

SPECIFICATIONS

TOWNSHIP OF HARDYSTON

DEPARTMENT OF PARKS AND RECREATION

FOR

2018 Mobile Ice Cream Vendor for Summer Concert Series

Located at Wheatsworth Recreation Complex at Wheatsworth Rd, Hardyston Township, NJ

Proposals to be received on or before May 18, 2018 at 3:30 pm at the Hardyston Municipal Building, Hardyston Township, 149 Wheatsworth Road, Hardyston, NJ 07419

Specification of Service: The Township of Hardyston seeks a Mobile Ice Cream Vendor to enter Township property at the Wheatsworth Road Recreation Complex on Wheatsworth Road in Hardyston Township, for the purposes of providing frozen snacks and ice cream to attendees at the Hardyston Summer Concert Series on Saturdays in July from 6- 8 p.m. The ice cream will be free of charge to patrons. The Township seeks to pay a flat rate per event based on an estimated number of 100 attendees per concert.

Vendor location is on the field near the concert pavilion, the final location shall be determined by the Recreation Director or concert staff on duty and may be subject to change by the authority of the Recreation Director. Vendor shall be required to provide their own power for purposes of lighting and refrigeration. Vendor selection shall be based on an analysis of products proposed and cost to the Township. Use **Schedule A** to list proposed items.

GENERAL REQUIREMENTS

A. HOURS OF OPERATION

The Vendor shall be required to be present at all dates indicated below for the duration of the event. The vendor should anticipate arriving by 5:30 and leaving at 8:30 in order to allow for the safe entrance and exit of patrons. Failure to provide specified services for business during the full season and during the specified times of visitation shall be a material breach of the agreement.

2018 Concert Series Dates

July 7th

July 14th

July 21st

July 28th

Concerts are subject to cancellation due to inclement weather at the discretion of the Recreation Director. Vendor shall not be entitled to the agreed upon fee in the event that any concert is cancelled due to inclement weather or other Act of God which forces the cancellation of the concert

B. ABANDONMENT

If the vendor fails to arrive for the scheduled concert without 48 hours' notification to the Township Recreation Director then the contract of award shall be considered abandoned and of no effect.

Vendor shall provide proof of a valid food handler's permit by no later than June 14, 2018 or the contract for award will be terminated.

C. CONCESSION PRODUCTS

Bidders shall submit with their Proposal Form, a completed **Schedule A** "Proposed Service Menu", listing all items he/she intends to offer during the term of this Contract. At a minimum the Vendor shall provide 4 flavors of hard ice cream and toppings to be available in either a cone or cup. Failure to submit completed Schedules shall be cause for rejection of quotation.

D. VENDOR QUALIFICATIONS

The Vendor and supervisors required under this contract must each have two (2) years of experience as a mobile ice cream vendor. Bidders shall submit with their Proposal Form, **Schedule B** "Prior Experience", listing the vendor's prior experience.

E. INSPECTION

The Township of Hardyston, the Sussex County Health Department and their Agents or Representatives shall have the right to inspect the mobile concession vehicle and kitchen and storage areas or any part thereof at all reasonable hours for the purpose of examination and inspection of said areas, not unduly affecting the operation of the concessionaire's business.

F. COMPLIANCE WITH STATE AND LOCAL CODES

The successful vendor must meet the requirements for all applicable state and local health and sanitary codes pertaining to all aspects of operating a food and beverage concession for the full period of the contract. This shall include, but not be limited to, Chapter 12 of the New Jersey State Sanitary Code. The successful vendor must also acquire and maintain, as a condition of award, a food handler permit per the Code of the Township of Hardyston.

In the event of a default, or failure to meet Federal, State, or Local health standards, the Township will give five (5) days' written notice of said default, and if the vendor fails to remedy said default within five (5) days from the date of said notice, the contract shall be terminated and the rights of the vendor shall be null and void.

G. VENDOR'S INSURANCE

The awarded vendor shall procure and maintain:

1. Workers' Compensation and Employer's Liability Insurance shall be maintained in force during the life of this contract by the vendor covering all employees engaged in performance of this contract with the applicable statute. If the vendor is a sole proprietor without insurance, a signed statement to this effect must be presented to the Department of Recreation with the proposal.
2. General Liability and Product Liability Insurance shall be maintained in force during the life of this contract by the vendor. The policy shall include Vendor's Protective Liability Insurance (also known as Contingent Liability Insurance) with the same limits. In the event more than one insured is named in the policy, a cross-liability endorsement shall be included which provides that the employees of each of the named insured are not excluded under the policy as respect to claims that are made against other named insured.
3. Automobile Liability Insurance shall be maintained in force during the life of this contract by the vendor.

SPECIAL NOTE: The Township of Hardyston and the Hardyston Township Board of Education shall be named as additional insureds on all policies set forth above, except Workers' Compensation policies.

H. HOLD HARMLESS

A standard Hardyston Township Hold Harmless clause must be completed and signed by the Vendor, and returned with the signed seasonal concession agreement.

I. CERTIFICATES OF INSURANCE

Certificates of the required insurance as listed above shall be submitted to the Township of Hardyston as evidence covering Comprehensive General Liability, Workers' Compensation, and Comprehensive Automobile Liability if applicable. Such coverage shall be with acceptable insurance companies licensed to do business in the State of New Jersey. Vendors who are Self-Insured must submit a Certification or Affidavit attesting to its Self-Insurance.

K. BUSINESS REQUIREMENTS

In addition to insurance requirements above, the selected vendor shall present a New Jersey Business Registration Certificate, and shall sign a Hold Harmless Agreement. Eligible vendors must possess a current Mobile Food Establishment License issued by the Township of Hardyston, Department of Health.

M. STATUTORY AND OTHER REQUIREMENTS

All applicable Federal and State laws and ordinances, and the rules and regulations of all authorities having jurisdiction over this project, shall apply to the Contract

throughout. The following statutory requirements are mandatory items of the Bid Documents and contract.

MANDATORY AFFIRMATIVE ACTION CERTIFICATION

No firm may be issued a contract unless it complies with the affirmative action provisions of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27-1 et seq.

Each vendor shall submit to the public agency, after notification of award but prior to execution of the contract, one of the following three documents:

- A photocopy of a valid letter that the vendor is operating under an existing Federally approved or sanctioned affirmative action program (good for one year from the date of the letter); or
- A photocopy of a Certificate of Employee Information Report approval, issued in accordance with N.J.A.C. 17:27-4; or
- A photocopy of an Employee Information Report (Form AA 302) provided by the Division and distributed to the public agency to be completed by the vendor in accordance with N.J.A.C. 17:27-4.

AMERICANS WITH DISABILITIES ACT OF 1990

Discrimination on the basis of disability in contracting for the purchase of goods and services is prohibited. Bidders are required to read the Americans with Disabilities language included as Appendix A of these Bid Documents. Each bidder shall agree that the provisions of Title II of the Americans with Disabilities Act of 1990 (the "Act") are made a part of the contract. The vendor is obligated to comply with the Act and to hold the Owner harmless from vendor's failure to do so.

OWNERSHIP DISCLOSURE

N.J.S.A. 52:25-24.2 provides that no corporation or partnership shall be awarded any contract for the performance of any work or the furnishing of any goods and services, unless, prior to the receipt of the bid or accompanying the bid of said corporation or partnership, the bidder submits a statement setting forth the names and addresses of all equity owners of the corporation or partnership who own ten percent or more of its stock of any class, or of all individual partners in the partnership who own a ten percent or greater interest therein. The included Statement of Ownership shall be completed and attached to the Bid Proposal. This requirement applies to all forms of corporations and partnerships, including, but not limited to, limited partnerships, limited liability corporations, limited liability partnerships and Subchapter S corporations. The ownership disclosure certification form shall be completed, signed and notarized. Failure of the bidder to submit the required information is cause for automatic rejection of the bid.

PROOF OF BUSINESS REGISTRATION

N.J.S.A. 52:32-44 requires each bidder to possess a business registration at the time of bid opening. These Bid Documents require that a certificate of such business registration be submitted with the Bid Proposal as proof of registration. A Business Registration Certificate is

obtained from the New Jersey Division of Revenue. N.J.S.A. 52:32-44 imposes the following requirements on vendors and all subvendors that knowingly provide goods or perform services for a vendor fulfilling this contract:

- The vendor shall provide written notice to its subvendors and suppliers to submit proof of business registration to the vendor;
- Prior to receipt of final payment from a contracting agency, a vendor must submit to the contracting agency an accurate list of all subvendors or attest that none was used;
- During the term of this contract, the vendor and its affiliates shall collect and remit, and shall notify all subvendors and their affiliates that they must collect and remit to the Director, New Jersey Division of Taxation, the use tax due pursuant to the Sales and Use Tax Act, (N.J.S.A. 54:32B-1 et seq.) on all sales of tangible personal property delivered into this State.

A vendor, subvendor or supplier who fails to provide proof of business registration or provides false business registration information shall be liable to a penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration not properly provided or maintained under a contract with a contracting agency.

NON-COLLUSION AFFIDAVIT

A Non-Collusion Affidavit in the form included in the bid documents shall be properly executed and submitted with the Bid Proposal. This requirement is mandatory and non-waivable. A failure to provide a properly executed Non-Collusion Affidavit shall result in rejection of the bid.

“PAY TO PLAY”

All bidders should be aware that N.J.S.A. 19:44A-20.27 requires that when a business entity has received in any calendar year \$50,000 or more in public contracts with public entities, it must file an annual report with the Election Law Enforcement Commission (ELEC). The report shall disclose any contribution of money or any other thing of value, including an in-kind contribution, or pledge to make a contribution of any kind:

- To a candidate for or the holder of any public office having ultimate responsibility for the awarding of public contracts, or,
- To a political party committee, legislative leadership committee, political committee or continuing political committee.

The report will include all reportable contributions made by the business entity during the 12 months prior to the reporting deadline. ELEC can also impose fines for failure to comply with this requirement.

All bidders are advised of their responsibility to file an annual disclosure statement of political contributions with the New Jersey Election Law Enforcement Commission (ELEC) pursuant to N.J.S.A. 19:44A-20.27 if they receive contracts in excess of \$50,000 from public entities in a calendar year. Business entities are responsible for determining if filing is necessary. Additional information on this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.

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M. PAYMENT

The Township shall issue payment in the form of a Township check for the amount of the per event price awarded on the day of service. Payment shall not be issued if the event is cancelled for reasons noted under item A.

EXHIBIT A

**MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127)
N.J.A.C. 17:27**

GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the vendor agrees as follows:

The vendor or subvendor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the vendor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The vendor or subvendor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The vendor or subvendor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the vendor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The vendor or subvendor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The vendor or subvendor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C. 17:27 5.2, or a binding determination of the applicable county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2.

The vendor or subvendor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The vendor or subvendor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the applicable employment goals, the vendor or subvendor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The vendor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

- Letter of Federal Affirmative Action Plan Approval
- Certificate of Employee Information Report
- Employee Information Report Form AA302

The vendor and its subvendors shall furnish such reports or other documents to the Div. of Contract Compliance & EEO as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Div. of Contract Compliance & EEO for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.

APPENDIX A

AMERICANS WITH DISABILITIES ACT OF 1990 Equal Opportunity for Individuals with Disability

The vendor and the Township of Hardyston, (hereafter "Owner") do hereby agree that the provisions of Title 11 of the Americans With Disabilities Act of 1990 (the "Act") (42 U.S.C. S121 01 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant there unto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the Owner pursuant to this contract, the vendor agrees that the performance shall be in strict compliance with the Act. In the event that the vendor, its agents, servants, employees, or subvendors violate or are alleged to have violated the Act during the performance of this contract, the vendor shall defend the Owner in any action or administrative proceeding commenced pursuant to this Act. The vendor shall indemnify, protect, and save harmless the Owner, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages, of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The vendor shall, at its own expense, appear, defend, and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the Owner's grievance procedure, the vendor agrees to abide by any decision of the Owner which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the Owner, or if the Owner incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the vendor shall satisfy and discharge the same at its own expense.

The Owner shall, as soon as practicable after a claim has been made against it, give written notice thereof to the vendor along with full and complete particulars of the claim, If any action or administrative proceeding is brought against the Owner or any of its agents, servants, and employees, the Owner shall expeditiously forward or have forwarded to the vendor every demand, complaint, notice, summons, pleading, or other process received by the Owner or its representatives.

It is expressly agreed and understood that any approval by the Owner of the services provided by the vendor pursuant to this contract will not relieve the vendor of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the Owner pursuant to this paragraph.

It is further agreed and understood that the Owner assumes no obligation to indemnify or save harmless the vendor, its agents, servants, employees and subvendors for any claim which may arise out of their performance of this Agreement. Furthermore, the vendor expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the vendor's obligations assumed in this Agreement, nor shall they be construed to relieve the vendor from any liability, nor preclude the Owner from taking any other actions available to it under any other provisions of the Agreement or otherwise at law.

Township of Hardyston
PROPOSAL DOCUMENT CHECKLIST*

Required by Owner	Mandatory Submission Requirements	Initial each required entry and if required submit the item
X	Ownership Disclosure Certification	
X	Non-Collusion Affidavit	
X	Bid Proposal Form	
	References	
	Bidder's Qualification Statement	
X	Proof of Business Registration	
	Bid Guarantee (with Power of Attorney for full amount of Bid Bond)	
	Public Works Vendor Certificate	
	Consent of Surety (with Power of Attorney for full amount of Bid Price)	
X	Mandatory Affirmative Action Language	
	Prevailing Wage	
X	Americans with Disabilities Act of 1990 Language	

*This form should be submitted with each bid proposal to assure compliance with all required documentation.

No bid will considered unless all mandatory items are submitted with the bid proposal.

PROPOSAL

TO

TOWNSHIP OF HARDYSTON

COUNTY OF SUSSEX, NEW JERSEY

2018 Mobile Ice Cream Vendor for Summer Concert Series

Located at Wheatsworth Recreation Complex at Wheatsworth Rd, Hardyston Township, NJ

Contract for which proposals were received on or before May 18, 2018 at 3:30 p.m. am at the Office of the Township Clerk in the Township of Hardyston, 149 Wheatsworth Road, Hardyston, NJ 07419.

The, **Undersigned**, as bidder, hereby declares that the only persons or parties interested in this proposal as principals are named below, that this proposal is in all respect fair and without collusion or fraud; that they have carefully examined the Specifications; and that they will contract to carry out and complete the said services as specified and delineated at the price stated in this Proposal; and that they propose and agree that if this proposal is accepted, they will contract with the Township Hardyston for the provision of the specified services.

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>BID AMOUNT</u>
1	2018 Mobile Ice Cream Hardyston Summer Concert Series in the Park – Per event	_____
2	Total Bid Amount for 4 events	_____

Name of Company: _____

Name of Representative: _____

Signature: _____

Date: _____

Business Address: _____

Town: _____ State: _____ Zip Code: _____

Business Telephone: _____ Business Fax: _____

Mobile Telephone: _____

Attach Schedules A and B

Attach Hold Harmless Statement

Schedule A
PROPOSED SERVICE MENU

Item Descriptions

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____
- 7. _____
- 8. _____
- 9. _____
- 10. _____

Schedule B
QUESTIONNAIRE

CONCERNING

EXPERIENCE AND THE FINANCIAL ABILITY OF BIDDER

Name of Bidder: _____

Street Address of Bidder (No P.O. Boxes are acceptable): _____

Telephone No.: _____

Dated: _____

EXPLANATION

This questionnaire is prepared to be filled out by the Vendors desirous of submitting proposals in connection with 2018 Township of Hardyston Mobile Ice Cream Vendor bid.

Before any proposal or proposal blanks are deemed to be properly submitted to the Township, each question herein contained on this form must be answered. All answers must provide specific, definite, and detailed information, and answers must not be evasive, indefinite, or general. If any question is not clear, or readily understood by the proposed bidder, it will be explained to him/her upon request of the Township Clerk or the Township Attorney.

If the space provided in this form to answer any question is not large or adequate enough, the Vendor shall submit additional sheets.

1. How many years has your organization been in business as a vendor under your present name?

2. Have you ever failed to complete any state, county, or municipal work awarded to you?

3. If your answer to the last question above is Yes, state when, where, and why.

4. Has any officer or partner of your organization ever failed to complete a state, county, or municipal contract handled in his own name or in the name of any other entity?

5. If your answer to the last question is Yes, state the name of such person, when, where, and why the contract was not completed.

6. Has any lawsuit ever been filed against you with respect to the alleged default or failure to perform any contract to which you were a party? If yes, set forth the parties to the lawsuit, the court and docket number, and the status of the lawsuit (i.e., pending, settled, dismissed, judgment entered, etc.). If judgment has been entered or a settlement reached in any such lawsuit, set forth the terms of such settlement or judgment.

7. List all contracts which you are not performing, or for which you have signed contracts, but not started work. Give the name of the municipality or owner, the amount of the contract, and the number of years this contract covers.

8. List the municipal or government contracts that your organization has completed during the past two years, or that it is now executing. Give detailed answers to questions given below relating to this subject.

a. Name of municipality.

b. Approximate population served in this municipality.

c. Term of contract, from _____ to _____

d. Did you complete the contract satisfactorily, or if not completed, is the contract being performed satisfactorily?

e. If you have had, during the past two years, more than one municipal contract, attach a separate sheet for each additional contract you had, listing separately the same information as is covered by items a to d above.

The foregoing is a true statement of facts, and I agree that if any statement is found to be incorrect or false, this bid may be rejected by the Township Council.

Signed: _____

Attested:

HOLD HARMLESS AGREEMENT

- 1) The vendor shall hold harmless, indemnify and defend Hardyston Township, their representatives, consultants, employees and agents from any and all liabilities, claims, losses or damage arising or alleged to arise from the activities proposed within this Agreement and contract but not including such liabilities, claim losses or damage arising from the sole negligence of the vendor, their representatives, consultants, employees and agents.
- 2) This contract and Agreement shall be interpreted under the laws of the State of New Jersey.
- 3) Attorneys' fees and court costs shall be paid by the defendant in the event that judgment must be, and is, obtained to enforce this agreement or any breach thereof.
- 4) **ARBITRATION** - any controversy arising out of the work covered under the contract, this Agreement, relating to the interpretation of the contract or this Agreement, or any subcontract or sub-subcontract, shall be decided by arbitration. Hardyston Township, the vendor, and all sub-vendors, material suppliers, lenders, bonding companies, and all other parties concerned with and involved in provision of mobile ice cream vendor services are bound, each to each other, by this arbitration clause, provided such party has signed the contract, or has signed a contract which incorporates the Agreement by reference, or signs any other agreement to be bound by this arbitration clause. Arbitration shall be had in accordance with the construction industry rules of the American Arbitration Association which are in effect at the time of the arbitration as well as any and all applicable state laws. Should any party refuse or neglect to appear or to participate in arbitration proceedings, the arbitrator is empowered to decide the controversy in accordance with whatever evidence is presented. The arbitrator is authorized to award any party or parties such sums as he shall deem proper for the time, expense, and trouble of arbitration, including arbitration fees and attorney fees. Either party is entitled to utilize attachment and mechanic's lien proceedings concurrently with arbitration proceedings, and neither party will be held to have waived the right to arbitrate by virtue of levy of attachment or recording and perfecting a mechanic's lien.
- 5) Jurisdiction, venue and choice of law selections - the contract and this Agreement and/or the relationship between the parties shall be deemed to have been made, executed, governed by and construed in accordance with the law of the State of New Jersey. Vendor consents to personal jurisdiction and venue solely in the courts of Sussex County, in the State of New Jersey, regarding any and all disputes, claims, actions, and/or litigation related to, or arising out of, this contract and/or the relationship between the parties.

_____ and Hardyston Township agree to the above and indicate so by execution of this Hold Harmless Agreement below, and the terms of this Agreement are hereby incorporated into the contract as if set forth fully therein.

WITNESS:

BY: _____

DATE:

DATE:

ATTEST:

HARDYSTON TOWNSHIP

JANE BAKALARCZYK, MUNICIPAL CLERK

BY: _____
CARL MILLER, MAYOR

DATE:

DATE: