

COMMONWEALTH OF KENTUCKY
FINANCE AND ADMINISTRATION CABINET
DIVISION OF REAL PROPERTIES
INVITATION FOR BIDS

FOR LICENSE

State-Owned Real Property



**Operation of a Mobile Ice Cream Concession Service at
Greenbo Lake State Park
Greenup, Greenup County, Kentucky**

Invitation No: 04282020
Bid Open: 3:00 pm EDT

INSTRUCTIONS TO BIDDERS

- (1) Bid must be submitted on the "Form of Proposal" included within and made part of this Invitation, appropriately signed and received at the Division of Real Properties, State Properties Branch, Bush Building, 3rd Floor, 403 Wapping Street, Frankfort, Kentucky 40601-2607, no 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) Due to measures to prevent the spread of the Coronavirus (Covid-19), bids will be 'publicly' read aloud, and Bidders may access the bid opening through a conference call. To access the conferencing bridge, Bidders may either dial 502-782-CONF (2663) OR 502-564-9110. Once called, Bidders will be prompted to enter a code. Bidders, as "attendees/participants" need to enter the code 42014. Please be mindful that the conference call will not begin until the moderator (Buyer: Holly Thompson) is logged in and the conference call will end once the moderator hangs up.
- (4) For further information contact Holly Thompson, Division of Real Properties, Bush Building, 3rd Floor, 403 Wapping Street, Frankfort, Kentucky 40601-2607 at 502/782-0373 or via email: holly.thompson@ky.gov .

**GENERAL TERMS AND CONDITIONS
INVITATION TO BID
MOBILE ICE CREAM CONCESSIONS OPERATIONS**

**SECTION I
Scope of Contract**

At the request of the Department of Parks (hereinafter referred to as the "Commonwealth", the Division of Real Properties issues this Invitation for Bid on:

Providing a mobile ice cream concession service at Greenbo Lake State Park, open to the general public from Memorial Day weekend thru Labor Day weekend each License year. The bidder must provide, at its sole expense, all inventory and staff for the concessions agreement, and a vehicle by which to provide the mobile ice cream concessions-type service operation at Greenbo Lake State Park.

Bidder must comply with Section 201.3, 2010 ADA; Temporary Structures are covered by ADA and the following are required:

1. Food vendor sales shall be near an accessible parking space and the parking space shall comply with Chapter 5, 2010 ADA. [NOTE: Depending on where this is located at the park, KDP may need to create one new ADA space, 8 feet wide with an 8 feet wide access aisle and above grade signage with the international symbol of accessibility.]
2. Provide an accessible route from the parking space to the food vender ordering area and to existing public restrooms (Section 206, 2010 ADA):
 - a. Route shall be minimum clear width of 36 inches wide;
 - b. Surface shall be firm and stable;
 - c. Running slope and cross slope not to exceed 1:50 (2 percent);
 - d. If curbs are in the area of the food truck, then curb ramps shall be used.
3. If condiments and utensils are provided in a separate area, then they shall be accessible at counters no higher than 34 inches.
4. If tables and chairs (or picnic tables) are provided by the vender, then 5 percent of the seating shall be accessible.
5. Cash and credit transactions shall be accessible. It may require the use of an I-pad type to device to handle credit card transactions for pin and/or signatures.

SECTION II
License Period

The License Agreement established from this Request for Bids will be a one year period, beginning upon the signature of the Secretary of the Finance and Administration Cabinet on the resulting License Agreement and continuing one year thereafter, with the option to renew automatically for five (5) additional one (1) year License periods of each, unless the Licensor gives the Licensee written notice, as provided for herein, thirty (30) days prior to the expiration of the term or any extension, that it will not be extended.

The Bidder's occupancy and use of the licensed premises are subject to, and the Bidder shall comply with all applicable state and federal statutes, rules and regulations.

SECTION III
Basis of Bid Quotations

Bids quoted in response to this Invitation shall remain firm for the initial License period of the resulting License Agreement. However, at the end of each license period and prior to any renewal of the resulting license, the Commonwealth shall review the current monetary consideration given by the Bidder and shall determine whether there is a need to increase the rental consideration paid by the Bidder. If the parties agree on a rental increase, then the License Agreement shall be amended to reflect the change.

SECTION IV
Site Visit

It is strongly suggested that Bidders inspect the site where services are to be performed to satisfy themselves as to all general and local conditions that may affect the cost of performance of the license, 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 license. The Park Manager can describe the ice cream truck route via telephone or email and will keep a listing of people that have visited the site, and the Division of Real Properties will be notified of the names of the listing prior to the bid opening. A site visit will not be scheduled.

NOTE: FOR ACCESS TO THE SITE BEING FURNISHED, PLEASE CONTACT BRENDA DANNER, PARK MANAGER, GREENBO LAKE STATE PARK AT 606-473-7324.

SECTION V
Bid Deposit

Bidders are instructed to furnish a bid deposit of \$100.00 as part of this bid. This sum will be returned to all unsuccessful Bidders. The bid deposit must be submitted by certified check or cashier's check made payable to the Kentucky State Treasurer.

SECTION VI
Method of Award

A License Agreement will be awarded to responsive and responsible Bidder submitting the proposal offering the best value to the Commonwealth. Such proposal shall be for the license and operation of the mobile ice cream concessions service at Greenbo Lake State Park. Proposal shall be evaluated based on price and experience. The Division of Real Properties reserves the right to reject any and all bids and to waive technicalities. Bidders are instructed to furnish, with the bid proposal, a description of the Bidder's past experience in operating a mobile ice cream type concession service and in retail business in general.

Review of bids received	
Criteria	Points Possible
Bid amount - % of gross receipts	95
Experience in providing concessions	5
Total Points Possible	100

SECTION VII
Mobile Ice Cream Concessions Operation and Retail Experience

Bidders are instructed to furnish, with the bid proposal, a description of the Bidder's past experience in ice cream concessions, concessions inventory, mobile ice cream/concessions operation, and in retail business in general.

SECTION VIII
Service Performance

The Bidder will be expected to provide first class quality concessions commensurate with industry standards prevailing in similar facilities in the general geographic area. The Bidder agrees to comply with such standards of quality as may from time to time be adopted by the Commonwealth.

The Bidder shall comply with such prices and quality standards as the Commonwealth may from time to time require and shall promptly change, correct, modify the price or quality of any item after written notice to do so. The selection, prices, and quality of all items so established shall not be changed without the prior written consent of the Commonwealth. Products to be sold will be nationally known brands and will be offered in a variety of selections.

The Bidder shall be allowed access to Greenbo Lake State Park campground on Thursdays through Sundays during the from the Memorial Day weekend through Labor Day weekend. The mobile ice cream concession shall make a loop through the public areas park and encompassing the campground. The Bidder shall not do, or permit to be done, in or about the premises, or in connection with its operation of the mobile ice cream concessions to store anything which is illegal or unlawful, or which is hazardous or dangerous.

The Bidder 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 Bidder must provide employee background screenings for access to the park and the Bidder must inform the Park Manager of changes to their employee status in reference to criminal charges that would prevent their access to the park.

The Bidder shall comply with all provisions of the American with Disabilities Act as it relates to the Bidder's operation of a food truck concessions operation. The Bidder shall, at its own expense, provide an adequate number of personnel required to serve properly the patrons at the premises. Such personnel shall be trained in food handling, shall be courteous, efficient, and sanitary. Persons handling the food and beverage items under the resulting Agreement shall be clean and free from any communicable diseases. The employees, servants and agents of the Commonwealth shall have the right to enter upon the licensed premises at all reasonable times during the term of the resulting license for purposes of inspecting the licensed premises and monitoring the Bidder's compliance with the terms and conditions of the resulting Agreement.

Concession contractors will be licensed and certified by the Greenup County Health Department, the Commonwealth of Kentucky and any other required licensing or permitting agency.

SECTION IX
Hours of Operation

The mobile food truck concessions operation shall be open to the general public based on the hours and operation of the state park, on Thursdays, Fridays, Saturdays, and Sundays, making a loop through the state park including the campground and public areas of the park. Hours of operation and service, beyond those stated previously, shall be set by the Bidder, based on the Bidder's assessment of demand for mobile ice cream concessions. The Bidder must provide the

Park Manager a list of employees that must gain access to the park to perform their required job duties.

SECTION X
Rental Payments

The successful Bidder shall tender rent under the License Agreement to the Department of Parks monthly at Greenbo Lake State Park Manager's office. Rent shall be paid in advance of the month for which the rent accrues, and in no event later than the first (1st) of the month.

SECTION XI
Fixture and Equipment

All equipment/fixtures used by the Bidder for the operation of the mobile ice cream concessions, including the vehicle and inventory shall be the property of the Bidder.

All goods and chattels utilized for this mobile ice cream concessions shall be so placed, or attached, at the sole risk of the Bidder and the Commonwealth shall not be liable for injury or damage to property for any cause.

The Bidder shall be responsible for obtaining insurance coverage for all damages, which may be incurred to its truck, including any inventory owned by the Bidder. 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 Bidder's operation of its business.

SECTION XII
Renovation/Alteration of Licensed Premises

The Bidder may not make any renovations and/or alterations of the licensed premises.

SECTION XIII
Utilities, Maintenance and Garbage Collection

Refuse Collection: The Department of Parks shall provide refuse collection and disposal of waste materials, except as provided herein, the common-use areas and from the grounds.

The Bidder is responsible for disposal of waste materials that it or its employees create in the licensed area(s). The Department of Parks retains the authority to require the Bidder to maintain the areas adjacent to its licensed space clean of trash. If the Bidder fails to clean up its area after being requested to do so by the Department of Parks, the Licensor may have the area cleaned and bill the Bidder for the time and material required to dispose of the refuse. The Department of Parks shall not collect nor dispose of any waste and/or material which is subject to regulation by

any governmental agency, for example, the Kentucky Natural Resources and Environmental Protection Cabinet, the United States Environmental Protection Agency, or the United States Department of Energy.

SECTION XIV
Cancellation Clause

Either party may terminate the resulting license 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.

SECTION XV
Termination for Default

If at any time during the period in which the resulting Agreement is in effect, the Bidder, in the opinion of the Commonwealth, defaults on any obligation incurred hereunder, including the payment of rent and utilities, then the Agreement shall be subject to termination by the Commonwealth, with no right of recourse remaining with the Bidder. All rights and benefits conferred within the resulting license shall be deemed forfeited and the Bidder shall quietly surrender possession of the demised property to the Commonwealth, provided however, that before any termination shall occur for default, the Bidder 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.

SECTION XVI
Indemnity and Liability Insurance

The Bidder shall indemnify and save the Commonwealth harmless from any and all claims, demands, damage actions, costs, including attorney's fees, and charges to which the Bidder may be subject or which said Commonwealth may have to pay by reason of any injury to any person or property, or loss of life or property resulting from or in any way connected with the character, or use of the structures, premises, or any means of ingress thereto or egress therefrom described herein. The Bidder 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 Commonwealth by third persons; and shall pay judgments which may be rendered in any such actions.

Bidder shall carry and maintain public liability insurance, during the term of the resulting agreement, in the minimum amounts of \$300,000.00 per person and an aggregate of \$1,000,000.00 per accident for personal injury, 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 Bidder shall be responsible for annually furnishing the Commonwealth with a copy of the certificate of renewal for the insurance policies required by Section XI Equipment and Section XVI Liability Insurance.

SECTION XVII
Rules and Regulations

The Bidder shall abide by all municipal, county, state and federal laws, ordinances, rules and regulations of the Commonwealth as in effect from time to time (to the extent that Commonwealth's rules and regulations are not inconsistent with the terms of the License Agreement). The Bidder shall also obtain all necessary and required property licenses, permits, authorizations or certificates from any and all local, state, and federal governmental agencies. The Bidder agrees that should its operation be shut down for its willful or negligent failure to comply with the requirements of the Health Department of Commonwealth of Kentucky, the Bidder shall be in default of the License Agreement and said Agreement will be terminated under Section XV.

The Bidder 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), material 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 Bidder in or upon the premises shall be paid promptly by the Bidder.

SECTION XVIII
Assignment, Sublease

The Bidder 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 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 license is made with the consent of the Commonwealth and the Finance and Administration cabinet, then Bidder shall not be relieved from the payment of all rent according to the terms hereof or for the performance of all other terms, covenants and conditions of the License. If the Bidder is a corporation, then any transfer of this license 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 of obtaining Finance's consent to any subsequent assignment of subletting. No assignment will be

effective or binding against the Commonwealth until such time as the assignee executes an amendment reflecting such assignment.

SECTION XIX
Accounting

The Bidder 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.

SECTION XX
Holdover

In the event the Bidder remains in possession of the licensed premises after the expiration date of the resulting License Agreement, and without execution of a new License or License Renewal Addendum, the Bidder, at the option of the Commonwealth, shall be deemed to be occupying the licensed premises as a Licensee from month-to-month, subject to all of the conditions, provision and obligations of the License Agreement insofar as the same are applicable to a month-to-month License.

SECTION XXI
Amendment of Resulting License Agreement

It is agreed by the parties to the resulting License Agreement that all prior negotiations have been merged into said resulting Agreement, which may not be modified, altered or amended, except by an Amendment to License Agreement, executed by all parties to the resulting Agreement.

SECTION XXII
Construction of Resulting License Agreement

It is agreed by the parties hereto that all questions as to the execution, validity, interpretation, construction and performance of the resulting License Agreement shall be governed by the laws of the Commonwealth of Kentucky. Furthermore, the parties hereto further agree that any legal action which is brought on the basis of said Agreement shall be filed in Franklin County, Kentucky.

SECTION XXIII
Financial Auditor or Program Review

The Licensee, as defined in KRS 45A.030 (9), agrees that the Department of Parks, 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 this License for the purpose of financial audit or program review. Furthermore, any books, documents, papers, records or other evidence provided to the Department of Parks, 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 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 License. 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.

SECTION XXIV
Definition of Gross Receipts

“Gross Receipts” shall be the total amount of cash or credits received by the Bidder from all business, including receipts from sale of food/grocery items; paraphernalia, souvenirs, any and all other incidental income, including the total sale amount of consigned items, resulting from the term of the License Agreement. Gross receipts shall also include, for the purposes of the resulting license, Kentucky Tax, writing fees for licenses, and Federal Excise tax on those items subject to it, are exempt from the gross receipts for fee purposes.

Gross receipts as defined in reference to revenue derived from any and all consigned items, such as vending machines, located on or about the properties, shall mean total dollar sales derived from the sale of said items, as opposed to commissions received by the Bidder.

FORM OF PROPOSAL (REQUEST FOR BIDS)

TO: Finance and Administration Cabinet INVITATION NO: 04282020
Department for Facilities and Support Services
Division of Real Properties BID OPENING:
3rd Floor, Bush Building
403 Wapping Street AT: 3:00 p.m. EDT
Frankfort, Kentucky 40601-2607

BID FORM

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

For the right to provide a mobile ice cream concessions service throughout Greenbo Lake State Park, including the campground and public areas of the park, Bidder proposes to pay \$_____ per month OR pay _____% of gross receipts derived from the mobile ice cream concession for only those months the ice cream concessions service is in operation at the park.

I have enclosed my bid deposit equal to \$100.00, and a summary of past experience with mobile food truck concessions operation and retail business.

SIGNED:

BIDDER

**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 in 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. **04282020** 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 Licensee 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 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.

**STATEMENT OF FINAL DETERMINATION
OF VIOLATIONS PURSUANT TO KRS 45A.485**

Pursuant to KRS 45A.485, the Bidder shall reveal to the Commonwealth, prior to the award of a contract, any final determination of a violation by the Bidder within the previous five (5) year period of the provisions of KRS Chapters 136, 139, 141, 337, 338, 341, and 342.

For the purpose of complying with the provisions of KRS 45A.485, please list any final determination(s) of violation(s) of KRS Chapters 136, 139, 141, 337, 338, 341, and 342, which have been rendered against the Bidder within the five (5) years preceding the award of this contract. Please include the date of the determination and the state agency issuing the determination. (Please use extra sheets if necessary.)

<u>KRS Violation</u>	<u>Date</u>	<u>State Agency</u>
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The Bidder is further notified that KRS 45A.485 requires that for the duration of this contract, the Bidder shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341, and 342, which apply to the Bidder's operations. KRS 45A.485 further provides that the Bidder's failure to reveal a final determination of a violation of KRS Chapters 136, 139, 141, 337, 338, 341, and 342, or failure to comply with the above-cited statutes for the duration of the contract, shall be grounds for the Commonwealth's cancellation of the contract, and the Bidder's disqualification from eligibility to bid or submit proposals to the Commonwealth for a period of two (2) years.

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.

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.
 - 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.

Solicitation/Contract #: _____

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

- 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 and/or Cell _____

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: _____

