



September 19, 2013

Dear Bidder,

The City of Auburn is accepting written proposals from qualified bidders for the supply, installation and service of **Auburn Ice Arena Vending Machines and Gaming Contract**. The City reserves the right to accept or reject any or all proposals in whole or in part and to waive any informality the City may determine necessary. The City also reserves to itself the exclusive right to accept any proposal when it is deemed by the City to be in its best interest. The City of Auburn is governed by Title 1 M.R.S.A. § 401-410, otherwise known as the Freedom of Information Act, which considers bid specifications as public documents. In awarding any proposal, the City may consider, but not be limited to, any of the following factors: Bidder qualifications, price, experience, financial standing with the City, warranties, references, bonding, delivery date, and service of Bidder. Vendors/Contractors shall be current on all amounts due to the City of Auburn prior to the City entering into any contract agreement. All proposals must include FOB to Auburn, Maine unless otherwise specified.

Proposals will not receive consideration unless submitted in accordance with the following instructions to bidders. Please mark sealed envelopes plainly: "**Auburn Ice Arena Vending and Gaming Contract #2014-002.**" Documents can be obtained on the first floor of Auburn Hall at 60 Court Street. Questions regarding this Request for Proposals should be directed to Josh Macdonald, Auburn Ice Arena Manager, at (207) 333-6600 EXT. 1137.

Please submit your proposal to the City of Auburn by 2:00 p.m. **Thursday, October, 10th, 2013.** Proposals must be delivered to **Derek Boulanger, Facilities Manager/ Purchasing Agent, 60 Court Street, Auburn, Maine 04210** on or before the date and time appointed. No proposals will be accepted after the time and date listed above. Proposals will be opened at 2:00 p.m. on that date.

Sincerely,

Derek Boulanger  
Facilities Manager/Purchasing Agent

## I. PROPOSAL

**Definitions:** “City” – is The City of Auburn.

“Bidder” – an individual or business submitting a bid to The City of Auburn.

“Contractor” – one who contracts to perform work or furnish materials in accordance with a contract.

“Premises” – Auburn Ice Arena.

### **Purpose of Proposal:**

The purpose of this proposal is to invite businesses who meet the qualifications to submit proposals to supply, install, and service vending and/or arcade and multiplayer machines within the Auburn Ice Arena facility. This proposal does not include any other city facilities.

### **A. SCOPE OF SERVICES**

1. **Equipment** – Machines for this proposal shall be new or refurbished models in excellent condition, 2010 models or newer. All vending machines must accept coins and be equipped with a bill validator in order to accept bills. There will be no charge or rental to the City for the use of these machines.
2. **Quantity of Machines** – Up to twenty (20) mixed variety vending machines to include: perishable and non-perishable items, Up to 10 mixed variety arcade multi player games to include: pinball, video display games, pool tables (2), and air hockey table (1).
3. **Movement of Machines** – There shall be no charge to the City for the adding or removal of vending or arcade machines.
4. **Repairs and Refunds** – Each machine will be clearly marked with the vendors name, address and phone number for requests for repairs and refunds. Requests for repairs shall be completed within 24 hours. Refund shall be made at the time of filling machines.
5. **Stocking of Machines** – Depending on usage, all vending machines should be stocked at least once a week. All products will have expiration dates clearly marked on them. Expired products shall be removed weekly, if applicable.
6. **Energy Consumption** – All vending machines shall be equipped with energy miser technology at no charge to the City.

## II. CONDITIONS AND INSTRUCTIONS TO BIDDERS

- A. The City reserves the right to accept or reject any or all proposals in whole or in part and to waive any informality the City may determine necessary. The City also reserves to itself the exclusive right to accept any proposal when it is deemed by the City to be in its best interest.
- B. In awarding any proposal, the City may consider, but not be limited to, any of the following factors: Bidder qualifications, price, experience, financial standing with the City, warranties, references, bonding, delivery date, and service of Bidder.
- C. Bid proposals must include firm name, filled out in ink, and signed by firm official. All proposals must state the nature of the entity that is submitting the proposal (i.e. partnership, corporation, sole proprietorship), and include the names of all interested parties. Bids may be withdrawn prior to the time set for the official opening.
- D. Bidders shall use the enclosed bid form for quotations. Whenever, in bid forms, an article is defined by using a trade name or catalog number, the term "or approved equal", if not inserted, shall be implied.
- E. All transportation charges, including expense for freight, transfer express, mail, etc. shall be prepaid and be at the expense of the vendor unless otherwise specified in the bid.
- F. All proposals must include a list of current financial and credit references.
- G. All proposals must include a list of any operational references that the Bidder may have from prior ventures of a similar nature.
- H. If a bidder submits more than one proposal, each proposal submitted shall state the total number of proposals that the entity has submitted pursuant to this RFP. A bidder may submit a proposal for vending machines and/or arcade games.
- I. Please state **"Auburn Ice Arena Vending and Gaming Contract 2014-002"** On submitted, sealed envelope.
- J. Bidder will clearly outline all options that are included in the bid price.
- K. Bids will be opened publicly. Bidders or representatives may be present at bid opening.
- L. The City is exempt from payment of Federal Excise Taxes on the articles not for resale, Federal Transportation Tax on all shipments and Maine Sales Tax and Use Taxes. Please quote less these taxes. Upon application, exemption certificate will be furnished with the Purchase Order when required.
- M. No contract may be assigned without the written consent of the City Manager or his designate. The contract shall not be considered valid until a notice of award has been issued to the successful bidder.

### **III. GENERAL CONDITIONS**

#### **A. Equal Employment Opportunity**

The City of Auburn is an Equal Opportunity Employer and shall not discriminate against an applicant for employment, and employee or a citizen because of race, color, sex, marital status, physical and/or mental handicap, religion, age, ancestry or natural origin, unless based upon a bona-fide occupation qualification. Vendors and contractor or their agents doing business with the City shall not violate the above clause or the Civil Rights Acts of 1964. Violations by vendors shall be reviewed on a case-by-case basis and may mean an automatic breach of contract or service to the City of Auburn.

#### **B. Save Harmless**

The Bidder agrees to protect and save harmless the owner from all costs, expenses or damages that may arise out of alleged infringement of patents of materials used.

#### **C. Subcontracting**

The Bidder shall not subcontract any part of the work or materials or assign any monies due it without first obtaining the written consent of the municipality. Neither party shall assign or transfer its interest in the contract without the written consent of the other party.

#### **D. Warranty**

The Bidder warrants that all work will be of good quality and free from faults and defects, and in conformance with the specifications. All work not so conforming to these standards may be considered defective. The Bidder agrees to be responsible for the acts and omissions of all of its employees and all subcontractors, their agents and employees, and all other persons performing any of the work under a contract with the Bidder. The equipment installed, including hardware and software components must be free from all defects, damage, and function as warranted. Warranties to cover all components with 1 yr labor warranty on installation.

#### **E. Cost of RFP**

The City will not be responsible for any costs associated with the preparation, transmittal or presentation of any materials submitted in response to this RFP.

**BID PROPOSAL FORM**

Due: October 10th, 2013

To: City of Auburn

Derek Boulanger, Facilities Manager/Purchasing Agent

60 Court Street

Auburn, ME 04210

The undersigned individual/firm/business guarantees this price for Sixty days (60) from the bid due date. The undersigned submits this proposal without collusion with any other person, individual, or firm or agency. The undersigned ensures the authority to act on behalf of the corporation, partnership or individual they represent; and has read and agreed to all of the terms, requests, or conditions written herein by the City of Auburn, Maine. By signing this bid form, the firm listed below hereby affirms that its bid meets the minimum specifications and standards as listed above.

Signature \_\_\_\_\_ Name (print) \_\_\_\_\_

Title \_\_\_\_\_ Company \_\_\_\_\_

Address \_\_\_\_\_

Telephone No. \_\_\_\_\_ Fax No. \_\_\_\_\_

Email Address: \_\_\_\_\_

STATE OF MAINE

\_\_\_\_\_, SS.

Date: \_\_\_\_\_

Personally appeared and acknowledged the foregoing instrument to be his/her free act and deed in his/her capacity and the free act and deed of said company.

Notary Public \_\_\_\_\_

Envelopes containing one (1) original and two (2) copies of the proposal must be sealed and clearly marked in large letters "AUBURN ICE ARENA VENDING AND GAMING BID # 2014-002." All proposals must be received prior to 2 PM on Thursday October 10, 2013. Bids must be delivered to **Derek Boulanger, Facilities Manager/ Purchasing Agent 60 Court Street, Auburn, Maine 04210** on or before the date and time appointed. No Bids will be accepted after the time and date listed above.

#### IV. PROPOSAL EVALUATION CRITERIA

The City of Auburn will evaluate proposals and select a contractor based on a combination of the following factors:

1. Qualifications and relevant experience of the firm.
2. Qualifications and relevant experience of the firm's proposed staff.
3. Quality of references from similar work completed recently.
4. The extent to which the proposed solution matches the needs of the City of Auburn.
5. Reasonableness of cost/commission of associated services requested.

Questions of a technical nature or procedural nature should be directed to:

Josh Macdonald  
Manager, Auburn Ice Arena  
(207) 333-6600 EXT 1137

#### V. REQUIREMENTS AND FORMAT OF THE PROPOSAL

Contractors responding to this RFP shall submit their proposals, organized and presented as outlined below. Accuracy and completeness are essential. Since the successful proposal will be incorporated into the contract, contractors are cautioned not to make claims or statements to which they are not prepared to commit to contractually.

The Contractor must provide the following with the proposal:

- A. Letter of transmittal signed by an individual authorized to bind the Bidder contractually. It shall:
  1. Concisely identify the services offered in the proposal.
  2. State that the proposal will remain in effect for a period of Sixty (60) calendar days after the deadline for submission of proposals.
  3. Include the name, title, address, telephone number and email address of one or more contact individuals.
  4. Include the name, title, address, telephone number and email address of one or more individuals who are authorized to sign a contract.

**Attach as Appendix A**

- B. Short History of Business (existing customers, experience, specialties, etc.)

**Attach as Appendix B**

- C. A list of current financial and credit references

**Attach as Appendix C**

- D. Operational references that the Bidder may have from prior ventures of a similar nature. Contractors should provide a minimum of five (5) references and indicate the name of company, contact person, address, telephone number and role of the contact person in relation to the services provided.  
**Attach as Appendix D**
- E. Proof of Commercial Liability Insurance (listing of City of Auburn as certificate holder and additional insured will be required).  
**Attach as Appendix E**
- F. List of equipment to be used in performance of specified work. Include color brochures of proposed machines for placement.  
**Attach as Appendix F**
- G. Provide sample report of all machines sales, units sold and commission.  
**Attach as Appendix G**
- H. Define process on how sales are determined/calculated by machines.  
**Attach as Appendix H**
- I. Review section A. **Scope of Services**, and concur that these conditions will be met.  
**Attach as Appendix I**
- J. Review section III. **General Conditions**, and concur that these conditions will be met.  
**Attach as Appendix J**
- K. Review section VI. **Contract Provisions**, and concur that these conditions will be met.  
**Attach as Appendix K**

## **VI. CONTRACT PROVISIONS**

If a contract is awarded, the selected bidder will be required to adhere to a set of general contract provisions, which will become part of any formal agreement.

### **A. Reporting of Contractor**

1. The Contractor is required to report to the Arena Manager/Finance Department of their designee and will cooperate and confer with him/her as necessary to insure satisfactory work progress.
2. All reports, estimates, memoranda and documents submitted by the Contractor must be dated and bear the Contractor's name.
3. All reports made in connection with these services are subject to review and final approval by the City Manager.
4. The City may review and inspect the Contractor's activities during the term of this contract.
5. When applicable, the Contractor will submit a final, written report to the Arena Manager.

6. After reasonable notice to the Contractor, the City may review any of the Contractor's records, reports or insurance policies.

#### **B. Term**

1. This contract begins on November 1, 2013 and ends on June 30, 2016 unless otherwise negotiated.

#### **C. Personnel**

1. The contractor will provide the required services and will not subcontract or assign the services without the City's written approval.
2. The Contractor will not hire any City employee for any of the required services without the City's written approval.
3. The parties agree that the Contractor is neither an employee nor an agent of the City for any purpose.

#### **D. Indemnification/Release**

1. Except for claims arising out of the wrongful acts or negligence of the City, Contractors shall protect, indemnify, save and keep harmless the City, its agents, employees, and invitees against and from all claims, losses, costs, damages or expenses, including reasonable attorneys fees, arising out of or from any accident or other occurrence in, on or at the Premises described herein, the occupancy of use of the Premises, or any act or omission of Contractor, its employees, agents, invitees, subtenants, licensees, assignees or contractors. The Contractor shall protect and save and keep the City harmless and indemnify it against and from any penalty or damage or expense, including reasonable attorneys fees, or charges imposed for any violations of any law or ordinance whether occasioned by the neglect of the Contractor or those holding under the Contractor, and also will protect, indemnify, save and keep harmless the City or the City's employees, tenants, or invitees against and from any and all claims and against and from any and all loss, cause, damage, liens or expense, including reasonable attorneys fees, arising out of any failure of the Contractor in any respect to comply with and perform all the requirements and provisions of this agreement;
2. The Contractor shall also indemnify and hold the City harmless against all claims, demands, liabilities, lawsuits, damages, costs and expenses, including legal fees, incurred by the City as a result of any mechanics liens, or security agreement filed against the Contractor, or any equipment therein, or any materials used in construction, alteration or improvement of the Premises;
3. The Contractor agrees to make no claim against the City and to assume responsibility of defending, at Contractor's own expense, including reasonable attorney's fees, any claim which will be made against the City by any agent, employee, licensee or invitee of the Contractor or by others claiming the right to be on or about the Premises through or under the Contractor for any injury, loss or damage to person or property occurring upon the Premises, from any cause other than the negligence of the City.

## **E. Insurance Requirements**

The Contractor covenants and agrees, at its sole cost and expense, to obtain, keep and maintain in full force and effect for the mutual benefit of the City and the Contractor the following policies of insurance:

1. Statutory Workers Compensation;
2. A commercial general liability policy including a combined single limit of not less than \$500,000 per occurrence, with respect to bodily injury, death or property damage, and an aggregate limit of not less than \$1,000,000. Provided, however, that the City shall have the right during the contract term to require Contractor to obtain increased liability coverage to reflect the cost of living increases during the term of this agreement, or to comport with generally accepted industry standards in the trade at such time;
3. During any construction or alterations performed by the Contractor or by the City, the City or Contractor, as the case may be, shall keep in force for the protection of the City and the Lessee, workers compensation insurance coverage with an insurance carrier licensed to do business in the State of Maine, covering-all persons employed by Contractor or by the City, or its contractors, in connection with the construction or alterations, and satisfying the requirements of the statutes of the State of Maine;
4. The Contractor shall insure his personal property on the Premises against physical loss or damage by at least the perils of fire and lightning, extended coverage, vandalism, malicious mischief and where pertinent, sprinkler leakage. The City shall have no obligation to replace, restore or repair any fixtures or personal property installed in or improvements made on the Premises by the Contractor;
5. All insurance required under this paragraph shall be effected under valid enforceable policies issued by insurers as recognized responsible and authorized to do business in the State and otherwise reasonably acceptable to the City. All property (i.e. casualty) insurance policies shall name the City as additional insured. All liability insurance policies shall list the City as a certificate holder and additional insured. Upon the execution of this agreement, the original policies procured by Contractor pursuant to this paragraph, or conforming copies thereof, shall be delivered to the City at least thirty (30) days prior to the expiration date of any policy of insurance required to be procured by Contractor under this paragraph, the original renewal policy (or conforming copies thereof) for such insurance shall be delivered by the Contractor to the City and any additional insured, loss payee, or mortgagee, as the case may be, and certificates thereof shall be delivered as aforesaid, together with satisfactory evidence of payment of the premium thereon. All policies referred to in this paragraph shall, to the extent then generally obtainable, contain agreements by the insurers that (a) any loss shall be payable to the City, notwithstanding any act or negligence of the City which might otherwise result in forfeiture of said insurance, (b) such policies shall not be canceled except upon ninety (90) days prior written notice to each name insured, additional insured mortgagee and loss payee, as the case may be, and (c) the coverage afforded thereby shall not be

affected by the performance of any work in or about the Premises;

6. If the Contractor fails to procure the aforesaid insurance policies and pay the premiums for the same and deliver all such original policies or conforming copies thereof to the City within the time provided for in this lease, the City shall nevertheless have the right, without being obligated to do so, to procure such insurance and pay the premiums therefore, and all such premiums paid by the City shall be paid to the City on demand as additional revenue. Contractor's failure to repay the same as aforesaid shall constitute a default under this agreement;

#### **F. Waiver of Subrogation**

1. The City and Contractor agree that all fire and extended coverage insurance policies and comprehensive general liability policies carried by them, respectively, covering the Premises or any property located thereon, shall contain a clause permitting the insured to waive the insurance carrier's right of subrogation against any third person arising out of the occurrence of any casualty insured against. The City and Contractor agree that each of them waives to the other such right of subrogation. Provided, however, this waiver of subrogation provision shall become inoperative and null and void if the insured party contracts for insurance required to be carried under the terms of this agreement with an insurance company which (i) takes the position that the existence of this waiver of subrogation provision vitiates or would adversely affect any policy insuring the insured party in a substantial manner or (ii) requires the payment of a higher premium by reason of the existence of this waiver of subrogation provision, unless in the latter case, the other party within ten (10) days notice thereof from the insured party pays such increase in premium.

#### **G. Taxes**

1. The Contractor hereby certifies that he is in good standing with respect to, or in full compliance with, plan to pay any and all taxes due any local, state and federal agencies as of the date of the execution of this agreement.

#### **H. Default**

1. The City may cancel and terminate this agreement, upon giving five (5) days written notice to the Contractor, if the Contractor shall violate any terms or conditions of this agreement or at anytime fails, neglects, or refuses to fulfill or to perform any of the stipulations of this agreement. In such case it shall be lawful for the City, its agents or assigns, to commence forcible entry and detainer action against the Contractor pursuant to state law. The Contractor shall pay and indemnify the City against all costs, charges and expenses, including reasonable attorneys fees, incurred by the City in connection with the enforcement of its rights under this agreement, including the collection of commissions or other amounts due under this agreement, or in obtaining possession of the Premises after the default of the Contractor or after the Contractor's default in surrendering possession upon the expiration or earlier termination of the term of this agreement or extended term, or enforcing any covenants of the Contractor herein contained.

**I. Waiver of Jury Right**

1. Contractor shall, and does hereby, waive trial by jury in any action, proceeding or claim brought by the City against Contractor or by Contractor against the City on any matters arising out of or in any way connected with this agreement, the relationship of the City and Contractor, the Contractor's use or occupancy of the Premises or the Contractor's rights thereto.

**J. Waiver**

1. No waiver of any breach of any covenant, condition or agreement herein contained shall operate as a waiver of the covenants, conditions or agreement itself or of any subsequent breach thereof.

**K. Entire Agreement**

1. This document represents the entire agreement between the parties and supersedes all prior representations, negotiations or agreements whether written or oral.

**L. Governing Law**

1. This agreement shall be construed and governed by the laws of the State of Maine

**M. Severability**

1. If any of the terms, provisions or conditions of this agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this agreement and the application of such terms, provisions, or conditions to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each of the other terms, provisions and conditions of this agreement shall be valid and enforceable to the fullest extent permitted by law.

**N. Termination**

1. Either party has the right to terminate said agreement by placing a written Ninety (90) days notice of such termination in the United States Mail, postage prepaid and addressed to, in the case of the City of Auburn, Clint Deschene, City Manager, 60 Court St Auburn, ME 04210.

