

The Corporation of the City of Thorold

## **Request for Proposal**

For

**Arena Snack Bar Operations:**

**SNACK BAR OPERATION**

**Contract No. 512CS0001**

Request for Proposal No. 512CS0001

RFP Issue Date: February 27th, 2020

Proposal Submission Deadline: 2:00pm **April 2nd 2020** Local Time  
Thorold, ON

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**INVITATION TO PROPONENTS**

This Request for Proposal (“RFP”) is an invitation to qualified, professional consultants (the “Proponent”) to submit Proposals for Consulting Services (“Services”), to support The Corporation of the City of Thorold (the “Purchaser”).

The Preferred Proponent shall be required to enter into an Agreement (“Agreement”) substantially in the form of the Agreement attached as Appendix A - Form of Agreement for the provision of the Deliverables.

The Purchaser intends to award Agreement(s) to only one (1) Proponent. The Agreement will be signed for September 2020 and no obligation on the part of the Purchaser to purchase Services shall arise until such time as the Agreement is signed.

**PURPOSE**

The Purchaser is seeking to satisfy the following objectives in issuing the RFP.

- Achieve the best and most innovative solution for the needs of the Purchaser.
- Obtain quality Services at best overall value.
- Enhance customer satisfaction and improvements in Services.
- Facilitate the Purchaser’s purchases without limiting the Purchaser’s choice or negate any other requirement.

**1.0 RULES OF INTERPRETATION**

The information contained in the RFP is supplied solely as a guideline to Proponents. Such information is not guaranteed, represented, or warranted to be accurate, nor is it necessarily comprehensive or exhaustive.

Nothing in this RFP is intended to relieve the Proponents from forming their own opinions and conclusions with respect to the matters addressed in this RFP.

The Agreement executed with the Proponent will not be an exclusive Agreement for the provision of the Deliverables. The Purchaser may contract with others for the same or similar Deliverables to those described in this RFP.

This RFP shall be interpreted according to the following provisions, unless the context requires a different meaning:

- Unless the context otherwise requires, wherever used herein the plural includes the singular, the singular includes the plural, and each of the masculine and feminine includes the other gender.
- Words in the RFP shall bear their natural meaning.
- References containing terms such as “includes” and “including”, whether or not used with the words “without limitation” or “but not limited to”, shall not be deemed limited by the specific enumeration of items but shall, in all cases, be deemed to be without limitation and construed and interpreted to mean “includes without limitation” and “including without limitation”.
- In construing the RFP, general words introduced or followed by the word “other” or “including” or “in particular” shall not be given a restrictive meaning because they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words.

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- Unless otherwise indicated, time periods will be strictly applied.
- The following terminology applies in the RFP:
  - i. Whenever the terms “must” or “shall” are used in relation to the Purchaser or the Proponents, such terms shall be construed and interpreted as synonymous and shall be construed to read “the Purchaser shall” or the “Proponent shall”, as the case may be.
  - ii. The term “should” relates to a requirement that the Purchaser would like the Proponent to address in its Proposal.

The terms “shall”, “will” or “must” describes a procedure that is intended to be followed.

## **2.0 DEFINITIONS**

The following definitions apply:

“Agreement” has the meaning set out in Appendix A.

“Applicable Law” and “Applicable Laws” means any common law requirement and all applicable and enforceable statutes, regulations, directives, policies, administrative interpretations, orders, by-laws, rules, guidelines, approvals and other legal requirements of any government and/or regulatory authority in effect from time to time.

“Business Day” or “Business Days” means Monday to Friday between the hours of 7:30 a.m. to 4:00 p.m., except when such a day is a public holiday, as defined in the *Employment Standards Act* (Ontario), or as otherwise agreed to by the parties in writing.

“Conflict of Interest” means any situation or circumstance where, in relation to the performance of its obligations under the Agreement, the Proponent’s other commitments, relationships or financial interests (i) could or could be seen to exercise an improper influence over the objective, unbiased, and impartial exercise of its independent judgement; or (ii) could or could be seen to compromise, impair, or be incompatible with the effective performance of its obligations under the Agreement.

“Days” means calendar days.

“Eligible Proposal” means a Proposal that meets or exceeds a prescribed requirement, allowing it to proceed to the next phase.

“Evaluation Team” means the individuals who have been selected by the Purchaser to evaluate the Proposals.

“Personal Information” means recorded information about an identifiable individual or that may identify an individual.

“Preferred Proponent” means the Proponent(s) that the Purchaser has identified as the highest-ranked Proponent(s) in accordance with the evaluation process.

“Proponent” or “Proponents” means an entity that submits a Proposal in response to this RFP and, as the context may suggest, refers to a potential Proponent.

“Proposal” or “Proposals” means all of the documentation and information submitted by a Proponent in response to the RFP.

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“Proposal Submission Deadline” means the Proposal submission date and time as set out in Section 5.1.1 and may be amended from time to time in accordance with the terms of this RFP.

“Purchaser” means The Corporation of the City of Thorold.

“Request for Proposals” or “RFP” means this Request for Proposals issued by the Purchaser for the purchase of the Services, and all addenda thereto.

“RFP Coordinator” means the individual identified in Section 5.2.1.

“Services” means the services intended to be procured pursuant to this RFP.

“Unfair Advantage” means any conduct, direct or indirect, by a Proponent that may result in gaining an unfair advantage over other Proponents, including but not limited to (i) possessing, or having access to, information in the preparation of its Proposal that is confidential to the Purchaser and which is not available to other Proponents, (ii) communicating with any person with a view to influencing, or being conferred preferred treatment in, the RFP process, or (iii) engaging in conduct that compromises or could be seen to compromise the integrity of the RFP process and result in any unfairness.

### **3.0 SCOPE OF WORK**

#### **3.1 Overview**

The City of Thorold provides facilities for recreational use at the community arenas, During the winter and summer months there are many programs available for children, teens and adults of all levels and ages. Activities take place at the Arena such as Hockey and Lacrosse. Numerous users from Thorold and surrounding areas have trained and participated in both recreational and competitive sports and leisure programs that are offered by the many different associations. Each season, children and athletes participate in programs, which include, Skating, Hockey, Lacrosse, and a multitude of tournaments. Adult fitness and recreational evening programs are also offered. We promote team building, a healthy lifestyle and respect for the environment in a friendly recreational atmosphere that enhances the quality of life in our community.

The Food Services will consist of a snack bar / canteen solution to provide quick, fresh and healthy menu items at price levels comparable to surrounding municipalities.

The snack bar is located:  
Thorold Community Arena – 2 pad facility

The City of Thorold is looking for a qualified vendor to operate the snack bar / canteen in our facility.

A snack bar style food service, including light meals, snacks and refreshments.

The emphasis is to be on prompt service so as not to delay patrons in returning to activities and provide for a safe and pleasant environment.

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**As part of the Proposal;**

**The hours of operation are to be proposed by the Food Services Provider for approval by the City of Thorold Community Services Department. Snack Bar service is required at a minimum for games and large events.**

**Commission payments or rent to be proposed as part of this tender submission. The Contractor shall maintain separate records for the individual services provided, and shall submit its financial reports indicating the Gross sales, sales tax, adjusted gross sales to the City on an annual basis**

**The submission is also to include a proposal in regards to the capital investment into the space, the expectations of the City or Thorold's contribution including the amount the contractor is willing to contribute.**

City by-laws are to be upheld and adhered to by the Food Service Provider

The City of Thorold prime time ice is utilized at over eighty percent capacity for 6 months of operations and 6 months of dry floor availability (Lacrosse mainly).

The snack bar / canteen will also be open for special events as required. Such as the Craft Show, Dog Show, Home Show and Skating Show.

The City wishes to have this Service provider commence in the fall of 2020 for the Arena as a 3 (three) year term with an option for renewal if agreed upon by both parties.

This Proposal is limited to the above noted Food Service area and is not an exclusive agreement for Food Services for the City.

Damaged Equipment. If equipment is deemed to not be in good condition, then the cost to repair or replace damaged equipment shall be borne by the Contractor.

The Contractor shall be responsible for usual and customary cleaning and sanitation of the internal serving area, kitchen including fixtures and equipment and common dining area. Contractor shall be responsible for housekeeping and sanitation in the food preparation, storage and internal serving areas; shall clean the tops of tables and chairs.

Floors. Maintain clean, dry floors in the food preparation and service areas at all times. Clean up spills in the dining areas as required.

Financial Accounting for Food Service Operation. The Contractor shall be responsible for collection, retention and accounting of all monies from sales in the food service operation. The Contractor shall maintain financial procedures and record keeping in accordance with generally accepted accounting principles, and shall make said financial records and supporting documents available for inspection, reproduction and audit by the City or its auditors at the City's request. The Contractor shall be required to submit a "pro forma" financial statement for each year of the contract with the City.

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The Contractor shall conduct specific and continuing programs of inquiry and evaluation through community meetings and "how did we do?" comment cards to determine the level of satisfaction of the community with the food services offered. The results of this inquiry and evaluation process shall be shared with the City administrator on a regular basis.

### **3.2 Project Tasks**

#### **Equipment**

The Food Service Provider, at its expense, shall provide any additional equipment that is required above the existing equipment in the snack bar space. If, during the Term, the Food Services Provider decides that purchases of additional equipment or other improvements to the facilities are necessary, the cost of such additional purchased equipment or improvements shall be borne by the Food Services Provider. Ownership of the new equipment will remain with the Food Service Provider.

#### **Utilities**

The City of Thorold will cover these costs.

#### **Other Supplies**

The Food Services Provider shall provide small wares and consumable supplies (which includes but is not limited to: plastic and stainless steel utensils, takeout containers, napkins, straws, stir sticks, disposable coffee cups and lids, etc.) and small expendable equipment (including pots, pans and kitchen utensils, cleaning and maintenance equipment, etc.) as may be required to provide the Service and to equip the snack bar space.

#### **Maintenance and Repairs**

The Food Services Provider, at its cost, shall maintain, repair and/or replace the Food Service Provider owned equipment located at the snack bar during the Term.

#### **Compliance with Laws**

The Food Services Provider shall comply with all Applicable Law in the management and provision of Services, including all such laws relating to health and safety.

#### **Licenses and Permits**

The Food Services Provider shall obtain and maintain all licenses and permits it requires to enable it to operate a Seasonal Restaurant, including health permits as required by Region of Niagara's Bylaws and ensuring that staff have the requisite training in relevant courses to provide service to the public, the costs of which will be borne by the Food Services Provider

#### **Signage**

The Food Services Provider shall install signage (to be approved by the City of Thorold) clearly identifying themselves as the operator of the snack bar.

Menus and pricing are to be clearly displayed.

### **Cleaning and Housekeeping – Food Services Provider**

The Food Services Provider shall be responsible for cleaning and housekeeping in the snack bar area, including all work surfaces, refrigerated space and equipment.

The Food Services Provider shall be responsible for ensuring that all waste and recycling stations are kept tidy during business hours. The level of cleanliness is to be consistent with current industry best practices and health and safety regulations. For further clarity, the expectations are that the Food Services Provider will ensure that:

- Fixtures, surfaces and appliances are substantially free of grease, dirt, dust, deposits, marks, stains and cobwebs
- Electrical and cooking fixtures and appliances are kept free from signs of use or non-use
- When cleaning food preparation areas, fixtures or appliances, the requirements of the Hazard Analysis Critical Control Points (HACCP) Standards must be satisfied
- Refrigerators/freezers are clean and free of ice build-up

### **Procurement of Supplies**

The Food Services Provider shall procure all food, supplies, merchandise and services utilized in the management of the Services. The Food Services Provider's cost of food, supplies, merchandise and supplies utilized in providing the Services shall be Costs of Operation.

### **3.3 Project Management and Reports**

The Consultant shall schedule and chair all project meetings and be responsible for:

- a) The preparation and distribution of meeting agendas prior to the meeting;
- b) The taking of minutes of all meetings and the distribution of the same to all parties within one week of the meeting;

### **4.0 PROJECT TIMING**

The following schedule applies to the submission of proposals and the award and execution of this service assignment:

Proposal Submission	April 2nd, 2020
Council Approval	May, 2020
Commencement of Assignment	TBD

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## **5.0 PROPOSAL SUBMISSION REQUIREMENTS**

The Consultant's proposal shall be no more than ten (10) pages, not including the cover letter, figures/tables, resumes and company credentials. The proposal shall include the following:

- a) A work program outlining project understanding, project implementation strategies and methodologies and issues affecting the project;
- b) As project timelines are very critical to the City, a detailed project schedule with key milestones shall be outlined;
- c) Quality assurance and control methods;
- d) A description of the Consultant's related experience. This will include a list of similar studies and relevant contact persons with whom successful completion may be discussed;
- e) A brief description of the service team and the relevant experience and qualifications of individuals including their intended participation and contributions to the project;
- f) The Consultant shall list all sub-Consultants to be included as part of the team and shall provide their intended scope of work for each sub-Consultant if applicable;
- g) A description of any municipal resources or efforts expected to be provided by the City;
- h) All proponents must declare whether they perceive any conflict of interest by undertaking the project in response to this Request for Proposal;

## **6.0 SUBMISSION LOGISTICS**

Written Proposals must be delivered in a sealed envelope to the City by no later **than 2:00 p.m. local time on April 2nd, 2020** and **must** be addressed as follows:

**ATTENTION: The Corporation of the City of Thorold**  
c/o Donna Delvecchio, City Clerk  
3540 Schmon Parkway  
Thorold, ON. L2V 4A7

**RE: Request for Proposal for Arena Snack Bar Operation**

The City will respond to any inquiries submitted by the respondent through:

**Curtis Dray.**  
**Manager, Community Services Department**  
City of Thorold  
Email: [Curtis.Dray@thorold.ca](mailto:Curtis.Dray@thorold.ca)

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**The Submission Envelope shall contain:**

- (i) Two (2) copies of the Proposal for Services with the below content;
- (ii) Capital investment proposal,
- (iii) Rent or Commission proposal
- (iv) Proposed schedule of operations.
- (v) Form of Offer, included as Appendix A

**LATE OR MISDIRECTED PROPOSALS WILL NOT BE CONSIDERED AND WILL BE RETURNED UNOPENED TO THE RESPONDENT. SUBMISSIONS BY FACSIMILE WILL NOT BE ACCEPTED**

All Proposals must be legibly signed by an authorized officer. In addition, officers are requested to attach to their Proposal, a covering letter detailing any features of their company that they feel should be taken into consideration when evaluating Proposals.

Following the expiry of the deadline date for submissions, all Proposals will be evaluated and the successful respondents, if any, will be notified following Council acceptance of the Proposal. Council acceptance is tentatively scheduled for **May 2020**.

## **7.0 COMMITMENT TO NEGOTIATE**

The successful respondent shall execute any documentation, drafted in accordance with the terms of the successful respondent's quotation and any subsequent negotiations, within thirty (30) days of the date of notification of the successful respondent's selection. Respondents not initially selected as the successful respondent hereby commit themselves, subject to notification by the City to execute documentation as aforesaid up to sixty (60) days following the date of submission of their quotation.

## **8.0 PREPARATION OF PROPOSALS**

It is the intent of the City of Thorold to enter into an agreement for the completion of services. However, award of this contract is conditional on the Council of the City of Thorold approving funds for this project. All costs and expenses incurred by the respondent relating to its Proposal will be borne by the respondent. The City is not liable to pay for such costs and expenses, or to reimburse or to compensate the respondent in any manner whatsoever for such costs and expenses under any circumstances, including the rejection of any or all proposals or the cancellation of this RFP.

## **9.0 GENERAL TERMS AND CONDITIONS OF THE RFP**

The City does not bind itself to accept any Proposal and may proceed as it, in its sole discretion, determines, following receipt of the Proposals. The City reserves the right to accept any Proposal in whole or in part or to discuss with any respondent different or additional terms to those envisaged in this RFP or in such respondent's quotation.

If it becomes necessary to revise any part of this RFP or, if the respondents require additional data to interpret any of its provisions, the revisions or additional data will be provided to all respondents participating in the RFP process at that stage. If revisions or additional data are necessary after the closing date for Proposals, revisions or additional data will be provided only to those respondents who have submitted responses and met the basic requirements. Such respondents will then have the opportunity to modify their Proposal.

## **10.0 RIGHT TO ACCEPT OR REJECT SUBMISSIONS**

The City has the right to:

- (i) Accept or reject any or all of the Proposals;
- (ii) If only one Proposal is received, elect to reject it; or
- (iii) Elect not to proceed with the project as it so determines in its sole and absolute discretion.

## **11.0 NATURE OF REQUEST FOR PROPOSAL**

This RFP does not constitute an offer of any nature or kind whatsoever by the City to the respondent.

## **12.0 AMENDMENTS**

The City may modify, amend or revise any provision of this RFP or issue any addendum at any time. Any modification, amendment, revision or addenda will be in writing and will be provided to all respondents.

The City reserves the right to vary the scope of work prior to the award of the contract.

## **13.0 CLARIFICATION OF PROPOSAL**

The City reserves the right to request the clarification of the contents of any Proposal. The City may choose to meet with some or all of the respondents to discuss aspects of their respective Proposal. The City may require respondents to submit supplementary documentation clarifying any matters contained in their Proposal and seek the respective respondent's acknowledgment of that interpretation. The supplementary documentation accepted by the City and written interpretations which have been acknowledged by the affected respondent shall be considered to form part of the Proposal of that respondent. After the time and date set for receipt of Proposals, only the supplementary documentation specifically requested by the City for the purpose of clarification shall be considered as part of a Proposal. The City is not obliged to seek clarification of any aspect of a Proposal.

## **14.0 FINALIZING TERMS**

This RFP will not constitute a binding agreement, but will only form the basis for the finalization of the terms upon which the City and the successful respondent will enter into the contract documentation, and does not mean that the successful respondent's proposal is necessarily totally acceptable in the form submitted. After the selection of the successful respondent's proposal, the City reserves the right to negotiate with the successful respondent and, as part of that process, to negotiate changes, amendments or modifications to the successful respondent's proposal without offering the other respondents, the right to amend their proposals.

## **15.0 PUBLICATION OF NAMES OF RESPONDENTS**

The City may, at any time, make public the names of all respondents. Additional information may be released in accordance with the **Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c.F.31**, as amended. Any proprietary or confidential information contained in the quotation should be clearly identified.

## **16.0 APPOINTMENT OF SUCCESSFUL CONSULTANT**

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**The Corporation of the City of Thorold**  
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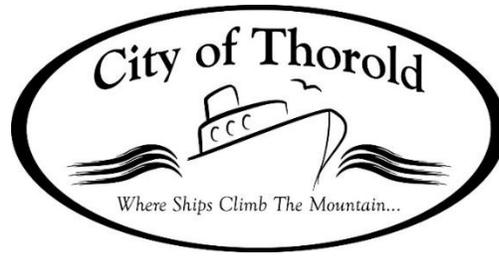
The City of Thorold Purchasing and Tendering Policy will be followed for appointment of this project. The successful respondent will be required to enter into an Agreement in the form of the standard agreement attached as **Appendix C**, containing an upset limit clause. The City of Thorold will only contract for services with one (1) primary Consultant. The respondent is required to stipulate the name of sub-Consultants (if any) to be used, in the quotation submission.

The successful respondent shall carry Professional Liability Insurance in the minimum amount of \$2,000,000 satisfactory to the City.

## **17.0 CONSULTANT PROPOSAL EVALUATION CRITERIA**

An evaluation team consisting of Staff from the City will conduct an evaluation of the proposals. Proposals will be evaluated in accordance with the following criteria:

<b>Envelope</b>	<b>Consultant Proposal Evaluation Criteria</b>	<b>Weight</b>	<b>Points</b>	<b>Maximum Total</b>
1	Understanding of Scope	10	____/10	10
1	Capital Plan proposal	30	____/30	30
1	Rent or Commission proposal	20	____/20	20
1	Corporate Experience/Qualifications	10	____/10	10
1	Direct Staff Experience	10	____/10	10
1	Hours of Operation	20	____/20	20
	<b>TOTAL POINTS</b>			<b>100</b>



**REQUEST FOR PROPOSAL  
FOR ARENA SNACK BAR**

**THOROLD COMMUNITY ARENA**

**CONTRACT # 512CS0001**

**APPENDIX - A**

**FORM OF OFFER**

**Each Proposal must include this form completed and signed by the Proponent.**

To: The Corporation of the City of Thorold

**1. Proponent Information**

The full legal name of the Proponent is:	
Any other relevant name under which the Proponent carries on business is:	
The jurisdiction under which the Proponent is governed is:	
The name, address, telephone and fax numbers, and email address of the contact person for the Proponent is:	
Whether the Proponent is an individual, a sole proprietorship, a corporation, a partnership, a joint venture, an incorporated consortium or a consortium that is a partnership or other legally recognized entity:	
If the Proponent is an incorporated consortium or a consortium that is a partnership or other legally recognize entity, the Proponent must: <ul style="list-style-type: none"><li>• Identify the single legal entity, which is solely liable and responsible to the Purchaser for the provision of the Deliverables Describe the consortium members.</li><li>• Describe the contingency plan if a consortium member is no longer part of the consortium.</li></ul>	

**2. Offer**

The Proponent has carefully examined the RFP documents and has a clear and comprehensive knowledge of the Deliverables required under the RFP. By submitting its Proposal, the Proponent agrees and consents to the terms, conditions and provisions of the RFP, including the Form of Agreement, except as otherwise noted, and offers to provide the Services in accordance therewith at the Pricing set out in the Summary of Pricing.

**3. Prices**

The Proponent has submitted its Pricing in accordance with the instructions in the RFP and in the form set out in Appendix B – Summary of Fees & Disbursements.

**4. Mandatory Forms**

The Proponent encloses herewith as part of the Proposal, the mandatory forms as set out below:

<b>Mandatory Forms</b>	<b>Include in Proposal as set out in Section 7.0</b>	<b>Yes, Enclosed</b>
Appendix A – Form of Offer	Envelope 1	
Appendix B – Summary of Commissions	Envelope 2	

**5. Addenda and Questions/Answers**

The Proponent is deemed to have read and accepted all addenda and question/answer documents issued by the City prior to the Deadline for Issuing Final Addenda.

The onus remains on Proponents to make any necessary amendments to its Proposals based on this information.

The Proponent is requested to confirm that it has received all addenda and question/answer documents, if any, by completing the applicable column in the below table:

Addenda and Question/Answers	Complete this column by inserting the number/quantity received:
The number of addenda received =	
The number of question/answer documents received =	

**6. Proposal Irrevocable**

The Proponent agrees that its Proposal shall be irrevocable for sixty (60) Days following the Proposal Submission Deadline.

**7. Disclosure of Information**

The Proponent hereby agrees that any information provided in this Proposal, even if it is identified as being supplied in confidence, may be disclosed where required by law or if required by order of a court or tribunal. The Proponent hereby consents to the disclosure, on a confidential basis, of its Proposal to the Purchaser’s advisors retained for the purpose of evaluating or participating in the evaluation of this Proposal.

**8. Proof of Insurance and Good Standing under the Workplace Safety and Insurance Act (Ontario)**

By signing this Form of Offer, the Proponent agrees, **if selected**, that it has verified its capability to do so and will provide proof of insurance coverage and a Certificate of Good Standing under the Workplace Safety and Insurance Act (Ontario) as set out in the Form of Agreement.

**9. Unfair Advantage and Conflict of Interest Statement**

Prior to completing this Form of Offer, the Proponent is advised to review the definitions of Unfair Advantage and Conflict of Interest set out in Section 6 (h) of this RFP.

<b>Conflict of Interest</b>	<b>Conflict of Interest (Yes or no)</b>	<b>If yes, please set out the details of the actual or potential Conflict of Interest below:</b>
Is there an actual or potential Unfair Advantage or Conflict of Interest, relating to the preparation of its Proposal, or if the Proponent foresees an actual or potential Unfair Advantage or Conflict of Interest in performing the contractual obligations contemplated in the RFP?		

The Proponent agrees to provide any additional information, which may be requested by the RFP Coordinator, in the form prescribed by the RFP Coordinator.

Where, in its sole discretion, the Purchaser concludes that an Unfair Advantage and/or Conflict of Interest arises, it may, in addition to any other remedy available to it at law or in equity, disqualify the Proponent's Proposal, or terminate any Agreement awarded to the Proponent under the RFP.

#### 10. Execution of Agreement

If its Proposal is selected by the Purchaser, the Proponent agrees to finalize and execute the Agreement substantially in the form set out in the Form of Agreement in accordance with the terms of the RFP.

\_\_\_\_\_  
Signature of Witness

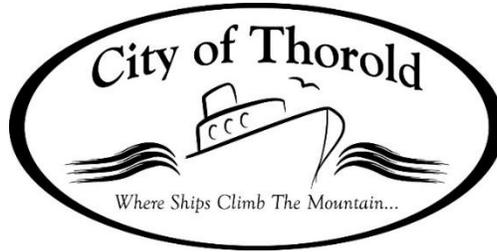
\_\_\_\_\_  
Signature of Proponent Representative

\_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Name and Title

Date: \_\_\_\_\_

I have authority to bind the Proponent



**REQUEST FOR PROPOSAL  
FOR ARENA SNACK BAR**

**THOROLD COMMUNITY ARENA**

**CONTRACT # 512CS0001**

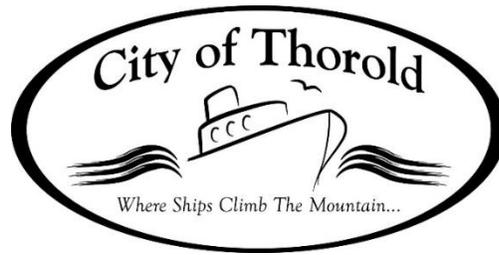
**APPENDIX - B**

**SUMMARY OF COMMISSIONS**

## **Appendix B: SUMMARY OF COMMISSIONS**

***The Summary of Commissions to be submitted in Envelope.*** The City will not accept the proposal if this condition is not met.

<b><u>Commissions Annually</u></b>	Proposal
• Capital Contribution by the City	
• Capital Contribution Contractor	
• Rental proposed Annually	
• Or Commission Percentage Annually	



**REQUEST FOR PROPOSAL  
FOR ARENA SNACK BAR**

**THOROLD COMMUNITY ARENA**

**CONTRACT # 512CS0001**

**APPENDIX - C**

**SAMPLE FORM OF  
AGREEMENT**

AGREEMENT FOR PROFESSIONAL  
**SERVICES**

MEMORANDUM OF AGREEMENT Dated this \_\_\_\_\_ day of \_\_\_\_\_

**- B E T W E E N -**

**The Corporation of the City of Thorold**

**17.1 Hereinafter called the “City”**

**17.1.1 THE PARTY OF THE FIRST PART**

**-AND-**

\_\_\_\_\_

**17.2 Hereinafter called the “Contractor”**

**17.2.1 THE PARTY OF THE SECOND PART**

**WHEREAS** the “City” intends to carry out Consulting Services for:

**SNACK BAR OPERATION, CONTRACT # 512CS0001**

Hereinafter called the “Scope” and has requested the Contractor to furnish professional services in connection therewith;

**NOW THEREFORE WITNESSETH** that in consideration of the covenants contained herein, the City and the Contractor mutually agree as follows:

17.3 ARTICLE 1. DEFINITIONS

- 1.1 **AGREEMENT** – is this Prime Agreement for professional services including all Schedules and Appendices annexed hereto.
- 1.2 **CONTRACTOR** – is the party contracting with the City for the provision of labour, materials and equipment for the execution and quality control of Food Services
- 1.3 **CONTRACT** – is the agreement between the City and the Contractor for the provision of labour, materials and equipment for the execution of the Food Services by the Contractor.
- 1.4 **CONTRACT DOCUMENTS** – shall comprise all documents relating to the Food Service Provider
- 1.5 **CONTRACT TIME** – shall refer to the term for Food Services agreed to between the City and the Contractor in the Contract.
- 1.6 **SERVICES** – shall mean applying procedures at the Food Service site as the Contractor, in his sole professional discretion, considers necessary to enable him to ascertain whether staff is carrying out the Work in general conformity with the scope concept.
- 1.7 **PROJECT** – shall refer to the Food Services described in the recital clauses to this Agreement.
- 1.8 **SERVICES** – shall mean the Contractor’s duties and responsibilities to the City as set forth in Article 3.
- 1.9 **SITE** –shall include the actual work site and other locations where the checking of materials, equipment and workmanship is carried out.
- 1.10 **SUB-CONSULTANT** – shall mean any registered professional, or other specialists engaged by the Contractor in connection with the Service.
- 1.11 **TOTAL PERFORMANCE** – shall mean that the Services has been performed to the requirements of the Contract Documents, and is so certified.
- 1.12 **WORK** – is the totality of all labour, materials and equipment used or incorporated into the Services by the Contractor pursuant to the Contract Documents.

17.3.1.1 ARTICLE 2. GENERAL CONDITIONS

**2.1 Ownership of Documents**

The City is to receive a copy of all plans, drawings, specifications, designs, construction data and documents prepared by the Service Provider.

The Contractor may with the consent of the City, which consent shall not be unreasonably withheld, publish alone or in conjunction with any other person any articles, photographs or other illustrations relating to the Services.

The Contractor does not assume any responsibility in the event the City uses or permits the use of such documents for other works not described in the Service Agreement without the Contractor’s prior written consent.

**2.2 Drawings**

The City and the Contractor agree that any documents prepared by either party shall conform to the City's standard specifications. The electronic files submitted by the Contractor to the City are submitted for an acceptance period of 30 calendar days. Any defects the City discovers during this period will be reported to the Contractor and will be corrected as part of the Contractor's Basic Scope of Services.

The City shall not reuse or make or permit to be made any modification to the plans and specifications without the prior written authorization of the Contractor. The City agrees to waive any claim against the Contractor arising from any unauthorized reuse or modification of the plans and specifications by the City.

It is understood that sealed and signed mylars or vellum drawings govern over electronic files.

### **2.3 Confidential Data**

The Contractor shall not divulge any confidential information communicated to or acquired by him or her disclosed by the City in the course of carrying out the services provided for herein. No such information shall be used by the Contractor on any other project without approval in writing by the City.

This requirement shall not prohibit the Contractor from acting to correct or report a situation which the Contractor may reasonably believe to endanger the safety or welfare of the public or City, provided that the Contractor notifies the City of his or her intent to so act or report.

### **2.4 Insurance**

The Contractor shall supply to the City a summary of insurance coverage presently being maintained by the Contractor including but not limited to Professional Liability Insurance, Comprehensive General Liability and Automobile Insurance. Such summary shall include the name of the Insurance Company, type of insurance and amount of such coverage.

If the City requests that the amount of coverage of the Contractor's Insurance be increased or special insurance be obtained for this Service, then the Contractor shall co-operate with the City to obtain such increased or special insurance coverage at the City's expense.

It is understood and agreed that the coverage provided by either of those policies named in the aforementioned summary or specially required will not be changed or amended in any way nor cancelled by the Contractor until sixty (60) days after written notice of such changes or cancellations has been delivered to the City.

## **2.5 Dispute Resolution**

This Agreement is based upon mutual obligation of good faith and fair dealing between the parties in its performance and enforcement. Accordingly, both parties, with a commitment to honesty and integrity, agree to the following:

- That each will function within the laws and statutes that apply to its duties and responsibilities; that each will assist in the other's performance; that each will avoid hindering the other's performance; that each will work diligently to fulfill its obligations; and that each will cooperate in the common endeavor of the contract.
- Both parties to this Agreement shall attempt to resolve all claims, disputes and other matters in question arising out of or relating to this Agreement or breach thereof first through negotiations between the Contractor or representative and the City or representative by means of discussions built around mutual understanding and respect.
- Failing resolution by negotiations, all claims, disputes and other matters in question shall attempt to be resolved through mediation, under the guidance of a qualified mediator.
- Failing resolution by mediation, all claims, disputes and other matters in question shall be referred to arbitration.
- No person shall be appointed to act as mediator or arbitrator who is in any way interested, financially or otherwise, in the conduct of the work on the Project or in the business or other affairs of either the City or the Contractor.
- The award of the arbitrator shall be final and binding upon the parties.
- The provisions of the Ontario Arbitrations Act, shall apply.
- Construction agreement between the City and the Contractor shall follow same process of dispute resolution.

## **2.6 Successors and Assignment**

This Agreement shall enure to the benefit of and be binding upon the parties hereto, and except as otherwise provided herein, upon their executors, administrators, successors and assigns.

If a party to this Agreement who is an individual should desire to bring in a partner or partners or if a party which is a partnership should desire to bring in a new partner or partners to share the benefits and obligations of this Agreement, they may do so by properly notifying the other party in writing of such intended action.

If a party to this Agreement is a partnership, and a partner thereof either dies or retires then the remaining parties therein shall form a new successor partnership to share the benefits and obligations of the Agreement.

Except as aforesaid, neither party shall assign this Agreement without the proper consent in writing of the other.

## **2.7 Termination and Suspension**

The City may at any time by notice in writing to the Contractor suspend or terminate the Services or any portion thereof at any stage of the undertaking. Upon receipt of such written notice, the Contractor shall perform no further Services other than those reasonably necessary to close out the Contractor's Services.

If the City is in default in the performance of any of the City's obligations set forth in this Agreement, then the Contractor may, by written notice to the City, require such default be corrected. If, within thirty (30) days of receipt of such notice, such default shall not have been corrected the Contractor may immediately terminate this Agreement.

## **2.8 Records and Audit**

In order to provide data for the calculation of fees on a time basis, the Contractor and the sub-consultants shall keep a detailed record of the hours worked by and the salaries paid to the Contractor's staff employed on the Service.

The City may inspect and audit the books, payrolls, accounts and records of the Contractor and the sub-consultants during regular office hours with respect to any item.

The Contractor, when requested by the City, shall provide copies of receipts with respect to any disbursements for which the Contractor claims payment under this Agreement.

## **2.9 Indemnification**

The Contractor shall indemnify and save harmless the City from and against all claims, actions, losses, expenses, costs or damages of every nature and kind whatsoever which the City, the employees, officers or agents of the City may suffer as a sole result of the negligence of the Contractor, the employees, officers or agents of the Contractor in the performance of this Agreement.

The City agrees to hold harmless, indemnify and defend the Contractor from and against any and all claims, losses, damages, liabilities and costs of defence arising out of or in any way connected with the presence, discharge, release or escape of hazardous materials or contaminants of any kind, excluding only such liability as may solely arise out of the negligence of the Contractor in the performance of services to the City.

## **2.10 Contracting for Construction**

The Contractor or any person, firm or corporation associated with or subsidiary to the Contractor shall not tender for any or all of the execution of the Services or have an interest either directly or indirectly in the services without the prior written consent of the City.

## **2.11 Approval by Other Authorities**

Unless otherwise provided in this Agreement, where the work of the Contractor is subject to the approval or review of an authority, department or agency other than the City, the Contractor shall assist the City in applying for those approvals typically required by law for projects similar to the one for which the Contractor's services are being engaged. This assistance relates to completing and submitting forms as to the results of certain work included in the scope of services. If required by the Approval Agency(ies), the Contractor may with the approval of the City in writing also provide additional services as needed, these to include, but not limited to, conducting special tests, performance of special research studies, preparation of special documentation, development and delivery of testimony.

The City and the Contractor agree to discuss the scope of these additional services relating thereto before the Contractor performs them on the City's behalf.

### **2.12 Observation of the Work**

The Contractor will provide Service administration and field review services sufficient to control the work and the services and ensure service is in compliance with the approved plans and specifications as detailed in Article 3.0.

### **2.13 Job Site Safety**

The Contractor is responsible solely for his or her own and his or her own employees' activities on the job site, but this shall not be construed to relieve the City or any construction contractors from their responsibility for maintaining a safe job site.

The Contractor shall be familiar with relevant safety policies regulations and procedures. In the event of non-compliance the Contractor shall immediately notify the City and the appropriate governing authority. Should the Contractor report what he deemed to be non-compliance to the appropriate authorities in error the City would save harmless the Contractor if in fact the Ministry of Labour overruled the Contractor and a claim for delay was filed.

### **2.14 Emergencies During Operations**

In the event of any emergencies during operation which, in the opinion of the Contractor, requires immediate action in the City's interests, the Contractor shall have the authority to issue such orders and to take such steps on behalf, and at the expense of the City as he shall deem necessary or expedient.

### **2.15 Administration and Co-ordination**

The Contractor's administration and co-ordination functions provided herein shall pertain only to the extent that the services contemplated in Article 4 have been rendered.

Authority for general co-ordination of the Services shall reside in the Contractor only to the extent provided for in this Agreement.

All notices, instructions, requests, claims or other communications by the Consultants or by the City to one another shall be made by or through the Staff.

The Contractor shall make decisions on all claims of the City and of the Staff, and on all matters relating to the interpretation of the Contract Documents, all in accordance with the requirements of the Contract Documents.

No acceptance or approval by the Contractor of the Work or the Staff, whether expressed or implied, shall relieve the Contractor or the Staff from their responsibilities to the City for the proper performance of such Work or services, and further, the City shall not be responsible

to the Contractor or the Staff for the means, methods, techniques, sequences, procedures and use of equipment, of any nature whatsoever, whether approved by the Contractor or not, which are employed by the Contractor in executing or designing any phases of the Services, or for placing into operation any plan or equipment, or for safety precautions and programs incidental thereto.

#### **2.16 Contract Time Estimates**

The parties expressly acknowledge and agree that the Contract Time estimates provided by the Contractor to the City under this Agreement are subject to change and are contingent upon factors over which the Contractor has no control. The Contractor will endeavour to adhere to said schedules in a "timely manner" and will provide notice to the City as soon as such factors arise.

#### **2.17 Certifications by the Contractor**

The Contractor's certification functions provided for shall pertain only to the extent that the services contemplated in Article 3 have been rendered.

The Contractor shall issue certifications as set forth in Article 3 only where Services have been performed by the Contractor as defined in Article 1.7, have been performed by the Contractor, or should have been performed by the Contractor in the normal course of his duties hereunder, as set for the in the proposal for Services prepared by the Contractor dated \_\_\_\_\_ and attached hereto.

#### **2.18 Building Codes and By-Laws**

The Contractor shall, reasonably interpret building codes and by-laws as they apply to the Services, but it is expressly acknowledged and agreed by the City that as the Service progresses, the interpretation of building codes and by-laws by any public authority may differ from the interpretation of the Contractor, through no fault of the Contractor, and any extra cost necessary to conform to the interpretation placed upon the codes and by-laws or to confirm to changes or differences in interpretation by such authorities during or after execution of the Work will be paid by the City in the event that the Contractor has received a prior approval or authorization from such authorities in respect of such interpretations.

#### **2.19 Notices**

All notices required by this Agreement to be given by either party shall be deemed to be properly given and received if made in writing to the other party by certified mail or facsimile, addressed to the regular business address of such other party.

#### **2.20 Entire Agreement**

This Agreement constitutes the sole and entire agreement between the City and the Contractor relating to the Service, and no other terms, conditions or warranties, whether expressed or implied, shall form a part hereof.

#### **2.21 Voluntary Partnering**

The City will encourage participation in a formalized Partnering process that evolves the City and the Contractor. This partnering relationship will be structured to draw on the strengths

of each organization to identify and achieve common goals. The objectives are effective and efficient contract performance and completion of the Services.

Participation in partnering will be totally voluntary and all participants will have equal status. Any costs associated with partnering will be agreed to in advance by all parties.

3.1) **Menu** - The Food Services will consist of a snack bar / canteen solution to provide quick, fresh and healthy menu items at price levels comparable to surrounding municipalities.

3.2) **Locations** - The snack bar is located:  
Thorold Arena – 2 pad facility

3.3) **Hours** - The hours of operation are to be proposed by the Food Services Provider for approval by the City of Thorold Community Services Department. Snack Bar service is required at a minimum for games and large events such as the Craft Show, Dog Show, Home Show and Skating Show.

3.4) **Compliance with Laws** - City and Regional by-laws are to be upheld and adhered to by the Food Service Provider. In addition, the Food Services Provider shall comply with all Applicable Law in the management and provision of Services, including all such laws relating to health and safety. The Food Services Provider shall obtain and maintain all licenses and permits it requires to enable it to operate a Seasonal Restaurant, including health permits as required by Region of Niagara's Bylaws and ensuring that staff have the requisite training in relevant courses to provide service to the public, the costs of which will be borne by the Food Services Provider

3.5) **Contract Term** - Service will commence Sept 1<sup>st</sup> 2020 for the Arena as a 3 (three) year term with an option for renewal if agreed upon by both parties.

3.6) **Limitations** - This Proposal is limited to the above noted Food Service areas and is not an exclusive agreement for Food Services for the City.

3.7) **Equipment** - The Food Service Provider, at its expense, shall provide any additional equipment that is required above the existing equipment in the snack bar space. If, during the Term, the Food Services Provider decides that purchases of additional equipment or other improvements to the facilities are necessary, the cost of such additional purchased equipment or improvements shall be borne by the Food Services Provider. Ownership of the new equipment will remain with the Food Service Provider. If equipment is deemed to not be in good condition, then the cost to repair or replace damaged equipment shall be borne by the Contractor

3.8) **Cleaning** - The Contractor shall be responsible for usual and customary cleaning and sanitation of the internal serving area, kitchen including fixtures and equipment and common dining area. Contractor shall be responsible for housekeeping and sanitation in the food preparation, storage and internal serving areas; shall clean the tops of tables and chairs. Maintain clean, dry floors in the food preparation and service areas at all times. Clean up spills in the dining areas as required.

The Food Services Provider shall be responsible for cleaning and housekeeping in the snack bar area, including all work surfaces, refrigerated space and equipment.

The Food Services Provider shall be responsible for ensuring that all waste and recycling stations are kept tidy during business hours. The level of cleanliness is to be consistent with current industry best practices and health and safety regulations. For further clarity, the expectations are that the Food Services Provider will ensure that:

- Fixtures, surfaces and appliances are substantially free of grease, dirt, dust, deposits, marks, stains and cobwebs
- Electrical and cooking fixtures and appliances are kept free from signs of use or non-use
- When cleaning food preparation areas, fixtures or appliances, the requirements of the Hazard Analysis Critical Control Points (HACCP) Standards must be satisfied
- Refrigerators/freezers are clean and free of ice build-up

3.9) **Finances** - The Contractor shall be responsible for collection, retention and accounting of all monies from sales in the food service operation. The Contractor shall maintain financial procedures and record keeping in accordance with generally accepted accounting principles, and shall make said financial records and supporting documents available for inspection, reproduction and audit by the City or its auditors at the City's request. The Contractor shall be required to submit a "pro forma" financial statement for each year of the contract with the City.

#### 4. Responsibilities

4.0) **Commission or Rent** - payments were proposed as part of this tender submission however these will be reviewed again at the end of the Service term. The Contractor shall maintain separate records for the individual services provided, and shall submit its financial reports indicating the Gross sales, sales tax, adjusted gross sales to the City on an annual basis.

4.1) **Feedback** - The Contractor shall conduct specific and continuing programs of inquiry and evaluation through community meetings and "how did we do?" comment cards to determine the level of satisfaction of the community with the food services offered. The results of this inquiry and evaluation process shall be shared with the City administrator on a regular basis.

4.2) **Utilities** - The City of Thorold shall provide access to the existing utilities (water, electricity) available in the snack bar for the term of the initial 3-year contract, this is to be reviewed at the end of the 3 years taking into consideration the financial statements provided by the contractor. The Food Services Provider will be responsible for providing their own financial systems and may be required to facilitate electronic communications for the purposes of providing the Service and charges for these services will be the responsibility of the Food Service Provider.

4.3) **Other Supplies** - The Food Services Provider shall provide small wares and consumable supplies (which includes but is not limited to: plastic and stainless steel utensils, takeout containers, napkins, straws, stir sticks, disposable coffee cups and lids, etc.) and small expendable equipment (including pots, pans and kitchen utensils, cleaning and maintenance equipment, etc.) as may be required to provide the Service and to equip the snack bar space.

4.4) **Signage** - The Food Services Provider shall install signage (to be approved by the City of Thorold) clearly identifying themselves as the operator of the snack bar.

Menus and pricing are to be clearly displayed.

4.5) **Procurement of Supplies** - The Food Services Provider shall procure all food, supplies, merchandise and services utilized in the management of the Services. The Food Services Provider's cost of food, supplies, merchandise and supplies utilized in providing the Services shall be Costs of Operation.

4.6) **City's Contribution** - Upon awarding of the Food Service Contract, the City will contribute the following monies toward infrastructure within the Canteen;

Arena - \$

This contribution is to be used for infrastructure only, this will include but not limited to, painting, plumbing, electrical, tiles, counters etc. The intent is to allow for ease of operations for the incoming service provider. The City will have final decision on how the funds are distributed and must comply with the City of Thorold's purchasing policy.

**UNDER THIS AGREEMENT****5. General**

The Contractor shall render Services to the City "in a timely manner" under this Agreement with that degree of care, skill and diligence normally provided in the performance of Services in respect of Projects of a similar nature to that contemplated by this Agreement at the time and place that such services are rendered.

**5.1 The Contractor Shall Perform the Following Services in Connection with the Project:**

Provide services for, perform tasks associated with, and provide deliverables for the AREANA SNACK BAR OPERATIONS # as set out in the Request for Services and the Proposal for Services dated \_\_\_\_\_ submitted by the Contractor, attached hereto as Schedule 'A', respectively, and forming part of this agreement.

**17.3.1.4**

**In witness whereof** the parties hereto have executed this Agreement under their respective corporate seals and by the hands of their proper officers thereunto duly authorized.

SIGNED, SEALED AND DELIVERED  
in the presence of:

**17.3.1.4.1.1 OWNER**

\_\_\_\_\_  
The Corporation of the City of Thorold  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
- Mayor  
Name and Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Donna Delvecchio - City Clerk  
Name and Title

\_\_\_\_\_  
Date

**17.3.1.4.1.2 CONTRACTOR**

\_\_\_\_\_  
Name of Contractor

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Date