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|  UNIVERSITY OF SOUTH CAROLINA | REQUEST FOR PROPOSAL | Solicitation Number | USC-RFP-1951-MLS |
| | | Date Issued | 4/28/11 |
| | | Date Posted | 4/28/11 |
| | | Procurement Officer | Mary L. Sims |
| | | Phone | 803-777-5253 |
| | | E-Mail Address | Mary.sims@sc.edu |

DESCRIPTION: **Contract to Provide Drink Vending Services for the University of South Carolina Upstate**

USING GOVERNMENT AGENCY: UNIVERSITY OF SOUTH CAROLINA

The Term "Offer" Means Your "Bid" or "Proposal".

SUBMIT OFFER BY: (Opening Date/Time): **5/24/11, 2:30 pm est** See "Deadline for Submission of Offer" provision

QUESTIONS MUST BE RECEIVED BY: **5/10/11, 12:00 pm est** See "Questions From Offerors" provision

NUMBER OF COPIES TO BE SUBMITTED: **One (1) original in hard copy, one electronic original, five (5) copies clearly marked "copy", one (1) redacted copy in hard copy and one (1) electronic redacted copy.**

Offers must be submitted in a sealed package. Solicitation Number & Opening Date must appear on package exterior.

SUBMIT YOUR SEALED OFFER TO EITHER OF THE FOLLOWING ADDRESSES:

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| MAILING ADDRESS: | PHYSICAL ADDRESS: |
| University of South Carolina – Purchasing Dept. 1600 Hampton St., Suite 606 Columbia, SC 29208 | University of South Carolina – Purchasing Dept. 1600 Hampton Street, Suite 606 Columbia, SC 29208 |

See "Submitting Your Offer" provision

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|---|-----------|
| CONFERENCE TYPE: NA DATE & TIME: As appropriate, see "Conferences-Pre-Bid/Proposal" & "Site Visit" provisions | LOCATION: |
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| AWARD & AMENDMENTS | Award will be posted at the Physical Address stated above on June 6, 2011. The award, this solicitation, and any amendments will be posted at the following web address: http://purchasing.sc.edu |
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You must submit a signed copy of this form with Your Offer. By submitting a bid or proposal, You agree to be bound by the terms of the Solicitation. You agree to hold Your Offer open for a minimum of thirty (30) calendar days after the Opening Date.

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| NAME OF OFFEROR (Full legal name of business submitting the offer) | OFFEROR'S TYPE OF ENTITY: (Check one) |
| AUTHORIZED SIGNATURE (Person signing must be authorized to submit binding offer to enter contract on behalf of Offeror named above.) | <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporate entity (not tax-exempt) <input type="checkbox"/> Tax –exempt corporate entity <input type="checkbox"/> Government entity (federal, state, or local) <input type="checkbox"/> Other _____ |
| TITLE (Business title of person signing above) | (See "Signing Your Offer" provision.) |
| PRINTED NAME (Printed name of person signing above) DATE SIGNED | |

Instructions regarding Offeror's name: Any award issued will be issued to, and the contract will be formed with, the entity identified as the offeror above. An offer may be submitted by only one legal entity. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, *i.e.*, a separate corporation, partnership, sole proprietorship, etc.

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| STATE OF INCORPORATION | (If offeror is a corporation, identify the state of Incorporation.) |
| TAXPAYER IDENTIFICATION NO. (See "Taxpayer Identification Number" provision) | |

PAGE TWO
(Return Page Two with Your Offer)

| | |
|---|--|
| HOME OFFICE ADDRESS (Address for offeror's home office / principal place of business) | NOTICE ADDRESS (Address to which all procurement and contract related notices should be sent.) (See "Notice" clause) |
| | _____ |
| | Area Code - Number - Extension Facsimile _____ E-mail Address |

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| PAYMENT ADDRESS (Address to which payments will be sent.) (See "Payment" clause) | ORDER ADDRESS (Address to which purchase orders will be sent) (See "Purchase Orders and "Contract Documents" clauses) |
| _____ Payment Address same as Home Office Address | _____ Order Address same as Home Office Address |
| _____ Payment Address same as Notice Address (check only one) | _____ Order Address same as Notice Address (check only one) |

ACKNOWLEDGMENT OF AMENDMENTS
Offerors acknowledges receipt of amendments by indicating amendment number and its date of issue. (See "Amendments to Solicitation" Provision)

| Amendment No. | Amendment Issue Date | Amendment No. | Amendment Issue Date | Amendment No. | Amendment Issue Date | Amendment No. | Amendment Issue Date |
|---------------|----------------------|---------------|----------------------|---------------|----------------------|---------------|----------------------|
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| DISCOUNT FOR PROMPT PAYMENT (See "Discount for Prompt Payment" clause) | 10 Calendar Days (%) | 20 Calendar Days (%) | 30 Calendar Days (%) | _____ Calendar Days (%) |
|---|----------------------|----------------------|----------------------|-------------------------|

PREFERENCES - A NOTICE TO VENDORS (SEP. 2009): On June 16, 2009, the South Carolina General Assembly rewrote the law governing preferences available to in-state vendors, vendors using in-state subcontractors, and vendors selling in-state or US end products. This law appears in Section 11-35-1524 of the South Carolina Code of Laws. A summary of the new preferences is available at www.procurement.sc.gov/preferences. **ALL THE PREFERENCES MUST BE CLAIMED AND ARE APPLIED BY LINE ITEM, REGARDLESS OF WHETHER AWARD IS MADE BY ITEM OR LOT. VENDORS ARE CAUTIONED TO CAREFULLY REVIEW THE STATUTE BEFORE CLAIMING ANY PREFERENCES. THE REQUIREMENTS TO QUALIFY HAVE CHANGED. IF YOU REQUEST A PREFERENCE, YOU ARE CERTIFYING THAT YOUR OFFER QUALIFIES FOR THE PREFERENCE YOU'VE CLAIMED. IMPROPERLY REQUESTING A PREFERENCE CAN HAVE SERIOUS CONSEQUENCES.** [11-35-1524(E)(4)&(6)]

PREFERENCES - ADDRESS AND PHONE OF IN-STATE OFFICE: Please provide the address and phone number for your in-state office in the space provided below. An in-state office is necessary to claim either the Resident Vendor Preference (11-35-1524(C)(1)(i)&(ii)) or the Resident Contractor Preference (11-35-1524(C)(1)(iii)). Accordingly, you must provide this information to qualify for the preference. An in-state office is not required, but can be beneficial, if you are claiming the Resident Subcontractor Preference (11-35-1524(D)).
 _____ In-State Office Address same as Home Office Address
 _____ In-State Office Address same as Notice Address (check only one)

Solicitation Outline

- I. Scope of Solicitation
- II. Instructions to Offerors
 - A. General Instructions
 - B. Special Instructions
- III. Scope of Work / Specifications
May be blank if Bidding Schedule / Cost Proposal attached
- IV. Information for Offerors to Submit
- V. Qualifications
- VI. Award Criteria
- VII. Terms and Conditions
 - A. General
 - B. Special
- VIII. Bidding Schedule / Cost Proposal
- IX. Attachments to Solicitation
 - 1. Important Tax Notice – Nonresidents Only
 - 2. State of SC Department of Revenue Nonresident Taxpayer Registration Affidavit
Income Tax Withholding (I-312)
 - 3. Offeror's Checklist
 - 4. Attachment 1 – Sales Data By Machine (12 months) March 1, 2010 – February 28, 2011
 - 5. Attachment 2 – USC Upstate Campus Map
 - 6. Attachment 3 – Current Vendor Locations and Those to be Equipped with Card Readers
 - 7. Attachment 4 – Specifications for CBORD On-line Vending
 - 8. Attachment 5 – Description of USC Upstate Intercollegiate Athletics Advertising and
Corporate Sponsorship Package

I. Scope Of Solicitation

ACQUIRE SERVICES (JANUARY 2006): The purpose of this solicitation is to acquire services complying with the enclosed description and/or specifications and conditions.

MAXIMUM CONTRACT PERIOD - ESTIMATED (January 2006)

Start date: 7/01/2011 End date: 6/30/2016 Any resulting contract will begin on the date specified in the notice of award. See clause entitled "Term of Contract - Effective Date/Initial Contract Period". [01-1040-1]

It is the intention of the **University of South Carolina (USC)** to solicit proposals from qualified sources of supply to provide drink vending services to the USC Upstate campus in accordance with all of the specifications set forth herein.

II. Instructions To Offerors - A. General Instructions

DEFINITIONS (JANUARY 2006) EXCEPT AS OTHERWISE PROVIDED HEREIN, THE FOLLOWING DEFINITIONS ARE APPLICABLE TO ALL PARTS OF THE SOLICITATION.

AMENDMENT – means a document issued to supplement the original solicitation document.

BUYER – means the Procurement Officer.

CHANGE ORDER - means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract.

CONTRACT - See clause entitled “Contract Documents & Order of Precedence.”

CONTRACT MODIFICATION – means a written order signed by the Procurement Officer, directing the contractor to make changes which the changes clause of the contract authorizes the Procurement Officer to order without the consent of the contractor.

CONTRACTOR - means the Offeror receiving an award as a result of this solicitation.

COVER PAGE – means the top page of the original solicitation on which the solicitation is identified by number. Offerors are cautioned that Amendments may modify information provided on the Cover Page.

OFFER – means the bid or proposal submitted in response this solicitation. The terms “Bid” and “Proposal” are used interchangeably with the term “Offer.”

OFFEROR – means the single legal entity submitting the offer. The term “Bidder” is used interchangeably with the term “Offeror.” See bidding provisions entitled “Signing Your Offer” and “Bid/Proposal As Offer To Contract.”

ORDERING ENTITY - Using Governmental Unit that has submitted a Purchase Order.

PAGE TWO – means the second page of the original solicitation, which is labeled Page Two.

PROCUREMENT OFFICER – means the person, or his successor, identified as such on the Cover Page.

YOU and YOUR – means Offeror.

SOLICITATION – means this document, including all its parts, attachments, and any Amendments.

STATE – means the Using Governmental Unit(s) identified on the Cover Page.

SUBCONTRACTOR – means any person having a contract to perform work or render service to Contractor as a part of the Contractor’s agreement arising from this solicitation.

USING GOVERNMENTAL UNIT – means the unit(s) of government identified as such on the Cover Page. If the Cover Page names a “Statewide Term Contract” as the Using Governmental Unit, the Solicitation seeks to establish a Term Contract [11-35-310(35)] open for use by all South Carolina Public Procurement Units [11-35-4610(5)].

WORK - means all labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations under the Contract.

AMENDMENTS TO SOLICITATION (JANUARY 2006) (a) The Solicitation may be amended at any time prior to opening. All actual and prospective Offerors should monitor the following web site for the issuance of Amendments: <http://purchasing.sc.edu>. (b) Offerors shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date in the space provided for this purpose on Page Two, (3) by letter, or (4) by submitting a bid that indicates in some way that the bidder received the amendment. (c) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

AWARD NOTIFICATION (NOV 2007): Notice regarding any award or cancellation of award will be posted at the location specified on the Cover Page. If the contract resulting from this

Solicitation has a total or potential value of fifty thousand dollars or more, such notice will be sent to all Offerors responding to the Solicitation. Should the contract resulting from this Solicitation have a total or potential value of one hundred thousand dollars or more, such notice will be sent to all Offerors responding to the Solicitation and any award will not be effective until the eleventh day after such notice is given. [02-2A010-1]

BID / PROPOSAL AS OFFER TO CONTRACT (JANUARY 2006) By submitting Your Bid or Proposal, You are offering to enter into a contract with the Using Governmental Unit(s). Without further action by either party, a binding contract shall result upon final award. Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror on the Cover Page. An Offer may be submitted by only one legal entity; "joint bids" are not allowed.

BID ACCEPTANCE PERIOD (JANUARY 2006) In order to withdraw Your Offer after the minimum period specified on the Cover Page, You must notify the Procurement Officer in writing.

BID IN ENGLISH & DOLLARS (JANUARY 2006) Offers submitted in response to this solicitation shall be in the English language and in US dollars, unless otherwise permitted by the Solicitation.

CERTIFICATION REGARDING DEBARMENT AND OTHER RESPONSIBILITY MATTERS (JANUARY 2006)

(a)(1) By submitting an Offer, Offeror certifies, to the best of its knowledge and belief, that-

(i) Offeror and/or any of its Principals-

(A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;

(B) Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.

(ii) Offeror has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any public (Federal, state, or local) entity.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

(b) Offeror shall provide immediate written notice to the Procurement Officer if, at any time prior to contract award, Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) If Offeror is unable to certify the representations stated in paragraphs (a)(1), Offer must submit a written explanation regarding its inability to make the certification. The certification will be considered in connection with a review of the Offeror's responsibility. Failure of the Offeror to furnish additional information as requested by the Procurement Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly or in bad faith rendered an erroneous certification, in addition to other remedies available to the State, the Procurement Officer may terminate the contract resulting from this solicitation for default.

**CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (MAY 2008)
GIVING FALSE, MISLEADING, OR INCOMPLETE INFORMATION ON THIS
CERTIFICATION MAY RENDER YOU SUBJECT TO PROSECUTION UNDER SECTION
16-9-10 OF THE SOUTH CAROLINA CODE OF LAWS AND OTHER APPLICABLE
LAWS.**

(a) By submitting an offer, the offeror certifies that-

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to-

(i) Those prices;

(ii) The intention to submit an offer; or

(iii) The methods or factors used to calculate the prices offered.

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory-

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; or

(2)(i) Has been authorized, in writing, to act as agent for the offeror's principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification [As used in this subdivision (b)(2)(i), the term "principals" means the person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal];

(ii) As an authorized agent, does certify that the principals referenced in subdivision (b)(2)(i) of this certification have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification.

CODE OF LAWS AVAILABLE (JAN 2006): The South Carolina Code of Laws, including the Consolidated Procurement Code, is available at <http://www.scstatehouse.net/code/statmast.htm>. The South Carolina Regulations are available at: <http://www.scstatehouse.net/coderegs/statmast.htm>.

COMPLETION OF FORMS / CORRECTION OF ERRORS (JAN 2006): All prices and notations should be printed in ink or typewritten. Errors should be crossed out, corrections entered and initialed by the person signing the bid. Do not modify the solicitation document itself (including bid schedule). (Applicable only to offers submitted on paper.)

DEADLINE FOR SUBMISSION OF OFFER (JANUARY 2006) Any offer received after the Procurement Officer of the governmental body or his designee has declared that the time set for opening has arrived, shall be rejected unless the offer has been delivered to the designated purchasing office or the governmental bodies' mail room which services that purchasing office prior to the bid opening. [R.19-445.2070(H)]

DISCUSSIONS and NEGOTIATIONS (NOV 2007): Submit your best terms from a cost or price and from a technical standpoint. Your proposal may be evaluated and your offer accepted without any discussions, negotiations, or prior notice. Ordinarily, nonresponsive proposals will be rejected outright. Nevertheless, the State may elect to conduct discussions, including the possibility of limited proposal revisions, but only for those proposals reasonably susceptible of being selected for award. If improper revisions are submitted, the State may elect to consider only your unrevised initial proposal. [11-35-1530(6); R.19-445.2095(I)] The State may also elect to conduct negotiations, beginning with the highest ranked offeror, or seek best and final offers, as provided in Section 11-35-1530(8). If negotiations are conducted, the State may elect to disregard the negotiations and accept your original proposal. [02-2B060-1]

DRUG FREE WORK PLACE CERTIFICATION (JANUARY 2006) By submitting an Offer, Contractor certifies that, if awarded a contract, Contractor will comply with all applicable provisions of The Drug-free Workplace Act, Title 44, Chapter 107 of the South Carolina Code of Laws, as amended.

DUTY TO INQUIRE (JANUARY 2006) Offeror, by submitting an Offer, represents that it has read and understands the Solicitation and that its Offer is made in compliance with the Solicitation. Offerors are expected to examine the Solicitation thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation. Failure to do so will be at the Offeror's risk. Offeror assumes responsibility for any patent ambiguity in the Solicitation that Offeror does not bring to the State's attention.

ETHICS CERTIFICATE (May 2008): By submitting an offer, the offeror certifies that the offeror has and will comply with, and has not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended (ethics act). The following statutes require special attention: Section 8-13-700, regarding use of official position for financial gain; Section 8-13-705, regarding gifts to influence action of public official; Section 8-13-720, regarding offering money for advice or assistance of public official; Sections 8-13-755 and 8-13-760, regarding restrictions on employment by former public official; Section 8-13-775, prohibiting public official with economic interests from acting on contracts; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, regarding statements to be filed by consultants; and Section 8-13-1342, regarding restrictions on contributions by contractor to candidate who participated in awarding of contract. The state may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision. If contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the procurement officer at the same time the law requires the statement to be filed. [02-2A075-2]

ILLEGAL IMMIGRATION CLAUSES (2008)

Procurement Code Transactions: Non-Construction

ILLEGAL IMMIGRATION (NOV. 2008): (An overview is available at www.procurement.sc.gov) By signing your offer, you certify that you will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agree to provide to the State upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable to you and your subcontractors or sub-subcontractors; or (b) that you and your subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." You agree to include in any contracts with your subcontractors language requiring your subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14. [07-7B097-1]

Procurement Code Transactions: Construction

By signing its bid or proposal, Contractor certifies that it will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agrees to provide to the State upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable both to Contractor and its subcontractors or sub-subcontractors; or (b) that Contractor and its subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." Contractor agrees to include in any contracts with its subcontractors language requiring its subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14. (An overview is available at www.procurement.sc.gov)

Other Transactions

By submitting an offer, Contractor certifies that it will comply with the applicable requirements of Title 8, Chapter 14

of the South Carolina Code of Laws (originally enacted as Section 3 of The South Carolina Illegal Immigration Reform Act, 2008 S.C. Act No. 280) and agrees to provide upon request any documentation required to establish either: (a) the applicability of Title 8, Chapter 14 to Contractor and any subcontractors or sub-subcontractors; or (b) the compliance with Title 8, Chapter 14 by Contractor and any subcontractor or sub-subcontractor. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." Contractor agrees to include in any contracts with its subcontractors language requiring the subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in any contracts with the sub-subcontractors language requiring the sub-subcontractor to comply with the applicable requirements of Title 8, Chapter 14.

OMIT TAXES FROM PRICE (JANUARY 2006): Do not include any sales or use taxes in Your price that the State may be required to pay.

PROCUREMENT AGENT (AUG 2004) Authorized Agent. All authority regarding the conduct of this procurement is vested solely with the responsible Procurement Officer. Unless specifically delegated in writing, the Procurement Officer is the only government official authorized to bind the government with regard to this procurement.

PROTESTS (JUNE 2006) Any prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the solicitation of a contract shall protest within fifteen days of the date of issuance of the applicable solicitation document at issue. Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of

a contract shall protest within ten days of the date notification of award is posted in accordance with this code. A protest shall be in writing, shall set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided, and must be received by the appropriate Chief Procurement Officer within the time provided. See clause entitled "Protest-CPO". [~ 11-35-4210]

PUBLIC OPENING (JANUARY 2006) Offers will be publicly opened at the date / time and at the location identified on the Cover Page, or last Amendment, whichever is applicable

QUESTIONS FROM OFFERORS (JANUARY 2006): (a) Any prospective offeror desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing. Questions must be received by the Procurement Officer no later than five (5) days prior to opening unless otherwise stated on the Cover Page. Label any communication regarding your questions with the name of the procurement officer, and the solicitation's title and number. Oral explanations or instructions will not be binding. Any information given a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an Amendment to the solicitation, if that information is necessary for submitting offers or if the lack of it would be prejudicial to other prospective offerors. (b) The State seeks to permit maximum practicable competition. Offerors are urged to advise the Procurement Officer – as soon as possible – regarding any aspect of this procurement, including any aspect of the Solicitation that unnecessarily or inappropriately limits full and open competition.

REJECTION/CANCELLATION (JAN 2004) The State may cancel this solicitation in whole or in part. The State may reject any or all proposals in whole or in part. [SC Code Section 11-35-1710 & R.19-445.2065.]

RESPONSIVENESS / IMPROPER OFFERS (JANUARY 2006)

(a) Bid as Specified. Offers for supplies or services other than those specified will not be considered unless authorized by the Solicitation.

(b) Multiple Offers. Offerors may submit more than one Offer, provided that each Offer has significant differences other than price. Each separate Offer must satisfy all Solicitation requirements. If this solicitation is an Invitation for Bids, each separate offer must be submitted as a separate document. If this solicitation is a Request for Proposals, multiple offers may be submitted as one document, provided that you clearly differentiate between each offer and you submit a separate cost proposal for each offer, if applicable.

(c) Responsiveness. Any Offer which fails to conform to the material requirements of the Solicitation may be rejected as nonresponsive. Offers which impose conditions that modify material requirements of the Solicitation may be rejected. If a fixed price is required, an Offer will be rejected if the total possible cost to the State cannot be determined. Offerors will not be given an opportunity to correct any material nonconformity. Any deficiency resulting from a minor informality may be cured or waived at the sole discretion of the Procurement Officer. [R.19-445.2070 and Section 11-35-1520(13)]

(d) Price Reasonableness: Any offer may be rejected if the Procurement Officer determines in writing that it is unreasonable as to price. [R. 19-445.2070].

(e) Unbalanced Bidding. The State may reject an Offer as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the State even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

RESTRICTIONS APPLICABLE TO OFFERORS (JANUARY 2006) Violation of these restrictions may result in disqualification of your offer, suspension or debarment, and may constitute a violation of the state Ethics Act. (a) After issuance of the solicitation, ***you agree not to discuss this procurement activity in any way with the Using Governmental Unit or its employees, agents or officials.*** All communications must be solely with the Procurement Officer. This restriction may be lifted by express written permission from the Procurement Officer. This restriction expires once a contract has been formed. (b) Unless otherwise approved in writing by the Procurement Officer, ***you agree not to give anything to any Using Governmental Unit***

SIGNING YOUR OFFER (JANUARY 2006) Every Offer must be signed by an individual with actual authority to bind the Offeror. (a) If the Offeror is an individual, the Offer must be signed by that individual. If the Offeror is an individual doing business as a firm, the Offer must be submitted in the firm name, signed by the individual, and state that the individual is doing business as a firm. (b) If the Offeror is a partnership, the Offer must be submitted in the partnership name, followed by the words “by its Partner,” and signed by a general partner. (c) If the Offeror is a corporation, the Offer must be submitted in the corporate name, followed by the signature and title of the person authorized to sign. (d) An Offer may be submitted by a joint venturer involving any combination of individuals, partnerships, or corporations. If the Offeror is a joint venture, the Offer must be submitted in the name of the Joint Venture and signed by every participant in the joint venture in the manner prescribed in paragraphs (a) through (c) above for each type of participant. (e) If an Offer is signed by an agent, other than as stated in subparagraphs (a) through (d) above, the Offer must state that it has been signed by an Agent. Upon request, Offeror must provide proof of the agent's authorization to bind the principal.

STATE OFFICE CLOSINGS (JANUARY 2006) If an emergency or unanticipated event interrupts normal government processes so that offers cannot be received at the government office designated for receipt of bids by the exact time specified in the solicitation, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal government processes resume. In lieu of an automatic extension, an Amendment may be issued to reschedule bid opening. If state offices are closed at the time a pre-bid or pre-proposal conference is scheduled, an Amendment will be issued to reschedule the conference. Useful information may be available at: http://www.scemd.org/scgovweb/weather_alert.htm.

SUBMITTING REDACTED OFFERS (FEB 2007): You are required to mark the original copy

of your offer to identify any information that is exempt from public disclosure. You must do so in accordance with the clause entitled "Submitting Confidential Information." In addition, you must also submit one complete copy of your offer from which you have removed any information that you marked as exempt, i.e., a redacted copy. The information redacted should mirror in every detail the information marked as exempt from public disclosure. The redacted copy should (i) reflect the same pagination as the original, (ii) show the empty space from which information was redacted, and (iii) be submitted on magnetic media. (See clause entitled "Magnetic Media Required Format.") Except for the redacted information, the CD must be identical to the original hard copy. Portable Document Format (.pdf) is preferred. [04-4030-1]

SUBMITTING CONFIDENTIAL INFORMATION (AUG 2002): (An overview is available at www.procurement.sc.gov) For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that Offeror contends contains information that is exempt from public disclosure because it is either (a) a trade secret as defined in Section 30-4-40(a)(1), or (b) privileged and confidential, as that phrase is used in Section 11-35-410. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the words "TRADE SECRET" every page, or portion thereof, that Offeror contends contains a trade secret as that term is defined by Section 39-8-20 of the Trade Secrets Act. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "PROTECTED" every page, or portion thereof, that Offeror contends is protected by Section 11-35-1810. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. Do not mark your entire response (bid, proposal, quote, etc.) as confidential, trade secret, or protected! If your response, or any part thereof, is improperly marked as confidential or trade secret or protected, the State may, in its sole discretion, determine it nonresponsive. If only portions of a page are subject to some protection, do not mark the entire page. By submitting a response to this solicitation or request, Offeror (1) agrees to the public disclosure of every page of every document regarding this solicitation or request that was submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, and documents submitted during negotiations), unless the page is conspicuously marked "TRADE SECRET" or "CONFIDENTIAL" or "PROTECTED", (2) agrees that any information not marked, as required by these bidding instructions, as a "Trade Secret" is not a trade secret as defined by the Trade Secrets Act, and (3) agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, are subject to public disclosure. In determining whether to release documents, the State will detrimentally rely on Offeror's marking of documents, as required by these bidding instructions, as being either "Confidential" or "Trade Secret" or "PROTECTED". By submitting a response, Offeror agrees to defend, indemnify and hold harmless the State of South Carolina, its officers and employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney's fees, arising out of or resulting from the State withholding information that Offeror marked as "confidential" or "trade secret" or "PROTECTED". (All references to S.C. Code of Laws.)

SUBMITTING YOUR OFFER OR MODIFICATION (JANUARY 2006) (a) Offers and offer modifications shall be submitted in sealed envelopes or packages (unless submitted by electronic means) – (1) Addressed to the office specified in the Solicitation; and (2) Showing the time and date specified for opening, the solicitation number, and the name and address of the bidder. (b) If you are responding to more than one solicitation, each offer must be submitted in a different envelope or package. (c) Each Offeror must submit the number of copies indicated on the Cover Page. (d) Offerors using commercial carrier services shall ensure that the Offer is addressed and marked on the outermost envelope or wrapper as prescribed in paragraphs (a)(1) and (2) of this provision when delivered to the office specified in the Solicitation. (e) Facsimile or e-mail offers, modifications, or withdrawals, will not be considered unless authorized by the Solicitation. (f) Offers submitted by electronic commerce shall be considered only if the electronic commerce method was specifically stipulated or permitted by the solicitation.

TAX CREDIT FOR SUBCONTRACTING WITH DISADVANTAGED SMALL BUSINESSES (JAN 2008): Pursuant to Section 12-6-3350, a taxpayer having a contract with this State who subcontracts with a socially and economically disadvantaged small business is eligible for an income tax credit equal to four percent of the payments to that subcontractor for work pursuant to the contract. The subcontractor must be certified as a socially and economically disadvantaged small business as defined in Section 11-35-5010 and regulations pursuant to it. The credit is limited to a maximum of fifty thousand dollars annually. A taxpayer is eligible to claim the credit for ten consecutive taxable years beginning with the taxable year in which the first payment is made to the subcontractor that qualifies for the credit. After the above ten consecutive taxable years, the taxpayer is no longer eligible for the credit. A taxpayer claiming the credit shall maintain evidence of work performed for the contract by the subcontractor. The credit may be claimed on Form TC-2, "Minority Business Credit." A copy of the subcontractor's certificate from the Governor's Office of Small and Minority Business (OSMBA) is to be attached to the contractor's income tax return. Questions regarding the tax credit and how to file are to be referred to: SC Department of Revenue, Research and Review, Phone: (803) 898-5786, Fax: (803) 898-5888. Questions regarding subcontractor certification are to be referred to: Governor's Office of Small and Minority Business Assistance, Phone: (803) 734-0657, Fax: (803) 734-2498. [02-2A135-1]

TAXPAYER IDENTIFICATION NUMBER (JANUARY 2006): (a) If Offeror is owned or controlled by a common parent as defined in paragraph (b) of this provision, Offeror shall submit with its Offer the name and TIN of common parent.

(b) Definitions: "Common parent," as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member. "Taxpayer Identification Number (TIN)," as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(c) If Offeror does not have a TIN, Offeror shall indicate if either a TIN has been applied for or a TIN is not required. If a TIN is not required, indicate whether (i) Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States; (ii) Offeror is an agency or instrumentality

of a state or local government; (iii) Offeror is an agency or instrumentality of a foreign government; or (iv) Offeror is an agency or instrumentality of the Federal Government.

WITHDRAWAL OR CORRECTION OF OFFER (JANUARY 2006) Offers may be withdrawn by written notice received at any time before the exact time set for opening. If the Solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for opening. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid. The withdrawal and correction of Offers is governed by S.C. Code Section 11-35-1520 and Regulation 19-445.2085.

II. Instructions To Offerors - B. Special Instructions

SUBMISSION OF QUESTIONS

Mark envelopes on questions mailed:

QUESTIONS: USC-RFP-1951-MLS

**Title: Contract to Provide Drink Vending Services for the University of South Carolina
Upstate**

Attn.: Mary L. Sims

University of South Carolina – Purchasing Dept.

1600 Hampton St., Suite 606

Columbia, SC 29208

QUESTIONS MAY BE E-MAILED TO:

Mary.sims@sc.edu

FAXED TO:

803-777-5253

CLARIFICATION (NOV 2007)

Pursuant to Section 11-35-1530(6), the Procurement Officer may elect to communicate with you after opening for the purpose of clarifying either your offer or the requirements of the solicitation. Such communications may be conducted only with offerors who have submitted an offer which obviously conforms in all material aspects to the solicitation. Clarification of an offer must be documented in writing and included with the offer. Clarifications may not be used to revise an offer or the solicitation. [Section 11-35-1530(6); R.19-445.2080] [02-2B055-1]

CONTENTS OF OFFER (RFP) – SPO (JAN 2006): (a) Offers should be complete and carefully worded and should convey all of the information requested. (b) Offers should be prepared simply and economically, providing a straightforward, concise description of offeror's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content. (c) Each copy of your offer should be bound in a single volume where practical. All documentation submitted with your offer should be bound in that single volume. (d) If your offer includes any comment over and above the specific information requested in the solicitation, you are to include this information as a separate appendix to your offer. Offers which include either modifications to any of the solicitation's contractual requirements or an offeror's standard terms and conditions may be deemed non-responsive and not considered for

award.

DISCUSSION WITH OFFERORS (JAN 2006): After opening, the Procurement Officer may, in his sole discretion, initiate discussions with you to discuss your offer. [Section 11-35-1530(6)]

MAGNETIC MEDIA – REQUIRED FORMAT (JAN 2006): As noted on the cover page, an original hard copy of your offer must be accompanied by the specified number of copies in the following electronic format: compact disk (CD) in one of the following formats: **CD-R; DVD ROM; DVD-R; or DVD+R**. Formats such as CD-RW, DVD-RAM, DVD-RW, DVD-+RW, or DVIX **are not acceptable** and will result in the Offeror's proposal being rejected. Every CD must be labeled with offeror's name, solicitation number, and specify whether contents address technical proposal or business proposal. If multiple CD sets are provided, each CD in the set must be appropriately identified as to its relationship to the set, e.g., 1 of 2. Each CD must be identical to the original hard copy. File format shall be MS Word 97 or later.

OPENING PROPOSALS – PRICES NOT DIVULGED (JAN 2006): In competitive sealed proposals, prices will not be divulged at opening. [§ 11-35-1530 & R. 19-445.2095(c) (1)]

PROTEST - CPO - MMO ADDRESS (JUNE 2006)

Any protest must be addressed to the Chief Procurement Officer, Materials Management Office, and submitted in writing (a) by email to protest-mmo@mmo.state.sc.us, (b) by facsimile at 803-737-0639, or (c) by post or delivery to 1201 Main Street, Suite 600, Columbia, SC 29201. [02-2B122-1]

LEGAL AGREEMENTS INCLUDED WITH PROPOSALS MUST BE APPROVED

Any proposal that includes legal agreement(s) the University is expected to sign to do business with offeror, offeror's terms and conditions, and/or similar type legal documents pursuant to potential contract award that have not been approved by the University of South Carolina Purchasing Department (i.e. Procurement Officer for the solicitation) prior to the deadline for receipt of proposals / bid opening will cause offeror's proposal to be rejected. Vendors interested in including legal agreement(s) the University is expected to sign to do business with them, their terms and conditions, and/or similar type legal documents pursuant to potential contract award with their proposals must submit these documents to the University of South Carolina Purchasing Department (i.e. Procurement Officer for the solicitation) for consideration during the time period for questions regarding the solicitation. If vendor submits legal agreement(s) the University is expected to sign to do business with it, its terms and conditions, and/or similar type legal documents pursuant to potential contract award to the University of South Carolina Purchasing Department (i.e. Procurement Officer for the solicitation) for consideration, the legal documents are subject to being published in their entirety in the amendment to the solicitation that includes questions and answers.

OFFEROR'S CONTACTS WITH THE UNIVERSITY

All questions regarding the scope of work, procurement process, etc., must be directed to Mary Sims of the University of South Carolina Purchasing Office. Offerors must not contact other employees of the University concerning this solicitation during the procurement and evaluation process.

UNSUCCESSFUL OFFERORS

Offerors not awarded a contract under this solicitation, may request return of their proposals within thirty (30) days after notification of award is mailed. All cost of returns will be paid by the Offeror. If Federal Express, UPS, or other shipping number is not received with request, all materials will be destroyed.

III. SCOPE OF WORK / SPECIFICATIONS

3.0 Scope of Contract

It is the intent of the University of South Carolina Upstate, located in Spartanburg, South Carolina (hereafter referred to as University) to solicit proposals to engage the services of a qualified branded provider for soft drink vending services in accordance with all requirements stated herein. The objective of this request is to acquire an exclusive contract to provide soft drinks and non-exclusive juice vending services for the Upstate Campus. USC Upstate is hopeful that this multi-year business relationship will prove to be mutually beneficial and will present an excellent opportunity for both the successful offeror (contractor) and the University to capitalize on a business partnership that will create a positive economic relationship. The primary considerations for the University are a reasonable financial return, presentation of enhancements, quality of service and products, and offeror's plan to increase sales.

In turn, the University can make the following guarantees to the successful offeror :

1. Exclusive rights to install, operate, supply, and service automatic vending equipment for the vending of beverages including sodas, juices, water, energy, and other new age drinks and non-alcoholic beverages on the USC Upstate's main campus and the George Dean Johnson, Jr. College of Business located in downtown Spartanburg, SC.
2. Exclusive pouring rights for all athletic concessions and food venues.
3. Exclusive beverage advertising rights and a comprehensive advertising platform through athletic venues and activities.
4. The availability of such an all-inclusive contract for a period of five (5) years.

All proposals must be complete and carefully worded and must convey all of the information requested (**refer to PROPOSAL CONTENTS clause in Section IV Information For Offerors To Submit of the solicitation**) in order to be considered responsive. If the proposal fails to conform to the essential requirements of the RFP, the University and the University alone will be the judge as to whether that variance is significant enough to consider the RFP non-responsive and **removed from further consideration** for award.

3.1 Background Information

Now in its 43rd year, the University of South Carolina Upstate is a co-educational, state-assisted, comprehensive metropolitan institution, and is part of the University of South Carolina System. The 350-acre campus is located in Spartanburg, South Carolina near the foothills of the Blue Ridge Mountains situated near the intersections of I-85 and I-26.

The Campus includes seventeen (21) academic and support buildings, along with an athletic complex consisting of a soccer stadium, baseball field, softball field, 6 tennis courts, and 6 youth soccer fields. There are three (3) residential facilities, consisting of two 4-story dormitories housing 700 beds and a 12-building apartment complex containing 350 beds. In May 2010, construction was completed and the George Dean Johnson, Jr. College of Business relocated into their new facility, located adjacent to the Chapman Cultural Center and Renaissance Park in downtown Spartanburg. This 3-story building houses state-of the-art instructional and office space, housed in a 44,000 square foot building.

In the fall of 2010, a major renovation of the G.B. Hodge Building, gave us a new, state of the art, athletic arena.

USC Upstate offers forty (40) bachelor's degree programs in the liberal arts, the sciences, business administration, nursing and teacher education as well as master's degrees in education. More information about the university can be found at www.uscupstate.edu.

| | |
|-----------------------------|-----------------------|
| <u>Fall 2010 Enrollment</u> | <u>5,500 students</u> |
| <u>Fall 2010 Employees</u> | <u>718 employees</u> |
| Full-time Faculty | 224 |
| Part-time Faculty | 194 |
| Staff and administration | 300 |

Current living alumni: 19,600

Just as it offers academic excellence, University also offers a comprehensive athletics program currently competing in the nationally renowned Atlantic Sun Conference with membership in NCAA Division I. The University currently fields fifteen (15) varsity sports: Men's: basketball, baseball, soccer, tennis, golf, cross country, and track and field. Women's teams include: basketball, softball, soccer, tennis, golf, cross country, track and field, and volleyball. USC Upstate student-athletes have won numerous academic and athletic awards, and the department has been recognized for its strength in diversity among its student-athletes, staff, and administrators.

With movement into NCAA Division I, it was the right time to renovate our current indoor athletic venue, creating an exciting place for our teams, fans, and corporate sponsors to enjoy. The new sports arena was revamped with new flooring, seating, sound system, and new Daktronic scoreboards featuring video, instant replay, fan cam and many more amenities.

The following information details sales and commission statistics the USC Upstate campus generated over the past five (5) years.

| | <u>Total Gross Sales</u> | <u>Total Commissions</u> |
|---------------------------------|--------------------------|--------------------------|
| FY2006/2007 | \$70,143 | \$40,321 |
| FY2007/2008 | 71,346 | 39,725 |
| FY2008/2009 | 45,034 | 25,134 |
| FY2009/2010 | 51,216 | 28,584 |
| FY2010/2011(July '10 – Feb '11) | 29,485 | 16,455 |

With respect to the pouring rights and non-vended sales, Sodexo estimates total annual sales in FY2010/2011 to be approximately \$95,000. Actual purchases for period July, 2010 – January, 2011 total \$58,323 with an additional \$40,000 anticipated for the remainder of the fiscal year.

3.2 Description of Scope of Work

Drink vending services are currently provided by contract to the University of SC Upstate. The University is interested in establishing a new five (5) year contract to include the main campus located at 800 University Way, Spartanburg, SC 29303; and the George Dean Johnson College of Business, located at 180 E. St. John St., Spartanburg, SC 29304. There are currently thirty-two (32) drink vending machines on campus (see Attachment 3 in Section IX Attachments of the solicitation for type and location).

3.2. Pouring Rights for all Dining Operations and Athletic Concessions

Our dining service operation and athletic concessions are contracted through Sodexo Campus Services. We are currently in the second year of a ten-year contract. This vending contract gives exclusive rights to sell all soft drinks and pouring rights in all University venues operated by the University or its contractors.

3.3. General Requirements

The contractor shall provide brand new or like new state-of-the-art automatic vending machines that are capable of accepting cash and coins as well as being equipped with readers allowing the use of the CarolinaCard (campus ID/debit card) in the locations designated for each campus in Attachment 3 in Section IX Attachments of this solicitation.

The contractor will also provide full servicing of the machines as more fully described below. Contractor is expected to (and must be prepared to) provide the same number of machines in the same locations as they are currently placed. After the contract is awarded, machines may be relocated to other places on campus if supported by usage projections from the contractor and if approved by the University.

3.3.1 The contractor understands and agrees that vending machine services shall, at a minimum, include regular stocking, maintaining, servicing, repairing and/or replacing the required vending machines. Such services shall also include maintaining sanitation and cleanliness in the vending area related to the vending machine.

3.3.2 For purposes of the contract, “vending machine services” shall be defined as machine vending of soft drinks, juices, isotonic sports drinks on an exclusive basis and water, and other types of beverages on an exclusive basis in all areas comprising the campus.

3.3.3 The contractor shall provide and pay for all labor, materials, equipment, maintenance, repair, insurance and any other expenses associated with the provision of vending machine services under the terms of the contract. In servicing and stocking the machines, the contractor will strictly adhere to all University policies and instructions concerning parking and building access. UNIVERSITY POLICIES STRICTLY FORBID VEHICLES FROM DRIVING ON CAMPUS OTHER THAN ON PAVED STREETS AND DRIVEWAYS THAT ARE MADE AVAILABLE TO VEHICULAR TRAFFIC. Repeated violations of driving and parking policies can result in substantial fines and/or breach of this contract.

3.3.4 Smoking and use of all tobacco products is prohibited in all USC Upstate buildings, buildings on university-owned land, all university vehicles and in all outdoor spaces. All members of the USC community, including visitors, vendors, and contractors working on campus, are expected to comply with this policy. This policy relies on the consideration and cooperation of tobacco users and non-users.

3.3.5 The contractor shall be responsible for control of keys and building access cards obtained from the University and shall be responsible for all costs associated with rekeying and replacement of locking materials as a result of loss.

3.3.6 The Contractor shall be responsible for losses resulting from not properly securing or maintaining the security of an area while performing tasks required by this contract.

3.3.7 The Contractor shall meet regularly with University Contract administrators to discuss the vending program targets and to discuss the campus community and how to maintain maximum efficiency and good public relations with students, faculty and staff. The Contractor shall meet with the University Contract Administrators at least yearly to discuss goals and plans for the upcoming academic school year.

3.3.8 The Contractor shall utilize a single contract employee representative to work with the campus. The Contractor will provide a professional manager who will be accessible to university staff and knowledgeable about the University and all aspects of the beverage program, and who has full authority to make operational decisions on behalf of the Contractor.

3.3.9 The contractor shall perform all services to the sole satisfaction of the University.

3.4 Vending Machine Specifications and Requirements

3.4.1 During the term of the contract, the contractor shall remove and/or replace any vending machines which, in the opinion of the University, have deteriorated to the point that the machine is not mechanically able to provide reliable service, or where, in the opinion of the University, the exterior of the machine has so deteriorated as to have a poor aesthetic appearance.

3.4.2 If, in the opinion of the University, at any time during the contract term, circumstances warrant changes to the quantity, types and/or specifications of the vending machines, the contractor shall make the changes required by the University including the removal of, addition of, or other changes to vending machines. If a machine is requested to be removed by the University and the contractor objects to its removal, the University will work with the contractor to find a mutually agreeable new location for the machine. This shall include contractor providing additional vending machines which may be required due to the expansion of the University into additional or new facilities and/or the expansion or renovation of existing facilities. The contractor shall only make such changes upon the approval of the University.

3.4.3 As vending machines are replaced by the contractor, the replacement vending machines must be brand new or like new and state-of-the-art technology. Acceptable like new machines must be approved by the University prior to installation by contractor. New and updated equipment shall be listed as certified by the U.S. Public Health Service Model Food Code, and the further requirements of the NAMA Standard for the Sanitary Design and Construction of Food and Beverage Vending Machines and for water machines the Water Vending Machine Code of Practice. Vending machine product selection and money insertion locations must comply with current ADA reach requirements from the U.S. Department of Justice. Any machines deemed by the University to be inadequate or unacceptable must be replaced by the contractor immediately upon request.

3.4.4 Vending machines must comply with U.S. Department of Energy mandatory energy efficiency standards for refrigerated beverage machines that will reduce energy consumption.

3.4.5 Any changes to vending machines (addition, relocation, replacement, removal) must be coordinated with the appropriate University office. A program of preventative maintenance and regular replacement of worn, damaged or malfunctioning equipment shall be instituted and carried out by the Contractor. The Contractor shall maintain a continual program of equipment replacement in high volume locations where obsolescence becomes a factor resulting in potential service problems or sales reductions.

3.4.6 The contractor understands and agrees that the University shall not be liable in the event of loss, incident, destruction, theft, damage, etc., to any equipment or products provided and/or owned by the contractor. It shall be the contractor's sole responsibility

to obtain insurance coverage for such loss in an amount deemed appropriate by the contractor.

3.4.7 Each machine must be clearly identified with a number on its front so that reports of malfunctions can refer to a particular machine.

3.4.8 All equipment is to be kept in a clean and sanitary condition. Any parts of the machine that are broken, scratched, or dented are to be repaired or replaced to maintain a clean appearance and prevent vandalism. Machine logos should be standard. The University must approve the appearance of machines, including any design of machine panels that differ from the contractor's standard panels.

3.5 Vending Debit Card Readers

3.5.1 The University's CarolinaCard currently uses the CBORD CS Gold System that provides a single, integrated database and management system. Contractor's drink vending machines must have the ability to interface with CBORD vending card readers and displays. The contractor's vending machines will have the capabilities to accept both cash and CarolinaCard purchases. These machines must be able to facilitate purchases by students, faculty, staff, and visitors holding a card and an active account.

3.5.2 The contractor shall be responsible for vending reader acquisition, installation, and repair costs incurred (1) to connect vending debit card readers to the University's CarolinaCard system and (2) to maintain the functionality of such readers throughout the effective period (term) of the contract. The type of card reading kit that will be necessary will depend on the type of vending machine that will be used and on whether there are multiple prices for items in the machine. Card reader placement must comply with current ADA reach requirements from the U.S. Department of Justice.

3.6 Card Reader Requirements

The contractor shall be responsible for providing vending debit card readers on vending machines designated by the University in Attachment 3 in Section IX Attachments of the solicitation and as further indicated during the term of the contract. The University reserves the right to adjust the location of the card readers at any time during the term of the contract without having to reduce the number of card readers. During the term of this contract, as new facilities are constructed, the University reserves the right to require new machines to be located in these new buildings, and to require that these machines be equipped with card readers. By October 1, 2011, card readers must be installed on all designated machines. Additional card readers may be required to be added during the term of the contract as specified.

The University will be responsible for providing all communication lines that may be required to directly link specified vending machines with the University's debit card

computer system. The University will provide and assure the validity of all student identification cards used to make purchases from the vending machines.

The University will provide monthly reports of all debit sales by machines for each machine equipped with a compatible card reader.

3.7 Product Specifications and Requirements

3.7.1 The contractor must, at all times, maintain an ample and fresh stock of all products dispensed and sold in the vending machines.

3.7.2 The University shall have the exclusive right to select the various flavors or types of products to be vended.

3.7.3 If required by the University, the contractor must remove products or flavors which the University does not find desirable to have vended on its campus.

3.7.4 If required by the University, the contractor must furnish additional products or flavors in the vending machines as customer demands change and new products become available.

3.8 Product Pricing

At the beginning of the contract term, pricing for products offered in campus vending machines cannot exceed the following: \$1.25 for 20 oz. bottles; \$.75 for 12 oz. cans; \$1.50 for 15.2 oz. (or larger) juice; \$1.50 for 20 oz. Sports Drinks; and \$2.00 for Energy Drinks. Prices can be increased during the term of the contract with prior written approval of the University. In the event of change in sizes of containers, the University must approve associated pricing.

3.9 Personnel and Service Requirements

3.9.1 The contractor must service and stock the vending machines according to a schedule which ensures that the vending machines do not become empty of any of the products or have products in them which have expired. The contractor must adjust the vending schedule as necessary to accommodate both slow traffic times and increased traffic times, based on the University's schedule, to maximize sales and minimize shrinkage.

3.9.2 The contractor must have trained competent repair persons available within twenty-four (24) hours to make repairs to the vending machines as needed. The contractor must provide a name and a telephone number to serve as a central point of contact for the University in reporting service problems.

3.9.3 The contractor must provide trained, experienced route service/sales personnel to service the vending machines. Such personnel must have relevant knowledge, skills, and abilities to provide effective and efficient vending machine service.

3.9.4 All employees of the contractor working on University premises must meet the standards of conduct, appearance, service and integrity established by the University. The contractor's employees must be courteous to all people encountered while on University premises.

3.9.5 While on University premises, the contractor's personnel must wear uniforms and have name badges or similar identification that distinguishes them as employees of the contractor. Contractor vehicles should also be clearly identifiable as belonging to the contractor, i.e., company name, logo, etc. The Contractor's vehicles and those of their employees working on campus must be registered with Parking and Vehicle Services. Unregistered vehicles on the University campus are subject to a parking violation ticket and/or towing off campus. Contractors are advised that parking regulations are strictly enforced by campus police. Tickets and towing will be at the Contractor's expense.

3.9.6 The contractor's personnel shall only be allowed access to student floors of the University's residence halls according to University Housing guidelines and regulations. University employees may need to escort contract personnel in some residence halls.

3.9.7 The contractor shall be responsible for refunds to individual customers who insert money in a vending machine and receive no product in return, or receive an expired product. The University will handle the refund process by issuing a credit to the CarolinaCard in all cases where the customer has a valid CarolinaCard. In those instances where there is no CarolinaCard available to credit, the refund will be made by the CarolinaCard Office in cash. In both cases, the amount either credited to the CarolinaCard or refunded in cash will be offset against the amount owed the contractor by the CarolinaCard Office for card sales when the next payment is made to the contractor. The contractor must post instructions for these refund procedures and/or reporting of malfunctions on each vending machine. The University must approve the notice outlining the refund procedures before they are posted on the machines.

3.9.8 The contractor must at all times keep the vending machines and adjacent areas as free from materials, debris and trash as are practicable. The contractor shall be responsible for promptly removing trash produced as a result of the services required by the contract and must maintain vending machines to meet standards of health and sanitation required by federal, city and/or state law or regulation. In addition, the contractor must maximize sanitation and cleanliness in the vending area and inside the vending machines.

3.9.9 The contractor shall be solely responsible for ensuring a pest-free environment inside all vending machines covered by the contract. The contractor must provide to the University on a regular basis, but not less than twice per contract year, documentation of the pest control measures employed by the contractor. Such documentation must be deemed acceptable by the University.

3.9.10 The contractor will require all their employees to have personal hygiene standards that conform with all Federal, State and local laws.

3.10 Temporary Suspension

The contractor understands and agrees that the University shall not be responsible for any loss to the contractor due to the temporary suspension of one or more vending machines, regardless of the cause, including, but not limited to, mechanical failure of equipment, power failure, weather conditions, force majeure, riots or civil commotion. The University shall also not be responsible for any loss for days the University is closed (University holidays, snow days, etc.)

3.11 Payment and Reporting Requirements

3.11.1 The contractor understands and agrees that the annual amount paid to the University relative to sales made under the terms of the contract will not be less than the guaranteed minimum annual amount of \$40,000 for year one of the contract term and will increase by 2% per year thereafter. The contractor understands and agrees that the guaranteed minimum annual amount shall be exclusive of any late payment fees and any other payment to the University required by the contract.

3.11.2 On a calendar month basis, the contractor shall return to the University a percentage commission of the total gross sales for all vending machines. The percentage of gross sales shall be that stated by the contractor on the Pricing Page (See Exhibit E). The contractor shall be responsible for sales tax and shall not deduct such from the commissions owed the University. Commissions are paid on gross sales after taxes.

3.11.3 The appropriate commission payment from cash and coin sales shall be in the form of an electronic transfer to a University account which number will be provided to the contractor prior to beginning the contract, and this amount shall be electronically transferred to the University on or before the fifteenth (15th) day of each month for vending sales during the preceding month.

3.11.4 The contractor shall understand and agree that the University will be financially damaged if it does not receive the appropriate commission payment within the time frame specified above. Therefore, the contractor shall pay damages to the University in the amount of one-half percent (½%) per day of the total commission payment due for the reporting period. Such damages shall be payable for each day that the commission payment is late.

3.11.5 The contractor must include with the monthly commission payment a detailed report of sales by vending machine and product category, to include the breakdown of cash sales vs. CarolinaCard sales for each machine for the reporting period. The report must be emailed to the University within fifteen (15) days after the end of each month at an address to be provided in the contract. The format of such report must be approved by the University.

3.11.6 CarolinaCard sales will also be tracked by the CarolinaCard Office. The University will reimburse the contractor for the amount of such sales on a monthly basis, less any refund amounts that have been issued, and a three percent (3%) transaction fee for all sales made utilizing the CarolinaCard. The CarolinaCard transaction fee may be increased during the term of the contract as mutually agreed upon by the University and the Contractor.

3.11.7 All commission payments made to the University, including those associated with CarolinaCard sales, shall be combined in calculating the total amount paid to the University for each year of the contract term.

3.11.8 The Contractor is required to provide the University with detailed data concerning the contract at the completion of each year of the contract term or at the request of the University at other times. The University reserves the right to audit the Contractor's records to verify the data. This data may include, but is not limited to, dollar volume, items sold, services rendered, and commissions paid to the University. The Contractor shall provide complete monthly and academic year reports of beverage sales and financial transactions. Report data shall include but not be limited to:

- Commissions and guaranteed revenues
- Gross sales, net sales and commission derived for each vending machine
- Building location of machines and product sold at that location
- Selling prices of products
- Volume and prices of product sold

3.11.9 The Contractor shall maintain complete and accurate records of all beverage sales and financial transactions in accordance with accepted industry accounting standards and shall keep all such financial records and statements pertaining to the operations at the university for a period of **seven (7)** years from the close of each year's operation. The university, or a designated representative, reserves the right to audit the Contractor's financial and operational records annually or more frequently if required.

3.11.10 If the total amount paid to the University as a percentage of gross sales for each contract year, beginning July 1, 2011, is less than the guaranteed minimum annual amount specified in the contractor's proposal, the contractor must promptly remit to the University the difference between the amount actually paid and the guaranteed minimum annual amount. Such payment shall be due on July 15th of each year of the contract term after the first full year of the contract term. For the 2011-2012 guaranteed minimum annual amount, the contractor may add the July 2011 monthly sales and commissions to the August 1, 2011-June 30, 2012. If the guaranteed minimum annual amount is not met for FY 2011-2012 when adding the sales for July 2011, the contractor will make up the difference between the guaranteed sales figure and the FY 2011-2012 sales total.

3.12 Inspection and Audit Requirements

3.12.1 The contractor shall agree that on any business day the University may request that the contractor, or one of the contractor's representatives, appear at a specified

location and open any or all vending machines and permit the University and/or its designee to count and determine the amount of money in any or all vending machines.

3.12.2 The contractor shall agree that the University and/or its designee may audit, examine, and copy any and all books, records, and information relating to the operation of the vending machines at the University. The contractor shall keep and maintain all records for a minimum of **seven (7)** years following contract expiration/termination/cancellation, or until audited by the University, whichever occurs first.

3.13 Contractor Relationship

3.13.1 The relationship of the contractor to the University shall be that of an independent contractor, and nothing contained herein shall be construed to create an agency relationship on the part of the contractor.

3.13.2 Any and all employees of the contractor, while engaged in the performance of any work or services required by the contract, shall not be considered employees of either the University or the State of South Carolina.

3.13.3 The contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, worker's compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the University, its agents and employees, harmless from and against any and all loss, cost (including attorney fees), and damage of any kind related to such matters.

3.13.4 The contractor shall be responsible for the acts and omissions of all the contractor's employees, subcontractors, subcontractor's employees, agents, agent's employees and all other persons providing service or supplies associated with the contract.

3.13.5 Personnel issues associated with the contractor's employees shall be the contractor's sole responsibility. The contractor must comply with all applicable governmental regulations related to the employment and payment of the contractor's employees.

3.13.6 The contractor understands and agrees that the University shall have no direct control over employees of the contractor. Any provision for such control shall be exercised only through the contractor or the contractor's designated representative.

3.14 Cancellation Rights and Requirements

The contractor shall agree that any breach of contract duties or failure by the contractor to perform contract duties as set forth herein shall entitle the University to perform either or both of the following, as deemed in its best interests.

The University may cancel the contract by providing the contractor with a written notice of such cancellation. Prior to issuing such a notice, if appropriate, the University shall provide the contractor with one (1) opportunity to cure the breach within a reasonable period of time. Should the University exercise its right to cancel the contract, the cancellation shall become effective on the date specified in the notice of cancellation sent to the contractor.

The University shall recover from the contractor all lost profits or, when lost profits cannot be determined with certainty, the University shall recover from the contractor an amount equal to the commission earned in the previous year's operation during the time period affected by the contractor's breach or failure to perform.

3.15 Subcontractors

3.15.1 The contractor shall be responsible for the acts and performance of any subcontractor utilized to fulfill the contractual obligations. The contractor shall be solely responsible for payment to all subcontractors and suppliers.

3.15.2 All services provided for the contractor by a subcontractor shall be pursuant to an appropriate agreement between the contractor and subcontractor. Such agreement must contain provisions which preserve and protect the rights of the University and which require that services be performed in accordance with the requirements of the contract between the University and the contractor.

3.15.3 The contractor is advised that any proposed sub-contractual agreement shall be subject to review and approval by the University.

3.16 Transition Requirements

3.16.1 At the initial effective date of the contract term, the contractor shall work with the University and any other organizations designated by the University to ensure an orderly transition of vending machine services and responsibilities under the contract to ensure the continuity of those services required by the University if a transition is required.

3.16.2 Upon expiration, termination, or cancellation of the contract, if requested by the University in writing, the contractor shall assist the University to ensure an orderly transfer of vending machine services as required under the terms of the contract to an organization designated by the University.

3.17 Minimum Level of Service that Contractor Must Provide

3.17.1 An effective program for preventive maintenance and repair service must be available with 24 hour response time for service.

3.17.2 Replacement vending machines must be provided when determined by the University to be necessary. **Reasons for the University requesting replacement**

vending machines would include but not be limited to significant interior and/or exterior deterioration.

3.17.3 Juice, fountain drink equipment, and concession coolers will be kept in good working order and must be replaced or upgraded when determined by the University to be necessary.

3.17.4 Loss of product due to CO2 leaks, faulty pumps, or breakage of juice and fountain drink equipment will be replaced at no charge to the University.

IV. Information For Offerors To Submit

INFORMATION FOR OFFERORS TO SUBMIT – GENERAL (JANUARY 2006): Offeror shall submit a signed Cover Page and Page Two. Offeror should submit all other information and documents requested in this part and in parts II.B. Special Instructions; III. Scope of Work; V. Qualifications; VIII. Bidding Schedule/Price Proposal; and any appropriate attachments addressed in section IX. Attachments to Solicitations.

PROPOSAL CONTENTS

To be considered for award, all proposals shall include, as a minimum, the following information. **All information should be presented in the order listed.**

1. Executive Summary (Exhibit A)
2. Offeror's Previous Experience (Exhibit B)
3. Offeror's Products and Product Price List (Exhibit C)
4. Offeror's Strategy for Increasing Revenue (Exhibit D)
5. Offeror's Financial Offer (Exhibit E, Pricing Sheet)

PROPOSALS MUST COMPLY WITH REQUIRED MINIMUM ANNUAL GUARANTEE AMOUNT STATED IN SUB ITEM 3.11.1 OF ITEM 3.11 IN SECTION III SCOPE OF WORK / SPECIFICATIONS OF THE SOLICITATION.

PROPOSALS THAT DO NOT COMPLY WITH REQUIRED MINIMUM ANNUAL GUARANTEE AMOUNT STATED IN SUB ITEM 3.11.1 OF ITEM 3.11 IN SECTION III SCOPE OF WORK / SPECIFICATIONS OF THE SOLICITATION WILL BE DEEMED NON RESPONSIVE" AND REMOVED FROM FURTHER CONSIDERATION.

Offerors are to submit with their response their proposed highest annual guarantee amount and product commission rates for evaluation as set forth in Exhibit E.

Guarantee: The University of South Carolina Upstate requires a guaranteed minimum annual amount of **\$40,000** in commission for Year 1 of the contract term which will increase by 2% per

year for each subsequent year of the contract term. The annual minimum guarantee that is offered in Offeror's proposal only becomes the basis for payment if the revenues based on the commission rate that is offered do not equal or exceed the annual minimum guarantee for that year of the contract term.

Commission Rate: The Offeror must provide a firm, fixed percentage commission of total gross sales that it is willing to pay the University for the term of the contract for each category of products as the basis for payment to the University. THE FINAL COMMISSIONS OWED TO THE UNIVERSITY WILL BE EITHER THE AMOUNT REACHED THROUGH THE COMMISSION CALCULATIONS OR THE GUARANTEED ANNUAL MINIMUM AMOUNT, WHICHEVER IS GREATER.

Offeror's proposed drink vending machines must have the ability to interface with CBORD vending card readers and displays.

Failure of an offeror to submit with their response their proposed annual minimum guarantee amount and product commission rates for evaluation will result in the Offeror's response being deemed "non responsive" and removed from further consideration.

EXHIBIT A

Executive Summary: An Executive summary must be provided with each proposal. The summary shall not exceed three pages and shall include the key points in the bidder's proposal. It shall also include a description of the company's organization, financial stability, experience and capacity in managing the requirements of this contract as well as an organizational chart and plan for the administrative management, supervision and staffing required under the specifications of this solicitation.

EXHIBIT B

PRIOR EXPERIENCE OF ACCOUNTS OF COMPARABLE SIZES FOR THE LAST FIVE YEARS

1. Prior Services Performed for:

Company Name:

Address:

Contact Name:

Telephone Number:

Description of Prior Services:

- (1) Business environment in which machines are located
- (2) Number and type of vending machines
- (3) Annual gross revenues
- (4) Number of potential customers in areas served my vending machines (for educational environments, indicate the number of students as well as faculty/staff on campus served.

Length of time that service has been provided:

2. Prior Services Performed for:

Company Name:

Address:

Contact Name:

Telephone Number:

Description of Prior Services:

- (1) Business environment in which machines are located
- (2) Number and type of vending machines
- (3) Annual gross revenues
- (4) Number of potential customers in areas served my vending machines (for educational environments, indicate the number of students as well as faculty/staff on campus served.

Length of time that service has been provided:

3. Prior Services Performed for:

Company Name:

Address:

Contact Name:
Telephone Number:

Description of Prior Services:

- (1) Business environment in which machines are located
- (2) Number and type of vending machines
- (3) Annual gross revenues
- (4) Number of potential customers in areas served my vending machines (for educational environments, indicate the number of students as well as faculty/staff on campus served.

Length of time that service has been provided:

4. Prior Services Performed for:

Company Name:
Address:

Contact Name:
Telephone Number:

Description of Prior Services:

- (1) Business environment in which machines are located
- (2) Number and type of vending machines
- (3) Annual gross revenues
- (4) Number of potential customers in areas served my vending machines (for educational environments, indicate the number of students as well as faculty/staff on campus served.

Length of time that service has been provided:

5. Prior Services Performed for:

Company Name:
Address:

Contact Name:
Telephone Number:

Description of Prior Services:

- (1) Business environment in which machines are located
- (2) Number and type of vending machines
- (3) Annual gross revenues
- (4) Number of potential customers in areas served my vending machines (for educational environments, indicate the number of students as well as faculty/staff on campus served).

Length of time that service has been provided:

Signature of Authorized Agent

EXHIBIT C

PRODUCTS AND PRODUCT PRICE LIST

List all products offered other than 20 oz sodas, 12 oz sodas, juice, water, energy, sports, and other drinks for vending at USC Upstate along with proposed pricing for each product. Sign form certifying that proposed prices are comparable to those offered at other customer accounts in this region.

I hereby certify that the prices proposed for drink vending machines on the University of South Carolina Upstate campus are comparable to the prices charged at other accounts serviced by the company that I represent in the Southeast Region of the United States.

Signature of Authorized Agent

EXHIBIT D

OFFEROR'S STRATEGY FOR INCREASING REVENUE

The following steps will need to be taken in an effort to increase revenue from drink vending on campus:

Step 1: (Describe action here)

Time frame for accomplishing Step 1: (Indicate length of time and projected increase in revenue here)

Step 2: (Describe action here)

Time frame for accomplishing Step 2: (Indicate length of time and projected increase in revenue here)

Step 3: (Describe action here)

Time frame for accomplishing Step 3: (Indicate length of time and projected increase in revenue here)

REPEAT FORMAT AS NEEDED FOR ADDITIONAL STEPS

Signature of Authorized Agent

EXHIBIT E

I. ANNUAL MINIMUM GUARANTEE

The Offeror agrees to pay the University of South Carolina Upstate a minimum annual guarantee. The required minimum annual guarantee is **\$40,000** for Year One (1) of the contract term with an increase of 2% for each subsequent year of the contract term.

Annual Guarantee (minimum of \$40,000 for Year 1)

COMMISSION RATE

| PRODUCT | PROPOSED COMMISSION RATE |
|--------------------------|---------------------------------|
| 20 oz Bottle | |
| 12 oz Can | |
| Sport Drink Bottle 20 oz | |
| Juice 20 oz | |
| Water 20 oz | |
| Energy Drinks | |
| Other | |

Signature of Authorized Agent

II. ENHANCEMENTS:

1. Academic Scholarship: Amount: \$_____per year

2. Athletic Scholarship: Amount: \$_____per year

In-kind Support:

3. Athletic Isotonic Drinks for Athletic Home Games Value: \$_____ per year
Cases: _____

4. Student Affairs Value: \$_____per year
Cases: _____

5. Residential Life Value: \$_____per year
Cases: _____

6. Athletic Advertising and Sponsorship Package Amount: **\$12,500 per year**

Signature of Authorized Agent

(repeat format as needed for all other/additional enhancements offered)

MINORITY PARTICIPATION (JAN 2006)

Is the bidder a South Carolina Certified Minority Business? Yes NO

Is the bidder a Minority Business certified by another governmental entity? Yes NO

If so, please list the certifying governmental entity: _____

Will any of the work under this contract be performed by a SC certified Minority Business as a subcontractor? Yes NO

If so, what percentage of the total value of the contract will be performed by a SC certified Minority Business as a subcontractor? Yes NO

Will any of the work under this contract be performed by a minority business certified by another governmental entity as a subcontractor? Yes NO

If so, what percentage of the total value of the contract will be performed by a minority business certified by another governmental entity as a subcontractor? Yes NO

If a certified Minority Business is participating in this contract, please indicate all categories for which the Business is certified:

- Traditional minority
- Traditional minority, but female
- Women (Caucasian females)
- Hispanic minorities
- DOT referral (Traditional minority)
- DOT referral (Caucasian female)
- Temporary certification
- SBA 8 (a) certification referral
- Other minorities (Native American, Asian, etc.)

(If more than one minority contractor will be utilized in the performance of this contract, please provide the information above for each minority business.)

V. Qualifications

QUALIFICATION OF OFFEROR (JAN 2006) To be eligible for award of a contract, a prospective contractor must be responsible. In evaluating an Offeror's responsibility, the State Standards of Responsibility [R.19-445.2125] and information from any other source may be considered. An Offeror must, upon request of the State, furnish satisfactory evidence of its ability to meet all contractual requirements. Unreasonable failure to supply information promptly in connection with a responsibility inquiry may be grounds for determining that you are ineligible to receive an award. S.C. Code Section 11-35-1810.

SUBCONTRACTOR – IDENTIFICATION (January, 2006): If you intend to subcontract with another business for any portion of the work and that portion exceeds 10% of your price, your offer must identify that business and the portion of work which they are to perform. Identify potential subcontractors by providing the business' name, address, phone, taxpayer identification number, and the point of contact. In determining your responsibility, the state may evaluate your proposed subcontractors.

SPECIAL QUALIFICATION

Offerors must have successfully performed at least five (5) vending contracts of a similar size to this contract in terms of numbers of machines and annual gross revenues for a period of two (2) years each. Information about these accounts including the number of vending machines and annual gross revenue and a contact person for references on the performance of the contract must be included in Offeror's proposal (See Exhibit B in Section IV Information for Offerors to Submit of the solicitation).

ENHANCEMENTS

If enhancements are offered, a detailed description of benefit(s) of each enhancement must be provided in Offeror's proposal including the dollar value associated with each enhancement. Below is a list of possible enhancements from which we believe the University will benefit most:

1. Academic student scholarships
2. Athletic student scholarships
3. In-kind support supplying isotonic drinks for all Athletic home games.
4. In-kind products for Student Affairs and Residential Life
5. Athletic Advertising /Sponsorship Package

VI. Award Criteria

AWARD CRITERIA – PROPOSALS (JAN 2006): Award will be made to the highest ranked, responsive and responsible offeror whose offer is determined to be the most advantageous to the State.

EVALUATION FACTORS – PROPOSALS: Responsive Offers will be evaluated using only the factors stated below. Evaluation factors are stated in the relative order of importance, with the first factor being the most important.

1. Amount of commission to be paid to USC Upstate and Offeror's presentation of enhancements offered to the USC Upstate.
2. Offeror's qualifications, including past performance, reliability and reputation with similar customers for services provided.
3. Plan for Increasing Drink Vending Revenues

ORAL PRESENTATIONS

Acceptable Offerors (i.e. offers that are reasonably susceptible of being selected for award) and all of the Potentially Acceptable Offerors (i.e. offers that are reasonably susceptible of being made acceptable through discussions with the offerors) may or may not be requested to make oral presentations of their proposals to the University of South Carolina evaluation committee. If requested, such presentations would be conducted prior to final ranking and provide an opportunity for the offerors to clarify their proposals and to ensure

a thorough understanding. Any costs of participating in such presentations will be borne solely by Offeror and will not be reimbursed by the University.

NEGOTIATIONS (JAN 2006): The Procurement Officer may elect to make an award without conducting negotiations. However, after the offers have been ranked, the Procurement Officer may elect to negotiate price or the general scope of work with the highest ranked offeror. If a satisfactory agreement cannot be reached, negotiations may be conducted with the second, and then the third, and so on, ranked offerors to such level of ranking as determined by the Procurement Officer.

AWARD

The contract will be awarded to a single offeror as determined in the sole discretion of the University as covered by Subsection 3.0 Scope of Contract in Section III Scope of Work / Specifications of the solicitation.

Any contract awarded from this solicitation will be made only by written authorization from the University of South Carolina's Purchasing Office (i.e. Procurement Officer for this solicitation) and shall be subject to approval by the University's Board of Trustees. **The University reserves the right to not award a contract from this solicitation if deemed in the best interests of the University.**

VII. Terms and Conditions - A. General

ASSIGNMENT (JANUARY 2006): No contract or its provisions may be assigned, sublet, or transferred without the written consent of the Procurement Officer.

BANKRUPTCY (JANUARY 2006): (a) Notice. In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Using Governmental Unit. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all State contracts against which final payment has not been made. This obligation remains in effect until final payment under this Contract. (b) Termination. This contract is voidable and subject to immediate termination by the State upon the contractor's insolvency, including the filing of proceedings in bankruptcy.

CHOICE-OF-LAW (JANUARY 2006): The Agreement, any dispute, claim, or controversy relating to the Agreement, and all the rights and obligations of the parties shall, in all respects, be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina, except its choice of law rules. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation.

CONTRACT DOCUMENTS & ORDER OF PRECEDENCE (JANUARY 2006): (a) Any contract resulting from this solicitation shall consist of the following documents: (1) a Record of Negotiations, if any, executed by you and the Procurement Officer, (2) documentation

regarding the clarification of an offer [e.g., 11-35-1520(8) or 11-35-1530(6)], if applicable, (3) the solicitation, as amended, (4) modifications, if any, to your offer, if accepted by the Procurement Officer, (5) your offer, (6) any statement reflecting the state's final acceptance (a/k/a "award"), and (7) purchase orders. These documents shall be read to be consistent and complimentary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. (b) The terms and conditions of documents (1) through (6) above shall apply notwithstanding any additional or different terms and conditions in either (i) a purchase order or other instrument submitted by the State or (ii) any invoice or other document submitted by Contractor. Except as otherwise allowed herein, the terms and conditions of all such documents shall be void and of no effect. (c) No contract, license, or other agreement containing contractual terms and conditions will be signed by any Using Governmental Unit. Any document signed or otherwise agreed to by persons other than the Procurement Officer shall be void and of no effect.

DISCOUNT FOR PROMPT PAYMENT (JANUARY 2006)

(a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a discount for prompt payment in conjunction with the offer, offerors awarded contracts may include discounts for prompt payment on individual invoices.

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the state annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day.

DISPUTES (JANUARY 2006)wq: (1) Choice-of-Forum. All disputes, claims, or controversies relating to the Agreement shall be resolved exclusively by the appropriate Chief Procurement Officer in accordance with Title 11, Chapter 35, Article 17 of the South Carolina Code of Laws, or in the absence of jurisdiction, only in the Court of Common Pleas for, or a federal court located in, Richland County, State of South Carolina. Contractor agrees that any act by the Government regarding the Agreement is not a waiver of either the Government's sovereign immunity or the Government's immunity under the Eleventh Amendment of the United State's Constitution. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation. (2) Service of Process. Contractor consents that any papers, notices, or process necessary or proper for the initiation or continuation of any disputes, claims, or controversies relating to the Agreement; for any court action in connection therewith; or for the entry of judgment on any award made, may be served on Contractor by certified mail (return receipt requested) addressed to Contractor at the address provided as the Notice Address on Page Two or by personal service or by any other manner that

is permitted by law, in or outside South Carolina. Notice by certified mail is deemed duly given upon deposit in the United States mail.

EQUAL OPPORTUNITY (JANUARY 2006). Contractor is referred to and shall comply with all applicable provisions, if any, of Title 41, Part 60 of the Code of Federal Regulations, including but not limited to Sections 60-1.4, 60-4.2, 60-4.3, 60-250.5(a), and 60-741.5(a), which are hereby incorporated by reference.

FALSE CLAIMS (JANUARY 2006): According to the S.C. Code of Laws § 16-13-240, "a person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty" of a crime.

FIXED PRICING REQUIRED (JANUARY 2006): Any pricing provided by contractor shall include all costs for performing the work associated with that price. Except as otherwise provided in this solicitation, contractor's price shall be fixed for the duration of this contract, including option terms. This clause does not prohibit contractor from offering lower pricing after award.

NON-INDEMNIFICATION (JANUARY 2006): Any term or condition is void to the extent it requires the State to indemnify anyone.

NOTICE (JANUARY 2006): (A) After award, any notices shall be in writing and shall be deemed duly given (1) upon actual delivery, if delivery is by hand, (2) upon receipt by the transmitting party of automated confirmation or answer back from the recipient's device if delivery is by telex, telegram, facsimile, or electronic mail, or (3) upon deposit into the United States mail, if postage is prepaid, a return receipt is requested, and either registered or certified mail is used. (B) Notice to contractor shall be to the address identified as the Notice Address on Page Two. Notice to the state shall be to the Procurement Officer's address on the Cover Page. Either party may designate a different address for notice by giving notice in accordance with this paragraph.

PAYMENT (JANUARY 2006): (a) The Using Governmental Unit shall pay the Contractor, after the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified in this contract, including the purchase order, payment shall not be made on partial deliveries accepted by the Government. (b) Unless the purchase order specifies another method of payment, payment will be made by check. (c) Payment and interest shall be made in accordance with S.C. Code Section 11-35-45. Contractor waives imposition of an interest penalty unless the invoice submitted specifies that the late penalty is applicable.

PUBLICITY (JANUARY 2006): Contractor shall not publish any comments or quotes by State employees, or include the State in either news releases or a published list of customers, without the prior written approval of the Procurement Officer.

PURCHASE ORDERS (JANUARY 2006): Contractor shall not perform any work prior to the receipt of a purchase order from the using governmental unit. The using governmental unit shall order any supplies or services to be furnished under this contract by issuing a purchase order. Purchase orders may be used to elect any options available under this contract, e.g., quantity, item, delivery date, payment method, but are subject to all terms and conditions of this contract. Purchase orders may be electronic. No particular form is required. An order placed pursuant to the purchasing card provision qualifies as a purchase order.

SETOFF (JANUARY 2006) The state shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the state with regard to this contract, any other contract with any state department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the state for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto.

SURVIVAL OF OBLIGATIONS (JANUARY 2006): The Parties' rights and obligations which, by their nature, would continue beyond the termination, cancellation, rejection, or expiration of this contract shall survive such termination, cancellation, rejection, or expiration, including, but not limited to, the rights and obligations created by the following clauses: Indemnification - Third Party Claims, Intellectual Property Indemnification, and any provisions regarding warranty or audit.

TAXES (JANUARY 2006): Any tax the contractor may be required to collect or pay upon the sale, use or delivery of the products shall be paid by the State, and such sums shall be due and payable to the contractor upon acceptance. Any personal property taxes levied after delivery shall be paid by the State. It shall be solely the State's obligation, after payment to contractor, to challenge the applicability of any tax by negotiation with, or action against, the taxing authority. Contractor agrees to refund any tax collected, which is subsequently determined not to be proper and for which a refund has been paid to contractor by the taxing authority. In the event that the contractor fails to pay, or delays in paying, to any taxing authorities, sums paid by the State to contractor, contractor shall be liable to the State for any loss (such as the assessment of additional interest) caused by virtue of this failure or delay. Taxes based on Contractor's net income or assets shall be the sole responsibility of the contractor.

TERMINATION DUE TO UNAVAILABILITY OF FUNDS (JANUARY 2006) Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled. In the event of a cancellation pursuant to this paragraph, contractor will be reimbursed the resulting unamortized, reasonably incurred, nonrecurring costs. Contractor will not be reimbursed any costs amortized beyond the initial contract term.

THIRD PARTY BENEFICIARY (JANUARY 2006) This Contract is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and

assigns, and no other person will have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Contract as a third party beneficiary or otherwise.

WAIVER (JANUARY 2006) The State does not waive any prior or subsequent breach of the terms of the Contract by making payments on the Contract, by failing to terminate the Contract for lack of performance, or by failing to strictly or promptly insist upon any term of the Contract. Only the Procurement Officer has actual authority to waive any of the State's rights under this Contract. Any waiver must be in writing.

VII. Terms and Conditions - B. Special

HIPAA LAW: The Contractor agrees that to the extent that some or all of the activities within the scope of this Contract are subject to the Health Insurance Portability Accountability Act of 1996, P.L. 104-91, as amended ("HIPAA"), or its implementing regulations, it will comply with the HIPAA requirements and will execute such agreements and practices as the University of South Carolina may require to ensure compliance. Additional information may be viewed at: <http://www.sc.edu/hipaa/>

PROTECTION OF HUMAN HEALTH AND THE ENVIRONMENT - The University of South Carolina requires that all contractual activities to be in compliance with local, state and federal mandates concerning "protection of human health and the environment". In addition, the University of South Carolina is a "Drug Free Work Place" and requires all contractors to comply with South Carolina Code of Laws Section 41-15-10 ET sequence (1976 w/amendments). Any contractor doing business with the University will be required to document compliance with these mandates and to furnish specific information requested by the University's Department of Environmental Health and Safety when notified to do so. The Contractor understands and agrees that jobsites are open at all times work is being performed by the Contractor to authorized University employees who have been trained to identify unsafe work conditions. The Contractor will immediately correct any deficiencies noted by these inspections when requested by the University's Department of Environmental Health and Safety to do so. In work areas where a specific hazard is posed which includes but is not limited to lead paint and asbestos abatement projects, Contractors will be required to produce Lead Compliance Plans and Asbestos Project Designs which outline their method of work prior to the start of work. Each contractor shall designate a responsible member of the Contractor's organization to be at the site whose duty shall be the prevention of accidents. By submission of this bid, the vendor agrees to take all necessary steps to insure compliance with the requirements outlined above.

CONTRACTOR'S LIABILITY INSURANCE (JAN 2006): (1) Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in South Carolina such insurance as will protect the contractor from the types of claims set forth below which may arise out of or result from the contractor's operations under the contract and for which the contractor may be legally liable, whether such operations be by the contractor or by a subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable: (a) claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the work to be performed; (b) claims for damages because of bodily injury, occupational sickness or disease, or death of the

contractor's employees; (c) claims for damages because of bodily injury, sickness or disease, or death of any person other than the contractor's employees; (d) claims for damages insured by usual personal injury liability coverage; (e) claims for damages, other than to the work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; (f) claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; (g) claims for bodily injury or property damage arising out of completed operations; and (h) claims involving contractual liability insurance applicable to the Contractor's obligations under the provision entitled Indemnification – Third Party Claims.

(2) Coverage shall be written on an occurrence basis and shall be maintained without interruption from date of commencement of the work until date of final payment. Coverage must include the following on a commercial basis: (i) Premises – Operations, (ii) Independent Contractor's Protective, (iii) Products and Completed Operations, (iv) Personal and Advertising Injury, (v) Contractual, including specific provision for contractor's obligations under the provision entitled Indemnification – Third Party Claims, (vi) Broad Form Property Damage including Completed Operations, and (vii) Owned, Non-owned and Hired Motor Vehicles.

(3) The insurance required by this paragraph shall be written for not less than the following limits of liability or as required by law, whichever coverage is greater.:

COMMERCIAL GENERAL LIABILITY:

General Aggregate (per project) \$1,000,000

Products/Completed Operations \$1,000,000

Personal and Advertising Injury \$1,000,000

Each Occurrence \$1,000,000

Fire Damage (Any one fire) \$ 50,000

Medical Expense (Any one person) \$ 5,000

BUSINESS AUTO LIABILITY (including All Owned, Nonowned, and Hired Vehicles):

Combined Single Limit \$1,000,000

OR

Bodily Injury & Property Damage (each) \$750,000

WORKER'S COMPENSATION:

State Statutory

Employers Liability \$100,000 Per Acc.

\$500,000 Disease, Policy Limit; \$100,000 Disease, Each Employee

(4) Required Documentation. (a) Prior to commencement of the work, contractor shall provide to the state a signed, original certificate of liability insurance (ACORD 25). The certificate shall identify the types of insurance, state the limits of liability for each type of coverage, include a provision for 30 days notice prior to cancellation, name every applicable using governmental unit (as identified on the cover page) as a Certificate Holder, provide that the general aggregate limit applies per project, and provide that coverage is written on an occurrence basis. (b) Prior to commencement of the work, contractor shall provide to the state a written endorsement to the contractor's general liability insurance policy that (i) names every applicable using governmental unit (as identified on the Cover Page) as an additional insured, (ii) provides that no material alteration, cancellation, non-renewal, or expiration of the coverage contained in such policy shall have effect unless the named governmental unit(s) has been given at least thirty (30) days prior written notice, and (iii) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of the state as secondary and noncontributory. (c) Both the certificate

and the endorsement must be received directly from either the contractor's insurance agent or the insurance company.

(5) Contractor shall provide a minimum of thirty (30) days written notice to every applicable using governmental unit of any proposed reduction of coverage limits (on account of revised limits or claims paid under the General Aggregate) or any substitution of insurance carriers.

(6) The state's failure to demand either a certificate of insurance or written endorsement required by this paragraph is not a waiver of contractor's obligations to obtain the required insurance.

Insurance Requirement: The successful bidder must provide a copy of its Liability Insurance certificate within ten (10) days upon the posting of the intent to award statement or statement of award and on each anniversary date thereafter attesting to such insurance coverage.

COMPLIANCE WITH LAWS (JAN 2006): During the term of the contract, contractor shall comply with all applicable provisions of laws, codes, ordinances, rules, regulations, and tariffs.

CONTRACTOR PERSONNEL (JAN 2006): The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

CONTRACTOR'S OBLIGATION – GENERAL (JAN 2006): The contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the work. The contractor must act as the prime contractor and assume full responsibility for any subcontractor's performance. The contractor will be considered the sole point of contact with regard to all situations, including payment of all charges and the meeting of all other requirements.

CONTRACTOR'S USE OF STATE PROPERTY (JAN 2006): Upon termination of the contract for any reason, the State shall have the right, upon demand, to obtain access to, and possession of, all State properties, including, but not limited to, current copies of all State application programs and necessary documentation, all data, files, intermediate materials and supplies held by the contractor. Contractor shall not use, reproduce, distribute, display, or sell any data, material, or documentation owned exclusively by the State without the State's written consent, except to the extent necessary to carry out the work.

DEFAULT (JAN 2006):

(a)(1) The State may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to-

(i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;

(ii) Make progress, so as to endanger performance of this contract (but see paragraph (a)(2) of this clause); or

(iii) Perform any of the other material provisions of this contract (but see paragraph (a)(2) of this clause).

(2) The State's right to terminate this contract under subdivisions (a)(1)(ii) and (1)(iii) of this clause, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Procurement Officer) after receipt of the notice from the Procurement Officer specifying the failure.

(b) If the State terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Procurement Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the State in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the State may require the Contractor to transfer title and deliver to the State, as directed by the Procurement Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Procurement Officer, the Contractor shall also protect and preserve property in its possession in which the State has an interest.

(f) The State shall pay contract price for completed supplies delivered and accepted. The Contractor and Procurement Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property; if the parties fail to agree, the Procurement Officer shall set an amount subject to the Contractor's rights under the Disputes clause. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the Procurement Officer determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall, if the contract contains a clause

providing for termination for convenience of the State, be the same as if the termination had been issued for the convenience of the State. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of the State, the contract shall be adjusted to compensate for such termination and the contract modified accordingly subject to the contractor's rights under the Disputes clause.

(h) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this contract.

INDEMNIFICATION - THIRD PARTY CLAIMS (JAN 2006): Notwithstanding any limitation in this agreement, Contractor shall defend and indemnify the State of South Carolina, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees against all suits or claims of any nature (and all damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities attributable thereto) by any third party which arise out of, or result in any way from, any defect in the goods or services acquired hereunder or from any act or omission of Contractor, its subcontractors, their employees, workmen, servants or agents. Contractor shall be given written notice of any suit or claim. State shall allow Contractor to defend such claim so long as such defense is diligently and capably prosecuted through legal counsel. State shall allow Contractor to settle such suit or claim so long as (i) all settlement payments are made by (and any deferred settlement payments are the sole liability of) Contractor, and (ii) the settlement imposes no non-monetary obligation upon State. State shall not admit liability or agree to a settlement or other disposition of the suit or claim, in whole or in part, without the prior written consent of Contractor. State shall reasonably cooperate with Contractor's defense of such suit or claim. The obligations of this paragraph shall survive termination of the parties' agreement.

LICENSES AND PERMITS (JAN 2006): During the term of the contract, the Contractor shall be responsible for obtaining, and maintaining in good standing, all licenses (including professional licenses, if any), permits, inspections and related fees for each or any such licenses, permits and /or inspections required by the State, county, city or other government entity or unit to accomplish the work specified in this solicitation and the contract.

OWNERSHIP OF DATA & MATERIALS (JAN 2006): All data, material and documentation either prepared for the state pursuant to this contract shall belong exclusively to the State.

PRICE ADJUSTMENTS (JAN 2006): (1) Method of Adjustment. Any adjustment in the contract price made pursuant to a clause in this contract shall be consistent with this Contract and shall be arrived at through whichever one of the following ways is the most valid approximation of the actual cost to the Contractor (including profit, if otherwise allowed):

- (a) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
- (b) by unit prices specified in the Contract or subsequently agreed upon;
- (c) by the costs attributable to the event or situation covered by the relevant clause, including profit if otherwise allowed, all as specified in the Contract; or subsequently agreed upon;
- (d) in such other manner as the parties may mutually agree; or,

(e) in the absence of agreement by the parties, through a unilateral initial written determination by the Procurement Officer of the costs attributable to the event or situation covered by the clause, including profit if otherwise allowed, all as computed by the Procurement Officer in accordance with generally accepted accounting principles, subject to the provisions of Title 11, Chapter 35, Article 17 of the S.C. Code of Laws.

(2) Submission of Price or Cost Data. Upon request of the Procurement Officer, the contractor shall provide reasonably available factual information to substantiate that the price or cost offered, for any price adjustments is reasonable, consistent with the provisions of Section 11-35-1830.

PRICE ADJUSTMENT - LIMITED - AFTER INITIAL TERM ONLY (JAN 2006): Upon approval of the Procurement Officer, prices may be adjusted for any renewal term. Prices shall not be increased during the initial term. Any request for a price increase must be received by the Procurement Officer at least ninety (90) days prior to the expiration of the applicable term and must be accompanied by sufficient documentation to justify the increase. If approved, a price increase becomes effective starting with the term beginning after approval. A price increase must be executed as a change order. Contractor may terminate this contract at the end of the then current term if a price increase request is denied. Notice of termination pursuant to this paragraph must be received by the Procurement Officer no later than fifteen (15) days after the Procurement Officer sends contractor notice rejecting the requested price increase.

PRICE ADJUSTMENTS – LIMITED BY CPI “All Items” (JAN 2006): Upon request and adequate justification, the Procurement Officer may grant a price increase up to, but not to exceed, the unadjusted percent change for the most recent 12 months for which data is available, that is not subject to revision, in the Consumer Price Index (CPI) for all urban consumers (CPI-U), “all items” for services, as determined by the Procurement Officer. The Bureau of Labor and Statistics publishes this information on the web at www.bls.gov.

PRICING DATA – AUDIT – INSPECTION [Clause Included Pursuant to § 11-35-1830, - 2210, & -2220] (a) Cost or Pricing Data. Upon Procurement Officer's request, you shall submit cost or pricing data, as defined by 48 C.F.R. § 2.101 (2004), prior to either (1) any award to contractor pursuant to 11-35-1530 or 11-35-1560, if the total contract price exceeds \$500,000, or (2) execution of a change order or contract modification with contractor which exceeds \$100,000. Your price, including profit or fee, shall be adjusted to exclude any significant sums by which the state finds that such price was increased because you furnished cost or pricing data that was inaccurate, incomplete, or not current as of the date agreed upon between parties. (b) Records Retention. You shall maintain your records for **seven (7)** years from the date of final payment, or longer if requested by the chief Procurement Officer. The state may audit your records at reasonable times and places. As used in this subparagraph (b), the term "records" means any books or records that relate to cost or pricing data submitted pursuant to this clause. In addition to the obligation stated in this subparagraph (b), you shall retain all records and allow any audits provided for by 11-35-2220(2). (c) Inspection. At reasonable times, the state may inspect any part of your place of business which is related to performance of the work. (d) Instructions – Certification. When you submit data pursuant to subparagraph (a), you shall (1) do so in accordance with the instructions appearing in Table 15-2 of 48 C.F.R. § 15.408 (2004) (adapted

as necessary for the state context), and (2) submit a Certificate of Current Cost or Pricing Data, as prescribed by 48 CFR § 15.406-2(a) (adapted as necessary for the state context).

(e) Subcontracts. You shall include the above text of this clause in all of your subcontracts. (f) Nothing in this clause limits any other rights of the state.

RELATIONSHIP OF THE PARTIES (JAN 2006): Neither party is an employee, agent, partner, or joint venture of the other. Neither party has the right or ability to bind the other to any agreement with a third party or to incur any obligation or liability on behalf of the other party.

TERM OF CONTRACT – EFFECTIVE DATE / INITIAL CONTRACT PERIOD (JAN 2006): The effective date of this contract is the first day of the Maximum Contract Period as specified on the final statement of award. The initial term of this agreement is one year from the effective date. Regardless, this contract expires no later than the last date stated on the final statement of award.

TERM OF CONTRACT – OPTION TO RENEW (JAN 2006): At the end of the initial term, and at the end of each renewal term, this contract shall automatically renew for a period of one year, unless contractor receives notice that the state elects not to renew the contract at least thirty (30) days prior to the date of renewal. Regardless, this contract expires no later than the last date stated on the final statement of award.

TERMINATION FOR CONVENIENCE (JAN 2006): (1) Termination. The Procurement Officer may terminate this contract in whole or in part, for the convenience of the State. The Procurement Officer shall give written notice of the termination to the contractor specifying the part of the contract terminated and when termination becomes effective.

(2) Contractor's Obligations. The contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the contractor will stop work to the extent specified. The contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Procurement Officer may direct the contractor to assign the contractor's right, title, and interest under terminated orders or subcontracts to the State. The contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

(3) Right to Supplies. The Procurement Officer may require the contractor to transfer title and deliver to the State in the manner and to the extent directed by the Procurement Officer: (a) any completed supplies; and (b) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the contractor has specifically produced or specially acquired for the performance of the terminated part of this contract. The contractor shall, upon direction of the Procurement Officer, protect and preserve property in the possession of the contractor in which the State has an interest. If the Procurement Officer does not exercise this right, the contractor shall use best efforts to sell such supplies and manufacturing materials in accordance with the standards of Uniform Commercial Code Section 2-706. Utilization of this Section in no way implies that the State has breached the contract by exercise of the Termination for Convenience Clause.

(4) Compensation. (a) The contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data required by

Section 11-35-1830 bearing on such claim. If the contractor fails to file a termination claim within one year from the effective date of termination, the Procurement Officer may pay the contractor, if at all, an amount set in accordance with Subparagraph (c) of this Paragraph.

(b) The Procurement Officer and the contractor may agree to a settlement and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the State, the proceeds of any sales of supplies and manufacturing materials under Paragraph (3) of this clause, and the contract price of the work not terminated;

(c) Absent complete agreement under Subparagraph (b) of this Paragraph, the Procurement Officer shall pay the contractor the following amounts, provided payments agreed to under Subparagraph (b) shall not duplicate payments under this Subparagraph:

(i) contract prices for supplies or services accepted under the contract;

(ii) costs reasonably incurred in performing the terminated portion of the work less amounts paid or to be paid for accepted supplies or services;

(iii) reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Paragraph (2) of this clause. These costs must not include costs paid in accordance with Subparagraph (c)(ii) of this paragraph;

(iv) any other reasonable costs that have resulted from the termination. The total sum to be paid the contractor under this Subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the contractor reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under Subparagraph (b) of this Paragraph, and the contract price of work not terminated.

(d) Contractor must demonstrate any costs claimed, agreed to, or established under Subparagraphs (b) and (c) of this Paragraph using its standard record keeping system, provided such system is consistent with any applicable Generally Accepted Accounting Principles.

(5) Contractor's failure to include an appropriate termination for convenience clause in any subcontract shall not (i) affect the state's right to require the termination of a subcontract, or (ii) increase the obligation of the state beyond what it would have been if the subcontract had contained an appropriate clause.

Contract Pricing

The University shall neither pay nor be liable for any costs associated with the contract.

Amendments to Contract

No modification of any provision in the contract shall be made or construed to have been made unless such modification is mutually agreed to in writing by the contractor and the University's Purchasing Office and incorporated in a written amendment to the contract approved by the University's Purchasing Office prior to the effective date of such modification.

Termination

The University reserves the right to terminate the contract at any time, for the convenience of the University, without penalty or recourse, by giving the contractor written notice of such termination at least sixty (60) calendar days prior to the effective date of termination. Termination of the contract shall not affect the right of either party to any sums owing or owed as of the date of termination. If the termination is for a reason other than for cause, the University will reimburse the contractor for the unamortized amount for the investment made in purchasing the card readers on the machines that are required to be equipped with card readers if

this equipment cannot be utilized on other accounts. Any equipment on which the University pays the unamortized investment will become the property of the University upon payment being made to the contractor. This cost of the card readers will be amortized on a straight line basis for the 5 year term of the contract.

Business Interruption Insurance

The contractor should also have and maintain Business Interruption insurance to cover monthly payments to the University during closed periods caused by damage or other loss which prevents the contractor from conducting business. If the contractor fails to maintain such insurance, the contractor shall be solely responsible for paying all amounts owed to the University under the terms of the contract, regardless of whether or not the contractor was able to conduct business

Written evidence of the required insurance coverage must be submitted before or upon award of the contract; any time insurance coverage is changed, renewed and/or updated; and with each contract renewal. Such policy(ies) shall name the Board of Trustees of the University of South Carolina, its officers and employees, as additional named insureds. In the event that the insurance coverage is canceled, the University must be notified immediately.

The contractor understands and agrees that the insurance required under the terms of the contract in no way precludes the contractor from carrying such other insurance as may be deemed necessary by the contractor for the operation of the contractor's business or for the benefit of the contractor's employees.

Notwithstanding any other provision of the contract to the contrary, no insurance procured by contractor shall be construed to constitute a waiver of any sovereign immunity, or any other governmental or official immunity, nor provide coverage for any liability or suit for damages which is barred under said doctrines of sovereign, governmental or official immunity available to the University, its Board of Trustees, officers or employees, nor constitute waiver of any available defense; and neither shall such insurance provide coverage for any sums other than those which the University, its Board of Trustees, officers or employees may be obligated to pay as damages. The contractor shall cause all policies of insurance related to this RFP to be endorsed in accord with this subparagraph. The contractor shall further require the upper limits of coverage of such policies to be adjusted on an annual basis to be at least equal to the limits of liability set forth in the South Carolina Tort Claims Act.

Contractor Status

The contractor represents himself or herself to be an independent contractor offering such services to the general public and shall not represent himself/herself or his/her employees to be employees of the University. Therefore, the contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the University, its officers, agents, and employees, harmless from and against any and all loss, cost (including attorney fees), and damage of any kind related to such matters. The contractor's power or authority shall extend no further than is expressly stated in the contract and no power or authority shall be implied from the granting or denial of powers specifically mentioned herein.

Machine Installation Timeline

If there is a change of vendors resulting from this contract award, the current Contractor must present a written transition plan for removal of machines for approval to the University. The Contractor must present a written transition plan for installation of machines for approval to the University. The Contractor must also guarantee that all machines will be operating in each location as specified within the first fifteen (15) days of the contract.

VIII. BIDDING SCHEDULE / PRICE-BUSINESS PROPOSAL

**PLEASE REFER TO THE PROPOSAL CONTENTS CLAUSE IN SECTION IV.
INFORMATION FOR OFFERORS TO SUBMIT OF THE SOLICITATION.**

IX. ATTACHMENTS TO SOLICITATION

1. Important Tax Notice – Nonresidents Only
2. State of SC Department of Revenue Nonresident Taxpayer Registration Affidavit
Income Tax Withholding (I-312)
3. Offeror's Checklist
4. Attachment 1 – Campus Sales by Vending Machine 2009-2010
5. Attachment 2 – USC Upstate Campus Map
6. Attachment 3 – Locations to be Equipped with Card Readers
7. Attachment 4 – Specifications for CBORD On-line Vending
8. Attachment 5 – Athletic Advertising Package/Corporate Sponsorship

IMPORTANT TAX NOTICE - NONRESIDENTS ONLY

Withholding Requirements for Payments to Nonresidents: Section 12-8-550 of the South Carolina Code of Laws requires persons hiring or contracting with a nonresident conducting a business or performing personal services of a temporary nature within South Carolina to withhold 2% of each payment made to the nonresident. The withholding requirement does not apply to (1) payments on purchase orders for tangible personal property when the payments are not accompanied by services to be performed in South Carolina, (2) nonresidents who are not conducting business in South Carolina, (3) nonresidents for contracts that do not exceed \$10,000 in a calendar year, or (4) payments to a nonresident who (a) registers with either the S.C. Department of Revenue or the S.C. Secretary of State and (b) submits a Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to the person letting the contract.

The withholding requirement applies to every governmental entity that uses a contract ("Using Entity"). Nonresidents should submit a separate copy of the Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to every Using Entity that makes payment to the nonresident pursuant to this solicitation. Once submitted, an affidavit is valid for all contracts between the nonresident and the Using Entity, unless the Using Entity receives notice from the Department of Revenue that the exemption from withholding has been revoked.

Section 12-8-540 requires persons making payment to a nonresident taxpayer of rentals or royalties at a rate of \$1,200.00 or more a year for the use of or for the privilege of using property in South Carolina to withhold 7% of the total of each payment made to a nonresident taxpayer who is not a corporation and 5% if the payment is made to a corporation. Contact the Department of Revenue for any applicable exceptions.

For information about other withholding requirements (e.g., employee withholding), contact the Withholding Section at the South Carolina Department of Revenue at 803-898-5383 or visit the Department's website at www.sctax.org.

This notice is for informational purposes only. This agency does not administer and has no authority over tax issues. All registration questions should be directed to the License and Registration Section at 803-898-5872 or to the South Carolina Department of Revenue, Registration Unit, Columbia, S.C. 29214-0140. All withholding questions should be directed to the Withholding Section at 803-898-5383.



STATE OF SOUTH CAROLINA
 DEPARTMENT OF REVENUE
**NONRESIDENT TAXPAYER
 REGISTRATION AFFIDAVIT
 INCOME TAX WITHHOLDING**

I-312
 (Rev. 5/7/04)
 3323

The undersigned nonresident taxpayer on oath, being first duly sworn, hereby certifies as follows:

- 1. Name of Nonresident Taxpayer: _____
- 2. Trade Name, if applicable (Doing Business As): _____
- 3. Mailing Address: _____
- 4. Federal Identification Number: _____
- 5. Hiring or Contracting with:
 - Name: _____
 - Address: _____
- Receiving Rentals or Royalties From:
 - Name: _____
 - Address: _____
- Beneficiary of Trusts and Estates:
 - Name: _____
 - Address: _____

6. I hereby certify that the above named nonresident taxpayer is currently registered with
(check the appropriate box):
 The South Carolina Secretary of State or
 The South Carolina Department of Revenue

Date of Registration: _____

7. I understand that by this registration, the above named nonresident taxpayer has agreed to be subject to the jurisdiction of the South Carolina Department of Revenue and the courts of South Carolina to determine its South Carolina tax liability, including estimated taxes, together with any related interest and penalties.

8. I understand the South Carolina Department of Revenue may revoke the withholding exemption granted under Code Sections 12-8-540 (rentals), 12-8-550 (temporarily doing business or professional services in South Carolina), and 12-8-570 (distributions to nonresident beneficiary by trusts or estates) at any time it determines that the above named nonresident taxpayer is not cooperating with the Department in the determination of its correct South Carolina tax liability.

The undersigned understands that any false statement contained herein could be punished by fine, imprisonment or both.

Recognizing that I am subject to the criminal penalties under Code Section 12-54-44 (B) (6) (a) (i), I declare that I have examined this affidavit and to the best of my knowledge and belief, it is true, correct and complete.

(Seal) _____

Signature of Nonresident Taxpayer (Owner, Partner or Corporate Officer, when relevant)
Date

If Corporate officer state
title:

(Name - Please Print)

Mail to: The company or individual you are contracting with.

OFFEROR'S CHECKLIST

AVOID COMMON BID/PROPOSAL MISTAKES

Review this checklist prior to submitting your bid/proposal.
If you fail to follow this checklist, you risk having your bid/proposal rejected.

- DO NOT INCLUDE ANY OF YOUR STANDARD CONTRACT FORMS!
- UNLESS EXPRESSLY REQUIRED, DO NOT INCLUDE ANY ADDITIONAL BOILERPLATE CONTRACT CLAUSES.
- REREAD YOUR ENTIRE BID/PROPOSAL TO MAKE SURE YOUR BID/PROPOSAL DOES NOT TAKE EXCEPTION TO ANY OF THE STATE'S MANDATORY REQUIREMENTS.
- MAKE SURE YOU HAVE PROPERLY MARKED ALL PROTECTED, CONFIDENTIAL, OR TRADE SECRET INFORMATION IN ACCORDANCE WITH THE INSTRUCTIONS ENTITLED: SUBMITTING CONFIDENTIAL INFORMATION. ***DO NOT MARK YOUR ENTIRE BID/PROPOSAL AS CONFIDENTIAL, TRADE SECRET, OR PROTECTED! DO NOT INCLUDE A LEGEND ON THE COVER STATING THAT YOUR ENTIRE RESPONSE IS NOT TO BE RELEASED!***
- HAVE YOU PROPERLY ACKNOWLEDGED ALL AMENDMENTS? INSTRUCTIONS REGARDING HOW TO ACKNOWLEDGE AN AMENDMENT SHOULD APPEAR IN ALL AMENDMENTS ISSUED.
- MAKE SURE YOUR BID/PROPOSAL INCLUDES A COPY OF THE SOLICITATION COVER PAGE. MAKE SURE THE COVER PAGE IS SIGNED BY A PERSON THAT IS AUTHORIZED TO CONTRACTUALLY BIND YOUR BUSINESS.
- MAKE SURE YOUR BID/PROPOSAL INCLUDES THE NUMBER OF COPIES REQUESTED.
- CHECK TO ENSURE YOUR BID/PROPOSAL INCLUDES EVERYTHING REQUESTED!
- IF YOU HAVE CONCERNS ABOUT THE SOLICITATION, DO NOT RAISE THOSE CONCERNS IN YOUR RESPONSE! **AFTER OPENING, IT IS TOO LATE! IF THIS SOLICITATION INCLUDES A PRE-BID/PROPOSAL CONFERENCE OR A QUESTION & ANSWER PERIOD, RAISE YOUR QUESTIONS AS A PART OF THAT PROCESS!** PLEASE SEE INSTRUCTIONS UNDER THE HEADING "SUBMISSION OF QUESTIONS" AND ANY PROVISIONS REGARDING PRE-BID/PROPOSAL CONFERENCES.

This checklist is included only as a reminder to help offerors avoid common mistakes.
Responsiveness will be evaluated against the solicitation, *not* against this checklist.
You do not need to return this checklist with your response.

ATTACHMENT 1

SALES DATA BY MACHINE (12 MONTHS) MARCH 1, 2010 –February 28, 2011

Click on the hypertext link below to access Sales Data BY MACHINE March 1, 2010 – February 28, 2011

<\\Cosslahamlet.ds.sc.edu\data\Dept\Purchasing\Solicitations\Johnson\Current Solicitations\Attachment 1 - MOST RECENT 12-MTHS SALES BY MACHINE.xls>

ATTACHMENT 2

USC UPSTATE CAMPUS MAP

Click on the hypertext link below to access USC Upstate Campus map:

Interactive Map with Building Names Legend

<http://www.uscupstate.edu/map/>

Campus Directional Map:

http://www.uscupstate.edu/uploadedFiles/About_upstate/Map/Campus_Map%281%29.pdf

ATTACHMENT 3

**CURRENT VENDING MACHINE LOCATIONS AND MACHINES TO
BE EQUIPPED WITH CARD READERS**

| | DRINK VENDING MACHINE LOCATIONS | CAROLINA CARD READER TO BE INSTALLED BY VENDOR |
|----|---|---|
| 1 | MEDIA BLDG | |
| 2 | COLLEGE OF ARTS & SCIENCES BLDG | |
| 3 | LIBRARY TERRACE | |
| 4 | LIBRARY TERRACE INSIDE | y |
| 5 | SMITH 2ND FLOOR FRONT | |
| 6 | SMITH 2ND FLOOR FRONT | |
| 7 | SMITH 4TH FLOOR | |
| 8 | SMITH LOWER LEVEL @ FOOD COURT | y |
| 9 | SMITH FARMHOUSE | |
| 10 | ADMIN. LOWER LEVEL | |
| 11 | FACILITY MANAGEMENT | |
| 12 | HODGE BLDG 2ND FLR LOUNGE | |
| 13 | HODGE BLDG LOBBY NEXT TO GFV | y |
| 14 | HODGE CENTER LOBBY GLASSFRONT | |
| 15 | MAGNOLIA HOUSE 2ND FL | y |
| 16 | MAGNOLIA HOUSE 3RD FL | y |
| 17 | MAGNOLIA HOUSE 4TH FL | y |
| 18 | NATIONAL GUARD BUILD. | |
| 19 | NATIONAL GUARD BUILDING | |
| 20 | PALMETTO DORM 1ST FLR | y |
| 21 | PALMETTO DORM 2ND FLR | y |
| 22 | PALMETTO DORM 3RD FLR | y |
| 23 | PALMETTO DORM 4TH FLR. | y |
| 24 | PALMETTO DORM SPARTY'S DEN | y |
| 25 | HEALTH EDUCATION CENTER | |
| 26 | HEALTH EDUCATION CENTER HYBRID 1 | y |
| 27 | HEALTH EDUCATION CENTER CSD 1 | y |
| 28 | HEALTH EDUCATION CENTER CSD 2 | |
| 29 | 325 S. CHURCH ST. INSIDE KITCHEN | |
| 30 | CAMPUS LIFE CENTER LOWER LEV. | y |
| 31 | 180 E. ST. JOHN ST. GDJCOB VEND AREA LH | y |
| 32 | 180 E. ST. JOHN ST. GDJCOB VEND AREA RH | y |
| | | |
| | TOTAL MACHINES REQUIRING READERS | 16 |

Cafeteria, Sandella's Café, Food Court and Athletic Concessions Equipment

| No. | Equipment Description | Location | |
|-----|-----------------------|----------------------|--|
| 2 | Fountain | Campus Life Center | |
| 1 | Juice Fountain | Campus Life Center | |
| 1 | Fountain | Sandella's Café | |
| 1 | Fountain | Food Court | |
| 3 | Double Door Coolers | Food Court | |
| 1 | Single Door Cooler | Food Court | |
| 5 | Double Door Coolers | Athletic Concessions | |

ATTACHMENT 4

SPECIFICATIONS FOR CBORD ON-LINE VENDING

The University of South Carolina uses ICAM Vending kits. The contact person at CBORD Group Inc. is Steve Gresham. All information about card reader equipment should be verified through his office at 804-564-5314.

ATTACHMENT 5

USC UPSTATE INTERCOLLEGIATE ATHLETICS ADVERTISING AND CORPORATE SPONSORSHIP PACKAGE

Athletic Corporate Sponsorship Benefits

AT HODGE ARENA

ON-PREMISE SIGNAGE | VIDEO AND SCORING DISPLAYS

- Two (2) fixed backlit advertising panels on the primary end-wall video displays (one on each display). Size approximately 3'3.4"h x 3'3.4" w.

GAMEDAY DIGITAL VIDEO CONTENT | PRIMARY VIDEO (PROSTAR®) DISPLAYS

PRE-GAME:

- One (1) :30 second pre-recorded video promotion or PSA (public service announcement). Partner is responsible for submitting post-produced spot.
- One (1) :15 second animated corporate logo
- One (1) :15 second static corporate logo

FIRST HALF:

- A minimum of one (1) :10 second instant replay tag (rotating with other corporate partners)
- One (1) :15 second static corporate logo (during break in action, timeout, etc.)

HALF-TIME:

- One (1) :30 second pre-recorded video promotion or PSA (public service announcement). Partner is responsible for submitting post-produced spot.
- One (1) :15 second static corporate logo recognizing Game Day Sponsorship Feature

SECOND HALF:

- A minimum of one (1) :10 second instant replay tag (rotating with other corporate partners)
- One (1) :15 second static corporate logo (during break in action, timeout, etc.)

ANYTIME:

- One (1) :10 second animated game day entitlement feature, per regular season home event

(Example: Official starting lineup, fan of the game, at the half, out of town conference scores, play of the game, opening tip-off, timeout, next home game, etc.)

GAMEDAY DIGITAL VIDEO CONTENT | PROTABLES® (Head Scorer's Tables)

PRE-GAME:

- Two (2) :15 second static corporate logos

FIRST HALF:

- Two (2) :15 second static corporate logos

HALF-TIME:

- One (1) :15 second static corporate logo
- One (1) :15 second static corporate logo recognizing Game Day Sponsorship/Feature (to coincide with ProStar Video Display Feature)

SECOND HALF:

- Two (2) :15 second static corporate logos

ANYTIME:

- One (1) :10 second animated game day entitlement feature, per regular season home event

(Example: Official starting lineup, fan of the game, out of town conference scores, play of the game, opening tip-off, timeout, next home game, etc.)

MERCHANDISING, HOSPITALITY, PROMOTIONS AND ADDITIONAL MULTI-MEDIA

TICKETS, PARKING AND HOSPITALITY | HODGE ARENA BASKETBALL EVENTS

- Four (4) Reserved Seating - Season Tickets - MBB Regular Season Home Games
- Four (4) Reserved Seating - Season Tickets - WBB Regular Season Home Games
- Twenty (20) General Admission Tickets - MBB Regular Season Home Game (to coincide with Game Day Presenting Sponsorship)
- Twenty (20) General Admission Tickets - WBB Regular Season Home Game (to coincide with Game Day Presenting Sponsorship)
- Two (2) Parking Passes
- One (1) Annual Membership – Spartan Booster Club

ONSITE MEDIA AND PROMOTIONS | HODGE ARENA BASKETBALL EVENTS

- One (1) Game Day Presenting Sponsorship - MBB (includes half-time presentation)
 - Recognition at beginning of game with PA Announcement
 - Recognition at half-time as the presenting sponsor on-court
 - Right to distribute promotional item(s), as agreed upon between Partner and University
 - Mention in weekly press releases
 - Partner Game Day mention in any and all radio promotions, announcing the upcoming presenting sponsor (i.e. next home game brought to you by...)
- One (1) Game Day Presenting Sponsorship - WBB (includes half-time presentation)
 - Recognition at beginning of game with PA Announcement
 - Recognition at half-time as the presenting sponsor on-court
 - Right to distribute promotional item(s), as agreed upon between Partner and University
 - Mention in weekly press releases
 - Partner Game Day mention in any and all radio promotions, announcing the upcoming presenting sponsor (i.e. next home game brought to you by...)
- One (1) Opening Night (Hodge Center Arena) New Corporate Partner Recognition
- Opportunity to provide specialty items, giveaways, product sampling, etc.

MULTI-MEDIA | PRINT, INTERNET

OFFICIAL PRINT PUBLICATIONS/ADVERTISING

- One (1) Logo in the Official MBB Game Day Flip card (with other Anchor Partners)
- One (1) Logo in the Official WBB Game Day Flip card (with other Anchor Partners)
- One (1) Logo placement on the Official MBB Team Poster (with other Anchor Partners)
- One (1) Logo placement on the Official WBB Team Poster (with other Anchor Partners)
- One (1) Logo placement or coupon on the Official Parking Passes (rotating with other Anchor and Founding Partners)
- One (1) Logo placement or coupon on the Official Employee/Press Passes (rotating with other Anchor and Founding Partners)
- One (1) Coupon insert in the MBB Season Ticket Mailings

- One (1) Coupon insert in the WBB Season Ticket Mailings
- One (1) Logo placement in the Official MBB and WBB Season Ticket Brochure (with other Anchor Partners)

INTERNET – OFFICIAL WEBSITE OF USC Upstate Athletics (www.upstatespartans.com)

- One (1) Banner Advertisement
- One (1) Live Event (i.e. video streaming of game) Sponsorship
- One (1) Corporate Partnership Listing (similar to a Chamber of Commerce Listing)

PR AND RETAIL PROMOTION OPPORTUNITIES

- Opportunity to distribute logo-ed specialty items, promotional items and/or giveaways, as agreed upon between Partner and University
- Opportunity to use licensed and/or approved USC Upstate, USC Upstate Spartans and/or Hodge Arena “mark”, if any, as part of own advertising, self-promotion and marketing efforts, with prior written consent and permission of the USC Upstate. University to approve any and all said use of the materials, prior to production, distribution or other applicable use by Partner.

SPECIAL RETAIL PRODUCTIONS

- Opportunity to customize cross promotion marketing events with Spartan Sports Marketing, USC Upstate and/or USC Upstate Athletic Department
- Opportunity to customize a radio remote (where applicable and agreed to) at business locale

PROMOTIONAL OPPORTUNITIES WITH UNIVERSITY

- Opportunity for product promotion, corporate literature, direct sales at new student orientation, special events
- Other

AT CLEVELAND S. HARLEY BASEBALL PARK ON-PREMISE SIGNAGE | MAIN SCOREBOARD

- Two (2) fixed non-backlit advertising panels. Size approximately ____ h x ____ w.

AT CYRILL STADIUM ON-PREMISE SIGNAGE | MAIN SCOREBOARD

- One (1) fixed non-backlit advertising panel. Size approximately ____h x ____ w.

**AT COUNTY UNIVERSITY SOCCER STADIUM
ON-PREMISE SIGNAGE | MAIN SCOREBOARD**

- Two (2) fixed non-backlit advertising panels. Size approximately ____h x ____ w.

MERCHANDISING, HOSPITALITY, PROMOTIONS AND ADDITIONAL MULTI-MEDIA FOR BASEBALL, SOFTBALL, AND SOCCER EVENTS

Regarding all items described within this section of the attachment of the solicitation, the terms and conditions shall be as set forth in a separate agreement by and among the Exclusive Beverage Partner and USC Upstate's Athletic Department. This section is vital to the overall beverage contract; this section is only one component of the entire beverage contract. USC Upstate's Athletic Department is important for the assets they provide to the exclusive beverage contractor and thus to USC Upstate.

- C. The availability of such an all inclusive contract for a period of five (5) years. In an effort to maximize the efficiencies of this contract, USC Upstate has decided on a maximum (5) five year contract beginning July1, 2011 and will continue through June 30, 2016 for this solicitation. The following marketing requirement will be enforced during the contract term and USC Upstate, Sodexo, and USC Upstate's Athletic Department are committed to establish a partnership with the awarded Contractor.

USC Upstate recognizes "only the provision of service can be contracted, not the responsibility for it." In the eyes of the consumer, ultimate accountability will always rest with USC Upstate. The Exclusive Beverage Partner's Marketing Plan for USC Upstate must be developed annually, by March 1st, and approved by the Vice Chancellor for Administration and Business Affairs. All ads, flyers, brochures or other materials to be distributed or posted on or off campus, including Internet marketing, will be included in the Marketing Plan. In addition, USC Upstate reserves the right to approve and request modifications to signage displayed on campus. Marketing should include as a minimum, products available, planned pricing, promotional specials, internet website addresses; and for vending, information about key service personnel. The Exclusive Beverage Partner will pay all costs associated with design development, and printing of promotional brochures, banners, signs, and corporate web page development, etc.

1. The Exclusive Beverage Partner shall submit to USC Upstate, for its prior approval, all advertising to be done in any media relative to USC Upstate. The Exclusive Beverage Partner shall withdraw any advertising from any location or media if requested by USC Upstate should USC Upstate determine the ad not to be acceptable standard established by the institution.
2. USC Upstate recognizes the Exclusive Beverage Partner will pay valuable consideration to ensure an exclusive relationship with USC Upstate with respect to

beverages and advertising rights obtained through any contract awarded from this RFP and that any dilution or diminution of such exclusivity seriously impairs the beverage partner's valuable rights. Accordingly, in the event another person or entity attempts, without the beverage partner's consent, to associate its beverages with USC Upstate, or to suggest that competitive products are endorsed by or associated with USC Upstate by referring directly or indirectly to USC Upstate (actions described in this paragraph are sometimes referred to as "Ambush Marketing"), USC Upstate will oppose such actions and take any steps necessary to stop the Ambush Marketing and to protect the exclusive rights granted to the Exclusive Beverage Partner. In the event that any such Ambush Marketing occurs during the term of any contract awarded from this RFP, immediately upon learning thereof, each party shall notify the other party.

3. During the term of any contract awarded from this RFP:
 - a. No competitive products may be sold, dispensed or served anywhere on USC Upstate campus except for coffee, hot chocolate, milk, brewed tea, and tap water without providing the exclusive beverage partner the opportunity to distribute requested products. USC Upstate reserves the right to offer to its' customers those unique product (i.e. Yahoo Chocolate drink) not distributed by the selected Beverage Partner. As well as those products which are determined to be necessary to meet the requirements of USC Upstate Customer base.
 - b. No permanent or temporary advertising, signage or trademark visibility for competitive products will be displayed or permitted anywhere in Upstate facilities with respect to the Exempt Athletic Department Areas. The Atlantic Sun Conference advertisers will be exempt and are allowed to display temporary signage when USC Upstate Athletics plays host to an Atlantic Sun Conference championship.
 - c. Except as otherwise provided for in this RFP, no agreement or relationship will be entered into or maintained by USC Upstate which allows competitive products to be associated in any manner with USC Upstate or Upstate Athletics in any advertising, promotional activity, or other endeavor which creates or tends to create the impression of a relationship or connection between competitive products and USC Upstate and Upstate Athletics.
 - d. It is understood that the rights granted to the Exclusive Beverage Partner are special, unique and extraordinary, and are of peculiar value; the loss of which cannot be fully compensated by damages in an action at law or any application of any of the other remedies described herein. Accordingly, in the event the beverages are not made available as provided herein, or if any of the provisions concerning competitive products are not complied with, the Exclusive Beverage Partner may exercise any and all remedies it may have at law, in equity or pursuant to any contract awarded from this RFP.