

October 3, 2017

TO: PUBLIC INFRASTRUCTURE COMMITTEE

RE: FOOD TRUCK IN CITY ROW – October 28, 2017
5 – 9 P.M. at 220 N. 9th Street

Please note that the Special Events Committee took up this issue at their meeting of October 9, 2017, and it is my understanding that they recommended Que The Smoke BBQ entering into a Vendor Agreement (see attached) but only made this recommendation informally. Special Events Committee did not approve the request.

Also please note that per Engineering Division Manager Greg Minikel, no right of way permit is needed.

Therefore, I am forwarding the request to your committee for action so it can be placed on the October Council agenda.

I have not seen a Vendor Agreement executed by any other vendor in 2017.

Deborah Neuser
City Clerk

Que The Smoke BBQ

4227 Springhill Drive
Manitowoc, WI
920-698-0145
quethesmoke@gmail.com

9/24/2017

Dear Members of the Common Council,

My name is Jason Cherney and I'm the owner of Que The Smoke BBQ. We are a state licensed mobile food truck. We have been working on an event to vend on a city street and I need approval to do so. The details of the event are as follows.

Date: October 28th 2017

Time: 5-9 P.M.

Location: 220 N 9th St.

The location is in front of Pet Skull Brewery. We would be parked during that time vending to the customers of that establishment and possibly other passersby.

We will make sure all garbage is cleaned up if there is any before we leave.

Thank you for your consideration,

Jason Cherney
Que The Smoke BBQ
<http://quethesmoke.com>

Jason Cherney
4227 Springhill Drive
Manitowoc, WI
54220

RECEIVED

SEP 29 2017

CITY CLERKS OFFICE

Deborah Neuser

From: Sandy Ronski
Sent: Tuesday, October 03, 2017 9:16 AM
To: Deborah Neuser
Cc: Mackenzie Reed-Kadow; Denise Larson; Karen Dorow; Sue Reilly
Subject: RE: Special Event? - Food truck
Attachments: Vendor Agreement - 2017.doc

The Special Event Committee just discussed how to handle the event. They did not do an Approval Form.

I have attached a copy of a vendor agreement from 2011, but just updated your name, etc. The Recreation Division has typically used these forms for events at the zoo, etc.

Sandy Ronski
Operations Clerk II
Cemetery/Parks/Transit/Streets & Sanitation Divisions
City of Manitowoc
2655 S 35th St.
Manitowoc, WI 54220
920-686-6518
920-686-6525 fax
www.manitowoc.org

From: Deborah Neuser
Sent: Tuesday, October 03, 2017 8:12 AM
To: Sandy Ronski
Cc: Mackenzie Reed-Kadow
Subject: RE: Special Event? - Food truck

Just Special Event Committee's recommendation sheet. And will you get him to sign a vendor agreement? Does that come from your department? I am not familiar with that. Is it online?
Deborah

From: Sandy Ronski
Sent: Tuesday, October 03, 2017 8:10 AM
To: Deborah Neuser
Subject: FW: Special Event? - Food truck

I assume you are good to go on this. Let me know if you need anything more from me.

Sandy Ronski
Operations Clerk II
Cemetery/Parks/Transit/Streets & Sanitation Divisions
City of Manitowoc
2655 S 35th St.
Manitowoc, WI 54220
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www.manitowoc.org

From: Greg Minikel
Sent: Monday, October 02, 2017 4:33 PM
To: Sonja Birr; Sandy Ronski
Cc: Deborah Neuser; Karen Dorow; Sue Reilly; Dan Koski
Subject: RE: Special Event? - Food truck

I would agree.

From: Sonja Birr
Sent: Monday, October 02, 2017 4:21 PM
To: Sandy Ronski; Greg Minikel
Cc: Deborah Neuser; Karen Dorow; Sue Reilly; Dan Koski
Subject: RE: Special Event? - Food truck

I just spoke to Deborah in the Clerk's Office. I say "no" as this is a one day (5-9p.m.) event and am assuming this will be in the parking lane in front of the establishment.

Greg... what are your thoughts?

From: Sandy Ronski
Sent: Monday, October 02, 2017 4:03 PM
To: Greg Minikel
Cc: Deborah Neuser; Karen Dorow; Sue Reilly; Dan Koski; Sonja Birr
Subject: FW: Special Event? - Food truck

The Special Event Committee met this morning & discussed this request. They would like to handle this through a Vendor Agreement, but are wondering if a Right-Of-Way Permit would also be needed. What are your thoughts?

Sandy Ronski
Operations Clerk II
Cemetery/Parks/Transit/Streets & Sanitation Divisions
City of Manitowoc
2655 S 35th St.
Manitowoc, WI 54220
920-686-6518
920-686-6525 fax
www.manitowoc.org

From: Deborah Neuser
Sent: Monday, October 02, 2017 7:52 AM
To: Sandy Ronski
Subject: Special Event?

Would this be something the special event committee would consider at their next meeting?
Or, should I send it directly to Council?

Deborah A. Neuser
City Clerk, WCMC
City of Manitowoc
900 Quay St., Manitowoc, WI 54220
(Ph) 920-686-6951; (Fax) 920-686-6959
E-Mail: dneuser@manitowoc.org

CITY OF MANITOWOC
PARKS AND RECREATION DIVISIONS

VENDOR AGREEMENT

This agreement was made and entered into this _____, day of _____, 20____, by and between the City of Manitowoc through its Parks and Recreation Divisions (hereinafter City) and _____ (hereinafter Vendor).

The City and Vendor agree that, for consideration as provided for herein, the parties shall have certain rights and obligations. Those rights and obligations are set out as follows:

1. The rights granted hereunder are not assignable without the written consent of the City.
2. That for consideration to be paid by the Vendor to the City, the Vendor agrees to abide by this agreement, and for so long as, and conditioned upon, Vendor's compliance with all provisions hereunder and all applicable laws, the City hereby grants to the Vendor the use of the concession stand at _____ Park or other City owned space at _____ for the sale of "Goods". These "Goods" include but are not limited to food and beverages (excluding wine and hard liquors), known hereinafter collectively as "Goods." No Goods shall be dispensed in glass containers, at and/or within the municipally owned facilities or property.
3. The Vendor shall have use of the concession Stand or space indicated above beginning _____ (Beginning Date) and ending _____ (Ending Date), on _____ (Day(s) of the week), from _____ am/pm until _____ am/pm, unless this Agreement is sooner terminated by mutual consent of both parties, by default of Vendor, for failure of the Vendor to pay consideration, or for failure of Vendor to uphold this agreement and faithfully perform as required.
4. Vendor shall have the temporary use of the premises solely for the purpose of purveying and selling of Goods. The City shall have reasonable access to the premises as provided hereunder in order to determine compliance with this Agreement, applicable laws, and in emergency situations, at all times acknowledging Vendor's right to be free from unreasonable interference. The City is granting a non-exclusive right to sell and the City may grant this right to others.
5. In consideration for the use of the premises for the sale of goods the Vendor agrees to the pay the following sums: Vendor agrees to pay 5% of total gross sales to the City on a monthly basis. The vendor shall maintain accurate and complete accounting records. On or before the 15th day of each month of financial activity, Vendor shall submit to the City a monthly financial report which shall include a summary of gross sales, along with the monthly receipts, and their payment on said gross sales for the month. The City shall have the right at any time to audit, examine and copy vendor's records for up to three years after the expiration or termination of this Agreement.
6. If Vendor fails to submit a financial report, receipts and payment as stated above, Vendor will be subject to a \$25 late fee for every month not in compliance.
7.
 - a. Vendor shall indemnify the City, its agents, officers and employees, and hold them harmless from any and all claims, demands, damages, losses, injuries, deaths, actions, and expenses of any nature and in any manner arising or resulting from any operations of Vendor hereunder. The provisions of this section shall survive any termination or expiration of this Agreement.
 - b. Vendor shall provide and maintain throughout the term of this Agreement, public liability and products liability insurance in the name of the City and Vendor said insurance shall be written on an occurrence basis and have minimum limits of \$1 million for any one accident or occurrence \$2,000,000 aggregate and \$50,000 property damage insurance for each accident. An insurance certificate with an endorsement listing the City as an additional insured and an endorsement giving the City 30 day notice of cancellation, modification or non-renewal shall be submitted by Vendor

to the City for approval by the City Attorney and shall be from a City approved Insurance Company. Vendor shall pay the premium thereof in advance. Before Vendor takes possession of the premises, the insurance certificate with endorsements shall be sent to the City Attorney and approved by the City Attorney with a copy sent to the City's Recreation and Parks Director.

8. The Vendor agrees to conduct the sale of goods in a clean, healthful, and orderly manner and shall have responsible adult supervision on duty at all times. The Vendor shall comply with all applicable federal, state, county, and city laws, rules and regulations, including but not limited to, sanitation, licensing, and operation. Vendor shall obtain all necessary licenses or permits prior to the use of the concession stand or space.
9. The Vendor shall remove from the concession wagon or space all equipment, supplies, materials, and trash from the park/space nightly.
10. The Vendor accepts the Concession space in its current condition on the beginning date of this Agreement, and agrees to maintain this condition during the Agreement's term. The City shall not be obligated to supply storage facilities or any equipment to Vendor.
11. The Vendor shall provide the City with a price list of goods it intends to sell on the Concession space. Vendor shall report, to the City, any updates to this list before the changes are implemented. The City retains the right to deny the sale of any product it deems inappropriate for any reason. Throughout the term hereof, the City reserves the right in its sole and absolute discretion to make or enter into exclusive product marketing agreements, which shall be binding on the Vendor.
12. The City reserves the right to procure, operate and service soft drink and snack food vending machines in all concession areas that they deem appropriate. Vendor shall not be allowed to unplug, cover or otherwise interfere with these machines or with any other concessionaire in any way.
13. It is understood and agreed that the Vendor is in all respects an independent contractor in its relationship with the City under this Agreement. It is not intended nor shall it be construed that the Vendor, any subcontractor of Vendor or its employees are partners, employees, officers or agents of the City for any purpose whatsoever. Vendor shall hold the City harmless with respect to such matters.
14. The Vendor shall upon termination of this Agreement remove immediately all equipment belonging to Vendor from the City premises, so long as such removal does not cause damage to the City property. The Vendor shall leave the premises in a condition at least as good as they were on the beginning date of this agreement, normal wear and tear excepted.
15. In the event of breach of this Agreement or violation of any law by Vendor, the City may terminate this Agreement by giving the Vendor fourteen (14) days notice in writing, specifying the matter(s) in which the Vendor is in default or has violated the law. In the event such matter(s) are not remedied within the 14 day period, the Agreement shall be ended and be of no further force and effect. The Vendor shall immediately remove its equipment, or said equipment shall become the property of the City.
16. The parties' duty to perform under this agreement shall be either abated or suspended, including the payment of money due hereunder, if conditions render it impossible to perform because of an Act of God, invasion, or natural disaster. This Agreement shall be binding upon the heirs, legal representatives, agents, successors, and duly authorized assigns of the parties hereto.
17. Notice & Demand: Any notice, demand or communication under this Agreement by any party to the other party shall be given or delivered by first class mail, registered or certified mail, postage paid, return receipt requested or delivered in person as follows to:

Vendor: _____
Name

Address

Phone

Fax

City: City Clerk
900 Quay Street
Manitowoc, WI 54220
920-686-6950 Phone
920-686-6959 Fax

Copy to: Director of Public Infrastructure
900 Quay Street
Manitowoc, WI 54220

The above address or designated party may be changed at any time by the parties by giving notice in writing in the manner provided above.

18. This Agreement shall be deemed to have been made in Manitowoc County, Wisconsin and shall be governed by the laws of the State of Wisconsin. The parties agree that all actions or proceedings shall be litigated in the circuit court of Manitowoc County, Wisconsin and hereby submit themselves to the jurisdiction of the courts of Manitowoc County, Wisconsin.
19. Miscellaneous:
- a. Waiver and Amendment: No provision of this Agreement shall be deemed waived or amended unless by a written instrument unambiguously setting forth the matter waived or amended and signed by the parties. Waiver of any matter shall not be deemed a waiver of the same or any other matter on any future occasion.
 - b. Successors: All of the terms, covenants and conditions thereof shall be binding upon and inure to the benefit of the successors in interest and assigns of the parties hereto.
 - c. Partial Invalidity: The invalidity or unenforceability of any provision of this Agreement shall not render invalid or unenforceable any other provision of this lease.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first written above.

Vendor:

By: _____

Title: _____

Print Name: _____

By: _____

Title: _____

Print Name: _____

STATE OF WISCONSIN)

) ss.

MANITOWOC COUNTY)

Personally came before me this _____ day of _____, 20____, the above signed _____, to me know who executed the foregoing instrument and acknowledged the same.

Notary Public

County, WI

My Commission (expires) (is) _____

City:

By: _____

Justin M. Nickels, Mayor

By: _____

Deborah Neuser, City Clerk

STATE OF WISCONSIN)

) ss.

MANITOWOC COUNTY)

Personally came before me this _____ day of _____, 20____, the above signed Justin M. Nickels, Mayor and Jennifer Hudon, City Clerk, to me known who executed the foregoing instrument and acknowledged the same.

Notary Public

County, WI

My Commission (expires) (is) _____