



**CITY OF WILDER, KENTUCKY
RIVERFRONT RECREATION AND ENTERTAINMENT
ACTIVATION AND DEVELOPMENT
PUBLIC-PRIVATE PARTNERSHIP
REQUEST FOR PROPOSALS**

Proposal Due Date

July 15, 2022, 4:00 p.m. Eastern Time

Optional Pre-Proposal Meeting and Site Visit

June 22, 2022, 12:30 p.m. Eastern Time

Proposal Delivery Address

Wilder City Hall
C/O Riverfront Development and Entertainment RFP
City of Wilder
520 Licking Pike
Wilder, KY 41071

RFP Point of Contact

Terry Vance, City Administrator
Email: tvance@wilderky.gov

Link to Informational Project Video

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I. PROJECT OVERVIEW

A. EXECUTIVE SUMMARY

The City of Wilder (“**Wilder**” or the “**City**”) is accepting proposals (“**Proposals**”) to enter into one or more public-private partnership (“**P3**”) agreements or similar agreements (each an “**Agreement**”) to facilitate the development, financing construction and management of certain recreational opportunities (collectively, the “**Project**”). The scope of the Project includes the following components: (1) the design, development, construction, financing and management of a mixed-use restaurant and dining building located on real property owned by the City (the “**639 Restaurant Project**”), (2) the design, development, construction, financing and management of a public convening area currently utilized as a public garden (the “**Gardens Project**”), (3) the design, development, construction, financing and management of a public boat dock or similar recreational facility located at Frederick’s Landing (the “**Boat Dock Project**”) and (4) the design, development, construction, financing and management of a wooded outdoor recreation area generally adjacent to the Boat Dock Project (the “**Outdoor Recreation Project**” and, together with the 639 Restaurant Project, the Gardens Project, and the Boat Dock Project, the “**Project**”).

The City is accepting and considering Proposals, to undertake any or all of the components of the Project. Respondents (“**Respondents**” or “**Private Partners**”) may submit responses in a “team format” provided the responsibilities for the various phases of the Project are clearly delegated.

B. PURPOSE & VISION

In recent years the introduction of a splash pad, pickleball courts, basketball courts, and trail amenities have transformed the City into a recreation and entertainment destination for individuals and families from throughout Northern Kentucky and greater Cincinnati.

The City is also currently undertaking the development of an outdoor amphitheater that will be located adjacent to the Project Site and will attract a critical mass of patrons to frequent the Project.

The Project and its distinct components are envisioned as the first incremental steps in the redevelopment of the larger City Center district, which will ultimately include a range of commercial, residential and mixed-use offerings to attract new residents and businesses to the City.

C. CITY OBJECTIVES

The City seeks to accomplish the following objectives with this Project:

1. Generate sustainable economic development and capital investment in the City;
2. Develop a dining establishment with scenic view of the Licking River and the City’s new Amphitheater development;
3. Create a distinct sense of place at and around the Center City district;

4. Further Wilder as a recreation and entertainment destination for the Northern Kentucky and Greater Cincinnati communities;
5. Facilitate future development of City-owned properties adjacent to the Project as well as the broader City Center district;
6. Build upon the momentum created by recently introduced and forthcoming recreational and entertainment opportunities, including the splash pad, trail system, and amphitheater;
7. Develop a signature restaurant and dining establishment overlooking the Licking River and the City's amphitheater project with high-quality design and construction; and
8. Develop and maintain a streamlined Project schedule.

II. PROJECT BACKGROUND AND SPECIFICATIONS

Brief Project Background

This Project provides a unique opportunity to enhance the recreational and entertainment offerings within the City. The City is situated on Licking Pike, adjacent to Newport, Kentucky and Highland Heights, Kentucky—home of Northern Kentucky University—and just a five (5) minute drive from Cincinnati, Ohio and Covington, Kentucky. The Project Site is located in close proximity to notable riverfront developments including the Banks and the forthcoming Ovation development in Newport.

In 2019, the City adopted Growing Wilder: Envisioning Tomorrow, a Comprehensive Plan Update (the “**Plan Update**”). The Plan Update contemplated the redevelopment of the Project Site as an opportunity to attract new residents and businesses to the City, and the City desires to advance implementation of the Project in furtherance of that development vision.

In furtherance of the goal of developing recreational and entertainment opportunities, the City is currently developing an outdoor amphitheater project at Frederick's Landing that will utilize a federal Land Water Conservation Fund grant. The amphitheater project is scheduled to break ground in summer 2022 with a targeted completion date of Summer 2023.

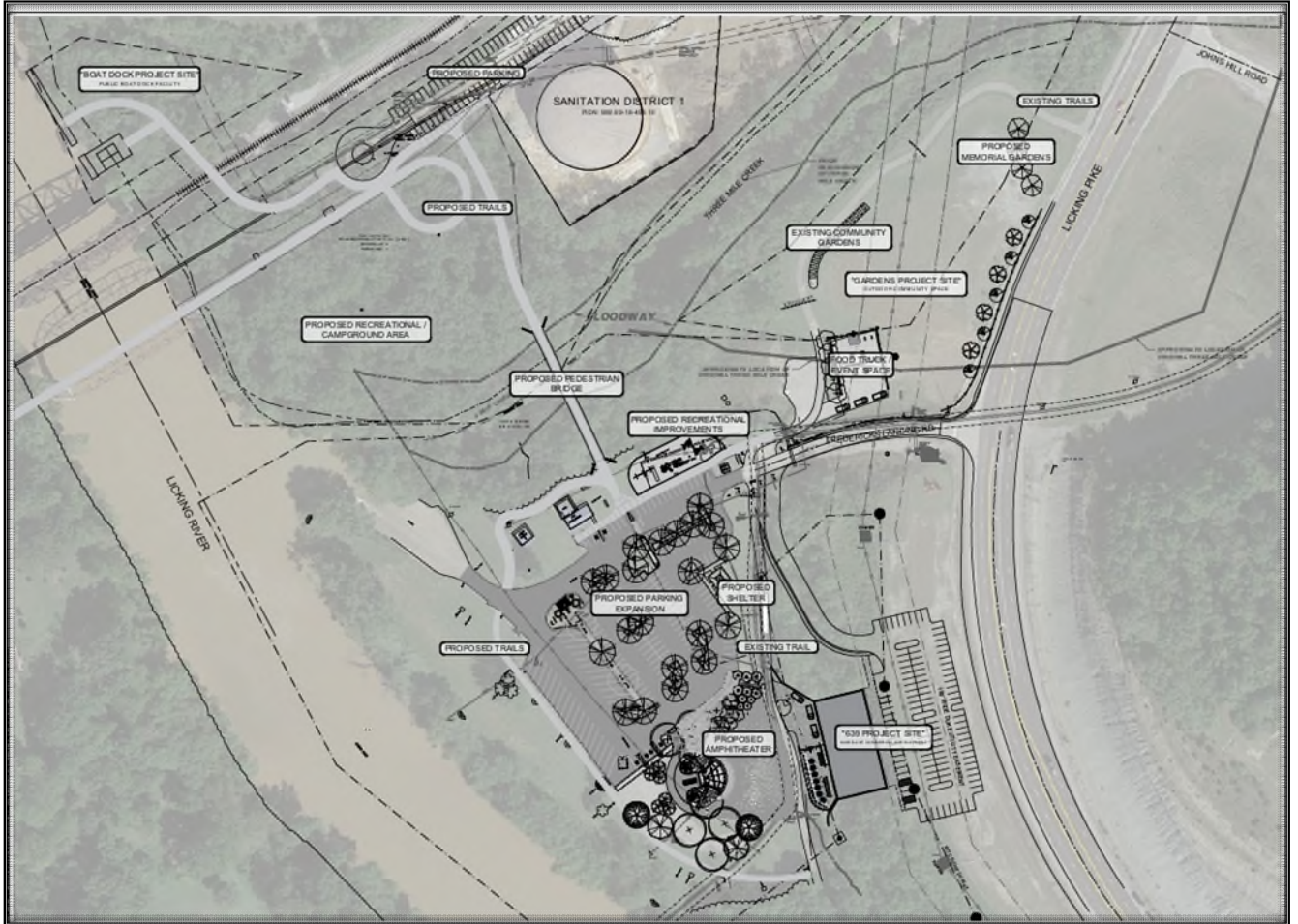
Project Specifications

As Respondents prepare their responses, they should reference the Project Assumptions set forth under **Appendix I**. These assumptions provide additional technical detail pertaining to the overall structure that the City is contemplating with respect to the Project as well as certain conditions that Respondents should consider when developing their responses.

The City is highly motivated and interested in partnering with a team or teams who are willing to invest time, energy and financial resources into any or all of the Projects described below.

The aerial image and rendering below provide a visual of where the Project Site and the discrete sites are situated in relation to each other.

Project Site Map



A. PROJECT SCOPE

COMPONENT 1: 639 RESTAURANT PROJECT

The City owns real property located at 639 Licking Pike (the “639 Restaurant Project Site”), as depicted below, and desires to construct a mixed-use commercial restaurant and dining establishment overlooking the Licking River and the City’s amphitheater project on the 639 Restaurant Project Site (the “639 Restaurant Project”). The 639 Restaurant Project has been envisioned as a multi-level facility constructed into the hillside on Licking Pike (see image below) with views of the Licking River. The ground floor would include approximately 2,500 square feet of storage space for the City and the remaining floors would be dedicated to one or more commercial uses, including the desired restaurant and dining establishment. It is currently contemplated that parking for the 639 Restaurant Project would be located on surface lots located adjacent to the 639 Restaurant Project on Licking Pike; however, coordination with KYTC and applicable utilities may be required to secure permissions for these improvements. In

and the overall allocation of revenue among the Project, the manager and the City, and (ii) a lease structure, including proposed term, base rental amounts, percentage rental amounts, and lease term with renewal periods.

- e. Proposals must include a “sources and uses” for the financing of the initial construction of the 639 Restaurant Project and the acquisition of required equipment.
- f. Proposals must include a project proforma that includes the following: (i) projected gross revenues, (ii) projected expenses, and (iii) projected revenues.
- g. For Respondents that are seeking to pursue two or more components of the Project, Proposals may include a description of how the applicable components will relate to each other.

COMPONENT 2: GARDENS PROJECT

The City seeks proposals to design, construct, finance and manage an outdoor, beer-garden style, community space located adjacent to Frederick’s Landing Park (the “**Gardens Project**”). Currently City residents utilize the outdoor space for community gardening.

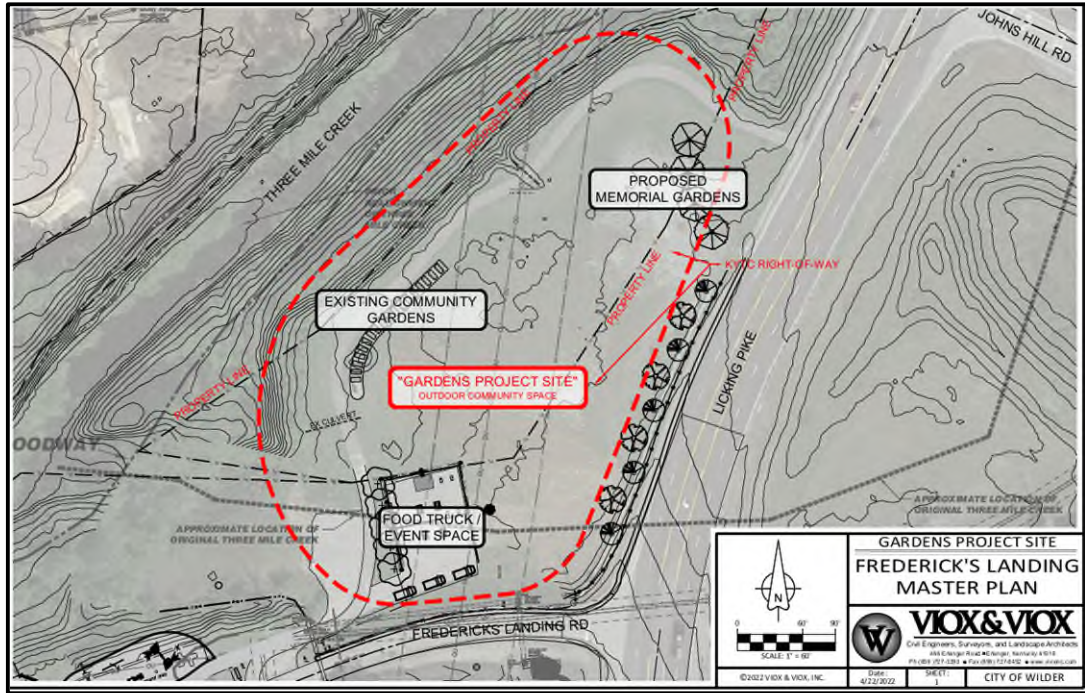
The City is flexible as to the uses that are incorporated into the Gardens Project to maximize the public benefit. These uses may include permanent uses or scheduled programming for the Gardens Project Site. Any proposal should account for the ongoing use of the garden plots by City residents.

It is contemplated that the operative agreement for the Gardens will be a management agreement or similar agreement. To this end, Proposals should incorporate a management fee structure, a proposed term with renewal periods and the overall allocation of revenue among the Project, the manager and the City.

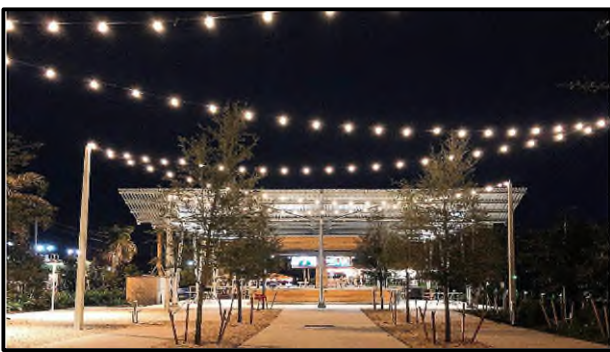
Proposals should consider there are utility easements affecting the Gardens Project Site that may inhibit the construction and installation of permanent structures in certain areas. While proposals may incorporate such structures, they should address any additional processes and delays that may result from seeking permission to install and construct one or more permanent structures.

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Gardens Project Site



Inspiration Images



Proposals for the Gardens Project must address the following elements:

1. General Proposal Requirements:

- a. The Gardens Project Site is subject to certain restrictions imposed by the Land and Water Conservation Fund, including that it must be open to the public and used for a recreational purpose.
- b. Designs for improvements should be high quality and complement the amphitheater designs (See Appendix II).
- c. Proposals should include a management plan for the Gardens Project, including required on-site personnel, a maintenance and repair plan and a replacement schedule for any capital expenditures.
- d. Proposals should include proposed material terms for a management agreement, including (i) management fees, (ii) proposed term with renewals, and (iii) allocation of revenues among the City, manager and Project.
- e. Proposals may include any combination of uses that the Respondent believes would advance the City's vision for the Gardens Project Site and the Frederick's Landing area as a family-centered recreation and entertainment destination.
- f. Proposals must include a project budget with "sources and uses" for the financing of the initial construction of the Gardens Project and the acquisition of required equipment.
- g. Proposals must include a project proforma that includes line items under the following categories: (i) projected gross revenues, (ii) projected expenses, and (iii) projected revenues.
- h. For Respondents that are seeking to pursue two or more components of the Project, Proposals may include a description of how the applicable components will relate to each other.

PUBLIC BOAT DOCK PROJECT

COMPONENT 3: PUBLIC BOAT DOCK PROJECT

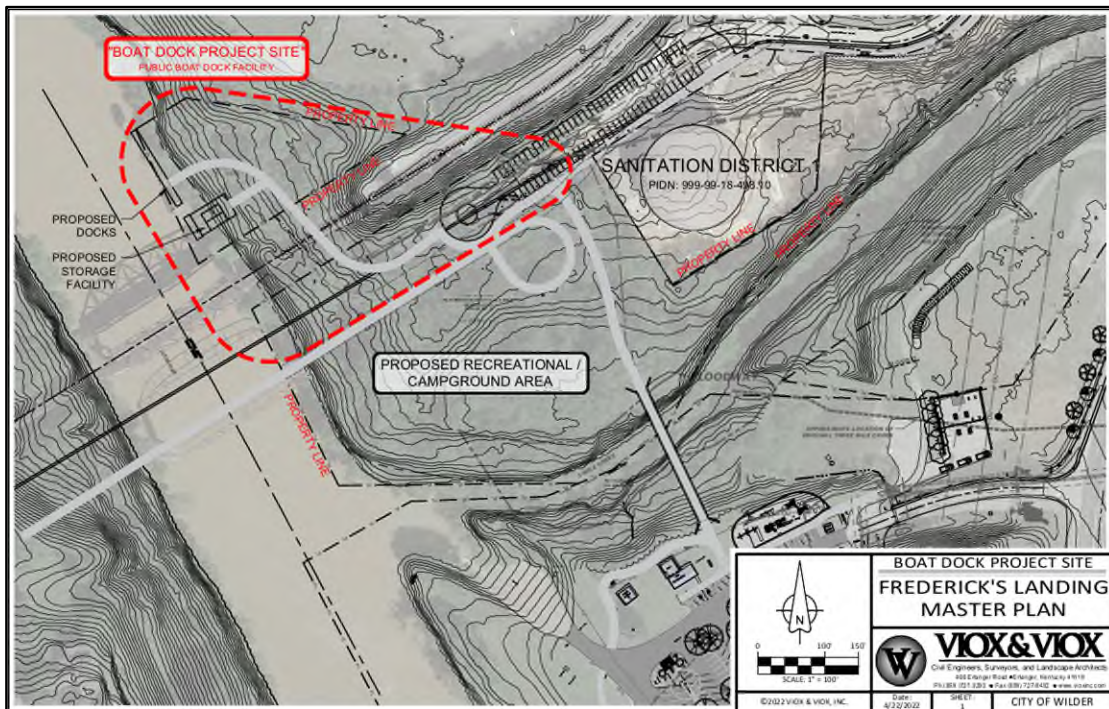
The City seeks proposals to design, develop, finance, construct and manage a public boat dock facility (the "**Boat Dock Project**") to be located at the Project Site. The Boat Dock Project would provide residents and visitors with the opportunity to dock their boats and other watercraft at Frederick's Landing to enjoy the City's recreation and entertainment amenities, including the amphitheater. The site of the Boat Dock Project is currently utilized as a boat launch and this project would enhance the location's current offerings.

Proposals for the Boat Dock Project may also contemplate the inclusion of rental facilities to provide visitors with the opportunity to rent canoes, kayaks and other watercraft for their use and enjoyment while visiting Frederick's Landing. Other ideas for revenue generating recreational activities are also welcomed for the City's consideration.

It is contemplated that the operative agreement for the Boat Dock Project will be a management agreement or similar agreement. To this end, Proposals should incorporate a management fee structure, a proposed term with renewal periods and the overall allocation of revenue among the Project, the manager and the City.

Finally, the City requests that all proposals contemplate a dedicated space at the Boat Dock for the City fire boat.

Depiction of Boat Dock Project Site



Proposals for the Boat Dock Project must address the following elements:

1. General Proposal Requirements:

- a. The Boat Dock Project Site is subject to certain restrictions imposed by the Land Water Conservation Fund, including that it must be open to the public and used for a recreational purpose.
- b. Designs for improvements should be high quality and complement the amphitheater designs (See **Appendix II**).
- c. Proposals should include a management plan for the Boat Dock Project, including required on-site personnel, a maintenance and repair plan and a replacement schedule for all capital expenditures.
- d. Proposals should include proposed material terms for a management agreement, including (i) management fees, (ii) proposed term with renewals, and (iii) allocation of revenues among the City, manager and Project.

- e. Proposals may include additional uses of the Boat Dock Project Site not listed in the RFP.
- f. Proposals must include a comprehensive project budget with a “sources and uses” for the financing of the initial construction of the Boat Dock Project and the acquisition of required equipment.
- g. Proposals must include a project operating proforma that includes corresponding line items under each of the following categories: (i) projected gross revenues, (ii) projected expenses, and (iii) projected net revenues.
- h. For Respondents that are seeking to pursue two or more components of the Project, Proposals may include a description of how the applicable components will relate to each other.

OUTDOOR RECREATION PROJECT

COMPONENT 4: OUTDOOR RECREATION

The City seeks proposals to design, develop, finance, construct and manage an outdoor recreation area (the “**Outdoor Recreation Project**”) to be located generally adjacent to the Boat Dock Project Site. The Outdoor Recreation Project has the potential to serve multiple purposes, including a camping area with capacity to accommodate recreational vehicles (RVs) and an access point for the trail network that extends throughout the Project Site.

Proposals for the Outdoor Recreation Project should contemplate the management of the Outdoor Recreation Project and present ideas for revenue generating recreational activities, which may include the rental of campsites. Proposals should include a description of any proposed capital improvements that will be made to promote the proposed recreational uses. It is contemplated that the operative agreement for the Outdoor Recreation Project will be a management agreement or similar agreement. To this end, Proposals should incorporate a management fee structure, a proposed term with renewal periods and the overall allocation of revenue among the Project, the manager and the City.

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- h. For Respondents that are seeking to pursue two or more components of the Project, Proposals may include a description of how the applicable components will relate to each other.

B. DUTIES AND RESPONSIBILITIES OF THE PRIVATE PARTNER

The Private Partner will engage in the following duties and responsibilities, as applicable to the types of Proposals agreed to by the parties:

1. The Private Partner shall procure all necessary permits and licenses and abide by all applicable laws, regulations, and ordinances of all Federal, State, and local governments in which work under this contract is performed. The contractor shall maintain certification of authority to conduct business in the Commonwealth of Kentucky during the term of this contract. Such registration is obtained from the Secretary of State, who will also provide the certification thereof. However, the contractor need not be registered as a prerequisite for responding to the RFP. Additional local registration or license may be required. The contractor shall pay any required sales, use, and personal property taxes arising out of this contract and the transaction contemplated hereby. Any other taxes levied upon this contract, the transaction, or the equipment or services delivered pursuant hereto shall be borne by the Private Partner.
2. Provide performance and payment bonds on the design and construction portions of the agreement as required under KRS 45A.435 and KRS 65.028(5)(b).
3. Provide maintenance bonds, warranties, guarantees, and letters of credit in connection with the Private Partner's activities in the forms and amounts satisfactory to the City, as required under KRS 65.028(5)(b).
4. Provide City with access to the Private Partner's personnel, documents, and the Project sites for the purpose of monitoring construction progress and operational and maintenance performance, as agreed to be the parties and required under KRS 65.028(5)(d).
5. Maintain public liability insurance or self-insurance in a form and amount satisfactory to the City and reasonably sufficient to insure coverage of tort liability to the public and employees and to enable the continued operation of the Project, as required under KRS 65.028(5)(e).
6. Design all facilities to be ADA accessible and up to current building code standards. Entrances to the building should account for the accessibility needs of employees and customers.
7. Respond to contractual operational or maintenance requests within an agreed upon time.
8. Participate in scheduled reviews of the Project's performance with the City and its designees.
9. Reasonably respond to the City's requests for information on the Project's status.
10. Coordinate all Project press engagements through the City's designee.

C. METHOD OF OVERSIGHT TO BE EMPLOYED BY THE CITY

1. City employees, representatives, and other designees, to include outside consultants, will monitor the Project's progress and performance.
2. The City will request information from the Private Partners, inspect the Project sites, and interview personnel as necessary to ensure the Private Partner is meeting its obligations.
3. The City will hold regularly scheduled reviews of the Project's performance with the Private Partner.

D. DUTIES AND RESPONSIBILITIES OF THE CITY

The City will assume the following duties and responsibilities:

1. Oversee the Project as outlined in Section II.C.
2. Coordinate with the Private Partner to apply for and secure any necessary permits, licenses, financial incentives, or tax credits, and meet any other local, state, or federal requirements.
3. Reasonably provide information as necessary for the Private Partner to meet its duties and responsibilities in Section II.B and the P3 Agreement.

III. SUBMISSION PROCESS

A. PROPOSAL CONTENTS

Proposals should be prepared in such a way as to provide a straightforward, concise presentation adequate to satisfy the requirements of this RFP. Emphasis should be concentrated on completeness and clarity. Respondents must sign and submit complete packages including the following in the order indicated to be considered:

PART I: General Information

- a. Cover Letter
- b. Private Partner Information
- c. Private Partner Team Members
- d. Experience and References
- e. Financial History
- f. Financial Statements
- g. Eligibility for Preferences

PART II: Project Proposal Information

- a. Proposal Description (e.g. 639 Restaurant Project, Gardens Project, Boat Dock Project and/or Outdoor Recreation Project)
- b. Design and Construction Proposal
- c. Financing Proposal and Project Budget
- d. Management Proposal and Project Proforma

- e. Agreement Terms
- f. Timeline*

*If the Respondent proposes to undertake multiple Project components, the timeline can be a comprehensive timeline showing the phasing of each Project component.

a. Cover Letter

Include a cover letter which outlines the overall capability of the development team, including any partnerships considered for the Project and a succinct summary of their collective ability to design, build, finance, operate and maintain the Project.

b. Private Partner Information

Include a summary statement highlighting the Respondent's respective key qualifications and experience.

Clearly identify the proposed Private Partner Team members and their respective roles and the individual team members to be dedicated to the Project. Identify the principal point of contact/Project manager who will be authorized to make representations on behalf of the Respondent.

c. Private Partner Team Members

Identify the Private Partner entity or team, each member of the Private Partner entity or team, each member's percentage of ownership of the Private Partner entity, each member's respective roles and responsibilities, mission statements, and the individual who represents each member. Indicate each team member's role.

Provide an organizational chart that illustrates the members of the Private Partner entity or team.

Identify the person who will represent the Private Partner in meetings with the City and the community, and provide description of position within the Private Partner Team.

Identify professional consultants, to the extent they are known at the time of submission, collaborating with the Private Partner Team.

d. Experience and References

Provide a description of projects that highlight the Private Partner Team's experience in comparable or analogous projects and projects where team members have collaborated together in the past. Selected projects should include photographs to best communicate the project vision. Please list references familiar with Private Partner's work.

Provide at least three (3) references, within the past five (5) years/seasons, of clients for whom services have been performed that are comparable in quality and scope to that specified in this RFP. The references shall include names, addresses and telephone numbers of the clients for

whom the prior work was performed, and include an explanation of the services provided to these clients. Negative references may result in a reduction of points to Proposals.

e. Financial History

Indicate whether any member of the Private Partner Team or any partnership, joint venture, and/or LLC has ever declared bankruptcy or participated in a restructuring of debt commitments of a distressed property. If applicable, describe the project(s) and circumstance(s).

Include a sworn statement with the following text: “By signing this response to the Request for Proposals, I certify that I am in compliance with all state, federal and local laws and am not delinquent in paying any assessed and unprotested taxes levied by the federal, state or local government.” If all members of the Private Partner Team cannot agree to this statement, explain why in a sworn statement.

f. Financial Statements

Respondents must provide either annual financial statements audited by independent certified public accountants demonstrating a viable going concern, or if not available, other financial statements, demonstrating to the satisfaction of the City, sufficient financial backing and ability to perform the Project.

Respondents must provide bank references for the Private Partner members. It must include name, address, and current telephone number of the given financial institution(s). This should include a signed authorization for release of financial information from each bank listed.

Respondents must disclose and explain any liens or lawsuits that have been filed against them within the past five (5) years.

All financial information can be marked as CONFIDENTIAL- TRADE SECRETS.

g. Eligibility for Preferences

Respondents must indicate whether they are eligible for the Small Business, Reciprocal Resident Bidder, and Qualified Bidder preferences and include any required affidavits as outlined in Section IV.C.

PART II

a. Proposal Description

Submit an initial statement that clearly identifies which elements of the Project the Respondent intends to pursue (e.g. 639 Restaurant Project, Gardens Project, Boat Dock Project, and/or Outdoor Recreation Project) as well as a brief synopsis of the Respondent’s approach to any or all of the Project elements. For Respondents that are pursuing multiple Projects, this description can also include the Respondent’s approach to phasing each Project component in relationship to the others.

b. Design and Construction Proposal

For each Project component, Respondents should include preliminary designs for the capital improvements comprising the Project, including renderings of key elevations. This section should also include a construction proposal with a detailed overview of the construction methods that will be utilized to construct the Project as well as construction budget and timing considerations. For Respondents that are pursuing multiple Projects, Proposals may include an overview of construction efficiencies that will be realized due to the completion of multiple Projects.

c. Financing Proposal and Project Budget

For each Project component, Respondents should include a comprehensive project budget and financing proposal. The project budget should include (i) a construction budget that includes the total projected construction costs with line items corresponding to the proposed scope of work together with details pertaining to labor, materials, equipment, insurance, taxes, construction management fees and overhead, and (ii) a project budget that includes the costs of implementing the Project beyond construction, including the costs of personal property to operate the Project, initial marketing or branding costs, and the costs of other permits and approvals required to operate the Project.

The financing proposal should identify the anticipated sources that will be used to finance the Project and corresponding interest rates and loan terms. Financing proposals may also contemplate that the Project will be financed in whole or in part through cash contributions or loans to the Project from the team. If the Project will be funded with cash contributions or internal loans, the proposal must include evidence of available funds, which may consist of a recent bank statement, balance sheet, income statement or other supporting documentation. Any portion of the Project that will be funded with the proceeds of bank loans should include a loan commitment letter or letter of intent from the applicable lender(s).

d. Management Proposal and Project Proforma

For each Project component, the Respondent should outline the proposed management and operations proposal that describes how the Respondent proposes to manage, operate and maintain the Project during the term of any Agreement. This proposal should include key personnel as well as any sub-contractor arrangements that the Respondent is contemplating.

The Project Proforma should provide an overview of the projected financing performance of the Project upon completion. The Project Proforma should identify each of the following categories together with applicable line items: (i) projected gross revenues, (ii) projected expenses, and (iii) projected net revenues. Expenses should include any debt service obligations identified under the financing proposal as well as rent or management fees, as applicable and the City Administration Fee described under **Appendix I**.

e. Operative Agreement(s)

For each Project component, Respondents should indicate their preferred form of operative agreement for the corresponding Project component (Management Agreement, Lease Agreement, or other) and also propose corresponding material terms for the operative agreement. Material terms should include (i) the term of the agreement with renewals, (ii) management fees under any management agreement, and (iii) rent (including base rent and percentage rent) under any lease agreement. The City will not be bound to enter into any agreement proposed by a Respondent and reserves the right to propose an alternate operative agreement for any Project component.

f. Timeline

Respondents should include a detailed project timeline that includes key events such as (i) completion of the design process, (ii) permitting, (iii) construction commencement, (iv) construction completion, and (v) the opening of the applicable component of the Project to the public. For Respondents that are pursuing multiple Project components, there should be one comprehensive timeline that contemplates the above elements for each Project component that the Respondent is considering.

B. DISTRIBUTION OF RESPONSES

In order to be considered for selection, Respondents should submit a complete response to the RFP. One (1) original, ten (10) copies, and one (1) electronic copy of each response must be submitted. Proposals must be formatted as an 8-1/2" x 11" document, typed and arranged/divided in the sequence as indicated in Section III.A to facilitate evaluation. The Respondent shall make no other distribution of the responses.

The Responses should be placed in a sealed envelope or package for submittal marked "City Recreation and Entertainment RFP." All responses shall be received and time-stamped in the Wilder City Building no later than 4:00 p.m. (Eastern Time) on July 15, 2022. Proposals received after this time will not be opened.

1. Proprietary or Confidential Documents or Trade Secrets

If a Proposal contains documents the Respondent believes are proprietary, confidential or trade secrets, Respondents should identify the exempt information and the basis for such exemption under the Kentucky Open Records Act (KRS 61.870 to KRS 61.884) and submit an additional copy of the Proposal with the confidential or proprietary information redacted.

2. Disposition of Proposals

All Proposals become the property of the City. The City reserves the right to use any and all of the ideas presented in any reply to this RFP. The successful Proposal shall be incorporated into

the resulting contract by reference. Disposal of unsuccessful Proposals shall be at the discretion of the City.

3. RFP Shared with Commonwealth Agencies

Copies of this RFP will be submitted to the Commonwealth of Kentucky's Finance and Administration Cabinet and the Department of Local Government in accordance with KRS 65.028(9).

C. COMMUNICATIONS AND SCHEDULE

1. Restrictions on Communications

The RFP Point of Contact named on the Cover Sheet shall be the sole point of contact throughout the procurement process. All communications, oral and written (regular, express, or electronic mail, or fax), concerning this procurement shall be addressed to the RFP Point of Contact.

For violation of this provision, the City shall reserve the right to disqualify the Respondent's Proposal.

2. Anticipated Schedule

The anticipated dates for this Project are as outlined herein. The City may revise these dates as it deems necessary or appropriate.

| | |
|--------------------------------------|------------------------|
| Issuance of RFP: | June 7, 2022 |
| First Written Questions Due: | June 17, 2022 |
| Site Visit and Pre-Proposal Meeting: | June 22, 2022 @12:30 |
| Final Written Questions Due: | June 29, 2022 |
| Final Response to Written Questions: | July 8, 2022 |
| Private Partner Proposal Due: | July 15, 2022 |
| Oral Presentations: | To be determined |
| Selection of Private Partner(s): | Week of August 1, 2022 |

3. Written Questions Regarding this RFP

Respondents are encouraged to submit written questions to the RFP Point of Contact via email at tvance@wilderky.gov.

No questions shall be accepted after the date listed in Section III.C.2 unless the question(s) is considered material to the procurement.

The City shall respond to salient questions in writing by issuing an addendum to the solicitation. Addenda shall be posted to the City website at www.wilderky.gov. Respondent agrees that City will not be responsible for any oral responses to questions.

4. Access to Solicitation, RFP, and Addenda

The City wants each prospective Respondent to have full and complete information on which to base a Proposal response. Respondents should only rely on the written information in this RFP, attachments, and addenda and not on any oral responses. The solicitation, addenda, and attachments shall be posted to the City's website. In the event of any conflict or variation between the solicitation or modification as issued by the City and the Respondent's response, the version as issued shall prevail.

5. Acknowledgment of Addenda

It is the Respondent's responsibility to check the web site for any modifications to this solicitation. Respondents are encouraged to acknowledge each addendum by signing and submitting the latest addendum with their response. However, signing the face of the solicitation constitutes the Respondent's acknowledgement of and agreement to be bound by the terms of all addenda issued.

Failure to specifically acknowledge addenda will not excuse the Respondent from adhering to all changes to the requirements of the solicitation set forth therein nor provide justification for any pricing changes.

6. Protest Policy

Any actual or prospective Respondent, who is aggrieved in connection with solicitation or selection for award of a contract, may file protest with the Wilder City Clerk/Treasurer pursuant to the City's Bid Protest Policy.

IV. SELECTION AND EVALUATION PROCESS

A. SELECTION PROCESS

Respondents are asked to submit a detailed response to the RFP outlining their Proposal, along with specific information on their experience in operating similar projects and the expected elements of their development team.

It is anticipated that upon receiving the RFP responses, the City's Selection Committee will review submissions and select a set of finalists for competitive negotiations based upon best value, determined by the extent to which those submissions meet the standards and qualifications contained in the Evaluation Criteria. At the conclusion of that process, the Selection Committee will recommend one of the finalists or multiple finalists as the Private Partner(s) for this Project.

1. Initial Review

The Selection Committee will conduct an initial review of all submittals received for completeness. Proposals shall be completed in all respects as required by this RFP. A Proposal may be rejected if it is incomplete, contains any alterations or other irregularities of any kind,

and will be rejected if any such defect or irregularity can materially affect the quality of the Proposal. Proposals which contain false or misleading statements may be rejected. If, in the opinion of the City and Selection Committee, such information was intended to mislead the Selection Committee in its evaluation of the Proposal, and the attribute, condition, or capability is a requirement of this RFP, the Proposal will be rejected. The Selection Committee also reserves the right to waive minor technicalities or irregularities in Proposals if such action is in the City's best interest. Such waiver shall in no way modify the RFP requirements or excuse the Respondent(s) from full compliance with the RFP and applicable law. Statements made by a potential Private Partner shall also be without ambiguity, and with adequate elaboration, where necessary, for clear understanding.

The Respondent, in responding to this RFP, must submit Proposals in the format identified in this RFP. The Proposal must address all requirements of the RFP even if a "no response" is appropriate. Costs for developing Proposals or in connection with any interview or negotiation related to this RFP are entirely the responsibility of the Respondent and shall not be chargeable to the City.

2. Evaluation

The City's Selection Committee will evaluate complete submittals based on the evaluation criteria, the small business preference, the reciprocal preference for resident bidders, and the qualified bidder preference, as outlined below. The City reserves the right to request additional information from Respondents and may elect to visit Respondents' completed projects.

The City reserves the right to require Oral Presentations/Demonstrations to verify or expand on Proposals. The City reserves the right to reject any or all proposals in whole or in part based on the oral presentations/demonstrations. If required, the highest-ranking Respondents will be invited. The City reserves the right to not conduct oral presentations/demonstrations if they do not affect the final rankings.

3. Selection of one or more Private Partner(s)

Following the interviews, the Selection Committee will recommend to the City the Respondent(s) for competitive negotiations. The City will select the final Proposal(s) that is most advantageous to the City. The City will reserve the right to making an award to one or more private partner(s) for multiple Project components.

B. EVALUATION CRITERIA

1. Criteria for Proposals

The City will rely on the following criteria and corresponding weights to evaluate Proposals:

| Criteria | Maximum Points Possible |
|--------------------------------|--------------------------------|
| Private Partner Experience | 450 |
| Design | 450 |
| Overall Construction Plan | 450 |
| Economic Terms | 800 |
| Management Plan | 450 |
| Project Timeline | 400 |
| Maximum Points Possible | 3,000 |

The Selection Committee will score each Project component separately, but may take into consideration efficiencies that are achieved through a single Respondent undertaking multiple Project components.

C. PREFERENCES AND CONDITIONS

1. Small Business Preference

Preference will be given to a plan that includes the involvement of small businesses as subcontractors, to the extent that small businesses can provide services in a competitive manner, unless any preference interferes with the qualification for funds, as required under KRS 65.028(5)(k). Proposals must include a statement explaining the involvement of small businesses in the delivery of the Project or lack thereof.

2. Reciprocal Resident Bidder Preference

If the Selection Committee awards the same score to a resident bidder and a nonresident bidder, preference shall be given to the resident bidder, as required under KRS 65.027(2), KRS 45A.490 to 45A.494, and 200 KAR 5:400. Any Respondent claiming resident bidder status shall submit along with its response a notarized affidavit that affirms that it meets the criteria to be considered a resident bidder as set forth in KRS 45A.494(2), available at the following link: <https://finance.ky.gov/office-of-the-secretary/FinanceForms/Affidavit%20for%20Claiming%20Resident%20Bidder%20Status.pdf>.

Respondents not claiming eligibility for resident bidder status shall indicate their state of residence.

3. Qualified Bidder Preference

Preference shall be given to qualified bidders, as required under KRS 45A.470. Any Respondent claiming qualified bidder status shall submit a notarized affidavit that affirms that it meets the

criteria, available at the following link: <https://finance.ky.gov/office-of-the-secretary/FinanceForms/Affidavit%20for%20Bidders%20Offerors%20and%20Contractors%20Claiming%20Qualified%20Bidder%20Status.pdf>.

4. No Contract Guaranteed

City reserves the right to request necessary modifications, reject all Proposals of any or all project components, reject any Proposal that does not meet any mandatory requirements under this RFP or applicable law, or cancel this process at any time prior to execution of the P3 Agreement, according to the best interests of the City.

5. Local Government P3 Board Review

The Commonwealth of Kentucky's Local Government P3 Board must review and approve any P3 Agreement with a total contractual value that exceeds 30% of City's general fund revenues received in the previous year. The Local Government P3 Board is required to follow the procedures in KRS 65.028(12).

6. Legislative Approval Required

A P3 Agreement will only take full effect if approved by the Local Government P3 Board, if necessary, and executed by the Wilder City Council.

V. REQUIRED CONTRACT TERMS

By responding to this RFP, Respondents agree to the following terms in any Agreement:

1. Contract Components and Order of Precedence

The City's acceptance of the Private Partner's offer in response to the solicitation, indicated by signing the Agreement, shall create a valid contract between the Parties consisting of the following:

1. Any written Agreement(s) between the Parties;
2. Any Addenda to the RFP;
3. The RFP and all attachments;
4. Procurement Statutes, Regulations, Policies, and Ordinances;
5. Any Best and Final Offer;
6. Any clarifications concerning the Respondent's Proposal in response to the RFP;
7. The Respondent's Proposal in response to the Solicitation.

In the event of any conflict between or among the provisions contained in the contract, the order of precedence shall be as enumerated above.

2. Final Agreement(s)

The contract represents the entire agreement between the parties with respect to the subject matter hereof. Prior negotiations, representations, or agreements, either written or oral,

between the parties hereto relating to the subject matter hereof shall be of no effect upon this contract.

3. Contract Provisions

If any provision of this contract (including items incorporated by reference) is declared or found to be illegal, unenforceable, or void, then both the City and the Private Partner shall be relieved of all obligations arising under such provision. If the remainder of this contract is capable of performance, it shall not be affected by such declaration or finding and shall be fully performed.

4. Modifications and Waivers

No modification, change, or waiver of any provision in the contract shall be made, or construed to have been made, unless such modification or waiver is mutually agreed to in writing by the Private Partner and the City, and incorporated as a written amendment to the contract.

Memorandum of understanding, written clarification, and/or correspondence shall not be construed as amendments to the contract.

If the contractor finds at any time that existing conditions made modification of the contract necessary, it shall promptly report such matters to the City for consideration and decision.

5. Changes in Scope

The City may, at any time by written order, make changes within the general scope of the contract. No changes in scope are to be conducted except at the approval of the City.

6. Contract Conformance

If the City determines that deliverables due under the contract are not in conformance with the terms and conditions of the contract and the mutually agreed-upon Project plan, the City may request the Private Partner to deliver assurances in the form of additional contractor resources and to demonstrate that other major schedules will not be affected. The City shall determine the quantity and quality of such additional resources and failure to comply may constitute default by the Private Partner. The City reserves the right to award any contract to the next highest scoring Respondent, if the successful Respondent does not execute within a specified deadline the contract after selection of a preferred Private Partner.

7. Assignment

The contract shall not be assigned in whole or in part without the prior written consent of the City.

8. Conformance with Laws and Regulations

This contract is subject to the laws of the Commonwealth of Kentucky and, where applicable, Federal law. Any litigation with respect to this contract shall be brought in state or federal court in Campbell County, Kentucky.

VI. CONCLUSION

The City looks forward to reviewing responses to this RFP and working with the Private Partner(s) that are selected to undertake any portion of the Project.

Thank you for your interest in this opportunity. We look forward to receiving and reviewing your Proposal

APPENDIX I

UNDERLYING ASSUMPTIONS AND VARIABLES

i. Administration Fee

Proposals should include a fee equal to 3% of the total Project costs (the “City Project Fee”) to offset the City’s expenses for the professional services associated with this Project at financial closing.

ii. Impact of Federal Funds on Project

Respondents should indicate the differences in the Project’s costs and timeline if the City were to utilize federally sourced funds toward this Project compared to other sources of funds.

iii. Feasibility Study

In the event the Project is delivered as a P3 under KRS 65.028, the Private Partner must pay for a feasibility study that addresses all requirements in 200 KAR 5:355(2)(2). The City retains final approval authority over which entity conducts the study. The study must be complete within 21 days after negotiations are completed.

iv. Financing

Respondents should assume the City will provide no funds up front and the City will make payments to the Private Partner from City appropriations. Respondents are encouraged to propose revenue-generating uses of the Project site to offset the City’s costs of the Project.

The City also reserves the right to substitute its own financing options for any portion of the Project.

v. Efficiencies

Respondents who submit multiple types of Proposals are welcome to articulate the benefits to the City of selecting those Proposals from the same Private Partner team.

vi. Form of Agreement(s)

The City will have the discretion to determine the form of agreement that will govern each Project component. These could include one or more of the following: (i) a development agreement, (ii) a management agreement, (iii) a lease agreement, or (iv) a purchase and sale agreement. During the competitive negotiations process the City will propose the form of agreement(s) based on the corresponding proposals that are under consideration. Respondents may indicate in their responses if they have a desire for one form of agreement over another—e.g. a management agreement rather than a lease agreement.

APPENDIX II

AMPHITHEATER AND 639 RESTAURANT PROJECT DESIGN IMAGES

