



State of Delaware
Department of Natural Resources and Environmental Control
Delaware Division of Parks and Recreation
89 Kings Highway
Dover, Delaware 19901

September 5, 2017

ISSUED BY: Rebecca Lovin
Paralegal III
302-739-9206

SUBJECT: **AWARD NOTICE**
CONTRACT NO. NAT17003_EQUESTRIAN BELLEVUE
PUBLIC RECREATIONAL EQUESTRIAN PROGRAM AT BELLEVUE STATE
PARK

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KEY CONTRACT INFORMATION

1. CONTRACT PERIOD

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Each contractor's contract shall be valid for **five (5) years from January 1, 2018 to December 31, 2022**. Each contract may be renewed for one (1) five (5) year period through negotiation between the contractor and the Division of Parks and Recreation. Negotiation may be initiated no later than ninety (90) days prior to the termination of the current agreement.

2. VENDOR

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Wellspring Farm, Inc.
800 Carr Road
Wilmington, DE 19809
Phone: 302-530-1503
Email: kcvd1953@gmail.com

3. PRICING

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Prices will remain firm for the term of the contract year.

Contract Fee: 13% of Monthly Board Income plus 3.5% of Remainder of Monthly Income (minus Board and Reimbursements).

- All extension options shall be negotiated and mutually agreed upon by the parties to the Contract, to include negotiated payment terms. The Division does stipulate that any renewal term comply with a negotiated percentage of gross receipts not less than 7% monthly.

ADDITIONAL TERMS AND CONDITIONS

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4. PAYMENT/CONTRACT FEE

The monthly Contract fee shall be due by the 15th of the month for the previous month's business.

Any payments which become due from the Vendor to the Division and which are not paid on or before the due date shall be subject to an interest penalty of twelve (12) percent per annum until paid, computed from the due date. When a late payment is received, the Vendor shall be billed the amount of interest penalty as applicable. This provision is in no way a waiver of the Vendor's obligation to make payments when they are due.

Vendor will not pay the daily Park entrance fees for participation in the Public Recreational Equestrian Program, however, **it is the expectation of the Division that all visitors, boarders and volunteers to Delaware State Parks pay daily entrance fees where applicable or procure an annual park pass.** The Division reserves the right to add a fee booth, automatic fee collection system or vehicle self-registration pay at this site.

5. REQUIREMENTS

a. Reporting:

The Vendor agrees to submit to: OBS_Parks@state.de.us, a mandatory usage report once a month, covering each day's operation under the Contract, **plus a tabulated annual gross receipts report and annual financial statement report** for the period of operation on or before December 31st of each year. Monthly reporting shall be submitted no later than the 15th (or next business day after the 15th day) of each month, detailing the reporting required in the Division provided usage report. All annual financial statement reports must be "**Reviewed**" by a certified public accountant prior to submission and proof of "Review" must be included in Vendor submission.

For a complete list of contract specifications please refer to the original bid solicitation document(s). Any contract specific documentation will be accessible through the hyperlink(s) provided on this contract's details page.

b. Utilities:

Electricity, telephone and/or other utilities used in the operations will be at the Vendor's expense. The Vendor will be required to make independent arrangements for service not provided by the Division.

The Division shall provide water and waste water disposal for the operation.

c. Taxes and Permits:

Vendor shall pay all State and Federal taxes and/or license fees which may be imposed or legally chargeable, and, obtain all necessary permits and licenses, including but not limited to, a Delaware Business License, Public Health License and other necessary permits at its own cost and expense as a result of operating the business conducted as part of the services.

d. Security:

Vendor shall be responsible for security of its animals, equipment, software and any credit card services while contracting with the Division.

e. Inspection:

Vendor will allow free access to its designated operation space while on Park premises as needed to authorize representatives of the Division and other county, state or federal officials having jurisdiction for inspection purposes. The Vendor shall further agree that if notified in writing by the Division or its authorized representatives that any part of the contracted premises or the facilities thereof for which Vendor are responsible for services rendered are not in conformance with the Contract granted, then Vendor shall remedy the same within five (5) working days, or a reasonable time period agreed upon between the Division and the Vendor.

f. Accounting and Reports:

Vendor shall maintain proper and complete books and records of accounts of its operation under the Contract granted. Internal control procedures implemented by the Vendor shall be adequate to ensure that all revenue is accounted for and recorded. All receipts of any nature from the operation of this Contract provided by the Vendor shall be immediately and properly recorded. Vendor shall permit the Division or its authorized representatives to examine and audit financial records relative to this Contract at any reasonable time during normal business hours, after giving the Vendor two (2) weeks' notice of the

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date and time of such examination and audit. Vendor shall retain these financial records for a period of five (5) years beyond the termination of this Contract, unless earlier disposal is approved by the Division in writing.

g. Operating Schedule:

1. Vendor agrees to operate the in accordance with the following **minimum** schedule (b & c), item (a.) is Vendor's proposed operating schedule:

Vendor Proposed Operating Schedule:

- a. Open on a daily basis, seven (7) days a week: 7:00 a.m. to 8:00 p.m.

Minimum Schedule:

- b. Open six (6) days a week including holidays, from November 1st through March 31st of each year.
 - c. Open on a daily basis, seven (7) days a week including holidays, from April 1st through October 31st of each year during the following minimum schedule of hours: 10:00 a.m. to 6:00 p.m.
2. All equestrian program activities shall be terminated and all facilities closed and secured no later than 9:00 p.m. daily or as authorized by the Park Superintendent or designee for emergency situations, special events, etc. Unless otherwise approved by the Division, the public program shall not be closed on weekends or legal holidays except Thanksgiving, Christmas and New Year's Day.
 3. Vendor shall post the hours of operation in a conspicuous place in the concession area. Vendor shall have preference in decisions resulting in closure or cancellation of programs due to weather conditions or utility problems.
 4. **Vendor is required to promptly contact the Park Management and receive approval prior to canceling service for the day.** The Division may, in its sole discretion, close or limit the operation or parking availability temporarily for repairs or special events as needed, or permanently with prior notice to the Vendor.
 5. The Division reserves the right to revoke the Contract of the Vendor if they do not adhere to the agreed-upon schedule of operations.

h. Trash Removal and Use of Recyclable Products:

1. Vendor shall ensure that the premises occupied during this Contract, including immediate area around the concession, are kept clean and sanitary at all times in conformity with rules and regulations pertaining to sanitation and public health. All rubbish, refuse garbage and debris collected by the Vendor shall be deposited in containers.
2. Vendor is responsible for furnishing their own trash dumpster and recycling container. If the Division determines that the concession area becomes unsanitary to the general public, that issue will be handled as a performance deficiency under the terms of the Contract.
3. No trash or recycling items, even for larger items, shall be placed into Park dumpsters or recycling bins at any time.

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4. Vendor shall serve food in recyclable materials and use care for the environment in all operational functions.

i. Emergencies:

1. Vendor and the Division or their designated agent(s) shall be available by phone twenty-four (24) hours a day, seven (7) days a week for emergencies during the entire term of the Contract. Information on how to contact the Vendor or their designee is to be provided as part of Vendor's proposal (Attachment 4).

j. Parking:

1. Parking in the direct area of the Equestrian Operation and Stables is limited to the concession operator and their hired employees only. Volunteers, boarders and patrons are required to park in the parking lot. Vehicle activity near the stables shall be limited. Requests for additional parking shall be reviewed through the Park Superintendent if it is found to be necessary.
2. The Vendor or program participants shall not park horse trailers or store other equipment outside the concession area in a manner which may impede the Division's grounds maintenance responsibilities. Trailer and van parking is available next to the metal barn and near the manure pits.

k. Franchise Limitations:

Vendor shall faithfully conform to all the provisions of this RFP and any contract signed between the Division and Vendor, and for as long as any Public Recreational Equestrian Program Services are provided as heretofore described with exception to Division programming and events and the general public's use. No Vendor or other commercial business shall operate in these areas other than the Vendor for normal daily operations without express permission by the Division.

l. Marketing and Promotion Plans; Signs and Advertising:

1. Vendor is encouraged to work with the Division of Parks and Recreation on a marketing and promotion plan for each calendar year. The agreed upon marketing plan may contain promotional activities at or in connection with Delaware State Parks annual promotional activities or with Bellevue State Park individually. Copies of the publications promoting Public Recreational Equestrian Program Services shall be made available to the Park Management for distribution.
2. Vendor website shall be fresh in concept and updated with all current offerings at all times for ease of customer use.
3. Vendor agrees not to use signs or any other means of soliciting business without the approval of the Division and agrees not to advertise any contract between the State and Vendor in any manner or form on or about premises contracted to it, or elsewhere, or in any media outlets, without such prior approval. Any advertising, media or social media shall include the correct name and location of the operation (e.g. XYZ Services at Bellevue State Park).
4. The Division, through their authorized agents, reserves the right to prohibit the erection, display or use of signs which are not in keeping with the park area. Permission must be granted by the Division or their authorized agents prior to the erection, display or use of signs. The Division also reserves the right to designate the type, size, wording, color and number of signs requested by the Vendor.

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5. Any signs authorized by the Division for specific events shall become the property of the Division, if not removed by the Vendor after reasonable notice from and at the direction of the Division.
6. It is mutually agreed by the Vendor and the Division that no permanent or temporary advertising, signage, or trademark visibility for Vendor's Services and any tour or instructional information, equipment rental or for sale products will be displayed or permitted anywhere in the designated Park locations without prior written approval from the Division, except that it is agreed that the Vendor shall be permitted to include its trademark and brand names on its equipment (e.g. clothing or other Vendor -owned products, etc.).
7. Vendor may offer educational programs or activities without charge to state park visitors for promotional purposes, with the Division's prior approval, and **the cost of these free services to park visitors shall be included in Vendor's annual financial statement as non-revenue generating services.**

m. Payment Credit Card Industry (PCI) Requirements:

The Vendor agrees that it is their responsibility to become PCI compliant and maintain compliance. For more information related to PCI Security Standards, the following link is provided: https://www.pcisecuritystandards.org/security_standards/index.php

n. Quality and Pricing:

1. Vendor warrants that the Public Recreational Equestrian Program Services Services, including any instructional, certified or educational programs offered by it to the public, shall be of the highest quality and consistent with quality specifications as provided by the Vendor pursuant to this section.
2. Vendor shall have the right and privilege to charge prices and rates as are reasonable and fair. All price changes shall be subject to the prior written approval of the Division.
3. Vendor shall submit a price list to the Division each season, before the beginning of the operation, with a schedule of products and services to be offered and the prices to be charged for each product or service. Vendor agrees to offer only such products and services and any retail items for rent or sale at such prices as have been approved by the Division. In approving rates, primary consideration will be given to the prices charged for similar classes of products and services furnished outside the areas administered by the Division under similar conditions.
4. If, in the sole opinion of the Division, any products or services offered by the Vendor are inconsistent with the image or reputation of the Division or the State of Delaware, or are otherwise deemed unsuitable for sale on the contracted premises, the Division shall request the Vendor cease selling such products or services and the Vendor shall cease doing so immediately upon receipt of such written request from the Division.

o. Vendor Responsibilities:

1. The Vendor shall operate a public recreational program located in Bellevue State Park. The Vendor's public equestrian program shall include boarding, lessons, parties and camps for youth and adults. The program may also provide special equestrian events, horses and carriages for special programs or events sponsored by the Division, offer equestrian programs to visitors of the park and **boarding of up to fifty (50) horses** at the equestrian facility necessary to carry out business in accordance with the terms and conditions set forth in the contract. The successful

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vendor **shall not house more than a total of sixty (60) horses** and/or ponies including boarded horses at the equestrian facility to be used to provide the above listed program activities.

2. Additional items such as tack and related riding equipment, horse care supplies, hay and straw may be sold or rented without the advance written approval by the Department. Additional items may be offered for sale upon advance written approval by the Division. Any items using the Division name or logo shall be submitted for approval by the Division prior to sale. With the approval of the Division, prepackaged snack foods, canned sodas or other non-alcoholic beverages may also be included in this service. The Vendor agrees to withdraw from sale or rent any items disapproved by the Division.
3. The Vendor understands and agrees that this Contract and the operations hereunder are provided first and foremost for the convenience, benefit and enjoyment of the public. The Vendor acknowledges that the quality of its services to the public is essential. To this end, Vendor shall maintain the public equestrian program and any equipment included under this Contract in an attractive, safe, operable, sanitary and inviting condition at all times, including entrances and exits. It is the intent and agreement of the Division and Vendor that first class, top quality standards consistent with the operation of a premium equestrian program shall be diligently adhered to and implemented by the Vendor so as to reflect positively on the reputation of Vendor and the State of Delaware Parks.
4. Minimum Public Program Services shall include:
 - d. Riding lessons at all levels for horse owners, non-owners and groups
 - e. Therapeutic riding programs
 - f. Scout and youth group riding and horse programs
 - g. Summer riding camps and horse camps
 - h. Specialized clinics
 - i. Horse shows of various levels and disciplines
 - j. Pony rides for public and private programs
 - k. Barn tours/open house events
 - l. Equine awareness training
 - m. Transient parking of horse trailers (maximum of six)
 - n. Horse transportation services for the public program
 - o. Complete boarding services for a maximum of fifty (50) horses
5. Care of Horses:
 - a. The Vendor shall provide care for all horses owned by them or boarded to the leased premises belonging to the State. The Vendor agrees to provide the Division with a copy of the proposed health maintenance schedule for the horses, and agrees that the health maintenance schedule is subject to the approval of the Division and/or the State Veterinarian. The Vendor agrees that it is their responsibility to feed, provide adequate exercise, care for,

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including veterinary care, and groom all horses kept within the confines of the operation premises. An ongoing equine health program shall be conducted to maintain the good health and body condition of all horses. Vendor shall adhere to the Horse Care Plan submitted to the Division. To insure the general health of the horses the Vendor agrees to:

- i. Feed quality grain and hay on a regular schedule each day. Supply good quality feed and hay which is free from mold, dust insecticides, debris and other contaminants. The feed and hay must supply all the needed nutrients to maintain good body condition depending on age, reproductive status and level of exercise of the horse.
- ii. Provide adequate shelter from the weather.
- iii. Make salt available on a daily basis.
- iv. Provide adequate opportunity for rest.
- v. Provide adequate blacksmith care.
- vi. Provide adequate dental care.
- vii. Establish a doctor-client relationship with a nearby veterinary practitioner. Define the procedures to follow in case of emergency. In case, the practitioner is unavailable, determine who takes their calls.
- viii. Worming horses on a regular basis as determined by the veterinarian and is included in the health plan. Vendor shall maintain and/or provide a current (annual) Coggins Test certificate for all horses within the park premises.
- ix. In consultation with the veterinarian, maintain a current vaccination program for all horses on at least those diseases of public health significance (rabies, encephalitis, etc.) maintain a well-stocked equine first aid kit within the premises for first aid care to horses and shall be reasonably able to administer minor first aid to horses. The first aid kit shall include, but not limited to, thermometer, betadine or other surgical scrub to clean wounds, and anti-thrush remedy, banamine paste or phenylbutazone pills for fever reduction, a topical antibiotic spray, an antiseptic cream, poultices for injured hooves and bandaging supplies.

6. Maintenance of Grounds, Buildings and Facilities:

- a. Weed control, tree and shrub care, landscaping, leaf removal, snow removal and mowing around all building perimeters. Seeding, fertilizing and maintaining pastures, to include a rotation schedule.
- b. Mowing, dragging and weed control of the paddock areas and riding rings.
- c. Seeding and maintaining pastures to prevent erosion.
- d. Daily cleaning of stalls and barns, tack rooms, lounges, office and rest rooms.
- e. Deposit all manure/bedding collected from stalls and loafing sheds in the manure bunkers.
- f. Dispose of all manure/bedding from the equestrian center operation off state park property at least once a month.

- g.** Composting of some of the manure for use by the park and garden plot renters may be an option and should be arranged through the Park Administrator or designee. Manure spreading on park fields/grounds will not be permitted.
- h.** Clean water containers filled with drinkable water available at all times.
- i.** Maintain stable or shelter for horses in inclement weather.
- j.** Clean stalls and provide fresh bedding once a day.
- k.** Keep stalls and surrounding stable areas clean of manure, leaves and debris.
- l.** Repair damage to stables, fences or other structures which may cause injury to horses*.

*Negotiated Condition – The Division shall replace the remaining 4 paddocks and dressage area that were not replaced prior to the contract over 2018 and 2019. Until such time that the remaining paddocks and dressage area are replaced, any safety issue with fencing in those identified areas, which may cause injury to horses, staff or patrons shall be brought to the attention of the Bellevue State Park Superintendent and Staff immediately. At that time, the Division will make arrangements on how to handle, repair or replace the fencing or area. Wellspring Farm shall not make any immediate repairs without first consulting with the Bellevue State Park Superintendent and Staff. As the paddocks and dressage area are replaced, Wellspring Farm shall take over responsibility of repairs and maintenance (including replacement) of the areas per the contract terms.

Any other structural damages or repairs to the facilities or equipment provided by the Division shall be handled on a case-by-case basis after notification from Wellspring of the repair need. Note, per the Contract, Wellspring shall be responsible for repairs and maintenance to interior building fixtures, utilities (locks, light bulbs, water faucets, etc.), appliances of small and large barn, and garage. Wellspring shall be responsible for repairs and maintenance to exterior lights, doors and all spigots. Replacement and major repairs (such as indoor racetrack doors) shall be coordinated with the Division in the same manner as noted above as they may be considered structural repairs and may be handled by the Division.

- m.** Repairs and maintenance to all fencing on the property. This includes replacement*.

*Negotiated Condition – The Division shall replace the remaining 4 paddocks and dressage area that were not replaced prior to the contract over 2018 and 2019. Until such time that the remaining paddocks and dressage area are replaced, any safety issue with fencing in those identified areas, which may cause injury to horses, staff or patrons shall be brought to the attention of the Bellevue State Park Superintendent and Staff immediately. At that time, the Division will make arrangements on how to handle, repair or replace the fencing or area. Wellspring Farm shall not make any immediate repairs without first consulting with the Bellevue State Park Superintendent and Staff. As the paddocks and dressage area are replaced, Wellspring Farm shall take over responsibility of repairs and maintenance (including replacement) of the areas per the contract terms.

Any other structural damages or repairs to the facilities or equipment provided by the Division shall be handled on a case-by-case basis after notification from Wellspring of the repair need. Note, per the Contract, Wellspring shall be responsible for repairs and maintenance to interior building fixtures, utilities (locks, light bulbs, water faucets, etc.), appliances of small and large barn, and garage. Wellspring shall be responsible for repairs and maintenance to exterior lights, doors and all spigots. Replacement and major repairs (such as indoor racetrack doors)

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shall be coordinated with the Division in the same manner as noted above as they may be considered structural repairs and may be handled by the Division.

- n. The Vendor shall be responsible for repairs and maintenance to interior building fixtures, utilities (locks, light bulbs, water faucets, etc.), appliances of small and large barn, and garage.
 - o. The Vendor shall be responsible for repairs and maintenance to exterior lights, doors and all spigots.
 - p. Use only horse conveyance that is currently state motor vehicle inspected.
 - q. Periodically inspect pastures and barn areas for poisonous or noxious weeds or shrubs to be removed immediately.
 - r. Use only properly dried hay that shall be stored utilizing practices to reduce the chances of spontaneous combustion.
 - s. Seeding, fertilizing and maintaining pastures, to include a rotation schedule.
 - t. No more than four (4) spaces will be available inside the concession area for the LICENSEE, for delivery and pickup of goods and services, morning and late evening employees, and medical services. All employees must show valid passes. Only exception to this provision is for park-related events at Bellevue State Park.
 - u. Upon request, the Division will perform maintenance tasks which are the responsibility of the Vendor for which the Division shall charge the Vendor a fee based upon actual cost for labor, equipment, supplies and materials. Request for said maintenance tasks shall be submitted in writing by the Vendor and approved by the Park Superintendent or designee prior to commencing with any work.
7. The Vendor shall be ADA (American Disabilities Act) compliant and include options for ADA programing.
 8. The Vendor shall be required to furnish and install the necessary equipment, if not provided, at the facility for the operation of a public equestrian program in order to provide the specified service.
 9. The Vendor shall be required to supply and maintain in good health for all horses in the operation of the public equestrian program. Equines shall possess the temperament needed for their stated use.
 10. The Vendor shall furnish the Bellevue State Park Office with a list of all boarder's names, addresses and phone numbers for emergency purposes. This list shall be up-dated whenever there is a change in boarders but not less frequently than every six (6) months. The Vendor shall also establish an equitable method of assigning vacant stalls to boarders using a posted waiting list system which must be approved by the Division.
 11. The Vendor shall establish rules for the approved program activities to cover conditions such as instructional group limits, supervision and barn control.
 12. The Vendor shall submit a periodic program schedule to the Division for review and public information purposes.
 13. The Vendor shall furnish and use an approved cash register or Point of Sale (POS) system with accumulating total to record all customer sales and receipts.

14. All of the equipment and fixtures used in the concession operation shall be subject to approval by the Division and Department of Agriculture, if applicable, as to their workability, appearance, appropriateness and compliance with all applicable codes.
15. Daily collection and deposit of litter, garbage and refuse from the grounds and buildings assigned to or used by the Vendor into the Vendor provided dumpster.
16. Keep the office clean and neat at all times as it is the first stop in the operation for visitors, patrons and customers.
17. Mowing and dragging of paddock areas and riding rings.
18. Daily cleaning of stalls, barns, tack rooms, lounges, office and any other space furnished by the Division and designated for use by Vendor.
19. Provide and maintain portable toilets as necessary for special events and programming.
20. Deposit all manure/bedding collected from stalls in the manure bunkers. Dispose of all manure/bedding from the equestrian center operation, off state property, when bedding is no more than $\frac{3}{4}$ full. Manure spreading must follow Department of Agriculture regulations.
21. Safe and effective rodent control when deemed necessary by Vendor and the Division.
22. Provide adequate materials to ensure good footing.
23. The Vendor shall ensure that all facilities and equipment supplied by the Division be returned to the Division in like condition, condition and repair, reasonable wear and tear expected.
24. The Vendor shall display in a conspicuous place at the concession area, a neat and legible sign listing all public services and products offered by the concessions and the prices to be charged for each service or product. This price list shall be submitted to the Division before the beginning of operation with a schedule of the services to be offered and the prices to be charged for each service. The Vendor agrees to offer only such services and merchandise at such prices as have been approved by the Division. In approving rates, primary consideration will be given to the prices charged for similar classes of services and merchandise furnished outside the areas administered by the Division under similar conditions.
25. The Vendor shall be responsible for providing quality products and services at a reasonable price to park visitors.
26. The Vendor shall establish and maintain books of account and records of all operations and establish systems of bookkeeping, records and accounting in a manner satisfactory to the Division.
27. The Vendor and all staff shall be First Aid and CPR (pediatric and adult) certified. Certification must be from a hands-on course. No on-line only certifications will be acceptable.
28. Vendor shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by Vendor, its subcontractors and its and their principals, officers, employees and agents under this Contract. In performing the specified services, Vendor shall follow practices consistent with generally accepted professional and technical standards.

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- 29.** It shall be the duty of the Vendor to assure that all products of its effort are technically sound and in conformance with all pertinent Federal and State statutes, codes, ordinances, resolutions and other regulations.
- 30.** Vendor shall have all customers sign a safety and informational waiver noting the inherent risks of offered activities and safety precautions/procedures. The Division shall approve any waivers to use.
- 31.** Vendor agrees to abide by the Division of Delaware Parks and Recreation's vehicular rules and regulations, (as provided on the state's official website: www.destateparks.com/rules), including but not limited to the following:

 - a.** Vehicles (including tractors, golf carts, mopeds, all-terrain vehicles, etc.):

 - i. Vehicles will only be permitted on approved roads within each of the Park location(s) or areas specifically designated by the Division for such purpose.
 - ii. Vehicles are not allowed on paved pedestrian trails/paths or paved walkways.
 - iii. Vehicles are not permitted to cut across lawns or gardens.
 - iv. Vendor, their employees, subcontractors and customers shall park their vehicles only in the designated parking lot or area. No parking is permitted under the trees, on the lawn or any landscaped area of the Park.
- 32.** Vendor, their employees and volunteers shall wear staff clothing that identifies them as the Public Recreational Equestrian Program employee, guide or instructor.
- 33.** Vendor shall be responsible in employing only competent, mature and orderly employees and ensure their employees shall keep themselves neat and clean and be courteous to all visitors and patrons of the Park. Further, Vendor and its employees will not use improper language, behave in a boisterous manner nor engage in any unlawful or unbecoming conduct during the course of their employment by the Vendor. Any significant visitor complaints may be considered performance deficiencies under this Contract.
- 34.** Vendor shall repair and maintain all equipment owned by Vendor. Equipment shall be clean and safe for use by Vendor customers and in maintained in proper serviceable condition at all times.
- 35.** Vendor shall provide maintenance of the operation area, including removal of all debris to ensure accessible for handicap visitors, in compliance with Americans with Disabilities Act (ADA) laws and legislation.
- 36.** Vendor and their employees shall at all times generate and maintain an inviting atmosphere within the designated location for customers of the Park. Any significant visitor complaints may be considered performance deficiencies under this Contract.
- 37.** Vendor must publically display in a conspicuous place a neat and legible sign listing hours of operation, rates, prices and charges for all products for rent or sale and services.
- 38.** Vendor shall be responsible for providing quality equipment, products, limited retail items and services included in this request for proposal at a reasonable price, in addition to providing excellent customer service to Park visitors.

39. At the end of the contract term or at the request of the Division, Vendor shall ensure that all facilities and/or equipment provided by the Division are returned to the Division in good order, reasonable wear and tear expected. Failure to return such facilities to its natural state or return equipment to the Division at the end of the Contract term may result in the Division billing Vendor, as applicable.
40. Upon expiration of the Contract period, Vendor shall remove all equipment and inventory furnished by Vendor, provided all fees have been paid. Any equipment, inventory and/or personal property left on the premises beyond thirty (30) days from the expiration of the Contract shall become the property of the Division.
41. If the Division does not provide storage for Vendor equipment, then Vendor shall be responsible for installing temporary storage at the beginning of the season. All temporary storage must be removed at the end of the season. All temporary and portable storage must be approved by the Division.

p. Modifications to Park Facilities:

Vendor may make alterations, modifications, additions or improvements to the contracted premises and facilities with prior Division approval of the design, development, timeline and approved plans. **No work shall commence until Vendor receives the Division's approval and consent in writing. All costs for any approved alterations, modifications, additions, or improvements shall be the responsibility of the Vendor, unless the Division consents to share a portion of said costs or provide necessary materials and/or labor.** Vendor shall submit a proposed layout of the operation and a description of any alterations or modifications which are contemplated to set up the operation. Vendor is responsible for obtaining any work permits, adhering to state and local ordinances, code and regulations at Vendor's expense. Additional requirements based on state and local ordinances, code and regulations may be required and shall be the responsibility of the Vendor. Vendor shall coordinate any subcontractor access to the Park with the Park Management. **Any award associated with capital investment/improvements shall result in the Division's ownership of all capital improvements executed during the life of the contract at the point of expiration and/or termination.**

q. Damage to Park Facilities:

In the event State property or facilities are damaged in any way whatsoever by reason of any act or omission of Vendor or its employees, Vendor shall repair at its own cost and expense the facility or property so damaged. Upon the failure of Vendor to make such repairs within five (5) working days or a reasonable time period agreed upon by the Division and Vendor, the Division will repair such damage at the cost and expense of Vendor and deliver a detailed invoice to Vendor which will be due and payable within thirty (30) days of the date of the invoice.

r. Waiver of Damages:

Vendor waives any and all claims for compensation of any loss or damage sustained by the Vendor resulting from fire, water, natural disaster (e.g. hurricane, tornado, etc.) civil commotion or riots.

s. Division Responsibilities:

1. The Division reserves the right to enlarge, close and/or reduce the size the of operation for the purposes of improvement, repair, construction or any other legitimate purpose including the hosting of a special event or adding pavilions which may restrict flow of business and onsite parking. It is understood that any of the above actions shall not entitle Vendor to any reduction or suspension of the Contract or fees unless otherwise approved by the Division.

2. The Division shall be responsible for the major utility and structural repairs and exterior Maintenance of the Park facilities. In the event of an immediate repair need or request from the Vendor, the Division shall be the sole determining authority of prioritizing, scheduling and repair. Division shall bill Vendor for the monthly water use charges used in the performance of the operation services.
3. The Division may perform maintenance tasks which are the responsibility of the Vendor for which the Division shall charge the Vendor a fee based upon actual costs for labor and materials. Requests for said maintenance tasks shall be submitted in writing by the Vendor and approved by the Division prior to commencement of work.
 - a. Facilities and Equipment to be included by the Division include:
 - b. Metal barn with indoor riding area and 19 box stalls plus an addition with 14 stalls, built in 1991
 - c. Wooden barn with 27 box stalls and feed storage loft
 - d. One (1) outdoor riding ring
 - e. Ten (10) paddocks
 - f. Hay/straw storage building
 - g. Marked riding trails on park property at the Division's discretion
 - h. Dressage ring
 - i. Manure bunkers
 - j. Fencing
4. Maintenance of Grounds, Buildings and Facilities by the Division include:
 - a. Conduct annual inspections, using an outside contractor/consultant, of the electrical systems in the metal and wooden horse barns for safety purposes and make necessary repairs and/or replace existing wiring as recommended by such contractor/consultant.
 - b. Snow removal of park roads and parking areas.
 - c. Major exterior building and major utility repairs.

6. TERMINATION OF CONTRACT

a. Emergency Termination of Contract

1. Due to restrictions which may be established by the United States Government on material, or work, a contract may be terminated by the cancellation of all or portions of the contract.
2. In the event the Vendor is unable to obtain the material required to complete the items of work included in the contract because of restrictions established by the United States Government and if, in the opinion of the Agency, it is impractical to substitute other available material, or the work

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cannot be completed within a reasonable time, the incomplete portions of the work may be cancelled, or the contract may be terminated.

- b. Termination for Cause:** If, for any reasons, or through any cause, the Vendor fails to fulfill in timely and proper manner its obligations under this Contract, or if the Vendor violates any of the covenants, agreements, or stipulations of this Contract, the State shall thereupon have the right to terminate this contract by giving written notice to the Vendor of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination.

On receipt of the contract cancellation notice from the State, the Vendor shall have not less than five (5) days to provide a written response and may identify a method(s) to resolve the violation(s). A vendor response shall not effect or prevent the contract cancellation unless the State provides a written acceptance of the vendor response. If the State does accept the Vendor's method and/or action plan to correct the identified deficiencies, the State will define the time by which the Vendor must fulfill its corrective obligations. Final retraction of the State's termination for cause will only occur after the Vendor successfully rectifies the original violation(s). At its discretion the State may reject in writing the Vendor's proposed action plan and proceed with the original contract cancellation timeline.

- c. Termination for Convenience:** The State may terminate this Contract at any time by giving written notice of such termination and specifying the effective date thereof, at least sixty (60) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, supplies, and other materials shall, at the option of the State, become its property and the Vendor shall be entitled to receive compensation for any satisfactory work completed on such documents and other materials, and which is usable to the State.
- d. Termination for Non-Appropriations:** In the event the General Assembly fails to appropriate the specific funds necessary to enter into or continue the contractual agreement, in whole or part, the agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds. This is not a termination for convenience and will not be converted to such.

7. PERSONNEL, EQUIPMENT AND SERVICES

- a.** The Vendor represents that it has, or will secure at its own expense, all personnel required to perform the services required under this contract.
- b.** All of the equipment and services required hereunder shall be provided by or performed by the Vendor or under its direct supervision, and all personnel, including subcontractors, engaged in the work shall be fully qualified and shall be authorized under State and local law to perform such services.
- c. None of the equipment and/or services covered by this contract shall be subcontracted without the prior written approval of the State. Only those subcontractors identified in Attachment 7 of the submitted bid proposal are considered approved upon award. Changes to those subcontractor(s) listed in Attachment 7 must be approved in writing by the State.**

8. EXPIRATION

Upon expiration of the contract period, Vendor shall remove all equipment and inventory furnished by them provided all license fees have been paid. Any equipment, inventory and/or personal property left on the premises beyond sixty (60) days from the expiration shall become the property of the Division.

9. SUBCONTRACTS

Subcontracting is permitted under this contract. However, every subcontractor shall be identified in the Proposal (Attachment 7) and agreed to in writing by the State or as are specifically authorized in writing by the Agency during the performance of the contract. Any substitutions in or additions to such subcontractors, associates, or consultants will be subject to the prior written approval of the State.

The vendor shall be responsible for compliance by the subcontractor with all terms, conditions and requirements of the RFP and with all local, State and Federal Laws. The vendor shall be liable for any noncompliance by any subcontractor. Further, nothing contained herein or in any subcontractor agreement shall be construed as creating any contractual relationship between the subcontractor and the State.

10. VENDOR BACKGROUND CHECK REQUIREMENTS

Vendor(s) selected for an award that access state property or come in contact with vulnerable populations, including children and youth, shall be required to complete background checks on employees serving the State's on premises contracts. Unless otherwise directed, at a minimum, this shall include a check of the following registry:

- Delaware Sex Offender Central Registry at:
<https://sexoffender.dsp.delaware.gov/>

Individuals that are listed in the registry shall be prevented from direct contact in the service of an awarded state contract, but may provide support or off-site premises service for contract vendors. Should an individual be identified and the Vendor(s) believes their employee's service does not represent a conflict with this requirement, may apply for a waiver to the primary agency listed in the solicitation. The Agency's decision to allow or deny access to any individual identified on a registry database is final and at the Agency's sole discretion.

By Agency request, the Vendor(s) shall provide a list of all employees serving an awarded contract, and certify adherence to the background check requirement. Individual(s) found in the central registry in violation of the terms stated, shall be immediately prevented from a return to state property in service of a contract award. A violation of this condition represents a violation of the contract terms and conditions, and may subject the Vendor to penalty, including contract cancellation for cause.

Individual contracts may require additional background checks and/or security clearance(s), depending on the nature of the services to be provided or locations accessed, but any other requirements shall be stated in the contract scope of work or be a matter of common law. The Vendor(s) shall be responsible for the background check requirements of any authorized Subcontractor providing service to the Agency's contract.

11. CHANGES

Both parties may, from time to time, require changes in the services to be provided by the Vendor under the Scope of Work. Such changes, including any increase or decrease in the amount of the Vendor's compensation, which are mutually agreed upon by and between the Agency and the Vendor shall be incorporated in written amendments to the Purchase Order or contract.

12. PERMITS AND LICENSES

All necessary permits, licenses, insurance policies, etc. required by local, State or Federal laws, shall be provided by the Vendor at its own expense.

13. INDEMNIFICATION

The vendor agrees that it will indemnify and otherwise hold harmless the State of Delaware, its agents and employees from any and all liability, suits, actions, or claims, together with all costs, expenses for attorney's fees, arising out of the vendor's its agents and employees' performance work or services in connection with the contract.

14. NON-PERFORMANCE

In the event the Vendor does not fulfill its obligations under the terms and conditions of this contract, in addition to proceeding with termination of the contract, the ordering agency may purchase equivalent services on the open market. Regarding any such open market purchase, payment for any difference in cost or expense in excess of the contract prices for reasonably equivalent products or services herein shall be the responsibility of the Vendor and shall be submitted to the State no later than 30 days following the delivery of the State's invoice detailing the open market purchase. Under no circumstances shall monies be due the Vendor in the event open market products can be obtained below contract cost. Any monies charged to the Vendor may be deducted from an open invoice.

15. FORCE MAJEURE

Neither the contractor nor the ordering agency shall be held liable for non-performance under the terms and conditions of this contract due, but not limited to, government restriction, strike, flood, fire, or unforeseen catastrophe beyond either party's control. Each party shall notify the other in writing of any situation that may prevent performance under the terms and conditions of this contract.

16. AGENCY'S RESPONSIBILITIES

The Agency shall:

- a. Examine and review in detail all letters, reports, drawings and other documents presented by the Contractor to the Agency and render to the Contractor in writing, findings and decisions pertaining thereto within a reasonable time so as not to delay the services of Contractor.
- b. Give prompt written notice to the Contractor whenever the Agency observes or otherwise becomes aware of any development that affects the scope or timing of the Contractor's services.
- c. When an ordering agency first experiences a relatively minor problem or difficulty with a vendor, the agency will contact the vendor directly and attempt to informally resolve the problem. This includes failure to perform by the date specified and any unacceptable difference(s) between the purchase order and the merchandise received. Ordering agencies should stress to vendors that they should expedite correction of the differences because failure to reply may result in an unfavorable rating in the execution of the awarded contract.
- d. The state has several remedies available to resolve non-performance issues with the contractor. The Agency should refer to the Contract Terms and Conditions to view these remedies. When a default occurs, the Agency should first review the contract to confirm that the issue is a part of the contract. If the issue is not covered by the contract, the state cannot expect the contractor to perform outside the agreement. If the issue is a part of the contract, the Agency or GSS - Contracting must then contact the contractor, discuss the reasons surrounding the default and establish a date when the contractor will resolve the non-performance issue.
- e. If there is a performance deficiency, a Corrective Action Report (CAR) may be used. Complete this form to report concerns with vendors or commodities. Be sure to furnish as much detail as possible. <http://gss.omb.delaware.gov/divisionwide/forms.shtml>.

17. REQUIRED REPORTING

One of the primary goals in administering this contract is to keep accurate records regarding its actual value/usage. This information is essential in order to update the contents of the contract and to establish proper bonding levels, if they are required. The integrity of future contracts revolves around our ability to convey accurate and realistic information to all interested parties.

A complete and accurate Usage Report shall be furnished in an Excel format and submitted electronically, **no later than the 15th (or next business day after the 15th day) of each month, detailing the purchasing of all items on this contract.** The reports shall be submitted and sent as an attachment to Parks_OBS@state.de.us. Submitted reports shall contain accurate descriptions of the products, goods or services procured, purchasing agency information, including the six-digit department and organization code, quantities procured and prices paid. Any exception to this mandatory requirement or failure to submit complete reports, or in the format required, may result in corrective action, up to and including the possible cancellation of the award. Failure to provide the report with the minimum required information may also negate any contract extension clauses. Additionally, Vendors who are determined to be in default of this mandatory report requirement may have such conduct considered against them, in assessment of responsibility, in the evaluation of future proposals.

In accordance with Executive Order 44, the State of Delaware is committed to supporting its diverse business industry and population. The successful Vendor will be required to accurately report on the participation by Diversity Suppliers which includes: minority (MBE), woman (WBE), veteran owned business (VOBE), or service disabled veteran owned business (SDVOBE) under this awarded contract. The reported data elements shall include but not be limited to; name of state contract/project, the name of the Diversity Supplier, Diversity Supplier contact information (phone, email), type of product or service provided by the Diversity Supplier and any minority, women, veteran, or service disabled veteran certifications for the subcontractor (State OSD certification, Minority Supplier Development Council, Women's Business Enterprise Council, VetBiz.gov). The format used for Subcontracting 2nd Tier reporting is shown as Attachment 9.

Accurate 2nd Tier reports shall be submitted to the contracting Agency's Office of Supplier Diversity at vendorusage@state.de.us on the 15th (or next business day) of the month following each quarterly period. For consistency quarters shall be considered to end the last day of March, June, September and December of each calendar year. Contract spend during the covered periods shall result in a report even if the contract has expired by the report due date.