

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: City Manager – Approve Beverage Vending Agreement Extension and New Snack Vending Agreement. Expenditure: None

RECOMMENDATION

Recommendation of the City Manager that the City Council:

- Approve extending the City's beverage vending agreement by one year with Coca-Cola Bottling Company of Southern California (C2008-011) for the period of January 1, 2011 to December 31, 2011.
- Enter into an agreement with Joe Gonzalez to provide snack vending services for the period of December 1, 2010 to December 31, 2011.

Funding

Not applicable.

BACKGROUND AND ANALYSIS

On February 5, 2008, your Honorable Body approved an agreement with Coca-Cola Bottling Company of Southern California to provide beverage vending services at City facilities throughout Torrance. The Coca-Cola monthly commission summary is provided as Attachment C. The Coca-Cola agreement has generated \$53,000 in revenue for Community Services Department programs through October 31, 2010

Summary of Coca-Cola Agreement:

Coca-Cola	
Product pricing	\$1.50 (20 oz.)
Type of product	Carbonated soft drink, water, sports drinks
Commission level	35% per bottle
Discount/Promotions	Taste sampling of Vitamin Water and Honest Tea at the 2010 Employee Health and Rideshare Fair
Donation	Annual donation of 250 cases of soft drink or fruit drink and 250 cases of water to the Armed Forces Day Parade.

The City has also had a long term agreement with G & G Vending (operated by Joe Gonzalez) since 2004 to provide snack and coffee vending services at City facilities. During the preparation of the new snack vending agreement, the City Attorney realized that G & G Vending was classified as a sole proprietorship; however, Mr. Gonzalez stated that he does not have a fictitious business name as required for sole proprietorships, therefore, all future agreements will be with Joe Gonzalez instead of G & G Vending. Per the terms of the current agreement, Joe Gonzalez pays the City \$6,000 per year

(\$500 per month) as commission from snack machine vending. Attachment B provides a listing of all current locations provided by Coca-Cola and Joe Gonzalez.

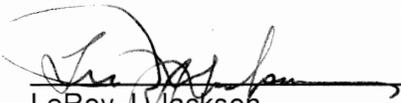
The Coca-Cola agreement is due to expire on December 31, 2010 and the original seven (7) year agreement with Joe Gonzalez (G & G Vending) snack agreement is going to expire in February 2011. Since the Coca-Cola agreement has options for two one-year extensions, staff is recommending an agreement extension for both companies through December 31, 2011. The ability to align the expiration of both beverage and vending services agreement will provide staff with an opportunity to explore the feasibility of a single vendor in the future to provide both beverage and snack vending services. The City's goal remains to provide residents, visitors and employees of the City with quality products with maximum revenue to support City services. Staff will return at the end of 2011 to seek a potential final year extension with Coca-Cola and an additional one year agreement with Joe Gonzalez prior to issuing a new Request for Proposal for a new long-term agreement. City staff is also working with Coca-Cola to seek partnership and sponsorship opportunities for the City's Centennial celebration in 2012.

Respectfully submitted,

LeROY J. JACKSON
CITY MANAGER

By 
Aram Chaparyan
Assistant to the City Manager

CONCUR:


LeRoy J. Jackson
City Manager

- Attachments: A) City Council Item 12B from February 5, 2008 (Attachments available at City Clerk's Office)
B) Beverage and Snack Vending Locations
C) Coca-Cola Monthly Commission Summary
D) Current Contract Services Agreement with Coca Cola Bottling of Southern California
E) Initial Contract Services Agreement with G & G Vending (Joe Gonzalez)
F) New Vending Services Agreement with Joe Gonzalez

Council Meeting of
February 5, 2008

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: City Manager – Selection of vendor to provide cold beverage vending machine services

RECOMMENDATION

Recommendation of the City Manager that the City Council select a vendor to provide cold beverage vending machines services and approve an agreement with Coca-Cola Bottling Company of Southern California to provide such services.

Funding

Not applicable.

BACKGROUND AND ANALYSIS

In 2004, the City entered into a seven-year agreement with Pacific Snapple Distributors/ 7up-Royal Crown Bottling Company with an annual fee of \$140,000 paid to City. In May 2006, Cadbury-Schweppes (parent company of Snapple) purchased the 7up distributorship, and in June 2007, the City terminated its contract with Snapple. Staff will return to Council at a later date to address the funding shortfall created by the termination of this agreement of which approximately \$100,000 was allocated to the Parks and Recreation Enterprise Fund.

On September 11, 2007, Your Honorable Body approved a Request for Proposal (RFP) to select a vendor to provide cold beverage vending machine services. The Council item from September 11, 2007 is attached with this item and includes the original RFP. In response to the Request for Proposal for beverage vending services, the City received three proposals from the following companies:

- Coca-Cola Bottling Company of Southern California
- Pepsi Bottling Group
- Tri-Star Vending

A review committee comprised of City staff (Ken Flewellyn from the Finance Department, John Jones and Andrew Orpe from the Community Services Department, Jasun Botiller from the General Services Department and Aram Chaparyan from the City Manager's Office) met with all three companies to review the proposals.

The following criteria were used to rank the proposals:

- Product pricing
- Level of commission
- Monthly guaranteed revenues
- Availability of vending miser technology
- Discounts/promotions
- Donation of product
- Customer Service response level
- Willingness to place vending machines at low volume locations

The review committee also provided each of the three companies with an opportunity to modify their proposals prior to submitting a recommendation for Council approval. Based on the responses received, the table below was created to provide a comparison of the three proposals.

	Coca-Cola	Pepsi	Tri-Star Vending
Product pricing	\$1.50 (20 oz.)	\$1.50 (20 oz.)	\$1.25 (20 oz. & \$.75 (12 oz.)
Type of product	Carbonated soft drink	Carbonated soft drink	Carbonated soft drink
Commission level	35%	35%	15%
Monthly Guaranteed Revenue	\$0	\$0	\$0
Vending Miser	No	No	No
Discount/Promotions	Fourth of July Parade, Turkey Trot	Sobe tasting truck	\$1000 per year
Donation	250 cases of soft drink or fruit drink 250 cases of water	25 cases of soft drink 25 cases of water	25 cases of soft drink 10 cases of fruit drinks 20 cases of water
Rebate Program	Rebate Program – Max \$7,545 per year if 7,545 cases are sold	Rebate Program – Max \$3,000 per year if 8,112 cases are sold	None

Upon review of all three proposals and further reference checks, Staff recommends the selection of Coca-Cola Bottling Group of Southern California to provide cold beverage vending services at City facilities. The term of the agreement is for three years with options to extend the agreement for two additional one-year terms.

Staff is unable to project actual anticipated revenue due to lack of sales information from the prior vending services agreement. Once the current agreement is approved and machines are installed; the vendor will be required to provide monthly sales data which will help project the funding shortfalls created by the cancellation of the Snapple agreement. Staff will return to Council with an update and possible funding options to address the budget shortfall in the Community Services Department.

Respectfully submitted,

LeROY J. JACKSON
CITY MANAGER

By 
Aram Chaparyan
Assistant to the City Manager

CONCUR:


LeRoy J. Jackson
City Manager

Attachments: (All attachments are Limited Distribution)

- A) Contract Services Agreement
- B) Council Item 12B from September 11, 2007
- C) RFP from Coca-Cola Bottling Company of Southern California
- D) RFP from Pepsi Bottling Group Proposal
- E) RFP from Tri-Star Vending Proposal

Coca Cola Vending Machine Locations

 **DRAFT**

Benstead Plunge

City Cable Office

City Hall - East Annex Employee Lounge

City Hall - West Annex

City Maintenance - Public Works Employee Lounge

City Maintenance - Transit Employee Lounge

Columbia Park - East End

Columbia Park - North End

Cultural Arts Center

GAC/Torrance Airport Terminal

Human Resource - Outside of Building

Katy Geissert Main Library - Employee Lounge

Ken Miller Recreation Center

Police Department Headquarters

Sea Aire Golf Course

Wilson Park - East End

Wilson Park - Hockey Rink

Wilson Park - Softball Fields

G&G VENDING
PHONE 310.530.5751

P.O. BOX 101
LOMITA CA. 90717

Airport

Wilson Park

Employee Lounge

West Annex

Human Resource

Main Library

Plunge

Cultural Arts Center

Police Department

Cable

City Yard

Columbia Park

Sea Aire

Coca-Cola Commission Revenue Report

ACCT DATE	RECEIPT#	DESC	REFERENCE	PAYER	AMOUNT
4/22/2008	001-00165012	VENDING MACHINE - COMM		COCA COLA BOTTLING COMPANY	292.21
5/28/2008	001-00166185	VENDING MACHINE - COMM		COCA COLA BOTTLING COMPANY	1,182.38
6/18/2008	003-00154388	VENDING MACHINE - COMM		COCA COLA BOTTLING CO	2,242.53
TOTAL-FY 2007-08					3,717.12
7/16/2008	002-00158420	VENDING MACHINE - COMM		COCA COLA BOTTLING CO	1,757.00
8/19/2008	001-00172823	VENDING MACHINE - COMM		COCA COLA BOTTLING COMPANY	2,639.50
9/15/2008	003-00160098	VENDING MACHINE - COMM		COCA COLA BOTTLING COMPANY	1,864.48
10/16/2008	002-00167544	VENDING MACHINE - COMM		COCA COLA BOTTLING COMPANY	1,556.43
11/17/2008	002-00168424	VENDING MACHINE - COMM		COCA COLA BOTTLING CO	1,446.82
12/17/2008	001-00181923	VENDING MACHINE - COMM		COCA COLA BOTTLING COMPANY	1,426.11
1/21/2009	003-00168619	VENDING MACHINE - COMM		COCA COLA BOTTLING CO	1,557.57
2/18/2009	002-00176771	VENDING MACHINE - COMM		COCA COLA BOTTLING CO	2,014.22
3/17/2009	001-00187729	VENDING MACHINE - COMM		COCA COLA BOTTLING COMPANY	953.13
4/14/2009	003-00174550	VENDING MACHINE - COMM		COCA COLA BOTTLING CO	1,822.52
5/18/2009	003-00175671	VENDING MACHINE - COMM		COCA COLA BOTTLING CO	1,887.73
6/22/2009	002-00185998	VENDING MACHINE - COMM		COCA COLA BOTTLING CO	1,751.52
TOTAL 2008-09					20,677.03
7/20/2009	001-00200521	VENDING MACHINE - COMM		COCA COLA BOTTLING COMPANY	1,959.18
8/18/2009	003-00183583	VENDING MACHINE - COMM		COCA-COLA BOTTLING CO	2,532.49
9/15/2009	002-00191970	VENDING MACHINE - COMM		COCA COLA BOTTLING CO	1,417.59
10/19/2009	001-00205677	VENDING MACHINE - COMM		COCA COLA BOTTLING COMPANY	1,740.91
11/19/2009	001-00208306	VENDING MACHINE - COMM		COCA COLA BOTTLING COMPANY	2,340.13
12/16/2009	002-00196481	VENDING MACHINE - COMM		COCA COLA BOTTLING CO	1,125.19
1/26/2010	003-00195283	VENDING MACHINE - CC Coca Cola Bev Vending Mach period ending 01/07/10		COCA COLA BOTTLING CO	1,111.96
2/19/2010	003-00196334	VENDING MACHINE - CC COCA COLA VENDING MACHINE COMM ENDING 02/04/10		COCA COLA BOTTLING CO	1,489.87
3/25/2010	001-00220659	VENDING MACHINE - CC VENDING MACH COMM PERIOD ENDING 03/08/10		COCA COLA BOTTLING COMPANY	1,301.47
4/27/2010	003-00200821	VENDING MACHINE - CC COCA COLA VENDING MACHINES PERIOD ENDING 04/08/10		COCA COLA BOTTLING CO	1,787.62
5/19/2010	003-00201867	VENDING MACHINE - CC COCA COLA VENDING MACHINES PERIOD ENDING 05/06/10		COCA COLA BOTTLING COMPANY	2,113.85
6/22/2010	001-00227744	VENDING MACHINE - CC PERIOD ENDING 06/04/10		COCA COLA BOTTLING COMPANY	1,810.43
TOTAL 2009-10					20,730.69
7/20/2010	002-00213228	VENDING MACHINE - CC COCA-COLA VENDING MACH COMM P/E 7/9/10		COCA COLA BOTTLING COMPANY	1,800.46
8/17/2010	002-00214870	VENDING MACHINE - CC COCA COLA VENDING MACH COMMISSION P/E 8/6/10		COCA COLA BOTTLING COMPANY	2,305.34
9/21/2010	001-00232970	VENDING MACHINE - CC VENDING MACHINES PERIOD ENDING 09/03/10		COCA COLA BOTTLING COMPANY	2,137.17
10/20/2010	001-00234410	VENDING MACHINE - CC PERIOD ENDING 10/08/10		COCA COLA	1,636.32
TOTAL JULY 2010-10/20/2010					7,879.29
GRAND TOTAL-FY2007-OCTOBER 20, 2010					53,004.13

OFFICE OF THE
CITY MANAGER

**VENDING SERVICES AGREEMENT FOR COLD BEVERAGE MACHINES
(VENDING CONTRACT)**

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This VENDING SERVICES AGREEMENT ("Agreement") is made and entered into as of January 1, 2008 (the "Effective Date"), by and between the CITY OF TORRANCE, a California municipal corporation ("CITY"), and BCI Coca-Cola Company of Los Angeles, a Delaware corporation d/b/a Coca-Cola Bottling Company of Southern California ("VENDOR").

RECITALS:

- A. CITY wishes to obtain the services of VENDOR to supply, install and service beverage vending machines for the City of Torrance, California on CITY property.
- B. In order to obtain the desired materials and services, the CITY has circulated its Request for Proposal for Cold Beverage Vending Machine Services (RFP No. B2007-38) (the "RFP").
- C. VENDOR has submitted a Proposal (the "Proposal") in response to the RFP. VENDOR represents that it is in the business of providing cold beverage vending machines and it is qualified to perform services set forth in this Agreement. Based upon its review of the proposals submitted in response to the RFP, the CITY is willing to award the contract to VENDOR.

C2008-011

AGREEMENT:

1. SERVICES TO BE PERFORMED BY VENDOR

This program covers the municipal buildings, parks, recreation areas and other buildings and properties that are owned, managed or operated by CITY set forth in the RFP (the "Locations"). Within a mutually agreeable time after the Effective Date of this Agreement but no later than March 1, 2008, VENDOR will install VENDOR-owned cold beverage vending machines (the "Equipment") at the Locations in the minimum numbers listed in the RFP. During the term of this Agreement, Vendor will provide those services set forth in VENDOR's Proposal submitted in response to the RFP. A copy of the RFP is attached as Exhibit A. A copy of the Proposal is attached as Exhibit B.

2. TERM

Unless earlier terminated in accordance with Paragraph 6 below, this Agreement will continue in full force and effect for a period of three years from the Effective Date of the Agreement (the "Initial Term"). This Agreement may be renewed by mutual agreement of CITY and VENDOR on an annual basis at the end of the Initial Term for up to two additional one-year terms. Each twelve-month period beginning with the Effective Date shall be referred to in this Agreement as an "Agreement Year".

COPY

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3. PERFORMANCE CRITERIA

In consideration for the commissions and rebates provided for in this Agreement, CITY is required to adhere to the following performance criteria and terms and conditions:

- A. CITY will authorize VENDOR to place the Equipment at the Locations.
- (i) Equipment placed at the Locations by VENDOR will be operated on a full-service basis and will be serviced and stocked exclusively by VENDOR.
 - (ii) All such Equipment will remain the property of VENDOR. All such Equipment shall exclusively dispense the VENDOR's products (the "Products"). The Equipment shall be the only beverage vending equipment at the Locations.
 - (ii) The Equipment will be placed in the areas mutually agreed upon between CITY and VENDOR, provided that such placement shall be in prominent, high traffic areas at the Locations.
- B. The Products will be the only bottle/can beverages sold or made available at the Locations. Only VENDOR will be permitted to place beverage vending machines at the Locations.

4. VENDING FEES

In consideration of CITY's adherence to the Performance Criteria set forth in Paragraph 3, VENDOR shall pay CITY the following commissions based on actual cash receipts collected by VENDOR from the Equipment (excluding taxes, refunds and state-mandated container deposits and associated handling fees):

<u>Package</u>	<u>Commission</u>	<u>Vend Price</u>
20 oz. bottles – carbonated	35%	\$1.50
20 oz. bottles – Dasani	35%	\$1.50
20 oz. bottles – PowerAde	35%	\$1.50
16 oz. cans – Energy	35%	\$2.50*

Commissions earned by CITY shall be paid to CITY by VENDOR on a monthly basis in arrears on or about the 20th of each month following the month in which they are earned. CITY agrees that all commissions earned under this Agreement will be calculated based on VENDOR's full-service records. Commissions will be paid only for those Locations that have fully complied with the performance criteria set forth above, and only with respect to those machines filled and serviced by VENDOR.

* to be increased to \$2.75 for the second and third Agreement Years.

5. **REBATE**

In consideration of the rights and benefits granted to VENDOR hereunder, VENDOR agrees to pay CITY an annual rebate of One and No/100 Dollars (\$1.00) for each standard physical case (each, a "Case") of Products purchased by CITY from VENDOR for sale at the Locations (excluding Cases purchased through the Equipment) (the "Annual Rebate"). The Annual Rebate shall be payable only if such Case purchases exceed 7,545 Cases purchased and paid for during the prior Agreement Year. The Annual Rebate, if earned by CITY, shall be payable back to the first Case purchased by CITY during the applicable Agreement Year. The Annual Rebate, if earned, shall be paid annually in arrears within thirty (30) days of the end of each Agreement Year in which it is earned, and will be based on VENDOR's case sales records.

6. **TERMINATION OF AGREEMENT**

A. Termination for Cause.

1. If either party fails to perform any term, covenant or condition in this Agreement and that failure continues for 15 calendar days after the nondefaulting party gives the defaulting party written notice of the failure to perform, this Agreement may be terminated for cause; provided, however, that if during the notice period the defaulting party has promptly commenced and continues diligent efforts to remedy the default, the defaulting party will have such additional time as is reasonably necessary to remedy the default.
2. Termination for cause by CITY will not affect or terminate any of the rights of the CITY as against the VENDOR then existing, or which may thereafter accrue because of the default; this provision is in addition to all other rights and remedies available to the CITY under law.

B. Termination for Breach of Law.

In the event the VENDOR or any of its officers, directors, employees, agents, subsidiaries or affiliates is convicted (i) of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of a contract or subcontract; (ii) under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a public vendor or contractor; (iii) under state or federal antitrust statutes arising out of the submission of bids or proposals; or (iv) of violation of Paragraph 20 of this Agreement; or for any other cause the CITY determines to be so serious and compelling as to affect VENDOR's responsibility as a public vendor or contractor, including but not limited to, debarment by another governmental agency, then the CITY reserves the unilateral right to terminate this Agreement or to impose such other sanctions (which may include temporary

suspensions or any other condition deemed appropriate short of termination, but excluding the payment of any money by VENDOR) as it deems proper. The CITY will not take action until VENDOR has been given notice and an opportunity to present evidence in mitigation.

7. **FORCE MAJEURE**

If any party fails to perform its obligations because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental control, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond the reasonable control of the party obligated to perform, then that party's performance shall be excused for a period equal to the period of such cause for failure to perform.

8. **CITY REPRESENTATIVE**

Aram Chaparyan, Assistant to the City Manager is designated as the "City Representative," authorized to act in its behalf with respect to the work and services specified in this Agreement and to make all decisions in connection with this Agreement. Whenever approval, directions, or other actions are required by CITY under this Agreement, those actions will be taken by the City Representative, unless otherwise stated. The CITY has the right to designate another City Representative at any time, by providing notice to VENDOR.

9. **VENDOR REPRESENTATIVE(S)**

The following employees of VENDOR are designated as being the representatives of VENDOR authorized to act in its behalf with respect to the work specified in this Agreement and make all decisions in connection with this Agreement:

David Carey- Sales Center Manager
Charlene Beach – District Sales Manager

10. **INDEPENDENT CONTRACTOR**

The VENDOR is, and at all times will remain as to CITY, a wholly independent contractor. Neither CITY nor any of its agents will have control over the conduct of the VENDOR or any of the VENDOR's employees, except as otherwise set forth in this Agreement. The VENDOR may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

11. **BUSINESS LICENSE**

The VENDOR must obtain a City business license prior to the start of work under this Agreement, unless VENDOR is qualified for an exemption.

12. OTHER LICENSES AND PERMITS

VENDOR warrants that it has all professional, contracting and other permits and licenses required to undertake the work contemplated by this Agreement.

13. FAMILIARITY WITH WORK

By executing this Agreement, VENDOR warrants that VENDOR (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the services should be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, VENDOR warrants that VENDOR has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services set forth in this Agreement. Should VENDOR discover any latent or unknown conditions that will materially affect the performance of the services set forth in this Agreement, VENDOR must immediately inform CITY of that fact and may not proceed except at VENDOR's risk until written instructions are received from CITY.

14. CARE OF WORK

VENDOR must adopt reasonable methods during the term of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and other components to prevent losses or damages, and will be responsible for all damages, to persons or property, until acceptance of the work by CITY, except those losses or damages as may be caused by CITY's own negligence.

15. VENDOR'S ACCOUNTING RECORDS

Records of the VENDOR's accounts between CITY and VENDOR, will be kept on a generally recognized accounting basis. VENDOR will also maintain all other records, including maintenance records relating to the Agreement between CITY and VENDOR. All records will be available to the CITY during normal working hours. VENDOR will maintain these records for three years after final payment to CITY.

16. INDEMNIFICATION

VENDOR will indemnify, defend, and hold harmless CITY, the City Council, each member thereof, present and future, its officers, agents and employees from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, including, but not limited to, bodily injury, death, personal injury, property damage, loss of use, or property loss arising from breach of this Agreement by VENDOR or the negligent acts or omissions, or willful misconduct of VENDOR, its officers, employees, agents, subcontractors or vendors. VENDOR shall not be obligated to indemnify CITY for the following:

- (i) claims settled without the prior written consent of VENDOR;
- (ii) claims covered by sovereign immunity;
- (iii) acts of intentional misconduct by CITY.

17. **NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES**

No officer or employee of CITY will be personally liable to VENDOR, in the event of any default or breach by the CITY or for any amount that may become due to VENDOR.

18. **INSURANCE**

A. VENDOR must maintain at its sole expense the following insurance, which will be full coverage not subject to self insurance provisions:

1. Automobile Liability, including owned, non-owned and hired vehicles, with at least the following limits of liability:
 - a. Primary Bodily Injury with limits of at least \$500,000 per person, \$1,000,000 per occurrence; and
 - b. Primary Property Damage of at least \$250,000 per occurrence; or
 - c. Combined single limits of \$1,000,000 per occurrence.
2. General Liability including coverage for premises, products and completed operations, independent contractors/vendors, personal injury and contractual obligations with combined single limits of coverage of at least \$1,000,000 per occurrence.
3. Professional liability insurance with limits of at least \$1,000,000 per occurrence.
4. Workers' Compensation with limits as required by the State of California and Employers Liability with limits of at least \$1,000,000.

B. The insurance provided by VENDOR will be primary and non-contributory.

C. CITY, the City Council and each member thereof, members of boards and commissions, every officer, agent, official, employee and volunteer must be named as additional insured under the automobile and general liability policies.

D. VENDOR must provide certificates of insurance and/or endorsements to the City Clerk of the City of Torrance before the commencement of work.

E. Each insurance policy required by this Paragraph must contain a provision that no termination, cancellation or change of coverage can be made without thirty days notice to CITY.

19. **SUFFICIENCY OF INSURERS AND SURETIES**

Insurance or bonds required by this Agreement will be satisfactory only if issued by companies admitted to do business in California, rated “B+” or better in the most recent edition of Best’s Key Rating Guide, and only if they are of a financial category Class VII or better, unless these requirements are waived by the Risk Manager of CITY (“Risk Manager”) due to unique circumstances. In the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to CITY, the VENDOR agrees that the minimum limits of any insurance policies or performance bonds required by this Agreement may be changed accordingly upon receipt of written notice from the Risk Manager; provided that VENDOR will have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of CITY within 10 days of receipt of notice from the Risk Manager.

20. CONFLICT OF INTEREST

- A. No officer or employee of the CITY may have any financial interest, direct or indirect, in this Agreement, nor may any officer or employee of CITY participate in any decision relating to the Agreement that effects the officer or employee’s financial interest or the financial interest of any corporation, partnership or association in which the officer or employee is, directly or indirectly interested, in violation of any law, rule or regulation.
- B. No person may offer, give, or agree to give any officer or employee or former officer or employee of CITY, nor may any officer or employee of CITY solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any way pertaining to any program requirement, contract or subcontract, or to any solicitation or proposal.
- C. VENDOR warrants that it is paying no fees, commissions, or remuneration of any type to CITY or any officers or employees of CITY for the privileges granted pursuant to this Agreement other than those commission and rebates specified in Sections 4 and 5 of this Agreement and the donation of free products to CITY described in the RFP.

21. NOTICE

- A. All notices, requests, demands, or other communications under this Agreement will be in writing. Notice will be sufficiently given for all purposes as follows:
 - 1. Personal delivery. When personally delivered to the recipient: notice is effective on delivery.

22. **PROHIBITION AGAINST ASSIGNMENT AND SUBCONTRACTING**

This Agreement and all exhibits are binding on the heirs, successors, and assigns of the parties. The Agreement may not be assigned or subcontracted by either CITY or VENDOR without the prior written consent of the other.

23. **INTEGRATION; AMENDMENT**

This Agreement represents the entire understanding of CITY and VENDOR as to those matters contained in it. No prior oral or written understanding will be of any force or effect with respect to the terms of this Agreement. The Agreement may not be modified or altered except in writing signed by both parties.

24. **INTERPRETATION**

The terms of this Agreement should be construed in accordance with the meaning of the language used and should not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply. To the extent that the terms of the RFP or the Proposal are inconsistent with the terms of this Agreement, the terms of this Agreement shall control.

25. **SEVERABILITY**

If any part of this Agreement is found to be in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in conflict with any applicable laws, but the remainder of the Agreement will remain in full force and effect.

26. **TIME OF ESSENCE**

Time is of the essence in the performance of this Agreement.

27. **GOVERNING LAW; JURISDICTION**

This Agreement will be administered and interpreted under the laws of the State of California. Jurisdiction of any litigation arising from the Agreement will be in Los Angeles County, California.

28. **COMPLIANCE WITH STATUTES AND REGULATIONS**

VENDOR will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.

29. **WAIVER OF BREACH**

No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default will impair the right or remedy or be construed as a waiver. A party's consent or approval of any act by the other party requiring the party's consent or approval will not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and will not be a waiver of any other default concerning the same or any other provision of this Agreement.

30. ATTORNEY'S FEES

Except as provided for in Paragraph 16, in any dispute, litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party will be awarded reasonable attorney's fees, together with any costs and expenses, to resolve the dispute and to enforce any judgment.

31. EXHIBITS

All exhibits identified in this Agreement are incorporated into the Agreement by this reference.

32. VENDOR'S AUTHORITY TO EXECUTE

The person(s) executing this Agreement on behalf of the VENDOR warrant that (i) the VENDOR is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the VENDOR; (iii) by so executing this Agreement, the VENDOR is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the VENDOR is bound.

[Signature Page Following]

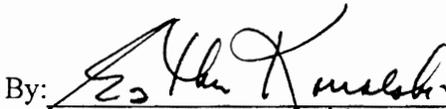
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

CITY OF TORRANCE
a Municipal Corporation



Frank Scotto, Mayor

COCA-COLA BOTTLING COMPANY OF
SOUTHERN CALIFORNIA

By: 
Signer ESTHER KOWALSKI
Title FINANCE MANAGER

ATTEST:



Sue Herbers
City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III

City Attorney

By: 

Attachments: Exhibit A RFP
 Exhibit B Proposal

EXHIBIT A

RFP

CITY OF TORRANCE
3031 Torrance Blvd.
Torrance, CA 90503

RFP No. B2007-38

Request for Proposal (RFP)

For Cold Beverage Vending Machine Services

RFP SUBMITTAL INFORMATION

PLACE: CITY OF TORRANCE
Office of the City Clerk
3031 Torrance Blvd.
Torrance, CA 90503

DEADLINE: 2:00 P.M.

DATE: October 25, 2007

BID DEADLINE
2:00 P.M.

IN CITY CLERK'S OFFICE
ON BID OPENING DAY

The **ORIGINAL, PLUS TWO (2) COPIES** of the Proposer's Response (Section III of this document) must be submitted in a sealed envelope and marked with the RFP number and title

RFP RESPONSES MAY BE MAILED OR HAND DELIVERED. NO FAXED RFPSS WILL BE ACCEPTED. LATE RFPs WILL NOT BE ACCEPTED.

All responses must include the following components:

- Proposer's Response (Section III of this document). You must submit your response on the forms provided. (If additional space is required, please attach additional pages.)
- Proposer's Affidavit (Attachment 1)
- **Upon award of contract, proof of Insurance, as indicated in the terms and conditions of this RFP document, must be submitted to the City Clerk.**

Any questions regarding this Request for Proposal should be directed to:

Aram Chaparyan
Assistant to the City Manager
310-618-5880

CITY OF TORRANCE
3031 Torrance Blvd.
Torrance, CA 90503

RFP No. B2007-38

Request for Proposal (RFP)

For Cold Beverage Vending Machine Services

SECTION I RFP INSTRUCTIONS AND INFORMATION

Notice is hereby given that sealed proposals will be received in the office of the City Clerk, City Hall, 3031 Torrance Boulevard, Torrance, CA, until 2:00 p.m. on Thursday, October 25, 2007.

An original and two copies of each proposal must be submitted in a sealed envelope and clearly marked: RFP No. B2007-38 for Cold Beverage Vending Machine Services.

Definitions:

The following meanings are attached to the following defined words when used in these specifications and the purchase agreement. The word "City" means the City of Torrance, California. The word "Proposer" or "Vendor" or "Contractor" means the person, firm, or corporation submitting a proposal on these specifications or any part thereof.

The following meanings are attached to the following defined words when used in these specifications and purchase agreement. The word "purchase agreement", "contract", "purchase order", "blanket purchase order" means the contractual agreement between the vendor and the City of Torrance for the purchase of goods and/or services.

RFP Form:

The RFP response must be made on the form provided for that purpose, enclosed in a sealed envelope, and marked RFP No. B2007-38 for Cold Beverage Vending Machine Services "and addressed to the City Clerk, City of Torrance, 3031 Torrance CA. 90503.

If the proposal is made by an individual, it must be signed by that individual, and an address, telephone (and fax number if available) must be given. If made by a business entity, it must be signed by the person(s) authorized to execute agreements and bind the entity to contracts. A full business address, telephone (and fax number if available) must be given. No telegraphic, fax or telephonic proposal will be considered.

Blank spaces in the proposal form must be filled in, using ink, indelible pencil, or typewriter and the text of the RFP form must not be changed. No additions to the form may be made. Any unauthorized conditions, limitations, or provisos attached to a RFP will render it informal and may cause its rejection. Alterations by erasure or interlineations must be explained or noted in the RFP form over the signature of the Proposer.

Reservation:

The City reserves the right to revise or amend these specifications prior to the date set for opening RFPs. Revisions and amendments, if any, will be announced by an addendum to this RFP. If the revisions require additional time to enable Proposers to respond, the City may postpone the opening date accordingly. In such case, the addendum will include an announcement of the new opening date.

All addenda must be attached to the proposal. Failure to attach any addendum may render the proposal non-responsive and cause it to be rejected.

The City Council reserves the right to reject any and all proposals received, to take all proposals under advisement for a period not to exceed ninety (90) days after the date of the opening, to waive any informality on any proposal, and to be the sole judge of the relative merits of the material and or service mentioned in the respective proposals received. The City reserves the right to reject any proposal not accompanied with all data or information required.

This Request for Proposal (RFP) does not commit the City to award a contract or to pay any cost incurred in the preparation of a proposal. All responses to this RFP document become the property of the City of Torrance.

Affidavit:

An affidavit form is enclosed. It must be completed signifying that the proposal is genuine and not collusive or made in the interest or on behalf of any person not named in the proposal, that the Proposer has not directly or indirectly induced or solicited any other Proposer to put in a sham proposal or any other person, firm, or corporation to refrain from proposing, and that the Proposer has not in any manner sought by collusion to secure for itself an advantage over any other Proposer. Any proposal submitted without an affidavit or in violation of this requirement will be rejected.

Standards for Evaluation of Proposals:

Proposals will be rated according to their completeness and understanding of the City's needs, conformance to the requirements of the technical specifications, prior experience with comparable proposals, delivery, and cost.

The ability, capability, experience, performance record, facilities, skill of the Proposer to perform the contract in accordance with these specifications and previous and existing compliance by the Proposer with laws and ordinances relating to the contract will all be considered in the award of contract.

Errors and Omissions:

The Proposer will not be allowed to take advantage of any errors and/or omissions in these specifications or in the Proposer's specifications submitted with its proposal. Full instruction will always be given when errors or omissions are discovered.

Permits and Licenses:

The Proposer must procure all permits and licenses, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work.

Proposer's Examination of Requirements:

The Proposer is required to examine carefully, the entire RFP, any addenda thereto, and all related materials and data referenced herein. Proposer will be presumed to be familiar with all specifications and requirements of this RFP. The failure or omission to examine any form, or document will in no way relieve the Proposer from any obligation with respect to this proposal.

The Contract:

The Proposer to whom the award is made will be required to enter into a written contract with the City of Torrance in the form attached (Attachment A). A copy of this notice inviting proposals, and the Proposer's accepted proposal will be attached to and become a part of the contract. All services supplied by the Vendor will conform to the applicable requirements of the City Charter, City Ordinances, and State or Federal Law covering Labor and Wages, as well as conforming to the specifications contained herein. In case of default by the Proposer, the City reserves the right to procure the articles or services from other sources and to hold the Proposer responsible for any excess cost incurred by the City hereby.

CITY OF TORRANCE
3031 Torrance Blvd.
Torrance, CA 90503

RFP No. B2007-38

Request for Proposal (RFP)
For Cold Beverage Vending Machine Services

SECTION II GENERAL INFORMATION AND SCOPE OF WORK

A. INTRODUCTION:

The Contractor is responsible for the cold beverage vending operations for all locations listed in this RFP. Additional locations may be approved by the City after receiving a written request from the Contractor.

Contractor must maintain, and operate cold beverage vending machines, including performance of all required duties, including but not limited to, supplying, installing and maintaining beverage vending machines and related equipment, supplying brand name products, filling machines with brand name products, collecting funds from machines and remitting commissions and/or other payments to the City.

The City of Torrance is requesting minimum guaranteed cash revenue per month, plus a percentage of the monthly gross sales receipts.

The City of Torrance is also interested in creating promotional/advertising opportunities for the Contractor at City sponsored events. Please indicate in the proposal section, what promotional/advertising campaigns you would like to participate in such as advertising at City parks, hanging banners at City sponsored events, advertising on the side of City buses etc.

The Contractor must immediately remove all vending machines at the expiration, termination, or cancellation of the Contract.

B. GENERAL REQUIREMENTS:

1. Term

The initial term of the contract will be for three (3) years upon award and by mutual agreement may be renewed on an annual basis for up to two (2) additional one-year periods.

Commission pricing shall be fixed for the term of the contract and should be included as part of your proposal.

This is a revenue agreement. Contractor agrees to provide the City a guaranteed revenue and percentage of sales commission rebates set forth in the Contract as

consideration for the use of City premises for placement of Contractor's vending equipment.

At the expiration of contract, the Contractor must remove all machines from City property. Removal must be done within 2 weeks (14 calendar days) of the terms expiration date.

2. New/Refurbished Vending Machines/Equipment

All equipment must be clean and new or refurbished when installed. Refurbished equipment must be in like new condition and be not more than three (3) years old. Vending machines must have non-resettable cash accounting meters and bill validators. All equipment must be UL rated and equipped with contractor-furnished "Vending Miser" units. Contractor must advise City in writing of any changes to equipment. All changes in equipment must have prior written approval by the City.

Include a color photo or brochure and specifications for all equipment to be supplied hereunder. The documentation provided must include the estimated annual energy consumption of each piece of equipment and whether or not the equipment meets the Energy Star Vending Machine program specification for energy efficiency.

3. Facility Readiness

Any utility or structural upgrades to the facility required to place certain machines must be approved by the City in advance and funded by the contractor.

All equipment and utility or structural upgrades must comply with all local, state, and federal requirements. Contractor must obtain all applicable permits prior to executing any utility or structural upgrade work.

Any permanent upgrades to the facilities by the Contractor will remain at the location and become the property of the City without any further compensation to the Contractor by the City. Permanent upgrades include, but are not limited to utility upgrades, countertops or any other device or structure attached to the facility. Contractor will have accessibility to buildings during normal working hours.

4. Utility Charges

Contractor will be solely responsible for all utilities required, used or consumed on premises including but not limited to water and sewer service with the exception of electricity. The Contractor must coordinate with the City Manager's Office prior to installation of machines to ensure every unit, whether Energy Star labeled or not, is equipped with the "Vending Miser".

The City is not liable for any interruptions or curtailment in utility services due to causes beyond its control.

5. Additional Equipment

The City may recommend the installation of additional machines at various locations. The Contractor will have the opportunity to evaluate the request and determine the

feasibility of adding a new location. Certain locations placed outside of buildings may require metal cages to protect the vending machines.

6. Care of Equipment

All vending machines, dollar change machines and metal cages should be kept clean and free of graffiti. The Contractor is responsible for the removal of graffiti from the vending machines, dollar change machines and metal cages within 24 hours of notification.

7. Equipment Removal

The Contractor must not remove equipment from any location without the City's written consent. (Exception: Machines may be exchanged for like machines without receiving prior consent, however, the machine must be clean and new or refurbished when installed. Refurbished equipment must be in like new condition and be not more than three (3) years old. Contractor must advise the City in writing immediately following a change of equipment.)

8. Advertising

All language and slogans must be in good taste and compliment the professional image of the City and should promote good public relations. Any changes to advertising on the machines must be approved by the City.

9. Compliance with Laws/Permits/Licenses

The Contractor is responsible for obtaining all licenses, permits and governmental permissions. Contractor must comply with all current Federal, State and Local laws, statutes and guidelines including, but not limited to, California Uniform Retail Food Facilities Law, Article 10.

10. Product Pricing

Charges in the vending price must conform, to the initial proposal. The City requires thirty (30) days' prior notification in writing justifying price increases for items dispensed in vending machines. No change in the vend price or products may be made without the written consent of the City.

11. Commissions

Commission payments shall be based on gross receipts. The term "gross receipts" is defined to mean receipts from all sales made from vending devices on City property by the Contractor.

Gross Receipts do not include sales of merchandise for which cash has been refunded.

The Commission must be without deduction of gross receipts or tax imposed by any federal, state, municipal or governmental authority directly on sales and collected from customers. No franchise or capital stock tax and no income or similar tax based upon income or profits as such may be deducted from gross receipts.

12. Reports and Payments

Please submit a sample copy of the monthly sales/commission report. Include your procedure for verifying sales at individual locations. The report must include sales data for each vending machine.

The Contractor's office will generate this report monthly. The Contractor is responsible for gathering information for all commission reports.

This report must be submitted with all payments to assure proper crediting of all commissions. The City must receive the payment and report by the 10th of each month for the preceding month.

Payments and required reports must be submitted and received on time. A late fee of 2% of that month's payment will be assessed for every seven (7) calendar days past the due date that the City has not received payment and the required reports.

All commission checks are to be made payable to the City of Torrance and forwarded with 3 copies of the gross receipt and commission reports. Checks must be received by the 10th of each month for the preceding month. Payments are to be submitted to:

City of Torrance
 City Treasurer's Office
 3031 Torrance Blvd.
 Torrance, CA 90503

13. Service calls

The Contractor must respond to all service calls within the times indicated:

- If called by the location by 12:00 noon, there must be same day service.
- If called by the location after 12:00 noon, there must be response by 12:00 noon of the following day.

The Contractor is responsible for notifying Contractor's service department if any vending machine, including dollar changer needs repair or cleaning. This service is in addition to regularly scheduled maintenance.

14. Tax Obligations

The Contractor is responsible for any tax obligations.

15. Refunds

Should the equipment malfunction, the Contractor is responsible for the reimbursement of lost funds to vending machine customers. Contractor must refund to any person claiming to have lost money due to machine's malfunction.

Please submit your procedure or method of handling refunds to customers.

16. Product Availability

The Contractor shall be responsible for servicing the vending machines regularly to ensure ample stock of products is maintained in each machine seven (7) days a week. Machines located within locked facilities may be stocked on the next open day.

Machines must be kept continuously stocked with fresh, quality, and brand name merchandise.

17. Service Number

Contractor shall provide and pay for a toll-free telephone number at Contractor's place of business for use by City personnel to telephone from any location where vending machines are located to request maintenance service by Contractor. This toll-free number shall be provided within thirty (30) days of effective date of the resulting Contract. The toll-free number and contact information must be clearly posted on all vending machines.

18. Implementation

The City's current temporary provider of cold beverage vending machine services will end upon the City providing two (2) weeks notice. The transition to the new program must allow for uninterrupted vending machine service.

Describe your plan for start-up and implementation of the program at the City.

19. Customer Satisfaction

Customer satisfaction is an important part of this program. Contractor should monitor and report on the over-all program.

Describe your program for monitoring and evaluating your services. Provide sample evaluation questionnaire forms.

20. Single Point of Contact

The Contractor must designate a representative to act as the single point of contact for the City of Torrance. All complaints, demands, and notices of any kind, from the City will be directed to that individual.

If Contractor wishes to change its designated representative, the Contractor must notify the City in writing. Said person will meet and confer with the City Manager's designee, upon request, to discuss any and all complaints, demands or notices of any kind.

21. Review Meetings

The Contractor must attend quarterly scheduled meetings with City representatives. The purpose of the meetings is to identify/resolve problems, make minor changes, etc. Either party may request a meeting at anytime.

22. Correspondence

All correspondence to the City must be addressed and mailed as follows:

City of Torrance
City Manager's Office
Attn: Beverage Vending Service
3031 Torrance Blvd.
Torrance, CA 90503

23. Right to Audit

The Contractor must maintain financial records and other records as may be prescribed by the City or by applicable federal and state laws, rules, and regulations. The contractor must retain these records for a period of three years after final payment, or until the City conducts an audit. These records must be made available for examination transcription, and audit by the City, or its designee, during the term of the contract and the subsequent three-year period. Such audits will be conducted during normal business hours.

The Contractor must supply any records associated with this account upon written request of the City within five (5) business days of that request.

24. Malfunction Report

The Contractor must furnish a malfunction incident report to the City Manager's Designee upon completion of each maintenance call. The report must include as a minimum, the following:

- a. Date and time notified
- b. Date and time of arrival
- c. Type of machine
- d. Description of malfunction
- e. Remedy

25. Locations

Vending Machines Located Inside of Buildings Total Inside = 21		
Location	Quantity	Address
Police Department – required location <ul style="list-style-type: none"> • Front Lobby • 2nd Floor Employee Lounge 	3	3300 Civic Center Drive
City Hall – required location <ul style="list-style-type: none"> • East Annex Employee Lounge • West Annex Elevator Foyer 	2 2	3031 Torrance Blvd.
Cultural Arts Center <ul style="list-style-type: none"> • Dance Wing Hallway 	2	3330 Civic Center Drive
General Aviation Center/Torrance Airport	2	3301 Airport Drive
City Yard Facility – required location <ul style="list-style-type: none"> • Fleet Services • Public Works • Transit 	1 4 1	20500 Madrona
City Cable Office – required location	1	3350 Civic Center
Katy Geissert Civic Center Library – required location <ul style="list-style-type: none"> • Employee Lounge 	2	3301 Torrance Blvd.
The Attic Teen Center	1	2320 Carson Street

Vending Machines Located Outside of Buildings and May Require Metal Cages Total Outdoor = 35		
Location	Quantity	Address
Ken Miller Recreation Center	2	3341 Torrance Blvd.
Personnel Building	2	3231 Torrance Blvd.
Columbia Park <ul style="list-style-type: none"> • East Side • North Side 	2 1	4045 190 th Street
De Portola Park	2	25616 Lazy Meadow Drive
Delthorne Park	1	3401 Spenser Street
El Nido Park	1	18301 Kingsdale Drive
Greenwood Park	2	1520 Greenwood Ave.
La Romeria Park	2	19501 Inglewood Ave.
Lago Seco Park	1	3920 235 th Street
Torrance Park	2	2001 Santa Fe Ave.
Victor Park	1	4727 Emerald Ave.
Wilson Park <ul style="list-style-type: none"> • Skate Park • Hockey Rink • Softball Fields • East End 	2 4 2 2	2200 Crenshaw Ave.
Wilson Park Sports Center	2	2400 Jefferson Street
Sea Aire Golf Course	2	22730 Lupine Drive
Benstead Plunge	2	3331 Torrance Blvd.

EXHIBIT B
PROPOSAL

CITY OF TORRANCE
3031 Torrance Blvd.
Torrance, CA 90503

RFP No. B2007-38

Request for Proposal (RFP)

For Cold Beverage Vending Machine Services

SECTION III PROPOSER'S RESPONSE

FAILURE TO COMPLETE ALL ITEMS IN THIS SECTION MAY INVALIDATE YOUR PROPOSAL

In accordance with your "Request for Proposal", the following proposal is submitted to the City of Torrance.

Proposal Submitted By:

Coca-Cola
Name of Company

19875 Pacific Gateway Drive
Address

Torrance, CA 90502
City/State/Zip Code

Charlene Beach, District Sales Manager
Printed Name/Title

310-965-2653 / 310-965-2636
Telephone Number/Fax Number

Form of Business Organization:

Please indicate the following (check one);

Corporation Partnership Sole Proprietorship

Other: _____

Business History:

How long have you been in business under your current name and form of business organization?

The Carson Sales Center has been in business for 16 years.

If less than three (3) years and your company was in business under a different name, what was that name?

Contact for Additional Information:

Please provide the name of the individual at your company to contact for any additional information

Charlene Beach
Name

District Sales Manger
Title

310-965-2602 / 310-965-2636
Telephone Number/Fax Number

Addenda Received:

Please indicate addenda information you have received regarding this RFP:

Addendum No. _____ Date Received: _____
Addendum No. _____ Date Received: _____
Addendum No. _____ Date Received: _____
Addendum No. _____ Date Received: _____

No Addenda received regarding this RFP.

References:

Please supply the names of companies/agencies for which you recently supplied comparable goods and services as requested in this RFP.

City of Carson 2400 E. Dominguez St. Daniel Cisneros / 310-847-3572
Name of Company/Agency Address Person to contact/Telephone No.

City of Hermosa 710 Pier Ave. Lisa Lynn / 310-318-0280
Name of Company/Agency Address Person to contact/Telephone No.

City Of Manhattan Beach 1601 N. Valley Drive Adris Al'Oboudi / 310-802-5404
Name of Company/Agency Address Person to contact/Telephone No.

Renewal Option:

We would agree to a fourth year with terms and conditions unchanged.

Yes No _____

We would agree to a fifth year with terms and conditions unchanged.

Yes No

Proposer must complete fill in the table below with a check mark to indicate that the item being proposed is exactly as specified or not. If not, the proposer must indicate any deviation from the specifications.

SERVICE SPECIFICATION COLUMN	PROPOSER'S COMMENTS COLUMN
<p>The proposal submitted is as per the RFP in its entirety.</p> <p>If no, list all deviations:</p>	<p>Yes ___ No <u>X</u></p> <p>See Attached (pg. 1)</p> <hr/> <hr/>
<p>Is the procedure/method of handling refunds to customers attached to your RFP response?</p>	<p>Yes <u>X</u> No ___</p> <p>See Attached (pg. 2)</p>
<p>Is your plan for start-up and implementation of the program attached to your RFP response?</p>	<p>Yes <u>X</u> No ___</p> <p>See Attached (pg. 3)</p>
<p>Is there a sample of your gross receipts report attached to your RFP response?</p>	<p>Yes <u>X</u> No ___</p> <p>See Attached (pg. 4)</p>
<p>Is there a sample of a sales commission report attached to your RFP response?</p>	<p>Yes <u>X</u> No ___</p> <p>See Attached (pg. 4)</p>
<p>Is your plan for monitoring and evaluating your services attached to your RFP response?</p> <p>Did you provide a sample evaluation questionnaire form?</p>	<p>Yes <u>X</u> No ___</p> <p>See Attached (pg. 6)</p> <p>Yes <u>X</u> No ___</p>
<p>Did you provide a sample of your machine malfunction report?</p>	<p>Yes <u>X</u> No ___</p> <p>See Attached (pg. 7)</p>
<p>Do you have the ability to send reports via email in spreadsheet format such as Excel?</p>	<p>Gross Receipts Report Yes <u>X</u> No ___</p> <p>Sales Commission Report? Yes <u>X</u> No ___</p> <p>Machine Malfunction Report? Yes <u>X</u> No ___</p> <p>* Reports will be in Adobe format</p>

Revenue and Price Summary.

- A. Monthly Guaranteed Revenue to be provided to the City **\$0**
- B. Percentage of Monthly Gross Sales to be provided to the City **35%**

Brand names of carbonated soft drinks	Size of Can or Bottle	Proposed Selling Price
See Attached (pg. 8)		

Brand names of real fruit drinks	Size of Can or Bottle	Proposed Selling Price
See Attached (pg. 8)		

Brand names of water	Size of Can or Bottle	Proposed Selling Price
See Attached (pg. 8)		

Discount Pricing/Promotions

The City may on occasion, purchase products by the case for City sponsored events. Please provide pricing for such purchases.

Product	Bottle/Can Size	Count per Case	Case Price Including California Redemption Value (CRV)
Carbonated Soft Drinks	20oz/12oz	24	\$ 18.20 / 9.70
Real Fruit Drinks	15.2oz	24	\$ 23.20
Water	20oz	24	\$ 14.20

Are you willing to donate any products for City sponsored events?

Yes No

If yes, does it include the CRV? Yes No

If no. what is the CRV that the City would have to pay? \$0

If yes, what are you willing to donate?

Product	Bottle/Can Size	Count per Case	Annual Case count of your donation to the City of Torrance
Carbonated Soft Drinks	12 oz cans	24	250
Real Fruit Drinks			
Water	½ Litter Bottles	24	250

Please indicate what promotional/advertising campaigns you would like to participate in such as advertising at City parks, hanging banners at City sponsored events, advertising on the side of City buses etc.

Promotional/Advertising Campaigns	
1. Fourth of July	6.
2. Torrance Beach Cities Triathlon	7.
3. Turkey Trot	8.
4.	9.
5.	10.

ATTACHMENT 1

STATE OF CALIFORNIA
 COUNTY OF LOS ANGELES

PROPOSER'S AFFIDAVIT

David Carey being first duly sworn, deposes and says:

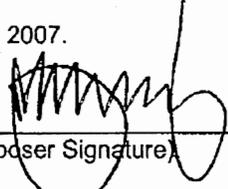
1. That he/she is the Sales Center Manager of Coca-Cola Bottling Company of Southern California
 (Title of Office) (Name of Company)

hereinafter called "Proposer", who has submitted to the City of Torrance a proposal for

RFP For Cold Beverage Vending Machine Services;
 (Title of RFP)

2. That the proposal is genuine; that the same is not sham; that all statements of fact in the proposal are true;
3. That the proposal was not made in the interest or behalf of any person, partnership, company, association, organization or corporation not named or disclosed;
4. That the Proposer did not, directly or indirectly, induce solicit or agree with anyone else to submit a false or sham proposal, to refrain from proposing, or to withdraw his proposal, to raise or fix the proposal price of the Proposer or of anyone else, or to raise or fix any overhead, profit or cost element of the Proposer's price or the price of anyone else; and did not attempt to induce action prejudicial to the interest of the City of Torrance, or of any other Proposer, or anyone else interested in the proposed contract;
5. That the Proposer has not in any other manner sought by collusion to secure for itself an advantage over the other Proposer or to induce action prejudicial to the interests of the City of Torrance, or of any other Proposer or of anyone else interested in the proposed contract;
6. That the Proposer has not accepted any RFP from any subcontractor or materialman through any RFP depository, the bylaws, rules or regulations of which prohibit or prevent the Proposer from considering any RFP from any subcontractor or materialman, which is not processed through that RFP depository, or which prevent any subcontractor or materialman from proposing to any contractor who does not use the facilities of or accept RFPs from or through such RFP depository;
7. That the Proposer did not, directly or indirectly, submit the Proposer's proposal price or any breakdown thereof, or the contents thereof, or divulge information or data relative thereto, to any corporation, partnership, company, association, organization, RFP depository, or to any member or agent thereof, or to any individual or group of individuals, except to the City of Torrance, or to any person or persons who have a partnership or other financial interest with said Proposer in its business.
8. That the Proposer has not been debarred from participation in any State or Federal works project.

Dated this 25 day of October, 2007.



 (Proposer Signature)

Sales Center Manager
 (Title)

RFP Deviations

A. Introduction

No minimum guaranteed cash revenue per month. City will be paid on Commission Only.

B.4. Utility charges

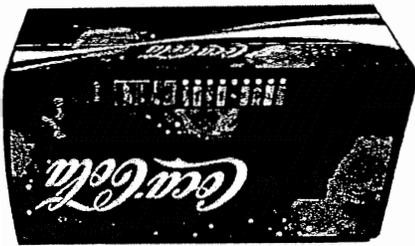
No "Vending Miser" will be installed on Machines. This is not cost efficient for City or Contractor.

B.12. Reports and Payments

Commissions earned by Customer shall be paid to customer by the Bottler on a Monthly basis in arrears on or about the 20th of each month following in which they are earned. Customer agrees that all commissions earned under this agreement will be calculated based on Bottler's full-service records. Commissions will be paid only for those locations that have fully complied with the performance criteria set forth in the RFP and only with the respect to those machines filled and serviced by the Bottler.

B.13. Service Calls

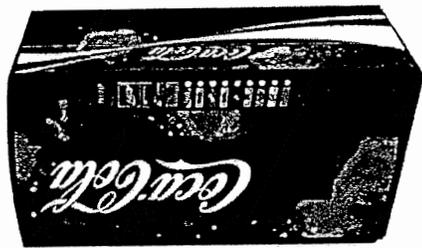
Service for all Bottler Equipment shall be provided Monday – Friday during normal business hours. Coca-Cola shall use their best efforts to provide service within 48 hours but no later than 72 hours. Any service calls should be directed to the (800) 647-2653. This number is visible on all machines and caller should provide the machine number that she/he is calling in reference to. Machines will be marked with a number that identifies each piece of equipment.



Refunds

If ever a customer needs to be refunded any monies they will need to call (800)647-2653. This number can be found on all machines along with the equipment number. Caller will need to identify the equipment # they are calling in reference to and report how much money was lost. Once call has been placed we will mail refund to the person who requested it.

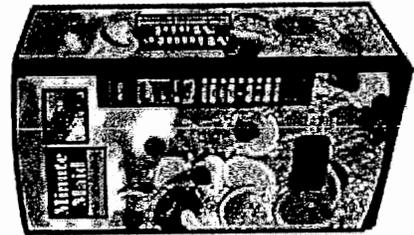




Start-Up Plan

Upon Approval of RFP, the following will take place:

- Identify locations where equipment will be placed.
- Equipment Move Orders will be signed.
- Allow 10-14 business days to place Equipment.
 - Machines will be placed and filled.



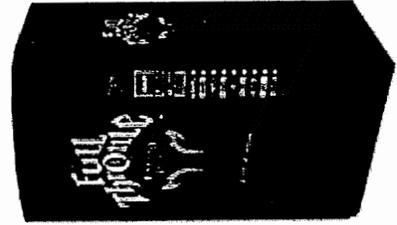
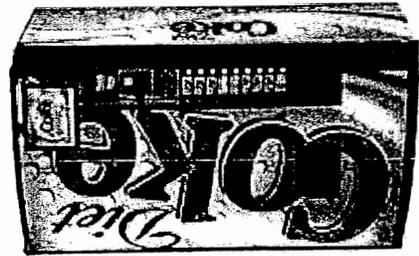
Coca-Cola Enterprises Inc.

Customer Satisfaction

Our CDC (Customer Development Center) helps us monitor and evaluate our services. They can be reached at

(800)647-2653. This number can be found on all Vendors along with Equipment number.

Account Manager and Full Service Supervisor will also periodically audit equipment. Once RFP is approved an Account Manager will be assigned to your account.



Coca-Cola Enterprises Inc.

Equipment Field Survey

Does the Vendor have proper flavor strips?	Yes	No
Are the vend rate stickers clean & correct?	Yes	No
Is the Vendor operating properly?	Yes	No
Is the Vendor clean?	Yes	No
Is the Vendor properly illuminated?	Yes	No
Are the selection buttons on the Vendor in good working order?	Yes	No
Does the coin return lever work?	Yes	No
Is there a customer service phone number decal on the Vendor front?	Yes	No
Is there a current Sales Tax License Certificate on vendor?	Yes	No
Is the product in the Vendor not out-of-date?	Yes	No
Is the machine set to standards?	Yes	No

Equipment Malfunction Report

E12629 BASIS Outlet/Equipment Relation Placement/Capcty 60 16 ECP006/S40
 1=Maintain 2=View 3=Options 4=Exit 5=Help

Press Enter or F3 to view next outlet or return to previous function. 10/23/07

Outlet Name DEL AMO MALL #15 CONT Supp State CALIFORNIA
 Number: Str 3525 Phone 310 5428525
 > 1209218 StNam CARSON ST W Zip 905035704
 City TORRANCE

Select option (and equipment number), press ENTER.

- 5=Display 10=History 12=Security...
- 16=Rteacctg data 20=Third Party

***** EC - Outlet History CCE ***** ECW099 ***

Equipment Number	Pay Type	Acv Type	Call Bk	Rpt Call	Date	Tech	Problem
Number	Type	Type	Bk	Call	Serviced	Reported/Found	
258671	FREE CALL	0	0	07/20/07	1075	702	R
258671	FREE CALL	0	0	06/09/07	1075	402	Z4
258671	FREE CALL	0	0	12/01/06	3003	743	XX
258671	FREE CALL	0	0	11/29/06	3000	702	Z4
239414	FREE INSTL	0	0	11/20/06	2004	PH1	XX

** ROLL F1=Help F12=Cancel F15=Sel. Lay **
 F9=CurrActv F10=Action F12=Cancel F13=Rep.Sel. F23=More opt F24=More key
 F1=Help F3=Exit F4=Prompt(>) F5=Refresh F8=OutletRev

Equipment Number - Represents machine that was serviced.

Pay Type - Is always free. No service charge to our customers.

Acv Type - What kind of action will take place (CALL is for Service and INSTL is for some type of installation, whether it be a first time install or exchange)

Date Serviced - This will tell you the day the equipment was serviced.

Tech- This is the tech that went out to service equipment.

Problem Reported/Found - This will always be in a code format but these codes tell us what was wrong with the equipment. 6

Coca-Cola Enterprises Inc.

Brand Names of Carbonated Soft Drinks:

<u>Brand</u>	<u>Size</u>	<u>Vend Price</u>
Coca-Cola	20oz	\$1.50
Diet Coke	20oz	\$1.50
Sprite	20oz	\$1.50
Dr. Pepper	20oz	\$1.50
Diet Dr. Pepper	20oz	\$1.50
Coca-Cola Zero	20oz	\$1.50
Nestea	20oz	\$1.50
Minute Maid Lemonade	20oz	\$1.50
Cactus Cooler	20oz	\$1.50

Brand Names of Fruit Drinks:

<u>Brand</u>	<u>Size</u>	<u>Vend Price</u>
Minute Maid Orange	15.2oz	\$1.50
Minute Maid Apple	15.2oz	\$1.50
Minute Maid Cranberry Apple Raspberry	15.2oz	\$1.50

Brand Name of Water:

<u>Brand</u>	<u>Size</u>	<u>Vend Price</u>
Dasani	20oz	\$1.50

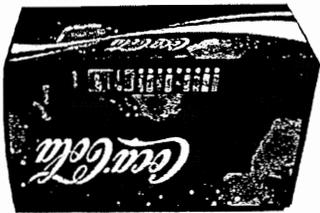
Brand Name of non Carbonated Drinks:

<u>Brand</u>	<u>Size</u>	<u>Vend Price</u>
Powerade Fruit Punch	20oz	\$1.50
Powerade Mountain Blast	20oz	\$1.50
Powerade Lemon Lime	20oz	\$1.50
Powerade Orange	20oz	\$1.50

Brand Name of Energy Drink:

<u>Brand</u>	<u>Size</u>	<u>Vend Price</u>
Rockstar	16oz	\$2.50*
Diet Rockstar	16oz	\$2.50*
Full Throttle	16oz	\$2.50* 7

**To be adjusted to \$2.75 in years 2 and 3.



Coca-Cola Enterprises Inc.



City of Torrance

Product	<u>Year 1</u>		<u>Year 2</u>		<u>Year 3</u>	
	Vend Rate	Comm.	Vend Rate	Comm.	Vend Rate	Comm.
CSD 20oz	\$ 1.50	35.0%	\$ 1.50	35.0%	\$ 1.50	35.0%
Dasani	\$ 1.50	35.0%	\$ 1.50	35.0%	\$ 1.50	35.0%
Powerade	\$ 1.50	35.0%	\$ 1.50	35.0%	\$ 1.50	35.0%
Energy	\$ 2.25	30.0%	\$ 2.75	35.0%	\$ 2.75	35.0%

Rebate Program

Earn a \$1.00 per case sold from case one, when threshold of
7,545 cases is met.

**VENDING SERVICES AGREEMENT
(VENDING CONTRACT)**

This VENDING SERVICES AGREEMENT ("Agreement") is made and entered into as of February 10, 2004 (the "Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and G & G Vending ("VENDOR"), a Sole Proprietorship.

RECITALS:

- A. CITY entered into a consulting contract with Michael Hogue ("CONSULTANT") to negotiate an exclusive snack food vending contract with CITY. CONSULTANT recommends to the CITY and CITY wishes to enter into this agreement with VENDOR to provide snack food vending machines ("MACHINES") and related services on CITY property.
- B. VENDOR represents that it is qualified to perform these services.

AGREEMENT:

1. **SERVICES TO BE PERFORMED BY VENDOR**
VENDOR will provide the services listed in the Scope of Services attached as Exhibit A. VENDOR warrants that all work and services set forth in the Scope of Services will be performed in a competent, professional and satisfactory manner.
2. **TERM**
Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect for seven (7) years from date of Agreement, subject to a performance review at mid-contract by CITY.
3. **VENDING FEES**
In consideration of the access and privileges granted in this Agreement to VENDOR, VENDOR shall pay CITY in accordance with the Compensation Schedule attached as Exhibit B.
4. **TERMINATION OF AGREEMENT**
 - A. Termination for Cause.
 1. If either party fails to perform any term, covenant or condition in this Agreement and that failure continues for 15 calendar days after the nondefaulting party gives the defaulting party written notice of the failure to perform, this Agreement may be terminated for cause; provided, however, that if during the notice period the defaulting party has promptly commenced and continues diligent efforts to remedy the default, the

C2004-020

COPY
14

defaulting party will have such additional time as is reasonably necessary to remedy the default.

2. In the event this Agreement is terminated for cause by the default of the VENDOR, the CITY may, at the expense of the VENDOR and its surety, complete this Agreement or cause it to be completed. Any check or bond delivered to the CITY in connection with this Agreement, and the money payable thereon, will be forfeited to and remain the property of the CITY. All moneys due the VENDOR under the terms of this Agreement will be retained by the CITY, but the retention will not release the VENDOR and its surety from liability for the default. Under these circumstances, however, the VENDOR and its surety will be credited with the amount of money retained, toward any amount by which the cost of completion exceeds the Agreement Sum and any amount authorized for extra services.
3. Termination for cause will not affect or terminate any of the rights of the CITY as against the VENDOR or its surety then existing, or which may thereafter accrue because of the default; this provision is in addition to all other rights and remedies available to the CITY under law.

B. Termination for Breach of Law.

In the event the VENDOR or any of its officers, directors, shareholders, employees, agents, subsidiaries or affiliates is convicted (i) of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of a contract or subcontract; (ii) under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a public VENDOR or contractor; (iii) under state or federal antitrust statutes arising out of the submission of bids or proposals; or (iv) of violation of Paragraph 19 of this Agreement; or for any other cause the CITY determines to be so serious and compelling as to affect VENDOR's responsibility as a public VENDOR or contractor, including but not limited to, debarment by another governmental agency, then the CITY reserves the unilateral right to terminate this Agreement or to impose such other sanctions (which may include financial sanctions, temporary suspensions or any other condition deemed appropriate short of termination) as it deems proper. The CITY will not take action until VENDOR has been given notice and an opportunity to present evidence in mitigation.

5. FORCE MAJEURE

If any party fails to perform its obligations because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental

control, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond the reasonable control of the party obligated to perform, then that party's performance shall be excused for a period equal to the period of such cause for failure to perform.

6. **[INTENTIONALLY DELETED]**

7. **CITY REPRESENTATIVE**

Michael Hogue is designated as the "City Representative," authorized to act in its behalf with respect to the work and services specified in this Agreement and to make all decisions in connection with this Agreement. Whenever approval, directions, or other actions are required by CITY under this Agreement, those actions will be taken by the City Representative, unless otherwise stated. The CITY has the right to designate another City Representative at any time, by providing notice to VENDOR.

8. **VENDOR REPRESENTATIVE(S)**

The following principal(s) of VENDOR are designated as being the principal(s) and representative(s) of VENDOR authorized to act in its behalf with respect to the work specified in this Agreement and make all decisions in connection with this Agreement:

Joe Gonzalez

9. **INDEPENDENT CONTRACTOR**

The VENDOR is, and at all times will remain as to CITY, a wholly independent contractor. Neither CITY nor any of its agents will have control over the conduct of the VENDOR or any of the VENDOR's employees, except as otherwise set forth in this Agreement. The VENDOR may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

10. **BUSINESS LICENSE**

The VENDOR must obtain a City business license prior to the start of work under this Agreement, unless VENDOR is qualified for an exemption.

11. **OTHER LICENSES AND PERMITS**

VENDOR warrants that it has all professional, contracting and other permits and licenses required to undertake the work contemplated by this Agreement.

12. **FAMILIARITY WITH WORK**

By executing this Agreement, VENDOR warrants that VENDOR (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the services should be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, VENDOR warrants that VENDOR has or will investigate the site and is or will be fully acquainted with the conditions there existing,

prior to commencement of services set forth in this Agreement. Should VENDOR discover any latent or unknown conditions that will materially affect the performance of the services set forth in this Agreement, VENDOR must immediately inform CITY of that fact and may not proceed except at VENDOR's risk until written instructions are received from CITY.

13. **CARE OF WORK**

VENDOR must adopt reasonable methods during the term of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and other components to prevent losses or damages, and will be responsible for all damages, to persons or property, until acceptance of the work by CITY, except those losses or damages as may be caused by CITY's own negligence.

14. **[INTENTIONALLY OMITTED]**

15. **INDEMNIFICATION**

VENDOR will indemnify, defend, and hold harmless CITY, the City Council, each member thereof, present and future, its officers, agents and employees from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, including, but not limited to, those arising from breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss however the same may be caused and regardless of the responsibility for negligence. The obligation to indemnify, defend and hold harmless includes, but is not limited to, any liability or expense, including defense costs and legal fees, arising from the negligent acts or omissions, or willful misconduct of VENDOR, its officers, employees, agents, subcontractors or vendors. It is further agreed, VENDOR's obligations to indemnify, defend and hold harmless will apply even in the event of concurrent negligence on the part of CITY, the City Council, each member thereof, present and future, or its officers, agents and employees, except for liability resulting solely from the negligence or willful misconduct of CITY, its officers, employees or agents. Payment by CITY is not a condition precedent to enforcement of this indemnity. In the event of any dispute between VENDOR and CITY, as to whether liability arises from the sole negligence of the CITY or its officers, employees, agents, subcontractors or vendors, VENDOR will be obligated to pay for CITY's defense until such time as a final judgment has been entered adjudicating the CITY as solely negligent. VENDOR will not be entitled in the event of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

16. **NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES**

No officer or employee of CITY will be personally liable to VENDOR, in the event of any default or breach by the CITY or for any amount that may become due to VENDOR.

17. **INSURANCE**

- A. VENDOR must maintain at its sole expense the following insurance, which will be full coverage not subject to self insurance provisions:
1. Automobile Liability, including owned, non-owned and hired vehicles, with at least the following limits of liability:
 - a. Primary Bodily Injury with limits of at least \$500,000 per person, \$1,000,000 per occurrence; and
 - b. Primary Property Damage of at least \$250,000 per occurrence; or
 - c. Combined single limits of \$1,000,000 per occurrence.
 2. General Liability including coverage for premises, products and completed operations, independent contractors/vendors, personal injury and contractual obligations with combined single limits of coverage of at least \$1,000,000 per occurrence.
 3. Professional liability insurance with limits of at least \$1,000,000 per occurrence.
 4. Workers' Compensation with limits as required by the State of California and Employers Liability with limits of at least \$1,000,000.
- B. The insurance provided by VENDOR will be primary and non-contributory
- C. CITY, the City Council and each member thereof, members of boards and commissions, every officer, agent, official, employee and volunteer must be named as additional insured under the automobile and general liability policies.
- D. VENDOR must provide certificates of insurance and/or endorsements to the City Clerk of the City of Torrance before the commencement of work.
- E. Each insurance policy required by this Paragraph must contain a provision that no termination, cancellation or change of coverage can be made without thirty days notice to CITY.

18. **SUFFICIENCY OF INSURERS AND SURETIES**

Insurance or bonds required by this Agreement will be satisfactory only if issued by companies admitted to do business in California, rated "B+" or better in the most recent edition of Best's Key Rating Guide, and only if they are of a financial category Class VII or better, unless these requirements are waived by the Risk Manager of CITY ("Risk Manager") due to unique circumstances. In the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to CITY, the VENDOR agrees that the minimum limits of any

insurance policies or performance bonds required by this Agreement may be changed accordingly upon receipt of written notice from the Risk Manager; provided that VENDOR will have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of CITY within 10 days of receipt of notice from the Risk Manager.

19. CONFLICT OF INTEREST

- A. No officer or employee of the CITY may have any financial interest, direct or indirect, in this Agreement, nor may any officer or employee participate in any decision relating to the Agreement that effects the officer or employee's financial interest or the financial interest of any corporation, partnership or association in which the officer or employee is, directly or indirectly interested, in violation of any law, rule or regulation.
- B. No person may offer, give, or agree to give any officer or employee or former officer or employee, nor may any officer or employee solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any way pertaining to any program requirement, contract or subcontract, or to any solicitation or proposal.
- C. VENDOR warrants that it is paying no fees, commissions, or remuneration of any type to CONSULTANT or any officers or employees of CITY for the privileges granted pursuant to this Agreement other than those fees specified in Section 3 "VENDING FEES" of this Agreement.

20. NOTICE

- A. All notices, requests, demands, or other communications under this Agreement will be in writing. Notice will be sufficiently given for all purposes as follows:
 - 1. Personal delivery. When personally delivered to the recipient: notice is effective on delivery.
 - 2. First Class mail. When mailed first class to the last address of the recipient known to the party giving notice: notice is effective three mail delivery days after deposit in an United States Postal Service office or mailbox.
 - 3. Certified mail. When mailed certified mail, return receipt requested: notice is effective on receipt, if delivery is confirmed by a return receipt.

23. **INTERPRETATION**

The terms of this Agreement should be construed in accordance with the meaning of the language used and should not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply.

24. **SEVERABILITY**

If any part of this Agreement is found to be in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in conflict with any applicable laws, but the remainder of the Agreement will remain in full force and effect.

25. **TIME OF ESSENCE**

Time is of the essence in the performance of this Agreement.

26. **GOVERNING LAW; JURISDICTION**

This Agreement will be administered and interpreted under the laws of the State of California. Jurisdiction of any litigation arising from the Agreement will be in Los Angeles County, California.

27. **COMPLIANCE WITH STATUTES AND REGULATIONS**

VENDOR will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.

28. **WAIVER OF BREACH**

No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default will impair the right or remedy or be construed as a waiver. A party's consent or approval of any act by the other party requiring the party's consent or approval will not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and will not be a waiver of any other default concerning the same or any other provision of this Agreement.

29. **ATTORNEY'S FEES**

Except as provided for in Paragraph 15, in any dispute, litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party will be awarded reasonable attorney's fees, together with any costs and expenses, to resolve the dispute and to enforce any judgment.

30. **EXHIBITS**

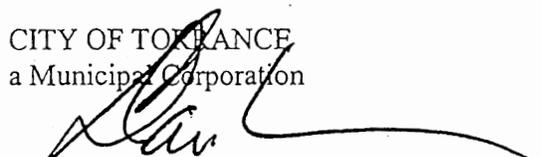
All exhibits identified in this Agreement are incorporated into the Agreement by this reference.

31. **VENDOR'S AUTHORITY TO EXECUTE**

The person(s) executing this Agreement on behalf of the VENDOR warrant that (i) the VENDOR is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the VENDOR; (iii) by so executing this Agreement, the VENDOR is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the VENDOR is bound.

CITY OF TOLLAND
a Municipal Corporation

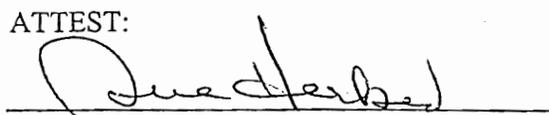
G & G Vending
Sole Proprietor



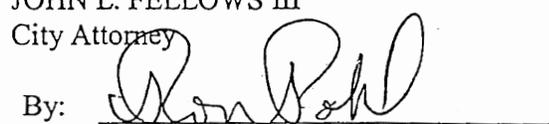
Dan Walker, Mayor

By: 

Joe Gonzalez
Owner

ATTEST:


Sue Herbers
City Clerk

APPROVED AS TO FORM:
JOHN L. FELLOWS III
City Attorney
By: 

Attachments: Exhibit A Scope of Services
 Exhibit B Compensation Schedule

Revised: 1/30/04

EXHIBIT A**SCOPE OF SERVICES**

G & G Vending (VENDOR) will supply and service the snack, hot drink and ice cream vending machines for the City of Torrance (CITY).

VENDOR will be allowed to place the snack, hot drink and ice cream vending machines at a minimum of (25) twenty-five CITY sites and a maximum of (35) thirty-five CITY sites.

VENDOR will be responsible for the installation and maintenance of all snack, hot drink and ice cream vending machines.

VENDOR will be responsible for any and all installation costs.

VENDOR agrees to relinquish any previously existing snack, hot drink and ice cream vending contracts with the CITY.

VENDOR agrees to relinquish and remove any previously existing cold drink vending machines and or contracts with the CITY.

VENDOR agrees to pay the annual Compensation Schedule as listed in Exhibit B.

EXHIBIT B**COMPENSATION SCHEDULE**

In consideration for this AGREEMENT the CITY shall be entitled to receive annual guaranteed payments from the VENDOR according to the following schedule:

First payment:	February 11, 2004	\$5,000
Second payment:	February 11, 2005	\$5,000
Third payment:	February 11, 2006	\$5,000
Fourth payment:	February 11, 2007	\$5,000
Fifth payment:	February 11, 2008	\$6,000
Sixth payment:	February 11, 2009	\$6,000
Seventh payment:	February 11, 2010	\$6,000

The VENDOR shall make the above-schedule payments in the amount and on the dates stated above to The City of Torrance, at 3031 Torrance Boulevard, Torrance, CA 90503.

**VENDING SERVICES AGREEMENT
(VENDING CONTRACT)**

This VENDING SERVICES AGREEMENT (“Agreement”) is made and entered into as of December 1, 2010 (the “Effective Date”), by and between the CITY OF TORRANCE, a municipal corporation (“CITY”), and Joe Gonzalez, an individual (“VENDOR”).

RECITALS:

- A. CITY previously entered into a Vending Services Agreement (C2004-020), which was dated as of February 10, 2004. The purpose of the agreement was to provide snack food vending machines and related services on CITY property.
- B. CITY wishes to update the provision of vending services to CITY. Vending Services Agreement (C2004-020) is terminated and this Agreement is entered into to replace it.
- C. VENDOR represents that it is qualified to perform the services contemplated by this Agreement.

AGREEMENT:

1. SERVICES TO BE PERFORMED BY VENDOR

VENDOR will provide the services listed in the Scope of Services attached as Exhibit A. VENDOR warrants that all work and services set forth in the Scope of Services will be performed in a competent, professional and satisfactory manner.

2. TERM

Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect through December 31, 2011.

3. VENDING FEES

In consideration of the access and privileges granted in this Agreement to VENDOR, VENDOR shall pay CITY in accordance with the Compensation Schedule attached as Exhibit B.

4. TERMINATION OF AGREEMENT

A. Termination for Cause.

- 1. If either party fails to perform any term, covenant or condition in this Agreement and that failure continues for 15 calendar days after the nondefaulting party gives the defaulting party written notice of the failure to perform, this Agreement may be terminated for cause; provided, however, that if during the notice period the defaulting party has promptly commenced and continues diligent efforts to remedy the default, the

defaulting party will have such additional time as is reasonably necessary to remedy the default.

2. In the event this Agreement is terminated for cause by the default of the VENDOR, the CITY may, at the expense of the VENDOR and its surety, complete this Agreement or cause it to be completed. Any check or bond delivered to the CITY in connection with this Agreement, and the money payable thereon, will be forfeited to and remain the property of the CITY. All moneys due the VENDOR under the terms of this Agreement will be retained by the CITY, but the retention will not release the VENDOR and its surety from liability for the default. Under these circumstances, however, the VENDOR and its surety will be credited with the amount of money retained, toward any amount by which the cost of completion exceeds the Agreement Sum and any amount authorized for extra services.
3. Termination for cause will not affect or terminate any of the rights of the CITY as against the VENDOR or its surety then existing, or which may thereafter accrue because of the default; this provision is in addition to all other rights and remedies available to the CITY under law.

B. Termination for Breach of Law.

In the event the VENDOR or any of its officers, directors, shareholders, employees, agents, subsidiaries or affiliates is convicted (i) of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of a contract or subcontract; (ii) under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a public VENDOR or contractor; (iii) under state or federal antitrust statutes arising out of the submission of bids or proposals; or (iv) of violation of Paragraph 19 of this Agreement; or for any other cause the CITY determines to be so serious and compelling as to affect VENDOR's responsibility as a public VENDOR or contractor, including but not limited to, debarment by another governmental agency, then the CITY reserves the unilateral right to terminate this Agreement or to impose such other sanctions (which may include financial sanctions, temporary suspensions or any other condition deemed appropriate short of termination) as it deems proper. The CITY will not take action until VENDOR has been given notice and an opportunity to present evidence in mitigation.

5. **FORCE MAJEURE**

If any party fails to perform its obligations because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental

control, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond the reasonable control of the party obligated to perform, then that party's performance shall be excused for a period equal to the period of such cause for failure to perform.

6. **[INTENTIONALLY DELETED]**

7. **CITY REPRESENTATIVE**

Aram Chaparyan is designated as the "City Representative," authorized to act in its behalf with respect to the work and services specified in this Agreement and to make all decisions in connection with this Agreement. Whenever approval, directions, or other actions are required by CITY under this Agreement, those actions will be taken by the City Representative, unless otherwise stated. The CITY has the right to designate another City Representative at any time, by providing notice to VENDOR.

8. **VENDOR REPRESENTATIVE(S)**

The following principal(s) of VENDOR are designated as being the principal(s) and representative(s) of VENDOR authorized to act in its behalf with respect to the work specified in this Agreement and make all decisions in connection with this Agreement:

Joe Gonzalez

9. **INDEPENDENT CONTRACTOR**

The VENDOR is, and at all times will remain as to CITY, a wholly independent contractor. Neither CITY nor any of its agents will have control over the conduct of the VENDOR or any of the VENDOR's employees, except as otherwise set forth in this Agreement. The VENDOR may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

10. **BUSINESS LICENSE**

The VENDOR must obtain a City business license prior to the start of work under this Agreement, unless VENDOR is qualified for an exemption.

11. **OTHER LICENSES AND PERMITS**

VENDOR warrants that it has all professional, contracting and other permits and licenses required to undertake the work contemplated by this Agreement.

12. **FAMILIARITY WITH WORK**

By executing this Agreement, VENDOR warrants that VENDOR (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the services should be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, VENDOR warrants that VENDOR has or will investigate the site and is or will be fully acquainted with the conditions there existing,

prior to commencement of services set forth in this Agreement. Should VENDOR discover any latent or unknown conditions that will materially affect the performance of the services set forth in this Agreement, VENDOR must immediately inform CITY of that fact and may not proceed except at VENDOR's risk until written instructions are received from CITY.

13. **CARE OF WORK**

VENDOR must adopt reasonable methods during the term of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and other components to prevent losses or damages, and will be responsible for all damages, to persons or property, until acceptance of the work by CITY, except those losses or damages as may be caused by CITY's own negligence.

14. **[INTENTIONALLY OMITTED]**

15. **INDEMNIFICATION**

VENDOR will indemnify, defend, and hold harmless CITY, the City Council, each member thereof, present and future, its officers, agents and employees from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, including, but not limited to, those arising from breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss however the same may be caused and regardless of the responsibility for negligence. The obligation to indemnify, defend and hold harmless includes, but is not limited to, any liability or expense, including defense costs and legal fees, arising from the negligent acts or omissions, or willful misconduct of VENDOR, its officers, employees, agents, subcontractors or vendors. It is further agreed, VENDOR's obligations to indemnify, defend and hold harmless will apply even in the event of concurrent negligence on the part of CITY, the City Council, each member thereof, present and future, or its officers, agents and employees, except for liability resulting solely from the negligence or willful misconduct of CITY, its officers, employees or agents. Payment by CITY is not a condition precedent to enforcement of this indemnity. In the event of any dispute between VENDOR and CITY, as to whether liability arises from the sole negligence of the CITY or its officers, employees, agents, subcontractors or vendors, VENDOR will be obligated to pay for CITY's defense until such time as a final judgment has been entered adjudicating the CITY as solely negligent. VENDOR will not be entitled in the event of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

16. **NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES**

No officer or employee of CITY will be personally liable to VENDOR, in the event of any default or breach by the CITY or for any amount that may become due to VENDOR.

17. INSURANCE

A. VENDOR must maintain at its sole expense the following insurance, which will be full coverage not subject to self insurance provisions:

1. Automobile Liability, including owned, non-owned and hired vehicles, with at least the following limits of liability:
 - a. Primary Bodily Injury with limits of at least \$500,000 per person, \$1,000,000 per occurrence; and
 - b. Primary Property Damage of at least \$250,000 per occurrence; or
 - c. Combined single limits of \$1,000,000 per occurrence.
2. General Liability including coverage for premises, products and completed operations, independent contractors/vendors, personal injury and contractual obligations with combined single limits of coverage of at least \$1,000,000 per occurrence.
3. Professional liability insurance with limits of at least \$1,000,000 per occurrence.
4. Workers' Compensation with limits as required by the State of California and Employers Liability with limits of at least \$1,000,000.

B. The insurance provided by VENDOR will be primary and non-contributory

C. CITY, the City Council and each member thereof, members of boards and commissions, every officer, agent, official, employee and volunteer must be named as additional insured under the automobile and general liability policies.

D. VENDOR must provide certificates of insurance and/or endorsements to the City Clerk of the City of Torrance before the commencement of work.

E. Each insurance policy required by this Paragraph must contain a provision that no termination, cancellation or change of coverage can be made without thirty days notice to CITY.

18. SUFFICIENCY OF INSURERS AND SURETIES

Insurance or bonds required by this Agreement will be satisfactory only if issued by companies admitted to do business in California, rated "B+" or better in the most recent edition of Best's Key Rating Guide, and only if they are of a financial category Class VII or better, unless these requirements are waived by the Risk Manager of CITY ("Risk Manager") due to unique circumstances. In the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or

decreased risk of loss to CITY, the VENDOR agrees that the minimum limits of any insurance policies or performance bonds required by this Agreement may be changed accordingly upon receipt of written notice from the Risk Manager; provided that VENDOR will have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of CITY within 10 days of receipt of notice from the Risk Manager.

19. CONFLICT OF INTEREST

- A. No officer or employee of the CITY may have any financial interest, direct or indirect, in this Agreement, nor may any officer or employee participate in any decision relating to the Agreement that effects the officer or employee's financial interest or the financial interest of any corporation, partnership or association in which the officer or employee is, directly or indirectly interested, in violation of any law, rule or regulation.
- B. No person may offer, give, or agree to give any officer or employee or former officer or employee, nor may any officer or employee solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any way pertaining to any program requirement, contract or subcontract, or to any solicitation or proposal.
- C. VENDOR warrants that it is paying no fees, commissions, or remuneration of any type to CONSULTANT or any officers or employees of CITY for the privileges granted pursuant to this Agreement other than those fees specified in Section 3 "VENDING FEES" of this Agreement.

20. NOTICE

- A. All notices, requests, demands, or other communications under this Agreement will be in writing. Notice will be sufficiently given for all purposes as follows:
 - 1. Personal delivery. When personally delivered to the recipient: notice is effective on delivery.
 - 2. First Class mail. When mailed first class to the last address of the recipient known to the party giving notice: notice is effective three mail delivery days after deposit in an United States Postal Service office or mailbox.
 - 3. Certified mail. When mailed certified mail, return receipt requested: notice is effective on receipt, if delivery is confirmed by a return receipt.

4. Overnight delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account: notice is effective on delivery, if delivery is confirmed by the delivery service.
5. Facsimile transmission. When sent by fax to the last fax number of the recipient known to the party giving notice: notice is effective on receipt. Any notice given by fax will be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.
6. Addresses for purpose of giving notice are as follows:

VENDOR: Joe Gonzalez
 PO Box 101
 Lomita, CA 90717
 Fax: (310) 530-5751

CITY: City Clerk
 City of Torrance
 3031 Torrance Boulevard
 Torrance, CA 90509-2970
 Fax: (310) 618-2931

- B. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified, will be deemed effective as of the first date the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messenger or overnight delivery service.
- C. Either party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement.

21. PROHIBITION AGAINST ASSIGNMENT AND SUBCONTRACTING

This Agreement and all exhibits are binding on the heirs, successors, and assigns of the parties. The Agreement may not be assigned or subcontracted by either CITY or VENDOR without the prior written consent of the other.

22. INTEGRATION; AMENDMENT

This Agreement represents the entire understanding of CITY and VENDOR as to those matters contained in it. No prior oral or written understanding will be of any force or effect with respect to the terms of this Agreement. The Agreement may not be modified or altered except in writing signed by both parties.

23. **INTERPRETATION**

The terms of this Agreement should be construed in accordance with the meaning of the language used and should not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply.

24. **SEVERABILITY**

If any part of this Agreement is found to be in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in conflict with any applicable laws, but the remainder of the Agreement will remain in full force and effect.

25. **TIME OF ESSENCE**

Time is of the essence in the performance of this Agreement.

26. **GOVERNING LAW; JURISDICTION**

This Agreement will be administered and interpreted under the laws of the State of California. Jurisdiction of any litigation arising from the Agreement will be in Los Angeles County, California.

27. **COMPLIANCE WITH STATUTES AND REGULATIONS**

VENDOR will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.

28. **WAIVER OF BREACH**

No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default will impair the right or remedy or be construed as a waiver. A party's consent or approval of any act by the other party requiring the party's consent or approval will not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and will not be a waiver of any other default concerning the same or any other provision of this Agreement.

29. **ATTORNEY'S FEES**

Except as provided for in Paragraph 15, in any dispute, litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party will be awarded reasonable attorney's fees, together with any costs and expenses, to resolve the dispute and to enforce any judgment.

30. **EXHIBITS**

All exhibits identified in this Agreement are incorporated into the Agreement by this reference.

31. VENDOR'S AUTHORITY TO EXECUTE

The person(s) executing this Agreement on behalf of the VENDOR warrant that (i) the VENDOR is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the VENDOR; (iii) by so executing this Agreement, the VENDOR is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the VENDOR is bound.

CITY OF TORRANCE,
a Municipal corporation

By: _____
LeRoy J. Jackson, City Manager

Joe Gonzalez, an individual

APPROVED AS TO FORM:
JOHN L. FELLOWS III
City Attorney

By: 

Attachments: Exhibit A Scope of Services
 Exhibit B Compensation Schedule

EXHIBIT A**SCOPE OF SERVICES**

VENDOR will supply and service the snack, hot drink and ice cream vending machines for CITY.

VENDOR will be allowed to place the snack, hot drink and ice cream vending machines at a minimum of ten CITY sites and a maximum of twenty-five CITY sites.

VENDOR will be responsible for the installation and maintenance of all snack, hot drink and ice cream vending machines.

VENDOR will be responsible for any and all installation costs.

VENDOR agrees to relinquish any previously existing snack, hot drink and ice cream vending contracts with the CITY.

VENDOR agrees to relinquish and remove any previously existing cold drink vending machines and or contracts with the CITY.

VENDOR agrees to pay the annual Compensation Schedule as listed in Exhibit B.

EXHIBIT B
COMPENSATION SCHEDULE

VENDOR will make a commission payment of \$5,000 the City of Torrance, at 3031 Torrance Boulevard, Torrance, CA 90503, on or before February 11, 2011.