

STATE OF NORTH CAROLINA

Department of Natural and Cultural Resources

Request for Proposal #: 46-DNCR-24-1986

Hang Gliding and Kite Flying School at Jockey's Ridge State Park

Date of Issue: May 15, 2024

Proposal Opening Date: June 4, 2024

At 2:00 PM ET

Direct all inquiries concerning this RFP to:

Cynthia Armes

Director of Procurement

Email: Cynthia.armes@dn-cr.nc.gov

Phone: 919-814-6728



STATE OF NORTH CAROLINA

Request for Proposal

46-DNCR-24-1986

For internal State agency processing, including tabulation of proposals, provide your company's eVP (Electronic Vendor Portal) Number. Pursuant to G.S. 132-1.10(b) this identification number shall not be released to the public. **This page will be removed and shredded, or otherwise kept confidential**, before the procurement file is made available for public inspection.

**This page shall be filled out and returned with your proposal.
Failure to do so may subject your proposal to rejection.**

Vendor Name

Vendor eVP#

Note: For a contract to be awarded to you, your company (you) must be a North Carolina registered vendor in good standing. You must enter the vendor number assigned through eVP (Electronic Vendor Portal). If you do not have a vendor number, register at <https://vendor.ncgov.com/vendor/login>

| STATE OF NORTH CAROLINA Division of Department of Natural and Cultural Resources | |
|--|---|
| Refer <u>ALL</u> Inquiries regarding this RFP to the procurement lead through the Message Board in the Sourcing Tool. See section 2.6 for details. | Request for Proposal #: 46-DNCR-24-1986 |
| | Proposals will be publicly opened: June 4, 2024, at 2:00 PM, ET |
| Using Agency: Department of Natural and Cultural Resources/ NC Division of Parks and Recreation | Commodity No. and Description: 861317 Flight School Services |
| Requisition No.: RQ73520 | |

EXECUTION

In compliance with this Request for Proposals (RFP), and subject to all the conditions herein, the undersigned Vendor offers and agrees to furnish and deliver any or all items upon which prices are bid, at the prices set opposite each item within the time specified herein.

By executing this proposal, the undersigned Vendor understands that false certification is a Class I felony and certifies that:

- this proposal is submitted competitively and without collusion (G.S. 143-54),
- none of its officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and
- it is not an ineligible Vendor as set forth in G.S. 143-59.1.

Furthermore, by executing this proposal, the undersigned certifies to the best of Vendor's knowledge and belief, that:

- it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal or State department or agency.

As required by G.S. 143-48.5, the undersigned Vendor certifies that it, and each of its sub-Contractors for any Contract awarded as a result of this RFP, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system.

As required by Executive Order 24 (2017), the undersigned vendor certifies will comply with all Federal and State requirements concerning fair employment and that it does not and will not discriminate, harass, or retaliate against any employee in connection with performance of any Contract arising from this solicitation.

G.S. 133-32 and Executive Order 24 (2009) prohibit the offer to, or acceptance by, any State Employee associated with the preparing plans, specifications, estimates for public contracts; or awarding or administering public contracts; or inspecting or supervising delivery of the public contract of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of this response to the RFP, the undersigned certifies, for Vendor's entire organization and its employees or agents, that Vendor is not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

By executing this bid, Vendor certifies that it has read and agreed to the **INSTRUCTION TO VENDORS** and the **NORTH CAROLINA GENERAL TERMS AND CONDITIONS incorporated herein**. These documents can be accessed from the Ariba Sourcing Tool.

Failure to execute/sign proposal prior to submittal may render proposal invalid and it MAY BE REJECTED. Late proposals shall not be accepted.

| | | |
|---|-------------------|--------------------|
| COMPLETE/FORMAL NAME OF VENDOR: | | |
| STREET ADDRESS: | P.O. BOX: | ZIP: |
| CITY & STATE & ZIP: | TELEPHONE NUMBER: | TOLL FREE TEL. NO: |
| PRINCIPAL PLACE OF BUSINESS ADDRESS IF DIFFERENT FROM ABOVE (SEE INSTRUCTIONS TO VENDORS ITEM #21): | | |
| PRINT NAME & TITLE OF PERSON SIGNING ON BEHALF OF VENDOR: | | FAX NUMBER: |
| VENDOR'S AUTHORIZED SIGNATURE*: | DATE: | EMAIL: |

VALIDITY PERIOD

Offer shall be valid for at least one hundred twenty (120) days from date of bid opening, unless otherwise stated here: _____ days, or if extended by mutual agreement of the parties in writing. Any withdrawal of this offer shall be made in writing, effective upon receipt by the agency issuing this RFP.

ACCEPTANCE OF PROPOSAL

If your proposal is accepted, all provisions of this RFP, along with the written results of any negotiations, shall constitute the written agreement between the parties ("Contract"). The NORTH CAROLINA GENERAL TERMS AND CONDITIONS are incorporated herein and shall apply. Depending upon the Goods or Services being offered, other terms and conditions may apply, as mutually agreed.

FOR STATE USE ONLY: Offer accepted and Contract awarded this _____ day of _____, 20____, as indicated on

The attached certification, by _____.

(Authorized Representative of Department of Natural and Cultural Resources)

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1.0 PURPOSE AND BACKGROUND

The North Carolina Department of Natural and Cultural Resources (hereinafter, "Department") has been given stewardship over an area described as Jockey's Ridge State Park (hereinafter referred to as the "Park"), and WHEREAS, the Department, after careful deliberation, has concluded that hang gliding and kite flying are appropriate activities in the Park; and WHEREAS, the Department finds that a hang gliding and kite flying instructional agreement with a qualified party concession would be in the best interest of fully developing the resources of the Park and the segment of the public desiring such instruction.

The intent of this solicitation is to award an Agency Specific Contract.

1.1 CONTRACT TERM

The Contract shall have an initial term of three (3) years, beginning on the date of final Contract execution (the "Effective Date") or July 25, 2024, whichever is later.

At the end of the Contract's initial term, the State shall have the option, in its sole discretion, to renew the Contract on the same terms and conditions for up to two (2) additional one-year terms. In addition to any optional renewal terms, and with the Vendor's concurrence, the State reserves the right to extend the Contract after the last active term.

Proposals shall be submitted in accordance with the terms and conditions of this RFP and any addenda issued hereto.

2.0 GENERAL INFORMATION

2.1 REQUEST FOR PROPOSAL DOCUMENT

This RFP is comprised of the base RFP document, any attachments, and any addenda released before Contract award, which are incorporated herein by reference.

2.2 E-PROCUREMENT FEE

ATTENTION: This is an NC eProcurement solicitation facilitated by the Ariba Network. The E-Procurement fee may apply to this solicitation. See the paragraph entitled ELECTRONIC PROCUREMENT of the North Carolina General Terms and Conditions.

General information on the E-Procurement Services can be found at: <http://eprocurement.nc.gov/>.

What is the Ariba Network?

The Ariba Network is a web-based platform that serves as a connection point for buyers and vendors. Vendors can log in to the Ariba Network to view purchase orders, respond to electronic requests for quotes, participate in Sourcing Events, and collaborate with buyers on contract documents.

For training on how to use the Sourcing Tool to view solicitations, submit questions, develop responses, upload documents, and submit offers to the State, Vendors should go to the following site:

<http://eprocurement.nc.gov/training/vendor-training>.

2.3 NOTICE TO VENDORS REGARDING RFP TERMS AND CONDITIONS

It shall be the Vendor's responsibility to read the Instructions to Vendors, the North Carolina General Terms and Conditions, all relevant exhibits and attachments, and any other components made a part of this RFP and comply with all requirements and specifications herein. Vendors are also responsible for obtaining and complying with all Addenda and other changes that may be issued in connection with this RFP.

If Vendors have questions, issues, regarding any component of this RFP, those must be submitted as questions in accordance with the instructions in the PROPOSAL QUESTIONS Section. If the State determines that any changes will be made as a result of the questions asked, then such decisions will be communicated in the form of an RFP addendum. The State may also elect to leave open the possibility for later negotiation of specific provisions of the Contract that have been addressed during the question-and-answer period, prior to contract award.

Other than through the process of negotiation under 01 NCAC 05B.0503, the State rejects and will not be required to evaluate or consider any additional or modified terms and conditions submitted with Vendor's proposal or otherwise. This applies to any language appearing in or attached to the document as part of the Vendor's proposal that purports to vary any terms and conditions or Vendors' instructions herein or to render the proposal non-binding or subject to further negotiation. Vendor's proposal shall constitute a firm offer that shall be held open for the period required herein ("Validity Period" above).

The State may exercise in its discretion to consider Vendor proposed modifications. By execution and delivery of this RFP Response, the Vendor agrees that any additional or modified terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect, and will be disregarded unless expressly agreed upon through negotiations and incorporated by way of a Best and Final Offer (BAFO). Noncompliance with, or any attempt to alter or delete, this paragraph shall constitute sufficient grounds to reject Vendor's proposal as nonresponsive.

2.4 RFP SCHEDULE

The table below shows the *intended* schedule for this RFP. The State will make every effort to adhere to this schedule.

| Event | Responsibility | Date and Time |
|---|----------------|--|
| Issue RFP | State | May 15, 2024 |
| Hold Mandatory Site Visit | State | May 21, 2024, at 11:00 AM ET |
| Submit Written Questions | Vendor | May 23, 2024, by 4:00 PM ET |
| Provide Response to Questions | State | May 28, 2024, by 4:00 PM ET |
| Submit Proposals | Vendor | June 4, 2024, at 2:00 PM ET |
| The Department of Natural and Cultural Resources will be conducting live bid openings over conference call. | | <p>Join on your computer, mobile app or room device:</p> <p>Join the meeting now</p> <p>Meeting ID: 243 223 686 71 Passcode: JMDYWu</p> <p>Download Teams Join on the web</p> <p>Join with a video conferencing device</p> <p>ncgov@m.webex.com</p> <p>Video Conference ID: 114 457 515 1</p> <p>Alternate VTC instructions</p> <p>Or call in (audio only)</p> <p>+1 984-204-1487,,744529759# United States, Raleigh</p> <p>Phone Conference ID: 744 529 759#</p> |
| Contract Effective Date | State | Upon execution or July 25, 2024, whichever is later |

2.5 SITE VISIT

Mandatory Site Visit

Date: 5/21/2024
 Time: 11:00 AM Eastern Time
 Location: **Jockey's Ridge State Park**
300 West Carolista Drive
Nags Head, North Carolina 27959
 Contact #: **Joy Greenwood (252) 441-7132**

Instructions: It shall be MANDATORY that a representative from each Vendor be present for a pre-proposal site visit. Attendees must arrive promptly. All attendees must sign in upon arrival and clearly indicate each prospective Vendor represented on the sign in sheet. LATE ARRIVALS WILL NOT BE ALLOWED TO SIGN IN OR PARTICIPATE IN THE SITE VISIT, NOR SHALL THEIR PROPOSAL BE CONSIDERED. Once the sign-in process is complete, all other people wishing to attend may do so to the extent that space and circumstances allow.

FAILURE TO ATTEND THE MANDATORY SITE VISIT SHALL RESULT IN VENDOR'S PROPOSAL BEING DEEMED NON-RESPONSIVE AND NOT CONSIDERED FOR AWARD.

The purpose of this visit is for all prospective Vendors to apprise themselves of the conditions and requirements which will affect the performance of the work called for by this RFP. Vendors must stay for the duration of the site visit. No allowances will be made for unreported conditions that a prudent Vendor would recognize as affecting the work called for or implied by this RFP.

Vendors are cautioned that any information released to attendees during the site visit, other than that involving the physical aspects of the facility referenced above, and which conflicts with, supersedes, or adds to requirements in this RFP, must be confirmed by written addendum before it can be considered to be a part of this RFP and any resulting contract.

2.6 PROPOSAL QUESTIONS

Upon review of the RFP documents, Vendors may have questions to clarify or interpret the RFP in order to submit the best proposal possible. To accommodate the Proposal Questions process, Vendors shall submit any such questions by the "Submit Written Questions" date and time provided in the RFP SCHEDULE Section above, unless modified by Addendum.

Questions related to the content of the solicitation, or the procurement process should be directed to the person on the title page of this document via the Sourcing Tool's message board by the date and time specified in the RFP SCHEDULE Section of this RFP. Vendors will enter "**RFP # 46-DNCR-24-1986 – Questions**" as the subject of the message. Question submittals should include a reference to the applicable RFP section. This is the only manner in which questions will be received.

Questions or issues related to using the Sourcing Tool itself can be directed to the North Carolina eProcurement Help Desk at 888-211-7440, Option 2. Help Desk representatives are available Monday through Friday from 7:30 AM ET to 5:00 PM ET.

Questions received prior to the submission deadline date, the State's response, and any additional terms deemed necessary by the State will be posted in the Sourcing Tool in the form of an addendum and shall become an Addendum to this RFP. No information, instruction or advice provided orally or informally by any State personnel, whether made in response to a question or otherwise in connection with this RFP, shall be considered authoritative or binding. Vendors shall rely *only* on written material contained in the RFP and an addendum to this RFP.

2.7 PROPOSAL SUBMITTAL

IMPORTANT NOTE: This is an absolute requirement. Late bids, regardless of cause, will not be opened or considered, and will be automatically disqualified from further consideration. Vendor shall bear the sole risk of late submission due to unintended or unanticipated delay. It is the Vendor's sole responsibility to ensure its proposal has been received as described in this RFP by the specified time and date of opening. Failure to submit a proposal in strict accordance with instructions provided shall constitute sufficient cause to reject a Vendor's proposal(s). Solicitation responses are subject to Sealed Bidding requirements.

Vendor's proposals for this procurement must be submitted through the Sourcing Tool. For training on how to use the Sourcing Tool to view solicitations, submit questions, develop responses, upload documents, and submit offers to the State, Vendors should go to the following site: <https://eprocurement.nc.gov/training/vendor-training>.

Questions or issues related to using the Sourcing Tool itself can be directed to the North Carolina eProcurement Help Desk at 888-211-7440, Option 2. Help Desk representatives are available Monday through Friday from 7:30 AM EST to 5:00 PM EST.

Tips for Using the Sourcing Tool

1. Vendors should review available training and confirm that they are able to access the Sourcing Event, enter responses, and upload files well in advance of the date and time response are due to allow sufficient time to seek assistance from the North Carolina eProcurement Help Desk.
2. Vendors may submit their responses early to make sure there are no issues, and then submit a revised response any time prior to the response due date and time. The State will only review the most recent response.
3. Vendors should respond to all relevant sections of the Sourcing Event. Certain questions or items are required in order to submit a response and are denoted with an asterisk. The Sourcing Tool will not allow a response to be submitted unless all required items are completed. The Sourcing Tool will provide error messages to help identify any required information that is missing when response is submitted.
4. Simply saving your response in the Sourcing Tool is not the same as submitting your response to the State. Vendors should make sure they complete the submission process and receive a message that their response was successfully submitted.
5. **Only Proposals submitted through the Content Section of the Ariba Sourcing Event will be considered. Proposals submitted through the Message Board will not be accepted or considered for award.**

If confidential and proprietary information is included in the proposal, also submit one (1) signed, REDACTED copy of the proposal. Such information may include trade secrets defined by N.C. Gen. Stat. § 66-152 and other information exempted from the Public Records Act pursuant to N.C. Gen. Stat. §132- 1.2. Vendor may designate information, Products, Services or appropriate portions of its response as confidential, consistent with and to the extent permitted under the statutes and rules set forth above. By so redacting any page, or portion of a page, the Vendor warrants that it has formed a good faith opinion, having received such necessary or proper review by counsel and other knowledgeable advisors, that the portions determined to be confidential and proprietary and redacted as such, meet the requirements of the Rules and Statutes set forth above. However, under no circumstances shall price information be designated as confidential.

If the Vendor does not provide a redacted version of the proposal with its proposal submission, the Department may release an unredacted version if a record request is received.

2.8 PROPOSAL CONTENTS

Vendors shall provide responses to all questions and complete all attachments for this RFP that require the Vendor to provide information and upload them to the Sourcing Event in the Sourcing Tool. Vendor may not be able to submit its response in the Sourcing Tool unless all required items are addressed. Vendors shall provide authorized signatures where requested. Failure to provide all required items, or Vendor's submission of incomplete items, may result in the State rejecting Vendor's proposal, in the State's sole discretion.

Vendor shall include the following items and attachments in the Sourcing Tool:

- a) Cover Letter, which must contain the following: (i) a statement that confirms that the proposer has read the RFP in its entirety, including all links, and all Addenda released in conjunction with the RFP; (ii) a statement that the Vendor agrees to perform in accordance with the scope of work, requirements, and specifications contained herein; and (iii) Vendor's agreement to comply with all instructions, terms and conditions, and attachments.
- b) Completed and signed version of all EXECUTION PAGES, along with the body of the RFP.
- c) Signed receipt pages of any addenda released in conjunction with this RFP, if required to be returned.
- d) Vendor's Proposal addressing all Specifications of this RFP.
- e) Completed version of ATTACHMENT A: PRICING
- f) Completed and signed version of ATTACHMENT D: HUB SUPPLEMENTAL VENDOR INFORMATION
- g) Completed and signed version of ATTACHMENT E: CUSTOMER REFERENCE FORM
- h) Completed and signed version of ATTACHMENT F: LOCATION OF WORKERS UTILIZED BY VENDOR
- i) Completed and signed version of ATTACHMENT G: CERTIFICATION OF FINANCIAL CONDITION

2.9 ALTERNATE PROPOSALS

Unless provided otherwise in this RFP, Vendor may submit alternate proposals for comparable Goods, various methods or levels of Service(s), or that propose different options. Alternate proposals must specifically identify the RFP requirements and advantage(s) addressed by the alternate proposal. Each proposal must be for a specific set of Goods and Services and must include specific pricing. Each proposal must be complete and independent of other proposals offered. If a Vendor chooses to respond with various offerings, Vendor shall follow the specific instructions for uploading Alternate Proposals in the Sourcing Tool.

2.10 DEFINITIONS, ACRONYMS, AND ABBREVIATIONS

Relevant definitions for this RFP are provided in 01 NCAC 05A .0112 and in the Instructions to Vendors found in the Sourcing Tool, which are incorporated herein by this reference.

The following definitions, acronyms, and abbreviations are also relevant to this RFP:

- a) Contract Lead: Representative of the Department of Natural and Cultural Resources identified on the first page of this RFP who will correspond with potential Vendors concerning solicitation issues and will contract with the Vendor providing the best offer to the State and is the individual who will administer the Contract for the State.
- b) Contract Manager: Representative of the Department of Natural and Cultural Resources or awarded Vendor who ensures compliance with the contract terms and conditions while giving attention to the achievement of the stated output and outcome of the contract.
- c) USHPA: United States Hang Gliding and Paragliding Association.

3.0 METHOD OF AWARD AND PROPOSAL EVALUATION PROCESS

3.1 METHOD OF AWARD

North Carolina G.S. 143-52 provides a general list of criteria the State shall use to award contracts, as supplemented by the additional criteria herein. The Goods or Services being procured shall dictate the application and order of criteria; however, all award decisions shall be in the State's best interest. All qualified proposals will be evaluated, and awards will be made to the Vendor(s) meeting the specific RFP Specifications and achieving the highest and best final evaluation, based on the criteria described below.

While the intent of this RFP is to award a Contract(s) to a single Vendor, the State reserves the right to make separate awards to different Vendors for one or more line-items, to not award one or more line-items or to cancel this RFP in its entirety without awarding a Contract, if it is considered to be most advantageous to the State to do so.

The State reserves the right to waive any minor informality or technicality in proposals received.

3.2 CONFIDENTIALITY AND PROHIBITED COMMUNICATIONS DURING EVALUATION

While this RFP is under evaluation, the responding Vendor, including any subcontractors and suppliers, is prohibited from engaging in conversations intended to influence the outcome of the evaluation. See Paragraph 29 of the Instructions to Vendors entitled COMMUNICATIONS BY VENDORS.

Each Vendor submitting a proposal to this RFP, including its employees, agents, subcontractors, suppliers, subsidiaries and affiliates, is prohibited from having any communications with any person inside or outside the using agency; issuing agency; other government agency office or body (including the purchaser named above, any department secretary, agency head, members of the General Assembly and Governor's office); or private entity, if the communication refers to the content of Vendor's proposal or qualifications, the content of another Vendor's proposal, another Vendor's qualifications or ability to perform a resulting contract, and/or the transmittal of any other communication of information that could be reasonably considered to have the effect of directly or indirectly influencing the evaluation of proposals, the award of a contract, or both.

Any Vendor not in compliance with this provision shall be disqualified from evaluation and award. A Vendor's proposal may be disqualified if its subcontractor and/or supplier engage in any of the foregoing communications during the time

that the procurement is active (*i.e.*, the issuance date of the procurement until the date of contract award or cancellation of the procurement). Only those discussions, communications or transmittals of information authorized or initiated by the issuing agency for this RFP or inquiries directed to the purchaser named in this RFP regarding requirements of the RFP (prior to proposal submission) or the status of the award (after submission) are excepted from this provision.

3.3 PROPOSAL EVALUATION PROCESS

Only responsive submissions will be evaluated.

The State will conduct a One-Step evaluation of Proposals:

Proposals will be received according to the method stated in the Proposal Submittal Section above.

All proposals must be received by the issuing agency not later than the date and time specified in the RFP SCHEDULE Section above, unless modified by Addendum. Vendors are cautioned that this is a request for offers, not an offer or request to contract, and the State reserves the unqualified right to reject any and all offers at any time if such rejection is deemed to be in the best interest of the State.

At the date and time provided in the RFP SCHEDULE Section above, unless modified by Addendum, the proposal from each responding Vendor will be opened publicly and all offers (except those that have been previously withdrawn, or voided bids) will be tabulated. The tabulation shall be made public at the time it is created. When negotiations after receipt of bids are authorized pursuant to G.S. 143-49 and 01 NCAC 05B.0503, only the names of offerors and the Goods and Services offered shall be tabulated at the time of opening. If negotiation is anticipated, cost and price shall become available for public inspection at the time of the award. Interested parties are cautioned that these costs and their components are subject to further evaluation for completeness and correctness and therefore may not be an exact indicator of a Vendor's pricing position.

At their option, the evaluators may request oral presentations or discussions with any or all Vendors for clarification or to amplify the materials presented in any part of the proposal. Vendors are cautioned, however, that the evaluators are not required to request presentations or other clarification—and often do not. Therefore, all proposals should be complete and reflect the most favorable terms available from the Vendor.

Upon completion of the evaluation process, the State will make award(s) based on the evaluation and post the award(s) to *the electronic Vendor Portal (eVP)*, <https://evp.nc.gov>, under the RFP number for this solicitation. Award of a Contract to one Vendor does not mean that the other proposals lacked merit, but that, all factors considered, the selected proposal was deemed most advantageous and represented the best value to the State.

The State reserves the right to negotiate with one or more vendors, or to reject all original offers and negotiate with one or more sources of supply that may be capable of satisfying the requirement, and in either case to require Vendor to submit a Best and Final Offer (BAFO) based on discussions and negotiations with the State.

3.4 EVALUATION CRITERIA

Responses must follow the format outlined herein. The State may reject as non-responsive, at its sole discretion, any proposal or any part thereof that is incomplete, inadequate in its response or departs in any substantive way from the required format. Proposal responses shall be organized and “tabbed” in the following manner:

1. Vendor's Corporate Background, Experience, and Qualifications (Sections 4.5 and 4.6)
2. Scope of Work Understanding, Technical Approach and Schedule (Section 5.5)
3. Project Organization (Section 5.4)
4. Mandatory Certifications (Section 4.10)
5. Certificate(s) of Insurance (Section 4.11)

In addition to the general criteria in G.S. 143-52 which may or may not be relevant to this RFP, all qualified proposals will be evaluated, and award made based on considering the following criteria, to result in an award most advantageous to the State:

A Point Score Ranking Method will be used for evaluation with a maximum of 100 total points as follows:

1. Vendor's Corporate Background, Experience, and Qualifications: Past performance and references including any prior experience with State entities (Sections 4.5 and 4.6) – 25 Maximum Points.

Evaluation under this category will be based on the Vendor's response to Sections 4.5 Vendor Experience and 4.6 References, and how the Vendor's background, and personnel qualifications are related to the scope of work under this project.

- a. Demonstrate experience with public and/or private sector clients with similar or greater size and complexity to the State including any prior experience with State entities. Vendor shall provide information as to the qualifications and experience of all executive, managerial, legal, and professional personnel to be assigned to this project, including resumes citing experience with similar projects and the responsibilities to be assigned to each person (**maximum of 15 points**).
- b. Documentation showing a minimum of five (5) years in business providing hang gliding instruction (**maximum of 5 points**).
- c. Documentation showing the Vendor is a current member of the United States Hang Gliding and Paragliding Association and have maintained membership for the past five (5) years (**maximum of 5 points**).

2. Technical proposal (how the vendor proposes to provide services) (Section 5.5) – 40 Maximum Points.

- a. The Vendor must be able to demonstrate the ability to fund the minimum payment of \$90,000 to the Department. (For example, provide a trial balance or profit/loss statement detailing over \$100,000 in gross hang gliding instruction revenue annually for the past five (5) years (**maximum of 10 points**).
- b. Provide a staffing plan for a twelve (12) consecutive month period clearly demonstrating the ability to staff in support of 8,000 hang gliding lessons annually (**maximum of 7.5 points**).
- c. Provide evidence in the Staffing Plan to operate a retail operation simultaneously with hang gliding instruction/lessons (**maximum of 7.5 points**).
- d. Provide an inventory of equipment and/or evidence of the ability to purchase and maintain equipment, to include hang gliders, harnesses, and safety equipment capable of supporting 8,000 hang gliding lessons annually. Provide a complete list of currently owned equipment that meets or exceeds USHPA safety requirements (**maximum of 10 points**).

Provide any additional concessions in the Technical Proposal, including a higher minimum reimbursement or a higher percentage of sales for additional volume (**maximum of 5 points**).

3. Project Organization (Section 5.4) - 15 Maximum Points

- a. Vendor shall describe the organizational and operational structure it proposes to utilize for the work described in this RFP and identify the responsibilities to be assigned to each person Vendor proposes to staff the work, complete a minimum of eight thousand (8,000) lessons and return a minimum of \$90,000.00 in license fees.

4. License Fee Proposal (ATTACHMENT A) - 20 Maximum Points

The proposal with the highest proposed percentage of gross sales (as provided for Total Proposed Revenue in Attachment A: License Fee Proposal) will receive a revenue score of twenty (20) points. All other competing proposals will be assigned a portion of the maximum revenue score using the following formula:

| | | |
|--|----------|--------------------------|
| Vendor's Proposed Percentage of Gross Sales | X | 20 Maximum Points |
| Highest Proposed Percentage of Gross Sales | | |

3.5 PERFORMANCE OUTSIDE THE UNITED STATES

Vendor shall complete ATTACHMENT F: LOCATION OF WORKERS UTILIZED BY VENDOR. In addition to any other evaluation criteria identified in this RFP, the State may also consider, for purposes of evaluating proposed or actual contract performance outside of the United States, how that performance may affect the following factors to ensure that any award will be in the best interest of the State:

- a) Total cost to the State
- b) Level of quality provided by the Vendor
- c) Process and performance capability across multiple jurisdictions
- d) Protection of the State's information and intellectual property
- e) Availability of pertinent skills
- f) Ability to understand the State's business requirements and internal operational culture
- g) Particular risk factors such as the security of the State's information technology
- h) Relations with citizens and employees
- i) Contract enforcement jurisdictional issues

3.6 INTERPRETATION OF TERMS AND PHRASES

This RFP serves two functions: (1) to advise potential Vendors of the parameters of the solution being sought by the State; and (2) to provide (together with other specified documents) the terms of the Contract resulting from this procurement. The use of phrases such as "shall," "must," and "requirements" are intended to create enforceable contract conditions. In determining whether proposals should be evaluated or rejected, the State will take into consideration the degree to which Vendors have proposed or failed to propose solutions that will satisfy the State's needs as described in the RFP. Except as specifically stated in the RFP, no one requirement shall automatically disqualify a Vendor from consideration. However, failure to comply with any single requirement may result in the State exercising its discretion to reject a proposal in its entirety.

4.0 REQUIREMENTS

This Section lists the requirements related to this RFP. By submitting a proposal, the Vendor agrees to meet all stated requirements in this Section as well as any other specifications, requirements, and terms and conditions stated in this RFP. If a Vendor is unclear about a requirement or specification, or believes a change to a requirement would allow for the State to receive a better proposal, the Vendor is urged to submit these items in the form of a question during the question-and-answer period in accordance with the Proposal Questions Section above.

4.1 PROPOSAL LICENSE FEE

Proposal License Fee shall constitute the total revenue to the State for complete performance in accordance with the requirements and specifications herein. Complete ATTACHMENT A: LICENSE FEE and upload in the Sourcing Tool. The License Fee provided in ATTACHMENT A, or resulting from any negotiations, is incorporated herein and shall become part of any resulting Contract.

4.2 LICENSE FEE PAYMENTS

- a) The Vendor must submit monthly license fee payments within fifteen (15) calendar days following the end of each month in which services were provided.
- b) Payments must be submitted to the following address:

Park Superintendent
Jockey's Ridge State Park
300 West Carolista Drive
Nags Head, NC 27959

4.3 FINANCIAL STABILITY

As a condition of contract award, the Vendor must certify that it has the financial capacity to perform and to continue to perform its obligations under the Contract; that Vendor has no constructive or actual knowledge of an actual or potential legal proceeding being brought against Vendor that could materially adversely affect performance of this Contract; and that entering into this Contract is not prohibited by any contract, or order by any court of competent jurisdiction.

Each Vendor shall certify it is financially stable by completing ATTACHMENT G: CERTIFICATION OF FINANCIAL CONDITION. The State is requiring this certification to minimize potential issues from contracting with a Vendor that is financially unstable. From the date of the Certification to the expiration of the Contract, the Vendor shall notify the State within thirty (30) days of any occurrence or condition that materially alters the truth of any statement made in this Certification. The Contract Manager may require annual recertification of the Vendor's financial stability.

Vendor is reminded of financial requirement stated in Section 5.5 Technical Proposal item b.

4.4 HUB PARTICIPATION

Pursuant to North Carolina General Statute G.S. 143-48, it is State policy to encourage and promote the use of small, minority, physically handicapped, and women contractors in purchasing Goods and Services. As such, this RFP will serve to identify those Vendors that are minority owned or have a strategic plan to support the State's Historically Underutilized Business program by meeting or exceeding the goal of 10% utilization of diverse firms as 1st or 2nd tier subcontractors. Vendor shall complete ATTACHMENT D: HUB SUPPLEMENTAL VENDOR INFORMATION.

4.5 VENDOR EXPERIENCE

In its Proposal, Vendor shall demonstrate experience with public and/or private sector clients with similar or greater size and complexity to the State including any prior experience with State entities, **and at minimum, demonstrate five (5) years' experience providing hang gliding and kite flying instruction.** Vendor shall provide information as to the qualifications and experience of all executive, managerial, legal, and professional personnel and/or team organization to be assigned to this project, including resumes citing experience with similar projects and the responsibilities to be assigned to each person.

4.6 REFERENCES

Vendor shall upload to the Sourcing Tool at least three (3) references, using ATTACHMENT E: CUSTOMER REFERENCE FORM, for which it has provided, **at minimum, five (5) years** of Services of similar size and scope to those proposed herein. The State may contact these users to determine whether the Services provided are substantially similar in scope to those proposed herein and whether Vendor's performance has been satisfactory. The information obtained may be considered in the evaluation of the Proposal.

4.7 BACKGROUND CHECKS

Vendor and its personnel are required to provide or undergo background checks at Vendor's expense prior to beginning work with the State. As part of Vendor background, the following details must be provided to the State:

- a) Any **criminal felony conviction**, or conviction of any crime involving moral turpitude, including, but not limited to fraud, misappropriation, or deception, by Vendor, its officers or directors, or any of its employees or other personnel to provide Services on this project, of which Vendor has knowledge, or provide a statement that Vendor is aware of none;
- b) Any **criminal investigation** for any offense involving moral turpitude, including, but not limited to fraud, misappropriation, falsification, or deception pending against Vendor of which it has knowledge, or provide a statement Vendor is aware of none;
- c) Any **regulatory sanctions** levied against Vendor or any of its officers, directors or its professional employees expected to provide Services on this project by any state or federal regulatory agencies within the past three years or a statement that there are none. As used herein, the term "regulatory sanctions" includes the revocation or suspension of any license or certification, the levying of any monetary penalties or fines, and the issuance of any written warnings;
- d) Any **regulatory investigations** pending against Vendor or any of its officers, directors or its professional employees expected to provide Services on this project by any state or federal regulatory agencies of which Vendor has knowledge or a statement that there are none.
- e) Any **civil litigation**, arbitration, proceeding, or judgments pending against Vendor during the three (3) years preceding submission of its proposal herein or a statement that there is none.

Vendor's response to these requests shall be considered a continuing representation, and Vendor's failure to notify the State within thirty (30) days of any criminal litigation, investigation or proceeding involving Vendor or its then current officers, directors or persons providing Services under this Contract during its term shall constitute a material breach of contract. The provisions of this paragraph shall also apply to any subcontractor utilized by Vendor to perform Services under this Contract.

4.8 PERSONNEL

Vendor warrants that qualified personnel shall provide Services under this Contract in a professional manner. "Professional manner" means that the personnel performing the Services will possess the skill and competence consistent with the prevailing business standards in the industry. Vendor will serve as the prime contractor under this Contract and shall be responsible for the performance and payment of all subcontractor(s) that may be approved by the State. Names of any third-party Vendors or subcontractors of Vendor may appear for purposes of convenience in Contract documents; and shall not limit Vendor's obligations hereunder. Vendor will retain executive representation for functional and technical expertise as needed in order to incorporate any work by third party subcontractor(s).

Should the Vendor's proposal result in an award, the Vendor shall be required to agree that it will not substitute key personnel assigned to the performance of the Contract without prior written approval by the Contract Lead. Vendor shall further agree that it will notify the Contract Lead of any desired substitution, including the name(s) and references of Vendor's recommended substitute personnel. The State will approve or disapprove the requested substitution in a timely manner. The State may, in its sole discretion, terminate the Services of any person providing Services under this Contract. Upon such termination, the State may request acceptable substitute personnel or terminate the contract Services provided by such personnel.

4.9 VENDOR'S REPRESENTATIONS

If Vendor's Proposal results in an award, Vendor agrees that it will not enter any agreement with a third party that may abridge any rights of the State under the Contract. If any Services, deliverables, functions, or responsibilities not specifically described in this solicitation are required for Vendor's proper performance, provision and delivery of the Service and deliverables under a resulting Contract, or are an inherent part of or necessary sub-task included within such Service, they will be deemed to be implied by and included within the scope of the Contract to the same extent and in the same manner as if specifically described in the Contract. Unless otherwise expressly provided herein, Vendor will furnish all of its own necessary management, supervision, labor, facilities, furniture, computer and telecommunications equipment, software, supplies and materials necessary for the Vendor to provide and deliver the Services and/or other Deliverables.

4.10 MANDATORY CERTIFICATIONS

Vendor shall submit the following mandatory certifications with proposal. Failure to provide the following will disqualify the Vendor.

Provide copy of certification(s) as written evidence that the proposed instructors have a minimum of **Red Cross Adult First Aid AED/CPR** certification, and supervising hang-gliding instructors should possess **Red Cross Wilderness and Remote First Aid** certifications.

Provide copy of certification as written evidence that Vendor employs United States Hang Gliding and Paragliding Association (USHPA) instructors, or instructors with an equivalent professional hang-gliding certification.

Documentation showing vendor is a current member of the United States Hang Gliding and Paragliding Association and have maintained membership for the past five (5) years.

4.11 COMMERCIAL LIABILITY INSURANCE

Furnish the Department proof of Commercial Liability Insurance. Said policy shall provide that no cancellation there of shall become effective until at least thirty (30) days after the Department has received notice of such cancellation. The Department shall be notified immediately in writing should there be a change in Insurance Coverage, cancellation of Coverage or change in Insurer. Comprehensive general liability insurance with a single limitation of \$1,000,000.00. In addition, **employees and officers of the North Carolina Department of Natural and Cultural Resources, North Carolina Division of Parks and Recreation of the Department are to be named as additional insured.**

4.12 AGENCY INSURANCE REQUIREMENTS MODIFICATION

Default Insurance Coverage from the General Terms and Conditions applicable to this Solicitation:

- ☐ Small Purchases
- ☒ Contract value in excess of the Small Purchase threshold, but up to \$1,000,000.00
- ☐ Contract value in excess of \$1,000,000.00

5.0 SPECIFICATIONS AND SCOPE OF WORK

5.1 GENERAL

The Vendor shall provide instruction in Hang Gliding and Kite Flying at Jockey's Ridge State Park* for a fee payable to the Department.

The site on which the specified concession will be conducted is within the boundaries of the Jockey's Ridge State Park in Dare County, North Carolina.

Jockey's Ridge is an active dune system. It is the highest dune system in the eastern United States. The height of the land surface at Jockey's Ridge ranges from sea level at the ocean and sound to approximately seventy (70) feet at the top of the Ridge itself.

*Jockey's Ridge State Park is located in Dare County on the Outer Banks. The entrance to the Park, Carolista Drive, is in the town of Nags Head at milepost 12 on Highway 158 Bypass (South Croatan Highway). From I-95, exit onto US 64 East, which merges with US 264 East before Roanoke Island. Continue on US 64/US 264 to Bodie Island and turn north onto US 158. The entrance to the Park will be on the left after the town of Nags Head.

The Vendor shall run a profitable concession on State Property with the goal of providing services to the general public and enhancing the revenue for the Park.

5.2 TASKS/DELIVERABLES

The Vendor shall:

- A. Assure all sales and services provided under this Contract begin and end in the designated areas of Jockey's Ridge State Park that are specified in this agreement. The concession sales/registration office, classroom and maintenance shop activities shall be located in the building known as the concession building at Jockey's Ridge State Park.

Upon written approval from the Park Superintendent, this building may be modified to more closely fit the operational mission of the Vendor. The dune and any other outside hang-gliding instructional areas and the hang glider staging area are designated as provided below in Paragraphs C and D.

- B. Provide the following Hours of Operation: Hang gliding and kite flying will be permitted from the normal time the Park opens until one (1) hour before the stated closing time for the Park; seven (7) days a week. The concession building will be covered at approved times by Park Superintendent. Notification and changes in schedule must be approved by Park Superintendent.

All classes are to cease one (1) hour before the Park closes. All hang gliding and kite flying equipment and materials must be returned to the staging area or concession building not later than thirty (30) minutes prior to the closing hours for the Park.

If, for any reason, the Park staff determines a suspension in hang gliding and kite flying operations is necessitated, the park siren will be sounded by Park management. All flight activities will be prohibited until the suspension is lifted by Park management.

- C. Use the designated launch areas as follows: hang gliding and kite flying lessons within the Park shall take place on the slopes as agreed upon by Park Superintendent.

It is the responsibility of the Vendor to avoid hang gliding students being over flown by gliders that are launched from a point higher in elevation.

The Vendor shall avoid over flight of pedestrians by preventing any launching of students when there are any pedestrians below the flight path.

Park staff may, at their discretion, temporarily or permanently approve or deny the use of slopes to be utilized by the Vendor for hang gliding to accommodate the shifting sands, avoiding hiking routes or for any other purpose.

Once a launch area has been selected for a class, the Vendor shall designate it by the temporary installation of Park management approved flags and cones or other agreed upon materials which effectively designate the areas being used for hang gliding and kite flying. The Park Superintendent must approve the method being used to designate such areas. Spectators will be discouraged from entering this area. Following a day's activities, all control equipment will be removed and stored off site from the designated hang gliding zones and stored in an approved location in the Park.

- D. Designate and use Landing Areas: Target landing areas will be identified to students by the instructional staff while at the launch area. Students should be encouraged to fly within a flight line corridor directly down slope.
- E. Use Certified Instructors: The Vendor agrees that at least one (1) instructor having attained and furnished proof to the Department of the certified rating of Instructor from the USHPA or an equivalent association will be on duty in the Park during all scheduled instructional times.
- F. Provide a minimum of one (1) USHPA or equivalent certified instructor possessing a Red Cross Adult First Aid/Cardiopulmonary Resuscitation (CPR)/Automated External Defibrillator (AED) certification or equivalent and one (1) First Responder or equivalent are required to be on duty in the Park during all instructional times.
- G. Provide instructors with communication equipment, such as two-way radios or cellular phones that are in good working condition. Such equipment must be in good working condition at all times.

The Vendor shall have sufficient backup equipment to ensure that no classes are taught when communication is functioning improperly or is unavailable to the teaching staff.

- H. Assure all certified instructors carry proof of their certification and shall wear a badge or other approved identifier during all instruction times. No instructors may teach hang gliding courses prior to taking and successfully completing first aid and Cardiopulmonary Resuscitation (CPR)/Automated External Defibrillator (AED) training. Proof of such training must be provided to the Park Superintendent or his designee prior to beginning work at the Park and be maintained in a file in the Vendor's office on site.
- I. Provide the Park Superintendent with an updated list of all instructors and their training status upon request. A teaching schedule showing the scheduled times for classes and the names and training status of the instructor must be available upon request.
- J. Require each student to wear, in plain sight and preferably on his or her belt, a dated and numbered permit. A sample of such a permit is found in Exhibit B and is hereby incorporated into this agreement.

It shall be the responsibility of the Vendor to issue such permits to all students who will be participating in any hang-gliding school related activity in the Park. The Vendor shall log the issuance of such permits by name, number, date and type of class. All permits will be numbered. The Vendor shall be responsible for keeping a log of all permits and presenting them upon request to any Park staff member.

- K. Assure ALL hang gliding and paragliding will be taught, conducted, and done in accordance with all applicable Federal Aviation Administration Regulations and in compliance with all applicable regulations and recommendations to the US Hang Gliding and Parasailing Association (USHPA) Basic Safety Regulations, particularly but not limited to Part 100, Subpart B.
- L. License Fee: The Vendor agrees to pay an annual license fee calculated in accordance with the criteria set as follows:
 - 1. 12.5% of gross revenues up to \$2,000,000 or \$90,000, whichever is greater;
 - 2. 12% of gross revenues up to \$550,000 or a minimum of \$60,000, whichever is greater;
 - 3. 14.5% of gross revenues between \$550,000 and \$750,000; and
 - 4. 16.5% of gross revenues over \$750,000

License fee includes hang gliding and kite flying instruction fees, paragliding instruction fees, and concession sales received by the Vendor. Vendor may propose a higher minimum return or a higher minimum revenue to the Department in the Technical Proposal.

For the purpose of computing the license fee to be paid under this license, gross receipts or gross revenue shall be the total amount of all income in case, credits, or other consideration received by the Vendor from any and all aspects of hang gliding, kite flying and paragliding instruction (including but not limited to classroom sessions of any kind) under this license unless specifically excepted in writing by the Department. The calculation of this fee will also include any and all gross receipts received by the Vendor for concession sales, which may include but not be limited to sales of related photographs and video recordings, of hang gliding, kite flying, or paragliding instructional services. Acceptance by the Department of the license fee, as computed by the Vendor, shall not be deemed to be acceptance of the correctness of the Vendor's computations.

Fee payment shall be made monthly to the Park Superintendent at Jockey's Ridge State Park. Payment shall be due the 15th day of the month following the previous month's business and shall be made by company check or money order made out to the Department of Natural and Cultural Resources. As an administrative fee, the Department will assess a \$10.00 fee on the Vendor for all late payments. It is understood that delinquency of payment may serve as a cause for termination of this contract by the Department.

- M. On or before February 15th of each year of operation, submit to the Park Superintendent for approval a written schedule of fees for hang gliding and kite flying instruction which shall be the basis for the computations described above. Said schedule shall not become effective until approved in writing by the Department. Approved of such fees will not be unreasonably withheld; however, the fees charged by the Vendor will be expected to be reasonable and comparable with fees charged for similar services in this and other areas of the United States, reasonable variances expected. Said schedule may be amended from time to time provided that such amendments are approved in advance by the Department.
- N. Accounting System: The Vendor agrees to have installed and be kept by a competent accountant, or under the supervision of a competent accountant, a set of books in a professional, business-like manner. These books shall show a full and true account of all receipts and their derivation and shall be located in the offices of the Vendor. The Vendor's accounting system must include the standards set forth in Exhibit C. The Vendor shall comply with all other reporting requirements of the Department, which shall include but not limited to the submission of monthly revenue and profit and loss statements and the submission of an audited financial statement annually which will detail the revenues generated and all related expenses incurred during the term of this agreement and detailed the value (less depreciation) and age of the hang gliding and kite flying equipment used. All methods of accountability must meet the requirements set forth in Exhibit D.
- O. Deliver a profit and loss statement for the preceding month to the Department on or before the last day of the month following the end of the previous month, at such place as the Department may specify. Said statement shall show all of the gross receipts which have been derived from operation under this Concession License Agreement and expenses incurred in the generation of such revenue. The Vendor shall also provide a monthly revenue report for the previous month showing the revenues generated each day from the Concession License Agreement only, the revenue total, and the amount paid or payable to the State for that month. This form will also show the cumulative revenue and fee payment totals for the contractual term.
- P. Provide auditors of this Department and/or the State Auditor's Office, in accordance with N.C.G.S. § 147-64.7 free and unfettered access to the financial records of the Vendor's records and agree that the records of the Vendor's other business ventures that area operating on or about the premises or in connection with the Hang Gliding and Kite Flying Concession operation, will also be made available to the Department's auditors and or the State Auditor's Office. If, as a result of an audit, misrepresentations are established on the part of the Vendor, and it is established that the Vendor knowingly participated in such misrepresentation or allowed such misrepresentation to occur, then it is agreed the Department may immediately terminate the license agreement with the Vendor upon formal written notice and Vendor shall immediately pay any sums owed from this Agreement.

- Q. Make available to the Department upon request a copy of all reports or other materials covering the business conducted under the Concession License Agreement which are required by law by this agreement to be filed with any State or Federal Agency.
- R. Request and receive written approval prior to any and all modifications to the concession building by the Park Superintendent. The Vendor is responsible for any damages to the building that are caused by Vendor's officers, agents or employees. Any such damage must be promptly reported to the Park Superintendent and, upon prior written approval by the Park Superintendent, repaired by the Vendor. If the Vendor fails to make such repairs within thirty (30) days of occurrence, the Department may have such repairs made at the Vendor's expense. Such failure may also be deemed by the Department as cause to terminate this agreement.

In addition, at the termination or expiration of this agreement, the Vendor must return the condition of the building to a condition that is satisfactory to the Department.

- S. Obtain a waiver and release from liability from each student under the Vendor's supervision prior to permitting the student to engage in any hang-gliding activity on the premises of Jockey's Ridge State Park. The Release from Liability Form must be approved by the Park Superintendent, the North Carolina Division of Parks and Recreation, and the Department of Natural and Cultural Resources before use. Further, the Vendor shall maintain for the duration of the license agreement and a period of three (3) years thereafter, on file at its primary place of business, signed originals of such agreements as it may have obtained. The Vendor further agrees that said releases shall be made available, upon request, to auditors of the Department of such other person or persons as the Department may designate upon request at any reasonable time during the prescribed period.
- T. Represent to the Department that Vendor, and Vendor's employees, agents, and contractors are qualified and competent to maintain all equipment and apparatus used in the sport of hang gliding and kite flying and further represents that in the normal course of business Vendor does regularly inspect and perform maintenance upon such equipment in Vendor's possession to ensure that said equipment is safe and in proper working condition prior to releasing said equipment to a student for the purpose of hang gliding and kite flying on or about the premises of Jockey's Ridge State Park.
- U. Agree to comply strictly with all State Park Rules and Policies and all other applicable municipal, county, state, and federal laws pertaining to the operation of this concession. The Vendor agrees that no person shall be denied or refused full and equal use of the services of the concession because of race, religion, color, sex, sexual orientation, age, or national origin.
- V. Have no authority to employ any person as agent or employee for or on behalf of the State, the Department, the North Carolina Division of Parks and Recreation or Jockey's Ridge State Park for any purpose, and neither the Vendor nor any other person performing any duties or engaging in any work at the request of the Vendor upon the premises of the Park shall be deemed to be an employee or agent of any of the preceding.
- W. Agrees that any use of the Park other than for the provision of hang-gliding lessons, paragliding, sandboard and kite lessons as set forth in this Agreement approved by Park Superintendent shall require a special use permit to be issued in accordance with Title 15, Chapter 12, Subchapter 12B, Section .1100 of the North Carolina Administrative Code. The Vendor shall follow established Park policy when requesting approval for special events. To facilitate the orderly processing of special use permits, a sixty (60) day minimum lead time is required. The Park staff shall maintain a special events calendar in the Park office and the Vendor is required to inform the Park of any planned events as soon as they are known to the Vendor. Each special event will be subject to charges by the Department which are adequate to cover the costs of the event's impact on park operations. The Vendor's ability to implement participation fees on the public for special events will be contingent upon the terms of approval granted for the individual requests.

Any participants in special events involving the use of a hang glider shall be governed by Park rules and regulations as well as the requirements of this Contract.

- X. Meet with the Park Superintendent once every thirty (30) days, beginning immediately after the execution of this Contract and/or other authorized Park System representative, to review the operational plans for the coming month and to discuss areas of mutual concern regarding operations. The Vendor shall furnish the names and training status of all class instructors and provide proof of their USHPA Instructor rating and other appropriate information.

If the date for this meeting falls on a holiday or weekend, it shall be scheduled for the next regular working day for the Park staff. The time and place for the meeting shall be 10:00 a.m. in the Jockey's Ridge State Park office, unless changed by the mutual consent of the Park Superintendent and the Vendor. More frequent meetings can be held at any time by mutual consent.

Items involving contractual terms and conditions may be discussed but cannot be accepted or agreed to without the review and written approval of the Secretary of Natural and Cultural Resources or his/her designee.

- Y. Advertise this activity only in a manner jointly agreed upon by the Vendor and the Department. Any advertising referencing Jockey's Ridge State Park must be approved by the Park Superintendent prior to use. The Vendor agrees not to engage in any type of advertising without first obtaining the written approval of the Park Superintendent. Such approval by the Department shall not be unreasonably withheld.

5.3 SUPPLEMENTAL TERMS AND CONDITIONS

The Vendor agrees to the following:

1. Noncompliance and Termination: It is agreed and understood that if the Vendor fails to comply with any term or condition of this Concession License Agreement, including regular and accurate payment of the license fee, then this Agreement may be cancelled at the option of the Department after sixty (60) days from delivery of written notification by the Department to the Vendor of such failure.

In lieu of termination of this agreement, the Department may, at its option, elect to suspend operations or impose a monetary fine or suspend the operations of the Vendor for breaches of this Agreement, based on the schedule hereinafter enumerated. However, nothing in this Agreement shall be construed so as to prohibit the Department from exercising its right to terminate this Agreement for cause at any time, whether or not the Department may allow the Vendor the option of choosing the monetary fine or the suspension as enumerated below. However, the Department reserves the right to implement either method of imposing a contractual penalty that it deems necessary and appropriate.

| | <u>VIOLATION</u> | <u>SUSPENSION</u> |
|----|--|-----------------------|
| 1 | Failure to be "off-site" of the Park hang gliding zone one hour before closing time. | 2 days per occurrence |
| 2 | Failure to mark and flag launch area. | 1 day per occurrence |
| 3 | Failure of students to display permit. | 1 day per occurrence |
| 4 | Not turning permit in within 24 hours after class. | 2 day per occurrence |
| 5 | More than eight (8) Vendor owned gliders (School kites) in the Park at any one time, three (3) of which shall remain in the "staging area" as detailed in Exhibit A. | 1 day per occurrence |
| 6 | Failure to allow Park staff to meet classes or provide the video presentation. | 2 days per occurrence |
| 7 | Failure to attend 30-day operational review. | 1 day per occurrence |
| 8 | Failure to comply with Instructor Requirements of this Contract, regarding the availability, training and Certification requirements of hang-gliding instructors. | 1 day per occurrence |
| 9 | Failure to launch student pilots from designated area. | 1 day per occurrence |
| 10 | Failure to have properly working communication equipment as required of this Contract. | 2 days per occurrence |
| 11 | Failure to submit accident report within 24 hours of accident. | 1 day per occurrence |

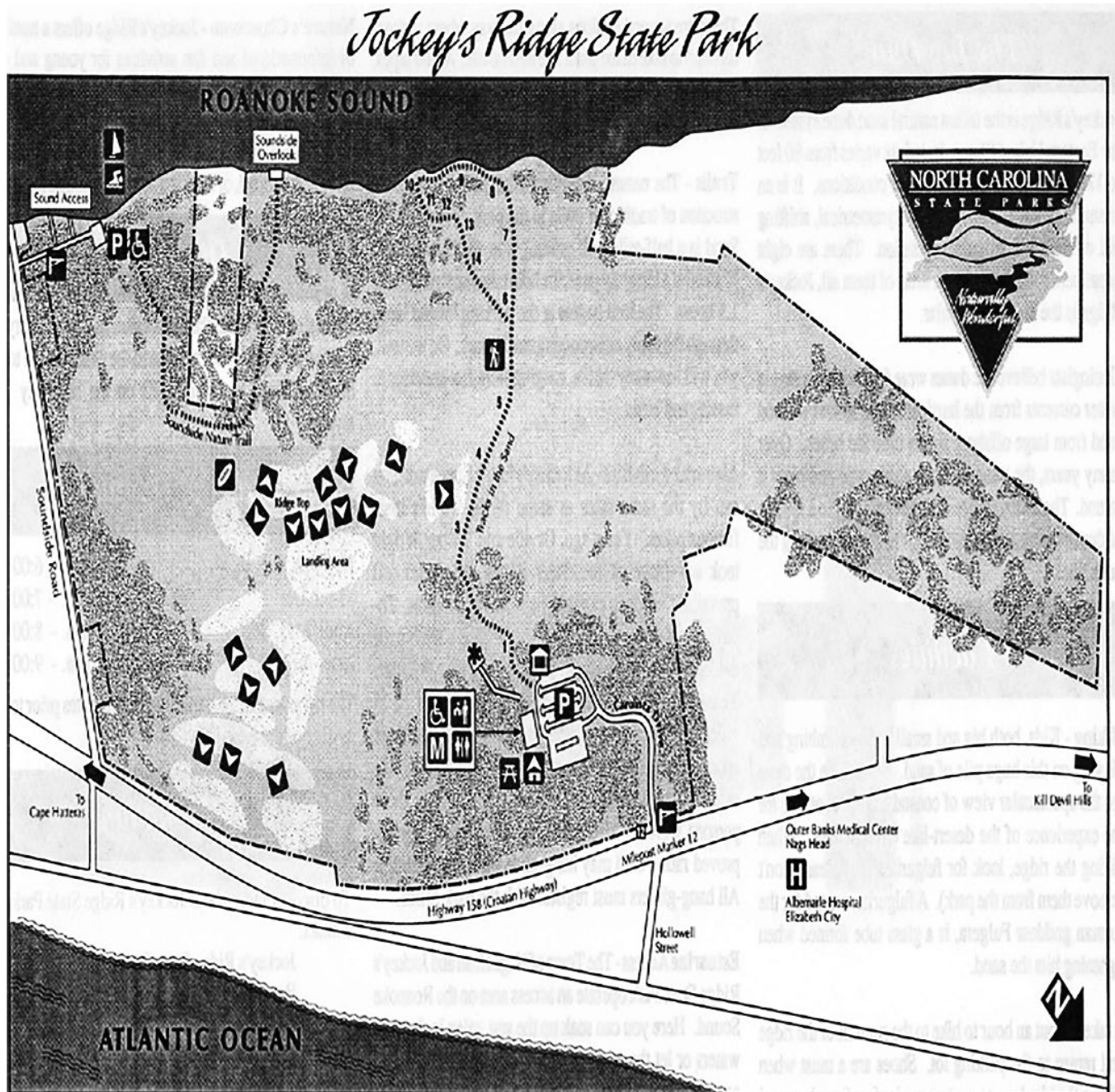
In the event that one of the suspension terms enumerated above is deemed necessary by the Department, notification of the terms of said suspension will be provided to the Vendor five (5) working days prior to its effective date(s). In the event the Vendor is given the option to choose between the monetary fine and suspension, the Vendor will have one (1) business day after notification to make a determination of whether Vendor wishes to have operations suspended in lieu of paying the corresponding monetary fine. If the Vendor fails to make the decision within that time frame, the Park Superintendent or his designee will make the decision.

Monetary penalties will be imposed over and above the normal fees to the schedule below. If the violation occurs during the months of:

| | |
|---|------------|
| a. April, May | \$1,000.00 |
| b. June, July, August | \$2,000.00 |
| c. September, October | \$1,000.00 |
| d. November, December, January, February, March | \$500.00 |

2. In the event of termination, the Vendor shall be liable for all license fees accrued up to the date of termination.
3. It is expressly agreed that acceptance by the Department of any installment or fee payment herein provided for, after any act of forfeiture, shall not be a waiver by the Department of its right to declare a forfeiture and to terminate this Agreement.
4. The filing of a petition in bankruptcy or insolvency by or against the Vendor may terminate this Agreement at the discretion of the Department.
5. The Vendor shall not assign or transfer any interest in this Agreement without the prior written approval of the Department.
6. The failure of either party to insist in any instance upon strict performance of any of the terms and conditions herein set forth shall not be construed as a waiver of the same in any other instance. No modification of any provision hereof shall be valid unless in writing and signed and agreed to by both parties.
7. This Concession License Agreement does not vest in the Vendor any title, estate, or property right in any part of parcel of the Park and the Department does not by his instrument relinquish, convey, or qualify in any degree its possession, title, control, and management of any part of said Park for the use of the public or to make rules and regulations, therefore.
8. The undersigned agrees to and hereby does indemnify, release, and hold harmless the State of North Carolina, the North Carolina Department of Natural and Cultural Resources, the North Carolina Division of Parks and Recreation, Jockey's Ridge State Park and their employees, agents or assigns against such claims and liability for injury to any and all persons (including death) or damage to property, or both, which may result from his or her authorized or unauthorized use of the facilities and/or equipment of the Vendor at or near Jockey's Ridge State Park in Dare County, North Carolina.
9. Payment of Taxes and Fees: The Vendor agrees to pay all local, State and Federal taxes and license fees required by law for the operations carried on in connection with this Concession License Agreement.
10. Assignment: The Vendor agrees that this Concession License Agreement shall not be assigned in whole or part to any other party of parties without the prior written approval of the Department.

Exhibit A



| Legend | | | | |
|----------------------------------|---|----------------------------|----------------|-------------------------------|
| Accessible | Hiking | Parking | Picnic Shelter | Sailboarding |
| Boundary | Hospital - Outer Banks Medical Center (Nags Head) Emergencies: Dial 911 | Park Entrance | Museum | Sandboarding (by permit only) |
| Hang Gliding | Jockey's Ridge Overlook | Park Office/Visitor Center | Restroom | Shrub Forest |
| Hang Gliding Concession Building | | Picnic Area | Road-Paved | Swimming |

Exhibit B**MINIMUM ACCOUNTING REQUIREMENTS**

Every sale must be accounted for by use of electronic cash registers, prenumbered receipts or prenumbered tickets, unless the Vendor has received prior written authorization from the Department to use some other method.

1. Sales receipts must always be offered to customers regardless of the amount involved. Sales receipts may be in the form of cash register slips, prenumbered receipts or prenumbered tickets depending on the method employed to document sales. Signs reminding customers to ask for a receipt must be consciously posted at or near all collection stations.
2. The Vendor must establish and maintain bank accounts (check, savings, etc.) that are used solely for concession operations.
3. Receipts must be deposited intact daily. Validated deposit slips and bank statements supporting amounts deposited must be retained.
4. Daily entries, to account for gross sales and sales tax collections by point of sale/collection station location, must be made to a ledger or journal (automated entries and ledgers acceptable). Entries must equal amounts deposited by period.

All adjustments to gross sales, such as customer refunds, must be recorded in the ledger/journal using a separate entry. Source documents such as daily cash register tapes, concession's copy of prenumbered receipts and use schedules for prenumbered tickets must be retained to support recorded gross sales and sales tax collections. Adjustments to gross sales must be supported by source documents such as customer signed receipts and cancelled checks.

5. Refunds and purchases must always be made by check or through use of an imprest (petty cash) fund. The imprest fund, if used, must always be replenished by check. Only under extremely unusual circumstances may daily receipts be used to make purchases or refunds. If daily receipts are used to make refunds or purchases, the Vendor must document both the occurrence and the reason.
6. Customer refunds must always be supported by customer signed documents and cancelled checks payable to either the customer or the imprest fund.
7. Purchases must always be supported by vendor invoices and cancelled checks payable to either the vendor or the imprest fund.
8. All checks written on the concession's checking account, whether voided or not, must be retained.
9. Duties associated with handling, recording and reconciling receipts and disbursements should be assigned to different employees whenever possible. Employees who handle cash or cash like items should be adequately supervised.

ACCEPTABLE METHODS OF DOCUMENTING SALES AND MINIMUM ACCOUNTING REQUIREMENTS

1. Electronic Cash Registers at a minimum, the register must:
 - a. Have a visual display that faces customers.
 - b. Produce customer's copy of sales receipt.
 - c. Contain a locked-in tape and sequential numbering system or such tapes.
 - d. Record and accumulate sales and sales tax amounts.

Concession management must:

- a. Provide daily supervision over employees using the registers.
- b. Clear or close all cash registers at the end of the day (tapes must be retained).
- c. Approve all refunds and voids or delegate this duty to an employee who normally does not handle cash.

At a minimum, customer refunds must be documented by customer signed sales slips indicating receipt of the refund. If the customer does not have his copy of the sales receipt, a prenumbered refund receipt signed by the customer must be issued (see minimum requirements for prenumbered receipts).

2. Prenumbered Receipts

At a minimum, prenumbered receipts must:

- a. Be designed to capture all pertinent sales data, such as: date, customer's name, items purchased, amount of sale, amount of sales tax collected, total collected and salesperson's name or initials.
- b. Be at least two copies (customer and record copy, each clearly identified).
- c. Have a numbering sequence that is continuous and does not repeat itself any more often than every three years. Numbering sequence must be supported by vendor's invoice at a minimum.
- d. Be issued to customers sequentially, any breaks in the numbering sequence must be explained.

Concession management must:

- a. Retain the record copy of all issued receipts and all copies of voided receipts.
- b. Maintain a work sheet or schedule which reports the numbering sequences of receipts used.
- c. Provide adequate security over unused receipts and periodically inventory these receipts (at least every six months).

At a minimum, customer refunds should be documented by the customer's signature on the original prenumbered receipt. If the customer does not have the original prenumbered receipt (his copy), a prenumbered refund receipt must be issued.

3. Prenumbered Tickets

At a minimum, prenumbered tickets must:

- a. Clearly state the name of the attraction or service purchased, attraction or user fee, sales tax and total amount collected.
- b. Have a numbering sequence that is continuous and does not repeat itself any more often than every three years. Numbering sequence must be supported by a vendor's invoice at a minimum.
- c. Be issued to customers sequentially. Any breaks in the numbering sequence must be explained.

Concession management must:

- a. Maintain a worksheet or schedule which reports the numbering sequence of tickets used and money collected by day.
- b. Provide adequate security over unused tickets and periodically inventory these tickets (at least every six months).
- c. Provide adequate supervision over employees to gain assurance that previously issued tickets are not resold.

At a minimum, customer refunds must be documented by customer signed tickets indicating that the customer received a refund. If the customer does not have his ticket, a prenumbered refund receipt must be issued (see minimum requirements for prenumbered receipts).

EXHIBIT C**REQUIREMENTS RELATIVE TO ACCOUNTING RECORDS AND PROCEDURES AND ANNUAL AUDIT REPORTS FOR VENDOR'S OPERATIONS.****Section 1. Accounting Records**

- a. Prior to commencing business or upon written notice Vendor shall obtain the services of a Certified Public Accountant or a firm of Certified Public Accountants for the purpose of developing an accounting system including a system of internal controls covering all business operations conducted upon the premises covered by the Concession License agreement in order to maintain accurate financial records and books relating to the Vendor's operation. The accounting system developed shall meet the specific approval of the Department. All cash registers, receipt documents, contracts, and other means of supporting a cash or income transaction shall meet the specific approval of the Department. The Vendor shall bear all expenses related to development of an accounting and internal control system including cash registers, receipt, forms, and rental contract documents.
- b. The system used to record income must be in sufficient detail to disclose the amount of income derived from each category of business conducted on the premises in order to facilitate compliance with rental consideration provisions under this Concession License agreement. A complete income chart of accounts proposed for use and the rate of rental consideration due from each source shall be submitted as a part of the accounting system study as set out in (a) above.

Section 2. Audit of Records

- a. The Vendor shall provide for an annual examination of the statement of Assets, Liabilities and Capital and Income and Expenses performed by an independent Certified Public Accountant or firm of Certified Public Accountants. The examination must include a review of the system of internal control and the accounting system of year-end closing procedures and other supporting evidence necessary for the expression of an opinion on the financial statements. A written memorandum shall be made setting forth the weaknesses, if any be ascertained in internal control and accounting procedures, together with related suggestions for the improvement thereof as noted during the normal review of internal control. A statement shall be made in the audit as to compliance with the provisions of the Concession License Agreement and all related rules and regulations pertaining thereto.
- b. The audit report and memorandum must be addressed to include the Director of Parks and Recreation or its successors.
- c. The audit and review of internal controls shall be performed annually as of the close of business on the day corresponding with the end of the Vendor's fiscal year. The audit report and accompanying memorandum must be submitted to lessor on or before the 15th day of the fourth month following the close of the Vendor's fiscal year.
- d. Included as a part of the audit report required in this section shall be a schedule which sets out the names and addresses of all partners, whether silent, active, or limited, participating in the business operation authorized by the lease. If Vendor is a corporation, the names and addresses of all corporation officers and stockholders, if stock not publicly held, must be supplied.
- e. The Vendor shall file with the Department a statement setting out the date on which he intends to end his fiscal year.
- f. The Vendor shall bear all expenses connected with the audit examination outlined in this regulation.

5.4 PROJECT ORGANIZATION

Vendor shall describe the organizational and operational structure it proposes to utilize for the work described in this RFP and identify the responsibilities to be assigned to each person Vendor proposes to staff the work, complete a minimum of eight thousand (8,000) lessons and return a minimum of \$90,000.00 in license fees.

5.5 TECHNICAL APPROACH

Vendor's proposal shall include, in narrative, outline, and/or graph form the Vendor's approach to accomplishing the tasks outlined in the Scope of Work section of this RFP. A description of each task and deliverable and the schedule for accomplishing each shall be included.

- a. Evidence that Offeror employs United States Hang Gliding and Paragliding Association (USHPA) instructors, or instructors with an equivalent professional hang-gliding certification.
- b. The Vendor must be able to demonstrate the ability to fund the minimum payment of \$90,000.00 to the Department. [For example, provide a trial balance or profit/loss statement detailing over \$100,000.00 in gross hang-gliding instruction revenue annually for the past five (5) years.
- c. Provide a detailed staffing plan for a consecutive twelve (12) month period clearly demonstrating the ability to staff in support of 8,000 hang gliding and kite flying lessons annually.
- d. Provide evidence in the Staffing Plan to simultaneously operate a retail operation with hang gliding and kite flying instruction/lessons.
- e. Provide an inventory of equipment and/or evidence of the ability to purchase and maintain equipment, to include hang gliders, harnesses, and safety equipment capable of supporting 8,000 hang gliding and kite flying lessons annually. Provide a complete list of currently owned equipment that meets or exceeds USHPA (United States Hang Gliding and Paragliding Association) safety requirements.
- f. Identify/Provide any additional considerations for concessions in the Technical Proposal, such as higher minimum reimbursement or a higher percentage of sales for increased levels of revenue.

6.0 CONTRACT ADMINISTRATION

All Contract Administration requirements are conditioned on an award resulting from this solicitation. This information is provided for the Vendor's planning purposes.

6.1 CONTRACT MANAGER AND CUSTOMER SERVICE

The Vendor shall be required to designate and make available to the State a contract manager. The contract manager shall be the State's point of contact for Contract related issues and issues concerning performance, progress review, scheduling, and service.

| Contract Manager Point of Contact | |
|-----------------------------------|--|
| Name: | |
| Office Phone #: | |
| Mobile Phone #: | |
| Email: | |

The Vendor shall be required to designate and make available to the State for customer service. The customer service point of contact shall be the State's point of contact for customer service-related issues (define roles and responsibilities).

| Customer Service Point of Contact | |
|--|--|
| Name: | |
| Office Phone #: | |
| Mobile Phone #: | |
| Email: | |

Department of Natural and Cultural Resources Contract Administrators

| State's Contract Manager | Contract Lead |
|--|--|
| For All Day-To-Day Activities Described in Section 5, | For All Other Contract Issues |
| Joy Greenwood Park Superintendent Jockey's Ridge State Park 300 West Carolista Drive Nags Head, NC 27959 Phone: (252) 441-7132 Email: joy.greenwood@ncparks.gov | Cynthia Armes Director of Procurement NC DNCR, Procurement Office 109 E. Jones Street Raleigh NC 27601 Telephone: (919) 814-6728 Facsimile: (919) 733-6993 E-mail: cynthia.ames@dn-cr.nc.gov |

6.2 POST AWARD PROJECT REVIEW MEETINGS

The Vendor, at the request of the State, shall be required to meet periodically monthly with the State for Project Review meetings. The purpose of these meetings will be to review project progress reports, discuss Vendor and State performance, address outstanding issues, review problem resolution, provide direction, evaluate continuous improvement and cost saving ideas, and discuss any other pertinent topics.

6.3 CONTINUOUS IMPROVEMENT

The State encourages the Vendor to identify opportunities to reduce the total cost to the State. A continuous improvement effort consists of various ways to enhance business efficiencies as performance progresses.

6.4 PERIODIC MONTHLY STATUS REPORTS

The Vendor shall be required to provide monthly status and financial reports to the Park Superintendent, Contract Manager. This report shall include, at a minimum, information concerning staffing, staffing certifications, scheduling, sales volume and any other items specifically requested by the Contract Manager. These reports shall be well organized and easy to read. The Vendor shall submit these reports electronically using the format required by the Purchasing Agency. The Vendor shall submit the reports in a timely manner and on a regular schedule as agreed by the parties.

Within twenty (20) business days of the award of the Contract the Vendor shall submit a final work plan and a sample report, both to the designated Contract Manager for approval.

6.5 ACCEPTANCE OF WORK

Performance of the work and/or delivery of Goods shall be conducted and completed at least in accordance with the Contract requirements and recognized and customarily accepted industry practices. Performance shall be considered complete when the Services or Goods are approved as acceptable by the Contract Manager.

Acceptance of Vendor's work product shall be based on the following criteria:

The State shall have the obligation to notify Vendor, in writing ten (10) calendar days following completion of such work or delivery of a deliverable described in the Contract that it is not acceptable. The notice shall specify in reasonable detail the reason(s) it is unacceptable. Acceptance by the State shall not be unreasonably withheld; but may be conditioned or delayed as required for reasonable review, evaluation, installation, or testing, as applicable to the work or deliverable. Final acceptance is expressly conditioned upon completion of all applicable assessment procedures. Should the work or deliverables fail to meet any specifications, acceptance criteria or otherwise fail to conform to the Contract, the State may exercise any and all rights hereunder, including, for Goods deliverables, such rights provided by the Uniform Commercial Code, as adopted in North Carolina.

6.6 TRANSITION ASSISTANCE

If a Contract results from this solicitation, and the Contract is not renewed at the end of the last active term, or is canceled prior to its expiration, for any reason, Vendor shall provide transition assistance to the State, at the option of the State, for up to **six (6)** months to allow for the expired or canceled portion of the Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Services to the State or its designees. If the State exercises this option, the Parties agree that such transition assistance shall be governed by the terms and conditions of the Contract (notwithstanding this expiration or cancellation), except for those Contract terms or conditions that do not reasonably apply to such transition assistance. The State shall agree to pay Vendor for any resources utilized in performing such transition assistance at the most current rates provided by the Contract for performance of the Services or other resources utilized.

6.7 DISPUTE RESOLUTION

During the performance of the Contract, the parties agree that it is in their mutual interest to resolve disputes informally. Any claims by the Vendor shall be submitted in writing to the State's Contract Manager for resolution. Any claims by the State shall be submitted in writing to the Vendor's Project Manager for resolution. The Parties shall agree to negotiate in good faith and use all reasonable efforts to resolve such dispute(s).

During the time the Parties are attempting to resolve any dispute, each shall proceed diligently to perform their respective duties and responsibilities under this Contract. The Parties will agree on a reasonable amount of time to resolve a dispute. If a dispute cannot be resolved between the Parties within the agreed upon period, either Party may elect to exercise any other remedies available under the Contract, or at law. This provision, when agreed in the Contract, shall not constitute an agreement by either party to mediate or arbitrate any dispute.

6.8 CONTRACT CHANGES

Contract changes, if any, over the life of the Contract shall be implemented by contract amendments agreed to in writing by the State and Vendor. Amendments to the contract can only be made through the Contract Lead.

6.9 ATTACHMENTS

All attachments to this RFP are incorporated herein and shall be submitted by responding in the Sourcing Tool. These attachments can be found at the following Vendor Forms link for reference purposes only:

<https://ncadmin.nc.gov/documents/vendor-forms>

All attachments to this RFP are the copies found within the Ariba Sourcing Tool, and are incorporated herein, and shall be submitted by responding in the Sourcing Tool.

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ATTACHMENT A: LICENSE FEE PROPOSAL

Fees and Revenue Proposal –

Failure to provide at least the minimum % paid to the State identified below shall result in rejection of the Vendor's proposal.

| Minimum Cumulative Annual Gross Revenue | | | Vendor Proposed % of Cumulative Annual Gross Revenue to be paid to the State |
|---|--|----------------|--|
| From | To | % to the State | |
| -- | \$550,000 or a minimum of \$60,000, whichever is greater | 12.0% | |
| \$550,000 | \$750,000 | 14.5% | |
| \$750,000 | No Limit | 16.5% | |