

# **City of Scottsbluff, Nebraska**

**Monday, March 19, 2018**

**Regular Meeting**

## **Item Bids2**

**Council to approve the contract with Pepsi-Cola of Western Nebraska to provide products for Lacy Park and Westmoor Pool concessions and authorize the Mayor to execute the contract.**

**Staff Contact: Rick Deeds, Park Superintendent**

## **EXCLUSIVE LICENSE AGREEMENT**

Pepsi-Cola of Western Nebraska, LLC (“**Supplier**”) and City of Scottsbluff (“**Customer**”) located in Scottsbluff, NE, hereby agrees as follows:

1. **Venues.** Customer operates Westmoor Pool and Lacy Park (collectively the “**Venues**”).
2. **Term.** The term of this Agreement will be for a period of Three (3) years beginning on May 1, 2018, and will continue through April 30, 2021 (the “**Term**”).
3. **Scope.** During the Term, Customer shall purchase from Supplier Pepsi-Cola’s and Dr Pepper’s corporate branded postmix products, as listed in Exhibit A, for use in preparing fountain beverage products sold under the trademarks of Pepsi-Cola and Dr Pepper; and (ii) Pepsi-Cola’s corporate branded packaged beverage products (including carbonated soft drinks, waters, isotonic, juices, juice drinks and/or coffee based beverages), as listed in Exhibit B, (collectively the “**Beverage Products**”) to be sold in each of the Customer’s existing Venues. Supplier reserves the right to amend from time to time the Beverage Products listed on Exhibits A and B.
4. **Exclusive License.** Customer grants to Supplier an exclusive license to supply beverages and to place beverage vending machines on the Customer’s premises at Venues. Customer will not allow another soft drink vendor on these premises. The parties recite that the machines are already in place and agree that their current location is satisfactory to each (the “**Exclusive License**”).
5. **Equipment.** Equipment relating to the Beverage Products shall be provided, maintained, and repaired at Supplier’s expense. At all times, legal title to the Equipment shall belong to Supplier.
6. **Advertising.** The Exclusive License shall include the right of Supplier to be the sole advertiser of Beverage Products at Venues.
7. **License Fee.** In consideration of the Exclusive License, Supplier shall pay Customer: (i) on or before May 1, 2018, the sum of one thousand five hundred dollars (\$1,500); and (ii) each year for all three (3) years of this Agreement an annual Marketing Support Fund in the amount of five hundred dollars (\$500.00); and (iii) each year for all three (3) years of this Agreement a two dollar and twenty-five cent (\$2.25) per case rebate; and each year for all three (3) years of this Agreement an annual allotment of two hundred and fifty dollars (\$250) of free product (collectively the “**License Fee**”).
8. **Pricing.** A current delineation of the prices charged for the Beverage Products is set forth on Exhibits A and B attached hereto. Any changes to the pricing of the Beverage Products shall be mutually determined by both parties; provided, Supplier reserves the right to increase prices due to any increase in the prices it pays for Beverage Products.

9. **Termination.** This Agreement may be terminated by either party if the other party shall be in breach or default under any one or more of its covenants or agreements contained herein and such breach or default is not cured within thirty (30) days after written notice to the defaulting party.
10. **Remedies.** In the event of a default by a party, the non-defaulting party may exercise any and all rights and remedies allowed by law and/or equity.
11. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

DATED: \_\_\_\_\_

**Pepsi-Cola of Western Nebraska, LLC**

**City of Scottsbluff**

By \_\_\_\_\_

By \_\_\_\_\_

Print \_\_\_\_\_

Print \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

**Exhibit A**

PACKAGE	PRODUCT	GAL	BIB
5 gal BIB	Diet Pepsi	\$ 14.10	\$ 70.50
	Dr Pepper	\$ 14.07	\$ 70.35
	Mountain Dew	\$ 14.10	\$ 70.50
	Pepsi	\$ 14.10	\$ 70.50
3 gal BIB FCB	Mountain Dew FCB	\$ 16.60	\$ 49.80
	Siberian Chill Blue Raspberry	\$ 30.50	\$ 91.50
	Siberian Chill Cherry	\$ 30.50	\$ 91.50
	Siberian Chill Kiwi Strawberry	\$ 30.50	\$ 91.50
1.5 gal BIB	RF Energy Tyme Flavor Shot	\$ 20.63	\$ 30.95
	RF Cranberry Juice	\$ 27.99	\$ 41.99
	RF Golden Pineapple Juice	\$ 27.99	\$ 41.99
1 gal BIB	Flavor Works Vanilla Shot	\$ 20.57	\$ 20.57
	Flavor Works Cherry Shot	\$ 20.57	\$ 20.57
	Flavor Works Strawberry Shot	\$ 20.57	\$ 20.57
	Flavor Works Lemon Shot	\$ 20.57	\$ 20.57
	Flavor Works Lime Shot	\$ 20.57	\$ 20.57
	Flavor Works Raspberry Shot	\$ 20.57	\$ 20.57

PRODUCT	PACKAGE	GAL	TANK
Pepsi	Premix 5 gal tank	\$ 6.65	\$ 33.25
Diet Pepsi	Premix 5 gal tank	\$ 6.65	\$ 33.25
Mountain Dew	Premix 5 gal tank	\$ 6.65	\$ 33.25
Mug	Premix 5 gal tank	\$ 6.65	\$ 33.25
Squirt	Premix 5 gal tank	\$ 6.65	\$ 33.25
Mist TWST	Premix 5 gal tank	\$ 6.65	\$ 33.25
Dr. Pepper	Premix 5 gal tank	\$ 6.65	\$ 33.25
20#	CO2 Tank		\$ 33.25
Deposit	CO2 Tank		\$ 50.00

**Exhibit A (cont.)**

PACKAGE	PRODUCT	GAL	BIB
3 gal BIB	Cherry Pepsi	\$ 14.62	\$ 43.86
	Crush Orange	\$ 14.71	\$ 44.13
	Diet Dr Pepper	\$ 14.71	\$ 44.13
	Diet Mountain Dew	\$ 14.62	\$ 43.86
	Gatorade Fruit Punch	\$ 14.92	\$ 44.76
	Gatorade Grape	\$ 14.92	\$ 44.76
	Lipton Brisk Tea	\$ 13.58	\$ 40.74
	Lipton Green Tea w/Peach	\$ 14.62	\$ 43.86
	Lipton Raspberry Tea	\$ 14.62	\$ 43.86
	MD Kickstart Orange	\$ 20.87	\$ 62.61
	Mountain Dew Code Red	\$ 14.62	\$ 43.86
	Mug Root Beer	\$ 14.62	\$ 43.86
	SoBe LW Yumberry Pomegranate	\$ 15.11	\$ 45.33
	Squirt	\$ 14.71	\$ 44.13
	Tonic Generic	\$ 14.62	\$ 43.86
	Tropicana Fruit Punch	\$ 14.85	\$ 44.55
	Tropicana Pink Lemonade	\$ 14.62	\$ 43.86
	Tropicana Yellow Lemonade	\$ 14.62	\$ 43.86
	Lipton LC Tea Unsweetened	\$ 15.84	\$ 47.52
	Lipton LC Tea Sweetened	\$ 17.58	\$ 52.74
	MD Kickstart Black Cherry	\$ 14.62	\$ 43.86
	Mountain Dew Pitch Black	\$ 14.62	\$ 43.86
	Dole Old Fashion Lemonade	\$ 18.32	\$ 54.96
	Mist TWST	\$ 14.62	\$ 43.86
	Mtn Dew Game Fuel	\$ 14.62	\$ 43.86
	Vita Ice Orange Mango	\$ 14.62	\$ 43.86
	Lipton Strawberry Melon Tea	\$ 14.62	\$ 43.86
	RF Apple Juice 100% Blend	\$ 25.84	\$ 77.52
	RF Orange Juice 100% Blend	\$ 27.25	\$ 81.75
	Mountain Dew Goji Strawberry	\$ 14.62	\$ 43.86

**Exhibit B**

Product Group	Units per Case	Case Price	Unit Price
Aquafina 16.9oz 24pk P	24	\$ 8.70	\$ 0.36
Aquafina 20oz 24pk P	24	\$ 23.70	\$ 0.99
Aquafina FlavorSplash 20oz 24pk P	24	\$ 23.70	\$ 0.99
Aquafina PET Bottles 12oz 8pk P	24	\$ 16.45	\$ 0.69
CSD PET Bottles 12oz 3/8pk	24	\$ 17.15	\$ 0.71
CSD PET Bottles 20oz 24pk	24	\$ 24.60	\$ 1.03
CSD PET Bottles 2L 8pk	8	\$ 11.65	\$ 1.46
Essentia Water 1.5L 12pk	12	\$ 21.00	\$ 1.75
Essentia Water 1L 12pk	12	\$ 16.80	\$ 1.40
Essentia Water 20oz 24pk	24	\$ 24.50	\$ 1.02
Essentia Water 700ML 24pk	24	\$ 27.00	\$ 1.13
Gatorade and G2 20oz 24pk	24	\$ 24.70	\$ 1.03
Gatorade and G2 28oz 15pk	15	\$ 22.55	\$ 1.50
Gatorade Protein Bars	12	\$ 17.50	\$ 1.46
Hog Wash 10oz 12pk	12	\$ 9.10	\$ 0.76
Izze Fusions 12oz 12pk Cans	12	\$ 14.00	\$ 1.17

**EXHIBIT B (cont.)**

Product Group	Units per Case	Case Price	Unit Price
Klarbrunn 20oz	24	\$ 13.30	\$ 0.55
Klarbrunn Bubbl'r 12oz 12pk C	12	\$ 14.00	\$ 1.17
Klarbrunn Ubr Water 23.67oz 24pk	24	\$ 24.60	\$ 1.03
Klarbrunn Vita Ice Bottles 17oz 12pk	12	\$ 7.90	\$ 0.66
Lemon Lemon 12oz 12pk Cans	12	\$ 14.00	\$ 1.17
Life WTR 1L 12pk	12	\$ 15.55	\$ 1.30
Life WTR 20oz 24pk	24	\$ 21.50	\$ 0.90
Life WTR 700ML 12pk	12	\$ 14.40	\$ 1.20
Lipton Pure Leaf 18.5oz 12pk	12	\$ 14.95	\$ 1.25
Lipton Pure Leaf 18.5oz 2/6pk	12	\$ 14.95	\$ 1.25
Lipton Singles 20oz 24pk	24	\$ 24.60	\$ 1.03
Mtn Dew AMP 16oz 12pk C	12	\$ 17.00	\$ 1.42
Mtn Dew Kickstart 12oz 1/12 C	12	\$ 12.30	\$ 1.03
Mtn Dew Kickstart 16oz 12pk C	12	\$ 12.30	\$ 1.03
Ocean Spray 15.2oz 12pk	12	\$ 15.65	\$ 1.30
Propel Fitness Water 20oz 24pk	24	\$ 24.70	\$ 1.03
Rockstar 16oz 24pk	24	\$ 34.00	\$ 1.42
SoBe Lifewater 20oz 12pk	12	\$ 14.80	\$ 1.23
SoBe PET 20oz 12pk	12	\$ 15.30	\$ 1.28
Starbucks Frappuccino 13.7oz 12pk G	12	\$ 24.00	\$ 2.00