



Kamloops Airport

Request For Proposals Food & Beverage Concession Opportunity

Issued by
Kamloops Airport Limited
December 16, 2022

CONFIDENTIAL

Contents subject to certain Confidentiality and Non-Disclosure between the Recipient hereof and
Kamloops Airport Limited

PLEASE NOTE "SCHEDULE AND KEY DATES FOR THIS RFP" IN SECTION 2.8



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1. Executive Summary

Kamloops Airport Limited (“KAL”) invites you to participate in its Request For Proposals (this “RFP”) for the commercial development of a non-exclusive, local or nationally-branded, quick service, multi-unit café concession lease at the Kamloops Airport (“YKA” or the “Airport”). The successful Proponent will be responsible to develop, implement and carry out a plan of service that adheres to prescribed regulations, while providing the highest level of food & beverage services at YKA.

This RFP is open to a broad range of Proponents (defined below). KAL is seeking submissions from experienced operators with a strong history of creativity and innovation, and a reputation for best-in-class operations and service delivered through exciting concepts. Proponents will have the opportunity to (i) express their qualifications and (ii) submit concepts and financial proposals for the food & beverage program at YKA.

KAL is under no obligation to negotiate or execute a contractual or other commercial arrangement with any Proponents hereto.

2. Introduction & Background

2.1. Summary

RFP Name	Food & Beverage Opportunity – YKA
RFP Number	KAL RFP 11 2022
Submission Deadline (Closing)	January 23, 2023, 4 PM PST
Format, Number and Method of Submissions	<p><u>Originals</u>: One <u>Electronic Copies</u>: One digital copy</p> <p>It is up to the Proponent on delivery method. The submission may be delivered by hand, courier or parcel service to the Designated Contact Person at the Delivery Address prior to the Submission Deadline, or to the Designated Contact Person via email below.</p>
Designated Contact Person	Ed Ratuski Managing Director Kamloops Airport Limited
Delivery Address	101-3035 Airport Road Kamloops BC V2B 7X1
Contact Information	E-mail: ed_ratuski@kamloopsairport.com

2.2. Defined Terms

The following definitions apply to this Request for Expression of Interest:

“Addenda” – Updates, changes or additional information issued to Proponents as part of the Request for Expressions of Interest process.

“Affiliates” has the meaning ascribed to that word in the Canada Business Corporations Act.

“Concession Sublease” – The Concession Sublease under which selected Proponents will lease and operate their Concession Outlets attached in draft to Appendix A.

"Confidential Information" means information that:

- (i) has been created, discovered or developed by or for a Party, or that is in the possession of a Party;
- (ii) is of value to that Party;
- (iii) is not generally known by others, other than that Party's personnel; and
- (iv) is marked "Confidential";

"Confidential Information" includes the pricing and commercial terms of the Party;

“Delivery Address” – Physical address set out in Section 2.1 of this Request for Proposals to which all correspondence to KAL is to be delivered.

“Designated Contact Person” – representative designated to receive all physical and electronic correspondence regarding this RFP as set out in Section 2.1.

“Head Lease” – means that certain lease agreement dated and executed August 27, 1997 between the Kamloops Airport Authority Society and KAL, as such agreement may be further amended from time to time, setting forth the terms and conditions pursuant to which, KAL leases the Airport from the Kamloops Airport Authority Society.

“Party” means any party to this RFP including a Proponent, a Qualified Proponent, a Preferred Proponent and KAL

“Qualified Proponent” – A Proponent who (i) meets the Qualifying Requirements under the RFP and (ii) submits a Qualified Submission.

“Qualified Submission” – A written submission to this RFP that meets the “Submission Requirements” set forth herein.

“Qualifying Requirements” – The requirements set out in Section 3 which Proponents must meet to be considered a Qualified Proponent.

“Proponent or Preferred Proponent” – Any Qualified Proponent designated as such by KAL through the process set out by this RFP to establish a Food and Beverage Concession at YKA.

“Submission” – Any submission to this RFP, whether a Qualified Submission or not.

“Submission Deadline” – Date set out in Section 2.8 of this RFP by which Submissions must be received to be considered.

“Submission Requirements” - Requirements set out in Section 9 which Proponents must meet for their Submission to be considered a Qualified Submission.

• _____ “Terminal Building” – The existing Terminal Building at the Kamloops Airport, which is operated by KAL.

2.3. About Kamloops Airport Limited

Vantage Airport Group (Vantage), parent company of KAL, entered into a lease agreement (“Head Lease”) with the Kamloops Airport Authority Society, owner of the Airport, to operate, manage, and develop the Airport together with its subsidiaries.

KAL is a wholly owned subsidiary of Vantage, which for over 25 years, has developed over 30 airports to become more efficient, profitable, sustainable, and connected to their communities. As an investor, developer, and manager of airports and transportation projects around the world, the current Vantage portfolio consists of 14 active projects across Canada, the US, Caribbean, and Europe. Led by a corporate and network-wide team of more than 1,000 employees, Vantage network locations draw on industry best practices to build and manage world-class airports that deliver an exceptional experience to passengers, airlines, stakeholders, and the local communities we serve. At YKA, KAL is responsible for

the management, development, and operation of the Airport, overseeing of the 24/7 day-to-day operations while delivering high-service, low-cost business model with support from Vantage.

For more information about Vantage, please refer to www.vantageairportgroup.com

2.4. About Kamloops Airport

The Airport is located in the City of Kamloops, approximately 10 kilometres from the city center.

The Airport has two (2) runways: Runway 09-27 is 8,000 feet in length and capable of accommodating transcontinental flights; Runway 05-23 is 2,010 feet in length and is primarily used for flight training operations and private aircraft. Scheduled passenger flights are conducted primarily with 70-80 seat passenger regional aircraft.

Passenger traffic at KAL grew significantly prior to the global pandemic serving a record 361,000 passengers in 2019, and analysis of the trends indicates recovery will continue in the near term with a forecast return to pre-pandemic levels in late 2023 or early 2024. The passenger forecast intends to deliver a realistic range between 350,000 to 400,000 total passengers and an optimistic long-term outlook for the years that follow.

The airlines operating from YKA are a combination of legacy carriers and new entrants. Current airlines operating from YKA include WestJet, WestJet Link, and Air Canada.

2.5. Passenger Demographics

A 2022 Passenger Survey indicated demographic information that travellers between the ages of 36-54 represented the largest age group travelling through YKA. Additionally, data indicated that approximately 50% of passengers originated from Kamloops and the Thompson Nicola Region. It is generally understood that the split between leisure and business travel, which includes workers in the resource sector, is approximately 50/50. Seasonally these numbers would be skewed as YKA serves a significant inbound international ski-market during the winter months and a large outbound family and friends component during the summer months.

The passenger survey measured customer satisfaction on various amenities including the Airport's food and beverage/retail program. Of specific importance, passengers noted the need to improve the food and beverage offering with respect to the variety and quality of products offered in this area.

2.6. Other Customer Groups

In addition to serving passengers, YKA is host other customer groups interested in food and beverage services at the pre-security locations. Proponents are urged to consider these groups both from a quick-serve and catering potential. They include the following:

- Airport employees and tenants working at locations at the Terminal Building (e.g. CATSA, Air Canada, Executive Aviation, and Budget/Enterprise/National Car Rentals);
- The Airport's most recent economic impact study indicated over 500 jobs directly associated with on-going operations at YKA. This includes the growing and broader Airport footprint including employees from the Airport's facilities (e.g., BC Provincial Wildfire Headquarters, FedEx, Canadian Flight Centre, and BCEHS medivac contractors; and

- The meeter/greeter component which is estimated at 1.25 persons for every inbound and outbound passenger.

2.7. Commercial Vision – Overall Program

KAL continues to develop a customer experience focused on providing passengers with exceptional selection, service, and amenities. It is expected to consistently perform above the average of airports of similar size and to cater to the customer profile on passenger surveys.

The commercial program will include:

Best-in-class offerings by a quick-service multi-unit coffee offering (either locally or nationally branded);

Suitable food and beverage offering that meets the needs of passengers and other customer groups in the airport community;

An experience on par with urban commercial centers in the city, region and country (not just airports);

A sense of place reflecting Kamloops and the Thompson-Nicola region; Elevated guest service and experiences that meet or exceed guests’ desires and expectations.

By delivering on this vision, food and beverage operator should expect to achieve exceptionally strong financial returns and guest service and satisfaction results.

2.8. Schedule and Key Dates for this RFP

Table 1 – RFP Schedule and Key Dates

Date	Activity
December 16, 2022	Food & Beverage RFP Issued
January 6, 2022	Tour of Airport for interested Proponents 13:00PM. East Board Room. 101-3035 Airport Road. Kamloops, BC
January 16, 2022	Deadline for Questions
January 23, 2023	Final submission (Closing)
January 27, 2023	If required: Proponent Presentations
February 1, 2023	Recommended Proponent notified
April 1, 2023 or earlier	Commencement of Contract

3. Qualifying Requirements

This section states the qualifications and other requirements that a party must meet to participate in this RFP process as a Qualified Proponent.

3.1. Qualifications

Only Submissions to this RFP from Qualified Proponents will be considered, and Proponents not meeting the Qualifying Requirements set forth below will be disqualified from participating hereunder and their Submissions will be rejected. Qualified Proponents shall be only those parties who are:

- Experienced operators of food and beverage establishments, retail food markets and specialty food establishments, all serving the general public and located in airports as well as in street locations, food halls, commercial centers, marketplaces and other venues, with a history of strong operations, creative concepts and high service standards.
- In good standing with their current landlords and all applicable regulatory authorities.
- Not involved in legal action with KAL, its affiliates, partners or contractors.
- Of sufficient net worth and income to design, fit-out and operate their units.
- Not and have not in the last ten (10) years been the subject of a bankruptcy or other insolvency proceeding.
- Not and have not in the last ten (10) years been the defendant in any proceeding involving fraud, tax evasion or any other financial crime or deception.

KAL reserves the right in its sole discretion to disqualify a Submission or Proponent for reasons including but not limited to:

- It is not delivered to KAL before Closing;
- It does not comply with the Submission Requirements;
- The Qualifying Proponent, or any of its Affiliates or proposed sub-contractors, communicates with an employee of, or consultant to, KAL about the RFP other than as permitted by this RFP;
- The Qualifying Proponent breaches, or KAL has a reasonable apprehension that Qualifying Proponent will breach, its obligations of confidentiality to KAL;
- The Qualifying Proponent fails to comply with any of the deadlines set out in the RFP;
- The Qualifying Proponent fails to respond to a request for clarification, or fails to provide sufficient information in response to a request for clarification;

- The current or past corporate or other interests of a Qualifying Proponent, or any of the Qualifying Proponent's Affiliates, proposed sub-contractor or associates, place it in a conflict of interest in connection with the RFP or the activities of KAL;
- The Qualifying Proponent, or any of its directors, officers, shareholders, Affiliates or proposed sub-contractors has a claim, or has initiated a claim or legal proceeding, against KAL or any of its Affiliates;
- KAL has a claim, or has initiated a legal proceeding, against the Qualifying Proponent or any of its directors, officers, shareholders, Affiliates or proposed sub-contractors with respect to any previous contracts, tenders or business transactions;
- The Qualifying Proponent, or any of its Affiliates or proposed sub-contractors, has colluded with another Qualifying Proponent in connection with this RFP;
- The Qualifying Proponent, or any of its Affiliates or proposed sub-contractors, has offered to provide compensation or gifts of any kind to an employee of, or consultant to, KAL with the intention of influencing the outcome of this RFP;

3.2. Additional Requirements

The following additional requirements shall apply to all Proponents and Submissions:

- Submissions should be limited to the space inside the defined footprints shown on the Lease Outline Drawings or LODs. Other areas of YKA are not currently available for development as concession space.
- This RFP and the process hereunder including requests for additional information or negotiation thereof is NOT intended to create and shall not create a formal legally binding bidding process and shall instead be governed by the law applicable to direct commercial negotiations. For greater certainty and without limitation: (i) this RFP shall not result in the formation of contract or give rise to any contract based tendering law duties or other legal obligations arising out of any process contractor or collateral contract; and (ii) neither the Qualifying Proponent nor KAL shall have any right to make any claims (whether in contract, tort or otherwise) against the other with respect to the award of a contract or any failure to award a contract. The intent of this RFP is solely to identify those Qualifying Proponents capable of meeting KAL's requirements and with whom a final contract may be negotiated.
- Qualifying Proponent shall, if KAL selects shall negotiate in good faith to finalize and execute, within 14 days of being notified by KAL (subject to internal KAL approvals), an agreement with KAL (the "Contract") that is based on the Form of Agreement, attached to this RFP, and such other provisions as KAL may reasonably require, for the provision of, respectively, all or some of the Deliverables. For the purposes of this section good faith means not taking a position in the negotiations less favourable to KAL than that set out in this RFP, including proposing changes to the Form of Agreement that are different from those proposed in the RFP.
- KAL may in its sole discretion negotiate with more than one Qualifying Proponent at the same time or in sequential order to be determined solely by KAL; and

At any point, KAL may elect to unilaterally terminate one or more negotiation with any Qualifying Proponent. In the event that KAL terminates a negotiation it may initiate or continue

negotiations with another Qualifying Proponent. This process may continue until a Contract is formalized or until there are no more Qualifying Proponents remaining that are eligible for negotiations. There will be no legally binding relationship created with any Qualifying Proponent prior to the execution of a Contract.

The Qualifying Proponent shall not assign any of its interest or position in this RFP or the RFP process without the prior written consent of KAL, which consent may be unreasonably withheld. For the purposes of this RFP, "assign" includes an acquisition (any transaction in which two or more Qualifying Proponents become, will become, or are in the opinion of KAL likely to become, Affiliates or one person) or a change of Control.

4. Opportunity

This section provides details regarding each of the available Concession Outlets.

4.1. Facility Description

YKA, through concessionaires, currently provides stakeholders with opportunities to purchase food & beverage products both pre-screening and post-screening. Almost all passengers travelling through YKA will pass both locations, as they are situated just before screening, as well as immediately after.

For this RFP, a total of 60 square meters of space will be provided for the Proponent to operate a quick service multi-unit Coffee Chain concession. The space provided is outlined in the LOD's attached to this RFP, and is as follows:

- Groundside – 47.5 square meters
- Airside – 12.5 square meters

4.2. Concepts

KAL invites Proponents to propose brand types and offerings within the established outlet footprints that they think are needed, desirable and/or appropriate based on the terminal layout and passenger profile, while remaining generally consistent with the YKA vision. KAL seeks creativity and innovation from Proponents and will consider new ways to serve passengers within reason and good judgement.

KAL reserves the right to reject any concepts that it deems, in its sole judgement, inappropriate for YKA.

4.3. Other General Notes

Both Units should excel in reflecting current industry trends within the local area. All offerings should be broad enough to appeal to a mass market and service delivery should be efficient enough to be expedited for peak traffic patterns with hours of operation reflecting the flight schedule including check-in periods at least 2 (two) hours prior to a flight departure. Proponents are urged to consider mobile and online ordering for pickup.

5. Details on Term, Rent and Additional Rent

This section provides certain details regarding term, rent and additional rent requirements. Additional provisions and details regarding the term, rent and additional rent are set forth in the Concession Sublease.

5.1. Term Lengths and Percentage Rents

Historically, the term lengths and percentage rents for non-exclusive food and beverage concessions are generally as follows:

- Term Lengths
 - Initial Term – 5 years
 - Optional Term – 5 years
- Percentage Rent
 - Initial Term
 - 6% of Gross Revenue for the first \$300,000.00*
 - 8% of Gross Revenue greater than \$300,000.00
 - Optional Term
 - 9% of Gross Revenue for the first \$300,000.00
 - 10% of Gross Revenue greater than 300,000.00

Based on knowledge of the local market and projected revenues, proponents are invited to offer an alternate Percentage Rent structure for KAL's consideration.

*Dependent on level of capital investment, which is a requirement of the Proponent to document as part of this RFP

5.2. Rent Generally

There may be two rent components under the Concession Sublease: (i) Minimum Annual Guarantee (MAG); and (ii) Percentage Rent. MAG is the minimum annual amount due during each year of the Concession Sublease term regardless of sales. Percentage Rent is an amount derived by multiplying the rent percentage established below by the gross sales for the applicable period. Each month, the sublessee under the Concession Sublease is responsible for paying (i) 1/12 of the MAG, plus (ii) the positive difference, if any, of the Percentage Rent due for such month, if any.

5.3. Minimum Annual Guarantee (MAG)

The MAG shall be established in Year 2 of the Initial Term. MAG shall escalate annually to the higher of (a) 85% of the Percentage Rent paid in each prior year or (b) 100% of the prior year's MAG.

5.4. Additional Rent

Additional Rent includes the components described in the Concession Sublease provided as an appendix to this RFP. Additional Rent includes but is not limited to property /other applicable taxes, utilities, and insurance costs.

6. Other Key Terms and Requirements

This section provides certain details regarding other financial requirements. Additional provisions regarding these requirements and financial terms are set forth in more detail in the draft Concession Sublease.

6.1 Employee Discount Offer

All concession tenants may offer any available employee discount on sales to KAL airport and airline employees who display valid identification, as more particularly described in the Concession Sublease. Please provide details of discounts offered, if any.

NOTE: Estimates of the total number of employees expected to be working per shift are not available.

7. Specific Matters Regarding Design, Construction, and Leasing

7.1. Best Practices

KAL expects all Proponents to be committed to following best practices in design and construction, including detailed project budgeting and scheduling, expedited permitting to the extent possible, technically sound and correct architecture and engineering drawings, proper bidding techniques and thorough project management and oversight.

7.2. Independent Assessment

Proponents are expected to conduct an independent and thorough assessment of the capital investment and the financial, corporate, professional and human resources required to execute on its Submission if selected.

7.3. Startup

Proponents will be required to operate the units as in their current state and start design immediately upon notification of award. A Proponent's ability to adhere to the required schedule to complete all design work, have plans approved, obtain requisite permits and complete the construction and fit out of the Concession Outlets is a critical component of the evaluation of any Submission. If selected, a Preferred Proponent is expected to use best efforts and all available resources to ensure that the applicable Concession Outlets are open for business on the date required under the Concession Sublease.

7.4. Specific Matters Regarding Operating at the Terminal Building

Proponents are expected to have the experience, resources and skills needed to navigate and excel in the airport environment and deliver an elevated experience that embodies KAL's commercial vision described above. Specifically, Proponents are expected to:

- Drive up transactions and sales per transaction through best practices in menu creation, presentation and visual merchandising, and sales/upselling techniques;
- Drive down operational costs through best practices in employee scheduling, service and product ordering, inventory control and other responsible management;
- Hire, train and manage employees who are committed to delivering excellence on a daily basis, and incorporate principles of coaching, learning and development into such training and management;
- Ensure delivery of an exceptional guest experience from all employees;
- Comply with all regulatory requirements, including those related to security, workplace safety, health and food safety, resource conservation and other regulations;
- Adhere to the required operating hours set forth in the Concession Sublease and outlined in Section 4.3 while also remaining responsive enough to extend operating hours to accommodate guests affect by unscheduled delays and operate during disruptions resulting from weather, airline and terminal events and conditions;
- Operate well with a limited amount of storage space and always have a full assortment of offerings, products and merchandise available for guests despite very busy peak periods and supply chain disruptions; and Excel under challenging circumstances and deliver a first-class experience at all times.

8. Submission Requirements

All Submissions must include the following components:

8.1. Cover Letter

A cover letter identifying and briefly describing Proponent and the concepts and brands proposed by location. The cover letter should include a statement confirming that Proponent possesses the rights to develop, license and operate the offered concepts and brands, and any related exclusivity, territory rights or limitations. [Limit to Two Pages]

8.2. Concepts / Brands / Offerings / Designs / Operations

The following information provided in sufficient detail to clearly define the proposed concepts, brands, offerings and designs for each location:

- (a) background on each concept and brand, including typical menu / product offerings,
- (b) Proponent's relationship with and history, if any, operating the concepts and brands,
- (c) design sketches for each location, plus renderings and indicative photographs to illustrate the potential space design and aesthetic; and
- (d) a description of space branding and thematic elements.

Additionally, Proponent shall provide an official letter signed by each brand confirming that:

- (i) Proponent possesses the rights to develop, license and operate the offered concepts and brands, and any related exclusivity, territory rights or limitations, and
- (ii) such brand will commit to the development of its concept if Proponent is awarded the applicable space(s).

Additionally, information should be provided detailing marketing plans, hospitality, innovation, training, guest experience and services, service recovery, leadership plan, staffing plan and other relevant information.

[Limit Written Portion to Ten Pages in additional to the brand letters; No Limit to Sketches, Renderings and Photographs]

8.3. Response Submission

The Proponents submission must be completed with the information requested, which includes:

- A) Company Information
- B) Qualifications and Experience - A letter, on company letterhead, from a senior officer of Proponent certifying that Proponent meets the Qualifying

Requirements set forth in Section 3 above, together with a detailed description of Proponent's food & beverage experience, including years of overall experience; prior experience with the operation and management of facilities at airports, major transportation centers, shopping centers, or other high-traffic/high-volume environments; and other information the Proponent deems relevant about its qualifications and experience.

- C) Names of similar or relevant operations owned or operated by Proponent in the past ten years
- D) Sales volume of such similar or relevant operations for the past three years
- E) History of experience with similar / relevant concepts
- F) Photographs of the interior and exterior of similar / relevant operations
- G) Other information that supports the Proponent's experience as it pertains to similar or relevant operations
- H) Disclosure of Current Relationships - A statement in sufficient detail disclosing:
 - a. All current arrangements with KAL and its partners
 - b. all current and past relationships with Vantage Airport Group or KAL
 - c. Any relationships or current arrangements which may constitute a real or perceived conflict of interest.

9. Certain Specific Terms, Conditions and Other Information

9.1. Consideration as a Proponent

Proponents wishing to be considered under this RFP must submit a Qualified Submission by the Submission Deadline.

Submissions must be presented at the Delivery Address to the Designated Contact Person.

9.2. Company Information

It is important that Proponents keep their company information up to date with accurate contact information, including e-mail addresses and phone numbers. This will enable Proponents to receive timely notice of inquiries, reminders, and addenda. Proponents may update their vendor profile by advising the Designated Contact Person.

9.3. Communication with KAL

All communication regarding the RFP must be directed to the Designated Contact Person at the Delivery Address or via email using the Contact Information. KAL will issue written responses to questions received. These responses will be shared with all Proponents. Oral advice or representations made by KAL and its partners should not be relied on by Proponents.

9.4. Proponent Presentations

Following receipt of the Submissions, KAL may, in its sole discretion, ask to meet with one or more Proponents to discuss its Submission, provided that KAL is under no obligation to meet with or discuss any Submission with a Proponent or any other party.

9.5. Proposed Concepts and Brands

Proponents are welcome to submit a preliminary list of concepts and brands for the units to KAL, however, preference will be given to a quick service multi chain concessionaire, specifically with a known brand. Any preliminary concepts or brand specific submissions must be marked by Proponent as “confidential” in order to be treated as such and shall not be disclosed to other Proponents. KAL will not provide direct individual responses to Proponents on a preliminary list of concepts and brands but may, at its sole discretion, provide generalized guidance and direction to all Proponents at the same time. Any such preliminary submission will not be part of the RFP evaluation and shall not substitute any requirements of the RFP process outlined herein.

9.6. Bilateral Meetings

Throughout the RFP process, and in addition to the submissions above, KAL may in its sole discretion conduct bilateral meetings with certain Proponents.

If for the purposes of the preparation of its Submission, a Proponent wishes to rely upon anything said or indicated at a bilateral meeting, then the Proponent must submit an inquiry in accordance with Section 10.3 – Communication with KAL.

9.7. Confidentiality and Non-Disclosure Requirements for Proponents

All information that KAL provides to Proponents and all written or oral communication between KAL and Proponents is proprietary and confidential. The exception are formal inquiries made in accordance with Section 10.3 – Communication with KAL.

Each Party (the "Receiving Party") who receives the Confidential Information of the other Party (the "Disclosing Party") shall treat all of that Confidential Information as confidential.

- (i) **Obligations.** Receiving Party shall protect the Confidential Information of Disclosing Party in the same manner that it protects the confidentiality of its own Confidential Information of like kind, but in no case with less than reasonable care.
- (ii) **Use of Confidential Information by KAL.** KAL shall use Proponent Confidential Information solely to evaluate the Proponent's Proposal, and shall not disclose Proponent Confidential Information to any third party.

- (iii) **Use of Confidential Information by Proponent.** The Proponent shall use KAL Confidential Information solely to prepare a Proposal, and shall not disclose KAL Confidential Information to any third party.
- (iv) **Return of Information.** Upon termination of this Agreement, or upon the written instruction of Disclosing Party, the Receiving Party shall:
 - A. **return or destroy all of the Disclosing Party's Confidential Information**

Despite the foregoing, each Receiving Party may retain one copy of the Disclosing Party's Confidential Information for archival purposes.

- (v) **Responsibility and Indemnity.** Each Receiving Party shall be responsible to the Disclosing Party for any disclosure of Confidential Information that is not permitted by this Article 10 to the extent caused by Receiving Party and for any failure by Receiving Party to comply with the provision of this Article 10. Each Receiving Party shall defend, indemnify and hold harmless the Disclosing Party from and against any and all Claims arising out of any breach by Receiving Party of this Article 10.
- (vi) **Ownership.** Except as set out in Sub-Section 10.7.2. (b) Use of Confidential Information by KAL and Sub-Section 10.7.2. (c) Use of Confidential Information by Proponent, neither Party grants to the other any right, title or interest in or to its Confidential Information.
- (vii) **Exceptions.** The obligations of confidentiality set out in this Section 10.7.2. will not apply in respect of uses or disclosures of Confidential Information where:
 - A. **the Disclosing Party consents in writing;**
 - B. **disclosure is required to comply with any applicable law or judicial order, provided that the Receiving Party gives the Disclosing Party reasonable notice as may be practicable in the circumstances to contest or protect the required disclosure; or**
 - C. **the Receiving Party can establish with documentary evidence that, other than as a result of a breach of this Agreement, the Confidential Information:**
 - (1) is available in the public domain;
 - (2) was disclosed to it by a third party without violating confidentiality obligations; or
 - (3) was already known by it or was subsequently developed by it without any use of Confidential Information.

9.8. Liability for Errors

While KAL has made efforts to ensure an accurate representation of information in this RFP, the information contained herein is supplied solely as a guideline. The information is not guaranteed or warranted to be accurate by KAL or its partners, nor is it necessarily comprehensive or exhaustive. Nothing in this RFP is intended to relieve Proponents from forming their own opinions and conclusions with respect to the matters addressed in this RFP.

9.9. Agreement with Terms

By submitting a Qualified Submission to this RFP, Proponent agrees to all the terms and conditions of this RFP including the Exhibits, and also agrees to follow all applicable Transport Canada rules and regulations, as well as all of KAL's rules and regulations applicable hereto. All responses and any supplementary material will become the property of KAL.

9.10. Foundational Principles

KAL is committed to the principles of competition, fairness, inclusion, transparency and integrity in this RFP.

9.11. No Claim for Expenses, Damages or Compensation

Proponent and each other party accessing this RFP is solely responsible for its own costs and expenses in relation to this RFP including preparing and submitting any response hereto and/or attending meetings with KAL during the evaluation process. KAL is not liable to pay such costs and expenses or to reimburse or to compensate a Proponent or any other party under any circumstance and KAL has no obligation to enter a contract or other commitment with any Proponent or any other party.

Further to the preceding paragraph, Proponent, by submitting a response hereunder or otherwise participating in this RFP, agrees that it will not assert any claim whatsoever against KAL, its partners, employees, contractors or agents relating to this RFP, its participation in this RFP or any outcome of this RFP. Proponent, by submitting a response hereunder, waives any claim for damages or loss of profits if Proponent is not designated as a Preferred Proponent.

Except as expressly and specifically permitted in these instructions to Proponents, no Proponent shall have any claim for any compensation of any kind whatsoever, as a result of participating in this RFP, and by submitting a Proposal each Proponent shall be deemed to have agreed that it has no claim.

9.12. Verification and Due Diligence

KAL reserves the right to verify any statement or claim contained in any Submission or made subsequently in any correspondence or discussion. That verification may be made by whatever means KAL considers appropriate including without limitation contacting the references provided by the Qualified Proponent and any proposed subcontractor or partner of the Qualified Proponent.

In submitting any Submission, the Proponent is deemed to consent to KAL, as part of its due diligence, verifying any information provided by third parties, including Proponent's bank references and proposed subcontractors and partners, and to obtaining additional information from third parties regarding Proponent, its directors, officers, shareholders, owners, key employees, subcontractors listed as references and any other person associated with Proponent as KAL may require. KAL may also make inquiries with its partners regarding previous contractual

relationships Proponent may have had with those organizations. Proponent understands and accepts that KAL may in its sole discretion consider none, some or all such information verified and obtained in its evaluation of the Qualified Submission.

9.13. Evaluation Committee Procedures and Criteria

KAL has developed this RFP based on the principles of competition, fairness, inclusion, transparency, and integrity. The membership of the committee that created and approved this RFP, that will evaluate all Submissions, and that developed the structure, processes and procedures for such evaluation has been determined by KAL in its sole discretion, all based on the principles described above.

KAL’s evaluation of the submissions and its determination of the Proponents will be based on the criteria and weightings listed in Table 3 below.

Table 3 – Evaluation Criteria

Criteria	Weight
<u>Concept, Design & Capital Investment</u> <ul style="list-style-type: none"> • Concept and menu/merchandise plans, including creativity, brands, sense of place, compatibility with guest profiles • Design, aesthetics and construction of concept and unit, including use of sustainability elements and practices, experience of design and construction teams • Capital investment (initial and midterm) 	33.3%
<u>Financial Proposal</u> <ul style="list-style-type: none"> • Financial Proposal • MAG, % Rent, Investment, Metrics and Supporting Data • Financial Strength of Proponent 	33.3%
<u>Operations, and Guest Experience</u> <ul style="list-style-type: none"> • Operational strength, including experience with the brand(s), management team, sales and marketing plans • Guest experience and service, including innovation, hospitality, staff development, service recovery • Service level standards, operating hours 	33.3%
TOTAL:	100%

9.14. Confidentiality of Evaluations

KAL’s evaluation of Submissions will remain confidential and KAL is not obligated to disclose its evaluation of a Submission to any Proponent, Preferred Proponent or any third party.

There will be no public opening of the Submissions received. Submissions will be opened privately by KAL after the Submission Deadline. No public announcement of the contents of any Submissions will be made at any time.

9.15. Notification of Proponents

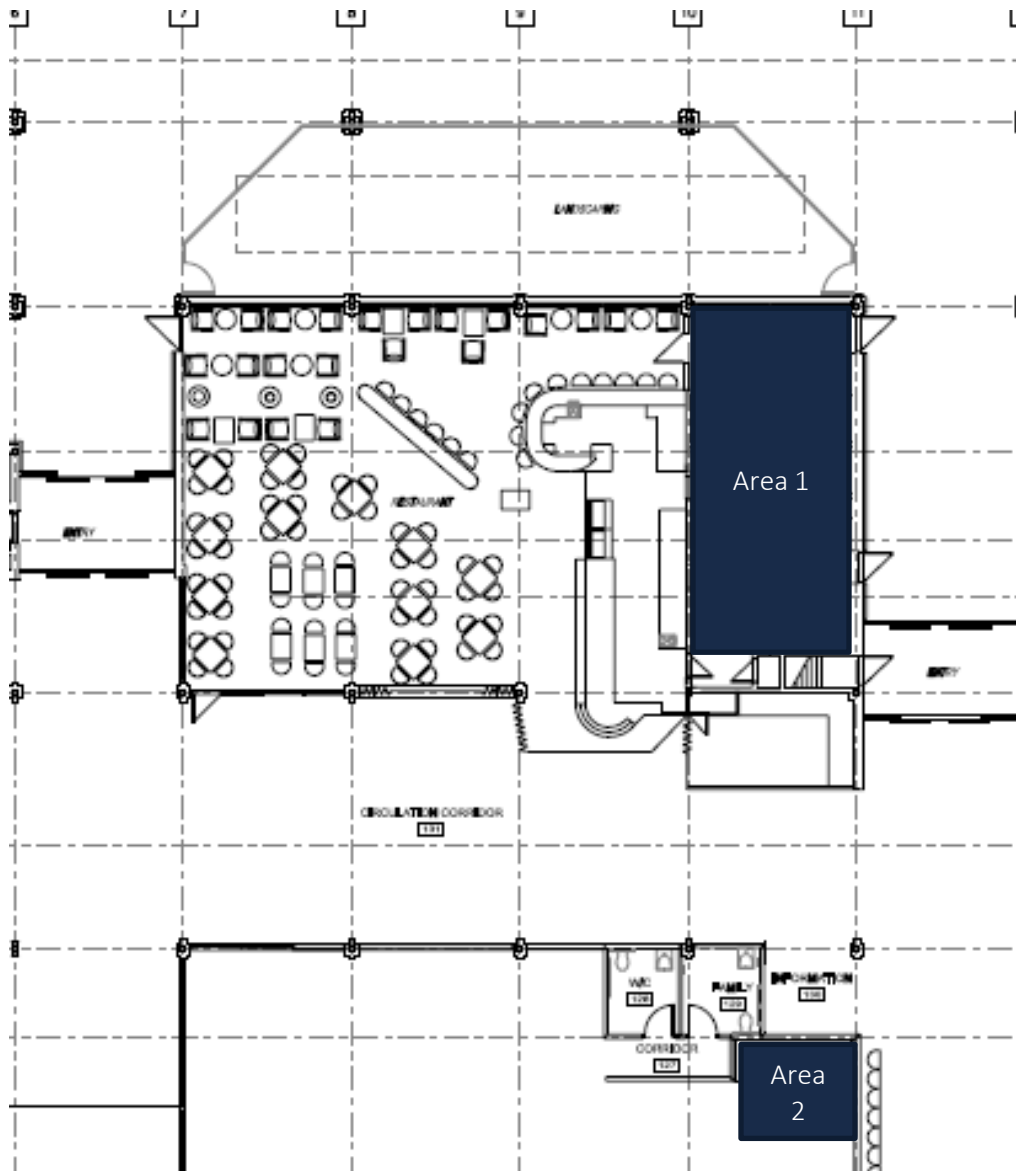
KAL will notify the Preferred Proponent regarding the outcome of the review and evaluation in writing. KAL will make reasonable efforts to notify Proponents who are not selected as Preferred Proponents, provided that KAL is under no obligation to do so.

9.16. No Obligation

Regardless of the outcome of this RFP, KAL is under no obligation to designate a Preferred Proponent, or to negotiate or award a contract of any sort. At no time will KAL have any duty or obligation to disclose to Proponents or third parties any information regarding KAL, the evaluation of Submissions, the RFP, or anything related thereto

Appendices

Appendix A – Concession Areas



Appendix B – Concession Sublease

A DRAFT copy of the standard Concession Sublease is attached to this Appendix A. Any recommended changes to the standard Concession Sublease should be documented upon submission to this RFP.