

**COMMONWEALTH OF KENTUCKY
FINANCE AND ADMINISTRATION CABINET
DIVISION OF REAL PROPERTIES
REQUEST FOR BIDS (RFB)**

**On the Installation, Operation, and Maintenance of
Six (6) Food/Snack Vending Machines at
Cumberland Falls State Resort Park
Whitley County, Kentucky
Department of Parks**

**RFB NO. 042624
BID OPENS: APRIL 26, 2024 @ 2:00 P.M. EDST**

INSTRUCTIONS TO BIDDERS

- (1) Bid must be submitted on the "Form of Proposal" included within and made part of this RFB, appropriately signed and received at Finance and Administration Cabinet, Division of Real Properties, Bush Building, 3rd Floor, 403 Wapping Street, Frankfort, Kentucky 40601-2607, no later than the specified "bid opening" date and time.
- (2) The Commonwealth of Kentucky reserves the unqualified right to reject any or all bids.
- (3) 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: Jamie Bryant) is logged in and the conference call will end once the moderator hangs up.
- (4) For further information contact Jamie Bryant, State Properties Branch, Division of Real Properties, 3rd Floor, Bush Building, 403 Wapping Street, Frankfort, Kentucky 40601-2607, Email: Jamie.Bryant@ky.gov, Phone: 502-782-0363

Cumberland Falls State Resort Park: within the park there is a 60' waterfall with a moonbow visible on a clear night under a full moon. The historic Dupont Lodge, built of massive hemlock beams and knotty pine, offers a spectacular view of the Cumberland River Valley. It's the perfect retreat after a day of hiking, rafting, swimming, or horseback riding. The park also includes one- and two-bedroom cottages, 50 campsites with electric and water hookups, meeting rooms, an Olympic-size pool boating, and fishing.

GENERAL TERMS AND CONDITIONS

SECTION I

Scope of Contract

At the request of the Department of Parks, the Finance and Administration Cabinet, through the Division of Real Properties, hereinafter referred to as the "Commonwealth," issues this RFB for a License Agreement for:

The installation, operation, and maintenance of six (6) food/snack (including vending machines) at the following locations within Cumberland Falls State Resort Park, Whitley County, Kentucky.

The food/snack vending machines shall be located:

Dupont Lodge: one food vending machine; indoor location, 2nd Floor

Pool: two (2) food vending machines; outdoor location, under roof

Housekeeping at Business Office: one (1) food vending machine; indoor location

Visitor's Center: two (2) food vending machines; outdoor location, no roof, near the Falls, beside Snack Shack

All vending machines must have credit card readers and technology for Tap to pay, Apple and Google Pay, etc. No cash machines.

The outdoor locations shall have either a chilled vending machine at each location or shall supply only those foods/snacks that will not melt (chips, nuts, trail mix, dried fruits, etc). Another option might include a vending machine that offers frozen treats and ice cream.

All locations have electric service. The Commonwealth will only provide the 110-volt outlet through the facilities of the Commonwealth of Kentucky.

Bids submitted shall be for a stated percentage of gross receipts derived from the installation, operation, and maintenance of the vending machines.

SECTION II
License Period and Rent Payable to the Commonwealth

The License Agreement established from this RFB will be for the period from the date of execution of a license agreement by the Secretary of the Finance and Administration Cabinet and expire one year thereafter, with the option to renew for five (5) additional one-year periods, unless either party gives the other party 30 days prior written notice of its intent not to continue the license agreement.

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.

As rental under the resulting License, the Bidder shall pay to the Commonwealth throughout the term of the Agreement a percentage of all gross revenues from vending concession sales on the Licensed Premises. Rent shall be due and payable monthly at the park's business office.

The Licensee 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, and maintenance are to be made available to the Commonwealth for inspection upon request.

1. Definition of Gross Receipts: "Gross Receipts" shall be the total amount of cash or credits received by the Licensee 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 this License Agreement. Kentucky sales tax collected by the Licensee, where applicable, is exempt from gross receipts for the purpose of calculating rental due to the Commonwealth.

2. 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 Licensee.

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

Bidders are required to 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. If interested in a site visit, please contact the Lesa Kaiser, Assistant Resort Manager, Cumberland Falls State Resort Park, prior to April 19th 2024, at (606) 528-4121 or Lesa.kaiser@ky.gov in order to schedule a site visit. Any questions derived from the site visit must be placed in writing to Jamie.Bryant@ky.gov for official answers. Official answers will be posted as an amendment to this RFB on the website: <https://vss.ky.gov/vssprod-ext/Advantage4>

SECTION V
Bid Deposit

Bidders are instructed to furnish a **Good Faith 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 cashiers check made payable to the Kentucky State Treasurer.

SECTION VI
Method of Award

The resulting Agreement will be awarded for the license to install, operate, and maintain six (6) food/snack vending machines at the locations indicated herein to a Bidder with the highest bid amount to the responsible, responsive Bidder whose offer conforming to this Request for Bids will result in the best value and therefore be the most advantageous to the Commonwealth. The Commonwealth of Kentucky reserves the right to reject any and all bids and to waive technicalities.

SECTION VII
Service Performance

The Bidder shall be responsible for all expenses associated with the installation, operation, and maintenance of the six (6) food/snack vending machines and other such services that are of the highest quality 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.

Each vending machine must be a free standing, stand-alone unit. The Commonwealth will determine the exact location of each vending machine unit.

The Bidder shall solely be responsible for stocking the machines and checking each machine every two weeks and replacing expired items at that time. Machines shall be checked weekly during peak season. Some vendors have electronic access to acknowledge when items are low in stock or empty. Machines should not be out of order not longer than 48 hours. Staff from the Park will call the vendor to report any issues.

The Commonwealth shall be responsible for paying for electrical service to each machine; however, should additional electrical outlets be required, those expenses shall be solely the responsibility of the Bidder.

The Bidder shall have access to the vending machines during all hours the Park is open to the employees/public upon presenting proper identification to security personnel located at the park. The type of identification necessary for admittance to said park shall be determined by the parties to this agreement. The premises are to be used for the operation of six (6) food/snack vending machines and for no other use or purpose. The Bidder shall not do, or permit to be done, in or about the premises, or in connection with its installation, operation, and maintenance of the vending machines, anything which is illegal or unlawful, or which is hazardous or dangerous.

The Bidder shall comply with all provisions of the American Disabilities Act as it relates to the Bidder's operation of vending machines. 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.

SECTION VIII Hours of Operation

The vending machines shall be open to the staff and visitors at the same hours and dates established for the Cumberland Fall State Resort Park.

SECTION IX Equipment

Any equipment/fixtures needed by the Bidder for the vending operations shall be supplied by the Bidder, at the Bidder'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 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 by the operation of the vending machines, 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. The Bidder shall be responsible for furnishing to the Finance and Administration Cabinet a copy of

the certificate of insurance and any renewal thereof.

SECTION X
Renovation/Alteration of Licensed Premises

The Bidder may, with prior written consent of the Commonwealth, renovate or alter the licensed premises, erect structures, and install equipment in or upon the licensed premises at the Bidder'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 Bidder shall promptly repair any damage to the licensed premises resulting from the installation or removal of same and return the licensed premises to its original condition, at the Bidder's sole expense. Structures and equipment not removed from the premises at the termination, cancellation or expiration of the resulting License shall become the property of the Commonwealth, which may, at its sole discretion, assess the Bidder the costs of removal or repair incurred by said Commonwealth as a result of the Bidder's failure, howsoever caused, to affect the removal or repair required herein. Prior to Bidder initiating any renovation or alteration to the licensed 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 Bidder 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 Bidder shall be subject to the advance approval of the Commonwealth in its sole discretion.

The Bidder 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 licensed premises during the resulting License.

The Bidder 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 licensed premises; nor as giving the Bidder 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 Bidder's licensehold interest in the licensed premises by reason of work supplied to the Bidder. If a mechanic's or materialman's lien shall be filed against the licensed premises at any time, the Bidder 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 Bidder, in good faith, disputes the validity or correctness of any lien, then the Bidder 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 Bidder shall diligently proceed to initiate and conduct appropriate proceedings to determine the correctness or validity of such lien. The Bidder 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 Bidder fails to cause any such lien to be discharged within the period aforesaid or fails to contest the same as provided above, the Bidder shall be deemed to be in default of the resulting Agreement, which shall be a basis for termination of said Agreement under Section XIII.

SECTION XI
Utilities, Maintenance, and Garbage Collection

The Commonwealth will only provide the 110-volt outlet through the facilities of the Commonwealth of Kentucky. Any charges for electrical service, which are incurred by the Bidder as a result of operating the vending machines, shall be paid by the Commonwealth. However, the Bidder shall be responsible for providing at its sole expense any additional outlets/services required by the Bidder.

The Bidder shall, at its own expense, be responsible for maintaining and making repairs or replacing to the Bidder's vending 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 Bidder and the Bidder's agents or employees. Those repairs required as a result of the negligent acts of the Bidder, its agents or employees, will be made by the Bidder, at the expense of the Bidder. 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 X "Renovation/Alteration of Licensed Premises." Furthermore, the Commonwealth shall not be responsible for maintaining and repairing those improvements, structures and additions erected and made by the Bidder which relate solely to the operation of the vending machines.

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

SECTION XII
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 XIII
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 with the resulting license shall be deemed forfeited and the Bidder shall quietly surrender possession of the licensed 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 XIV
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.

The Licensee shall carry and maintain public liability insurance, during the term of the agreement, in the minimum amounts of \$250,000.00 per person and an aggregate of \$400,000.00 per accident for personal injury, and \$1,000,000.00 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 IX "Equipment" and Section XIV "Liability Insurance."

SECTION XV
Rules and Regulations

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

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

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

SECTION XVI
Assignment, Sublicense

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. Consent to an assignment shall not relieve the Bidder 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.

SECTION XVII
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 XVIII

Responsibility for Repairs or Reconstruction in the Event of Fire or Other Casualty

- (a) If the demised premises shall, without fault of the Bidder, be destroyed by fire or other casualty, or damaged as to become wholly or partially untenable, the Commonwealth may, by written notice delivered to the Bidder 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 Bidder shall have and surrender to the Commonwealth such possession. At that time, the License Agreement shall become void and license 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 to pay rent shall cease. However, all rent due prior to the fire or other casualty shall be prorated up to the time of such casualty.
- (b) The Bidder shall be responsible to the Commonwealth for all damages to the licensed premises caused by fire or other casualty, which is the result of the Bidder's negligent use of the licensed premises or willful conduct.

SECTION XIX

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 XX

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 brought on the basis of said Agreement shall be filed in the circuit court of Franklin County, Kentucky.

SECTION XXI
Financial Auditor or Program Review

The Licensee, as defined in K.R.S. 45A.030(10), 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 this License 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 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 were providing the service.

SECTION XXII
Taxes

The successful bidder shall be responsible for paying all state, federal and local taxes, including by not limited to, ad valorem, taxes assessed against the operations of the vending machines.

SECTION XXIII
Attorney Fees

In event the that either party deems it necessary to take legal action to enforce any provision of the subsequent license agreement, and in the event the Commonwealth prevails, the bidder 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 offices. County of Venue shall be in Franklin.

SECTION XXIV
Property

The successful bidder shall be responsible for the proper care and custody of the property furnished for the successful bidder's use in connection with the performance of the resulting license. The responsibility includes the repair and/or replacement due to loss, damage or negligence, normal wear and tear expected.

SECTION XXV
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 license.

SECTION XXVI
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.



**Required Affidavit for Bidders, Offerors
and Contractors
(KRS 45A.110 & 45A.115)**

Affidavit Effective for One (1) Year from Date of Execution

Instructions: Pursuant to [KRS 45A.110](#) and [45A.115](#), a bidder, offeror, or contractor ("Contractor") is required to submit a Required Affidavit for Bidders, Offerors, and Contractors to be awarded a contract, or for the renewal of a contract. An authorized representative of the contracting party must complete the attestation below, have the attestation notarized, and return the completed affidavit to the Commonwealth.

Attestation

As a duly authorized representative for the Contractor, I swear and affirm under penalty of perjury, that that the Contractor has not knowingly violated campaign finance laws of the Commonwealth of Kentucky and that the award of a contract will not violate any provision of the campaign finance laws of the Commonwealth. For purposes of this attestation, "Knowingly" means that the bidder or offeror is aware or should have been aware of the existence of a violation. The bidder or offer understands that the Commonwealth retains the right to request an updated affidavit at any time.

Signature

Printed Name

Title

Date

Bidder or Offeror Name: _____

Address: _____

Commonwealth of Kentucky Vendor Code (If known): _____

Subscribed and sworn to before me this ____ day of _____, _____.

State of: _____ Notary: _____

County of: _____ My Commission Expires: _____

FORM OF PROPOSAL (SEALED BID)

To: Finance and Administration Cabinet
Departments for Facilities and Support Services
Division of Real Properties
Third Floor, Bush Building
403 Wapping Street
Frankfort, Kentucky 40601-2607

Invitation No: 042624
Bid Opening: April 26, 2024 at
2:00 p.m. EDST
At: Division of Real Properties Office
403 Wapping Street, Frankfort, KY

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 placement and operation of six (6) food/snack vending machines, as follows, I propose to pay to the Commonwealth of Kentucky _____ percent (%) of gross receipts derived from the operation of the vending machines.

Lodge: one food vending machine

Pool: two food vending machines

Laundry at Business Office: one food vending machine

Visitors' Center: two food vending machines

I have enclosed my bid deposit equal to \$100.00.