

The Corporation of the City of Kenora

By-law Number 153 - 2018

A By-law to Execute an Agreement between the Corporation of the City of Kenora and Middle Lake Enterprises (MLE) for the Operation and Maintenance of Anicinabe Park

Whereas the Corporation of the City of Kenora is the owner of Anicinabe Park in the City of Kenora and requires a Contractor to supply services for the operation and maintenance of Anicinabe Park; and

Whereas MLE wishes to provide services for the operation and maintenance of Anicinabe Park; and

Whereas The Municipal Act, 2001, S.O. 2001, Chapter C.25, s.94 and 110, provide that by-laws may be passed by Council of Municipalities for entering into agreements for maintaining, operating or managing parks, recreational areas or playgrounds;

Now Therefore the Corporation of the City of Kenora enacts as follows:

1. That the Corporation of the City of Kenora enter into an Agreement with Middle Lake Enterprises (MLE) for the operation and maintenance of Anicinabe Park, on the terms and conditions as contained in the said Agreement, a copy of which is annexed to this By-law, to be effective the 1st day of January, 2019 to October 31, 2023.
2. That the land known as Anicinabe Park be exempt from taxation for municipal and school purposes, from this date until November 1, 2023.
3. That the Mayor and Clerk be hereby authorized to execute all documents related to this Agreement on behalf of The Corporation of the City of Kenora.
4. That bylaw number 98-2013 be hereby repealed.

By-law read a first and second time this 18th day of December, 2018

By-law read a third and final time this 18th day of December, 2018

The Corporation of the City of Kenora:-

Daniel Reynard, Mayor

Heather Kasprick, City Clerk

This Agreement made this _____ day of December, 2018

B E T W E E N:

THE CORPORATION OF THE CITY OF KENORA
(hereinafter called "the City")

OF THE FIRST PART

MIDDLE LAKE ENTERPRISES (MLE)
(herein after called "MLE")

OF THE SECOND PART

Whereas the City is the owner of Anicinabe park in the City of Kenora and requires a Contractor to supply services for the operation and maintenance of Anicinabe Park; and

Whereas MLE wishes to provide services for the operation and maintenance of Anicinabe Park;

Now Therefore This Agreement Witnessed that in consideration of the premises, and the covenants and conditions hereinafter contained, the parties hereto covenant and agree as follows:

1. Scope of the Service

- a. MLE shall provide all supplies, materials, equipment and staff required to maintain and operate those facilities in Anicinabe Park as outlined in the Operations Standards Policy attached hereto as Schedule "A", including the attached appendixes A – H.
- b. MLE shall provide and staff a local telephone information line for inquiries and requests for information during regular hours of operation.
- c. MLE shall not allow the parking of seasonal R.V. rentals and shall adhere to the Ontario Parks Rules and Standards which state the length of stay not to exceed 28 (twenty-eight) days within a 31 (thirty-one) day period. MLE shall not allow long-term storage or semi-permanent or permanent structures on the campsites or storage areas. This provision includes the same person, party or RV unit occupying similar space in the park within the same summer period. MLE shall not allow overnight parking in the public parking lot nor overnight docking at the public docks.
- d. MLE shall supply to the City the following required forms before the 1st day of January, 2019:
 - (i) City of Kenora - Business Licence
 - (ii) Clean Criminal Reference Check
 - (iii) Indemnification Agreement – duly signed document
 - (iv) Fairness is a Two-Way Street – duly signed document

(v) Pre-Qualification Check List – duly signed document

(vi) Undertaking to Comply – duly signed document

e. MLE shall advise the City of Kenora of any rentals of the Park for events where alcohol will be served to ensure that the rental party is in accordance with the Municipal Alcohol Policy and has signed all documents related to such. The rental name, contact information and nature of event must be reported to the City as soon as the rental is confirmed.

2. Term of the Agreement

- a. This Agreement shall come into force and effect commencing the 1st day of January, 2019, ending October 31, 2023. The City retains the option to further extend the contract for a two year term: if all terms of the Contract have been met by MLE and if it is in the best interest of the City.
- b. Either party may terminate this Agreement by providing prior written notice by registered mail of sixty (60) days of the Party's intent to terminate;
- c. The City may terminate this Agreement with no notice in the event that MLE is in breach of this Agreement.

3. Municipal Responsibilities

- a. The City shall maintain park roads and parking lots in accordance with Schedule "A".
- b. The City shall be responsible for maintenance costs in excess of \$250.00, per year, associated with the Anicinabe Park operations in accordance with Schedule "A", provided that the City must approve the work and costs, in writing, prior to the expense being incurred.

4. Capital Improvements

- a. Prior to undertaking any capital improvements, approval must be obtained, in writing, from the City.
- b. All capital improvements shall become the property of the City.

5. Insurance

- a. MLE shall, at his own cost and expense, place, maintain and keep in force, general public liability insurance in a company or companies satisfactory to the City in the joint names of the City and MLE, against claims for personal injury or death occurring upon, in, or about Anicinabe Park, such insurance to afford protection in respect to injury or death and in respect to property damage in such amounts as may from time to time be reasonably required by the City and MLE shall furnish to the City during the continuance of this Agreement, evidence satisfactory to the City that such insurance is in full force and effect.

Evidence of renewal or replacement of such policy shall be delivered to the City at least thirty (30) days before the expiration of each such policy. The amount of insurance for the first year and thereafter until MLE is advised to the contrary shall be in the inclusive amount of not less than five million dollars (\$5,000,000.00).

- b. MLE covenants to keep the City indemnified against all claims and demands whatsoever by any person, whether in respect of damage to person or property, arising out of or occasioned by or arising from the act, default, or negligence of MLE, his agents, servants, employees, contractors, customers, invitees or licensees:
 - i. And MLE agrees that the foregoing indemnity shall survive the termination of this Agreement notwithstanding the provisions of this Agreement to the contrary.
- c. MLE shall carry insurance in his own name insuring against the risk of damage to MLE's property within Anicinabe Park caused by fire or other perils and the policy shall provide for coverage on a replacement cost basis to protect MLE's equipment, decorations and improvements.
- d. And MLE shall provide the City with a certified copy of the policies.
- d. MLE shall be required to produce a Workplace Safety and Insurance Board Certificate at the commencement of the Agreement and from time to time as may be required by the City.

6. Financial

- a. MLE shall pay to the City, the fees set forth as follows:
 - i. 2019 - \$27,956.24
 - 2020 - \$29,074.49
 - 2021 - \$30,237.47
 - 2022 - \$31,446.97
 - 2023 - \$32,704.85
- b. The annual fees shall be payable to the City of Kenora in two equal payments, as follows:
 - i. July 31st
 - ii. October 15th
- c. MLE shall retain all fees and charges associated with the Anicinabe Park operation during the term of this Agreement.
 - i. MLE shall keep accurate books and records of all funds received and disbursed in accordance with accepted accounting standards and deliver a copy to the City Treasurer by November 30th of each year relating to the campground operations.
 - ii. MLE shall inform the City of the fee schedule and any changes, thereto, to park users.

iii. MLE shall collect fees for the following: tent campsite rentals, trailer campsite rentals, docks and other permanent structure rentals, concession sales, firewood, and equipment rentals.

iv. MLE shall provide the City with an annual report related to the operations identified in the above section (i).

7. Assignment

- a. MLE shall not sublet, sub-contract or assign any of the works identified in this Agreement without the written consent of the City.

8. Notice

- a. Any notice, direction or other instrument required or permitted to be given to the City hereunder shall be in writing and may be given by mailing same, postage prepaid, or delivering same to the City at One Main Street South, Kenora, Ontario, P9N 3X2. Any notice, direction or other instrument required or permitted to be given to MLE hereunder shall be in writing and may be given by mailing same, postage pre-paid or delivering same to David Longe, President, Middle Lake Enterprises, 4 Middle Lake Road, Site 8, Box 50, RR 1, Keewatin, ON P0X 1C0.
- b. Any notice, direction or other instrument aforesaid if delivered shall be deemed to have been given or made on the date on which it was delivered, or, if mailed, shall be deemed to have been given or made on the next business day following the date upon which same was mailed.

9. Termination

Upon expiry or other termination of this Agreement:

- a. MLE shall leave the assets and improvements of Anicinabe Park in a clean, repaired and well-maintained condition.
- b. MLE shall give an up-to-date financial and activity report to the City.
- c. MLE shall transfer to the City, all deposits.

10. This Agreement shall ensure to the benefit of and be binding upon the respective parties hereto and their respective heirs, executors, administrators, successors and/or assigns.

In Witness Thereof the parties have hereunto affixed their hands and seals the day and year first above written.

Signed, Sealed and Delivered)

in the presence of:

The Corporation of the City of Kenora

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) **per:** _____

Daniel Reynard, Mayor

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) **per:** _____

Heather Kasprick, City Clerk

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Witness

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**David Longe, President
Middle Lake Enterprises**