



APPENDIX A

PROPOSAL RESPONSE AND REQUIREMENTS PACKET

NAT25004_LAMBORN OUTDOOR RECREATION

for

PUBLIC OUTDOOR RECREATION AT THE LAMBORN ESTATE WITHIN WHITE CLAY CREEK STATE PARK

*Delaware Department of Natural Resources and Environmental Control (DNREC),
Division of Parks and Recreation*

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I. Overview

The Department of Natural Resources and Environmental Control, Division of Parks and Recreation (DNREC), seeks professional services for a Concession Business Opportunity for Public Outdoor Recreation at the Lamborn Estate within White Clay Creek State Park. This request for proposals (“RFP”) is issued pursuant to 29 Del. C. § [6981](#) and [6982](#).

The proposed schedule of events subject to the RFP is outlined below:

Public Notice	Date: Friday, May 16, 2025
Non-Mandatory Site Visit and Pre-Bid	Date: Tuesday, May 27, 2025, at 10:00 AM (Local Time)
Deadline for Questions	Date: Friday, June 6, 2025
Response to Questions Posted by:	Date: Wednesday, June 18, 2025
Deadline for Receipt of Proposals	Date: Wednesday, July 9, 2025, at 1:00 PM (Local Time)

Each Prospectus proposal response must be accompanied by the attached “Bidder(s) Transmittal Letter” hard copy. Bidder(s) shall ensure that any exceptions take to the RFP are included on the attached “Exception Form – Attachment 3.” DNREC reserves the right to deny any and all exceptions taken to the RFP requirements.

Note – Synonymous terms include:

- “DNREC” is a State of Delaware agency and may be referred to as “the State of Delaware” or “State” where appropriate as part of this RFP.
- “Bidder(s)” and Contractor(s) shall be referenced along with “Vendor” when appropriate and Bidder(s) shall have full responsibility as a Vendor/Contractor under this RFP.

NON-MANDATORY PREBID MEETING AND SITE VISIT

DNREC will host a NON-MANDATORY site visit for individuals and/or organizations interested in bidding on this opportunity on **Tuesday, May 27, 2025, at 10:00 AM (Local Time)**. The site visit will provide a short overview of the opportunity along with a self-tour of the facilities to be assigned to the Draft Agreement. **To ensure a fair bid process for potential Bidders that are unable to attend the site visits, there will NOT be a question-and-answer session. All questions must be submitted per the requirements included in this RFP.**

Upon request by Vendor(s) and availability of DNREC, a second visit may be allowed prior to the bid opening for Vendor(s) to complete additional inspections and measurements. **No questions will be taken at any site visit to ensure a fair bid process.** Bidder(s) must use the Question-and-Answer process as described herein. Questions received after June 6, 2025, may not be answered.

II. Scope of Services

Scope of Services include “SERVICE OPPORTUNITIES” as included in the “Business Opportunity” section of this RFP. Terms and conditions as included in this RFP section and the Draft Agreement shall be adhered to by the Bidder(s).

III. Required Information

The following information shall be provided in each proposal. Failure to respond to any request for information within this proposal may result in rejection of the proposal at the sole discretion of DNREC.

A. Minimum Requirements

1. Provide Delaware license(s) and/or certification(s) necessary to perform services as identified in the scope of work.

Prior to the execution of an award document, the successful Bidder(s) shall either furnish DNREC with proof of State of Delaware Business Licensure or initiate the process of application where required.

2. Bidder(s) shall provide responses to the Request for Proposal (RFP) scope of work and clearly identify capabilities as presented in the General Evaluation Requirements below.
3. Complete all appropriate attachments and forms as identified within the RFP.
4. Proof of insurance and amount of insurance shall be furnished to DNREC prior to the start of the Agreement period and shall be no less than as identified in the bid solicitation.

B. General Evaluation Requirements (Primary Evaluation factors)

1. Experience of the Bidder(s)
2. Financial Capability
3. Bidder(s) Responsiveness Relative to Preserving Natural and Cultural Resources
4. Quality of Visitor Experience Relative to the Bidder(s) Proposal
5. Proposed Fee Structure and Value to DNREC

IV. Professional Services RFP Administrative Information

A. RFP Issuance

1. Public Notice

Public notice has been provided in accordance with 29 Del. C. [§ 6981](#).

2. Obtaining Copies of the RFP

This RFP is available in electronic form through the State of Delaware Procurement website at <https://bids.delaware.gov/>. Paper copies of this RFP will not be available.

3. Assistance to Bidder(s) with a Disability

Bidder(s) with a disability may receive accommodation regarding the means of communicating this RFP or participating in the procurement process. For more information, contact the Designated Contact no later than ten days prior to the deadline for receipt of proposals.

4. RFP Designated Contact

All requests, questions, or other communications about this RFP shall be made in writing to DNREC. Address all communications to the person listed below; communications made to other State of Delaware personnel or attempting to ask questions by phone or in person will not be allowed or recognized as valid and may disqualify the Bidder(s). Bidder(s) should rely only on written statements issued by the RFP designated contact.

Rebecca Lovin and Kristie Wyatt
DNREC/Division of Parks and Recreation
89 Kings Highway
Dover, DE 19901

Rebecca.lovin@delaware.gov or Kristie.wyatt@delaware.gov

To ensure that written requests are received and answered in a timely manner, electronic mail (e-mail) correspondence is acceptable, but other forms of delivery, such as postal and courier services can also be used.

5. Consultants and Legal Counsel

The State of Delaware may retain consultants or legal counsel to assist in the review and evaluation of this RFP and the Bidder(s)' responses. Bidder(s) shall not contact the State of Delaware's consultant or legal counsel on any matter related to the RFP.

6. Contact with State Employees

Direct contact with State of Delaware employees other than the State of Delaware Designated Contact regarding this RFP is expressly prohibited without prior consent. Bidder(s) directly contacting State of Delaware employees risk elimination of their proposal from further consideration. Exceptions exist only for organizations currently doing business in the State of Delaware who require contact in the normal course of doing that business.

7. Organizations Ineligible to Bid

Any individual, business, organization, corporation, consortium, partnership, joint venture, or any other entity including subcontractors currently debarred or suspended is ineligible

to bid. Any entity ineligible to conduct business in the State of Delaware for any reason is ineligible to respond to the RFP.

8. Exclusions

The Proposal Evaluation Team reserves the right to refuse to consider any proposal from a Bidder(s) who:

- a. Has been convicted for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract;
- b. Has been convicted under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of business integrity or business honesty that currently and seriously affects responsibility as a State contractor;
- c. Has been convicted or has had a civil judgment entered for a violation under State or Federal antitrust statutes;
- d. Has violated contract provisions such as:
 - 1) Known failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - 2) Failure to perform or unsatisfactory performance in accordance with terms of one or more contracts;
- e. Has violated ethical standards set out in law or regulation; and
- f. Any other cause listed in regulations of the State of Delaware determined to be serious and compelling as to affect responsibility as a State contractor, including suspension or debarment by another governmental entity for a cause listed in the regulations.

B. RFP Submissions

1. Acknowledgement of Understanding of Terms

By submitting a proposal and response to the Prospectus, each Bidder(s) shall be deemed to acknowledge that it has carefully read all sections of this RFP, including all forms, schedules and exhibits hereto, and has fully informed itself as to all existing conditions and limitations.

2. Proposals

To be considered, all proposals must be submitted in writing and respond to the items outlined in this RFP. DNREC reserves the right to reject any non-responsive or non-conforming proposals. Each proposal must be submitted with **one (1) paper copy** with original signatures and **two (2) electronic copies** on USB memory drive. Emailed proposals shall not be deemed acceptable.

Submit electronic copies of your proposal with scanned PDF version of the "Bidder(s) Transmittal Letter", required forms and Bidder(s) proposal. The electronic copy must be in a format that can be shared, copied, and pasted easily (not in a locked PDF). Microsoft Office programs or an Adobe PDF electronic version that allows for copying and pasting of text using Adobe Reader software are acceptable. However, you must provide all financial spreadsheets in Microsoft Excel (as included in this RFP) in the format provided.

All properly sealed and marked proposals are to be sent to DNREC and received no later than **1:00 PM (Local Time) on Wednesday, July 9, 2025**. The Proposals may be delivered by Express Delivery (e.g., FedEx, UPS, etc.), US Mail, or by hand to:

**Rebecca Lovin and Kristie Wyatt
DNREC/Division of Parks and Recreation
89 Kings Highway
Dover, DE 19901**

Bidder(s) are directed to clearly print “BID ENCLOSED” and “AGREEMENT NO. NAT25004_LAMBORN OUTDOOR RECREATION” on the outside of the bid submission package.

Any proposal received after the Deadline for Receipt of Proposals date shall not be considered and shall be returned unopened. The proposing Bidder(s) bears the risk of delays in delivery and any costs for returned proposals. The contents of any proposal shall not be disclosed as to be made available to competing entities during the negotiation process.

Upon receipt of Bidder(s) proposals, each Bidder(s) shall be presumed to be thoroughly familiar with all specifications and requirements of this RFP. The failure or omission to examine any form, instrument or document shall in no way relieve Bidder(s) from any obligation in respect to this RFP.

3. Proposal Modifications

Any changes, amendments or modifications to a proposal must be made in writing, submitted in the same manner as the original response and conspicuously labeled as a change, amendment, or modification to a previously submitted proposal. Changes, amendments, or modifications to proposals shall not be accepted or considered after the hour and date specified as the deadline for submission of proposals.

4. Proposal Costs and Expenses

DNREC will not pay any costs incurred by any Bidder(s) associated with any aspect of responding to this solicitation, including proposal preparation, printing or delivery, attendance at Bidder(s) conference, system demonstrations or negotiation process.

5. Proposal Expiration Date

Prices quoted in the proposal shall remain fixed and binding on the Bidder(s) at least through December 31, 2026. DNREC reserves the right to ask for an extension of time if needed.

6. Late Proposals

Proposals received after the specified date and time will not be accepted or considered. To guard against premature opening, sealed proposals shall be submitted, plainly marked with the proposal title, Bidder(s) name, and time and date of the proposal opening. Evaluation of the proposals is expected to begin shortly after the proposal due date. To document compliance with the deadline, the proposal will be date and time stamped upon receipt.

7. Proposal Opening

DNREC will receive proposals until the date and time shown in this RFP. Proposals will be opened in the presence of State of Delaware personnel. Any unopened proposals will be returned to the submitting Bidder(s).

There will be no public opening of proposals, but a public log will be kept of the names of all Bidder(s) organizations that submitted proposals. The contents of any proposal shall not be disclosed in accordance with [Executive Order # 31](#) and Title 29, Delaware Code, [Chapter 100](#).

8. Non-Conforming Proposals

Non-conforming proposals will not be considered. Non-conforming proposals are defined as those that do not meet the requirements of this RFP. The determination of whether an RFP requirement is substantive, or a mere formality shall reside solely within DNREC.

9. Concise Proposals

DNREC discourages overly lengthy and costly proposals. It is the desire that proposals be prepared in a straightforward and concise manner. Unnecessarily elaborate brochures or other promotional materials beyond those sufficient to present a complete and effective proposal are not desired. DNREC's interest is in the quality and responsiveness of the proposal.

10. Realistic Proposals

It is the expectation of DNREC that Bidder(s) can fully satisfy the obligations of the proposal in the manner and timeframe defined within the proposal. Proposals must be realistic and must represent the best estimate of time, materials and other costs including the impact of inflation and any economic or other factors that are reasonably predictable.

DNREC shall bear no responsibility or increase obligation for a Bidder(s) failure to accurately estimate the costs or resources required to meet the obligations defined in the proposal.

11. Confidentiality of Documents

The State of Delaware and its constituent agencies are required to comply with the State of Delaware Freedom of Information Act, 29 Del. C. § 10001, et seq. ("FOIA"). FOIA requires that the State of Delaware's records are public records (unless otherwise declared by FOIA or other law to be exempt from disclosure) and are subject to inspection and copying by any person upon a written request. All proposals are subject to FOIA's public disclosure obligations.

The State of Delaware wishes to create a business-friendly environment and procurement process. As such, the State of Delaware respects the Bidder(s) community's desire to protect its intellectual property, trade secrets, and confidential business information (collectively referred to herein as "confidential business information"). Proposals must contain sufficient information to be evaluated. If a Bidder(s) feels that they cannot submit their proposal without including confidential business information, they must adhere to the following procedure, or their proposal may be deemed

unresponsive, may not be recommended for selection, and any applicable protection for the Bidder(s) confidential business information may be lost.

In order to allow the State of Delaware to assess its ability to protect a Bidder(s) confidential business information, Bidder(s) will be permitted to designate appropriate portions of their proposal as confidential business information.

Bidder(s) may submit portions of a proposal considered to be confidential business information in a separate, sealed envelope labeled "Confidential Business Information" and include the specific RFP number. The envelope must contain a **letter from the Bidder(s) legal counsel** describing the documents in the envelope, representing in good faith that the information in each document is not "public record" as defined by 29 Del. C. § 10002, and briefly stating the reasons that each document meets the said definitions.

Upon receipt of a proposal accompanied by such a separate, sealed envelope, the State of Delaware will open the envelope to determine whether the procedure described above has been followed. A Bidder(s) allegation as to its confidential business information shall not be binding on the State of Delaware. The State of Delaware shall independently determine the validity of any Bidder(s) designation as set forth in this section. Any Bidder(s) submitting a proposal or using the procedures discussed herein expressly accepts the State of Delaware's absolute right and duty to independently assess the legal and factual validity of any information designated as confidential business information. Accordingly, Bidder(s) assume the risk that confidential business information included in a proposal may enter the public domain.

12. Multi-Vendor Solutions (Joint Ventures)

Multi-Vendor solutions (joint ventures) will be allowed only if one of the venture partners is designated as the "**Prime Vendor**". The "**Prime Vendor**" must be the joint venture's contact point for DNREC and be responsible for the joint venture's performance under the Agreement, including all project management, legal and financial responsibility for the implementation of all Vendor systems. If a joint venture is proposed, a copy of the joint venture agreement clearly describing the responsibilities of the partners must be submitted with the proposal. Services specified in the proposal shall not be subcontracted without prior written approval by DNREC, and approval of a request to subcontract shall not in any way relieve an Awarded Vendor of responsibility for the professional and technical accuracy and adequacy of the work. Further, the Awarded Vendor shall be and remain liable for all damages to the State of Delaware caused by negligent performance or non-performance of work by its subcontractor or its sub-subcontractor.

Multi-Vendor proposals must be a consolidated response with all cost included in the cost summary. Where necessary, RFP response pages are to be duplicated for each Vendor.

a. Primary Vendor

DNREC expects to negotiate an Agreement with only one "Prime Vendor". DNREC will not accept any proposals that reflect an equal teaming arrangement or from

Vendors who are co-bidding on this RFP. The Prime Vendor will be responsible for the management of all subcontractors.

Any Agreement that may result from this RFP shall specify that the Prime Vendor is solely responsible for fulfillment of any Agreement with DNREC as a result of this procurement. In the event that any payments are due to the Vendor during the term of the Agreement, DNREC will make payments only to the awarded Vendor. Payments to any-subcontractors are the sole responsibility of the Prime Vendor (awarded Vendor).

Nothing in this section shall prohibit the State of Delaware from the full exercise of its options under Section IV.B.18 regarding multiple source contracting.

b. Sub-contracting

The Bidder(s) selected shall be solely responsible for contractual performance and management of all subcontract relationships. This Agreement allows subcontracting assignments; however, Vendors assume all responsibility for work quality, delivery, installation, maintenance, and any supporting services required by a subcontractor.

Use of subcontractors must be clearly explained in the proposal, and major subcontractors must be identified by name. **The Prime Vendor shall be wholly responsible for the entire Agreement performance whether or not subcontractors are used.** Any sub-contractors must be approved by DNREC.

c. Multiple Proposals

A Primary Vendor may not participate in more than one proposal in any form. Sub-contracting Vendors may participate in multiple joint venture proposals.

13. Sub-Contracting

The Bidder(s) selected shall be solely responsible for Agreement performance and management of all subcontract relationships. This Agreement allows subcontracting assignments; however, Vendors assume all responsibility for work quality, delivery, installation, maintenance, and any supporting services required by a subcontractor.

Use of subcontractors must be clearly explained in the proposal, and subcontractors must be identified by name. Any sub-contractors must be approved by DNREC.

14. Discrepancies and Omissions

Bidder(s) is fully responsible for the completeness and accuracy of their proposal, and for examining this RFP and all addenda. Failure to do so will be at the sole risk of Bidder(s). Should Bidder(s) find discrepancies, omissions, unclear or ambiguous intent or meaning, or should any questions arise concerning this RFP, Bidder(s) shall notify the State of Delaware's Designated Contact, in writing, of such findings at least ten (10) days before the proposal opening. This will allow issuance of any necessary addenda. It will also help prevent the opening of a defective proposal and exposure of Bidder(s) proposal upon which award could not be made. All unresolved issues should be addressed in the proposal.

Protests based on any omission or error, or on the content of the solicitation, will be disallowed if these faults have not been brought to the attention of the Designated Contact, in writing, at least ten (10) calendar days prior to the time set for opening of the proposals.

a. RFP Question and Answer Process

DNREC will allow written requests for clarification of the RFP. All questions shall be received no later than **June 6, 2025**. All questions will be consolidated into a single set of responses and posted on the State of Delaware's website at bids.delaware.gov by the date of **June 18, 2025**. Bidder(s) names will be removed from questions in the responses released. **Questions should be submitted in the following format.** Deviations from this format will not be accepted.

- Section number
- Paragraph number
- Page number
- Text of passage being questioned

Questions not submitted electronically via email shall be accompanied by a USB and questions shall be formatted in Microsoft Word.

Questions shall be submitted to:

Rebecca Lovin and Kristie Wyatt
DNREC/Division of Parks and Recreation
89 Kings Highway
Dover, DE 19901

Rebecca.lovin@delaware.gov or Kristie.wyatt@delaware.gov

15. State's Right to Reject Proposals

DNREC reserves the right to accept or reject any or all proposals or any part of any proposal, to waive defects, technicalities or any specifications (whether they be in the State of Delaware's specifications or Bidder(s) response), to sit and act as sole judge of the merit and qualifications of each product offered, or to solicit new proposals on the same project or on a modified project which may include portions of the originally proposed project as DNREC may deem necessary in the best interest of the State of Delaware.

16. State's Right to Cancel Solicitation

The State of Delaware reserves the right to cancel this solicitation at any time during the procurement process, for any reason or for no reason. The State of Delaware makes no commitments expressed or implied, that this process will result in a business transaction with any Bidder(s).

This RFP does not constitute an offer by the State of Delaware. Bidder(s) participation in this process may result in the State of Delaware selecting your organization to engage in further discussions and negotiations toward execution of an Agreement. The commencement of such negotiations does not, however, signify a commitment by the

State of Delaware to execute an Agreement nor to continue negotiations. The State of Delaware may terminate negotiations at any time and for any reason, or for no reason.

17. State's Right to Award Multiple Source Contracting

Pursuant to 29 Del. C. [§ 6986](#), the State of Delaware may award an Agreement for a particular professional service to two or more Vendors if the agency head makes a determination that such an award is in the best interest of the State of Delaware.

18. Potential Agreement Overlap

Vendors shall be advised that the State of Delaware, at its sole discretion, shall retain the right to solicit for goods and/or services as required by its agencies and as it serves the best interest of the State of Delaware. As needs are identified, there may exist instances where Agreement deliverables, and/or goods or services to be solicited and subsequently awarded, overlap previous awards. The State of Delaware reserves the right to reject any or all bids in whole or in part, to make partial awards, to award to multiple Vendors during the same period, to award by types, on a zone-by-zone basis or on an item-by-item or lump sum basis item by item, or lump sum total, whichever may be most advantageous to the State of Delaware.

19. Supplemental Solicitation

The State of Delaware reserves the right to advertise a supplemental solicitation during the term of the Agreement if deemed in the best interest of the State of Delaware.

20. Notification of Withdrawal of Proposal

Bidder(s) may modify or withdraw its proposal by written request, provided that both proposal and request is received by the State of Delaware prior to the proposal due date. Proposals may be re-submitted in accordance with the proposal due date in order to be considered further.

Proposals become the property of the State of Delaware at the proposal submission deadline. All proposals received are considered firm offers at that time.

21. Revisions to the RFP

If it becomes necessary to revise any part of the RFP, an addendum will be posted on the State of Delaware's website at bids.delaware.gov. The State of Delaware is not bound by any statement related to this RFP made by any State of Delaware employee, contractor or its agents.

22. Exceptions to the RFP

Any exceptions to the RFP, or the State of Delaware's terms and conditions, must be recorded on the "Exception Form – Attachment 3" included in this Proposal Response Package. Acceptance of exceptions is within the sole discretion of the evaluation committee.

23. Business References

Provide at least three (3) business references consisting of current or previous customers of similar scope and value using the "Business Reference Form" included in this Proposal Response Package. Include business name, mailing address, contact name and phone

number, number of years doing business with, and type of work performed. Personal references cannot be considered.

24. Award of Agreement

The final award of an Agreement is subject to approval by DNREC. DNREC has the sole right to select the successful Bidder(s) for award, to reject any proposal as unsatisfactory or non-responsive, to award an Agreement to other than the lowest priced proposal, to award multiple contracts, or not to award an Agreement, as a result of this RFP.

Notice in writing to a Bidder(s) of the acceptance of its proposal by DNREC and the subsequent full execution of the Draft Agreement will constitute an Agreement, and no Bidder(s) will acquire any legal or equitable rights or privileges until the occurrence of both such events.

a. RFP Award Notifications

After reviews of the evaluation committee report and its recommendation, and once the Draft Agreement terms and conditions have been finalized, DNREC will award the Agreement.

The Agreement shall be awarded to the Bidder(s) whose proposal is most advantageous, taking into consideration the evaluation factors set forth in the RFP.

It should be explicitly noted that DNREC is not obligated to award the Agreement to the Bidder(s) who submits the lowest bid or the Bidder(s) who receives the highest total point score, rather the Agreement will be awarded to the Bidder(s) whose proposal is the most advantageous to the State of Delaware. The award is subject to the appropriate DNREC approvals.

After a final selection is made, the winning Bidder(s) will be invited to negotiate an Agreement with the DNREC; remaining Bidder(s) will be notified in writing of their selection status after an Agreement is executed.

25. Cooperatives

Vendors, who have been awarded similar Agreements through a competitive bidding process with a cooperative, are welcome to submit the cooperative pricing for this solicitation. **State of Delaware terms will take precedence.**

C. RFP Evaluation Process

An evaluation team composed of representatives of the State of Delaware will evaluate proposals on a variety of quantitative criteria. Neither the lowest price nor highest scoring proposal will necessarily be selected.

The State of Delaware reserves full discretion to determine the competence and responsibility, professionally and/or financially, of Vendors. Vendors are to provide in a timely manner any and all information that the State of Delaware may deem necessary to make a decision.

1. Proposal Evaluation Team

The Proposal Evaluation Team shall be comprised of representatives of the State of Delaware. The Team shall determine which Bidder(s) meet the minimum requirements pursuant to selection criteria of the RFP and procedures established in 29 Del. C. §§ [6981 and 6982](#). Professional services for this solicitation are considered under 29 Del. C. § 6982(b). The Team may negotiate with one or more Bidder(s) during the same period and may, at its discretion, terminate negotiations with any or all Bidder(s). The Team shall make a recommendation regarding the award to the Secretary of DNREC, who shall have final authority, subject to the provisions of this RFP and 29 Del. C. § [6982\(b\)](#), to award an Agreement to the successful Bidder(s) in the best interests of the State of Delaware.

2. Proposal Selection Criteria

The Proposal Evaluation Team shall assign up to the maximum number of points for each Evaluation Item to each of the proposing Bidder(s) proposals. All assignments of points shall be at the sole discretion of the Proposal Evaluation Team.

The proposals shall contain the essential information on which the award decision shall be made. The information required to be submitted in response to this RFP has been determined by the State of Delaware to be essential for use by the Team in the bid evaluation and award process. Therefore, all instructions contained in this RFP shall be met in order to qualify as a responsive and responsible Bidder(s) and participate in the Proposal Evaluation Team's consideration for award. Proposals which do not meet or comply with the instructions of this RFP may be considered non-conforming and deemed non-responsive and subject to disqualification at the sole discretion of the Team.

The Team reserves the right to:

- Select for Agreement or for negotiations a proposal other than that with lowest costs.
- Reject any and all proposals or portions of proposals received in response to this RFP or to make no award or issue a new RFP.
- Waive or modify any information, irregularity, or inconsistency in proposals received.
- Request modification to proposals from any or all Bidder(s) during the Agreement review and negotiation.
- Negotiate any aspect of the proposal with any Bidder(s) and negotiate with more than one Bidder(s) at the same time.
- Select more than one Bidder(s) pursuant to 29 Del. C. § [6986](#). Such selection will be based on the following criteria:
 - Ability to meet the requirements set forth in this RFP and Prospectus.
 - Best interest of the State of Delaware for management of one or more venues included in this RFP and Prospectus.

Criteria Weight

- **Primary Evaluation Factor 1.** The Bidders proposed concept and service offering for the venue site. **(25 points)**
- **Primary Evaluation Factor 2.** The experience and specific background of the Bidder, including the past performance and expertise of the Bidder in providing the

same or similar Public Recreation Services as those to be provided under the Concession Agreement. **(50 points)**

- **Primary Evaluation Factor 3.** The financial capability of the Bidder to carry out its proposal. **(50 points)**
- **Primary Evaluation Factor 4.** The responsiveness of the proposal to the objectives, as described in the Prospectus, of protecting, conserving, and preserving natural and cultural resources of the park. **(40 points)**
- **Primary Evaluation Factor 5.** The responsiveness of the proposal to the objectives, as described in the Prospectus, of providing high quality visitor service. **(50 points)**
- **Primary Evaluation Factor 6.** Pricing proposal response – the amount of the proposed minimum annual flat fee and % of gross revenue and other forms of financial consideration. **(35 points)**

Bidder(s) are encouraged to review the evaluation criteria and completely respond to each area of the Response Requirements included in this Packet. Evaluators will not be able to make assumptions about a Bidder(s) capabilities so the responding Bidder(s) should be detailed in their proposal responses.

3. Proposal Clarification

The Evaluation Team may contact any Bidder(s) in order to clarify uncertainties or eliminate confusion concerning the contents of a proposal. Proposals may not be modified as a result of any such clarification request.

4. References

The Evaluation Team may contact any customer of the Bidder(s), whether or not included in the Bidder(s) reference list and use such information in the evaluation process. Additionally, the State of Delaware may choose to visit existing venues managed by the Bidder(s), which may or may not include Bidder(s) personnel. If the Bidder(s) is involved in such site visits, the State of Delaware will pay travel costs only for State of Delaware personnel for these visits.

5. Oral Presentations

After initial scoring and a determination that Bidder(s) are qualified to perform the required services, selected Bidder(s) may be invited to make oral presentations to the Evaluation Team. All Bidder(s) selected will be given an opportunity to present to the Evaluation Team.

The selected Bidder(s) will have their presentations scored or ranked based on their ability to successfully meet the needs of the Agreement requirements, successfully demonstrate their product and/or service, and respond to questions about capabilities.

The Bidder(s) representative(s) attending the oral presentation shall be technically qualified to respond to questions related to Bidder(s) proposal and services being proposed.

All of the Bidder(s) costs associated with participation in oral discussions and system demonstrations conducted for the State of Delaware are the Bidder(s) responsibility.

6. Availability of a Debriefing

If Bidder(s) wish to request a debriefing, a written request for a post-award debriefing must be received within 10 calendar days from receiving the Non-Award Letter. Every effort will be made to debrief Bidder(s) as soon as practicable after receiving a request. A debriefing is not an opportunity for negotiation, amendment, supplementation or reevaluation of any proposal. All determinations for award by DNREC are final.

V. Agreement Terms and Conditions (Note that additional terms and conditions are included in the Draft Agreement.)

A. Agreement Use by Other Agencies

REF: Title 29, Chapter [6904](#)(e) Delaware Code. If no state contract exists for a certain good or service, covered agencies may procure that certain good or service under another agency's contract so long as the arrangement is agreeable to all parties. Agencies, other than covered agencies, may also procure such goods or services under another agency's contract when the arrangement is agreeable to all parties.

B. Cooperative Use of Award

As a publicly competed Agreement awarded in compliance with 29 DE Code Chapter 69, this Agreement is available for use by other states and/or governmental entities through a participating addendum. Interested parties should contact the DNREC designated contact identified in the RFP for instruction. Final approval for permitting participation in this Agreement resides with the Director of Government Support Services and in no way places any obligation upon the Awarded Vendor(s).

C. General Information

1. The term of the Agreement between the successful Vendor and DNREC shall be for **ten (10) years with three (3) five (5) year extension options**. The Division of Parks and Recreation reserves the right to contract up to twenty-five (25) years if Vendor improvements warrant additional time for return on investment. Any extensions shall be mutually negotiated (including fees) between the Vendor(s) and DNREC.
2. The selected Vendor will be required to enter into a written agreement with the State of Delaware. The State of Delaware reserves the right to incorporate standard State contractual provisions into any Agreement negotiated as a result of a proposal submitted in response to this RFP. Any proposed modifications to the terms and conditions of the standard Agreement are subject to review and approval by the State of Delaware. Vendors will be required to sign the Agreement for all services and may be required to sign additional agreements.
3. The selected Vendor or Vendors will be expected to enter negotiations with the State of Delaware, which will result in a formal Agreement between parties. Procurement will be in accordance with subsequent contracted agreement. This RFP and all of its addenda and exhibits, and the selected Vendor's response to this RFP will be incorporated as part of any formal Agreement.
4. The State of Delaware's Draft Agreement will most likely be supplemented with any other applicable agreements or requirements. The terms and conditions of these agreements will be negotiated with the finalist during actual Agreement negotiations.

5. The successful Vendor shall promptly execute an Agreement incorporating the terms of this RFP after award of the Agreement. As applicable, no Awarded Vendor is to begin any service that would require a State of Delaware purchase order signed by two authorized representatives of the agency requesting service, properly processed through the State of Delaware Accounting Office and the Department of Finance. The purchase order shall serve as the authorization to proceed in accordance with the special instructions required to support the Agreement. A purchase order may be required for any DNREC billable due under this Agreement.
6. If the Vendor to whom the award is made fails to enter into the agreement as herein provided, the award will be annulled, and an award may be made to another Vendor. Such Vendor shall fulfill every stipulation embraced herein as if they were the party to whom the first award was made.
7. The State of Delaware reserves the right to extend this Agreement on a month-to-month basis for a period of up to three months after the term of the full Agreement has been completed.
8. Vendors are not restricted from offering better pricing at any time during the Agreement term.

D. Collusion or Fraud

Any evidence of agreement or collusion among Vendor(s) and prospective Vendors(s) acting to illegally restrain freedom from competition by agreement to offer a fixed price, or otherwise, will render the offers of such Vendors(s) void.

By responding, the Vendor shall be deemed to have represented and warranted that its proposal is not made in connection with any competing Vendor submitting a separate response to this RFP, and is in all respects fair and without collusion or fraud; that the Vendor did not participate in the RFP development process and had no knowledge of the specific contents of the RFP prior to its issuance; and that no employee or official of the State of Delaware participated directly or indirectly in the Vendor's proposal preparation.

Advance knowledge of information which gives any particular Vendor advantages over any other interested Vendor(s), in advance of the opening of proposals, whether in response to advertising or an employee or representative thereof, will potentially void that particular proposal.

E. Lobbying and Gratuities

Lobbying or providing gratuities shall be strictly prohibited. Vendors found to be lobbying, providing gratuities to, or in any way attempting to influence a State of Delaware employee or agent of the State of Delaware concerning this RFP or the award of an Agreement resulting from this RFP shall have their proposal immediately rejected and shall be barred from further participation in this RFP.

The selected Vendor will warrant that no person or selling agency has been employed or retained to solicit or secure an Agreement resulting from this RFP upon agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, the State of Delaware shall have the right to annul any

Agreement resulting from this RFP without liability or at its discretion deduct from the Agreement price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

All contact with State of Delaware employees, contractors or agents of the State of Delaware concerning this RFP shall be conducted in strict accordance with the manner, forum and conditions set forth in this RFP.

F. Solicitation of State Employees

Until Agreement award, Vendors shall not, directly or indirectly, solicit any employee of the State of Delaware to leave the State of Delaware's employ in order to accept employment with the Vendor, its affiliates, actual or prospective contractors, or any person acting in concert with Vendor, without prior written approval of the State of Delaware's contracting officer. Solicitation of State of Delaware employees by a Vendor may result in rejection of the Vendor's proposal.

This paragraph does not prevent the employment by a Vendor of a State of Delaware employee who has initiated contact with the Vendor. However, State of Delaware employees may be legally prohibited from accepting employment with the contractor or subcontractor under certain circumstances. Vendors may not knowingly employ a person who cannot legally accept employment under state or federal law. If a Vendor discovers that they have done so, they must terminate that employment immediately.

G. General Agreement Terms

1. Independent Contractors

The parties to the Agreement shall be independent contractors to one another, and nothing herein shall be deemed to cause this agreement to create an agency, partnership, joint venture or employment relationship between parties. Each party shall be responsible for compliance with all applicable workers compensation, unemployment, disability insurance, social security withholding and all other similar matters. Neither party shall be liable for any debts, accounts, obligations or other liability whatsoever of the other party or any other obligation of the other party to pay on the behalf of its employees or to withhold from any compensation paid to such employees any social benefits, workers compensation insurance premiums or any income or other similar taxes.

It may be at the State of Delaware's discretion as to the location of work for the contractual support personnel during the project period. The State of Delaware may provide working space and sufficient supplies and material to augment the Contractor's services.

2. Temporary Personnel are Not State Employees Unless and Until They are Hired

Vendor agrees that any individual or group of temporary staff person(s) provided to the State of Delaware pursuant to this Solicitation shall remain the employee(s) of Vendor for all purposes including any required compliance with the Affordable Care Act by the Vendor. Vendor agrees that it shall not allege, argue, or take any position that individual temporary staff person(s) provided to the State of Delaware pursuant to this Solicitation must be provided any benefits, including any healthcare benefits by the State of Delaware and Vendor agrees to assume the total and complete responsibility for the provision of any healthcare benefits required by the Affordable Care Act to

aforesaid individual temporary staff person(s). In the event that the Internal Revenue Service, or any other third party governmental entity determines that the State of Delaware is a dual employer or the sole employer of any individual temporary staff person(s) provided to the State of Delaware pursuant to this Solicitation, Vendor agrees to hold harmless, indemnify, and defend the State of Delaware to the maximum extent of any liability to the State of Delaware arising out of such determinations.

Notwithstanding the content of the preceding paragraph, should the State of Delaware subsequently directly hire any individual temporary staff employee(s) provided pursuant to this Solicitation, the aforementioned obligations to hold harmless, indemnify, and defend the State of Delaware shall cease and terminate for the period following the date of hire. Nothing herein shall be deemed to terminate the Vendor's obligation to hold harmless, indemnify, and defend the State of Delaware for any liability that arises out of compliance with the ACA prior to the date of hire by the State of Delaware. Vendor will waive any separation fee provided an employee works for both the Vendor and hiring agency, continuously, for a three (3) month period and is provided thirty (30) days written notice of intent to hire from the agency. Notice can be issued at second month if it is the State of Delaware's intention to hire.

3. Work Performed in a State Building

Awarded Vendor(s) who have any employees carrying out any work related to the awarded Agreement at a State facility shall have those employees comply with any health mandate or policy issued by the State of Delaware related to a pandemic or other State of Emergency issued by any State authority during the term of the awarded Agreement, including those that apply directly to State employees.

4. ACA Safe Harbor

The State of Delaware and its utilizing agencies are not the employer of temporary or contracted staff. However, the State of Delaware is concerned that it could be determined to be a Common-law Employer as defined by the Affordable Care Act ("ACA"). Therefore, the State of Delaware seeks to utilize the "Common-law Employer Safe Harbor Exception" under the ACA to transfer health benefit insurance requirements to the staffing company. The Common-law Employer Safe Harbor Exception can be attained when the State of Delaware and/or its agencies are charged and pay for an "Additional Fee" with respect to the employees electing to obtain health coverage from the Vendor.

The Common-law Employer Safe Harbor Exception under the ACA requires that an Additional Fee must be charged to those employees who obtain health coverage from the Vendor but does not state the required amount of the fee. The State of Delaware requires that all Vendors shall identify the Additional Fee to obtain health coverage from the Vendor and delineate the Additional Fee from all other charges and fees. The Vendor shall identify both the Additional Fee to be charged and the basis of how the fee is applied (i.e., per employee, per invoice, etc.). The State of Delaware will consider the Additional Fee and prior to award reserves the right to negotiate any fees offered by the Vendor. Further, the Additional Fee shall be separately scored in the proposal to ensure that neither prices charged, nor the Additional Fee charged will have a detrimental effect when selecting Vendor(s) for award.

5. Licenses and Permits

In performance of the Agreement, the Vendor will be required to comply with all applicable federal, state and local laws, ordinances, codes, and regulations. The cost of permits and other relevant costs required in the performance of the Agreement shall be borne by the successful Vendor. The Vendor shall be properly licensed and authorized to transact business in the State of Delaware as provided in 30 Del. C. § 2502.

Prior to receiving an award, the successful Vendor shall either furnish the State of Delaware with proof of State of Delaware Business Licensure or initiate the process of application where required. An application may be requested in writing to: Division of Revenue, Carvel State Building, P.O. Box 8750, 820 N. French Street, Wilmington, DE 19899 or by telephone to one of the following numbers: (302) 577-8200—Public Service, (302) 577-8205—Licensing Department.

Information regarding the award of the Agreement will be given to the Division of Revenue. Failure to comply with the State of Delaware licensing requirements may subject Vendor to applicable fines and/or interest penalties.

6. Notice

Any notice to the State of Delaware required under the Agreement shall be sent by registered mail to:

**DNREC/Division of Parks and Recreation
OBS/Agreement NAT25004_LAMBORN OUTDOOR RECREATION
89 Kings Highway
Dover, DE 19901**

7. Indemnification

a. General Indemnification

By submitting a proposal, the proposing Vendor agrees that in the event it is awarded an Agreement, 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 Agreement.

b. Proprietary Rights Indemnification

Vendor shall warrant that all elements of its solution, including all equipment, software, documentation, services and deliverables, do not and will not infringe upon or violate any patent, copyright, trade secret or other proprietary rights of any third party. In the event of any claim, suit or action by any third party against the State of Delaware, the State of Delaware shall promptly notify the Vendor in writing and Vendor shall defend such claim, suit or action at Vendor's expense, and Vendor shall indemnify the State of Delaware against any loss, cost, damage, expense or liability arising out of such claim, suit or action (including, without limitation, litigation costs,

lost employee time, and counsel fees) whether or not such claim, suit or action is successful.

If any equipment, software, services (including methods) products or other intellectual property used or furnished by the Vendor (collectively "Products") is or in Vendor's reasonable judgment is likely to be, held to constitute an infringing product, Vendor shall at its expense and option either:

- 1) Procure the right for the State of Delaware to continue using the Product(s);
- 2) Replace the product with a non-infringing equivalent that satisfies all the requirements of the Agreement; or
- 3) Modify the Product(s) to make it or them non-infringing, provided that the modification does not materially alter the functionality or efficacy of the product or cause the Product(s) or any part of the work to fail to conform to the requirements of the Agreement, or only alters the Product(s) to a degree that the State of Delaware agrees to and accepts in writing.

8. Insurance

- a. Vendor recognizes that it is operating as an independent contractor and that it is liable for any and all losses, penalties, damages, expenses, attorney's fees, judgments, and/or settlements incurred by reason of injury to or death of any and all persons, or injury to any and all property, of any nature, arising out of the Vendor's negligent performance under this Agreement, and particularly without limiting the foregoing, caused by, resulting from, or arising out of any act of omission on the part of the Vendor in their negligent performance under this Agreement.
- b. The Vendor shall maintain such insurance which will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this Agreement. The Vendor is an independent contractor and is not an employee of the State of Delaware.
- c. As a part of the Agreement requirements, the contractor must obtain at its own cost and expense and keep in force and effect during the term of this Agreement, including all extensions, the minimum coverage limits specified below with a carrier satisfactory to the State of Delaware. All contractors must carry the following coverage (liquor liability is applicable only if liquor is part of the proposed operation).
 - 1) Worker's Compensation and Employer's Liability Insurance in accordance with applicable law.
 - 2) Commercial General Liability - \$1,000,000 per occurrence/\$3,000,000 per aggregate.
 - 3) Automotive Liability Insurance covering all automotive units used in the work (including all units leased from and/or provided by the State of Delaware to

Vendor pursuant to this Agreement as well as all units used by Vendor, regardless of the identity of the registered owner, used by Vendor for completing the Work required by this Agreement to include but not limited to transporting Delaware clients or staff), providing coverage on a primary non-contributory basis with limits of not less than:

- (a) \$1,000,000 combined single limit each accident, for bodily injury;
 - (b) \$250,000 for property damage to others;
 - (c) \$25,000 per person per accident Uninsured/Underinsured Motorists coverage;
 - (d) \$25,000 per person, \$300,000 per accident Personal Injury Protection (PIP) benefits as provided for in 21 Del. C. §2118; and
 - (e) Comprehensive coverage for all leased vehicles, which shall cover the replacement cost of the vehicle in the event of collision, damage or other loss.
- 4) Product Liability - \$1,000,000 per occurrence/\$3,000,000 aggregate.
 - 5) Professional Liability - \$1,000,000 per occurrence/\$3,000,000 aggregate.
 - 6) Liquor Liability - \$1,000,000 per occurrence/\$3,000,000 aggregate.
 - 7) Pollution Liability - \$1,000,000 per occurrence/\$3,000,000 aggregate.
- d. Should any of the above-described policies be cancelled before expiration date thereof, notice will be delivered in accordance with the policy provisions.
 - e. Before any work is done pursuant to this Agreement, the Certificate of Insurance and/or copies of the insurance policies, referencing the Agreement number stated herein, shall be filed with the State of Delaware. The certificate holder is as follows:

**DNREC/Division of Parks and Recreation
Office of Business Services/NAT25004_LAMBORN OUTDOOR RECREATION
89 Kings Highway
Dover, DE 19901**
- f. Nothing contained herein shall restrict or limit the Vendor's right to procure insurance coverage in amounts higher than those required by this Agreement. To the extent that the Vendor procures insurance coverage in amounts higher than the amounts required by this Agreement, all said additionally procured coverages will be applicable to any loss or claim and shall replace the insurance obligations contained herein.
 - g. To the extent that Vendor has complied with the terms of the Agreement and has procured insurance coverage for all vehicles leased and/or operated by Vendor as part of this Agreement, the State of Delaware's self-insured insurance program shall

not provide any coverage whether coverage is sought as primary, co-primary, excess or umbrella insurer or coverage for any loss of any nature.

- h. In no event shall the State of Delaware be named as an additional insured on any policy required under this agreement.**
- i. The Vendor shall provide a Certificate of Insurance (COI) as proof that the Vendor has the required insurance. The COI shall be provided to agency contact prior to any work being completed by the awarded Vendor(s).
- j. Should any of the above-described policies be cancelled before expiration date thereof, notice will be delivered in accordance with the policy provisions.

9. Performance Requirements

The selected Vendor will warrant that it possesses, or has arranged through subcontractors, all capital and other equipment, labor, materials, and licenses necessary to carry out and complete the work hereunder in compliance with any and all Federal and State laws, and County and local ordinances, regulations and codes.

10. Bid Bond

Bid Bond is waived for this procurement.

11. Performance Bond

Vendor(s) awarded Agreements are required to furnish a 100% Performance Bond in accordance with Delaware Code Title 29, Section 6927, to the State of Delaware for the benefit of the Department of Natural Resources and Environmental Control, Division of Parks and Recreation with surety in the amount of 100% of the specific award. Said bonds shall be conditioned upon the faithful performance of the Agreement. This guarantee shall be submitted using Attachment 10 in the form of a good and sufficient bond drawn upon an Insurance or Bonding Company authorized to do business in the State of Delaware.

12. Vendor Emergency Response Point of Contact

The awarded Vendor(s) shall provide the name(s), telephone, or cell phone number(s) of those individuals who can be contacted twenty four (24) hours a day, seven (7) days a week where there is a critical need for commodities or services when the Governor of the State of Delaware declares a state of emergency under the Delaware Emergency Operations Plan or in the event of a local emergency or disaster where a state governmental entity requires the services of the Vendor. Failure to provide this information could render the proposal as non-responsive.

In the event of a serious emergency, pandemic or disaster outside the control of the State of Delaware, the State of Delaware may negotiate, as may be authorized by law, emergency performance from the Vendor to address the immediate needs of the State of Delaware, even if not contemplated under the original Agreement or procurement. Payments are subject to appropriation and other payment terms.

13. Warranty

The Vendor will provide a warranty that the deliverables provided pursuant to the Agreement will function and operate as designed for a period of no less than one (1) year from the date of system acceptance. The warranty shall require the Vendor correct, at its own expense, the setup, configuration, customizations, or modifications so that it functions according to the State of Delaware's requirements.

14. Costs and Payment Schedules

All Agreement fees and costs must be as detailed specifically in the Vendor's cost proposal. Agreement fees due to DNREC shall be paid in accordance with the negotiated Agreement terms and condition. No charges to DNREC shall be allowed without written consent of the State of Delaware. The proposal fees and costs shall include full compensation for all taxes that the selected Vendor is required to pay.

If applicable to any DNREC monies owed, the State of Delaware will require a payment schedule based on defined and measurable milestones. Payments for services will not be made in advance of work performed. The State of Delaware may require holdback of Agreement monies until acceptable performance is demonstrated (as much as 25%).

15. Liquidated Damages

The State of Delaware may include in the final Agreement liquidated damages provisions for non-performance.

16. Dispute Resolution

At the option of the parties, they shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. All offers, promises, conduct and statements, whether oral or written, made in the course of the negotiation by any of the parties, their agents, employees, experts and attorneys are confidential, privileged and inadmissible for any purpose, including impeachment, in arbitration or other proceeding involving the parties, provided evidence that is otherwise admissible or discoverable shall not be rendered inadmissible.

If the matter is not resolved by negotiation, as outlined above, or, alternatively, the parties elect to proceed directly to mediation, then the matter will proceed to mediation as set forth below. Any disputes, claims or controversies arising out of or relating to this Agreement shall be submitted to a mediator selected by the parties. If the matter is not resolved through mediation, it may be submitted for arbitration or litigation. The Agency reserves the right to proceed directly to arbitration or litigation without negotiation or mediation. Any such proceedings held pursuant to this provision shall be governed by State of Delaware law, and jurisdiction and venue shall be in the State of Delaware. Each party shall bear its own costs of mediation, arbitration, or litigation, including attorneys' fees.

17. Remedies

Except as otherwise provided in this solicitation, including but not limited to Section Dispute Resolution above, all claims, counterclaims, disputes, and other matters in question between the State of Delaware and the Vendor arising out of, or relating to,

this solicitation, or a breach of it may be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of Delaware.

18. Termination of Agreement

The Agreement resulting from this RFP may be terminated as follows by DNREC.

a. 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 Agreement, or if the Vendor violates any of the covenants, agreements, or stipulations of this Agreement, DNREC shall thereupon have the right to terminate this Agreement by giving written notice to the Vendor of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Vendor under this Agreement shall, at the option of DNREC, become its property, and the Vendor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is usable to DNREC.

On receipt of the Agreement cancellation notice from DNREC, the Vendor shall have no 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 Agreement cancellation unless DNREC provides a written acceptance of the Vendor response. If DNREC does accept the Vendor's method and/or action plan to correct the identified deficiencies, DNREC will define the time by which the Vendor must fulfill its corrective obligations. Final retraction of DNREC's termination for cause will only occur after the Vendor successfully rectifies the original violation(s). At its discretion DNREC may reject in writing the Vendor's proposed action plan and proceed with the original Agreement cancellation timeline.

b. Termination for Convenience

DNREC may terminate this Agreement at any time by giving written notice of such termination and specifying the effective date thereof, at least twenty (20) 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 DNREC, 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 DNREC.

c. 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 DNREC 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.

d. Other Grounds for Termination are included in the Draft Agreement.

19. Non-discrimination

In performing the services subject to this RFP the Vendor, as set forth in Title 19 Delaware Code Chapter 7 section [711](#), will agree that it will not discriminate against any employee or applicant with respect to compensation, terms, conditions or privileges of employment because of such individual's race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin. The successful Vendor shall comply with all federal and state laws, regulations and policies pertaining to the prevention of discriminatory employment practice. Failure to perform under this provision constitutes a material breach of Agreement.

20. Covenant against Contingent Fees

The successful Vendor will warrant that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission or percentage, brokerage or contingent fee excepting bona-fide employees, bona-fide established commercial or selling agencies maintained by the Vendor for the purpose of securing business. For breach or violation of this warranty the State of Delaware shall have the right to annul the Agreement without liability or at its discretion to deduct from the Agreement price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

21. Vendor Activity

No activity is to be executed in an offshore facility, either by a subcontracted firm or a foreign office or division of the Vendor. The Vendor must attest to the fact that no activity will take place outside of the United States in its transmittal letter. Failure to adhere to this requirement is cause for elimination from future consideration.

22. Vendor Responsibility

DNREC will enter into an Agreement with the successful Vendor(s). The successful Vendor(s) shall be responsible for all products and services as required by this RFP whether or not the Vendor or its subcontractor provided final fulfillment of the order. Subcontractors, if any, shall be clearly identified in the Vendor's proposal by completing the Subcontractor Form, and are subject the approval and acceptance of DNREC.

23. 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 Agreement.
- 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 Agreement shall be subcontracted without the prior written approval of the State of Delaware. Only those subcontractors identified in the Subcontractor Form are considered approved upon award. Changes to those subcontractor(s) listed in the Subcontractor Form must be approved in writing by the State of Delaware.

24. Fair Background Check Practices

Pursuant to 29 Del. C. [§ 6909B](#), the State of Delaware does not consider the criminal record, criminal history, credit history or credit score of an applicant for state employment during the initial application process unless otherwise required by state and/or federal law. Vendors doing business with the State of Delaware are encouraged to adopt fair background check practices. Vendors can refer to 19 Del. C. [§ 711\(g\)](#) for applicable established provisions.

25. 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 of Delaware'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 Agreement but may provide support or off-site premises service for Agreement 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 Agreement 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 an Agreement award. A violation of this condition represents a violation of the Agreement terms and conditions, and may subject the Vendor to penalty, including Agreement cancellation for cause.

Individual Agreements 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 Agreement 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 Agreement.

26. Drug Testing Requirements for Large Public Works

Pursuant to 29 Del. C. [§6908\(a\)\(6\)](#), effective as of January 1, 2016, OMB has established regulations that require Contractors and Subcontractors to implement a program of mandatory drug testing for Employees who work on Large Public Works Contracts funded all or in part with public funds. The regulations establish the mechanism, standards and requirements of a Mandatory Drug Testing Program that will be incorporated by reference into all Large Public Works Contracts awarded pursuant to 29 Del. C. [§6962](#).

Final publication of the identified regulations can be found at the following:

[4104 Regulations for the Drug Testing of Contractor and Subcontractor Employees Working on Large Public Works Projects](#)

27. Work Product

All materials and products developed under the executed Agreement by the Vendor are the sole and exclusive property of the State of Delaware. The Vendor will seek written permission to use any product created under the Agreement.

28. Agreement Documents

The RFP, the purchase order, the executed Agreement and any supplemental documents between the State of Delaware and the successful Vendor shall constitute the Agreement between the State of Delaware and the Vendor. In the event there is any discrepancy between any of these Agreement documents, the following order of documents governs so that the former prevails over the latter: Agreement, State of Delaware's RFP, Vendor's response to the RFP and purchase order. No other documents shall be considered. These documents will constitute the entire agreement between the State of Delaware and the Vendor.

29. Applicable Law

The laws of the State of Delaware shall apply, except where Federal Law has precedence. The successful Vendor consents to jurisdiction and venue in the State of Delaware.

In submitting a proposal, Vendors certify that they comply with all federal, state and local laws applicable to its activities and obligations including:

- a. The laws of the State of Delaware;
- b. The applicable portion of the Federal Civil Rights Act of 1964;
- c. The Equal Employment Opportunity Act and the regulations issued there under by the federal government;
- d. A condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury; and
- e. That programs, services, and activities provided to the general public under resulting Agreement conform with the Americans with Disabilities Act of 1990, and the regulations issued there under by the federal government.

If any Vendor fails to comply with (a) through (b) of this paragraph, the State of Delaware reserves the right to disregard the proposal, terminate the Agreement, or consider the Vendor in default.

The selected Vendor shall keep itself fully informed of and shall observe and comply with all applicable existing Federal and State laws, and County and local ordinances, regulations and codes, and those laws, ordinances, regulations, and codes adopted during its performance of the work.

30. Severability

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

31. Assignment of Antitrust Claims

As consideration for the award and execution of this Agreement by the State of Delaware, the Vendor hereby grants, conveys, sells, assigns, and transfers to the State of Delaware all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, regarding the specific goods or services purchased or acquired for the State of Delaware pursuant to this Agreement. Upon either the State of Delaware or the Vendor notice of the filing of or reasonable likelihood of filing of an action under the antitrust laws of the United States or the State of Delaware, the State of Delaware and Vendor shall meet and confer about coordination of representation in such action.

32. Scope of Agreement

If the scope of any provision of the Agreement is determined to be too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the Agreement shall not thereby fail, but the scope of such provisions shall be curtailed only to the extent necessary to conform to the law.

33. Affirmation

The Vendor must affirm that within the past five (5) years the firm or any officer, controlling stockholder, partner, principal, or other person substantially involved in the contracting activities of the business is not currently suspended or debarred and is not a successor, subsidiary, or affiliate of a suspended or debarred business.

34. Audit Access to Records

The Vendor shall maintain books, records, documents, and other evidence pertaining to this Agreement to the extent and in such detail as shall adequately reflect performance hereunder. The Vendor agrees to preserve and make available to the State of Delaware, upon request, such records for a period of five (5) years from the date services were rendered by the Vendor. Records involving matters in litigation shall be retained for one (1) year following the termination of such litigation. The Vendor agrees to make such records available for inspection, audit, or reproduction to any official State representative in the performance of their duties under the Agreement. Upon notice given to the Vendor, representatives of the State of Delaware or other duly authorized State or Federal agency may inspect, monitor, and/or evaluate the cost and billing records or other material relative to this Agreement. The cost of any Agreement audit disallowances resulting from the examination of the Vendor's financial records will be borne by the Vendor. Reimbursement to the State of Delaware for disallowances shall

be drawn from the Vendor's own resources and not charged to Agreement cost or cost pools indirectly charging Agreement costs.

35. IRS 1075 Publication (If Applicable)

a. Performance

In performance of this Agreement, the Vendor (also referred to as "contractor") agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

All work will be performed under the supervision of the Vendor or the Vendor's responsible employees.

The Vendor and the Vendor's employees with access to or who use FTI must meet the background check requirements defined in IRS Publication 1075.

Any Federal tax returns or Federal tax return information (hereafter referred to as returns or return information) made available shall be used only for the purpose of carrying out the provisions of this Agreement. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this Agreement. Inspection by or disclosure to anyone other than an officer or employee of the contractor is prohibited.

All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.

No work involving returns and return information furnished under this Agreement will be subcontracted without prior written approval of the IRS.

The Vendor will maintain a list of employees authorized access. Such list will be provided to the Agency and, upon request, to the IRS reviewing office.

The Agency will have the right to void the Agreement if the Vendor fails to provide the safeguards described above.

The Vendor shall comply with Agency incident response policies and procedures for reporting unauthorized disclosures of agency data.

b. Criminal/Civil Sanctions

Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized future

disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRCs 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Agreement. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this Agreement. Inspection by or disclosure to anyone without an official need-to-know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of \$1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRCs 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.

Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, contractors must be advised of the provisions of IRCs 7431, 7213, and 7213A (see Exhibit 4, Sanctions for Unauthorized Disclosure, and Exhibit 5, Civil Damages for Unauthorized Disclosure). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10) For both the initial certification and the annual certification, the contractor must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

c. Inspection

The IRS and the Agency, with 24-hour notice, shall have the right to send its inspectors into the offices and plants of the contractor to inspect facilities and operations performing any work with FTI under this Agreement for compliance with requirements defined in IRS Publication 1075. The IRS' right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. On the basis of such inspection, corrective actions may be required in cases where the contractor is found to be noncompliant with Agreement safeguards.

36. Other General Conditions

- a. Current Version** – “Packaged” application and system software shall be the most current version generally available as of the date of the physical installation of the software.
- b. Current Manufacture** – Equipment specified and/or furnished under this specification shall be standard products of manufacturers regularly engaged in the production of such equipment and shall be the manufacturer’s latest design. All material and equipment offered shall be new and unused.
- c. Volumes and Quantities** – Activity volume estimates and other quantities have been reviewed for accuracy; however, they may be subject to change prior or subsequent to award of the Agreement.
- d. Prior Use** – The State of Delaware reserves the right to use equipment and material furnished under this proposal prior to final acceptance. Such use shall not constitute acceptance of the work or any part thereof by the State of Delaware.
- e. Status Reporting** – The selected Vendor will be required to lead and/or participate in status meetings and submit status reports covering such items as progress of work being performed, milestones attained, resources expended, problems encountered and corrective action taken, until final system acceptance.
- f. Regulations** – All equipment, software and services must meet all applicable local, State and Federal regulations in effect on the date of the Agreement.
- g. Assignment** – Any resulting Agreement shall not be assigned except by express prior written consent from the Agency.
- h. Changes** – No alterations in any terms, conditions, delivery, price, quality, or specifications of items ordered will be effective without the written consent of the State of Delaware.
- i. Billing** – The successful Vendor is required to "Bill as Shipped" to the respective ordering agency(s). Ordering agencies shall provide Agreement number, ship to and bill to address, contact name and phone number.
- j. Payment** – The State reserves the right to pay by Automated Clearing House (ACH), Purchase Card (P-Card), or check. The agencies will authorize and process for

payment of each invoice within thirty (30) days after the date of receipt of a correct invoice. Vendors are invited to offer in their proposal value added discounts (i.e., speed to pay discounts for specific payment terms). Cash or separate discounts should be computed and incorporated as invoiced.

- k. **W-9** - The State of Delaware requires completion of the [Delaware Substitute Form W-9](#) through the Supplier Public Portal at <https://esupplier.erp.delaware.gov> to make payments to Vendors. Successful completion of this form enables the creation of a State of Delaware Vendor record.
- l. **Purchase Orders** – Agencies that are part of the First State Financial (FSF) system are required to identify the Agreement number NAT25004_LAMBORN OUTDOOR RECREATION on all Purchase Orders (P.O.) and shall complete the same when entering P.O. information in the State of Delaware’s financial reporting system.
- m. **Purchase Card** – The State of Delaware intends to maximize the use of the P-Card for payment for goods and services provided under Agreement. Vendors shall not charge additional fees for acceptance of this payment method and shall incorporate any costs into their proposals. Additionally, there shall be no minimum or maximum limits on any P-Card transaction under the Agreement.
- n. **Additional Terms and Conditions** – The State of Delaware reserves the right to add terms and conditions during the Agreement negotiations.

VI. RFP Miscellaneous Information

A. No Press Releases or Public Disclosure

The State of Delaware reserves the right to pre-approve any news or broadcast advertising releases concerning this solicitation, the resulting Agreement, the work performed, or any reference to the State of Delaware with regard to any project or Agreement performance. Any such news or advertising releases pertaining to this solicitation or resulting Agreement shall require the prior express written permission of the State of Delaware.

The State of Delaware will not prohibit or otherwise prevent the awarded Vendor(s) from direct marketing to the State of Delaware agencies, departments, municipalities, and/or any other political subdivisions, however, the Vendor shall not use the State of Delaware’s seal or imply preference for the solution or goods provided.

B. Definitions of Requirements

To prevent any confusion about identifying requirements in this RFP, the following definition is offered: The words *shall*, *will* and/or *must* are used to designate a mandatory requirement. Vendors must respond to all mandatory requirements presented in the RFP. Failure to respond to a mandatory requirement may cause the disqualification of your proposal.

C. Production Environment Requirements

The State of Delaware requires that all hardware, system software products, and application software products included in proposals be currently in use in a production environment by a least three other customers, have been in use for at least six months, and have been generally available from the manufacturers for a period of six months.

Unreleased or beta test hardware, system software, or application software will not be acceptable.

VII. Attachments for Response Packet

The following attachments and appendixes shall be considered part of the RFP solicitation:

- Attachment 1 – No Proposal Reply Form
- Attachment 2 – Non-Collusion Statement
- Attachment 3 – Exceptions
- Attachment 4 – Confidentiality and Proprietary Information
- Attachment 5 – Business References
- Attachment 6 – Subcontractor Information Form
- Attachment 7 – Monthly Usage Report
- Attachment 8 – Subcontracting (2nd Tier Spend) Report
- Attachment 9 – Office of Supplier Diversity Application
- Attachment 10 – Performance Bond
- Attachment 11 – Bid Bond (waived)
- Attachment 12 – Bidder(s) Transmittal Letter
- Attachment 13 – Certificate of Bidder(s) Entity Bidder(s)
- Attachment 14 – Evaluations Factor and Response Section
- Attachment 15 – Responsiveness Checklist

Remainder of page intentionally left blank

IMPORTANT – PLEASE NOTE

REQUIRED REPORTING

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

A complete and accurate Usage Report (Attachment 7) 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 services provided and revenue generated on this Agreement. The reports shall be completed in Excel format, using the approved DNREC template, and submitted as an attachment to DNREC at Parks_OBS@delaware.gov, with a copy going to the designated Agreement point of contact in DNREC's Office of Business Services. Submitted reports shall cover the full month (Report due by January 15th will cover the period of December 1 – 31.), contain accurate descriptions of the products, goods or services provided, financial information, quantities and prices as applicable. Reports are required monthly, including those with "no sales". 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 Agreement 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 49](#), 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 Agreement. The reported data elements shall include but not be limited to; name of state Agreement/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 report is shown as in Attachment 8.

Accurate 2nd Tier reports shall be submitted to osd@delaware.gov 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. Agreement spend during the covered periods shall result in a report even if the Agreement has expired by the report due date.

NO PROPOSAL REPLY FORM

Attachment 1

Agreement No.: NAT25004_LAMBORN OUTDOOR RECREATION
Agreement Title: PUBLIC OUTDOOR RECREATION AT THE LAMBORN ESTATE WITHIN WHITE CLAY CREEK STATE PARK

To assist us in obtaining good competition on our Request for Proposals, we ask that each firm that has received a proposal, but does not wish to bid, state their reason(s) below and return in a clearly marked envelope displaying the Agreement number. This information will not preclude receipt of future invitations unless you request removal from the Vendor's List by so indicating below, or do not return this form or bona fide proposal.

Unfortunately, we must offer a **"No Proposal"** at this time because:

- _____ 1. We do not wish to participate in the proposal process.
- _____ 2. We do not wish to bid under the terms and conditions of the Request for Proposal document. Our objections are:

- _____ 3. We do not feel we can be competitive.
- _____ 4. We cannot submit a Proposal because of the marketing or franchising policies of the manufacturing company.
- _____ 5. We do not wish to sell to the State. Our objections are:

- _____ 6. We do not sell the items/services on which Proposals are requested.
- _____ 7. Other: _____

_____ FIRM NAME

_____ SIGNATURE

_____ We wish to remain on the Vendor's List **for these services.**

_____ We wish to be deleted from the Vendor's List **for these services.**

PLEASE FORWARD NO PROPOSAL REPLY FORM TO:
Rebecca Lovin and Kristie Wyatt
DNREC/Division of Parks and Recreation
89 Kings Highway
Dover, DE 19901
Rebecca.lovin@delaware.gov or Kristie.wyatt@delaware.gov

Attachment 2

Agreement No.: NAT25004_LAMBORN OUTDOOR RECREATION
Agreement Title: PUBLIC OUTDOOR RECREATION AT THE LAMBORN ESTATE WITHIN WHITE CLAY CREEK STATE PARK

DEADLINE TO RESPOND: July 9, 2025, at 1:00 PM (Local Time)

NON-COLLUSION STATEMENT

This is to certify that the undersigned Vendor has neither directly nor indirectly, entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this proposal, **and further certifies that it is not a sub-contractor to another Vendor who also submitted a proposal as a primary Vendor in response to this solicitation** submitted this date to the State of Delaware, Department of Natural Resources and Environmental Control, Division of Parks and Recreation.

It is agreed by the undersigned Vendor that the signed delivery of this bid represents, subject to any express exceptions set forth at Attachment 3, the Vendor's acceptance of the terms and conditions of this solicitation including all specifications and special provisions.

NOTE: Signature of the authorized representative **MUST** be of an individual who legally may enter his/her organization into a formal Agreement with the State of Delaware, Department of Natural Resources and Environmental Control, Division of Parks and Recreation.

COMPANY NAME _____ Check one)

NAME OF AUTHORIZED REPRESENTATIVE _____
 (Please type or print)

Corporation
Partnership
Individual

SIGNATURE _____ TITLE _____

COMPANY ADDRESS _____

PHONE NUMBER _____ FAX NUMBER _____

EMAIL ADDRESS _____

FEDERAL E.I. NUMBER _____ STATE OF DELAWARE LICENSE NUMBER _____

COMPANY CLASSIFICATIONS: CERT. NO.:	Certification type(s)	Circle all that apply	
	Minority Business Enterprise (MBE)	Yes	No
	Woman Business Enterprise (WBE)	Yes	No
	Disadvantaged Business Enterprise (DBE)	Yes	No
	Veteran Owned Business Enterprise (VOBE)	Yes	No
	Service-Disabled Veteran Owned Business Enterprise (SDVOBE)	Yes	No

[The above table is for informational and statistical use only.]

PURCHASE ORDERS SHOULD BE SENT TO:
 (COMPANY NAME) _____

ADDRESS _____

CONTACT _____

PHONE NUMBER _____ FAX NUMBER _____

EMAIL ADDRESS _____

AFFIRMATION: Within the past five years, has your firm, any affiliate, any predecessor company or entity, owner, Director, officer, partner or proprietor been the subject of a Federal, State, Local government suspension or debarment?

YES _____ NO _____ if yes, please explain _____

THIS PAGE SHALL HAVE ORIGINAL SIGNATURE, BE NOTARIZED AND BE RETURNED WITH YOUR PROPOSAL

SWORN TO AND SUBSCRIBED BEFORE ME this _____ day of _____, 20 _____

Notary Public _____ My commission expires _____

City of _____ County of _____ State of _____

Agreement No.: NAT25004_LAMBORN OUTDOOR RECREATION
Agreement Title: PUBLIC OUTDOOR RECREATION AT THE LAMBORN ESTATE WITHIN WHITE CLAY CREEK STATE PARK

BUSINESS REFERENCES

List a minimum of three business references, including the following information:

- Business Name and Mailing address
- Contact Name and phone number
- Number of years doing business with
- Type of work performed

Please do not list any State Employee as a business reference. If you have held a State contract within the last 5 years, please provide a separate list of the contract(s).

1. Contact Name & Title: Business Name: Address: Email: Phone # / Fax #: Current Vendor (YES or NO): Years Associated & Type of Work Performed:	[Empty form area for reference 1]
--	-----------------------------------

2. Contact Name & Title: Business Name: Address: Email: Phone # / Fax #: Current Vendor (YES or NO): Years Associated & Type of Work Performed:	[Empty form area for reference 2]
--	-----------------------------------

3. Contact Name & Title: Business Name: Address: Email: Phone # / Fax #: Current Vendor (YES or NO): Years Associated & Type of Work Performed:	[Empty form area for reference 3]
--	-----------------------------------

STATE OF DELAWARE PERSONNEL MAY NOT BE USED AS REFERENCES.

SUBCONTRACTOR INFORMATION FORM

PART I – STATEMENT BY PROPOSING VENDOR		
1. AGREEMENT NO. NAT25004_LAMBORN OUTDOOR RECREATION	2. Proposing Vendor Name:	3. Mailing Address
4. SUBCONTRACTOR		
a. NAME	4c. Company OSD Classification: Certification Number:	
b. Mailing Address:	4d. Women Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4e. Minority Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4f. Disadvantaged Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4g. Veteran Owned Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4h. Service Disabled Veteran Owned Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No	
5. DESCRIPTION OF WORK BY SUBCONTRACTOR		
6a. NAME OF PERSON SIGNING	7. BY (<i>Signature</i>)	8. DATE SIGNED
6b. TITLE OF PERSON SIGNING		
PART II – ACKNOWLEDGEMENT BY SUBCONTRACTOR		
9a. NAME OF PERSON SIGNING	10. BY (<i>Signature</i>)	11. DATE SIGNED
9b. TITLE OF PERSON SIGNING		

* Use a separate form for each subcontractor



**The Office of Supplier Diversity (OSD) has moved to the
Division of Small Business (DSB)**

Supplier Diversity Certification Applications can be found here:
[Certifications - Division of Small Business - State of Delaware](#)

Completed Applications can be emailed to: OSD@Delaware.gov

For more information, please send an email to OSD:
OSD@Delaware.gov or call 302-577-8477

[Subscribe](#) to the OSD Mailing List

New address for OSD:
Carvel State Building
820 N. French Street, 10th Floor
Wilmington, DE 19801

Telephone: 302-577-8477 / Fax: 302-736-7915
Email: OSD@Delaware.gov
Web site: <https://business.delaware.gov/osd/>

Dover address:
(Local applicants may drop off applications here)

99 Kings Highway
Dover, DE 19901
Phone: 302-739-4271

Submission of a completed Office of Supplier Diversity (OSD) application is optional and does not influence the outcome of any award decision.

Attachment 10

PERFORMANCE BOND

Bond Number: _____

KNOW ALL PERSONS BY THESE PRESENTS, that we, _____, as principal (“**Principal**”), and _____, a _____ corporation, legally authorized to do business in the State of Delaware, as surety (“**Surety**”), are held and firmly bound unto the _____ (“**Owner**”) (*insert State agency name*), in the amount of _____ (\$_____), to be paid to **Owner**, for which payment well and truly to be made, we do bind ourselves, our and each and every of our heirs, executors, administrations, successors and assigns, jointly and severally, for and in the whole, firmly by these presents.

Sealed with our seals and dated this _____ day of _____, 20__.

NOW THE CONDITION OF THIS OBLIGATION IS SUCH, that if **Principal**, who has been awarded by **Owner** that certain Agreement known as Agreement No. _____ dated the _____ day of _____, 20__ (the “Agreement”), which Agreement is incorporated herein by reference, shall well and truly provide and furnish all materials, appliances and tools and perform all the work required under and pursuant to the terms and conditions of the Agreement and the Agreement Documents (as defined in the Agreement) or any changes or modifications thereto made as therein provided, shall make good and reimburse **Owner** sufficient funds to pay the costs of completing the Agreement that **Owner** may sustain by reason of any failure or default on the part of **Principal**, and shall also indemnify and save harmless **Owner** from all costs, damages and expenses arising out of or by reason of the performance of the Agreement and for as long as provided by the Agreement; then this obligation shall be void, otherwise to be and remain in full force and effect.

Surety, for value received, hereby stipulates and agrees, if requested to do so by **Owner**, to fully perform and complete the work to be performed under the Agreement pursuant to the terms, conditions and covenants thereof, if for any cause **Principal** fails or neglects to so fully perform and complete such work.

Surety, for value received, for itself and its successors and assigns, hereby stipulates and agrees that the obligation of **Surety** and its bond shall be in no way impaired or affected by any extension of time, modification, omission, addition or change in or to the Agreement or the work to be performed thereunder, or by any payment thereunder before the time required therein, or by any waiver of any provisions thereof, or by any assignment, subletting or other transfer thereof or of any work to be performed or any monies due or to become due thereunder; and **Surety** hereby waives notice of any and all such extensions, modifications, omissions, additions, changes, payments, waivers, assignments, subcontracts and transfers and hereby expressly stipulates and agrees that any and all things done and omitted to be done by and in relation to assignees, subcontractors, and other transferees shall have the same effect as to **Surety** as though done or omitted to be done by or in relation to **Principal**.

Surety hereby stipulates and agrees that no modifications, omissions or additions in or to the terms of the Agreement shall in any way whatsoever affect the obligation of **Surety** and its bond.

Any proceeding, legal or equitable, under this Bond may be brought in any court of competent jurisdiction in the State of Delaware. Notices to **Surety** or Contractor may be mailed or delivered to them at their respective addresses shown below.

IN WITNESS WHEREOF, **Principal** and **Surety** have hereunto set their hand and seals, and such of them as are corporations have caused their corporate seal to be hereto affixed and these presents to be signed by their duly authorized officers, the day and year first above written.

PRINCIPAL

Witness

Name

Title

Date

Company Name

Company Address

SURETY

Witness

Name

Title

Remainder of page intentionally left blank

Attachment 11

Bid Bond

BOND HAS BEEN WAIVED

Attachment 12

BIDDER'S TRANSMITTAL LETTER

DNREC Director
Delaware State Parks
89 Kings Highway
Dover, DE 19901

Dear Director:

The name of the Bidder(s) is _____. If the Bidder(s) has not yet been formed, this letter is submitted on its behalf by _____ as Bidder(s)-Guarantor(s), who guarantee(s) all certifications, agreements and obligations of the Bidder(s) hereunder and make(s) such certifications, agreements and obligations individually and on behalf of the Bidder(s).

The Bidder(s) hereby agrees to provide visitor services and facilities as described within the RFP within White Clay Creek State Park in accordance with the terms and conditions specified in the Draft Agreement and as stipulated in the RFP for Agreement No. NAT25004_LAMBORN OUTDOOR RECREATION for PUBLIC OUTDOOR RECREATION AT THE LAMBORN ESTATE WITHIN WHITE CLAY CREEK STATE PARK, (Prospective Agreement) provided in the Prospectus and the RFP Appendices, Exhibits and Attachments issued by the public notice as listed in online platforms as applicable, and to execute the Prospective Agreement without substantive modification (except as may be required by DNREC pursuant to the terms of the RFP and the Bidder(s) Proposal).

If the Bidder(s) is not yet in existence, the undersigned, acting as guarantor(s) of all certifications, agreements and obligations of Bidder(s) hereunder, makes such certifications, agreements and obligations individually and on behalf of the Bidder(s).

The Bidder(s) is enclosing the required "PROPOSAL" which, by this reference, is made a part hereof.

The Bidder(s) certifies that the information furnished herewith is complete, true, and correct, and recognizes that false statements may subject the Bidder(s) to criminal penalties. The Bidder(s) agrees to meet all the minimum requirements of the Prospective Agreement, RFP and the Prospectus. The Bidder(s) certifies that it has provided all of the mandatory information specified in the RFP and the Prospectus.

The Bidder(s) certifies in accordance with applicable law the following (if not a corporation, for corporation certifications, please put "n/a"):

1. None of the individuals or entities acting as Bidder(s) or with an ownership interest in the Bidder(s) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from a public transaction by a Federal, State or Delaware department or agency.

2. Within the three years preceding submission of the Proposal, none of the individuals or entities acting as Bidder(s) or with an ownership interest in the Bidder(s) has been convicted of, or had a civil judgment rendered against them for, commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or Agreement under a public transaction, or for violation of federal or state antitrust statutes or for commission of embezzlement, theft, forgery, bribery, falsification of records, making false statements, or receiving stolen property. _____
3. None of the individuals or entities acting as Bidder(s) or with an ownership interest in the Bidder(s) is presently indicted for or otherwise criminally or civilly charged by a federal, state, or local unit of the government with commission of any of the aforementioned offenses. _____

4. The individuals or entities acting as Bidder(s) or with an ownership interest in the Bidder(s) have not had one or more public transactions (federal, state, or local) terminated for cause or default within the three-year period preceding the submission of the Proposal. _____
5. The individuals or entities seeking participation in this Agreement have not had one or more public transactions (federal, state, or local) terminated for cause or default within the three-year period preceding the submission of the Proposal. _____
6. If a corporation, the Bidder(s) does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. _____
7. If a corporation, the Bidder(s) has not been convicted of a felony criminal violation under any Federal law within the preceding 24 months. _____

If the Bidder(s) is unable to certify one or more of the items above, it may sign this transmittal letter and, together with this transmittal letter, must submit detailed information explaining why it is unable to certify the item(s). The information the Bidder(s) must submit includes a description of every incident that prevents the Bidder(s) from certifying the item(s); the current status of each incident; and, if resolved, how each incident was resolved. The Bidder(s) must explain how these incidents may affect the Bidder(s) ability to fulfill the terms of the Prospective Agreement.

The Bidder(s), by submitting this Proposal hereby agrees, if selected for award of the Prospective Agreement:

1. To perform, in a timely and competent manner, the requirements of the Prospective Agreement as identified in this RFP, Prospectus and Draft Agreement.
2. To complete the execution of the final Agreement within the time provided by DNREC when it presents the Agreement to the Bidder(s) for execution.
3. To commence operations under the resulting Agreement on the effective date of the Agreement.
4. To operate under the current DNREC approved rates until such time as amended rates may be approved by DNREC.
5. [Include only if the Bidder(s) is not yet in existence.] To provide the entity that is to be the Vendor under the Prospective Agreement with the funding, management, and other resources required under the Prospective Agreement and/or described in our Proposal.
6. [Include only if the Bidder(s) is a business entity, rather than an individual] To deliver to the DNREC Director within 10 days following the announcement of the selection of the Bidder(s) as the Vendor, current copies of the following:
 - A. Certificate from its state of formation indicating that the entity is in "good standing" (if such form is issued in that state for Bidder(s) type of business entity);
 - B. Governing documents of Bidder(s) (e.g., Articles of Incorporation and Bylaws for corporations; Certificate of Formation and Operating Agreement for LLCs; Partnership Agreement for Partnerships; or Venture Agreement for Joint Ventures); and
 - C. A current copy of the Bidder(s) Delaware Business License.

NAME OF BIDDER (or BIDDER-GUARANTOR(s)): _____

If the Bidder(s) is not yet in existence as of the time of submission – list all entities if more than one and clearly indicate that the entity is a Bidder(s)-Guarantor. If there is more than one Bidder(s)-Guarantor, each Bidder(s)-Guarantor must sign the Bidder(s) Transmittal Letter.

BY _____ DATE _____
(Type or Print Name)

ORIGINAL SIGNATURE _____

TITLE _____

ADDRESS _____

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Attachment 13

CERTIFICATE OF BUSINESS ENTITY BIDDER
(OR OF BIDDER-GUARANTOR IF BIDDER IS NOT YET FORMED)
(Bidder(s) who are individuals should skip this certificate)

I, _____, certify that I am the _____ of the [specify one] corporation/partnership/limited liability company/joint venture named as Bidder(s) (or Bidder(s)-Guarantor, if applicable) herein; that I signed this proposal for and on behalf of the Bidder(s) (or Bidder(s)-Guarantor, if applicable), with full authority under its governing instrument(s), within the scope of its powers, and with the intent to bind the entity.

NAME OF ENTITY: _____

BY _____ DATE _____
(Type or Print Name)

ORIGINAL SIGNATURE _____

TITLE _____

ADDRESS _____

Remainder of page intentionally left blank

EVALUATION FACTOR FORM AND RESPONSE SECTION

Base Response Instructions

Vendor(s) may include tables/graphs/schedules/photos in their responses; **paragraph format with Factor and Subfactor numbers must be included in the order provided. Vendor(s) shall submit an Attachment 14, on a separate document titled “ATTACHMENT 14 RESPONSE – EVALUATION FACTOR FORMS.” A Completed “Appendix A Excel Forms” must also be completed and included with each Attachment 14 Response.**

Per the Business Opportunity Prospectus at the beginning of this RFP, **the Service Opportunities for are as follows**, if Vendor is proposing alternative use or services, they should identify that in their Proposal as **“ALTERNATIVE USE”** and list the alternative with the Vendor’s Proposal page number on **Exception Form “Attachment 3”**. Failure to list the **“ALTERNATIVE USE”** on the Exception Form may result of DNREC not considering the alternative.

Per Business Opportunity Document Exhibit 3. NAT25004_LAMBORN OUTDOOR RECREATION – Service Opportunities

Service Opportunities	Description
Agritourism	Agricultural activity that may include direct sales, education, hospitality, outdoor recreation, and entertainment (i.e., farm-to-table programming)
Group Activities	Patron planned activities such as yoga/active recreational, recreational tours, spa services, local tours, movie nights, educational interpretation services, beverage and food tastings, etc.
Special Events	Weddings, family gatherings, music events, corporate functions, etc.
Recreational Business Support	Recreational business office, brick-and-mortar operations – must provide on-site recreational services
Caretaker/workforce housing	Operation support staff housing
Overnight Accomodations	Public and private uses with bedroom and bathroom accomodations arranged for short-term stays of less than 30 days through booking; limited tent camping and/or glamping
Recreation Services	Bike rentals and tours, hiking tours, birding, pickleball, tennis, fishing, outdoor recreation outfitter services, etc.
Bed and Breakfast	Overnight accomodations with morning meal; operations include unique recreational and cultural features
Food & Beverage Services	Catering for events, waiter service meals, buffet meals, private dining, and overnight guest food services
Cultural Resource Engagement	Programs and activities that support cultural resource information such as historical information related to White Clay Creek State Park and/or Newark, Delaware that include nonrenewable and unique historical sites, culture, history, architecture, archeology, etc.

Retail	Gifts, souvenirs, and convenience items for sale. 100 percent of the retail environment will feature interpretive messages and merchandise concepts linking the store and its products to the Park's significance.
Open	Vendor(s) to provide alternative use (not listed above) that includes recreational and/or cultural use that is in-line with public use and Division goals.

EVALUATION FACTOR FORMS

A. PRIMARY EVALUATION FACTOR 1. THE BIDDERS PROPOSED CONCEPT AND SERVICE OFFERING FOR THE VENUE SITE. (25 POINTS)

Note to Bidder(s): To assist DNREC in evaluation of your proposed concept and service offering, please include clear and concise synopsis of your operations vision as well as an estimate of the timeline from award to operational functionality, as well as including information on target demographic and overall summary of how your proposed concept will benefit White Clay Creek State Park. There will be Primary Evaluation factors that follow with specific operational information requirements. This Evaluation factor is "Concept" and "Impacts" for White Clay Creek State Park and Delaware State Parks as a whole.

1. **Provide full concept and service opportunity for White Clay Creek State Park for the Venue Site.**

B. PRIMARY EVALUATION FACTOR 2. THE EXPERIENCE AND SPECIFIC BACKGROUND OF THE BIDDER, INCLUDING THE PAST PERFORMANCE AND EXPERTISE OF THE BIDDER IN PROVIDING THE SAME OR SIMILAR OUTDOOR PUBLIC RECREATION SERVICE AS THOSE TO BE PROVIDED UNDER THE CONCESSION AGREEMENT. (50 POINTS)

Note to Bidder(s): To assist DNREC in the evaluation of proposals under this and other evaluation factors, provide the following information regarding the organizational structure of the business entity that will execute the Prospective Agreement. This organizational structure information will not be scored for evaluation purposes but may be used for assessing responses to various evaluation factors. If the Bidder(s) is not yet in existence, the Bidder(s)-Guarantor(s) should describe its own experience and explain how such experience will carry over to the Bidder(s) entity.

Bidder(s) Organizational Structure

Describe the entity with which DNREC will contract, specifying whether it is currently in existence or is to be formed. Clearly explain and define the Bidder(s) relationship to any related entities that will affect how the Bidder(s) will perform under the Prospective Agreement.

Identify the entity, if other than the Bidder(s), that has the authority to allocate funds, and hire and fire management employees, of the Bidder(s). Identify any individual or business entity that holds or will hold a controlling interest in the Bidder(s). If the Bidder(s) is an unincorporated sole proprietorship, identify and provide information about the individual who owns and operates the business. If the Bidder(s) is a limited liability company, a partnership, or a joint venture, identify and provide information about each managing member or manager, general partner or venturer, respectively.

Submit your organizational documents (e.g., partnership agreement, articles of incorporation, operating agreement).

Using the appropriate Business Organization Information form (as applicable) at the end of this Primary Evaluation factor 2, identify the Bidder(s) and each business entity and/or individual to be involved in the management of the proposed concession operation. Use the form appropriate for your business entity or sole proprietorship and include all information necessary to make the relationship among the parties clear. When completed, the Business Organization Information form should convey the following information:

1. The full legal name of the Bidder(s) and any trade name under which it proposes to do business.
2. The legal form of the Bidder(s), if other than an individual.
3. The name, address and, if applicable, form of business entity of all owner(s) of the Bidder(s), including, the precise extent of their ownership interests.
4. The name, address and, if applicable, form of business entity of all related business organizations and/or individuals that will have a significant role in managing, directing, operating, or otherwise carrying out the services to be provided by the Bidder(s). Describe in detail how these relationships will work formally and in practice. Use additional pages if the information does not fit within the forms provided.
5. If applicable, the length of Bidder(s) existence as a business entity.

If the Bidder(s) is not yet formed, submit a Business Organization Information form for each Bidder(s)-Guarantor.

Related Entities. In responding to this subfactor below, consider the Bidder(s) and all of its principals (for corporations, their executive officers, Directors, and controlling shareholders; for partnerships, their general partners; for limited liability companies, their managing members and managers, if any; and for joint ventures, each venturer) and all parent entities, subsidiaries or related entities under the primary organizational entity (such as, a parent corporation and all subsidiaries), that provide the same or similar services as required or authorized by the Prospective Agreement.

* Bidder(s) will mean the Bidder(s); its affiliate, parent, subsidiary, and predecessor companies; other related business entities; and the Bidder(s) principals and employees (collectively, the "Business Entities").

1. Vendor's experience with Public Outdoor Recreation Services.

Demonstrate the Bidder(s) experience managing (Include business(es) here) similar to those required by the Prospective Agreement. If the Bidder(s) is not yet in existence, describe the Bidder(s)-Guarantor(s) experience and clearly explain how such experience will carry over to the Bidder(s) entity directly. If an entity other than the Bidder(s) provided the experience described below, for each example provided explain how that entity will provide assistance and expertise to the Bidder(s) to enable DNREC to rely on the experience.

2. Experience with any SERVICE OPPORTUNITIES services as described similar to those in the RFP.

Demonstrate the Bidder(s) experience in specific management of any required and/or authorize services as described in the **Business Opportunity Document Exhibit 3. NAT25004_LAMBORN Outdoor Recreation – Service Opportunities**. If the Bidder(s) is not yet in existence, describe the Bidder(s)-Guarantor(s) experience and clearly explain how such experience will carry over to the Bidder(s) entity directly. If an entity other than the Bidder(s) provided the experience described below, for each example provided explain how that entity will provide assistance and expertise to the Bidder(s) to enable DNREC to rely on the experience.

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BUSINESS ORGANIZATION INFORMATION
Corporation, Limited Liability Company, Partnership, or Joint Venture
(Primary Evaluation factor 2)

Complete separate form for the submitting business entity and any and all parent entities.

Name of Individual and Tradename, if any	
Address	
Telephone Number	
Fax Number	
Email Address	
Contact Person	
Title	
Tax ID #	
State of Formation	
Date of Formation	

Ownership	Percentage of Ownership Interests	Current Value of Investment
Names and addresses of those with controlling interest and key principals of business		
Total Interests Outstanding and Type(s):		

Officers and Directors or General Partners or Managing Members or Venturers	Address	Title and/or Affiliation

Attach the following:

- Description of relationship of any Bidder(s)-Guarantor to the Bidder(s) with respect to funding and management.

BUSINESS ORGANIZATION INFORMATION
Individual or Sole Proprietorship
(Primary Evaluation factor 2)

Complete separate form for the submitting business entity and any and all parent entities.

Name of Individual and Tradename, if any*	
Address	
Telephone Number	
Fax Number	
Email Address	
Contact Person (if other than the Bidder(s))	
Tax ID #	
Years in Business (of same type as required service(s))	
Current Value of Business	
Role in Providing Concession Service(s)	

*If the sole proprietorship acts under a name other than that of its owner (i.e., does business as "company name"), also add the jurisdiction where the company's trade name is registered, if any.

C. PRIMARY EVALUATION FACTOR 3. THE FINANCIAL CAPABILITY OF THE BIDDER TO CARRY OUT ITS PROPOSAL. (50 POINTS)

Notes to Bidder(s):

In the event the Bidder(s) is not yet in existence, provide the information described below with respect to both the to-be-formed Bidder(s) and the Bidder(s)-Guarantor(s). The submission must include the Bidder(s) Transmittal Letter signed by each Bidder(s)-Guarantor that unconditionally states and guarantees the Bidder(s)-Guarantor will provide the Bidder(s) with all funding, management and other resources that the Prospective Agreement requires, and the proposal offers. Failure to provide the required documentation may lead to the State of Delaware determining your offer is non-responsive and ineligible for award of the Prospective Agreement.

Additional electronic financial forms for this section are included as Appendix A – Excel Forms at www.bids.delaware.gov. The Bidder(s) must complete **all forms provided and submit both a hard copy and an Excel spreadsheet file as part of their Proposal.**

This evaluation factor has no subfactors. DNREC will score the evaluation factor based upon the entirety of the response.

1. Demonstrate that you have a credible, proven track record of meeting your financial obligations. The Bidder(s) (or each Bidder(s)-Guarantor) must provide comprehensive materials to demonstrate that it has a history of meeting its financial obligations by providing the following:

- a. The completed **Business History Information** form provided in this section for the Bidder(s) AND any entity that will provide financial or management assistance. If the Bidder(s) is not yet formed, provide a business history form for each Bidder(s)-Guarantor.
- b. A complete credit report in the name of the Bidder(s) and a complete credit report for any entity that will provide financial assistance that includes scores and is dated within six months prior to the date of the proposal. The report must be from a major credit reporting company such as Equifax, Experian, TRW, or Dun & Bradstreet. If the Bidder(s) is not yet formed, include a credit report for each Bidder(s)-Guarantor.

2. Demonstrate the Bidder(s) business experience and financial capacity by providing the following:

- a. Submit the Bidder(s) **audited financial statements** for the two most recent calendar years, with all notes to the financial statements. Audited financial statements must also be provided for any general partners in a partnership (or deemed partnership, such as husband and wife), and all venturers in a joint venture. If the Bidder(s) is not yet formed, submit audited financial statements for each Bidder(s)-Guarantor.
 - i. If audited financial statements are not available, explain in detail why they are not available.
 - ii. If audited financial statements are not available but reviewed statements are, explain why the statements were reviewed rather than audited.

- iii. **If neither audited nor reviewed statements are available**, explain in detail why they are not available and submit:
 - b. **If none of the above are available**, explain in detail why they are not available and submit:
 - i. **Personal financial statements.** The Bidder(s) (or Bidder(s)-Guarantor(s), as applicable) must submit personal financial statements certified as to accuracy and completeness by the submitting individual for each of the Bidder(s) principals as listed in submittal forms.
3. **Demonstrate that your proposal is financially viable and that you understand the financial obligations of the Prospective Agreement by providing the following:**

- a. Your estimate of the acquisition and start-up costs of this business using the **Initial Investment and Start-Up Expense Form** included in the Excel spreadsheets provided as *Appendix A – Excel Forms* at www.bids.delaware.gov. Explain fully the methodology and the assumptions used to develop the estimate. The information provided should be of sufficient detail to allow a reviewer to understand how the estimates were determined.
- b. Using the Excel spreadsheets provided as an *Appendix A – Excel Forms* to the RFP, complete the **Proforma Income Statement, Income Statement Assumptions, Cash Flow Statement** forms found in tabs within the Excel workbook noted above. Provide estimates of prospective revenues and expenses of the concession business in the form of annual prospective income and cash flow statements for the entire term of the Prospective Agreement. Complete the **Operating Assumptions** tab to explain your financial projections. Also complete the **Recapture of Investment** and the **Recapture of Investment Assumptions** tabs. Recapture amounts should also be included in the cash flow proforma, not the proforma income statement.

Below are some general notes regarding the required forms included as part of this RFP.

- DNREC has provided forms that request the information in the format it desires. These forms may differ from the format and requirements set forth in Generally Accepted Auditing Standards (GAAS) with regard to prospective financial statements. Prospective financial statements do not require review in accordance with GAAS.
- **Do not alter Excel spreadsheets provided in the Appendix A – Excel Forms.** Columns should not be deleted; however, columns may be “added” to reflect the number of years in the Prospective Agreement term, if necessary. For the purpose of the Proforma statements, use the calendar year as the fiscal year.
- Provide a clear and concise narrative explanation of the method(s) used to prepare the estimates and the assumptions on which your projections are based. Information must be sufficiently detailed to provide a full understanding of how the estimates were determined.

- Complete **all of the forms provided** and submit both hard copy and an electronic Excel workbook file on the USB submission.

4. Demonstrate your ability to obtain the required funds for the initial investment, as listed in the Business Opportunity, and other investing activities under the Prospective Agreement by providing credible, compelling documentation, particularly evidence from independent sources, such as bank statements, audited or reviewed financial statements, and signed loan commitment letters. Fully explain the financial arrangements you propose, using the following guidelines.

The more definite the terms stated in the documentation, the more credible DNREC is likely to find the Bidder(s) ability to obtain the required funds.

- a. If funds are to be obtained from cash on hand or operating cash flows from the Bidder(s) current business, document each source and the availability of these funds by providing your previous and current audited financial statements for the two most recent fiscal years, with all notes to the financial statements (see above if audited financial statements are not available). Depending on the Bidder(s) form of entity, provide audited financial statements for any individual Bidder(s), general partners in a partnership, and all venturers in a joint venture.
- b. If the Bidder(s) is not formed and the Bidder(s)-Guarantor is funding the required start-up costs, provide for each Offer-Guarantor the documentation for the appropriate type of Offer-Guarantor (individual, business entity) as described below.
- c. If funds are to be obtained from lending institutions (banks, savings and loans, etc.), provide supporting documents including but not limited to documents that describe the approximate amount of the loan, the term of the loan and any proposed encumbrances on the Prospective Agreement. Include a letter (addressed to the State of Delaware from the lender on the lending institution's letterhead) stating the amount of funds available to the Bidder(s) at the date of the letter. In addition, the letter must outline the Financial Institution's historical relationship with the Bidder(s). Specifically, the Financial Institution should provide the following information: number of years of the relationship; description and amount of all credit facilities extended along with their average annual outstanding balance and current outstanding balance; current account balance; and statement of whether the Bidder(s) has met all obligations with the Financial Institution as required.
- d. If funds are to be obtained from an individual, or a business entity whose primary fund source is an individual, provide the following as appropriate with respect to such individual:
 - i. Signed funding commitment from the individual (stating the approximate amount of the loan, the term, and any proposed encumbrances on the Prospective Agreement).
 - ii. Current personal financial statement certified as to accuracy and completeness by the individual submitting it.

- iii. Current bank/financial institution documents that verify the account(s) and account balance(s) for the primary fund source.
 - iv. Documentation of any assets to be sold.
 - v. Any other assurances or documents that demonstrate that the funds are available.
- e. If funds are to be obtained from working capital liabilities (such as advance deposits), please provide estimates and a rationale for each estimate. The information provided should be of sufficient detail to allow a reviewer to fully understand how the estimates were determined.
- f. If funds are to be obtained from another source (e.g., a business entity whose primary fund source is not an individual), provide the following as appropriate:
- i. Signed funding commitment from the fund source stating the approximate amount of the loan, the term, and any proposed encumbrances on the Prospective Agreement.
 - ii. Current audited financial statements for the most recent year (see above if audited financial statements are not available).
 - iii. If the current audited financial statements do not evidence that the source has the necessary funds to make the funding commitment, provide additional documentation.

NOTE: *If the Bidder(s) is obtaining even a part of the necessary funds from another, DNREC must be able to determine from the documents submitted that the Bidder(s) is highly likely to obtain either a stated amount or an unlimited amount of funding from an entity with sufficient financial capability to provide the funds.*

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**BUSINESS HISTORY INFORMATION FORM
PROPOSAL PACKET**

(Primary Evaluation factor 3)

Business history information should be provided for the **Bidder(s) AND any entity that will provide financial or management assistance**. If the Bidder(s) is not yet formed, provide a business history form for each Bidder(s)-Guarantor.

The information provided below is for the entity: _____

1. Has Bidder(s) ever defaulted from or been terminated from a management or concession contract, or been forbidden from contracting by a public agency or private company?

YES NO

If YES, provide full details of the circumstances.

2. List any Bankruptcies, Receiverships, Foreclosures, Transfers in Lieu of Foreclosure, and/or Work-Out/Loan Modification Transactions during the past five years. Include an explanation of the circumstances, including nature of the event, date, type of debt (e.g., secured, or unsecured loan), type of security (if applicable), approximate amount of debt, name of lender, resolution, bankruptcy plan, and/or other documentation as appropriate. If none, check the box below. Otherwise, provide full details below.

NONE

3. Describe any pending litigation or administrative proceeding (other than those covered adequately by insurance) which, if adversely resolved, could materially impact the financial position of the Bidder(s). If none, check the box below. Otherwise, provide full details below.

NONE

4. Describe any lawsuit, administrative proceeding or bankruptcy case within the past five years that concerned the Bidder(s) alleged inability or unwillingness to meet its financial obligations. If none, check the box below. Otherwise, provide full details below.

NONE

5. Describe any liens recorded against the Bidder(s) within the past five years (whether from taxing authorities or judgments) and, if resolved, provide a copy of any lien release. If none, check the box below. Otherwise, provide full details below.

NONE

D. PRIMARY EVALUATION FACTOR 4. THE RESPONSIVENESS OF THE PROPOSAL TO THE OBJECTIVES, AS DESCRIBED IN THE PROSPECTUS, OF PROTECTING, CONSERVING, AND PRESERVING NATURAL AND CULTURAL RESOURCES OF THE PARK. (40 POINTS)

DNREC Objectives: DNREC's objective is for the Vendor(s) to maintain the Concession facilities to State standards and provide Capital Improvements to bring the facilities to operational capabilities, as well as to maintain and preserve the facility Venues. DNREC is very interested in proactive maintenance planning to ensure that equipment and assets achieve their expected useful life. Vendor(s) are expected to establish an annual Capital Improvement Fund (CIF) that will be held in escrow and designated for capital improvements (and approved by DNREC in advance) annually. Vendor(s) are encouraged to include innovations to enhance the quality, efficiency, or profitability of the facilities/Venues. Vendor(s) must demonstrate experience in implementing such innovations.

Capital Improvements: Capital Improvement concepts and plans for consideration can be submitted for any Venue operation including, but not limited to, Required and Authorized Services as stated in this RFP. All capital improvement designs and plans relating to the Venues shall be subject to prior approval by DNREC. All permits, regulations, local and federal requirements, etc. are the responsibility of the Vendor(s). All Capital Improvements shall be made at Vendor(s) expense and shall become property of DNREC at the expiration of the Agreement. Terms and conditions included in the Draft Agreement shall apply. Any Capital Improvements included in Vendor's Proposals shall adhere to Specifications and Additional Information as included in this RFP.

1. Preservation of Historical Properties.

Provide the Bidder(s) experience in preservation and maintenance projects for any historical properties developed or managed.

2. Repair, Maintenance and Improvements of Prospectus Venue/Site.

Provide the Capital Improvement Concepts and Plan being proposed for the applicable Venue Site. Should address/include a minimum Maintenance and Repair Budget.

Offer to fund Capital Improvements detailed information should be included in this section to address thoroughly (a) how the percent of revenue to be used for capital improvements is being planned for and method of handling capital funds and (b) definition of capital improvements including minimum dollar figure and life expectancy of improvements.

Annual % of Gross Proposed Capital Investment Fee is included in Primary Evaluation factor 6 below.

3. Forecasted Dilemmas Related to Capital Improvements, Maintenance and/or "Excepted" Portions of Prospectus Venue/Site.

Describe anticipated challenges or any areas where the Vendor is identifying an inability to address improvements to be made or portions of the Venue Site that will not be utilized and why.

4. Adherence and Description to State of Delaware Capital Project (i.e., code compliance, permitting, zoning issues, etc.) and Sub-Contractor Activity.

Describe how work will be accomplished, anticipated sub-contractor activity and experience of the permitting process that will be required for the Venue Site.

E. PRIMARY EVALUATION FACTOR 5. THE RESPONSIVENESS OF THE PROPOSAL TO THE OBJECTIVES, AS DESCRIBED IN THE PROSPECTUS, OF PROVIDING HIGH QUALITY VISITOR SERVICE. (50 POINTS)

DNREC Objectives: DNREC wants the Vendor(s) to provide visitors with exceptional guest/visitor service/experience for the operations outlined in the Business Opportunity of the Prospectus. Vendor(s) shall provide information requested below to show how it will provide best in class service that meets the Business Opportunity Document **Service Opportunities**.

This evaluation factor has no subfactors. DNREC will score the evaluation factor based upon the entirety of the response.

- 1. Describe the skills and knowledge used for operating and managing a Venue Site that includes the RFP's Required and Authorized Services.**
 - a. Describe how your business management team and organizations effectively operates with the business process and structure.
 - b. Including working plan, timeline, well defined ACTION PLAN describing Vendor's organization and operations for providing services as specified herein (include customer billing, payment processes/options, customer service, and any other relevant processes).
 - c. Include training plan and hiring process for staff.
- 2. What is the proposed Operating Schedule (note that it must adhere to park hours and can be no later than local ordinance requirements).**
- 3. Provide a marketing and advertising plan that will be implemented for the duration of the Prospective Agreement.**
 - a. Plan shall include breakout of:
 - i. Pre-engagement (prior to opening and during Capital Improvements/maintenance projects).
 - ii. Pre-final operations (after opening, but prior to final improvements or plans for the site are completed).
 - iii. Final operations (all projects are completed; daily maintenance is in place and normal operations have commenced).
- 4. Describe or list strategies that will be used to promote and increase business and managing the proposed RFP's Required and Authorized Services.**
- 5. List any retail items/inventory or/or other items to be sold or rented within the proposed Concession.**
- 6. Describe and outline operational concepts and plans for the following:**
 - a. Customer service plan, from the point of sales (or service) inquiry from customer to the point of delivery of the product (or service). Include any credit card/payment options (i.e., deposits for events, food, activities, etc.) billing structure and actions to complete the sale to the customer.
 - b. Maintenance/housekeeping standards and processes.
 - c. Outdoor landscaping and maintenance standards and processes.
 - d. Training standards and processes; include Staffing Plan.
 - e. Website and social media development/management.
 - f. Merchandising and interior layout concepts (i.e., retail items, artwork, furniture, equipment) – interior plan for the service being offered and how it will enhance the Required and Authorized Services.
 - g. Food & Beverage Plan and Management (include sample menus and options).

- h. Event Plan and Management (include any plans for exterior tents, locations, size, parking, etc.).
- i. Alcohol Plan and Management (include acquisition of liquor license or how alcohol service will be provided; include Alcohol Management processes for the Venue Site).
- j. Each building (as part of the Venue Site) use plan (i.e., barn, garages, outbuildings, etc.).
- k. Plan for public access of the Venue Site and incorporation opportunities into the White Clay Creek State Park Mission and Goals (i.e., community group, institutions and other organizations, including State agencies) with special consideration.

7. Describe Transition Plan for Venue Site.

8. Provide samples of existing financial reports for such revenue and expenses of Venue's and operations currently managed and a description of the accounting systems and basis (e.g., accrual or cash) used to produce the reports; identify accounting and computer system packages(s) and procedures for issuing balance sheets, income statements and other financial reports; and a sample of a current annual report.

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F. PRIMARY EVALUATION FACTOR 6. PRICING PROPOSAL RESPONSE - THE AMOUNT OF THE PROPOSED MINIMUM ANNUAL FLAT FEE AND % OF GROSS REVENUE AND OTHER FORMS OF FINANCIAL CONSIDERATION. (35 POINTS)

The offer of a higher annual fee and % of Gross Revenue payment than this minimum is generally beneficial to DNREC and accordingly will generally result in a higher score under this Primary Evaluation factor; however, consideration of revenue to the State of Delaware is subordinate to the objectives of protecting, conserving, and preserving natural and cultural resources of the park area; providing investment through Capital Improvements and maintenance; and of providing high quality visitor services to the public.

Insert the amounts using the table below. Any exceptions from the fee structure below (including tiered proposals for recouping return on investment) requires the Bidder to submit the “Exception Form – Attachment 3”.

Fee Structure (Annual Flat Fee and % of Gross are as follows):

- **Lamborn Estate - Year 1 (negotiated % of Gross); Year 2 through End of 1st Term (negotiated Annual Flat Fee and % of Gross)**

The Pricing Proposal and the Vendor’s response to it will be incorporated into the final Agreement.

Annual Flat Agreement Fee Payment – Lamborn Estate

The Bidder(s) agrees to pay to DNREC annual Agreement fees as follows:

Year 1	\$ <u> N/A </u> (allows for ROI)
Year 2	\$ _____
Year 3	\$ _____
Year 4	\$ _____
Year 5	\$ _____
Year 6	\$ _____
Year 7	\$ _____
Year 8	\$ _____
Year 9	\$ _____
Year 10	\$ _____

The Agreement fee shall be paid monthly prior to or on the first (1st) of each month.

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Additional Revenue Sharing -

In addition to the monthly Agreement fee, the Bidder(s) should indicate below and expressed as a percentage, the additional amount that will be paid to DNREC based on Gross Revenues. "Gross Revenues" shall mean gross receipts of every kind and nature from the use and operation of all or any portion of the Facilities whatsoever, whether for cash, credit or barter, including, without limitation, merchandise sales; venue rentals; receipts from vendor machines, catering, food & beverage; proceeds of any business interruption insurance (net of reasonable costs of settling such claim with the insurance carrier); any revenue not specifically excluded. Gross Revenues shall not include amounts received as rebates, refunds and discounts (but not credit and card discounts paid to a credit card system) to customers given in the ordinary course of obtaining such revenues; excise, sales, use and similar taxes collected directly from customers as a part of the price of any goods or services and which are accounted for to any governmental agency or authority; tips and gratuities paid to employees; or income or interest derived from cash, securities, and other property acquired and held for investment. Any capital improvements made by the successful Bidder(s) during any time period of this Agreement Duration Period may not be used to reduce the amount of Gross Revenue unless otherwise specified specifically in writing by DNREC (to which an Agreement Amendment may be required).

Gross Revenues shall include initiation fees and (refundable and non-refundable) deposits, if any, paid pursuant to any membership offering (if applicable) during the term of the Agreement.

Gross revenues shall also include a reasonable allocation, as determined by DNREC, of any income received by the Bidder(s) for use of the Facility by customers of any of the Bidder(s) other facilities, such as but not limited to reciprocal access. If Bidder(s) is bidding on more than one Venue Site and **Gross Revenues for the Facility may not be co-mingled** with other operations of the Bidder(s) and any reciprocal rights or other cross-utilization programs must be approved in advance by DNREC.

Period	<u>% of Gross Revenues</u>
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Lamborn Estate

Year 1	_____
Year 2	_____
Year 3	_____
Year 4	_____
Year 5	_____
Year 6	_____
Year 7	_____
Year 8	_____
Year 9	_____
Year 10	_____

Note: The Gross Receipts Fee shall be paid to DNREC annually on or before May 31st of each year.

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Capital Improvement Fund (CIF) –

Lamborn Estate

The successful Bidder(s) proposes to provide and fund not less than the stated amount of capital improvements (see details regarding capital improvement considerations elsewhere in this RFP) shown for each year of the Agreement years listed below:

Period	% of revenue amount.
Year 1	_____
Year 2	_____
Year 3	_____
Year 4	_____
Year 5	_____
Year 6	_____
Year 7	_____
Year 8	_____
Year 9	_____
Year 10	_____

Note: The CIF Payment shall be deposited into the respective CIF account annually not later than May 31st of each year

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BIDDER(S) – DO NOT FORGET TO INCLUDE WITH YOUR ATTACHMENT 14 – COMPLETED APPENDIX A EXCEL FORMS AS REQUIRED.

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MINIMUM MANDATORY SUBMISSION REQUIREMENTS CHECKLIST
{MUST BE COMPLETED AND RETURNED WITH BIDDERS PROPOSAL PACKAGE}

Item No.	Description	Included?? (check yes or no)
1.	(Attachment 12) Bidder(s) Transmittal Letter - signed by a representative who has the legal capacity to enter.	Yes <input type="checkbox"/> No <input type="checkbox"/>
2.	Table of Contents clearly identifying the structure of the proposal and showing page numbers for each of the required components.	Yes <input type="checkbox"/> No <input type="checkbox"/>
3.	One (1) paper copy of the Bidder(s) proposal shall be marked "Master Copy" and will contain original signatures in ALL locations. This includes all Attachments <u>printed</u> and all Forms required in the RFP (<i>including Appendix A Excel Forms</i>). Brochures are also required if applicable. PLEASE DO NOT PUT SUBMISSION DOCUMENTS INTO SHEET PROTECTORS. All documents are available at the following website: www.bids.delaware.gov Vendor(s) MUST provide a printed copy of all spreadsheet tabs.	Yes <input type="checkbox"/> No <input type="checkbox"/>
4.	Two (2) electronic copies of the complete Bidder(s) bid package (submitted on USB drive). If the paper copy of the proposal includes a printed catalog or brochure, an electronic version of the catalog or brochure must be included. (If catalogs are not available in electronic version, then one (1) additional copy of the paper catalog must be provided). All copies must have completed Appendix A Excel Forms with Vendor's Proposal and Response Packet as required in this RFP. Include Vendor brochures in pdf. Format on USB. VERIFY ALL MEDIA WORK CORRECTLY PRIOR TO SUBMISSION. All documents in Vendor's proposal, excluding Excel portions , should be scanned and saved as one PDF file. Please avoid saving individual pdf. pages of your proposal.	Yes <input type="checkbox"/> No <input type="checkbox"/>
5.	(Attachment 2) One (1) complete signed and notarized copy of the Non-Collusion agreement MUST HAVE ORIGINAL SIGNATURES AND NOTARY MARK.	Yes <input type="checkbox"/> No <input type="checkbox"/>
6.	(Attachment 3) One (1) completed RFP Exception form – please check box if no information. Form must be included.	Yes <input type="checkbox"/> No <input type="checkbox"/>
7.	(Attachment 4) One (1) completed Confidential and Proprietary form – please check box if no information provided will be considered confidential or proprietary. Form must be included.	Yes <input type="checkbox"/> No <input type="checkbox"/>
8.	(Attachment 5) One (1) completed Business Reference form – please provide references other than State of Delaware contacts. Form must be included.	Yes <input type="checkbox"/> No <input type="checkbox"/>
9.	(Attachment 6) One (1) complete and signed copy of the Subcontractor Information Form for each subcontractor – only provide if applicable. Click on N/A if not using subcontractor.	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>

10.	(Attachment 9) One (1) complete OSD application (see <i>link</i> on Attachment 9) – only provide if applicable.	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
11.	(Attachment 13) One (1) completed Certificate of Bidder(s) Entity Bidder(s).	Yes <input type="checkbox"/> No <input type="checkbox"/>
12.	(Attachment 14) One (1) Evaluation Factor Forms (all forms are required). Make sure to include the Appendix A – Excel Forms.	Yes <input type="checkbox"/> No <input type="checkbox"/>
13.	One (1) certificate of insurance. Please ensure you have the <u>correct insurance levels as specified in this RFP.</u>	Yes <input type="checkbox"/> No <input type="checkbox"/>
14.	(Attachment 15) One (1) completed copy of this <u>MINIMUM MANDATORY SUBMISSION REQUIREMENTS CHECKLIST</u> filled out by the Bidder(s).	Yes <input type="checkbox"/> No <input type="checkbox"/>

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