



REGIONAL DISTRICT OF NANAIMO

REQUEST FOR PROPOSAL

EXCLUSIVE BEVERAGE POURING RIGHTS AND VENDING SERVICES

FOR THE REGIONAL DISTRICT OF NANAIMO,

RECREATION FACILITIES OF OCEANSIDE PLACE (ARENA)

AND RAVENSONG AQUATIC CENTRE

TABLE OF CONTENTS

Page

1.0	INTRODUCTION & SCOPE	3
1.1	Eligibility	3
1.2	Acknowledgement of Receiving RFP	3
1.3	Purpose of the Work	3
2.0	REQUIREMENTS	4
2.1	Scope of Work	4
3.0	EVALUATION CRITERIA AND EVALUATION PROCEDURES	9
3.1	Mandatory Criteria	9
3.2	Evaluation Criteria	9
3.3	Evaluation Process	10
3.4	Financial Stability	11
4.0	POST-EVALUATION PROCEDURES	11
4.1	Privilege or Right to Cancel	11
4.2	Negotiation Delay	11
5.0	PROPOSAL PREPARATION	11
5.1	Acceptance of Terms	12
5.2	Confidentiality	12
5.3	Proposal Format	12
5.4	Proposal Content	12
5.5	Proponents' Expenses	13
5.6	Currency and Taxes	13
5.7	Completeness of Proposal	13
5.8	Inquiries	13

<u>TABLE OF CONTENTS (cont'd)</u>		<u>Page</u>
6.0	PROPOSAL CHANGES AND AMENDMENTS	13
6.1	Liability of Errors	13
6.2	Notification of Changes to the RFP	14
7.0	FORM AND CONTENT OF CONTRACT	14
7.1	Definition of Content	14
7.2	Proposals as Part of Contract	14
7.3	Form of Contract	14
APPENDIX I	Acknowledgement of Receipt Form	15
APPENDIX II	Summary of Financial Information Proposal Form	16
APPENDIX III	Form of Contract	17
	Schedule A: Floor Plan of Ravensong Aquatic Centre	27
	Schedule B: Floor Plan of Oceanside Place	28



The Regional District of Nanaimo (RDN) is seeking responses to the following request for proposal:

The work is described as Exclusive Beverage Pouring Rights and Vending Services.

Responses clearly marked **REQUEST FOR PROPOSAL – EXCLUSIVE BEVERAGE POURING RIGHTS AND VENDING SERVICES FOR THE REGIONAL DISTRICT OF NANAIMO, RECREATION FACILITIES OF OCEANSIDE PLACE (ARENA) AND RAVENSONG AQUATIC CENTRE** and will be received up until 2:00 p.m. PST on Friday, August 31, 2012 by:

Ann-Marie Harvey, Senior Secretary
RDN Recreation and Parks Department
Oceanside Place
Main Floor Reception Office
830 West Island Highway, Parksville, BC V9P 2X4

Faxed responses will not be accepted. Late proposals will not be accepted and will be returned to the proponent unopened.

Responses may be withdrawn before the deadline upon written notice (facsimiles of notice will be accepted) addressed to Ann-Marie Harvey, at 250-248-3294 (f).

Responses withdrawn may be replaced by alternative responses providing written notice that an alternative proposal will be submitted (facsimiles of notice will be accepted) is delivered to Ann-Marie Harvey at least twenty-four hours before the deadline for closing noted herein.

Responses must remain valid for 90 days following the closing time and date. Responses are irrevocable after the closing time and date.

The Regional District of Nanaimo reserves the right to reject any and all proposals for any reason or to accept any proposal received which the Regional District, in its sole unrestricted discretion deemed most advantageous to itself. The lowest or any proposal may not necessarily be accepted. The proponent acknowledges the Regional District's rights under this clause and absolutely waives any right of action against the Regional District for the Regional District's failure to accept its proposal whether such right of action arises in contract, negligence, bad faith or any other cause of action. The acceptance of any proposal is subject to funds being legally available to complete this transaction and/or approval by the Board of the Regional District or the officer or employee of the Regional District having authority to accept the proposal.

Unless otherwise authorized in writing by Sandra Pearson, Superintendent of Recreation Program Services, a proponent must not contact or communicate with any elected or appointed officer, or employee of the Regional District other than the Superintendent of Recreation Program Services in

relation to this solicitation prior to an award of the services by the Regional Board or the officer or employee of the Regional District having authority to accept the proposal. Any such communication may result in disqualification of the proposal from further consideration.

The Regional District of Nanaimo is subject to the provisions of *The Freedom of Information and Protection of Privacy Act*. As a result, while Section 20 of the *Act* offers some protection for third party business interests, the Regional District cannot guarantee that any information provided to the Regional District can or will be held in confidence.

Further information regarding the specifications in this solicitation may be obtained from:

Sandra Pearson, Superintendent of Recreation Program Services (available July 27-August 17)

Telephone: 250-248-3252

Email: spearson@rdn.bc.ca

In the Superintendent's absence, proponents may contact:

Dean Banman, Manager of Recreation Services

Telephone: 250-248-3252

Email: dbanman@rdn.bc.ca

1.0 INTRODUCTION & SCOPE

1.1 Eligibility

Potential proponents are not eligible to submit a proposal if current, past or other interests, in the Regional District's opinion, may result in a conflict of interest in connection with this project.

1.2 Acknowledgement of Receiving RFP

Included with the RFP documents is the "Acknowledgement of Receipt Form", (Appendix I), which proponents are required to fill out and fax back to 250-248-3294 by **Friday, August 10, 2012 at 2:00 p.m. PST**. This confirmation form will ensure that interested proponents will receive addendums to the RFP and any subsequent information such as our response to questions that may clarify sections of the RFP. It also acts as confirmation to us that you received the RFP document and provides you with a simple process to indicate to us if you are not interested in responding to the RFP call.

1.3 Purpose of the Work

Invitation

The Regional District of Nanaimo invites qualified Proponents with the capabilities and experience to submit proposals to enter into an agreement for services at two RDN Recreation facilities for:

1. exclusive beverage pouring rights for the supply of all non-alcohol beverages for vending including third party food service operators conducting business in or on RDN property, and
2. a turnkey vending machine operation to provide nutritional snacks and beverages, including but not limited to all equipment, supplies and personnel necessary to supply, install, stock, operate and maintain the equipment outlined in their proposal. All costs of operating the vending machines will be to the account of the successful proponent.
3. For information purposes only (this is not a guarantee of sales):
 - a. Gross Volume of Vending sales for 2011 for:
 1. Oceanside Place Arena: \$26,215 excl. tax, (main lobby machines only)
 2. Ravensong Aquatic Centre: \$18,320 excl. tax
 - b. Gross Volume of Beverage sales for Food Service Operator at Oceanside Place for 2011: approximately \$8,000.

Locations

a. Vending and Beverage machines:

Oceanside Place Arena, 830 West Island Highway, in entrance main lobby (approximately 20-25 feet) adjacent to the Pond ice sheet. Currently there are 7 machines in total (4 beverage machines, 2 snack machines, 1 ice cream machine)

Ravensong Aquatic Centre, 737 Jones Street, in lobby across from the offices (approximately 10 feet). Currently there are 3 machines in total (1 beverage machine, 1 snack machine, 1 ice cream machine)

b. Third party Food Services Operator (Over the Counter):

- Oceanside Place Arena Concession operated by Pat Solway, Comfy Café.

Plus any other venues that may be designated by the RDN and may fall under the control of such an agreement.

2.0 REQUIREMENTS

2.1 Scope of Work

The agreement term shall be **three (3)** years, with an option to renew at the Regional District's discretion for **two (2)** additional one-year terms, with mutual written agreement between the parties. An agreement substantially in the form of Appendix III attached to this Request for Proposal will be used to describe the terms and conditions of the agreement with the successful proponent.

Exclusivity

Beverages and Brands shall mean any and all non-alcoholic drinks currently sold and distributed by the successful proponent and any or all beverages the vendor may sell in the future during the contract period. Exclusivity is restricted to the proponent's current portfolio of products available for sale. Any non-exclusive product may be freely sold within the RDN unless the successful proponent brings online an equivalent product available for resale. The proponent may propose and discuss any new non-food products for sale (e.g. water bottles) with the RDN.

All determinations regarding product equivalency and exclusivity will be at the RDN's sole discretion. The RDN will endeavor to make decisions in a reasonable manner based on the available information. The RDN will always remain the final decision authority in all matters.

Standard water coolers and plumbed water and fountains are exempt from the agreement.

The successful proponent will be the sole, exclusive and official Beverage supplier, distributor and advertiser at the Facilities during this agreement. In the event a beverage company other than the successful proponent sponsors an event, the successful proponent authorizes through express written consent the approval for specialized signage and other event related paraphernalia including but not limited to hats, t-shirts, and headbands. The RDN agrees to notify the successful proponent in writing at least two (2) weeks prior to such an event.

The successful proponent's Brand will be exclusively available at both Facilities and no beverages or beverage related items including but not limited to cups or premium items that compete with or are similar to the Brand shall be made available, advertised and/or promoted at the Facilities except as otherwise noted in this agreement. The RDN and the successful proponent will work cooperatively to resolve situations sometimes referred to as "Ambush Marketing". The RDN will always remain the final decision authority in all matters.

On occasion, the RDN reserves the right to cover up beverages or vending signage for a specific event held in the facilities. The RDN would inform the successful proponent in writing two weeks in advance of this occurring. The RDN will provide written 5 days written notice of any signage coverage which may be necessary.

At the time of proposal, the RDN allows bottled water to be sold in recreation facilities. That being said, the RDN Board could at any point change their stance during the contract period and the successful proponent would be expected to work with RDN staff to implement the Board's direction.

Healthy Choices Vending

The Regional District is looking for proposals that provide: competitive pricing, strategic pricing to encourage sales of healthy choices, a pleasing product presentation style, display signage on vending machines which reflects healthier choices, little duplication of product in the same machine, and awareness of current trends in the healthy choices and environmental fields.

Healthy Choices Vending is when all vending machines offer healthier food and beverages according to the *Nutritional Guidelines for Vending Machines in BC Public Buildings*.

RDN Recreation and Parks are taking the following steps to promote healthy choices:

1. Promote an environment that encourages healthier eating in line with the goal of reducing health care costs by promoting individual health,
2. Using the *Nutritional Guidelines for Vending Machines in BC Public Buildings* which identifies four categories: Choose Most, Choose Sometimes, Choose Least and Not Recommended, to set transitional targets,

3. Implement a three year phased-in percentage transition chart for the large vending machines contract with the goal of providing 0% *Choose Least* and *Not Recommended* by the end of the three year period, and
4. Work with service providers to ensure a broader range of healthier food and beverage choices available in vending machines including:
 - a. assisting vending operators in identifying healthier food and beverage choices
 - b. requiring that contracted vending services display healthy choices as the most visible choice in the food services area and vending machines
 - c. recommending smaller portion-sized selections be made available in all food and beverage categories to ensure consumers have a range of choices regarding portion size and price
 - d. monitoring the healthy food and beverage choices provided in vending machines every six months to ensure percentage goals and healthy choices guidelines are being met.

Three Year Transition Chart:

Vending Machines Three Year Transition						
	Recommended % of Choose Most and Choose Sometimes	Choose Most	Choose Sometimes	Recommended % of Choose Least and Not Recommended	Choose Least	Not Recommended
Year 1	70%	50%	20%	30%	15%	15%
Year 2	90%	60%	30%	10%	10%	0%
Year 3	100%	70%	30%	0%	0%	0%

Reference: RDN Healthy Choices Philosophy and Guiding Principles, 2010

Proponent Responsibilities

Vending machine products will follow the three year transition chart outlined above for the Choose Most, Choose Sometimes, Choose Least and Not Recommended (CM, CS, CL, NR) categories, with the goal to have no products in the latter two categories by the third year of contract. Consultation with the RDN may be required to ensure the approved percentages and a balance of products is provided.

The percentages identified in three year transition chart are applicable to each individual machine, rather than a bank of machines. Thus, each machine must meet the identified percentages of CM, CS, CL and NR.

A food plan for each vending machine is required at the start of first year, and prior to yearly implementation of the three year chart, and is subject to approval by the RDN. The products may change, but the categories identified in the transition chart must be

followed by the successful proponent. It is expected that the successful proponent will investigate healthy products suitable for RDN clientele.

The products to be supplied through all vending machines shall be pure, wholesome, fresh and fit for human consumption. Cigarettes and alcohol shall not be sold. Expired food should not be provided in the machines and if found present, must be removed immediately.

Vending machines should be appealing in appearance, free of any dominant product advertising logos and dependable in their operations. The successful proponent shall support and install any ***Stay Active, Eat Healthy and/or BCRPA designed tools*** signage on their vending machines as requested and upon approval of the Regional District to support healthy eating. Product advertising logos on the machines must be approved in advance by the RDN.

The proponent must provide discounted beverage pricing for the food services operator at Oceanside Place Arena and outline the details in the proposal. Alternatively, the proponent may provide the option for the food services operator to purchase the approved pouring rights beverage products independently.

The successful proponent shall remit commissions on an agreed upon time frame basis, supported by a summary of the sale of all goods on each machine, to the appropriate facility. The proponent is required to submit an illustrative sample of the type of report showing sales and commissions payable to the RDN with the proposal.

The successful proponent will provide a cash float to the RDN in case of machine malfunctions to permit customer refunds. The float will be held and operated on behalf of the Proponent by the RDN.

The proponent is required to submit semi-annual reports for each machine showing the products sold in the Healthy Choices (CM, CS, CL, NR) categories on July 31 (for January-June) and January 31 (for July- December).

Final machine selection, product selection and price ranges will be based upon consultation with the Regional District, and the Regional District reserves the right to determine final selections.

All machines shall be placed where approved by the RDN and shall not be installed or removed without the prior approval of the RDN.

Change machines must be provided at all sites.

The successful proponent must keep up, maintain, repair and service the machines at its own expense. The proponent must provide prompt service for malfunctioning machines and resolution of any other operating concerns. Machine servicing must be provided within 12 hours from the time a call is made between the hours of 8 am to 10 pm, seven

days a week, excluding statutory holidays. Food product replenishment and refund float replenishment must be provided within 12 hours from the time a call is made between the hours of 8 am to 6 pm, seven days a week, excluding statutory holidays.

Proponents must ensure that the vending machines and sale of products comply at all times with any regulatory bodies which govern such operations, including but not limited to any federal, provincial or local government bodies. Machines supplied must be at all times a maximum of three (3) years of age, holding a CSA, UL or NSF certification and having a GFI breakers system in place, energy efficient (e.g. lights turn off when not in use), and in acceptable condition and appearance. The Regional District reserves the right to request replacement of equipment if in its opinion the malfunctioning of the equipment is detrimental to the revenue generating opportunity provided within the facility. The machines must be anchored to the facility to prevent tipping and for earthquake preparation, upon approval by RDN staff.

Within **SEVEN (7)** days of award of this Request for Proposal, the successful Proponent must provide proof of general commercial liability insurance coverage including non-owned automobile coverage in an amount of not less THREE MILLION DOLLARS (\$3,000,000). The successful proponent shall be required to add the Regional District to the policy of insurance as an additional named insured with respect to the agreement entered into arising from this proposal call.

Regional District Responsibilities

The RDN will provide equipment space, power and water to the following locations. Proponents should review the existing machines and locations for accurate measurements. Proponents are entirely responsible for determining whether the locations can accommodate their equipment. Should a proponent require additional space they must provide specific details regarding the space required and a drawing showing how the equipment will look once in place. The Regional District will in its sole opinion determine whether it is prepared to permit adjustments or reconstruction of the existing spaces which shall in all cases be at the proponent's sole cost.

The Regional District will provide and maintain any recycling containers for recyclable items from the vending machines and shall retain all recyclable containers to its own account.

The Regional District closes its recreation facilities for maintenance activities. Oceanside Place Arena or portions thereof may be closed for maintenance activities for up to 6 weeks, generally between May 1st and August 31st. Ravensong Aquatic Centre is shutdown annually for three to four weeks from approximately late August to mid-September, subject to operational requirements

Other

Proponents are advised that there is a food service operation within Oceanside Place Arena which has window access both to the main lobby and to the Howie Meeker ice

sheet. The food service operator follows the Healthy Choices philosophy with a separate approved 3 year transition plan. It is expected that products and prices will not conflict between the Successful proponent and Food Services Operator. The successful proponent is to maintain an effective working relationship with the food service operator.

Other concurrent food and beverage sales may take place from time to time. Examples might include food fairs, circuses, home shows, or similar types of events selling beverages and/or food products as an integral part of the event. The RDN will neither encourage nor discourage food and beverage sales associated with these types of events.

3.0 EVALUATION CRITERIA AND EVALUATION PROCEDURES

3.1 Mandatory Criteria

The following are mandatory requirements:

- Proponents intending to submit a proposal must submit a completed “Acknowledgement of Receipt Form” (Appendix I) on or before Friday, August 10, 2012 at 2:00 p.m. PST.
- A completed proposal has been received on or before the submission date of Friday, August 31, 2012 at 2:00 p.m. PST. Proponents must submit (3) original hard copies and (1) electronic version in MS Word/PDF format in the form of a CD/DVD or flash drive. Proposals must be enclosed and sealed in an envelope/package clearly marked: **RFP Exclusive Beverage Pouring Rights and Vending Services for RDN Recreation facilities of Oceanside Place (Arena) and Ravensong Aquatic Centre.**

3.2 Evaluation Criteria

Proposals will be assessed against the following criteria, which are not intended to be exhaustive and are not ranked in order of preference or priority:

a. Company (35 Points)

- Short Corporate background, history, overview, and experience of the Company.
- Key Corporate personnel and their role as it relates to the RDN’s account.
- Nearest local branch and the branch’s role.
- Key local contacts and their roles and responsibilities.
- The type, mix and location of equipment to be supplied in each facility.
- Equipment Servicing, roles and responsibilities, where service is provided from, in house service or contracted third party, how to get service during normal business hours, after hours and on an emergency basis for all equipment, onsite service response times during regular business hours, after hours and on an emergency

basis. Advise if all service call outs are included or if there are any charges for any labour, parts, consumables, etc

- Product portfolio available now and products contemplated to be added in the future complete with estimated timelines.
- Financial management & reporting.
- Provide details on how your company will manage beverage vending.
- Anything else the proponent may wish to include to enhance this section.

b. References (20 Points)

A separate section for references: **THREE (3)** references from locations where similar services have been provided within the past **TWO (2)** years. Indicate the term of contract, and provide a name, address and telephone contact numbers.

c. Financial Information (35 Points)

- Your proposed one time marketing fund payment payable to the RDN
- Your proposed annual marketing fund payment payable to the RDN
- An outline of any value added concepts such as non-monetary support, partnerships or marketing programs or any other information which the proponent believes is relevant to their proposal
- A percentage of monthly gross revenues (commission) to be offered to the RDN, in addition to the terms and schedule of payments.
- An illustrative sample of the type of report to be provided showing sales and commissions payable to the RDN
- Option of discounted pricing for food services operator, or independent purchasing option
- A description of refund procedures and the size of the refund float to be provided

d. Healthy Choices (10 Points)

A separate section outlining: the types of food and beverages to be provided, competitive pricing, strategic pricing to encourage sales of healthy choices, a pleasing product presentation style, display signage on vending machines which reflects healthier choices, little duplication of product in the same machine, and awareness of current trends in the healthy choices and environmental fields.

3.3 Evaluation Process

Subsequent to the submission of proposals, interviews may be conducted with a short list of proponents, but there will be no obligation to receive further information, whether written or oral, from any proponent.

The RDN will not be obligated in any manner to any proponent whatsoever until a written contract has been duly executed.

At the option of the RDN, proponents may be required to make a presentation to assist in the evaluation process. Proponents acknowledge without conditions of any kind, that the RDN is under no obligation to provide an opportunity for a presentation by any proponent, and may select a successful proponent without presentations by others.

3.4 Financial Stability

The successful proponent may be required to demonstrate financial security and must be legally able to conduct business in BC.

4.0 POST-EVALUATION PROCEDURES

4.1 Privilege or Right to Cancel

Notwithstanding any custom or trade practice to the contrary, the RDN reserves the full right to, in its sole discretion and according to its own judgment of its best interests:

- a) waive any technical or formal defect in a proposal and accept that proposal;
- b) negotiate with one or more proponents;
- c) agree with any proponent on modifications or changes to the proposal and/or
- d) reject any and all proposals.

4.2 Negotiation Delay

If a written contract cannot be negotiated within 10 days of notification to the successful proponent, the RDN may, at its sole discretion at any time thereafter, in writing, terminate negotiations with that proponent and either negotiate a contract with the next qualified proponent or choose to terminate the Request for Proposal process and not enter into a contract with any of the proponents.

5.0 PROPOSAL PREPARATION

This section defines the proposal preparation and submission procedures that are to be followed by all proponents. Proponents are cautioned to carefully read and follow the procedures required by this Request for Proposal, as deviation from these requirements may be cause for rejection.

The proposal must be signed by the person(s) authorized to sign on behalf of the proponent and to bind the Proponent to statements made in response to this Request for Proposal.

5.1 Acceptance of Terms

All the terms and conditions of this Request for Proposal are assumed to be accepted by the proponent and incorporated in their proposal.

5.2 Confidentiality

All information pertaining to this assignment obtained by a proponent as a result of participation in this project is confidential, and must not be disclosed without the written authorization of the RDN.

5.3 Proposal Format

Evaluation of proposals is made easier when proponents respond in a similar manner. The following format and sequence should be used to provide consistency in proponent response and to ensure that each proposal receives full consideration. All pages should be consecutively numbered.

- a) Title page, showing Request for Proposal title, closing date and time, proponent's name, address, telephone number, and contact name.
- b) One page letter of introduction identifying the proponent and signed by the person or persons authorized to sign on behalf of, and bind the proponent to statements made in the proposal.
- c) Table of Contents including page numbers.
- d) A short one or two page summary of key features of the proposal.
- e) The body of the proposal addressing items in the order noted below under Proposal Content.

5.4 Proposal Content

Your proposal should include the following information:

- a) Company profile that briefly summarizes your organization, its size, the number of years in business and the scope of products and services you offer;
- b) Name, title and telephone number of the employee authorized to negotiate and to ratify an agreement for this service;
- c) Brief summary of similar contracts undertaken within the last three years;
- d) Minimum of three references from locations where similar services have been provided within the past two years. Indicate the term of contract, and provide a name, address and telephone contact numbers;
- e) Summary of Financial Information Form – showing the percentage of monthly gross revenues (commission fees) to be offered to the RDN, the terms and schedule of commission fee payments, the one time marketing fund amount, the annual marketing fund amount, the size of the refund float, and whether

food services operator is offered discounted pricing or independent purchasing .
Use Appendix II Summary of Financial Information Proposal Form to submit your proposal;

- f) An illustrative sample of the type of report to be provided showing sales and commissions payable to the RDN; and
- g) Any other information the Proponent feels is relevant to the RFP;

A designate will be assigned by the RDN as the contract administrator to oversee the contract awarded to the successful proponent. The successful proponent will be expected to name a counterpart manager who shall among other duties be responsible for all communications with the RDN designate.

5.5 Proponents' Expenses

Proponents are solely responsible for their own expenses in preparing, delivering or presenting a proposal and for subsequent negotiations with the RDN, if any.

5.6 Currency and Taxes

Prices quoted are to be:

- a) In Canadian dollars and;
- b) Exclusive of Provincial and/or Federal Sales Taxes (PST, GST or HST)

5.7 Completeness of Proposal

By submitting a proposal, the proponent warrants that all components required to deliver the services requested have been identified in the proposal or will be provided by the Proponent at no additional charge.

5.8 Inquiries

Direct all inquiries related to this Request for Proposal to the Superintendent of Recreation Program Services. Information obtained from any other source is not official and may be inaccurate. Inquiries and responses may be recorded and distributed to all proponents at the RDN's option.

6.0 PROPOSAL CHANGES AND AMENDMENTS

6.1 Liability for Errors

While the RDN has made an effort to ensure accurate representation of information in this Request for Proposal, the information is supplied solely as a guideline for proponents. The RDN neither guarantees nor warrants the accuracy of the information nor claims that it is necessarily comprehensive or exhaustive. Nothing in this Request

for Proposal is intended to relieve proponents from forming their own opinions and drawing their own conclusions respecting matters addressed in this Request for Proposal.

6.2 Notification of Changes to the RFP

All proponents interested in this Request for Proposal will be notified of any changes made to this document.

7.0 FORM AND CONTENT OF CONTRACT

7.1 Definition of Contract

Notice in writing to a proponent of the acceptance of their proposal by the RDN and the subsequent execution of a written contract will constitute a contract for the services, and no proponent will acquire any legal or equitable rights or privileges relative to the services until the occurrence of both such events.

7.2 Proposals as Part of Contract

Proposals may be negotiated with proponents and if accepted, may form part of the contract.

7.3 Form of Contract

The successful proponent shall enter into a contract in substantially the form attached to this RFP as Appendix III.

APPENDIX I

REGIONAL DISTRICT OF NANAIMO

RFP – EXCLUSIVE BEVERAGE POURING RIGHTS AND VENDING SERVICES

ACKNOWLEDGEMENT OF RECEIPT FORM

Return form by fax, no later than 2:00 p.m. PST Friday, August 10, 2012 to:

Ms. Ann-Marie Harvey
Senior Secretary
FAX: (250) 248-3294

Company Name:			
Address:			
Phone:		Fax:	
Contact:			
Signature:			

We have received a copy of the above-noted RFP and:

_____ we will be submitting a proposal

_____ we will not be submitting a proposal

APPENDIX II

REGIONAL DISTRICT OF NANAIMO

RFP – EXCLUSIVE BEVERAGE POURING RIGHTS AND VENDING SERVICES

SUMMARY OF FINANCIAL INFORMATION PROPOSAL FORM

To:
 Ann-Marie Harvey, Senior Secretary
 RDN Recreation and Parks Department
 Oceanside Place
 830 West Island Highway, Parksville, BC V9P 2X4

The undersigned Proponent, having carefully read and examined the Request for Proposal and having full knowledge of the pouring rights and food and beverage vending machine services, agrees to provide the following commission fees, marketing funds, float and food services operator option to the Regional District of Nanaimo:

Name of Proponent:			
Address:			
Phone:		Fax:	
Name, Signature, and Title of Signing Officer:			
Date:			
<u>SUMMARY OF FINANCIAL INFORMATION PROPOSAL SCHEDULE</u>			
% of Monthly Gross Revenues for Commission Fee:			
Terms and Schedule of Commission Fee Payments:			
One Time Marketing Fund amount:			
Annual Marketing Fund amount:			
Size of Refund Float (attach refund procedures):			
Food Services Operator Option (please tick one): <input type="checkbox"/> Discounted Pricing <input type="checkbox"/> Independent Purchasing			

APPENDIX III

REGIONAL DISTRICT OF NANAIMO

RFP – EXCLUSIVE BEVERAGE POURING RIGHTS AND VENDING SERVICES

FORM OF CONTRACT

REGIONAL DISTRICT OF NANAIMO

**AN AGREEMENT GOVERNING
EXCLUSIVE BEVERAGE POURING RIGHTS AND VENDING SERVICES
AT
REGIONAL DISTRICT OF NANAIMO
OCEANSIDE PLACE (ARENA) AND RAVENSONG AQUATIC CENTRE**

THIS AGREEMENT made the day of , 2012 and effective the day of, 2012

Between

The Regional District of Nanaimo
6300 Hammond Bay Rd.
Nanaimo, B.C.
V9T 6N2

(Hereinafter called the “Regional District”)

AND

(Hereinafter called the “Vendor”)

NOW THIS AGREEMENT WITNESSETH:

THAT in consideration of the terms, conditions and covenants hereinafter set forth, the Regional District and the Vendor covenant and agrees with the other as follows:

1. Services

The Vendor will provide pouring rights and food and beverage vending machine services under the terms and conditions as further described herein, at Oceanside Place located at 830 West Island Highway in the City of Parksville and the Ravensong Aquatic Centre (Ravensong) located at 737 Jones Street in the Town of Qualicum Beach.

2. Term

The agreement term shall be for a period of three years beginning _____ and ending on _____ unless sooner terminated as hereinafter provided (hereinafter called the “Term”).

The Regional District will have the sole option of renewing the agreement for two further one year terms. Each renewal term will be decided upon by the Regional District in its sole unrestricted opinion and the first renewal will not imply that a second renewal will be granted.

3. Commissions Fee Payable

a. The Vendor agrees to pay the following fees:

[Insert Agreed Fees]

b. The Vendor will remit by the 15th of each month 1/12th of the fees under 3(a). A copy of the statement of sales, gross income and commission for each machine per facility must accompany each cheque. The Vendor shall provide the RDN with reasonable opportunity and facilities to verify these statements.

c. Cheques shall be issued to and delivered as follows:

- | | |
|--|--|
| a. Oceanside Place Arena
The Regional District of Nanaimo
Recreation and Parks Department
830 West Island Highway
Parksville, BC V9P 2X4 | b. Ravensong Aquatic Centre
The Regional District of Nanaimo
Recreation and Parks Department
737 Jones Street
Qualicum Beach, BC V9K 1S4 |
|--|--|

4. Independent Contractor

a. The Vendor will at all times be an independent contractor and not a servant, employee or agent of the Regional District.

b. The Vendor will be responsible for the conduct of any persons employed or used to provide the services.

c. The Regional District reserves the right to prohibit access to Oceanside Place/Ravensong and/or the vending machines by the Vendor and/or its employees, where in the sole unrestricted opinion of the responsible Regional District employee, the behaviour of the Vendor and/or its employees is deemed to be disruptive to the safe and enjoyable functioning of Oceanside Place/Ravensong premises. The Vendor shall have no right of recourse against the Regional District if the Regional District exercises its right to prohibit under this section. The Regional District will in its sole unrestricted opinion determine if and when the Vendor and/or its employees may be permitted access to Oceanside Place/Ravensong or vending machine space and the Regional District shall incur no liability for loss of profit related to a prohibition under this section. In the event the Regional

District does not permit the Vendor to re-enter Oceanside Place/Ravensong premises this agreement shall be considered to be terminated in accordance with Section 19(a).

5. Assignment and Sub-Contracting

- a. The Vendor shall not without the prior written consent of the Regional District assign or sub-contract this Agreement or any portion thereof.
- b. The Regional District reserves the right in its sole unrestricted opinion to not permit any assignment or sub-contracting of this agreement.
- c. In the event the Regional District does not permit an assignment or sub-contracting of this agreement the agreement shall be considered to be terminated in accordance with Section 19(a).

6. Indemnity

- a. The Vendor shall indemnify and save harmless the Regional District from and against all injury, damage, actions, causes of action, suits, claims and demands of whatsoever nature which may result or be brought or made by reason of any act or default of the Vendor, his servants, agents or employees, or on account of any connection with any loss, damage or injury to persons or property in any manner based upon, arising out of or incidental to the use and occupation of the premises by the Vendor. Such indemnity shall extend to legal expenses incurred by the Regional District in defending against such liability or alleged liability or in enforcing this right of indemnity.
- b. The Vendor shall assume all risk of loss, damage or injury to their property, or to the persons or property of their servants, agents or employees.

7. Insurance

a. Comprehensive General Liability Insurance

The Vendor will take out and maintain during the term of this agreement a policy of comprehensive general liability insurance against claims for bodily injury, death or property damage arising out of the operations or use of the vending machines in the amount of not less than five million dollars (\$5,000,000) per single occurrence with such greater amount as the Regional District may from time to time designate, naming the Regional District as an insured party thereto and shall provide the Regional District on demand with a copy of such policy or policies.

All policies of insurance shall contain a clause requiring the insurer not to cancel or change the insurance without first giving the Regional District thirty (30) days prior written notice;

The deductible on the policy of the Insurance shall be not more than one thousand (\$1,000) dollars.

If both the Regional District and the Vendor claim to be indemnified under any insurance required by this Agreement, the indemnity shall be applied first to the settlement of the claim of the Regional District and the balance, if any, to the settlement of the claim of the Vendor.

Any furniture, equipment, machinery or fixtures placed within the vending machine space by the Vendor shall be entirely at the risk of the Vendor.

b. Motor Vehicle Insurance

The Vendor shall ensure that vehicles owned and/or operated by the Vendor in connection with this agreement maintain Third Party Legal Liability Insurance with I.C.B.C. and/or a private carrier in an amount not less than two million dollars (\$2,000,000) per occurrence.

8. Worksafe BC Coverage

- a. The Vendor shall provide evidence prior to commencing work under this agreement that it is registered and in good standing with the Workers' Compensation Board and shall remain registered and in good standing, throughout the terms of this contract.
- b. The Vendor shall provide on demand any evidence required by the Regional District that it is in full compliance with Section 8(a).
- c. The Vendor shall indemnify and save harmless the Regional District from any and all liability whatsoever arising from the Vendor's failure to pay Worker's Compensation Board assessments or taxation.

9. Healthy Choices Services

Healthy Choices Vending is when all vending machines offer healthier food and beverages according to the *Nutritional Guidelines for Vending Machines in BC Public Buildings*.

- a. The Vendor agrees to follow the above provincial guidelines and the RDN's Healthy Choices Philosophy, Guiding Principles and Three Year Transition chart (below) with the goal of providing 0% *Choose Least* and *Not Recommended* by the end of the three year period. Each individual machine must meet the identified percentages of CM, CS, CI, NR, rather than achieved through a bank of machines. Consultation with the RDN may be required to ensure the approved percentages and a balance of products is provided.

Vending Machines Three Year Transition						
	Recommended %			Recommended %		
	Choose Most &	Choose	Choose	Choose Least &	Choose	Not
	Choose Sometimes	Most (CM)	Sometimes (CS)	Not Recommended	Least (CL)	Recommended (NR)
Year 1	70%	50%	20%	30%	15%	15%
Year 2	90%	60%	30%	10%	10%	0%
Year 3	100%	70%	30%	0%	0%	0%

- b. The Vendor will provide a food plan for each vending machine at the start of each year of the agreement (Year 1, Year 2, Year 3), and is subject to approval by the RDN. The products may change, but the categories identified in the transition chart must be followed by the Vendor. The Vendor is expected to investigate healthy products suitable for RDN clients.
- c. The Vendor shall place and maintain in the vending machines products that are fresh and fit for human consumption. Cigarettes and alcohol shall not be sold. Expired food should not be provided in the machines and if found present, must be removed immediately.
- d. The Vendor will work with the RDN to ensure a broader range of healthier food and beverage choices available in vending machines including:
 - i. identifying healthier food and beverage choices by supporting and installing any **Stay Active, Eat Healthy** and/or BCRPA designed tools signage on vending machines as approved by the RDN.
 - ii. displaying healthy choices as the most visible choice in the food services area and vending machines
 - iii. recommending smaller portion-sized selections be made available in all food and beverage categories to ensure consumers have a range of choices regarding portion size and price
- e. The Vendor agrees to submit semi-annual reports for each machine showing the products sold in the Healthy Choices (CM, CS, CL, NR) categories on July 31 (for January-June) and January 31 (for July-December).
- f. The Regional District will monitor the healthy food and beverage choices provided in vending machines every six months to ensure percentage goals and healthy choices guidelines are being met.
- g. If the Regional District observes that products are not being replenished within a reasonable time it reserves the right to request product replenishment upon demand and such request must be provided within 12 hours from the time a call is made between the hours of 8 am and 6 pm, seven days a week (excluding statutory holidays).

10. Equipment

- a. The Vendor shall supply and install vending machines of a type and size adequate to provide continuous service. All vending machines shall be less than 3 years of age, energy efficient and must carry a CSA, UL or NSF certificates of approval. Any variance from the age requirement must first be authorized by the facility supervisor prior to installation.
- b. All machines in any one location in the building shall be of the same color and height. The Regional District shall approve each machine as to appearance, performance and location prior to installation. Any product advertising logos on the machines must be approved in advance by the RDN. Any vending machine contracted advertising will be up to the discretion and benefit of the RDN.
- c. The Vendor shall, at all times, at their cost and expense, keep the machines in proper mechanical working order and shall maintain the machines in a clean, attractive and sanitary condition to the satisfaction of the Regional District. If a machine fails to offer continuous service due to repeated breakdowns or malfunctioning and/or as a result of a malfunction is not repaired within 12 hours from the time a call is made between the hours of 8 am to 10 pm, seven days a week, excluding statutory holidays, the Regional District shall have the right to request the machine be removed and be replaced forthwith by the Vendor. Any replacement machine shall provide the same or better revenue generating capability and shall be subject to the approval of the Regional District.
- d. Service to malfunctioning equipment must be provided within 12 hours from the time a call is made between the hours of 8 am to 10 pm, seven days a week (excluding statutory holidays).
- e. The Vendor shall provide bill-changing equipment suitable for their vending machine equipment at each bank of machines. All paragraphs under this section with respect to maintenance and operation of equipment apply to the bill changing equipment.
- f. Temporary relocation of vending machine equipment which is required by the Regional District shall be with reasonable notice, cause and consultation with the Vendor. The parties agree that reasonable costs incurred for such temporary relocation will be reimbursed to the Vendor by the Regional District.
- g. The Vendor shall be liable and responsible for the costs of repairing or making good any damage or marring of any Regional District property caused by him, any employee or agent fulfilling the terms of this agreement.

11. Other Requirements:

- a. The Vendor agrees to (a) provide competitive beverage pricing and as agreed to as outlined to the food services operator (Oceanside Place Arena) OR (b) allows the food service operator to purchase the approved pouring rights beverage products independently.*

- b. The Vendor shall respect all facility parking/loading restrictions unless waived in writing by the RDN.
- c. The Vendor or any employee or agent acting on their behalf shall first report to the main office when entering the premises to service the equipment so that employees of the Regional District can identify the person. Vendor's employees shall either be dressed in a distinctive uniform, or have an official name tag and card identification when operating within Oceanside Place/Ravensong, which identification must be presented before proceeding to service the equipment. Any person servicing the vending machines shall do so expeditiously and in a neat and tidy manner without interrupting the operations of Oceanside Place/Ravensong or the employees of the Regional District.
- d. The Vendor shall provide and maintain a refund cash float, forms and instructions for use. Should refund float levels require replenishment prior to a regular service call the Regional District shall have the right to request replenishment on demand, and such request shall be complied within 12 hours of a call by the Regional District between the hours of 8 am to 6 pm, seven days a week. The Regional District will not be responsible for determining or adjudicating refund requests and will not be liable for any losses suffered by the Vendor due to refunds. Refunds will not be deducted from any revenues due to the Regional District.
- e. The Vendor shall pay all lawful taxes, rates and charges assessed against the Vendor.

12. Facility Closures

- a. The Regional District will provide written 5 days written notice of any facility shutdown periods in order that the Vendor may remove any products from the machines which may be necessary due to the length of the shutdown. The Regional District will incur no liability for loss of revenue during shutdown periods regardless of the final length of the shutdown required.
- b. Closures resulting from circumstances beyond the Regional District's control will not result in any liability for loss of revenue regardless of the final length of the shutdown required. No notice shall be required where the closure is of a sudden or emergency nature and any such notice will be made on a best efforts basis.

13. Regional District Rights and Responsibilities

- a. The Regional District will select and provide designated space, as shown outlined on the floor plan attached to this Agreement and utilities (heat, power and water ready for hook-up) at no charge to the Vendor. The Regional District shall not be liable to the Vendor for any damage or loss occasioned by a lack of heat, power or water. The Regional District reserves the right to move the Vendor's machines for cleaning or maintenance purposes in case of an emergency.
- b. Prices and product range recommended by the Vendor must be approved by the Regional District and the Regional District reserves the final right to determine product selections.

- c. The Vendor acknowledges that other food and beverage sales will occur within and around Oceanside Place/Ravensong facilities and that the Regional District is under no obligation to restrict other food or beverage sales.
- d. The Regional District will provide and maintain any recycling containers for recyclable items from the vending machines and shall retain all recyclable containers to its own account.
- e. The Regional District will be responsible for the security of the main entrances and the general conduct of patrons in Oceanside Place/Ravensong, however, it provides no assurances as to the safety of the equipment nor assumes any responsibility or liability for costs or loss of revenue for equipment damaged while it is located in Oceanside Place/Ravensong. No charges of any kind, whether due to malicious damage or a lack of action on the part of the Regional District shall be recoverable against the Regional District.

14. Other Rights

- a. The Regional District reserves the right to negotiate a separate contract for bulk toys/cards/stickers dispensers within the facilities.
- b. All rights to retail sales, locker rentals, equipment rentals and vending of toiletry items remain the exclusive rights of the Regional District.
- c. Standard water coolers and plumbed water and fountains are exempt from this agreement.
- d. At the time of signing the agreement, the RDN allows bottled water to be sold in recreation facilities. The RDN could at any point change their stance during the contract period and the successful proponent would be expected to work with RDN staff to implement the new direction which may be, as example, the cessation of bottled water sales.

15. Exclusivity

- a. Beverages and Brands shall mean any and all non-alcoholic drinks currently sold and distributed by the Vendor and any or all beverages the vendor may sell in the future during the contract period. Exclusivity is restricted to the Vendor's current portfolio of products available for sale. Any non-exclusive product may be freely sold within the RDN unless the successful proponent brings online an equivalent product available for resell. The Vendor may propose and discuss any new non-food products for sale (e.g. water bottles) with the RDN.
- b. The Vendor will be the sole, exclusive and official Beverages supplier, distributor and advertiser at the Facilities during this agreement. In the event a beverage company other than the Vendor sponsors an event, the Vendor authorizes through express written consent the approval for specialized signage and other event related paraphernalia including but not limited to hats, t-shirts, and headbands. The RDN agrees to notify the Vendor in writing at least two (2) weeks prior to such an event.

- c. The Vendor's Brand will be exclusively available at both Facilities and no beverages or beverage related items including but not limited to cups or premium items that compete with or are similar to the Brand shall be made available, advertised and/or promoted at the Facilities except as otherwise noted in this agreement. The RDN and the Vendor will work cooperatively to resolve situations sometimes referred to as "Ambush Marketing". The RDN will always remain the final decision authority in all matters.
- d. The Regional District acknowledges and agrees that the Vendor shall have exclusive food and beverage vending machine rights within the facility. The Vendor will be given a first right to provide expansion of food and beverage vending machine services within the facility.
- e. All determinations regarding product equivalency and exclusivity will be at the RDN's sole discretion. The RDN will endeavor to make decisions in a reasonable manner based on the available information. The RDN will always remain the final decision authority in all matters.
- f. On occasion, the RDN reserves the right to cover up beverages or vending signage for a specific event held in the facilities. The RDN would inform the Vendor in writing two weeks in advance of this occurring. The RDN will provide written 5 days written notice of any signage coverage which may be necessary.
- g. At the time of proposal, the RDN allows bottled water to be sold in recreation facilities. That being said, the RDN Board could at any point change their stance during the contract period and the Vendor would be expected to work with RDN staff to implement the Board's direction.

15. Warranties

The Vendor agrees that the Regional District makes no claims, warranties or representations with regards to the potential volume of sales and that the Vendor bears the full risk of operating the vending machines, including any losses which may arise there from.

16. Compliance with regulations

- a. The Vendor is responsible for observing, providing and complying with all necessary licenses, permits and any regulations relating to the operation of a food and beverage vending machine service.
- b. The Vendor shall comply with orders issued by the Regional District insofar as such orders affect the use of the vending machine under this agreement.

17. Inspection of records

The Vendor shall permit any auditor or auditors appointed by the Regional District to inspect the books, accounts, vouchers or any other documents used by the Vendor for the transaction of business, as it relates to this agreement and to provide such auditor or auditors with any information or explanation that may be requested with respect to the operation.

18. Other

This contract shall be subject to the laws of the Province of British Columbia.

19. Termination

Notwithstanding any other provision of this Agreement:

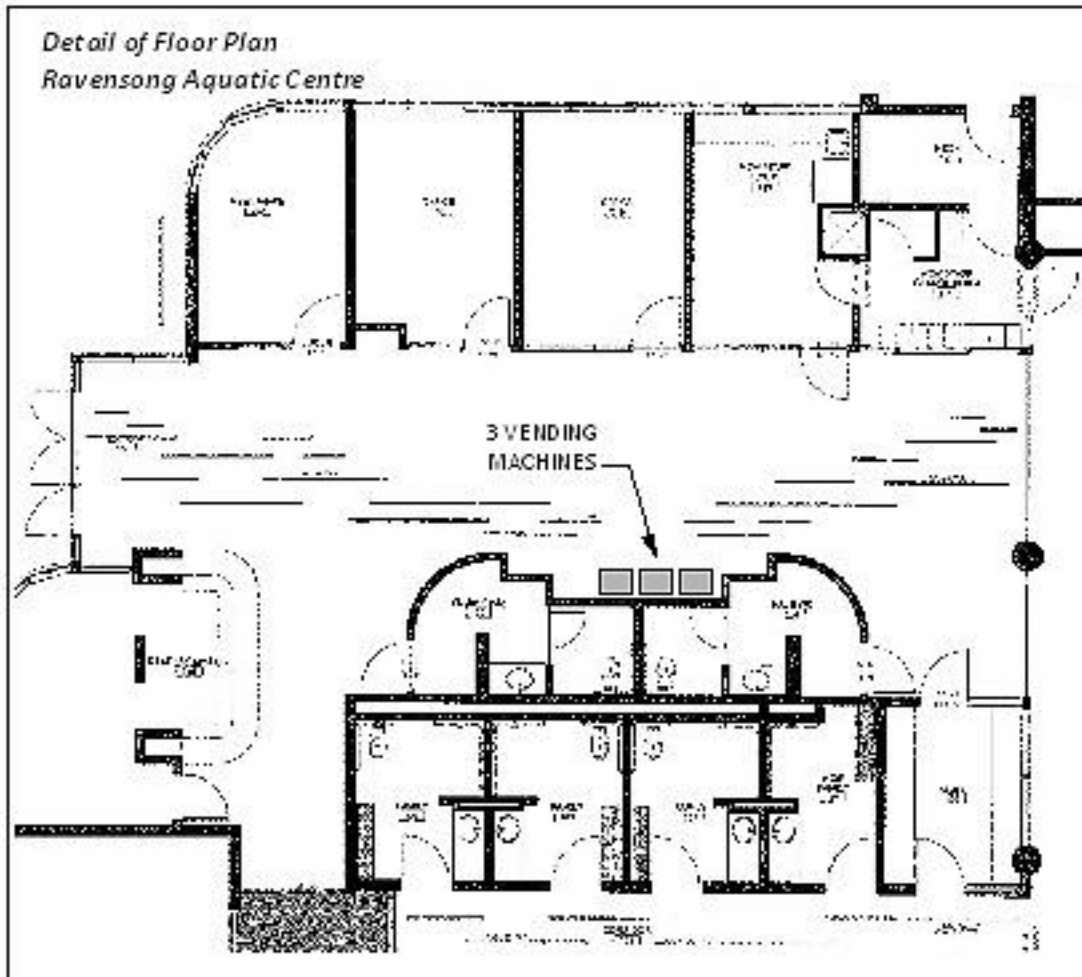
- a. If the Vendor fails to comply with any provision of this Agreement, then, and in addition to any other remedy or remedies available to the Regional District, the Regional District may, at its option, terminate this Agreement immediately by giving written notice of termination to the Vendor at the address noted herein. Equipment removal and payment of all monies accrued to the date of termination shall be effected within 14 days of termination.
- b. Either Party may upon sixty (60) calendar days (or a shorter period if mutually agreed) written notice to the other, terminate this agreement. Equipment removal and payment of all monies accrued to the date of termination shall be effected on or before the termination date.
- c. In the event that the premises are wholly or partially destroyed by circumstances beyond the Regional District's control, the Regional District may at its option, provide other accommodation for the use of the Vendor or alternatively, may forthwith terminate the agreement. There shall be no compensation or other rights acquired by the Vendor as a result of Regional District exercising its rights under this section.

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

For the Regional District of Nanaimo:)
)
_____)
)
_____)

For the Vendor:)
)
_____)
)
_____)

SCHEDULE "A"



SCHEDULE "B"

