

0150-10029-0000

**TRANSMITTAL**

|                   |                     |                  |
|-------------------|---------------------|------------------|
| TO<br>The Council | DATE<br>AUG 15 2014 | COUNCIL FILE NO. |
| FROM<br>The Mayor |                     | COUNCIL DISTRICT |

**Proposed Contract with First Class Vending, Inc. for vending machine services and maintenance at Animal Services Department facilities**

Transmitted for your consideration. See the City Administrative Officer report attached.

  
MAYOR (Ana Guerrero)

MAS:JCY:04140144t

**Report From**  
**OFFICE OF THE CITY ADMINISTRATIVE OFFICER**  
**Analysis of Proposed Contract**  
(\$25,000 or Greater and Longer than Three Months)

|  |                |   |                                  |
|--|----------------|---|----------------------------------|
| To: The Mayor  | Date: 08-15-14 | C.D. No.  | CAO File No.:<br>0150-10029-0000 |
| Contracting Department/Bureau:<br>Animal Services  |                | Contact:<br>Ross Pool (213) 482-9558                                    |                                  |
| Reference: Board of Animal Services Commissioners Transmittal dated January 23, 2013; referred for report January 28, 2013                   |                |   |                                  |
| Purpose of Contract: Provide vending machine services at the Animal Services Department's administrative office and six City animal shelters |                |   |                                  |
| Type of Contract: (X) New contract ( ) Amendment   |                | Contract Term Dates:<br>Five years, with one five-year extension option |                                  |
| Contract/Amendment Amount: Not Applicable  |                |   |                                  |
| Proposed amount \$ 0 + Prior award(s) \$ 0 = 0   |                |   |                                  |
| Source of funds: Receipts to be deposited into the Animal Welfare Trust Fund   |                |   |                                  |
| Name of Contractor: First Class Vending, Inc.  |                |   |                                  |
| Address: 6875 Suva St, Bell, CA 90201  |                |   |                                  |
|  | Yes            | No  | N/A*                             |
| 1. Council has approved the purpose  | X              |   |                                  |
| 2. Appropriated funds are available  |                |   | X                                |
| 3. Charter Section 1022 findings completed   | X              |   |                                  |
| 4. Proposals have been requested   |                | X   |                                  |
| 5. Risk Management review completed  | X              |   |                                  |
| 6. Standard Provisions for City Contracts included   | X              |   |                                  |
| 7. Workforce that resides in the City: %   |                |   |                                  |
| 8. Contractor has complied with:   |                |   |                                  |
|  | Yes            | No  | N/A*                             |
| a. Equal Employmt. Oppty./Affirm. Action   | X              |   |                                  |
| b. Good Faith Effort Outreach**  | X              |   |                                  |
| c. Equal Benefits Ordinance  | X              |   |                                  |
| d. Contractor Responsibility Ordinance   | X              |   |                                  |
| e. Slavery Disclosure Ordinance  | X              |   |                                  |
| f. Bidder Certification CEC Form 50  | X              |   |                                  |
| *N/A = not applicable ** Contracts over \$100,000  |                |   |                                  |

**COMMENTS**

The Animal Services Department (ASD) requests authority to execute a contract with First Class Vending, Inc. (First Class) for the operation and maintenance of vending machines at the ASD administrative office and six City animal shelters. The term of the proposed contract is five years with one five-year extension option for a total possible term of 10 years. There is no cost to the City.

The ASD seeks to utilize an existing concession contract between the Department of Recreation and Parks (RAP) and First Class (Concession No. 270, C.F. 11-0034) to meet the City's Charter Section 371 competitive bidding requirements. In May 2010, RAP used a request for proposals (RFP) process to select First Class to provide vending machines at City recreational facilities. The RAP contract with First Class was executed on May 23, 2011 for a term of five years, with two five-year renewal options. The contract grants First Class sole and exclusive rights to provide vending machine services at various City recreation facilities. Under the contract, 34 percent of gross receipts from vending machine sales, or \$125,000 per year, whichever is higher, is paid to the City in addition to a one-half percent of gross receipts for utilities and an annual sponsorship payment of \$1,000.

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|---|---|--|
|  |  |  |
| JCY Analyst 04140144  | Assistant CAO   | City Administrative Officer  |

Inasmuch as the proposed contract between the ASD and First Class is “piggybacking” on the existing RAP contract, the terms of the proposed contract must be within the parameters and not deviate substantially from the existing contract. However, the RAP contract provides vending machines at approximately 90 locations, whereas the ASD contract will cover only seven locations. Therefore, the proposed ASD contract attempts to prorate the payment terms of the RAP contract. The City will continue to retain 34 percent of gross receipts from the vending machine sales, but the minimum dollar amount retained is reduced to \$9,838. In addition, the annual sponsorship payment is prorated to \$79. As with the RAP contract, it is recommended that the ASD contract also retain 1.5 percent in gross receipts to cover utility costs, estimated at \$400 per year.

If RAP exercises all of its options to extend its contract, it will remain in effect until May 22, 2026. The ASD has proposed a five-year term with one five-year and one additional three-year extension options. The ASD contract may not extend beyond the term of the RAP agreement. Therefore, if RAP does not exercise an option to extend its contract, the ASD contract will expire upon the termination of the RAP agreement. Whereas the RAP contract is a five-year contract with two five-year extension options, it is recommended that, in order for the proposed ASD contract to remain within the original contract parameters, the proposed contract be a five-year contract with one option to extend the contract for an additional five years, for an approximate termination in 2024. It is further recommended that language be included in the contract that these terms are subject to the continuation of the RAP contract—should that contract terminate, the ASD contract would terminate as well.

The proposed ASD contract also stipulates a minimum operating term of 12 months. First Class, after eight months of service, may give a four-month notice to terminate the agreement for no fault if First Class determines that the minimum annual revenue due to the City is not feasible. The ASD further states that a pilot rollout of machines will be initiated at two locations prior to full rollout: the new South Los Angeles (Chesterfield Square) and East Valley shelters. The City retains the right to terminate the contract with 30 days’ notice as per the Standard Provisions for City Contracts.

The Department also requests to deposit the revenue generated into the Animal Welfare Trust Fund to support one-time purchases and improvements at Department facilities. It is recommended that the 1.5 percent in receipts for utility costs be directed to reimburse the General Fund, which covers the Department’s utility costs. There is no additional impact on the General Fund.

Use of the ASD bond-funded shelter facilities for this purpose is in compliance with bond requirements.

## **RECOMMENDATIONS**

That the Council, subject to the approval of the Mayor:

1. Authorize the General Manager of the Animal Services Department (ASD), or designee, to negotiate and execute a contract with First Class Vending, Inc. to provide vending machine services and maintenance at up to six City animal shelters and the Animal Services Administrative Office, with the following provisions, subject to the approval of the City Attorney as to form and legality:

- a. That the contract term be five years, with one five-year option to extend, subject to the duration of the Department of Recreation and Parks Concession No. 270;
  - b. That 34 percent of gross receipts from vending machine sales, or \$9,838 per year, whichever is higher, be paid to the City in addition to a one-half percent of gross receipts for utilities and an annual sponsorship payment of \$79;
2. Authorize the ASD to:
- a. Deposit receipts into the Animal Welfare Trust Fund No. 859, Department 06;
  - b. Transfer any receipts for utility costs to Fund 100/06, Revenue Source Code 5301, Reimbursement From Other Funds, to reimburse the General Fund for utility costs;
  - c. Spend the remaining contract receipts at Department facilities for one-time purchases and improvements;
3. Authorize the Controller to establish a receivable and appropriation account titled Vending Sales, account number to be determined, within Fund 859/06 for the receipt and disbursement of funds; and,
4. Authorize the ASD to prepare Controller's instructions for any necessary technical adjustments, subject to the approval of the City Administrative Officer, and instruct the Controller to implement the instructions.

## **FISCAL IMPACT STATEMENT**

Approval of the recommendations within this report will authorize the Animal Services Department (ASD) to execute a contract with First Class Vending, Inc. to provide vending machine services at ASD facilities and will generate revenue to the Animal Welfare Trust Fund for one-time animal shelter purchases and improvements. The ASD estimates gross receipts of \$9,838 per year, in addition to an annual sponsorship payment of \$79 provided by the vendor. An additional 1.5 percent of gross receipts, estimated at \$400 per year, will reimburse the General Fund for utility costs. There is no additional impact on the General Fund.

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**ANTONIO R. VILLARAIGOSA**  
MAYOR

DEPARTMENT OF  
**ANIMAL SERVICES**  
221 North Figueroa Street  
5<sup>th</sup> Floor  
Los Angeles, CA 90012  
(888) 452-7381  
FAX (213) 482-9511

BRENDA F. BARNETTE  
General Manager

JOHN CHAVEZ  
Assistant General Manager

January 23, 2013

Honorable Antonio R. Villaraigosa  
Mayor, City of Los Angeles  
Room 303, City Hall  
200 North Spring Street  
Los Angeles, California 90012

**SUBJECT: REQUEST TO CONTRACT WITH FIRST CLASS VENDING**

Dear Mayor Villaraigosa:

At its meeting of January 8, 2013, the Board of Animal Services Commission voted to recommend to the Mayor and City Council that they:

- **APPROVE** and **AUTHORIZE** the General Manager to execute the agreement (attached) with First Class Vending, Inc. for the operation and maintenance of vending machines, for five years with one five-year extension and one three-year extension, subject to the approval of the City Attorney as to form and legality.

**SUMMARY**

The Department of Animal Services had vending machines in its six shelters and at its administrative offices for a number of years. These vending machines were not procured following a competitive bid process. These informal agreements created administrative problems for the Department including the lack of accountability for the receipt and deposit of funds. As a result, the Department removed all vending machines from its premises.

Animal Services would like to reinstall vending machines at its shelter and administrative locations. The most expeditious way of doing this is to "piggyback" off another department's competitive bid process. In 2011, the City Council approved the Department of Recreation and Parks (RAP) Request For Proposal to select First Class Vending, Inc. to provide vending machine services at their park facilities (Council File 11-0034). Animal Services would like to contract with First Class Vending using RAP's

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procurement and terms. These vending machine services would be provided at six shelters and the administrative offices.

### **PROPOSED AGREEMENT WITH FIRST CLASS VENDING**

It is important to note that when a department is "piggy-backing" off an existing RFP to procure a City-approved vendor, very little can be changed relative to terms and conditions. Significant deviations from the approved RFP and agreement would raise questions as to why Animal Services is changing terms and conditions to a Council-approved agreement. In the event that a department recommends major changes to a Council-approved agreement, it would be advised to issue its own RFP and get those new changes approved by Council. Because that latter approach is not Animal Services intent, the attached draft agreement reflects no significant changes to Recreation and Parks' approved agreement, with the following exceptions:

- While the proposed concessionaire shall continue to pay the City 34% of monthly gross receipts, the minimum annual revenue is prorated to \$9,838 (compared to the \$125,000 due to Recreation and Parks). This reduction is appropriate given the 89 vending machines at RAP vs. the seven proposed for Animal Services.
- The \$1000 yearly sponsorship payment is prorated to \$79, once again, due to the smaller number of vending machines planned for Animal Services.

Because this proposed agreement with the Department was not part of a formal RFP conducted by Animal Services, First Class Vending did not undertake comprehensive foot-traffic studies. Therefore, without this data, the proposed concessionaire is concerned about profitability. To address this, the Department negotiated, and the Board approved, a minimum 12-month agreement. If after eight months, First Class would like to terminate this agreement, it needs to give a four-month notice. However, during this period, the Department would consider lowering the yearly minimum if a review of prior month's receipts warranted a reduction. Any changes in terms would require Board approval.

Attached for your reference are the Board Report that was approved on January 8, 2013 and the attached agreement. If you require additional information regarding this action, please have your staff contact me at (213) 482-9558 or Ross Pool, Management Analyst II, at (213) 482-9501.

### **FISCAL IMPACT**

The vendor pays 34% of gross receipts or a minimum amount of \$9,838. At this time, the Department does not know how much revenue will be generated at seven locations.

Request to Contract with First Class Vending  
January 23, 2013

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In addition to the revenue-sharing arrangement, First Class would pay Animal Services \$79 per year for a sponsorship payment.

Sincerely,



Brenda F. Barnette  
General Manager

BFB:JDC:RP

Attachments:

Draft Agreement for the Operation and Maintenance of the Vending Machines  
Concession  
January 8, 2013 Board Report "Approval of Vending Machine Agreement"

cc: Dov Lesel, Assistant City Attorney  
Jim Bickhart, Office of the Mayor  
Ross Pool  
File

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BRENDA F. BARNETTE  
General Manager

JOHN CHAVEZ  
Assistant General Manager

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**Report to the Board of Animal Services Commissioners**  
**Brenda Barnette, General Manager**

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**COMMISSION MEETING DATE:** January 8, 2013 **PREPARED BY:** John Chavez

**REPORT DATE:** January 3, 2013

**TITLE:** Assistant General Manager

**SUBJECT: APPROVAL OF VENDING MACHINE AGREEMENT**

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**BOARD ACTIONS RECOMMENDED:**

1. APPROVE and AUTHORIZE the General Manager to execute the agreement with First Class Vending, Inc. for the operation and maintenance of vending machines, for five years with one five-year extension and one three-year extension, subject to the approval of the City Attorney.
2. FORWARD the agreement to the Mayor and City Council for approval.

**SUMMARY**

The Department of Animal Services had vending machines in its six shelters and at its administrative offices for a number of years. These vending machines were not procured following a competitive bid process. These informal agreements created administrative problems for the Department including the lack of accountability for the receipt and deposit of funds. As a result, the Department removed all vending machines from its premises.

Because there is a public demand for vending machine products at its shelters, Animal Services would like to reinstall vending machines at its shelter and administrative locations. The most expeditious way of doing this is to "piggyback" off another department's competitive bid process. This would allow Animal Services to procure vending machine services without issuing an RFP of its own.

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**Report to the Board of Animal Services Commissioners**  
**Subject: Approval of Vending Machine Contract**

In 2011, the City Council approved the Department of Recreation and Parks (RAP) Request For Proposal to select First Class Vending, Inc. to provide vending machine services at their park facilities (Council File 11-0034). Animal Services would like to contract with First Class Vending using RAP's procurement and terms. These vending machine services would be provided at two shelters: the new South Los Angeles and East Valley shelters.

**BACKGROUND**

Due to the problems related to having vending machines from various vendors, no written agreements, and lack of fiscal controls, the Department removed all machines. However, it also recognizes the demand for snacks and drinks for staff and the public.

Issuing its own RFP to procure vending machines is an option, but one that will take a considerable amount of staff and processing time. The better option is to use an existing procurement, which is what Animal Services is recommending. The Department consulted with Recreation and Parks staff, the City Attorney, and First Class Vending before proceeding with this request to execute this agreement.

*It is important to note that when a department is using an existing RFP to procure a City-approved vendor, very little can be changed relative to terms and conditions. Significant deviations from the approved RFP and agreement would raise questions as to why Animal Services is changing terms and conditions to a Council-approved agreement. In the event that a department recommends major changes to a Council-approved agreement, it would be advised to issue its own RFP and get those new changes approved by Council. Because that latter approach is not Animal Services intent, the attached draft agreement reflects no significant changes to Recreation and Parks' approved agreement.*

Preliminary discussions with First Class Vending resulted in the need to establish foot traffic estimates at Animal Services' six shelters and its Figueroa Plaza location. Because the approved vendor is limited in making any changes to the agreed-upon terms and conditions, First Class needed to ensure that placing machines at seven sites made economic sense.

After site visits and initial research, First Class agreed to provide its machines at departmental shelters. However, they are limiting this roll-out to only two sites: the new South Los Angeles and East Valley shelters. If these locations are profitable, First Class will consider furnishing the balance of the locations with vending machines.

**FISCAL IMPACT**

The vendor pays either \$125,000 or 34% of gross receipts, whichever is higher. At this time, the Department does not know how much revenue will be generated at two shelter

**Report to the Board of Animal Services Commissioners**  
**Subject: Approval of Vending Machine Contract**

locations. In addition to the revenue sharing arrangements, First Class would pay Animal Services \$1,000 per year for a sponsorship payment.

**APPROVED**

*Brenda J. Barnette*  
**BRENDA BARNETTE, General Manager**

Attachment:

Draft Agreement for the Operation and Maintenance of the Vending Machines  
Concession

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**BOARD ACTION:**

\_\_\_\_\_ Passed

Disapproved \_\_\_\_\_

\_\_\_\_\_ Passed with noted modifications

Continued \_\_\_\_\_

\_\_\_\_\_ Tabled

New Date \_\_\_\_\_

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