

REQUEST FOR PROPOSALS

Food and Beverage Concession Licensee – Spruce Grove
Park Ball Field

RFP #2023-5311-F&B Concession

Resort Municipality of Whistler
whistler.ca



Request for Proposals

Food and Beverage Concession Licensee – Spruce Grove Park Ball Field

Resort Municipality of Whistler (RMOW)

Summary of Key Information

Request Number	#2023-5311-F&B Concession
Issued:	October 13, 2023
Closing Time and Date:	14:00:00 hours; November 1, 2023
Closing Location:	Submissions via email to parks@whistler.ca RMOW Municipal Hall 4325 Blackcomb Way Whistler BC V8E 0X5
Contact Person:	Lucy Pocock, Resort Operations, lpocock@whistler.ca ; cc parks@whistler.ca

Proposals will be opened in private shortly after closing.

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1. The Municipality hereby grants a non-exclusive license (the “**License**”) to the Licensee to use those portions of the Parks shown outlined in black on Schedule B hereto (the “**License Areas**”), in common with the Municipality and members of the public and other persons invited or permitted by the Municipality, for the purpose of operating a food and beverage concession on the terms and conditions contained herein and attached as Schedules.....23

2. The term of this Agreement shall be for a three (3) year period (the “**Term**”) commencing on the 15th day of May, 2023 and ending on the 15th day of October 2025, subject to earlier termination or renewal in accordance with this Agreement.24

3. If the Licensee is in compliance and has been in compliance with this Agreement, the Licensee may, no sooner than six (6) months prior to the expiry of the Term (or any renewal of it) give notice to the Municipality that it wishes to be provided with the terms on which the Municipality would renew this Agreement for a further two (2) year term. The Municipality may provide those terms to the Licensee within one (1) month of receiving notice. If the Licensee agrees with the final renewal terms provided by the Municipality, the Licensee must give notice to the Municipality no later than one (1) month before the expiry of the Term (or any renewal of it) and this Agreement is then renewed for two (2) years on those terms.24

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1.0 OVERVIEW OF THIS REQUEST

1.1 Purpose of This Request

The Resort Municipality of Whistler (RMOW) is inviting qualified Proponents to submit Proposals to operate a food and beverage concession or food truck or trailer operation at Spruce Grove ball field that will enhance the resort experience and contribute to Whistler’s reputation as a world-class destination resort.

1.2 Background

Spruce Grove Park is located at 7328 Kirkpatrick Way, Whistler, BC. The Park has a concession building, ball fields, and a connection to the Valley Trail. Spruce Grove concession has proven to be a successful food and beverage concession location, supporting the local Slo-Pitch ball league, ball tournaments, and community, and it is expected that in partnership with the RMOW a successful operation will continue to flourish at this location.

1.3 Scope

The RMOW is requesting proposals to provide a food and beverage concession operation or food truck or trailer operation at Spruce Grove Park for summer for a one-season contract period and the option for a renewal of two further terms. The concession would operate during Whistler Slo-Pitch operations, at least.

See Appendix B for detailed scope/specifications.

2.0 DEFINITIONS

Throughout this Request for Proposals, the following definitions apply:

“Addenda”: means all additional information regarding this RFP including amendments to the RFP;

“Closing Location”: includes the location or email address for submissions indicated in the Key Information Summary;

“Closing Time”: means the closing time and date for this RFP as set out Key Information Summary of this RFP;

“Contract”: means the written agreement resulting from the RFP executed by the RMOW and the successful Proponent;

“Contractor” or “Consultant”: means the successful Proponent to the RFP who enters into a Contract with the RMOW;

“Department”: means the Department of the RMOW issuing this RFP;

“Must”, or “mandatory” means a requirement that must be met in order for a proposal to receive consideration;

“Preferred Respondent”: means the respondent deemed by the RMOW to have the highest ranked assessment of its response according to the process set out herein;

“Proponent”: means a person or entity (excluding its parent, subsidiaries or other affiliates) with the legal capacity to contract, that submits a proposal in response to the RFP;

“Proposal”: means a written response to the RFP that is submitted by a Proponent;

“Request for Proposals” or “RFP”: means the solicitation described in this document, including any attached or referenced appendices, schedules or exhibits and as may be modified in writing from time to time by the RMOW by Addenda;

“Response”: means the submission of an offer, bid, tender or proposal according to this request;

“Responder” or “Respondent”: The company, individual or entity responding to this request;

“RMOW”: means the Resort Municipality of Whistler and includes the Department issuing this request;

“RMOW Contact”: means the individual named as the contact person for the RMOW in the RFP;

“RMOW Electronic Mail System”: means the electronic mail system of the Resort Municipality of Whistler;

“Should”, “Could”, “May” or “Desirable”: means a requirement having a significant degree of importance to the objectives of this Request;

“Supplier” or “Contractor”: the person or company selected to provide products and/or services under the terms of this contract. This extends to and includes any sub-contractors to the supplier;

“W.C.B.”: Workers Compensation Board of British Columbia, doing business as WorkSafe BC.

3.0 GENERAL TERMS AND CONDITIONS

Submitting a proposal indicates acceptance of all the terms and conditions set out in the RFP, including those that follow and that are included in all appendices and any Addenda.

1. Proposal Submission

Proposals must be submitted via email to the RMOW at:

Email: parks@whistler.ca

The proposal should be submitted on or before: Wednesday, November 1, 2023 at 2:00 p.m.

Total electronic individual file size shall be less than 9MB.

A completed and signed Appendix A should be included with the response; and

The response must be in the English Language.

2. Proposal Validity

Proposals will be open for acceptance for at least 60 days after the Closing Time.

3. Firm Pricing

Prices will be firm for the entire Contract period unless the RFP specifically states otherwise.

4. Completeness of Proposal

By submitting a proposal the Proponent warrants that, if the RFP is to design, create or provide a system or manage a program, all components required to run the system or manage the program have been identified in the proposal or will be provided by the Contractor at no additional charge.

5. Changes to Proposals

By submitting a clear and detailed written notice, the Proponent may amend or withdraw its proposal before the Closing Time. Unless the RFP otherwise provides, Proponents should use a consistent submission method for submitting proposals and any amendments or withdrawals. Upon Closing Time, all proposals become irrevocable. The Proponent cannot change any part of its proposal after the Closing Time unless requested by the RMOW for purposes of clarification.

6. Conflict of Interest/No Lobbying

A Proponent may be disqualified if the Proponent's current or past corporate or other interests, or those of a proposed subcontractor, may, in the RMOW's opinion, give rise to an actual or potential conflict of interest in connection with the services described in the RFP. This includes, but is not limited to, involvement by a Proponent in the preparation of the RFP or a relationship with any employee, contractor or representative of the RMOW involved in preparation of the RFP, participating on the evaluation committee or in the administration of the Contract. If a Proponent is in doubt as to whether there might be a conflict of interest, the Proponent should consult with the RMOW Contact prior to submitting a proposal. By submitting a proposal, the Proponent represents that it is not aware of any circumstances that would give rise to a conflict of interest that is actual or potential, in respect of the RFP.

A Proponent must not attempt to influence the outcome of the RFP process by engaging in lobbying activities. Any attempt by the Proponent to communicate for this purpose directly or indirectly with any employee, contractor or representative of the RMOW, including members of the evaluation committee and any elected officials of the RMOW, or with the media, may result in disqualification of the Proponent.

7. Subcontractors

Unless the RFP states otherwise, the RMOW will accept proposals where more than one organization or individual is proposed to deliver the services described in the RFP, so long as the proposal identifies the lead entity that will be the Proponent and that will have sole responsibility to deliver the services under the Contract. The RMOW will enter into a Contract with the Proponent only. The evaluation of the Proponent will include evaluation of the resources and experience of proposed sub-contractors, if applicable.

All subcontractors, including affiliates of the Proponent, should be clearly identified in the proposal.

A Proponent may not subcontract to a firm or individual whose current or past corporate or other interests, may, in the RMOW's opinion, give rise to an actual or potential conflict of interest in connection with the services described in the RFP. This includes, but is not limited to, involvement by the firm or individual in the preparation of the RFP or a relationship with any employee, contractor or representative of the RMOW involved in preparation of the RFP, participating on the evaluation committee or in the administration of the Contract. If a Proponent is in doubt as to whether a proposed subcontractor might be in a conflict of interest, the Proponent should consult with the RMOW Contact prior to submitting a proposal. By submitting a proposal, the Proponent represents that it is not aware of any circumstances that would give rise to a conflict of interest that is actual or potential, in respect of the RFP.

Where applicable, the names of approved subcontractors listed in the proposal will be included in the Contract. No additional subcontractors will be added nor other changes made to this list in the Contract without the written consent of the RMOW.

8. Proponents' Expenses

Proponents are solely responsible for their own expenses in participating in the RFP process, including costs in preparing a proposal and for subsequent finalizations with the RMOW, if any. The RMOW will not be liable to any Proponent for any claims, whether for costs, expenses, damages or losses incurred by the Proponent in preparing its proposal, loss of anticipated profit in connection with any final Contract, or any other matter whatsoever.

9. Limitation of Damages

By submitting a proposal, the Proponent agrees that it will not claim damages, for whatever reason, relating to the Contract or in respect of the competitive process, in excess of an amount equivalent to the reasonable costs incurred by the Proponent in preparing its proposal and the Proponent, by submitting a proposal, waives any claim for loss of profits if no Contract is made with the Proponent.

10. Liability for Errors

While the RMOW has used considerable efforts to ensure information in the RFP is accurate, the information contained in the RFP is supplied solely as a guideline for Proponents. The information is not guaranteed or warranted to be accurate by the RMOW, nor is it necessarily comprehensive or exhaustive. Nothing in the RFP is intended to relieve Proponents from forming their own opinions and conclusions with respect to the matters addressed in the RFP.

11. No Commitment to Award

The RFP should not be construed as an agreement to purchase goods or services. The lowest priced or any proposal will not necessarily be accepted. The RFP does not commit the RMOW in any way to award a Contract.

12. No Implied Approvals

Neither acceptance of a proposal nor execution of a Contract will constitute approval of any activity or development contemplated in any proposal that requires any approval, permit or license pursuant to any federal, provincial, regional district or municipal statute, regulation or by-law.

13. Legal Entities

The RMOW reserves the right in its sole discretion to:

- disqualify a proposal if the RMOW is not satisfied that the Proponent is clearly identified;
- prior to entering into a Contract with a Proponent, request that the Proponent provide confirmation of the Proponent's legal status (or in the case of a sole proprietorship, the Proponent's legal name and identification) and certification in a form satisfactory to the RMOW that the Proponent has the power and capacity to enter into the Contract;
- not to enter into a Contract with a Proponent if the Proponent cannot satisfy the RMOW that it is the same legal entity that submitted the Proponent's proposal; and
- require security screenings for a Proponent who is a natural person, subcontractors and key personnel before entering into a Contract and decline to enter into a Contract with a Proponent or to approve a subcontractor or key personnel that fail to pass the security screenings to the RMOW's satisfaction.

14. Reservation of Rights

In addition to any other reservation of rights set out in the RFP, the RMOW reserves the right, in its sole discretion:

- to modify the terms of the RFP at any time prior to the Closing Time, including the right to cancel the RFP at any time prior to entering into a Contract with a Proponent;
- in accordance with the terms of the RFP, to accept the proposal or proposals that it deems most advantageous to itself;
- to waive any non-material irregularity, defect or deficiency in a proposal;
- to request clarifications from a Proponent with respect to its proposal, including clarifications as to provisions in its proposal that are conditional or that may be inconsistent with the terms and conditions of the RFP, without any obligation to make such a request to all Proponents, and consider such clarifications in evaluating the proposal;
- to reject any proposal due to unsatisfactory references or unsatisfactory past performance under contracts with the RMOW, or any material error, omission or misrepresentation in the proposal;
- at any time, to reject any or all proposals; and
- At any time, to terminate the competition without award and obtain the goods and services described in the RFP by other means or do nothing.

15. Ownership of Proposals

All proposals and other records submitted to the RMOW in relation to the RFP become the property of the RMOW and, subject to the provisions of the Freedom of Information and Protection of Privacy Act and the

RFP, will be held in confidence. For more information on the application of the Act, go to http://www.cio.gov.bc.ca/cio/priv_leg/index.page.

16. Copyright

This document is subject to copyright and may be used, reproduced, modified and distributed to the extent necessary for the Proponent to prepare and submit a proposal.

17. Confidentiality Agreement

The Proponent acknowledges that prior to the Closing Time it may be required to enter into a confidentiality agreement with the RMOW in order to obtain access to confidential materials relevant to preparing a proposal.

18. Contract

By submitting a proposal, the Proponent agrees that should its proposal be successful the Proponent will enter into a Contract with the RMOW on substantially the same terms and conditions set out in Appendix D and such other terms and conditions to be finalized to the satisfaction of the RMOW, if applicable.

Written notice to a Proponent that it has been identified as the successful Proponent and the subsequent full execution of a written Contract will constitute a Contract for the goods or services, and no Proponent will acquire any legal or equitable rights or privileges relative to the goods or services until the occurrence of both such events.

19. Contract Finalization Delay

If a written Contract cannot be finalized with provisions satisfactory to the RMOW within thirty days of notification of the successful Proponent, the RMOW may, at its sole discretion at any time thereafter, terminate discussions with that Proponent and either commence finalization of a Contract with the next qualified Proponent or choose to terminate the RFP process and not enter into a Contract with any of the Proponents.

20. Trade Agreements

This RFP is covered by trade agreements applicable to RMOW and other jurisdictions, including the following:

- Canadian Free Trade Agreement;
- New West Partnership Trade Agreement;

For more information, Proponents may contact the RMOW Contact.

4.0 INSTRUCTIONS TO PROPONENTS

4.1 Submission of Proposals

Proposals should be submitted before Closing Time to the Closing Location stated in the summary of key information using one of the submission methods set out in this section of this RFP. The Proponent is solely responsible for ensuring that, regardless of submission method selected, the RMOW receives a complete Proposal, including all attachments or enclosures, before the Closing Time.

A proposal should be signed by a person authorized to sign on behalf of the Proponent with the intent to bind the Proponent to the RFP and to the statements and representations in the Proponent's proposal. A scanned copy of the signed response form of this RFP is acceptable as is a cover letter identifying the Proponent, identifying the RFP and including a signature of an authorized representative of the Proponent that confirms the Proponent's intent to be bound.

For electronic submissions (email), the following applies:

- The maximum size of each attachment must be 9 MB or less (Proponents are solely responsible for ensuring that email proposal submissions comply with any size restrictions imposed by the Proponent's internet service provider);
- Proponents should submit email proposal submissions in a single email and avoid sending multiple email submissions for the same opportunity. If the file size of an electronic submission exceeds the applicable maximum size, the Proponent may make multiple submissions (or multiple emails for the same opportunity) to reduce attachment file size to be within the maximum applicable size; Proponents should identify the order and number of emails making up the email proposal submission (e.g. "email 1 of 3, email 2 of 3...");
- For email proposal submissions sent through multiple emails the RMOW reserves the right to seek clarification or reject the proposal if the RMOW is unable to determine what documents constitute the complete proposal;
- Attachments must not be compressed, must not contain a virus or malware, must not be corrupted and must be able to be opened. Proponents submitting by electronic submission are solely responsible for ensuring that any emails or attachments are not corrupted. The RMOW may reject proposals that are compressed, cannot be opened or that contain viruses or malware or corrupted attachments.

For email proposal submissions, including any notices of amendment or withdrawal, the subject line of the email and any attachment should be clearly marked with the name of the Proponent, the RFP number and the project or program title.

The RMOW strongly encourages Proponents to submit proposals via email to parks@whistler.ca with sufficient time to complete the upload and transmission of the complete proposal and any attachments before the Closing Time.

The Proponent bears all risk associated with delivering its Proposal by electronic submission, including but not limited to delays in transmission between the Proponent's computer and the RMOW Electronic Mail System.

1. Alternative Solutions

If more than one approach to deliver the goods or services described in the RFP is offered, Proponents should submit the alternative approach in a separate proposal.

2. Collection and Use of Personal Information

Proponents are solely responsible for familiarizing themselves, and ensuring that they comply, with the laws applicable to the collection and dissemination of information, including resumes and other personal information concerning employees and employees of any subcontractors. If the RFP requires Proponents to provide the RMOW with personal information of employees who have been included as resources in response to the RFP, Proponents will ensure that they have obtained written consent from each of those employees before forwarding such personal information to the RMOW. Such written consents should specify that the personal information may be forwarded to the RMOW for the purposes of responding to the RFP and

used by the RMOW for the purposes set out in the RFP. The RMOW may, at any time, request the original consents or copies of the original consents from Proponents, and upon such request being made; Proponents will immediately supply such originals or copies to the RMOW.

3. Signatures

If an individual is making the response, they shall print or type their name and address on the response form and sign the same in the spaces provided. Their signature shall be witnessed and the witness shall give their address.

If a partnership is making the response, the name and address of the partnership shall be printed or typed on the response form and the names of all members of the partnership shall be printed or typed in the spaces provided. The response shall be signed by one or more of the partners in the following manner: for example, "Smith and Jones by John Jones a partner". The signature or signatures shall be witnessed and the witness or witnesses shall give their address or addresses.

If a company is making the response, the name of the company and its place of business shall be printed or typed on the response form and the form shall be signed by the person or persons authorized to sign the response on behalf of the company, indicating the capacity in which they sign: for example, "John Doe Company Ltd. by John Smith, Secretary" or as the case may be.

Responses signed by an agent must be accompanied by evidence of their authority.

4.2 Addenda

The final day for questions is 5 business days before the closing date. If the RMOW determines that an amendment is required to this RFP, the RMOW will post the amendment on the RMOW website no less than 3 calendar days prior to closing. It is the sole responsibility of the Proponent to check for Addenda on the RMOW website.

5.0 EVALUATION

This section outlines the process and criteria for evaluation of responses to this request to select a preferred respondent or respondents if this request allows for the possibility of contracting with multiple suppliers.

1. Evaluation

Proposals will be assessed in accordance with the evaluation criteria. The RMOW will be under no obligation to receive further information, whether written or oral, from any Proponent. The RMOW is under no obligation to perform any investigations or to otherwise verify any statements or representations made in a proposal.

Proposals from not-for-profit agencies will be evaluated against the same criteria as those received from any other Proponents.

The RMOW may consider and evaluate any proposals from other jurisdictions on the same basis that the RMOW purchasing authorities in those jurisdictions would treat a similar proposal from a British Columbia supplier.

2. Evaluation Team

The evaluation team may consist of RMOW employees, contractors to the RMOW and others as may be appointed to the evaluation team by the RMOW. All persons on the evaluation committee shall be bound by the same standard of confidentiality.

3. Evaluation Process

Evaluation of responses will be made in the same and subsequent order as stated in the subsections to this section.

1. Mandatory Criteria

Any Proposal that does not satisfy all mandatory criteria will be rejected.

Required (Mandatory) Criteria	Check ✓
1. The Form of Proposal must be completed and signed by an authorized representative of the Proponent. The Form of Proposal must be filled out according to the instructions outlined in the Section 4.1 and submitted with the Proponents Proposal.	
2. Proposals must be in English.	

2. Weighted Criteria Benchmarks

Secondly, using the following weighted criteria benchmarks, the evaluation team will assess each Respondent's ability to fulfil the scope of work and responsibilities identified in Appendix B. The response form includes the desirable criteria against which Responses will be evaluated. Respondents should ensure that they fully respond to all criteria in order to receive full consideration during evaluation. Proposals not meeting the minimum upset fee will not be considered.

Item	Desirable Criteria	Maximum Points	Minimum Required
1	Scope Understanding – understanding of service requirements; solution adapted to goals, needs and objectives; and clarity of proposal (concise, consistent, comprehensible format).	20	10
2	Proponent Experience – reputation, proven performance and relevant experience operating in a similar business environment; proven ability to collaborate and integrate with resort stakeholders and government organizations; technical and management capability, financial commitment and stability, capacity, skills and qualifications of the Proponent; minimum of three references based on past performance for similar project.	30	15
3	Proposed Business and Operations Plan – strength of business plan, including menu, resource allocation, monitoring, reporting capabilities, facility maintenance, emergency plan, marketing strategy;	30	15

	ability to work within defined parameters such as specific target markets and season-location opportunities and constraints; provides time and structure for stakeholder input.		
4	Environment and Sustainability –proposes innovative solutions to sustainability-oriented challenges; clearly moves our community towards its Climate Action Big Moves Strategy and Implementation Plan, both found at https://www.whistler.ca/climate-action/big-moves/strategy-development .	20	10
	Total Possible	100	50

Scoring Table

The Evaluation Team intends to use the scoring table below as a guideline for determining criterion score. Prompts are provided to give the Proponents an idea as to how each criterion will be examined and scored. The weighting of the prompts in determining the criterion score is up to the discretion of the Evaluation Team unless otherwise stated.

Scoring Table		
Points Awarded (% of available)	Quality	Criteria
100%	Exceptional	Exceptional; far exceeds requirements with no added risk.
80%	Very Good	Exceeds expectations; risk deemed acceptable or no added risk.
60%	Acceptable	Meets expectations and all minimum requirements.
40%	Below	Does not meet expectations or minimum requirements.
20%	Well Below Requirements	Fails to meet minimum requirements; proposes a solution or provides explanations that is not acceptable or relevant.
0%	Unacceptable	Proposed solution deemed unacceptable in every aspect.

3. Interview and/or Presentation

Selected respondents may be requested to attend an interview with the RMOW's evaluation committee and/or make a presentation to the committee. This stage of the selection process may or may not be applicable as stated immediately below.

Respondents may be asked to clarify or verify any part of their written response and/or presentation.

The RMOW, at its sole discretion, may adjust their scores for the desirable criteria after clarification and/or verification of the written proposals. The highest scoring Respondent (“Preferred Respondent”) will be selected by adding the scores from the desirable criteria evaluation and from the presentation. The Preferred Respondent will then proceed to the next stage of the evaluation.

4. Reference Checks

The references of the Preferred Respondent may be contacted to validate any part of a Response. The RMOW reserves the right to conduct such independent reference checks or verifications as are deemed necessary by it to clarify, test, or verify the information contained in the Response and confirm suitability of the Respondent.

The RMOW will not enter into a Contract with any Respondent whose references, in the RMOW’s sole and reasonable opinion, are found to be unsatisfactory.

5. Prices Evaluation

Prices, if applicable, will be evaluated according to the formula:

$$\text{Maximum Points Available for price} \quad \times \quad \frac{\text{Lowest Price Offered}}{\text{Price being Evaluated}}$$

6. Litigation

In addition to any other provision of this RFP, the Municipality may, in its absolute discretion, reject a Proposal if the Proponent, or any officer or director of the Proponent submitting the Proposal, is or has been engaged directly or indirectly in a legal action against the Municipality, its elected or appointed officers, representatives or employees in relation to any matter, or if the Municipality has initiated legal action against any officers or directors of the Proponent.

In determining whether or not to reject a Proposal under this section, the Municipality will consider whether the litigation is likely to affect the Proponent’s ability to work with the Municipality, its consultants and representatives and whether the Municipality’s experience with the Proponent indicates that there is a risk the Municipality will incur increased staff and legal costs in the administration of the Contract if it is awarded to the Proponent.

7. Negotiations

The RMOW reserves the right, at its sole discretion, to negotiate with the Preferred Respondent. In no event will the RMOW be required to offer any modified terms to any other Respondent prior to entering into an agreement with the Preferred Respondent and the RMOW shall not incur any liability to any Respondent as a result of such negotiation or modifications.

It is the intent of the RMOW to ensure it has the flexibility it needs to arrive at a mutually acceptable Contract. It is not the intent of the RMOW to allow for new or significantly altered Responses in any negotiations with the Preferred Respondent.

Negotiations may include:

- Price adjustments, if applicable;
- Minor changes to the requirements and responsibilities;
- Contract payment details;
- Selected contract terms contained in the pro-forma contract as identified by the proponent for negotiation.

If a Contract cannot be negotiated with the Preferred Respondent, the RMOW will follow the process outlined in Part 8 immediately below.

8. Negotiation Delay

If a written Contract cannot be negotiated within thirty (30) days of notification of the Preferred Respondent, the RMOW may, at its sole discretion at any time thereafter, terminate negotiations with that Respondent and either negotiate a Contract with the next best qualified Respondent and so on or choose to terminate the Request for Proposal process and not enter into a Contract with any of the Respondents. Such cancellation does not preclude the RMOW from entering into a contract with a Respondent in respect of any aspect of the work contemplated by this Request.

9. Notification

All respondents will be notified of the outcome of the appraisal and award process. Unsuccessful respondents may request a debriefing interview with the RMOW.

6.0 APPENDIX A: SIGNATURE AND RESPONSE FORM

Complete this section and enclose it with your response.

RFP Project Title: **Food and Beverage Concession Licensee – Spruce Grove**

RFP Reference No: **#2023-5311-F&B Concession**

Legal Name of Proponent: _____

Contact Person and Title: _____

Business Address: _____

Telephone: _____

E-Mail Address: _____

I/We, the undersigned duly authorized representative of the Proponent, having received and carefully reviewed all of the Proposal documents, including the RFP and any issued addendums, and having full knowledge of the Site(s), and having fully informed ourselves as to the intent, difficulties, facilities and local conditions attendant to performing the Services, we have allowed for these conditions and submit this Proposal in response to the RFP.

The undersigned further agrees, on behalf of the company named below, to supply the goods and services listed at the prices quoted and within the terms and conditions as identified in Request for Proposal **#2023-5311-F&B Concession**. This Offer is valid and enforceable for at least Sixty (60) days following the closing date.

This proponent further warrants that this proposal is made without collusion with any other party except those expressly disclosed in this proposal and that the Proponent has no conflict of interest.

The undersigned warrants that they have the authority to bind the company to this contract.

I/We confirm that this proposal is accurate and true to best of my/our knowledge.

I/We confirm that, if I/we am/are awarded the Agreement, I/we will at all times be the “prime consultant/contractor” as provided by the Worker’s Compensation Act (British Columbia) with respect to the Services. I/we further confirm that if I/we become aware that another consultant/contractor at the place(s) of the Services has been designated as the “prime consultant/contractor”, I/we will notify the RMOW immediately, and I/we will indemnify and hold the RMOW harmless against any claims, demands, losses, damages, costs, liabilities or expenses suffered by the RMOW in connection with any failure to so notify the RMOW.

This Proposal is submitted this _____ day of _____, 2023

I/We have the authority to bind the Proponent.

(Name of Proponent)

(Name of Proponent)

(Signature of Authorized Signatory)

(Signature of Authorized Signatory)

(Print Name and Position of Authorized Signatory)

(Print Name and Position of Authorized Signatory)

6.1 Addenda Acknowledgment

Addenda No.	Date Issued

6.2 Response Form

a) Recent Previous Contracts

Complete the following table and enclose with your response. References for work similar to that specified herein are preferred. The respondent authorizes the RMOW to make such enquiries of references that it deems appropriate.

Client/Owner	Contact Name and Contact Information	Description of the Work	Approx. Value	Completion Date

7.0 APPENDIX B: SCOPE OF WORK, DETAILS OF THE SUPPLY

The RMOW is requesting proposals to provide a food and beverage concession operation or food truck or trailer operation at Spruce Grove Park for summer for a one-season contract period and the option for a renewal of two further terms. The concession would operate from mid-May to mid-October, running with the Whistler Slo-Pitch league operations, for summer from May 2024 to October 2024, subject to earlier termination, or renewal, in accordance with this Agreement.

The concession would operate during Whistler Slo-Pitch operations, at least. Whistler Slo-Pitch league typically play most days of the week, using a set schedule, and may include weekends and statutory holidays. The concession shall have minimum hours as follows:

- during regular league – 5:30pm to 10:00pm;
- during tournaments – 8:30am to 5:30pm as required.

7.1 Location Information

The location of the Concession license area and concession building for the term is specified in the attached sketch as Schedule A, at Spruce Grove Park, 7328 Kirkpatrick Way, Whistler, BC.

7.2 Parking and Access to the Park

The successful Proponent will be allocated one parking stall at the park for daytime parking. All access gates and posts will be locked immediately after passing through the gate/post each time.

7.3 Management and Operational Requirements

The successful Proponent will be required to manage and operate a professional customer service focused business both in the management of day-to day operations and long-term business planning requirements. The successful Proponent shall have in place a valid RMOW business license, and obtain a health permit and meet fire regulations for this location. If applicable, the success Proponent will provide plans as to how COVID-19 safety protocols and public health orders will be addressed. The successful Proponent shall, during the hours of operation of the Concession, have in place an emergence response plan.

Detailed requirements for the management and operation of the Concession can be found in the example contract, Appendix D. The final agreement may differ from the example contract.

7.4 Staffing

The successful Proponent will be responsible for the hiring, managing and training of qualified staff, including staff understanding the Park Use Bylaw 1526 (found online at <https://www.whistler.ca/municipal-gov/bylaws-and-regulations/bylaw>). Compensation will be in accordance with all provincial and federal statutory requirements including income, tax, pension, insurance, and Workers Compensation Board requirements. The successful Contractor will carry Workers Compensation Board coverage for itself and all its workers, employees servants and anyone else engaged in work or service as it pertains to this Agreement. The

Contractor will provide evidence of such coverage prior to the commencement of work in the form of a clearance letter.

7.5 Monitoring and Reporting

The successful Proponent will be responsible for ongoing monitoring and control systems. The following will be some of the monitoring records to be supplied to the RMOW on a monthly basis to the Manager of Resort Operations, Derek Jazic djazic@whistler.ca (cc: parks@whistler.ca):

- Weekly record of all food and beverage sales.
- Weekly records of any washroom checks performed.
- Weekly records of any park maintenance performed.
- List of questions/comments from guest and/or residents.

The RMOW may ask for other management reports as necessary.

7.6 Development of Concession – Buildings, Storage, or License Area

The successful Proponent shall not construct any buildings, structures, trail works or improvements over or within the License areas without the prior written consent of the RMOW. All improvements to the License areas made by the Contractor (with the permission required under the preceding section) such as, but not limited to, storage devices, services and building structures, shall be the property of the RMOW.

7.7 RMOW Bottled Water Policy, Food Snacks and Food Trucks

In 2010, the RMOW eliminated the sale of all bottled water at municipal facilities and the concession will comply with this policy. The RMOW will maintain drinking water fountains in the park for public use. The sale of non-water bottled beverages and prepared snack foods is permitted.

The RMOW would like to make the Proponents aware of the Park Eats program, which provides food truck services, and on occasion pop-ups and food service delivery, at select Whistler parks from May long weekend to Labour Day each summer. The RMOW from time to time allows the promotion of Park Eats at Spruce Grove Park as part of this successful program, and the concession and program delivery/vendors will work collaboratively at the park. The Proponents should see whistler.ca/ParkEats for program details.

7.8 Site Maintenance

The successful Proponent, at their own cost, will be required to manage and perform the maintenance of the following items within the License area throughout the term of the agreement during operational dates.

- Inform the RMOW of the need for any interior and exterior of Concession/washroom building issues as soon as the Licensee becomes aware, including all repairs, painting, roofing, window replacement and graffiti removal.
- Garbage and recycling management throughout the License area at the end of each operational day.

- Cleaning all picnic table tops and seating, including the upper deck of the concession building.
- Cleaning and stocking paper goods in the washroom facilities required in addition to the RMOW Sanitation servicing.
- Any outdoor barbeque activity needs to be managed so that drippings and smoke do not leave residue/wildlife attractants on surfaces or on the building.
- During the term, the Proponent will inspect and maintain all RMOW concession equipment on site, and inform the RMOW of any issues as soon as the Licensee becomes aware.

8.0 APPENDIX C: BUSINESS SUMMARY

The Proponent shall submit a detailed Business and Operations Plan, please refer to the Scope in Appendix B for a detailed understanding of RMOW Proposal requirements. The business summary should include details on how your organization will address the following:

1. Business Strategy / Fee Structure

- Provide detailed financial statements of projected revenues and expenses. The successful proponent will pay a License Fee of \$2,500 plus tax per term.
- Description of proposed menu. Food served can range from every continent and food group, including a “meal” option. Healthy choices, variety and utilizing local product and suppliers is important. Previously, there have been requests that the vendor provide affordable “ball park” concession offerings, e.g. grilled burgers, hotdogs, smokies, pop, chips and ice cream.
- Description of the waste diversion plan, which includes composting, recycling, food product packaging and waste management. Using compostable food containers and less prepackaging will also be considered in the selection process as part of a mandate to help reduce waste.
- Description of the Proponent’s marketing plan.
- Description of how a portion of net profits will be reinvested into the community, e.g. via team sponsorships and ball field infrastructure improvements.

2. Staffing

Hiring, managing, and training qualified staff.

3. Monitoring and Reporting

Provide detail on systems, proposed procedure, controls and content for reporting to the RMOW. Describe how you will accurately record weekly sales.

4. Emergency Plan

Provide emergency plan or what you would include in the creation of a plan.

5. Physical Improvements

Break down of costs for any improvements to the existing concession license area and structures. With pre-approval for an improvements from the RMOW required.

9.0 APPENDIX D: CONTRACT TEMPLATE

By submission of an RFP the respondent to this Request agrees that a contract entered into between the RMOW and the selected respondent will be substantially the same as the attached example contract. Respondents are to identify any contract terms that they could not agree to and the identification of any such terms shall be included in post-closing negotiations, if any.

Food and Beverage Concession at Spruce Grove Park

THIS LICENSE AGREEMENT is effective as of the XXth day of XXXXXXXX, 2023

BETWEEN:

The Resort Municipality of Whistler, having an address at 4325 Blackcomb Way, Whistler, B.C. V8E 0X5. Email: parks@whistler.ca

(the "Municipality")

AND:

[Successful Proponent Firm Name] having an address at [Proponent's full address]

(the "Licensee")

WHEREAS:

A. The Municipality requested proposals for the operation of a Food and Beverage Concession (the "**Concession**") to be located on municipal park lands known as Spruce Grove Park (the "**Park**") in Whistler, British Columbia;

B. The Licensee submitted a proposal entitled "Food and Beverage Concession at Spruce Grove Park" attached as Schedule A and forming part of this Agreement (the "**Proposal**"), dated _____, 2023, which has been accepted and approved by the staff of the Municipality, on the terms, and conditions set out herein.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the payments and promises set out in this Agreement (the receipt and sufficiency of which are hereby acknowledged), the parties covenant and agree as follows:

Grant of License

1. The Municipality hereby grants a non-exclusive license (the "**License**") to the Licensee to use those portions of the Parks shown outlined in black on Schedule B hereto (the "**License Areas**"), in common with the Municipality and members of the public and other persons invited or permitted by the Municipality, for the purpose of operating a food and beverage concession on the terms and conditions contained herein and attached as Schedules.

Term of License

2. *The term of this Agreement shall be for a one (1) season period (the “Term”) commencing on the 15th day of May, 2024 and ending on the 15th day of October 2024, subject to earlier termination or renewal in accordance with this Agreement.*

Renewal

3. *If the Licensee is in compliance and has been in compliance with this Agreement, the Licensee may, no sooner than six (6) months prior to the expiry of the Term (or any renewal of it) give notice to the Municipality that it wishes to be provided with the terms on which the Municipality would renew this Agreement for two (2) further terms. The Municipality may provide those terms to the Licensee within one (1) month of receiving notice. If the Licensee agrees with the final renewal terms provided by the Municipality, the Licensee must give notice to the Municipality no later than one (1) month before the expiry of the Term (or any renewal of it) and this Agreement is then renewed for two (2) years on those terms.*

License Fee

4. *The Licensee shall pay to the Municipality a license fee (the “License Fee”) of two thousand five hundred dollars (\$2,500) per calendar year, payable in two equal payments on May 15 and July 15 of each year during the Term.*
5. *The Licensee shall pay to the Municipality all applicable taxes (GST/HST) in addition to the License Fee.*

Concession Building

6. *The Licensee shall operate the Concession at the Park from the existing concession building located in the License Areas as shown in Schedule B.*
7. *The Licensee shall, at its sole cost and expense, make improvements to the existing concession building and storage area at Spruce Grove Park in accordance with Sections _____ of the Proposal.*
8. *The Licensee shall construct any improvements to a design approved in writing by the Municipality and the existing concession building and any improvements are the property of the Municipality.*

Builders Lien

9. *The Licensee shall promptly pay for all work and materials supplied at its order or request to the License Areas and it shall comply with all builders’ lien legislation. If any lien is filed or the Municipality should be subject to the payment of any claim by an unpaid worker or supplier, the Licensee must discharge the lien or otherwise take all steps required by the Municipality to protect the Municipality’s interests.*
10. *Notwithstanding the law of fixtures, the Municipality and the Licensee agree that any improvement shall become the property of the Municipality upon the issuance of an occupancy permit and/or on termination of this agreement.*

Development of Licensed Areas

11. *The Licensee shall not construct any buildings, structures, trail works or improvements over or within the License Areas without the prior written consent of the Municipality.*

12. All improvements to the License Areas made by the Licensee (with the permission required under the preceding section) such as, but not limited to, storage devices, services and building structures, shall become the property of the Municipality.
13. The Municipality and Licensee recognize that development of the Licensed Areas will have an impact on the Park and they agree to work cooperatively to implement any development. Possible changes to the Park could include, among others, park grade improvements, building and storage area improvements, parking improvements, playground improvements. The timing of any of these changes is to be determined by the Municipality, in its discretion.

Days of Operation

14. The Licensee shall have the Concession open for business on the following days during the Term of this Agreement from:
 - a) May 15, 2024 through to October 15, 2024 on days that the Whistler Slo-Pitch league operate, including on weekends and statutory holidays; and
 - b) During tournaments.

Hours of Operation

15. On days that the Concession is open for business, the Licensee shall have the Concession open for business during the following hours of operation, at least:
16. Spruce Grove Park
 - a) 5:30 p.m. to 10 p.m., (likely Sunday through Friday), including weekends and statutory holidays; and
 - b) 8:30 a.m. to 5:30 p.m. during tournaments.

Changes to Opening Days and Hours

17. The Municipality, at the Municipality's sole discretion, may approve changes to the hours, days and months of operation of the Concession.

Food Service

18. The Licensee shall operate a non-exclusive food service, consisting of pre-packaged food and beverages, and food services as authorized by Vancouver Coastal Health permit, for the public and ball players from the Concession. In compliance with the RMOW bottled water policy the Licensee shall not sell bottled water.
19. The Licensee shall ensure that all food products sold from the Concession and the method of preparation and packaging of all food products comply with applicable health regulations.
20. The Licensee shall not serve food or drinks in or on china or glassware.
21. The Licensee must obtain the prior written approval of the Municipality for the food menu and the prices to be charged.

Monitoring and Reporting

22. The Licensee will be responsible for ongoing monitoring and control systems. The following monitoring records are to be supplied to the Municipality on a monthly basis in an electronic format compatible with Microsoft Excel:

- a) Weekly records of all food and beverage sales.
- b) Weekly records of washroom cleaning and checks performed.
- c) Weekly records of park maintenance performed.
- d) List of questions/comments from guests and/or residents.

Parking and Access to Parks

- 23. The Licensee will be allocated one (1) parking stall at the Park parking lot for daytime parking.
- 24. The Licensee will be authorized to use the concession access road at Spruce Grove Park, off the Spruce Grove Park parking lot, at 7328 Kirkpatrick Way, via Spruce Grove Way off Highway 99, Whistler, BC.
- 25. All access gates and posts will be locked after passing through the gate each time. The Licensee will be assigned a key to access these gates.

Signs

- 26. The Licensee shall display no signs on any concession building, storage building or elsewhere in the License Areas that are not in compliance with the Municipality's sign bylaw in effect from time to time.
- 27. The Municipality may erect signs on the License Areas to indicate to the public that the License Areas are the property of the Municipality, notwithstanding the operation of the Licensee from the License Areas.

Employees

- 28. The Licensee shall ensure that all persons employed by it in the operation of the Concession are trained and competent in the conduct of their duties.
- 29. The Licensee shall ensure that all staff are dressed appropriately for the work they do, with a clean and tidy appearance.
- 30. The Licensee shall, within twenty-four (24) hours of receiving a demand in writing from the Municipality, remove any employee from the operation of the Concession whose conduct in dealing with the public or state of health is, in the opinion of the Municipality, detrimental or hazardous to the public.
- 31. The Licensee shall not allow staff to have pets of any kind on the License Areas.

Conduct of Operations

- 32. The Licensee shall not permit the playing of amplified music of any kind from the License Areas.
- 33. The Licensee shall operate the Concession in a businesslike manner so as not to interfere with, or cause a nuisance to, any nearby public or private facilities or uses in the Park.

Compliance with Laws

- 34. The Licensee shall comply with all applicable laws and requirements in respect of its employees, including income tax, pension, insurance requirements and Workers' Compensation Board.
- 35. The Licensee shall obtain and maintain municipal business licences during the Term.
- 36. The Licensee shall not commence any proceedings for dissolution or winding up as a corporation and the Licensee shall make all necessary filings and be at all times in good standing with the Registrar of Companies.
- 37. The Licensee shall ensure that it and its staff observe and follow the Municipality's Parks Bylaw, as amended from time to time, and a current copy of which is attached as Schedule C.

38. The Licensee shall report to the Municipality's Parks or Bylaw Department any gross infractions of the Parks Bylaw by the public.

Payment of Expenses

39. The Licensee shall provide an approved credit application (commercial) prior to commencement of the term. Credit applications are available from the Finance department of the Municipality (finance@whistler.ca). The Licensee shall pay all expenses whatsoever in connection with the License Areas and the operation of the Concession, including, without limiting the generality of the foregoing, all of the following:

- a) the purchase of supplies, equipment and vehicles;
- b) maintenance of equipment and vehicles, refer to Schedule D for an Equipment List;
- c) supply of staff and payment of all staff salaries, benefits and related costs;
- d) all fees for licenses and permits which may by law be required and all taxes imposed with respect to the operation of the Concession; and
- e) all expenses, charges, penalties and costs which may be incurred by reason of liens for non-payment of labour or materials in respect of any work or construction by the Licensee in or on the License Areas.

Maintenance of Concession Building

40. Subject to Sections 7-9, the Municipality will ensure the Concession buildings and other storage facilities, buildings or structures on the License Areas are in satisfactory condition at the start of the operating season, and the Licensee accepts and acknowledges that they are suitable for the Licensee's purposes.

41. The Licensee shall, during each operating season, at its own cost, maintain and repair the interior/exterior of the Concession building and any storage facility on the License Areas and commits to maintain the concession assets and equipment (refer to Schedule D – Equipment List), to a standard approved by the Municipality, and conditions as befits a public facility, including all repairs, painting, and window replacement, and ensure the buildings comply with Vancouver Coastal Health requirements and regulations. At the end of each operating period, typically mid-October, the Municipality will require a thorough clean of the concession buildings.

Maintenance of Parks

42. The Licensee shall keep the interior and exterior of the Concession building and the License Areas in a clean and sanitary condition at all times. At the end of each operating period, typically mid-October, the Municipality will require a thorough clean of the concession License Area.

43. Without limiting the previous section, the Licensee shall clean Spruce Grove Park by undertaking the following on a daily or more frequent basis on days that the Concession is open for business.

- a) litter, garbage, recycling, cleanup
- b) picnic table top and seat cleaning,
- c) sweeping of picnic table pads,

d) *stocking of dog collection station bags (with dog bags to be supplied by the Municipality) required in addition to the RMOW Sanitation servicing;*

e) *Cleaning and stocking the public washrooms in the Park and performing regular checks to ensure their cleanliness and toilet paper stocks required in addition to the RMOW Sanitation servicing.*

44. *The Licensee shall dispose of all garbage and recycling daily in a proper municipal receptacles . The Licensee must ensure that any additional garbage and recycling collection containers meet the municipal bear proof standard.*

Inspection

45. *The Municipality may at all reasonable times enter upon the License Areas and buildings and structures, including the Concession, in order to ascertain whether the terms and conditions of this Agreement are being observed. At the end of each operating period, typically mid-October, the Municipality will conduct a formal inspection of the concession buildings and License Area following a thorough clean arranged and paid for by the Licensee.*

Municipality's Right to Perform

46. *At any time that the Licensee does not perform its obligations under this Agreement, the Municipality may, but it is not required to, perform those obligations on the Licensee's behalf and at the Licensee's cost.*

Cancellation and Early Termination

47. *If the Licensee defaults in the observance or performance of any of the terms and conditions of this Agreement, then the Municipality may give the Licensee such notice as it deems appropriate (and in the case of a notice to clean the concession buildings or License Areas, twenty-four (24) hours is appropriate notice) and if the Licensee fails to rectify the matter within the time permitted and to the reasonable satisfaction of the Municipality, the Municipality may terminate this Agreement without further notice and without compensation or refund of any License Fee, notwithstanding any rule or law of equity to the contrary.*

Site Clean-Up

48. *At the end of the season, upon expiration or earlier termination of this Agreement, the Licensee shall leave the License Areas in a neat and tidy condition, clear of all contaminants and pollutants including a thoroughly cleaned and stocked washroom. The Municipality will conduct a formal inspection of the site clean-up, after receiving notice of thorough cleaning. The Municipality may require the Licensee to remove selected buildings, structures, works or improvements constructed by the Licensee within seven (7) days of written notice by the Municipality.*

49. *In the event of non-compliance with the cleaning requirements under section 47 before November 15th of each year, the Municipality reserves the right to conduct the required cleaning and charge this expense to the Licensee.*

Release

50. *The Licensee releases the Municipality from all claims and demands which the Licensee may at any time have against it or its elected officials, officers, employees, agents or others, in respect of any matter arising from or related to this Agreement.*

Indemnity

51. The Licensee will indemnify and save harmless the Municipality and its elected officials, officers, employees, agents, volunteers, contractors, representatives from and against any liabilities, damages, costs, expenses, causes of action, actions, claims, demands, suits and judgments which they may incur or suffer or be put to by reason of or in connection with or arising from any breach, violation or non-performance by the Licensee of any obligation hereunder to be observed or performed by the Licensee, any wrongful act, omission or neglect of the Licensee on or about the License Areas related to the Licensee's use and occupancy of the License Areas, any damage to property related to the Licensee's use and occupancy of the License Areas, or the death of or injury to any person related to the Licensee's use and occupancy of the License Areas.
52. For certainty, the reference to the Licensee in the previous section also refers, where the context so allows, to its directors, officers, employees, agents, contractors, subcontractors and others for whom it is responsible in law. The indemnity survives any expiry or earlier termination of this Agreement.

Insurance

53. The Licensee shall obtain and keep in force throughout the term, Comprehensive Public Liability and Property Damage Insurance providing coverage up to Five Million Dollars (\$5,000,000.00) all inclusive per occurrence against liability for bodily injury or death and/or damage to property on an all risk occurrence basis; with the Resort Municipality of Whistler as an additional named insured.
54. Motor Vehicle Insurance for Public Liability and Property Damage providing coverage up to Five Million Dollars (\$5,000,000.00) and covering ownership, use or operation of all motor vehicles (including towing vehicles and boats) and trailers owned, leased, hired or controlled by the Contractor and used or operated in the performance of the terms of this Agreement. The Resort Municipality of Whistler shall be included as an additional named insured.
55. During the construction of any improvements, the Licensee shall obtain and keep in force all-risk course of construction insurance, with an insurer, a deductible and other terms satisfactory to the Municipality.
56. The Licensee shall be responsible for obtaining insurance for its equipment and materials on the License Areas or in the concession buildings.
57. The Licensee shall not be responsible for fire or other building insurance of the concession buildings.

Workers Compensation Board (Worksafe BC) Requirements

58. The Licensee will carry Workers Compensation Board coverage for itself and all its workers, employees, servants and anyone else engaged in work or service as it pertains to this Agreement. The Licensee will provide evidence of such coverage prior to the commencement of this Agreement in the form of a clearance letter.

RMOW Business License

59. During the Term and any renewals, the Licensee shall have in place a valid Resort Municipality of Whistler business license for this location.

Nature of Agreement

60. *The occupancy of the License Areas will under all circumstances be viewed as a license only and will not create nor be deemed to create a lease or any other interest in the License Areas or the Park in favour of the Licensee. This Agreement is a personal right only and the benefit of this Agreement does not run with the land.*
61. *The Licensee may not transfer or assign this Agreement, in whole or in part, and shall not permit any other person to occupy the whole or any part of the License Areas, without the Municipality's prior written consent in its discretion.*

Licensee's Cost

62. *All obligations and requirements on the part of the Licensee under this Agreement shall be done by the Licensee at its sole cost.*

Notices

63. *All notices, demands and payments required or permitted to be given under this Agreement shall be in writing and may be delivered by hand, sent by facsimile transmission, email or forwarded by first-class prepaid registered mail to the addresses set forth on the first page or such other address as may from time to time be notified in writing by the parties. Further, notice from the Municipality to the Licensee may be given by posting a notice on the concession buildings or by email to the address provided on the first page (or such subsequent email address provided by the Licensee).*
64. *If the Licensee gives notice to the Municipality, it shall be to the attention the Resort Operations Manager.*
65. *Any notice delivered or sent by hand or by facsimile or by email or posted on the concession buildings shall be deemed to be given and received at the time of delivery. Any notice mailed shall be deemed to have been given and received on the expiration of three (3) days after it is posted, provided that if there shall be between the time of mailing and the actual receipt of the notice a mail strike, slow down or other labour dispute which might affect the delivery of such notice by the mails, then such notice shall only be effective if actually delivered.*

General

66. *The provisions of this Agreement contained constitute the entire agreement between the parties and supersede all previous communications, representations and agreements, whether verbal or written, between the parties with respect to the subject matter.*
67. *Each of the parties covenants and agrees to execute such further and other documents and instruments, and to do such further and other things as may be necessary to implement and carry out the intent of this Agreement.*
68. *Waiver by the Municipality of any default by the Licensee shall not be deemed to be a waiver of any subsequent default.*
69. *Should any part of this Agreement be declared or held invalid for any reason, such invalidity shall not affect the validity of the remainder which shall continue in full force and effect, and be construed as if this Agreement had been executed without the invalid portion, and it is hereby declared the intention of the parties hereto that this Agreement would have been executed without reference to any portion which may, for any reason, be hereafter declared or held invalid.*
70. *Every reference to each party is deemed to include the heirs, executors, administrators, successors, permitted assigns, employees, agents, officers and invitees of that party whenever the context so requires or allows.*

71. Any opinion which the Municipality is entitled by virtue of this Agreement to form may be formed on behalf of the Municipality by the Manager of Resort Operations, in which case the opinion of the Manager of Resort Operations shall be deemed an opinion of the Municipality for the purposes of this Agreement, and any power, right, discretion or decision-making which may be made by the Manager of Resort Operations may be made by his designate.
72. The Licensee will take full responsibility for being COVID-19 complaint in accordance with all regulatory bodies associated with delivering the Service and operating in the community of Whistler, BC. The Licensee and its employees may be required to wear masks in Whistler parks and facilities, depending on current requirements, which are amended from time to time. The Licensee and its employees shall stay informed of all WorkSafeBC, Vancouver Coastal Health and Provincial Health Office requirements and adjust as needed. When applicable and in accordance with WorkSafeBC and Vancouver Coastal Health, a copy of the Licensee's COVID-19 Safe Work Plan and Exposure Control Plan will be provided to the RMOW prior to any work commencing in our parks.

List of Schedules

Schedule A – Food and Beverage Concession at Spruce Grove Park Proposal

Schedule B – Sketch of License Areas

Schedule C – Park Use Bylaw

Schedule D – Equipment List

In witness whereof, the parties have caused this Agreement to be executed by their duly authorized representatives.

RESORT MUNICIPALITY OF WHISTLER

[Service Provider Firm Name]

By: _____

By: _____

By: _____

9.1 Insurance

At its' own expense and prior to the commencement of the term of the Contract, the Preferred Respondent shall obtain and maintain or cause to be obtained and maintained in force during the term of the Contract, insurance acceptable to the RMOW where the RMOW is named as additional insured with limits not less than those shown for each respective item as follows:

Insurance	Independent or Trade Contractor
Commercial General Liability (CGL)	\$5 million per occurrence
Automobile Liability	\$5 million per occurrence

10.0 APPENDIX E: PARK USE BYLAW

See <https://www.whistler.ca/municipal-gov/bylaws-and-regulations/bylaw> for the most up to date version.

11.0 SCHEDULE A: SPRUCE GROVE PARK CONCESSION

See license area outlined and concession building location below:

