

REQUEST FOR TENDER



Name	
Your Reference	
Quotation for	Ice-Cream Concession Agreement at various parkland in Milton Keynes as listed on the annexed schedule of locations
Our Reference	ICECREAM2021
Tender Submission Deadline	Friday 19 March 2021

OVERVIEW

You are invited to tender for the above concession.

Please check this document and the accompanying form of concession agreement carefully. If any pages are missing please notify us at once, as Milton Keynes Parks Trust Limited ("The Parks Trust") will accept no liability for such errors and omissions.

The Parks Trust expects to decide award of contract within 14 days of the closing date for submission of tenders to begin 1 April 2021.

The Parks Trust is not bound to accept any quotation or make any award from this Request for Tender. Acceptance of the quote by The Parks Trust shall be in writing and on The Parks Trust's terms and conditions. A copy of the form of the concession agreement is annexed to this Request for Tender.

Completed tenders should be submitted by email to: Julie Dawes, The Parks Trust, Events & Community Engagement Manager j.dawes@theparkstrust.com

Your tender must be received by no later than 12pm on 19th March 2021. Tenders received after that time will be excluded.

OUR SPECIFICATION

The Parks Trust is seeking to grant a party the right to operate an ice-cream concession. The concession will operate from the areas marked with a red cross on the annexed schedule of locations.

The Parks Trusts' parks are popular with local people and visitors from further afield. It is expected that the ice-cream concession shall be open for trading, as a minimum, on the following dates and between the following hours:

Every Saturday and Sunday from **1 April 2021 – 31 March 2023** and every weekday during school holidays within that period. (public holidays may be exempt by agreement). Vending will not

commence before 10.00 am or extend beyond 9.00 pm and you must trade for a minimum of 4 hours each day. Please note this tender excludes trading at park events.

QUOTATION TIMESCALE

Deadline for asking questions	12 March 2021
Deadline for submissions	12 noon on 19 March 2021
Target Concession Award Date	29 March 2021
Target Concession Start Date	1 April 2021

POLICIES

Modern Slavery Act

The Parks Trust has a zero tolerance policy towards human trafficking and modern day slavery. As such we do not and will not support any business who does not comply with the Modern Slavery Act 2015. By participating in this tender, you are confirming that your organisation is fully compliant with this.

Subcontractors

The Parks Trust requires that all subcontractors are treated in a fair and ethical manner. This needs to be taken into consideration throughout the whole supply chain and should cover payment terms, treatment of workforce, sustainable procurement, environment and equalities.

Health, Safety and Liability

The appointed concessionaire must comply with all applicable health and safety law at all times.

Covid-19 regulations and risk assessment – you will be required to submit risk assessment this will be required to include how social distancing and hygiene with reference to Covid-19 will be maintained including how any queueing will be managed to ensure 2m distances are to be maintained.

Waste Management

You will be required to provide a waste management plan, this includes details of waste provider and litter picking schedule. Please provide details of the radius from the concession which you are prepared to caretake to ensure areas are kept litter free during and at the end of each trading period.

Environmental Credentials

You would be expected to use biodegradable and sustainable serving products.

As a minimum all vehicles must have a Euro Standard 4 (minimum) rating as evidenced by the DVLA's records for the ice cream vans.

We will look favourably on applications from traders using hybrid or electric vehicles. Tenders seeking to invest in all electric concessions may require the installation of electric hooks up and/or a

longer term concession to justify the investment. In such cases please provide two tender returns, one for the advertised tender period of two years and a second that allows you to invest in an electric powered concession.

Bona fide tender

Any quotation submitted must be bona fide and without canvassing or soliciting any director/trustee or employee of The Parks Trust or fixing the rates with any other person. Failure to adhere to this will result in your tender being rejected and possible exclusion from future business. If The Parks Trust find inaccurate, conflicting or false information has been provided in a tender, we reserve the right to reject the bid at any stage.

Form of Agreement

Please note this document does not constitute a binding contract. If your tender is accepted, a concession agreement substantially in the form annexed to this Request for Tender will be entered into. The Parks Trust's insurance requirements and levels are set out in the concession agreement.

Help and Support

The Parks Trust will provide as much support and information as it can to help guide you through the tender process. If you would like to discuss the above concession in more detail, please submit queries to Julie Dawes on j.dawes@theparkstrust.com.

TENDER

Q1	Financial Suitability Questions
	Please confirm that your business is financially in profit, if not please explain why.
Q2	Financial Bid
	In consideration for The Parks Trust granting the right to operate an ice-cream concession at the relevant locations, please insert your offer for the annual sum to be paid by you to The Parks Trust.
	£ per annum.
Q3	Insurances
	The Parks Trust requires the following insurance for this concession: Employers Liability and Public Liability to minimum of £5 million. Vehicle insurance and MOT for all vehicles Please confirm you will have this in place for this agreement.
Q4	Concession Agreement
	Please confirm that you can agree to the agreement annexed to this Request for Tender which will be the form of agreement entered into.
Q5	Images of Proposed Concession Unit(s)
	Please include any images and website links to proposed concession unit and business for consideration
Q6	Environmental Credentials
	Please include information on how you will utilise sustainable and environmentally friendly products

QUOTATION COMPLETED BY

Company:	
Name:	
Position:	
Address:	
Date:	
Telephone Number:	
Email Address:	

Schedule of Locations

Locations available for ice cream concession to trade are:

Willen Lake North, Peace Pagoda Car Parks, Portway, Milton Keynes, MK15 0BA

Caldecotte Lake North, Caldecotte Arms Car Parks, Bletcham Way, Milton Keynes, MK7 8HP

Campbell Parks Cricket Ground Car Parks, Overgate, Milton Keyes, MK9 4AD

DATE

2021

PARTIES

Milton Keynes Parks Trust Limited (registered number 02519659) whose registered office is at Campbell Parks Pavilion, 1300 Silbury Boulevard, Campbell Parks, Milton Keynes MK9 4AD (**The Parks Trust**);

[NAME] of [COMPANY] (**Caterer**).

RECITALS

The Parks Trust is the owner of the parklands listed in the Schedule.

The parties have agreed to enter into this Agreement, which grants the Caterer the right to operate an ice-cream concession on the terms of this Agreement with effect from the date of this Agreement.

OPERATIVE PROVISIONS

1 Definitions and Interpretation

In this Agreement the following expressions have the following meanings:

- 1.2 **Accounting Period:** each period of 12 months commencing on the date of this Agreement (but the last Accounting Period shall end on the Expiry Date).
- 1.3 **Concession:** the right to sell the Product from the Ice-Cream Vans on the Concession Areas on the terms of this Agreement.
- 1.4 **Concession Areas:** means the areas forming part of the Parks allocated to the Caterer by The Parks Trust being initially the areas shown marked with a red cross on the location plans attached in the Schedule.
- 1.5 **Concession Fee:** £FEE in each Accounting Period.
- 1.6 **Concession Fee Payment Dates:** 1 April, 1 July and 1 September.
- 1.7 **Expiry Date:** the day of expiry of this Agreement either by effluxion of time or by notice.
- 1.8 **Ice-Cream Vans:** the motorised vehicles from which the Concession is operated from.
- 1.9 **Parks:** the parks listed in the Schedule.
- 1.10 **Product:** light snacks, non-alcoholic beverages, confectionary, ice creams and such other food and snacks as may be agreed by The Parks Trust from time to time.
- 1.11 **School Holidays:** the periods during which community and voluntary controlled schools in Milton Keynes are closed from study as published on the Milton Keynes Council website.
- 1.12 **Service Standards:** has the meaning given to it by clause 3.9.
- 1.13 **Trading Dates:** every Saturday and Sunday during the period 1st April - 30th September each year from the date of this Agreement to 31 March 2022 and every weekday of the same period during School Holidays. This agreement excludes trading at park events.
- 1.14 **Trading Hours:** the trading hours for the Concession Areas being between 10.00 am – 9.00 pm or such additional hours agreed between the parties from time to time.
- 1.15 Headings are for ease of reference only and do not affect the interpretation of this Agreement.

2 Grant of Concession

Duration

- 2.1 This Agreement takes effect from the date of this Agreement until 2359 hours on 31st March 2023, unless properly terminated earlier.

Availability of Premises

- 2.2 The Parks Trust will make the Concession Areas available to the Caterer for the parking of its Ice-Cream Vans as from the date of this Agreement during the Trading Hours, on the terms of and for the purpose of this Agreement, unless:

2.2.1 prevented from doing so because of any damage to any part of the Parks caused by any reason whatsoever; or

2.2.2 this Agreement is properly terminated; or

2.2.3 as otherwise provided in this Agreement.

- 2.3 The Caterer acknowledges that:

2.3.1 the Caterer shall operate the Ice-Cream Vans from the Concession Areas as a licensee only and that no relationship of landlord and tenant is created between The Parks Trust and the Caterer by this Agreement;

2.3.2 The Parks Trust retains control, possession and management of the Concession Areas and the Caterer has no right to exclude The Parks Trust from the Concession Areas;

2.3.3 The Parks Trust can use the Concession Areas at any time, during or outside of the Trading Hours, for its own purposes;

2.3.4 The Parks Trust can move the location of the Concession Areas within the Parks by giving the Caterer written notice;

2.3.5 the Caterer has visited the Concession Areas and carried out any investigations that it may consider necessary in order to satisfy itself to the condition of the Concession Areas; and

2.3.6 nothing in this Agreement shall give the Caterer exclusive use of the Concession Areas.

- 2.4 The Parks Trust may temporarily impede access to the Concession Areas if required to do so in connection with any works at the Parks but if it does so it will use reasonable endeavours to keep such period of impediment to the minimum period reasonably practicable.

- 2.5 At no time shall the Caterer's vehicle exceed 10 miles per hour when driving along Redways, footpaths or Parks Trust land in general: Lower speeds than the stated 10mph shall be appropriate in most situations. When travelling on redways or footpaths, drivers will ensure the vehicles do not unnecessarily cut corners.

- 2.6 2.62.4 Where necessary the Employer shall provide the contractor with bollard padlock keys (usually to fit 603B or ASSA locks). The Contractor shall return all supplied keys to the Employer on demand and as a contract terminates. Should the Contractor be unable to return the key the Employer shall levy a charge [9] to cover the cost of key replacement.

3 Operation of Concession

Upkeep of the Concession Areas

3.1 The Caterer will:

- 3.1.1 keep the Caterer's equipment in good clean working condition and replace them whenever they are damaged or broken or whenever reasonably necessary;
- 3.1.2 to ensure that any Ice-Cream Vans operating from the Concession Areas with engine running has a Euro Standard 4 (minimum) rating as evidenced by the DVLA's records for that vehicle;
- 3.1.3 keep the Ice-Cream Vans and the Concession Areas in a clean and tidy condition at all times and of an attractive appearance, and shall promptly remove from within the Ice-Cream Vans and the Concession Areas all litter and debris, and shall promptly collect from the Parks any debris emanating from the Ice-Cream Vans at the Concession Areas; and
- 3.1.4 ensure the timely and prompt collection and disposal of all waste emanating from the Concession.

If the Caterer is in default of its obligations under this clause The Parks Trust may carry out such work as may be necessary to remedy that default, and its costs incurred in so doing shall be payable by the Caterer on demand PROVIDED THAT before doing so it shall, except in emergency, give to the Caterer not less than 3 days' written notice of its intention to do so.

- 3.2 The Caterer shall make good any damage to the Parks, or any plant machinery and fixtures and fittings in it, caused as a direct result of the negligence or wilful default of the Caterer, its employees agents or contractors.
- 3.3 All ground reinstatement associated with vehicle movements shall be the responsibility of the Caterer to reinstate (including the access route across Parks Trust land to the trading site and the trading site itself). Actions will include clearing mud off paths and the levelling or treading down of wheel ruts, that have formed by the vehicle movements. In extreme cases and at the expense of the Caterer, top soil and grass seed may also have to be used. If the Parks Trust feels the caterer has not dealt with ground damage within suitable times and to a reasonable standard, the Trust reserves the right to undertake the required work and recharge the Caterer.
- 3.4 All damage that is occurred and as laid out in 3.2 and 3.3 (or not) shall be reported to the Parks Trusts Property Team. by the Caterer.

Trading Hours

- 3.5 The Caterer will not use the Concession Areas or allow it to be used, unless by The Parks Trust, for any other purpose than for the operation of the Concession.
- 3.6 Unless prevented by events outside the Caterer's control or as requested by The Parks Trust, the Caterer will keep the Concession open and fully operational for business for at least four hours a day within the Trading Hours on the Trading Dates.

Trading Style

- 3.7 The Concession shall trade under the name [NAME], or such other name(s) as The Parks Trust may approve.

- 3.8 The Caterer shall not be entitled to the use of the name or logo of The Parks Trust without The Parks Trust's written consent.
- 3.9 The Caterer shall not operate any sound system within the Concession Areas without The Parks Trust's consent, and if such consent is given it shall not operate the sound system so as to cause annoyance.
- 3.10 The Caterer shall not place any signs or notices of any description in any part of the Parks without The Parks Trust's approval PROVIDED THAT the Caterer may place 1 "A-Frame" sign in the Concession Areas displaying the Caterer's trading name, subject to The Parks Trust's prior written approval, not to be unreasonably withheld or delayed.

Service Standards

- 3.11 In this section **Service Standards** mean any statutory obligations relevant to the operation of the Concession, catering standards and any service standards agreed in writing between The Parks Trust and the Caterer, both acting reasonably, covering all matters that may be relevant to customer satisfaction.
- 3.12 The Caterer shall:
- 3.12.1 at all times procure that the Service Standards are met, and in the event of any conflict between the Service Standards and the other terms of this Agreement, the former shall prevail;
 - 3.12.2 ensure that any complaint from a customer referred to it by The Parks Trust is substantively replied to, and copied to The Parks Trust, within 5 working days of the date of referral to it;
 - 3.12.3 not operate the Concession at any organised events;
 - 3.12.4 ensure that Products are only sold from a static Ice-Cream Van;
 - 3.12.5 ensure that the Ice-Cream Vans are kept well stocked with a wide range of Products as agreed from time to time with The Parks Trust; and
 - 3.12.6 observe and implement the highest standards of food safety and hygiene.

Compliance

- 3.13 The Caterer will obtain and comply with all laws, regulations, statutory licences, consents permissions or approvals required to operate the Concession in accordance with the terms of this Agreement.
- 3.14 The Caterer will not serve any alcoholic beverages.

Staff

- 3.15 The Caterer will:
- 3.15.1 comply with all statutory requirements relating to persons working at the Concession;
 - 3.15.2 be responsible for all salaries, commissions/bonuses, national insurance, PAYE and other payroll taxes for such persons;
 - 3.15.3 ensure that the Concession is operated at all times by sufficient levels of courteous staff so as to ensure that all customers are served quickly, politely and in accordance with the Service Standards, and who are properly qualified to perform the tasks expected of them; and

3.15.4 ensure that the Concession is manned by persons who are properly qualified to perform the tasks expected of them, who are smart and courteous at all times and who are wearing name badges.

3.16 The Caterer will act and will procure that its employees and agents at all time act in accordance with all laws and regulations relating to the use and operation of the Concession (including but not limited to those relating to food safety and fire prevention).

4 Financial Provisions

Payments to The Parks Trust

4.1 The Caterer will pay to The Parks Trust the Concession Fee in three equal instalments in advance on or before the Concession Fee Payment Dates. The first instalment of the Concession Fee shall be made on the date of this Agreement and shall be the proportion, calculated on a daily basis, in respect of the period from the date of this Agreement until the day before the next Concession Fee Payment Date.

4.2 Any other payment due to The Parks Trust relating to the Concession is payable within 30 days of written demand.

4.3 All payments are to be paid by direct bank credit transfer into an account nominated by The Parks Trust so that cleared funds are available by close of business on the day that the payment is due.

5 Obligations of The Parks Trust

During this Agreement the Parks Trust will:

5.1 allow the Caterer as a licensee to place the Ice-Cream Vans on the Concession Areas for the purposes of operating the Concession on the terms of this Agreement; and

5.2 allow the Caterer, during the period of this Agreement, free and uninterrupted access always when the Parks are open to the public through or over the Parks to the Concession Areas, via routes reasonably specified by The Parks Trust provided always that the exercise of such rights of access shall not materially affect the running of the Parks.

6 Termination

Breach by the Caterer

6.1 If the Caterer is in breach of its obligations under this Agreement, The Parks Trust may terminate this Agreement by serving written notice upon the Caterer to that effect. The continued performance of The Parks Trust of its obligations under this Agreement and its enforcement of the Caterer's obligations under this Agreement shall not constitute a waiver of the right to serve such notice.

Without Cause

6.2 The Parks Trust may terminate this Agreement on not less than 3 months' notice in writing given to the Caterer at any time.

Consequences of Termination

6.3 Any notice properly given to terminate this Agreement shall be deemed to expire at 23:59 hours on the date specified in the notice as its expiry.

6.4 No compensation is payable to the Caterer if this Agreement is terminated pursuant to its provisions.

- 6.5 On the Expiry Date the Caterer shall cease to operate the Ice Cream Vans from the Concession Areas.
- 6.6 If seven days after the Expiry Date there remains in the Concession Areas any of the Caterer's chattels and / or Ice-Cream Vans, they shall be deemed to have been abandoned and The Parks Trust will be entitled to use, remove or dispose of them as it thinks fit for its own benefit and any costs incurred by The Parks Trust under this provision shall be payable by the Caterer within 14 days of written demand.
- 6.7 Termination of this Agreement by either party shall not affect any rights or remedies for any antecedent breach nor sums due or falling due that arise prior to or on termination.

7 General Provisions

No Partnership etc

- 7.1 This Agreement does not create a partnership between The Parks Trust and the Caterer. No party has authority to bind any other. No asset is to be owned jointly between the parties.

Interest on Late Payments

- 7.2 If the Caterer fails to pay any monies payable to The Parks Trust pursuant to any of its obligations in this Agreement within seven days of the due date those monies shall bear interest at 4% per annum above The Parks Trust's bank's base lending rate (as well after as before any judgment) calculated from the date when those monies became payable until the date of actual payment.

Assignment etc

- 7.3 This Agreement is personal to the Caterer only and is not assignable or otherwise transferable by the Caterer.
- 7.4 This Agreement binds, and the benefits of it endure for, any successor in title to The Parks Trust.
- 7.5 Any rights of any persons to enforce the terms of this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999 are excluded.

Indemnity

- 7.6 The Caterer will keep The Parks Trust fully and effectually indemnified against all costs, losses, damages, and liabilities it may incur or suffer arising as a direct result of any breach of the Caterer's obligations under this Agreement.
- 7.7 The Caterer shall be liable for and shall indemnify The Parks Trust against all loss, damage, liability, claims, costs or expenses incurred or suffered by The Parks Trust arising as a direct result of any negligent act or omission of the Caterer, its employees or agents unless such loss is due to the wilful default or negligence or breach of this Agreement by The Parks Trust.
- 7.8 Neither party shall be responsible to the other for any indirect or consequential losses and/or loss of profit, but this provision will not prevent either party from seeking to establish a claim against the other party for damages arising as a direct result of any breach of the obligations of the other party contained hereunder.

VAT

- 7.9 All sums payable under this Agreement are exclusive of VAT. VAT shall be paid on any such sums as and when due and the recipient shall provide a VAT invoice when legally required.

Notices

- 7.10 Notices given under this Agreement may be served by being sent by hand or first-class post to the addressee marked for the attention of the Company Secretary of The Parks Trust (if The Parks Trust is the addressee) or for [NAME] (if the Caterer is the addressee).

Acknowledgements

- 7.11 This Agreement represents the entire agreement between the parties.
- 7.12 The Caterer confirms that it has not been induced to enter into this agreement by or in reliance upon any oral or written statement by The Parks Trust or anyone else on its behalf. The Caterer has satisfied itself as to the viability of operating the Concession on the terms of this Agreement.
- 7.13 The Parks Trust shall not be liable to the Caterer for any costs of loss expenses damages claims or liabilities suffered or incurred by the Caterer in respect of any notification and/or information given by The Parks Trust which proves incorrect (except where such notification and/or information is given fraudulently or negligently).

Variation

- 7.14 No addition to, or modification of, any provision of this Agreement shall be binding on either party unless made in writing and signed by duly authorised representatives of both parties.
- 7.15 This Agreement constitutes the entire Agreement between the parties and includes all negotiations or discussions. It may only be subsequently varied or amended in writing as agreed by both parties.

Waiver

- 7.16 No failure or delay by either party to exercise any right or remedy under this Agreement shall be construed or operate as a waiver of that right or remedy nor shall any single or partial exercise of any right or remedy preclude the further exercise of that right or remedy. No waiver by either party of any breach of this Agreement shall be considered as a waiver of a preceding or subsequent breach. The rights and remedies provided in this Agreement are cumulative and are not exclusive of any rights or remedies provided by law.

Severance

- 7.17 If any provision in this Agreement shall in whole or in part be declared by any judicial or other competent authority to be void, voidable or illegal or otherwise unenforceable, or indications to such effect are received by either party from any relevant competent authority, then, at the option of The Parks Trust, such provision shall to that extent be deemed not to form part of this Agreement and the enforceability of the remainder of this Agreement shall not be affected.

Insurance

- 7.18 The Caterer will insure the Ice-Cream Vans and all of the Caterer's fixtures and fittings within the Concession Areas.
- 7.19 The Caterer will ensure that any driver of the Ice-Cream Vans is validly insured to drive the Ice-Cream Vans and holds a current, valid driving licence.
- 7.20 The Caterer will not do anything whereby any policy or policies of insurance relating to the Parks may become void or voidable, provided that the Caterer will not be liable under this obligation if it has not been notified in writing of the relevant terms, exclusions, or limitations in or attaching to The Parks Trust's insurance of the Parks. If the Caterer defaults in this obligation it shall pay to The Parks Trust

within fourteen days of written demand the full amount of additional premium or (as the case may be) the insurance proceeds rendered irrecoverable as a direct consequence of such breach by the Caterer.

- 7.21 The Caterer shall at its cost take out and maintain public liability insurance and employers' liability, for the duration of this Agreement, to a minimum value of at least £5 million per annum in respect of any one occurrence or a series of occurrences arising out of the same event. The Caterer shall note The Parks Trust's interest in such policy by way of an indemnity to principals' clause.
- 7.22 The Caterer will, on written request (but not more than once per year), provide evidence to The Parks Trust by way of broker's letter that it has maintained insurance as required by this Agreement.

Exclusion of Liability

- 7.23 The Parks Trust shall not be responsible for or liable to the Caterer for:
- 7.23.1 any loss or damage to the Ice-Cream Vans, the Caterer's fixtures and fittings or to stock except for loss or damage caused by the wilful default or negligence of or breach of this Agreement by The Parks Trust, its employees or its contractors; or
- 7.23.2 death, injury or illness which may be sustained by any employee, agent, customer, invitee or licensee of the Caterer or any loss, damage or destruction to the property of any such employee, agent, customer, invitee or licensee which arises from the Caterer's activities or operations unless such loss is due to the wilful default or negligence of or breach of this Agreement by The Parks Trust, its employees or its contractors; or
- 7.23.3 any losses of any description (including without limitation loss of sales or profits) or inconvenience through disruption to the supply of services and facilities or access to the Concession Areas owing to fire, mechanical breakdown, industrial action, or by reason of any other act matter or thing beyond The Parks Trust's control.

8 Jurisdiction

This Agreement is subject to English Law and shall be deemed to be made in England. The parties agree to submit to the exclusive jurisdiction of the English Court.