

Parks and Recreation Advisory Committee Meeting to be held via Zoom

**Public attendance is prohibited at this time. If you'd like to watch or listen to the live Committee meeting, please email Committees@Penticton.ca 24-hours prior to the commencement of the meeting for the Zoom meeting participation details. You will have an opportunity to ask questions related to the agenda at the end of the meeting.*

**Monday, February 22, 2021
at 3:00 p.m.**

1. **Call Regular Committee Meeting to Order**
2. **Adoption of Agenda**
3. **Adoption of Minutes**
 - 3.1 Minutes of the January 18, 2021 Parks and Recreation Advisory Committee Meeting **1-3**
Staff Recommendation:
THAT the Parks and Recreation Advisory Committee adopt the minutes of the January 18, 2021 meeting as presented.
4. **New Business**
 - 4.1 Skaha East Concession, Request for Proposal – Sheri Raposo, Land Administrator **4-51**
 - a. Committee Report **4-7**
 - b. Request for Proposals for Operation of Skaha East Concession **8-42**
 - c. PowerPoint Presentation **43-51****Staff Recommendation:**
THAT the Parks and Recreation Advisory Committee recommends that Council direct staff to issue the Request for proposal to seek an operator for the use of the City building located at 3885 South Main Street (Skaha East Concession), for the purpose of the operation of a food concession that may include the sale of locally produced liquor for a 3 year term.
5. **Next Meeting** **52**
6. **Public Question Period**
7. **Adjournment**

Minutes

penticton.ca

Parks and Recreation Advisory Committee Meeting

held via Zoom
Monday, January 18, 2021
at 3:00 p.m.

- Present:** Isaac Gilbert, Chair
James Palanio, Vice Chair
Tyson Bull
Gary Dean
John Archer
Robert (Sandy) Ross
Laura Harp
Drew Barnes
- Staff:** Len Robson, Public Works Manager
Kelsey Johnson, Manager of Recreation, Arts & Culture
Anthony Haddad, General Manager of Community Services
Blake Laven, Director of Development Services
JoAnne Kleb, Public Engagement Program Manager
Todd Whyte, Parks Manager
Alysa Wardley, Legislative Assistant
- Regrets:** Jake Kimberley, Councillor
Lee Davidson
Michaela Wooldridge
Julia Barber
Susan Fraser
- Guest:** Katya Irwin, Word Count Consulting

1. **Call to Order**

The Parks and Recreation Advisory Committee was called to order by the Chair at 3:03 p.m.

2. **Adoption of Agenda**

It was MOVED and SECONDED

THAT the Parks and Recreation Advisory Committee adopt the agenda for the meeting held on January 18, 2021 as presented.

CARRIED UNANIMOUSLY

3. **Adoption of Minutes**

It was MOVED and SECONDED

THAT the Parks and Recreation Advisory Committee adopt the minutes of the December 10, 2020 meeting as presented.

CARRIED UNANIMOUSLY

4. **New Business**

4.1 Skaha Lake Park East Plan Planning Exercise Review – JoAnne Kleb, Public Engagement Program Manager, Len Robson, Public Works Manager

The Public Engagement Program Manager gave a presentation reviewing the Skaha Lake Park East Plans and public engagement results. A community engagement workshop was conducted in 2020 to gather public opinion on 3 proposed concepts for Skaha Lake East, while public opinions have been gathered from online feedback forms through Shape Your City. Overall, Concept A was the preferred option with both the community engagement forums and the workshop, with further statistics and comments indicating the preferred design components to each concept.

It was MOVED and SECONDED

THAT the Parks and Recreation Advisory Committee receive into the record the overview of the public engagement activities conducted to date for the Skaha Lake Park East Plan and support staff preparing the draft consolidated plan and proceeding to the next phase of engagement.

CARRIED UNANIMOUSLY

The Public Works Manager presented a draft of the consolidated plan for Skaha Lake Park East, including consulting with the Penticton Indian Band to better understand opportunities for representation, working with the paddling community for the boathouse location, suggestions for the marina building, the splash-pad area, and for the parking lot. New ideas of note were the relocation of the parking lot to the southeast corner of the park and enhancing the marina as a destination through amenities such as a restaurant. Moving forward the draft of the consolidated plan will gather further feedback and review new considerations.

Comments from Members at Large ranged from support of plans to feelings that plans seemed like they were compromising ideas and a desire that more options would have been explored with regards to the motorized boating area. Other comments would like to continue to support a location for the boathouse which allows ease and access to the water.

It was MOVED and SECONDED

THAT the Parks and Recreation Advisory Committee recommend that staff proceed with the high level feasibility, design, costing of this variation to concept A in conjunction with the development of the Concept A Consolidated Plan.

CARRIED UNANIMOUSLY

4.2 Mountain Bike Skills Park Subcommittee, Campbell Mountain – Pat Dowler, Penticton and Area Cycling Association

The representative from the Penticton and Area Cycling Association provided the Committee with a presentation on the proposed plans for a Mountain Bike Skills Park on Campbell Mountain. Proposed works include a purpose built network of features, such as pump tracks and jumps, for bikers of all levels of experience to develop skills. Campbell Mountain has been suggested as the most favourable venue for the Park. The main goal suggested for this Park is to provide a free venue to encourage family use and outdoor activity within the community.

The floor was opened for questions and comments, allowing Mr. Dowler to provide further clarity on the proposed location of the Skills Park, including access to the Park and potential City of Penticton boundaries.

It was MOVED and SECONDED

THAT the Parks and Recreation Advisory Committee support the securing of a location for the Penticton and Area Cycling Association to have a mountain biking skills park built, preferable location being "Location 1" identified at the North end of Campbell Mountain.

CARRIED UNANIMOUSLY

5. **Next Meeting**

The next Parks and Recreation Advisory Committee meeting is tentatively scheduled to be held on February 22, 2021 at 3:00 p.m.

6. **Public Question Period**

7. **Adjournment**

It was MOVED and SECONDED

THAT the Parks and Recreation Advisory Committee adjourn the meeting held on January 18, 2021 at 4:44 p.m.

CARRIED UNANIMOUSLY

Certified Correct:

Alysa Wardley
Legislative Assistant

Committee Report

penticton.ca

Date: February 22, 2021

To: Parks and Recreation Advisory Committee
From: Sheri Raposo, Land Administrator

Subject: Skaha East Concession – Request for Proposal
3885 South Main Street, Penticton, BC

File No: 4320-80

Staff Recommendation

THAT the Parks and Recreation Committee recommends that Council direct staff to issue the Request for Proposal to seek an operator for the use of the City building located at 3885 South Main Street (Skaha East Concession), for the purpose of the operation of a food concession that may include the sale of locally produced liquor for a 3 year term.

Background

The building was built as a bath house and concession back in 1961 and has had concession operators ever since.

There are a total of four beach concession buildings in Penticton as follows:

NAME	EXPIRY
Skaha East Concession	September 30, 2020
Sudbury Beach Concession	September 30, 2021
Skaha Main Concession	September 30, 2022
The Peach	January 31, 2022

Thomas & Callin Fine Foods Ltd. d.b.a Tickleberrys, is the most recent operator of the Skaha East Concession and had a 2-year License to Use Agreement that has now expired.

Property Description

Skaha East Concession is located at 3885 South Main Street, as shown outlined in red on Attachment A.

The building includes a ± 250 sq.ft. concession area. Public washrooms are located on the north, north-east and south of the building and do not form a part of the Licensed Area with the City being responsible for their maintenance.

Existing Use

The current use of this property is P2 – Parks and Recreation. Permitted uses in this zone are:

- accessory use, building or structure
- carnival
- community garden
- government service
- indoor amusement, entertainment and recreation
- outdoor market
- public parking lot

Park Land Protection and Use Policy References

The Park Land Protection and Use Policy references the following sections regarding a License to Use for a portion of public park land that is a permitted use in a Park Zone:

3.3. Protect public ownership

- 3.3.1. The City of Penticton may issue a License to Use for a portion of public park land to support a Permitted Use in a Park Zone. These licenses are typically for a short term or seasonal in nature, up to a maximum of three (3) years, and shall be approved in accordance with the zoning procedure for Permitted Uses outlined in this policy.

5.1. Permitted Uses

- 5.1.1. Permitted Uses within any Park Zone and no other uses than those provided for in the list of permitted uses in the Zoning Bylaw shall be allowed on City park land.

As this building is located within a dedicated park, the Park Land Protection and Use Policy requires new agreements within our parkland follow the following procedure:

- Step 1: Application to renew submitted to City staff
- Step 2: Proposal brought forward to Open Council meeting
- Step 3: Circulation of application to City Departments and Parks & Recreation Advisory Committee
- Step 4: City staff conduct License Review to confirm conditions of license met and license in good standing
- Step 5: City staff review finding with Parks & Recreation Advisory Committee
- Step 6: Parks & Recreation Advisory Committee review application and feedback from staff
- Step 7: Parks & Recreation Advisory Committee would then make a recommendation to Council to approve or deny the renewal

Staff have reviewed the file and have brought forward the request to Council for a Request for Proposal to seek an operator for the concession at the February 16, 2021 Regular Council meeting. Step 6 and 7 require the Parks and Recreation Advisory Committee review the request and feedback from staff. Staff, after receiving the committee's recommendation to Council, will bring this matter back to Council at their March 2, 2021 regular Council meeting for approval or denial.

February 16, 2021 City Council meeting

10.5 Request for Proposal – Skaha East Concession

3885 South Main Street

55/2021

It was MOVED and SECONDED

THAT Council receive into the record the report titled “Request for Proposal – Skaha East Concession” dated February 16, 2021, a report that introduces a request for proposal for the use of 3885 South Main Street (Skaha East Concession) for the operation of a food concession for a three year term;

AND THAT Council refer the request for proposal to the Parks and Recreation Advisory Committee for their review and recommendation.

CARRIED UNANIMOUSLY

56/2021

It was MOVED and SECONDED

THAT the Request for Proposal for the Skaha East Concession, which is being considered by the Parks and Recreation Advisory Committee, include the consideration of the sale of liquor.

CARRIED

Mayor Vassilaki, Opposed

During staff’s initial presentation to Council on February 16, 2021, Council suggested that the City look into the possibility of including the sale of alcoholic beverages at the Skaha East Concession. Council directed staff to present this option to the Parks and Recreation Committee for their review and recommendation.

Last year Council passed a Bylaw that designated locations where liquor could be consumed. This pilot program ran from June to October 2020 in specified areas.

On March 16th, 2021, staff will be bringing another Bylaw forward for Councils consideration for liquor consumption to be allowed in the same locations as the pilot program from May to October, 2021. Skaha East concession is outside of the area that liquor consumption was allowed during the pilot program. (West of the volleyball courts).

In the event that there is support to have liquor sales at the Skaha East concession, staff could include this area to the Bylaw that is being brought forward on March 16, 2021.

All liquor licensing permits and any further requirements to sell liquor would be the responsibility of the Tenant.

Analysis

To ensure an open competitive environment the City's practice is to issue a request for proposal for concession operators. The intent would be for the RFP to be issued and awarded in time for the operator to commence operations by May 1, 2021. City staff will bring the recommendations of the Parks and Recreation Advisory Committee back to Council for their endorsement prior to issuing the RFP.

Although the City is undertaking the development of a Masterplan for the East Skaha Park, under all options considered it is expected that a concession will continue in the park. Any specific changes coming out of the masterplan work will be incorporated into the License to Use of the operator in due course.

Alternate recommendations

THAT the Parks and Recreation Committee recommends that Council direct staff to issue the Request for Proposal to seek an operator for the use of the City building located at 3885 South Main Street (Skaha East Concession), for the purpose of the operation of a food concession, excluding alcoholic beverages.

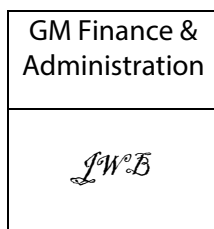
That the Committee does not recommend the City issue a Request for Proposal to seek an operator for the use of the building located at 3885 South Main Street and known as the Skaha East Concession, for the purpose of the operation of a food concession for a 3 year term.

Attachments

Attachment A – Attachment B – Draft Request for Proposal

Respectfully submitted,

Sheri Raposo, Land Administrator



REQUEST FOR PROPOSALS FOR OPERATION OF SKAHA EAST CONCESSION

Request for Proposals No.: 2021-RFP-01

Issued: _____

Closing Date and Time: _____ **at 2:00:00 PM**

Non-mandatory site visit: _____ **at 10:30 AM at Skaha East Concession**
located at 3885 South Main Street, Penticton, BC

Respondents are required to bring their own pen and face covering to the site meeting.

Summary, Contents & Instructions:

Summary

The City is seeking an operator for Skaha East Concession for the purpose of operating the concession for a 3 year term.

The City of Penticton (the City) invites Proposals from Respondents who wish to enter into a License to Use and operate the commercial concession facility known as Skaha East Concession and located at 3885 South Main Street, Penticton, BC.

This Request for Proposals (RFP) document outlines the overall scope of facility tenure, sets out the basic requirements for the Proposal document and provides the evaluation criteria to be used as the basis for awarding the tenure. The objectives of the RFP are to evaluate the Proponent's experience, proposed utilization of the facility and products offered, cost of products to the consumers, any proposed upgrades or required improvements, schedule of operation, and License rate.

Contents


This Request for Proposals (the "RFP") is organized into the following parts:

- **Part A: The Services** – full details of the Services required and terms and conditions
- **Part B: The RFP Process** – the process for submissions, evaluation and award of the Contract
- **Part C: The Contract** – the Contract the City will enter into
- **Part D: Submission Instructions and Forms** – the forms a Respondent should submit in their Proposal

Instructions:

Whenever you see the following symbol and box throughout this document, this box is providing instructions to a Respondent on what this section means and/or what a Respondent must do:

Example:

	Whenever you see this box throughout the RFP document, the text is providing instructions or information on what this section means and/or what a Respondent must do.
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Part A: The Services



This Part A provides details on operation of Skaha Park Concession (the "Services") required by the City of Penticton. Respondents should ensure they are fully capable of providing all of the requirements outlined, as this section will form the scope of work in the final Contract.

1. Overview

Skaha Park is located at the south end of Penticton and on the north end Skaha Lake. The park extends from South Main Street to Skaha Lake Road and from Elm Avenue to Skaha Lake. The City of Penticton is seeking an operator for Skaha East concession for the purpose of operating the concession for a three (3) year term. The following amenities are adjacent to the concession: Rotary Play World playground, Jacye Place sport court, Skaha Rotary splash pad, Rotary Club Centennial Pavilion, Skaha Lake Ball Field and Skaha Lake fitness Park.

2. Term

The Contract will have a 3 year term from May 1, 2021 to April 30, 2024.

3. Sub-contracting

Subcontracting of this contract is not permitted. Any change of ownership requires the City of Penticton's prior written approval. Any award made as a result of this Request for Proposal will be based on the Criteria as detailed in Part B which includes Best Value, which will include, but not be limited to, cost and profit return, quality of products and service. The highest or any Proposal may not necessarily be accepted.

4. Insurance Permits and Safety Protocols

4.1 Liability Insurance

The Licensee shall take out and keep in force during the Term:

Commercial General Liability (including bodily injury, death, and property damage) insurance on an occurrence basis with respect to the business carried on, in, or from the Licensed Premises and the Licensee's use and occupancy thereof, of not less than \$5,000,000 per occurrence, which insurance shall be without right of subrogation and include the Landlord as a additional insured and shall protect the Landlord in respect of claims by the Licensee as if the Landlord were separately insured; and

All insurance required to be maintained by the Licensee hereunder shall be on terms and with insurers to which the Landlord has no reasonable objection and shall provide that such insurers shall provide to the Landlord 30 days' prior written notice of cancellation or material alteration of such terms.

4.2 Equipment Insurance

Notwithstanding anything contained elsewhere herein, it is understood and agreed that the City shall not be liable for any loss or damage to Licensee's equipment, including loss or use thereof. The Licensee should carry their own insurance for their equipment and the policy shall contain the following clause:

"It is agreed that the right to subrogation against the City or any of its officers, employees, or Managers or their parent, subsidiary, affiliated, or associated companies or corporations, is hereby waived."

4.3 Registration with WorkSafe BC (WCB)

The License may contain a provision that the Licensee must be registered with WorkSafe BC (WCB) and ensure compliance with the Workers' Compensation Act. Upon request the Licensee shall submit a WorkSafe BC (WCB) Clearance Letter indicating that all WCB assessments have been paid.

4.4 Ministry of Health

The premises will be turned over to the Licensee compliant with Ministry of Health requirements. The Licensee will be responsible for maintaining the premises to Ministry of Health standards, at their cost.

4.5 Governing Regulation

The Licensee shall be aware and ensure that all necessary rules, statutes, and regulations pertinent to the operation are followed. The Licensee shall obtain all necessary permits required by law, and comply with all laws, ordinances, rules and regulations relating to the operation of the Concession and to the preservation of the public health. The Licensee shall be responsible for the safety of all workers and the public.

4.6 Protection of Property and Public

The Licensee shall comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority having jurisdiction.

The Licensee shall protect the Premises and the City's property from damage and shall make good at their own expense any damage which may arise as the result of the Licensee's operations under the License.

4.7 COVID-19 Exposure

The Licensee will be required to bear Prime Contractor responsibilities as defined by WorkSafe BC.

Prime contractors have specific responsibilities for health and safety and must ensure that the activities of employers, workers, sub-contractors and other parties at the workplace are coordinated. The Contractor is also required to do everything that is reasonably practicable to establish and maintain a system or process that will ensure the compliance with the Occupational Health and Safety Regulation and the *Workers Compensation Act*.

Employers are responsible for ensuring the health and safety of workers by putting policies and procedures in place to keep workers healthy and safe, and providing workers with up-to-date instructions, training, and supervision on those policies and procedures.

Prime contractors, employers, and sub-contractors must have a mechanism in place for workers to raise issues and concerns about COVID-19 exposure so that additional precautions and controls can be put in place where required.

5. Specifications and Conditions

5.1 Facility Details

Skaha East concession is $\pm 250 \text{ ft}^2$ and includes a commercial fridge, countertop, stainless steel sink, chest freezer, and oven.

2021-RFP-01

Operation of Skaha East Concession

Public washrooms located on the north, north-east and south of the building do not form part of the License area and the City is responsible for their maintenance and the utilities.

5.2 Equipment

There is currently equipment located within the facility which may or may not be included with the license. Prior to signing a contract, the City will determine if the equipment is safe for operation and an inventory list will be prepared at that time and form part of the contract document.

6. Products

Proponents must state payment to the City of Penticton for the License to Use the concession. The RFP shall include in a business plan operating hours and a menu of food and beverage items with pricing, as well any other non-food and non-beverage goods or services for sale or rent. All prices shall be in Canadian dollars.

Sale or rental of items other than food or beverages will be considered, and must be approved, in writing, by the City. Sale or rental of items which are in direct competition of beach vendors within a 50m radius will NOT be approved.

7. Use of Facility

7.1 Minimum Fee Payment

A minimum fee of \$3,500.00 per season plus GST and annual CPI adjustments, will be required.

7.2 Utilities

The Licensee will be responsible for the cost of electricity and be responsible to transfer the utility account into their name for the term of the contract (May 1, 2021 to April 30, 2024).

7.3 Damage Deposit

A damage deposit of \$500.00 must be paid prior to commencing operations of the concession.

7.4 Fire Safety Plan

Prior to commencing operations of the concession, the Licensee must provide the City with a copy of a Fire Safety Plan, which must be acceptable to the City.

7.5 Emergencies

The Licensee shall take such action as necessary to deal with emergencies; and will notify the City immediately through the 24 hour emergency phone number 250.490.2324.

8. Site Conditions

Respondents may examine the Premises before submitting a Proposal, by attending the non-mandatory site meeting, either personally or through a representative to satisfy the nature and location of the Premises, local conditions, the equipment and facilities needed preliminary to and during the prosecution of the Premises and the means of access to the site, all necessary information as to risk, contingencies and circumstances as may affect a Proposal, and all other matters which can in any way affect the Premises.

9. Start-up and Wrap-up Meetings

The City representative and the Licensee will attend and start up meeting providing an opportunity to walk through the concession to ensure all is in working order and to hand over keys to the Licensee.

At the end of the season, a City representative and the Licensee will attend a wrap-up meeting providing an opportunity to walk through the concession to ensure all is in working order and to hand over keys to the City. If any equipment is not working or damage has been sustained to the facility, any repairs will be deducted from the damage deposit.

10. Operating Season

At a minimum, the Licensee shall provide continuous service to the public from May 1st, till September 30 seven (7) days per week and at hours acceptable to the City.

11. Maintenance

The concession must be kept in a clean and sanitary manner, both inside and outside, on a daily basis. The repairs and maintenance of the Premises and Equipment are the sole responsibility of the Licensee.

12. Inspections

The City reserves the right to inspect the premises at any time and will provide a minimum of 24 hours' notice. Inspections are for the purpose of identifying and assessing and potential fire hazards and to ensure the facility is operating in a safe, clean and healthy manner.

Any of the City's concerns will be provided to the Successful Proponent, in writing, with a deadline of when issues must be rectified. If issues are not remedied to the City's satisfaction, the City reserves the right to cancel the Contract. The repairs and maintenance of the Premises and Equipment are the sole responsibility of the Licensee.

13. Facility



Part B: The RFP Process



This Part B details the terms and conditions of how this RFP process will be run by the City, and how the Contractor will be selected. Respondents to this RFP must ensure they follow all the terms detailed below. Failure to follow the terms of this Part B may result in a Proposal being rejected.

1. Key Details

1.1 RFP Contact Person

The sole point of contact at the City of Penticton for any queries or questions related to this RFP is:

- Cathy Ingram, Procurement and Inventory Services Manager
- Direct all inquiries to this contact via the “Messages - Questions and Answers” feature on the City of Penticton Bonfire Portal: <https://penticton.bonfirehub.ca/portal>

The above-named RFP Contact Person is the only person that any Respondent to this RFP may contact during this RFP process. Information obtained from any source other than the RFP Contact Person is unofficial and must not be relied upon as part of this RFP. Respondents must not contact any other employees, officers, consultants, agents, elected officials or other representatives of the City of Penticton regarding matters related to this RFP. Any Respondent found to have contacted persons other than the RFP Contact Person, may be disqualified from submitting a Proposal, or have their Proposal rejected.

All questions regarding this RFP must be submitted via the “Messages – Questions and Answers” feature in the Bonfire Portal prior to the Deadline for Questions detailed under Section 1.2 of this Part B. Questions received after the Deadline for Questions will be addressed if time permits. The Respondent is solely responsible for seeking any clarification required regarding this RFP, and the City shall not be held responsible for any misunderstanding by the Respondent.

1.2 Timetable

This RFP process will run to the following timetable. This timetable may be amended at the City’s discretion through the issuance of an addendum to this RFP.

Event:	Date:
Issue Date of this RFP	
Deadline for Questions	
Last Day for Issue of Addenda	
RFP Closing Date and Time:	
Notice of Award Date (estimated)	

1.3 Site Meeting

A non-mandatory site meeting will be held at Skaha East Concession on _____, _____, at AM at Skaha East Concession located at 3885 South Main Street. Respondents are strongly encouraged to familiarize themselves with the location prior to submitting a Proposal.

1.4 Submission of Proposals (Address, Date & Time, Format)

Proposals to this RFP must be submitted digitally via the City of Penticton Bonfire Portal:

- **Bonfire Portal:** <https://penticton.bonfirehub.ca/portal>
- **RFP Closing Date and Time:** Proposals must be received no later than 2:00 PM on _____.
- **Format:** All of the information required in the forms listed under Part D – Submission Forms

The complete Proposal must be uploaded, submitted, and finalized on the Bonfire Portal outlined above no later than the Closing Date and Time. It is strongly recommended that Respondents allow sufficient time and at least one day before the RFP Closing Date and Time to begin the uploading process and to finalise the Proposal.

Uploading large documents may take significant time, depending on the size of the file(s) and the internet connection speed. The maximum upload file size is 100MB.

Respondents will receive an email confirmation receipt with a unique confirmation number once the submission is finalized. For technical questions specific to submitting on the Bonfire Portal, contact Bonfire via email at Support@GoBonfire.com. Respondents can also visit their help forum at <https://bonfirehub.zendesk.com/hc>.

2. Definitions Used in this RFP



The following are definitions used in this RFP document. Whenever one of the following terms is used with a capitalized first letter, the term shall have the meaning as set out in this section.

- 2.1 "Addenda" or "Addendum" means additional information or amendments to this RFP, issued by the City in accordance with Section 5 of this Part B.
- 2.2 "City" means the City of Penticton
- 2.3 "Contract" means a written agreement for the provision of the Services that may result from this RFP, executed between the City and the successful Respondent to this RFP.
- 2.4 "Contractor" means the successful Respondent to this RFP who enters into a Contract with the City.
- 2.5 "Closing Date and Time" means the date and time that Proposals to this RFP must be received by in accordance with Section 1.4 of this Part B.
- 2.6 "Licensee" means the successful Respondent with whom the City enters into a Contract.
- 2.7 "Proposal" means a Proposal submitted by a Respondent in response to this RFP.
- 2.8 "Respondent" means a person or entity that submits a Proposal to this RFP.
- 2.9 "RFP" means this Request For Proposals 2021-RFP-01 Skaha East Concession, including all Parts A to D.
- 2.10 "Section" means the numbered section of the referenced part of this RFP.
- 2.11 "Services" means the Services which the City seeks to be provided by the Contractor, as outlined in Part A.

3. Amendment of a Proposal by Respondent

A Respondent may amend a Proposal at any time up until the RFP Closing Date and Time. Amendments must be submitted in the same way as the original Proposal, as detailed in Section 1.4 of this Part B.

4. [Withdrawal of a Proposal by Respondent](#)

A Respondent may withdraw a Proposal that is already submitted at any time throughout the RFP process, including after the Closing Date and Time.

5. [Addenda Issued by City](#)

This RFP may only be amended by way of an Addendum issued in accordance with this Section. At any time up until the Closing Date and Time, the City may issue an Addendum in order to amend, clarify, or answer questions to this RFP. Each Addendum will be issued via the Bonfire Portal, at the same location and in the same manner as this RFP document. Each Addendum will form an integral part of this RFP. Respondents are solely responsible for checking the Bonfire Portal for Addenda up until the Closing Date and Time. If the City deems it necessary to issue an Addendum after the Last Day for Issue of Addenda, as detailed in Section 1.2 of this Part B, then the City may extend the Closing Date and Time in order to provide Respondents with more time to complete their Proposal.

Proposals should confirm receipt of all Addenda in Appendix A – Certification Form, of their Proposal.

6. [Evaluation of Proposals & Award of Contract](#)

The City will conduct the evaluation of Proposals and selection of a successful Respondent in accordance with the process detailed in this Section. Evaluation of Proposals will be by an evaluation committee which may include the City's Procurement Manager and stakeholders, as well as key City employees. The City's intent is to enter into a Contract with the Respondent who has met all mandatory criteria and minimum scores, and who has the highest overall ranking based on this evaluation process.

6.1 [Mandatory Criteria](#)

Proposals not clearly demonstrating that they meet the following mandatory criteria will be excluded from further consideration in the evaluation process.

Mandatory Criteria:	
1	The Proposal must be received by the Closing Date and Time, in accordance with the requirements of Section 1.4
2	The Proposal must include the following completed form: <ul style="list-style-type: none"> • Appendix A – Certification Form

6.2 [Scored Criteria](#)

Proposals that meet all of the Mandatory Criteria will be further assessed against the following scored criteria.

Scored Criteria	Weighting
Business Plan and annual Financial payment (based on Appendix B submission)	40%
Experience (based on Appendix C submission)	45%
Menu and Pricing (based on Appendix D submission)	15%
TOTAL	100%

6.3 [Scoring Method](#)

The following method will be used to score the scored criteria:

- All criterion will be scored by the evaluation committee out of 100, which will then be multiplied by the Weighting factor to provide a weighted score.

6.4 Clarifications & Remedy Period

Notwithstanding the requirements for mandatory criteria and scored criteria detailed in this Section 6, the City will allow the following remedies and clarifications at its sole discretion:

- Remedy for missing Mandatory Criteria: If the City finds that a Proposal fails to meet all of the mandatory requirements detailed in Section 6.1, then the City may provide written notification to a Respondent which identifies the requirements not met and provides the Respondent with 5 calendar days to remedy and supply the requirements. The 5 calendar days shall commence upon notification by the City to the Respondent. This option to remedy missing requirements shall not apply to Proposals not received by the Closing Date and Time.
- Clarification of Proposals: During evaluation of the scored criteria, the City may at its sole option, request further details or clarification from the Respondent and/or third parties, on aspects of a Proposal by way of a written request for clarification. The written request shall clearly state the required clarification and time limit to supply the information requested. Following receipt of the clarification information, the City may use this information to reassess and/or re-score the Proposal according to the scored criteria.

6.5 Ranking of Respondents

Following completion of the evaluation against the scored criteria, the weighted scores for each Proposal will be added together, and Proposals will be ranked according to their total weighted scores. The Respondent with the highest-ranked Proposal will be invited to conclude a Contract with the City. In the event that two or more Proposals have an equal total weighted-scored, then the Respondent with the Lowest Total Price will be invited to enter into a Contract with the City.

6.6 Conclusion and Execution of a Contract

Neither the City nor any Respondent will be legally bound to provide or purchase the Services until the execution of a written Contract. Following an invitation to a Respondent, by the City, to conclude a Contract, it is expected that the City and that Respondent would enter into discussions which may include, among other things:

- Clarification or amendment to the scope of work, plus any resulting price adjustments, based on items submitted in the Proposal.
- Amendments to the terms and conditions of the Contract (Part C), based on items submitted in the Proposal.

The City would seek to execute a Contract within 30 days of issuing an invitation to the Respondent to conclude a Contract. If the City and Respondent do not, for any reason, execute a Contract within this time-period, the City may discontinue the process with that Respondent and invite the Respondent with the next-highest-ranked Proposal to conclude a Contract. The City may then continue this process until a Contract is executed, or there are no further Respondents, or the City otherwise elects to cancel the RFP process entirely. For clarity, the City may discontinue discussions with a Respondent if at any time the City is of the view that it will not be able to conclude a Contract with that Respondent.

7. Other Terms & Conditions of this RFP Process

The following terms and conditions shall also apply to this RFP:

7.1 Proposals in English

All Proposals are to be in the English language only.

7.2 Only One Entity as Respondent

The City will accept Proposals where more than one organization or individual is proposed to deliver the Services, so long as the Proposal identifies only one entity that will be the lead entity and will be the Respondent with the sole responsibility to perform the Contract if executed. The City will only enter into a Contract with that one Respondent.

7.3 Proposals to Contain All Content in Prescribed Forms

All information that Respondents wish to be evaluated must be contained within the submitted Proposal. Proposals should not reference external content in other documents or websites. The City may not consider any information which is not submitted within the Proposal or within the pre-prescribed forms set-out in this RFP.

7.4 References and Experience

In evaluating a Respondent's experience, as per the scored criteria, the City may consider information provided by the Respondent's clients on the projects submitted in the Proposal, and may also consider the City's own experience with the Respondent.

7.5 RFP Scope of Work is an Estimate Only

While the City has made every effort to ensure the accuracy of the Services described in this RFP, the City makes no guarantees as to the accuracy of the information provided. Any quantities or measurements provided are estimates only and are provided to describe the general nature and scale of the Services. Respondents must obtain all information they deem necessary, including verification of quantities or measurements in order to complete a Proposal.

7.6 Respondent's Expenses

Respondents are solely responsible for their own expenses in participating in this RFP process, including costs in preparing a Proposal and for subsequent finalizations of an agreement with the City, if required. The City will not be liable to any Respondent for any claims, whether for costs, expenses, damages or losses incurred by the Respondent in preparing its Proposal, loss of anticipated profit in connection with any final Contract, or any matter whatsoever.

7.7 Retention of Proposals and FOIPPA

All Proposals submitted to the City will not be returned and will be retained in accordance with the *Freedom of Information and Protection of Privacy Act* ("FOIPPA"). Respondents should note that in accordance with the provisions of FOIPPA, certain details of this RFP and any executed Contract may be made public, including the Contractor's Name and total Contract price. Respondents should identify with their Proposal any information which is supplied in confidence, however, Respondents should be aware of and review the City's obligations under FOIPPA and the City's limited ability to refuse to disclose third party information pursuant to section 21 of FOIPPA.

7.8 Notification and Feedback to Unsuccessful Respondents

At any time up until or after the execution of a written Contract with the Contractor, the City may notify unsuccessful Respondents in writing that they have not been selected to conclude a Contract. Unsuccessful Respondents may then request a feedback email or telephone call with the City's Procurement Department in order to obtain feedback on how their Proposal fared in the evaluation. Such requests for feedback must be made within 30 days of notification of the RFP results to the unsuccessful Respondent. Details of feedback provided will be at the City's sole discretion in order to protect the confidentiality of other Respondents and the City's commercial interest.

7.9 Conflict of Interest

All Respondents must disclose an actual or potential conflict of interest, as set-out in Appendix A – Certification Form. The City may, at its sole discretion, disqualify any Respondent from this RFP process, if it determines that the Respondent's conduct, situation, relationship (including relationships of the Respondent's employees and City employees) create or could be perceived to create a conflict of interest.

The City may rescind or terminate a Contract entered into if it subsequently determines that the Respondent failed to declare an actual or potential conflict of interest during this RFP process, as required under Appendix A – Certification Form.

7.10 Confidentiality

All information provided to Respondents by the City as part of this RFP process is the sole property of the City and must not be disclosed further without the written permission of the City.

7.11 No Contract A and No Claims

This RFP process is not intended to create and no contractual obligations whatsoever (including what is commonly referred to as 'Contract A') shall arise between the City and any Respondent upon the submission of a Proposal in response to this RFP. For extra clarity, both the Respondent and the City are free to cancel their participation in this RFP process at any time up until the execution of a written Contract for the Services.

Without limiting the above paragraph, no Respondent shall have any claim whatsoever against the City for any damage or other loss resulting from a Respondent's participation in this RFP, including where the City does not comply with any aspect of this RFP and including any claim for loss of profits or Proposal preparation costs should the City not execute a Contract with the Respondent for any reason whatsoever.

7.12 Right to Cancel RFP

Although the City fully intends to conclude a Contract as a result of this RFP, the City may at its sole discretion, cancel or amend this RFP process at any time without any liability to any Respondent.

7.13 Governing Law and Trade Agreements

This RFP is governed by the laws of the Province of British Columbia and any other agreements which exist between the Province of British Columbia and other jurisdictions.

Part C: The Contract (Licence to Use Agreement)



This Part C details the Contract (Licence to Use Agreement) but not limited to, the terms and conditions that the City will enter into with the Contractor at the conclusion of the process outlined in Section 6.6 of Part B.

The City and the successful Respondent shall enter into a Contract for the Services using the following terms and conditions:

LICENSE TO USE AGREEMENT

Nature of Agreement:	License to Use	File No.: 4320.70
Particulars:	Use of space located at 3885 South Main Street, Penticton and known as Skaha East Concession for the operation of a beach food concession that may include the sale of locally produced liquor.	

THIS AGREEMENT dated for reference _____ day of _____, 2021.

BETWEEN:

THE CORPORATION OF THE CITY OF PENTICTON

a duly incorporated City Municipality under the laws of the Province of British Columbia, located at 171 Main Street, in the City of Penticton, in the Province of British Columbia, V2A 5A9 (hereinafter call the “**City**”)

OF THE FIRST PART

AND:

[INSERT COMPANY NAME]

[Insert Address]

[Insert Address]

(hereinafter called the “**Licensee**”)

OF THE SECOND PART

WHEREAS the City has agreed to grant a non-exclusive license to the Licensee to have access and use of the concession building shown outlined in red and described in the Schedule A attached hereto (hereinafter referred to as the “**Licensed Area**”);

NOW THEREFORE, in consideration of the fee to be paid by, and the covenants of, the Licensee, the parties agree as follows:

1. Grant of License

The City, on the terms set forth herein, grants a license to the Licensee to enter on the Licensed Area to operate the concession located at 3885 South Main Street, Penticton, BC, known as

Skaha East Concession for the purposes described in the Management Plan attached hereto as Schedule B (herein called the "**Management Plan**") on an "as is" basis and the City makes no representations or warranties as to the suitability of the Licensed Area for the intended use.

2. Duration

- 2.1 This agreement and the rights granted shall be for a term of **THREE YEARS (3) years** commencing on **May 1, 2021** (the "**Commencement Date**") through to **April 30, 2024**, unless cancelled in accordance with the terms of this agreement.
- 2.2 In a year prior to the expiry of this agreement, the City reserves the right to offer tenure over the Licensed Area through an open and competitive process. The Licensee may participate in the competitive process.

3. License Fee

- 3.1 On the Commencement Date and annually thereafter, the Licensee shall pay to the City, the amount of Three Thousand Five Hundred– ~~XX/100~~ **(\$3,500.00)** dollars plus **GST** (the "**License Fee**").
- 3.2 The License Fee may be paid in two equal installments. First installment will be due on June 1st and second installment will be due on July 1st.
- 3.3 On each and every anniversary of the Commencement Date thereafter during the term of this agreement, the License Fee shall be adjusted by an amount equivalent to the change in the Consumer Price Index for Province of British Columbia for the preceding year.

4. Utilities

The Licensee will be responsible for the costs of electricity and ensure the transfer of the utility account into their name for the terms of the contract.

5. Damage Deposit

A damage deposit of \$500.00 must be paid prior to the start of the 2021 season, and will be returned to the Licensee upon the expiry of this agreement, provided that there are no damages and/or outstanding amounts due by the Licensee.

6. Covenants of the Licensee

The Licensee covenants and agrees with the Lessor:

- (a) to pay the License Fee due at the address of the City first written or at such other place as the City may specify from time to time;
- (b) to observe, abide by and comply with all applicable laws, bylaws, orders, directions, ordinances and regulations of any competent governmental authority in any way affecting the Licensed Area and improvements situate thereon, or their use and occupation;
- (c) not to commit or suffer any willful or voluntary waste, spoil or destruction on the Licensed Area or do or suffer to be done thereon anything that may be or become

a nuisance or annoyance to owners or occupiers of the property or the adjoining land;

- (d) to indemnify, save harmless, release and forever discharge the City, their elected and appointed officials and employees from and against all manners of actions, causes of actions, claims, debts, suits, damages demands and promises, at law or in equity, whether known or unknown, including without limitation for injury to persons or property including death, or any person directly or indirectly arising or resulting from, or attributable to, any act, omission, negligence or default of the Licensee in connection with or in a consequence of this agreement, save and except to the extent caused by any act, omission, negligence or default of the City, its elected and appointed officials and employees;
- (e) to keep the Licensed Area in a safe, clean, tidy and sanitary condition satisfactory to the City and to make clean, tidy and sanitary any portion of the Licensed Area or any improvement that the City may direct by notice in writing to the Licensee;
- (f) to at all times, maintain the City-owned equipment listed in Schedule C attached (herein called the “**Equipment**”) in good, clean working order such that the condition of the Equipment complies with all applicable BC Health and Safety Acts and Regulations, and advise the City promptly when repairs are necessary to any of the Equipment;
- (g) to use and occupy the Licensed Area in accordance with the provisions of this agreement including those provisions and requirements set forth in the Management Plan;
- (h) to permit the City, or its authorized representative, to enter upon the Licensed Area at any time, with 72 hours notice to the Licensee, to test, inspect or perform such other work as the City may deem necessary or desirable;
- (i) to provide to the City with prepared in-house income and expense statement of the concession operation at the end of each season;
- (j) that on the expiration or at the earlier cancellation of this agreement:
 - (i) to peaceably quit and deliver possession of the Licensed Area to the City;
 - (ii) to remove all fixtures, structures, machinery, apparatus and all other things placed on the Licensed Area by the Licensee, leaving the Licensed Area in a clean and clear condition within one hundred and eighty (180) days of the termination of this agreement and leave the Licensed Area in good repair, restoring the Licensed Area to a condition similar to that at the Commencement Date. One hundred and eighty (180) days after the expiration or cancellation of this license, any improvements or fixtures that remain on the Licensed Area shall be absolutely forfeited and become the property of the City and the City, at their sole discretion, may remove any or all of the improvements or fixtures that were requested to be removed, but left by the Licensee, from the Licensed Area and the Licensee shall, on demand, compensate the City for all costs incurred by the City respecting their removal and disposal;

- (k) to the extent necessary, this covenant shall survive the expiration or cancellation of this agreement;
- (l) to effect and keep in force during the term, insurance against claims for personal injury, death, property damage or third party or public liability claims arising from any accident or occurrence on the Licensed Area to an amount not less than **FIVE MILLION (\$5,000,000.00) DOLLARS**, and to name the City as an additional insured on the policy with the inclusion of the following clauses:

“Cross Liability” clause:

“The insurance afforded by the insurance policy shall apply in the same manner to all insureds, as though separate policies were issued to each insured in the event an action is brought against any of the named insured by or on behalf of any other named insured.”

“Cancellation” clause:

“It is understood and agreed that the coverage provided by this policy will not be changed or amended in any way or cancelled (prior to thirty (30) days after written notice of such change or cancellation shall have been given or sent by registered mail to all named insured).”

and deliver to the City written confirmation of the required insurance coverage upon execution of this agreement.

- (m) the Licensee will provide the City with a new Certificate of Liability Insurance annually upon renewal;
- (n) notwithstanding subsection l) of Section 6, the City may from time to time notify the Licensee that the amount of insurance posted by the Licensee pursuant to that subsection be changed and the Licensee shall, within sixty (60) days of receiving such notice, cause the amount of insurance posted, pursuant to subsection l) of Section 6 to be changed to the amount specified in the notice and deliver to the City written confirmation of the change;
- (o) not to place any improvements on the Licensed Area other than those described elsewhere in this agreement, without prior written consent of the City;
- (p) not cause or permit any unusual or objectionable noises, or lights, to emanate from the License Area;
- (q) not cause or permit any unusual or objectionable odours which may be noxious or offensive or which could constitute a public or private nuisance;
- (r) not cause or permit any waste or damage;
- (s) not to conduct merchandising, display or advertising other than those typically associated with the operation of a concession on the Property without obtaining prior written permission from the City, which can be unreasonably withheld;

- (t) to observe and comply with any rules or regulations the City may make from time to time pertaining to the operation, reputation, safety, care or cleanliness of the Licensed Area and any use thereof as provided herein;
- (u) that if, as a consequence of any release of a Hazardous Substance resulting from the Licensees use of the Licensed Area in or on the Licensed Area by the Licensee or its servants, agents, or contractors or any person for whom the Licensee is in law responsible, any actions are required to be taken in order to comply with any Government Requirement applicable to the use, presence or removal of such Hazardous Substance on or from the Licensed Area (including any Governmental Requirement relating to testing for or identification of Hazardous Substances) and if the Licensee has received notice in writing of such Governmental Requirement from the relevant authority (whether the requirement is made of the City or Licensee), then the Licensee shall at its expense take such action as required by the Governmental Requirement (or alternatively such other action as may be acceptable to the relevant authority after discussing with the Licensee). For the purposes of this paragraph:

Governmental Requirement(s) means all requirements made or imposed pursuant to law by federal, provincial, municipal or other governments including requirements of the Environmental Laws.

Hazardous Substances means any substances that are defined as or regulated as being waste, contaminants, pollutants, fungicides, insecticides, herbicides, dangerous substances, industrial waste, special waste, toxic substances, hazardous waste, hazardous material, or hazardous substance whether or not defined as such or pursuant to any law, regulation or order.

Environmental Laws means all applicable federal, provincial, municipal or local laws, statutes or ordinances, as they may be amended from time to time after the Commencement Date of the License relating to the environment, occupational safety and the transportation or regulations of Hazardous Substances.

- (v) that if, the Licensee fails to take any action required to be taken pursuant to any consequence of any release of a Hazardous Substance the City may (but not be obligated to) take such action after giving thirty (30) days written notice to the Licensee of its intention to do so, unless within such thirty (30) day period that Licensee has taken the required action or has commenced in and is continuing diligently to carry out such action, and the City shall for that purpose, be permitted to enter the Licensed Area with the appropriate equipment. The Licensee covenants to reimburse the City for all reasonable costs incurred by the City in taking such required action pursuant to the release of any Hazardous Substance within thirty (30) days after receiving from the City an invoice and reasonable supporting details relating to such costs.

- (w) that at all times during the term and at its own expense procure and carry, or cause to be procured and carried and paid for, full workers' compensation coverage in respect of all workmen, employees, servants, and others engaged in or upon any work, non-payment of which would create a lien on the Licensed Area.

7. Non-Exclusivity

- 7.1 The Licensee acknowledges and agrees that the license herein shall not entitle the Licensee to exclusive possession of the Licensed Area.
- 7.2 The Licensee covenants and agrees not to interfere with the activities of any other person to enter on and use the Licensed Area under any prior or subsequent license granted by the City.
- 7.3 The parties hereto acknowledge that the license granted to the Licensee herein is a license only and shall not, under any circumstances, constitute a partnership, lease or joint venture between the parties.

8. Assignment

The Licensee shall not assign this license without the prior written consent of the City.

9. Cancellation

- 9.1 In the event that:

- a) the City requires the Licensed Area for its own use or in its sole discretion, considers that it is in the public interest to cancel the rights herein granted, in whole or in part,
- b) the Licensee ceases to use the Licensed Area for the purposes permitted herein; or
- c) the City, in its sole discretion, considers that it is no longer necessary for the Licensee to use the Licensed Area for the purposes permitted herein,

the City may on one hundred and eighty (180) days written notice to the Licensee, cancel this license and the rights herein granted, in whole or in part and the Licensee agrees that the City shall not be responsible for payment of any costs, compensation, reimbursement or any monies whatsoever as a result of a notice pursuant to paragraph 9.1 a), b) or c) except repayment of the prorated portion of any prepaid License Fee if notice is pursuant to paragraph 9.1 a) or c).

- 9.2 If the Licensee is in default in the observance of any covenant, agreements, provisions or conditions contained herein and such failure continues for a period of thirty (30) days after the giving of written notice by the City to the Licensee of the nature of the failure the City may cancel this License without prejudice to any rights to which the City has accrued under this License before the said cancellation.

- 9.3 Thirty (30) days after expiration or cancellation of this license, any improvements or fixtures that remain unremoved from the Licensed Area, shall be absolutely forfeited and become the property of the City and the City may remove them from the Licensed Area and the Licensee shall, on demand, compensate the City for all costs incurred by the City respecting their removal.

10. General

- 10.1 The terms and provisions of this agreement shall extend to, be binding upon and enure to the benefit of the parties, hereto and their successors and permitted assigns.
- 10.2 This agreement and all the terms and conditions of it may be inspected by the public at such times and at such places as the City may determine.
- 10.3 Time is of the essence in this agreement.
- 10.4 The records of the City shall be conclusive evidence of the contents of any schedule referred to in this agreement.
- 10.5 In this agreement, unless the context otherwise requires, the singular includes the plural and the masculine includes the feminine gender and a corporation.
- 10.6 Where in this agreement there is a reference to Bylaws, that reference shall include a reference to any subsequent enactment of like effect, and unless the context otherwise requires all Bylaws referred to herein are enactments of the City of Penticton.
- 10.7 Any waiver or acquiescence by the City of or in any breach by the Licensee of any covenant or condition shall not be deemed to be a waiver of the covenant or condition of any subsequent or other breach of any covenant or condition of this agreement.
- 10.8 If the Licensee continues to exercise the license granted after the expiration of the term of it without objection by the City and without any written agreement providing otherwise, the Licensee shall be deemed to be a Licensee from month to month, and subject to the provisions of this agreement insofar as applicable, but it shall be lawful for the City to cancel and determine the License granted by delivering to the Licensee notice to that effect, and upon delivery of such notice this license shall cease without prejudice to any rights of the City under this license accrued before the cancellation.

11. Notice

Any notice required to be given hereunder by the Licensee shall be in accordance with the provisions of the *Local Government Act* of British Columbia and if by the City to the Licensee any notice hereunder shall be deemed to have been well and sufficiently given if mailed, by prepaid registered mail, or faxed, emailed, faxed or delivered to the Licensee at:

To the City:

171 Main Street
Penticton, BC V2A 5A9
Attn: Corporate Officer
email: corpadmin@penticton.ca

To the Licensee:

[Insert Name]
[Insert Address]
[Insert Email]

or such other address as the Licensee may from time to time direct in writing, and any such notice by the City to the Licensee shall be deemed to have been received, if mailed, five (5) days after the time of mailing, or if faxed or emailed, seventy-two (72) hours after the time of faxing or emailed and if delivered upon the date of delivery. If normal mail service, fax or email service is interrupted by strike, slow down, force majeure or other cause, a notice sent by the impaired means of communication will not be deemed to have been received until actually received, and the City may utilize any such services which have not been so interrupted.

12. Payment of City's Expenses

If at any time an action is brought or the City is otherwise required to employ the services of a bailiff, an agent, or its solicitors because of a breach by an act or omission of any covenant herein contained on the part of the Licensee, the Licensee shall pay to the City all expenses incurred by the City in the enforcement of its rights and remedies hereunder (including the City's administrative costs and legal fees on a solicitor and his own client basis in connection therewith) together with interest thereon at the rate equivalent to the prime rate of the Bank of Montreal plus three percent (3%) per annum calculated monthly not in advance from the date due until paid. For the purposes of this paragraph the prime rate shall mean the annual percentage rate of interest established from time to time by the Bank of Montreal, Main Branch, Vancouver, British Columbia as the base rate that will be used to determine rates of interest charged by it for Canadian Dollar loans to customers in Canada and designated by the Bank of Montreal as the prime rate.

IN WITNESS WHEREOF the parties hereto have hereunto executed this agreement on the following page as of the date and year first above written.

The Corporation of the City of Penticton
by its authorized signatories:

John Vassilaki, Mayor

Angie Collison, Corporate Officer

[INSERT COMPANY NAME]
by its authorized signatory(ies):

[Insert name]

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[Insert name]

OR if individual – delete one or the other

SIGNED in the presence of

Witness as to all signatures

Print Name

Address

}
}
}
}
}
}
}
}
}

[Print Name]

[Print Name]

SCHEDULE A

LICENSED AREA

That portion of 3885 South Main Street, Penticton, B.C. and known as Skaha East Concession for the operation of a beach food concession that may include the sale of locally produced liquor. Shown below outlined in red.

The Licensee is not responsible for the washrooms at the rear of the building.

Picnic tables may be placed on the asphalt in front of the concession such that they do not interfere with the pedestrian traffic or on either side of the concession space permitting. The maintenance of the tables is the sole responsibility of the Licensee. Tables on the grass areas must be moved to the asphalt at the end of the day to facilitate watering. The Licensee shall respect any request from the City's Parks Department to move the tables to slightly different locations to reduce stress to the grass areas. The tables will be moved by the Licensee if on the lawn during mowing (typically Thursdays). Tables must be locked-up every night.

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SCHEDULE B

Management Plan

1. PURPOSE

The Licensee shall have the license to operate the concession located in the Licensed Area shown outlined on the aerial photo in Schedule A for the purpose of operating a concession as described in 2.2 below.

2. SPECIAL PROVISIONS

- 2.1 The Licensee shall not carry out or make any structural alteration, renovations, additions or improvements without the expressed written permission of the City and any alterations, renovations, additions or improvements so approved, shall be at the sole expense of the Licensee.

- 2.2 The Licensee shall use the Licensed Area and all improvements thereon solely for the operation of a food concession and tourist items branded to the concession operator that may include the sale of locally produced liquor. At a minimum the Licensee shall operate and be open to the public seven (7) days a week during the hours of 10:00 a.m. to 7:00 p.m. commencing on May 1st until September 30th in each year of the term subject to weather conditions being reasonable to carry on the aforesaid use or at such other times as the parties may mutually agree in writing. At the discretion of the Licensee, the concession is permitted to remain open until 10:00 pm each night.

3. **FACILITIES**

3.1 **Purpose**

The purpose of this section is to assure that all facilities are maintained to a level that is expected for the operation of a first class-facility.

The concession area includes the entire area accessible from within the concession's north outer door and the exterior walls and doors containing the concession area. The license does not include the public washrooms in the building.

3.2 **General Maintenance**

- a) As necessary, repair finish to maintain aesthetics
- b) Dusting (high/low) shall be carried out on a weekly basis
- c) Repairs shall be carried out as necessary to maintain the integrity of all surfaces with spot painting as required
- d) Cement Flooring - daily sweep and wet mop
- e) Control all spills using absorbent material
- f) Semi-Annual - Pressure wash all surfaces
- g) Repaint flooring every two years following standard industry practices and guidelines
- h) All repairs shall be carried out immediately by the Licensee

At the end of each season, the building should be left broom clean, with the fridges properly cleaned, emptied and unplugged with doors open for the winter.

3.3 **Vandalism**

All incidents of vandalism shall be repaired within 48 hours of occurrence. The Licensee is responsible for removal of graffiti from the Licensed Area to the concession and the access doors. The City will be responsible for all maintenance including graffiti removal of the remaining portion of the building to the east.

3.4 **Minor Repairs**

The Licensee shall be responsible for all minor repairs, where specified "Minor Repairs" shall be deemed to be for costs of up to \$200 per incident. The City will be responsible for maintenance and repair of roof, HVAC, non-equipment related electrical and repair of individual repairs in excess of the minor repairs amount. If any of the existing City owned equipment needs to be replaced the City will replace such equipment in a timely manner.

4. FIRE/SAFETY

The purpose of this section is to assure that the Licensed Area is maintained and operated in a safe manner.

4.1 Fire Safety/Protection

The Licensee shall develop, post, follow procedures and forward the following copies to the City and Penticton Fire Department:

- a) Fire Safety/Evacuation
- b) W.H.M.I.S.
- c) Accident/Incident Reporting
- d) Safety Program (WCB)
- e) Food Handling (Ministry of Health)

The Licensee shall ensure that all staff receive proper instruction in the use and operation of fire safety equipment.

The Licensee shall ensure that all staff receive proper instruction in emergency procedures and all policies listed above.

4.2 Fire Extinguishers/ Exhaust Systems

The Licensee shall maintain a log of location, type and size of all fire extinguishers.

The Licensee shall, semi-annually (May/July), inspect and log the condition of all extinguishers and advise the City of any issues with fire extinguishers.

The City shall annually, carry out a cleaning of the exhaust system, and inspection and servicing of the fire suppression system as required by the Fire Marshall.

4.3 **Accidents/Incidents**

All accidents or incidents shall be reported to the City within 48 hours of occurrence.

A representative of the City and the Licensee will investigate all occurrences.

The City will ensure that the following are completed on an as scheduled annual basis:

- Service Hood exhaust
- Service Fire extinguisher
- Service HVAC equipment

SCHEDULE C
EQUIPMENT LIST

SKAHA EAST CONCESSION INVENTORY - 2021

1	Oven
1	Deep fryer
2	Stainless steel portable tables
1	House fridge
1	Commercial fridge
1	Deep freeze
1	Metal storage rack
1	Dip well

Part D: Submission Instructions and Forms



This Part D contains forms detailing the information that should be included in a Proposal, as detailed under Section 6 of Part B.

Part D Contents

This Part D contains the submission process and the following forms:

- Appendix A – Certification Form
- Appendix B – Business Plan
- Appendix C – Experience
- Appendix D – Menu and Pricing
- Appendix E – Business References

SUBMISSION OF PROPOSALS

Please follow these instructions to view all files and submit via our Public Portal.

Log in to Bonfire or register your company on the portal. Please note that the email address you register with will be the email address all notifications will be sent to.

<https://penticton.bonfirehub.ca/portal>

Prepare your submission materials:

Requested Information:

Name	Type	Requirement
Appendix A – Certification Form	File Type: PDF (.pdf)	Required
Appendix B- Business Plan	File Type: PDF (.pdf)	Required
Appendix C –Experience	File Type: PDF (.pdf)	Required
Appendix D –Menu and Pricing	File Type: PDF (.pdf)	Required
Appendix E – Business References	File Type: PDF (.pdf)	Required

Requested Documents:

Please note the type and number of files allowed. The maximum upload file size is 100MB.

Please do not embed any documents within your loaded files, as they will not be assessable or evaluated.

UPLOAD YOUR SUBMISSION AT:

<https://penticton.bonfirehub.ca/portal>

Your submission must be uploaded, submitted and finalized prior to the Closing Time. We strongly recommend that you give yourself sufficient time and at least ONE (1) day before Closing Time to begin the uploading process and to finalize your submission.

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Important Notes:

Each item of Requested Information will only be visible to the City after the Closing Time.

Uploading large documents may take significant time, depending on the size of the file(s) and your internet connection speed.

You will receive an email confirmation receipt with a unique confirmation number once you finalize your submission.

Minimum system requirements: Internet Explorer 8/9/10+, Google Chrome, or Mozilla Firefox. Javascript must be enabled. Browser cookies must be enabled.

NEED HELP?

City of Penticton uses a Bonfire portal for accepting and evaluating proposal digitally. Please contact Bonfire at Support@GoBonfire.Com for technical questions related to your submission. You can also visit their help forum at <https://bonfirehub.zendesk.com/hc>


Amendments of Quotations

Respondents may amend their quotations prior to the Closing Time by submitting the amendment in the same manner as the original quotation. Amendments must be marked with the RFQ title and number and the full legal name and return address of the respondent and must clearly indicate which part of the quotation the amendment is intended to amend or replace.

Withdrawal of Quotations

At any time throughout the RFQ process until the execution of a written agreement for provision of the deliverables, a respondent may withdraw a submitted quotation. To withdraw a quotation, a notice of withdrawal must be sent to the RFQ Contact and must be signed by an authorized representative of the respondent. The City is under no obligation to return withdrawn quotations.

APPENDIX A – CERTIFICATION FORM

	Respondents must complete all details requested in this Appendix A – Certification Form and include this completed form in the Proposal, as detailed under Section 6.1 (Mandatory Criteria) of Part B. No changes to this form must be made, except for completing the requested information in the spaces provided.
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1. Respondent Details

Full Legal Name of Respondent:	
Other “DBA” Names the Respondent Uses:	
Registered Address:	
Respondent Contact Person Name & Title:	
Contact Person Phone No.:	
Contact Person Email:	

2. Certification & Acknowledgement of RFP Process:

By signing this Appendix A – Certification Form, we the Respondent, certify and acknowledge the following:

- a. We have carefully read and examined this RFP document, including all Parts and Appendices, and have conducted such other investigations as were prudent and reasonable in preparing this Proposal. We are able to provide the Services detailed in Part A for the pricing submitted in this Proposal.
- b. We certify that the statements made in this Proposal are true and submitted in good faith.
- c. We acknowledge and understand that the RFP process and the submission of this Proposal do not give rise to any contractual obligations whatsoever (including what is commonly referred to as ‘Contract A’) between the City and us, the Respondent, and that no contractual obligations shall arise between the City and us, the Respondent, until and unless we execute a written Contract with the City.
- d. We certify that in relation to this RFP process, we have not engaged in any conduct which would constitute a conflict of interest and we understand that a conflict of interest would include the following situations:
 - i. The Respondent has an unfair advantage or engages in conduct which may give it an unfair advantage;
 - ii. The Respondent has had access to confidential information of the City which is not available to other Respondents to this RFP.

RFP# 2021-RFP-01

Operation of Skaha East Concession

- iii. The Respondent has influence over an employee of the City who is a decision-maker involved in this RFP process, which could reasonably be perceived as giving the Respondent an unfair advantage or preferential treatment.

3. Confirmation of Addenda Received

We confirm receipt of the following addenda that were issued by the City up until the Closing Date and Time:

Addendum #	Issued On Date:

4. Certification Signature

The Respondent hereby certifies that the above statements are true and that the individual signing below has the authority to bind the Respondent:

Signature of Respondent Representative

Name of Respondent Representative

Title of Respondent Representative

Date

APPENDIX B – BUSINESS PLAN AND ANNUAL FINANCIAL PAYMENT FORM



Proposals must include the details requested in this Appendix B – Business Plan, as detailed under Section 6.2 (Scored Criteria) of Part B.

Provide a business plan, including but not limited to, the following information:

- Short corporate background, history, overview and experience of the Company
- Product portfolio available present and future products
- Details on how the Proponent will manage the kitchen/concession
- Demonstrate ability to deliver on Financial Proposal
- Sufficient Start up financing
- Operating hours

APPENDIX C – EXPERIENCE FORM



Proposals must include the details requested in this Appendix C – Experience, as detailed under Section 6.2 (Scored Criteria) of Part B.

1. Experience

Please provide details of company history and financial well-being, history of past performance dealing with Interior Health, Fire Department and City of Penticton (i.e. business licence) to deliver the Services outlined in Part A.

APPENDIX D – MENU AND PRICING FORM



Proposals must include the details requested in this Appendix D – Menu and Pricing, as detailed under Section 6.2 (Scored Criteria) of Part B.

1. Menu and Pricing

Please provide details of a proposed menu, variety and competitive prices to deliver the Services outlined in Part A.

APPENDIX E – REFERENCES FORM



Proposals must include the details requested in this Appendix E – References Form. Respondents should provide details on 3 business references over the past 3 years which are of a similar nature and scope to the Services. Respondents should note that the City may the references listed.

Company Name:

Contact Person:

Contact Person's Title:

Telephone No. (including area code):

Contact Email Address:

Company Name:

Contact Person:

Contact Person's Title:

Telephone No. (including area code):

Contact Email Address:

Company Name:

Contact Person:

Contact Person's Title:

Telephone No. (including area code):

Contact Email Address:

Parks and Recreation Advisory Committee



Skaha East Concession – 3885 South Main Street

February 22, 2021



Background⁻⁴⁴⁻

There are four beach concessions in Penticton:

- Skaha East Concession
- Skaha Main
- Sudbury Beach
- The Peach at Okanagan

Previous License to Use agreement for the Skaha East Concession with Tickleberrys expired September 30, 2020



Parkland Protection and Use Policy

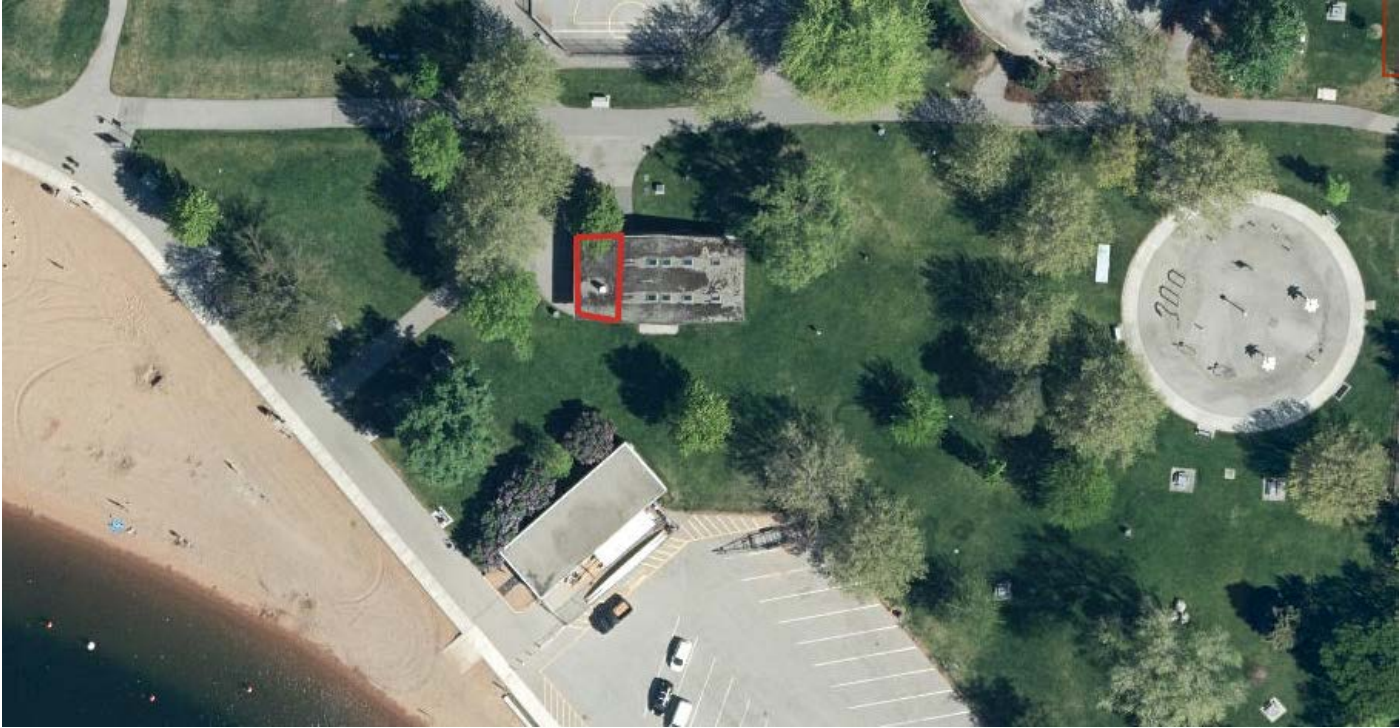
This concession is located within a dedicated park, therefore must follow the Park Land Protection and Use Policy.

Steps Completed:

- Staff have conducted License Review
- Proposal brought forward to Open Council meeting;

Next Key Steps:

- Parks & Recreation Advisory Committee make a recommendation to Council to approve or deny the renewal.
- Staff bring forward Committee's recommendation to Council on March 2
- Issue Request for Proposal and select operator





Proposed License to Use Highlights

Term: 3 years

Fee: \$3,500.00 plus GST and CPI

Responsibilities:

Licensee- responsible for utilities, day to day upkeep, safety and security of the building;

City- responsible for the maintenance of the building and surrounding grounds and washroom.



Request for Proposal

To ensure competitive process a request for proposal for concession operators will be issued and awarded in time for May 1st operation.

Scored Criteria	Weighting
Business Plan (based on Appendix B submission)	40%
Experience (based on Appendix C submission)	45%
Menu and Pricing (based on Appendix D submission)	15%
TOTAL	100%



Skaha East Masterplan

City is currently undertaking the development of Skaha East Masterplan. All options considered will continue to have this concession in the park.

Staff Recommendation

THAT the Parks and Recreation Committee recommends that Council direct staff to issue the Request for proposal to seek an operator for the use of the City building located at 3885 South Main Street (Skaha East Concession), for the purpose of the operation of a food concession for a 3 year term.

Questions?

2021 Parks and Recreation Advisory Committee Meeting Dates

Meeting commences at 3:00 p.m.

Council Chambers, City Hall, 171 Main Street (Second Level) or via Zoom

Month	Date
January	18
February	22
March	15
April	19
May	17
June	14
July	19
August	16
September	20
October	18
November	15
December	6