

Lake of the Woods
KENORA



NORTH AMERICA'S
Premier
BOATING DESTINATION

REQUEST FOR EXPRESSION OF INTEREST

CITY OF KENORA

Vending Trucks (Food and Other Business Opportunities)

REQUEST FOR EXPRESSION OF INTEREST

CITY OF KENORA

1.0 Introduction and Background

The City of Kenora (“the City”) is requesting Request for Expressions of Interest (“RFEOI”) from interested, qualified, licensed, experienced, competent firms (the “Firm”) to vending truck services (food or other) at the Kenora Harbourfront (“Services”). Alternative locations may be considered:

Further information about the Project can be obtained at the City of Kenora:

Josh Nelson, Tourism Development Officer

Phone: (807) – 467-2986

E-mail: jnelson@kenora.ca

2.0 General Goals and Desired Outcomes

General goals and desired outcomes for the proposed services include:

Successful proponents will be required to provide all the services necessary to operate a self-contained vending truck.

All participants are required to make note of the following:

Must provide a detailed schedule of operations for the proposed lease – applicants are encouraged to apply for a full season, however, the City of Kenora will consider submissions related to shorter timeframes (minimum of two weeks). Further the City of Kenora will consider mutli-year requests;

Vendors must provide proof of a valid City of Kenora Business License, if approved through this process;

Vendors must be compliant with the Northwestern Health Unit (NWHU) Food Safety, which includes maintenance and operation. If the NWHU finds that the vendor does not comply with the requirements of the NWHU, the vendor will be shut down until it is in compliance;

Vendors shall ensure that appropriate measures are in place to protect the municipal sidewalk and property from damage, deterioration or disrepair. Vendors will be responsible for keeping their area neat and tidy, including washing their sidewalk area with a recommended environmentally friendly cleaner to ensure that their venue does not leave a stain on the City infrastructure;

Vendors are not permitted to set up tables and chairs;

Vendors at the Harbourfront will be required to enter into an agreement with Harbourfest and/or KBI directly for the duration of those events;

Vendors will have access to the City Water via a garden hose;

Vendors are required to properly dispose of their grey water and will not be granted access to City Sewer services for pump out;

Vendors will be required to pay weekly rent - \$105.00 + \$35.00 (Electrical) plus applicable taxes, prorated as required;

Vendors must be able to provide a valid insurance certificate;

Vendors must have an electrical inspection before set up is permitted – permit must be submitted to Tourism Development Officer

Vendors to ensure that they have their own condiments readily available for customers;

Vendors to dispose of their garbage on a regular daily basis and not be left outside of the unit.

Alternative locations may be considered

3.0 Expression of Interest

The main body of the response to this RFEOI shall be no longer than **15 PAGES (single side)**. The Firm(s) shall use a 12-point font with a one border around all pages within the main body of the submission.

Expressions of Interest shall contain the following information:

1. The name(s) and contact information for the individual(s) who will serve as the client contact;
2. Size and description of food vending unit, including photo of unit;
3. Electrical requirements;
4. Plan for maintaining a clean site;
5. A detailed menu outlining the food items that will be sold in the booth;
6. Proposed operations, including days of the week, hours and duration of lease (minimum of two weeks);
7. References for similar or related projects and/or experience
8. Expression of Interest submission:

Please submit the Expression of Interest in one of the following formats:

- i. Three hard copies of the Expression of Interest; or
- ii. An electronic version of the Expression of Interest together with such other background documents the Firm feels are pertinent to the Expression of Interest, all in PDF, Word, Excel or PowerPoint format.

4.0 Submission Details

The Expressions of Interest shall be delivered no later than **11:00:00** AM (Central Time zone) on March 23rd, 2023 addressed to:

City of Kenora
1 Main Street South
Kenora, ON P9N 3X2
Attention: Heather Pihulak, City Clerk
hpihulak@kenora.ca

RE: Vending Trucks

It is the responsibility of each interested Firm to ensure that all of the above materials are received by the date and time and at the address indicated above or they will not be accepted as an expression of interest.

5.0 Selection Process and Evaluation Criteria

A selection panel will be established by the City (the "Selection Panel") in order to evaluate the submitted Expressions of Interest on the basis of the criteria listed below, and in order to establish a short list of Firms to participate in a subsequent procurement and selection process as hereinafter described.

The short list of qualified Firms may include all submitting an Expression of Interest or may be a subset of those Firms, depending upon the outcome of the evaluation process conducted by the City.

The City will consider all of the criteria listed herein and shall have the sole and unfettered discretion to award up to the maximum number of points for each of the criteria listed.

The criteria and the maximum number of points for each of the criteria are noted below.

Criteria	Points
Proposed Vendor Operation <ul style="list-style-type: none">- Days of week and hours- Duration of lease for occupation	40
Menu <ul style="list-style-type: none">- Food and beverage selection	40
Experience <ul style="list-style-type: none">- Previous experience in operations	20
Total	100

6.0 Firm Selection

The City may select one or more short listed Firms whose submission in response to the Request for Expression of Interest, in the City's view and sole and unfettered discretion, best meets the Evaluation Criteria. The short listed Firm(s) may, in the City's sole and unfettered discretion, be extended an invitation to submit a proposal in response to a Request for Proposals ("RFP") or may be invited to submit a tender in response to an Invitation to Tender ("ITT"). The procurement method chosen, whether it be an RFP or ITT, shall be in the sole and unfettered discretion of the City.

7.0 Subsequent Process

The subsequent selection process after selection of a short list of Firms, if any, will consist of the City issuing a request for proposals (the "RFP") or an Invitation to Tender ("ITT") to be submitted by the short listed Firms which proposal, or tender as the case may be, shall be in a format set out in the RFP or the ITT. Following the evaluation of these proposals, or tenders, by the City, and following an interview of one or more of the Firms, to be determined solely by the City, a successful Firm will be selected by the City on the basis of established criteria and interviews.

8.0 No Tender and No Contractual Relationship

a) This selection process is not a tendering process. It is part of an overall procurement and selection process intended to enable the City to identify a potential Successful Firm. The submission of an Expression of Interest does not constitute a legally binding agreement between the City and any Firm. For greater certainty, by submission of its Expression of Interest, the Firm acknowledges and agrees that there will be no initiation of contractual obligations or the creation of contractual obligations as between the City and the Firm arising from this process or the submission of an Expression of Interest.

b) Further, the Firm acknowledges and agrees that this procurement model is not a tender nor an RFP but a Request for Expression of Interest. A submission may be rescinded by a Firm at any time prior to the execution of the Contract for the work.

9.0 Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, (MFIPPA)

All documents submitted in response to this Request for Expressions of Interest will be subject to the protection and disclosure provisions of the *Municipal Freedom of Information & Protection of Privacy Act* ("MFIPPA"). MFIPPA allows persons a right to access records in the City's custody or control. It also prohibits the City from disclosing the Firm's personal or business information where disclosure would be harmful to the Firm's business interests or would be an unreasonable invasion of personal privacy as defined in Sections 28, 29 and 30 of MFIPPA. Firms are encouraged to identify what portion of their Expression of Interest is confidential and what harm could reasonably be expected from its disclosure. However, the City cannot assure a Firm that any portion of its Expression of Interest can be kept confidential under MFIPPA.

10.0 Discretion of the City

a) Notwithstanding any other provision of this Request for Expression of Interest package to the contrary, the provisions in this Section prevail, govern and override all other parts of this process.

b) The City is not bound to accept any Expression of Interest. At any time prior to selection of a short list of Firm(s), the City may, in its sole and unfettered discretion, or for its own convenience, terminate the selection process, cancel this RFEIOI process and proceed with this procurement on different terms. All of this may be done with no compensation to the Firm.

c) The City reserves the right to accept or reject any and all Expressions of Interest, all without giving reasons, and not accept any submission. The City reserves the right to determine, in its sole and unfettered discretion, whether any submission meets the Mandatory Requirements of the Request for Expression of Interest package. Selection of the short list of Firms if any, is at the sole and unfettered discretion of the City.

- d) The City is not bound to negotiate with any Firm.
- e) The City reserves the right, at its sole and unfettered discretion, to:
 - i) utilize any designs, ideas or information contained in any of the Expressions of Interest for its sole use and benefit without making payment or otherwise providing consideration or compensation to any Firm or any other party;
 - ii) waive any formality, informality or technicality in any submission, whether of a minor and inconsequential nature, or whether of a substantial or material nature; and
 - iii) receive, consider, negotiate and/or accept any Expression of Interest, regardless of whether it complies (either in a material or non-material manner) with the Mandatory Requirements of the Request for Expression of Interest package or not.
- f) As a condition to submitting a response to the Request for Expression of Interest, the Firm acknowledges and agrees that:
 - i) The City is entitled to exercise their sole and unfettered discretion to award the points for criteria noted above during the evaluation of the Expression of Interest;
 - ii) The City is entitled to exercise their sole and unfettered discretion to select a Firm, or Firms, to participate in the subsequent selection and procurement process and may also, at their sole and unfettered discretion, reject any and all Expressions of Interest and waive irregularities and informalities whether of a trivial or substantial nature;
 - iii) The Firm irrevocably and unconditionally waives the right to contest in any legal proceedings or otherwise, any of the foregoing decisions of the City;
- g) The City reserves the right to reject any or all submissions in response to the Request for Expression of Interest in its sole and unfettered discretion.
- h) The City reserves the right to accept conditions to be offered by and/or negotiated with any one of the shortlisted Firms which are not specifically contained in the Request for Expression of Interest. Such options and/or alternatives shall be included in the evaluation process conducted by the City in a manner determined by the City in its sole and unfettered discretion.
- i) At all times, the City, and/or the Selection Committee, reserve the right to seek written clarifications from a Firm at any time during this process. Such clarification shall be deemed an amendment to such Firm's submission in response to the Request for Expression of Interest and be binding upon the Firm.

11.0 Disclaimer of Liability and Indemnity

By making a submission in response to the Request for Expression of Interest, and as a pre-condition to entering into the selection process with the City, a Firm agrees:

- a) to be responsible for conducting its own due diligence on data and information upon which its submission is based;
- b) that it has fully satisfied itself as to its rights and the nature of the risks it will be assuming; and
- c) that it has gathered all information necessary to perform all of its obligations in accordance with its submission;

- d) that is solely responsible for ensuring that it has all information necessary to prepare its submission and for independently verifying and informing itself with respect to any terms or conditions that may affect its submission;
- e) to hold harmless the City and all of its successors and assigns, from all claims, liability and costs related to all aspects of the RFEOI process;
- f) that it shall not be entitled to claim against the City on grounds that any information, whether obtained from the City, regardless of the manner or form in which the information is provided, is incorrect or insufficient;
- g) that the City will not be responsible for any costs, expenses, losses, damages or liability incurred by the Firm as a result of or arising out of RFEOI process; and
- h) to waive any right to contest in any proceeding, case, action or application, the right of the City to select any Firm whomever the City deems, in its sole and unfettered discretion, to have made the submission most beneficial to the City.

12.0 Limitation of Liability & Indemnity

The City expressly disclaims any and all liability for representations, warranties (express or implied), errors or omissions in the RFEOI package or in any written or oral information transmitted or made available at any time to a Firm by or on behalf of the City.

13.0 Representations and Warranties

- a) the City makes no representations or warranties other than those expressly contained herein as to the accuracy and/or completeness of the information provided in this RFEOI package.
- b) Firms are hereby required to satisfy themselves as the accuracy and/or completeness of the information provided in this RFEOI package.
- c) No implied obligation of any kind by or on behalf of the City shall arise from anything contained in this RFEOI package, and the express representations and warranties contained in this RFEOI package, and made by the City, are and shall be the only representations and warranties that apply.
- d) Information referenced in this RFEOI package, or otherwise made available by the City as part of the selection process, is provided for the convenience of the Firm only and the City does not warrant the accuracy or completeness of this information. The Firm is required to immediately bring forth to the City any conflict or error that it may find in the RFEOI package. All other data is provided for informational purposes only.
- e) Further, the City makes no representation or warranty about the conditions of any of the land upon which the work of this RFEOI is to be performed or any of the adjacent lands including, without representation, buildings, utilities, soils, land use entitlements or other service, sub-service or legal conditions. Firms shall make their own conclusions concerning such conditions.

14.0 Independent Determination

- a) A submission by a Firm will not be considered by the City if it was not arrived at independently without collusion, consultation, communication or agreement as to any matter, such as prices, with any other Firm.
- b) The failure to comply with any aspect of this RFEOI (either in a material way or otherwise) shall render the Firm subject to such actions as may be determined by the City, including disqualification from the selection process, suspension from the selection process and imposition of conditions which must be complied with before the Firm will have its privilege of making a submission reinstated.

15.0 Documents

All documents submitted by a Firm shall become the property of the City upon being presented, submitted, or forwarded to the City. Should any documents be submitted electronically, notwithstanding the prohibition on same contained elsewhere in this RFEOI, then their content and the media they are contained in shall also become the property of the City upon their being presented, submitted or forwarded to the City. The City has the right to utilize any designs, ideas or information contained in any of the submissions in any manner, in its sole and unfettered discretion.

16.0 Use of Documents, Drawings and Ideas

Notwithstanding anything contained in this RFEOI package as to the purpose for the submission, the City may use the concepts, ideas, suggestions, ideas, and directions contained within the documents, drawings, plans, written descriptions and other materials contained in submissions and in any communication surrounding the submissions provided by the Firms or their agents, for any purpose whatsoever including, but not limited to, use of portions of the submissions or of ideas, information, enhancements to the Evaluation Criteria and designs contained therein in other City projects. For clarity, the confidentiality obligations set out herein which apply to the City's use of information herein shall not interfere with the City 's rights to use concepts, ideas, suggestions and directions as herein described.

17.0 Assignment of Copyrights

A Firm acknowledges and agrees that by submitting an Expression of Interest, or by otherwise communicating with the City regarding matters relating to the RFEOI or the Project, and for good and valuable consideration, receipt of which is acknowledged, the Firm transfers and assigns unto the City any and all Copyrights related in any way to its Expression of Interest. The Firm represents and warrants to the City that it has become the owner of Copyrights as they have arisen from time to time and accordingly it has become qualified to make this copyright assignment(s) in favour of the City. The Firm has also ensured that the first owners of Copyrights have waived their copyright moral rights in written documents. Copies of assignments of Copyrights from first authors and waivers shall be provided to the City at no cost and the originals shall be available for inspection by the City and its agents on reasonable terms. The Firm agrees to assist in understanding, documenting, and in applying for registration for Copyrights for any works; including executing such documentation as is reasonable and proper and within a reasonable time therefore.

18.0 Indemnity for Infringement

The Firm hereby indemnifies the City hereby agrees to hold it harmless against all claims, suits, proceedings, demands and actions arising out of or in any way connected with copyright, patent or other intellectual property infringement rights asserted by others against the City including for all damages, judgments, costs, fees and expenses (including legal fees on a solicitor and his own client

full indemnity basis) as a result of the City owning, using or benefiting from the use of the submission or from designing, building, operating and maintaining the Project that is referred to in the Expression of Interest.

19.0 Site Conditions

- a) The Firm is responsible for inspecting the site of the work of this procurement and for making whatever inquiries or arrangements necessary for it to become fully informed of the nature of the site of the work of this procurement, including the soil structure and topography of the site, and of the work of this procurement to be performed and all matters which may in any way affect the work of this procurement. Without limiting the foregoing, by making its submission, and by entering into the negotiations with the City, the Firm acknowledges that it has investigated and satisfied itself as to:
 - i) the nature of the work of this procurement;
 - ii) the location and all conditions relating to the Site of the work of this procurement including, but not limited to, accessibility, general character, surface and sub-surface conditions, soil structure, utilities, road, uncertainties of seasonal weather and all other physical, topographical, geological and geographic conditions;
 - iii) the general character, conditions, laws and restrictions applicable to the work of this procurement that might affect the performance of the work of this procurement;
 - iv) all environmental risks, conditions, laws and restrictions applicable to work of this procurement that might affect the work of this procurement; and
 - v) the magnitude of the construction required to execute and complete the work of this procurement.
- b) The Firm is fully responsible for obtaining all information required for the preparation of its submission and for the execution of the work required by this procurement. The City is not responsible for undertaking any investigations to assist the Firm. Any information, plans, drawings, shop drawings or existing equipment or facilities, photos of the original construction, reports or other documents which are not included or referred to in a submission (the "Non-Submission Information"), form no part of such submission. the City assumes no responsibility of any kind whatsoever arising from or relating to its failure to include or refer to such Non-Submission Information.
- c) The Firm's obligation to become familiar with the information described in this Section is not lessened or discharged by reason of any technical reports, including soils reports or data, test hole drilling reports or other soils information, made available or supplied in conjunction with the proposal process. Any technical reports so provided are for information only and the City does not accept or assume any responsibility for the contents or accuracy of such technical reports and the Firm agrees that the City shall not be liable in any way to the Firm in respect of such technical reports.
- d) The Firm further agrees that it shall not rely upon any oral information provided to it by the City.