



REPORT TO THE COMMON COUNCIL

**FOR THE EXCLUSIVITY CONTRACT
WORKGROUP**

AUGUST 19, 2005

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Department of Administration
Business Operations Division

Tom Barrett
Mayor

Sharon Robinson
Director of Administration

Cheryl L. Oliva
City Purchasing Director

August 19, 2005

Common Council
City of Milwaukee
Room 205, City Hall

RE: Summary of Findings of the Exclusivity Contract Workgroup

Dear Honorable Members:

In February 2005, the Common Council passed a resolution authorizing and directing the Department of Administration to research and evaluate the potential for the City to enter into contracts with one or more private corporations granting such corporations exclusive rights to provide vending machines or other goods and services to the City in exchange for cash payments and other benefits to the City. A workgroup was established with representatives from the Common Council, Department of Administration, Department of City Development, Municipal Court, Police Department and the Department of Public Works.

The research and recommendations of this workgroup can be found in the attached report.

Sincerely,

Cheryl L. Oliva
City Purchasing Director

I. Background

The workgroup first met in April of 2005 and developed a survey that was sent to all City Departments in order to determine how many vending machines are currently in place and what contracts may be in place that govern these machines. The results of the survey can be found in Appendix 1. In addition, Alderman Bohl requested that the Legislative Reference Bureau compile information on what other municipalities have realized in the way of revenue by entering into beverage exclusivity contracts.

After the survey of City departments was complete, the workgroup reconvened on June 27, 2005, to review the survey findings. The group also reviewed several Requests for Proposals (RFPs) that were done by other municipalities in their pursuit to enter into an exclusivity agreement.

The group met for a final time on July 25, 2005, to determine what recommendations would be made to the Common Council based upon the findings. It was the consensus of the group that if the City proceeded with a recommendation for a RPF, it should concentrate on beverages only. It was felt that this would be a manageable way to begin this type of exclusivity agreement and one that could possibly expand into food/snack items, vehicles, pouring rights, etc.

II. Conclusions

A. Do City departments currently have contractual arrangements for beverage vending in place?

Yes, approximately five City departments currently have contracts in place for their beverage vending machines. Other departments that have vending machines do not appear to have any written and/or formal agreements in place. It is recommended that departments with contract currently in place would be phased in to an exclusivity agreement once the contract expired. See Appendix 1.

B. What have other municipalities realized in the way of revenue from entering into Exclusivity contracts?

Depending upon the number of machines, access to the public and other factors, such as naming rights, many municipalities have realized substantial revenue over a period of time by entering into such exclusivity agreements. See Appendix 2.

C. What are the benefits for the City of entering into an exclusivity agreement?

In light of fiscal uncertainties and budget constraints that have faced the City, this appears to be a creative way to generate additional revenue to the City and one that has additional potential that the City may wish to investigate in the future, if successful in this first venture.

D. What are the concerns about entering into an exclusivity agreement?

Several City departments voiced concern over loss of revenue from their current vending arrangements. A majority of departments use the revenue from these machines to fund holiday parties, sunshine funds, and to buy supplies. The Police Department uses their funds to sponsor the Police Athletic League. The Fire Department uses their funds to buy miscellaneous equipment for their Fire Houses that is not covered in their budget. Departments that currently have a vending contract in place would be phased in to an exclusivity contract, if one exists.

In addition, because primarily employees use most of these machines, those preferring a certain brand of beverage may not be happy with the limited choices available throughout City buildings.

E. What is the potential revenue the City could realize from a beverage exclusivity contract?

That is unknown until a Request for Proposal is conducted and responses are received and evaluated. Currently the vending machines in place earn approximately \$67,179 per year. However, there were nine departments who responded to the survey who could not provide any financial information on what the profits for the machine would be and some departments do not receive any revenue from the vending machines in their area.

Also, revenue generated from a vending machine is different than an "exclusivity" fee that would be paid to the City. While none existents now, it would compose the greatest portion of revenue to be realized.

F. What are other municipalities doing with their vending machine contracts?

After surveying the City departments on their vending contracts, another issue came to light. There does not appear to be any standard for the contracting of these machines and this may post a risk to the City and also to any person who enters into these contracts, who could be held liable should something happen.

In order to find out what some other municipalities in the State of Wisconsin require for their vending machine contracts, a survey was conducted to see where the machines are located – if they are mainly for public access or for employee use - and who is responsible for the contracting of these machines. The results of this survey are outlined in Appendix 3.

III. Recommendation

The Common Council should authorize the Department of Administration to proceed with a Request for Proposal for an exclusivity contract. By issuing an RFP, the City will be in a better position to see what the actual potential is for additional revenue. If responses are not deemed to

be in the best interest of the City, all proposals may be rejected and no award would have to be made. The results of the RFP would be brought to the Common Council for their consideration before an award was made. A draft of the proposed RFP is attached (Appendix 4).

* * * * *

VENDING MACHINE SURVEY RESULTS

Department	Number of Machines	Type	Location	Agreement Yes/No	Annual Proceeds	Proceeds Used for
Assessor	1	Beverage	CH - 507	Yes	\$550	Sunshine Club
BOZA	2	Beverage	809 Bldg. basement	No	Unknown	Unknown
BOZA	3	Beverage	Cafeteria - City Hall	No	Unknown	Unknown
CCCC	1	Beverage	CH - 205	No	\$1,000	Holiday party
City Attorney	1	Soda	CH - 800	No	\$1,750	More soda, coffee, paper products
City Attorney	1	Soda	740 W State - Rm 205	No	\$460	More soda, coffee, paper products
Comptroller	2	Beverage	CH 4th floor breakroom	No	\$550	Xmas party, supplies
DCD	6	Beverage	Scattered	Yes	Unknown	Sunshine Club
Deferred Comp	0					
DER	2	Food/Beverage	CH- 706	No	\$1,800	Sunshine Club/Habitat for Humanity
DNS	1		MB - 10th Floor	No	\$700	Holiday parties, supplies
DNS	1		Lake Tower	No	\$500	Holiday parties, supplies
DOA - CBGA	1	Beverage	CH - 606	No	\$0	To vendor
DOA - ITMD	3	Food/Beverage	MB - 400	No	\$900	Dept activities/parties/events
DOA-Budget	None					
DPW	38	Food/Beverage	MB & 15 outlying bldgs	No	\$12,400	General City fund
Election	1		CH - 501	Yes	\$179	To Election Commission
ERS	0		CH - 610	No		
Fire	50	Food/Beverage		No	\$1,500	Maintain a commissary & house fund
Health	1	Snack	MB - 3rd Floor	No	Unknown	To vendor
Health	1	Food/Beverage	Coggs HC	No	Unknown	Compass Group /Canteen
Library	13	Food/Beverage	Central Library	Yes	\$2,000	Benevolence fund
Muni Court	0					
Police	26	Food/Beverage		Yes	\$40,000	MPAA, Events, Equipment, Picnic
Port	None					
Treasurer	2	Food/Beverage		Yes verbal	\$2,890	
Water	2	Food/Beverage	Cameron	Unknown	Unknown	Unknown
Water	4	Food/Beverage	Linnwood Rcvng Rm	No	Unknown	To vendor
Water	2	Beverage	Howard	No	Unknown	Owner of machine - plant employee
TOTAL	165				\$67,179	

BEVERAGE EXCLUSIVITY SUMMARY

MUNICIPALITY	HOW MANY MACHINES	LENGTH OF CONTRACT	AMOUNT OF REVENUE	VENDOR
Huntington Beach, CA	150	10 years	\$300,000	Coca-Cola
Long Beach, CA	226	10 years	\$3 million	Coca-Cola
San Diego, CA	500	12 years	\$1.5 million +40%	Pepsi
Kent School District (Michigan)	Unknown	20 years	\$4-5 million	Coca-Cola
Albany, NY (Fulton School District)	Unknown	10 years	\$495,000	Coca-Cola
New York, NY	1000+	5 years	\$126 million	Snapple
Syracuse, NY (Various School Districts)	Unknown	10 years	\$1.5 million	Coca-Cola
Dallas, TX	400+	5 years	\$3.5 million + 20%	Dr. Pepper
Houston, TX	385	10 years	\$5.3 million	Dr. Pepper
Menomonee Falls, WI	13	5 years	\$120,000	Coca-Cola

VENDING MACHING SUMMARY
BY MUNICIPALITY

MUNICIPALITY	WHERE ARE MACHINES LOCATED	WHO IS CONTRACTING PARTY
Washington County	Public Areas	County Clerk
Waukesha County	Public areas of County buildings except parks/golf courses	Purchasing
Blackhawk Technical College	Public Areas	Business Office
City of Green Bay	Public Areas/Departments	Individual department
Winnebago County	Central Location	Purchasing
Brown County	Public Areas and Departments (break rooms)	Purchasing
City of Madison	Public Areas and Departments	Purchasing does the contracting for public access machines. Departments contract for their own machines.
Rock County	Public Areas – 1 secured break room	Rock County General Services Director
Sauk County	Public areas – 1 break room in basement	Building Services Division



DRAFT

REQUEST FOR PROPOSAL

VENDOR CONTRACT FOR
EXCLUSIVITY VENDING MACHINE RIGHTS

PROPOSALS DUE BY:

2:00 P.M. ON
DATE

Prepared by:
City of Milwaukee
Department of Administration
Business Operations Division
Procurement Services Section
Purchasing Agent: Diane Berndt

Scope of Service

The City of Milwaukee is requesting written proposals from interested parties to enter into an agreement with the City of Milwaukee for exclusive beverage availability by category, territory, promotional rights and advertising rights.

The City will accept proposals to establish a five-year (5 year) agreement for "Official Soft Drink of the City of Milwaukee." The contract shall establish category exclusively, territory exclusively, and promotional and advertising rights.

- **Category Exclusively-** Company is provided exclusively by the City with respect to all carbonated and non-carbonated, non-alcoholic beverages defined as soft drinks, juices, juice drinks, teas, sports drinks, packaged water and frozen beverages. Fresh brewed coffee and tea, hot chocolates, fresh squeezed or prepared fruit drinks, and milk shall be included.
- **Territory Exclusively-** Company is provided exclusively to all designated properties owned or controlled by the City.
- **Promotional Rights-** Company is granted priority rights to conduct certain promotional activities within certain facilities and venues of the City for the purpose of establishing and promoting the contract relationship and the products of the Company.
- **Advertising Rights-** The Company is granted exclusively beverage advertising rights in the facilities and venues of the City at the expense of the Company.

Background

Within the tightening of municipal budgets, more and more municipalities are developing alternate revenue sources/such sponsorship projects to provide a mutually beneficial business arrangement between a City and a third party, where in the third party provides and/or in-kind services to the City in return for access to the commercial marketing potential associated with the City. Municipal sponsorship relationships provide funds for one or more of the City's programs, events, projects, events, facilities, or activities. One example of such municipal sponsorships is an "Official Soft Drink" designated program.

Most soft drink sponsorships entail an annual payment to the City plus a percentage of commission on the sale of the sponsor's products. These payments will go into the general fund or the revenue could be reported back to the Council to determine use of these funds. In return, the City agrees that only beverage and snack products affiliated with the sponsor may be sold in the vending machines on City property and that special events held on City property may only carry the sponsor's products. Several municipalities and other local governments throughout the United States have developed sponsor relationships. This trend will continue to grow as municipalities increasingly explore alternative revenue streams to provide funds for important City facilities, events, and programs.

The City of Milwaukee has identified approximately 165 beverages vending machines in City buildings and other City-owned or controlled-properties. These beverage machines are owned and serviced by numerous vendors and dispense multiple products and brands at different prices. City employees work with several different vendors to service each machine or each group of

machines, and in some cases receive commissions from beverage sales from the machines. Departments who currently have contracts in place for vending services would be brought under the exclusivity agreement when the current contract has expired. In addition, various departments are purchasing beverage products by the case for employee consumption or resale. The City is aware of the success of other cities to generate revenue, simplify the management, and increase the quality of service of the beverages vending machines in their facilities by entering exclusive beverages vending agreements.

Consideration Provided by the City to the Company

The company may promote itself as "Official Soft Drink of the City of Milwaukee. "

The company may use the name of the City and its official logo and trademarks in the promotion of the company and the company's products. The City reserves the right to review and potentially reject any advertising placed on vending machines when, in the opinion of the City, such advertising would be objectionable to the community.

The company may promote itself as the "official drink" of the City's special events.

The Company has the right to provide vendor machines at all the City's facilities. Access to vendor machines shall be during business hours.

The Company may conduct City approved product sampling activities within the City.

The City will include the Company's logo or brand marks on all printed materials promoting the City's special events.

Specifications and Provisions

The company must supply first quality products service in a timely manner.

The company shall place vending machines at the locations listed in Attachment A, Locations Listing. Subsequent to award of the contract, the company may propose additional locations, and such locations may be approved at the sole discretion of the City. The company shall submit requests for new locations in writing to the City at least (30) days in advance of the requested date of installation.

The company shall place vending machines of City property in a manner, considering quality and quantity of machines that will maximize Gross Sales.

The company must maintain all of its equipment at high standards of quality, sanitation and cleanliness at all times. All machines and equipment must adequately serviced and supplied with quality merchandise at mutually agreeable prices.

The company shall include with the proposal a complete list of products to be supplied with a pricing schedule by size and quantity of product.

Company response time for a service call or "out of product" call will be no longer than 24 hours.

All machines and equipment remain the property of the company.

The company may not propose an increase in the pricing of the product for the first 12 months of the contract agreement. Thereafter, the company may propose a price increase in writing to the City at least sixty (60) days prior to proposed date of the increase. The City must approve in writing any price increases or changes, but such approval will not be unreasonably withheld. The City reserves the right to establish prices more frequently, when there is a proposed introduction of new products. Any request for a price increase must be accompanied by supporting documentation by the manufacturer.

The Company shall also:

- Provide computer generated gross sales report to the City, and certify the accuracy of such report.
- Cooperate with the City, including engaging in on-going performance and sales reviews.
- Conduct marketing efforts geared toward enhancing the generation of Gross Sales.
- Dispose of all trash associated with the operation of vending machines, including but limited to packaging containers, wrappings, discarded food or beverages.

Vending Machine Specifications

The company shall insure that all vending machines placed on City property meet the following requirements:

All machines shall be less than 5 years old.

All machines must be maintained in working order, and any non-functioning machine must be replaced within forty-eight (48) hours.

Scheduled replacement of machines should be planned as new technologies and new products become available.

All machines shall have factory meters, no after-market meters are acceptable.

Meter readings shall be taken and recorded immediately upon installation of machines from City property.

Meter readings shall be taken and recorded immediately upon removal of machines from City property.

Meter readings shall be taken periodically for accurate determination of gross sales.

All machines should be clean, undamaged, and of acceptable appearance.

All machines shall accommodate plastics, paper, or aluminum containers, as applicable, but no glass bottles.

A placard must be placed on each machine stating the company's name and local phone number to be used for reporting problems or complaints.

To maximize the potential of each location, machines provided must be of adequate size and capability to maintain full and uninterrupted service at all times. Machines shall be capable of holding and dispensing a variety of products and sizes. The machines will vend either recyclable plastic bottles or recyclable cans; glass containers are not acceptable.

All machines shall be equipped to accept legal U.S. tender, be equipped with dollar bill validators, and payment mechanisms which accept combinations of dollar bills, nickels, dimes, and quarters. In addition, each machine must have bill change capabilities.

To ensure accurate record keeping, all machines shall be equipped with non-resettable counters, which indicate unit sales. If municipal products are dispensed from the same machine, a separate dispensing counter is required for each separate commission rate dispensed. Upon initial installation of the machines, Vendors shall submit starting machine counter numbers to the City's designated contact manager for each vending machine.

Machines provided shall operate on AC-110 volts with a three-wire three-prong ground type plug. All machines shall be UL listed, designated, constructed, installed and operated in accordance with the City, state and federal codes and regulations for this type of equipment.

To reduce electrical cost, vending machines will be timer controlled and equipped with an "energy miser" or equivalent device aimed toward reducing energy consumption.

Service Of Machines

The contractor on a 24-hour, seven-day-a-week basis will maintain Service. Generally, the City expects that service calls will be responded to within for (4) hours after notification of need during the period of 8:00 am and 4:00pm on business days. Equipment furnished for special events shall be repaired in approximately one (1) hour after notification in order to minimize the losses from sales from these events. Vendors will furnish the City's contract manager with a service number that will allow for service outside of the normal servicing times.

Preventative maintenance and repair of vending machines and related equipment shall be the responsibility of the contractor in terms of expense and response time. The contractor will conduct routine service and inspection of machines, as required and posted on the front of the machine so as to maintain uninterrupted service at all times.

Contractor shall be responsible for the physical inventory, inventory control and filing of machines. The contractor shall make every effort to re-stock machines at times that will not conflict with peak usage times. Product delivery shall be made on a mutually agreed upon schedule at each location. No inventories will be maintained at any City locations.

Trained, qualified personnel identified by a clearly marked and openly displayed company insignia and/or uniform will perform all service. In addition, all such persons shall carry company issued photo identification and shall present such documents to anyone on request. Failure to meet these conditions may result in immediate termination of the Agreement for reach of security.

The contractor shall comply with all Federal, State, and City regulations governing the procurement, preparation, storage, transport, handling and serving of all items for consumption under this contract. In addition, the contractor shall keep in effect all necessary licenses and

permits required by law and agrees to post such permits in a prominent place as may be required by law.

Contractor shall keep the machines in a clean and sanitary condition. This requirement includes interiors, exteriors, tops, and the areas under the machines.

Product to be dispensed

The City desires a variety of beverages to be provided by the vendor including soft drinks, bottled water, tea-based products, pre-packaged coffee-based products, fruit juice drinks or fruit juice-based products, isotonic "sports drinks", and carbonated beverages. The beverages that will be dispensed shall be determined by what is proven to result in the highest sales at a particular location based on actual and projected customer demand. Once the City has approved the initial product line offered, the Vendor will be allowed to add or delete products with prior written approval from the City's Contract Manager. The City reserves the right to request that a product be replaced at anytime.

Product Sizes

The vendor will determine the specific products and the size of the products that will be sold from a specific machine and the City based on the appropriateness of the product, location of the machine and sales projections.

Program Management

The City will appoint a contract manager to represent the City in the implementation of the Agreement that will result from this RFP. The successful vendor will work closely with the contract manager to ensure that all aspects of the agreement are executed with the utmost efficiency and professionalism. Any inquiries or approvals regarding the resulting Agreement must be directed with sixty (60) days advance notice in writing, to the contract manager.

1. Products: After the initial line product approved, the contract manager must approve any new product or dispensing size.
2. Pricing Increases: Any adjustments in unit pricing or commission rates shall be negotiated between the City and the vendor.
3. Machines: Placement of additional machines, removal and/or relocation of existing machines must be approved and coordinated by the contract manager. Machines placement must comply with Fire Marshall and safety regulations.
4. Advertising: the contract manager before distribution of placement must approve any signage, logo, promotional material or anything that the City may construe as advertising intended to promote sales.

Accounting Requirements

The contractor shall maintain complete and accurate records of vending transaction including collections and inventories of both merchandise and equipment in accordance with accepted industry standards, and will keep financial records related to any agreement resulting from this RFP for a period of three years after the close of each year's operation.

Reporting

1. Commissions: Contractor shall remit the monthly commission due to the City on or before the fifteenth (15th) business day following the end of the month just ended. In support of each commission check issued, the contractor is required to attach an itemized statement indicating:
 - a. For each location:
 - Gross net sales and commissions. Indicate separate calculations for each commission type.
 - Net Sales and commissions. Indicate separate calculations for each commission type.
 - b. For each machine:
 - Counter readings indicating beginning and ending counter readings
 - Explanation of counter discrepancies resulting from malfunctions or repairs to the machines.
 - Unit sales for each type of products sold in each machine.
2. Volume Growth Assumptions: On or before January 31 for each year of the Agreement, vendor shall provide the City with a projection of annual volume/sales growth assumptions based on its annual projected product mix for beverages.
3. Pricing: Pricing of products shall be mutually agreed upon during the negotiation of the first terms and conditions of the agreement. Pricing will remain firm for the first year of the contract. Any adjustments in unit prices will be negotiated between the successful vendor and the City. Local market conditions, City commissions, vendor's product costs, and gross profit margins will be utilized to establish the exact annual of price adjustments.
4. Commissions: The City makes no guarantees as to the amount of product that will be sold within a fiscal year. Under no circumstances will the City be required to sell a minimum amount of product in order to receive the commissions or other financial and/or non-financial benefits agreed upon.

Lost sales: The vendor acknowledges that the vendor is responsible for and is taking all risk with respect to any reduction of Gross Sales to theft, fire, accident, vandalism, temporary loss of power, weather, acts of God, temporary or permanent site closures, changes to site or facility construction plans, other acts beyond the City's control, actions within the City's control that are taken in the best interests of the public and/or any other taken in the reasonable exercise of the City's discretion. Unless otherwise expressly agreed by the City, no reduction in gross sales attributable to such factors shall constitute a basis for reducing or renegotiating any annual commission guarantees, or any other payments to the City.

Payment Procedures: Vendor shall pay City all amounts due on or before the fifteenth (15th) day following the month just ended. In support of each check issued, vendor is required to attach to each commission check as an itemized statement as describing in the "reporting" section, paragraph 5.1. For payments made after the due date, the contractor shall pay the interest of one and one-half percent (1.5%) per month of total commissions due.

Advertising: It is the City's goal to maximize the revenue potential associated with the beverage services agreement without commercially compromising its goals of services to the community and responsiveness to the public's need and values. Any signage, logo promotions product/vessel, or anything that the City may construe as advertising, the City's contract manager must approve before distribution or placement on vending machines, on City property, including vehicles, or contained in any media designed mass distribution to the public.

Existing Vendor Contract: By responding to this RFP, the proposer is expressly agreeing that any existing or previous agreements, contracts and/or other agreements, written or verbal, which may exist between the proposer and the City involving beverage sales, vending machine placements and/or any matters related thereto, and all obligations of the City arising from such relationships, if any, are automatically terminated. Such termination shall be effective no later than 30 days after City Council approval of any Agreement resulting from this RFP, unless the City requests an extension of such relationship in writing prior to that date.

Proposal Submission/Contents

The following must be submitted with your proposal to be considered for award. Please submit the documents in the order they are listed.

1. Cost Proposal: Vendors must complete and include in their response a Cost Proposal as outlined below.
 - a. The company will pay an annual fee to the City for category exclusively, territory exclusivity, promotional rights, advertising rights and other items of value provided by the City.
 - b. The company will pay a commission fee to the City on all sales from beverage vending machines. In its response to this RFP, the proposer must detail the formula for vending commission payments.
 - c. The company will provide the City mutual agreed upon marketing, media and promotional support.
 - d. The company shall appoint an Account Manager to oversee performance of vending services under this contract. The account manager shall be the primary point of contact for all issues involving payments, quality, service complaints, and other matters arising under this contract. The account manager shall be available to meet with the City's project manager to discuss concession status or problems as the need arises. The account manager shall, at a minimum, meet with the City's Project Manager on a monthly basis during the first six (6) months of this contract, and quarterly thereafter, to discuss on-going performances and sales issues.
2. Proposer Experience
 - a. Each proposer is requested to submit a list of customer references in order to receive award consideration. To the extent possible, the proposer should demonstrate that they are currently in, or have previously engaged in, marketing partnerships with other municipalities, government, or business entities similar in scope to this contract.

- b. Reference listing should include the mailing address, email address, telephone numbers and the name of individuals to contact.

Sealed request for proposals (RFPs) for furnishing services as specified below will be received in the Procurement Services Section no later than 2:00 p.m., _____, 2005, at 200 East Wells Street, Room 601, Milwaukee, WI 53202.

ALL PROPOSALS RECEIVED AFTER THE DATE AND TIME SPECIFIED WILL BE REJECTED.

Proposal Submission:

One (1) original and 10 copies of the technical proposal, and **one original and 10 copies of the cost/financial proposal** are to be submitted in **SEPARATE SEALED ENVELOPE** to the Procurement Services Section **no later than 2:00 on the due date.**

The proposal envelopes must be identified in the lower left corner as follows:

RFP # 000000XXXX

RFP FOR: VENDOR CONTRACT FOR EXCLUSIVITY VENDING SERVICES

DUE DATE: 2:00 p.m., _____, 2005

Any proposal received in an envelope not properly and clearly marked as specified may result in the proposal being rejected. It is the vendor's responsibility to comply with the above in order to assure inclusion at the proposal opening.

Fax responses will not be accepted – All faxed copies of proposals will be rejected.

Proposals will be opened and the name of the respondents read at the time indicated. Details of each proposal, including proposed fees, shall not be made public until after all negotiations are complete and an award is made.

All proposals received in response to this request will become the property of the City of Milwaukee and will not be returned to the respondents.

Clarifications

If additional information is needed to interpret the specifications/requirements, written questions must be received by the cut-off date listed in the proposal. All questions and answers will be listed in the form of an addendum to the City's website.

Evaluation process

The committee will arrive at a short list of respondents and respondents may be scheduled for a structure oral presentation and interview. Those respondents submitting proposals do so entirely at their expense. There is no expressed or implied obligation by the City to reimburse any individual or firm for any costs incurred in preparing or submitting proposals, for providing additional information when requested by the City or for participating in any selection or follow-up interviews, including negotiations.

Selection Process

The award of this contract(s) will be made to the respondent(s) offering the response which best meets the needs of the City. The City may make investigations, as it deems necessary, to determine the capabilities of the Proposer to create, modify and implement the required services. The Proposer shall furnish to the City such as data as the City may request for this purpose. The City reserves the right to reject any offer if the evidence submitted by or the investigation of the proposer fails to satisfy the City that the proposer is property qualified to provide the services contemplated.

Each respondent will be evaluated on the basis of the following evaluation criteria that are listed in order of importance below:

1. Projected revenue to the City- i.e. Proposer's plan for compensation to the City or revenue sharing scheme and other proposed consideration to the City (70%)
2. Conformance to Scope of work as outlined in this RFP document (15%)
3. Experience and success in performing similar services for other entitles (10%)
4. Financial strength of proposer (5%)

Insurance Requirements

The successful vendor will be required to furnish and maintain certificates of insurance evidencing insurance coverage in accordance with the City of Milwaukee's insurance requirements that are attached.

Personal Property & Goods of Operator

The vendor agrees that all personal property and goods upon the premises or located in the concession area shall be at the risk of the vendor only and that the City is not liable for any injury or damage thereto or loss or theft thereof.

Ordinances, permits, laws and regulations

The vendor agrees not to sell or permit to be sold, used, or brought upon the premises of the concession, any intoxicating or alcoholic beverages and shall further abide by the ordinances of the City of Milwaukee and laws of the State of Wisconsin and of the United States, and such rules and regulations as may be promulgated by the Commissioner of Public Works. The vendor shall apply for, pay for, and obtain all permits and licenses required by the units of government as heretofore enumerated in order to operate the concession and to vend the merchandise approved.

CITY OF MILWAUKEE
TERMS AND CONDITIONS FOR REQUESTS FOR PROPOSALS

DELAYS IN DELIVERY:

Delays in delivery caused by any bona fide strikes, government priority of requisition, riots, fires, sabotage, acts of God, or any other delays deemed by the DOA-Business Operations Division to be clearly and unequivocally beyond the contractor's control will be recognized by the City. The contractor may be relieved of the responsibility of meeting the delivery time as stipulated in the contract upon contractor's filing with the DOA-Business Operations Division just and true statements requesting an extension of delivery, signed by the contractor and giving in detail all the essential circumstances which, upon verification by the City, justify such action under the provisions of this section by the DOA-Business Operations Division.

FAIR EMPLOYMENT PRACTICES:

All proposals shall be subject to the provisions of Section 109-9 of the Milwaukee Code of Ordinances relating to prohibition of discrimination in employment. This provision shall be applicable and incorporated as part of any contract or proposal award.

NON-DISCRIMINATION:

In performing in accordance with the terms of the RFP, the vendor agrees not to discriminate against any qualified employee or qualified applicant for employment because of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation or familial status as defined in Section 109-9 of the Milwaukee Code of Ordinances. Vendor is required to include a similar provision in all subcontracts. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor further agrees to take affirmative action to insure equal employment opportunities for persons with disabilities. The contractor agrees to post in conspicuous places available for employees and applicants for employment notices to be provided by the contracting officer setting for the provisions of the nondiscrimination clause. Wisconsin Statutes 16.765 (1) and (2) and provisions of section 109-9 of the Milwaukee Code of Ordinances.

SPECIAL CONDITIONS PERTAINING TO FORMAL CONTRACT EXCEEDING \$30,000:

When an award is made and the total amount exceeds \$30,000 or when the consideration can reasonably be interpreted to exceed a value of \$30,000, such an award shall not be deemed to be an acceptance by the City. Acceptance by the City shall not be effective until such acceptance is evidenced by the delivery of a formal written contract to the successful proposer and prior to its execution the City Attorney's office has first approved the provisions of said agreement, contract or instrument and said fact appears in writing on the face of such agreement, contract or instrument.

LICENSES AND PERMITS:

Proposers shall have any and all licenses and permits required to perform the work specified and furnish proof of such licensing authorization and permits with their proposals if required.

ADDITIONAL CONTRACT TERMS:

As a condition of the proposal the proposer also agrees to accept the following conditions and terms which will be a part of the contract:

- A. Contractor shall not assign this contract or any interest therein, nor sublet the same, or any part thereof, without the consent in writing of the DOA-Business Operations Division being first obtained, and that if the party of the first part shall so assign or sublet, with such consent, then the DOA-Business Operations Division shall have the right, in its discretion, to rescind the contract and to declare the same null and void.
- B. Contractor shall and will well and truly execute and perform this contract under the terms applicable to the satisfaction of the DOA-Business Operations Division, and shall promptly make payment to each and every person or party entitled thereto of all the claims for work or labor performed and materials furnished in the performance of this contract.
- C. Contractor will save, indemnify and keep harmless the City of Milwaukee against all loss, liability, judgments, costs and expenses which may in anyway come against said City by virtue of the infringement of any patents or patents in any manner in connection with the work or materials furnished under this contract.
- D. Contractor assumes full liability for all of its acts or omissions in the performance of this contract. Contractor will save and indemnify and keep harmless the City of Milwaukee against all liabilities, judgments, costs and expenses which may be claimed against the City in consequence of the granting of this contract to said contractor, or which may result from the carelessness or neglect of said contractor, or the agents, employees or workmen of said contractor in any respect whatever. If judgment is recovered, whether in suits of law or in equity, against the City by reason of the carelessness, negligence, whether by acts of commission or omission, of the contractor such persons, firms or corporations carrying out the provisions of the contract for the contractor, the contractor assumes full liability for such judgment not only as to the amount of damages, but also the cost, attorneys fees or other expenses resulting therefrom.
- E. If a contractor shall fail to fully and completely perform the contract within the time limited for the performance thereof, contractor shall and will pay the City, as liquidated damages for such default, the amount as indicated in the RFP as an assessment for delay in completing said contract, after the expiration of time limited for its completion.
- F. Failure or neglect of the DOA-Business Operations Division to require compliance with any term or condition of the contract or the scope of services shall not be deemed a waiver of such term or condition.
- G. The award of a contract by the City of Milwaukee does not grant permission to commercially advertise such an award unless specific authority is granted by the City Purchasing Director.
- H. The contractor covenants and agrees that as a proposer, contractor is the only one interested in this contract; that no person or corporation other than named has any interest in the proposal or in the contract. Contractor covenants and agrees that: the proposal was made without any understanding, agreement, or connection with any person, firm or corporation making a bid for the same supplies; and the proposal is in all respects fair and without collusion or fraud; no officer, employee or agent of the City who exercises

any functions or responsibilities in connection with the carrying out of any services or requirements to which this Contract pertains, shall have any personal interest, direct or indirect, in this contract. No member of the governing body of the locality and no other public official of such locality who exercises any functions or responsibilities in the review, approval or administration of this Contract, shall have any personal interest, direct or indirect, in this contract.

RESPONSES TO REMAIN OPEN:

Responses must remain open and will be deemed to be open and subject to acceptance until awarding of the RFP is finalized, or a minimum of sixty (60) days unless otherwise specified following the date set forth for the receipt and filing of the response to the Request for Proposal.

PRICING:

Vendors may submit lower pricing than U.S. Government contract prices. The City is exempt from the Robinson-Patman Act. Quotation must conform to government regulation on prices and wages.

APPLICATION OF TERMS AND CONDITIONS:

All terms, conditions, and scope of services included in the document apply to any subsequent award.

DOA-BUSINESS OPERATIONS DIVISION – PROCUREMENT SERVICES SECTION

RESERVES THE RIGHT TO - Accept or reject all or part of any proposal submitted and accept such proposal deemed to be in the best interests of the City; Reject any and all proposals received in response to this request; Accept a proposal that is not the lowest cost; Request clarification regarding any proposal; Make a partial award, or not make any award.

INTEREST IN CONTRACT - No officer, employee or agent of the City of Milwaukee who exercises any functions or responsibilities in connection with the review, approval or administration of this contract shall have any personal interest, direct or indirect, in this contract.

IMPORTANT – FAILURE OF COMPLIANCE:

Failure on the part of the responder to comply with all of the instructions and terms of the Standard Terms and Conditions may result in proposal rejection by the DOA-Business Operations Division, and/or cancellation of orders without liability to the City.