



## Statement of Certification

Miracle of KY & TN confirms that no products will be sold to the Lexington-Fayette Urban County Government to be used in its Division of Parks and Recreation unless the products meet or exceed the following minimal acceptable specifications:

The products supplied must meet or exceed the U.S. Consumer Product Safety Commission Handbook for Public Playground Safety, Volumes I and II.

The products supplied must meet or exceed any other applicable local, state or federal regulations, laws, or ordinances including applicable standards established by OSHA, EPA or any other regulatory body.

The products supplied are subjected to a strict quality control program to assure that the quality of the design and materials used are in compliance with acceptable standards established by the industry.

A handwritten signature in black ink, appearing to read "Tami Phillips", written over a horizontal line.

Tami Phillips – President

Sworn to me this day Tami Phillips appeared to me on February 18, 2016.

County of Grayson

State of KY

A handwritten signature in black ink, appearing to read "Shelia K. Clemens", written over a horizontal line.

Notary – Commission Expires 5/13/16



# Lexington-Fayette Urban County Government

Lexington, Kentucky  
Horse Capital of the World

Division of Central Purchasing

Date of Issue: February 8, 2016

## INVITATION TO BID #23-2016 Outdoor Playground Equipment February 22, 2016

**Bid Opening Date:** February 22, 2016

**Bid Opening Time:** 2:00 PM

**Address:** 200 East Main Street, 3<sup>rd</sup> Floor, Room 338, Lexington, Kentucky 40507

**Type of Bid:** Price Contract

**Pre Bid Meeting:** N/A

**Pre Bid Time:** N/A

**Address:** N/A

Sealed bids will be received in the office of the Division of Central Purchasing, 200 East Main Street, Lexington, Kentucky, until **2:00 PM**, prevailing local time on **2/22/2016**. Bids must be received by the above-mentioned date and time. Mailed bids should be sent to:

**Division of Central Purchasing  
200 East Main Street, Room 338  
Lexington, KY 40507, (859) 258-3320**

The Lexington-Fayette Urban County Government assumes no responsibility for bids that are not addressed and delivered as indicated above. **Bids that are not delivered to the Division of Central Purchasing by the stated time and date will be rejected.** All bids must be signed and have the company name and address, bid invitation number, and the name of the bid on the outside of the envelope.

Bids are to include all shipping costs to the point of delivery located at: Various Lexington locations

**Bid Security Required:** \_\_\_ Yes  No *Cashier Check, Certified Check, Bid Bond (Personal checks and company checks will not be acceptable).*

**Performance Bond Required:** \_\_\_ Yes  No

<input checked="" type="checkbox"/> Bid Specifications Met. <b>Check One:</b> ___ Exceptions to Bid Specifications. <i>Exceptions shall be itemized and attached to bid proposal submitted.</i>		<b>Proposed Delivery:</b> <u>30</u> days after acceptance of bid.
<b>Procurement Card Usage</b> —The Lexington-Fayette Urban County Government may be using Procurement Cards to purchase goods and services and also to make payments. Will you accept Procurement Cards? <input checked="" type="checkbox"/> Yes ___ No		

Submitted by:

Miracle of Ky & TN  
Firm Name

931 Commerce Drive  
Address

Leitchfield, Ky. 42754  
City, State & Zip

**Bid must be signed:**  
(original signature)

J. Phillip Phillips  
Signature of Authorized Company Representative - Title

Tami Phillips  
Representative's Name (Typed or printed)

270-230-0221 270-230-0210  
Area Code - Phone - Extension Fax #

tami@miraclekytn.com  
E-Mail Address

The Affidavit in this bid must be completed before your firm can be considered for award of this contract

**AFFIDAVIT**

Comes the Affiant, Tami Phillips, and after being first duly sworn under penalty of perjury as follows:

1. His/her name is Tami Phillips and he/she is the individual submitting the bid or is the authorized representative of Miracle of Ky + Tr. the entity submitting the bid (hereinafter referred to as "Bidder")
2. Bidder will pay all taxes and fees, which are owed to the Lexington-Fayette Urban County Government at the time the bid is submitted, prior to award of the contract and will maintain a "current" status in regard to those taxes and fees during the life of the contract.
3. Bidder will obtain a Lexington-Fayette Urban County Government business license, if applicable, prior to award of the contract.
4. Bidder has authorized the Division of Central Purchasing to verify the above-mentioned information with the Division of Revenue and to disclose to the Urban County Council that taxes and/or fees are delinquent or that a business license has not been obtained.
5. Bidder has not knowingly violated any provision of the campaign finance laws of the Commonwealth of Kentucky within the past five (5) years and the award of a contract to the Bidder will not violate any provision of the campaign finance laws of the Commonwealth.
6. Bidder has not knowingly violated any provision of Chapter 25 of the Lexington-Fayette Urban County Government Code of Ordinances, known as "Ethics Act."
7. Bidder acknowledges that "knowingly" for purposes of this Affidavit means, with respect to conduct or to circumstances described by a statute or ordinance defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.

Further, Affiant sayeth naught. Tami Phillips.

STATE OF Kentucky

COUNTY OF Guyson

The foregoing instrument was subscribed, sworn to and acknowledged before me by Tami Phillips on this the 10 day of February, 2016.

My Commission expires: 5-13-18

Shelli K. Clemons  
NOTARY PUBLIC, STATE AT LARGE

*Please refer to Section II. Bid Conditions, Item "U" prior to completing this form.*

## **I. GREEN PROCUREMENT**

### **A. ENERGY**

The Lexington-Fayette Urban County Government is committed to protecting our environment and being fiscally responsible to our citizens.

The Lexington-Fayette Urban County Government mandates the use of Energy Star compliant products if they are available in the marketplace (go to [www.Energystar.gov](http://www.Energystar.gov)). If these products are available, but not submitted in your pricing, your bid will be rejected as non-compliant.

ENERGY STAR is a government program that offers businesses and consumers energy-efficient solutions, making it easy to save money while protecting the environment for future generations.

#### Key Benefits

These products use 25 to 50% less energy  
Reduced energy costs without compromising quality or performance  
Reduced air pollution because fewer fossil fuels are burned  
Significant return on investment  
Extended product life and decreased maintenance

### **B. GREEN SEAL CERTIFIED PRODUCTS**

The Lexington-Fayette Urban County Government is also committed to using other environmentally friendly products that do not negatively impact our environment. Green Seal is a non-profit organization devoted to environmental standard setting, product certification, and public education.

Go to [www.Greenseal.org](http://www.Greenseal.org) to find available certified products. These products will have a reduced impact on the environment and on human health. The products to be used must be pre-approved by the LFUCG prior to commencement of any work in any LFUCG facility. If a Green Seal product is not available, the LFUCG must provide a signed waiver to use an alternate product. Please provide information on the Green Seal products being used with your bid response.

### **C. GREEN COMMUNITY**

**The Lexington-Fayette Urban County Government (LFUCG) serves as a principal, along with the University of Kentucky and Fayette County Public Schools, in the Bluegrass Partnership for a Green Community. The Purchasing Team component of the Partnership collaborates on economy of scale purchasing that promotes and enhances environmental initiatives. Specifically, when applicable, each principal is interested in obtaining best value products and/or services which promote environment initiatives via solicitations and awards from the other principals.**

**If your company is the successful bidder on this Invitation For Bid, do you agree to extend the same product/service pricing to the other principals of the Bluegrass Partnership for a Green Community (i.e. University of Kentucky and Fayette County Schools) if requested?**

Yes  No

Lexington-Fayette Urban County Government  
Division of Parks and Recreation  
Bid #23-2016 Outdoor Playground Equipment

---

The Lexington-Fayette Urban County Government is accepting bids for the purpose of establishing a price contract for Outdoor Playground Equipment and Picnic Apparatus for the Division of Parks and Recreation, at various locations in Lexington, Kentucky, as per the following specifications.

## **Section I**

### **1.0 SCOPE AND CLASSIFICATION**

These specifications describe requirements of the Lexington-Fayette Urban County Government for Price Contracts for Outdoor Playground and Picnic (including open air shelters and bleachers) Apparatus only. Items such as lights, scoreboards, balls, bats, gloves, bases, cones, etc. will not be accepted.

### **2.0 REQUIREMENTS**

- 2.1 Bids are solicited for all types of Outdoor Playground & Picnic Apparatus, including, but not limited to, wood and metal structures.
- 2.3 Each bidder shall submit, with his/her bid, a current catalog of equipment available and corresponding price sheets for that catalog. Failure of any bidder to submit material required by this section shall result in his/her bid being disqualified as non-responsive.
- 2.4 The bidder shall submit a sworn Statement of Certification to confirm that no products will be sold to the Lexington-Fayette Urban County Government to be used in its Division of Parks and Recreation unless the products meet or exceed the following minimal, acceptable specifications:
  - 2.4.1 The products supplied must meet or exceed the U.S. Consumer Product Safety Commission Handbook for Public Playground Safety, Volumes I and II.
  - 2.4.2 The products supplied must meet or exceed any other applicable local, state or federal regulations, laws, or ordinances including applicable standards established by OSHA, EPA or any other regulatory body.
  - 2.4.3 The products supplied are subjected to a strict quality control program to assure that the quality of the design and materials used are in compliance with acceptable standards established by the industry.
- 2.5 The Lexington-Fayette Urban County Government shall have the right to enter bidder's premises at reasonable times for the purpose of auditing any records of the bidder to assure compliance with the terms of the contract.

## II. Bid Conditions

- A. No bid may be withdrawn for a period of sixty (60) days after the date and time set for opening.
- B. No bid may be altered after the date and time set for opening. In the case of obvious errors, the Division of Central Purchasing may permit the withdrawal of a bid. The decision as to whether a bid may be withdrawn shall be that of the Division of Central Purchasing.
- C. Acceptance of this proposal shall be enactment of an Ordinance by the Urban County Council.
- D. The bidder agrees that the Urban County Government reserves the right to reject any and all bids for either fiscal or technical reasons, and to award each part of the bid separately or all parts to one vendor.
- E. Minor exceptions may not eliminate the bidder. The decision as to whether any exception is minor shall be entirely that of the head of the requisitioning Department or Division and the Director of the Division of Central Purchasing. The Urban County Government may waive technicalities and informalities where such waiver would best serve the interests of the Urban County Government.
- F. Manufacturer's catalogue numbers, trade names, etc., where shown herein are for descriptive purposes and are to guide the bidder in interpreting the standard of quality, design, and performance desired, and shall not be construed to exclude proposals based on furnishing other types of materials and/or services. However, any substitution or departure proposed by the bidder must be clearly noted and described; otherwise, it will be assumed that the bidder intends to supply items specifically mentioned in this Invitation for Bids.
- G. The Urban County Government may require demonstrations of the materials proposed herein prior to acceptance of this proposal.
- H. Bids must be submitted on this form and must be signed by the bidder or his authorized representative. Unsigned bids will not be considered.
- I. Bids must be submitted prior to the date and time indicated for opening. Bids submitted after this time will not be considered.
- J. All bids mailed must be marked on the face of the envelope:

**"Bid on #23-2016 Outdoor Playground Equipment"**

and addressed to:            Division of Central Purchasing  
   200 East Main Street, Room 338  
   Lexington, Kentucky 40507

**The Lexington-Fayette Urban County Government assumes no responsibility for bids that are not addressed and delivered as indicated above. Bids that are not delivered to the Division of Central Purchasing by the stated time and date will be rejected.**

- K. Bidder is requested to show both unit prices and lot prices. In the event of error, the unit price shall prevail.
- L. A certified check or Bid Bond in the amount of XX percent of the bid price must be attached hereto. This check must be made payable to the Lexington-Fayette Urban County Government, and will be returned when the material and/or services specified herein have been delivered in accordance with specifications. In the event of failure to perform within the time period set forth in this bid, it is agreed the certified check may be cashed and the funds retained by the Lexington-Fayette Urban County Government as liquidated damages. Checks of unsuccessful bidders will be returned when the bid has been awarded.
- M. The delivery dates specified by bidder may be a factor in the determination of the successful bidder.
- N. Tabulations of bids received may be mailed to bidders. Bidders requesting tabulations must enclose a stamped, self-addressed envelope with the bid.
- O. The Lexington-Fayette Urban County Government is exempt from Kentucky Sales Tax and Federal Excise Tax on materials purchased from this bid invitation. Materials purchased by the bidder for construction projects are not tax exempt and are the sole responsibility of the bidder.

## Section III

### POURED IN PLACE PLAYGROUND SURFACE

PART 1—General

PART 2—Products

PART 3—Execution

#### PART 1—GENERAL

##### 1.0 SCOPE:

The work described includes all labor, materials, equipment, and services necessary to install a poured in place resilient, seamless rubber playground surface.

##### 1.01 QUALITY ASSURANCE:

###### A. Qualifications

1. **The manufacturer** shall have marketed this system in the United States for at least five years.
2. The Applicator shall be trained and registered by **the manufacturer and have a minimum of five (5) years experience in installation of the specified product.**

###### B. Design and Detailing

1. General
  - a. **The playground surface material must be a product** utilized wherever an impact, absorbing cushioned surface is required.
2. Substrate and Substrate Systems
  - a. Manufacturer must indicate specific instructions on substrate.
3. Material must be acceptable for application to compacted stone.
4. The Applicator shall verify that the proposed Substrate is acceptable with application of the **playground surface.**
5. Substrate Systems shall be engineered with regard to structural performance.

##### 1.02 SUBMITTALS:

- A. Applicator shall submit a 4" x 4" sample of the **playground surface material as it appears finished.**

##### 1.03 DELIVERY, STORAGE AND HANDLING:

- A. Deliver all materials in original unopened packages with labels intact.
- B. Store all materials protected from weather and at temperature not less than 40 F (4C).

##### 1.04 JOB CONDITIONS:

- A. Ambient air temperature shall be 40 F (4 C) or greater and rising time or per the manufacturers recommendation at the time of installation of the playground surface and shall remain at 40 F (4 C) or greater for at least 7 days after application.
- B. Adjacent materials and the playground surface shall be protected during installation while curing and/or unattended from weather and other damage

### **1.05 ALTERNATES AND ALLOWANCES:**

- A. Systems to be considered equal to those specified herein shall be approved by the owner, in writing, at least ten working days prior to the project bid date.

### **1.06 WARRANTY:**

- A. Safety surface shall be warranted for labor and materials for a period of no less than three (3) years. Written warranty must be submitted by the surface manufacturer.

## **PART 2 – PRODUCTS**

### **2.01 GENERAL:**

- A. All components of the playground surface shall be obtained from **the manufacturer** or its authorized distributors. No substitutions of, or additions of, other materials shall be submitted without prior written permission from **the manufacturer**.

### **2.02 MATERIALS:**

- A. **Bidder must submit with the bid a list of all materials and product sheets including primer, binder, and rubber granule products.**
- B. **Colored rubber granules materials must be colorfast and resistant to fading.**
- C. **The playground surface:**
  - 1. Shall have been tested for shock attenuation under ASTM-F-1292 and HIC.
  - 2. Shall have been tested for non slip characteristics under ASTM-E303 and compliant with all requirements set forth in the Americans with Disabilities Act.
  - 3. Shall have been tested for ease of ignition under BS-5696 and ASTM-D-2859.
  - 4. Shall have been tested for fire resistancy under UL94.

### **2.03 MIXING AND PREPARATION:**

- A. Mixture of binder and rubber granules and will be determined by the manufacturer and per the manufacturers direction.

## **PART 3 – EXECUTION**

### **3.01 INSPECTION:**

- A. Prior to the application of the playground surface the Substrates shall be examined for compliance with the contract documents and manufacturers specifications. The General Contractor and owner shall be advised of all discrepancies. Work shall not proceed with until unsatisfactory conditions are corrected.



### **3.02 INSTALLATION:**

- A.** The playground surface shall be installed per the manufacturers specification using the process, tools, ratios, formulas, and drying times recommended. Safety surface must be seamless.
- B.** Surface edges shall be flush with edge of adjacent area. Surface shall be sloped to drain as indicated on plan.
- C.** Total depth of the surface shall be specified by the manufacturer according to fall height requirements. Manufacturer shall provide owner with a chart of surface thickness based on fall heights of the playground equipment as shown on the plan.

### **3.03 PROTECTION:**

- A.** Surface installation crew shall be responsible for the protection of safety surfacing the installation process. Owner shall be responsible for the protection for the surface during the curing period upon completion of the installation.

# Seeding – Section IV

## **PART 1 – GENERAL**

### **1.1 SUMMARY**

#### **A. Section Includes:**

1. Seeding and Maintenance to establish new turf.

### **1.2 DEFINITIONS**

- A. Duff Layer: The surface layer of native topsoil that is composed of mostly decayed leaves, twigs, and detritus.
- B. Finish Grade: Elevation of finished surface of planting soil.
- C. Pesticide: A substance or mixture intended for preventing, destroying, repelling, or mitigating a pest. This includes insecticides, miticides, herbicides, fungicides, rodenticides, and molluscicides. It also includes substances or mixtures intended for use as a plant regulator, defoliant, or desiccant.
- D. Pests: Living organisms that occur where they are not desired, or that cause damage to plants, animals, or people. These include insects, mites, grubs, mollusks, (snails and slugs), rodents (gophers, moles, and mice), unwanted plants (weeds), fungi, bacteria, and viruses.
- E. Planting soil: Standardized topsoil; existing, native surface topsoil; existing, in-place surface soil; imported topsoil; or manufactured topsoil that is modified with soil amendments and perhaps fertilizers to produce a soil mixture best for plant growth.
- F. Subgrade: Surface or elevation of subsoil remaining after excavation is complete, or the top surface of a fill or backfill before planting soil is placed.
- G. Subsoil: All soil beneath the topsoil layer of the soil profile, and typified by the lack of organic matter and soil organisms.
- H. Surface Soil: Soil that is present at the top layer of the existing soil profile at the Project site. In undisturbed areas, the surface soil is typically topsoil; but in disturbed areas such as urban environments, the surface soil can be subsoil.

### **1.3 SUBMITTALS**

- A. Product Data: For each type of product indicated, including soils.
- B. Certification of grass seed.
- C. Product certificates.

### **1.4 QUALITY ASSURANCE**

- D. Installer's Field Supervision: Require installer to maintain an experienced full-time supervisor on Project site when work is in progress.
1. Pesticide Applicator: State licensed, commercial.

## 1.4 DELIVERY, STORAGE, AND HANDLING

- A. Seed and Other Packaged Materials: Deliver packaged materials in original, unopened containers showing weight, certified analysis, name and address of manufacturer, and indication of conformance with state and federal laws, as applicable.

## 1.5 MAINTENANCE SERVICE

- A. Initial Turf Maintenance Service: Provide full maintenance by skilled employees of landscape Installer. Maintain as required in Part 3. Begin maintenance immediately after each area is planted and continue until acceptable turf is established but for not less than the following periods:

1. Seeded Turf: 30 days from date of **planting completion**.
  - a. When initial maintenance period has not elapsed before end of planting season, or if turf is not fully established, continue good maintenance during next planting season.

## PART 2 – PRODUCTS

### SEED

Grass Seed: Fresh, clean, dry, new-crop seed complying with AOSA's "Journal of Seed Technology; Rules for Testing Seeds" for purity and germination tolerances.

Seed Species: State-certified seed of grass species as follows:

Full Sun: < **Jaguar Fescue** > or approved equal

Grass Seed Mix: At the owner's request, perennial ryegrass may be added to help establish a quick cover. A mix of no more than 15% by weight (1/4 lb per s.f.) of ryegrass may be added to the fescue.

Other cover grasses will be considered to establish cover during winter months when fescue seed does not germinate such as winter wheat or approved equal.

### INORGANIC SOIL AMENDMENTS

Lime: ASTM C 602, agricultural liming material containing a minimum of 80 percent calcium carbonate equivalent and as follows:

Class: T, with a minimum of 99 percent passing through No. 8 (2.36-mm) sieve and a minimum of 75 percent passing through No. 60 (0.25-mm) sieve.

Class: O, with a minimum of 95 percent passing through No. 8 (2.36-mm) sieve and a minimum of 55 percent passing through No. 60 (0.25-mm) sieve.

Apply lime @ a rate of 80 lbs per 1,000 s.f.

Sulfur: Granular, biodegradable, and containing a minimum of 90 percent sulfur, with a minimum of 99 percent passing through No. 6 (3.35-mm) sieve and a maximum of 10 percent passing through no. 40 (0.425-mm) sieve.

**Iron Sulfate:** Granulated ferrous sulfate containing a minimum of 20 percent iron and 10 percent sulfur.

**Aluminum Sulfate:** Commercial grade, unadulterated.

**Perlite:** Horticultural perlite, soil amendment grade.

**Agricultural Gypsum:** Minimum 90 percent calcium sulfate, finely ground with 90 percent passing through No. 50 (0.30-mm) sieve.

**Sand:** Clean, washed, natural or manufactured, and free of toxic materials.

**Diatomaceous Earth:** Calcined, 90 percent silica, with approximately 140 percent water absorption capacity by weight.

**Zeolites:** Mineral clinoptilolite with at least 60 percent water absorption by weight.

## **ORGANIC SOIL AMENDMENTS**

**Compost:** Well-composted, stable, and weed and pest free organic matter, pH range of 5.5 to 8; moisture content 35 to 55 percent by weight; 100 percent passing through [**3/4 –inch (19-mm)**] sieve; soluble salt content of [**5 to 10**] decisiemens/m; not exceeding 0.5 percent inert contaminants and free of substances toxic to plantings; and as follows:

**Sphagnum Peat:** Partially decomposed sphagnum peat moss, finely divided or of granular texture, with a pH range of 3.4 to 4.8.

**Muck Peat:** Partially decomposed moss peat, native peat, or reed-sedge peat, finely divided or of granular texture, with a pH range of 6 to 7.5, and having a water-absorbing capacity of 1100 to 2000 percent.

**Wood Derivatives:** Decomposed, nitrogen-treated sawdust, ground bark, or wood waste; of uniform texture and free of chips, stones, sticks, soil, or toxic materials.

**Manure:** Well-rotted, unleached, stable or cattle manure containing not more than 25 percent by volume of straw, sawdust, or other bedding materials; free of toxic substances, stones, sticks, soil, weed seed, and material harmful to plant growth.

## **FERTILIZERS**

**Commercial Fertilizer:** Commercial-grade complete fertilizer of neutral character, consisting of fast- and slow-release nitrogen, 50 percent derived from natural organic sources of urea formaldehyde, phosphorous, and potassium in the following composition:

**Composition:** 1 lb/1000 sq. ft. (0.45 kg/92.9 sq. m) of actual nitrogen, 4 percent phosphorous, and 2 percent potassium, by weight.

**Slow-Release Fertilizer:** Granular or pelleted fertilizer consisting of 50 percent water-insoluble nitrogen, phosphorus, and potassium in the following composition:

**Composition:** 20 percent nitrogen, 10 percent phosphorous, and 10 percent potassium, by weight.

## PLANTING SOILS

Planting Soil: **Imported topsoil or manufactured topsoil from off-site sources; do not obtain from agricultural land, bogs or marshes.** Verify suitability of soil to produce viable planting soil. Clean soil of roots, plants, sod, stones, clods, clay lumps, pockets of coarse sand, concrete slurry, concrete layers or chunks, cement, plaster debris, and other extraneous materials harmful to plant growth.

## MULCHES

Straw Mulch: Provide air-dry, clean mildew- and seed-free, salt hay or threshed straw of wheat, rye, oats, or barley.

Spread loosely with no mounding >3/4".

## PESTICIDES

General: Pesticide registered and approved by EPA, acceptable to authorities having jurisdiction, and of type recommended by manufacturer for each specific problem and as required for Project conditions and application. Do not use restricted pesticides unless authorized in writing by authorities having jurisdiction.

### 3.1 TURF AREA PREPARATION

- A. **ALL** Newly Graded Subgrades: Loosen subgrade to a minimum depth of **6 inches**. Remove stones larger than **1 inch** in any dimension and sticks, roots, rubbish and other extraneous matter and legally dispose of them off Owner's property.
1. Apply **superphosphate** fertilizer directly to subgrade before loosening. Till soil to a homogeneous mixture of fine texture.
  2. Thoroughly blend planting soil off-site before spreading or spread topsoil, apply soil amendments and fertilizer on surface, and thoroughly blend planting soil.
  3. Spread planting soil to a depth of 4 inches but not less than required to meet finish grades after light rolling and natural settlement. Do not spread if planting soil or subgrade is frozen, muddy, or excessively wet.
  4. Reduce elevation of planting soil to allow for soil thickness of sod.
- B. Finish Grading: Grade planting areas to a smooth, uniform surface plane with loose, uniformly fine texture. Grade to within plus or minus ½ inch (13 mm) of finish elevation. Roll and rake, remove ridges, and fill depressions to meet finish grades. Limit grading to areas that can be planted in the immediate future.
- C. Moisten prepared area before planting if soil is dry. Water thoroughly and allow surface to dry before planting. Do not create muddy soil.
- D. Before planting, obtain Owner's acceptance of finish grading; restore planting areas if eroded or otherwise disturbed after finish grading. Erect barriers to keep pedestrian and vehicular traffic off of areas to receive seed and cover.

### 3.2 SEEDING

- A. Do not broadcast or drop seed when wind velocity exceeds 5 mph (8 km/h). Evenly distribute seed by sowing equal quantities in two directions at right angles to each other. Do not seed against existing trees. Limit extent of seed to outside edge of planting saucer.
- B. Sow seed at a total rate of **300 lbs/acre onsite**.
- C. Rake seed lightly into top 1/8 inch (3 mm) of soil, roll lightly, and water with fine spray.
- D. Protect seeded areas with slopes not exceeding 1:6 by spreading straw mulch. Spread uniformly at a minimum rate of **1 bale/ 1,000 s.f.** thin enough to expose approximately 50% of the soil surface. Spread by hand, blower, or other suitable equipment.

Anchor straw mulch by crimping into soil with suitable mechanical equipment.

- E. Protect seeded areas from hot, dry weather or drying winds by applying **compost mulch** within 24 hours after completing seeding operations. Soak areas, scatter mulch uniformly to a thickness of **3/16** inch, and roll surface smooth.

### 3.3 TURF MAINTENANCE

- A. Maintain and establish turf by watering, fertilizing, weeding, mowing, trimming, replanting, and performing other operations as required to establish healthy, viable turf. Roll, regrade, and replant bare or eroded areas and re-mulch to produce a uniformly smooth turf. Provide materials and installation the same as those used in the original installation.
- B. Fill in as necessary soil subsidence that may occur because of settling or other processes. Replace materials and turf damaged or lost in areas of subsidence.
  - 1. In areas where mulch has been displaced by wind or maintenance operations, add new mulch and anchor as required to prevent displacement.
  - 2. Apply treatments as required to keep turf and soil free of pests and pathogens or disease. Use integrated pest management practices whenever possible to minimize the use of pesticides and reduces hazards.
- C. Apply pesticides and other chemical products and biological control agents in accordance with authorities having jurisdiction and manufacturer's written recommendations. Coordinate applications with Owner's operations and others in proximity to the Work. Notify Owner before each application is performed.
- D. Install and maintain temporary piping, hose, and turf watering equipment to convey water from sources and keep turf uniformly moist to a depth of 4".
  - 1. Schedule watering to prevent wilting, puddling, erosion, and displacement of seed or mulch. Place watering system so as to avoid walking over muddy or newly seeded areas.

**NOTES TO BIDDERS**

1.0 When submitting bids, please remember that companies you distribute for must be listed below. Do not submit a separate bid for each company represented.

2.0

<b>Manufacturers That You Represent</b>
Miracle Recreation
Ultra-Site
Play Safer
Superior Recreation
Webcoat
UPC Parks
Creative Safety Surface

3.0 If a bid is submitted under the sales representative's name or a company name that represents a manufacturer, if the company goes out of business or the sales representative no longer represents the manufacturer, the Lexington-Fayette Urban County Government will not be able to purchase directly from the manufacturer.

4.0 Manufacturers may bid direct. If so, they should provide a list of authorized distributors. This would provide means of which LFUCG could purchase equipment when sales representatives or companies change.

For questions pertaining to specifications, contact Conni Hayes, Buyer, Division of Central Purchasing at 859-258-3320 or [chayes@lexingtonky.gov](mailto:chayes@lexingtonky.gov).

5.2 Bidder shall show current freight rates. If a contract is awarded, bidder agrees to promptly inform the Lexington-Fayette Urban County Government when any change is made in freight rates. Current freight rates to Lexington, Kentucky are \$68.00 MAX/cwt. The Lexington-Fayette Urban County Government reserves the right to select an alternate freight company other than the one offered by the vendor if it is in the best interest of the Lexington-Fayette Urban County Government.

5.3 The Urban County Government shall award a sufficient number of Price Contracts, based on these specifications, to assure that a sufficient variety of equipment is available, at fair prices, to meet requirements of park design and citizen participation in equipment selection.

5.4 Award of a Price Contract does not constitute a promise on the part of the Urban County Government to purchase any equipment. Any equipment that may be purchased by the Urban County Government shall be purchased at the Price Contract Price.

5.5 Contract prices may change only when a newly published price sheet supersedes an existing price sheet. The percentage discount shall remain constant for the term of the Price Contract. Contractor shall inform the Urban County Government, in writing, of any published revision to Price Sheets thirty (30) days prior to the effective date of such revision.

5.6 Bidder agrees to sell to the Urban County Government, in accordance with terms and conditions herein, any equipment that may be required at a discount of:

- |    |                                |           |                          |
|----|--------------------------------|-----------|--------------------------|
| a. | \$0 - \$5,000                  | <u>10</u> | % (insert percentage)    |
| b. | \$5,000 - \$10,000             | <u>12</u> | % (insert percentage)    |
| c. | Above \$10,000                 | <u>15</u> | % (insert percentage)    |
|    | from the price shown in column | #         | <u>1</u> (insert number) |
|    | of the attached price sheet.   |           |                          |

*Miracle Recreation Only Exception see Attached.*  
This section applies to any manufacturer that the bidder may represent. The cost breakdown shall remain the same when determining the percentage discount. If the bidder offers the same discount regardless of the manufacturer, prices should be shown above. If there are multiple discounts based on different manufacturers, bidder shall use the table provided (page 6).

5.7 All equipment ordered shall be delivered within 60 days from receipt of order.

5.8 Bidders shall bid a percentage discount from prices shown in current catalog. If, during the term of the contract, the catalog bid is suspended by a new catalog, the percentage discount shall apply to the new catalog.



Manufacturer	Cost Breakdown	Percentage of Discount
1. <i>Miracle Recreation</i>	\$0 - \$5,000	10 % discount
	\$5,000 - \$10,000	15 % discount
	Above \$10,000	25 % discount
2.	\$0 - \$5,000	% discount
	\$5,000 - \$10,000	% discount
	Above \$10,000	% discount
3.	\$0 - \$5,000	% discount
	\$5,000 - \$10,000	% discount
	Above \$10,000	% discount
4.	\$0 - \$5,000	% discount
	\$5,000 - \$10,000	% discount
	Above \$10,000	% discount
5.	\$0 - \$5,000	% discount
	\$5,000 - \$10,000	% discount
	Above \$10,000	% discount
6.	\$0 - \$5,000	% discount
	\$5,000 - \$10,000	% discount
	Above \$10,000	% discount
7.	\$0 - \$5,000	% discount
	\$5,000 - \$10,000	% discount
	Above \$10,000	% discount
8.	\$0 - \$5,000	% discount
	\$5,000 - \$10,000	% discount
	Above \$10,000	% discount
9.	\$0 - \$5,000	% discount
	\$5,000 - \$10,000	% discount
	Above \$10,000	% discount
10.	\$0 - \$5,000	% discount
	\$5,000 - \$10,000	% discount
	Above \$10,000	% discount
11.	\$0 - \$5,000	% discount
	\$5,000 - \$10,000	% discount
	Above \$10,000	% discount
12.	\$0 - \$5,000	% discount
	\$5,000 - \$10,000	% discount
	Above \$10,000	% discount

## Section II

### Playground Installation Bid

1. Demolition with heavy equipment of existing playground: \$ 47.00 per man hour  
Plus Dumpsters for removal
2. Demolition without heavy equipment of existing playground: \$ 35.00 per man hour  
Plus Dumpsters for removal
3. Installation of your play equipment as per manufacturer's specs: 25 % of cost of equipment (not including edging or safety surface). The Contractor shall include in price and be responsible for picking up the equipment from Owner's storage area at Masterson Station Park, 3051 Leestown Rd., Lexington, KY 40511 and providing safe and proper storage during installation. Contractor shall use temporary plastic fencing; employ security, or other means to protect work until final inspection and acceptance by Owner. If proper precautions are not taken, Contractor will be responsible for re-installing equipment properly at their cost. Contractor is also responsible for insuring that play does not occur on equipment until final acceptance by Owner. Owner guarantees inspection within 2 business days of notice of completion. Contractor is responsible for any lost, stolen or damaged equipment during installation
4. Edging: 6" x 6" pressure treated timbers, stacked 2 high (12") with 24" #5 rebar into ground @ 4' o.c.: \$ 12.00 per LF
5. Edging: 6" x 12" concrete header curb (set at elevation so that top of curb is flush with outside grade once backfilled and inside play area flush with top of wood chip safety surface) with 12 inch deep, integral-pour piers every 2-3 ft. – broom finish. \$ no Bid per LF
6. Edging: 6" x 12" concrete header curb (set at elevation so that top of curb is flush with outside grade once backfilled and inside play area flush with top of wood chip safety surface) with 12 inch deep, integral-pour piers every 2-3 ft. – stamped finish (top only). \$ no Bid per LF
7. Spreading mulch safety surface evenly under equipment and throughout play area (mulch provided on-site by LFUCG): \$ 10.00 per cu. yd.
8. Grading/site leveling: \$ no Bid per cu. yd. of earth (balanced cut/fill)
9. Geotextile Fabric (provide and install): \$ 1.50 per sq. yd.
10. 3/4" Schedule 80 PVC conduit (provide and install under concrete): \$ no Bid per LF
11. 6" black corrugated drainage pipe in sock (provide and install): \$ no Bid per LF
12. Dirt hauling: (30 minute max. haul) \$ no Bid per cu. yd.
13. Sidewalk 4" broom finish (4000 psi) concrete over 6" DGA: \$ no Bid per sq. yd.
14. Sidewalk 4" broom finish (4000 psi) concrete over 6" DGA with manufacturer's standard color admixture: \$ no Bid per sq. yd.
15. Poured in place rubber surface (see attached specification) over machine compacted dense grade aggregate \$ 12.00 per sq. ft. 5' < fall height  
14.00 5' > fall height to 8'

16. Poured in place rubber surface (see attached specification) over 3" asphalt and 6" compacted DGA: \$ 9.00 <sup>5' FH.</sup> per sq. ft. rubber surface only asphalt to be done by other. <sup>DGA</sup>
17. Poured in place rubber surface (see attached specification) over 4" concrete and 6" compacted DGA: \$ 9.00 <sup>5' FH.</sup> per sq. ft. rubber surface only concrete + DGA by others. <sup>11.00 > 5'-8' fall height.</sup>
18. Pre-cast, modular block retaining wall or equal (price to include manufacturers recommended base/footers for up to max. height of 48" and matching top row capstone glued in place.) \$ no Bid per sq. ft. of wall face
19. Silt Fence: Provided, installed (as per figure 11-21, LFUCG Stormwater Manual, attached at end of specifications) and maintained for duration of project and removed after new turf is at 90% coverage: \$ no Bid per sq. ft.
20. Seeding/Straw: (as per attached specification, see Section III, page 11 ) \$ no Bid per sq. ft.

2. Water turf with fine spray at a minimum rate of 1" per week unless rainfall precipitation is adequate.
- E. Mow new turf as soon as top growth is tall enough to cut. Repeat mowing to maintain specified height without cutting more than 1/3 of grass height. Do not delay mowing until grass blades lay over and become matted. Do not mow when grass is wet.

### 3.4 SATISFACTORY TURF

- A. Turf installation shall meet the following criteria as determined by owner:
1. **Satisfactory Seeded Turf:** At end of maintenance period, a healthy, uniform, close stand of grass has been established, free of weeds and surface irregularities, with coverage exceeding **90 percent over any 10 sq. ft. and bare spots not exceeding 5 by 5 inches.**
- B. Use specified materials to reestablish turf that does not comply with requirements and continue maintenance until turf is satisfactory.
- C. Final payment for this portion of the bid will be held until turf is established according to the previous specifications.
- D. Price shall include all associated costs for turf establishment.

**RISK MANAGEMENT PROVISIONS  
INSURANCE AND INDEMNIFICATION  
Bid #23-2016 Outdoor Playground Equipment**

---

**INDEMNIFICATION AND HOLD HARMLESS PROVISION**

- (1) It is understood and agreed by the parties that Contractor hereby assumes the entire responsibility and liability for any and all damages to persons or property caused by or resulting from or arising out of any act or omission on the part of Contractor or its employees, agents, servants, owners, principals, licensees, assigns or subcontractors of any tier (hereinafter "CONTRACTOR") under or in connection with this agreement and/or the provision of goods or services and the performance or failure to perform any work required thereby.
- (2) CONTRACTOR shall indemnify, save, hold harmless and defend the Lexington-Fayette Urban County Government and its elected and appointed officials, employees, agents, volunteers, and successors in interest (hereinafter "LFUCG") from and against all liability, damages, and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney's fees that are in any way incidental to or connected with, or that arise or are alleged to have arisen, directly or indirectly, from or by CONTRACTOR's performance or breach of the agreement and/or the provision of goods or services provided that: (a) it is attributable to personal injury, bodily injury, sickness, or death, or to injury to or destruction of property (including the loss of use resulting therefrom), or to or from the negligent acts, errors or omissions or willful misconduct of the CONTRACTOR; and (b) not caused solely by the active negligence or willful misconduct of LFUCG.
- (3) In the event LFUCG is alleged to be liable based upon the above, CONTRACTOR shall defend such allegations and shall bear all costs, fees and expenses of such defense, including but not limited to, all reasonable attorneys' fees and expenses, court costs, and expert witness fees and expenses, using attorneys approved in writing by LFUCG, which approval shall not be unreasonably withheld.
- (4) These provisions shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this agreement.
- (5) LFUCG is a political subdivision of the Commonwealth of Kentucky. CONTRACTOR acknowledges and agrees that LFUCG is unable to provide indemnity or otherwise save, hold harmless, or defend the CONTRACTOR in any manner.

**FINANCIAL RESPONSIBILITY**

BIDDER/CONTRACTOR understands and agrees that it shall, prior to final acceptance of its bid and the commencement of any work, demonstrate the ability to assure compliance with the above Indemnity provisions and these other risk management provisions.

**INSURANCE REQUIREMENTS**

YOUR ATTENTION IS DIRECTED TO THE INSURANCE REQUIREMENTS BELOW, AND YOU MAY NEED TO CONFER WITH YOUR INSURANCE AGENTS, BROKERS, OR CARRIERS TO DETERMINE IN ADVANCE OF SUBMISSION OF A RESPONSE THE AVAILABILITY OF THE INSURANCE COVERAGES AND ENDORSEMENTS REQUIRED HEREIN. IF YOU FAIL TO COMPLY WITH THE INSURANCE REQUIREMENTS BELOW, YOU MAY BE DISQUALIFIED FROM AWARD OF THE CONTRACT.

### Required Insurance Coverage

BIDDER/CONTRACTOR shall procure and maintain for the duration of this contract the following or equivalent insurance policies at no less than the limits shown below and cause its subcontractors to maintain similar insurance with limits acceptable to LFUCG in order to protect LFUCG against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by CONTRACTOR. The cost of such insurance shall be included in any bid:

<u>Coverage</u>	<u>Limits</u>
General Liability (Insurance Services Office Form CG 00 01)	\$1 million per occurrence, \$2 million aggregate or \$2 million combined single limit
Commercial Automobile Liability (Insurance Services Office Form CA 0001)	combined single, \$1 million per occurrence
Worker's Compensation	Statutory
Employer's Liability	\$500,000.00

The policies above shall contain the following conditions:

- a. All Certificates of Insurance forms used by the insurance carrier shall be properly filed and approved by the Department of Insurance for the Commonwealth of Kentucky (DOI). LFUCG shall be named as an additional insured in the General Liability Policy and Commercial Automobile Liability Policy using the Kentucky DOI approved forms.
- b. The General Liability Policy shall be primary to any insurance or self-insurance retained by LFUCG.
- c. The General Liability Policy shall include a Products and Completed Operations endorsement or Premises and Operations Liability endorsement unless deemed not to apply by LFUCG.
- d. LFUCG shall be provided at least 30 days advance written notice via certified mail, return receipt requested, in the event any of the required policies are canceled or non-renewed.
- e. Said coverage shall be written by insurers acceptable to LFUCG and shall be in a form acceptable to LFUCG. Insurance placed with insurers with a rating classification of no less than Excellent (A or A-) and a financial size category of no less than VIII, as defined by the most current Best's Key Rating Guide shall be deemed automatically acceptable.

### Renewals

After insurance has been approved by LFUCG, evidence of renewal of an expiring policy must be submitted to LFUCG, and may be submitted on a manually signed renewal endorsement form. If the policy or carrier has changed, however, new evidence of coverage must be submitted in accordance with these Insurance Requirements.

- P. All material furnished hereunder must be in full compliance with OSHA regulations.
- Q. If more than one bid is offered by one party, or by any person or persons representing a party, all such bids shall be rejected.
- R. Signature on the face of this bid by the Bidder or his authorized representative shall be construed as acceptance of and compliance with all terms and conditions contained herein.
- S. The Entity (regardless of whether construction contractor, non-construction contractor or supplier) agrees to provide equal opportunity in employment for all qualified persons, to prohibit discrimination in employment because of race, color, creed, national origin, sex or age, and to promote equal employment through a positive, continuing program from itself and each of its sub-contracting agents. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices.
- T. The Kentucky Equal Employment Opportunity Act of 1978 (KRS 45.560-45.640) requires that any county, city, town, school district, water district, hospital district, or other political subdivision of the state shall include in directly or indirectly publicly funded contracts for supplies, materials, services, or equipment hereinafter entered into the following provisions:

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age or national origin;*
- (2) The contractor will state in all solicitations or advertisements for employees placed by or on behalf of the contractors that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age or national origin;*
- (3) The contractor will post notices in conspicuous places, available to employees and applicants for employment, setting forth the provisions of the non-discrimination clauses required by this section; and*
- (4) The contractor will send a notice to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding advising the labor union or workers' representative of the contractor's commitments under the nondiscrimination clauses.*

The Act further provides:

KRS 45.610. Hiring minorities - Information required

- (1) For the length of the contract, each contractor shall hire minorities from other sources within the drawing area, should the union with which he has collective bargaining agreements be unwilling to supply sufficient minorities to satisfy the agreed upon goals and timetable.*
- (2) Each contractor shall, for the length of the contract, furnish such information as required by KRS 45.560 to KRS 45.640 and by such rules, regulations and orders issued pursuant thereto and will permit access to all books and records pertaining to his employment practices and work sites by the contracting agency and the department for purposes of investigation to ascertain compliance with KRS 45.560 to 45.640 and such rules, regulations and orders issued pursuant thereto.*

KRS 45.620. Action against contractor - Hiring of minority contractor or subcontractor

- (1) If any contractor is found by the department to have engaged in an unlawful practice under this chapter during the course of performing under a contract or subcontract covered under KRS 45.560 to 45.640, the department shall so certify to the contracting agency and such certification shall be binding upon the contracting agency unless it is reversed in the course of judicial review.*
- (2) If the contractor is found to have committed an unlawful practice under KRS 45.560 to 45.640, the contracting agency may cancel or terminate the contract, conditioned upon a program for future compliance approved by the contracting agency and the department. The contracting agency may declare such a contractor ineligible to bid on further contracts with that agency until such time as the contractor complies in full with the requirements of KRS 45.560 to 45.640.*

- (3) *The equal employment provisions of KRS 45.560 to 45.640 may be met in part by a contractor by subcontracting to a minority contractor or subcontractor. For the provisions of KRS 45.560 to 45.640, a minority contractor or subcontractor shall mean a business that is owned and controlled by one or more persons disadvantaged by racial or ethnic circumstances.*

KRS 45.630 Termination of existing employee not required, when

*Any provision of KRS 45.560 to 45.640 notwithstanding, no contractor shall be required to terminate an existing employee upon proof that that employee was employed prior to the date of the contract.*

KRS 45.640 Minimum skills

*Nothing in KRS 45.560 to 45.640 shall require a contractor to hire anyone who fails to demonstrate the minimum skills required to perform a particular job.*

It is recommended that all of the provisions above quoted to be included as special conditions in each contract. In the case of a contract exceeding \$250,000, the contractor is required to furnish evidence that his work-force in Kentucky is representative of the available work-force in the area from which he draws employees, or to supply an Affirmative Action plan which will achieve such representation during the life of the contract.

- U. Any party, firm or individual submitting a proposal pursuant to this invitation must be in compliance with the requirements of the Lexington-Fayette Urban County Government regarding taxes and fees before they can be considered for award of this invitation and must maintain a "current" status with regard to those taxes and fees throughout the term of the contract. The contractor must be in compliance with Chapter 13 from the Code of Ordinances of the Lexington-Fayette Urban County Government. The contractor must be in compliance with Ordinance 35-2000 pursuant to contractor registration with the Division of Building Inspection. If applicable, said business must have a Fayette County business license.

Pursuant to KRS 45A.343 and KRS 45A.345, the contractor shall

- (1) *Reveal any final determination of a violation by the contractor within the previous five year period pursuant to KRS Chapters 136 (corporation and utility taxes), 139 (sales and use taxes), 141 (income taxes), 337 (wages and hours), 338 (occupational safety and health of employees), 341 (unemployment and compensation) and 342 (labor and human rights) that apply to the contractor; and*
- (2) *Be in continuous compliance with the above-mentioned KRS provisions that apply to the contractor for the duration of the contract.*

A contractor's failure to reveal the above or to comply with such provisions for the duration of the contract shall be grounds for cancellation of the contract and disqualification of the contractor from eligibility for future contracts for a period of two (2) years.

- V. Vendors who respond to this invitation have the right to file a notice of contention associated with the bid process or to file a notice of appeal of the recommendation made by the Director of Central Purchasing resulting from this invitation.

Notice of contention with the bid process must be filed within 3 business days of the bid/proposal opening by (1) sending a written notice, including sufficient documentation to support contention, to the Director of the Division of Central Purchasing or (2) submitting a written request for a meeting with the Director of Central Purchasing to explain his/her contention with the bid process. After consulting with the Commissioner of Finance the Chief Administrative Officer and reviewing the documentation and/or hearing the vendor, the Director of Central Purchasing shall promptly respond in writing findings as to the compliance with bid processes. If, based on this review, a bid process irregularity is deemed to have occurred the Director of Central Purchasing will consult with the Commissioner of Finance, the Chief Administrative Officer and the Department of Law as to the appropriate remedy.



Notice of appeal of a bid recommendation must be filed within 3 business days of the bid recommendation by (1) sending a written notice, including sufficient documentation to support appeal, to the Director, Division of Central Purchasing or (2) submitting a written request for a meeting with the Director of Central Purchasing to explain his appeal. After reviewing the documentation and/or hearing the vendor and consulting with the Commissioner of Finance and the Chief Administrative Officer, the Director of Central Purchasing shall in writing, affirm or withdraw the recommendation.

### III. Procurement Contract Bid Conditions

A. The terms of this agreement shall be for 1 year(s) from the date of acceptance of this contract by the Lexington-Fayette Urban County Government. This agreement may be automatically extended for an additional ~~(2)~~-1 year(s) renewal. This contract may be canceled by either party thirty (30) days after delivery by canceling party of written notice of intent to cancel to the other contracting party.

B. Price Changes **(Space Checked Applies)**

**\*\*Please see Section #1 - 5.5\*\***

1. Prices quoted in response to the Invitation shall be firm prices for the first 90 days of the Procurement Contract. After 90 days, prices may be subject to revision and such changes shall be based on general industry changes. Revision may be either increases or decreases and may be requested by either party. There will be no more than one (1) price adjustment per quarter. Requests for price changes shall be received in writing at least twenty (20) days prior to the effective date and are subject to written acceptance before becoming effective. Proof of the validity of a request for revision shall be responsibility of the requesting party. The Lexington-Fayette Urban County Government shall receive the benefit of any decline that the seller shall offer his other accounts.

2. No provision for price change is made herein. Prices are to be firm for the term of this contract.

3. Procurement Level Contract

C. If any contract item is not available from the vendor, the Lexington-Fayette Urban County Government, at its option, may permit the item to be back-ordered or may procure the item on the open market.

D. All invoices must bear reference to the Lexington-Fayette Urban County Government Purchasing document numbers which are being billed.

F. This contract may be canceled by the Lexington-Fayette Urban County Government if it is determined that the Bidder has failed to perform under the terms of this agreement, such cancellation to be effective upon receipt of written notice of cancellation by the Bidder.

G. No substitutions for articles specified herein may be made without prior approval of the Division of Central Purchasing.

## **LFUCG Non-Appropriation Clause**

Contractor acknowledges that the LFUCG is a governmental entity, and the contract validity is based upon the availability of public funding under the authority of its statutory mandate.

In the event that public funds are unavailable and not appropriated for the performance of the LFUCG's obligations under this contract, then this contract shall automatically expire without penalty to the LFUCG thirty (30) days after written notice to Contractor of the unavailability and non-appropriation of public funds. It is expressly agreed that the LFUCG shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this contract, but only as an emergency fiscal measure during a substantial fiscal crisis, which affects generally its governmental operations.

In the event of a change in the LFUCG's statutory authority, mandate and mandated functions, by state and federal legislative or regulatory action, which adversely affects the LFUCG's authority to continue its obligations under this contract, then this contract shall automatically terminate without penalty to the LFUCG upon written notice to Contractor of such limitation or change in the LFUCG's legal authority.

## EQUAL OPPORTUNITY AGREEMENT

### The Law

- Title VII of the Civil Rights Act of 1964 (amended 1972) states that it is unlawful for an employer to discriminate in employment because of race, color, religion, sex, age (40-70 years) or national origin.
- Executive Order No. 11246 on Nondiscrimination under Federal contract prohibits employment discrimination by contractor and sub-contractor doing business with the Federal Government or recipients of Federal funds. This order was later amended by Executive Order No. 11375 to prohibit discrimination on the basis of sex.
- Section 503 of the Rehabilitation Act of 1973 states:

*The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap.*

- Section 2012 of the Vietnam Era Veterans Readjustment Act of 1973 requires Affirmative Action on behalf of disabled veterans and veterans of the Vietnam Era by contractors having Federal contracts.
- Section 206(A) of Executive Order 12086, Consolidation of Contract Compliance Functions for Equal Employment Opportunity, states:

*The Secretary of Labor may investigate the employment practices of any Government contractor or sub-contractor to determine whether or not the contractual provisions specified in Section 202 of this order have been violated.*

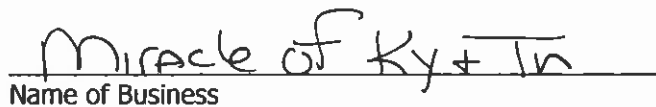
The Lexington-Fayette Urban County Government practices Equal Opportunity in recruiting, hiring and promoting. It is the Government's intent to affirmatively provide employment opportunities for those individuals who have previously not been allowed to enter into the mainstream of society. Because of its importance to the local Government, this policy carries the full endorsement of the Mayor, Commissioners, Directors and all supervisory personnel. In following this commitment to Equal Employment Opportunity and because the Government is the benefactor of the Federal funds, it is both against the Urban County Government policy and illegal for the Government to let contracts to companies which knowingly or unknowingly practice discrimination in their employment practices. Violation of the above mentioned ordinances may cause a contract to be canceled and the contractors may be declared ineligible for future consideration.

Please sign this statement in the appropriate space acknowledging that you have read and understand the provisions contained herein. Return this document as part of your application packet.

### Bidders

*I/We agree to comply with the Civil Rights Laws listed above that govern employment rights of minorities, women, Vietnam veterans, handicapped and aged persons.*

  
Signature

  
Name of Business

## **GENERAL PROVISIONS OF BID CONTRACT**

By signing the below, bidder acknowledges that it understands and agrees with the following provisions related to its bid response and the provision of any goods or services to LFUCG upon selection by LFUCG pursuant to the bid request:

1. Bidder shall comply with all Federal, State & Local regulations concerning this type of service or good.
2. Failure to submit ALL forms and information required by LFUCG may be grounds for disqualification.
3. Addenda: All addenda, if any, must be considered by the bidder in making its response, and such addenda shall be made a part of the requirements of the bid contract. Before submitting a bid response, it is incumbent upon bidder to be informed as to whether any addenda have been issued, and the failure of the bidder to cover any such addenda may result in disqualification of that response.
4. Bid Reservations: LFUCG reserves the right to reject any or all bid responses, to award in whole or part, and to waive minor immaterial defects in proposals. LFUCG may consider any alternative proposal that meets its basic needs.
5. Liability: LFUCG is not responsible for any cost incurred by bidder in the preparation of its response.
6. Changes/Alterations: Bidder may change or withdraw a proposal at any time prior to the opening; however, no oral modifications will be allowed. Only letters, or other formal written requests for modifications or corrections of a previously submitted proposal which is addressed in the same manner as the bid response, and received by LFUCG prior to the scheduled closing time for receipt of bids, will be accepted. The bid response when opened, will then be corrected in accordance with such written request(s), provided that the written request is contained in a sealed envelope which is plainly marked "modifications of bid response".
7. Clarification of Submittal: LFUCG reserves the right to obtain clarification of any point in a bid or to obtain additional information from any bidder.
8. Bribery Clause: By his/her signature on its response, bidder certifies that no employee of his/hers, any affiliate or subcontractor, has bribed or attempted to bribe an officer or employee of the LFUCG.
9. Additional Information: While not necessary, the bidder may include any product brochures, software documentation, sample reports, or other documentation that may assist LFUCG in better understanding and evaluating the bid response. Additional documentation shall not serve as a substitute for other documentation which is required by the LFUCG to be submitted with the bid response.
10. Ambiguity, Conflict or other Errors: If a bidder discovers any ambiguity, conflict, discrepancy, omission or other error in the bid request of LFUCG, it shall immediately notify LFUCG of such error in writing and request modification or clarification of the document if allowable by the LFUCG.
11. Agreement to Bid Terms: In submitting its bid response, the bidder agrees that it has carefully examined the specifications and all provisions relating to LFUCG's bid request, including but not limited to the bid contract. By submission of its bid response, bidder states that it understands the meaning, intent and requirements of LFUCG's bid request and agrees to the same. The successful bidder shall warrant that it is familiar with and understands all provisions herein and shall warrant that it can comply with them. No additional compensation to bidder shall be authorized for services, expenses, or goods reasonably covered under these provisions that the bidder omits from its bid response.
12. Cancellation: LFUCG may unilaterally terminate the bid contract with the selected bidder(s) at any time, with or without cause, by providing at least thirty (30) days advance written notice unless a different advance written notice period is negotiated prior to contract approval. Payment for services or goods received prior to termination shall be made by the LFUCG provided these goods or services were provided in a manner acceptable to the

LFUCG. Payment for those goods and services shall not be unreasonably withheld.

13. **Assignment of Contract:** The selected bidder(s) shall not assign or subcontract any portion of the bid contract with LFUCG without the express written consent of LFUCG. Any purported assignment or subcontract in violation hereof shall be void. It is expressly acknowledged that LFUCG shall never be required or obligated to consent to any request for assignment or subcontract; and further that such refusal to consent can be for any or no reason, fully within the sole discretion of LFUCG.
14. **No Waiver:** No failure or delay by LFUCG in exercising any right, remedy, power or privilege hereunder, nor any single or partial exercise thereof, nor the exercise of any other right, remedy, power or privilege shall operate as a waiver hereof or thereof. No failure or delay by LFUCG in exercising any right, remedy, power or privilege under or in respect of this bid proposal or bid contract shall affect the rights, remedies, powers or privileges of LFUCG hereunder or shall operate as a waiver thereof.
15. **Authority to do Business:** Each bidder must be authorized to do business under the laws of the Commonwealth of Kentucky and must be in good standing and have full legal capacity to provide the goods or services specified in the bid proposal. Each bidder must have all necessary right and lawful authority to submit the bid response and enter into the bid contract for the full term hereof including any necessary corporate or other action authorizing the bidder to submit the bid response and enter into this bid contract. If requested, the bidder will provide LFUCG with a copy of a corporate resolution authorizing this action and/or a letter from an attorney confirming that the proposer is authorized to do business in the Commonwealth of Kentucky. All bid responses must be signed by a duly authorized officer, agent or employee of the bidder.
16. **Governing Law:** This bid request and bid contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. In the event of any proceedings regarding this matter, the bidder agrees that the venue shall be the Fayette County Circuit Court or the U.S. District Court for the Eastern District of Kentucky, Lexington Division and that the bidder expressly consents to personal jurisdiction and venue in such Court for the limited and sole purpose of proceedings relating to these matters or any rights or obligations arising thereunder.
17. **Ability to Meet Obligations:** Bidder affirmatively states that there are no actions, suits or proceedings of any kind pending against bidder or, to the knowledge of the bidder, threatened against the bidder before or by any court, governmental body or agency or other tribunal or authority which would, if adversely determined, have a materially adverse effect on the authority or ability of bidder to perform its obligations under this bid response or bid contract, or which question the legality, validity or enforceability hereof or thereof.
18. Bidder understands and agrees that its employees, agents, or subcontractors are not employees of LFUCG for any purpose whatsoever. Bidder is an independent contractor at all times related to the bid response or bid contract.
19. If any term or provision of this bid contract shall be found to be illegal or unenforceable, the remainder of the contract shall remain in full force and such term or provision shall be deemed stricken.

  
\_\_\_\_\_  
Signature

02-17-16  
Date

## 2.6 Definition of Default

Bidder understands and agrees that the failure to comply with any issues stated herein shall constitute default under this Agreement.

## 3.0 DELIVERY

- 3.1 Bidder shall show on his/her bid maximum time for delivery of any equipment ordered from a Price Contract established in accordance with the specifications and conditions contained herein.
- 3.2 Any equipment ordered shall be shipped to the location specified on the order. Deliveries shall be made only between the hours of 8:00 a.m. and 4:00 p.m., local time, Monday through Friday.
- 3.3 The applicable Urban County Government Purchase Order must be shown on **ALL** invoices, packing slips and shipping documents.
- 3.4 Contractor shall notify the Division of Parks and Recreation representative who placed the order no later than 48 hours prior to delivery at (859) 288-2900.
- 3.5 Failure by the contractor to comply with instructions 4.3 and 4.4 may result in refusal by the Urban County Government to accept or unload equipment until requirements established in 4.3 and 4.4 have been met. In such an event, the Urban County Government accepts no responsibility for protection of the materials or for payment for unauthorized deliveries.

## 4.0 TESTING AND INSPECTION

- 4.1 Urban County Government personnel shall make such visual inspections and shall conduct any tests required to assure that equipment received conforms to the manufacturers specifications for that equipment.
- 4.2 Contractor shall replace, at no cost to the Urban County Government, any equipment, which is determined to be defective as a result of such inspections and testing.
- 4.3 All apparatus bid must conform to standards established by the Consumer Product Safety Commission.
- 4.4 Play equipment submitted for consideration shall be certified by the International Play Equipment Manufacturers Association or provide evidence from an independent testing laboratory that all products are compliant with ASTM F1487.

## 5.0 NOTES

- 5.1 Bidder shall show a percentage discount from the price shown on the price sheet. All sales made to the Urban County Government shall be made at the discounted price. If the price sheet shows multiple columns, Bidder shall identify the column to which the percentage discount shall apply.