, or employees while acting within the scope of their employment. The Licensee shall, at its sole expense, assume the defense of any such claims and actions for damages arising out of such injuries or losses which may be brought against the Licensor by the Licensor by third persons; and shall pay judgements which may be rendered in any such actions.

The Licensee shall carry and maintain liability insurance, during the term of the resulting license agreement, in the minimum amounts of \$100,000.00 per person and an aggregate of \$300,000.00 per incident for personal injury, and \$100,000.00 for property damage. The Department of Parks and the Commonwealth of Kentucky shall be additional named insureds on the policy. Said insurance policy shall contain a non-cancellation clause notifying the Licensor at least thirty (30) days in advance of any proposed cancellation. Copies of all insurance policies shall be submitted to the Department of Parks, 500 Mero Street, 5th Floor, Frankfort, Kentucky 40601, prior to the commencement of the license annually for review and approval. Failure to obtain to comply with the insurance requirements herein shall be ground for immediate cancellation.

The Licensee agrees that all goods and chattels placed in or about the premises shall be at the sole risk of the Licensee and the Commonwealth shall not be liable for injury or damage to property from any cause.

Section X
UTILITIES AND MAINTENANCE

The Licensee shall be responsible for timely reimbursing the Licensor 50% of each month's water/stormwater bill for a shared utility meter serving both the licensed premises and the community gardens operated by the Licensor. The Licensor will invoice the Licensee for each reimbursement amount due.

The Licensee shall be responsible for the timely payment of each month's electricity bill for outdoor lighting at the Dog Park, as well as any other utilities that may be required by its performance or perpetuation of License.

Licensor shall provide one (1) portable restroom and determine its placement, provided, however, Licensee shall provide any additional portable restrooms needed above one.

Licensor shall provide trash containers and collect trash from said containers, provided, however, Licensee shall be responsible for assuring that trash is collected and placed in the trash containers.

Licensee shall be responsible for mowing the areas within the licensed premises, to include the area outside of the fenced Dog Park boundary to the edge of the parking lot.

Licensee shall maintain the interior of the Dog Park and be responsible for all cleanup of any waste left by their dog(s) to ensure cleanliness and to avoid potential health risks.

Section XI
RENTAL PAYMENTS

All payments due under this Agreement shall be made no later than January 15th for the previous year's operation, payable in the Park's business office.

Section XII
PERMITS AND LICENSES

The Licensee shall secure any and all permits, licenses or other enabling documents which are required by the Commonwealth of Kentucky or any of its political subdivisions in the performance of the duties or activities to be so performed by the Licensee.

Section XIII
HOURS OF OPERATION

Any outdoor, organized program held pursuant to Section 3 herein shall commence no earlier than 7:00 a.m. and end not later than 9:30 p.m., and Licensee 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 Licensor.

Section XIV
OPERATIONS RECORDS

The Licensee shall keep adequate records and books of accounts covering operations conducted upon the premises in accordance with recognized accounting practices and shall transmit a balance sheet and operating statements to the Park on an annual basis and a final report on or before the 15th day after the close of the Licensee's fiscal year. It is understood the licensee's fiscal year is January 1 to December 31. Licensee shall provide the licensor with a financial report from the period of January 1 to December 31 each year. This report shall include names, addresses, and telephone numbers of the new board members for the upcoming year. All new board members will be advised of the terms & conditions of this license agreement.

Section XV
BID AWARD

The License Agreement will be awarded based on a highest bid amount to that responsible, responsive bidder whose offer conforming to this Invitation for Bid will be most advantageous to the Commonwealth. The Commonwealth of Kentucky reserves the right to reject any or all bids and to waive technicalities. The Bidder's past performance under license shall be a consideration and may be a factor in the award of the license.

Section XVI
GOOD FAITH DEPOSIT

Bidders are instructed to furnish a bid deposit equal to one hundred dollars (\$100.00) by money order or cashier's check made payable to Kentucky State Treasure. This sum will be returned after the bid is approved by the Secretary of the Finance and Administration Cabinet, to all unsuccessful bidders and applied to the first months rent from the successful bidder.

Section XVII
ADDING TERMS AND CONDITIONS

Additional terms and conditions that come within the scope of the resulting license and found to be needed may be added to the license if mutually agreeable to both the Licensee and the Licensor.

(SEALED BID)

TO: Finance and Administration Cabinet
Departments for Facilities and Support Services
Division of Real Properties
State Properties Branch
3rd Floor - Bush Building
403 Wapping Street
Frankfort, Kentucky 40601

INVITATION NO: 04152020
BID OPENING: Wed., April 15, 2020
AT: 3 p. m. ET

BID FORM

Subject to the General Terms and Conditions an Authentication of Bid and Affidavit of Non-Collusion and Non-Conflict of Interest, I propose to pay the Commonwealth of Kentucky the following amount:

For the license of a portion of E.P. "Tom" Sawyer State Park, I propose to pay to the Commonwealth of Kentucky \$_____ per year per dog registered by a participating owner, in addition to all monies over a working capital of \$5,000.00 which are in the Licensee's general fund at the end of each business year for the term of the resulting License Agreement. I propose to utilize the unit for the purpose of operating and maintaining a Dog Park.

Minimum bid per year per dog is: \$5.00 per dog registered

**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 bidder (if the bidder is an individual), a partner, (if the bidder is a partnership), or an officer or employee of the bidding corporation having authority to sign on its behalf (if the bidder is a corporation);
2. That the attached bid or bids covering Kentucky Division of Real Properties Invitation No. 04152020 have been arrived at by the Bidder independently and have been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other lessee 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 bidder or its employees or agents to any person not an employee or agent of the bidder or 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 bidder is legally entitled to enter into the 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 .340, 45A.990, 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.

ANNUAL AFFIDAVIT 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:

- 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 delinquent 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 Executive Order No. 2018-905.
- 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):

II. Each contractor further swears and affirms under penalty of perjury, that:

- 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 121.050 to the campaign of the gubernational candidate elected in the election last preceding the date of contract award.

ANNUAL AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS

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

b. In accordance with KRS 121.330(1) and (2), and if this is a non-bid contract, neither the contractor, nor officers or employees of the contractor or any entity affiliated with the contractor, nor the spouses of officers or employees of the contractor or any entity affiliated with the contractor, have knowingly contributed more than \$5,000 in aggregate to the campaign of a candidate elected in the election last preceding the date of contract award that has jurisdiction over this contract award.

c. In accordance with KRS 121.330(3) and (4), and if this is a non-bid contract, neither the contractor, nor any member of his/her immediate family, his/her employer, or his/her employees, or any entity affiliated with any of these entities or individuals, have directly solicited contributions in excess of \$30,000 in the aggregate for the campaign of a candidate elected in the election last preceding the date of contract award that has jurisdiction over this contract.

As a duly authorized representative for the bidder, offeror, or contractor, I have fully informed myself regarding the accuracy of all statements made in this affidavit, and acknowledge that the Commonwealth is reasonably relying upon these statements, in making a decision for contract award and any failure to accurately disclose such information may result in contract termination, repayment of funds and other available remedies under law.

Signature

Printed Name

Title

Date

Company Name _____

Address _____

Phone/Email _____

Subscribed and sworn to before me by _____
(Affiant) (Title)

of _____ this _____ day of _____, 20____.
(Company Name)

Notary Public

[seal of notary]

My commission expires: _____

