

PUBLIC NOTICE

REQUEST FOR PROPOSALS

The Town of Yorktown currently owns approximate 12.29 acres of parkland formerly known as the Shallow Creek Golf Course. This was originally constructed as a 9 hole par 3 golf course. The Town is now looking to license or concession the parcel to be utilized for park purposes.

OBJECTIVE

The Town of Yorktown ("Town") is soliciting proposals from interested and qualified firms and individuals for the potential management or operation and maintenance of the area described above located at Route 6 and Hill Boulevard, Yorktown Heights, New York 10598 ("Shallow Creek"). The purpose of this solicitation is to tap the creativity of the private sector to explore what, if any, options may exist to utilize Shallow Creek in a way that maximizes its potential as parkland and as a recreational facility.

THE TOWN IS OPEN TO CREATIVE AND INNOVATIVE PROPOSALS REGARDING THE UTILIZATION OF SHALLOW CREEK WITHIN THE LEGAL AND POLICY CONSTRAINTS AS SET FORTH HEREIN AND BY THE TOWN.

Specifications may be obtained at the office of the Town Clerk at said Town Hall, Yorktown Heights, NY during regular office hours.

All completed proposals must be received in the Office of the Town Clerk, 363 Underhill Ave., Yorktown Heights, NY 10598, no later than 4:00 p.m., April 29, 2011. The Town is not responsible for any internal or external delivery delays, which may cause the RFP to arrive beyond the deadline.

The Town Board reserves the right to reject any or all proposals and to accept that proposal which it deems most favorable to the interests of the Town of Yorktown.

ALICE E. ROKER
TOWN CLERK
TOWN OF YORKTOWN

Town of Yorktown

Request for Proposals to:

**Manage, Operate and Maintain the Area Formerly
Known as Shallow Creek Golf Course as a Municipal
Golf Course Including Facilities Incidental to a Golf
Course**

and/or

**Propose Other Options to Manage, Operate and
Maintain the Park Land or portion thereof, including
Facilities Incidental to a Park**

**Route 6 & Hill Boulevard
Yorktown Heights, NY 10598**

Release Date: February 2, 2011

Pre-proposal Meeting: February 23, 2011

Submission Deadline: April 29, 2011

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OBJECTIVE

The Town of Yorktown ("Town") is soliciting proposals from interested and qualified firms and individuals for the potential management or operation and maintenance of the area outlined in Appendix A located at Route 6 and Hill Boulevard, Yorktown Heights, New York 10598 ("Shallow Creek"). The purpose of this solicitation is to tap the creativity of the private sector to explore what, if any, options may exist to utilize Shallow Creek in a way that maximizes its potential as parkland and as a recreational facility.

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PROPOSAL OPTIONS

The Town is looking for creative responses and is willing to entertain different or hybrid uses of Shallow Creek other than its current use, utilizing some, all or none of the existing infrastructure or facilities at Shallow Creek. Proposals may contemplate the use of Shallow Creek for some park/recreational use other than as a golf course or may include the operation and maintenance of the facility as a golf course. The Town will not accept proposals for residential use of the property or commercial ventures not consistent with a park or recreational use.

Proposals may contemplate various types of arrangements, including, but not limited to: license or concession agreements.

DUE DILIGENCE

Respondents are expected to do their due diligence before submitting a proposal to the Town.

A proposer seeking to tour the facility should make arrangements to do so immediately with Jennifer Fava, Superintendent of the Yorktown Parks and Recreation Department at (914) 245-4650 or ypr@yorktownny.org (subject line – Shallow Creek RFP) consistent with the timeline as detailed below. Any costs associated with such requests shall be borne by the respondent.

REGISTRATION

Only those respondents who register their interest with the Town will be eligible to arrange a pre-proposal tour at Shallow Creek, attend the pre-proposal meeting and submit written questions to the Town for formal written response.

In order to register, respondents must email the following information: name of the business, postal address, email address for notices related to this RFP, and name of contact person. Please indicate SHALLOW CREEK REGISTRATION REQUEST in the subject line of the email. Please send such email to:

Yorktown Parks and Recreation Department
ypr@yorktownny.org

However, failure to register does not preclude submission of a proposal.

CONTACT INFORMATION

Registered respondents must submit any requests for clarification of this RFP to ypr@yorktownny.org up until 4 p.m. EDT on March 11, 2011. In accordance with applicable State, County and Local Laws and Procurement Policies, questions, requests for clarifications or information submitted to the website will NOT be responded to directly. Further, requests for clarification will NOT be received, nor responded to, that are directed to email addresses other than those listed herein. Nor will requests for clarification be accepted nor responded to telephonically. Formal written responses will be distributed by the Town on or before April 1, 2011 via the Parks and Recreation page of the Town's Web site (www.yorktownny.org).

NO COMMUNICATIONS OF ANY KIND WILL BE BINDING AGAINST THE TOWN, EXCEPT FOR THE FORMAL WRITTEN RESPONSES TO ANY REQUESTS FOR CLARIFICATION, WHICH WILL BE POSTED ON THE PARKS AND RECREATION PAGE OF THE TOWN'S WEB PAGE TO ALLOW ALL INTERESTED RESPONDENTS EQUAL ACCESS TO SUCH INFORMATION.

RFP TIMELINE

February 2, 2011: Tours may be arranged by appointment through Ms. Fava at Yorktown Parks and Recreation Department.

February 23, 2011: Pre-proposal informational meeting. Attendance is encouraged. All formal questions must be submitted via the above process and email address by registered potential RFP respondents and will be responded to on the Parks and Recreation Page of the Town's webpage.

March 11, 2011: Deadline for submission of written questions via ypr@yorktownny.org from registered potential RFP respondents to the Town.

April 1, 2011: Date the Town will publish answers to all written questions submitted by the above deadline on the Parks and Recreation Page of the Town's webpage.

April 29, 2011: Four (4) pm ET, deadline for submission of proposals.

GENERAL

Site Description

Approximately 12.29 acres consisting of:

1 Main Building

1 Garage

1 Parking Area

1 9-Hole Par 3 Golf Course

The current parking area is shown in Appendix A. There are 41 paved spaces.

Please note that portions of the property are NYS DEC Wetlands, 100 year flood plain, or 500 year flood plain.

Financial Responsibility

Respondents must provide audited annual financial statements for the past three years, a current Dun & Bradstreet report (if available) and other such documentation to demonstrate financial responsibility that is acceptable to the Town. In addition, respondents should provide the names and contact information of three to five business/professional references with which they regularly do business.

Safety and Security

Safety and security of its residents are paramount to the Town. All proposals should include and demonstrate, ensure and maintain appropriate safety, security, emergency and fire response systems specific to the proposal.

The selected respondent, at its sole cost and expense, shall be responsible for maintaining security of the area licensed or concessioned by the selected respondent and associated amenities according to a security plan prepared by the selected respondent and approved by the Town of Yorktown.

Consistent with Town policy the selected respondent must provide written documentation of all accidents that take place on Town property within 24 hours of their occurrence in a format acceptable to the Town of Yorktown.

Utilities

The selected respondent shall be responsible for costs associated with utilities, including water, septic, propane, natural gas, power and telecommunications utilities. The selected respondent will be required, as necessary, to connect to and/or upgrade any existing utility service or create a new utility system, and obtain the appropriate permits and approvals.

Infrastructure Maintenance

Respondents must ensure that all buildings, fencing, gates, railings, rest room facilities, bridges, utility buildings, and other structures, electrical, water, septic and drainage and all other infrastructure within the confines of the licensed/concessioned area are kept in good repair and painted to provide a safe and first class experience for the customers. This duty shall be a general duty and shall apply to any Town infrastructure that the successful respondent would seek to utilize or to any infrastructure that the successful respondent would propose to construct. Nothing herein shall be construed as a prohibition against proposals that seek to demolish existing infrastructure and replace it with new infrastructure. However, all new infrastructure must be properly maintained during the term of the agreement with the Town and becomes the property of the Town upon completion of the term of the agreement.

Subcontractors

The selected respondent may propose to include subcontractors for portions of their proposed operations, but such subcontracts and agreements with subcontractors shall be subject to the approval of the Town.

Town Access

To ensure the Town's satisfaction with compliance of any license or concession agreement's conditions, the selected respondent will be required to provide authorized representatives from the Town with full and free access to the entire licensed or concessioned areas and all structures and infrastructure within.

Insurance

The selected respondent will be required to carry Commercial General Liability Insurance in the amount of \$10,000,000 per occurrence (\$25,000,000 for high risk activities) (an umbrella policy in combination with Commercial General Liability coverage shall be an acceptable method of obtaining this limit), and carriers must be licensed in New York and carry a Best's financial rating of A- or better. A waiver of subrogation in favor of the Town must be obtained, "Special Form" Property insurance endorsed to cover Flood and Earthquake, Boiler and Machinery (Boiler and Machinery may be provided under a separate policy), to cover full replacement cost of all properties required to be insured by the selected respondent, Automobile Insurance in the amount of \$1,000,000 combined single limit, and statutory limits of Worker's Compensation, Employer's Liability, and New York State Disability Insurance. All policies, other than Employer's Liability, Worker's Compensation and Disability Insurance, must be endorsed to name the Town of Yorktown as additional insured (parties on a primary and non-contributory basis). The Town shall be named as "Loss Payee" on the Special Form Property Policy including Boiler and Machinery. Respondents are on notice that the Town may revise these liability limits or coverages if, in the opinion of the Town of Yorktown, the proposed program warrants it.

Notifications of any potential loss that may be covered under any of the aforementioned policies must be made to the Town of Yorktown within 24 hours.

PROPOSAL REQUIREMENTS

Each proposal must contain the following elements:

A. Business Terms

Respondent must submit the following information. The data should cover start up, any construction, and operations throughout the length of the proposed agreement term.

- Proforma statements describing all aspects of the proposal, including, but not limited to:
 - 1) Statements of assumptions on which all calculations are based, including revenue as well as minimum returns sought;
 - 2) Construction budget delineating specific hard and soft costs if construction is part of the proposal;
 - 3) Sources and uses of funds, including details of equity and financing sources (temporary and permanent) and a break-out of all soft and hard costs. Please clearly indicate escalation rates, if applicable in your budget or any contingencies;
 - 4) Cash flow from operations, reserves, debt service payments and lease payments; and
 - 5) Letters of interest and/or intent from lenders, if applicable.

B. Project Description

Each respondent must provide a detailed description of the proposed use of the site, including all proposed improvements and alterations to the existing facilities (if applicable) and, its proposed operation and maintenance. The project description should include a detailed narrative describing all aspects of the project. The respondent's level of detail in the project description is critical for the Town to determine not only the seriousness of the respondent, but also whether the proposal is viable.

C. Respondent Description

Each respondent must demonstrate sufficient financial resources and professional experience necessary to carry out its proposal. Each proposal must also include a description of the business entity and the management team that will carry out the proposal, including:

- The intended form and structure of the business (e.g., any proposed partnership or joint venture and a diagram of the lessee structure (percentages) of ownership, investment, profit-sharing and draw-downs).
- Name, address, telephone number and qualifications of each member of the respondent's team, including all persons or entities that will manage, operate or oversee space in the licensed or concessioned area. Respondents must provide the corporate name and Federal EIN of the company that will actually license or concession under the proposal.
- Background information on all members of the respondent's team, including the relevant experience of all principal members thereof.

- Information on and references from any previous projects undertaken by the respondent's team involving similar type projects.
- Information required under the topic Financial Responsibility set forth above.

D. Site Plan

Each respondent should provide schematic drawings for any proposed changes to the Town's current site, as relevant to their proposal.

E. Construction Plan

Respondents that propose to do any construction must provide a preliminary construction schedule and staging area plan. Respondents must provide comments on estimated timelines for the improvements along with an explanation of the proposed construction schedule. Respondents are advised that a successful proposal will be subject to approval by the Town, and subject to all Local, State, and Federal laws, rules, regulations, including the State Environmental Quality Review Act and all required codes and permits. The construction plan should reflect an understanding of the timing considerations of those approvals.

F. Miscellaneous

Proposals must be submitted on the respondent's letterhead or standard proposal form and **MUST** be signed by an authorized representative of the respondent in order to be accepted. Telephone or facsimile proposals will not be accepted.

The proposal cover letter signed by a person authorized by the respondent to make a binding proposal must set forth that "this proposal constitutes a valid, binding and continuing offer at the prices set forth in the proposal for a period of ninety (90) days from the deadline for acceptance of proposals as set forth herein."

Proposals must be typed or printed in black ink. All corrections made by the respondent prior to the opening must be initialed and dated by the respondent. No changes will be allowed after proposals are opened.

Proposals delivered prior to the deadline shall be secured unopened so long as the package is properly marked as set forth above. Late proposals will not be accepted.

NO COMMUNICATIONS OF ANY KIND WILL BE BINDING AGAINST THE TOWN, EXCEPT FOR THE FORMAL WRITTEN RESPONSES TO ANY REQUEST FOR CLARIFICATION, WHICH WILL BE POSTED ON THE PARKS AND RECREATION PAGE OF THE TOWN'S WEBPAGE TO ALLOW ALL INTERESTED RESPONDENTS EQUAL ACCESS TO SUCH INFORMATION.

Respondents may be required to give an oral presentation to the Town to clarify or elaborate on the written proposal.

No proposal will be accepted from nor any agreement awarded to any respondent that is in arrears upon any debt or in default of any obligation owed to the Town. Additionally, no agreement will be awarded to any respondent that has failed to satisfactorily perform pursuant to any prior agreement with the Town.

SELECTION CRITERIA

The Town will use the following criteria, in no order of importance, as a guideline to review submissions and, if appropriate, select a proposal:

- Respondent's demonstrated experience to carry out the proposal.
- Respondent's financial strength.
- Potential financial benefit to Town of Yorktown based on a cost/benefit analysis of the proposal.
- The level of detail and credibility of the proposal.
- Respondent's clear understanding of all necessary approvals required to carry out the proposal.
- Respondent's creativity in maximizing Shallow Creek as a resource to the Public and Town residents, while reducing the financial impact of Shallow Creek to the Town and its residents.

ADDITIONAL CONSIDERATION

Dedicated Parkland

Shallow Creek is dedicated parkland pursuant to New York State Law. The Courts in New York have consistently held that dedicated parkland is impressed with a public trust. Generally, once a park is created, it can only be used for park purposes, and additionally it cannot be alienated without the approval of the New York State Legislature. The Town of Yorktown does not intend to seek such State approval, and therefore any potential use will be limited to a use consistent with park purposes.

LEGAL APPROVALS

Any transaction resulting from this RFP is subject to all necessary legal approvals. Depending on the structure of the agreement proposed, such approvals may include the Yorktown Town Board and the Yorktown Parks and Recreation Commission.

SUBJECT TO APPLICABLE LAWS

All proposals must comply with all applicable laws, rules, regulations, ordinances and codes. The proposal must also contemplate operation in accordance with those local laws governing use of Town lands.

SUBMISSIONS

Seven (7) hard copies of the proposal and one (1) copy in Adobe PDF format on disc, identified by "Shallow Creek RFP" on the envelope must be submitted to and received by the Town by the deadline set forth in the schedule at the beginning of this RFP. All copies of the proposal should be clearly organized with a Table of Contents included near the beginning of the proposal. Such proposals must be delivered to the following address:

Jennifer A. Fava
Superintendent of Parks and Recreation
Town of Yorktown Parks and Recreation Department
176 Granite Springs Road
Yorktown Heights, NY 10598

LEGAL UNDERSTANDINGS

Please take notice, by submission of a proposal in response to this RFP, proposing entity agrees to and understands:

- That any proposal, attachments, additional information, etc. submitted pursuant to this RFP constitute merely a suggestion to negotiate with the Town and is not a bid under Section 103 of the New York State General Municipal Law;

- Submission of a proposal, attachments, and additional information shall not entitle the proposing entity to enter into a service agreement with the Town for the required services;

- By submitting a proposal, the proposing entity agrees and understands that the Town is not obligated to respond to the proposal, nor is it legally bound in any manner whatsoever by submission of same;

- That any and all counter-proposals, negotiations or any communications received by a proposing entity, its officers, employees or agents from the Town, its elected officials, officers, employees or agents, shall not be binding against the Town, its elected officials, officers, employees or agents unless and until a formal written agreement for the services sought by this RFP is duly executed by both parties and approved by the Yorktown Town Board.

In addition to the foregoing, by submitting a proposal, the proposing entity also understands and agrees that the Town reserves the right, and may at its sole discretion exercise the following rights and options with respect to this RFP, except to the extent

restricted by applicable law, including, but not limited to, the Town of Yorktown Procurement Policy, as amended:

- To reject proposals that do not conform in all material respects to the RFP or meet the minimum evaluation criteria;
- To reject all proposals;
- To issue additional solicitations for proposals and/or amendments to this RFP;
- To waive any irregularities in proposals received after notification to all respondents;
- To negotiate for amendments or other modifications to proposals;
- To conduct investigations with respect to the qualifications of each respondent;
- To exercise its discretion and apply its judgment with respect to any aspect of this RFP, the evaluation of proposals, and the negotiations and award of any contract;
- To enter into an agreement for only portions (or not to enter into an agreement for any) of the services contemplated by the proposals with one or more of the respondents;
- To select the proposal that best satisfies the interests of the Town and not necessarily on the basis of price or any other single factor in the evaluation criteria;
- While this is an RFP and not a bid, the Town reserves the right to apply the case law under General Municipal Law § 103 regarding bidder responsibility in determining whether a respondent is a responsible vendor for the purpose of this RFP process;
- The Town assumes no responsibility or liability of any kind for costs or expenses incurred in the preparation or submission of any proposal, which shall be at the sole cost and expense of the respondent; and
- The Town is not responsible for any internal or external delivery delays which may cause any proposal to arrive beyond the stated deadline. To be considered, proposals MUST arrive at the place specified herein and be time stamped prior to the deadline.

CONTRACT

After selection of the successful respondent, and following contract negotiations, a formal written contract will be prepared by the Town and will not be binding until all necessary legal approvals have been obtained and the contract has been signed by both parties and approved by the Yorktown Town Board.

NON-COLLUSION

The respondent, by signing the proposal, does hereby warrant and represent that any ensuing agreement has not been solicited, secured or prepared directly or indirectly, in a manner contrary to the laws of the State of New York, the County of Westchester, and the Town of Yorktown that said laws have not been violated and shall not be violated as they relate to the procurement or the performance of the agreement by any conduct, including the paying or the giving of any fee, commission, compensation, gift, gratuity or consideration of any kind, directly or indirectly, to any Town employee, officer or official.

CONFLICT OF INTEREST

The award of a contract is subject to provisions of all Federal, State, County and Local laws. All respondents must disclose with their proposals the name of any officer, director or agent who is also an employee of the Town. Further, all respondents must disclose the name of any Town officer, employee, or elected official who owns, directly or indirectly, an interest of ten percent or more in the respondent or any of its subsidiaries or affiliates.

PROPOSALS SUBJECT TO FREEDOM OF INFORMATION LAW

The New York State Freedom of Information Law as set forth in Public Officers Law, Article 6, Sections 84-90, mandates public access to government records. However, proposals submitted in response to this RFP may contain technical, financial background or other data, public disclosure of which could cause substantial injury to the respondent's competitive position or constitute a trade secret. Respondents who have a good faith belief that information submitted in their proposals is protected from disclosure under the New York Freedom of Information Law shall:

a) insert the following notice in the front of its proposal:

"NOTICE

The data on page ___ of this proposal identified by an asterisk (*) contains technical or financial information constituting trade secrets or information the disclosure of which would result in substantial injury to the respondent's competitive position.

The respondent requests that such information be used only for the evaluation of the proposal, but understands that any disclosure will be limited to the extent that the Town considers proper under the law. If the Town enters into an agreement with this respondent, the Town shall have the right to use or disclose such information as provided in the agreement, unless otherwise obligated by law."

and

b) clearly identify the pages of the proposals containing such information by typing in bold face on the top of each page "*** THE RESPONDENT BELIEVES THAT THIS INFORMATION IS PROTECTED FROM DISCLOSURE UNDER THE STATE FREEDOM OF INFORMATION LAW.**"

The Town assumes no liability for disclosure of information so identified, provided that the Town has made a good faith legal determination that the information is not protected from disclosure under applicable law or where disclosure is required to comply with an order or judgment of a court of competent jurisdiction. The contents of the proposal which is accepted by the Town, except portions "Protected from Disclosure," may become part of any agreement resulting from this RFP.

RESPONDENT CERTIFICATION

The undersigned agrees and understands that this proposal and all attachments, additional information, etc. submitted herewith constitute merely an offer to negotiate with the Town of Yorktown and is NOT A BID. Submission of this proposal, attachments, and additional information shall not obligate or entitle the proposing entity to enter into a service agreement with the Town of Yorktown for the required services. The undersigned agrees and understands that the Town of Yorktown is not obligated to respond to this proposal nor is it legally bound in any manner whatsoever by the submission of same. Further, the undersigned agrees and understands that any and all proposals and negotiations shall not be binding or valid against the Town of Yorktown, its directors, officers, employees or agents unless an agreement is signed by a duly authorized officer of the Town of Yorktown and approved by the Yorktown Town Board and any other necessary legal approvals such as those described in this RFP.

It is understood and agreed that the Town of Yorktown reserves the right to reject consideration of any and all proposals including, but not limited to, proposals which are conditional or incomplete. It is further understood and agreed that the Town of Yorktown reserves all rights specified in the RFP

It is represented and warranted by those submitting this proposal that except as disclosed in the proposal, no officer or employee of the Town of Yorktown is directly or indirectly a party to or in any other manner interested in this proposal or any subsequent service agreement that may be entered into.

Respondent Name

By:

Name and Title

Sworn to before me this

____ day of _____, 2011.

Notary Public

Appendix A

Aerial Overview



Shadow Creek Par 3 Golf Course

New York State 2009 Ortho Photo
Town of Yorktown Planning Department
1974 Old Country Road, Yorktown Heights, NY 10598
Phone: (914) 852-6565; Email: Planning@townofyorktown.org
Website: www.townofyorktown.org/planning

Non-Collusive Bidding Certification

Made pursuant to Section 103-d of the
General Municipal Law of the State of New York

By submission of this bid, each bidder and each person signing on behalf of Bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief:

1. The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other bidder or to any competitor, and
3. No attempt has been made or will be made the Bidder to induce any other person, partnership or corporation to submit or not to submit to bid for the purpose of restricting competition.

A bid shall not be considered for award nor shall any award be made where (1) (2) and (3) above, have not been complied with; provided, however, that if in any case Bidder cannot make the foregoing certification, Bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefore. Where (1) (2) and (3) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the political subdivision, public department, agency or official thereof to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

Dated: _____ Bidder: _____
(Legal name of person, firm or corporation)

By: _____
(Signature)

(Title)

State of New York)
Count of _____)ss.:

On the _____ day of _____ in the year 20____, before me, the undersigned, personally appeared, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(Notary Public)