

# REQUEST FOR PROPOSAL

2023 Meadow Park Sports Centre  
Vending Machine Service and Snack Supplier

RFP # 2023.02

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Resort Municipality of Whistler | December 7, 2023

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Issued:	December 7, 2023
Closing Date and Time:	December 21, 2023, at 4:00pm
Closing Location:	Meadow Park Sports Centre 8625 Hwy 99, Whistler BC, V8E1K1
Contact Person:	Stephanie van den Berg – Guest Services Supervisor 604-935-8353 or <a href="mailto:svandenberg@whistler.ca">svandenberg@whistler.ca</a>

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## 1 Proposal Brief

This is a Request for Proposal (RFP) and is not a contract tender call. No contractual, tort or other legal obligation are created or imposed on the RMOW by this RFP, or by submission of any Proposal, or by consideration of, or failure or refusal to consider, any Proposal by the RMOW.

Further, the Contract, when executed, is the sole source of any contractual obligation on the RMOW with respect to the service.

Throughout this document, reference is made to the “Proponent” as the entity preparing the response to the RFP. The term “Licensee” is used to represent the Proponent after the Licence Agreement is signed.

The “Preferred Proponent” is the Proponent judged to have the “best overall Proposal” which will be selected to enter negotiations leading to a Licence Agreement with the RMOW. If negotiations are unsuccessful, the next highest rated Proponent may be deemed to be the Preferred Proponent and negotiations would be commenced with them.

The Resort Municipality of Whistler invites qualified Proponents to provide vending machine services and snack supplies (Services) for Meadow Park Sports Centre (MPSC).

### 1.1 Submission & Award

The Proposal can be submitted via email to the RMOW at:

Email: [rweetman@whistler.ca](mailto:rweetman@whistler.ca) and [svandenberg@whistler.ca](mailto:svandenberg@whistler.ca)

**Emailed Proposals are preferred**, but a 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.

Proponents preferring to submit hardcopies of their Proposal to reception at Meadow Park Sports Centre must provide the copy printed double sided.

Attention: Stephanie van den Berg, Guest Services Supervisor  
Meadow Park Sports Centre  
8625 Highway 99,  
Whistler, BC  
V8E 1K1

The Proposal should be submitted and include the commission rate (as a percentage) to be paid in Canadian Dollars (CAD), on or before the closing time and date of December 21, 2023, at 4:00 pm.

Following evaluation per the criteria outlined in Section 5, “Appendix A – Proposal Evaluation Criteria”, the RMOW intends to provide notification to award the contract to the preferred respondent on or before: December 28, 2023.

### 1.2 Inquiries

All inquiries related to this RFP should be directed in writing (by email) to the RMOW contacts listed below:

Email: [rweetman@whistler.ca](mailto:rweetman@whistler.ca) and [svandenberg@whistler.ca](mailto:svandenberg@whistler.ca)

Please clearly identify the RFP number and title when submitting a question.

### 1.3 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 and BC Bid websites no less than 3 calendar days prior to closing.

### 1.4 Duration of Proposal

The Proposal will be irrevocable and open for acceptance by the RMOW for a period of 60 calendar days from the day following the closing date, even if the Proposal of another Proponent is accepted by the owner.

### 1.5 No Contract

This RFP is an invitation for Proposals (including percentages, prices, and terms) for the convenience of all parties. It is not a tender and no obligation of any kind will arise from this RFP or the submission of a Proposal. The RMOW may negotiate changes to any terms of a Proposal, including terms in Appendix A, B, and C, including prices or percentages; and may negotiate with one or more Proponents, or may at any time invite or permit the submission of a Proposal (including prices and terms) from other parties who have not submitted Proposals.

### 1.6 Acceptance

A Proposal will be an offer to the RMOW which the RMOW may accept within 60 days by sending a Notice of Award to the Proponent. Note that the RMOW will select the Proposal that it deems, in its sole and absolute discretion, demonstrates the best combination of corporate qualifications, technical capability, service understanding, proposed approach to achieving the specified goals, and estimated total costs.

### 1.7 Right to Reject

The RMOW is not bound to accept the lowest price Proposal, nor is the RMOW in any way bound to award the service to any of the Proponent Proposals. The RMOW reserves the right to reject any or all Proposals for any reason whatsoever.

### 1.8 Liability for Errors

The information contained in this 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.

### 1.9 Responsibility

The Proponent shall not transfer responsibility to meet the obligations of this contract to a third party without the consent, in writing, of the RMOW service manager.

### 1.10 No Collusion

Proponents shall not directly or indirectly communicate with any other Proponent regarding the preparation or presentation of their Proposals, or in connection with the Proposal engage in any collusion, fraud, or unfair competition.

### 1.11 Conflict of Interest

A Proponent must disclose in its Proposal any actual or potential conflicts of interest and existing business relationships it may have with the RMOW, its elected or appointed officials or employees. The RMOW may rely on such disclosure.

### 1.12 Solicitation of Council Members and RMOW Staff

Proponents and their agents will not contact any member of the RMOW Council or RMOW staff with respect to this RFP, other than the contact person named in Section 1.1 at any time prior to the award of a contract or the cancellation of this RFP.

### 1.13 Confidentiality

All Proposals become the property of the RMOW and will not be returned to the Proponent. All Proposals will be held in confidence by the RMOW unless otherwise required by law. Proponents should be aware the RMOW is a "public body" defined by and subject to the Freedom of Information and Protection of Privacy Act of British Columbia.

### 1.14 Proponents Expenses

Proponents are solely responsible for their own expenses in preparing and submitting Proposals, and for any meetings, negotiations, or discussions with the RMOW or its representatives and suppliers, relating to or arising from the RFP. The RMOW will not be liable to any Proponent for any claims, whether for costs, expenses, losses or damages, or loss of anticipated profits incurred by the Proponent in preparing and submitting a Proposal, or participating in negotiations for a contract, or other activity related to or arising out of this RFP.

### 1.15 Proponents Qualifications

By submitting a Proposal, a Proponent represents that it has the expertise, qualifications, resources, and relevant experience to supply the Services requested.

### 1.16 Contract Terms and Conditions

The successful Proponent, prior to Notice to Proceed, will sign the Terms and Conditions as outlined in the RMOW Licence Agreement attached in Appendix C.

### 1.17 Insurance

The licensee shall obtain and keep in force throughout the term, general liability insurance to protect and indemnify itself and the RMOW against claims for bodily injury, death, property damage, economic loss, in an amount of not less than \$2,000,000 per accident or occurrence, with the RMOW as a named insured under the policy.

### 1.18 Subcontracting

Proposed subcontractors must be listed with attached resumes. A joint Proposal submission must indicate which Proponent has overall responsibility of the service.

### 1.19 Signature

The legal name of the person or firm submitting the Proposal should be inserted in Appendix B - Form of Proposal. The Proposal should be signed by a person authorized to sign on behalf of the Proponent and include the following:

- a) If the Proponent is a corporation, then the full name of the corporation should be included, together with the names of authorized signatories. The Proposal should be executed by all of the authorized signatories or by one or more of them provided that a copy of the corporate resolution authorizing those persons to execute the Proposal on behalf of the corporation is submitted;
- b) If the Proponent is a partnership or joint venture then the name of the partnership or joint venture and the name of each partner or joint venture should be included, and each partner or joint venture should sign personally (or, if one or more person(s) have signing authority for the partnership or joint venture, the partnership or joint venture should provide evidence to the satisfaction of the RMOW that the person(s) signing have signing authority for the partnership or joint venture). If a partner or joint venture is a corporation then such corporation should sign as indicated in subsection (a) above; or
- c) If the Proponent is an individual, including a sole proprietorship, the name of the individual should be included.

## 2 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 Submission & Award of this RFP;

**“Closing Time”**: means the closing time and date for this RFP as set out in the Submission & Award of this RFP;

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

**“Contractor”**: 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”** 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;

**“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**”, “**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 Specific Service Requirements

#### 3.1 Introduction

The Resort Municipality of Whistler (RMOW) invites qualified individuals or businesses to submit a Proposal to operate as a vending machine service and snack supplier for two vending machines at MPSC. RFP packages will be available in electronic format on RMOW and BC Bid websites, and in printed format at the reception desk at MPSC on December 7, 2023.

Recreation services staff will conduct an evaluation of the Proposals. Roger Weetman, Manager of Recreation, will conduct final negotiations and ratifications.

#### 3.2 The RMOW’s Official Community Plan and Climate Action Big Moves Strategy

In 2020 the Resort Municipality of Whistler adopted the Official Community Plan Bylaw No. 2199, 2018. The OCP establishes policies that guide decisions on community planning and land use management for the RMOW over the next five to 10 years and beyond. The OCP also contains a renewed Community Vision for Whistler that articulates the high-level aspirations for our resort community, describing what we collectively seek to achieve now and over Whistler’s long-term future. The renewed Community Vision is included within this plan to reinforce the important role of the OCP in pursuing the vision, and to better integrate the vision with supporting municipal policies.

The Climate Action Big Moves Strategy focuses on transportation, buildings, and waste, and articulates the key strategies Whistler will need to further reduce greenhouse gas emissions to meet its targets.

The RMOW is looking for Proposals that clearly understand our community’s aspirations and measurably move our community further along the journey toward success in achieving our climate targets as articulated within our OCP and Big Moves Strategy visions. More information is available at <https://www.whistler.ca/ocp/> and <https://www.whistler.ca/climate-action/big-moves/> for reference in the proposal process.

#### 3.3 Scope of Work

The vending machines must be available to provide service to visitors and guests at MPSC during operating hours. Within the licence agreement there will be:



- two vending machines that will provide healthy, nutritional type snacks
- a float above or equal to \$20 provided to the MPSC Guest Services front desk for issues arising from the vending services
- a commitment to provide service within 48 hours of a machine malfunction being reported by MPSC staff
- a sample product pricing list with a variety of healthy and affordable options (Note: vending machines will contain at least 25% Sell Most and 25% Sell Sometimes choices according to the Nutrient Criteria found in HEALTHIER CHOICES IN VENDING MACHINES IN BC PUBLIC BUILDINGS 2014 POLICY. <http://www2.gov.bc.ca/assets/gov/health/managing-your-health/healthy-eating/vending-policy-2014.pdf>. The licensee will then increase the total offerings of “Sell Most” and “Sell Sometimes” choices at a minimum of 2% per year to a total of 60% over the length of the contract. Increasing the “Sell Most” choices over the term is desirable, however 25% in the “Sell Most” choices will remain the minimum requirement.)
- commission fees payable to the RMOW in quarterly installments

### 3.4 Service Description

The vending machines will be provided, installed, and serviced by the successful proponent on a regular basis. The location of the machines will be decided by the Manager of Recreation Services. Each machine will be stocked at regular intervals, including at the direct request of the Meadow Park Sports Centre staff. Machines may require more frequent stocking during holidays, tournaments, and busy periods. Each snack machine will be stocked as per section 2.3. The service provider will pay a commission fee on the gross sales to the RMOW on a quarterly basis.

### 3.5 Licence Requirements

The licensee will hold the sole responsibility for:

- installing the machines under the safety guidelines of the machine manufacturer
- all costs resulting from malfunction or damage to any of the installed machines, or for the loss of any product from any machine at any time.
- accounting related to the machines.
- providing machines that are in good operating order and are not more than 10 years of age. If machines are more than 10 years of age, then a regular maintenance program and associated maintenance schedule must be provided in the Proposal.
- obtaining any required municipal business licences, and complying with all applicable laws, statutes, regulations, and policies, which apply to the operation of food and drink vending machines.
- all costs associated with removing the vending machines at the end of the contract, or upon termination of the contract by either the RMOW or the Proponent within fourteen (14) days.
- a guidebook and tracking system for the float that is to be maintained by MPSC staff.

The successful proponent will be awarded a Licence Agreement as the Vending Machine Service and Snack Supplier at Meadow Park Sports Centre for one 5-year term, commencing approximately January 1, 2024, and expiring December 31, 2028. Either party may terminate the Licence Agreement without cause, thus ending the agreement, 120 days after written notice of termination has been received by the other party.

## 4 Proponent Response

### 4.1 Proposal Format

The following format, sequence, and instructions should be followed in order to provide consistency in Proponent response, and ensure each Proposal receives full consideration:

- Total electronic individual file size must be less than 8MB;
- All pages should be consecutively numbered;
- No more than fifteen double-sided 8.5 x 11" pages excluding extended resumes, which may use up to two additional pages;
- An unaltered and completed Form of Proposal (see Appendix B) cover page (does not count towards page count);
- Table of contents (does not count towards page count) including page numbers;
- The Proposal sections as detailed below.

### 4.2 Executive Summary

Proposals should include a concise summary of service understanding (one page).

### 4.3 Proposed Service Plan

Proposals should include a service breakdown, including but not limited to, a machine maintenance and snack supply schedule, a sample product pricing list, the types of machines to be installed, and a plan for float management. Additionally, Proposals should include the proximity, availability, and response time of a qualified service and repair technician.

### 4.4 Proposed Schedule

All Proposals must include a proposed date of installation and a proposed date of first use.

### 4.5 Proposed Costs

All Proposals must include a proposed percentage-based commission rate to be paid to the RMOW.

### 4.6 Proponent Qualifications

Proposals should include a summary of the Proponent's skills, with resumes of all team members, qualifications, and ability to deliver on the proposed Services. This summary should include the Proponent's history of operating vending machines in high traffic locations. Note that if any team members are turned over during the evaluation or post bid process, any new resumes must be submitted to the RMOW.

#### 4.7 Summary of Related Experience

The Proposal shall contain specific service examples completed in the past five years that demonstrate the Proponent's ability to undertake the proposed service at MPSC.

## 5 Evaluation Criteria

The RMOW reserves the right to select the Proponent best suited for service and intends to evaluate Proposals as fairly as possible. The RMOW reserves the right to make changes to the evaluation process prior to the Proposal submission date.

The RMOW has disclaimed any intention to assume contractual or other obligations to Proponents during the RFP process partly to ensure that it retains maximum flexibility in regard to whether it proceeds, whether it proceeds with one of the Proponents, or how it will evaluate Proposals. While the RMOW intends to evaluate Proposals as fairly as possible, Proponents should be aware the RMOW may evaluate Proposals on any basis whatsoever, whether specifically identified in this document or not.

If a Proposal is determined to be unclear or deficient in some aspects, but these deficiencies are capable of being clarified or rectified, the RMOW may prepare a list of questions for the Proponent, to clarify or remedy the deficiencies. If, in the opinion of the RMOW, these clarifications and rectifications do not overcome the deficiencies, the RMOW, at its sole and absolute discretion, may decide to reject the Proposal. The RMOW may contact any or all of the Proponents to seek further clarification and information before awarding the contract.

The RMOW intends to evaluate all Proposals according to the scoring matrix outlined below.

## 6 Appendix A – Proposal Evaluation Criteria

All complete Proposals received by the established deadline will be evaluated against the following evaluation criteria:

CRITERIA	% EVALUATION
<b>Project Understanding</b> <ul style="list-style-type: none"> <li>Understanding of project and requirements</li> <li>Clarity of the Proposal (e.g. concise, consistent, comprehensible format)</li> </ul>	<b>10%</b>
<b>Proponent Qualifications</b> <ul style="list-style-type: none"> <li>Reputation, proven performance, and relevant experience of the proponent</li> <li>Demonstrated success with similar business plan</li> <li>Minimum of two references based on past performance for similar projects</li> </ul>	<b>15%</b>
<b>Management and Operations Plan</b> <ul style="list-style-type: none"> <li>Stocking Plan (e.g. who will stock the machines, when will the machines be stocked)</li> <li>Maintenance Plan (e.g. what is the schedule for maintaining the machines)</li> <li>Repair Service availability (e.g. what is the timeline for basic repairs, who will repair the machines)</li> </ul>	<b>25%</b>
<b>Healthy Snacking Plan</b> <ul style="list-style-type: none"> <li>Includes plans and procedures designed to minimize negative effects on health and environment</li> <li>Includes a list of healthy snacks that will be available to vending machine consumers (vending machines will contain at least 25% “Sell Most” and 25% “Sell Sometimes” choices according to the nutrient criteria found in “Healthier Choices in Vending Machines in BC Public Buildings 2014 Policy. <a href="http://www2.gov.bc.ca/assets/gov/health/managing-your-health/healthy-eating/vending-policy-2014.pdf">http://www2.gov.bc.ca/assets/gov/health/managing-your-health/healthy-eating/vending-policy-2014.pdf</a>. The Licensee will then increase the total offerings of “Sell Most” and “Sell Sometimes” choices at a minimum of 2% per year to a total of 60% over the term of the licence agreement. Increasing the “Sell Most” choices over the term is preferred, however 25% in the “Sell Most” choices will remain the minimum requirement.)</li> <li>Proposes innovative solutions to sustainability-oriented challenges</li> <li>Demonstrates connections to suppliers that provide sustainable products</li> </ul>	<b>10%</b>
<b>Business Plan</b> <ul style="list-style-type: none"> <li>Terms of licence</li> <li>Proposed commission rate</li> <li>Soundness of control and monitoring plan</li> </ul>	<b>40%</b>

## 7 Appendix B - Form of Proposal

RFP Service Title: Meadow Park Sports Centre Vending Machine Service and Snack Supplier  
 RFP Reference No: 2023.02  
 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 location, MPSC, and having fully informed ourselves as to the intent, difficulties, facilities, and local conditions attendant to performing the Services, submit this Proposal in response to the RFP.

I/We confirm that this Proposal is accurate and true to the 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 Supplier” 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 Supplier/Contractor at the place(s) of the Services has been designated as the “Prime Supplier/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)

VENDING MACHINE SERVICE AND SNACK SUPPLIER  
MEADOW PARK SPORT CENTRE

LICENCE AGREEMENT

THIS LICENCE AGREEMENT dated for reference XXX XX, 20XX.

BETWEEN: RESORT MUNICIPALITY OF WHISTLER (RMOW)  
4325 Blackcomb Way  
Whistler, British Columbia  
V8E 0X5

Contact(s): Roger Weetman, Manager of Recreation,  
Stephanie van den Berg, Guest Services Supervisor,  
[recreation@whistler.ca](mailto:recreation@whistler.ca)

(the "RMOW")

AND: Name of Vendor  
Business Address

Contact info

(the "Licensee")

WHEREAS:

- A. The RMOW requested proposals for a Vending Machine Service and Snack Supplier with three machines to be located in selected areas of Meadow Park Sports Centre (the "MPSC") in Whistler, British Columbia.
- B. The Licensee submitted a Proposal entitled "Meadow Park Sports Centre Vending Machine Service", attached as Appendix A, and the Proposal will form part of this Licence Agreement, dated XXX XX, 20XX. The Proposal has been accepted and approved by the Manager of Recreation, on the terms, and conditions set out herein.

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

1 Grant of Licence

- 1.1 The RMOW hereby grants an exclusive Licence (the "Licence") to the Licensee for the purpose of operating vending machines on the terms and conditions contained herein.

## 2 Term of Licence

- 2.1 The term of this Licence is for a five-year period (the “Term”) commencing on the XX day of XXX, 2024 and ending on the XX day of XXX, 2029.

## 3 Licence Fee

- 3.1 Commissions of XX% of gross sales will be made payable to the RMOW in quarterly installments on the XXth day of March, June, September, and December of each year of the Term.
- 3.2 The Licensee shall pay to the RMOW all applicable GST in addition to the Commission Fees.

## 4 Vending Operations

- 4.1 The Licensee shall:
  - (a) provide and install vending machines that are in good working order and are not more than 10 years of age on the MPSC premises in a location selected by a MPSC representative.
  - (b) If vending machines are older than 10 years of age, then a regular maintenance program with an associated maintenance schedule must be provided in the Proposal.
  - (c) install the vending machines under the safety guidelines of the machine manufacturer.
  - (d) be solely responsible for the operation, servicing and repairing of any damage to the machines, as may be required and within 48 hours of a machine malfunction being reported by MPSC staff.
  - (e) provide a float of not less than \$20 to the MPSC Guest Services front desk for issues arising from the vending machines.
  - (f) be solely responsible for stocking two snack machines with nutritional food snacks. (Note: vending machines will contain at least 25% Sell Most and 25% Sell Sometimes choices according to the Nutrient Criteria found in “Healthier Choices in Vending Machines in BC Public Buildings 2014 Policy”. <http://www2.gov.bc.ca/assets/gov/health/managing-your-health/healthy-eating/vending-policy-2014.pdf>. The licensee will then increase the total offerings of “Sell Most” and “Sell Sometimes” choices at a minimum of 2% per year to a total of 60% over the length of the contract. Increasing the “Sell Most” choices over the Term is preferred, however 25% in the “Sell Most” choices will remain the minimum requirement.)



- (g) ensure vending machines are available to provide service during facility operating hours.
- (h) ensure vending machines are stocked with higher frequency during Canadian and American holiday weekends, Christmas break, spring break, the Whistler All-Star Hockey Tournaments (approximately mid-June to mid-July) and any other busy period as notified by MPSC staff.
- (i) be solely responsible for all costs associated with removing all the vending machines within fourteen (14) days at the end of the Licence Agreement, or upon early termination of the Licence Agreement.
- (j) operate the vending machines in accordance with and shall comply with "Section 2 - Specific Service Requirements" of RFP #2023.02 (attached as Appendix B) in their Proposal (attached as Appendix A), except to the extent of an inconsistency between this Agreement and the Proposal, in which case the terms of this Licence Agreement shall govern.

## 5 Development of the Vending Areas

- 5.1 The Licensee shall not construct any improvements over or within the MPSC without the prior written consent of the RMOW, except that, if required, the Licensee may install telephone and/or internet service at the Licensee's sole cost and expense (any installation costs or service/subscription costs).

## 6 Signs

- 6.1 The Licensee shall not display any signs in MPSC or on the property.

## 7 Employees

- 7.1 The Licensee shall ensure that all persons employed by it in the operation of the vending machines are trained and competent in the conduct of their duties.
- 7.2 The Licensee shall ensure that all staff are dressed appropriately for the work performed, with a clean and tidy appearance.
- 7.3 The Licensee shall, within twenty-four (24) hours of receiving a demand in writing from the RMOW, remove any employee from the operation of the vending machines whose conduct in dealing with the public or state of health is, in the opinion of the RMOW, unsafe, detrimental, or hazardous to the public.

## 8 Compliance with Laws

- 8.1 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 (W.C.B).
- 8.2 The Licensee shall obtain and maintain the appropriate Whistler municipal business licence(s) during the Term.

8.3 The Licensee shall ensure that it and its staff, when working in MPSC, observe and follow all laws, regulations, or applicable bylaws.

## 9 Payment of Expenses

9.1 The Licensee shall pay all expenses whatsoever in connection with the License Area and the operation of the vending machines, including, without limiting the generality of the foregoing, all of the following:

- (a) the purchase of supplies, equipment and vehicles;
- (b) maintenance of equipment;
- (c) supply of staff and payment of all staff salaries, benefits and related costs;
- (d) all fees for Licences and permits which may by law be required and all taxes imposed with respect to the operation of the vending machines;
- (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 MPSC.

## 10 Vending Area

10.1 The Licensee accepts the vending area(s) in its current condition and the Licensee acknowledges that they are suitable for the Licensee's purposes.

## 11 Inspection

11.1 The RMOW may at all reasonable times inspect the vending machines in order to ascertain whether the terms and conditions of this Licence are being observed.

## 12 Cancellation and Early Termination

- 12.1 If the Licensee defaults in the observance or performance of any of the terms and conditions of this Licence Agreement, then the RMOW may give the Licensee such notice as it deems appropriate and if the Licensee fails to rectify the matter within the time permitted and to the reasonable satisfaction of the RMOW, the RMOW may terminate this Licence without further notice and without compensation, notwithstanding any rule or law of equity to the contrary. The Licensee is still required to pay the partial quarter up to the date of termination.
- 12.2 Either party may terminate the Agreement without cause, thus ending the Licence Agreement, upon providing the other party with 120 days written notice of termination, in accordance with this Licence Agreement.

## 13 Site Clean-Up

- 13.1 Upon expiration or earlier termination of this Licence Agreement, the Licensee shall leave MPSC in a neat and tidy condition, clear of all contaminants and pollutants. The RMOW may require the Licensee to remove selected structures, works or improvements constructed by the Licensee within 7 days of written notice by the RMOW.

## 14 Release

- 14.1 The Licensee releases the RMOW 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 Licence.

## 15 Indemnity

- 15.1 The Licensee will indemnify and save harmless the RMOW and its elected officials, officers, employees, agents and others 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 MPSC related to the Licensee's use and occupancy of MPSC, any damage to property related to the Licensee's use and occupancy of MPSC, or the death of or injury to any person related to the Licensee's use and occupancy of MPSC.
- 15.2 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 Licence Agreement.

## 16 Insurance

- 16.1 The Licensee shall obtain and keep in force throughout the Term general liability insurance to protect and indemnify itself and the RMOW against claims for bodily injury, death, property damage, property loss, economic loss and other loss or damage occurring upon, in or about MPSC, in an amount of not less than \$2,000,000.00 per accident or occurrence, with the RMOW as a named insured under the policy, and otherwise with an insurer, a deductible and other terms satisfactory to the RMOW.
- 16.2 The Licensee shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by the Licensee.
- 16.3 The Licensee shall be responsible for obtaining insurance for its equipment and materials in MPSC.
- 16.4 The Licensee shall not be responsible for fire or other building insurance of MPSC.

## 17 Nature of Agreement

- 17.1 The location of the vending machines in MPSC will under all circumstances be viewed as a Licence only and will not create nor be deemed to create a lease or any other interest in MPSC in favour of the Licensee. This Licence is a personal right only and the benefit of this Licence does not run with the land.
- 17.2 The Licensee may not transfer or assign the Licence or this Licence Agreement, in whole or in part without prior written approval by the RMOW. Any transferring of this Licence is subject to the RMOW being satisfied, in its sole discretion, with the quality and experience of the person or persons with whom the Licence is being considered for the transfer.

## 18 Licensee's Cost

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

## 19 Notices

- 19.1 All notices, demands and payments required or permitted to be given under this Licence shall be in writing and may be delivered by hand or sent by email 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. Notice from the Licensee shall be addressed to the Manager of Recreation.
- 19.2 Any notice delivered or sent by hand or by email shall be deemed to be given and received at the time of delivery.

## 20 General

- 20.1 The provisions of this Licence Agreement 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, except as expressly set out in this Licence Agreement.

- 20.2 The Licence shall ensure to the benefit of and be binding upon the parties hereto and their successors.
- 20.3 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 Licence.
- 20.4 Waiver by the RMOW of any default by the Licensee shall not be deemed to be a waiver of any subsequent default.
- 20.5 Should any part of this Licence 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 Licence Agreement had been executed without the invalid portion, and it is hereby declared the intention of the parties hereto that this Licence Agreement would have been executed without reference to any portion which may, for any reason, be hereafter declared or held invalid.
- 20.6 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.
- 20.7 Any opinion which the RMOW is entitled by virtue of this Licence Agreement to form may be formed on behalf of the RMOW by the Manager of Recreation, in which case the opinion of the Manager of Recreation shall be deemed an opinion of the RMOW for the purposes of this Licence Agreement, and any power, right, discretion or decision- making which may be made by the Manager of Recreation may be made by his designate.

In witness whereof the parties have executed this Licence Agreement as of the dates written below.

DATED  
the \_\_\_\_\_ day of \_\_\_\_\_ 20XX.

RESORT MUNICIPALITY OF WHISTLER by )  
its authorized signatories: )

\_\_\_\_\_  
Manager of Recreation: Roger Weetman )

\_\_\_\_\_  
Guest Services Supervisor: Stephanie van  
den Berg )

DATED  
the \_\_\_\_\_ day of \_\_\_\_\_ 20XX.

BUSINESS NAME by )  
its authorized signatories: )

\_\_\_\_\_  
Licensee )

\_\_\_\_\_  
Licensee )

SAMPLE

## 2 Specific Service Requirements

### 2.1 Introduction

The Resort Municipality of Whistler (RMOW) invites qualified individuals or businesses to submit a Proposal to operate as a vending machine service and snack supplier for two vending machines at MPSC. RFP packages will be available in electronic format on RMOW and BC Bid websites, and in printed format at the reception desk at MPSC November 29, 2023.

Recreation services staff will conduct an evaluation of the Proposals. Roger Weetman, Manager of Recreation, will conduct final negotiations and ratifications.

### 2.2 The RMOW's Official Community Plan and Climate Action Big Moves Strategy

In 2020 the Resort Municipality of Whistler adopted the Official Community Plan Bylaw No. 2199, 2018. The OCP establishes policies that guide decisions on community planning and land use management for the RMOW over the next five to 10 years and beyond. The OCP also contains a renewed Community Vision for Whistler that articulates the high-level aspirations for our resort community, describing what we collectively seek to achieve now and over Whistler's long-term future. The renewed Community Vision is included within this plan to reinforce the important role of the OCP in pursuing the vision, and to better integrate the vision with supporting municipal policies.

The Climate Action Big Moves Strategy focuses on transportation, buildings, and waste, and articulates the key strategies Whistler will need to further reduce greenhouse gas emissions to meet its targets.

The RMOW is looking for Proposals that clearly understand our community's aspirations and measurably move our community further along the journey toward success in achieving our climate targets as articulated within our OCP and Big Moves Strategy visions. More information is available at <https://www.whistler.ca/ocp/> and <https://www.whistler.ca/climate-action/big-moves/> for reference in the proposal process.

### 2.3 Scope of Work

The vending machines must be available to provide service to visitors and guests at MPSC during operating hours. Within the licence agreement there will be:

- two vending machines that will provide healthy, nutritional type snacks
- a float above or equal to \$20 provided to the MPSC Guest Services front desk for issues arising from the vending services
- a commitment to provide service within 48 hours of a machine malfunction being reported by MPSC staff
- a sample product pricing list with a variety of healthy and affordable options (Note: vending machines will contain at least 25% Sell Most and 25% Sell Sometimes choices according to the Nutrient Criteria found in HEALTHIER CHOICES IN VENDING MACHINES IN BC PUBLIC BUILDINGS 2014 POLICY. <http://www2.gov.bc.ca/assets/gov/health/managing-your-health/healthy-eating/vending-policy-2014.pdf>. The licensee will then increase the total offerings of "Sell Most" and "Sell Sometimes" choices at a minimum of 2% per year to a total of 60% over the length of the contract. Increasing the "Sell Most" choices over the term is preferred, however 25% in the "Sell Most" choices will remain the minimum requirement.)
- commission fees payable to the RMOW in quarterly installments



## APPENDIX B – Section 2 - Specific Service Requirements of RFP #2023.02

### 2.4 Service Description

The vending machines will be provided, installed, and serviced by the successful proponent on a regular basis. The location of the machines will be decided by the Manager of Recreation Services. Each machine will be stocked at regular intervals, including at the direct request of the Meadow Park Sports Centre staff. Machines may require more frequent stocking during holidays, tournaments, and busy periods. Each snack machine will be stocked as per section 2.3. The service provider will pay a commission fee on the gross sales to the RMOW on a quarterly basis.

### 2.5 Licence Requirements

The licensee will hold the sole responsibility for:

- installing the machines under the safety guidelines of the machine manufacturer
- all costs resulting from malfunction or damage to any of the installed machines, or for the loss of any product from any machine at any time.
- accounting related to the machines.
- providing machines that are in good operating order and are not more than 10 years of age. If machines are more than 10 years of age, then a regular maintenance schedule must be provided in the Proposal.
- obtaining any required municipal business licences, and complying with all applicable laws, statutes, regulations, and policies, which apply to the operation of food and drink vending machines.
- all costs associated with removing the vending machines at the end of the contract, or upon termination of the contract by either the RMOW or the Proponent within fourteen (14) days.
- a guidebook and tracking system for the float that is to be maintained by MPSC staff.

The successful proponent will be awarded a Licence Agreement as the Vending Machine Service and Snack Supplier at Meadow Park Sports Centre for one 5-year term, commencing approximately January 1, 2024, and expiring December 31, 2028. Either party may terminate the Licence Agreement without cause, thus ending the agreement, 120 days after written notice of termination has been received by the other party.

