

**23. Award IFB-3079-03/GMG – Term Contract for Drink Vending Machine Services, to Florida Coca-Cola Bottling Co., Orlando (45% commissions on \$1.00 bottles and 35% on \$0.60 cans).**

IFB-3079-03/GMG will provide for drink vending machine services for various locations throughout the County.

This project was publicly advertised and the County received three (3) submittals in response to the solicitation. The Review Committee which consisted of Administrative Services/Support Services personnel reviewed the responses and recommends award of the contract to the most responsive and responsible Bidder, Florida Coca Cola Bottling Co Orlando. Consideration was given to proposed service, past performance, experience and percentage of commission.

The Contractor shall pay to the County a commission of 45% of gross sales for \$1.00 beverages and 35% for \$0.60 beverages. Commissions will be paid on a monthly basis for the term of the agreement in effect for a period of three (3) years with two (2) additional renewable periods of two (2) years each.

Administrative Services/Support Services and Fiscal Services/Purchasing and Contracts Division recommends the Board to award the project and authorize the County Manager to execute the contract as approved and prepared by the County Attorney's Office and pursuant to the IFB documents.

**B.C.C. - SEMINOLE COUNTY, FL  
IFB TABULATION SHEET**

ALL BIDS ACCEPTED BY SEMINOLE COUNTY ARE SUBJECT TO THE COUNTY'S TERMS AND CONDITIONS AND ANY AND ALL ADDITIONAL TERMS AND CONDITIONS SUBMITTED BY THE BIDDERS ARE REJECTED AND SHALL HAVE NO FORCE AND EFFECT. BID DOCUMENTS FROM THE VENDORS LISTED HEREIN ARE THE ONLY BIDS RECEIVED TIMELY AS OF THE ABOVE OPENING DATE AND TIME. ALL OTHER BID DOCUMENTS SUBMITTED IN RESPONSE TO THIS SOLICITATION, IF ANY, ARE HEREBY REJECTED AS LATE.

BID NUMBER: IFB-3079-03/GMG  
 BID TITLE: Term Contract for Drink Vending Machine Services  
 OPENING DATE: December 3, 2003, 2:00 P.M.

PAGE: 1 of 1

ITEM DESCRIPTION	Response 1	Response 2	Response 3
	Florida Coca-Cola Bottling Co. 2900 Mercy Drive Orlando, Florida 32808  (407) 295-9290 – Phone (407) 521-4036 – Fax Gene Belcher	The Pepsi Bottling Group 1700 Directors Row Orlando, Florida 32809  (407) 826-5900 – Phone (407) 826-5948 – Fax Martin Hainey	Corporate Services Group 325 Rand Yard Road Sanford, Florida 32771  (407) 688-0777 – Phone (407) 688-2211 – Fax Russ Harper
% OF COMMISSIONS OF GROSS RECEIPTS	45% = \$1.00 of vending cost 35% = .60 of vending cost	36% = \$1.00 of vending cost 20% = \$1.25 of vending cost 20% = .60 of vending cost	23% = of vending cost
Can supply mix of products	Yes	Yes	Yes
One machine dedicated to one type of product	not indicated	Yes	Yes
Conflict of Interest Statement	Yes	Yes	Yes
Compliance with Public Records Law	Yes	Yes	Yes
Bidder's Certification	Yes	Yes	Yes
Acknowledgement of Addenda (1 of 1)	Yes	Yes	Yes

Posted: 12/4/2003 Recommendation of Award: *Coca-Cola Bottling Co.*

**DRINK VENDING MACHINE SERVICE AGREEMENT (IFB-3079-03/GMG)**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between **FLORIDA COCA-COLA BOTTLING CO.**, whose address is 2900 Mercy Drive, Orlando, Florida 32808, hereinafter referred to as "CONTRACTOR," and **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as "COUNTY".

**W I T N E S S E T H:**

**WHEREAS**, the COUNTY desires to make beverages available to the users and patrons of the Seminole County Facilities according to the terms of this Agreement; and

**WHEREAS**, the CONTRACTOR is competent to provide services under the terms of this Agreement, including the sale of beverage products.

**NOW, THEREFORE**, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, COUNTY and CONTRACTOR agree as follows:

**SECTION 1. PURPOSE.** The purpose of this Agreement is to set forth the terms and conditions under which the CONTRACTOR shall provide for drink vending machine services at the COUNTY specified locations.

**SECTION 2. TERM.** The term of this Agreement shall commence on January 1, 2004, notwithstanding the date of signature by the parties and shall be in effect for a period of three (3) years. At the sole option of the COUNTY, this Agreement may be renewed for two (2) additional periods of two (2) years each. The COUNTY shall exercise its

option to renew not later than thirty (30) calendar days proceeding the expiration date of this Agreement or subsequent renewal period.

**SECTION 3. COMMISSION ON NET SALES.**

(a) The CONTRACTOR shall pay to the COUNTY a commission of forty-five percent (45%) of gross sales for drink vending items of ONE AND NO/100 DOLLAR (\$1.00) and thirty-five percent (35%) of the gross sales for drink vending items of SIXTY/100 DOLLAR (\$.60), paid on a monthly basis, for the term of this Agreement.

(b) Commission not paid by the due date shall bear interest at the rate of one and one-half percent (1½%) per month from the date due until paid.

(c) All commissions due the COUNTY under this Agreement, shall be paid monthly to the COUNTY on or before the fifteenth (15<sup>th</sup>) day of the calendar month succeeding the month for which the payment is applicable.

(d) In computing the commission due the COUNTY, the first monthly accounting period shall commence on the date the CONTRACTOR opens for business and shall end at the close of business on the last day of the same calendar month.

**SECTION 4. CONCESSION RIGHTS.**

(a) Subject to the terms and conditions of this Agreement, the COUNTY grants CONTRACTOR an exclusive right to install all drink vending machine which includes coin-operated beverage machines. The exclusive right is limited to the locations, facilities, and identified on the attached composite Exhibit "B," which is incorporated by reference.

(b) COUNTY reserves the right for its patrons and employees to provide, prepare, and store beverages for their own use and consumption.

**SECTION 5. MENU AND PRICING.**

(a) The pricing of each item is subject to the COUNTY'S approval and is to remain firm for the first term of this Agreement unless the CONTRACTOR requests an annual price adjustment on the anniversary of the contract, and this request must be submitted in writing to the COUNTY with proper justification, and must be approved by the County Support Services Manager and Purchasing Manager or designee.

(b) Seasonal adjustments including price changes of a minor nature may be necessary during the term of this Agreement. All seasonal adjustments must be approved by the County Support Service Manager and the Purchasing and Contracts Manager or designee. In the event that the COUNTY exercises its option to renew this Agreement, the CONTRACTOR shall update the concession product menu and prices to accurately reflect what is provided by the CONTRACTOR.

(c) Samples of drink products shall be submitted to the Support Services Manager prior to sale.

(d) CONTRACTOR shall maintain adequate inventory levels of all and vending items to meet patron demand.

**SECTION 6. CONTRACTOR RESPONSIBILITIES.**

(a) CONTRACTOR shall be responsible for obtaining all necessary permits and licenses.

(b) CONTRACTOR shall be responsible for compliance with all requirements of Federal, State and local laws, rules, and regulations related to the operating and sale of and vending items.

(c) CONTRACTOR is responsible to assure that all equipment shall be neat and clean on the interior and exterior at all times. Equipment noises and cleanliness requirements are determined by the Support Services Manager.

(d) CONTRACTOR shall be responsible for all damage to its equipment when the damage is caused by fire, flood, lightning or any cause beyond the control of the COUNTY.

(e) CONTRACTOR shall assure that all personnel assigned to COUNTY facilities shall be courteous and properly attired at all times. CONTRACTOR shall provide uniforms for its employees including, at a minimum, a shirt or blouse with name tag identification.

(f) CONTRACTOR shall properly maintain all Concession areas to present a neat, clean, and attractive appearance to the COUNTY and its patrons.

(g) Equipment and fixtures shall be adequate to respond to patron demand efficiently

(h) CONTRACTOR will be responsible for all equipment maintenance and repair, at his/her expense, as follows:

(1) Cleaning and polishing of the equipment so that the equipment is clean and presentable at all times.

(2) Routine maintenance - all equipment to be checked periodically and a record of service calls maintained and made available upon request.

(3) Emergency service to be provided as required.

(4) A realistic program of preventive maintenance and regular replacement of worn, damaged, or malfunctioning equipment must be instituted and carried out.

(5) A service repair telephone number shall be noted on all equipment.

(6) Compliance with Florida Statutes, Section 212.0515(3)(a), (1991) which requires a particular notice to be affixed to all vending machines is required.

(7) Maintenance and service shall be performed within twenty-four (24) hours from a service call. All problems reported to the vendor shall be corrected within twenty-four (24) hours with the exception of a major breakdown. In case of a major breakdown, the machine may not be out of service more than forty-eight (48) hours before replacement.

(i) CONTRACTOR shall provide prompt, efficient, and courteous service.

(j) The sale of drink products shall be made from locations that are approved by the COUNTY.

(k) The public's right of use and enjoyment of County facilities shall not be infringed upon by any activity of CONTRACTOR.

(l) CONTRACTOR agrees to observe and comply with all rules and regulations adopted by the COUNTY with respect to use of County facilities.

(m) CONTRACTOR shall obtain all licenses and permits as required by the State and local authorities and shall comply with all health, sanitary and other regulations and laws.

(n) CONTRACTOR shall maintain all assigned areas in a clean, sanitary condition consistent with all pertinent health and sanitary codes and authorized health authorities.

(o) CONTRACTOR shall have restocking system procedures.

(p) CONTRACTOR shall not erect, maintain, or display any signs or any advertising and promotional material, without written approval of the COUNTY.

**SECTION 7. POWERS RESERVED BY COUNTY.** The COUNTY reserves, but is not limited to, the following powers:

(a) Final determination of the quality and retail prices of all drink product vending items, realizing that adjustments in prices could effect prices.

(b) Final determination of all drink product vending items.

(c) The power to terminate this Agreement for acts of default by the CONTRACTOR in accordance with Section 11 of this Agreement.

**SECTION 8. FINANCIAL REPORTING AND ACCOUNTABILITY.** The CONTRACTOR shall maintain at all times accurate computerized accounting records on the operation of this concession.

(a) Any other specific accounting information related to the Concessions operations which is determined by the COUNTY to be meaningful and necessary.

(b) CONTRACTOR shall maintain, at its principal place of business, for a period of not less than five (5) years documentation for

transactions relating to the computation of gross revenue and net sales. The COUNTY shall have the authority to make copies of all record for the purpose of verifying the accuracy of the CONTRACTOR'S financial obligations and payment to the COUNTY. It shall be the responsibility of the CONTRACTOR to provide all information reasonably necessary for the audit at no expense to the COUNTY.

(c) Unless notice of dissatisfaction shall be served by the COUNTY the CONTRACTOR within three (3) years after the receipt of any statement submitted by the CONTRACTOR as herein provided, such statement shall be deemed final and binding upon the parties.

(d) All accounting records, documents, books, inventories, and other such related information shall be made available for COUNTY inspection at any time during the term of this Agreement.

(e) The CONTRACTOR shall provide a financial operating statement by the fifteenth (15<sup>th</sup>) day of each month which details, on an accrual basis, all gross revenues, direct operating costs, and net profit resulting from the concessions operations for the preceding month.

**SECTION 9. INDEMNIFICATION.** The CONTRACTOR agrees to indemnify and hold harmless the COUNTY, its officers, agents, and employees, from and against any and all liability, claims, demands, damages, fines, fees, expenses, penalties, suits, proceedings, actions and cost of actions, including attorney's fees for trial and on appeal, of any kind and nature arising or growing out of or in any way connected with the performance of this Agreement whether by act or omission of the

CONTRACTOR, its agents, servants, employees or other, or because of or due to the mere existence of this agreement between the parties

**SECTION 10. INSURANCE.**

(a) General. The CONTRACTOR shall at the CONTRACTOR'S own cost, procure the insurance required under this Section.

(1) Before taking possession of the leased premises, the CONTRACTOR shall furnish the COUNTY with a Certificate of Insurance signed by an authorized representative of the insurer(s) evidencing the insurance required by this Section (Commercial Liability, Property Insurance, Business Automobile Insurance and Workers' Compensation). The Certificate of Insurance shall provide that the COUNTY shall be given not less than forty-five (45) days written notice prior to the cancellation, non-renewal or restriction of coverage. Throughout the term of this Agreement and any extensions thereof, the CONTRACTOR shall provide the COUNTY with a renewal or replacement of insurance for which a previous certificate has been provided.

(2) In addition to providing the Certificate of Insurance, pursuant to the above, if required by the COUNTY, the CONTRACTOR shall, within thirty (30) days after receipt of the request, provide the COUNTY with a certified copy of each of the policies of insurance providing the coverage required

(3) Neither approval by the COUNTY or failure to disapprove the insurance furnished by CONTRACTOR shall relieve the CONTRACTOR of the CONTRACTOR'S full responsibility for liability, damages, and accidents.

(b) Insurance Company Requirements. Insurance companies providing the insurance under this Agreement must meet the following requirements:

(1) Such companies must be authorized to conduct business in the State of Florida and prove same by maintaining Certificates of Authority issued to the companies by the Department of Insurance of the State of Florida.

(2) In addition, such companies shall have and maintain a Best's Rating of "A" or better and a Financial Size Category of "VII" or better according to A.M. Best Company.

(3) If, during the period which an insurance company is providing the insurance coverage required by this Agreement, an insurance company shall lose its Certificate of Authority, or shall fail to maintain the requisite Best's Rating and Financial Size Category, the CONTRACTOR shall, as soon as the CONTRACTOR has knowledge of any such circumstance, immediately notify the COUNTY and immediately replace the insurance coverage provided by that insurer with a different insurance company meeting the requirements noted above. Until such time as the CONTRACTOR has replaced the unacceptable insurer with an insurer acceptable to the COUNTY the CONTRACTOR shall be deemed to be in default of this Agreement.

(c) Specifications. Without limiting any of the other obligations or liability of the CONTRACTOR, the CONTRACTOR shall, at the CONTRACTOR'S sole expense, procure, maintain and keep in force amounts and types of insurance conforming to the minimum requirements set forth in this Section. Except as otherwise specified in the Agreement, the in-

insurance shall commence prior to or concomitant with the Commencement of the Agreement and shall be maintained in force until the Agreement expires. The amounts and types of insurance shall conform to the following minimum requirements.

(1) Commercial General Liability.

(A) The CONTRACTOR'S insurance shall cover the CONTRACTOR for those sources of liability which would be covered by the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01), as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements.

(B) The minimum limits to be maintained by the CONTRACTOR (inclusive of any amounts provided by an Umbrella or Excess policy) shall be not less than the following amounts:

LIMITS

General Aggregate	\$Three (3) Times the Each Occurrence Limit
Personal & Advertising Injury Limit	\$300,000.00
Products/Completed Each Occurrence Limit	\$300,000.00 \$300,000.00

(C) Additional Insured - The Board of County Commissioners of Seminole County, Florida, its officials, officers, and employees are to be included as additional insureds.

(2) Property Insurance. CONTRACTOR'S insurance shall provide property insurance covering real property as follows:

(A) Special Form - Coverage is to be no more restrictive than that afforded by the latest editions of Insurance Services Office Forms CP 00 10, and CP 10 30.

(B) Amount of Insurance shall be one hundred percent (100%) of the insurable replacement cost value of the building and structures inclusive of improvements or betterments.

(C) Maximum Deductible - FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00) each claim.

(D) Named Insured - The Board of County Commissioners of Seminole County, Florida must be included as a named insured.

(E) Flood Insurance - When building or structures are located within an identified special flood hazard area, flood insurance must be afforded for the lesser of the total insurable value of such buildings or structures, or the maximum amount of flood insurance coverage available under the National Flood Program.

(3) Business Auto Policy.

(A) The CONTRACTOR'S insurance shall cover the CONTRACTOR for those sources of liability which would be covered by Part IV of the latest edition of the standard Business Auto Policy (ISO Form CA 00 02), as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements. Coverage shall include owned, non-owned and hired autos.

(B) The minimum limits to be maintained by the CONTRACTOR (inclusive of any amounts provided by an Umbrella or Excess policy) shall be per accident combined single limit for bodily injury liability and property damage liability. If the coverage is subject to

an aggregate, the CONTRACTOR shall maintain separate aggregate limits of coverage applicable to claims arising out of or in connection with the work under this Agreement. The separate aggregate limits to be maintained by the CONTRACTOR shall be a minimum of three (3) times the per accident limit required and shall apply separately to each policy year or part thereof.

(C) The minimum amount of coverage under the Business Auto Policy shall be:

	<u>LIMITS</u>
Each Occurrence Bodily Injury and Property Damage Liability Combined	\$300,000.00

(4) Workers' Compensation/Employer's Liability.

(A) CONTRACTOR'S insurance shall cover the CONTRACTOR and its subcontractors of every tier for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the United States Longshoremen and Harbor Workers' Compensation Act, Federal Employers' Liability Act and any other applicable Federal or State law.

(B) Subject to the restrictions of coverage found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act, the United States Longshoremen's and Harbor

Workers' Compensation Act, or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy.

(C) The minimum amount of coverage under Part Two of the standard Workers' Compensation Policy shall be:

\$100,000.00	(Each Accident)
\$100,000.00	(Disease-Policy Limit)
\$100,000.00	(Disease-Each Employee)

(2) Commercial General Liability.

(d) Coverage. The insurance provided by CONTRACTOR pursuant to this Agreement shall apply on a primary basis and any other insurance or self-insurance maintained by the COUNTY shall be excess of and not contributing with the insurance provided by or on behalf of the CONTRACTOR.

(e) Provision. Commercial general Liability required by this Agreement shall be provided on an occurrence rather than a claims made basis.

(f) Obligations. Compliance with the foregoing insurance requirements shall not relieve the CONTRACTOR, nor that of its employees or agents of liability from any obligation under this Agreement.

**SECTION 11. TERMINATION.**

(a) The COUNTY may, by written notice to the CONSULTANT, terminate this Agreement, in whole or in part, at any time, either for the COUNTY'S convenience or because of the failure of the CONSULTANT to fulfill CONSULTANT'S Agreement obligations. Upon receipt of such notice, the CONSULTANT shall immediately discontinue all services affected unless the notice directs otherwise.

(b) If the termination is for the convenience of the COUNTY, the CONSULTANT shall pay commission due to the date of termination.

(c) If the termination is due to the failure of the CONSULTANT to fulfill his Agreement obligations, the COUNTY may take over the work and prosecute the same to completion by Agreement or otherwise. In such case, the CONSULTANT shall be liable to the COUNTY for reasonable additional costs occasioned to the COUNTY thereby. The CONSULTANT shall not be liable for such additional costs if the failure to perform the Agreement arises out of causes beyond the control and without the fault or negligence of the CONSULTANT. Such causes may include, but are not limited to, acts of God or of the public enemy, acts of the COUNTY in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but, in every case, the failure to perform must be beyond the control and without the fault or negligence of the CONSULTANT.

(d) If, after notice of termination for failure to fulfill Agreement obligations, it is determined that the CONSULTANT had not so failed, the termination shall be deemed to have been effected for the convenience of the COUNTY. In such event, adjustment in the Agreement price shall be made as provided in subsection (b) of this Section.

(e) The rights and remedies of the COUNTY provided in this clause are in addition to any other rights and remedies provided by law or under this Agreement.

**SECTION 12. SPACE AND UTILITY SERVICE.** The COUNTY shall provide, at no cost to the CONTRACTOR, space on its premises and electricity service. All maintenance and repairs required to enjoy any utility service shall be at CONTRACTOR'S sole cost and expense.

**SECTION 13. TAXES.** The CONTRACTOR shall pay any and all taxes or special assessments which may be levied or assessed upon the Concession leased hereunder. The CONTRACTOR shall pay all taxes on its own personal property and leasehold. CONTRACTOR shall be responsible for all sales taxes which may arise in connection with the operation of its business.

**SECTION 14. INSPECTION.** The COUNTY shall have the right to inspect, as it deems necessary, any or all of the CONTRACTOR'S operations.

**SECTION 15. ASSIGNMENTS.** Neither party to this Agreement shall assign this Agreement nor any interest arising herein, without the written consent of the other.

**SECTION 16. SUBCONTRACTORS.** CONTRACTOR shall not enter into subcontracts for any of the services to be performed hereunder by him without the prior written consent of the COUNTY.

**SECTION 17. INDEPENDENT CONTRACTOR.** It is agreed by the parties that, at all times and for all purposes within the scope of this Agreement, the relationship of CONTRACTOR to the COUNTY is that of independent contractor and not that of employee. No statement contained in this Agreement shall be construed so as to find the CONTRACTOR an employee of the COUNTY, and the CONTRACTOR shall be entitled to none of the rights, privileges or benefits of Seminole County employees.

**SECTION 18. EMPLOYEE STATUS.** Persons employed by the CONTRACTOR in the performance of services and functions pursuant to this Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service or other employee rights or privileges granted

to the COUNTY'S officers and employees either by operation of law or by the COUNTY.

**SECTION 19. ENTIRE AGREEMENT.**

(a) It is understood and agreed that the entire Agreement of the parties is contained herein and that this Agreement supersedes all oral agreement sand negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the parties relating to the subject matter hereof.

(b) Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing and duly signed by the parties.

**SECTION 20. WAIVER OF BREACH OR DEFAULT.** Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be construed to be a modification of the terms of this Agreement unless stated to be such in writing and duly signed by the parties.

**SECTION 21. NOTICES.** Whenever either party desires to give notice unto the other, notice may be sent to:

**FOR COUNTY**

Support Services Manager  
200 W. County Home Rd.  
Sanford, FL 32773

**FOR CONTRACTOR**

Florida Coca-Cola Bottling Co.  
2900 Mercy Dr.  
Orlando, FL 32808

Either of the parties may change, by written notice as provided herein, the addresses or persons for receipt of notices.

**SECTION 22. AMENDMENTS.** COUNTY or CONTRACTOR may request amendments that would increase, decrease, change or clarify any of the provisions of this Agreement. Such changes must be authorized by COUNTY in writing and duly signed by the parties.

**SECTION 23. EQUAL OPPORTUNITY EMPLOYMENT.** CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, national origin, or disability and will take steps to ensure that applicants are employed, and employees are treated during employment, without regard to race, color, religion, sex, age, national origin or disability. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

**SECTION 24. PUBLIC RECORDS LAW.** CONTRACTOR acknowledges COUNTY's obligations under Chapter 119, Florida Statutes, to release public records to members of the public upon request. CONTRACTOR acknowledges that COUNTY is required to comply with Chapter 119, Florida Statutes, in the handling of the materials created under this Agreement and that said statute controls over the terms of this Agreement.

**SECTION 25. GOVERNING LAW.** This Agreement shall be governed by the laws of the State of Florida.

**IN WITNESS WHEREOF,** the parties hereunto set their hands as of the dates written below.

